

MICMACS OF GESGAPEGIAG

COVID-19 BYLAW

A BYLAW AMENDING THE BYLAW CONCERNING PREVENTIVE MEASURES ASSOCIATED WITH THE COVID-19 EPIDEMIC/PANDEMIC

2021

WHEREAS:

COVID-19 is a highly contagious virus and poses a serious and immediate threat to the health and lives of the members of the Micmacs of Gesgapegiag, especially elders and members with underlying health conditions;

International, Canadian and Quebec health authorities have made it clear that reducing the spread of COVID-19 requires physical (or “social”) distancing and limiting the size of gatherings;

The Chief and Council of the Micmacs of Gesgapegiag (the “**Council**”) must take urgent action to help protect the community from the spread of COVID-19;

Section 81(1) of the *Indian Act* (R.S.C., 1985, c. I-5) confirms the authority of the Council to make by-laws for various purposes including:

- (a) to provide for the health of residents on the reserve and to prevent the spreading of contagious and infectious diseases;
- (b) the regulation of traffic;
- (c) the observance of law and order;
- (m) the control or prohibition of public games, sports, races, athletic contests and other amusements;
- (p) the removal and punishment of persons trespassing on the reserve or frequenting the reserve for prohibited purposes;
- (p.1) the residence of band members and other persons on the reserve;
- (q) matters arising out of or ancillary to the exercise of other powers under section 81(1) of the *Indian Act*;
- (r) the imposition on summary conviction of a fine not exceeding one thousand dollars or imprisonment for a term not exceeding thirty days, or both, for violation of a by-law made under section 81(1) of the *Indian Act*;

The Council must take exceptional emergency measures on a temporary basis to protect residents of the community and thereby prevent or limit the spread of the COVID-19 epidemic;

The *Bylaw Concerning Preventive Measures Associated with the COVID-19 Epidemic* (“**COVID-19 Bylaw**”) aims to protect the health and safety of members of the community, in particular the members most vulnerable to the spread or risk of spread of COVID-19;

NOW THEREFORE, the Council enacts as follows:

CHAPTER I

DEFINITIONS

ARTICLE 1

The following definitions apply to this COVID-19 Bylaw:

- a) “Community” means the population of Gesgapegiag;
 - b) “Council” means the Chief and Council of the Micmacs of Gesgapegiag;
 - c) “Director of Public Security” means the Gesgapegiag Director of Public Security or any other person duly authorized to replace him or act in his name. The director of Public Security may also be referred to as the Gesgapegiag Chief of Police;
 - d) “Director General” means the Director General of the Micmacs of Gesgapegiag or any other person duly authorized to replace him or act in his name;
 - e) “Essential Service” means all services, facilities or activities that are or may be necessary for the health and safety of all or part of the residents, occupants or members of the Community, in particular, the Council, the Gesgapegiag Pandemic Team, the Gesgapegiag Emergency Preparedness Team, the GHCS and other health services, police force / public security services, fire department, social services, waste collection, packages and postal mail delivery, services related to the production, transformation, transport, provision and delivery of essential goods or services (which include in particular food, supplies for food markets and grocery stores, medical supplies, products for the production and treatment of drinking water, gas and fuel oil) and other services that may be authorized by Unified Command;
 - f) “GHCS” means the Gesgapegiag Health and Community Services;
 - g) “GHCS Director” means the Director of the Gesgapegiag Health and Community Services or any other person duly authorized to replace her or act in her name;
 - h) “Health Logistic Committee” means employees of GHCS responsible for monitoring testing, monitoring and supervising self-isolation/quarantine, keeping registry of people tested as well as infected with the virus and contact tracing;
 - i) “Officer” means a member of the Gesgapegiag police force / Public Security services or any person designated in writing as such by the Director of Public Security;
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- j) "Private Gathering" means any meeting of persons indoor or outdoor, within the vicinity of a dwelling unit or elsewhere on the Reserve whenever organized or sponsored by one or more person outside the context of a Public Activity;
- k) "Public Activity" means any social, cultural, religious/ceremonial (including wedding celebration or funeral), recreational/sport activity or event organized on the Reserve and generally made available to the public or specific to certain groups within the public;
- l) "Reserve" means the tract of land reserved for the use and for the benefit of the Micmacs of Gesgapegiag, designated as a reserve under the *Indian Act* (R.S.C., 1985, c. I-5) and referred to by the name of Gesgapegiag;
- m) "Unified Command" means the GHCS Director, the Director of Public Security and the Incident Commander acting together pursuant to the provisions of this bylaw;

CHAPTER II

PURPOSE AND APPLICATION

ARTICLE 2

The purpose of this COVID-19 Bylaw is to:

- a) Introduce a Covid-19 Pandemic/epidemic Chart with different levels that will each impose measures and restrictions applicable in the Community;
- b) Declare a state of emergency pertaining to the Pandemic/epidemic when deemed necessary;
- c) Impose fines when provisions of this bylaw are breached;.

ARTICLE 3

This COVID-19 Bylaw applies on the Reserve and to all persons within.

CHAPTER III

PREVENTIVE MEASURES

ARTICLE 4

This bylaw hereby establishes a five levels' COVID-19 Pandemic/epidemic Chart, attached to this bylaw as "Schedule A":

- a) Level 1 (green);
- b) Level 2 (yellow);
- c) Level 3 (orange);
- d) Level 4 (red);
- e) Level 5 (black);

Each level provides for specific measures and restrictions which are further described in this bylaw and which shall apply on the Reserve to all persons within.

The said levels may differ from those in effect in the Province of Quebec and the measures and restrictions mentioned in this bylaw shall prevail over those identified by the Government of Quebec in case of conflict or incompatibility.

The determination of the levels applicable shall be decided through a duly adopted resolution of the Council following a formal written recommendation by the Unified Command to move from one level to another.

A state of emergency shall be declared by Council while levels 3, 4 and 5 are in effect.

A state of community lockdown shall apply during Level 5 for a duration up to 30 days which can be renewed for an additional 30 days, for a maximum of 60 days.

ARTICLE 5

The following mandatory quarantine and self-isolation measures are in force:

- a) Any person who is experiencing at least one of the following symptoms : (1) fever, (2) coughing or (3) difficulty breathing (other than a known existing underlying health condition) must immediately notify the Health Logistic Committee and, unless otherwise instructed by a member of the Health Logistic Committee, remain at his/her residence in quarantine for a period of 14 days or until tested negative at the satisfaction of the Health Logistic Committee;
 - b) Any person who has tested positive to COVID-19 must notify the Health Logistic Committee, follow treatment and abide by strict isolation measures until a medical test confirms that such person has recovered and is not infected with COVID-19 anymore.
 - c) Any person (1st line) who has been in direct contact with a person mentioned in a) or b) must immediately notify the Health Logistic Committee and remain at his/her residence in quarantine: (1) until the person in paragraph a) is tested negative, (2) until he/she tested negative at the satisfaction of the Health Logistic Committee or (3) for a period of 14 days;
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- d) Any person (2nd line) who has been in direct contact with a person mentioned in paragraph c) must immediately notify the Health Logistic Committee and remain at his/her residence in quarantine: (1) until the person in paragraph a) is tested negative, (2) until he/she tested negative at the satisfaction of the Health Logistic Committee or (3) for a period of 14 days;
- e) Any person who has been tested for COVID-19 and who is waiting to get his/her results must immediately notify the Health Logistic Committee and remain at his/her residence in quarantine until tested negative at the satisfaction of the Health Logistic Committee;
- f) Any person returning to the Reserve from a Quebec's "Red Level Region" or from any other Province after a stay of more than 24 hours with the exception of any resident coming back from his/her camp/cabin located within the Gesgapegiag traditional territory must remain at their residence in quarantine for a period of 14 days or until tested negative at the satisfaction of the Health Logistic Committee. For more certainty, this paragraph does not apply to an employee or a representative of Essential Services who has traveled outside the Reserve to provide Essential Services or to any person authorized to enter the Reserve by the Unified Command. Unified Command shall notify the Council in writing whenever a person is authorized to enter the Reserve;
- g) During a declared state of emergency pursuant to this bylaw (levels 3-4), any person with an underlying health condition putting him/her at risk if infected with COVID-19 shall abstain from participating in Private Gatherings or Public Events unless instructed otherwise by a member of the Health Logistic Committee. For more certainty, this provision is a recommendation by Unified Command and shall not constitute an offense under this bylaw.
- h) During a Level 5 (black) state of emergency declared by the Council, all residents shall abstain from leaving their residence unless necessary for medical reasons, getting groceries or items from drugstores (if delivery services are not available).

ARTICLE 6

The following physical and social distancing measures are in force:

- a) Any person entering into a public service building or a business building must wear a mask and respect a 2 meters distance from any other person;
 - b) Any employee working in a public service building or a business building must respect a 2 meters distance from any other person (except where an additional protection is available, such as a plastic or Plexiglas window) and wear a mask at all time while on duty, unless previously authorized by Unified Command;
 - c) Except for emergencies, access of the general public to all public services buildings is by appointment only;
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- d) All businesses and services on the Reserve that remain open or in operation must respect the public health directives and rules established from time to time by the Unified Command. Unified Command shall notify the Council in writing of all public health's directives and rules;
 - e) While in Levels 2 (yellow) and 3 (orange), any gaming facility shall limit the access to its installations at 50% of its ordinary clients' capacity;
 - f) While in Level 4 (red) and 5 (black), all businesses opened to the public, including gaming facilities with the exception of the local groceries/convenience/gas stores and Essential Services shall remain closed. Each business that remains in operation will have to follow Unified Commands' specific instructions regarding Public Health measures applicable to such business. Unified Command shall notify the Council in writing of all specific instructions applicable to local businesses;
 - g) While in Level 5 (black), all public services, other than Essential Services, shall remain closed.
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ARTICLE 7

Any Private Gathering shall be restricted to:

- a) A maximum of 10 persons or three families from a maximum of three dwelling units during Levels 1 (green) and 2 (yellow);
- b) A maximum of 6 persons or two families from a maximum of two dwelling units during Level 3 (orange);
- c) During level 4 (red), with the exception of Essential Services, the persons residing in one dwelling unit within Gesgapegiag may be in contact with the persons residing in a maximum of two other dwelling units within Gesgapegiag during the duration of the level 4 (red). For more certainty, the said contacts between the up to three dwelling units are exclusive and cannot be transferred with other dwelling units without the written consent of the Director of Public Security. Each owner/Tenant from the said up to three dwelling units identified on the Gesgapegiag "Band Housing List" shall inform the Gesgapegiag Police Department in writing at the following email address covid19@gesgapegiag.ca or by mail at the following address: 90 Perron Boulevard, Gesgapegiag, G0C1Y1. At any time, if one person from any of the up to three dwelling units is tested positive or presents symptoms of COVID-19, all persons from the up to three dwelling units shall notify the Health Logistic Committee, remain in quarantine for a period of 14 days or until tested negative at the satisfaction of the Health Logistic Committee.
- d) No Private Gathering allowed during Level 5 (black). However, Essential Services may enter a dwelling unit if necessary.

ARTICLE 8

Any Public Activity indoor or outdoor shall be restricted to:

- a) A maximum of 50 persons indoor and 150 persons outdoor during Level 1 (green);
- b) A maximum of 50 persons indoor and 100 persons outdoor during level 2 (yellow);
- c) A maximum of 25 persons indoor and outdoor during Level 3 (orange);
- d) No Public Activity during Levels 4 (red) and 5 (black);

ARTICLE 9

While in Level 5 (black), any person other than a resident of the Community or an Essential Services' employee, wanting to enter the Reserve, must be previously authorized in writing by the Unified Command. Unified Command shall notify the Council in writing of all persons authorized to enter the Reserve ;

The restrictions covered by this COVID-19 Bylaw shall not prevent, upon verification, the delivery of essential goods and services as long as such delivery respects the health directives and rules established by the Unified Command.

ARTICLE 10

During a Level 4 (red), a general curfew may be imposed by resolution duly adopted with terms and conditions to be determined by Council.

CHAPTER IV

ENFORCEMENT AND PENALTIES

ARTICLE 11

It is the responsibility of the Gesgapegiag police force / Public Security services or, failing this, any police force having jurisdiction, to enforce the provisions of this COVID-19 Bylaw and the Director of Public Security is authorized to take all necessary measures to ensure their strict observance.

ARTICLE 12

An Officer may stop any person or motor vehicle seeking to enter or leave the Reserve to determine whether such person is allowed to enter, exit or be on the Reserve, including by requesting appropriate written or verbal confirmation that such person meets applicable criteria under this COVID-19 Bylaw.

ARTICLE 13

An Officer may order any unauthorized person not to enter or to immediately leave the Reserve.

ARTICLE 14

An Officer who has reasonable motive to suspect that an event, party or gathering is taking place in breach of this bylaw may attend any residence on the Reserve to enforce the restrictions

provided in this Bylaw and such Officer may order any person who is not an authorized occupant of the residence to leave the property immediately.

ARTICLE 15

An Officer may order any person who should be staying at their residence under the quarantine and self-isolation requirements provided in Article 5 to return to their residence.

ARTICLE 16

No person may interfere with, obstruct or fail to comply with an Order from an Officer who is exercising enforcement powers under this COVID-19 Bylaw.

ARTICLE 17

Any person who contravenes to or breaches a provision of this COVID-19 Bylaw commits an offence.

ARTICLE 18

A person who commits an offence under this COVID-19 Bylaw is liable on summary conviction to a fine for up to \$1,000, to imprisonment for up to 30 days, or to both, pursuant to section 81(1)(r) of the *Indian Act* (R.S.C., 1985, c. I-5).

ARTICLE 19

Where an act in contravention of this COVID-19 By-law continues for more than one day, each day on which the offence is committed will be deemed a separate offence and may be punished as such.

ARTICLE 20

Violation or breach of this COVID-19 By-law may, in addition to any other remedy and to any penalty imposed by the COVID-19 By-law, be restrained by court action at the instance of the Council.

ARTICLE 21

The offences created by this COVID-19 Bylaw are in addition to, and do not replace, any applicable provincial or federal offences.

CHAPTER V

COMING INTO FORCE AND DURATION

ARTICLE 21

This COVID-19 Bylaw comes into force on the date determined by a resolution of the Council, which date has been set to be January 8th, 2021 at 11:59 p.m.

ARTICLE 22

This COVID-19 Bylaw is in effect until such time that federal and provincial public health agencies declare the COVID-19 pandemic/epidemic to be over, in which case a resolution of the Council shall be adopted to suspend or repeal this bylaw following a recommendation to that effect by Unified Command.

CHAPTER VI

AMENDMENTS

ARTICLE 23

The Council may approve written amendments to this COVID-19 Bylaw, including additional preventive measures, by vote at a duly convened meeting. Given the emergency situation, no consultation with membership will be required for any amendments.

ARTICLE 24

If the Council approves amendments to this COVID-19 Bylaw, the amendments or the amended bylaw shall be promptly posted on the Council website and in prominent locations on the Reserve.

APPROVAL

This COVID-19 Bylaw is presented at a duly convened special Council meeting on January 8th, 2021 in Gesgapegiag. Approved and adopted on January 8th, 2021.

 _____ (Chief – Chef)	 _____ (Councillor – Conseiller)	 _____ (Councillor – Conseiller)
 _____ (Councillor – Conseiller)	 _____ (Councillor – Conseiller)	_____ (Councillor – Conseiller)

_____ (Councillor – Conseiller)	_____ (Councillor – Conseiller)	_____ (Councillor – Conseiller)
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Micmacs of Gesgapegiag Band Council
Résolution du Conseil De Bande

DO HEREBY RESOLVE:
DECIDÉ PAR LES PRÉSENTES:

BAND COUNCIL RESOLUTION

Adoption of temporary measures associated with the Covid-19 Pandemic

Whereas COVID-19 is a highly contagious virus and poses a serious and immediate threat to the health and lives of the members of the Micmacs of Gesgapegiag, especially elders and members with underlying health conditions;

Whereas the COVID-19 pandemic's cases are increasing rapidly in Canada, in Quebec and more specifically in the Gaspésie-Îles-de-la-Madeleine region;

Whereas The Chief and Council of the Micmacs of Gesgapegiag (the "Council") must take urgent action to help protect the community from the spread of COVID-19;

Whereas the Council had enacted the *Bylaw concerning Preventive Measures Associated with the COVID-19 Epidemic* ("COVID-19 Bylaw") on or about April 9, 2020 and was periodically renewed until July 31, 2020;

Whereas the Council deems it useful and necessary, in the present context, to enact a modified COVID-19 Bylaw that will define new guidelines and standards applicable in the community and to its residents;

Whereas, until the modified COVID-19 Bylaw is enacted, the Council wishes to apply, on a temporary basis, the Quebec's Public Health guidelines pertaining to the *COVID-19 Alert Levels by Regions*;

Therefore, be it hereby resolved that the Council authorizes the application of the Quebec's Public Health guidelines pertaining to the *COVID-19 Alert Levels by Regions*;

And be it hereby further resolved that the Council declares that Gesgapegiag is within the Quebec Guideline's Level 4 – Maximum Alert (red colour) starting on January 8th, 2021 at 11:59 pm until further notice;

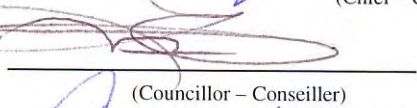
And be it hereby further resolved that the Council authorizes and mandates the Legal Firm Borden, Ladner, Gervais LLP to draft the modified COVID-19 Bylaw in collaboration with the Gesgapegiag's Unified Command;

And be it hereby further resolved that the Council authorizes and mandates the Director General to do everything that is necessary to implement this resolution;

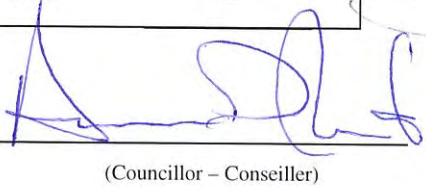
Finally, be it resolved that this resolution comes into force upon its adoption.

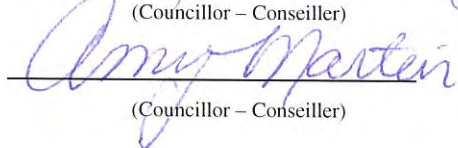
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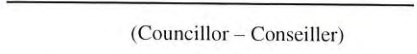

(Chief – Chef)

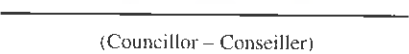

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BCR#1559

2020-01-08