

Halfway River First Nation
DISEASE RESPONSE BYLAW
Bylaw No. 2020-01

WHEREAS:

- A. Sections 81(1)(a), (b) (c), (d), (h), (p), (p.1), (q) and (r) of the *Indian Act*, R.S.C. 1985, c. I-5, empower the Council of the Halfway River First Nation (the "Council") to make Bylaws to provide for the health of residents on the reserve of Halfway River First Nation, the prevention of the spreading of contagious and infectious diseases, the regulation of traffic, the observance of law and order, the prevention of disorderly conduct and nuisances, the use of buildings, the removal and punishment of persons trespassing on reserve or frequenting the reserve for prohibited purposes, and the residence of Members and other persons on the Reserve, in addition to matters arising out of or ancillary to the exercise of powers under this section and the imposition of a penalty for the violation of any such bylaw;
- B. Outbreaks of contagious and infectious diseases pose a serious and immediate threat to the health, safety and lives of members of Halfway River First Nation and residents of the Reserve, especially to Elders, people with underlying health conditions, and other vulnerable community members, and require the prompt coordination of action or special regulation of persons or property to protect the health, safety, well-being and lives of people;
- C. The Council desires to make a Bylaw to authorize the declaration of a state of emergency in respect of a contagious and infectious disease and the making of orders by the Council to prevent the spreading of such a disease and provide for the health of residents on reserve.

NOW THEREFORE the Council of the Halfway River First Nation hereby enacts the following Bylaw:

Part 1 – Title, Interpretation, and Application

1.0 Short Title

1.1 This Bylaw may be cited as the "*Halfway River First Nation Disease Response Bylaw*".

2.0 Interpretation

2.1 In this Bylaw:

"**Communicable Disease**" means a contagious and infectious disease that poses a risk of significant harm to public health;

"**Council**" means the Chief and Council of the Halfway River First Nation as defined in the *Indian Act* and lawfully elected in accordance with the *Indian Act* or custom election code, as the case may be;

"**Disease Emergency**" means an urgent and critical situation of a temporary nature involving or relating to a Communicable Disease that poses a serious and immediate threat to the health, safety or lives of members of Halfway River First Nation or residents of the Reserve;

"**Halfway River First Nation**" means the Halfway River First Nation, a band within the meaning of the *Indian Act*;

"**Indian Act**" means the *Indian Act*, RSC 1985, c. I-5, as amended;

"**Member**" means a person whose name appears on the Halfway River First Nation membership list or who is entitled to have their name appear on the Halfway River First Nation membership list;

"**Officer**" means:

- (a) any peace officer or other person charged with the duty to preserve and maintain the public peace; and
- (b) any bylaw enforcement officer or other person appointed by the Council in writing to enforce this Bylaw;

"**Order**" means an order made by the Council under section 5.1 of this Bylaw;

"**Reserve**" means Halfway River Indian Reserve No. 168, any land held for the use and benefit of the Halfway River First Nation pursuant to section 36.1 of the *Indian Act*, and any future Reserve set aside by Her Majesty for the use and benefit of the Halfway River First Nation;

"**Resolution**" means a decision made at a duly convened meeting of a quorum of Council and recorded in writing;

2.2 Unless the context otherwise clearly indicates, words used in the singular include the plural, the plural includes the singular, and the neuter gender includes the masculine and the feminine.

3.0 Application

3.1 This Bylaw applies to the Reserve.

3.2 This Bylaw applies to all persons, including Members.

Part 2 – Declaration of Disease Emergency

4.0 Declaration

- 4.1 When the Council believes, on reasonable grounds, that a Disease Emergency exists and necessitates the taking of special temporary measures for dealing with the Disease Emergency, the Council may, by Resolution, so declare.
- 4.2 A declaration of a Disease Emergency shall specify:
- (a) the state of affairs constituting the Disease Emergency; and
 - (b) if the Disease Emergency does not extend to the whole of the Reserve, the area of the Reserve to which the emergency extends.
- 4.3 A declaration of a Disease Emergency expires at the end of ninety (90) days unless the declaration is previously revoked or continued by a Resolution of the Council.
- 4.4 A declaration of a Disease Emergency may be continued more than once pursuant to section 4.3.

Part 3 – Protective Orders

5.0 Orders

- 5.1 While a declaration of a Disease Emergency is in effect, the Council may, by Resolution, make such Orders with respect to the following matters as Council believes, on reasonable grounds, are necessary for the protection of the health or safety of individuals:
- (a) regulation or prohibition of entry into or presence on the Reserve or specified areas within the Reserve, including public spaces, buildings, and business establishments;
 - (b) establishment of curfews or prohibited hours relating to entry into or presence within any specified area within the Reserve;
 - (c) regulation or prohibition of travel or movement to or from, or within, any specified area within the Reserve;
 - (d) closure of or restriction of the hours of operation or number of persons permitted to enter or be present in public facilities, businesses or other premises on the Reserve;
 - (e) regulation or prohibition of gatherings of people, including the size, location and other conditions of such gatherings;
 - (f) regulations requiring individuals to take preventive measures that are reasonably necessary to stop or slow the spread of a Communicable Disease, including:

- (i) limiting physical proximity to other individuals (social or physical distancing);
- (ii) self-isolation or quarantine;
- (iii) restricting the visiting of other individuals;
- (iv) wearing face masks or other personal protective equipment;
- (g) compliance with orders or recommendations of the Chief Public Health Officer of Canada or the Provincial Health Officer of British Columbia;
- (h) establishment of facilities for the care, welfare, safety and shelter of individuals, including emergency shelter; and
- (i) appointment of one or more Officers to enforce this Bylaw, including any limitations on the powers or duties of such an Officer.

6.0 Coming into Force

- 6.1 An Order comes into force on the day it is adopted by Council unless a later day is specified in the Order.

7.0 Publication of Orders

- 7.1 Upon the coming into force of an Order under this Bylaw, Council shall:
 - (a) post the Order on the Halfway River First Nation website, to remain until such date as the Order expires or is repealed;
 - (b) post the Order in a public area in the Halfway River Band Office including a notice containing the date that this Bylaw is in force; and
 - (c) provide notice of the Order to the Officers who will help to enforce it.

8.0 Duration

- 8.1 An Order made under this Bylaw will remain in force until the earlier of any expiration date specified in the Order or the expiry of the declaration of Disease Emergency under which the Order was made.

Part 4 – Enforcement and Penalties

9.0 Inspection

- 9.1 An Officer may stop a person or vehicle, enter a vehicle or place and inspect a vehicle or place to monitor or confirm compliance with a provision of this Bylaw or an Order including, without limitation, to determine whether:
 - (a) a person is permitted to enter or be on the Reserve or a specified area within the Reserve, including by requesting appropriate written or verbal confirmation that the person meets any criteria set out in an Order;

- (b) a gathering of people or the occupancy in a home or building on the Reserve contravenes any provision of an Order; or
- (c) a person must comply with any preventive measure required by an Order, including quarantine, self-isolation, or the wearing of personal protective equipment.

9.2 Before entering a vehicle or place to conduct an inspection in accordance with section 9.1, an Officer must take reasonable steps to notify the owner or occupier of the vehicle or place and to obtain their consent to enter, except that an Officer can conduct an inspection without providing notice if

- (a) providing notice would not be reasonably possible or practical in the circumstances, or
- (b) in the case of determining compliance with an Order, providing notice would frustrate the purposes of the inspection.

10.0 Orders by Officers

10.1 An Officer may order a person to do or not do anything that the Officer reasonably believes is necessary to:

- (a) determine whether an Order is being complied with;
- (b) prevent or stop the risk of exposure to a Communicable Disease, or to mitigate the harm or prevent further harm from exposure to a Communicable Disease; or
- (c) bring the person into compliance with an Order.

10.2 Without limiting the generality of section 10.1, Officers may:

- (a) order any person not to enter or to immediately leave the Reserve or a specified area within the Reserve;
- (b) order the attendees of a gathering to disperse;
- (c) order any person who is not permitted to occupy a home or building to leave the home or building immediately; or
- (d) order any person to comply with any preventive measure required by an Order, including quarantine, self-isolation, or the wearing of personal protective equipment.

10.3 Where a person who has been ordered to leave the Reserve or a specified area of the Reserve fails or refuses to do so, an Officer may take such reasonable measures as may be necessary to remove the person from the Reserve.

11.0 Warnings

11.1 Subject to the terms of an Order, an Officer may give a warning to a person who has contravened a provision of an Order.

11.2 Where an Officer has given a warning to a person who has contravened a provision of an Order, the Officer shall notify Council and shall provide to Council the person's name and the location, date and time at which the warning was given.

12.0 Offences

12.1 A person commits an offence who:

- (a) contravenes any provision in an Order;
- (b) disregards a warning given by an Officer;
- (c) interferes with or obstructs an Officer who is exercising their enforcement powers under an Order or this Bylaw; or
- (d) fails to comply with an Officer's order enforcing an Order or this Bylaw.

12.2 Each day that a commission of an offence persists constitutes a separate offence.

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

12.4 Proceedings alleging a contravention of this Bylaw or an Order made under this Bylaw may be conducted as proceedings in respect of offences under the *Halfway River First Nation Law and Order By-law*, By-law No. 2016-001, as amended.

13.0 Penalties

13.1 A person who commits an offence under this Bylaw is liable on summary conviction to a fine not exceeding one thousand dollars (\$1,000) or imprisonment for a term not exceeding thirty (30) days, or both.

Part 5 – General

14.0 No Liability

14.1 None of the Council, Members, employees, representatives or agents of any of Halfway River First Nation or Council are liable for any damages or other loss, including economic loss, sustained by any person, or to the property of any person, as a result of neglect or failure, for any reason, to discover or detect any contravention of this Bylaw or any Order made under this Bylaw, or from the neglect or failure, for any reason or in any manner, to enforce this Bylaw or any Order made under this Bylaw.

15.0 Compliance with Other Laws

15.1 Compliance with this Bylaw or with an Order made under this Bylaw shall not relieve a person from having to comply with the requirements of any other applicable law or legal requirement.

16.0 Severability

16.1 If a court of competent jurisdiction determines that a provision of this Bylaw or any Order made under this Bylaw is invalid for any reason, then the provision shall be severed from the Bylaw and the validity of the remaining provisions of this Bylaw or the Order made under this Bylaw shall not be affected.

17.0 Amendment

17.1 This Bylaw may be amended by a quorum of Council at a duly convened meeting of Council.

18.0 Publication

18.1 Upon the adoption of or any amendment to this Bylaw, Council shall:

- (a) publish the Bylaw in the First Nation Gazette; and
- (b) post the Bylaw on the Halfway River First Nation website, to remain until such date as the Bylaw expires or is repealed;

19.0 Coming into Force

19.1 This Bylaw comes into force after it is executed by a quorum of Council of Halfway River First Nation and on the date that the Bylaw is first published in either the *First Nations Gazette* or on Halfway River First Nation's website.

A quorum of Council is four (4) members.

The following members of the Council, constituting a majority, voted in favour of this Bylaw at a duly convened meeting held this 10th day of November, 2020:



Chief Darlene Hunter



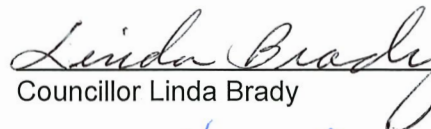
Councillor Joyce Achla



Councillor Maizie Metecheah



Councillor Lori Ann Wokeley



Councillor Linda Brady

Councillor William Field



Councillor Gerry Hunter