

TAKLA NATION COMMUNITY PROTECTION BYLAW #1-2023

A bylaw to prevent dangerous and harmful conduct on Reserve

2023-01

"I hereby certify that this document is a complete and true copy of the original document consisting of 24 pages.

Certified this 2nd day of May, 2023, by:



Signature:

Name & Title: Erika Richards, Lawyer"

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WHEREAS:

- A.** Takla Nation has an inherent right to self-government, which emanates from our people, culture and land and which is recognized and affirmed by section 35 of the *Constitution Act, 1982*, and which includes the right to determine entitlement to residency on our reserve lands, including when such rights can be revoked;
- B.** Takla Nation, since time immemorial, has had traditional laws and teachings regarding protecting our members, residents and community, and a traditional practice of banishment as one of a number of traditional remedies for dealing with individuals who pose a threat to our members, residents or the community;
- C.** The Chief and Council of Takla Nation wish to make a bylaw governing the residence of Takla Nation members and other persons on Takla Nation’s reserve lands;
- D.** The Chief and Council are empowered to make this bylaw pursuant to paragraphs 81(1)(a), (c), (d), (p), (p.1), (p.2), (q), (r), and 85.1 of the *Indian Act*; and
- E.** The Chief and Council have an obligation to protect Takla Nation members and residents, particularly Elders, children and other vulnerable community members, from acts or threats of acts that may cause harm or diminish the health and safety of Takla Nation members, residents and the community;

NOW THEREFORE the Chief and Council at a duly convened meeting on the ____ day of _____, 2023, enacts the following Bylaw:

PART 1

1. NAME

- 1.1 This Bylaw may be cited as the Takla Nation Community Protection Bylaw.

PART 2

2. INTERPRETATION

- 2.1 In this Bylaw:

"Appeal Tribunal" means the appeal tribunal appointed by the Justice Manager pursuant to Part 4 of this Bylaw to consider an appeal of a Removal Order.

"BCR" or "Band Council Resolution" means the document evidencing in writing a decision made by a majority of the Council at a duly convened meeting of Council.

"Bylaw" means this Takla Nation Community Protection Bylaw.

"CDSA" means the *Controlled Drugs and Substances Act*, S.C. 1996, c. 19 as amended or replaced from time to time.

"Council" means the duly elected Chief and Council of Takla Nation.

"Criminal Code" means the *Criminal Code of Canada*, R.S.C. 1985, c. C-46, as amended or replaced from time to time.

"Disorderly Conduct" means any act or behaviour, including:

- (a) fighting;
- (b) making or causing unreasonable noise;
- (c) using abusive language;
- (d) using offensive or indecent gestures or displays;
- (e) being intoxicated;
- (f) loitering;
- (g) exposing, firing, or discharging any gun, pistol or other firearm, or using or threatening to use any other article as a weapon; or
- (h) interfering in any manner with the orderly conduct of commercial, administrative, educational, recreational, health care, religious or ceremonial activities on Reserve,

that disrupts public order on Reserve, scandalizes the community, or causes public inconvenience, annoyance or alarm.

"Enforcement Officer" means

- (a) any person designated in writing by Council to enforce this Bylaw;
- (b) any RCMP, police officer, police constable, or peace officer; and
- (c) any other person charged by Takla, Canada or British Columbia with the duty to preserve and maintain the public peace in accordance with their laws.

"Immediate Family" means a parent, sibling, spouse, child, or any other relative residing in the same residence.

"Indian Act" means the *Indian Act*, R.S.C. 1985, c. I-5, as amended from time to time.

"Indictable Offence" means an indictable offence as set out in the *Criminal Code* or the *CDSA*, and includes any hybrid offences that may proceed by way of either indictment or summary conviction.

"Justice Manager" means the person appointed by Council pursuant to Part 4 to administer this Bylaw.

"Member" means a person whose name appears on the Takla Nation membership list, or who is entitled to have their name appear on the Takla Nation membership list.

"Person of Interest" means a person designated by Council as a Person of Interest under Part 6 of this Bylaw.

"Prohibited Purposes" has the meaning given it in section 5.1.

"Removal Order" means a decision made by Council under Part 9 or Part 10.

"Reserve" means all those lands set aside by Canada for the use and benefit of Takla within the meaning of the *Indian Act*.

"Resident" means a person who:

- (a) is listed in a rental agreement as an occupant of a Takla rental home;
- (b) lives in a privately-owned home on the Reserve; or
- (c) otherwise has the written permission of Council to reside on the Reserve.

"Takla" means Takla Nation.

- 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.

PART 3

3. APPLICATION OF BYLAW

Bylaw applicable on Reserve

- 3.1 This Bylaw applies to all Reserves.

Bylaw applicable to Members and non-Members

- 3.2 This Bylaw applies to all persons, including Members.

PART 4

4. ADMINISTRATION

Justice Manager

- 4.1 Council shall appoint a Justice Manager for the purpose of carrying out administrative and decision-making functions under this Bylaw.

Delegation

- 4.2 Council may by BCR authorize the Justice Manager to assign the performance of any duties of the Justice Manager under this Bylaw to any Enforcement Officer or Takla officer, employee, contractor or agent.

PART 5

5. PROHIBITED ACTIVITIES

- 5.1 A person who conducts on Reserve any of the following activities shall be deemed to be frequenting the Reserve for a Prohibited Purpose:
- (a) engaging in Disorderly Conduct that causes or may cause injury to any person or property;
 - (b) committing, aiding in or abetting the commission of an Indictable Offence; or
 - (c) acting in a manner which threatens the health or safety of Members or Residents on Reserve.

PART 6

6. IDENTIFYING A PERSON OF INTEREST

- 6.1 Council may by BCR designate a person to be a Person of Interest if Council reasonably believes the person to be a threat to the health and safety of any person or to the observance of law and order on Reserve, because the person:
- (a) is frequenting the Reserve for a Prohibited Purpose;
 - (b) is regularly engaging in Disorderly Conduct on Reserve, whether or not it causes or may cause injury to any person or property; or
 - (c) has contravened an order of an Enforcement Officer made under this Bylaw and Council reasonably believes that the person will continue the contravention.
- 6.2 In considering whether to designate a person as a Person of Interest under section 6.1, Council may consider:

- (a) any report or recommendation of the Justice Manager;
 - (b) complaints received from Members, Residents, or Takla staff; and
 - (c) any facts or other information relevant to the determination of whether the person should be designated as a Person of Interest.
- 6.3 If Council designates a person as a Person of Interest under section 6.1, Council shall serve on the Person of Interest notice of the designation.
- 6.4 The notice served under section 6.3 must include the following information:
- (a) particulars of the alleged conduct giving rise to the designation in sufficient detail that the Person of Interest is able to understand the basis for the designation;
 - (b) that the Person of Interest is required to meet with Council in respect of the notice;
 - (c) the date, time and location of the meeting with Council;
 - (d) the consequences of failing to meet with Council as required under the notice; and
 - (e) how to dispute the allegations in the notice.
- 6.5 The meeting with Council set out under section 6.4(c) must be at least seven days from when the Person of Interest is served under section 6.3.
- 6.6 If a Person of Interest is unable to meet with Council at the time specified in the notice given under section 6.3, the Person of Interest shall submit a written request to:
- (a) meet with Council at an alternative date and time;
 - (b) provide written submissions instead of having an in-person meeting; or
 - (c) have a legal representative meet with Council on their behalf
- to the Justice Manager within seven days of receiving the notice and shall specify the reasons supporting the request.
- 6.7 The Justice Manager shall consider all requests under section 6.6. The Justice Manager shall provide a written decision within seven days of receiving a request pursuant to section 6.6 from a Person of Interest.

PART 7

7. MEETING WITH A PERSON OF INTEREST

- 7.1 A Person of Interest shall have reasonable opportunity to respond allegations set out in the notice issued under section 6.3 at the meeting with Council held pursuant to such notice.
- 7.2 In considering whether to impose sanctions on the Person of Interest under Part 8 of this Bylaw, Council shall consider the following factors:
- (a) any oral or written submissions made by the Person of Interest;

- (b) whether the Person of Interest's alleged conduct:
 - (i) has caused harm to the health and safety of Members or Residents;
 - (ii) has caused injury to persons or property;
 - (iii) is adversely impacting the observation of law and order on Reserve; or
 - (iv) is occurring on Reserve;
- (c) whether a charge or conviction has been entered;
- (d) whether the Person of Interest has failed to comply with previous orders issued under this Bylaw;
- (e) whether the alleged conduct is compatible with Takla culture and community;
- (f) the Person of Interest's moral character;
- (g) the Person of Interest's interest, engagement in and completion of rehabilitative programming, such as counselling or addictions programs;
- (h) the Person of Interest's employment status, including whether the Person of Interest is or will be employed on Reserve; and
- (i) any other factors deemed by Council to be relevant to the determination of whether sanctions are appropriate under this Bylaw.

- 7.3 Council may establish by BCR rules of procedure for meetings under this Bylaw.
- 7.4 If a Person of Interest is incarcerated, the Person of Interest may request that the Justice Manager meet with the Person of Interest at the corrections facility to accept their submissions. If the Person of Interest requests the Justice Manager obtain their submissions, the Justice Manager shall attend the corrections facility where the Person of Interest resides, obtain their submissions and shall provide such submissions to Council.
- 7.5 If a Person of Interest fails to meet with Council as required under the notice given under section 6.3, or at an alternative time or method as directed by the Justice Manager in response to a request made under section 6.6, Council may impose sanctions under Part 8 of this Bylaw without further notice to the Person of Interest.

PART 8

8. SANCTIONS IMPOSED ON A PERSON OF INTEREST

- 8.1 After meeting with the Person of Interest, Council may take any action that they determine is in the best interest of Takla, Members and Residents, including:
 - (a) instructing an Enforcement Officer to conduct further investigations;
 - (b) sending a warning letter to the Person of Interest;
 - (c) if the Person of Interest is under 19 years of age, sending a warning letter to the subject's parents or guardians and any applicable child welfare agency;
 - (d) attempting to resolve the issues by declaration, agreement or informal action;
 - (e) issuing a Removal Order under Part 9;

- (f) deciding not to act further; or
 - (g) taking any other action that Council considers reasonably necessary to mitigate the risk of harm from the Person of Interest.
- 8.2 All decisions under this Part shall be made by BCR and shall include written reasons.
- 8.3 All decisions affecting a Person of Interest shall be served upon them within 14 days of the date of the decision.

PART 9

9. REMOVAL ORDER

- 9.1 Council may make a Removal Order to remove a Person of Interest from the Reserve, or to prohibit a Person of Interest from entering the Reserve if Council is reasonably satisfied that,
- (a) the Person of Interest is a threat to the health, safety and well-being of Takla, Members or Residents; and
 - (b) there is no other less restrictive means available to protect Members and Residents from the risks of harm from the Person of Interest.
- 9.2 No person under the age of 19 years shall be subject to a Removal Order.

Term of the Removal Order

- 9.3 Council may impose a Removal Order:
- (a) on a Member for a defined period of time not greater than 12 months; or
 - (b) on a Non-Member for a defined period of time or permanently.

Renewal of an Order

- 9.4 For greater certainty, Council may renew an order made pursuant to section 9.3 on a yearly basis by following the procedures set out in Part 7 and Part 8.

Contents of a Removal Order

- 9.5 A Removal Order must contain:
- (a) the name of the person subject to the Removal Order;
 - (b) a description of the steps Council took in reaching the decision to remove the person;
 - (c) a description of the activities which led to the issuance of the Removal Order;
 - (d) notice that the Removal Order will be posted publicly;

- (e) the time and date upon which the Removal Order is effective;
 - (f) a provision requiring the person to vacate the Reserve on or before a date specified in the Removal Order;
 - (g) the consequences of failing to comply with the Removal Order;
 - (h) if the person is party to a tenancy agreement or lease with Takla, a provision terminating the tenancy agreement or lease of any tenant of the property on the date specified under subsection (e);
 - (i) any conditions attached to the return of the person to the Reserve at the expiration of the Removal Order;
 - (j) a provision fixing the date on which the order ceases to be in effect, if applicable; and
 - (k) how to appeal the Removal Order.
- 9.6 Council shall serve the Removal Order on the Person of Interest within 14 days of the decision. Service shall be in accordance with 17.1 to 17.4.
- 9.7 The time and date upon which a Removal Order is effective under section 9.5(e) must not be less than 48 hours after the Removal Order is served on the Person of Interest.
- 9.8 Copies of the Removal Order shall be posted publicly in the Takla administration buildings at Prince George and Takla Landing, and delivered to the RCMP.

PART 10

10. EMERGENCY REMOVAL ORDERS

- 10.1 Despite sections 7.1 and 9.6, if Council reasonably believes a person poses an immediate threat to the observance of law and order on Reserve, or to the health and safety of Members or Residents on Reserve, Council may, by BCR, designate the person a Person of Interest and issue an emergency Removal Order in accordance with the requirements under 0 without first meeting with the person.
- 10.2 Council shall serve the emergency Removal Order on the Person of Interest within 48 hours of the decision. Service shall be in accordance with 17.1 to 17.4.
- 10.3 In addition to the contents of the Removal Order set out in section 9.5, an emergency Removal Order must contain:
- (a) particulars of the alleged conduct giving rise to the emergency Removal Order in sufficient detail that the Person of Interest is able to understand the basis for the emergency Removal Order;
 - (b) that the Person of Interest is required to meet with Council in respect of the emergency Removal Order;
 - (c) the date, time and location of the meeting with Council;

- (d) the consequences of failing to meet with Council as required under the emergency Removal Order; and
- (e) how to dispute the allegations in the emergency Removal Order.

- 10.4 The meeting with Council set out under section 10.3(c) must be at least seven days after the Person of Interest is served under section 10.2.
- 10.5 A Person of Interest shall have reasonable opportunity to respond allegations set out in the emergency Removal Order issued under section 10.1 at the meeting with Council held pursuant to such emergency Removal Order.
- 10.6 If a Person of Interest is unable to meet with Council at the time specified in the emergency Removal Order under section 10.3(c), the Person of Interest shall submit a written request to:
- (a) meet with Council at an alternative date and time;
 - (b) provide written submissions instead of having an in-person meeting; or
 - (c) have a legal representative meet with Council on their behalf

to the Justice Manager within seven days of receiving the notice and shall specify the reasons supporting the request.

- 10.7 The Justice Manager shall consider all requests under section 10.6. The Justice Manager shall provide a written decision within seven days of receiving a request pursuant to section 10.6 from a Person of Interest.
- 10.8 Within 14 days of the meeting held pursuant to section 10.5, Council shall provide a written decision:
- (a) confirming the emergency Removal Order issued under this Part; T
 - (b) issuing alternative sanctions under section 8.1; or
 - (c) cancelling the emergency Removal Order.
- 10.9 Council shall serve the decision under section 10.8 on the Person of Interest within 14 days in accordance with 17.1 to 17.4.
- 10.10 If the Person of Interest fails to meet with Council as required under section 10.3(c), Council may make any decision under section 10.8 without further notice to the Person of Interest.
- 10.11 For greater clarity, a person subject to an Emergency Removal Order may appeal the emergency Removal Order in accordance with Part 11 or apply for cancellation of the emergency Removal Order in accordance with Part 15.

PART 11

11. APPEAL PROCESS

- 11.1 Within 30 days of being served a decision made by BCR under this Bylaw, a Person of Interest may apply to the Justice Manager to dispute the decision by filling an appeal application with the Justice Manager.
- 11.2 Council may extend the time for making the appeal application if it is satisfied that the extension is in the interests of justice.
- 11.3 An appeal application must include:
- (a) the applicant's legal name and address to which documents may be delivered to the applicant;
 - (b) the BCR that is the subject of the appeal;
 - (c) the reason(s) for challenging the BCR; and
 - (d) the relief sought by the applicant.
- 11.4 Upon receipt of the appeal application, the Justice Manager shall review the appeal application for completeness, notify the applicant at the address in writing of any deficiencies and set a reasonable timeframe for the applicant to correct such deficiencies.
- 11.5 If the applicant does not correct the deficiencies in the appeal application within the timeframe provided in the notice under section 11.4, the appeal shall be deemed to be withdrawn.

Form of the Hearing

- 11.6 In the appeal application, the applicant may request that the form of the hearing be:
- (a) in writing only; or
 - (b) an oral hearing.
- 10.15 If a hearing based on written submissions only is requested, the applicant shall include in the appeal application:
- (a) a statement that they do not want to appear in-person for a hearing; and
 - (b) written reasons for requesting that the decision be reversed or modified.
- 11.7 The Appeal Tribunal has full discretion to determine the form of the hearing, but shall take into account the request of the applicant.

Hearing of an Appeal

- 11.8 Within 14 days after receipt of a complete appeal application, the Justice Manager shall refer the matter to the Appeal Tribunal for a hearing.

Appeal Tribunal

- 11.9 The Justice Manager shall appoint the Appeal Tribunal, which shall be composed of at least five persons and shall include the following:
- (a) one Elder from the applicant's clan;
 - (b) one member of the Takla Nation Justice Department;
 - (c) one Member who has attained the age of 19 years;
 - (d) one non-Member who is familiar with Takla and has knowledge or experience in community development or justice; and
 - (e) one representative from the Health Department.
- 11.10 The Justice Manager may appoint the Appeal Tribunal on an as-needed basis and dissolve the Appeal Tribunal when the appeal has been completed.
- 11.11 If any person is prevented from sitting on the Appeal Tribunal due to a conflict of interest, that person shall recuse themselves from the Appeal Tribunal. The Justice Manager shall replace the recused person with an alternate, who shall be appointed by the Justice Manager in accordance with section 11.9.
- 11.12 The Appeal Tribunal has sole jurisdiction to try, determine and adjudge appeals with respect to decisions under this Bylaw.
- 11.13 The Appeal Tribunal has all the powers, rights and privileges that are vested in a superior court of record that are necessary or proper for the exercise of its jurisdiction.
- 11.14 Without limiting section 11.13, the Appeal Tribunal has the authority to:
- (a) decide preliminary matters, including whether the appeal shall proceed;
 - (b) summon and examine witnesses;
 - (c) make orders to ensure the just, speedy and inexpensive determination of every appeal on its merits;
 - (d) require the production and inspection of documents by the parties or by others; and
 - (e) waive or extend any time periods set out in these appeal procedures.

Hearing Process

- 11.15 The Appeal Tribunal shall determine the date, time, length, procedure and form of the hearing.

- 11.16 At least seven days before the hearing, the Appeal Tribunal shall send a Notice of Hearing to the applicant and to Council.
- 11.17 A Notice of Hearing shall include:
- (a) the date of the hearing;
 - (b) the time and length of the hearing; and
 - (c) the procedure for the hearing.
- 11.18 Subject to section 11.21, the Appeal Tribunal has discretion to determine the procedure for the hearing.
- 11.19 The Appeal Tribunal may receive and accept any evidence, including oral history, and other information, whether on oath or by affidavit or otherwise, that it sees fit, whether or not that evidence or information is or would be admissible in a court of law, unless it would be inadmissible in a court by reason of any privilege under the law of evidence.
- 11.20 The parties to an appeal shall bear the burden of contacting their witnesses and arranging for them to attend the hearing.
- 11.21 At a minimum, all hearings before the Appeal Tribunal shall comply with the rules of procedural fairness and the principles of natural justice, and shall provide each party with the opportunity to make oral or written submissions and to know and respond to the case against them.
- 11.22 After the hearing, the Appeal Tribunal shall deliberate in closed session and shall reach a decision on the appeal.
- 11.23 If the Appeal Tribunal cannot reach a consensus decision, the appeal shall be decided by a majority vote of the Appeal Tribunal.
- 11.24 The Appeal Tribunal may:
- (a) reverse or modify with or without conditions the decision made by Council; or
 - (b) confirm the decision made by Council.
- 11.25 Within 21 days of the hearing, the Appeal Tribunal shall provide written reasons for its decision to the Justice Manager, and the Justice Manager shall serve the decision on the applicant within 14 days of the Appeal Tribunal providing the Justice Manager with the decision.
- 11.26 The Justice Manager will forward the decision of the Appeal Tribunal to Chief and Council.

Failure to Appear

- 11.27 If an applicant fails to appear before the Appeal Tribunal at the hearing on the date set out in the Notice of Hearing:

- (a) Council's decision is deemed not to be disputed;
 - (b) the Appeal Tribunal shall not try, determine or adjudge the appeal; and
 - (c) Council's decision stands and any related orders must be immediately complied with.
- 11.28 If an applicant that does not appear under section 11.27 still wishes to dispute Council's decision, the applicant may apply to the Appeal Tribunal and, on being satisfied of the matters in section 11.29, the Appeal Tribunal may make an order allowing the appeal to proceed and issue a new Notice of Hearing.
- 11.29 Before making an order under section 11.28 allowing an appeal to proceed, the Appeal Tribunal must be satisfied that:
- (a) through no fault of the applicant, the applicant was not able to attend the hearing;
 - (b) the applicant has a genuine intention to dispute Council's decision;
 - (c) no undue prejudice will result from allowing the appeal to proceed;
 - (d) the applicant has an arguable defence; and
 - (e) it is in the interests of justice to allow the appeal to proceed.

PART 12

12. EFFECTIVE TIME OF REMOVAL ORDER

- 12.1 Despite Part 18, where a Removal Order has been issued under this Bylaw, the person subject to the Removal Order shall leave the Reserve by the time and date upon which the Removal Order is effective pursuant to section 9.5(e).
- 12.2 Once a Removal Order comes into effect, it is in force until it expires according to its terms or is cancelled pursuant to section Part 11 or Part 15.

Personal property

- 12.3 The person subject to the Removal Order shall remove their personal property from the Reserve by the time and date upon which the Removal Order is effective pursuant to section 9.5(e).
- 12.4 If a person subject to a Removal Order leaves personal property on Reserve, the person shall contact the Justice Manager within 14 days after the Removal Order takes effect and:
- (a) provide a detailed list of personal property and arrange to have the personal property delivered to an agreed-upon location off-Reserve; or
 - (b) at the sole discretion of the Justice Manager or designate, arrange for re-entry onto Reserve in the presence of an Enforcement Officer for a specified period of time to gather and remove the personal property.

- 12.5 The Justice Manager may dispose of the personal property at their discretion after 30 days from the Removal Order taking effect.

PART 13

13. VISITS

- 13.1 A person subject to a Removal Order may apply to the Justice Manager for permission to visit a Reserve for the purposes of funerals, wakes, potlatches, ceremonies, traditional activities and other special occasions.
- 13.2 A person making an application under section 13.1 shall include in their application the dates upon which the person proposes to visit a Reserve, the purpose of the visit, where on the Reserve the person will be present, and any additional information or submissions the person wishes Council to consider.
- 13.3 Upon receiving an application under section 13.1, the Justice Manager shall gather information relevant to the application including, but not limited to:
- (a) input from any person harmed by the actions which led to the Removal Order;
 - (b) input from the Health Department;
 - (c) input from law enforcement agencies including the RCMP; and
 - (d) input from child welfare agencies

and shall forward the application and information gathered to Council.

- 13.4 Council shall consider and determine applications under this Part as soon as possible, and in advance of the proposed visitation dates provided that the applicant has provided reasonable notice in advance of the proposed visit.
- 13.5 Council may consider and determine applications pursuant to section 13.1 on the basis of the written application and is not required to hold a hearing.
- 13.6 A decision by Council under this Part shall be by BCR, is final, and despite Part 11 is not subject to appeal.

PART 14

14. PERSONS NOT AFFECTED

- 14.1 No Removal Order shall impact upon the ability of the spouse or children of a person subject to the Removal Order to continue to reside on Reserve or visit a Reserve.

PART 15

15. CANCELLATION OF REMOVAL ORDER

When a Removal Order must be cancelled

- 15.1 Council shall cancel a Removal Order if it is satisfied that the circumstances described in Part 6, Part 9 or Part 10 no longer exist and that the health and safety of the community or any Member, or the observance of law and order, would not be compromised by cancelling the Removal Order.

Application for cancellation or modification

- 15.2 A person subject to a Removal Order or other sanction under Part 8 may apply to the Justice Manager for cancellation or modification of the Removal Order or sanction if they can provide reasonable evidence that the circumstances for which the Removal Order or sanction was issued have changed.
- 15.3 Upon receiving an application to cancel a Removal Order under section 15.2, the Justice Manager shall gather information relevant to the application including, but not limited to
- (a) input from any person harmed by the actions which led to the Removal Order;
 - (b) input from the Health Department;
 - (c) input from law enforcement agencies including the RCMP; and
 - (d) input from child and family services agencies

and shall provide the application and information gathered to Council.

- 15.4 Within 14 days of receiving an application under section 15.2 from the Justice Manager, Council shall:
- (a) consider the application at a duly convened Council meeting;
 - (b) provide the applicant with an opportunity to provide written or oral submissions; and
 - (c) by BCR, either:
 - (i) approve the application;
 - (ii) modify the Removal Order or sanction at issue; or
 - (iii) reject the application.

15.5 Council shall provide written reasons for its decision under section 15.4.

15.6 Council shall serve the decision under section 15.4 on the applicant within 14 days from reaching the decision.

- 15.7 An applicant under this Part whose application has been rejected by Council is prohibited from making a further application under this Part for six months after the reasons for rejection have been provided.

Meeting must be in camera

- 15.8 Council shall hold meetings under section (a) *in camera*.
- 15.9 Council may seek community input to assist them in reaching a decision under sections 15.1 and 15.4.

PART 16

16. ENFORCEMENT AND PENALTIES

Council may appoint Enforcement Officers

- 16.1 Council may, by BCR, designate a person as an Enforcement Officer.

Inspections

- 16.2 An Enforcement 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 including, without limitation, to determine whether:
- (a) a person is allowed to enter or be on Reserve, including by requesting appropriate written or verbal confirmation that the person is a Member or Resident;
 - (b) a person is frequenting a Reserve for a Prohibited Purpose; or
 - (c) a person is the subject of a Removal Order by Council under Part 9 or Part 10.
- 16.3 Before entering a vehicle or place to conduct an inspection in accordance with section 16.2, an Enforcement 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 Enforcement Officer may conduct an inspection without providing notice if:
- (a) providing notice would not be reasonably possible or practical in the circumstances;
or
 - (b) providing notice would frustrate the purposes of the inspection.

Orders

- 16.4 An Enforcement Officer may order a person to do or not do anything that the Enforcement Officer reasonably believes is necessary to
- (a) determine whether a person is carrying out a Prohibited Purpose; and

(b) stop Prohibited Purposes from being carried out or continuing on Reserve.

16.5 Without limiting the generality of section 16.4, an Enforcement Officer may:

(a) order a person not to enter or to immediately leave the Reserve; or

(b) order a gathering of people to disperse immediately and, where the gathering is in a home or building on Reserve, order any person who is not a Resident of that home or building to leave the property immediately.

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

Offences

16.7 No person may interfere with or obstruct an Enforcement Officer who is exercising their enforcement powers under this Bylaw, or fail to comply with an Enforcement Officer's order enforcing this Bylaw.

16.8 A person who fails or refuses to comply with an order made under Part 8 or who resists or interferes with an Enforcement Officer acting under section 16.2 commits an offence.

16.9 Where an act in contravention of this Bylaw continues for more than one day, each day on which the offence is committed shall be deemed a separate offence and may be punished as such.

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

Penalties

16.11 A person who commits an offence under this Bylaw is liable on summary conviction to a fine of up to one thousand dollars (\$1,000.00), imprisonment for up to 30 days or to both, pursuant to section 81(1)(r) of the Indian Act.

16.12 Where this Bylaw is contravened and a conviction entered, a court of competent jurisdiction may make an order prohibiting the continuation or repetition of the contravention by the person convicted pursuant to section 81(3) of the *Indian Act*.

PART 17

17. GENERAL

Service

- 17.1 When this Bylaw requires Council to serve a notice upon a Person of Interest, Council may effect service by:
- (a) delivering the notice to the Person of Interest personally; or
 - (b) emailing the notice to the Person of Interest's email address.
- 17.2 If Council after reasonable efforts is unable to locate the Person of Interest or their email address, or if the Person of Interest is evading service, Council may serve a notice upon the Person of Interest by:
- (a) delivering the notice to the Person of Interest's last known residence;
 - (b) leaving the notice with a person over the age of 18 at the Person of Interest's last known residence;
 - (c) delivering the notice to an Immediate Family Member of the Person of Interest;
 - (d) delivering the notice to social media accounts known to be associated with the Person of Interest; or
 - (e) posting the notice at the Takla Nation administration buildings at Prince George and Takla Landing.
- 17.3 If a Person of Interest under Part 6 or an applicant under Part 11 is incarcerated, notice will be sufficient if it is sent to their attention at the correctional facility.
- 17.4 If a Person of Interest under Part 6 or an applicant under Part 11 is under the age of 19, any applicable notice shall also be given to their parents or guardians and any applicable child welfare agency.

No Liability

- 17.5 None of Council, Appeal Tribunal members, Members, employees, representatives or agents of any of Takla 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 from the neglect or failure, for any reason or in any manner, to enforce this Bylaw.
- 17.6 None of Council, Appeal Tribunal members, or employees, representatives or agents of any of Takla or Council are liable for any damages arising from any action taken in accordance with this Bylaw, including issuing a Removal Order, provided that action or order was undertaken in good faith.

Compliance with Other Laws

- 17.7 Compliance with this Bylaw shall not relieve a person from having to comply with the requirements of any other applicable law or legal requirement.

Severability

- 17.8 If a court of competent jurisdiction determines that a provision of this Bylaw is invalid for any reason, the provision shall be severed from the Bylaw and the remaining provisions of this Bylaw shall remain in full force and effect.

Judicial Review

- 17.9 On any application for judicial review in respect of a decision made under this Bylaw, the Court shall take notice of the specialized knowledge and expertise of Council and the Appeal Tribunal with respect to the history, culture and values of Takla, and the best interests of Takla.

Notice

- 17.10 Any notice which is required to be provided to Takla under this Bylaw shall be in writing and will be considered to have been given if delivered by hand to an employee or representative of Takla at the address below, or mailed by prepaid registered post in Canada to the address or facsimile transmission number set out below:

By mail: 510 Carney Street, Prince George, British Columbia V2M 2K6

By facsimile: 250-564-9521

- 17.11 If there is any inconsistency between this Bylaw and any other agreement, law, bylaw or policy of Takla, this Bylaw shall prevail.

PART 18

18. CALCULATION OF TIME

- 18.1 Where the time limited for the doing of an act under this Bylaw expires or falls on a Saturday or Sunday, a federal or provincial holiday, or a funeral, wake, potlatch, or ceremony day, the act may be done on the next day that is not a Saturday, Sunday, holiday or funeral, wake, potlatch or ceremony day.

PART 19

19. AMENDMENTS

- 19.1 This Bylaw may be amended by a quorum of Council at a duly convened meeting of Council. Council shall promptly post the amended Bylaw on the Takla website and in prominent locations on the Reserve, and it shall share the amended Bylaw with the Officers who are helping to enforce it.

PART 20

20. COMING INTO FORCE

- 20.1 This Bylaw comes into force the day it is enacted by a majority of electors of Takla Nation. As soon as the Bylaw is approved, Council shall post the Bylaw on the Takla website and in prominent locations on Reserve and share the Bylaw with the Enforcement Officers who will help to enforce it.

Publication of bylaw

- 20.2 Upon enacting this Bylaw, Council shall:
- (a) publish the Bylaw in the First Nations Gazette;
 - (b) post the Bylaw on a Takla internet page, to remain until such date as it is repealed;
 - (c) post the Bylaw in a public area in the Takla administration buildings at Prince George and Takla Landing, including a notice containing:
 - (i) the date that this Bylaw is in force; and
 - (ii) a summary of this Bylaw.

BE IT KNOWN that this Bylaw entitled the *TAKLA COMMUNITY PROTECTION BYLAW* is hereby enacted at a duly convened community meeting of Takla Nation this 5th day of April, 2023 and endorsed by the Chief and Council of Takla Nation.

Quorum 3



(Chief)



(Councillor)



(Councillor)



(Councillor)

(Councillor)

(Councillor)

(Councillor)