

**PAQTNKEK MI'KMAW NATION
BYLAW 2020 – 001**

PUBLIC HEALTH BYLAW

A By Law to protect the health and safety of persons living within Paqtnkek Mi'kmaw Nation Lands and to prevent the spreading of communicable diseases and contagions;

WHEREAS paragraphs (A) and (R) of section 81 of the Indian Act (R.S.C., 1985, c. I-5) empower the Council of a Band to make by laws respecting health of residents on the reserve and to impose a penalty for the violation thereof;

AND WHEREAS Indigenous communities historically experience greater peril from the spread of communicable diseases and contagions;

AND WHEREAS the Council of the Paqtnkek Mi'kmaw Nation band finds it necessary to impose measures to contain and limit public health risks in an effort to limit the spread of communicable diseases and contagions;

NOW THEREFORE Council of Paqtnkek Mi'kmaw Nation hereby enacts the following By Law:

1. Title

This By Law may be cited for all purposes as the "Paqtnkek Public Health By Law".

2. Interpretation

In this By Law, unless the context otherwise requires:

- (a) "Business" means any for profit enterprise, incorporate or not, occurring on or within Paqtnkek Mi'kmaw Nation Lands;
- (b) "Council" means the Council of Paqtnkek Mi'kmaw Nation;
- (c) "Lands" means the all Paqtnkek Mi'kmaw Nation reserve lands or any future lands acquired by the Paqtnkek Mi'kmaw Nation subject to an Additions-to-Reserve Process;
- (d) "Peace Officer" means a member of the Royal Canadian Mounted Police or other Police force that may in future become responsible for policing Paqtnkek Mi'kmaw Nation Lands;
- (e) "Person" for the purposes of this By Law, includes, but is not limited to, Paqtnkek Band Members, non-Band Member Residents of Paqtnkek Mi'kmaw Nation and any and all visitors to the Lands of Paqtnkek Mi'kmaw Nation.

3. Application

This By law applies:

(a) to every Person or Business within the confines of Lands of Paqtnkek Mi'kmaw Nation;
and

(b) to every installation, building, place or thing constructed, made, set up or established within the confines of the Lands of Paqtnkek Mi'kmaw Nation.

4. Powers of Council in the event of a communicable disease or illness

4.1 Where the Chief and Council of the Paqtnkek First Nation believe upon reasonable and probable grounds, that :

(a) a communicable disease or illness exists or may exist or that there is an immediate risk of an outbreak of a communicable disease or illness that presents a risk to the public health; and

(b) that the peril to the public health posed by the communicable disease or illness justifies an order or directive to decrease or eliminate the risk to public health presented by the communicable disease;

then the Chief and Council, may by written order or directive requiring a Person, Business or organization on or within Paqtnkek Mi'kmaw Nation Lands to take an action or to refrain from taking an action that is specified in the order or directive, in respect of a communicable disease and public health. Any order or directive shall be made and passed at a duly convened meeting of the Chief and Council of the Paqtnkek Mi'kmaw Nation.

4.2 Without limiting any of criteria or generality of the foregoing in section 4.1, the Chief and Council of Paqtnkek Mi'kmaw Nation may make orders or directives as required pursuant to this By Law, which may include but are not limited to:

(a) orders or directive adopting or endorsing any or all orders or directives issued under the *Nova Scotia Health Protection Act*, *Federal Quarantine Act*, or *Emergency Measures Act* confirming its application to Paqtnkek Mi'kmaw Nation Lands and those Persons and Businesses within Paqtnkek Mi'kmaw Nation Lands;

(b) an order or directs that would impact the entire Paqtnkek Mi'kmaw Nation Lands or any portion thereof, including but not limited to:

a. requiring a mandatory curfew;

b. requiring checkpoints at the entrances and exits to Paqtnkek Mi'kmaw Nation Lands to limit or restrict traffic from visitors, non Band Members or non-residents of Paqtnkek Mi'kmaw Nation Lands;

c. Requiring a lock down of Paqtnkek Mi'kmaw Nation Lands.

4.3 In the event the Chief and Council make an order or directive per section 4.2 (b):

- a) Chief and Council will within the order or directive, provide details, information and any exceptions; and
- b) The Chief and Council is inform both RCMP and EHS of any directives or orders under 4.2 (b).

4.4 Any directive or order made by the Chief and Council per section 4.2 (b), applicable to all or a portion of Paqtnkek Mi'kmaw Nation Lands, shall be publicly posted, which may include its website and/or social media.

5. Offence of Public Health

5.1 . Every Person or Business causes a public health risk or violation when it:

- a. creates a condition, takes an action or permits an action within the Lands of the reserve that is or may become a risk to the safety or the health of the public;
- b. creates a condition or takes an action or permits an action within the Lands of the reserve that prevents or hinders or may prevent or hinder in any manner the suppression of communicable disease or illness; or
- c. disobeys any directive or order of the Paqtnkek Mi'kmaw Nation Chief and Council issued to limit the risk to the safety or the health of the public within the Lands of Paqtnkek Mi'kmaw Nation.

5.2 Every Person or Business who causes a public health risk or violation on the Lands of the Paqtnkek Mi'kmaw Nation, is guilty of an offence.

6. Enforcement

6.1 . Where a Person or Business who has been ordered to stop their public health risk or violation fails or refuses to comply, a Peace Officer may take such reasonable measures as are necessary to stop the public health risk or violation.

6.2. A Person or Business who fails or refuses to comply with an order by a Peace Officer under this By Law or who resists or interferes with a Peace Officer acting under the authority of this By Law commits an additional offence.

7. Penalty

7.1. A Person or Business who commits an offence under this By Law is liable to a fine not exceeding \$1,000 per occurrence, or to imprisonment for a term not exceeding thirty days, or both.

7.2. Each day that a Person or Business is in violation of this By Law shall constitute a distinct offence.

7.3. A charge laid under this By Law does not fetter the discretion of the Chief and Council of the Paqtnkek Mi'kmaw Nation to pursue their own administrative remedies against any Person or Business committing a public health risk or violation under this By Law.

8. Severability

Should a court of competent jurisdiction determine that a provision of this By Law is invalid for any reason, the offending provision shall be severed from the By Law and the validity of the rest of the By Law shall not be affected.

9. Amendments

9.1. Amendments to or repeal of this By Law may be done by a quorum of Council at a duly convened meeting of the Chief and Council of the Paqtnkek Mi'kmaw Nation.

9.2. Band members must receive 15 days notice prior to the repeal of this By Law and any member or any person who may possibly be affected its amendment or repeal may present written or oral comments in advance of meeting.

9.3. Council may set reasonable restrictions on the amount of time allowed for such comments.

10. Prevailing Provisions

10.1 Where Paqtnkek Mi'kmaw Nation has the authority and vested powers to enact this By Law, should any other order or directive from another government be in conflict or contradiction with an order or directive made under this Bylaw on Paqtnkek Mi'kmaw Nation lands, then the orders or directives made pursuant to this By Law shall prevail.

THIS BY LAW IS HEREBY made at a duly convened meeting of the Chief and Council of Paqtnkek Mi'kmaw Nation this 19 day of May, 2020.

Voting in favour of the By Law are the following members of the Council:














