

Malahat Nation

COVID-19 Emergency Law

PREAMBLE

WHEREAS Malahat Nation recognizes there are now multiple outbreaks of COVID-19 in surrounding communities which pose an imminent health and safety threat to the Nation;

WHEREAS the Malahat Nation community faces challenges as a result of poor housing conditions, a high level of underlying health conditions, low incomes in many households, and limited access to food and supplies;

WHEREAS the COVID-19 virus is highly contagious and is a serious and immediate threat to the health and lives of Nation members, especially for Elders, pregnant mothers, children, and members with underlying health conditions;

WHEREAS Malahat Nation has been under a state of emergency since April 23, 2020, in coordination with the Province of British Columbia;

WHEREAS Canada's Chief Public Health Officer and British Columbia's Chief Public Health Officer have directed that measures be taken in coordination with the state of emergency, including social distancing and limiting the size of gathering;

WHEREAS Malahat Nation Chief and Council ("Council") recognize the need to take urgent action help protect the nation community from the spread of the COVID-19 virus;

WHEREAS Malahat Nation has assumed control of its lands by adopting the *Malahat Nation Land Code* pursuant to the *Framework Agreement on First Nation Land Management*, which affirms the authority of Malahat Nation to make laws to provide for community health and safety (Sec 11.2(j)).

WHEREAS Malahat Nation has an inherent right of self-government which emanates from our people, culture, language, and aboriginal rights including aboriginal title, which was and is central to the customs, practices and traditions of the distinctive culture of our First Nation prior to contact with the Europeans and which is recognized and affirmed by Section 35 of the Constitution Act, 1982;

AND WHEREAS Malahat Chief and Council adhere to the law-making procedures set out in Section 13 of the *Malahat Nation Land Code*.

PART 1

PRELIMINARY MATTERS

1.1 Title

This Law may be cited as the *“Malahat Nation COVID-19 Emergency Law”*

1.2 Purpose

The purpose of this law is to protect the Malahat community.

1.3 Definitions

In this law:

“Authorized Occupant” means a person listed as an Authorized Occupant on a Malahat Nation Tenancy Agreement.

“Council” means the Chief and Council of Malahat Nation, which is elected pursuant to the Malahat Nation Election Code.

“Community” means the members living within the Malahat Nation reserve lands.

“EOC Director” Means the Emergency Operation Center Director as laid out in the Emergency Operations Organizational Chart.

“Law” means the “Malahat Nation Covid-19 Emergency Law”.

“Malahat Nation Member” means a person whose name appears on the Malahat Nation Indian band membership list.

“Officer” means (a) any person designated in writing by the EOC Director to enforce this law; and (b) Peace Officers.

“Peace Officer” means (a) RCMP Officers; and (b) any other person charged by Canada or British Columbia with the duty to preserve and maintain the public peace in accordance with their laws.

“Reserve” means all lands comprising IR 11 of Malahat Nation.

“Tenant” means a person listed as a Tenant on a Malahat Nation Tenancy Agreement.

“Unauthorized Person” means a person who meets none of the criteria in section 2.2 of this Law and therefore is not allowed to be on Reserve.

PART 2

PROTECTIVE MEASURES

2.1 Authorized Occupants and others identified in Section 2.2 must adhere to all orders issued by the provincial health officer.

2.2 A person may only enter or be present on the Reserve if they are:

- i) A Malahat Nation member
- ii) A Tenant or authorized occupant
- iii) The spouse or family member of a Nation Member who routinely resides with the Nation Member on reserve.
- iv) Conducting urgent appliance or home repairs
- v) Delivering goods to a home on Reserve, not including alcohol or drugs.
- vi) Caring for a Tenant or Authorized Occupant
- vii) Providing emergency services (e.g. firefighting, child and family services, medical, RCMP, search and rescue services)
- viii) Doing work to maintain or repair utilities or public infrastructure (e.g. hydro, phone, internet, snowplowing, garbage removal);
- ix) A registered child at Caterpillar Childcare
- x) Doing work for Malahat Nation at Malahat Nation's request.

2.3 A person who meets none of the criteria in section 2.2 is not allowed to enter or be present on a Reserve and is an Unauthorized Person.

2.4 The maximum number of people allowed in any home at any given time is 10. This maximum applies to the entire property on which the home is located. In the case of a housing emergency, the EOC Director may make exceptions to this maximum occupancy rule in writing.

2.5 The following people must immediately remain inside their home:

- i) Any person who is experiencing fever and coughing will remain at home until their fever has passed or they have been tested for COVID-19 and received confirmation they do not have the virus;
- ii) Any person returning to a Community from outside of Canada will remain at home for 14 days or longer as directed by the Provincial Health Officer;
- iii) Any person returning from a Canadian Destination that the EOC Director has identified as a high risk location through a written notice to Malahat Nation members will remain at home for 14 days or longer as directed by the Provincial Health Officer.

PART 3

ENFORCEMENT AND PENALTIES

3.1 Officers may stop people seeking to enter a Reserve or who are on the Reserve to determine whether they are allowed to enter or be on the Reserve, including by requesting appropriate written or verbal confirmation that the person meets one of the criteria in section 2.2.

3.2 Officers may order any unauthorized person not to enter or to immediately leave the Reserve.

- 3.3 Officers may attend homes on Reserve to determine whether occupancy exceeds 10 people. Where Occupancy exceeds 10, Officers may order any person who is not an Authorized Occupant of that home to leave the property immediately unless that home has been granted an exception under section 2.4 of this law.
- 3.4 Officers may order any person who should be staying at home under Section 2.5 to return home.
- 3.5 No person may interfere with or obstruct an Officer who is exercising their enforcement powers under this law, or fail to comply with an Officer's order enforcing this law.
- 3.6 A person who commits an offense under this law is liable under summary conviction to a fine of up to \$1,000.00, imprisonment for up to 30 days, or to both pursuant to Section 48.2 of the *Malahat Nation Land Code* and section 19.1 of the *Framework Agreement on First Nation Land Management*.
- 3.7 Where an Act in contravention of this law continues for more than one day, each day on which the offense is committed will be deemed a separate offense and may be punished as such.
- 3.8 The offenses created by this law are in addition to, and do not replace, any applicable provincial or federal offenses.

PART 4

ADDITIONAL MATTERS

4.1 Revocation and coming into force

This law comes into effect on January 7, 2021 at the duly convened meeting of the Council and will be in effect for seven (7) days pursuant to Section 13 of the *Malahat Nation Land Code* unless it is formally re-enacted in accordance to Section 13.

4.2 Amendments

Any amendments to this law must be passed pursuant to section 13 of the Malahat Nation Land Code.

4.3 Severability

If any part, division, section, or paragraph of this Law is for any reason held invalid by a decision of a court of competent jurisdiction, the invalid part, division, section, or paragraph will be severed from and not affect the remaining provisions of this Law.