



## VUNTUT GWITCHIN FIRST NATION

### COMMUNITY EMERGENCY ACT

THIS ACT is hereby approved by consensus of the Council of the Vuntut Gwitchin First Nation present at a meeting duly convened on the March 31, 2020 at Old Crow, Yukon:

  
\_\_\_\_\_  
CHIEF DANA TILYA-TRAMM

  
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DEPUTY CHIEF DARIUS ELIAS

  
\_\_\_\_\_  
COUNCILLOR CHERYL J. CHARLIE

**Preamble**

**WHEREAS** it is within the duties of Council under the Constitution to exercise the powers of the Vuntut Gwitchin First Nation provided under the Self-Government Agreement as may be necessary to fulfill the fundamental objects of the Constitution;

**AND WHEREAS** promoting and enhancing the general welfare of the Vuntut Gwitchin First Nation is a fundamental object of the Vuntut Gwitchin First Nation under the Constitution;

**AND WHEREAS** the fulfillment of this fundamental object may be seriously undermined by a Community Emergency and, in order to ensure the health, safety and welfare of persons on Settlement Land during a Community Emergency, the Council should be authorized to take special temporary measures that may not be appropriate in normal times;

**AND WHEREAS** the Council, in taking such special temporary measures, would be subject to the Constitution and must have due regard to the rights and freedoms of individuals guaranteed therein subject to such reasonable limits that can be demonstrably justified in a free and democratic Vuntut Gwitchin society;

**AND WHEREAS** the Vuntut Gwitchin First Nation has the power under the Self-Government Agreement to enact laws of a local or private nature on Settlement Land in relation to the control or prohibition of any actions, activities or undertakings that constitute, or may constitute, a threat or danger to public health, order, peace or safety;

**NOW THEREFORE** the Council hereby enacts as follows:

**Short Title**

1. This Act may be cited as the *Community Emergency Act (Vuntut Gwitchin First Nation)*.

**Interpretation**

2. In this Act, including the preamble, the following definitions shall apply:

“Constitution” means the Constitution of the Vuntut Gwitchin First Nation as amended from time to time;

“Council” means the Council established under the Constitution as a branch of the Vuntut Gwitchin First Nation government;

“Community Emergency” means an apprehended, imminent or actual danger to life, health, safety or the environment on Settlement Land;

“Community Emergency Declaration” means a declaration that may be made by Council pursuant to section 5 of this Act;

“Community Emergency Order” means an order that may be made by Council pursuant to section 7 of this Act;

“Community Safety Officer” means a person who may be designated by Council pursuant to section 10 of this Act;

“Corrections Act” means the *Corrections Act (Yukon)* as amended from time to time;

“Self-Government Agreement” means the Vuntut Gwitchin First Nation Self-Government Agreement between the Government of Canada, Vuntut Gwitchin First Nation and Government of the Yukon dated May 29, 1993;

“Settlement Land” has the same meaning as under the Self-Government Agreement; and

“Summary Convictions Act” means the *Summary Convictions Act (Yukon)* as amended from time to time.

3. This Act is an enactment within the meaning of the *Summary Convictions Act*.

#### **Application**

4. This Act applies to Settlement Land and all persons occupying Settlement Land.

#### **Community Emergency Declaration**

5. Council may make a Community Emergency Declaration if the Council believes on reasonable grounds that a Community Emergency exists. A Community Emergency Declaration shall:
- (a) specify concisely the danger constituting the Community Emergency;
  - (b) be made in the form of a resolution approved by the consensus of Council;
  - (c) be published by those means that will reasonably bring the Community Emergency Declaration promptly to the attention of persons occupying Settlement Land;
  - (d) begin on the date of publication of the Community Emergency Declaration pursuant to subparagraph 5(c); and
  - (e) unless terminated or extended pursuant to section 6, expire 90 days from the beginning date of Community Emergency Declaration.
6. Council may terminate or extend for a further period of up to 90 days a Community Emergency Declaration. Any termination or extension of a Community Emergency Declaration shall:
- (a) be made in the form of a resolution approved by the consensus of Council; and
  - (b) be published in a manner similar to that required by subparagraph 5(c) for the beginning of the Community Emergency Declaration.

**Community Emergency Orders**

7. While a Community Emergency Declaration is in effect, Council may make a Community Emergency Order establishing special temporary measures with respect to the following matters if the Council believes on reasonable grounds that such measures are necessary for addressing the Community Emergency:
- (a) control or prohibition of access and use of any specified area of Settlement Land where necessary for the protection of the health, safety and welfare of persons;
  - (b) control or prohibition of gatherings on any specified area of Settlement Land where necessary for the protection of the health, safety and welfare of persons;
  - (c) evacuation of individuals from any specified area of Settlement Land where necessary for the protection of the health, safety and welfare of persons;
  - (d) requisition, use or disposition of property on Settlement Land;
  - (e) regulation of the distribution and availability of essential goods, services and resources on Settlement Land, including accommodation, food, clothing and provision of other welfare services;
  - (f) authorization and making of emergency payments;
  - (g) establishment of emergency shelters on Settlement Land;
  - (h) assessment of damage to any works or undertakings on Settlement Land and the repair, replacement or restoration thereof; and
  - (i) assessment of damage to the environment on Settlement Land and the elimination or alleviation of the damage.
8. A Community Emergency Order shall:
- (a) specify concisely the special temporary measures that the Council is ordering as necessary for addressing the Community Emergency;
  - (b) be made in the form of a resolution approved by the consensus of Council;
  - (c) be published by those means that will reasonably bring the Community Emergency Order promptly to the attention of persons occupying Settlement Land;
  - (d) begin on the date of publication of the Community Emergency Order pursuant to subparagraph 8(c);
  - (e) expire upon the expiry or termination of the Communication Emergency Declaration or any lesser period of time as may be specified in the Community Emergency Order.

9. Council may amend a Community Emergency Order. Any amendment of a Community Emergency Order shall:
- (a) be made in the form of a resolution approved by the consensus of Council; and
  - (b) be published in a manner similar to that required by subparagraph 8(c) for the beginning of the Community Emergency Order.

**Community Safety Officers**

10. While a Community Emergency Declaration is in effect, Council may designate in writing any person as a Community Safety Officer who shall have the powers and duties to:
- (a) promote the health, safety and welfare of persons on Settlement Land, including promoting compliance with any Community Emergency Order;
  - (b) notify any persons on Settlement Land of the Community Emergency Declaration and any Community Emergency Order, including by posting signs and written notices;
  - (c) issue warnings to any persons where the Community Safety Officer reasonably believes that the actions, activities or undertakings of such persons on Settlement Land are not in compliance with a Community Emergency Order;
  - (d) investigate, document and report to Council any actions, activities or undertakings of persons on Settlement Land that the Community Safety Officer reasonably believes are not in compliance with a Community Emergency Order; and
  - (e) request the assistance of a peace officer in addressing any apprehended, imminent or actual dangers to the health, safety and welfare of persons on Settlement Land.

**Offences**

11. Unless otherwise specified in the Community Emergency Order, any person who fails to comply with a Community Emergency Order, as proven on a balance of probabilities, is guilty of an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding six months or to both fine and imprisonment.
12. The Territorial Court of Yukon has exclusive original jurisdiction in relation to the prosecution of any offence under this Act.
13. Except as otherwise provided by this Act, any offence under this Act may be prosecuted in accordance with the *Summary Convictions Act*.
14. If a member of Council believes on reasonable grounds that a person has committed an offence under this Act, the Council member may commence a proceeding in the Territorial

Court of Yukon by laying an information in writing and under oath or solemn affirmation before a justice.

15. A prosecution of an offence under this Act shall not be commenced more than two years after the date of the offence.
16. Any fine or imprisonment imposed for an offence under this Act may be recovered or enforced by summary procedure in the Territorial Court of Yukon.
17. Any fines imposed for offences under this Act shall be paid to the Vuntut Gwitchin First Nation.
18. Any terms of imprisonment imposed for offences under this Act shall be served in a correctional facility in accordance with the *Corrections Act*.
19. Nothing in this Act shall preclude the application of consensual or existing customary practices of the Vuntut Gwitchin First Nation with respect to the administration of justice.

**Limitation of Liability**

20. A person acting pursuant to this Act is not liable for any act done in good faith in the reasonable belief that the act was necessary to address a Community Emergency, including for any damage caused by interference with the rights or personal property of others, and are not subject to proceedings by way of injunction or mandamus in respect of acts done or not done in respect of the Community Emergency.

**Coming Into Force**

21. This Act shall come into force on the date approved by the consensus of the Council.