EEL RIVER BAR FIRST NATION GOVERNMENT

COMMUNITY PROTECTION ORDER BY-LAW

Definitions

1. "Community Protection Order" has the meaning set out in sections 4 and 5.

2. "Illegal Drugs" means any substance set out in Schedule I, II, or III of the Controlled Drugs and Substances Act, SC 1996, c 19, as amended, or otherwise prohibited by criminal law.

3. "Police" means any organization that provides police services or has jurisdiction to provide police services to the Eel River Bar First Nation, and includes any person appointed by Chief and Council for the purpose of maintaining law and order on the reserve.

Community Protection Orders

4. Where Chief and Council believe, on reasonable and probable grounds, that any person is engaged in the transportation, sale, or distribution of Illegal Drugs on the Eel River Bar First Nation or to residents of the reserve, Chief and Council may issue a Community Protection Order by band council resolution.

The community protection order shall be served by a member of council, the housing authority, the sheriff, or other person appointed by chief and council.

5. A Community Protection Order may include any provision reasonably necessary, as determined by Chief and Council, for the protection of community health and safety, including:

a. prohibiting or restricting a person from attending specified locations or events on the Eel River Bar First Nation reserve lands;

b. prohibiting a person from being within a prescribed distance from another person or persons;

c. setting conditions, including time limits or other restrictions, for a person to attend on the Eel River Bar First Nation;

d. evicting a person from Eel River Bar First Nation housing in accordance with the Eel River Bar First Nation Housing Policy and any applicable housing agreements;

e. banishing a person from using, occupying, possessing, or attending on land on the Eel River Bar First Nation.

6. A Community Protection Order may be effective up to one year, for a

specified period less than one year, and may only be extended or amended pursuant to this bylaw.

Considerations

7. Chief and Council may consider the following factors in determining whether to issue, extend, or reconsider any Community Protection Order:

a. Any credible information available to Chief and Council, including from Police, Eel River Bar First Nation members, and other Eel River Bar First Nation reserve residents.

b. The existence of any relevant criminal charges and the specific findings or resolution of any criminal process.

c. The risk of harm to any person, to public health or safety, or to Chief and Council's ability to ensure the observance of law and order on the Eel River Bar First Nation reserve.

d. The personal circumstances of any person that may be subject to a Community Protection Order, including their age, criminal record, prior character and background, community support, and any past or present rehabilitation efforts.

e. The personal circumstances of other affected Eel River Bar First Nation members or residents of the Eel River Bar First Nation.

f. The circumstances of the Eel River Bar First Nation as a whole, including the availability of resources.

g. Whether any less restrictive order could reasonably satisfy the needs of the community.

Amendment, Extension, and Withdrawal of Community Protection Orders

8. Chief and Council may amend or extend a Community Protection Order for a specified or indefinite period of time after providing notice and an opportunity to make oral or written submissions to any person who may be subject to the order and to any Eel River Bar First Nation members or residents of the Eel River Bar First Nation who may be affected by the order.

Chief and Council shall consider any such submissions prior to amending or extending the Community Protection Order and shall provide written reasons for

any amendment or extension.

9. Chief and Council may withdraw a Community Protection Order or any part thereof by band council resolution at any time.

Right of Reconsideration

10. A person who is subject to a Community Protection Order (the "Applicant") may apply to Chief and Council for reconsideration once at any time before the expiration of the original order, and/or once every 12 months thereafter if the original order is extended.

11. An application for reconsideration shall set out in writing the factual circumstances on which it is based and any change in circumstances since the Community Protection Order was made, focusing on any risks related to the applicant's presence on the Eel River Bar First Nation or any part thereof to public health, safety, and order.

12. Chief and Council may request and consider further oral or written submissions from the Applicant in addition to the written application for reconsideration.

13. Chief and Council shall provide notice and an opportunity to make oral or written submissions to any Eel River Bar First Nation members or residents who may be affected by an Applicant's application for reconsideration.

14. Within 30 days of receiving the application for reconsideration, Chief and Council shall decide to either maintain, amend, or withdraw the Community Protection Order and shall provide written reasons to the Applicant for its decision. Chief and Council may extend the 30-day response period for an additional 30 days, and if Chief and Council extends the 30-day period Council shall provide the Applicant with written reasons explaining the extension.

Offence

15. Any person subject to a Community Protection Order who attends on the Eel River Bar First Nation in violation of that order and without written permission from Chief and Council commits and offence and is subject to removal and liability as a trespasser on the reserve.

16. Any person who interferes with or obstructs a Police Officer attempting to enforce this by-law commits an offence.

17. In addition to all applicable penalties for trespass or as otherwise prescribed by law, any person subject to a Community Protection Order who attends on the Eel River Bar First Nation in violation of that order and without written permission from Chief and Council is guilty of an offence punishable on summary conviction by a fine of up to $1,000.

Enforcement

18. A Community Protection Order shall be enforceable by Police. Police do not require an order from a Court prior to enforcing this bylaw.

19. Chief and Council may stay the enforcement of a Community Protection Order or any part thereof for a specified or indefinite period of time by band council resolution.

20. This bylaw comes into force and is effective immediately upon the Council causing the bylaw to be published in the First Nation Gazette or on the Eel River Bar First Nation website.

QUORUM: CONSISTS OF: 5 COUNCIL MEMBERS: 8

CHIEF: _____

COUNCILLOR: _____

COUNCILLOR: _____ COUNCILLOR: _____

COUNCILLOR: _____ COUNCILLOR: _____

COUNCILLOR: _____ COUNCILLOR: _____