



RESOLUTION NO. 42-20

**Stay Home—Stay Healthy Order in Response to
the Threat of Corona Virus Disease COVID-19**

WHEREAS, the Lower Elwha Tribal Community, also known as the Lower Elwha Klallam Tribe (“the Tribe”), is a federally recognized, self-governing Indian tribe in accordance with the Treaty of Point-No-Point of January 26, 1855, its Constitution and By-laws, approved by the Secretary of the Interior on April 29, 1968, and the Indian Reorganization Act of June 18, 1934; and

WHEREAS, the Lower Elwha Klallam Tribal Business Committee of the Lower Elwha Community Council is the constitutionally and duly elected representative body of the Tribe, and is responsible for ensuring the health, safety, education, welfare, social and economic development, law and order, judicial services, and housing of its tribal citizens; and to preserve and protect the culture, treaty rights, natural resources, and otherwise promoting the welfare and interests of its tribal citizens; and

WHEREAS, under Article IV, Section 1 of the Tribe’s Constitution, the Tribe has the authority to consult, negotiate, contract and conclude agreements with the federal, state and local governments, to manage the Tribe’s fiscal resources and the use of its property, and to take any and all actions necessary to promote the welfare and interests of the Tribe’s community and members; and

WHEREAS, on March 13, 2020, Chairwoman Frances Charles declared a Public Health Emergency Declaration due to Corona Virus COVID-19 and directed the implementation of the Tribe’s Comprehensive Emergency Management Plan (March 2013) and the Business Committee ratified the emergency declaration by Resolution No. 39-20 on March 19, 2020; and

WHEREAS, COVID-19 is a respiratory disease that can result in serious illness or death that is caused by a novel strain of the Corona Virus that can easily spread from person to person; and

WHEREAS, the United States Center for Disease Control (CDC) identifies the potential public health threat posed by COVID-19 as “high,” and advises that person-to-person spread of COVID-19 will continue to occur on a global scale; and

WHEREAS, the COVID-19 disease has broadly spread throughout Washington State, including a confirmed positive case in the Lower Elwha Klallam community; and

WHEREAS, there are currently at least 2,469 confirmed cases of COVID-19 and 123 confirmed deaths, and hospitalizations for COVID-19 have sharply increased over the past three weeks, with models predicting that many hospitals in the State will reach capacity or be overwhelmed if the spread of the disease is not substantially slowed; and

WHEREAS, the Business Committee recognizes the seriousness of the impending threat of COVID-19 and desires to take additional steps to slow the spread of the disease in the Lower Elwha Klallam community.

THEREFORE BE IT NOW RESOLVED THAT, the Business Committee proclaims and imposes a Stay Home—Stay Healthy Order for the Lower Elwha Klallam Tribe, its members and the Lower Elwha Reservation and trust lands within the jurisdiction of the Tribe by prohibiting all persons subject to the jurisdiction of the Tribe from leaving their homes or participating in social, spiritual and recreational gatherings of any kind regardless of the number of participants, and all non-essential businesses under the control of the Tribe from conducting business, within the limitations provided herein.

BE IT FURTHER RESOLVED THAT, to help preserve and maintain life, health, property or the public peace, and to implement the Stay Home—Stay Healthy Order described above, the Business Committee hereby imposes the following necessary restrictions on participation by all people subject to the jurisdiction of the Tribe by prohibiting each of the following activities by all people and businesses throughout Washington State, which prohibitions shall remain in effect until midnight on April 8, 2020, unless extended beyond that date:

1. All individuals are immediately prohibited from leaving their home or place of residence except to conduct or participate in (1) essential activities or (2) employment in providing essential business services:

a. Essential activities permitted under this Order are limited to the following:

1) Obtaining necessary supplies and services for family or household members and pets, such as groceries, food and supplies for household consumption and use, supplies and equipment needed to work from home, and products necessary to maintain safety, sanitation and essential maintenance of the home or residence.

2) Engaging in activities essential for the health and safety of family, household members and pets, including things such as seeking medical or behavioral health or emergency services and obtaining medical supplies or medication.

3) Caring for a family member, friend, or pet in another household or residence, and to transport a family member, friend or their pet for essential health and safety activities, and to obtain necessary supplies and services.

4) Engaging in outdoor exercise activities, such as walking, hiking, running or biking, but only if appropriate social distancing practices are used.

b. All individuals employed by the Tribe or its enterprises will continue to follow the directions from the Tribe's Executive Director and the Business Committee on whether or how they are to report to work for essential services or non-essential business services. All individuals employed outside of the Tribe may continue to report to their place of employment in essential business services or for non-essential business services as defined and established by the March 23, 2020 Executive Order of Governor Inslee. Treaty fishers may continue to follow regulations issued by the Tribe but are encouraged to follow appropriate social distancing practices and sanitation measures.

c. This prohibition shall not apply to individuals whose homes or residences are unsafe or become unsafe, such as victims of domestic violence. These individuals are permitted and urged to leave their homes or residences and stay at a safe alternate location.

2. All individuals shall immediately cease participating in all public and private gatherings and multi-person activities for social, spiritual and recreational purposes, regardless of the number of

people involved, except as specifically identified herein. Such activity includes, but is not limited to, community, civic, public, leisure, faith-based, or sporting events; parades; concerts; festivals; conventions; fundraisers; and similar activities. This prohibition also applies to planned wedding and funeral events. This prohibition shall not apply to activities and gatherings solely including those people who are part of a single household or residential living unit.

3. Effective midnight on March 25, 2020, all non-essential businesses under the control and/or jurisdiction of the Tribe shall cease operations except for performing basic minimum operations. All essential businesses are encouraged to remain open and maintain operations, but must establish and implement social distancing and sanitation measures at least as protective as those established by the United States Department of Labor's Guidance on Preparing Workplaces for COVID-19 at <https://www.osha.gov/Publications/OSHA3990.pdf> or the Washington State Department of Health Workplace and Employer Resources & Recommendations at <https://www.doh.wa.gov/Coronavirus/workplace>.

a. Non-essential businesses are strongly encouraged to immediately cease operations other than performance of basic minimum operations, but must do so no later than midnight on March 25, 2020.

b. Essential businesses are prohibited from operating under this Order unless they establish and implement social distancing and sanitation measures established by the United States Department of Labor and the Washington State Department of Health Workplace and Employer Resources & Recommendations.

c. This prohibition does not apply to businesses consisting exclusively of employees or contractors performing business activities at their home or residence, and who do not engage in in-person contact with clients.

d. For purposes of this Order, minimum basic operations are the minimum activities necessary to maintain the value of the business' inventory, preserve the condition of the business' physical plant and equipment, ensure security, process payroll and employee benefits, facilitate employees of the business being able to continue to work remotely from their residences, and related functions. This Order shall not be construed to prohibit working from home, operating a single owner business with no in-person, on-site public interaction, or restaurants and food services providing delivery or take-away services, so long as proper social distancing and sanitation measures are established and implemented.


4. Violators of this of this order may be subject to criminal or civil penalties in accordance with Section 9.15.13 of the Criminal Code, newly enacted hereby, for failure to comply with an Emergency Public Health Order, including a potential jail sentence of up to 180 days or a civil fine not to exceed \$1,000 per offense.

BE IT FURTHER RESOLVED THAT, in accordance with its authority under Section 9.1.5 of the Lower Elwha Klallam Criminal Code, the Business Committee hereby enacts the attached new Section 9.15.13 of the Criminal Code, captioned **Violation of an Emergency Public Health Order**, in order to clarify the process for issuing such an Order and to authorize enforcement by the Tribal Police and Tribal Court, and to provide for appropriate enforcement options and penalties.

BE IT FINALLY RESOLVED THAT, the Business Committee hereby authorizes and directs the Chairwoman, and the Vice-Chair in her absence, and the Tribe's Executive Director to take any and all actions necessary to respond to the emergency presented by COVID-19, in coordination with the Incident Command Structure personnel and further authorizes the Chief of Police to enforce violations of this Order.

CERTIFICATION

The foregoing resolution was presented at a duly called meeting of the Lower Elwha Klallam Business Committee held on the 25th day of March 2020, at which 4 members were present, constituting a quorum, and the Business Committee voted to adopt by a vote of 3 FOR, 0 AGAINST, and 0 ABSTENTIONS.



Frances G. Charles, Tribal Chairwoman



Council Member

Attachment to Resolution No. 42-20
New Criminal Code Section 9.15.13

9.15.13 Violation of an Emergency Public Health Order.

- (a) The Tribal Chairwoman or Chairman may, with the written approval of the Business Committee on the record of a meeting or by Resolution within 24 hours thereafter, issue an Emergency Public Health Order or “EPHO” to protect the public health and welfare from an infectious disease. Such Declaration may include orders that persons remain at home or that outdoor activities be subject to specified restrictions. The Declaration shall also recite the public health grounds on which it is based, and identify exceptions for essential functions and the duration of the restrictions, which may be extended.
- (b) Any person who engages in conduct prohibited by an EPHO, when promulgated in accordance with subsection (a) above, shall be guilty of Violating an Emergency Public Health Order, a misdemeanor, and upon conviction shall be sentenced to imprisonment not to exceed 180 days and a fine not to exceed \$1,000, based upon the severity of the violation.
- (c) The Tribal Police are authorized to enforce this Section by all reasonable means, including but not limited to: directing offenders to conform their conduct to the requirements of an EPHO, by dispersing any unlawful gathering, by escorting offenders to their home, and by issuing citations.
- (d) In addition to adjudicating any contested citations, the Tribal Court may issue an order requiring an offender to conform his or her conduct to the requirements of the EPHO, including where necessary an order of quarantine.