



**RESOLUTION NO. 161-20**

**Public Health Order Remain Strong, Resilient and Return to Phase 1 in Response to the Rising Threat of Coronavirus 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**, COVID-19 is a respiratory disease that can result in serious illness or death that is caused by a novel strain of the Coronavirus that can easily spread from person to person; and

**WHEREAS**, the United States Center for Disease Control (CDC) continues to identify 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 continued to broadly spread throughout Washington State, with at least 151,019 confirmed cases of COVID-19, 10,166 hospitalizations and 2,690 confirmed deaths as of November 24, 2020, compared to 41,757 confirmed cases, 4,778 hospitalizations and 1,399 confirmed deaths on July 12, 2020; and

**WHEREAS**, in Clallam County, as of November 24, 2020, there was a total of 450 confirmed positive cases of COVID-19 and 2 deaths compared to 61 confirmed positive cases on July 12, 2020, and 29 positive cases on June 12, 2020; and

**WHEREAS**, Clallam County is categorized as a high risk of community transmission with 188 confirmed positive cases per 100,000 persons in the last 14 days, according to the criteria established by the Washington Department of Health risk assessment dashboard; and

**WHEREAS**, the Lower Elwha Tribal Community has had a total of 11 persons test positive for COVID-19; and

**WHEREAS**, through prior declarations and resolutions the Tribe has recognized the Public Health Emergency due to the lethal and contagious Coronavirus COVID-19 disease and imposed a Stay Home—Stay Healthy Order (Resolution No. 42-20) on March 25, 2020, for the Lower Elwha Klallam Tribe, its members and the Lower Elwha Reservation and trust lands within the jurisdiction of the Tribe; and

**WHEREAS**, the Business Committee continues to recognize the seriousness of the impending threat of the highly contagious and lethal COVID-19 disease and desires to follow its established framework for reopening of Tribal Government offices and businesses by taking a step back to Phase 1 of the attached Tribal Reopening Plan; and

**WHEREAS**, the Business Committee encourages the Tribal Community to Remain Strong and Resilient, while its Tribal Government offices and businesses offer essential services by working remotely to the extent possible.

**THEREFORE BE IT NOW RESOLVED THAT**, the Business Committee hereby further declares that a state of emergency continues to exist on the Lower Elwha Reservation and trust lands within the jurisdiction of the Tribe, and that in order to preserve and maintain the life, health, property and public peace of the Tribe and its members the Business Committee hereby establishes the “Remain Strong, Resilient and Remote 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 by prohibiting all non-essential businesses under the control of the Tribe from conducting business under tribal order, 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 Remain Strong, Resilient and Remote Order described above, the Business Committee hereby continues in effect 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 11:59 PM on January 5, 2021, unless extended beyond that date:

1. All individuals are prohibited from leaving their home or place of residence except to conduct or participate in (1) essential activities, (2) employment in providing essential business services, or (3) employment in or patronage of non-essential businesses that are open for business:

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.

5) Attending schools that are opened in accordance with criteria established by Governor Inslee, the Washington Office of the Superintendent of Public Instruction, and local school districts.

b. Non-essential activities permitted under this Order include:

1) Patronizing tribal businesses that are opened by order of the Business Committee.

2) Patronizing tribal businesses that are opened by the governing body of another tribe.

3) Patronizing businesses under the jurisdiction of the State as permitted under the criteria defined and established in Proclamations by Governor Inslee as amended from time to time.

c. 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 Governor Inslee in Proclamations as amended. Treaty fishers are considered essential and may continue to follow regulations issued by the Tribe but are encouraged to follow appropriate social distancing practices and sanitation measures.

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

2. All individuals are prohibited from 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, or in a resolution of the Business Committee advancing the Tribal Community through the steps of the attached Tribal Reopening Plan. 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. All non-essential businesses under the control and/or jurisdiction of the Tribe shall remain closed 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 prohibited from operating other than performance of basic minimum operations.

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, basic minimum 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.

**BE IT FURTHER RESOLVED THAT**, the Business Committee returns its Tribal Government offices and businesses to Phase 1 of its Tribal Reopening Plan (attached) to help preserve and maintain life, health, property or the public peace until 11:59 PM on January 5, 2021.

**BE IT FURTHER RESOLVED THAT**, by order of the Business Committee the Elwha River Casino will remain open at 25% capacity in accordance with the safety requirements in the Elwha River Casino COVID-19 Preparedness Plan approved by the Business Committee in Resolution No. 126-20 until 11:59 PM on January 5, 2021.

**BE IT FURTHER RESOLVED THAT**, to help preserve and maintain life, health, property or the public peace, until there is an effective vaccine, effective treatment or herd immunity, it is crucial to maintain some level of community interventions to suppress the spread of COVID-19 throughout all phases of reopening, therefore individuals should continue to engage in personal protective behaviors including:

1. practice physical distancing by staying a minimum of six feet away from other people (who do not live in your home or dwelling place);
2. wear cloth face coverings in public places when not eating or drinking;
3. stay home when you are sick;
4. avoid others who are sick to the greatest degree possible;
5. wash your hands frequently;
6. cover your coughs and sneezes;

7. avoid touching your eyes, nose and mouth with unwashed hands; and
8. clean and disinfect surfaces and objects regularly.

**BE IT FURTHER RESOLVED THAT**, in addition to other requirements detailed in any applicable reopening plan, all elected officials, executive officers, and employees of the Tribal Government and Tribal enterprises, shall wear a cloth facial covering when on the job except when working alone or when the job has no in-person interaction and each department or business is required to provide cloth facial coverings to all employees, unless the exposure of the employee dictates a higher level of protections.

**BE IT FURTHER RESOLVED THAT**, to prevent the spread of the highly contagious and lethal COVID-19 disease in the Tribal Community and to mitigate the risk of destabilizing the Tribe's Indian Child Welfare Program (ICW Program) and foster care system, the Business Committee hereby specifically waives and suspends the following until 11:59 PM on January 5, 2021, unless extended by further order:

1. In-person visitation in minor in need of care (MINOC) cases that require in-person visitation of children in the custody of the Tribe's ICW Program by parents or other family members and ICW Program case workers.
2. Notwithstanding parenting plans/residential schedules issued by other jurisdictions, the suspension of parent visits applies in cases where the child is currently in MINOC status through a Lower Elwha Tribal Court order.
3. The ICW Program report writing requirements under Title 2, Chapter 6 of the Tribe's Family Protection Code are waived and suspended in their entirety.


**BE IT FURTHER RESOLVED THAT**, the Tribe's Social Services Director in consultation with the Tribe's Executive Director, and Tribal Public Health Officer is directed to immediately develop and implement policies in support of providing visitation alternatives in MINOC cases that allows for social distancing, including the implementation of video visitation services.


**BE IT FURTHER RESOLVED THAT**, violators of this Order may be subject to criminal penalties in accordance with the Tribe's Communicable Diseases Code for failure to comply with an Emergency Public Health Order, including a potential jail sentence of up to 180 days and a fine not to exceed \$1,000, or both, based upon the severity of the violation.

**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, including the performance of contact tracing in coordination with Clallam County personnel, while safeguarding the protected health information of individuals in compliance with the Health Insurance Portability and Accountability Act ("HIPAA"), 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 25<sup>th</sup> day of November 2020, at which 3 members were present, constituting a quorum, and the Business Committee voted to adopt by a vote of 2 FOR, 0 AGAINST, and 0 ABSTENTIONS.

  
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Frances G. Charles, Tribal Chairwoman

  
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Council Member

## Lower Elwha Klallam Tribe's Phased Approach

*The Tribe has established the below COVID-19 phased approach to opening government offices and modifying physical distancing measures. The Tribe will work concurrently with Clallam County phased approach to ensure the health of the community remains protected and may adjust the below plan as necessary.*

	Phase 1	Phase 1.5	Phase 2	Phase 3	Phase 4
<b>High Risk Populations</b>	Continue to stay home, stay healthy	Remain strong, resilient, and remote	Remain resilient and remote	Remain resilient and remote	Resume public interactions, with physical distancing
<b>Recreation</b>	-Some outdoor recreation	-Outdoor recreation involving fewer than 5 people outside your household	-Outdoor recreation involving fewer than 5 people outside your household	-Outdoor groups recreation sport activities (5-25 people)	Resume all recreational activity
<b>Gathering</b>	-None	-Gather with no more than 5 people from outside your household per week	-Gather with no more than 5 people outside your household per week	Gatherings with no more than 25 people outside only	Gatherings of 25+
<b>Travel</b>	Only essential travel	Limited non-essential travel within proximity of your home	Limited non-essential travel within proximity of your home	Resume non-essential travel within Clallam County	Continue non-essential travel
<b>Government*</b>	-Essential services staff -Limited field workers	Remain strong, resilient, and remote  -Remote work to the highest extent possible -Field work	-Staff in single occupancy offices -Field workers	-Staff in shared workspaces	-Offices open to public with personal protective measures in place

\*Follow the Phased Opening of Tribal Government Buildings Plan

No in-person work meetings. No group services, and one-on-one services limited to the highest extent possible.

Virtual or telehealth platforms must be used in place of in-person meetings and group services.

Subject to changes

TOO-CDS 11/25/20