



RESOLUTION NO. 100-21

Public Health Order Remain at Reopening Phase 3.5 Re-Mask and Test in Response to Recent Rise in Cases

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,” but has also recognized the effectiveness of the vaccines and has offered new guidance for fully vaccinated people; and

WHEREAS, the COVID-19 disease has continued to spread throughout Washington State with the Delta Variant of the virus becoming the predominant virus throughout Washington State; and

WHEREAS, in Clallam County, as of August 4, 2021, there was a total of 1,731 confirmed positive cases of COVID-19 and 17 deaths; and

WHEREAS, Clallam County is categorized as a high risk of community transmission with 204 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, in Clallam County the unvaccinated represent 92% of confirmed positive cases; and

WHEREAS, the Lower Elwha Tribal Community has had a total of 61 persons test positive for COVID-19; and

WHEREAS, the Lower Elwha Health Department has been vaccinating tribal members, their families and employees of the Tribe in accordance with the vaccination plan approved by Resolution No. 4-21; 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 finds that even with vaccination efforts underway the highly contagious and lethal COVID-19 disease and the Delta variant of the Coronavirus continues to pose a serious threat to the community and desires to follow its established framework for reopening of Tribal Government offices and businesses by remaining at Phase 3.5 of the attached Lower Elwha Klallam Tribe’s COVID-19 Phased Reopening Plan (dated 06/18/21); and

WHEREAS, the Business Committee desires in response to the rapid spread of the Delta variant of the Coronavirus to reinstate the mask wearing mandate for all tribal government and enterprise employees and members aged five and older of the Lower Elwha Tribal Community consistent with the terms of this Order; and

WHEREAS, the Business Committee desires to have all unvaccinated employees of the tribal government and its enterprises be tested for the Coronavirus at least once every two weeks as a condition of employment.

THEREFORE BE IT NOW RESOLVED THAT, the Business Committee hereby 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 orders that the Tribe will remain at Phase 3.5 of the attached Lower Elwha Klallam Tribe’s COVID-19 Phased Reopening Plan (dated 06/18/21) (the “Tribal Reopening Plan”), within the limitations provided herein by prohibiting all persons and businesses subject to the jurisdiction of the Tribe from engaging in any activity that is not in conformance with those permitted under Phase 3.5 of the Tribal Reopening Plan, which prohibitions are effective immediately and shall remain in effect until 11:59 PM on September 30, 2021, unless modified by further Order:

1. Members of the community may engage in outdoor exercise activities of all kinds that involve an unlimited number of people, but only if appropriate social distancing practices are followed.
2. Members of the community may engage in indoor exercise activities, of up to 40 participants in the gymnasium, but only if appropriate social distancing practices are followed and masks are used by those persons engaged in such activity regardless of vaccination status.
3. Members of the community may engage in outdoor gatherings that involve an unlimited number of people, but only if appropriate social distancing practices are followed.
4. Members of the community may engage in indoor gatherings, of up to 40 participants, but only if appropriate social distancing practices are followed and masks are used by those persons engaged in such activity regardless of vaccination status when they are not eating or drinking.

5. All individuals employed by the Tribe or its enterprises will return to their workplaces in accordance with the requirements of this Order and established policy in applicable employee handbooks and employment policies.

6. All individuals employed by, contracted by, or volunteering for the Tribe in the Lower Elwha Health Department, Health Clinic, Dental Clinic, Mental Health Counseling, Klallam Counseling Services, and Children's House of Learning, must continue to follow established social distancing practices and wear masks while on the premises regardless of vaccination status.

7. All individuals employed by, contracted by, or volunteering for the Tribe with populations that are not yet eligible for the COVID-19 vaccine (minors under the age of 12) must continue to follow established social distancing practices and wear masks while working with those populations regardless of vaccination status.

8. Travel is subject to the conditions and guidance established by CDC's COVID-19 travel guidelines. All non-routine out of area travel by Tribal Government employees is subject to prior written approval of the Executive Director or her designee in their sole discretion.

BE IT FURTHER RESOLVED THAT, the Business Committee maintains its Tribal Government offices and businesses at Phase 3.5 of its Tribal Reopening Plan (attached) to help preserve and maintain life, health, property or the public peace until 11:59 PM on September 30, 2021.

BE IT FURTHER RESOLVED THAT, by order of the Business Committee the Elwha River Casino will remain open and maintain operations at 75% 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; masks are required for all staff regardless of vaccination status; masks are required for all customers regardless of vaccination status while on the premises, until 11:59 PM on September 30, 2021.

BE IT FURTHER RESOLVED THAT, by order of the Business Committee the Lower Elwha Food and Fuel, Cedarbox Smokeshop, and Elwha Peaks will remain open and maintain operations subject to the following conditions: masks are required for all staff regardless of vaccination status; masks are required for all customers (ages 5 and older) regardless of vaccination status while on the premises, until 11:59 PM on September 30, 2021.

BE IT FURTHER RESOLVED THAT, to help preserve and maintain life, health, property or the public peace, until the population has received the 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 (ages 5 and older) in public places when it is not possible to practice physical distancing and 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 and while on approved travel, except: when working alone; when the job has no in-person interaction; or when it is possible to maintain physical distancing of 6 feet or more.

BE IT FURTHER RESOLVED THAT, each Tribal Government department or Tribal enterprise 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 further spread of the highly contagious and lethal Delta variant of the Coronavirus, the Business Committee hereby orders that all unvaccinated individuals employed by, contracted by, or volunteering for the Tribal Government or the Tribe's enterprises are subject to mandatory COVID 19 testing no less often than once every 14 calendar days at the Lower Elwha Health Department. The failure of any unvaccinated employee to test to at the Lower Elwha Health Department every 14 calendar days shall result in discipline up to and including termination of employment.

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 September 30, 2021, unless modified by further order:

1. Notwithstanding parenting plans and residential schedules issued by other jurisdictions, the visitation schedule established by the Lower Elwha Tribal Court will remain as ordered until modified by further order of the Lower Elwha Tribal Court.

BE IT FURTHER RESOLVED THAT, the Lower Elwha Tribal Court may resume in-person hearings in accordance with tribal court order that includes mask wearing, proper physical distancing and protective measures.

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 5th day of August 2021, at which 5 members were present, constituting a quorum, and the Business Committee voted to adopt by a vote of 4 FOR, 0 AGAINST, and 0 ABSTENTIONS.

Frances G. Charles
Frances G. Charles, Tribal Chairwoman

Anthony S. Charles
Council Member