



**PENTICTON INDIAN BAND
COMMUNITY SAFETY
BYLAW, No. 2023-03**

Enacted: TBD

26jul2023 Membership Vote

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26jul2023 for Membership Vote

WHEREAS:

- A. We are *sqilx^w / syilx / s?uknaqinx* (Okanagan people) who receive our strength from *timixw* and include what is good for our livelihood. We are committed to our language and the teachings of our *capiklx^w* and respect that everyone has value and purpose to come together as one; and
- B. As an aspect of the exercise of the inherent right of self-determination, Penticton Indian Band (PIB) has the jurisdiction to address on our Reserve Lands, through our own laws, such issues as the right to deter and prevent disorderly or nuisance-like activities from taking place on our Reserve Lands, and this inherent right of self-determination is being exercised on our Reserve Lands through our laws that are paramount to all federal or provincial laws which purport to be contrary to or inconsistent with our laws; and
- C. On June 21, 2021, the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) Act of Canada came into force and provides a framework to advance implementation of UNDRIP, including:

Article 4: Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.

Article 18: Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

Article 20(1): Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.

Article 23: Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.

Article 26 (2): Indigenous peoples have the right to own, use, develop and control the Reserve Lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.

Article 32(1): Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their Reserve Lands or territories and other resources; and

- D. Federal or provincial laws may not extinguish the PIB's exercise, through our own laws on our Reserve Lands, of our inherent right of self-determination that is constitutionally protected under Section 35 of the *Constitution Act*, 1982; and
- E. In the passage of this *Community Safety* Bylaw, the PIB relies upon our inherent right of self-government protected by Section 35 of the *Constitution Act*, 1982 as supplemented by the federal authority under Paragraphs 81(1)(a), (c), (d), (p), (q) and (r) of the *Indian Act*; and
- F. PIB wishes to enact this Community Safety Bylaw to provide for the protection, health and safety of Members, Owners, and Residents on the Reserve Lands from persons that have committed an Offence, or who pose a serious threat to the physical or psychological health of Members, Owners, and Residents and from Harassment; and
- G. PIB Chief and Council have engaged with its Members who have indicated that they support at the passage of this *Community Safety* Bylaw and so deems it advisable and in the best interests of the PIB to enact this *Community Safety Bylaw* a bylaw; and
- H. PIB, in accordance with the *sylx* tradition, has recognized the importance of the collective rights of the community and the priority of those collective rights over the rights of the individual; and
- I. The *sylx* people have historically used banishment to help preserve and promote the order, peace, and safety of the community; and

THEREFORE, PIB Chief and Council enacts the following Community Safety bylaw:

PART 1: GENERAL

TITLE

1.0 This ~~Bylaw~~ may be cited for all purposes as *PIB Community Safety Bylaw No. 2023-03*.

DEFINITIONS

2.0 In this Bylaw, unless the context otherwise requires:

“**Appeal**” means an appeal of a Council Order;

“**Appeal Tribunal**” means an appeal tribunal formed in accordance with Section 67.0;

“**Band Administrator**” means the **Band Administrator for** the PIB appointed by Council who is responsible for the day-to-day operations of the Penticton Indian Band;

“**Bylaw**” means this *Community Safety Bylaw*;

“**Bylaw Officer**” means a person or persons appointed under Section 11.0 and who works with Chief and Council to implement and enforce this Bylaw;

“**Certificate of Possession**” means a Certificate of Possession issued by the Minister, pursuant to subsection 20(2) of the *Indian Act*, to a Member that is lawfully in possession of the Reserve Lands as evidence of that members right to possession of the Reserve Lands described in the Certificate of Possession;

“**Child Care Facility**” means a public or private pre-kindergarten facility, day-care center, childcare learning center, preschool facility, or long-term care facility for children;

“**Community Facility**” means a public facility operated by PIB for the use of Members, Owners, or Residents, such as a Child Care Facility, School, School Bus Stop, Recreational Facility, and Community Gathering Place, owned and/or designated by the PIB for Member, Owner or Resident use;

“**Community Gathering Place**” means a location designated by Council, as a community gathering place for the purpose of holding a community event;

“**Controlled Drugs and Substances Act**” means the *Controlled Drugs and Substances Act*, Canada (1996 c. 19) as amended or replaced from time to time;

“**Courts**” means the Provincial Court of British Columbia, the Supreme Court of British Columbia and the Federal Court of Canada, Trial Division;

“**Council**” means the lawfully elected government of PIB and includes the Chief;

“**Council Portfolio Holder**” means the Council portfolio holder appointed to oversee, and propose measures for, the safety of PIB community and the implementation of the provisions of this Bylaw;

"**Criminal Code**" means the *Criminal Code of Canada* (R.S., 1985, c. C-46) as amended or replaced from time to time;

"**Designated Individual**" means a person who has been determined to have committed a serious Offence and this has been determined to be a designated individual by Council pursuant to Section 26.0 of this Bylaw;

"**Election**" means an election held by the PIB under its custom *Election Code*;

~~"**Restraining Emergency Protection Order**" means an emergency protection ~~restraining order~~ issued as per Part 5 and Schedule 2 of this Bylaw;~~

~~"**Emergency Protection Restraining Order Council Meeting**" means a emergency protection ~~special restraining order~~ Council meeting held pursuant to Part 5 and Schedule 2 of this Bylaw;~~

"**Enforcement Officer**" means an enforcement officer appointed by Council by Resolution for the purpose of enforcing PIB laws and bylaws, and includes a person or organization authorized or contracted by Council to enforce this Bylaw;

"*enowkinwix*" means the cultural practice that describes how to plan, solve problems, make decisions, resolve conflicts and/or develop an action plan for *syilx* people. *enowkinwixw* principles include a commitment to balance, reciprocity, sustainability, ongoing use, ecological integrity, inclusivity, collective contributions, rights/responsibility, respect, and inter-relatedness.

"**Exclusion Order**" means an order made under Section 48.0;

"**Exclusion Order Council Meeting**" means a special exclusion order Council meeting held as ordered by Council under subsection 27.0(d) this Bylaw;

"**Harassment**" means any action, conduct or comment, including that of a sexual nature, that can reasonably be expected to cause offence, humiliation or other physical or psychological injury or illness to any person;

"**Harmed Person**" means an individual who has been personally harmed as the result of an offence or complaint. Harm can be physical, emotional, or financial. This includes direct victims, as well as indirect victims. An indirect victim is a person who is a family member of, or who is emotionally close to, the direct victim. An indirect victim has been harmed because of the harm done to the direct victim because of witnessing an Offence or the aftermath of an Offence.

"**Improvements**" means improvements, as determined according to the common law, including any buildings, structures, works, facilities, infrastructure, services, landscaping and other improvements (including any equipment, machinery, apparatus and other such fixtures forming part of or attached to the improvements, but excluding trade fixtures) made by any person and that are, from time to time, situated on the Reserve Lands, including any alterations to any of them;

"**Interest**" means a Certificate of Possession, leasehold, permit or other document that provides a right to use or occupy portions of the Reserve Lands;

"**Member**" means a person that is registered on the PIB membership list;

"**Offence**" means a drug offence under Section 5.0 and Schedules I to V of the *Controlled Drugs and Substances Act*; a sex offence under Sections 151 to 173 of the *Criminal Code*; or a violent offence under Sections 229 to 240, 244 to 248, 264 to 273, 279 to 286 and 433 of the *Criminal Code*, or a combination of more than one of them;

"**Order**" means an ~~Emergency Protection Restraining~~ Order, Exclusion Order, Suspension Order or Rescission Order made under this Bylaw;

"**Owner**" means:

- (a) the PIB, in relation to Reserve Lands that are not held under a Certificate of Possession;
- (b) a person that has a Certificate of Possession for a portion of the Reserve Lands; and
- (c) a PIB corporate or other entity that holds ~~legal title to those~~ legal interest in portions of the Reserve Lands ~~set forth in (c) in the definition of "Reserve Lands"~~.

"**Pardon**" means a pardon granted by the National Parole Board under the *Criminal Records Act* (R.S., 1985, c. C-47);

"**Penticton Indian Band**" or "**PIB**" means the Penticton Indian Band, a band within the meaning of section 2(1) of the *Indian Act*;

"**Public Place**" means a place or building to which any Member has or is permitted to have access or any other place determined by a quorum of Council to be open to use by the public;

"**Recreational Facility**" means a public facility operated by the PIB for the use of Members, Owners, or Residents for sports and recreational activities, including, but not limited to, swimming pools, beaches, public parks, skateboarding parks and bicycle paths;

"**Referendum**" means a referendum held under the *Indian Act*;

"**Rescission Order**" means an order made under Section 51.0;

"**Rescission Order Council Meeting**" means a special rescission order Council meeting held pursuant to Part 5 of this Bylaw;

"**Reserve Lands**" means the following reserve lands that have been set apart for the use and benefit of PIB:

- (a) Penticton Indian Reserve No. 1;
- (b) Penticton Indian Reserve No. 2;
- (c) Penticton Indian Reserve No. 3A;
- (d) reserve lands set apart by Canada in the future as Reserve Lands reserved for the use and benefit of the PIB, within the meaning of subsection 91(24) of the *Constitution Act, 1982*; and
- (e) ~~Reserve Lands~~ legally owned by one of the PIB's corporate or other entities in fee simple and beneficially held-owned in fee simple by the PIB.

"**Resident**", in relation to premises, means a person entitled to use, possess, or occupy a premise(s) on the Reserve Lands either:

- (a) under a valid reserve land instrument that is registered in the Indian Reserve Lands Registry System (ILRS); or
- (b) with the lawful consent of the Owner(s);

"**Resolution**" means a Band Council Resolution passed at a duly convened Council meeting by a quorum of Council;

"**Restorative Justice**" means seeking to repair harm by providing an opportunity for those harmed and those who take responsibility for the harm to communicate about and address their needs in the aftermath of an Offence through an *enowkinwix*^w style process;

"**Restorative Justice Practitioner**" means an individual appointed under Section 13.0 of this Bylaw;

"**Restorative Justice Committee**" means the individuals appointed by Council to oversee the *enowkinwix*^w style process;

~~"**Restraining Order**" means a restraining order issued as per Part 5 and Schedule 2 of this Bylaw;~~

~~"**Restraining Order Council Meeting**" means a special restraining order Council meeting held pursuant to Part 5 and Schedule 2 of this Bylaw;~~

"**School**" means a public or private kindergarten, elementary, middle, or secondary school;

"**School Bus Stop**" means a school bus stop as designated by the PIB;

"**Suspension Order**" means an order made under Section 50.0;

"**Suspension Order Council Meeting**" means a special suspension order council meeting held under Section 42.0 of this Bylaw;

INTERPRETATION

- 3.0 This Bylaw must be interpreted in a fair, large, and liberal manner.
- 4.0 In this Bylaw:
- (a) The use of the word “must” denotes an obligation that, unless this Bylaw provides to the contrary, must be carried out as soon as practicable after this Bylaw comes into effect or the event that gives rise to the obligation;
 - (b) Unless it is otherwise clear from the context, the use of the word “including” means “including, but not limited to”, and the use of the word “includes” means “includes, but is not limited to”;
 - (c) Headings and subheadings are for convenience only, do not form a part of this Bylaw and in no way define, limit, alter or enlarge the scope or meaning of any provision of this bylaw;
 - (d) A reference to a statute includes every amendment to it, every regulation made under it and any bylaw enacted in substitution for it or in replacement of it;
 - (e) A reference to a government office includes every successor government office;
 - (f) Unless it is otherwise clear from the context, the use of the singular includes the plural, and the use of the plural includes the singular;
 - (g) Unless it is otherwise clear from the context, the use of the masculine includes the feminine, and the use of the feminine includes the masculine;
 - (h) Where a time is expressed to begin or end at, on or with a specified day, or to continue to or until a specified day, the time includes that day;
 - (i) Where a time is expressed to begin after or to be from a specified day, the time does not include that day; and
 - (j) Where anything is to be done within a time after, from, of or before a specified day, the time does not include that day.

APPLICATION OF THIS BYLAW

- 5.0 This Bylaw applies to the Reserve Lands and all persons that enter the Reserve Lands.
- 6.0 If any section of this Bylaw is for any reason held invalid by a decision of a court of competent jurisdiction, the invalid section or subsection must be severed from, and not affect, the remaining provisions of this Bylaw.
- 7.0 The headings given to the sections and paragraphs in this Bylaw are for convenience of reference only, and do not form part of this Bylaw and must not be used in the interpretation of this Bylaw.

8.0 Unless otherwise noted, any specific statute named in this Bylaw is a reference to an enactment of Canada and the regulations thereto, as amended, revised, consolidated, or replaced from time to time, and any Law referred to herein is a reference to a bylaw of the PIB, as amended, revised, consolidated or replaced from time to time.

PURPOSE

9.0 The purpose of this Bylaw is to:

- (a) Provide for the health and safety of Members, Owners, and Residents on the Reserve Lands;
- (b) Prevent Harassment and threats being made to the safety and wellbeing of Members, Owners, and Residents; and
- (c) Protect the Members, Owners, and Residents on the Reserve Lands from persons that have committed an Offence.

PART 2: ADMINISTRATION

CHIEF AND COUNCIL PORTFOLIO HOLDER

10.0 Council may, by Resolution at a duly convened meeting, appoint a Council portfolio holder and alternate to oversee implementation of the Bylaw.

APPOINTMENT OF BYLAW OFFICER

11.0 Council must, by Resolution at a duly convened meeting, appoint one or more Bylaw Officers to carry out the duties of the Bylaw Officer as set out in this Bylaw.

APPOINTMENT OF ENFORCEMENT OFFICER

12.0 The Council may, by Resolution:

- (a) Appoint a person(s) to be an Enforcement Officer for the purposes of enforcing this Bylaw;
- (b) Enter into an agreement with a person or organization, such as the Royal Canadian Mounted Police (RCMP) First Nations Policing Program (FNPP), to fulfill the duties and responsibilities of an Enforcement Officer under this Bylaw; or
- (c) Provide for reasonable remuneration to be paid from the PIB to a person(s) appointed under subsection 12.0(a) or a person(s) or organization that enters into an agreement with the PIB under subsection 12.0(b).

APPOINTMENT OF RESTORATIVE JUSTICE PRACTITIONER

13.0 The Council may, by Resolution:

Commented [LW1]: May 31: Members were concerned by the RCMP; Council can choose to use a different organization to support implementation of the bylaw

Commented [LW2]: May 31st: Membership wanted to ensure that PIB trained people in restorative justice. This was not included as a requirement of the bylaw, but could be included in a contract (similar to the draft Animal Control officer contract)

- (a) Appoint a person(s) to be a Restorative Justice Practitioner for the purposes of facilitating the restorative justice process under this Bylaw;
- (b) Enter into an agreement with a person or organization, to fulfill the duties and responsibilities of a Restorative Justice Practitioner under this Bylaw; or
- (c) Provide for reasonable remuneration to be paid from PIB to a person(s) appointed under subsection 13.0(a) or a person(s) or organization that enters into an agreement with the PIB under subsection 13.0(b).
- (d) A Restorative Justice Practitioner under this Bylaw is responsible to:
 - (i) Create conditions that enable participants to communicate about what happened in an open and honest way, to discuss how it affected them, and to identify what can be done to address the harm caused and move forward;
 - (ii) Establish and maintain a safe, sensitive, and respectful environment where participants feel safe to identify and express their thoughts, feelings, and needs;
 - (iii) Work with participants to design a process that can meet those needs;
 - (iv) Prepare harmed persons, offenders, their supporters, and Members to participate in the process;
 - (v) Conduct any necessary assessments; and
 - (vi) Guide the process to ensure that no further harm is created.

PART 3: RESTORATIVE JUSTICE

14.0 For Council to pass a Resolution under subsection 27.0(b), ordering a Restorative Justice Process, the Bylaw Officer will work with a Restorative Justice Practitioner to ensure that the following conditions have been met:

- (a) The offender must accept or not deny responsibility for the complaint;
- (b) Both the victim and the offender must be informed of their rights, the nature of the process, and the possible consequences of their decision to participate in the process;
- (c) Both the victim and the offender must be willing to participate in the process on a voluntary basis; and
- (d) Both the victim and the offender must consider it safe to be involved in the process.

15.0 If Council passes a Resolution under subsection 27.0(b) the Enforcement Officer must, within fourteen (14) days of the date of the Resolution, deliver to the person who is the subject of that process the following, unless the Enforcement Officer is unable to effect delivery, despite using reasonable efforts to do so:

Commented [LW3]: Council to consider if this should only be available to Membership

Commented [LW4]: May 31/July 12: comments were made both for and against the RCMP; in the case of restorative justice, the practitioner is charged with creating a safe space

- (a) A copy of the Resolution passed under subsection 27.0(b);
 - (b) A notice setting out the name of the Restorative Justice Practitioner and the date, time, and place of the initial restorative justice conference; and
 - (c) A copy of this Bylaw.
- 16.0 The victim and the offender have the right to consult with their own legal counsel concerning the Restorative Justice Process and, where necessary, to translate and/or interpret for them throughout the process.
- 17.0 Minors, in addition to the rights accorded under Section 16.0, have the right to the assistance of a parent, guardian or other person if they request such assistance.
- 18.0 Separate Restorative Justice preparation meetings, prior to the Restorative Justice conference, will be held by the Restorative Justice Practitioner with the victim and the offender to:
- (a) Talk about the impact of the complaint;
 - (b) Determine confidentiality and Member participation;
 - (c) Talk about what their feelings are; and
 - (d) Determine the process that addresses safety and power imbalances, including ground rules, they would like to undertake to hopefully come to an agreement (e.g., victim-offender mediation, community board, family group conferencing, or circle sentencing).
- 19.0 Agreements arising out of a Restorative Justice Process:
- (a) Must be agreed to be both parties voluntarily;
 - (b) Must contain clear and reasonable terms that are proportionate obligations;
 - (c) Must provide provisions for updating the victim on their progress at meeting the terms of the agreement;
 - (d) Must clearly identify how the agreement will be completed; and
 - (e) May include a verbal and/or written apology, services to the community, services to the family, possible financial compensation, essay or research assignment or projects unique to the skill sets of the individuals involved.
- 20.0 The Bylaw Officer will monitor the terms of all Restorative Justice agreements until they are completed and provide updates to the victim on the offender's progress in meeting the terms of the agreement.
- 21.0 The Bylaw Officer will arrange a special Council meeting with the victim and offender no more than thirty (30) days after the offender has fulfilled the terms of the agreement to:
- (a) Discuss their views about what happened during the process;

- (b) Determine if they have any unmet needs related to the process and, if so, what could be done to address those needs; and
 - (c) Determine if Council should remove the designation of that person as a Designated Individual.
- 22.0 All participants in the Restorative Justice Process may withdraw at any time, especially if it is determined that further harm could be caused by continuing the process.
- 23.0 If participants withdraw from the Restorative Justice Process under this Part 3, the Restorative Justice Practitioner will work with the Bylaw Officer to inform Council and recommend next steps to address the complaint.
- 24.0 The Bylaw Officer must keep a record of each case and collect data on participants, processes, and agreements. Record keeping and data collection will be treated as confidential and follow PIB's information management policies and bylaws.

PART 4: DESIGNATING AN INDIVIDUAL

COMPLAINT LETTER

- 25.0 If a Member, Owner, or Resident wishes to have someone identified as a Designated Individual, they must submit a formal written letter of complaint to the Bylaw Officer or Council Portfolio Holder, including:
- (a) Who is the person you believe Council should declare to be a Designated Individual? Why do you believe that the person should be declared to be a Designated Individual?
 - (b) What are the specific details of your complaint? If your complaint relates to a specific incident or incidents, it is useful to provide approximate dates, times, and records of what was said and who was present as far as you can recall;
 - (c) **All relevant documents, including electronic transmissions, to support your complaint** (evidence may include: police file, pending court decision, court orders, court decision, or criminal record check); ~~that~~
 - (d) Identify and list if there were any witnesses to any of the events; and
 - (e) How have you or someone you know been adversely impacted or affected by this person's conduct?

Commented [LW5]: May 31: Members wanted to make sure that the requirement for evidence was clear; Council already included this as part of the bylaw

DESIGNATED INDIVIDUAL

- 26.0 Council may, by Resolution, declare that the person is a Designated Individual for a period of up to that person's lifetime depending on the seriousness of the offence, if Council:
- (a) Acting reasonably and in good faith, determines that a person:

- (i) Has been convicted of an Offence; or
 - (ii) Has engaged in Harassment or violent or threatening conduct towards a Member, Owner, or Resident; or
 - (iii) Poses a serious threat to the physical or psychological health, safety or well-being of a Member or Resident lawfully using Community Facilities or is likely to damage the Reserve Lands or any Improvements thereon.
- (b) Has credible, valid, documented information (e.g., criminal record check, police file, court record, etc.) that a person has:
- (i) Been charged with an Offence; or
 - (ii) Has threatened to commit an Offence; or
 - (iii) Has caused serious harm or poses a serious threat to the physical or psychological health, safety, or well-being of a Member, Owner, or Resident-ember; or
 - (iv) Has caused or threatened to damage the Reserve Lands or PIB Improvements.
- (c) Has received a formal letter of complaint as set forth in Section 25.0 of this Bylaw;
- (d) Has determined that the behaviour of the Designated Individual, if repeated, poses any threat to the peace or safety of Members, Owners, or Residents or to Council's ability to ensure the observance of law and order on the Reserve Lands.

27.0 Subject to the limitations imposed by law, including this Bylaw, and legal review, Council may by Resolution, do one or more of the following:

- (a) Post the name of a Designated Individual in a public place, or otherwise inform Members, Residents or Owners of the presence of a Designated Individual on the Reserve Lands; or
- (b) Order that a special Restorative Justice Committee meeting be held to determine whether a Restorative Justice Process should be held with a person, including the reasons that the Restorative Justice Process should be held and the assignment of a Restorative Justice Practitioner to lead the process in the form of, or like, Schedule 1; or
- (c) Order that a special Council meeting be held to determine whether an Emergency Protection Restraining Order should be issued against a Designated Individual, in the form of, or similar to, Schedule 2 including the reasons that the Emergency Protection special Restraining Order Council meeting must be held; or
- (d) Order that a special Exclusion Order Council meeting be held to determine whether an Exclusion Order in the form of, or like, Schedule 3 should be issued against a Designated Individual, including the reasons that the special Exclusion Order Council meeting must be held.

Commented [LW6]: July 12th: Members were concerned that the bylaw only allowed for restorative justice. The bylaw provides the community with several options - restorative justice, restraining order, and exclusion orders

PART 5: SPECIAL ORDER COUNCIL MEETINGS

SPECIAL RESTRAINING EMERGENCY PROTECTION ORDER OR EXCLUSION ORDER COUNCIL MEETING

- 28.0 If Council passes a Resolution under subsection 27.0(c) or subsection 27.0(d), it must, within thirty (30) days, convene a special ~~Restraining~~ Emergency Protection Order or Exclusion Order Council meeting at which the only order of business is to determine whether an Emergency Protection ~~Restraining~~ Order or Exclusion Order should be issued against that person.
- 29.0 If Council passes a Resolution under subsection 27.0(c) or subsection 27.0(d), the Enforcement Officer must, within fourteen (14) days of the date of the Resolution, deliver to the person who is the subject of that special Emergency Protection ~~Restraining~~ Order or Exclusion Order Council meeting:
- (a) A copy of the Order Resolution passed under subsection 27.0(c) or subsection 27.0(d);
 - (b) A notice setting out the date, time, and place of the special Emergency Protection ~~Restraining~~ Order or Exclusion Order Council meeting; and
 - (c) A copy of this Bylaw.
- 30.0 The person who is the subject of the special Emergency Protection ~~Restraining~~ Order or Exclusion Order Council meeting must be provided with the opportunity to be heard at the special Emergency Protection ~~Restraining~~ Order or Exclusion Order Council meeting, and Council must take into consideration the submissions of that person when deciding whether to issue an Order.
- 31.0 Despite Section 30.0, if the person does not attend the special Emergency Protection ~~Restraining~~ Order or Exclusion Order Council meeting, Council may by Resolution:
- (a) Reschedule the special Emergency Protection ~~Restraining~~ Order or Exclusion Order Council meeting, in which case Section 30.0 applies to the Resolution made under this section; or
 - (b) Hold the special Emergency Protection ~~Restraining~~ Order or Exclusion Order Council meeting in the absence of that person.
- 32.0 The Designated Individual may be represented by a person appointed by that person or legal counsel at the special Emergency Protection ~~Restraining~~ Order or Exclusion Order Council meeting.
- 33.0** The Designated Individual may present evidence and call witnesses at the special Emergency Protection ~~Restraining~~ Order or Exclusion Order Council meeting and all evidence must be affirmed to be true.
- 34.0 Subject to this Bylaw, Council has the power to control the processes of special Emergency Protection ~~Restraining~~ Order and Exclusion Order Council meeting.

Commented [LW7]: May 31st: Membership wanted to make sure that people were not falsely accused. Section 25 of the bylaw provides standards for making accusations and section 33, allows for people to present evidence and call witnesses.

REQUEST FOR A SPECIAL SUSPENSION OR RECISSION ORDER COUNCIL MEETING

- 35.0 A Designated Individual that is subject to an Order may apply to have a provision or provisions of that Order suspended or rescinded.
- 36.0 An application under Section 35.0 must be in the form established by the Bylaw Officer.
- 37.0 An application for a Suspension Order must not be filed within six (6) months of:
- (i) the date upon which the Order was issued; or
 - (ii) the date upon which any previous application was made under Section 35.0, whichever is later.
- 38.0 An application for rescission of an Exclusion Order under Section 35.0, must not be filed within twelve (12) months of:
- (i) the date upon which the Exclusion Order was issued; or
 - (ii) the date upon which any previous application was made under Section 35.0, whichever is later.
- 39.0 A special Council meeting held under Section 37.0 or Section 38.0 must be held *in camera*.
- 40.0 A decision made under Section 37.0 or Section 38.0 must be based on the written application of the Designated Individual.

SPECIAL SUSPENSION ORDER COUNCIL MEETING

- 41.0 Within fourteen (14) days of receiving an application under Section 35.0, Council must:
- (a) Consider the application at a duly convened meeting; and
 - (b) By Resolution either:
 - (i) approve the application;
 - (ii) approve the application in part; or
 - (iii) reject the application.

SPECIAL RECISSION ORDER COUNCIL MEETING

- 42.0 Council must, within sixty (60) days of receiving an application under Section 35.0, consider the application at a duly convened meeting at which the only order of business is to determine whether a Rescission Order should be issued.

PART 6: RIGHTS OF THE HARMED PERSON

Commented [LW8]: July12: Members wanted to make sure that victims also had rights. The bylaw provides a section for the rights of the harmed persons (see definition section as well)

- 43.0 Harmed Persons have the right to have their security and privacy considered at all stages of the process, and to have reasonable and necessary protection from intimidation and retaliation.
- 44.0 Harmed Persons have the right to receive information about their complaint made in accordance with Section 25.0, including:
- (a) The scheduling, progress, and final outcome of any special Council meeting (~~Emergency Protection Restraining~~ Order, Exclusion Order, Suspension Order or Recission Order);
 - (b) The status and outcome of the special Council meeting (~~Emergency Protection Restraining~~ Order, Exclusion Order, Suspension Order or Recission Order);
 - (c) Any review of an Order involving the Designated Individual and the status of that review; and
 - (d) Copies of any ~~Emergency Protection Restraining~~ Orders, Exclusion Orders, Suspension Orders and Recission Orders.
- 45.0 Harmed Persons or a family member or representative speaking on their behalf, must be allowed to:
- (a) tell their story;
 - (b) speak first in any forum to avoid an imbalanced focus on the Designated Individual's issues that may result in the Harmed Person withdrawing from the discussion or challenging the Designated Individual at all special Council meetings (~~Emergency Protection Restraining~~ Order, Exclusion Order, Suspension Order or Recission Order); and
 - (c) respond to statements made by the Designated Individual.

PART 7: ORDERS

AUTHORIZATION OF AN ~~EMERGENCY PROTECTION RESTRAINING~~ ORDER

- 46.0 If, after conducting a special ~~Emergency Protection Restraining~~ Order Council meeting, Council determines that ~~an Emergency Protection Restraining~~ Order should be issued against a person, Council may, by Resolution, issue an ~~Emergency Protection Restraining~~ Order against that person by Resolution, with written reasons for its decision, including, but not limited to:
- (a) Prohibiting or preventing a person from using or accessing PIB computers, servers, e-mail addresses, copiers, notice boards, social media, equipment, or Community Facilities and Community Gathering Places;
 - (b) Prohibiting or restricting a person from attending specified locations or events on the Reserve Lands during specified dates or times;
 - (c) Prohibiting a person from being within a prescribed distance from a particular person or persons or events;

Commented [LW9]: July 12th: Membership was concerned that there needed to be more clear language around restraining orders

- (d) Limiting the duration for which a person may occupy the Reserve Lands on a given visit;
- (e) Limiting the number of times a person may frequent the Reserve Lands within a specified period of time; and/or
- (f) Evicting that person from rental or leasehold housing for a specified period of time.

47.0 An ~~Emergency Protection Restraining~~ Order is effective as of the date of the Resolution or such later date as set by Council and expires in accordance with the date set in the Resolution (Schedule 2).

AUTHORIZATION OF AN EXCLUSION ORDER

48.0 At a special Exclusion Order Council meeting, Council may authorize that an Exclusion Order be issued against a Designated Individual, if they are reasonably satisfied that:

- (a) It determines, in good faith, that doing so is in the best interests of the Members, Owners, or Resident or for the protection of the Reserve Lands, including any Improvements, considering the interests of the Designated Individual, and whether the Designated Individual has acknowledged their issues and is working on rehabilitation or restoration;
- (b) The presence of the Designated Individual poses a threat to the health, safety or wellbeing of any person residing on, using, or occupying the Reserve Lands or using a Community Facility;
- (c) Authorizing an Exclusion Order will reduce the threat identified under Section 26.0;
- (d) Alternative measures (such as a Restorative Justice Process or an ~~Emergency Protection Restraining~~ Order) have not reduced the threat identified under Section 26.0 or achieved compliance from the person that has been determined to be a Designated Individual; and
- (e) A legal review of the draft Resolution has been obtained.

49.0 An Exclusion Order is effective as of the date of the Resolution or such later date as set by Council and expires in accordance with the date set in the Resolution, up to the end of the life of the Designated Individual depending on the seriousness of the offence.

AUTHORIZATION OF A SUSPENSION ORDER

50.0 Should a Designated Individual make an application for a Suspension Order pursuant to section 35.0, a Resolution:

- (a) Must not be passed unless Council is provided with supporting documentation, which may include expert advice, detailing any programs, rehabilitation, or other relevant measures taken by the Designated Individual to rehabilitate themselves;
- (b) Must not be passed unless there are, in the opinion of Council, compelling compassionate or humanitarian grounds to do so;

- (c) Must not be passed if, in the opinion of Council, doing so would pose a threat to the health, safety or well-being of any Member, Owner of or Resident of the Reserve Lands or using a Community Facility that cannot be satisfactorily mitigated by the imposition of specific terms or conditions;
- (d) Must specify which provisions of the Exclusion Order are suspended;
- (e) Must specify the dates upon which the Suspension Order:
 - (i) becomes effective; and
 - (ii) expires;
- (f) Shall be effective for the time set forth in the Resolution; and
- (g) May impose such other terms and conditions as Council deems just and appropriate.

AUTHORIZATION OF A RESCISSION ORDER

- 51.0 If, after reviewing the application for a rescission of an Exclusion Order, Council determines that the Exclusion Order issued against a Designated Individual should be rescinded in whole or in part, Council may, by Resolution, authorize that a Rescission Order or a partial Rescission Order be issued.
- 52.0 Council must not pass a Resolution under Section 51.0 unless it is reasonably satisfied that some material change has occurred such that the Designated Individual no longer poses and will not pose, a threat to the health, safety and well-being of any person residing on, using or occupying the Reserve Lands or using a Community Facility. Council will consult with, or make efforts to consult with, any affected Harmed Person, and take their views into account when considering whether to pass a Resolution rescinding an Exclusion Order.
- 53.0 A Resolution passed under Section 51.0 must specify the date upon which the Rescission Order becomes effective.

ORDERS IN GENERAL

- 54.0 If Council passes a Resolution under Sections 46.0, 48.0, 50.0, and 51.0, the Bylaw Officer must immediately:
 - (a) prepare an Order in accordance with this Bylaw and in accordance with the direction of Council; and
 - (b) publish a summary of the Order in at least one PIB publication of general local circulation.
- 55.0 An Order must contain:
 - (a) The name of the Designated Individual;
 - (b) A description or photograph of the Designated Individual, or both;

- (c) The reasons why the Order was made;
- (d) The Offence for which the Designated Individual was convicted (include the police file number or other applicable information as deemed necessary by Council), if applicable;
- (e) A map of the Reserve Lands clearly showing the areas proscribed, if applicable.
- (f) The date upon which the Designated Individual was convicted of the Offence, if applicable and known;
- (g) The date upon which the Resolution under Sections 46.0, 48.0, 50.0, and was passed;
- (h) Any terms or conditions imposed or required to be included in accordance with the Resolution;
- (i) The date upon which the Order was issued; and
- (j) The effects of the Orders as per Part 8, if applicable.

PART 8: EFFECTS OF AN EXCLUSION ORDER

EFFECT OF AN EXCLUSION ORDER

- 56.0 A Designated Individual who is the subject of an Exclusion Order made in accordance with this Bylaw and delivered in accordance with Section 64.0 must not reside on, use, or occupy the Reserve Lands.
- 57.0 For the purpose of participating in an Election for Council, or a ratification vote the Designated Individual must notify the electoral officer of the new address so that the voting package can be mailed to the Designated Individual at the appropriate time.
- 58.0 If a Designated Individual, who is subject of an Exclusion Order is prevented from attending the general assembly for Members or other similar Band meetings on the Reserve Lands, Council shall provide the Designated Individual with a copy of the agenda and any proposed motions in advance of the meeting and invite written comments from the Designated Individual on the materials provided, if requested.
- 59.0 If a Designated Individual who is the subject of an Exclusion Order and who is also a Member Is prevented from accessing information, programs or services that are available to other Members, Council shall ensure that other alternatives are in place for the Designated Individual to access the information, programs, or services, as appropriate, that are not located on the Reserve Lands, if requested by the Designated Individual.

IF DESIGNATED INDIVIDUAL HAS AN INTEREST IN THE RESERVE LANDS

60.0 If a Designated Individual that is the subject of an Exclusion Order made under Section 48.0 has a right or Interest in the Reserve Lands within an area proscribed under Section 48.0, prior to this Bylaw coming into force, the Exclusion Order must:

- (a) Provide for the Designated Individual to have access to and utilize those Reserve Lands associated with the right or Interest; and
- (b) Include a map of the Reserve Lands clearly showing how the Designated Individual is permitted to access those Reserve Lands in accordance with the Exclusion Order.

DESIGNATED INDIVIDUAL MAY NOT ACQUIRE AN INTEREST IN THE RESERVE LANDS

61.0 A Designated Individual that is subject to an Exclusion Order and is not a Member may not acquire a right or Interest in the Reserve Lands.

62.0 A Designated Individual that is subject to an Exclusion Order and is also a Member may acquire a right or Interest in the Reserve Lands, but only by testamentary disposition or court order.

63.0 If a Designated Individual that is subject to an Exclusion Order acquires a right or Interest in the Reserve Lands, the Designated Individual must notify the Bylaw Officer of the existence of the right or Interest within 30 days from the date of the registration in the ILRS of that right or Interest.

64.0 Upon receipt of the notification in Section 63.0, the Council may direct the Bylaw Officer to modify the Exclusion Order to provide for access to the Reserve Lands that are the subject of the right or Interest in accordance with Section 62.0 and direct the Enforcement Officer to:

- (a) Deliver a copy of the modified Exclusion Order to:
 - (i) the Designated Individual;
 - (ii) the local RCMP detachment;
 - (iii) the Band Administrator to distribute to staff;
 - (iv) each Community Facility, with instructions that it be posted in a place visible to all employees and volunteers of, and visitors to, the Community Facility; and
- (b) Post a summary of the changes to the Exclusion Order in at least one PIB media outlet of general local circulation.

PART 9: DELIVERY OF ORDERS

65.0 If Council passes a Resolution to issue, suspend, or rescind an Order, the Enforcement Officer must, within fourteen (14) days from the date the Resolution:

- (a) Deliver a copy of the Order to:

- (i) the Designated Individual, unless they are avoiding the Enforcement Officer;
- (ii) the Harmed Person;
- (iii) a person filing an Appeal if they are not the Designated Individual;
- (iv) each employer of the Designated Individual that is located on the Reserve Lands;
- (v) each employer of the Designated Individual that is not located on the Reserve Lands if, in the opinion of the Enforcement Officer, the Designated Individual's employment with that employer could require the Designated Individual to enter the Reserve Lands;
- (vi) the local RCMP detachment,
- (vii) Crown Counsel if court proceedings are pending;
- (viii) the Band Administrator of the PIB to provide to appropriate PIB staff;
- (ix) each Community Facility, with instructions that it be posted in a place visible to all employees, volunteers, and users of the Community Facility; and

- (b) Post a summary of the Exclusion Order in at least one PIB news outlet of general local circulation.

66.0 A copy of the Order or written reasons made under this Bylaw may be delivered in any of the following ways:

- (a) In person;
- (b) By leaving a copy of the Order with a person who appears to be at least 16 years of age at the actual or last known address of the addressee;
- (c) By posting a copy of the Order prominently on a door of a building at the actual or last known address of the addressee;
- (d) By mailing a copy of the Order to the actual or last known address of the addressee. A copy of an Order, notice or written reasons delivered under this Bylaw is presumed to have been received by the addressee on the fifth (5th) day after mailing; or
- (e) By electronic transmission.

PART 10: APPEAL PROCESS

67.0 The Council may form an Appeal Tribunal, by way of a Resolution, made up of up to five (5) members, including a member of Council.

68.0 The Appeal Tribunal will have jurisdiction in all matters relating to appeals from Council's decision regarding the denial or issuance of an Order or any conditions attached to an Order.

- 69.0 The Appeal must be presented to the Bylaw Officer by the ~~offender~~ Designated Individual within five (5) days of Council's decision and shall be commenced by filing a Notice of Appeal with the Bylaw Officer.
- 70.0 The Designated Individual may request the Appeal Tribunal to issue, remove or modify any conditions of an Order.
- 71.0 The Notice of Appeal must contain detailed reasons why an Order should be set aside, or why the conditions should be modified.
- 72.0 The Bylaw Officer shall provide the Appeal Tribunal with:
- (a) a copy of the Notice of Appeal; and
 - (b) all documents filed with the Council in relation to the Application.
- 73.0 The Appeal Tribunal shall consider all submissions and documents filed with the Appeal and determine whether there are sufficient grounds to hear an appeal.
- 74.0 In the event the Appeal Tribunal determines that there are not sufficient grounds for an Appeal, it shall give a written decision with reasons. The Appeal Tribunal's decision shall be served on the Designated Individual and the person that has filed the Appeal, if that person is not the Designated Individual, in person, by registered mail or by electronic means.
- 75.0 In the event the Appeal Tribunal decides to hear the Appeal, it shall schedule the time, date and place for the special Council meeting and provide written notice to the Designated Individual and the person that has filed the Appeal, if that person is not the Designated Individual.
- 76.0 After considering the evidence, the Appeal Tribunal shall:
- (a) confirm the Order; or
 - (b) vacate the Order; or
 - (c) modify or establish conditions in the Order.
- 77.0 The Bylaw Officer shall deliver a copy of the decision of the Appeal Tribunal within fourteen (14) days of the date of the meeting at which they considered the application to:
- (a) The Designated Individual and the person that has filed the Appeal, if that person is not the Designated Individual;
 - (b) The local RCMP detachment; and
 - (c) Each Community Facility, with instructions that it be posted in a place visible to all employees and volunteers of the Community Facility; and
 - (d) ~~Post a summary of the Appeal Tribunal decision in a~~ At least one PIB news outlet of general local circulation.

PART 11: ENFORCEMENT AND PENALTIES

CONSEQUENCES OF NON-COMPLIANCE WITH ORDERS

- 78.0 Designated Individuals that have been issued ~~an Emergency Protection Restraining~~ Order or an Exclusion Order are required to follow standard conditions which include reporting to the Enforcement Officer, obeying the law and keeping the peace, ~~and~~ Designated Individuals are ineligible for ~~Band~~ housing provided by the PIB to its Members.
- 79.0 A Designated Individual who breaches any requirement, term, or condition of an Order made in accordance with this Bylaw and delivered in accordance with Sections 65.0 and 66.0 commits an offence and is subject to the penalties established by this Bylaw.
- 80.0 A person who knowingly and willingly employs a Designated Individual in contravention of an Order made in accordance with this Bylaw and delivered in accordance with Sections 65.0 and 66.0 commits an offence and is subject to penalties established by this Bylaw.
- 81.0 A person who knowingly and willingly allows a Designated Individual to remain on their property in contravention of an Order made in accordance with this Bylaw and published in accordance with subsection 54.0(b) commits an offence and is subject to the penalties established by this Bylaw.

DUTY TO REPORT

- 82.0 A person who has reasonable grounds to believe that a Designated Individual has breached any requirement, term, or condition of an Order, must immediately report these grounds to an Enforcement Officer.

POWERS OF REMOVAL AND ARREST

- 83.0 If a Designated Individual is in breach of any requirement, term or condition of an Order made in accordance with this Bylaw and delivered in accordance with Sections 65.0 and 66.0, an Enforcement Officer, may remove the Designated Individual from the area proscribed in the Order or may arrest the Designated Individual.
- 84.0 To carry out his or her duties under Section 82.0, an Enforcement Officer has jurisdiction throughout the Reserve Lands to exercise and carry out the powers, duties, privileges, and responsibilities that a RCMP or other peace officer is entitled or required to carry out at law in Canada or under an enactment of British Columbia or Canada.

ENFORCEMENT OF ORDERS

- 85.0 PIB may file a certified copy of an Exclusion Order, Suspension Order, or Rescission Order made under this Bylaw with the ~~Provincial Courts of British Columbia, the Supreme Court of British Columbia or the Federal Court of Canada, Trial Division~~. The ~~Provincial Courts of British Columbia, the Supreme Court of British Columbia and the Federal Court of Canada, Trial Division~~ are specifically granted jurisdiction to enforce this Bylaw, including, but not limited to any penalties.

86.0 An Order filed under the Bylaw has the same force and effect, and all proceedings may be taken on it, as if it were a judgment of the Courts.

PENALTIES

87.0 In addition to any other penalty or liability, any person who violates any provision of this Bylaw or any requirement, term or condition of an order made and delivered in accordance with this Bylaw, is guilty of an offence and subject to a fine of up to one thousand (\$1,000) dollars for each day of non-compliance with this Bylaw to a term of imprisonment not exceeding thirty (30) days, or both.

Commented [LW10]: May 31st: Membership wanted to ensure that fines were up to \$1,000 per day as some members could not afford high fines; this was already included in the bylaw

FEES AND FORMS

88.0 Council may, by Resolution at a duly convened meeting, establish, correct, revise, or update the terms of any applicable fee schedules, forms, protocols, or other related documentation which complement and support this Bylaw, and must post notice of same in a public area of the PIB administration building and make a copy of same available for viewing free of charge at the administrative building of PIB and available for distribution at a nominal charge.

PART 12 - AMENDMENTS

89.0 Minor amendments to this Bylaw that do not affect the substantive terms may be made by Resolution.

90.0 Once Council approves the draft amendments by way of a Resolution the Council will post the proposed amendments at the PIB administration office and other places on the PIB website at least seven (7) days before the date that it proposes to formally approve the amendments and invite comments.

91.0 Council may decide to further amend the Bylaw as a result of comments received, in which case the process set forth in sections 89.0 and 90.0 will be repeated or approve the amendments. Upon Council approving the amendments by way of a Resolution those amendments immediately come into effect.

92.0 At the meeting, the Council shall explain the proposed amendments and receive comments and recommendations from the Electors and, if they deem it appropriate, have the Electors present vote on the draft amended law.

PART 13 – EFFECTIVE DATE

EFFECTIVE DATE

This PIB *Community Protection Bylaw* No. 2023-03, comes into force and effect on the date it is passed by Council, by Resolution, and published.

Read a first time by Council at a duly convened meeting held on the April 13, 2021;

Version: 26Jul2023 for Membership Vote

Presented to the Membership at an August 10, 2022 Band meeting;

Read a second time by Council at a duly convened meeting held on the November 8, 2022;

Read a third time at a duly convened Council meeting held on the January 17, 2023;

Received a positive vote from at least fifty (50) percent of registered PIB Membership, ~~at least~~ 18 years old of age or older on July ~~12th~~ 26th, 2023, attending the Special Band Meeting.

The Chief and Council of the Penticton Indian Band are empowered to act on behalf of the Penticton Indian Band (PIB), and Council met in quorum at a duly convened Council meeting this this XX day of XX 2023 and in favor of the Bylaw are the following members of the Council:

_____ **yilmixʷm Greg Gabriel** _____

_____ **səxʷkʷinmaʔm Timothy Lezard** _____

_____ **səxʷkʷinmaʔm Dolly Kruger** _____

_____ **səxʷkʷinmaʔm Suzanne Johnson** _____

_____ **səxʷkʷinmaʔm Vivian Lezard** _____

_____ **səxʷkʷinmaʔm Fred Kruger** _____

_____ **səxʷkʷinmaʔm Charlene Roberds** _____

_____ **səxʷkʷinmaʔm Lesley Gabriel** _____

_____ **səxʷkʷinmaʔm Clint Gabriel** _____

SCHEDULE 1: RESTORATIVE JUSTICE PROCESS COUNCIL RESOLUTION

WHEREAS: The Chief and Council of the Penticton Indian Band are empowered to act on behalf of the Penticton Indian Band (PIB), and Council met in quorum at a duly convened Council meeting this *[day] day of [month], [year]*;

WHEREAS: Restorative justice seeks to repair harm by providing an opportunity for those harmed and those who take responsibility for the harm to communicate about and address their needs in the aftermath of an offence or complaint;

WHEREAS: *[Insert the name of the Designated Individual] [choose either accepts or does not deny]* responsibility for the *[include the nature of the offence or complaint]*, has been informed of their rights, the nature of the process, and the possible consequences of their decision to voluntarily participate in the restorative justice process;

THEREFORE BE IT RESOLVED:

That Chief and Council of the Penticton Indian Band order that a Restorative Justice Process should be held for *[Insert the name of the Harmed Person]* and *[Insert the name of the Designated Individual]*, including the reasons that the Restorative Justice Process should be held to *[describe the offence of nature of the complaint that the restorative justice process]*

That Chief and Council of the Penticton Indian Band assign *[insert the name of the practitioner]* to serve as the restorative justice practitioner to lead the process describe above.

**SCHEDULE 2: ~~EMERGENCY PROTECTION RESTRAINING ORDER COUNCIL~~
RESOLUTION**

WHEREAS: The Chief and Council of the Penticton Indian Band are empowered to act on behalf of the Penticton Indian Band (PIB), and Council met in quorum at a duly convened Council meeting this [day] day of [month], [year];

WHEREAS: [Insert the Legal Name(s) of the Harmed Person and/or Additional Harmed Persons] wishes to have an ~~Emergency Protection restraining~~ order issued against [Insert the Legal Name, Gender, Height, Weight, Eye Colour, Age, Date of Birth, Address (if known), City, Province, Postal Code, Relationship to the of the Designated Individual];

WHEREAS: At a special ~~Emergency Protection Restraining~~ Order Council meeting, and on considering the following evidence [include the reasons/~~evidence~~evidence that Council consider to justify that it is necessary to issue a restraining order];

THEREFORE BE IT RESOLVED:

That Chief and Council of the Penticton Indian Band order that [insert the name of the Designated Individual] must not [choose all of the bullets below that apply]:

- **Harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy personal property, disturb the peace, keeper under surveillance, impersonate, or block movements;**
- **Come within [XX] metres of the Harmed Person`s, home, job, workplace, vehicle, school, children, children`s school, other;**
- **Contact, either directly or indirectly the Harmed Person, in any way, including, but not limited to by telephone, mail, email or any other electronic means;**
- **Use or access PIB computers, servers, e-mail addresses, copiers, notice boards, social media, equipment or facilities;**
- **Attend [include specified locations or events] on the Lands during [include specified dates or times];**
- **Must take only personal clothing and belongings needed and move out immediately from [insert Harmed Persons address] within 48 hours of receiving this order; and/or**
- **Take any action, directly or through others, to obtain addresses or locations of [insert the name of the Harmed Person and additional harmed persons, if applicable].**

[If the Harmed Person(s) and Designated Individual are married to each other or domestic partners, neither party may transfer, borrow against, sell, hide, get rid of or destroy any property, including animals except in the usual course of business or necessities of life of the other party.]

Peaceful written contact through a lawyer is allowed.

[If peaceful contact between the Designated Individual and the Harmed Person is required to allow for peaceful contact with children as required by a court order, indicate those terms in a clause.]

In addition to any other penalty or liability, any person who violates any provision of this ORDER is guilty of an offence and subject to a fine of up to one thousand (\$1,000) dollars for each day of non-compliance with this ORDER to a term of imprisonment not exceeding thirty (30) days, or both.

This ORDER is effective on the date signed by Chief and Council of the Penticton Indian Band. It is enforceable by any law enforcement agency that has received this ORDER or is shown a copy of this ORDER. If a peace officer has probable cause to believe that a Designated Individual had notice of the ORDER and has disobeyed the ORDER, the officer must arrest the Designated Individual.

Even if the Harmed Person invites or consents to contact the Designated Individual, the ORDER remains in effect and must be enforced. The Harmed Person cannot be arrested for inviting or consenting to contact the Designated Individual. This ORDER can only be changed by Band Council Resolution.

This order expires at *[insert date here]*.

SCHEDULE 3: EXCLUSION ORDER COUNCIL RESOLUTION

WHEREAS: The Chief and Council of the Penticton Indian Band are empowered to act on behalf of the Penticton Indian Band (PIB), and Council met in quorum at a duly convened Council meeting this *[day] day of [month], [year]*;

WHEREAS: *[Insert the Legal Name(s) of the Harmed Person and/or Additional Harmed Persons] wishes to have a exclusion order issued against [Insert the Legal Name, Gender, Height, Weight, Eye Colour, Age, Date of Birth, Address (if known), City, Province, Postal Code, Relationship to the of the Designated Individual];*

WHEREAS: At a special Exclusion Order Council meeting, and on considering the following evidence *[include the reasons/evidence that Council consider justifying that it is necessary to issue an exclusion order; the offence for which the Designated Individual was convicted, if applicable; (add police file number and date, etc.)];*

THEREFORE BE IT RESOLVED:

That Chief and Council of the Penticton Indian Band order that *[insert the name of the Designated Individual]* must leave the reserve lands of the Penticton Indian Band or any other lands beneficially owned by the Penticton Indian Band within 48 hours and report your departure to the Chief Administrative Officer and may not return to the Lands until *[insert date/time]*.

***[insert the name of the Designated Individual]* must not reside on, use or occupy any of the reserve lands of the Penticton Indian Band or any other lands beneficially owned by the Penticton Indian Band.**

If *[insert the name of the Designated Individual]* wishes to participate in an election for Council, or a ratification vote they must notify the electoral officer of the new address so that the voting package can be mailed to them at the appropriate time.

***[insert the name of the Designated Individual]* may not attend the general assembly for Members or other similar Band meetings on the reserve lands of the Penticton Indian Band or any other lands beneficially owned by the Penticton Indian Band. Council shall provide them with a copy of the agenda and any proposed motions in advance of the meeting and invite written comments from them on the materials provided, if requested.**

***[insert the name of the Designated Individual]* may request access to alternatives to PIB information, programs or services that are not on the reserve lands of the Penticton Indian Band or any other lands beneficially owned by the Penticton Indian Band, but are available to other Members.**

[If the Designated Individuals has Land, Council must provide them with access to utilize those lands associated with the right or Interest; and include a map of the Lands clearly showing how the Designated Individual is permitted to access those Lands in accordance with the Exclusion Order].

[If the Designated Individual is not a Member, include that they may not acquire a right or Interest in any of the reserve lands of the Penticton Indian Band or any other lands beneficially owned by the Penticton Indian Band.]

[insert the name of the Designated Individual] may only acquire a right or Interest in the Lands by testamentary disposition.

If ***[insert the name of the Designated Individual]*** acquires a right to the Lands, they must notify the Bylaw Officer of the existence of the right or Interest within 30 days from the date of the registration in the ILRS of that right or Interest.

In addition to any other penalty or liability, any person who violates any provision of this ORDER is guilty of an offence and subject to a fine of up to one thousand (\$1,000) dollars for each day of non-compliance with this ORDER to a term of imprisonment not exceeding thirty (30) days, or both.

This ORDER is effective on the date signed by Chief and Council of the Penticton Indian Band. It is enforceable by any law enforcement agency that has received this ORDER or is shown a copy of this ORDER. If a peace officer has probable cause to believe that a Designated Individual had notice of the ORDER and has disobeyed the ORDER, the officer must arrest the Designated Individual.

Even if the Harmed Person invites or consents to contact the Designated Individual, the ORDER remains in effect and must be enforced.

This ORDER can only be changed by Band Council Resolution.

This order expires at ***[insert date here]***.