

SKOWKALE FIRST NATION

*COVID COMMUNITY
PROTECTION LAW*

MAY, 2021



May, 2021

Skowkale has traditional laws and teachings including:

Éy kws hákw'elestset te s'í:wes te siyólexwálh,
Xaxastexw te mekw'stam,
Éwe chexw qelqelit te mekw'stam lóy kw'es li hokwex yexw lamexw kwú:t,
S'ólh téméxw te íkw'élò xólhmet te mekw' stám ít kwelát

These cannot be exactly translated into English but they include the following concepts:

It is good to remember the teachings of our ancestors;

Respect all things;

Don't waste, ruin, destroy everything, only take what you need;

This is our land we have to take care of everything that belongs to us;

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PART 1. BACKGROUND

Whereas:

- A. Skowkale First Nation has an inherent right to self-government which emanates from our people, culture and land and which is recognized and affirmed by section 35 of the *Constitution Act, 1982*;
- B. Skowkale has traditional teachings, laws and mechanisms for taking care of the community, including vulnerable members;
- C. Skowkale has taken over control and management of Skowkale Reserve lands and resources pursuant to the *Framework Agreement on First Nation Land Management* and has enacted the *Skowkale Land Code* effective May 1, 2014;
- D. An emergency exists as a result of the potential presence of novel coronavirus COVID 19 (“COVID 19”) on Skowkale Lands and elsewhere in British Columbia which poses risks to Skowkale Lands, the environment and the health of Members;
- E. COVID 19 is a disease that is readily communicable from person to person and carries risks of fever, pneumonia, and in the most serious cases, death;
- F. The spread of COVID 19 has been declared a pandemic by the World Health Organization;
- G. Health experts have advised Council of the need to adopt social distancing, restrictions on public gatherings, and restrictions on the use of Skowkale Lands to reduce the risk of spreading the virus on Skowkale Lands and amongst Members and their families;
- H. Under section 3.3 of the *Skowkale Land Code*, Skowkale Council is authorized to pass various laws including laws relating to
 - (a) the regulation, control, authorization and prohibition of access and occupation of Skowkale Reserve Lands,
 - (b) the removal and punishment of persons trespassing upon Skowkale Reserve Lands or frequenting Skowkale Reserve Lands for prohibited purposes,
 - (c) public and private nuisance; and
- I. Council wishes to implement measures to protect the health and safety of Skowkale Members and residents and particularly vulnerable elders and others;

NOW THEREFORE this *Skowkale Covid Community Protection Law* is hereby enacted at a duly convened meeting as a Law of the Skowkale First Nation.

PART 2. TITLE

2.1 This Law may be cited as the *Skowkale Covid Community Protection Law*.

PART 3. DEFINITIONS

3.1 The following definitions apply to this Law:

”**Order**” means an order made under section 5.1 of this Law;

”**Peace Officer**” has the meaning ascribed in section 2 of the Criminal Code of Canada, R.S.C. 1985 c. C-46, as amended.

”**Person**”, for the purposes of this Law, and unless otherwise explicitly stated, means an individual; and

”**Skowkale Official**” means a Person appointed as a Skowkale Official pursuant to section 5.1 of this Law.

PART 4. PURPOSE & APPLICATION

Purpose

4.1 The purpose of this Law is to provide for the protection of Skowkale Lands, the environment, the health and safety of Members, and their families by imposing measures to reduce the risk of the spread of the COVID 19 virus on Skowkale Lands.

Application

4.2 The provisions of this Law apply to all Skowkale Lands.

PART 5. INTERIM RESTRICTIONS WITHIN BUSINESSES & OTHER PREMISES

Appointment of Skowkale Officials

5.1 Council may appoint, by Council Resolution, an employee, Councillor, contractor or agent of Skowkale, or any other person, to be an Skowkale Official for the purposes of this Law.

(a) First Nations Community Watch/ Allegiance Enforcement has already been appointed to enforce Skowkale laws and are also appointed to enforce this law.

5.2 An Skowkale Official, once appointed by Council, has the following powers:

(a) to enforce any of the provisions under this Law;

(b) to issue orders under this Law which Skowkale Officials are specifically empowered to make; and

(c) To issue fines and other penalties under this Law.

5.2 Council, at its sole discretion and without imparting any obligation to do so whatsoever, may provide for remuneration of an Skowkale Official by Council Resolution.

Restrictions on hours of operation and number of occupants

5.4 For the purposes of protecting public health, Council may issue orders restricting the hours of operation, and number of persons entering businesses or other premises on Skowkale Lands.

5.5 Regardless of whether Skowkale restricts the hours of operation or number of persons under sub section 5.4, each business is responsible and liable for its own decisions regarding these matters.

PART 6. INTERIM RESTRICTIONS ON PUBLIC GATHERINGS

Restrictions on access to Skowkale Lands

6.1 Until further notice, no person, other than:

- (b) a Member and their immediate family;
- (c) a person who is not a Member but who is authorized to reside on Skowkale Lands;
- (d) a Peace Officer or coroner;
- (e) an Skowkale Official; or
- (f) other persons specifically permitted to do so in advance and in writing by Council

is authorized to enter onto or remain on Skowkale Lands except with written permission of Council.

Social distancing requirements

- 6.2 In order to protect health and safety, all persons present on Skowkale Lands must practice social distancing at all times by maintaining a minimum distance of six (6) feet or more from all persons.
- 6.3 In order to protect health and safety, Chief and Council, in consultation with appropriate public health officials, may issue additional orders for social distancing and similar conduct on Skowkale Lands, including for cultural or funeral gatherings.

Restrictions on public gatherings without permission

- 6.4 Until further notice, no person shall participate in public gatherings, assemblies, or parties involving two (2) or more persons on Skowkale Lands, without the specific written permission of Council.
 - (a) Council may grant permission or variances for specific events including weddings, funerals and cultural events provided that:
 - (i) an applicant submits a written application and agrees to take on responsibility for ensuring safety measures and releasing Skowkale from any liability; and
 - (ii) the applicant agrees to ensure that provincial health guidelines are followed and specific protection measures are in place such as spaced seating areas, requirements for hand sanitization, requirements for mask if appropriate, keeping names and phone numbers for contact tracing, etc.
- 6.5 Except for enforcement and emergency response officials, no non-residents may enter onto the reserve between the hours of 11PM and 7AM without a specific written consent from Council.

Restrictions apply to homes and residences

- 6.6 The restrictions under this Law on public gatherings, assemblies, or parties apply to residences and spaces on Skowkale Lands whether occupied by Members or non-Members.
- 6.7 No person may have in his or her private dwelling persons other than those regularly in residence.

Provincial Guidelines and Orders

- 6.8 Skowkale voluntarily adopts the provincial guidelines and rules for Covid restrictions or protections.
- 6.9 Council may pass, by Regulation, an authorization or delegation enabling officials who are empowered by provincial law to enforce Covid restrictions and protections on Aitcheltiz Lands.
- 6.10 For greater certainty, the conditional adoption of the guidelines, rules and order powers set out in subsections 6.8 and 6.9 are:
 - (a) without prejudice to Skowkale's aboriginal rights and title;
 - (b) an exercise of Skowkale's inherent jurisdiction;

- (c) not any form of acknowledgement or acceptance that provincial laws and guidelines have any application to Skowkale Lands;
- (d) subject to revision, variance, or removal by Skowkale Council.

Orders

- 6.11 An Skowkale Official may order that persons participating in public gatherings, assemblies, or parties contrary to this Law cease participating in those public gatherings, assemblies, or parties.

Assistance of Police & Peace Officers

- 6.12 Skowkale Officials are authorized to issue orders under this Law may request the assistance of Peace Officers or health or law enforcement professionals to carry out orders under this Law.

Offence

- 6.13 Any person who does not comply with an order under this Law is guilty of an offence and liable on conviction to a fine not exceeding one thousand (\$1,000.00) dollars, imprisonment for up to six (6) months, or both imprisonment and a fine.

PART 7. PARKING RESTRICTIONS

Parking

- 7.1 No person may park a motor vehicle on any Skowkale Lands, other than lands on which signs have been erected permitting parking, and lands ordinarily used by Members for parking adjacent to, or near, their residences.

No Parking signs

- 7.2 Council may authorize Skowkale Officials to post signs restricting or banning parking motor vehicles on any Skowkale Lands, including any lands on which parking has been permitted in the past if deemed necessary by Council to prevent the risk of the spread of COVID 19, or to ensure that emergency and health officials have access to any Skowkale Lands.

Removal of Vehicles

- 7.3 Council may authorize Skowkale Officials to tow or remove vehicles that are parked in violation of this Law and Skowkale is not liable for damages to a motor vehicle, or damages incurred by any person affected by the need to tow or remove the motor vehicle.

Offence

- 7.4 Any person who fails to remove a motor vehicle when ordered to do so, who obstructs a Skowkale Official in the course of their duties related to parking violations, or who parks a motor vehicle in contravention of this Law is guilty of an offence and liable on conviction to a fine not exceeding one thousand dollars, imprisonment for up to six (6) months, or both imprisonment and a fine.

PART 8. REPORTING

- 8.1 Any person who sees another person on Skowkale Lands not complying with this law is encouraged to report the matter to First Nations Community Watch/ Allegiance Enforcement and to the RCMP.

Part 9. OFFENCES AND PENALTIES

- 9.1 Any Person who violates any provisions of this Law or a permit issued under it, or who suffers or permits any act or thing to be done in contraventions or in violation of any of the provisions of

this Law or a permit issued under it, or who neglects to do or refrains from doing any act or thing required by any of the provisions of this Law or a permit issued under it, is guilty of an offence under this Law, and is liable to the penalties imposed by this Law and the Ticketing and Enforcement Law.

- 9.2 Any Person who fails or refuses to comply with any order, warning, ticket, violation notice, information or summons made to or issued under this Law or the Ticketing and Enforcement Law commits an offence.
- 9.3 Each day a violation of this Law continues will be deemed to be a separate offence for which a fine may be imposed.
- 9.4 Any person who violates an order commits an offence and is liable on summary conviction to a fine not exceeding two thousand dollars (\$2,000.00).

Orders, Tickets, Penalties and Fines

- 9.5 An Skowkale Official may issue a warning notice, violation notice, clean-up order or ticket for any violation of this Law in accordance with the Skowkale *Enforcement and Ticketing Law*.
- 9.6 A ticket under subsection 9.5 is:
 - (a) instead of a summary conviction fine under subsection 9.4; but
 - (b) in addition to any provincial fines or penalties.
- 9.7 An Skowkale Official may impose a ticket fine a first offense in the amount set out by Council Regulation, a schedule to this Law or a schedule to the Ticketing and Enforcement Law and if no amount is set, in the amount of \$100.
- 9.8 A Person who fails to comply with an urgent or emergency order under this Law within one (1) hour of the issuance of a first warning, ticket or violation notice is subject to an additional ticketing fine of \$300.00 and may be issued a second notice to comply and may be given a further time period to comply with this Law.
- 9.9 A Person who fails to comply with a second notice is subject to a ticketing fine of \$500.00 and may be issued a final notice to comply with this Law.

PART 10. REGULATIONS AND ORDERS

- 10.1 In addition to the authorizations set out in this law to issue orders, Council may, by Council Resolution
 - (a) Authorize or delegate SAY Lands Office to enable access by utility providers, delivery agents, and other providers in the public interests subject to following safety protocols
 - (b) issue any order or authorize any Skowkale Official to issue any order necessary to carry out the purposes of this Law; and
 - (c) pass any regulations, or approve and notices, fines, orders, forms or other documents necessary to implement this law.

PART 11. DELIVERY OF ORDERS AND NOTICES

- 11.1 A copy of a Council Resolution, order, notice or other document under this Law 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; or
 - (d) by mailing a copy of the order to the actual or last known address of the addressee.

PART 12. GENERAL AND LEGAL

Law applies to Skowkale employees and Skowkale Council

- 12.1 Council Members, employees, representatives and agents of Skowkale may be suspended for a period of time specified by Council, or have their employment or contract with Skowkale terminated if they fail to comply with an order issued under this Law.

No liability

- 12.2 None of Skowkale, present or past Council, or members, employees, contractors, representatives or agents of Skowkale or Council are liable for any damages or other loss, including economic loss, sustained by any Person, or to the property of any Person, as a result of neglect or failure, for any reason, to discover or detect any contravention of this Law or any other Skowkale Law, or from the neglect or failure, for any reason or in any manner, to enforce this Law or any other Skowkale Law.

Limitation Period

- 12.3 Any actions against Skowkale (including Council and its employees) for the unlawful doing of anything that:
- (a) is purported to have been done under the powers conferred by this Law or any Skowkale Law; and
 - (b) might have been lawfully done if acting in the manner established by law,
- must be commenced within six (6) weeks after the cause of action first arose.

Required Notice

- 12.4 Skowkale is in no case liable for any claims, damages or losses unless notice in writing, setting out the time, place and manner in which it has been sustained, is delivered to Skowkale within four (4) weeks from the date on which the damage was sustained. In the case of the death of a person injured, the failure to give notice required by this section is not a bar to the maintenance of the action. Failure to give the notice or its insufficiency is not a bar to the maintenance of an action if the court before whom it is tried, or, in case of appeal, the court of appeal, believes:
- (a) there was a reasonable excuse; and
 - (b) Skowkale has not been prejudiced in its defence by the failure or insufficiency.

Compliance with other Laws

- 12.5 Where any other law or legal requirement may apply to any matter covered by this Law, compliance with this Law will not relieve the person from also complying with the provisions of such other applicable law or legal requirement.

Severability

12.6 In the event that all or any part of any section of this Law is found by a court of competent jurisdiction to be invalid, that part or section shall be severable, and the remaining portions and sections of this Law shall remain in full force and effect.

Coming into Force

12.7 This Law will come into force on the date that it is duly passed by Council after having been posted for community review in accordance with the Land Code.

BE IT KNOWN that this Law is entitled the Skowkale Covid Community Protection Law (2021) and is hereby enacted by a quorum of Council of Skowkale held on (Date).

Chief

Councillor

Councillor

Councillor

Councillor

Quorum consists of ____
Council Members