



SOOWAHLIE FIRST NATION

Law No. 2020-17

COMMUNITY PROTECTION LAW

April 2020

Contents

PART 1 - NAME	5
PART 2 - PURPOSE	5
PART 3 - WHERE THIS LAW APPLIES	5
PART 4 - DEFINITIONS	5
PART 5 - GENERAL PROVISIONS	6
<i>Immunity</i>	6
<i>Severability</i>	7
PART 6 - APPOINTMENT OF SOOWAHLIE OFFICIALS	7
PART 7 - PROHIBITION AGAINST DISORDERLY CONDUCT OR CAUSING A NUISANCE	8
<i>Prohibition</i>	8
PART 8 - ENFORCEMENT OF PROHIBITION AGAINST DISORDERLY CONDUCT OR CAUSING A NUISANCE	8
<i>Order to Stop</i>	8
<i>Reasonable Time</i>	8
<i>Refusal to comply</i>	8
<i>Arrest without warrant</i>	8
<i>Warnings, Orders, Tickets</i>	9
<i>Remediation Order</i>	9
<i>All Remedies Retained</i>	9
PART 9 - DETERMINATION OF A DESIGNATED INDIVIDUAL	9
<i>Conviction</i>	9
<i>Designation Without Conviction</i>	9
<i>Best Interest of Soowahlie</i>	10
<i>Terms and Conditions</i>	10
<i>Expiry of Soowahlie Restraining Order</i>	10
<i>Eviction</i>	10
<i>Banishment</i>	10
<i>Council Resolution</i>	11
PART 10 - CONTENT AND DELIVERY OF SOOWAHLIE RESTRAINING ORDER	11
<i>Contents of Soowahlie Restraining Order</i>	11
PART 11 - NOTICE.....	11
<i>Notice to Designated Individual</i>	11
<i>General Notice of Soowahlie Restraining Order</i>	11
PART 12 - ALTERNATIVES FOR PARTICIPATION	12
<i>Meeting Materials</i>	12
<i>Accessing Programs and Services</i>	12

<i>Attending an Election or Ratification Vote</i>	12
PART 13 - IF DESIGNATED INDIVIDUAL HAS AN INTEREST IN SOOWAHLIE RESERVE LANDS	13
PART 14 - DESIGNATED INDIVIDUAL MAY NOT ACQUIRE RIGHT OR INTEREST IN SOOWAHLIE RESERVE LANDS	
13	
<i>Non-Member</i>	13
<i>Member</i>	13
<i>Notice Required</i>	13
<i>Modify Soowahlie Restraining Order</i>	13
PART 15 - MODIFICATION OR CANCELLATION OF DESIGNATION OR SOOWAHLIE RESTRAINING ORDER	13
<i>Application to Council</i>	14
<i>Council Resolution</i>	14
PART 16 - REVIEW OF COUNCIL DECISIONS	14
<i>Final and binding</i>	14
<i>Court Review</i>	14
<i>Standard of Review</i>	14
<i>Time limit</i>	14
<i>No Stay</i>	14
PART 17 - DUTY TO REPORT	15
PART 18 - ENFORCEMENT OF SOOWAHLIE RESTRAINING ORDER	15
<i>All Remedies Retained</i>	15
<i>File Order in Court</i>	15
PART 19 - OFFENCES AND PENALTIES	15
<i>Penalties</i>	15
<i>Fine</i>	15
<i>Offences</i>	16
<i>Continuing Offence</i>	16
PART 20 - DELIVERY	16
PART 21 - REGULATIONS, FEES AND FORMS	16
PART 22 - COMING INTO FORCE	16
<i>Date Law Comes into Force</i>	16

Soowahlie 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;

WHEREAS:

- A. Soowahlie 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. Soowahlie had traditional laws and mechanisms to deal with community members who were threatening or harmful to the community;
- C. Soowahlie has taken over control and management of Soowahlie Reserve lands and resources pursuant to the *Framework Agreement on First Nation Land Management* and has enacted the *Soowahlie Land Code* effective the June 1, 2016;
- D. Under section 3.3 of the *Soowahlie Land Code*, Soowahlie Council is authorized to pass various laws including laws relating to
 - (a) the regulation, control, authorization and prohibition of access and occupation of Soowahlie Reserve Lands,
 - (b) the removal and punishment of persons trespassing upon Soowahlie Reserve Lands or frequenting Soowahlie Reserve Lands for prohibited purposes, and
 - (c) public and private nuisance; and
- E. Council wishes to implement measures to safeguard against potentially dangerous and disruptive behaviour on Soowahlie Reserve Lands;

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

PART 1 - NAME

- 1.1 This Law may be cited as the *Soowahlie Community Protection Law*.

PART 2 - PURPOSE

- 2.1 The purpose of this Law is to address potentially disruptive, destructive or dangerous behaviour or conduct on Soowahlie Reserve Lands.

PART 3 - WHERE THIS LAW APPLIES

- 3.1 The provisions of this Law apply to the whole area of Soowahlie Reserve Lands as defined in the Land Code.

PART 4 - DEFINITIONS

- 4.1 For the purposes of this Law, terms have the same definitions as in the Land Code;

- 4.2 For the purposes of this Law, the following definitions apply:

“Criminal Code” means the *Criminal Code of Canada* as amended or replaced from time to time;

“Designated Individual” means a person who has been determined to be a Designated Individual by Council under section 9.1 or 9.2;

“Disorderly Conduct” means any act or behaviour, including:

- (a) fighting or brawling;
- (b) using abusive language;
- (c) using offensive or indecent gestures or displays;
- (d) being drunk and disorderly;
- (e) loitering;
- (f) exposing, firing or discharging any gun, pistol or other firearm, or using or threatening to use any other object or thing as a weapon;
- (g) interfering in any significant manner with the orderly conduct of commercial, administrative, Council, educational, recreational, health care, legal, political, religious or ceremonial meetings, functions, gatherings or activities on Soowahlie Reserve Lands;
- (h) making threats or being abusive to any Soowahlie Chief, Councillor, staff member, contractor, Member or resident or visitor on Soowahlie Reserve Lands, regardless of whether the threats or abusive communications are in person, in writing, by mail or via electronic communications including telephone, e-mail or posting on social media;
- (i) refusing to leave any Soowahlie Community Reserve Lands or any public area on Soowahlie Reserve Lands when directed to do so by an Enforcement Officer;
- (j) urinating or defecating in a public area; and
- (k) any other disorderly behaviour;

that disrupts or may disrupt public order on Soowahlie Reserve Lands, scandalizes the community, or causes or may cause inconvenience, threats, risks, annoyance or alarm to Members or the community;

“Enforcement Officer” means a person appointed under subsection 6.1;

“Land Code” means the Soowahlie First Nation Land Code;

“Nuisance” includes public nuisance and private nuisance and means any act, activity or condition that constitutes nuisance or is defined as nuisance in this law, including:

- (a) making or causing any noise or sound which disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort or convenience of Members, the public, or persons in the vicinity;
- (b) fireworks that are not used or set off under a valid authorization or permit;
- (c) the creation of noxious or unpleasant smells;
- (d) parking, storing, leaving, or abandoning vehicles, trailers, boats, machinery, equipment or materials on Soowahlie Community Lands without a valid permit or authorization from the Lands Office;
- (e) vandalism, including removing, defacing, destroying, mutilating, or in any manner whatsoever damaging or attempting to damage land, structures or property;
- (f) trespass, including trespass in person or by vehicle; and
- (g) any other act;

that materially impairs or interferes with the use and enjoyment of Soowahlie’s or a Person’s property, or that prejudicially affects a Person’s or the community’s health, comfort, safety, welfare or convenience, but does not include any act, activity or condition to the extent it is unavoidably necessary for carrying on any lawful business or activity for which a permit or authorization has been provided by the Soowahlie;

“Sexual Offence” means an offence under sections 151 to 173 of the Criminal Code or an equivalent offence contained in a federal or state statute of the United States of America or any other country;

“Soowahlie Official” means a person appointed under PART 6;

“Soowahlie Restraining Order” means an order made under section 9.4(b); and

“Violent Offence” means an offence under sections 229 to 240, 244 to 248, 264 to 273 and 279 to 286 of the Criminal Code or an equivalent offence contained in a federal or state statute of the United States of America or any other country.

PART 5 - GENERAL PROVISIONS

- 5.1 The headings of parts and sections in this Law have been inserted as a matter of convenience and for reference only and in no way define or limit or any of its provisions.
- 5.2 In the event that all or any part of any section or sections of this Law are found by a court of competent jurisdiction to be invalid, such sections shall be severable, and the remaining portions or sections shall remain in full force and effect.

Immunity

- 5.3 Soowahlie, including Council, or any Person acting on authority of, or under the direction of Council, is not liable for any damage arising from
 - (a) anything said or done or omitted to be said or done by that person in the performance or intended performance of the person's duty or the exercise of the person's authority; or
 - (b) any alleged neglect or default in the performance or intended performance of the person's duty or the exercise of the person's authority.

- (c) making a determination that a person is a Designated Individual;
 - (d) making a Soowahlie Restraining Order;
 - (e) enforcing any aspect of this lawproviding that the determination under subsection (c) and that the Soowahlie Restraining Order issued under subsection (d) were made in good faith.
- 5.4 Section 5.1 does not provide a defense if:
 - (a) Council, Soowahlie First Nation Law Enforcement Officers, employees, servants or agents of either Soowahlie First Nation or Council have, in relation to the conduct that is the subject matter of the action, been guilty of fraud, malicious or willful misconduct; or
 - (b) the cause of action is libel or slander.
- 5.5 Soowahlie First Nation, present or past Council, Soowahlie First Nation Law Enforcement Officers, or employees, servants or agents of or Council are not 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 Soowahlie First Nation Law, or from the neglect or failure, for any reason or in any manner, to enforce this Law or any other Soowahlie First Nation Law.
- 5.6 All actions against Soowahlie First Nation for the unlawful doing of anything that:
 - (a) is purported to have been done by Soowahlie First Nation under the powers conferred by this Law or any Soowahlie First Nation Law; and
 - (b) might have been lawfully done by Soowahlie First Nation if acting in the manner established by law,
 - (c) must be commenced within thirty days after the cause of action first arose, or within a further period designated by Council in a particular case, but not afterwards.
- 5.7 Soowahlie First Nation is in no case liable for damages unless notice in writing, setting out the time, place and manner in which the damage has been sustained, is delivered to Soowahlie First Nation, within ten days from the date on which the damage was sustained.

Severability

- 5.8 Should any section of this Law be declared by a Court of competent jurisdiction to be ultra vires or illegal for any reason, the remaining parts shall nevertheless remain valid and binding, and shall be read as if the offending section or part had been struck out.

PART 6 - APPOINTMENT OF SOOWAHLIE OFFICIALS

- 6.1 Council shall, by Council Resolution, appoint one or more Soowahlie Officials to carry out the duties of the Soowahlie Official as set out in this Law.
- 6.2 A Soowahlie Official may be
 - (a) an Enforcement Officer,
 - (b) a Peace Officer,
 - (c) a Soowahlie elected representative,
 - (d) a Soowahlie staff member or contractor, or
 - (e) any other individual or organization designated under subsection 6.1.

- 6.3 Council must ensure that any Soowahlie Official is sufficiently qualified to carry out activities and enforcement under this Law, either generally, or specifically as set out in their appointment.

PART 7 - PROHIBITION AGAINST DISORDERLY CONDUCT OR CAUSING A NUISANCE

Prohibition

- 7.1 No person shall engage in any Disorderly Conduct or cause or create a Nuisance.

PART 8 - ENFORCEMENT OF PROHIBITION AGAINST DISORDERLY CONDUCT OR CAUSING A NUISANCE

Order to Stop

- 8.1 An Enforcement Officer may
- (a) order any person who is threatening or engaging in any Disorderly Conduct or threatening or causing or creating a Nuisance to immediately stop; or
 - (b) order any person to stop the Disorderly Conduct or Nuisance within a reasonable period of time.

Reasonable Time

- 8.2 In determining whether a period of time fixed under section 8.1(b) is reasonable, the Enforcement Officer shall take into account:
- (a) the nature and extent of the Disorderly Conduct or Nuisance;
 - (b) the potential impact on persons or property and on the health and well-being of Soowahlie and Members;
 - (c) the methods available to stop the Disorderly Conduct or Nuisance;
 - (d) the appropriate time required to stop the Disorderly Conduct or Nuisance; and
 - (e) the effect of the order on any lawful business or lawful means of livelihood of the person who is the subject of an order.

Refusal to comply

- 8.3 Where a Person who has been ordered to stop engaging in Disorderly Conduct, or to refrain from causing a Nuisance within a specified period of time, under section 8.1, fails or refuses to comply with the order, an Enforcement Officer may take such reasonable measures as are necessary to stop the Disorderly Conduct, or to prevent or to stop the Nuisance, which may include arresting a person under subsection 8.5, or removing a person from a location, facility, function, activity meeting or gathering on Soowahlie Reserve Lands.

Arrest without warrant

- 8.4 A peace officer may arrest without warrant any person on Soowahlie Reserve Lands if the peace officer believes on reasonable and probable grounds that the person is committing an offence under subsection 7.1 or refusing to comply with an order as set out in subsection 8.3.
- 8.5 If a peace officer believes on reasonable and probable grounds that a person has committed an offence under subsection 7.1 or refused to comply with an order as set out in subsection 8.3, and has recently departed from the site or location of the offence or order, the peace officer may arrest or detain the person without warrant if:

- (a) the person refuses to give his or her name and address to the peace officer on demand, or
- (b) the peace officer believes, on reasonable and probable grounds, that the name or address given by the person to the peace officer is false.

Warnings, Orders, Tickets

- 8.6 Without limiting an Enforcement Officer's powers at law, including pursuant to a Soowahlie Law that addresses enforcement powers of Enforcement Officers, an Enforcement Officer may issue a warning, order, ticket, violation notice, swear out an information before a Justice of the Peace or summons the Person to a court of competent jurisdiction in a form authorized by Council or the Criminal Code Summary Conviction provisions and, if applicable, subject to the fines or penalties authorized by Council Resolution, this Law, or any other applicable law to a Person who has engaged in Disorderly Conduct or caused or created a Nuisance.

Remediation Order

- 8.7 An Enforcement Officer or Council may issue a remediation order to compel a Person who has engaged in Disorderly Conduct or caused or created a Nuisance to repair or clean up any damage they have caused or to otherwise make amends and if the Person fails to carry out the remediation, Council may order it carried out by Soowahlie or a contractor and billed to the Person.

All Remedies Retained

- 8.9 Nothing in this Law precludes Soowahlie from pursuing any other enforcement action or remedy to address Disorderly Conduct or a Nuisance provided for under common law or in any other relevant law.

PART 9 - DETERMINATION OF A DESIGNATED INDIVIDUAL

Conviction

- 9.1 If Council, acting reasonably and in good faith, believes that a Person
- (a) has been convicted of a Sexual Offence or a Violent Offence; and
 - (b) poses a serious threat to the physical or psychological health, safety or wellbeing of a person residing on Soowahlie Reserve Lands or using Soowahlie facilities,
- Council may make a determination that the person is a Designated Individual for a period of no longer than five (5) years.

Designation Without Conviction

- 9.2 In addition to Council's authority under section 9.1, if Council has credible information that a Person
- (a) has been charged with a Sexual Offence or Violent Offence;
 - (b) has caused serious harm or poses a serious threat to the physical or psychological health, safety or wellbeing of one or more Persons on Soowahlie Reserve Lands; or
 - (c) has engaged or may engage in Disorderly Conduct or has caused or created or may cause or create a Nuisance at a Soowahlie meeting, gathering or undertaking,
- Council may designate the Person as a Designated Individual, by a Council Resolution, for a period of no longer than three (3) months at a time.

Best Interest of Soowahlie

- 9.3 Council must not pass a Council Resolution under sections 9.1 or 9.2 unless it determines, in good faith, that doing so is in the best interests of Soowahlie, taking into account the interests of the Person and the interests of Soowahlie.

Terms and Conditions

- 9.4 Subject to the limitations imposed by law, Council may authorize such terms and conditions as Council deems just and appropriate to restrict or prohibit the presence of a Designated Individual on Soowahlie Reserve Lands or an area of Soowahlie Reserve Lands, which may include the following:
- (a) posting the name of a Designated Individual at a Soowahlie facility or otherwise informing Members and residents of Soowahlie Reserve Lands of the presence of a Designated Individual on Soowahlie Reserve Lands;
 - (b) issuing a Soowahlie Restraining Order to:
 - (i) prohibit or prevent a person from using or accessing Soowahlie computers, servers, e-mail addresses, copiers, notice boards, equipment or facilities;
 - (ii) prohibit or restrict a Designated Individual from attending specified locations or events on Soowahlie Reserve Lands or being present within specified areas or facilities on Soowahlie Reserve Lands during specified dates or times,
 - (iii) prohibit a Designated Individual from being within a prescribed distance from
 - a. specified locations or events, or
 - b. a particular Person, or
 - (iv) for a Designated Individual determined under section 9.1,
 - a. evict the Designated Individual from housing leased on Soowahlie Reserve Lands for a specified period of time, or
 - b. banish the Designated Individual from using, occupying, or possessing Soowahlie Reserve Lands for a specified time period not exceeding one (1) year.

Expiry of Soowahlie Restraining Order

- 9.5 Subject to the time limit imposed on the designation of a Designated Individual under section 9.2, and the time limit imposed on banishment under section 9.4(b)(iii)(a), a Soowahlie Restraining Order must expire within five (5) years from the date the Soowahlie Restraining Order becomes effective.

Eviction

- 9.6 A Soowahlie Restraining Order that includes a term evicting a Designated Individual residing on Soowahlie Reserve Lands under a lease under section 9.4(b)(iv)(a), the term takes effect 48 hours after service of the Soowahlie Restraining Order in accordance with section 11.1.

Banishment

- 9.7 A Soowahlie Restraining Order that includes a term banishing a Designated Individual under section 9.4(b)(iv)(b)
- (a) takes effect 48 hours after service of the Council Resolution in accordance with section 11.1; and
 - (b) may be renewed by Council on a yearly basis but only after Council has carried out a detailed review and re-assessment, including:
 - (i) seeking an investigation or report from a peace officer or enforcement officer;
 - (ii) requesting an update of all relevant information and documentation; and

- (iii) following the principles of administrative fairness including providing the Designate Individual an opportunity to be heard and to present information or submissions.

Council Resolution

9.8 All decisions, determinations or orders made under this Part must be made pursuant to a Council Resolution.

PART 10 - CONTENT AND DELIVERY OF SOOWAHLIE RESTRAINING ORDER

Contents of Soowahlie Restraining Order

10.1 A Soowahlie Restraining Order must contain:

- (f) the name of the Designated Individual and sufficient identifying information;
- (g) the offence for which the Designated Individual was convicted, if applicable;
- (h) the date upon which the Designated Individual was convicted for the offence, if applicable;
- (i) the date upon which the Soowahlie Restraining Order was authorized by Council Resolution;
- (j) the date upon which the Soowahlie Restraining Order was issued;
- (k) the date upon which the Soowahlie Restraining Order becomes effective;
- (l) the date upon which the Soowahlie Restraining Order expires;
- (m) any terms or conditions imposed or required by the Council Resolution;
- (n) if applicable, a list of building or areas or a map of Soowahlie Reserve Lands clearly showing the specific locations for which a Designated Individual's access is prohibited or restricted; and
- (o) information stating that the individual may request a review or appeal of the Soowahlie Restraining Order.

PART 11 - NOTICE

Notice to Designated Individual

11.1 A Soowahlie Official shall, within fourteen (14) days of the date upon which the applicable Council Resolution was made, personally serve a Person for whom or against whom Council

- (a) has determined to be a Designated Individual under section 9.1 or 9.2; or
- (b) has issued a Soowahlie Restraining Order

with a copy of the Council Resolution or Soowahlie Restraining Order, as applicable, and a summary of Council's reasons.

General Notice of Soowahlie Restraining Order

11.2 If Council authorizes a Soowahlie Restraining Order, subject to any written directions from Council, the Soowahlie Official shall, within fourteen (14) days from the date of the Council Resolution authorizing the Soowahlie Restraining Order:

- (a) deliver a copy of the Soowahlie Restraining Order to:
 - i. each employer of the Designated Individual that is located on Soowahlie Reserve Lands;
 - ii. each employer of the Designated Individual that is not located on Soowahlie

Reserve Lands if, in the opinion of the Soowahlie Official, the Designated Individual's employment with that employer could require the Designated Individual to enter onto the prohibited areas described in the Soowahlie Restraining Order;

- iii. the local RCMP detachment;
 - iv. any Soowahlie staff or departments which Council or the General Manager directs in writing; and
 - v. each Soowahlie facility or office identified as a prohibited area in the Soowahlie Restraining Order, with instructions that it be posted in a place visible to all employees and volunteers of the facility or office; and
- (b) if Council determines that it is necessary, post a summary of the Soowahlie Restraining Order in the appropriate location, taking into account the rights interests of the community and the rights and interests of the individual.

PART 12 - ALTERNATIVES FOR PARTICIPATION

Meeting Materials

- 12.1 If a Designated Individual who is the subject of a Soowahlie Restraining Order and who is also a Member is prevented from attending a Soowahlie general assembly for Members or other similar meeting on Soowahlie Reserve Lands, Council shall
- (a) provide the Designated Individual with a copy of the agenda and any proposed resolutions in advance of the meeting; and
 - (b) invite written comments from the Designated Individual on the documents provided under subsection (a).

Accessing Programs and Services

- 12.2 If a Designated Individual who is the subject of a Soowahlie Restraining Order and who is also a Member is prevented from accessing information, programs or services that are available to other Members, excluding Soowahlie Community Benefit payments, Council shall ensure that other alternatives are in place for the Designated Individual to access the information, programs or services, as appropriate.

Attending an Election or Ratification Vote

- 12.3 Despite the terms of a Soowahlie Restraining Order, a Designated Individual who is the subject of a Soowahlie Restraining Order and who is also a Member may attend a Soowahlie facility for the purpose of participating in a Soowahlie election for Soowahlie Council, or a Soowahlie Ratification Vote, if:
- (a) the Designated Individual notifies the Soowahlie Official not less than seven (7) days before the date on which the Designated Individual proposes to attend at the Soowahlie facility, and then only in accordance with any terms imposed by the Soowahlie Official; or
 - (b) the terms of the Designated Individual's Soowahlie Restraining Order allow, and then only in accordance with those terms.

PART 13 - IF DESIGNATED INDIVIDUAL HAS AN INTEREST IN SOOWAHLIE RESERVE LANDS

13.1 Subject to Council's authority to evict a Designated Individual residing on Soowahlie Reserve Lands under a lease under section 9.4(b)(iv), if a Designated Individual who is the subject of a Soowahlie Restraining Order has a right or Interest in Soowahlie Reserve Lands within an area prohibited under the order, the Soowahlie Restraining Order must:

- (a) provide for the Designated Individual to have access to those lands associated with the right or Interest; and
- (b) include a map of Soowahlie Reserve Lands clearly showing the means by which the Designated Individual is permitted to access those lands and the Designated Individual may access those lands in accordance with the Soowahlie Restraining Order.

PART 14 - DESIGNATED INDIVIDUAL MAY NOT ACQUIRE RIGHT OR INTEREST IN SOOWAHLIE RESERVE LANDS

Non-Member

14.1 A Designated Individual who is subject to a Soowahlie Restraining Order and is not a Member may not acquire a right or Interest in Soowahlie Reserve Lands that is within an area prohibited under the Soowahlie Restraining Order.

Member

14.2 A Designated Individual who is subject to a Soowahlie Restraining Order and is also a Member may acquire a right or Interest in Soowahlie Reserve Lands that is within an area prohibited under the Soowahlie Restraining Order, but only by testamentary disposition in a valid will and remains subject to the terms and conditions set out in the Soowahlie Restraining Order.

Notice Required

14.3 If a Designated Individual who is subject to a Soowahlie Restraining Order acquires a right or Interest under section 14.2, the Designated Individual must notify the Soowahlie Official of the existence of the right or Interest within thirty (30) days from the date of the registration in the Soowahlie Reserve Lands Register of that right or Interest.

Modify Soowahlie Restraining Order

14.4 Upon receipt of the notification in subsection 14.3, the Soowahlie Official shall:

- (a) modify the Soowahlie Restraining Order to provide for access to the lands that are the subject of the right or Interest in accordance with section 14.1; and
- (b) deliver a copy of the modified Soowahlie Restraining Order to in accordance with subsections 11.1 and 11.2.

PART 15 - MODIFICATION OR CANCELLATION OF DESIGNATION OR SOOWAHLIE RESTRAINING ORDER

15.1 Council may modify or cancel

- (a) a Designated Individual determination under section 9.1 or 9.2; or
- (b) a Soowahlie Restraining Order

at any time if it is satisfied that the circumstances described in section 9.1 or 9.2, as

applicable, no longer exist and that the safety of the community or any Person on Soowahlie Reserve Lands would not be compromised by modifying, cancelling or removing the Designated Individual determination or the Soowahlie Restraining Order.

Application to Council

- 15.2 A Designated Individual may apply in writing to Council to modify or cancel
- (a) the Designated Individual determination under sections 9.1 or 9.2; or
 - (b) a Soowahlie Restraining Order, if applicable.
- 15.3 Any application from a Designated Individual must:
- (a) contain a specific request setting out what the Designated Individual wishes Council to review and any specific proposals to modify or cancel the designation or Soowahlie Restraining Order;
 - (b) contain details and information to support the application; and
 - (c) be submitted to the General Manager no more frequently than within sixty (60) days of the last request to Council to modify or cancel the designation or Soowahlie Restraining Order.
- 15.4 Within thirty (30) days of receiving an application under section 15.2, Council shall:
- (a) consider the application in accordance with the principles of administrative fairness;
 - (b) if necessary or if required by the principles of administrative fairness, request more information or documentation, or hold a meeting and invite the applicant and other relevant individuals to provide information and make submissions; and
 - (c) either:
 - (i) approve the application, or
 - (ii) reject the application.
- 15.5 The portion of the Council meeting held under section 15.3(a) must be held *in camera*.

Council Resolution

- 15.6 All decisions, determinations or orders made under this Part must be made pursuant to a Council Resolution.

PART 16 - REVIEW OF COUNCIL DECISIONS

Final and binding

- 16.1 A decision of Council under sections 9.1 or 9.2, 9.4 (b), or 15.1 is final and binding.

Court Review

- 16.2 Notwithstanding section 16.1, a Designated Individual may apply to the court, solely at their own expense, for a review of a Council decision under sections 9.1 or 9.2, 9.4(b), or 15.1.

Standard of Review

- 16.3 The standard of review of an application under section 16.2 is reasonableness.

Time limit

- 16.4 An application under section 16.2 must be brought within thirty (30) days after service of Council's decision in accordance with section 11.1.

No Stay

- 16.5 An application under section 16.2 does not operate as a stay of a removal order.

PART 17 - DUTY TO REPORT

- 17.1 A person who has reasonable grounds to believe that a Designated Individual has breached any requirement, term or condition of a Soowahlie Restraining Order shall immediately report these grounds to the General Manager, Lands Manager or an Enforcement Officer.

PART 18 - ENFORCEMENT OF SOOWAHLIE RESTRAINING ORDER

- 18.1 If a Designated Individual fails or refuses to comply with any requirement, term or condition of a Soowahlie Restraining Order made in accordance with this Law and delivered in accordance with section 11.1, without limiting an Enforcement Officer's powers at law, including pursuant to a Soowahlie Law that addresses enforcement powers of Enforcement Officers, an Enforcement Officer may take such reasonable measures as are necessary to enforce that order, and without limiting the generality of the foregoing, may:
- (a) issue a warning, order, ticket, violation notice, information or summons in a form and, if applicable, subject to the fines or penalties authorized by Council Resolution, this Law, or any other applicable law, to a Designated Individual who is in breach of any requirement, term or condition of a Soowahlie Restraining Order; or
 - (b) remove the Designated Individual from the area prohibited in the Soowahlie Restraining Order, or may detain the Designated Individual pending the arrival of the RCMP.

All Remedies Retained

- 18.2 Nothing in this Law precludes Soowahlie from pursuing any other enforcement action or remedy to address a Designated Individual's failure or refusal to comply with a Soowahlie Restraining Order provided for in any other relevant law.

File Order in Court

- 18.3 Soowahlie may file a certified copy of a Soowahlie Restraining Order made under this Law with a court of competent jurisdiction.
- 18.4 A Soowahlie Restraining Order filed under section 20.3 has the same force and effect, and all proceedings may be taken on it, as if it were a judgment of the court.

PART 19 - OFFENCES AND PENALTIES

Penalties

- 19.1 A Person who contravenes this Law, or any requirement, term or condition of an order made and delivered in accordance with this Law, or an order made by a Court pursuant to this Law, is guilty of an offence and
- (a) is liable for a ticketing fine if authorized by Council Resolution, this Law, or any other applicable law; or
 - (b) is liable on summary conviction to a fine of not more than \$10,000 for each offence or to a term of imprisonment not exceeding thirty (30) days, or both.

Fine

- 19.2 A fine payable under subsection 19.1 shall be remitted to Soowahlie by the Court, after reasonable Court costs have been deducted.

Offences

19.3 It is an offence to

- (a) engage in Disorderly Conduct;
- (b) cause or create a Nuisance;
- (c) fail or refuse to comply with any warning, order, ticket, violation, notice, information or summons made or issued under this Law, including, for certainty, the requirements, terms or conditions of a Soowahlie Restraining Order;
- (d) fail or refuse to comply with the requirement under section 14.3 to report a right or interest in Soowahlie Land by testamentary disposition;
- (e) knowingly and willingly allow a Designated Individual to remain on one's property in contravention of a Soowahlie Restraining Order made in accordance with this Law and published in accordance with section 11.2; or
- (f) obstruct, interfere with, or deny access to an Enforcement Officer.

Continuing Offence

19.4 Where any contravention of this Law is committed or continued on more than one day, it constitutes a separate offence for each day on which the contravention is committed or continued.

PART 20 - DELIVERY

20.1 A copy of a Council Resolution, an order, notice or written reasons made 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.

20.2 A copy of an order, notice or written reasons delivered under section 20.1(d) is presumed to have been received by the addressee on the fifth (5th) day after mailing.

PART 21 - REGULATIONS, FEES AND FORMS

21.1 Council may, by Council Resolution

- (a) pass any regulations necessary to implement this law; and
- (b) establish, correct, revise or update the terms of any applicable fee, schedule, form, protocol or other related documentation which complement and support this Law.

PART 22 - COMING INTO FORCE

Date Law Comes into Force

22.1 This Law shall come into force and effect on the date it is passed by Council Resolution.



SOOWAHLIE INDIAN BAND

BAND COUNCIL RESOLUTION RÉSOLUTION DE CONSEIL DE BANDE

#572



Chronological no. – N° consecutive
202017
File reference no. – N° de référence du dossier

NOTE: The words "from our band funds" "capital" or "revenue" whichever is the case, must appear in all resolutions requesting expenditures from band funds.
NOTA: Les mots "des fonds de notre bande" "capital" ou "revenue" selon les cas doivent paraître dans tous les résolutions portant sur des dépenses à même les fonds des bandes

The council of the Le conseil de	SOOWAHLIE INDIAN BAND	Cash free balance	
Date of duly convened meeting Date de l'assemblée dument convoquée	April 14, 2020	Province B.C.	Capital account Compte capital \$ _____ Revenue account Compte revenu \$ _____

DO HEREBY RESOLVE:
DÉCIDE PAR LES PRÉSENTES:

WHEREAS:

- Soowahlie 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;
- Soowahlie had traditional laws and mechanisms to deal with community members who were threatening or harmful to the community;
- Soowahlie has taken over control and management of Soowahlie Reserve lands and resources pursuant to the *Framework Agreement on First Nation Land Management* and has enacted the *Soowahlie Land Code* effective the June 1, 2016;
- Under section 3.3 of the *Soowahlie Land Code*, Soowahlie Council is authorized to pass various laws including laws relating to various matters including:
 - the regulation, control, authorization and prohibition of access and occupation of Soowahlie Reserve Lands,
 - the removal and punishment of persons trespassing upon Soowahlie Reserve Lands or frequenting Soowahlie Reserve Lands for prohibited purposes, and
 - public and private nuisance; and
- Council wishes to implement measures to protect the community and safeguard against potentially dangerous and disruptive behavior on Soowahlie Reserve Lands;

NOW THEREFORE this *Soowahlie Community Protection Law, 2020* is hereby enacted at a duly convened meeting on April 14th, 2020 as a Law of Soowahlie First Nation.

Quorum: THREE (3)

Janya Connors
(Councillor - Conseiller)

Brenda Wallace
(Chief - Chef)

(Councillor - Conseiller)

Wanda Connors
(Councillor - Conseiller)

FOR DEPARTMENTAL USE ONLY – RÉSERVÉ AU MINISTRE			
Expenditure - Depenses	Authority (Indian Act section) – Autorité (Article sur la loi des Indiens)	Source of Funds Sources des fonds <input type="checkbox"/> Capital <input type="checkbox"/> Revenue - Revenu	
Recommending officer – Recommandé par		Recommending officer – Recommandé par	
Signature _____		Signature _____	
Date _____		Date _____	
Approving Officer – Approuvé par		Approving Officer – Approuvé par	
Signature _____		Signature _____	
Date _____		Date _____	