



SEABIRD ISLAND

Emergency Protection Law

Department Responsible (if applicable)	Office of the ED
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Signed by Chief <i>James Harris</i>	Signed by Councillor <i>[Signature]</i>



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BACKGROUND

WHEREAS the people of Seabird Island are represented by Council;

AND WHEREAS the people of Seabird Island, being diverse in heritage, have occupied and benefited from our traditional Stó:lō territory since time immemorial;

AND WHEREAS our land, resources and elements provide for our physical, mental, emotional and spiritual needs and the people of Seabird Island honour, respect and protect our relationship with them;

AND WHEREAS an emergency exists as a result of the potential presence of novel coronavirus COVID-19 (“COVID-19”) on Seabird Island Lands and elsewhere in British Columbia which poses risks to Seabird Island Lands, the environment and the health of Members;

AND WHEREAS 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;

AND WHEREAS the spread of COVID-19 has been declared a pandemic by the World Health Organization;

AND WHEREAS health experts have advised Council of the need to adopt social distancing, restrictions on public gatherings, and restrictions on the use of Seabird Island Lands to reduce the risk of spreading the virus on Seabird Island Lands and amongst Members and their families;

AND WHEREAS under section 7.1 of the Seabird Island Land Code, Seabird Island Council is authorized to pass various laws including laws relating to:

- interests or Permits in relation to Seabird Island Lands;
- the development, conservation, protection, management, use and possession of Seabird Island Lands; and
- any matter arising out of, or ancillary to, the exercise of that power.

AND WHEREAS under section 8.5 of the Land Code, Council has the authority to pass short-term urgent laws “needed urgently to protect the health or safety of Members or Seabird Island Lands”;

AND WHEREAS based on recent events, Council reasonably believes this Law is urgently required to protect Seabird Island Reserve Lands or Members within the meaning of section 8.5 of the Land Code;

AND WHEREAS Council wishes to implement measures to protect the health and safety of Seabird Island Members and residents and particularly vulnerable elders and others;



AND WHEREAS Council will monitor the COVID-19 virus risks on Seabird Island Lands and may in accordance with sections 8.5 of the Seabird Island Land Code decide at a future date whether to re-enact, amend, or repeal all or part of this Law;

AND WHEREAS Council wishes to amend parts of this Law to ensure that this Law reflects the orders of the BC Provincial Health Officer (BCPHO) and orders of the Chief Public Health Officer of Canada (CPHOC);

NOW THEREFORE this *Seabird Island Covid-19 Emergency Protection Law* is hereby enacted at a duly convened meeting as a Law of the Seabird Island Band.

PART 1 - PRELIMINARY MATTERS

1. Title

- 1.1. This Law may be cited as the Seabird Island COVID-19 Emergency Protection Law.

2. Principles

- 2.1. Nothing in this Land Code is intended to or does abrogate or derogate from any aboriginal, treaty or other rights and freedoms that pertain now or in the future to Seabird Island or Members.
- 2.2. Nothing in this Land Code is intended to or does abrogate the fiduciary relationship between Canada and Seabird Island and between Canada and Members.

3. Interpretation

- 3.1. The following definitions apply to this Law:

- (a) “**BCPHO**” means the Provincial Health Officer of British Columbia;
- (b) “**CPHOC**” means the Chief Public Health Officer of Canada;
- (c) “**Peace Officer**” has the meaning ascribed in section 2 of the Criminal Code of Canada, R.S.C. 1985 c. C-46, as amended;
- (d) “**Person**”, for the purposes of this Law, and unless otherwise explicitly stated, means an individual;
- (e) “**Seabird Island Official**” means a Person appointed as a Seabird Island Band Official pursuant to section 6.1 of this Law.



PART 2 - EMERGENCY LAWS IN EFFECT

4. Purpose

- 4.1. The purpose of this Law is to provide for the protection of Seabird Island 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 Seabird Island Lands.
- 4.2. This Law has been adopted by Council as an interim law on an urgent basis, in accordance with the authority to adopt urgent laws as set out in section of the Land Code, for the purpose of imposing temporary measures required to reduce the risk of harm on Seabird Island Lands.

5. Application

- 5.1. The provisions of this Law apply to all Seabird Island Lands.

6. Powers of Seabird Island Officials and Peace Officers

- 6.1. Council may appoint, by Council Resolution, an employee, Councillor, contractor or agent of Seabird Island, or any other Person, to be a Seabird Island Official for the purposes of this Law.
- 6.2. A Seabird Island 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 Seabird Island Officials are specifically empowered to make; and
 - (c) to issue fines and other penalties under this Law.
- 6.3. Council may, at its sole discretion and without imparting any obligation to do so whatsoever, may provide for remuneration of a Seabird Island Official by Council Resolution.
- 6.4. A Peace Officer has the power to enforce any of the provisions under this Law or under any applicable law.

7. Restrictions on hours of operation and number of occupants

- 7.1. For the purposes of protecting public health, Council, in consultation with the appropriate administrative and/or health officials may issue orders restricting the hours of operation, and number of persons entering businesses or other premises on Seabird Island Lands.

8. Temporary assistance for businesses and Members

- 8.1. To assist businesses operating on Seabird Island Lands, Council may, at its sole discretion, waive or delay payment of any fees or amounts owed under contracts with Seabird Island, notwithstanding the requirements of other Seabird Island laws or contracts previously entered into by Seabird Island.



9. Interference with restrictions on entering businesses and premises

- 9.1. Any person who violates an order commits an offence and is liable on conviction to a fine not exceeding one thousand dollars (\$1,000.00), imprisonment for up to six (6) months, or both imprisonment and a fine.

10. Restrictions on access to Seabird Island Lands

- 10.1. No person, other than:

- (a) a Member and their immediate family;
- (b) a person who is not a Member, but who is authorized to reside on Seabird Island Lands;
- (c) a Peace Officer or coroner;
- (d) a Seabird Island Official; or
- (e) other persons specifically permitted to do so in advance and in writing by Council is authorized to enter onto or remain on Seabird Island Lands while this Law is in force.

11. Restrictions and closure of public facilities

- 11.1. Council may, in consultation with the appropriate administrative and/or health officials, order closure, or restrictions on access to, community facilities on Seabird Island Lands including, but not limited to, buildings, playgrounds, and other open recreational spaces.

12. Provincial Health Officer and Chief Public Health Officer Orders and Recommendations

- 12.1. All Persons present on Seabird Island Lands must strictly comply with a current order or recommendation of the BCPHO or CPHOC made in relation to the disease known as COVID-19, including orders and recommendations related to the following protective measures:

- (a) travel restrictions;
- (b) self-isolation and/or quarantine;
- (c) staying home;
- (d) restricting gatherings or visitors;
- (e) social (physical) distancing; and
- (f) wearing face masks or other personal protective equipment when in public.



- 12.2. In order to protect health and safety, Chief and Council, in consultation with the appropriate administrative and/or health officials, may issue additional orders for the protective measures set out in paragraphs 12.1(a) to (f) on Seabird Island Lands that are more stringent than an order or recommendation of the BCPHO or CPHOC.

13. Violations for Trespass

- 13.1. Violations for trespassing onto another's property without their consent will be enforced rigidly and without exception.

14. Orders

- 14.1. A Seabird Island 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.

15. Assistance of Peace Officers

- 15.1. Seabird Island Officials that 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.

16. Offence

- 16.1. 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.

17. Parking

- 17.1. No person may park a motor vehicle on any Seabird Island 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.

18. No Parking signs

- 18.1. Council, in consultation with the appropriate administrative and/or health officials, may authorize Seabird Island Officials to post signs restricting or banning parking motor vehicles on any Seabird Island 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 Seabird Island Lands.

19. Removal of Vehicles

- 19.1. Council, in consultation with the appropriate administrative and/or health officials, may authorize Seabird Island Officials to tow or remove vehicles that are parked in violation of this Law and Seabird Island 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.



20. Offence

- 20.1. Any person who fails to remove a motor vehicle when ordered to do so, who obstructs a Seabird Island 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.

21. Reporting

- 21.1. Any Person who sees another Person on Seabird Island Lands not complying with this Law is encouraged to report the matter to a Seabird Island Official and/or to a Peace Officer.

22. Regulations and Orders

- 22.1. In addition to the authorizations set out in this law to issue orders, Council may, in consultation with the appropriate administrative and/or health officials, by Council Resolution:
- (a) issue any order or authorize any Seabird Island Official to issue any order necessary to carry out the purposes of this Law; and
 - (b) pass any regulations, or approve and notices, forms or other documents necessary to implement this law.

23. Delivery of Orders and Notices

- 23.1. 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.

24. Interim nature of this Law

- 24.1. This Law is an interim law to respond to an urgent situation on Seabird Island Lands and, unless renewed, will no longer be in force fifty (50) days after enactment, except to the extent required to complete any enforcement actions arising from events taking place while this Law was in force.



25. Law applies to Seabird Island employees and Seabird Island Council

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

26. No liability

- 26.1. None of Seabird Island, present or past Council, or members, employees, contractors, representatives or agents of Seabird Island 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 Seabird Island Law, or from the neglect or failure, for any reason or in any manner, to enforce this Law or any other Seabird Island Law.

27. Limitation Period

- 27.1. Any actions against Seabird Island (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 Seabird Island 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.

28. Required Notice

- 28.1. Seabird Island 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 Seabird Island 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) Seabird Island has not been prejudiced in its defense by the failure or insufficiency.

29. Compliance with other Laws

- 29.1. 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.



30. Severability

- 30.1. 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.

31. Coming into Force

- 31.1. This Law will come into force on the date that it is duly passed by Council.

BE IT KNOWN that this Law is entitled the Seabird Island COVID-19 Emergency Protection Law (2021) and is hereby enacted by a quorum of Council of Seabird Island Band held on the 4th day of June, 2021.

Chief

Councillor

Councillor

Councillor

Councillor

Councillor

Councillor

Councillor

Councillor

Quorum consists of 5

Council Members