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SQ'EWÁ:LXW FIRST NATION

Fireworks Control Law 2018



PREAMBLE

WHEREAS Sq'ewá:lxw First Nation has an inherent right to self-government which emanates from its people, culture, language, and land and which is recognized and affirmed by section 35 of the Constitution Act, 1982;

WHEREAS our Nation has chosen to assume control of its indian reserve lands pursuant to the First Nation Lands Management Act, S.C. 1999, c. 24 by entering into the Individual Agreement on First Nation Land Management between Sq'ewá:lxw First Nation and Her Majesty the Queen in Right of Canada and by adopting the Skawahlook First Nation Land Code;

WHEREAS under the Skawahlook First Nation Land Code, Council is authorized to pass various Laws relating to lands, consistent with section 16 of the Skawahlook First Nation Land Code;

WHEREAS Sq'ewá:lxw Chief and Council is concerned about the safety of lands, buildings, people and resources on Sq'ewá:lxw Lands and wishes to ban the manufacture or sale of Fireworks and regulate the usage of Fireworks;

THEREFORE BE IT RESOLVED THAT the Sq'ewá:lxw First Nation hereby enacts the following Law:

PART 1 - INTERPRETATION

Short Title

1 This Law may be cited as the "Sq'ewá:lxw Fireworks Control Law 2018".

Purpose

2 The purpose of this Law is to promote safety and to protect Sq'ewá:lxw Lands, Members, occupants, buildings and resources from potentially hazardous or disruptive uses of Fireworks.

Definitions

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

4 In addition, the following definitions apply:

- (a) "Act" means the federal Explosives Act, RSC 1985, c. E-17, and the regulations enacted thereunder, as amended or replaced from time to time;
- (b) "Consumer Fireworks" means a pyrotechnic device producing quantities or effect of light, and sound, and/or smoke by the combustion of explosive or flammable composition and includes fireworks showers, fountains, golden rain, lawn lights, pin wheels, roman candles, and volcanoes, classified under the Act as low hazard, Class 7.2.1 fireworks, but does not include Christmas Crackers, sparklers, or caps for toy guns;
- (c) "Council" means the Chief and Council of Sq'ewá:lxw.



- (d) **“Display Fireworks”** means a manufactured pyrotechnic device producing effects of light and/or sound classified under the Act as high hazard, Class 7.2.2 fireworks;
- (e) **“Fireworks”** means any Display Fireworks, Consumer Fireworks, or Pyrotechnic Special Effects but does not include Christmas crackers, sparklers or caps for toy guns;
- (f) **“Land Code”** means the Skawahlook First Nation Land Code dated for reference October 18, 2013 and any amendments thereto.
- (g) **“Laws”** means any applicable Sq’ewá:lxw, federal, or provincial laws, as those laws may be amended from time to time.
- (h) **“Member”** means a person whose name appears or is entitled to appear on the Sq’ewá:lxw band membership list.
- (i) **“Permit”** means a Fireworks Display Permit issued under Part 4 of this Law in the form established by Council, from time to time;
- (j) **“Person”** includes an entity or corporation.
- (k) **“Pyrotechnic Special Effects”** means a manufactured pyrotechnic device used to produce a special effect for indoor or outdoor performance use that is an authorized pyrotechnic effect under the Explosives Regulatory Division of Natural Resources of Canada, Class 7.2.5, Class 11 and Class 3;
- (l) **“Sq’ewá:lxw”** means the Skawahlook First Nation, a band within the meaning given to “band” in subsection 2(1) of the Indian Act.
- (m) **“Sq’ewá:lxw Enforcement Officer”** means any person or class of persons designated as an enforcement officer under section 15 of the Sq’ewá:lxw Enforcement and Ticketing Law.
- (n) **“Sq’ewá:lxw lands”** means Skawahlook Indian Reserve No. 1 and Ruby Creek Indian Reserve No. 2 and such lands as are defined in the Land Code.

PART 2 - APPLICATION

Where This Law Applies

- 5** The provisions of this Law apply to all of the Sq’ewá:lxw lands including all lands held by certificate of possession, community land, and all other interest in Sq’ewá:lxw lands.

Paramountcy

- 6** If there is a conflict between this Fireworks Control Law and the Land Code, the Land Code will apply.



Authority

- 7** Except as otherwise provided in this Fireworks Control Law, the Land Code, or the First Nations Land Management Act, Sq'ewá:lxw acts through Council in exercising its powers and functions under this Fireworks Control Law.
- 8** Council must exercise its powers and functions in accordance with this Fireworks Control Law, the Land Code, and all other applicable Laws.

PART 3 - PROHIBITIONS

- 9** No person shall manufacture, package, re-package, sell or offer for sale any Fireworks within Sq'ewá:lxw lands.
- 10** No person shall use, discharge, fire or set off any Fireworks within Sq'ewá:lxw lands, unless the person has obtained a valid Permit under this Law.
- 11** No person shall use, discharge, fire or set off, or allow to be used, discharged, fired, or set off any Fireworks in such a place or in such a manner as might create danger or constitute a nuisance to any person or property, or do, cause or allow to be done any unsafe act or omission at the time and place for the setting off of any Fireworks.

PART 4 - FIREWORKS PERMIT

- 12** An application for a Permit may be made to Sq'ewá:lxw First Nation.
- 13** For greater certainty, no Permit is available for the manufacture, packaging, re-packaging, or sale of Fireworks.
- 14** Every applicant for a Permit must be at least 18 years of age, at the time of their application, and must:
- (1) provide basic information such as their name, address, phone number, cell phone number, and an emergency contact person;
 - (2) provide the location where the Fireworks are to be displayed, and, where the Fireworks are to be displayed on certificate of Possession land, provide a written consent from the person or persons in lawful possession of the land, stating that the person agrees to have a fireworks display on the land on the specified date;
 - (3) specify the date and time at which the Fireworks display is to take place, and the estimated length of time the Fireworks display will last;
- 15** List the specific type of Fireworks that will be used; and
- 16** Set out a proposed safety plan including:
- (1) a sketch plan with property boundaries and distances showing where the Fireworks will be launched in relation to spectators, neighbours, brush, structures, vehicles, or other neighbouring lands or objects;



- (2) identification of the sources of water available to extinguish any errant sparks or fires; and
 - (3) the availability of cell phones or land lines in case emergency services are needed.
- 17** Every applicant must, prior to being granted a Permit, sign a document which includes:
- (1) a release of Sq'ewá:lxw First Nation from all claims and liability in relation to the activities or events relating to the Permit;
 - (2) a commitment from the applicant to follow all relevant laws and all Permit requirements;
 - (3) a commitment to only use Fireworks that are permitted for use in Canada under the Federal *Explosives Regulation*, CRC, c. 599;
 - (4) a commitment to follow Consumer Fireworks Safety as set out by Natural Resources Canada, available at the administrative offices of Sq'ewá:lxw First Nation; and
 - (5) a commitment to allow access at any time by a Sq'ewá:lxw Enforcement Officer to the site where the Fireworks are stored and to the site where the Fireworks will be or are being displayed to allow for monitoring and inspection and in order to determine whether the provisions of this Law and the conditions of the Permit are being or have been complied with.
- 18** Every Permit authorized pursuant to this Law must be in the form established by the Lands Manager or Land Advisory Committee, from time to time, and shall include at least the following:
- (1) a requirement to follow this Law and all other applicable Laws;
 - (2) a requirement not to launch or light any Fireworks prior to 9:00 am or after 10:00 pm, or as set out in the Enforcement and Ticketing Regulation and amended from time to time, unless the applicant provides reasonable notice of the date and time of the Fireworks display to the community as specified in the Permit at least 24 hours prior to the Fireworks display;
 - (3) a requirement that Fireworks may only be displayed within the time period specified on the Permit;
 - (4) a statement that the Permit is only valid for a specific date and time period in the specified location by the specified permittee, and is not assignable or transferrable to any other person, event, location, or situation;
 - (5) a requirement to clean up the site after the event; and
 - (6) any other specific terms or conditions imposed by the Lands Manager or Land Advisory Committee.
- 19** The Lands Manager and any Sq'ewá:lxw Enforcement Officer are hereby authorized to revoke a Permit issued under this Law at any time if there is evidence the Permit, this Law or any other relevant laws have been contravened.



- 20** A Permit issued under this Law is non-transferable.
- 21** All Fireworks and all debris from the Fireworks, including exploded and unexploded Fireworks, must be removed and safely disposed of by the holder of the Permit as soon as is practical after the Fireworks event is completed.

PART 4 - OFFENCES, PENALTIES, AND ENFORCEMENT

- 22** Any person who violates any of the provisions of this Law or a Permit issued under it, or who permits any act or thing to be done in contravention 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, commits an offence.
- 23** A person who contravenes section 10 of this Law or an order made by a Court pursuant to section 10 of this Law is guilty of an offence and liable on summary conviction to a fine of not more than \$1,000, or as set out in the Enforcement and Ticketing Regulation and amended from time to time.
- 24** A person who contravenes this Law or an order made by a Court pursuant to this Law except section 10 is guilty of an offence and liable on summary conviction, to a fine of not more than one thousand dollars (\$1,000.00) or to a term of imprisonment not exceeding thirty (30) days, or to both, or as set out in the Enforcement and Ticketing Regulation and amended from time to time.
- 25** Each day a violation of this Law continues will be deemed to be a separate offence, for which a fine or imprisonment may be imposed.
- 26** A Sq'ewá:lxw Enforcement Officer may enter, at all reasonable times, any day of the week, on any property that is subject to this Law to ascertain whether the provisions of this Law are being adhered to.
- 27** This Fireworks Control Law will be enforced in accordance with the Sq'ewá:lxw Enforcement and Ticketing Law.
- 28** No action for damages lies or may be instituted against Sq'ewá:lxw, present or past Council, any Sq'ewá:lxw Enforcement Officer, or any employees, contractors, servants or agents of Sq'ewá:lxw for any claim, loss, harm, or damage arising from Fireworks on Sq'ewá:lxw Lands whether with or without a permit.”

PART 5 - AMENDMENTS

Amendments to this Law

- 29** An amendment or repeal of this Fireworks Control Law must only be made by Council, as recommended by the Land Advisory Committee in accordance with the Land Code.





