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SQ'EWÁ:LXW FIRST NATION

Noise 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 making or causing of noises or sounds in the community which disturb, or tend to disturb, the quiet, peace, rest, enjoyment, comfort or convenience of the community;

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 Noise Control Law 2018".

Purpose

2 The purpose of this Law is to prevent unreasonable noise that is likely to disturb the community and to establish which certain noise levels may not be exceeded at certain times.

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) "**Council**" means the Chief and Council of Sq'ewá:lxw.
- (b) "**Land Code**" means the Skawahlook First Nation Land Code dated for reference October 18, 2013 and any amendments thereto.
- (c) "**Laws**" means any applicable Sq'ewá:lxw, federal or provincial laws, as those laws may be amended from time to time.
- (d) "**Member**" means a person whose name appears or is entitled to appear on the Sq'ewá:lxw band membership list.
- (e) "**Permit**" means any Permit issued by Sq'ewá:lxw in the form established by Council, from time to time;



- (f) “**Person**” includes an entity or corporation.
- (g) “**Recreational Vessel**” means a craft including, but not limited to, a motorboat, seaplane, hydrofoil or air boat that is designed to float on the water, and that is employed for the enjoyment of open air leisure time activity, but excludes all craft employed for industrial and commercial purposes;
- (h) “**Sq’ewá:lxw**” means the Skawahlook First Nation, a band within the meaning given to “band” in subsection 2(1) of the Indian Act.
- (i) “**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.
- (j) “**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.

Paramourncy

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

Authority

- 7** Except as otherwise provided in this Noise 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 Noise Control Law.
- 8** Council must exercise its powers and functions in accordance with this Noise Control Law, the Land Code, and all other applicable Laws.

PART 3 - PROHIBITIONS

- 9** No person shall make or cause, or permit to be made or caused, any noise in or on a public or private place which disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort, or convenience of any person or persons on the same piece of property or in the neighbourhood or vicinity.
- 10** Without limiting the generality of section 9, no person shall:
- (a) permit property that the person owns, possesses or occupies to be used so that noise, sound, or vibration which occurs thereon or emanates therefrom disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort, or



convenience of any person or persons on the same piece of property or in the neighbourhood or vicinity;

- (b) play or operate any radio, stereophonic equipment or any other instrument or apparatus for the production of amplified sound either in or on private premises or in any public place in such a manner as to disturb the peace, quiet, rest, enjoyment, comfort, or convenience of the neighbourhood or of persons in the vicinity, between 11:00 pm and 8:00 am or as set out in the Enforcement and Ticketing Regulation and amended from time to time;
- (c) own, keep, or harbour any animal or bird which by its cries, barks, or howling unduly disturbs the peace, quiet, rest, or tranquility of the surrounding neighbourhood or the public at large, continually or sporadically or erratically for any period in excess of one hour;
- (d) construct, erect, reconstruct, alter, repair, or demolish any building, structure or thing or excavate or fill in land in any manner which disturbs the peace, quiet, rest, enjoyment, comfort, or convenience of the neighbourhood or persons in the vicinity on any day before 8:00 am or after 8:00 pm or as set out in the Enforcement and Ticketing Regulation and amended from time to time;
- (e) construct, erect, reconstruct, alter, repair, or demolish any building, structure or thing or excavate or fill in land in any manner which disturbs the peace, quiet, rest, enjoyment, comfort, or convenience of the neighbourhood or persons in the vicinity for profit or gain on a Sunday or statutory holiday;
- (f) operate any outdoor public address system without first having obtained a Permit therefor;
- (g) operate a car, truck, snow vehicle, Recreational Vessel, ATV or motorcycle which makes or causes noise which noise disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort, or convenience of any person or persons on the same piece of property or in the neighbourhood or vicinity.

11 The provisions of this Law shall not apply to any person who makes or causes or permits to be made or caused a noise or sound:

- (a) in connection with an activity carried on in an area and at a time which Council has approved for the carrying on of that activity, the onus to establish which approval lies with the person;
- (b) in connection with work carried out pursuant to and in accordance with the written approval of Council, which Council may provide where it is impossible or impractical for a person to comply with subsections 10(d) or 10(e) the onus to establish which approval lie with the person; or
- (c) in connection with works of an emergency nature for the preservation or protection of life, health, or property, the onus to establish which rests on the person.



PART 4 - OFFENCES, PENALTIES, AND ENFORCEMENT

- 12** A person who contravenes this Law or an order made by a Court pursuant to 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 as amended from time to time.
- 13** 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.
- 14** This Noise Control Law will be enforced in accordance with the Sq'ewá:lxw Enforcement and Ticketing Law

PART 5 - AMENDMENTS

Amendments to this Law

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



