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SQ'EWÁ:LXW FIRST NATION

Outdoor Fires 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 regulate the setting of Outdoor Fires;

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 Outdoor Fires 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 results of improper outdoor fire and burning practices.

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:
 - (1) "**Burning Ban**" means a ban on open or contained fires in respect of the region that includes Sq'ewá:lxw Lands issued by the British Columbia Wildfire Service.
 - (2) "**Camp Fire**" means any fire smaller than 0.5 metres high by 0.5 metres wide.
 - (3) "**Category 2 Fire**" means 1 to 2 concurrently burning piles no larger than 2 metres high by 3 metres wide or stubble or grass burning over an area less than 0.2 hectares.
 - (4) "**Category 3 Fire**" means any fire larger than 2 metres high by 3 metres wide or 3 or more concurrently burning piles no larger than 2 metres high by 3 metres wide or 1 or more burning windrows or stubble or grass burning over an area greater than 0.2 hectares.



- (5) “**Ceremonial or Traditional Fire**” means an open fire to commemorate a funeral or memorial or used for other traditional purposes;
- (6) “**Contained Fire**” means an open fire fueled exclusively by Natural Material, and that is:
 - (a) located at least ten metres from any building or surrounding brush;
 - (b) at all times contained within a surrounding structure such as a burn barrel or brick or stone walls; and
 - (c) no larger than one metre by one metre in size.
- (7) “**Council**” means the Chief and Council of Sq’ewá:lxw.
- (8) “**High Winds**” means winds in excess of 50 kilometers per hour.
- (9) “**Land Code**” means the Skawahlook First Nation Land Code dated for reference October 18, 2013 and any amendments thereto.
- (10) “**Laws**” means any applicable Sq’ewá:lxw, federal, or provincial laws, as those laws may be amended from time to time.
- (11) “**Member**” means a person whose name appears or is entitled to appear on the Sq’ewá:lxw band membership list.
- (12) “**Natural Material**” means organic matter or material of plant origin such as leaf litter, grass clippings, branches and any untreated wood debris.
- (13) “**Open Fire**” means a fire that burns outdoor in the open air that is not enclosed in a stove, fire place, furnace, barbeque or other such device, but does not include a controlled fire ignited for burning of tobacco products for personal consumption nor the mere striking of a match.
- (14) “**Permit**” means a Outdoor Fires Permit issued under Part 4 of this Law in the form established by Council, from time to time.
- (15) “**Person**” includes an entity or corporation.
- (16) “**Sq’ewá:lxw**” means the Skawahlook First Nation, a band within the meaning given to “band” in subsection 2(1) of the Indian Act.
- (17) “**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.
- (18) “**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.
- (19) “**Venting Condition**” means the potential of the atmosphere to disperse airborne pollutants, such as smoke from a prescribed fire, as determined by the B.C. Ministry of Environment.



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 Outdoor Fires Law and the Land Code, the Land Code will apply.

Authority

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

PART 3 - PROHIBITIONS

- 9** No person shall light, fuel, or use an open fire on Sq'ewá:lxw Lands when prohibited to do so under a Burning Ban or in High Winds.
- 10** No person shall light, fuel or use an open fire on Sq'ewá:lxw Lands except:
- (1) a Camp Fire; or
 - (2) in accordance with a Permit issued under this law.
- 11** Council may issue a Permit under this law allowing a person to light a Ceremonial or Traditional Fire or a Contained Fire following notice provided to Sq'ewá:lxw by the that person at least 48 hours in advance and delivered in normal business hours.
- 12** Council may issue a Permit under this law allowing a person to light a Category 2 Fire for industrial or land-clearing purposes, where the fire:
- (1) is contained in a fuel break
 - (2) is monitored by at least one person with appropriate hand tools, water supply and equipment;
 - (3) is extinguished if not being monitored;
 - (4) is conducted in good Venting Conditions;
 - (5) is located at least twenty metres from any building or surrounding brush;



- (6) burns no material other than Natural Material; and
 - (7) otherwise complies with this Law.
- 13** Council may issue a Permit under this Law allowing a person to light a Category 3 Fire for industrial or land-clearing purposes, where the fire:
- (1) is contained in a fuel break
 - (2) is monitored by at least one person with appropriate hand tools, water supply and equipment;
 - (3) a Provincial burn registration number to light a Category 3 open fire has been obtained;
 - (4) is conducted in good Venting Conditions;
 - (5) burns no material other than Natural Material; and
 - (6) otherwise complies with this Law.
- 14** No person shall light, fuel or use an open fire on Sq'ewá:lxw Lands unless the person:
- (1) takes all necessary precautions to prevent the fire from spreading to where it can cause damage to property;
 - (2) does not leave the fire unattended;
 - (3) complies with the provisions of the Open Burning Smoke Control Regulation, B.C. Reg. 41/2016;
 - (4) complies with the provisions of the B.C. Wildfire Act and Wildfire Regulation, B.C. Reg. 190/2014; and
 - (5) completely extinguishes the fire before leaving the site of the fire.

PART 4 - OUTDOOR FIRE PERMIT

- 15** An application for a Permit may be made to Sq'ewá:lxw First Nation in the form prescribed by Sq'ewá:lxw.
- 16** 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 Outdoor Fire will be, and, where the Outdoor Fire is to be 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 the Outdoor Fire on the specified date;
 - (3) specify the date and time at which the Outdoor Fire is to take place.



- 17** Every applicant must set out a proposed safety plan including:
- (1) a sketch plan with property boundaries and distances showing where the Outdoor fire will be in relation to 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.
- 18** 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 allow access at any time by a Sq'ewá:lxw Enforcement Officer to the site where the Outdoor Fire will be 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.
- 19** 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 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; and
 - (3) any other specific terms or conditions imposed by the Lands Manager or Land Advisory Committee.
- 20** 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 law has been contravened.
- 21** A Permit issued under this Law is non-transferable.

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 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 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.
- 24** In addition to a penalty provided by section 23 and any fines or penalties under the BC Wildfire Act or Wildfire Regulation, any person who contravenes any of the provisions of this Law is liable to Sq'ewá:lxw for the cost of fighting any fire caused by the contravening conduct, and the same may be recovered by the Sq'ewá:lxw in an action in any court of competent jurisdiction.
- 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** If at any time a Sq'ewá:lxw Enforcement Officer deems it advisable for smoke management purposes or because of the existence of hazardous conditions, the Sq'ewá:lxw Enforcement Officer may make an order in respect of all or a portion of Sq'ewá:lxw Lands, prohibiting the lighting of any open fires, whether or not pursuant to a Permit, or imposing such conditions or restrictions on the lighting of open fires as the Sq'ewá:lxw Enforcement Officer deems proper.
- 28** This Outdoor Fires Law will be enforced in accordance with the Sq'ewá:lxw Enforcement and Ticketing Law
- 29** 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 Outdoor Fires on Sq'ewá:lxw Lands whether with or without a permit.

PART 5 - AMENDMENTS

Amendments to this Law

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



