

Version 1.0 April 25th, 2018

SQ'EWÁ:LXW FIRST NATION

Removal of Trespassers 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 deems it necessary for the benefit, comfort and safety of people, lands, buildings and resources on Sq'ewá:lxw Lands to provide for the removal of trespassers and those frequenting the reserve for prohibited purposes;

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 Removal of Trespassers Law 2018".

Purpose

2 The purpose of this Law is to protect Sq'ewá:lxw residents, land, buildings and resources from persons trespassing on or frequenting Sq'ewá:lxw Lands for prohibited purposes.

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) "**Person**" includes an entity or corporation.
- (f) "**Sq'ewá:lxw**" means the Skawahlook First Nation, a band within the meaning given to "band" in subsection 2(1) of the Indian Act.



- (g) **“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.
- (h) **“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 Removal of Trespassers Law and the Land Code, the Land Code will apply.

Authority

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

PART 3 - PROHIBITIONS

- 9** A person, other than a person referred to in section 10 or section 11, who conducts any of the following activities on Sq’ewá:lxw Lands:

- (1) fishing;
- (2) hunting or trapping;
- (3) the removal of natural resources;
- (4) hawking, peddling, or soliciting;
- (5) loitering; or
- (6) activities contrary to the Criminal Code.

shall be deemed to be frequenting Sq’ewá:lxw Lands for a prohibited purpose.

- 10** Section 9 does not apply to:

- (1) a person who is a registered Sq’ewá:lxw Member or a lawful resident of Sq’ewá:lxw Lands; or



- (2) a person who is authorized by Chief and Council to conduct the activity.
- 11** Section 9 (1) does not apply to a person who is a guest of a Sq'ewá:lxw Member or a lawful resident of Sq'ewá:lxw Lands.
- 12** A Sq'ewá:lxw Enforcement Officer may order any person who trespasses on Sq'ewá:lxw Lands or who frequents Sq'ewá:lxw Lands for a prohibited purpose to leave Sq'ewá:lxw Lands immediately.
- 13** Where a person who has been ordered to leave Sq'ewá:lxw Lands fails or refuses to do so, a Sq'ewá:lxw Enforcement Officer may take such reasonable measures as may be necessary to remove the person from Sq'ewá:lxw Lands.
- 14** A person who fails or refuses to comply with an order made under section 11 to leave Sq'ewá:lxw Lands, or shall resist or interfere with an officer acting under section 13 commits an offence.

PART 4 - OFFENCES, PENALTIES, AND ENFORCEMENT

- 15** 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 to imprisonment for a term not exceeding thirty (30) days, or to both, or as set out in the Enforcement and Ticketing Regulation and amended from time to time;.
- 16** 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.
- 17** This Removal of Trespassers Law will be enforced in accordance with the Sq'ewá:lxw Enforcement and Ticketing Law.

PART 5 - AMENDMENTS

Amendments to this Law

- 18** 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.





