



**Skawahlook First Nation
Fireworks Law**

SKAWAHLLOOK FIRST NATION
FIREWORKS LAW, 2014

(A Law to Ban the Sale and Regulate the Use of Fireworks Within the Skawahlook I.R #1 & Ruby Creek I.R #2)

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WHEREAS the Skawahlook First Nation has an inherent right to self- government which emanates from our people, culture, and land and which is recognized and affirmed by section 35 of the *Constitution Act, 1982*;

AND the Skawahlook First Nation has taken over control and management of Skawahlook Reserve lands and resources pursuant to the *Framework Agreement on First Nation land Management* and has enacted the *Skawahlook First Nation Land Code* effective the 5th day of August, 2010;

AND under the *Skawahlook First Nation Land Code*, Skawahlook Council is authorized to pass various laws relating to lands including laws relating to the sale and use of fireworks under section 4(74) of the Code;

AND Council is concerned about the safety of lands, buildings, people and resources on Skawahlook Lands and wishes to ban the sale of fireworks and regulate the usage of Fireworks;

NOW THEREFORE BE IT RESOLVED THAT this *Skawahlook First Nation Fireworks Law, 2011* is hereby enacted as a Law of the Skawahlook First Nation.

PART 1. NAME

1.1 This Law may be cited as the *Skawahlook First Nation Fireworks Law, 2011*.

PART 2. PURPOSE

2.1 The purpose of this Law is to promote safety and to protect Skawahlook Lands, Members, occupants, buildings and resources from potentially hazardous or disruptive uses of Fireworks and Firecrackers.

PART 3. WHERE THIS LAW APPLIES

- 3.1 The provisions of this Law apply to the whole area of the Reserve and Skawahlook First Nation Lands as defined in the Skawahlook First Nation Land Code.

PART 4. DEFINITIONS

- 4.1 For the purpose of this Law, terms have the same definitions as in the Land Code;

- 4.2 For the purpose of this Law, the following definitions apply:

“Act” means the federal *“Explosives Act, RSC 1985, c. E-17”*, and the regulations enacted thereunder, as amended or replaced from time to time.

“Administrator” means any person, who is appointed by Council in the capacity of Administrative Worker of Skawahlook First Nation;

“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, classed under the Act as low hazard, Class 7.2.1 fireworks, but does not include Christmas Crackers, sparklers or caps for toy guns;

“Display Fireworks” means the manufactured pyrotechnic device producing effects of light and/or sound classed under the Act as high hazard, 7.2.2 fireworks, but does not include firecrackers;

“Fire Chief” means the person duly appointed as head of the fire department of any fire protection district, municipal corporation or First Nation responsible for fire prevention and protection within Skawahlook lands;

“Firecracker” means a pyrotechnic device that explodes instantaneously when ignited and does not produce any visible effect after the explosion, but does not include items classed under the Act as low hazard Class 7.2.1 fireworks, nor Christmas Crackers, sparklers, or caps for toy guns;

“Fireworks” means any Display fireworks, Consumer Fireworks, or Pyrotechnic Special Effects but does not include Christmas Crackers, sparklers or caps for toy guns;

“Permit” means a Fireworks Display Permit issued under Part 7 of this Law in the form established by Council, from time to time;

“Pyrotechnic Special Effects” means a manufactured pyrotechnic device used to produce a special effect for indoor or outdoor performance use, and that any device used, is an authorized pyrotechnic effect under the Explosives Regulatory Division of Natural Resources of Canada, Class 7.2.5, Class 11 and Class 3;

“Law Enforcement Officer” means any person or persons appointed by the Council, from time to time, to administer and enforce the provisions of Skawahlook Laws enacted by Council, and includes any delegate, the RCMP, and any peace officer;

“Skawahlook” or “SKFN” means the Skawahlook First Nation

PART 5. GENERAL PROVISIONS

- 5.1 The headings of parts and sections of this Law have been inserted as a matter of convenience and for reference only and in no way define or limit any of its provisions.
- 5.2 In the event that all or any part of any section or sections of this Law are found by a court of competent jurisdiction to be invalid, such sections shall be severable, and the remaining portions or sections shall remain in full force and effect.
- 5.3 This Law shall be and remain in effect on Band Land at all times.
- 5.4 An order made pursuant to this Law shall be binding when it has been advertised once in a newsletter circulating in the community, or when it has been posted in the Skawahlook First Nation Office.

PART 6. PROHIBITIONS

- 6.1 No person shall manufacture, package, re-package, sell or offer for sale any Fireworks or Firecrackers within Skawahlook Lands.
- 6.2 No person shall discharge, fire or set off any Fireworks or Firecrackers within Skawahlook Lands, unless the person has obtained a valid Permit authorized under this Law.
- 6.3 No person shall use, set off, or allow to be used or set off any Fireworks or Firecrackers in such a place or in such a manner as might create danger or constitute a nuisance to any person or property, or to do, cause or allow any unsafe act or omission at the time and place for the setting off of any Fireworks.

PART 7. FIREWORKS PERMIT

- 7.1 An application must be made to Skawahlook First Nation for a Fireworks Permit for any person to use Fireworks for the purpose of the observance or celebration of any special event or festival by the use of Fireworks, subject to the terms and conditions outlined in this Law.
- 7.2 For greater certainty, no Permits are available for the manufacture, packaging, or re-packaging, or sale of Fireworks or Firecrackers.
- 7.3 Every applicant for a Fireworks Permit must be at least 18 years of age, at the time of their application:
 - (a) provide basic information such as their name, address, phone number, cell phone number, and a back-up contact person;

- (b) for CP land, submit a written agreement from the CP holder or lessee of the parcel of land on which the Fireworks are to be used stating that the person agrees to have a fireworks display on their land on the specified date;
- (c) for Community Lands, provide the location where the applicant proposes to display the Fireworks;
- (d) specify the date and time at which they propose to display Fireworks and estimated length of time display will last;
- (e) list the specific type of Fireworks that will be used ;
- (f) set out their proposed safety plan including:
 - (i) a sketch plan with property boundaries and distances showing where the Fireworks will be launched in relation to spectators, neighbours, brush, structures, vehicles, etc.;
 - (ii) identification of the sources of water available to extinguish any errant sparks or fires;
 - (iii) Availability of cell phones or land lines in case emergency services are needed.

7.4 Every applicant must, prior to being granted a Permit sign a document which includes:

- (a) a release of Skawahlook First Nation from all claims and liability in relation to the activities or events relating to the permit;
- (b) a commitment from the applicant to follow all relevant laws and all Permit requirements;
- (c) a commitment to only use Fireworks that are permitted for use in Canada under the *Federal Explosives Regulation*;
- (d) a commitment to follow Safety Instructions for Consumers of Fireworks as set out by Natural Resources Canada;
- (e) a commitment to allow access at any time by the Administrator, the Lands Manager, and any Law 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 are being or have been complied with.

7.5 Every Permit authorized pursuant to this Law must be in the form established by the Lands Manager or Lands Advisory Committee, from time to time, and shall include at least the following:

- (a) a requirement to follow this Law and all other applicable laws;
- (b) a requirement not to launch or light any Fireworks prior to 9:00 am or after 10:00 pm;

- (c) a requirement to only launch or light Fireworks within the time period specified on the Permit;
 - (d) 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;
 - (e) a requirement to clean up the site after the event in accordance with this Law and;
 - (f) any other specific terms or conditions imposed by the Lands Manager or Lands Advisory Committee.
- 7.6 The Administrator, the Land Manager and any Law 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 have been contravened.
- 7.7 A Permit issued under this Law is non-transferable.
- 7.8 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 8. FEES AND FORMS

- 8.1 A Resolution may be submitted to establish, correct, revise, or update the terms of any applicable fee schedules, forms, protocols or other related documentation which complement and support this Law, and will make a copy of these available for viewing free of charge at the administrative offices of Skawahlook First Nation, and will make available for distribution at a nominal charge.

PART 9. AUTHORIZATIONS AND DELEGATIONS

- 9.1 Council hereby authorizes any and all of the following to carry out inspections, monitoring or enforcement under this Law:
- (a) the fire Chief from the Agassiz Fire Department or his/her delegate to the extent that Skawahlook First Nation has an agreement with the Agassiz Fire Department to carry out inspections, monitoring or enforcement under this Law on Skawahlook First Nation Lands;
 - (b) any Peace Officer, including an Officer of the RCMP;
 - (c) any person appointed by Council Resolution;
 - (d) the Administrator; and
 - (e) the Lands Manager.

PART 10. OFFENCES AND PENALTIES

- 10.1 No person shall obstruct, interfere with or hinder Council, a Law Enforcement Officer or any authorized employee in the carrying out of their duties and responsibilities under this Law.
- 10.2 Any person who violates any of the provisions of this Law or a Permit issued under it, or who suffers or 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 Permit issued under it, is guilty of an offence under this Law, and is liable to the penalties imposed by this Law.
- 10.3 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.
- 10.4 Any person who is guilty of an offence under subsection 6.2 of this Law is liable, on summary conviction, to a fine of not more than One Thousand Dollars (\$1,000.00).
- 10.5 Any person who is guilty of an offence under any provision of this Law except subsection 6.2 is liable, on summary conviction, to a fine of not more than Five Thousand Dollars (\$5,000.00) or to a term of imprisonment not exceeding thirty (30) days, or both.

PART 11. IMMUNITY

- 11.1 No action for damages, lies or may be instituted against Skawahlook First Nation, present or past Council, or any Law Enforcement Officer, or any employees, contractors, servants or agents of Skawahlook First Nation for any claim, loss, harm or damage arising from the transport, storage or use of Fireworks or Firecrackers on Skawahlook First Nation Lands, whether with or without a permit.

BE IT KNOWN that this Law, entitled the Skawahlook First Nation Fireworks Law, 2014 is hereby enacted by a quorum of Council at a duly convened Council of the Skawahlook First Nation held on _____, 2014

Chief Maureen Chapman

Councillor Debra Schneider

A quorum consists of 2 Council Members
