

YAKWEAKWIOOSE FIRST NATION

COMMUNITY QUALITY LAW

*SEPTEMBER 2016*



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## **WHEREAS:**

- A Yakweakwioose First Nation (also known as Yakweakwioose Indian Band, “Yakweakwioose”) 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*;
- B Yakweakwioose has taken control of Reserve lands and resources pursuant to the *Framework Agreement on First Nation Land Management* and has enacted the *Yakweakwioose Land Code* effective the 1st day of May, 2014;
- C Under the *Yakweakwioose Land Code*, Yakweakwioose Council is authorized to pass laws relating to lands including laws relating to management, regulation, occupation, use and possession of Yakweakwioose Lands under Part 3 of the Land Code; and
- D Council wishes to implement a law to enable the peace, quiet, restful enjoyment, comfort or convenience of the Members and other persons residing on Yakweakwioose Lands;

## **NOW THEREFORE, THIS YAKWEAKWIOOSE COMMUNITY QUALITY LAW IS HEREBY ENACTED A LAW OF YAKWEAKWIOOSE.**

### **1. TITLE**

- 1.1. This Law may be cited as the “Yakweakwioose Community Quality Law”.

### **2. PURPOSE**

- 2.1. The purpose of this Law is to promote a healthy and safe community environment where Members and other persons residing on Yakweakwioose Lands can enjoy the peace, quiet, rest, enjoyment, comfort or convenience of their residences and public neighborhood.

### **3. WHERE THIS LAW APPLIES**

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

### **4. DEFINITIONS**

- 4.1. For the purposes of this Law, terms have the same definitions as in the *Yakweakwioose Land Code*;
- 4.2. The following definitions apply in this Law:

“**Authorized Representative**” means a Person authorized by Council in a Council Resolution and employed by Council to carry out administrative functions such as issuing permits and, unless otherwise specified by a Council Resolution, includes the Lands Manager;

**“Community”** means the Yakweakwioose community comprised of any Persons residing on Yakweakwioose Lands;

**“Derelict Material”** means any vehicle, boat, appliance, furniture or part thereof, which, unless exempted by the Lands Manager in writing:

- (a) is physically wrecked or damaged or disabled; and
  - (i) is not capable of operating under its own power; or
  - (ii) in the case of a vehicle, does not have attached vehicle registration plates for the current year pursuant to the regulations of the B.C. *Motor Vehicle Act*, RSBC 1996 c. 318 or any similar successor legislation;

**“Discarded Materials”** includes, unless exempted by the Lands Manager in writing, all materials not in use, or reasonably intended for use within the next three months, for the construction or maintenance of a building situated on Yakweakwioose Lands, machinery, firewood (unless it is neatly piled or stacked), and all other chattels in a dismantled state or not in use for the purpose for which the manufacturer intended;

**“Disturbance”** means any act or behaviour, including:

- (a) fighting or brawling;
- (b) using abusive language;
- (c) using offensive or indecent gestures or displays;
- (d) being drunk and disorderly;
- (e) loitering;
- (f) exposing, firing or discharging any gun, pistol or other firearm, or using or threatening to use any other article as a weapon;
- (g) interfering in any manner with the orderly conduct of commercial, administrative, Council, educational, recreational, health care, religious or ceremonial meetings, gatherings or activities on Yakweakwioose Lands;
- (h) littering;
- (i) refusing to leave a public area or Yakweakwioose Lands when directed to by an Enforcement Officer;
- (j) urinating and/or defecating in a public area; and
- (k) any other disorderly or disruptive behaviour;

that disrupts or may disrupt public order on Yakweakwioose Lands, scandalizes the Community, or causes or may cause inconvenience, annoyance or alarm to Members or Persons in the Community;

**“Enforcement Officer”** means any Person or Persons appointed by the Council from time to time for the purpose of administering and enforcing Yakweakwioose laws enacted by

Council, and includes any delegate, police constable of the RCMP, any peace officer, bylaw officer, or other Person charged with the duty to preserve and maintain the public peace.

**“Firecracker”** means any pyrotechnic device that explodes instantaneously when ignited and does not produce any visible effect after the explosion, but does not include any items classed under the federal *Explosives Act*, RSC 1985, c. E-17 (and its regulations enacted thereunder as amended and replaced from time to time) (the “Act”) as low hazard, Class F.1 fireworks, nor Christmas Crackers, sparklers or caps for toy guns;

**“Fireworks”** means a pyrotechnic device, including:

- (a) any pyrotechnic device that produces quantities or effects of light, sound and/or smoke by the combustion of explosive or flammable composition and includes fireworks shower, fountains, wheels, lawn lights, Roman candles, snakes, and volcanoes, classed under the Act as low hazard, Class F.1 fireworks,;
- (b) any manufactured pyrotechnic device producing effects of light and/or sound classed under the Act as high hazard, Class F.2 fireworks, but does not include Firecrackers;
- (c) any 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 Canada, Class F.3; but does not include Christmas Crackers; sparklers or caps for toy guns;

**“Fireworks Permit”** means a permit issued under part 9 of this Law in the form established by Council, from time to time;

**“Night”** means, unless otherwise prescribed by regulation, the hours between:

- (a) 9:00 p.m. of one day and 7:00 a.m. of the following day.

**“Noxious”** means harmful, poisonous or very unpleasant;

**“Nuisance”** includes public nuisance and private nuisance and means any act, activity or condition, including:

- (a) the dumping or storage of tires, garbage or other refuse;
- (b) the burning of tires, grass, garbage, leaves, or other refuse except as specifically authorized or permitted by Yakwekwioose laws or other applicable laws;
- (c) the discharge of any Noxious or potentially Noxious substance into the air or water;
- (d) the creation of Noxious odours;
- (e) vandalism, including removing, defacing, destroying, mutilating, or in any manner whatsoever damaging or attempting to damage land, structures or property;
- (f) Trespass;

(g) interfering in any manner with the orderly conduct of commercial, administrative, Council, educational, recreational, health care, religious or ceremonial activities on Yakweakwioose Lands, that disrupts public order, scandalizes the community, or causes public inconvenience, annoyance or alarm; and

(h) any other act;

that materially impairs or interferes with the use and enjoyment of a Person's property, or that prejudicially affects a Person's or the Community's health, comfort or convenience or the public health, safety or welfare or the Community, but does not include any act, activity or condition to the extent it is unavoidably necessary for carrying on any lawful business or activity for which a permit or authorization has been provided by Yakweakwioose First Nation;

**"Occupant"** means a Person who resides upon or otherwise occupies Yakweakwioose Lands;

**"Person"** includes any individual, corporation or other legal entity; and

**"Trespass"** means entry onto, or the presence on, Yakweakwioose Lands by a Person, or Persons, without lawful excuse or jurisdiction.

## **5. REFUSE AND UNSIGHTLY PREMISES**

### **Littering**

5.1. No Person may deposit or throw bottles, broken glass, circulars, pamphlets, handbills, paper or other litter, rubbish or trash on any vacant Yakweakwioose Lands or on any Yakweakwioose Lands for which they do not have a valid ownership interest or right of residence.

### **Unsightly Premises**

5.2. No Person may keep Derelict Material on their lands or any parts thereof, or on Yakweakwioose Lands, whether or not covered by a tarpaulin or similar temporary, non-structural material.

5.3. For certainty, unless authorized by a permit or exemption from the Lands Manager in writing, no Person or Occupant may abandon or store cars, household appliances or furniture, or parts of cars, household appliances or furniture, on Yakweakwioose Lands, whether or not covered by a tarpaulin or similar temporary, non-structural material.

5.4. No Occupant may allow the accumulation of filth, rubbish, or Discarded Materials on Yakweakwioose Lands.

5.5. No Person or Occupant shall allow invasive plants or invasive weeds, including Japanese knotweed and Himalayan blackberries, to grow on their lands within 0.5 m from any lot line or to spread from their lands to neighbouring lands.

## **6. NOISE**

- 6.1. No Person may make, or cause or allow to be made, in or on a public or private place or road or highway or elsewhere within Yakweakwioose Lands, any noise or sound which disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort or convenience of the public, the Community or Members or Persons in the vicinity.
- 6.2. No Occupant may allow or permit such property or premise to be used so that noise or sound 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 property or premise or in the Community or vicinity.
- 6.3. No Person may own, keep, or harbour any animal or bird which, by its cries or incessant barking, disturbs the peace, quiet rest, enjoyment, comfort or convenience or tranquility of any Person or Persons in the Community or vicinity.

### **Night Time Noise and Construction Noise**

- 6.4. Without limiting the provisions of this Law, unless a Person has a permit issued by Council or a proper issuing authority appointed by Council that provides explicit exemptions from all or any part of this Law, no Person may cause, permit or allow the following noises or sounds:
  - (a) any noise or sound during the Night which disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort or convenience of the public, the neighborhood, the Community or Members or Persons in the vicinity;
  - (b) any noise or sound caused by, or made in the course of the construction, erection, reconstruction, alteration, repair or demolition of any building, structure or thing, or the excavation or filling-in of land, any time during the Night, which is audible within six metres outside of the boundary or property line of the real property or parcel of land from which the noise or sound is emanating.

### **Exemptions**

- 6.5. The noise prohibitions in this Law do not apply to:
  - (a) the operation of an emergency vehicle proceeding upon an emergency;
  - (b) the emergency repair of a public utility or road or highway by a utility company or by Yakweakwioose First Nation or its contractors;
  - (c) noise emanating from Yakweakwioose cultural events from activities which are legitimately part of the cultural event;
  - (d) the construction, erection, reconstruction, alteration, repair or demolition of any building, structure or thing, or the excavation or filling-in of land between the hours of 7:00 a.m. and 9:00 p.m. of the same day, Monday to Saturday;

- (e) any activity for which there is a valid permit or written authorization or exemption from Yakweakwioose which expressly allows for noise or sets specific hours or levels for noise;
- (f) the operation of road maintenance equipment by Yakweakwioose First Nation or the City of Chilliwack or the Province of British Columbia or agents acting on their behalf; or
- (g) the operation of a public address system required under an applicable building or fire code.

## **7. NO DISORDERLY CONDUCT or NUISANCE**

7.1. No Person may engage in any Disorderly Conduct or cause or create a Nuisance.

## **8. NO TRESPASSING**

8.1. No Person may:

- (a) Trespass on Yakweakwioose Lands, including Trespassing in person or with a vehicle or belongings;
- (b) enter a premises on Yakweakwioose Lands without the Occupier's permission; or
- (c) engage in an activity on or in a premises on Yakweakwioose Lands after the Person has received notice from the Occupier of the premises that the activity is prohibited.

8.2. Any Person who trespasses on Yakweakwioose Lands, in addition to any other fines or penalties, is liable for all injuries, damages and costs relating to their trespass.

8.3. Notwithstanding section 8.1, this section does not apply to a Person who has a valid Interest or License under the Land Code or is authorized by Council in writing to be on Yakweakwioose Lands to carry out an authorized activity.

## **9. FIREWORKS**

9.1. No Person may manufacture, package, re-package, sell or offer for sale any Fireworks or Firecrackers within Yakweakwioose Lands.

9.2. No Person may discharge, fire, or set off any Fireworks or Firecrackers within Yakweakwioose Lands, unless the Person has obtained a valid Fireworks Permit authorized under this Law.

9.3. No Person may 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 or cause or allow any unsafe act or omission at the time and place for the setting off of any Fireworks or Firecrackers.



## **Fireworks Permit**

- 9.4. Council, or its Authorized Representative, may issue a Fireworks Permit to 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 this Law.
- 9.5. For greater certainty, no Fireworks Permits or other permits are available for the manufacture, packaging or re-packaging, or sale of Fireworks or Firecrackers.
- 9.6. Every application for a Fireworks Permit must be made by the person setting off the Fireworks, must be submitted in writing to Council, or its Authorized Representative, and be in the form established by Council.
- 9.7. Every applicant for a Fireworks Permit must be at least 18 years of age, and must, at the time of their application:
  - (a) provide basic information such as their name, address, phone number, cell phone number, and back up contact person;
  - (b) hold a current and valid Fireworks Supervisors and/or Pyrotechnics Certification card as issued by Natural Resources Canada and provide a copy with their application;
  - (c) for Certificate of Possession (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;
  - (d) for Yakwekwioose Community Lands, provide the location where the applicant proposes to display the Fireworks;
  - (e) specify the date and time at which the applicant proposes to display Fireworks;
  - (f) specify the type of Fireworks to be used, the approximate value of them, and the estimated length of time the display will last;
  - (g) set out their proposed safety plan including:
    - (i) a sketch plan with property boundaries and distances in metres showing where the Fireworks will be launched in relation to spectators, neighbours, trees, structures, vehicles, etc.;
    - (ii) identification of the sources of water available to extinguish any errant sparks or fires;
    - (iii) identification of the safety fire suppression equipment the applicant will have on hand at the time and throughout the Fireworks display;
    - (iv) availability of cell phones or land lines in case fire or ambulance services need to be called; and

- (v) any other related items required by Council or its Authorized Representative; and
- (h) if required by Council, and without limiting its obligations or liabilities under the Fireworks Permit, agree to obtain and maintain, at its own expense and cost, such insurance policy or policies with coverage in the amounts as determined by Council.

9.8. Every applicant must, prior to being granted a Fireworks Permit:

- (a) sign a document in the form established by Council, from time to time, which includes:
  - (i) a release of Yakweawkwoose First Nation from all claims and liability in relation to the activities or events relating to the Fireworks Permit;
  - (ii) a commitment from the applicant to follow all relevant laws and all Fireworks Permit requirements;
  - (iii) a commitment to only use Fireworks that are permitted for use in Canada under the federal Explosives Regulation;
  - (iv) a commitment to follow the Safety Instructions for Consumers of Fireworks as set out by Natural Resources Canada; and
  - (v) a commitment to allow access at any time by a Councillor, or its Authorized Representative, or any 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;
- (b) provide proof of insurance for any insurance required under s. 9.7(h); and
- (c) pay any prescribed Fireworks Permit fees.

9.9. Every Fireworks Permit authorized pursuant to this Law must be in the form established by Council, 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, light or set off any Fireworks prior to 9:00 a.m. or after 11:00 p.m.;
- (c) a requirement to only launch, light or set off Fireworks within the time period specified on the Fireworks Permit;
- (d) a requirement to allow access at any time by a Councillor, its Authorized Representative, or an 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 ;

- (e) a statement that the Fireworks Permit is only valid for the specified use and time period in the specified location by the specified permittee and is not assignable or transferable to any other Person, event, location or situation;
  - (f) a requirement to clean up the site after the event in accordance with this Law; and
  - (g) any other specific terms or conditions imposed by Council or its Authorized Representative.
- 9.10. Council, or its Authorized Representative, and any Enforcement Officer are hereby authorized to enter upon any parcel of land or into any structure within Yakweawkwoose Lands at all reasonable times prior to, during and reasonably subsequent to the time period specified on the Fireworks Permit, subject to the terms of this Law, in order to determine whether the provisions of this Law are being or have been complied with.
- 9.11. Council, or its Authorized Representative, and any Enforcement Officer are hereby authorized to revoke a Fireworks Permit issued under this Law at any time if there is evidence the Fireworks Permit, this Law or any other relevant law have been contravened.
- 9.12. A Fireworks Permit issued under this Law is non-transferrable.
- 9.13. 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 Fireworks Permit as soon as practical after the Fireworks display is completed and in any event on or before the expiry of the Fireworks Permit.

#### **Authorizations and Delegations**

- 9.14. Council authorizes any and all of the following to carry out inspections, monitoring or enforcement under section 8 of this Law:
- (a) the Fire Chief from the Chilliwack Fire Department or his or her delegate to the extent that Yakweawkwoose has an agreement with the Chilliwack Fire Department to carry out inspections, monitoring or enforcement under this Law on Yakweawkwoose Lands;
  - (b) any Enforcement Officer;
  - (c) any Authorized Representative.

### **10. AUTHORITY OF ENFORCEMENT OFFICERS**

- 10.1. An Enforcement Officer may at any time enter any real property or parcel of land for the purpose of ascertaining whether the requirements and regulations of this Law are being observed.

10.2. No person may obstruct, refuse or neglect to admit to any real property or parcel of land, an Enforcement Officer or any other Yakweakwioose officer or employee in the execution of his or her duties for any purpose relating to this Law.

## **11. ORDERS**

11.1. Any Authorized Representative or Enforcement Officer may order any Person who is Trespassing to leave Yakweakwioose Lands or to leave the area of Yakweakwioose Lands on which they are Trespassing.

11.2. Where a Person has been ordered to leave Yakweakwioose Lands and fails or refuses to do so, the Enforcement Officer may, in addition to issuing a warning notice, violation notice, order or tickets or any other notice, ticker or order authorized under this Law, take such reasonable measures as may be necessary to remove that person from Yakweakwioose Lands or from the area of Yakweakwioose Lands on which they are Trespassing.

11.3. Where, during the course of an entry, inspection or investigation under section 10, an Enforcement Officer has reasonable grounds to believe that any provision of this Law, the Enforcement Officer may:

(a) order a person to do anything the Enforcement Officer considers necessary to stop the contravention or prevent another contravention; and

(b) seize anything validly inspected by the Inspector that the Enforcement Officer believes on reasonable grounds

(i) was used or is being used in the contravention, or

(ii) will afford evidence of the contravention.

11.4. Compensation is not payable by the Yakweakwioose First Nation, or any Yakweakwioose agent, employee or contractor, in respect of anything lawfully seized, detained or destroyed under this Law.

11.5. Where a Person fails to comply with an order issued under this Law that Person is liable for all expenses incurred as a result of any action taken under this Law to carry out the order.

11.6. An Enforcement Officer may order any Person who is threatening or engaging in any Disorderly Conduct or threatening or causing or creating Nuisance to immediately stop.

11.7. An Enforcement Officer may also order any Person to stop the Disorderly Conduct or Nuisance within such a period as is reasonable in the circumstances.

11.8. In determining whether a period fixed under subsection 11.711.7 is reasonable in the circumstances, the Enforcement Officer must take into account:

- (a) the nature and extent of the Disorderly Conduct or Nuisance;
  - (b) the potential impact on Persons or property and on the health and well-being of Yakweakwioose First Nations and its Members;
  - (c) the abatement methods available;
  - (d) the appropriate time required for abatement; and
  - (e) the effect of the order on any lawful business or lawful means of livelihood of the Person who is subject of an order.
- 11.9. Where a Person who has been ordered to stop engaging in Disorderly Conduct, or to refrain from causing a Nuisance within a specified period, fails or refuses to comply with the order, an Enforcement Officer may take such reasonable measures as may be necessary to stop the Disorderly Conduct, or to prevent or to abate the Nuisance.
- 11.10. An Enforcement Officer or Council may issue a remediation order to compel a Person who has engaged in Disorderly Conduct or caused or created a Nuisance to repair or clean up any damage they have caused or to otherwise make amends.

#### **Stop Work Orders**

- 11.11. In addition to any other applicable fine, penalty or remedy, Council, its Authorized Representative, or an Enforcement Officer may:
- (a) issue a Stop Work Order or a Cease and Desist Order to order any Person, who has not received full and proper authorization under this Law, to cease carrying out any activity, use or construction or activity occurring on Yakweakwioose Lands.
- 11.12. A Stop Work Order or Cease and Desist Order imposed under subsection 11.11:
- (a) may be registered in Court and enforced as a court order; and
  - (b) continues in force until the condition that led to it is remedied or until the activity that is the subject of the Order receives a permit or authorization under this Law.
- 11.13. Council, its Authorized Representative, or an Enforcement Officer may issue any order, warning ticket, violation notice, information or summons authorized by Council, this Law or any other relevant law.

## **12. OFFENCES, PENALTIES AND OTHER ENFORCEMENT**

- 12.1. No Person may obstruct, interfere with or hinder Council, an Authorized Representative, other Yakweakwioose representatives or employees, or an Enforcement Officer or agent in the carrying out of their duties and responsibilities under this Law, or any other Yakweakwioose law.

- 12.2. Any Person who fails or refuses to comply with any order, warning, ticket, violation notice, information or summons made to or issued under this Law commits an offence.
- 12.3. Any Person who violates any provisions of this Law or a permit issued under it, or who suffers or permits any act or thing to be done in contraventions 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, is guilty of an offence under this Law, and is liable to the penalties imposed by this Law.
- 12.4. 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.

#### **Orders, Tickets, Penalties and Fines**

- 12.5. An Authorized Representative or Enforcement Officer may issue a warning notice, violation notice, clean-up order or ticket for any violation of this Law in accordance with the *Yakweakwioose Enforcement and Ticketing Law*.
- 12.6. A Person who fails to comply with any of subsections 5.1 to 5.5 within thirty (30) days of the issuance of a first violation notice under subsection 12.5 is subject to a ticketing fine of \$100.00 and may be issued a second notice to comply and may be given a further thirty (30) days to comply with this Law.
- 12.7. A Person who fails to comply with any of subsections 5.1, 5.2, 5.3 and 5.4 within thirty (30) days of a second notice is subject to a ticketing fine of \$200.00 and issued a final notice to comply with this Law.
- 12.8. A Person who fails to comply with any of subsections 6.1 to 6.4 within one (1) hour of the issuance of a first violation notice under subsection 12.5 is subject to a ticketing fine of \$100.00 and will be issued a second notice to comply and may be given a further twenty-four (24) hours to comply with this Law.
- 12.9. A Person who fails to comply with any of subsections 6.1 to 6.4 within twenty-four (24) hours of the second notice is subject to a ticketing fine of \$200.00 and may be issued a final notice to comply with this Law.
- 12.10. A Person who fails to comply with subsection 8.1 within one (1) hour of the issuance of a first violation notice under subsection 12.5 is subject to a ticketing fine of \$100.00 and will be issued a second notice to comply and may be given a further twenty-four (24) hours to comply with this Law.
- 12.11. A Person who fails to comply with any of subsections 6.1 to 6.4 within twenty-four (24) hours of the second notice is subject to a ticketing fine of \$200.00 and may be issued a final notice to comply with this Law.

12.12.

12.13. A Person who fails to comply with any of subsections 9.1 to 9.3 within one (1) hour of the issuance of a first violation notice is subject to a ticketing fine of \$100.00 and may be issued a second notice to comply and given a further twenty-four (24) hours to comply with this Law.

12.14. A Person who fails to comply with any of subsections 9.1 to 9.3 within two (2) hours of the second notice is subject to a ticketing fine of \$500.00 and may be issued a final notice to comply with this Law.

12.15. A Person who fails to comply with subsection 9.1 and any orders or tickets issued under subsections 12.10 or 12.149.2, is liable on summary conviction, to a fine of not more than Five Thousand Dollars (\$5,000.00).

12.16. A Person who fails to comply with subsection 9.19.2 or 9.3 and any orders or tickets issued under subsections 12.10 or 12.14 is liable, on summary conviction, to a fine of not more than One Thousand Dollars (\$1,000.00).

#### **Additional Offences**

12.17. A Person who contravenes the final notice to comply issued under subsection 12.7 is guilty of an offence and liable to any community restorative measures or other penalties set out in a Law or on summary conviction to a fine of not more than Five Thousand Dollars (\$5,000.00), or both.

12.18. A Person who contravenes the final notice to comply issued under subsection 11.10 is guilty of an offence and liable to any community restorative measures or other penalties set out in a Law or on summary conviction to a fine of not more than Five Thousand Dollars (\$5,000.00), or both.

12.19. Any Person who is guilty of an offence under any provision of this Law, unless otherwise provided elsewhere in a relevant section of this Law, is liable, on summary conviction, to a fine of not more than Five Thousand Dollars (\$5,000.00).

12.20. Nothing in this Law precludes Yakweakwioose First Nation from pursuing any other enforcement action or remedy provided for in any other relevant law.

### **13. IMMUNITY**

13.1. No action for damages lies or may be instituted against present or past Council or Members, employees, servants or agents of either Yakweakwioose First Nation or its Council:

- (a) for anything said or done or omitted to be said or done by that Person in the performance or intended performance of the Person's duty or the exercise of the Person's authority; or
- (b) for any alleged neglect or default in the performance or intended performance of the Person's duty or the exercise of the Person's authority.

13.2. Section 13.1 does not provide a defence if:

- (a) Council, Members, employees, servants or agents have, in relation to the conduct that is the subject matter of the action, been guilty of dishonesty, gross negligence or malicious or wilful misconduct; or
- (b) the cause of action is libel or slander.

13.3. Yakweakwioose First Nation, present or past Council, or Members, employees, servants or agents of any of Yakweakwioose or Council is not liable for any damages or other loss, including economic loss, sustained by any Person, or to the property of any Person, as a result of neglect or failure, for any reason, to discover or detect any contravention of this Law or any other Yakweakwioose law, or from the neglect or failure, for any reason or in any manner, to enforce this Law or any other Yakweakwioose law.

13.4. All actions against Yakweakwioose for the unlawful doing of anything that:

- (a) is purported to have been done by Yakweakwioose under the powers conferred by this Law or any Yakweakwioose law; and
- (b) might have been lawfully done by Yakweakwioose if acting in the manner established by law,

must be commenced within six (6) months after the cause of action first arose, or within a further period designated by Council in a particular case, but not afterwards.

13.5. Yakweakwioose is in no case liable for damages unless notice in writing, setting out the time, place and manner in which the damage has been sustained, is delivered to Yakweakwioose, within two (2) months from the date on which the damage was sustained. In the case of the death of a Person injured, the failure to give notice required by this section is not a bar to the maintenance of an action if the court before whom it is tried, or, in the case of appeal, the Court of Appeal, believes:

- (a) there was reasonable cause; and
- (b) Yakweakwioose has not been prejudiced in its defence by the failure or insufficiency.

## **14. GENERAL PROVISIONS**

14.1. Headings in this Law are for reference purposes only and do not form part of the Law.



14.2. All provisions of this Law are severable. If a Court determines that any provision of this Law is invalid or inapplicable, such provisions will be severed from the Law and the remainder of the Law will remain in full force and effect.

**15. FEES AND FORMS**

15.1. Council may, by Resolution of Council, 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 Yakweawkwoose and available for distribution at a nominal charge.

**16. REGULATIONS**

16.1. Council may make regulations or pass Council Resolutions as follows:

- (a) prescribing the form and content of permits or authorizations to be issued under this Law;
- (b) prescribing fees and penalties;
- (c) designating inspectors or enforcement officers; or
- (d) setting in place any other matter required to implement this Law.

**17. COMING INTO FORCE**

17.1. This Law shall come into force and effect on the date it is passed by Council Resolution after complying with the requirements of Part 3 of the Land Code.

**BE IT KNOWN that this Law entitled *Yakweawkwoose Community Quality Law* is hereby enacted by a quorum of Council at a duly convened Council of the Yakweawkwoose First Nation held on the \_\_\_\_\_ day of \_\_\_\_\_, 2016.**

A quorum is 2

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(Chief Frank Malloway)

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(Councillor – Jason Malloway)

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(Councillor – Terry Horne)

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(Councillor – Nicole Larock)