

MATSQUI FIRST NATION COMMUNITY QUALITY LAW

WHEREAS:

The Matsqui First Nation, also known as the Matsqui Indian Band, (“Matsqui”), 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*;

Matsqui, as an aspect of our inherent right of self-government, has the jurisdiction to address real property issues, including community quality and environmental matters, and this inherent right has not been extinguished;

Matsqui also chose to assume control of its Indian reserve lands pursuant to the Framework Agreement on First Nation Land Management, *First Nations Land Management Act*, S.C. 1999, c. 24 by entering into the *Individual Agreement on First Nation Land Management between Matsqui First Nation and Her Majesty the Queen in Right of Canada* and by adopting the Matsqui First Nation Land Code.

Pursuant to section 6.1 of the Land Code, Matsqui is authorized to pass various Laws relating to the First Nation Land;

It is essential to the health and survival of Matsqui that we maintain our community and First Nation Land; and

NOW THEREFORE Matsqui hereby enacts the following Law:

1.0 TITLE

1.1 This Law may be cited as the “Matsqui First Nation Community Quality Law”.

2.0 DEFINITIONS

2.1 Unless the context otherwise requires, the definitions in the Land Code are applicable to this Law. In this Law:

- (a) “Continuous Noise” means any Noise or sound continuing for a period of three minutes or more in any 15-minute period;
- (b) “Dog” means any animal of the canine species;
- (c) “Faeces” means excrement of a Dog;
- (d) “derelict vehicle, boat or appliance” means any vehicle, boat, appliance or part or part thereof, propelled otherwise than by muscle power which:
 - i. is physically wrecked or disabled;
 - ii. is not capable of operating under its own power; and

- iii. in the case of a vehicle, does not have attached number plates for the current year pursuant to the regulations of the *Motor Vehicle Act*, RSBC 1996 c. 318 and any amendments;
- (e) “Discarded Materials” include all materials not in use for the construction or maintenance of a building situated on First Nation Land, 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;
- (f) “First Nation Land” means any portion of a Matsqui First Nation Indian reserve that is subject to the Matsqui First Nation Land Code;
- (g) “FNLMA” means the *First Nations Land Management Act* S.C. 1999, c. 24 as amended from time to time;
- (h) “Framework Agreement” means the *Framework Agreement on First Nation Land Management* dated February 12, 1996 signed by the Minister of Indian and Northern Development and 13 First Nations, as amended from time to time;
- (i) “Governing Body” means the Governing Body established under clause 2.1 of Appendix K of the Matsqui First Nation Custom Election Regulations and Procedures;
- (j) “Highway or Other Public Place” includes every street, road, land, boulevard, sidewalk, lane, bridge, viaduct and any other way open to public use and any park, building, conveyance, private place or passageway to which the public has, or is permitted to have access or is invited;
- (k) “Independent Sound Consultant” means a professional engineer, licensed to practice in the Province of British Columbia, with acoustical expertise;
- (l) “Land Code” means the *Matsqui First Nation Land Code* dated for reference October 17, 2007 and came into force as of February 26, 2009;
- (m) “Lands Manager” means the Matsqui employee responsible for the administration of First Nation Land or his or her authorized representative(s), employees or contractors, or a Person authorized by the Governing Body to act as his or her delegate;
- (n) “Matsqui” means the Matsqui First Nation;
- (o) “Noise” includes any loud outcry, clamour, shouting, disturbance or movement or any sound that is loud or harsh or undesirable;

- (p) “Noxious Weed” means any weed designated by regulation to be a Noxious Weed pursuant to the British Columbia *Weed Control Act* RSBC 1996 c. 487 and any amendments thereto;
- (q) “Nuisance Service Call” means an authorized representative of Matsqui, Royal Canadian Mounted Police Detachment (“RCMP”) or the City of Abbotsford Police response to and abatement of any activity, conduct or condition occurring on or near First Nation Land which substantially and unreasonably interferes with another Person’s use and enjoyment of a public place or of First Nation Land occupied by that Person, or which causes injury to the health, comfort or convenience of an Occupier of First Nation Land and which is caused or arises from a Person’s failure to comply with the requirements of this Law;
- (r) “Occupier” means a Person who occupies First Nation Land; ;
- (s) “Owner” includes any Person who owns, has in their custody or control, or harbours any Dog, or is an occupant of a premise where a Dog is kept;
- (t) “Person” means an individual, corporation, body corporate, partnership, joint venture, association, syndicate, trust or other legal entity, including a First Nation or Indian band, or any trustee, executor, administrator or other legal representative of any such entity; and
- (u) “Road Surface” means gravel, asphalt, cement or material of any kind whatsoever placed upon any street, road, Highway, bridge, viaduct, land or any other way designed or intended for use by the general public for the passage of vehicles, and every private place or passageway to which the public, for the public, for the purpose of the parking or servicing of vehicles, has access or is invited.

3.0 PURPOSE

- 3.1 The purpose of this Law is to protect the Matsqui community and the environment from excess noises, littering and other undesirable nuisances.

4.0 LITTERING

Dog Faeces

- 4.1 No Owner, except those certified as being legally blind, shall cause, allow or suffer any Dog to leave or deposit Faeces on any Highway or Other Public Place or First Nation Land other than the property occupied by the Owner without immediately taking action to remove such Faeces and to dispose of the Faeces in an approved and sanitary manner on the property of the Owner.

Littering

- 4.2 No Person shall deliver circulars, pamphlets, handbills or papers to or within any First Nation Land or building located on First Nation Land, unless such deliveries are deposited within a receptacle provided for such delivery.
- 4.3 No Person shall deposit or throw bottles, broken glass, circulars, pamphlets, handbills, paper or other litter, rubbish or trash on any vacant First Nation Land.

Derelict Vehicle, Boat or Appliance or Discarded Materials

- 4.4 No Person shall keep a derelict vehicle or boat or household appliance, or any parts thereof, on First Nation Land, whether or not covered by a tarpaulin or similar device.
- 4.5 No Owner shall allow the accumulation of filth, rubbish or Discarded Materials.

5.0 NOISE

Exemption

- 5.1 This Part shall not apply to:
- (a) the operation of emergency vehicles;
 - (b) the emergency repair of a public Highway;
 - (c) operations of a public utility;
 - (d) peace officers acting in the course of their duties;
 - (e) the operation of farm vehicles during planting and harvesting; and
 - (f) industrial operations operating on First Nation Land with the written consent of Matsqui's Governing Body provided that the operations do not take place outside the hours of 7:00 a.m. and 7:00 p.m. unless otherwise stipulated by the Governing Body.
- 5.2 No Person shall make or cause, or permit to be made or caused, any Noise in or on First Nation Land which disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort or convenience of any Person in the neighbourhood or vicinity.
- 5.3 No Person, who is the occupier of First Nation Land, shall allow or permit such First Nation Land to be used in such a manner that Noise emanating from the First Nation Land disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort or convenience of any Person in the neighbourhood or vicinity.

- 5.4 No Person shall operate any radio, stereophonic equipment or other instrument, or any apparatus for the production or amplification of sound either in or on private premises or in any Highway or Other Public Place in such a manner as to disturb the quiet, peace, rest, enjoyment, comfort, or convenience of the neighbourhood or of any Person in the vicinity.
- 5.5 No Person shall own, keep, or harbour any animal or bird which, by its cries, unduly disturbs the peace, quiet, rest, enjoyment, comfort, convenience or tranquility of the surrounding neighbourhood, or any Person in the vicinity.

Construction and Garbage Collection Noise

- 5.6 Except as provided in Section 5.7, 5.8 and 5.9, no Person shall, before 7:00 a.m. on any day from Monday to Saturday when such day is not a statutory holiday, or before 9:00 a.m. on a Sunday or statutory holiday, and after 9:00 p.m. on any day, construct, erect, reconstruct, alter, repair or demolish any building, structure or thing, or excavate or fill in land in any manner which disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort, or convenience of the neighbourhood or of Persons in the vicinity.
- 5.7 A Person may apply to the Lands Manager for permission to vary the time restrictions established in Section 5.6. An application shall be submitted at least two (2) business days prior to the date of the proposed activity, in the form prescribed for that purpose by the Lands Manager, and shall include:
- (a) the applicant's name, address and telephone number;
 - (b) the address of the property for which the variation is sought;
 - (c) the owner(s) or occupiers(s) of the property, if different from the applicant;
 - (d) the building permit number, if applicable;
 - (e) a description of the source(s) of sound in respect of which the variation is sought;
 - (f) the reason(s) why the variation should be permitted;
 - (g) the period of time that the sound is expected to be generated;
 - (h) a description of the portion of the First Nation Land that may be affected by the sound;
 - (i) a statement of the steps, if any, that are planned or presently being taken to minimize the sound; and
 - (j) a non-refundable application fee in the amount prescribed by policy by Matsqui.

5.8 Upon receiving an application submitted in accordance with Section 5.7, the Lands Manager may, by written permit, vary the time restrictions set out in Section 5.6 for a certain location and activity if, in the opinion of the Lands Manager:

- (a) public safety or traffic considerations make it necessary or expedient that the work or activity commence or continue beyond those time restrictions; or
- (b) it is impossible or impractical to carry out, within those time restrictions:
 - i. excavation;
 - ii. concrete pouring or finishing;
 - iii. major structural or mechanical component delivery or placement; or
 - iv. relocation of a building; and

the Lands Manager may impose such terms and conditions as he or she deems necessary in the circumstances.

5.9 When a permit is issued under Section 5.8, the occupier of the First Nation Land identified in the permit shall comply and shall ensure compliance of any agent, contractor or servant of the occupier, with any and all time restrictions, notice requirements and other terms and conditions of that permit;

5.10 No Person shall, before 6:00 a.m. on any day from Monday to Saturday when such day is not a statutory holiday, or before 9:00 a.m. on any Sunday or statutory holiday, and after 10:00 p.m. on any day, operate a garbage truck which disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort, or convenience of the neighbourhood or of Persons in the vicinity.

Power Tools and Model Airplanes

5.11 No Person shall, before 8:00 a.m. and after 10:00 p.m. on any day, use or operate any power gardening tool or other power tool or machine or any model airplane, boat or car powered by an internal combustion, turbine or rocket engine.

Public Address Systems

5.12 Except for sports announcements at the grounds where such sports are being played, no Person shall operate any outdoor public address system at any time from any vehicle, First Nation Land, place or premises without the permission of the Governing Body.

Commercial or Industrial Operations

5.13 Every owner or operator of an industrial or commercial business which generates a Continuous Noise of a level that disturbs the occupants of the neighbourhood or Persons in the vicinity shall, at the request of the Lands Manager, supply Matsqui with:

- (a) a report prepared by an Independent Sound consultant recommending methods to abate the Noise; and

- (b) a letter of certification sealed by the Independent Sound consultant that the methods approved by Matsqui have been fully implemented.

Motor Vehicle Noise

5.14 The following Noises are, in the opinion of the Governing Body, unnecessary, objectionable or liable to disturb the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public:

- (a) the squeal of a tire on a Road Surface made by a motor vehicle which is accelerating, stopping or changing direction;
- (b) a loud, roaring or explosive sound emitted by a motor vehicle;
- (c) the amplified sound of a radio, television, CD-layer or other sound playback device or amplification equipment, or the sound of a musical instrument, that emanates from a motor vehicle and can easily be heard by someone outside the motor vehicle;
- (d) the sound of the diesel engine of a bus, truck or other vehicle which has been idling or otherwise running continuously for more than three minutes at the same location.
- (e) the sound of an automobile security system which is made, either continuously or intermittently, for a period exceeding three (3) minutes or the sound of an automobile security system, but not including its activation status signal, which is made more than three (3) times in a 24-hour period;
- (f) the sound of a horn or other warning device on a motor vehicle used for any purpose other than as an audible warning incidental to the safe operation of the motor vehicle;
- (g) the sound of a brake or other type of engine brake on a motor vehicle used or operated for any purpose other than as an emergency braking device incidental to the safe operation of the motor vehicle.

5.15 No Person shall make or cause to be made, any objectionable, unnecessary or disturbing Noise set forth in Section 5.14.

6.0 UNSIGHTLY PREMISES

6.1 An Occupier of First Nation Lands, other than an Occupier of a unit in an apartment, hotel or institution, must not cause, permit, suffer or allow the First Nation Lands to

become or remain unsightly, and in particular must not allow law grass, dandelions or other weeds to grow higher than 250 millimetres (10 inches).

6.2 An Occupier, other than an Occupier of a unit in an apartment, hotel or institution, of First Nation Lands must not cause, permit, suffer or allow on or around the property:

- (a) Noxious Weeds; or
- (b) infestation by caterpillars or other destructive or noxious insects.

7.0 ADMINISTRATION AND ENFORCEMENT

Inspection Power

7.1 For any purpose related to the administration or enforcement of this Law or to verify compliance or prevent non-compliance with this Law, the Lands Manager or their appointee may enter at any reasonable time upon any First Nation Land.

7.2 No Person shall prevent or obstruct or attempt to prevent or obstruct the entry of the Lands Manger or their appointee upon the First Nation Land.

Notice to Comply

7.3 If the Lands Manager or their appointee determines that there is non-compliance with this Law, the first notice to comply will be issued to the Person who is the owner or occupier of the subject First Nation Land. The Person will be given thirty (30) days to comply with this Law.

8.0 PENALTIES

Fines

7.1 A Person who fails to comply with this Law within thirty (30) days of the issuance of the first notice will be fined \$100.00 and issued a second notice to comply and given a further thirty (30) days to comply with this Law.

7.2 A Person who fails to comply with this Law within thirty (30) days of the second notice will be fined \$200.00 and issued a final notice to comply with this Law.

Nuisance Service Calls

7.3 Where an authorized representative of Matsqui, RCMP or the City of Abbotsford Police are required to respond to First Nation Land for:

- (a) more than one Nuisance Service Call within a twenty-four (24) hour period; or
- (b) more than three Nuisance Service Calls within a twelve (12) month period;

the occupier of the First Nation Land shall be liable to pay an excessive nuisance abatement fee of \$500.00 (“Excessive Nuisance Abatement Fee”) per Nuisance Service Call and for each additional Nuisance Service Call responded to at that same First Nation Land within the twelve (12) month period following the date of the first Nuisance Service Call.

7.4 Before imposing an Excessive Nuisance Abatement Fee, the authorized representative of Matsqui shall first provide written notice to the occupier of the First Nation Land:

- (a) describing in reasonable detail the nature of the nuisance conduct, activity or condition that occurred, or was maintained or permitted in, on or near the First Nation Land; and
- (b) advising the Occupier that Excessive Nuisance Abatement Fees will be imposed for each additional Nuisance Service Call to the same First Nation Land and that the imposition of such fees is in addition to Matsqui’s right to seek other legal remedies or actions for abatement of the nuisance.

7.5 Excessive Nuisance Abatement Fees shall be paid by the Occupier on receipt of an invoice from Matsqui.

7.6 An Occupier may, within thirty (30) days of receipt of an invoice demanding payment of Excessive nuisance Abatement Fees, require that the Governing Body reconsider the requirement to pay the Excessive Nuisance Abatement Fees, at which time the Occupier of the First Nation Land shall have an opportunity to be heard by the Governing Body.

Offence

7.7 A Person who contravenes the final notice to comply issued pursuant to this Law is guilty of an offence and liable on summary conviction to a fine of not more than \$10,000 or to imprisonment for a term of not more than three months, or to both.

7.8 A fine payable under subsection 7.3 shall be remitted to Matsqui by the Supreme Court, after reasonable Supreme Court costs have been deducted.

9.0 AMENDMENTS

8.1 Amendments to this Matsqui First Nation Community Quality Law shall be approved by the Governing Body.

10.0 COMING INTO FORCE

Date Law Comes into Force

9.1 This Law shall come into force and effect on the date it is enacted by pursuant to section 7.10 of the Matsqui Land Code.

Date of approval by a quorum of the Governing Body: _____, 2014

Voting in favour of the law are the following members of Council:

Chief Alice McKay

Councillor Louis Julian

Councillor Brenda Morgan

Voting in favour of the law are the following members of the Governing Body:

Family Representative

Family Representative

Family Representative

Family Representative

Family Representative

Family Representative