



**TZEACHTEN FIRST NATION
NOISE CONTROL LAW, 2011**



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WHEREAS the Tzeachten 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 Tzeachten First Nation has taken back control and management of Reserve lands and resources pursuant to the *Framework Agreement on First Nation Land Management* and has enacted the *Tzeachten Land Code* effective the 21st day of August, 2008;

AND under the *Tzeachten Land Code*, Tzeachten Council is authorized to pass various laws relating to regulation of lands, activities, and nuisance under section 3.3 of the Code;

NOW THEREFORE this Tzeachten First Nation Noise Control Law, 2011 is hereby enacted as a Law of the Tzeachten First Nation.

PART 1. NAME

1.1 This Law may be cited as the *Tzeachten First Nation Noise Control Law, 2011*.

PART 2. PURPOSE

2.1 The purpose of this Law is to promote a healthy community environment where citizens can enjoy the use of their lands and to regulate the making or causing of noises or sounds which may disturb or tend to disturb the peace, quiet, rest, enjoyment, comfort or convenience of the public, neighbourhood or persons in the vicinity on Tzeachten Lands.

PART 3. WHERE THIS LAW APPLIES

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

PART 4. DEFINITIONS

4.1 For the purposes of this Law, terms have the same definitions as in the *Land Code*.

4.2 For the purposes of this Law, the following definitions apply:

"dBA" means the equivalent continuous sound level (Leq) according to IEC standard 804, on the A-weighted network of an integrating sound level meter which conforms to ANSI standards S1.4-1983 Type S1 and S1.43-199X Type 1 (draft of September 1992) and IEC standards 651-1979 Type 1I and 804-1985 Type 1;

"Enforcement Officer" means a person appointed by Council or contracted by the Lands Manager to carry out enforcement of Tzeachten Laws;

"Night" means the hours between 9:00 p.m. of one day and 7:00 a.m. of the following day; and

"Outdoor assembly" means a public outdoor gathering of persons for a music concert, festival, rally, sporting event, or other similar type of public gathering and includes outdoor entertainment for commercial or charitable purposes.

PART 5. PROHIBITED NOISES AND ACTIVITIES

General Prohibition

- 5.1 No person shall make, or cause or allow to be made, in or on a road or highway or elsewhere within Tzeachten Lands, any noise or sound which disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort or convenience of the public, the neighbourhood or Tzeachten members or persons in the vicinity.
- 5.2 Without limiting the provisions of this Law, unless a person has a Temporary Use Permit or Special Events Permit or is in a specially designated zone, no person shall cause, permit or allow the following noises or sounds:

Night Time Noise

- (a) any noise or sound during the Night which exceeds 65 dBA as measured at any point 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;

Construction Noise

- (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, at any time on Sundays or 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;

Industrial Noise

- (c) any industrial noise or sound, the level of which exceeds 90 dBA as measured at any point 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 for a duration of more than 15 minutes at a time; or

Outdoor Assembly And Public Address Systems

- (d) any noise or sound emanating from an Outdoor assembly or public address system between the hours of 7:00 a.m. and 11:00 p.m. of the same day the level of which exceeds 90 dBA as measured at any point 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.

PART 6. EXEMPTIONS

6.1 This Law does 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 Tzeachten First Nation or its contractors;
- (c) noise emanating from Tzeachten 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) the operation of road maintenance equipment by Tzeachten First Nation or the City of Chilliwack or the Province of British Columbia or agents acting on their behalf, including snow removal or highway cleaning operations; or
- (f) operation of a public address system required under an applicable building or fire code.

PART 7. AUTHORITY OF ENFORCEMENT OFFICERS

7.1 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.

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

PART 8. OFFENCES, PENALTIES AND ENFORCEMENT

Penalties

8.1 Every person who contravenes any provision of this Law, or an order made by a Court pursuant to this Law, or who allows or permits any act or thing to be done in violation of any provision of this Law, or who neglects to or refrains from doing anything required to be done by any provision of this Law, is guilty of an offence and liable to pay any ticket fine prescribed by Law or, on summary conviction to a fine of not more than \$10,000.

8.2 A ticket fine payable under subsection 8.1 is payable to Tzeachten First Nation in accordance with any applicable Law.

8.3 A fine payable under a summary conviction under subsection 8.1 shall be remitted to the Tzeachten First Nation by the Court, after reasonable Court costs have been deducted.

Enforcement and Stop Work Orders

- 8.4 In addition to any other applicable fine, penalty or remedy, Council, the Lands Manager, an Enforcement Officer, or a designated official 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 listed under section 6 or any related activity or use.
- 8.5 A Stop Work Order or Cease and Desist Order imposed under subsection 8.4:
- (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.

PART 9. GENERAL PROVISIONS

- 9.1 The headings of parts and sections in this Law have been inserted as a matter of convenience and for reference only and in no way define or limit or any of its provisions.
- 9.2 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.
- 9.3 If any portion of this Law is held invalid by a Court of competent jurisdiction, then that invalid portion shall be severed and the remainder of this Law shall be deemed to have been adopted without the severed portion.

PART 10. COMING INTO FORCE

Date Law Comes into Force

- 10.1 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 Tzeachten Noise Control Law is hereby enacted by a quorum of Council at a duly convened Council of the Tzeachten First Nation held on _____, 2011.

Chief Glenda Campbell

Councillor Lawrence Roberts

Councillor Cathy Hall

Councillor Melanie Williams

Councillor Anthony
Malloway

A quorum consists of 3 Council Members
