

Fort McKay First Nation

PO BOX 5360, Fort McMurray, AB, T9H 3G4, 780-828-4220

NOTICE OF NOISE AND DISTURBANCE BYLAW

WHEREAS section 81, paragraph (a), (b), (c), and (d), of the *Indian Act* empower the Council to pass bylaws to provide for the health of residents on the Reserve, the regulation of traffic, the observance of law and order, and the prevention of disorderly conduct and nuisances, in addition to matters arising out of or ancillary to the exercise of powers and the imposition of a penalty for the violation of any such bylaw;

AND WHEREAS the Council is of the opinion that the residents of the Reserve are entitled to enjoy peaceful living in the community and that noise, nuisances, and disturbances should be reduced as far as possible particularly during evening hours when most residents are sleeping;

THEREFORE, the Council of the Fort McKay First Nation enacts this Noise and Disturbance Bylaw, as follows:

1 Interpretation

1.1 In this Bylaw:

- (a) "Council" means the Council of Fort McKay First Nation;
- (b) "Enforcement Officer" means:
 - (i) a police officer with the Royal Canadian Mounted Police or any other local detachment of a police service; or
 - (ii) a person employed by the Council for the purpose of enforcing the provisions of this Bylaw;
- (c) "First Nation" means the Fort McKay First Nation;
- (d) "Industrial Area" means any area of the Reserve classified as industrial by the Council;
- (e) "Reserve" means the lands set apart by Her Majesty the Queen in right of Canada for the use and benefit of the First Nation and for the purposes of this Bylaw includes any bodies of water (including lakes, ponds, rivers, or creeks) located on, adjacent to or near the Reserve;
- (f) "Residence" means each single unit home being a fully or semi-detached building, a multiple unit Residence, an apartment home or any building used or intended to be used for human habitation and in which normal domestic functions may be carried out on;
- (g) "Residential Area" means any area of the Reserve classified as residential by the Council and any area in which one or more Residences may be located, regardless of any formal classification of the area;
- (h) "Signaling Device" means any horn, bell or other device that produces an audible sound for the purpose of drawing people's attention to an approaching Vehicle;
- (i) "Vehicle" means any device in, on or by which a person may be transported on roads, cross-country, water, snow or other natural terrain and for the purposes of this Bylaw includes:
 - (i) Private passenger automobiles such cars and trucks;

- (ii) Commercial motor vehicles such as buses and tractors with load hauling trailers;
- (iii) Farm machinery and implements;
- (iv) Heavy duty vehicles and equipment;
- (v) 4-wheel drive vehicles;
- (vi) Motorcycles and other 2-wheel vehicles;
- (vii) Amphibious machines;
- (viii) All-terrain vehicles;
- (ix) Miniature motor vehicles and mini-bikes;
- (x) Snow vehicles; and
- (xi) Motor boats.

2 Application

2.1 This Bylaw applies to every person residing or visiting on the Reserve.

3 General Abatement of Noise

3.1 Except to the extent it is allowed by this Bylaw, no person shall make, continue, cause or allow to be made or continued any loud, unnecessary or unusual noise or any noise whatsoever which annoys, disturbs, injures, endangers or detracts from the comfort, repose, health, peace, or safety of other persons on the Reserve.

3.2 Except to the extent it is allowed by this Bylaw, no person shall allow property on the Reserve or any part of the Reserve which may be occupied by that person or under his or her control to be used so that there originates from that property any loud, unnecessary noise or any noise whatsoever which annoys, disturbs, injures, endangers or detracts from the comfort, repose, health, peace, or safety of other persons on the Reserve.

3.3 What is a loud noise, an unnecessary noise, an unusual noise or a noise which annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others is a question of fact and may be determined by the reasonable exercise of judgment and discretion of an Enforcement Officer having regard for the following factors:

- (a) Proximity of the noise to a place where people may be sleeping;
- (b) The time of day or night the sound occurs;
- (c) The duration and volume of the sound; and
- (d) Whether the sound is recurrent, intermittent or constant.

3.4 The provisions of this section are not intended to prevent:

- (a) The sounding of a general or particular alarm or warning to announce a fire or other emergency or disaster;
- (b) The sounding of police, fire or ambulance sirens;

- (c) The sounding of a whistle or other device by a person in distress;
- (d) Noise arising from a community event which has been approved or in respect of which a permit has been issued by the Council which approval or permit contemplates certain noise including the playing of a band, musical instruments, or recordings;
- (e) Noise originating in an Industrial Area which arises from carrying on an industrial activity approved or in respect of which a permit has been issued by the Council which approval or permit contemplates such noise and activities; provided that the level of noise does not exceed what is necessary to perform the activity in accordance with normal methods and industry standards; or
- (f) Noise resulting from an activity which has been approved or permitted by the Council in accordance with section 7.

4 Vehicle Noise

- 4.1 No person may operate a Vehicle of any kind at any time of the day or night in such a way as to unduly disturb a Residential Area.
- 4.2 No person operating a Vehicle on the Reserve may use a Signaling Device and except where reasonably necessary and upon the condition that it does not make more noise than is reasonably necessary for the purpose of giving notice or warning other persons of the presence of a Vehicle.
- 4.3 No person may operate a Vehicle on the Reserve that is not properly equipped with a muffler or similar equipment on the Vehicle or other internal combustion engine which ensures that exhaust gases from the engine are cooled and expelled without excessive or unreasonable noise.
- 4.4 Without limiting the generality of section 4.3, the following apply to Vehicles in the nature of a motor boat:
 - (a) No person may launch or operate a motor boat if that motorboat is equipped with an exhaust system that permits the exhaust gases from the engine to be expelled directly into the air without first passing through water unless the motorboat is equipped with a muffling device that ensures that the exhaust gases from the engine are cooled and expelled without excessive noise;
 - (b) No person shall operate any motorboat powered by an engine equipped with exhausting devices commonly described as dry stacks or dry headers;
 - (c) No person shall operate a motorboat powered by an engine equipped with exhausting devices commonly described as water injected headers unless a properly operating muffler is also installed; and
 - (d) No person shall operate a motorboat powered by an engine equipped with exhausting devices commonly described as over-transom water cooled exhaust unless a properly operating muffler is also installed.
- 4.5 No person may use engine retarder brakes to slow or stop a Vehicle in a Residential Area.
- 4.6 No person shall allow the diesel motor on a Vehicle which pulls a trailer or semi-trailer truck to remain running for longer than twenty minutes while the tractor-trailer or tractor alone is not in motion in or near any Residential Area.

5 Domestic Noise

- 5.1 No person shall cause a noise disturbance in a Residential Area by loud partying, fighting, screaming, shouting, or similar behavior.

- 5.2 No person who owns, or who has been granted a right of tenancy, or who lives in or occupies a Residence may allow or permit a noise disturbance to emanate from that Residence by reason of loud partying, fighting, screaming, shouting, or similar behavior.
- 5.3 No person may harbor or keep any animal or bird which makes noise that unduly disturbs people in a Residential Area.
- 5.4 No person may operate power tools including lawn mowers, snow blowers, chain saws, or other equipment in a Residential Area between the hours of ten o'clock in the evening and eight o'clock the following day.

6 Construction Noise

- 6.1 No person may carry on any construction related activities in a Residential Area which involve hammering, sawing, or the use of any machine tools or equipment capable of creating a sound which may be heard beyond the boundaries of the site on which the activity is being carried out between the hours of ten o'clock in the evening and eight o'clock the following day.
- 6.2 No person may operate any of the following equipment in a Residential Area without first obtaining an approval or permit from the First Nation:
 - (a) A riveting machine;
 - (b) A concrete mixer;
 - (c) A gravel crusher;
 - (d) A steam shovel;
 - (e) A trenching machine;
 - (f) A drag line;
 - (g) An air or steam compressor, jack-hammer, pneumatic drill;
 - (h) A tractor or bull-dozer; or
 - (i) Any other tool, device, or machine of a noisy nature which may create a noise, cause confusion, or a disturbance in a Residential Area.

7 Approvals or Permits

- 7.1 Application may be made to the Council for a Band Council Resolution approving or permitting an activity which may otherwise contravene this Bylaw. The Band Council Resolution shall specify:
 - (a) The nature, scope and limitations of the activity including any restrictions on the maximum level of decibels of noise allowed;
 - (b) The persons permitted to carry on the activity;
 - (c) The location of the activity;
 - (d) The dates and hours on which the activity may be conducted; and
 - (e) Any other provision reasonably necessary to balance the benefits which may accrue to the First Nation or a person as a result of the activity with the impact of the activity on

other persons on the Reserve including those who may be residing in an affected Residential Area.

- 7.2 Unless otherwise specified by the Council, a construction contractor retained directly by the First Nation in respect of a First Nation project is exempt from the necessity of obtaining an approval or permit, provided that the activities in question are specifically contemplated by the terms of the contract between the contractor and the First Nation.

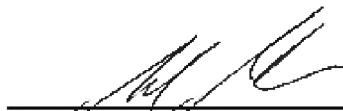
8 Penalties and Other Remedies

- 8.1 Each occurrence of a contravention of this Bylaw, or in the case of continuous contraventions, each hour the contravention occurs or continues constitutes a separate offence and may be punished separately.
- 8.2 Any person who has been instructed by an Enforcement Officer to cease and desist from a contravention of this Bylaw and who fails to comply with the instructions of the Enforcement Officer is guilty of an additional offence, separate and distinct from the initial contravention and may be punished separately.
- 8.3 Every person who contravenes any of the provisions of this Bylaw is guilty of an offence and is liable on summary conviction to a fine of not more than One Thousand (\$1,000) Dollars or to a term of imprisonment not to exceed thirty (30) days for each act of contravention.
- 8.4 In addition to any other remedy available to the First Nation, the First Nation shall be entitled to apply to the Court of Queen's Bench of Alberta for an order in the nature of an injunction requiring a person cease and desist from any contravention of this Bylaw and for any other relief that may be just in the circumstances.
- 8.5 Nothing in this Bylaw shall be deemed to limit any other remedies available to the First Nation, including remedies in the civil courts.


9 Coming into Force

- 9.1 This Bylaw comes into force 40 days after the date of mailing to the Minister of Indian Affairs and Northern Development as required pursuant to section 82 of the *Indian Act*.

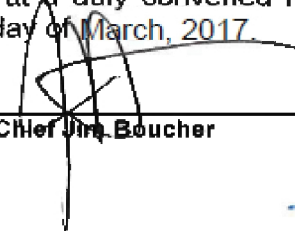
APPROVED AND PASSED at a duly convened meeting of the Council of the Fort McKay First Nation this 1st day of March, 2017.




Councillor Gerald Gladue




Councillor Crystal McDonald



Chief Jim Boucher



Councillor Peggy Lacorde



Councillor Raymond Powder

A COPY OF THE PROPOSED LAWS may be obtained from: Communications Department, Fort McKay.

CONTACT INFORMATION: For further information or questions regarding the Proposed Laws, this Notice or the making of written representations to Council, please contact Communications Department at Fort McKay First Nation, by telephone at 780-828-4220 or by email at communications@fortmckay.com.

Dated: March 1st, 2017