

Prophet River First Nation Noise Control By-law

WHEREAS the Band Council of Prophet River First Nation wishes to establish a by-law concerning the control of Noise on the Reserve;

AND WHEREAS section 81 of the *Indian Act*, R.S.C. 1985, c. I-5 empowers the council of a band to enact by-laws in respect of matters local in nature to a reserve;

THEREFORE the Band Council of Prophet River First Nation makes the following by-law:

PART 1 – GENERAL

SHORT TITLE

1. This by-law may be cited as “Prophet River First Nation Noise Control By-law”.

INTERPRETATION

2. In this by-law, the following definitions apply:
 - (a) “**Band Council**” means the elected Chief and Council of Prophet River First Nation.
 - (b) “**By-Law Enforcement Officer**” means an individual appointed pursuant to section 4, or any By-Law Enforcement Officer, including a police officer or a person employed by the Band Council, for the purpose of enforcing the provisions of this by-law.
 - (c) “**Motor Vehicle**” means an automobile, motorcycle, snowmobile, and any other vehicle propelled by a motor.
 - (d) “**Noise**” means any unwanted sound that disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort or convenience of the public, the neighbourhood, or persons in the vicinity.
 - (e) “**Reserve**” means Prophet River First Nation I.R. 4.

APPLICATION

3. This by-law applies to all persons residing on or visiting the Reserve.

PART II – ADMINISTRATION

BY-LAW ENFORCEMENT OFFICER

4. The Band Council may appoint a By-Law Enforcement Officer to provide for the administration and enforcement of this by-law.

GENERAL REQUIREMENTS

5. No person shall make or cause, or permit to be made or caused, any Noise which is clearly audible to other persons on the Reserve between the hours of 11:00 p.m. and 7 a.m., including but not limited to:
 - (a) the racing of any Motor Vehicle;
 - (b) the operation of a Motor Vehicle in such a way that allows the tires to squeal;
 - (c) the operation of any combustion engine without an effective exhaust;
 - (d) the operation of a Motor Vehicle or a Motor Vehicle with trailer resulting in banging, clanking, squealing, or other sounds due to improperly secured load or equipment or inadequate maintenance;
 - (e) the discharge of firearms in any residential area of the Reserve; and
 - (f) the operation of any radio, television, sound equipment, musical instrument or any other device intended for the reproduction of sound.

EXEMPTIONS

6. This by-law does not apply to:
 - (a) the operation of an emergency vehicle proceeding with respect to an emergency situation;
 - (b) any Noise emanating from a cultural event or activities related to a cultural event;
 - (c) the construction, erection, reconstruction, alteration, repair, or demolition of any building, structure or thing, between the hours of 7:00 a.m. and 11:00 p.m. of the same day, Monday to Saturday;
 - (d) the operation of any public address system required under an applicable building or fire code; or
 - (e) any Noise that has been granted an exemption by the Band Council pursuant to section 7 of this by-law.

APPLICATIONS FOR EXEMPTION

7. Any person may make an application to the Band Council to be granted an exemption from any provision of this by-law, and the Band Council may by resolution, agree or refuse to grant the exemption. Any exemption granted shall specify the time period during which the exemption is effective, and the exemption may contain such terms and conditions as the Band Council sees fit.
8. In determining whether to grant an exemption, the Band Council shall give the applicant and any person opposed to the application an opportunity to be heard, and may consider any other matters it deems appropriate.
9. Any breach by the applicant of any exemption or any of its terms or conditions shall render the exemption void.

PENALTY

10. Every person who contravenes any provision of this by-law is guilty of an offence and is liable on summary conviction to a fine of not more than \$1,000.

AMENDMENT

11. The Band Council must follow the following procedures in amending or repealing this by-law:
 - (a) The Band Council must present the amendment or proposal to repeal for discussion at a band general meeting.
 - (b) The Band Council must provide at least fifteen (15) days notice to members prior to the band general meeting referred to in section 11(a). Such notice must indicate the nature of the by-law being discussed.
 - (c) The Band Council must allow any member or person who may possibly be affected by the proposed by-law to present written or oral comments at the band general meeting required by section 11 (a). The Band Council may, however, set reasonable restrictions on the amount of time allowed for such comments.

This by-law is hereby made at a duly convened meeting of the Band Council of Prophet River First Nation this 17 day of December, 2019, at Fort St. John, B.C.

QUORUM: (two) 2 members of Council



Chief Kirk Tsakoza

Jacqueline Reno
Councillor Jacqueline Reno

Beverly Stager
Councillor Beverly Stager