P.06/13



4216-00130

DECISION #:

DATE: AUGUST 21, 1997

FILE #: 08-04-97

PAGE: 1 OF 3

BOR 98/95 167

9 2 6 6 '97 SEP 25 P12:30 RESOLUTION

OF THE

COUNCIL OF THE RAINY RIVER FIRST NATIONS

Inailed 970952 mouled 970923

BY-LAW NO .: 002-97

NC 971003

A BY-LAW RESPECTING THE PROHIBITION OF LOUD NOISES ON THE RESERVE 40day 971102 (Sun)

ENACTED THIS 22 DAY OF September, 1997

WHEREAS:

- A. Subsection 81(1), (d), (q) and (r) of the Indian Act, R.S., 1985, c. empower the Council of a First Nation to make by-laws for the prevention of disorderly conduct, and nuisances, matters ancillary to the exercise of this power, and penalties for violation of these by-laws; and
- **B.** The Council of Rainy River First Nations has deemed that loud noises are a nuisance that interfere in the comfort and safety of the residents of our Reserve.

NOW THEREFORE the Council of the Rainy River First Nations enacts the following by-law:

1. Short Title

This by-law may be cited as the "Noise Control By-Law".

2. Interpretation

In this by-law:

- a) "Council" means the Council of Rainy River First Nations;
- b) "Motor Vehicle" includes an automobile, motorcycle, snowmobile and any other vehicle propelled otherwise than by muscular power;
- c) "Noise" means unwanted sound that disturbs the use and enjoyment of a person's property, or that materially affects the health or safety of the residents of the Reserve, but does not include sound to the extent that it is necessary for carrying on any business or any community event authorized by Council;
- d) "Officer" means any police officer, police constable or other person charged with the duty to preserve and maintain the public peace, and a by-law officer or any other person appointed by Council for the purpose of maintaining law and order on the Reserve;
- e) "Reserve" means Rainy River First Nations, Manitou Rapids #11

.. J2

3. General Prohibitions

No person on the Reserve shall cause, emit or permit the emission of Noise which is clear audible on the Reserve, including but not otherwise limited to:

- a) racing of any other motor vehicle other than at any racing event permitted by Council;
- b) the operation of a motor vehicle in such a way that the tires squeal;
- the operation of any combustion engine without an effective exhaust or muffling device in good working order;
- the operation of motor vehicle hom or other warning device except where required in accordance with good safety practices;
- the operation of a motor vehicle with or without a trailer that results in banging, squealing or other similar sounds due to improperly secured load or equipment, or inadequate maintenance;
- f) the detonation, without the written permission of the Council, or fireworks or explosive devices not used in construction:
- g) the discharge of firearms in, from or to any residential area of the Reserve;
- h) the operation of any radio, television, sound equipment, musical instrument or any other device intended for the reproduction of sound; which disturbs other Residents on the Reserve:
- persistent barking, calling or whining or other similar noise making, if such noise persists for a period of time in excess of fifteen (15) minutes, by any domestic pet or any other animal kept or used for any purpose.
- disturb the peace and quiet of the occupants of a dwelling house by shouting, swearing or using insulting or obscene language or by other disorderly conduct in or near a dwelling house

4. Exemption

Despite any other provision of this by-law, it shall be lawful to emit or cause to be emitted any sound in connection with emergency measures undertaken:

- a) for the immediate health, safety, or welfare of the residents of the Reserve; or,
- b) for the preservation of property.

5. Application to Council for Exemption

Any person may make application to Council to be granted an exemption from any provision of this by-law, and Council may by resolution, refuse to grant the exemption or any grant of exemption applied for or any exemption of lesser effect. Any exemption granted shall specify the time period during which the exemption is effective, and the exemption may contain such terms and conditions as Councils sees fit.

In determining whether to grant the exemption, Council shall give the applicant and any person opposed to the application an opportunity to be heard, and may consider any other matter it deems appropriate.

Any breach by the applicant of any exemption or any of its terms or conditions shall render the exemption void.

6. Penalty

Everyone who without permission of Council emits or causes to be emitted a noise contrary to the provisions of this by-law is guilty of an offence and is liable on summary conviction to a fine not exceeding one thousand dollars (\$1,000.00) or imprisonment for a term not exceeding 30 days or both.

THIS BY-LAW IS HEREBY made a duly convened meeting of the Council of the Rainy River First Nations present at the aforesaid meeting of the Council.

Voting in favour of the by-law are the following members of the Council.

QUORUM FOUR (C	HIEF)
(COUNCILLOR)	(COUNCILLOR)
(COUNCILLOR)	(COUNCILLOR)
lende la	
(COUNCILLOR)	(COUNCILLOR)
The quorum of the Council is members Number of members of the Council present at the m	•
I, Jim Leonard II, Chief of the First Nations, do here mailed to the Minister of Indian Affairs and Norther pursuant to subsection 82(1) of the Indian Act, this	the certify that a true copy of the foregoing By-Law was m Development in Thunder BAU ONT 33 and day of September, 1997.
WITNESS: as to the signature(s) of:) O	Genard