

By-law Number 2002-05
Being a By-law to repeal and replace By-law No. 1998-05
Enacted on the 8th day of June, 1998
Being a By-law Respecting the Prevention of Noise on the Reserve

WHEREAS section 81, sub-paragraphs (a), (d), (q) and (r), of the *Indian Act, R.S. 1985, C-5, as amended* (herein, '*Indian Act*') empower the Council of an Indian Band to pass by-laws to provide for the health of residents on the Reserve, the prevention of nuisances, in addition to matters arising out of or ancillary thereto, and the imposition of a penalty for the violation of any such by-law;

AND WHEREAS the Council of the Louis Bull Band considers that it is necessary for the benefit, comfort and safety of the inhabitants of the Louis Bull Band to provide for the prevention of noise on the Reserve;

AND WHEREAS the Council of the Band did enact By-law Number 1998-05 on the 8th day of June, 1998 and wishes to repeal the said By-law Number 1998-05 and replace it with this By-law.

NOW THEREFORE the Council of the Louis Bull Band hereby makes the following by-law:

1- SHORT TITLE

This by-law may be cited as the "Louis Bull Band Noise Control By-law" and is referred to herein as "By-law".

2- DEFINITIONS

in this By-law,

"*Band*" means the Louis Bull Band, as defined by Section 2 of the *Indian Act*;

"*construction*" includes erection, alteration, repair, dismantling, demolition, structural maintenance, painting, moving, land clearing, earth moving, grading, excavating, the laying of pipe and conduit whether above or below ground level, street and highway building, concreting, equipment installation and alteration and the structural installation of construction components and materials in any form or for any purpose, and includes any work in connection therewith;

"*construction equipment*" means any equipment or device designed and intended for use in construction or material handling, including but not limited to, air compressors, pile drivers, pneumatic or hydraulic tools, bulldozers, tractors, excavators, trenchers, cranes, derricks, loaders, scrapers, pavers, generators, off-highway haulers or trucks, ditchers, compactors and rollers, pumps, concrete mixers, graders or other material handling equipment;

"*conveyance*" includes a vehicle and any other device employed to transport a person or persons or goods from place to place but does not include any such device or vehicle if

operated only within the premises of a person;

“*Council*” means the Council of the Louis Bull Band, as defined in the *Indian Act*,

“*motor vehicle*” includes an automobile, motorcycle, and any other vehicle propelled or driven otherwise than by muscular power; but does not include the cars of electric or steam railways, or other motor vehicles running only upon rails, or a motorized snow vehicle, traction engine, farm tractor, self-propelled implement of husbandry or road-building machine within the meaning of the Highway Traffic Act;

“*noise*” means unwanted sound that materially impairs the use and enjoyment of a person’s property, or that prejudicially affects a person’s health, comfort or convenience or the public health, safety or welfare of the Reserve community, but does not include a sound to the extent it is unavoidably necessary for carrying on any business or other means of livelihood authorized by the Council;

“*officer*” means any peace officer, police constable or other persons charged with the duty to preserve and maintain the public peace, and a by-law officer or any other person appointed by the Council for the purpose of maintaining law and order on the Reserve;

“*point of reception*” means any point on the premises of a person where sound or vibration originating from other than those premises is received;

“*person*” includes a corporation;

“*premises*” means each single unit home being a fully or semi-detached building, a multiple unit dwelling, an apartment home or any building used or intended to be used for human habitation and in which normal domestic functions may be carried on.

“*Reserve*” means Louis Bull Indian Reserve No. 138B.

2- **APPLICATION**

All lands within the geographic limit of the Reserve of the Louis Bull Band shall be considered as the area affected by this by-law.

3- **GENERAL PROHIBITIONS**

No person shall emit or cause or permit the emission of sound or noise resulting from an act and which sound is clearly audible at a point of reception.

4- **PROHIBITIONS BY TIME AND PLACE**

Without limiting the generality of the foregoing, no person shall emit or cause or permit the emission of sound or noise resulting from any act listed in the attached "Table 1" if clearly audible at a point of reception located within the Reserve within the prohibited time as shown.

5- **EXEMPTION**

Notwithstanding any other provision of this by-law, it shall be lawful to emit or cause or permit the emission of sound or vibration in connection with emergency measures undertaken:

- a) for the immediate health, safety or welfare of the inhabitants or any of them; or
- b) for the preservation or restoration of property;

unless such sound or vibration is clearly of a longer duration or nature more disturbing, than is reasonably necessary for the accomplishment of such emergency purpose.

6- **GRANT OF EXEMPTION BY COUNCIL**

(1) **Application to Council**

Notwithstanding anything contained in this By-law, any person may make application to Council to be granted an exemption from any of the provisions of this By-law with respect to any source of sound or vibration for which he might be prosecuted and Council may, by resolution, refuse to grant any exception or may grant the exemption applied for or any exemption of lesser effect and any exemption granted shall specify the time period, not in excess of six months, during which it is effective and may contain such terms and conditions as Council sees fit.

(2) **Decision**

In deciding 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 such other matters as it sees fit.

(3) **Reapplication**

Where an application made under section 6 is refused, the Council is not required to consider any further application by that person for a period of one (1) year from the date of the refusal, unless the applicant can show that there has been a material change of circumstances.

(4) **Breach**

Breach by the application of any of the terms or conditions of any exemption granted by Council shall render the exemption null and void.

7- **OFFENCE**

- (1) Every one who creates or causes a noise contrary to the provisions of this By-law is guilty of an offence.
- (2) An officer may order any person who is causing or who threatens to cause a noise on the Reserve to refrain from causing the noise or to abate the noise within such period as is reasonable in the circumstances.
- (3) In determining whether a period fixed under subsection (2) was reasonable in the circumstances, the officer shall take into account
 - (a) the nature and extent of the noise;
 - (b) the methods available to abate the noise;
 - (c) the effect of the order on any business or means of livelihood of the person who is the subject of an order.

8- **ENFORCEMENT**

- (1) Where a person who has been ordered to refrain from causing a noise or to abate a noise within a specified period, fails or refuses to comply with the order, an officer may take such reasonable measures as are necessary to abate the noise.
- (2) A person who fails or refuses to comply with an order made under this by-law or who resists or interferes with an officer acting under this by-law, commits an offence.

9- **PENALTY**

A person who commits an offence under this by-law is liable on summary conviction to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding thirty days, or to both.

16- **REPEAL**

By-Law number 1998-05 enacted on the 8th day of June, 1998, and being a By-law respecting the regulation of noise on the Reserve is hereby repealed.

THIS BY-LAW IS HEREBY made at a duly convened meeting of the Council of the Louis Bull Band this 9th day of October, 2002.

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


(Member of the Council)

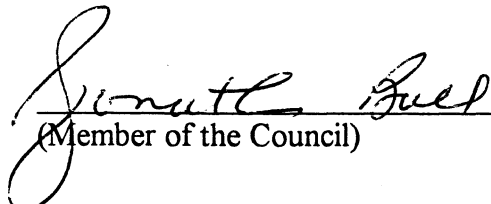

(Member of the Council)


(Member of the Council)


(Member of the Council)


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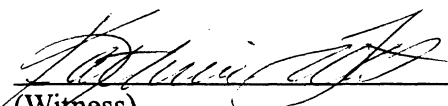
(Member of the Council)

being the majority of those members of the Council of the Louis Bull Band present at the aforesaid meeting of the Council.

The quorum of the Council is five (5) members.

Number of members of the Council present at the meeting: 8.

I, Simon Threefingers Chief/Councillor of the Band, do hereby certify that a true copy of the foregoing By-law was mailed to the Minister of Indian and Northern Affairs Canada at the _____ office of the department pursuant to subsection 82(1) of the *Indian Act*, this 9th day of October, 2002.


(Witness)

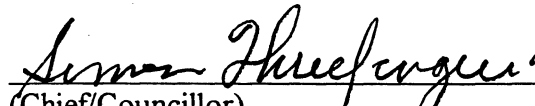

(Chief/Councillor)

TABLE 1 - Prohibition by time	Prohibited period
The detonation, without the permission of the Band Council, of fireworks or explosive devices not used in construction	At all times
The discharge of firearms	At all times
The operation of any electronic device or group of connected electronic devices incorporating one or more loudspeakers or other electro-mechanical transducers, and intended for the production, reproduction or amplification of sound	11 PM to 7 AM
The operation of any auditory signalling device, including but not limited to the ringing of bells, except for religious services, or gongs and the blowing of horns or sirens or whistles, or the production, reproduction or amplification of any similar sounds by electronic means, except where required or authorized by law or in accordance with good safety practices	11 PM to 7 AM
The operation of any motorized conveyance other than on a highway or other place intended for its operation	11 PM to 7 AM
Persistent barking, calling or whining or other similar noise making, if such noise persists for a period of time in excess of fifteen minutes, by any domestic pet or any other animal kept or used for any purpose other than agricultural	At all times
The operation of a commercial car wash with air drying equipment or any other type of car wash	11 PM to 7 AM
Yelling, shouting, hooting, whistling or singing	11 PM to 7 AM
All selling or advertising by shouting or outcry or amplified sound	11 PM to 7 AM
Loading, unloading, delivering, packing, unpacking, or otherwise handling any containers, products, materials, or refuse, whatsoever, unless necessary for the maintenance of essential services, or the moving of private household effects	11 PM to 6 AM
The operation of any equipment in connection with construction	11 PM to 7 AM
The operation or use of any tool for household purposes other than snow removal	11 PM to 7 AM
The operation of solid waste bulk lift or refuse compacting equipment	11 PM to 7 AM