

SQUAMISH NATION NOISE CONTROL BYLAW

BYLAW NO. 1, 2006

WHEREAS Squamish Nation Council deems it to be in the interests of the Squamish Nation to make a bylaw to regulate and prohibit noise on Squamish Lands.

NOW THEREFORE Squamish Nation Council hereby enacts under section 81(1) of the *Indian Act* as a bylaw the following:

Short title

1 This bylaw may be cited as the *Squamish Nation Noise Control Bylaw*.

Definitions

2 The following definitions apply in this bylaw.

"allocation" means an allocation of Squamish Lands made under the Squamish Nation Custom Land Tenure System to a person who is a member of the Squamish Nation pursuant to the Membership Code passed July 14, 2000, as amended from time to time.

"allotment" has the same meaning as in the *Indian Act*.

"Bylaw Enforcement Officer" means:

- (a) a peace officer, including a member of the West Vancouver Police or the Royal Canadian Mounted Police;
- (b) the Medical Health Officer of the Vancouver Coastal Health Authority North Shore/Coast Garibaldi region, and
- (c) any of the following designated by Squamish Nation Council under section 8:
 - (i) an employee of the Squamish Nation or a municipality,
 - (ii) an employee of the Vancouver Coastal Health Authority North Shore/Coast Garibaldi region; or
 - (iii) an employee, including the Medical Health Officer, of a Health Authority other than the Health Authority North Shore/Coast Garibaldi region.

"certificate of possession" has the same meaning as in the *Indian Act*.

"construction noise" means any noise or sound originating on or associated with a construction site, made in

- (a) carrying on work in connection with the construction, demolition, reconstruction, alteration or repair of a building or structure,
- (b) carrying on an excavation or other operation, or
- (c) moving or operating a machine, engine or construction equipment.

"continuous sound" means any noise or sound, other than construction noise, continuing for a period or periods totaling 3 minutes or more in any 15 minute period.

"day" means the periods of time

- (a) from 0700 hours (7:00 a.m.) to 1800 hours (6:00 p.m.) on a week day or a Saturday, and
- (b) from 0900 hours (9:00 a.m.) to 1800 hours (6:00 p.m.) on a Sunday or, despite paragraph (a), on a holiday.

"designated lands" means a tract of land or any interest therein the legal title to which remains vested in Her Majesty and in which the Squamish Nation has, otherwise than absolutely, released or surrendered its rights or interests.

"Her Majesty" means Her Majesty the Queen in right of Canada.

"highway" includes land within Squamish Lands that

- (a) is shown on a plan filed in the Canada Lands Surveys Records at Ottawa, Ontario, or
- (b) is available for use or is used by residents or occupiers of, visitors to or persons passing through Squamish Lands,

as a street, road, trail, lane, bridge, trestle, tunnel, ferry landing, ferry approach, viaduct or any other way.

"holiday" has the same meaning as in the Interpretation Act, R.S.B.C., 1979, c. 206.

"meter" means an instrument that accurately measures levels of sound pressure on an "A" weighted scale in accordance with the American National Standards Institute standard for meters set out in S 1.4-1983, as amended from time to time.

"motor vehicle" means a vehicle that is designed to be self-propelled and includes off-road vehicles.

"municipality" has the same meaning as in the Community Charter, R.S.B.C., 2003, c. 26.

"night" means the periods of time

- (a) from 1800 hours (6:00 p.m.) on one day to 0700 hours (7:00 a.m.) on the next day, and
- (b) despite paragraph (a), from 1800 hours (6:00 p.m.) on one day to 0900 hours (9:00 a.m.) on the next day where that next day is Sunday or a holiday.

"non-continuous sound" means any noise or sound other than continuous sound and construction noise.

"occupier" includes:

- (a) a person who, if a trespass has occurred, is entitled to maintain an action for trespass, and
- (b) a person in possession of land within Squamish Lands – including land that in ordinary conditions is covered by non-tidal water or sometime during a calendar year is covered by tidal water and floating structures – that is held directly or indirectly under a lease, licence, agreement, certificate of possession,

allotment, allocation, resolution of the Squamish Nation Council, easement or other record from the Crown or the Squamish Nation, or who simply occupies the land.

“peace officer” includes

- (a) a sheriff and sheriff's officer, and
- (b) a police officer, police constable, constable or other person employed for the preservation and maintenance of the public peace.

“person” includes an individual, a partnership, a corporation, a trust, an unincorporated association or other entity or government or any agency or political subdivision thereof.

“point of reception” means a place where a meter is located to measure the sound level from a source of noise or sound.

“police force” means a police force that operates within British Columbia, including the West Vancouver Police, the Royal Canadian Mounted Police and the Vancouver Police.

“power equipment” means any tool, equipment or machinery powered by an internal combustion engine or electric motor that is used for construction, lawn, garden, building or property maintenance, and includes edge trimmers, line trimmers, rototillers, pressure washers, carpet cleaning equipment and hand operated power tools, including chain saws, chippers and leaf blowers.

“premises” means the smallest unit of real property within Squamish Lands – including land that in ordinary conditions is covered by non-tidal water or sometime during a calendar year is covered by tidal water and floating structures – that is held directly or indirectly under a lease, licence, agreement, certificate of possession, allotment, allocation, resolution of the Squamish Nation Council, easement or other record from the Crown or the Squamish Nation, or that is simply occupied, whichever is the lesser.

“sound level” means the meter reading or recording in decibels using an “A” weighted network at the slow response setting of the meter.

“Squamish Lands” means all tracts of land, the legal title to which is vested in Her Majesty, that have been set apart by Her Majesty for the use and benefit of the Squamish Indian Band, and includes designated lands.

“Squamish Nation” means the Squamish Indian Band, a “band” as defined in the *Indian Act*.

“Squamish Nation Council” means the council of the Squamish Nation within the meaning of section 2(1) of the *Indian Act*, or a successor to that council.

General prohibitions

- 3 (1) No person shall make, or cause or permit to be made or caused, any noise or sound that
- (a) disturbs or is liable to disturb the quiet, peace, rest, enjoyment, comfort or convenience of an individual or the public, or
 - (b) exceeds the sound levels prescribed in this bylaw.
- (2) No owner, holder or occupier of real property or an interest in real property shall allow the real property to be used so that noise or sound that emanates from the real property

- (a) disturbs or is liable to disturb the quiet, peace, rest, enjoyment, comfort or convenience of an individual or the public, or
 - (b) exceeds the sound levels prescribed in this bylaw.
- (3) For certainty, despite compliance with section 4 a person may be found in violation of subsection (1) or (2).

Objectionable noises or sounds

4 Without limiting section 3, the following noises or sounds are deemed to disturb the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public and are prohibited:

- (a) a noise or sound produced within or outside a motor vehicle that originates from:
 - (i) a motor vehicle engine or exhaust system when the noise or sound is loud, roaring or explosive;
 - (ii) a motor vehicle horn or other warning device except when use of the horn or other device is authorized by law;
 - (iii) a motor vehicle operated in a manner that the tires squeal;
 - (iv) a load or tow of a motor vehicle that causes a banging, clanking, squealing or similar noise or sound due to improperly secured load or equipment or inadequate maintenance; or
 - (v) a radio, a television or other receiver, a tape, disc or digital player or other sound playback device, a computer, a musical instrument, or equipment or apparatus for the production of sound from any of the foregoing, that can easily be heard by a person outside the motor vehicle;
- (b) construction noise occurring :
 - (i) on a Sunday or a holiday;
 - (ii) before 0800 hours (8:00 a.m.) or after 1700 hours (5:00 p.m.) on a Saturday that is not a holiday; or
 - (iii) before 0730 hours (7:30 a.m.) or after 1730 hours (5:30 p.m.) on any day that is not a Saturday, a Sunday or a holiday;
- (c) power equipment noise or sound occurring:
 - (i) on a Sunday or a holiday; or
 - (ii) during the night;
- (d) noise or sound from a lawnmower occurring:
 - (i) before 1100 hours (11:00 a.m.) or after 1600 hours (4:00 p.m.) on a Sunday or a holiday; or

- (ii) before 0800 hours (8:00 a.m.) or after 2000 hours (8:00 p.m.) on any day that is not a Sunday or a holiday;
- (e) a noise or sound, the occurrence of which extends continuously or non-continuously for 15 minutes or more, that can be heard from a contiguous premises or parcel, originating from:
 - (i) an animal including a dog or a bird;
 - (ii) a radio, a television or other receiver, a record, tape, disc or digital player or other sound playback device, a computer, a musical instrument, or equipment or apparatus for the production or amplification of a sound from any of the foregoing;
 - (iii) a security system, including a burglar alarm;
- (f) a noise or sound resulting from the operation of a public address system outside of a building or structure, including a temporary structure;
- (g) in addition to the noises and sounds referred to in paragraphs (a) to (f):
 - (i) any continuous sound that exceeds the following sound levels at the point of reception:

	sound level in decibels ("dBA")
• during the day	55 dBA
• during the night	45 dBA

- (ii) any non-continuous sound that exceeds the following sound levels at the point of reception:

	sound level in decibels ("dBA")
• during the day	80 dBA
• during the night	65 dBA

- (iii) any construction noise that exceeds the following sound levels at the point of reception:

	sound level in decibels ("dBA")
• during the day	80 dBA

Location of point of reception

5 For the purpose of enforcing this bylaw, measurement of sound levels shall be made:

- (a) in the case of a noise or a sound in or on a highway, in a public park or in another public place, from a point of reception not less than 5 metres from the noise or sound;
- (b) in the case of a construction noise or another noise or a sound associated with construction, from a point of reception on any premises, not including the premises on which the construction is taking place; and

- (c) in all other cases, from a point of reception not on the premises on which the source of the noise or sound is located.

Exemptions

6 This bylaw does not apply to sound caused by:

- (a) a police, fire or other emergency vehicle or equipment during use by the operator in the conduct of the operator's lawful duty;
- (b) vehicles and equipment used to make emergency repairs to public utilities or services during their use for such purposes;
- (c) transit buses operated by a public authority;
- (d) religious and spiritual ceremonies; or
- (e) work being carried out by officers, employees or agents of the Squamish Nation for or on behalf of the Squamish Nation.

Right of entry

7 A Bylaw Enforcement Officer may at all reasonable times enter upon any Squamish Lands in order to ascertain whether the provisions of this bylaw are being observed.

Designation as a Bylaw Enforcement Officer

- 8 (1) Squamish Nation Council may by resolution designate a person or class of persons referred to in paragraph (c) of the definition given for "Bylaw Enforcement Officer" in section 1 as a Bylaw Enforcement Officer and, in the resolution, *inter alia*, specify the Squamish Nation Lands within which the person or class of persons has authority under this bylaw to act as a Bylaw Enforcement Officer.
- (2) For certainty, a Bylaw Enforcement Officer has authority to and may enforce this bylaw.

Enforcement agreements

9 Squamish Nation Council may enter into an agreement, for and in the name of the Squamish Nation, with any person, including any municipality or police force, respecting enforcement of this bylaw.

Offences and penalties

- 10 (1) Every person who contravenes any provision of this bylaw is guilty of an offence punishable on summary conviction and shall be liable to a fine not exceeding one thousand dollars or imprisonment for a term not exceeding thirty days, or both.
- (2) Where a person contravenes a provision of this bylaw, each day the contravention continues is a separate offence.
- (3) For certainty, sections 81(2) and (3) apply in respect of this bylaw.

Interpretation

11 In this bylaw

- (a) words in the singular include the plural, and words in the plural include the singular,
- (b) for certainty, the word “noise” includes more than one noise originating from one source and a noise or noises originating from more than one source, and the word “sound” includes more than one sound originating from one source and a sound or sounds originating from more than one source,
- (c) words importing female persons include male persons and corporations and words importing male persons include female persons and corporations,
- (d) where a word or expression is defined, other parts of speech and grammatical forms of the same word or expression have corresponding meanings,
- (e) the word “shall” is to be construed as imperative, and the word “may” as permissive;
- (f) unless otherwise clear from the context,
 - (i) “including” means “including, but not limited to”, and
 - (ii) “includes” means “includes, but is not limited to”,
- (g) headings and subheadings are inserted for convenience of reference only, do not form a part of this bylaw and in no way define, limit, alter or enlarge the scope or meaning of any provision of this bylaw, and
- (h) a reference to an enactment, including any bylaw, includes every amendment to it, every regulation made under it and any law enacted in substitution for it or in replacement of it.

Provisions always speaking

- 12 This bylaw and each of its provisions shall be considered as always speaking and where a matter or thing is expressed in the present tense, it shall be applied to the circumstances as they arise, so that effect may be given to this bylaw according to its true spirit, intent and meaning.

Severance

- 13 This bylaw is passed with the intention that if any part of this bylaw is declared or held invalid for any reason, the invalidity of that part shall not affect the validity of the remainder, which shall continue in full force and effect and be construed as if this bylaw had been executed without the invalid part.

Repeal

- 14 Squamish Indian Band By-Law No. 14, 1979 and amendments thereto are repealed.

Coming into force and effect

- 15 This bylaw comes into force 40 days after a copy of it is forwarded to the Minister of Indian Affairs and Northern Development or at such time before the expiration of that 40 day period as the Minister may declare.

A QUORUM OF SQUAMISH NATION COUNCIL CONSISTS OF 8 COUNCILLORS	<u>SQUAMISH NATION COUNCIL</u> 320 SEYMOUR BLVD		
	MEETING HELD AT: NORTH VANCOUVER, B. C.		
	DATED: THE 12 th DAY OF July		2006
	MOVED BY: <i>Chief Gilbert Jacob</i>	SECONDED BY <i>Dennis Joseph</i>	

<i>Chief Gilbert Jacob</i> Chief Gilbert Jacob KáKelt n siyám	<i>Chief Bill Williams</i> Chief Bill Williams telásemkin siyám	
Alroy Baker K'etxírhnt	Veronica Baker Tiyaltenaat	Deborah Baker
Richard E. Baker	Pamela Baker Hi-mi-ka-las	Dale Harry Xwa-xwalkn
<i>Krisandra Jacobs</i> Krisandra Jacobs	<i>Byron Joseph</i> Byron Joseph T'sékwlén	<i>Dennis Joseph</i> Dennis Joseph Xwech'taal
<i>Carla George</i> Carla George Kwitelut i Kwelikw	<i>Chief Richard Williams</i> Chief Richard Williams Xwélxwelacha siyám	Julie Baker Sxwélhchaliya
<i>Anthony Moody</i> Anthony Moody Tsetsimshnt	<i>Chief Ian Campbell</i> Chief Ian Campbell Xálek/Seykú siyám	