

SEMA:TH

**PREVENTION OF DISORDERLY CONDUCT
AND NUISANCES LAW, 2015**

May 19, 2015

TABLE OF CONTENTS

PREAMBLE	3
PART 1	3
1. Title	3
PART 2	3
2. Interpretation	3
PART 3	5
3. Application	
PART 4	
4. Prohibitions	
5. Enforcement	5
6. Fees and Forms	7
7. Offences	7
8. Fines and Penalties	
9. Immunity	8
PART 5	9
GENERAL PROVISIONS	9
10. Interpretation	9
11. Date Law Comes into Force	9

PREAMBLE

WHEREAS Sema:th (Sumas First Nation) has an inherent right to self-government which emanates from our people, culture and land and which is recognized and affirmed by section 35 of the *Constitution Act, 1982*;

AND WHEREAS the Sema:th (Sumas First Nation) has taken control of Reserve lands and resources pursuant to the *Framework Agreement on First Nation Land Management* and has enacted the *Sema:th Land Code* effective the 11th day of November, 2011;

AND WHEREAS the Council of Sumas First Nation has authority under section 6 of the Land Code to pass laws in various areas including the regulation of occupation of and access to Reserve lands, and prevention of public and private Nuisance;

AND WHEREAS the Council of Sumas First Nation considers it necessary for the benefit, comfort and safety of the inhabitants of the Sumas Reserve to make a law to regulate Nuisance and Disorderly Conduct and to provide for enforcement and penalties for violations;

NOW THEREFORE, THIS SEMA:TH PREVENTION OF DISORDERLY CONDUCT AND NUISANCES LAW, 2015 IS HEREBY ENACTED AS A SEMA:TH LAW.

PART 1

1. Title

- 1.1. The title of this enactment is the *Sema:th Prevention of Disorderly Conduct and Nuisances Law, 2015*.

PART 2

2. Interpretation

- 2.1. For the purposes of this Law, terms have the same definitions as in the *Sema:th Land Code* except as set out below.
- 2.2. The following definitions apply in this Law:

“Disorderly Conduct” means any act or behaviour, including:

- a) Fighting or brawling;
- b) Using abusive language;
- c) Using offensive or indecent gestures or displays;
- d) Being drunk and disorderly;
- e) Loitering;
- f) Exposing, firing or discharging any gun, pistol or other firearm, or using or threatening to use any other article as a weapon;
- g) Interfering in any significant manner with the orderly conduct of commercial, administrative, Council, educational, recreational, health care, religious or ceremonial meetings, gatherings or activities on the Reserve;
- h) Littering;
- i) Refusing to leave a public area or Sumas Community Lands when directed to do so by an Enforcement Officer, RCMP member, Security Guard and or any other Person appointed by Council to enforce Sema:th laws;
- j) Urinating and/or defecating in a public area; and
- k) Any other disorderly behaviour;

that disrupts or may disrupt public order on the Sumas Reserve lands, scandalizes the community, and/or causes or may cause inconvenience, annoyance or alarm to Sumas members or the community;

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

“Land Code” means this *Sema:th Land Code*;

“Nuisance” includes public nuisance and private nuisance and means any act, activity or condition, including:

- a) The abandonment of cars, household appliances or furniture, or parts of cars, household appliances or furniture;
- b) The storage of abandoned cars, household appliances or furniture, or parts of cars, household appliances or furniture;
- c) The dumping or storage of tires, garbage, or other refuse;
- d) The burning of tires, grass, garbage, leaves, or other refuse;
- e) The discharge of any potentially noxious substance into the air or water;
- f) Making or causing any noise or sound which disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort or convenience of the public, the neighbourhood or members or Persons in the vicinity;
- g) The creation of noxious or unpleasant smells;
- h) Vandalism, including removing, defacing, destroying, mutilating, or in any manner whatsoever damaging or attempting to damage land, structures or property ;
- i) Trespass;

- j) Interfering in any manner with the orderly conduct of commercial, administrative, educational, recreational, health care, religious or ceremonial activities on the Reserve, that disrupts public order on the Reserve, scandalizes the community, or causes public inconvenience, annoyance or alarm; and
- k) Any other act;
that materially impairs or interferes with the use and enjoyment of a Person's property, or that prejudicially affects a Person's or the community's health, comfort or convenience or the public health, safety or welfare or the Reserve community, but does not include any act, activity or condition to the extent it is unavoidably necessary for carrying on any lawful business or activity for which a permit or authorization has been provided by Sumas First Nation;

"Person" includes a corporation; and

"Reserve" means the reserve lands located on Upper Sumas No. 6.

PART 3

3. Application

- 3.1. This law applies only on the Reserve.

PART 4

4. Prohibitions

- 4.1. No Person may engage in any Disorderly Conduct or cause or create a Nuisance and every Person who engages in any Disorderly Conduct or causes or creates a Nuisance is guilty of a violation and an offence.

5. Enforcement

Order to Stop

- 5.1. An Enforcement Officer may order any Person who is threatening or engaging in any Disorderly Conduct or threatening or causing or creating Nuisance to immediately stop.
- 5.2. An Enforcement Officer may also order any Person to abate the Disorderly Conduct or Nuisance within such a period as is reasonable in the circumstances.
- 5.3. In determining whether a period fixed under subsection 5.2 is reasonable in the circumstances, the Enforcement Officer shall take into account:
 - a) The nature and extent of the Disorderly Conduct or Nuisance;

- b) The potential impact on Persons or property and on the health and well-being of Sumas First Nation and its members;
 - c) The abatement methods available;
 - d) The appropriate time required for abatement, and;
 - e) The effect of the order on any lawful business or lawful means of livelihood of the Person who is the subject of an order.
- 5.4. Where a Person who has been ordered to stop engaging in Disorderly Conduct, or to refrain from causing a Nuisance within a specified period, fails or refuses to comply with the order, an Enforcement Officer may take such reasonable measures as are necessary to stop the Disorderly Conduct, or to prevent or to abate the Nuisance.
- 5.5. An Enforcement Officer may issue any order, warning, ticket, violation notice, information or summons authorized by Council resolution, this Law or any other relevant law.
- 5.6. An Enforcement Officer or Council may issue a remediation order to compel a Person who has engaged in Disorderly Conducted or caused or created a Nuisance to repair or clean up any damage they have caused or to otherwise make amends.
- 5.7. Any Person who fails or refuses to comply with any order, warning, ticket, violation notice, information or summons made or issued under this Law commits an offence.
- 5.8. Nothing in this Law precludes Sumas First Nation from pursuing any other enforcement action or remedy provided for in any other relevant law.

6. Fees and Forms

- 6.1. Council may, by resolution, and in accordance with this Law, establish, correct, revise or update the terms of any applicable fee schedules, forms, protocols or other related documentation which complement and support this Law, and will post notice of same in a public area of the SFN administration buildings and make a copy of the same available for viewing free of charge at the administrative office of Sumas First Nation and available for distribution at a nominal charge.

7. Offences

- 7.1. No Person shall obstruct, interfere with or hinder Council, or any authorized employee, Enforcement Officer or agent in the carrying out their duties and responsibilities under this Law, or any other Sema:th Law.

7.2. Any Person who violates any of the provisions of this Law or who suffers or permits any act or thing to be done in contravention or in violation of any of the provisions of this Law, or who neglects to do or refrains from doing any act or thing required by any of the provisions of this Law, is guilty of an offence under this Law, and is liable to the penalties imposed by this Law, or any other Sema:th Law.

7.3. Each day a violation if this Law continues will be deemed to be a separate offence for which a fine or imprisonment may be imposed.

8. Fines and Penalties

Penalties

8.1. A Person who commits an offence under this law is:

- a) liable for a ticketing offence as set out in a Sema:th Law regarding ticketing or enforcement; or
- b) liable on summary conviction to a fine not exceeding one thousand dollars (\$1,000.00) or to imprisonment for a term not exceeding thirty (30) days, or to both.

8.2. A fine payable under paragraph 8.1(b) shall be remitted to the Sumas First Nation by the Court, after reasonable Court costs have been deducted.

9. Immunity

9.1. No action for damages lies or may be instituted against present or past Council or members, employees, servants or agents of either Sumas First Nation or Council:

- a) For anything said or done or omitted to be said or done by that Person in the performance or intended performance of the Person's duty or the exercise of the Person's authority; or
- b) for any alleged neglect or default in the performance or intended performance of the Person's duty or the exercise of the Person's authority.

9.2. Section 9.1 does not provide a defence if:

- a) Council, members, employees, servants or agents have, in relation to the conduct that is the subject matter of the action, been guilty of dishonesty, gross negligence or malicious or wilful misconduct; or
- b) The cause of action is libel or slander.

9.3. Sumas First Nation, present or past Council, or members, employees, servants or agents of any of Sumas or Council is not liable for any damages or other loss, including economic loss, sustained by any Person, or to the property of any Person, as a result of neglect or failure, for any reason, to discover or detect any contravention of this Law or any other Sema:th Law, or from the neglect or failure, for any reason or in any manner, to enforce this Law or any other Sema:th Law.

9.4. All actions against Sumas for the unlawful doing of anything that:

- a) Is purported to have been done by Sumas under the powers conferred by this Law or any Sema:th Law, and
- b) Might have been lawfully done by Sumas if acting in the manner established by law,

must be commenced within six (6) months after the cause of action first arose, or within a further period designated by Council in a particular case, but not afterwards.

9.5. Sumas is in no case liable for damages unless notice in writing, setting out the time, place and manner in which the damage has been sustained, is delivered to Sumas, within two (2) months from the date on which the damage was sustained. In case of the death of a Person injured, the failure to give notice required by this section is not a bar to the maintenance of the action. Failure to give the notice or its insufficiency is not a bar to the maintenance of an action if the court before whom it is tried, or, in the case of appeal, the Court of Appeal, believes:

- a) There was reasonable excuse, and
- b) Sumas has not been prejudiced in its defence by the failure or insufficiency.

PART 5

10. General Provisions

Interpretation

10.1. Headings in this Law are for reference purposes only and do not form part of the Law.

10.2. All provisions of this Law are severable. If a Court determines that any provision of this Law is invalid or inapplicable, the provision shall be severed from the Law and the remainder of the Law shall remain in force with any necessary revisions.

Date Law Comes into Force

10.3. This Law shall come into force and effect on the date it is passed by Council Resolution after complying with the requirements of subsection 7.12 or Part 2 of the Land Code.

BE IT KNOWN that this Law entitled *Sema:th Prevention of Disorderly Conduct and Nuisance Law, 2015* is hereby enacted by a quorum of Council at a duly convened Council of the Sumas First Nation held on May 25th, 2015.



Chief Dalton Silver



Councillor Murray Ned



Councillor Jackie Bird

Councillor Clint Tuttle

A quorum consists of 3 Council Members

