

TRAFFIC & PARKING CONTROL BYLAW

BYLAW NO. 2001 - 09 OF THE SONGHEES FIRST NATION

A By-law for the Regulation of Traffic & Parking

WHEREAS the Council of the Songhees First Nation desires to make a by-law governing the regulation of traffic;

AND WHEREAS the Council of the Songhees First Nation is empowered to make such by-law pursuant to paragraphs 81(1)(b), (q) and (r) of the Indian Act;

AND WHEREAS it is considered to be expedient and necessary for the safety and convenience of the inhabitants of the Songhees Reserve to regulate traffic on the reserve;

NOW THEREFORE the Council of the Songhees First Nation makes the following by-law:

Short Title

1. This by-law may be cited as the "Songhees First Nation Traffic By-law."

Interpretation

2. In this by-law,

"access road" means a driveway

(a) that is situated on leased land, on land that is subject to a certificate of possession or a certificate of occupation, or on land that is otherwise in private occupation, and

(b) that leads from a reserve road and is used to provide access from such road to such land, and in respect of which no invitation to pass has been extended to the general public by the person in possession or occupation thereof;

"Administrator" means the person appointed by the Council pursuant to section 4 to act as Administrator of this by-law;

"Commission" means the Songhees First Nation Traffic Commission, appointed pursuant to section 3;

"Council" means the Council of the Songhees First Nation;

"First Nation" means the Songhees First Nation

"highway" has the same meaning as in the Motor Vehicle Act;

"motor vehicle" means a vehicle the operation of which on a highway requires a licence or permit under the Motor Vehicle Act;

"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 enforcement officer or any other person appointed by the Council for the purpose of maintaining law and order;

"operator's licence" means a licence to operate a motor vehicle issued or accepted as valid under the Motor Vehicle Act;

"reserve" means the reserve of the Songhees First Nation;

"reserve road" means a road or other way situated on the reserve which is designed and intended for, or used for, the passage of vehicles;

"traffic control device" means any sign, marker or mechanical or electrical device designed for the purpose of regulating traffic;

"vehicle" means a device by which a person or thing is or may be transported or drawn, other than a device designed to be moved by human power alone.

Commission

3.(1) There shall be a Songhees First Nation Traffic Commission (S.F.N.T.C.), consisting of three members of the Council, who shall be appointed by the Council by resolution.

(2) The Commission may
(a) designate locations on or adjacent to a reserve road at which traffic control devices shall be erected;
(b) designate speed limits for reserve roads or portions thereof;
(c) designate parking areas on or adjacent to reserve roads, and areas in which parking is prohibited;
(d) designate areas of reserve lands to be reserve roads; and
(e) perform such other functions as are set out for it in this by-law.

(3) A copy of any designation made pursuant to this by-law shall be posted in the Band Council office, and may be appealed to the Council by any resident of the reserve by filing a Notice of Appeal with the Administrator within thirty days after the designation was first posted.

(4) A designation comes into effect thirty days after the day it was first posted pursuant to subsection (3), or, if appealed, seven days after the day a notice was posted in the Band Council office advising that the designation has been confirmed by the Council.

(5) The Council may, of its own initiative, and at any time, revoke any designation made by the Commission under this by-law, and may substitute a new designation.

Administrator

4. (1) The Council shall, by resolution, appoint an Administrator of the Songhees First Nation Traffic By-law.

(2) The Council may, in the resolution, provide for reasonable remuneration to be paid to the Administrator.

(3) The Administrator shall perform such functions as are imposed by this by-law or are directed by the Commission, and shall report to the Commission on his activities in respect of the administration of this by-law.

Insurance

5. No person shall operate a motor vehicle on a reserve road unless a valid motor vehicle third party liability insurance policy has been issued for the motor vehicle.

6. (1) A person shall have in his possession at all times while operating a motor vehicle on a reserve road proof of a valid insurance policy for the motor vehicle.

(2) Every person who is in possession or control of a motor vehicle shall produce or exhibit proof of motor vehicle insurance upon being requested by an officer to do so.

Speed Limits

7 (1) The speed limit for a reserve road shall be 30 kilometres per hour, except where otherwise designated by the Commission and marked on a traffic control device erected on the reserve road.

(2) No person shall operate a vehicle on a reserve road at a rate of speed in excess of the speed limit for that reserve road.

Traffic Control Devices

8. (1) The Administrator shall erect traffic control devices at locations designated by the Commission.

(2) On every sign erected by the Administrator there shall be placed in the lower right hand corner the words «by authority of the S.F.N.T.C.».

(3) The operator of a vehicle shall obey all traffic control devices erected pursuant to this by-law, except where otherwise directed by an officer or by a person authorized by the Commission or the Administrator to direct traffic.

(4) No person shall remove, attempt to remove, deface, destroy or otherwise interfere with any traffic control device erected in accordance with this by-law.

Parking

9.(1) The Administrator may install a traffic control device that designates an area as

- (a) an area where parking is reserved for persons holding parking permits;
- (b) an area where parking is permitted for a period of time; or
- (c) an area where parking is not permitted.

(2) No person shall park a motor vehicle in an area designated pursuant to paragraph 1(a) unless he

- (a) holds a parking permit authorizing him to park in the area;
- (b) attaches to and exposes on the motor vehicle the label furnished with the parking permit; and
- (c) parks in accordance with the terms of his parking permit.

(3) No person shall park a motor vehicle in an area designated pursuant to paragraph (1)(b) for any greater period of time than that designated by the traffic control device.

(4) No person shall park a motor vehicle in an area designated pursuant to paragraph (1)(c).

(5) No person shall park a motor vehicle or a trailer on a road for purposes of overnight accommodation except in areas or at locations designated for that purpose by the Council.

Parking Permits

10. (1) The Administrator may issue parking permits and furnish labels for the purposes of this by-law.

(2) A parking permit issued pursuant to subsection (1) is valid for the period stated thereon or until revoked by the Administrator and a label furnished with the permit is valid for the same period.

11. Where an area in the reserve is designated by a traffic control device as an area where parking is reserved for a category of persons, no person shall park in the area unless he is included in that category.

12. No person shall

- (a) abandon a motor vehicle on or adjacent to a road; or
- (b) park a motor vehicle in any area for a greater period of time than 48 hours, unless he
 - (i) has obtained the prior permission of the Administrator to park in such area for a greater period than 48 hours,
 - (ii) is the owner, lessee or licensee of the property, or
 - (iii) is authorized by the owner, lessee or licensee of the property to park the motor vehicle for a greater period than 48 hours.

13. No person shall park a motor vehicle within 6 metres of any road intersection or within 3 metres of a water hydrant or fire plug within the reserve.

- 14.(1) No person shall park a motor vehicle on any road so as to
- (a) obstruct a driveway leading to a private residence or business premises; or
 - (b) interfere with a motor vehicle that is being loaded or unloaded.

(2) No person shall park a motor vehicle on a sidewalk unless he is permitted to do so by the Administrator.

(3) No person shall, without permission from the Administrator, stop or park a motor vehicle on a road otherwise than in the direction of the vehicular traffic on the side of the road on which he proposes to stop or park, and parallel with, and no further distant than $\frac{1}{2}$ metre from, the curb or edge of the road.

(4) Where the Administrator has permitted the stopping or parking of a motor vehicle on a road in a manner other than the manner described in subsection (3), every person stopping or parking a motor vehicle on that road, shall comply with any order of the Administrator regarding the manner of stopping or parking the motor vehicle.

(5) Where the Administrator has designated parking spaces on a road, no person shall park a motor vehicle on that road except

- (a) in one of those parking spaces; or
- (b) if the motor vehicle exceeds the length of one parking space, in not more than two of those parking spaces.

(6) No person shall park a motor vehicle on a sloping road without having set the vehicle's parking brakes and, by turning the wheels of the motor vehicle or by other suitable means, ensure that in case of brake failure the motor vehicle will not run down the slope.

15. No person shall stop or park a motor vehicle in any public lane except while engaged in loading or unloading chattels to or from the motor vehicle.

16. No person shall stop or park a motor vehicle in any fire lane.

Removal of Obstructing Vehicles

- 17.(1) Where a vehicle is situated, whether attended or unattended, in such a position that
- (a) it interferes with the normal flow of traffic,
 - (b) it interferes with the removal of snow from a road,
 - (c) it interferes with fire fighting or other emergency equipment, or
 - (d) it is likely to be vandalized,

or where the vehicle is parked contrary to this by-law, or apparently has been abandoned for a period of 72 hours or longer, an officer may

- (e) remove the vehicle, or require the operator or person in charge of the vehicle to remove it, to a position determined by the officer, or
- (f) take the vehicle into custody and cause it to be removed to and stored in a suitable place.

(2) All costs and charges for the removal, care or storage of a vehicle removed under subsection (1)

shall be paid by the owner of the vehicle.

(3) The keeper of any repair shop, garage or storage place where the vehicle is stored is under no obligation to return the vehicle to the owner until the costs and charges referred to in subsection (2) have been paid.

Weight Restrictions

18.(1) The Commission may designate weight restrictions for vehicles using reserve roads.

(2) The Administrator may issue temporary permits allowing vehicles exceeding weight restrictions to use reserve roads where the circumstances are urgent and the Administrator is of the opinion that the use of the vehicle granted the temporary permit will not damage the reserve road.

(3) An appeal lies to the Commission from a decision of the Administrator refusing an application for a temporary permit.

(4) No person shall operate a vehicle on a reserve road the weight of which, including the load carried, is more than the maximum weight designated for that vehicle on that reserve road and posted by a traffic control device on the reserve road.

Rules of the Road

19.(1) A person shall not operate a vehicle on a reserve road

- (a) without due care and attention;
- (b) without reasonable care and consideration for other persons on the reserve road; or
- (c) at a speed that is excessive relative to road, traffic, visibility and weather conditions.

(2) The operator of a vehicle shall keep to the right hand half of a reserve road, except

- (a) when overtaking and passing a vehicle proceeding in the same direction;
- (b) when the right hand half of the reserve road is closed for traffic while under construction or repair; or
- (c) where necessary because of the operation of road grading or snow removing equipment.

(3) The operator of a vehicle on a reserve road shall not cause or permit the vehicle to follow another vehicle more closely than is reasonable and prudent, having regard to the speed of the vehicles and the amount and nature of the traffic on, and the condition of, the road.

(4) The operator of a vehicle on a reserve road shall not pass or attempt to pass another vehicle travelling in the same direction

- (a) when proceeding uphill;
- (b) when on a curve; or
- (c) when approaching within 30 metres of another road or a railway crossing.

(5) The operator of a vehicle on a reserve road shall, before turning the vehicle, signal his intention to do so by giving the signal in sufficient time to provide reasonable warning to other persons.

(6) Where a flagman is stationed, or a barricade or sign is erected, on a reserve road to direct traffic in connection with any construction or other work on the road or adjacent to the road, the operator of a vehicle shall obey the directions given by the flagman, or, if none, by the barricades or signs.

(7) The operator of a vehicle about to enter a reserve road from an access road shall yield the right of way to traffic on the reserve road being entered upon, unless a traffic control device otherwise directs.

Duties of the Operator

20.(1) The operator of a vehicle on a reserve road must bring the vehicle to a stop when ordered to do

so by an officer.

(2) The operator or any other person in charge of a vehicle that is directly or indirectly involved in an accident on a reserve road shall

- (a) remain at or immediately return to the scene of the accident;
- (b) render all reasonable assistance to anyone injured in the accident; and
- (c) produce in writing to any other operator involved in the accident or to anyone sustaining loss or injury and, on request, to an officer
 - (i) the name, address and telephone number of the operator,
 - (ii) the name, address and telephone number of the registered owner of the vehicle,
 - (iii) the licence number of the vehicle, and
 - (iv) particulars of any insurance policy on the vehicle, or any other information as requested.

(3) The operator or any person in charge of a vehicle that collides with an unattended vehicle on a reserve road shall

- (a) stop,
- (b) locate and notify in writing the person in charge of or the owner of the unattended vehicle, or leave a written notice on the vehicle containing
 - (i) the name, address and telephone number of the operator,
 - (ii) the name, address and telephone number of the registered owner, and
 - (iii) the licence number of the vehicle.

(4) Where a vehicle that is operated on a reserve road causes injury to a person or damage to property exceeding \$500.00, the operator thereof shall report the injury to an officer or to the Administrator, and shall provide a report in writing if requested.

School Bus

21.(1) If a vehicle bearing the sign "SCHOOL BUS" and displaying alternatively flashing red lights is stopped on any reserve road, or on any access road, the operator of a vehicle approaching the school bus from either direction on a reserve road shall stop before reaching the school bus.

(2) The operators of school buses and of vehicles in the vicinity of a stopped school bus shall comply with the [name of provincial Act relating to motor vehicles and traffic] respecting the operation of school buses and vehicles in the vicinity of school buses.

Equipment

22. No person shall operate, on a reserve road, a vehicle that is in a dangerous or unsafe condition, or a motor vehicle that is not equipped as required by the Motor Vehicle Act for operation on a highway.

Impounding of Vehicles

23.(1) Where a vehicle is situated on or adjacent to a reserve road, whether attended or unattended, in such a position that

- (a) it interferes with the normal flow of traffic on the reserve road,
- (b) it interferes with the removal of snow from the reserve road,
- (c) it interferes with fire fighting or other emergency equipment, or
- (d) it is likely to be vandalized, or where the vehicle is parked contrary to this bylaw, or apparently has been abandoned for a period of 72 hours or longer,

an officer may

- (e) remove the vehicle, or require the operator or person in charge of the vehicle to remove it, to a position determined by the officer, or
- (f) take the vehicle into custody and cause it to be removed to and stored in a suitable place.

(2) All costs and charges for the removal, care or storage of a vehicle removed under subsection (1)

shall be paid by the owner of the vehicle.

(3) The keeper of any repair shop, garage or storage place where the vehicle is stored is under no obligation to return the vehicle to the owner until the costs and charges referred to in subsection (2) have been paid.

Offence and Penalties

24. A person who contravenes, or who otherwise fails to comply with any provision of this by-law, commits an offence and is liable on summary conviction to a fine not exceeding \$1,000.00 or to imprisonment for a term not exceeding 30 days, or to both.

Amendment

25. Council must follow the following procedures in amending or repealing this bylaw:

- (a) Council must present the amendment or proposal to repeal for discussion at three separate meetings;
- (b) Council must provide at least 15 days notice to members prior to each meeting referred to in paragraph 27(a). Such notice must indicate the nature of the bylaw being discussed;
- (c) Council must allow any member, or any person who may possibly be affected by the proposed bylaw, to present written or oral comments at any of the meetings required by paragraph 27(a). 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 Council of the Songhees First Nation this 19th day of June, 2001.

Voting in favour of this 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)

(Member of the Council)

(Member of the Council)

being the majority of those members of the Council of the Songhees First Nation present at the aforesaid meeting of the Council.

The quorum of the Council is ³ members.

No. of members of the Band Council present at the meeting:

I, Robert Sam, Chief/Councillor of the Songhees First Nation do hereby certify that a true copy of the foregoing by-law was mailed to the Minister of Indian Affairs and Northern Development at the Hull office (as the case may be) pursuant to subsection 82(1) of the Indian Act, on or about this 19th day of June, 2001.


(Witness)


(Chief/Councillor)