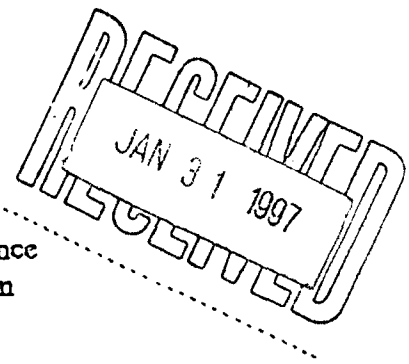


The Okanagan Indian Band
By-Law No. _____
Respecting the Construction, Maintenance
and Regulation of Waterworks System



Whereas the Council of the Okanagan Indian Band deems it expedient to enact a by-law for the purpose of constructing, maintaining, and regulating a waterworks system on the Reserve of the Band.

And Whereas paragraphs 81(1), (a), (f), (l), (q), and (r) of the *Indian Act*, R.S.C. 1985, c. 1-5 (the "Act"), empower the Council of a Band to make by-laws to provide for the health of residents, the construction and maintenance of watercourses, roads, bridges, ditches, fences, and other local works, the construction and regulation of the use of public wells, cisterns, reservoirs and other water supplies, with respect to any matter arising out of or ancillary to the exercise of powers under section 81, and the imposition on summary conviction of a fine or imprisonment for violation thereof;

Now, therefore, the Council of the Okanagan Indian Band enacts as a by-law thereof as follows:

PART I - GENERAL PROVISIONS

Short Title

1. This by-law may be cited as "The Okanagan Indian Band Water By-Law".

Interpretation

2. In this By-Law

"Act" means the *Indian Act*, R.S.C. 1985, c. 1-5;

"Band" means the Okanagan Indian Band;

"connection line" means any pipe or other device conveying water from the waterworks system or some other source of water to lands;

"Council" means the Council of the Band;

"Fee Schedule" means that schedule of fees attached as Schedule "A" to this by-law and forming a part hereof;

"lands" means:

- (a) any interest of a person in lands located within I.R. #6 (the "Reserve") and any right or rights of a person in respect of the use of lands located within the Reserve including, but without limiting the generality of the foregoing, any:

- (i) unallotted lands in Reserve;
- (ii) right to the use of lands in Reserve under subsection 18(2) of the Act;
- (iii) right to occupy or use or otherwise exercise rights in lands in Reserve under section 28 of the Act;
- (iv) use of lands with the consent of the Governor in Council under section 35 of the Act;
- (v) right to use lands under a lease of lands surrendered for the purpose of leasing under the Act;
- (vi) right to use lands under a lease granted under section 58 of the Act; and
- (vii) right to use lands under any other arrangement, including a bakshee lease,

together with:

- (b) all premises existing on any interest in the lands at the date of the making of this by-law or thereafter made or erected;

"occupant" includes any person occupying premises on any lands and in the event that there is more than one such occupant, includes all occupants who are occupying those premises;

"PW Supervisor" means the Public Works Supervisor of the Okanagan Indian Band appointed from time to time by the Council of the Okanagan Indian Band, or his authorized representative;

"person" includes any individual, proprietorship, company, partnership, association or society;

"premises" includes any structure at which water is used within the Reserve and whether erected in, on, under or affixed to the land on the Reserve and whether directly or indirectly or by means of rafts, floats, docks or other floating structures or devices, and without restricting the generality of the foregoing, includes any single-family dwelling, multiple-family dwelling, boarding house, cabin, trailer, duplex, suite, apartment, store, bank, office, building, garage, motel, hotel, coffee shop, drive-in, laundromat, school, sawmill, cannery, packing plant, shopping centre, recreation facility, arena, extended care facility, day-care facility, and public utility;

"Pro Forma Servicing Agreement" means the Pro Forma Servicing Agreement adopted by the Council of the Okanagan Indian Band on January 13, 1997 and attached as Schedule "B" to this by-law;

"Waterworks System" includes all storage facilities, water mains, service pipes, standpipes, fire hydrants, meters, pumps, electrical fittings, taps, valves and all other

apparatus of any nature whatsoever maintained, used, or operated under authority of Council or the City of Vernon to deliver water to any lands, premises, standpipe or fire hydrant located within the Reserve.

All Occupants Liable

3. Without limiting the generality of any provision of this by-law, if more than one person falls within the definition of "occupant" given in section 2, all such persons are jointly and severally subject to all provisions of this by-law in which the term "occupant" is used.

PART II - SERVICE CONNECTIONS

4. No person shall construct or carry out any maintenance on or improvements to a connection line (other than emergency maintenance) unless he has first obtained the written consent of the PW Supervisor and has entered into the Pro Forma Servicing Agreement.
5. A connection line shall:
 - (a) be constructed from pipes and fittings which have received Canadian Standards Association approval;
 - (b) be installed in conformity with good engineering and construction practice;
 - (c) not exceed 20 millimetres in internal diameter unless otherwise permitted by the PW Supervisor;
 - (d) not be less than one metre below the surface of the ground unless otherwise permitted by the PW Supervisor;
 - (e) not be laid at the same level as or deeper than any sewer line serving the same lands as does the connection line.
6.
 - (a) All premises that are constructed on the lands after the enactment of this by-law must be connected to the Waterworks System. The Council may impose conditions on how the premises are to be connected to the Waterworks System including entering into the Pro Forma Servicing Agreement.
 - (b) Any premises served by a connection line that has not been connected to the Waterworks System shall, within six months of the enactment of this by-law, be connected to the Waterworks System unless the Council has agreed to otherwise in writing.
 - (c) The occupant of the lands connected or to be connected to the Waterworks System shall connect or cause to be connected about his lands such taps, pipes, fittings and fixtures to the connection line as are necessary to control the flow of water within the lands in conformity with good engineering practice and as is required in the Pro Forma Servicing Agreement.
 - (d) The occupant of lands at which water conveyed from the Waterworks System is used shall repair, maintain, and keep repaired and maintained, all taps, pipes, fittings, and

fixtures that have been laid, constructed, or installed for the purpose of conveying water from the Waterworks System within his lands.

7. No connection line shall be connected, or having been disconnected be reconnected, to the Waterworks System unless and until the PW Supervisor has inspected the connection line and determined that, in his opinion, the connection line meets every requirement of this by-law and the Pro Forma Servicing Agreement.
8. Any connection, or having been disconnected, reconnected, of a connection line to the Waterworks System shall be carried out under supervision of the PW Supervisor or by such employees or agents of the Band as the PW Supervisor shall determine, and shall be carried out as soon as reasonably possible after the inspection provided for in this section 8.
9. When the consent of the PW Supervisor, as the case may be, is required under this part, such consent shall be given when the connection line and related works are constructed in conformity with the provisions of this by-law and the supply of water, water pressure, and the Waterworks System is adequate to service the needs of the person applying.

PART III - WATERWORKS SYSTEM

10. Other than as is specifically otherwise permitted by this by-law and in the Pro Forma Servicing Agreement, no person shall open, shut, adjust, draw water from or tamper with any part of the Waterworks System.
11. No person shall at any time in any manner obstruct access to any hydrant, standpipe, valve, stopcock or other fixture constituting part of or in any manner connected with the Waterworks System, and the PW Supervisor may order the removal of any such obstruction and the expense of such removal shall be charged to and be paid by the person in breach of this section, which payment shall be in addition to any penalty that may be imposed under this by-law for breach of this section.

PART IV - WORKS ON LANDS

12. (a) No person shall at any time in any manner make, or permit to be made, any additional connection to this water system for the purpose of providing a building, or other structure, with water from this water system, except with the prior written consent of the PW Supervisor and only after entering in to the Pro Forma Servicing Agreement.

(b) The consent of the PW Supervisor required by subsection (a) shall be given when the additional connection and related works are constructed in conformity with the provisions of this by-law and the supply of water, water pressure, and the Waterworks System is adequate to service the additional needs of the person applying.
13. No person receiving water from the Waterworks System shall connect his water system with an external source of water except with the prior written consent of the PW Supervisor and subject to the terms and conditions of the Pro Forma Servicing Agreement.

14. No person shall use, or permit the use of, a pump or other device that will increase the pressure in any pipe that forms part of or is connected to the Waterworks System, except with the prior written consent of the PW Supervisor.
15. No device to introduce a chemical or other substance into a pipe or other apparatus that forms part of or is connected to the Waterworks System shall be installed anywhere, except with the prior written consent of the PW Supervisor.
16. Every occupant of residential premises shall supply the premises with sanitary facilities which, in the opinion of the PW Supervisor, conforms with all standards of the Department of Health and Social Development of the Province of British Columbia.

PART V - USE OF HYDRANTS, STANDPIPES AND VALVES

17. Other than is specifically otherwise permitted in this by-law and in the Pro Forma Servicing Agreement, no person other than the PW Supervisor, persons acting under the direction of the PW Supervisor, a member of the Okanagan Indian Band Volunteer Fire Department carrying out his appointed duties, a person acting under the authority of the Fire Chief while assisting in suppression of a fire or a person requiring emergency use of water to suppress a fire, shall open or draw water from any standpipe, hydrant or valve which is a part of the Waterworks System unless he has first obtained the written consent of the PW Supervisor.

PART VI - CHARGES AND METERING

18. The occupant of premises to which water is conveyed from the Waterworks System shall pay to the Band a monthly fee as prescribed in the Fee Schedule unless the Band, as represented by its Council, has agreed to some other arrangement.
19. (a) Where at any time in the opinion of the PW Supervisor the quantity of water, or the rate at which it is being drawn from the Waterworks System by a person is in excess of that contracted for, the PW Supervisor may take such measures as he deems necessary to limit the quantity or rate of supply of water to the lands and premises of that person.

(b) Without limiting the generality of subsection (a), the measures referred to therein may include the installation of a meter, partially closing the controlling curb stop or standard waterworks valve, regulating the rate and time at which water may be used, and establishing such special charges as Council from time to time may determine for water used in excess of a stipulated quantity or rate.
20. If the Fee Schedule is at any time amended, the amounts payable pursuant to this Part shall be altered in accordance with such amendment without notice to any person.

PART VII - WATER USE PROHIBITIONS

21. No person shall:
 - (a) sell or otherwise dispose of water through a connection line, or
 - (b) permit water supplied to him through a connection line to be taken away or

applied for the benefit of any other person or lands,
except with prior written consent of the c except with prior written consent of the PW
Supervisor.

22. (a) Except as otherwise specifically permitted in this by-law, no person shall use water for watering stock, filling of swimming pools or reservoirs, or for any other purpose other than normal domestic use, except with prior written consent of the PW Supervisor.
- (b) Any consent granted by the PW Supervisor under subsection (a) shall specify the purpose, time of use, quantity of water permitted to be used, any charges for such use and any special works required to be installed by the user before commencing such use.
23. The PW Supervisor may terminate or withdraw any consent granted by it under sections 21 or 22 at any time upon providing prior written notice to the occupant.
24. Council may at any time and from time to time introduce restrictions on the use of water for sprinkling or any other purpose and upon notice of such restrictions being on the Band bulletin board at the Band Administration Offices and upon being advertised by way of local media, no person shall use water for those purposes prohibited by or in excess of any limits imposed by, such restrictions.
25. Notwithstanding anything to the contrary elsewhere contained in this by-law, no person shall, without the prior written consent of the PW Supervisor:
- (a) use water for sprinkling in excess of reasonable requirements,
 - (b) use more than two outlets at one time for sprinkling purposes, neither of which said outlets shall exceed 20 millimetres in internal diameter;
 - (c) use an outlet exceeding 20 millimetres in internal diameter for sprinkling water;
 - (d) use an open pipe or hose for sprinkling purposes; or
 - (e) irrigate land, inclusive of the area of land occupied by the premises.

PART VIII - RIGHT OF ACCESS

26. (a) Council and employees and agents of the Band acting under the direction of Council or the PW Supervisor shall have right of access to all lands at all reasonable hours for the purpose of inspecting or testing any works, fittings or appliances related to the use of water, or for the purpose of installing, removing, repairing, reading or inspecting water meters.
- (b) No person shall obstruct or prevent any member of the Council or any employee or agent of the Band from carrying out any of the provisions of this by-law.

PART IX - LIABILITY OF THE BAND AND COUNCIL

27. (a) The PW Supervisor may, for the purpose of repairing, maintaining, adding to or extending the Waterworks System, shut off the water supply anywhere within the Reserve for such a period of time as he considers necessary.

- (b) Where the PW Supervisor shuts off the water supply pursuant to subsection (a) for less than an hour, or where an emergency arises, no notice to the occupant is required to be given.
- (c) If it is anticipated that water service is to be interrupted pursuant to subsection (a) for more than four consecutive hours, notice shall be given to those water users likely to be affected, provided that no notice of disruption in water service shall be required in the event of any emergency or unanticipated conditions affecting the Waterworks System.
28. Neither the Band, the Council, any member of Council or any employee or agent of the Band shall be liable for any damages to any property or person in any way relating to or arising out of any:
- (a) interruption in the provision of water;
 - (b) variation in or inadequacy of water pressure; or
 - (c) inadequate quality of water.
29. If at any time Council deems it to be in the interest of the Band, it may direct that any water service be reduced or discontinued until such time as Council deems it advisable to restore such service.

PART X - NO OBLIGATION TO SUPPLY WATER

30. Nothing in this by-law shall obligate the Band or the Council to supply water to any person when the cost of extending the Waterworks System to that person's lands would, in the opinion of the Council, create an excessive financial burden upon the Band, unless such person is prepared to pay to the Council all costs of extending the Waterworks System to his lands and provided such extension to the Waterworks System is of sufficient capacity to provide for further service to lands of persons other than the person requesting the supply of water.

PART XI - SALE OF WATER OFF RESERVE

31. (a) The Council may enter into agreements for the purpose of purchasing or selling water off reserve.
- (b) Such agreement shall be subject to the provisions of this by-law.
- (c) Without restricting the foregoing, such agreement shall provide for the recovery of capital costs and operating expenses of the Band Waterworks System.
- (d) In the absence of any such agreement, the Band is under no obligation to sell or supply water to any person off reserve or to continue such water service as may exist at the time of coming into force of this by-law.
- (e) The Council may, when water is supplied from the Band Waterworks System to a person off-reserve through a connection located on-reserve, levy a monthly or annual

charge, as the case may be, to such person for continued access to the Band Waterworks System.

(f) All charges levied pursuant to subsection (e) may provide for the recovery of capital costs and operating expenses of the Band Waterworks System, and may be levied notwithstanding that no agreement may have been made pursuant to subsection (a).

(g) All charges levied pursuant to any agreement made under subsection (a), or charges levied pursuant to subsection (e), shall be paid within thirty (30) days of the receipt of an invoice for such charges by the person responsible for the payment thereof.

PART XII - POLLUTION

32. No person shall pollute any reservoir from which water is conveyed by the Waterworks System or water flowing through the Waterworks System or deposit anywhere any deleterious substance which may in any way contaminate such reservoir or such water.
33. No person shall deposit into or on the ice of or on the shores of any waters lying within the Reserve any night soil, garbage, manure, dead animal matter, decaying vegetable matter or any substance or substances that in any way may contaminate such waters and tend to make the waters therefrom unfit for human consumption.

PART XIII - APPLICATION OF RATES AND FEES

34. All fees, charges, and rates collected under the provisions of this by-law shall be applied by Council for such purpose or purposes as Council determines from time to time.
35. Interest shall be added at the rate of 12% per annum, calculated monthly, commencing 30 days from the date of billing, to the amount of any unpaid bill for all fees, charges and rates owing under the provisions of this by-law.

PART XIV - PENALTIES

36. (a) Notwithstanding anything to the contrary contained elsewhere in this by-law, the PW Supervisor may, on twenty-four (24) hours' written notice, order that the supply of water to any person in default of the requirements of this by-law be turned off, in which case the person in default shall not be entitled to receive any further water from the Waterworks System until such person has remedied the default.

(b) No person whose water has been turned off pursuant to subsection (a) shall turn such water on again or take any water from the Waterworks System until such time as the the PW Supervisor authorizes to turn the water on again.
37. Any person who contravenes any provision 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 to imprisonment for a period not exceeding thirty (30) days, or to both.

This by-law is hereby made at a duly convened meeting of the Council of the Okanagan Indian Band this 27th day of January, 1997.

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

Albert Saddleman
(Member of the Council)

Russell Williams
(Member of the Council)

[Signature]
(Member of the Council)

Gary Bonner
(Member of the Council)

[Signature]
(Member of the Council)

[Signature]
(Member of the Council)

[Signature]
(Member of the Council)

[Signature]
(Member of the Council)

[Signature]
(Member of the Council)

[Signature]
(Member of the Council)

being the majority of those members of the Council of the Okanagan Indian Band present at the aforesaid meeting of the Council.

The quorum of the Council is 5 members.

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

I, Albert Saddleman, Chief/Councilor of the Okanagan Indian Band, 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 District/Regional/Hull offices (as the case may be) pursuant to subsection 82(1) of the *Indian Act*, this 27th day of January, 1997

Jennifer Lewis
(Witness)

Albert Saddleman
(Chief/Councilor)

Schedule "A"

SCHEDULE OF FEES

1.	<u>Residential - Flat Rate</u>	<u>Rate per 3 Months</u>
(a)	Single-Family Dwelling	\$ 175.00
(b)	Residential where metering not possible	\$ 54.00

The residential rate will not apply where water is taken through the residence for commercial use.

2.	<u>Residential - Metered</u>	
(a)	Single-Family - minimum charge	\$ 33.33
	- plus consumption charge between 46 & 300 cu.m.	\$.34 per cu.m.
	- plus consumption charge in excess of 300 cu.m.	\$.56 per cu.m.
(b)	Multiple-Family - the residential rate will be applied based on the number of unit multiplied by the allowed consumption for each rate block where there is only a master meter.	

3.	<u>Commercial Rate</u>	
(a)	Flat Rate	\$ 77.00
(b)	Metered Rate	
	First 135 cu.m. (29,700 gallons)	\$.44 per cu.m.
	Next 1,865 cu.m. (410,000 gallons)	\$.33 per cu.m.
	Over 2,000 cu.m. (440,000 gallons)	\$.29 per cu.m.

provided there shall be a minimum charge, as follows:

<u>Meter Size</u>		
12 mm. to (1/2")		\$ 62.50
20 mm. to (3/4")		\$ 70.00
25 mm. to (1")		\$ 73.00
37.5 mm. to (1-1/2")		\$ 168.00
50 mm. to (2")		\$ 180.00
75 mm. to (3")		\$ 415.00
100 mm. to (4")		\$ 700.00
150 mm. to (6")		\$ 910.00
200 mm. to (8")		\$1,350.00