

The Garden River First Nation Band

By-law No. 12

BY-LAW REGULATING THE USE OF MOTORCYCLES, ALL TERRAIN VEHICLES AND SNOWMOBILES

WITHIN THE GARDEN RIVER FIRST NATION

WHEREAS, paragraphs 81 (1) (b), (q) and (r) of the Indian Act empowers the Council of the Garden River First Nation Band to enact by-laws respecting the regulation of traffic, with respect to any matter arising out of or ancillary to the exercise of powers under section 81, and to impose a penalty for the violation of a by-law made under section 81;

AND WHEREAS, the Council of the Garden River First Nation Band is of the opinion that the indiscriminate use of motor vehicles, motorcycles, all terrain vehicles and snowmobiles is contrary to the welfare of band members and other persons on the reserve, and that it is therefore in the best interests of the residents of the Garden River First Nation to regulate motorcycles, all terrain vehicles and snowmobiles within the Garden River First Nation;

NOW THEREFORE, the Council of the Garden River First Nation Band enacts as a by-law thereof as follows;

Short Title

1. This by-law may be cited as the "All Terrain Vehicle 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 public road or a First Nations 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;

"all terrain vehicle" means a self propelled vehicle that;

- a) is designed primarily for the movement of people or goods on unprepared surfaces; and
- b) has wheels in contact with the ground;

and includes:

- c) a restricted use motorcycle,
- d) a mini-bike and
- e) an all terrain cycle;

but does not include:

- f) a golf cart
- g) a snowmobile as defined in the by-law, or
- h) any vehicle that is required to be registered pursuant to The Highway Traffic Act of the Province of Ontario;

"First Nations road" means a road or other way over which vehicles are accustomed to pass, other than a public road or an access road and includes an area designated as a reserve road under paragraph 3(2)(d) of the Garden River First Nation Band Traffic By-Law No. 7;

"highway" means a road, parkway, driveway, square or place designed and intended for or used by the general public for the passage of motor vehicles.

"motorcycle" means a motor vehicle that

- a) is propelled or driven by any means other than by muscular power,
- b) has two or more wheels, and
- c) does not have a cab for a driver;

“motor vehicle” includes an all terrain vehicle, motorcycle or snowmobile;

“operator” means a person who uses, operates or is actually in physical control of a motor vehicle;

“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 on the Reserve;

“power turn” means to maneuver a motor vehicle in such a manner causing the rear of the vehicle to depart from its ordinary line of progress by the sudden use of acceleration or braking;

“public road” means a road on which provincial law applies;

“snowmobile” means a motor vehicle that

- a) is not equipped with wheels but is equipped with tractor treads alone or with skis or with skis and propeller,
- b) is designed primarily for operating over snow and is used exclusively for that purpose, and
- c) is designed for that purpose;

“towed conveyance” includes any sled, cutter, trailer, toboggan or carrier that may be towed by a snowmobile;

“u-turn” means the turning of a motor vehicle so as to cause it to proceed in the opposite direction from which it was proceeding immediately prior to the commencement of such turn;

“reserve” means the tract of land, the legal title of which is vested in Her Majesty for the use and benefit of the Garden River First Nation Band;

“reserve road” means a road or other way over which vehicles are accustomed to pass, other than a public road or an access road;

“road” includes reserve road, access road, public road or highway;

“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 and includes motorcycles and motorized snow vehicles;

General Prohibitions

3. No person shall drive a motorcycle, all terrain vehicle or snowmobile on any First Nations road or access road at a speed greater than 40 kilometer per hour.
4. No operator of a motorcycle, all terrain vehicle or snowmobile shall execute a power turn on any First Nations road or access road on the reserve.
5. No person shall cause a motorcycle, all terrain vehicle or snowmobile to make a u-turn at any intersection between two roads.
6. No person shall operate a motorcycle, all terrain vehicle or snowmobile without due care and attention or without reasonable consideration for other persons or property upon the reserve.
7. (1) No person shall operate a snowmobile, all terrain vehicle, or motorcycle on the reserve between the hours of 12:00 a.m. and 6:00 a.m.
(2) No person commits an offense under subsection 7(1) if,
 - a) that person is a hunter or trapper by occupation, while he is operating the snowmobile, all terrain vehicle or motorcycle:
 - i) after 12:00 a.m., for the purpose of returning from hunting or trapping to his residence on the reserve; or
 - ii) before 6:00 a.m., for the purpose of departing from his residence on the reserve for the purpose of hunting or trapping.
8. No operator, while operating a motorcycle, an all terrain vehicle or a snowmobile shall permit more than one passenger to ride.
9. No person shall operate a snowmobile on a First Nations road or access road which tows a conveyance unless the towed conveyance is connected to the snowmobile by a rigid drawbar that is so constructed and connects the snowmobile and the towed conveyance so that a distance of no more than one meter (3 feet) separates the extreme rear point of the snowmobile and the extreme front part of the towed conveyance.
10. (1) No person who is or, in the absence of evidence to the contrary, appears to be under the age of sixteen years, shall operate a snowmobile, an all terrain vehicle or a motorcycle on any road.
// (2) Notwithstanding subsection (1), any person who is or, in the absence of evidence to the contrary, appears to be under the age of sixteen years, may operate a snowmobile, an all terrain vehicle or a motorcycle upon a road provided he is under the direction of a parent, custodian or guardian and is using the vehicle in the performance of domestic or household duties.

EXEMPTIONS

12. (1) No person commits an offense under this by-law where he or she acts with legal justification or excuse.

LEGAL JUSTIFICATION SMALL MEAN:

- (2) Any person(s) transporting injured or ill people to a hospital, dwelling, etc. where they can be properly treated or to reach a phone to make arrangements to be transported by an emergency vehicle.
- (3) No officer commits an offense under this by-law while operating a motorcycle, all terrain vehicle or a snowmobile in such a manner and at such time so as to properly exercise his lawful duties or employment.

PENALTY

13. Any person who violates any of the provisions of this by-law if guilty of an offense and is liable on summary conviction to a fine not exceeding \$1,000.00 or to imprisonment for a term not exceeding 30 days up to a maximum of 30 days or both.

Ron Samson (Witness)
(Member of the Council)

being the majority of those members of the Council of the Garden River First Nation 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, Ron Samson Chief/Councillor of the Band, do hereby certify that a true copy of the foregoing by-laws 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 3 day of Sept., 1996.

Dennis Jones
Chief

Councillor

Councillor
Clare Lloyd Bell
Councillor

Councillor
James Jones
Councillor

Councillor

Arnold Selous
Councillor

Councillor

Alan Bell
Councillor

Councillor
John Jones

Ron Brown
Councillor

Councillor
Tyrene Eyles