

BY-LAW NO. 1997 - 1
of The Qualicum First Nation
A By-law for the Regulation of Parking on Reserve

WHEREAS the Council of The Qualicum First Nation desires to make a by-law governing the regulation of vehicular parking;

AND WHEREAS the Council of The Qualicum 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 Qualicum First Nation's Reserve to regulate parking on their reserve;

NOW THEREFORE the Council of The Qualicum First Nation hereby makes the following by-law:

Short Title

1. This by-law may be cited as **The Qualicum First Nation Parking By-law No. 1997 -1** ;

Interpretation

2. In this by-law,

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

"Band" means **The Qualicum First Nation**;

"Council" means the Council of The Qualicum First Nation;

"motor vehicle" means any vehicle that is designed to be driven by any means other than by muscular power but does not include any vehicle designed to run upon rails, or to be drawn by another 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;

“park” in relation to a motor vehicle means the stationing of the motor vehicle other than when it is being loaded or unloaded;

“permit” means a permit issued by the Administrator under this by-law and includes a sticker, ticket or pass;

“public lane” means a lane on the reserve appurtenant to business or residential premises generally used by the occupier of the premises and his servants and agents for the loading and unloading of chattels, including garbage, necessarily incidental to the business or residential use of the premises;

“reserve” means the reserve of The Qualicum First Nation;

“road” includes a highway, street, avenue, parkway, driveway, lane, square, parking lot, bridge, viaduct, trestle or other place within the reserve intended for use by the public for the passage or parking of vehicles;

“sidewalk” means a sidewalk in the reserve and includes any walk or path bordering a road and constructed for pedestrian use;

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

Administrator

4. (1) The Council may, by resolution, appoint an Administrator of this by-law,

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

(3) A copy of any appointment made pursuant to subsection (1) shall be posted in the Qualicum First Nation Office, and may be appealed to the Council by any resident of the reserve by filing a Notice of Appeal with the Council within thirty days after the appointment was first posted.

(4) An appointment 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 Qualicum First Nation’s Office advising that the designation has been confirmed by the Council.

(5) The Administrator may

(a) recommend to Council, to designate locations on or adjacent to a reserve road, where a traffic control device shall be installed;

- (b) recommend to Council to designate parking areas on or adjacent to reserve roads, and areas where parking is prohibited; and
- (c) perform such other functions as are set out for it in this by-law.

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

(7) The Council may, of its own initiative, and any time, revoke any appointment made pursuant to subsection (1) and may substitute a new appointment.

Traffic Control Devices

5. (1) The Administrator shall install traffic control devices at locations designated by the Council.

(2) On every sign installed by the Administrator there shall be placed in the lower right hand corner the words **"By Authority of The Qualicum Band Council"**.

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

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

Parking

6. (1) The Administrator shall install a traffic control device that designates areas as

- (a) areas where parking is reserved for persons holding parking permits;
- (b) areas where parking is permitted for a period of time; or
- (c) areas 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

7. (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.

8. 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.

9. No person shall

(a) abandon a motor vehicle on or adjacent to a road; or

(b) park a motor vehicle in an area that is not designated by a traffic control device pursuant to subsection 6(1) and that is not an area in which parking is prohibited, 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.

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

11. (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 $\frac{1}{2}$ meter 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.

12. 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.

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

Removal of Obstructing Vehicles

14. (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,
- (e) 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 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, cue 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.

Offense and Penalties

17. Every one who contravenes any of the provisions of this by-law commits an offense and is liable on summary conviction to a fine of not more than \$100.00 or to imprisonment for a term of 30 days, or to both a fine and imprisonment.

Prosecution of Offenses

18. In every prosecution of an owner of a motor vehicle in respect of the use operation of the vehicle in violation of any provision of this by-law, the onus of proving that the motor vehicle was not in his possession or control at the time of the violation is on the accused.

19. In any violation of this by-law where the owner of a motor vehicle is identified through provincial motor vehicle registration records, the court may accept as evidence of ownership of that motor vehicle a written statement of ownership of that motor vehicle that is duly completed in accordance with the laws of the province in which the reserve is situated.

This by-law is hereby made at a duly convened meeting of the Council of the Qualicum First Nation this ²⁵ day of June 1997.

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

Barbara Burns
Barbara Burns - Chief

Patricia Cassidy
Patricia Cassidy - Councillor

Marjorie Orrick
Marjorie Orrick - Councillor

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

The quorum of the Council is 2 members.

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

I, Barbara Burns, Chief of the Qualicum 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 Ottawa offices of the department pursuant to subsection 82(1) of the Indian Act, this day of June, 1997.

[Signature]
(Witness)

Barbara Burns
Chief Barbara Burns