

**THE OSOYOOS INDIAN BAND
BY-LAW NO. 2001-002**

**Respecting the Construction, Maintenance
And Regulation of Waterworks System**

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

AND WHEREAS paragraphs 81(1), (a), (f), 91, (q), and ② of the Indian Act, R.S.C. 1985, c. 1-5, 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 work, the construction and regulation of the use of public well, 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 Osoyoos Indian Band enacts as a by-law thereof as follows:

PART 1 – GENERAL PROVISIONS

Short Title

1. This by-law may be cited as the “The Osoyoos Indian Band Waterworks By-Law”

Interpretation

2. In this By-Law
“Act” means the Indian Act, R.S.C. 1985, c.1-5;

“Band” means The **Osoyoos** Indian Band.

“Connection line” **means** any pipe or other device conveying water from the waterworks system **to lands**;

“Council” means the **Council** of the Band;

“O&M” means the Manager of the Community Works and Operation Division of the Osoyoos Indian Band, **appointed** from time to time by the Council of his authorized representative;

“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 Reserve and any right of rights of a person in respect of the use of lands located within Reserve including, but without limiting the generality of the foregoing, any:
 - i) unallotted lands in Reserve
 - ii) right to 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, and
 - vi) Right to use lands under a lease granted under section 58 of the Act,

Together with:

- (b) all premises existing on any interest in 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 there is more than one such occupant, includes all occupants who are occupying those premises;

“PW Supervisor” means the Public Works Supervisor of the Osoyoos Indian Band appointed from time to time by the O&M Manager, or his authorized representative;

“person” includes any individual, proprietorship, company, partnership, association or society, and

“premises” includes any structure, at which water is used, located within reserve and whether erected in, on, under or affixed to the land on 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 center, recreation facility, arena, extended care facility, day-care facility, and public utility;

“Reserve” includes all reserves of the band;

“water” means water conveyed through the Waterworks System;

“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 to deliver water to any lands, premises, standpipe or fire hydrant located with reserve;

All Occupants Liable

3. Without limiting the generality of any provision of the 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 11 – 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 O& M Manager.
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 millimeters in internal diameter unless otherwise permitted by the PW Supervisor.
 - (d) Not be less than one meter 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. Where a person requires a quantity, pressure or type of Water Service in excess of that which can be supplied from the Waterworks System, the O& M Manager may before providing such quantity, pressure or type of Water Service require such person to pay for all or part of any works considered necessary to augment the capacity of the Waterworks System as required to meet the Water Service requirements of the person and the O&M Manager may, in its discretion, before agreeing to provide such Water service require such person to enter into a written agreement with the Band in respect to any special terms and conditions under which Water services will be supplied.
7. (1) 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.

- (2) 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.
8. 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.
9. Any connection, or having been disconnected, re-connected, 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 section 8.
10. If at any time premises are removed from their site or are destroyed or damaged to the extent they can no longer be put to a legally permitted use, or a break or obstruction occurs in a connection line servicing lands, then the occupant of the lands shall immediately before such removal, or upon such destruction, damage, break or obstruction, notify the PW Supervisor of such so that he shall be able to shut off Water being supplied to such lands, or premises, as the case may be.
11. When the consent of the O& M Manager or 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 111 – BAND WORKS

12. Other than as is specifically otherwise permitted by this by-law, no person shall open, shut, adjust, draw Water from or tamper with any part of the Waterworks System.
13. No person shall at any time in any manner obstruct access to any hydrant, standpipe, valve, 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

14. (1) No person shall at any time in any manner make, or permit to be made, any additional connection to his Water System for the purpose of providing a building, or other structure, with Water from his Water System, except with the prior written consent of the O& M Manager.

(2) The consent of the O&M manager required by subsection (1) shall be given when the additional connection and related works are constructed in conformity with the provisions of the By-law and the supply of Water, water pressure, and the Waterworks System is adequate to service the additional needs of the person applying.

15. 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 O&M Manager.

16. 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.

17. 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 CWO Manager.

18. Every occupant of residential premises shall supply the premises with sanitary facilities which, in the opinion of the O&M Manager, 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

19. Other than as is specifically otherwise permitted in the by-law, no person other than the PW Supervisor, persons acting under the direction of the PW Supervisor, a member of the Osoyoos 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 O&M Manager.

PART V1 – CHARGES AND METERING

20. 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.
21. (1) Where at any time in the opinion of the O&M Manager 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 O&M Manager may direct the PW Supervisor to take such measure as he deems necessary to limit the quantity, or rate of supply of water to the lands and premises of that person.
- (2) Without limiting the generality of subsection (1), 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.
22. (1) Notwithstanding anything to the contrary in this by-law, Council may at any time substitute an unmetered service to any premises with a metered service to each dwelling unit, and in such case each individual dwelling unit shall have a meter separate from every other dwelling unit, in a location approved by the PW Supervisor.
- (2) All meters installed at a premise pursuant to subsection (1) shall be the property of the Band.
- (3) After the date of installation of a meter under subsection (1) the occupant of the lands at which the premises are situate shall pay in respect of those premises metered such fees as are prescribed under the heading "Monthly Metered Users Fee" as set forth in Schedule "A."
23. 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 V11 – WATER USE PROHIBITIONS

24. 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
 - (c) take away or applied for the benefit of any other person or lands, except with prior written consent of the O&M Manager.

25. (1) Except as otherwise specifically permitted in the 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 O&M Manager.
- (2) Any consent granted by the O&M Manager under subsection (1) 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.
26. No person shall use Water as motive power for the purpose of operating machinery without the prior written consent of Council.
27. The O&M Manager may terminate or withdraw any consent granted by it under sections 23, 24, or 25 at any time upon providing prior written notice to the occupant.
28. 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.
29. Notwithstanding anything to the contrary elsewhere contained in this by-law, no person shall, without the prior written consent of the O&M Manager:
- (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 millimeters in internal diameter,
 - (c) use an outlet exceeding 20 millimeters in internal diameter for sprinkling water,
 - (d) use an open pipe or hose for sprinkling purposes, or
 - (e) irrigate more than .404 hectares of land, inclusive of the area of land occupied by the premises.

PART V111 – RIGHT OF ACCESS

30. (1) 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.
- (2) 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 1X – LIABILITY OF THE BAND AND COUNCIL

30. (1) 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.
- (2) Where the PW Supervisor shuts off the Water supply pursuant to subsection (1) for less than one hour, or where an emergency arises, no notice to the occupant is required to be given.
- (3) If it is anticipated that Water service is to be interrupted pursuant to subsection (1) for more than four consecutive hours, notice shall be given to those Water users likely to be affected, Provided that no notice of disruption unanticipated conditions affecting the Waterworks System.
32. 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.
33. If at any time Council deems it to be in the interests of the Band, it may direct than 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

34. 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 person other than the person requesting the supply of Water.

PART X1 – SALE OF WATER OFF RESERVE

35. (1) The Council may enter into agreements for the purpose of purchasing or selling Water off-reserve.
- (2) Such agreement shall be subject to the provisions of this by-law.

- (3) Without restricting the foregoing, such agreement shall provide for the recovery of capital costs and operating expenses of the Band Waterworks System.
- (4) 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.
- (5) 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.
- (6) All charges levied pursuant to subsection (5) 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 (1).
- (7) All charges levied pursuant to any agreement made under subsection (1), or the person responsible for the payment shall pay charges levied pursuant to subsection (5) within thirty (30) days of the receipt of an invoice for such charges thereof.

PART X11 – POLLUTION

- 36. 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.
- 37. 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 water therefrom unfit for human consumption.

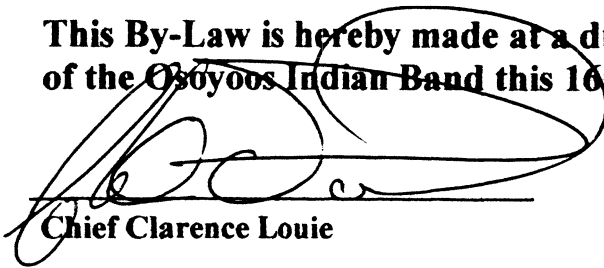
PART X111 – APPLICATION OF RATES AND FEES

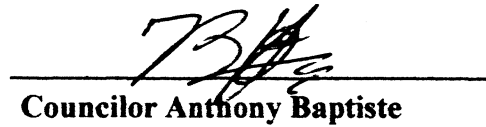
- 38. Council shall apply all fees, charges and rates collected under the provisions of this by-law for such purpose or purposes as Council determines from time to time.
- 39. Interest shall be added to the rate of 12% per annum, calculated monthly, commencing 30 days from the date of billing, to the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

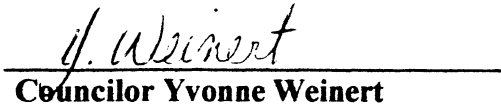
PART XIV – PENALTIES

40. (1) Notwithstanding anything to the contrary contained elsewhere in this by-law, the O&M Manager 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.
- (2) No person whose Water has been turned off pursuant to subsection (1) shall turn such Water on again or take any Water from the Waterworks System until such time as the O&M Manager authorizes the PW Supervisor to turn the Water on again.
41. 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 (\$1000) 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 Osoyoos Indian Band this 16th day of October, 2001


Chief Clarence Louie


Councilor Anthony Baptiste

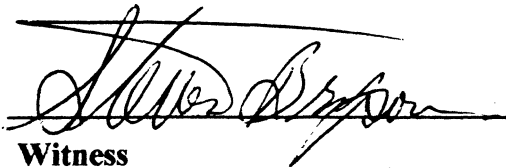

Councilor Yvonne Weinert

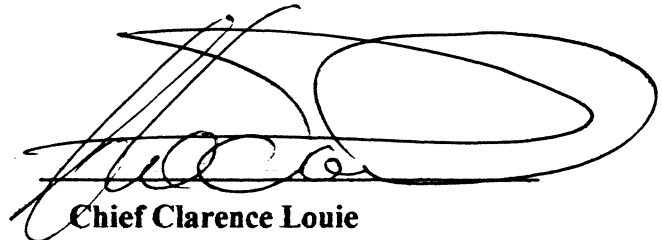

Councilor Sandra Scott

The quorum of the Council is three (3) members.

Number of member of the Council present at the meeting: 4.

I, Clarence Louie Chief of the Osoyoos 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 Hull offices pursuant to subsection 82(1) of the Indian Act.


Witness


Chief Clarence Louie

**OSOYOOS INDIAN BAND
BY-LAW 2001-002**

SCHEDULE "A"

1. FLAT RATES

<u>Type of Use</u>	<u>ANNUAL RATES EFFECTIVE July 01,2001</u>
(1) Residential, per dwelling:	
i) Single Family or Duplex	\$189.00
ii) 3-plex, 4-plex, townhouse, mobile homes in mobile home parks	\$148.00
iii) Apartment, secondary suites	\$ 72.00
(2) Irrigation over ½ acre:	
i) For each and every parcel of land, except for agricultural farmland assessed by BC assessment Authority as Class 9 farm land, a per acre charge on all land area within the parcel in excess of one-half acre.	\$370.00
ii) For each and every parcel of land, except for agricultural farm land assessed by BC assessment Authority as Class 9 farm land, to which non-pressurized water is supplied a per acre charge on all land area within the parcel in excess of one-half acre.	\$211.00
iii) For each and every parcel of agricultural farm land, assessed by BC Assessment Authority as class 9 farmland, to which pressurized water is supplied, a per acre charge on all land area within the parcel in excess of one-half acre.	\$119.00
iv) For each and every parcel of agricultural farm land, assessed by BC Assessment Authority as Class 9 farm land, to which non-pressurized water is supplied, a per acre charge on all land area within the parcel in excess of one-half acre.	\$ 68.00

- | | | |
|------|---|----------|
| (3) | Office, Hall, Bakery, Hair
Salon, Funeral Home,
Supermarket, or other small commercial business | \$ 84.25 |
| (4) | Motel or Hotel – per room | \$ 63.25 |
| (5) | Campground – per site | \$ 22.00 |
| (6) | Restaurant or Beverage Room: | |
| | - Less than 25 seats | \$180.50 |
| | - 25 to 49 seats | \$270.50 |
| | - for each additional 25 seats or increment | \$ 90.25 |
| (7) | Garage, Service Station
Theatre, Bowling Alley | \$180.50 |
| (8) | Laundromat or Car Wash-
Per machine or wand | \$ 54.50 |
| (9) | Church | \$117.25 |
| (10) | Hospital, Extended Care or
Long-term Care Facility – per bed | \$117.25 |
| (11) | School – per classroom | \$117.25 |
| (12) | Community Hall, Arena, Curling
Rink, Swimming Pool | \$596.00 |
- Where two or more uses are made of a single property or building, multiples or combinations of the user rate shall apply. In the case there is a residence accompanying a commercial undertaking without a definite separation of fixtures available to each use, the applicable rate shall be the higher of the two rates but not both.
 - The rate for churches and halls is only intended where the premises are used for holding regular meetings. Where other uses are made of the building the appropriate user rates shall apply.

2. METERED RATES

Size of Meter	Annual Base Charges Effective January 1, 2002
5/8 inch	\$ 72.00
3/4 inch	\$ 108.00
1 inch	\$ 162.00
2 inch	\$ 756.00
3 inch	\$1,080.00
4 inch	\$1,620.00
5 inch	\$3,240.00

- In addition to the annual base charge, all consumption shall be charged at the rate of \$0.10 per cubic meter.

3. PENALTY AND DUE DATE

The water charges set forth in Sections 1 and 2 of this Schedule shall be due and payable on July 2nd of each year, unless July 2nd falls on a weekend or holiday, the water charges shall be due and payable on the following business day.