

**OKANAGAN INDIAN BAND  
WATERWORKS BYLAW NO. 2019-XX**

**WHEREAS** the Council of the Okanagan Indian Band deems it advisable and in the best interests of the Band to enact a bylaw to provide for the regulation of waterworks within the Band's Reserves;

**NOW THEREFORE** the Council of the Band repeals the Okanagan Indian Band Water Bylaw passed on the 27<sup>th</sup> day of January, 1997 and enacts the following Bylaw in replacement thereof:

**1. TITLE**

- 1.1. This bylaw may be cited as the "Okanagan Indian Band Waterworks Bylaw No. 2019-XX."

**2. DEFINITIONS**

2.1. In this bylaw, unless the context otherwise requires:

- a. "AWWA" means the American Water Works Association, an international non-profit scientific and educational society dedicated to the improvement of drinking water quality and supply in North America;
- b. "backflow" means the flow of water or other fluids in the direction opposite to normal flow;
- c. "backflow prevention assembly" means an assembly that has been approved in accordance with the BC Plumbing Code and the Band, for preventing backflow;
- d. "Backflow Prevention Assembly Tester" means an individual who is certified by the Province of British Columbia and approved by the Director to approve backflow prevention assemblies;
- e. "Band" means the Okanagan Indian Band, a band of Indians within the meaning of the Indian Act;
- f. "Band Corporation" means a corporation, the majority of the issued shares of which are held directly or indirectly on behalf of the members of the Band, incorporated to operate the Water System and includes a not-for-profit entity incorporated by or on behalf of the Band to operate the Water System,
- g. "BC Plumbing Code" means Part 7 of the British Columbia Building Code established under section 692 of the Local Government Act by BC Reg. 295/98, and all amendments made thereto, from time to time;
- h. "commercial premises" means all parcels of land or any portions thereof, that are not used for the sole purpose of domestic habitation by a Band member;

- i. "commercial unit" means any business which is operated separately from any other business on or within commercial premises;
- j. "user" means any registered holder of any premises to which water is supplied or made available from the Water System and includes any person who is actually a user of water supplied to any premises or by any service from the Water System;
- k. "contaminant" means any physical, chemical, biological or radiological substance or matter in water which may render the water non-potable;
- l. "Council" means duly elected governing body of the Band that has jurisdiction over the matters governed by this bylaw;
- m. "Council Meeting" means a meeting of the Council duly convened and held in accordance with any applicable law, bylaw or policy governing the convening and conduct of meetings of the Council;
- n. "Council Resolution" means a resolution of the Council that is voted on and approved at a Council Meeting;
- o. "cross-connection" means any connection between the Water System and a secondary source of water, fixture or device which is not owned and controlled by the Band where the quality is undetermined or subject to contamination;
- p. "Director" means the Director of the Band's Operations, Lands and Housing Department, or any delegate;
- q. "Fire Department" includes the fire department of the Band or any fire protection district or municipal corporation attending fires within the Reserves;
- r. "fire service" means any installation which may be provided to supply water for fire protection purposes, being fire-fighting or fire control, over and above the supply of water required for the usual purposes of the user;
- s. "garden irrigation" means the sprinkling, irrigating or pouring of water by means of a hose, pipe or any sprinkling device upon, over or under the surface of the ground;
- t. "Indian Act" means the Indian Act, R.S., c. I-6, s. 1;
- u. "metered service" means a service having attached thereto a meter or other measuring device for determining the quantity of water used or supplied through such service;
- v. "manufactured home" means any structure, whether or not ordinarily equipped with wheels, that is designed, constructed or manufactured to be moved from one location to another by being either towed or carried and to be a dwelling unit, but does not include a travel trailer, tent trailer or trailer;

- w. "manufactured home pad" means land rented as a space for and on which a tenant, under a tenancy agreement, is entitled to place a manufactured home;
- x. "manufactured home park" means a location where a landlord rents or offers to rent two or more manufactured home pads and includes the structures and facilities provided by a landlord for the common use of residents within the manufactured home park;
- y. "occupant" or "occupier" means a person who is legally entitled to occupy or simply occupies a parcel of land, building, dwelling or premises within the Reserves;
- z. "parcel of land" or "parcel" means any lot, block, manufactured home pad or other area in which real property within the Reserves is held or into which real property within the Reserves is subdivided and the improvements affixed to it;
- aa. "person" in addition to its ordinary meaning, includes any association, household, society, corporation, partnership or party, whether acting by themselves or by a servant, agent or employee, and the successors, assigns and personal or other legal representatives of such person to whom the context can apply according to bylaw;
- bb. "premises" includes both commercial premises and residential premises;
- cc. "rate" means the price or sum of money to be paid by any user for any water supplied or made available from the Water System;
- dd. "registered holder" means a person who is registered in the Reserve Lands Register as the holder of an interest in the Reserves and, where applicable, includes the occupant;
- ee. "rent" means the sum of money charged for the use of a water meter or other measuring device;
- ff. "Reserves" means the following reserves of the Band:
  - i. Okanagan Indian Reserve No. 1;
  - ii. Otter Lake Indian Reserve No. 2;
  - iii. Harris Indian Reserve No. 3
  - iv. Swan Lake Indian Reserve No. 4
  - v. Priests Valley Indian Reserve No. 6;
  - vi. Duck Lake Indian Reserve No. 7; and
  - vii. any other lands set apart by Her Majesty the Queen in right of Canada in the future as lands reserved for the use and benefit of the Band, within the meaning of subsection 91(24) of the Constitution Act, 1867;

- gg. "Reserve Lands Register" means
- hh. "residential premises" means all parcels of land or any portion thereof, on or within which, one or more rooms constituting a unit of living accommodation is used or intended to be used for living and sleeping purposes and containing a sink and cooking facilities;
- ii. "service" means the supply of water from the Water System to any person, and all the pipes, taps, valves, connections, meters and other things necessary to and actually used for the purpose of such supply;
- jj. "Service Connection" means the connecting pipe between any water main and the property line of the premises served and will include the necessary corporation stop, curb-stop and shut-off valve;
- kk. "swimming pool" means a structure capable of being filled with water, used or intended to be used for swimming, bathing, wading or soaking having a surface area exceeding 14 m<sup>2</sup> or a depth of more than 600mm;
- ll. "temporary service connection" means the connecting pipe between any water main and the property line of premises which do not border upon the water main from which service is provided and will include the necessary corporation curb-stop, shut-off valve and meter;
- mm. "Water Connection Register" means the register of all active Service Connections required to be established and maintained by the Director pursuant to Section 14.1;
- nn. "Water System" means the Water System owned by either:
  - i. the Band;
  - ii. a provider of water services including, without limitation, a municipal corporation, water improvement district or any other person, who provides water services within the Reserves pursuant to a water services agreement with the Band;

and includes public wells, reservoirs and all engineering and mechanical work connected therewith.

- 2.2. The standards contained in or made pursuant to the BC Plumbing Code, as amended from time to time, and the standards made by AWWA, as amended from time to time, governing the design, construction and maintenance of Water Systems, apply to the design, construction and maintenance of Water Systems within the Reserves.

### **3. GENERAL APPLICATION**

- 3.1. The Band has jurisdiction in relation to the Band public works, community infrastructure and local services within the Reserves including works and services in relation to the supply, treatment, conveyance, storage and disposal of water. All water under, within, upon or which may be conveyed on to the Reserves is the

property of and under the control of the Band except for private wells or individually held water licences<sup>[MF1]</sup>.

- 3.2. This bylaw references and applies to the Water System owned and operated or permitted by the Band.
- 3.3. Nothing in this bylaw will obligate the Band to supply water to any person where the cost, in the opinion of the Director would be excessive or where the Water System do not have sufficient capacity to provide the additional required flows unless such person is prepared to pay to the Band the cost of installing the Water System to the premises as well as any cost of upgrading the Water System to be of sufficient capacity to provide the additional water required for such service.
- 3.4. The Director or any employee of the Band in the exercise of their duties, is authorized to enter, at all reasonable times, upon any parcel of land within the Reserves that is subject to any of the terms and conditions of this bylaw, in order to ascertain whether the provisions of this bylaw are being obeyed.
- 3.5. No person will use or draw any water from the Water System except in accordance with this bylaw.
- 3.6. No person will pollute, damage or tamper with the Water System.

#### **4. INTERFERENCE WITH WATER SYSTEM**

- 4.1. No person will obstruct, at any time, or in any manner, the access to any hydrant, standpipe, valve, curb-stop, public well, reservoir, or other fixture connected with the Water System, by placing thereon or within a two (2) metre radius thereof, any shrub, lumber, timber, wood, brick, stone, gravel, sand or other material or thing; and the Director may order the removal of such obstruction and the expense of such removal will be charged to and paid by the person so offending in addition to any other penalty imposed by this bylaw.
- 4.2. Unless otherwise provided in this bylaw, no person other than those persons authorized by the Band in the exercise of their duties, will interfere with, make any connection to or do work of any kind related with the Water System, without first obtaining written authority of the Director.
- 4.3. Except as provided by section 4.4, no person, except those persons authorized by the Band in the exercise of their duties, will open, turn on, tamper with or in any manner interfere with any hydrant, standpipe, curb-stop, valve or other fixture or any property of the Water System.
- 4.4. No person will sell or dispose of any water from the Water System or permit the same to be carried or taken away, or used, or apply it for the benefit or use of others or to any other person.
- 4.5. No person, except a member of the Fire Department in the exercise of their duties, will,

- a. interfere in any manner with the Water System in any street or make any addition or alteration in or about or turn on or off any valve; nor
- b. open any hydrant, standpipe, curb-stop or valve or use water therefrom.

## 5. APPLICATIONS FOR AND CONDITIONS OF SERVICE

- 5.1. All applications to install either a water service connection or a temporary service connection must be made in writing to the Director by the registered holder, and must be accompanied by an executed agreement with the Band, both of which must be in the form established by Council, from time to time.
- 5.2. Each applicant for the installation of water service pursuant to the provisions of section 5.1 hereof, must give a full, true and correct statement on the form of the size and description of the premises, the use for which the service is required and all other information which may be necessary to form a correct estimate of the volume of water required and the rates to be charged against the user for water supplied to the premises. If [MF2] the statement so given is not correct, and any additional rate will be chargeable by reason of the statement being incorrect, such additional rate will be payable forthwith. An applicant will be personally responsible for the payment of all rates, rents and fees until the user has delivered to the Director a duly executed notice in writing pursuant to the provisions of section **Error! Reference source not found.** of this bylaw ordering discontinuance of such service.
- 5.3. The service connection provided by the Band must be of such size, type and capacity as may be determined by the Director, from time to time, based upon the standards of the AWWA. Each applicant must provide and construct at their own expense the pipe from such connection to the premises for which such connection is provided.
- 5.4. A person wishing to connect to the Water System will;
  - a. disconnect all other systems or sources of water to the premises to be supplied;
  - b. decommission any wells that are or have been connected solely to the premises; and
  - c. if the well is legally providing water to other premises, then disconnect from the well without affecting any of the remaining users.
- 5.5. If water service is to be provided from either of two or more mains, then the Director will determine both the main from which service will be given, and the point of connection to that main.
- 5.6. Once an applicant has completed the application process to the satisfaction of the Director and has met all pre-conditions required by this bylaw, the water service connection will be made by the Band at the boundary line of the parcel of land.

5.7. Any contractor, builder or other person wanting to use any water from any pipe or main of the Water System, or from any other user, for building purposes of any kind or description, must first ensure receipt of written permission from the Director, payment of all required fees, rates, charges or rents and compliance with all other provisions of this bylaw.

## **6. CONTAMINATION, CROSS-CONNECTION AND BACKFLOW PREVENTION**

6.1. No person will connect, cause to be connected, or allow to remain connected any piping, fixture, fitting, container, appliance or cross-connection that could cause or allow drinking water quality, the service, or a private service to become contaminated, degraded or polluted in any way and under any condition, including but not limited to a backflow caused by backpressure or back siphonage resulting from the disruption of the water supply from the water system, unless an approved backflow prevention assembly has been installed and tested in accordance with this section.

6.2. Where the Director determines that there exists a connection or cross-connection prohibited by this bylaw, he may give written notice to the user to correct the connection or cross-connection at the expense of the user within the time specified in the notice.

6.3. A user to whom notice has been given under section 6.2 will correct the connection or cross-connection, as the case may be, by installing a backflow prevention assembly unit approved by the Director.

6.4. Where the Director determines that a connection or cross-connection prohibited by this section places a user or any other person at immediate risk, or if the user fails to correct the connection or cross-connection as required by this bylaw, then the Director may order the discontinuance of the supply of water without notice until such time as the connection or cross-connection is corrected.

6.5. Every user will, upon the installation of an approved backflow prevention assembly and annually thereafter, or more often as required by the Director, arrange for the inspection and testing of the assembly unit by a Backflow Prevention Assembly Tester. The results of all inspections and testing will be submitted to the Director within thirty (30) days of such inspection and testing.

6.6. Any connection to an underground sprinkler system requires that a double check valve assembly be properly installed and inspected by the Director before the service is turned on.

6.7. A new service connection must not be turned on at the curb-stop until the user's water service has been inspected by the Director. This will not prohibit the use of a water service for construction purposes for a limited time, provided the Director is satisfied that adequate provision is made to prevent backflow into the Water System.

## **7. MAINTENANCE REQUIREMENTS**

- 7.1. All underground pipes for any premises must be placed not less than sixty (60) inches below the surface of the ground and all other pipes exposed to frost must be properly and sufficiently protected therefrom. It will be the duty of every user to provide that all taps, fittings and other things connected to the service within the premises are good and sufficient and installed and connected in accordance with the requirements of all applicable Band bylaws and every premises will be equipped with a properly placed stop and waste cock and a separate stop and waste cock will be placed at the foot of every outdoor standpipe or other fixture. The Director or any other employee of the Band will refuse to turn on the water to any premises and may discontinue service to any premises should these provisions not be complied with to the satisfaction of the Director.
- 7.2. All persons must maintain their service pipes, stops, and other fixtures on their own premises, inside the boundary line of the parcel of land, in good order and repair and when a building is vacant for greater than thirty (30) days, the stop on the inside of the building will be turned off by the person vacating the building, or by the registered holder or a person assigned by the Director.
- 7.3. Every user must provide a pressure regulator for the service connection to their premises when the initial pressure on the main, from which service is given, amounts to or exceeds 75 pounds, or in such other circumstances as may be required by the Director. The pressure regulator must comply with the standard set out in the BC Plumbing Code.
- 7.4. No user may allow water to run to waste, whether willfully or by permitting pipes, taps, toilets or other fixtures and means of distributing or storing water to remain in disrepair, or increase by any device or expedient the amount of water agreed to be supplied to them by the Band according to the terms of their application.
- 7.5. Every person to whom water is supplied under this bylaw must at all reasonable times allow, suffer and permit the Director or any person authorized by the Director for such purpose (either generally or in any particular instance) to enter into and upon the premises in respect of which water is supplied, for the purpose of inspecting the same and the water pipes, connections, cross-connections, fixtures, taps, meters and any other apparatus used in connection with such water supply. If any such pipes, connections, fixtures, taps or other fixtures are found to be leaking or defective or if any wastage of water is found to exist, notice in writing will be given by the Director requiring the registered holder of such premises, to remedy such defects or leaks or to stop such wastage and if such requirements are not fulfilled within 72 hours from the provision of such notice, the water supply to such premises may be shut off without any further notice.
- 7.6. Any person who detects that any pipes, connections, fixtures, taps or other fixtures used in connection with the Water System are leaking or defective, must notify the Director immediately.



7.7. Where steam or hot water boilers or other equipment is fed with water by pressure direct from the Band's water mains, the Band will not be liable for any injury or damage which may result from such pressure or from lack of such pressure.

## **8. NON-RESIDENTIAL USE**

8.1. Metered service must be installed in all new construction of commercial and industrial premises, at the expense of the applicant, and must be of such size, type and capacity of which will be determined by the Director.

8.2. Notwithstanding section 8.1, the Director may, whenever it deems it advisable, compel the use of water meters by any person using or consuming water supplied by the Band and may refuse to supply water to any premises whatsoever unless the person requiring the water first enters into an agreement with the Band to take, use and pay for such water.

8.3. The Director will have the right at any time to install a water meter in any premises and to substitute in lieu of the flat rate (whether already paid or not) a meter rate established by Council, from time to time. When this is done, the Band will adjust the water rates roll accordingly and a credit will be allowed to the user on the meter rate account for the balance of the flat rate proportionate to the unexpired portion covered by the flat rate payment. The balance of the meter rate will be payable from the time such meter is installed whether during any period already paid for by the flat rate or not.

8.4. Meters of two (2) inch capacity, or greater, must be furnished by the registered holder or agent of the registered holder and approved by the Director. The Director will have the right to remove for testing all such privately owned meters. If the meter is found in error of plus or minus five per centum (5%), it must be immediately repaired by the registered holder of the meter. Repairs to all privately owned meters must be made by or under the direction of the Director and the cost of such repairs must be paid by the registered holder of the meter. If a meter cannot be repaired to the satisfaction of the Director, it must be replaced at once and the cost of replacement must be paid by the registered holder of the meter.

8.5. Every user having a metered service must pay for the full amount of water as registered by the meter, according to the rate applicable to the service, and no reduction will be allowed on account of any waste of water.

8.6. If any meter stops, sticks or fails to indicate correctly the quantity of water which is passing or which has passed through it, the Band will be entitled to charge for such water according to the average consumption for the six (6) months immediately preceding the date upon which such meter was last found to be in order.

8.7. All damages to meters owned by the Band will be chargeable against the user or registered holder of the premises supplied by the damaged meter.

- 8.8. The Band will maintain and repair all Band owned meters when rendered unserviceable through reasonable wear and tear and will renew if necessary, provided however, that where replacement or repair of any meter is rendered necessary by the act, neglect, or carelessness of the user of any premises, any expense caused to the Band will be charged against and collected from that user and their premises,
- 8.9. When any user whose water service is metered makes a complaint that their account for service for any prior period of time has been excessive, the Band will, upon written request, have such meter re-read and the service inspected for leaks. Should that user then desire that the meter be tested, the user will then make a deposit with the Band in an amount to be established the Director, from time to time, and the Director will arrange to have the meter tested. The user may, if he or she so desires, be present when the test is made. In case the test shows an error in registering the quantity of water passing through the meter of greater than five per centum (5%) in favour of the Band, the deposit must be refunded to the user, a correct registering meter must be installed and the account for service must be adjusted accordingly. If the test of such meter should show an accurate measurement of water or should show an error in favour of the user, and the amount deposited will be retained by the Band to cover part of the expense of making such test.

## **9. TURNING OFF AND TURNING ON OF SERVICES**

- 9.1. A user wishing to have service to their premises turned off on a short term basis to conduct maintenance or repair within their premises, must make a written request to the Director for temporary discontinuance. The Director will arrange for the service to be turned off within a reasonable and practicable time and will be responsible for arranging to have the service turned back on. No fees of any kind will be charged for this service.

## **10. DISCONTINUANCE AND RECONNECTION OF COMMERCIAL SERVICES**

- 10.1. Where rates, fees, charges or rents are overdue for more than thirty (30) days after the day upon which they will have become due and payable to the Band will provide the delinquent user with written notice advising that if full payment is not received by the Band within thirty (30) days of the notice their service may be discontinued without further notice.
- 10.2. In case of non-payment of rates, fees, charges or rents for thirty (30) days after the day upon which notice was provided to the user under section 10.1, the Band may, without further notice, discontinue the service in respect of which rates, fees, charges or rents are outstanding.
- 10.3. When any service has been discontinued from any premises for non-payment of rates, fees, charges or rents or violation of any of the provisions of this bylaw, the Band may before reconnection is made to the premises require payment of a reconnection fee and all arrears of charges owing by such user under this bylaw as

well as the flat rate service charge, provided that the Band will allow a rebate of such fee proportionate to that portion of the then current billing period expired at the date of such reconnection. The Band will cause such flat rate service fee or part thereof together with any additional fee to be entered in the current water rates roll.

- 10.4. When any service has been discontinued from any premises at the request of the user or of the registered holder of the premises pursuant to the provisions of section **Error! Reference source not found.**, the Band may, before reconnection is made to the premises, require payment of a reconnection fee and if the service is charged for on the applicable fiat rate service fee, also require payment of the applicable flat rate service fee less a proportionate rebate for that proportion of the then current billing period expired at the date of such application for reconnection. The Band will cause such applicable flat rate service charge or part thereof together with any additional fee, to be entered in the current water rates roll. All applications for the turning on of water service connections pursuant to this clause will be made in writing to the Band at least five (5) days before service is required.
- 10.5. No person will reconnect any service which has been discontinued by the Band and should any service be reconnected by any person other than an employee of the Band, in addition to any other penalty, the service will be deemed to have been continued from the date the same was discontinued and the user will be liable for payment of the rates from that date.
- 10.6. If, at any time, the Director deems it to be in the public interest he may order that any or all services be reduced, restricted or discontinued until it will be considered advisable to restore the same.
- 10.7. Where the Director has issued an order pursuant to section 10.6:
  - a. the order will be in writing and will be signed by the Director;
  - b. the order will be effective as of the date of its issuance;
  - c. the Director will:
    - i. post a copy of the order in a public area of the Band administration building and in such other conspicuous place or places on the Reserves, as the Director sees fit; and
    - ii. publish the order on at least one occasion in a newspaper of local circulation; and
  - d. following the posting and publication of the order, any person violating such order will be guilty of an infraction of this bylaw.
- 10.8. In addition to any other penalty the Band may reduce the quantity of water supplied to, or entirely discontinue the service to, any user who has violated any of the provisions of this bylaw.

**11. INTERMITTENT, IRREGULAR AND SEASONAL USAGE**

- 11.1. If the Director determines, in his sole discretion, the supply of water is insufficient to meet demand, the Director may implement measures to reduce the demand as required and declare a period of water shortage and implement a reduction in water use plan, as needed.

**12. COMMERCIAL RATES, RENTS, CHARGES, AND FEES AND PENALTIES**

- 12.1. The fees payable in respect of this bylaw are as set out in Schedule A to this bylaw and come into effect on the date set out in section **Error! Reference source not found..**

**13. EXEMPTIONS**

- 13.1. The following premises shall be Exempt:
- a. any residential premises

**14. REGISTER OF SERVICE CONNECTIONS**

- 14.1. The Director shall establish and maintain the Water Connection Register and shall make it available for inspection by Band members as required by Section **Error! Reference source not found..**
- 14.2. The Water Connection Register shall contain the following information in respect of every Service Connection recorded therein:
- a. the Water System to which the Service Connection is connected;
  - b. the legal description of the land on which the premises served are located;
  - c. the civic address of premises being served;
  - d. the name of the owner of the premises being served;
  - e. the classification of the premises (as either residential or commercial);
  - f. the fees currently payable in respect of the Service Connection; and

**15. NOTICE OF UNAUTHORIZED CONNECTIONS**

- 15.1. Any person may give the Director written notice of any premises which:
- a. are connected to a Water System and which have been omitted from the Water Connection Register, or
  - b. have been connected to a Water System in contravention of this bylaw;
- and the Director shall investigate the allegations made in the notice and advise the person who gave the notice, in writing, of the results of his investigation within thirty (30) days of the receipt of the notice.
- 15.2. The Director shall provide the Executive Director and Council with copies of any notice received by him under Section 15.1 as well as any response to any such

notice within five (5) working days of receipt of the notice or delivery of the response, as the case may be, provided however that this Section shall not be deemed to be a requirement that the said notice or response be considered at a Council Meeting.

## **16. NOTICES & CHARGES AGAINST REGISTERED HOLDERS**

- 16.1. Where the Band is required to give notice to or imposes an additional cost or charge against the registered holder and two or more persons are shown as registered holders in respect of a parcel of land, then a notice given to or a cost or charge imposed against one registered holder is not invalidated by the failure to give notice to or impose a charge against any other registered holder.

## **17. OFFENCES**

- 17.1. No person shall obstruct, interfere with or hinder Council, the Director or any authorized employee, officer or agent in the carrying out of their duties and responsibilities under this bylaw.
- 17.2. Any person who violates any of the provisions of this bylaw or who suffers or permits any act or thing to be done in contravention or in violation of any of the provisions of this bylaw, or who neglects to do or refrains from doing any act or thing required by any of the provisions of this bylaw, is guilty of an offence under this bylaw, and is liable to the penalties imposed by this bylaw.
- 17.3. Each day a violation of this bylaw continues will be deemed to be a separate offence for which a fine or imprisonment may be imposed.
- 17.4. Any person who is guilty of an offence under this bylaw is liable, on summary conviction to a fine of not more than One Thousand Dollars (\$1,000.00) or to a term of imprisonment not exceeding thirty (30) days, or both.

## **18. IMMUNITY**

- 18.1. No action for damages lies or may be instituted against the Band; present or past Council; or members, employees, servants or agents of either the Band or Council:
- a. for anything said or done or omitted to be said or done by that person in the performance or intended performance of the person's duty or the exercise of the person's authority; or
  - b. for any alleged neglect or default in the performance or intended performance of the person's duty or the exercise of the person's authority.
- 18.2. Section 18.1 does not provide a defence if:
- a. the Band, Council, members, employees, servants or agents have, in relation to the conduct that is the subject matter of the action, been guilty of dishonesty, gross negligence or malicious or wilful misconduct; or
  - b. the cause of action is libel or slander

- 18.3. The Band is not liable for:
- a. the failure of the water supply in consequence of any accident or damage to the Water System, or to excessive pressure or lack of pressure, or
  - b. any temporary stoppage thereof on account of alterations or repairs, whether such failure arises from the negligence of any person in the employ of the Band or other person whomsoever, or through natural deterioration or obsolescence of the Water System, or otherwise howsoever; but in the event of such failure or stoppage continuing for more than five (5) consecutive days, an equitable reduction will be made on all rates for services affected thereby.

## **19. APPLICATION OF BYLAW**

- 19.1. Where any federal Act or regulation or provincial Act or regulation or any other Band bylaw may apply to any matter covered by this bylaw, compliance with this bylaw will not relieve the person from also complying with the provisions of the other applicable Act, regulation or bylaw,
- 19.2. If any section of this bylaw is for any reason held invalid by a decision of a court of competent jurisdiction, the invalid section or subsection will be severed from and not affect the remaining provisions of this bylaw.
- 19.3. The headings given to the sections and paragraphs in this bylaw are for convenience of reference only, do not form part of this bylaw and will not be used in the interpretation of this bylaw.
- 19.4. Unless otherwise noted, any specific statute named in this bylaw is a reference to a statute of British Columbia and the regulations thereto, as amended, revised, consolidated or replaced from time to time, and any bylaw referred to herein is a reference to a bylaw of the Band, as amended, revised, consolidated or replaced from time to time.

## **20. NON-DEROGATION**

- 20.1. This bylaw in whole or in part shall be construed so as to uphold, and not to abrogate or derogate from, the legal rights and interests of the Syilx Nation and the Okanagan Indian Band, including aboriginal title and rights.

## **21. REPEAL**

- 21.1. The Okanagan Indian Band Water Bylaw passed on the 27<sup>th</sup> day of January, 1997 is hereby repealed.

**BE IT KNOWN** that this bylaw entitled, "Okanagan Indian Band Waterworks Bylaw No. 2019-XX" is hereby read for the first, second, and third and final time and is hereby enacted as

Okanagan Indian Band Waterworks Bylaw No. 2012-XX by the Council of the Band at a duly convened meeting of Council held on the \_\_\_\_ day of \_\_\_\_\_, 2019.

Voting in favour of the bylaw are the following members of Council:

**OKANAGAN INDIAN BAND  
WATERWORKS BYLAW NO. 2012-XX**

<b>1. TITLE</b>	<b>1</b>
<b>2. DEFINITIONS</b>	<b>1</b>
<b>3. GENERAL APPLICATION</b>	<b>4</b>
<b>4. INTERFERENCE WITH WATER SYSTEM</b>	<b>5</b>
<b>5. APPLICATIONS FOR AND CONDITIONS OF SERVICE</b>	<b>6</b>
<b>6. CONTAMINATION, CROSS-CONNECTION AND BACKFLOW PREVENTION</b>	<b>7</b>
<b>7. MAINTENANCE REQUIREMENTS</b>	<b>7</b>
<b>8. NON-RESIDENTIAL USE</b>	<b>9</b>
<b>9. TURNING OFF AND TURNING ON OF SERVICES</b>	<b>10</b>
<b>10. DISCONTINUANCE AND RECONNECTION OF SERVICES</b>	<b>10</b>
<b>11. PRIVATE WELLS</b>	Error! Bookmark not defined.
<b>12. INTERMITTENT, IRREGULAR AND SEASONAL USAGE</b>	<b>11</b>
<b>13. TEMPORARY OR SEASONAL CONNECTIONS</b>	Error! Bookmark not defined.
<b>14. RATES, RENTS, CHARGES, AND FEES AND PENALTIES</b>	<b>12</b>
<b>15. EXEMPTIONS</b>	<b>12</b>
<b>16. REGISTER OF SERVICE CONNECTIONS</b>	<b>12</b>
<b>17. ACCESS TO INFORMATION</b>	Error! Bookmark not defined.
<b>18. NOTICE OF UNAUTHORIZED CONNECTIONS</b>	<b>12</b>
<b>19. NOTICES &amp; CHARGES AGAINST REGISTERED HOLDERS</b>	<b>13</b>
<b>20. OFFENCES</b>	<b>13</b>
<b>21. IMMUNITY</b>	<b>13</b>
<b>22. APPLICATION OF BYLAW</b>	<b>14</b>
<b>23. REPEAL</b>	<b>14</b>