

**By-Law No. 2017-4
of the Fisher River Cree Nation**

**Being a By-Law for the
Protection of Fisher River Cree Nation Infrastructure**

WHEREAS the Council of the Fisher River Cree Nation (FRCN) deems it advisable, necessary, expedient and in the best interest of the First Nation and its members and residents to establish a By-Law to provide for the protection and preservation of FRCN infrastructure;

AND WHEREAS Council of the Fisher River Cree Nation wishes to avoid damage or degradation of its infrastructure;

AND WHEREAS the Council of the Fisher River Cree Nation is of the opinion that the uncontrolled and unregulated operation of heavy trucks, heavy equipment, vehicles and loads on FRCN roads has caused and will continue to cause damage to the FRCN roads;

AND WHEREAS Council of the Fisher River Cree Nation wishes to avoid damage or degradation of its roads;

AND WHEREAS the Council of the Fisher River Cree Nation is empowered to make such By-Laws, and any matter ancillary thereto pursuant to paragraphs 81(1)(b), (f), (q) and (r) of the *Indian Act*, R.S.C. 1985, c. I-5;

NOW THEREFORE the Council of the Fisher River Cree Nation hereby makes the following By-Law:

Short title

1. This By-Law may be cited as "Fisher River Cree Nation Infrastructure Protection By-Law".

Interpretation

2. In this By-Law, including the recitals, unless the content otherwise requires:

"*Building*" means any structure constructed, erected or assembled on the FRCN including any public facility, office building, centre, motel, school, store, stage, shed, house.

"*Company*" means any person, business, corporation, contractor, carrier engaged in the operation of heavy trucks, vehicles or loads.

"*Council*" means the FRCN Chief and Council.

"*Heavy Truck*" is defined as any commercial vehicle, including semi-trucks, that is

constructed or adapted to carry goods, wares and merchandise, freight or commodities, but not passengers or baggage, and that has more than four tires;

"*Heavy Vehicle*" is defined as a any motor vehicle, truck, heavy equipment, tracked vehicle or commercial vehicle that is used for a business or work, including a non-profit business, having a registered gross weight greater than 4,500 kilograms, but does not include ambulances or fire trucks.

"*Infrastructure*" means structures, systems, and facilities that serve the economy of FRCN, including roads, bridges, buildings, utility poles and lines, sewage treatment plants and lines and hydro power generation poles and lines.

"*Permit*" means an official document issued by the FRCN giving authorization to a person or company consent to operate or move a Heavy Truck, Heavy Vehicle or heavy or oversized load over FRCN roads.

"*Person*" includes an individual and/or a Company.

"*Road*" includes all FRCN common and public roads, streets, parkway, driveway, square, place, bridge, any part of which is intended for or used by the general public owned by the Fisher River Cree Nation for the passage of vehicles.

"*Road Use Agreement*" ("*RUA*") means a legal document between FRCN and a Person or Company which sets out the responsibilities of each party in regard to the use of FRCN roads.

Application

3. This By-Law does not apply to a Person:
 - (a) who is operating a vehicle including a special mobile machine that is operated solely for the purpose of road construction, maintenance or snow removal when the vehicle is being operated on behalf of and with the authorization of the Fisher River Cree Nation;

Administration

4. The Council may appoint a person to act as the Community Safety Officer as the Council deems necessary.
 - a. The Community Safety Officer is authorized and directed to carry out the provisions set out in this By-Law.
 - b. The Council may from time to time enter into agreement with a Person, a Company or an authorized agent of any corporation, society, governmental body or other organization to:
 - i. Carry out the provisions set in this By-Law;

- ii. Enforce the provisions set in this By-Law;
- c. The Council may, by resolution, establish a charge or fees payable in respect of any matter administered under this By-Law.

Infrastructure

- 5.1 No Person shall alter, obstruct, vandalize, damage or interfere with any FRCN Infrastructure whatsoever unless authorized by the FRCN.
- 5.2 No Person shall, without the approval of the FRCN, deface or damage any building, wall, fence, railing, sign, monument, or other property in FRCN by destroying, cutting, breaking, or placing graffiti on it.
- 5.3 No Person shall, without the approval of the FRCN, deface or damage any part or component of any telecommunications system, structure, or equipment including telephone posts, poles or lines.
- 5.4 No Person shall, without the approval of the FRCN, deface or damage any part or component of any power generation system, structure, or equipment including transformers, posts, signs, poles, lines.
- 5.5 No Person shall, without the approval of the FRCN, deface or damage any part or component of any water or sewage system, structure, or equipment including water or sewage plants, trucks, tanks and lines.
- 5.6 No Person or occupant of any FRCN land or building shall allow waste of any kind to accumulate in or on the land or building, without the authorization of the FRCN.
- 5.7 No Person or Company shall deposit or cause to be deposited waste, trash, or scrap or refuse on or in an FRCN road, waterway, bridge, culvert or ditch.
- 5.8 All waste from commercial, institutional and industrial premises within the FRCN shall be disposed of at an FRCN-approved waste disposal site or recycling centre.
- 5.9 Any Person who has placed or discarded waste contrary to the provisions of this Bylaw shall remove the waste or cause the waste to be removed upon being directed to do so by the FRCN, the Community Safety Officer or a peace officer.
- 5.10 No Person or Company shall commit an act likely to cause damage to or obstruct a highway, waterway, bridge or culvert.
- 5.11 No Person shall damage the surface of a road, or cause an obstruction, nuisance, or dangerous condition on any FRCN road.
- 5.12 No Person or Company shall cause to be removed from the surface of any

highway or road, the gravel, paved or oiled surface of that highway or road without a Permit or RUA.

- 5.13 No Person or Company other than an agent of the Fisher River Cree Nation in execution of his or her duties shall push or deposit snow into a ditch or onto an FRCN road without a Permit or RUA.
- 5.14 No Person shall use a road or a portion of a road that is closed to traffic and marked by FRCN signage giving notice of the road closure.
- 5.15 No Person shall remove or deface any barricade, device, detour, sign or notice placed on or near any FRCN road without authorization of the FRCN.

Heavy Trucks, Heavy Vehicles and Oversized Loads

- 6.1 No Person or Company shall move upon wheels, rollers or otherwise over or upon a road or portion of a road within the FRCN, Heavy Trucks, Heavy Vehicles, loads, objects or structures in excess of the gross weight, length, width and height limits prescribed for class A1 provincial roads by *The Highway Traffic Act*, and/or *The Vehicle Weights and Dimensions on Classes of Vehicles Regulation 575/88* without a Permit or RUA.
- 6.2 No Person shall drive or operate a motor vehicle, commercial vehicle or combination of vehicles on an FRCN road or roads if the registered gross vehicle weight is greater than 4,500 kilograms without a Permit or RUA.
- 6.3 No Person shall park a Heavy Truck; or Heavy Vehicle, having more than four tires; on an FRCN road for a period of time longer than one hour unless the vehicle in question is parked for use by a Person or Company working on premises in the immediate area under Permit or an RUA.

Spring Road Restrictions

7. The Council may restrict the maximum weight of vehicles operating on the FRCN roads during spring thaw to the extent and for such time as is reasonably required to protect the FRCN roads from damage and deterioration as they deem necessary.

Permits

- 8.1 A Person or Company must apply to the FRCN for a Permit and enter into a RUA to operate or transport oversized or overweight vehicles and loads on FRCN roads.
- 8.2 Each application for a Permit shall be in writing and shall describe the building, structure, load, or object to be moved and the vehicle or combination of vehicles on which it is being loaded and moved (including gross weight, overall length, overall width and loaded height) and the estimated time and duration of the move

and the FRCN road(s) to be used.

- 8.3 Council may, at its discretion, waive the requirement for a Permit and/or an RUA where a Person or Company requires the use of an FRCN road for a single trip and/or where the Council deems that damage to the FRCN roads would be minimal as a result of the single trip or in any other situation where they deem it necessary.

Road Use Agreement (RUA)

- 9.1 A Person or Company must enter into a RUA with the FRCN to operate or transport Heavy Trucks or Heavy Vehicles or oversized loads on or over FRCN roads.
- 9.2 FRCN or the Community Safety Officer may suspend or stop the transport of Heavy Trucks or Heavy Vehicles under any Permit or RUA, If, at any time, the FRCN or Community Safety Officer is of the opinion that:
- a) there exists a danger to life or to property, or
 - b) the Person or Company is failing to operate in accordance with the Permit or RUA.

Offences and Penalties

10. Every Person who violates any provision of this By-Law is guilty of an offence and is liable on summary conviction to a fine not exceeding \$1,000.00 or to imprisonment for a term not exceeding thirty (30) days, or to both pursuant to s. 81(1)(r) of the *Indian Act*.

Notices

- 11.1 Any Notice to the Fisher River Cree Nation shall be made in writing to the Fisher River Cree Nation and mailed, postage pre-paid or personally delivered to:

*Fisher River Cree Nation PO Box 367
Koostatak, MB R0C 1S0
Attn: Community Safety Officer*

- 11.2 Notice from the Fisher River Cree Nation to an Owner shall be in writing and mailed postage pre-paid or personally delivered to the last known address of the Owner.

General

- 12.1 Words within this By-Law importing the male gender include the female gender and vice versa, and words importing the singular number include the plural number and vice versa.

- 12.2 This By-Law shall be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objectives.
- 12.3 Head notes, marginal notes and provision headings form no part of this By-Law but shall be construed as being inserted for convenience of reference only.
- 12.4 A finding by a court of competent jurisdiction that a section or provision of this By-Law is *ultra vires*, void or invalid, shall not affect or bear upon the validity or invalidity of any other section or part of this By-Law, or this By-Law as a whole.
- 12.5 Where a provision of this By-Law is expressed in the present tense, future tense or in the past tense, the provision applies to the circumstances as they arise.
- 12.6 Any section of this By-Law, including any schedules, may be amended from time to time by a By-Law adopted by Council and approved in accordance with the *Indian Act*.

Coming Into Force

- 13. This By-Law shall come into force upon it being first published pursuant to *Indian Act*.

This By-Law is hereby made at a duly convened meeting of the Council of the Fisher River Cree Nation this 23rd day of May, 2017.

Voting in favour of the By-Law are the following members of the Council:



 Chief David Crate

 Councillor Carl Cochrane



 Councillor Shirley Cochrane



 Councillor Darrell Thaddeus



 Councillor Vince Crate

Being the majority of those members of the Council of the Fisher River Cree Nation present at the aforesaid meeting of the Council.

The quorum of the Council is three members.

Number of members of the Council present at the meeting: 5.