

BY-LAW NO. 02
of Kebaowek First Nation

By-law respecting the regulation of traffic on the reserve of Kebaowek First Nation

Enacted on the 24th day of May 2018

WHEREAS Kebaowek First Nation was formerly known as Eagle Village First Nation-Kipawa;

WHEREAS Kebaowek First Nation asserts its right to self-government through its elected Council;

WHEREAS sub-sections 81(1)(b), (c), (d), (q) and (r) of the *Indian Act*, R.S.C. 1-5 (“*Indian Act*”), empower the Council of Kebaowek First Nation to make a by-law for the purpose of the regulation of traffic on the reserve, law and order, disorderly conduct and nuisance, the imposition of penalties on summary conviction and any matter arising out of or ancillary to the exercise of these powers;

WHEREAS the Council of Kebaowek First Nation is of the opinion that for the welfare and safety of the members of the Kebaowek First Nation, traffic should be regulated on the reserve;

WHEREAS the Council of Kebaowek First Nation did enact By-law No. 01 on September 4, 1997 and wishes now to repeal said By-laws No. 01 and replace it with the present by-law;

THEREFORE the Council of Kebaowek First Nation enacts the following as By-Law **No.02**

SHORT TITLE

1. This by-law may be cited as the “Traffic By-Law.”

PART I
INTERPRETATIONS

2. In this by-law

- “accident” means an event whereby injury or damage is caused by one or more moving road vehicles whether the event occurs on the road or on land; (“*accident*”)
- “bicycle” is a type of vehicle and includes a tricycle and unicycle but does not include a motor assisted bicycle; (“*vélo*”)
- “bus” means a motorized road vehicle, other than a minibus, designed for carrying ten or more passengers and mainly used for the purpose of their transportation, or equipped with devices to secure wheelchairs against movement; (“*autobus*”)
- “Council” means the Council of Kebaowek First Nation (formerly Council of Eagle Village First Nation – Kipawa), including its Chief, which is a band council as defined in the *Indian Act*; (“*Conseil*”)
- “driver” means a person who drives a vehicle on a road; (“*conducteur*”)
- “driver’s licence” means the driving permit issued by the Société de L’Assurance Automobile du Quebec or equivalent; (“*permis de conduire*”)
- “emergency vehicle” means a road vehicle used as police car, an ambulance, a fire safety vehicle, or any other vehicle recognized as an emergency vehicle by the S.A.A.Q.; (“*véhicule d’urgence*”)
- “learner’s licence” means the licence used by the S.A.A.Q. for the purposes of learning to drive a road vehicle; (“*permis d’apprenti-conducteur*”)
- “minibus” means a motorized road vehicle having two axles with single wheels and equipped with not more than five rows of seats for the transportation of more than nine occupants at a time, or equipped with devices to secure wheelchairs against movement; (“*minibus*”)
- “moped” means a passenger vehicle having two or three wheels and a maximum speed of 70 km/h, equipped with an electric motor or a motor having a piston displacement of not more than 50 cm³ and with an automatic transmission; (“*cyclomoteur*”)

“motorcycle”	means a passenger vehicle, other than a power-assisted bicycle, having two or three wheels and at least one characteristic different from the characteristics of a moped; (“ <i>motocyclette</i> ”)
“number”	when used in relation to registration or a registration plate means a number, means a series of letters or a combination of letters and numbers, and “numbered”, when so used, has a corresponding meaning; (“ <i>numéro</i> ”)
“officer”	includes police officers, police constable and public security officers; (“ <i>agent</i> ”)
“parking lot”	means an area of land used or intended for parking any type of land vehicle; (“ <i>stationnement</i> ”)
“passenger vehicle”	means a motorized road vehicle designed for the transportation of not more than nine occupants at a time; (“ <i>véhicule de promenade</i> ”)
“registration”	means a certificate of registration issued by the S.A.A.Q. or equivalent for the purpose of identifying the owner of a road vehicle; (“ <i>immatriculation</i> ”)
“reserve”	means Kebaowek First Nation (formerly known as Eagle Village First Nation – Kipawa), which is a reserve as defined by the <i>Indian Act</i> ; (“ <i>réserve</i> ”)
“road”	means a way intended for or used for the passage of vehicles, including a private road or bridge, but does not include a driveway situated on an individual lot and intended for or used for the parking of vehicles; (“ <i>route</i> ”)
“road vehicle”	means a motorized vehicle that can be driven on a road, other than a power-assisted bicycle or an electrically propelled wheelchair; a trailer, a semi-trailer or a detachable axle is defined as a road vehicle; (“ <i>véhicule routier</i> ”)
“S.A.A.Q.”	means the Société de l’assurance automobile du Québec as established under the <i>Act respecting the Société de l’assurance automobile du Québec</i> , R.S.Q., ch. S-11.011, which may be modified from time to time; (“ <i>S.A.A.Q.</i> ”)
“taxi”	means a motorized road vehicle, other than a bus or minibus, operated under a permit issued by the relevant authority allowing for the transportation of passengers for commercial purposes; (“ <i>taxi</i> ”)

- “trailer” means a road vehicle designed to be pulled by another vehicle and which may be held or remains in a horizontal position; (“*remorque*”)
- “valid” means rendered in force for the prescribed period; (“*valide*”)

3. Control or care. For the purposes of sections 6, 9 and 10, a person is deemed to have the “control or care” of a road vehicle when that person occupies the driver’s seat in circumstances in which it may appear that there is a risk of the person setting the vehicle in motion.
4. Off-road vehicles covered. For the purpose of Parts III, IV, V, VI, and sections 24, 25 and 26 of Part VII, an off-road vehicle, such as a snowmobile or an all-terrain vehicle, is defined as a road vehicle when on a road.

PART II

REGISTRATION

5. Registration, etc, required. No person shall drive a road vehicle unless,
 - (a) there exists a currently valid registration for the vehicle, unless the vehicle is exempt from registration by an applicable law; and
 - (b) registration plates, issued in accordance with the applicable regulations, are displayed on the vehicle, in the prescribed manner, showing the number of the registration, if applicable, issued for the vehicle.
6. Registration to be carried.
 - (1) Every driver or person having control or care of a road vehicle shall carry
 - (a) the registration for it or a true copy thereof; and
 - (b) the certificate of insurance issued under the applicable legislation.
 - (2) Every driver or person having control or care of a road vehicle shall surrender the documents mentioned in (1), or copies thereof, for inspection upon the demand of an officer.
7. Numbers to be kept clean.
 - (1) The registration plates shall be kept free from dirt and obstruction and shall be so affixed that the numbers thereon may be plainly visible at all times.

- (2) The view of the number plates shall not be obscured or obstructed by spare tires, bumper bars, or any part of the vehicle or any attachments thereto, or by the load carried.

PART III

DRIVER LICENCES

8. Driver's licence. No person shall drive a road vehicle unless it is within a class of vehicles in respect of which the person holds a valid driver's licence issued to him or her by the S.A.A.Q. or an equivalent authority.
9. Responsibility of owner of road vehicle. No person who is the owner or is in possession or control of a road vehicle shall permit any person to drive the vehicle on a road unless that person holds a valid driver's licence issued in respect of the class of road vehicles to which the vehicle belongs.
10. As to carrying licences and surrender on demand.
 - (1) Every driver or person having control or care of a road vehicle shall carry his or her licence with him or her at all times while the road vehicle is in his or her control or care.
 - (2) The person mentioned in (1) shall surrender the licence for inspection upon the demand of an officer.
11. Driving while driver's licence suspended. No person shall drive a road vehicle while his or her driver's licence is cancelled or suspended in accordance with any applicable law.
12. Driving in breach of conditions prohibited. No person shall drive a road vehicle while contravening a condition contained in his or her driver's licence or imposed by all applicable law.
13. Holder of a learner's licence must be accompanied by an experienced driver.
 - (1) The holder of a learner's licence must, when driving a road vehicle other than a moped, be assisted by a person who has held, for at least two years, a valid driver's licence of the appropriate class for driving that vehicle.
 - (2) The experienced driver referred to in subsection (1) must be seated beside the holder of the learner's licence, except on a motorcycle, and be in a position to give him or her assistance and advice.

- (3) The experienced driver referred to in subsection (1) must carry his or her driver's licence with him, which must contain, where applicable, the particulars prescribed by regulation.

14. A learner on a motorcycle.

- (1) Except during the practical session of the proficiency examination administered by the S.A.A.Q., the holder of a learner's licence must, when driving a motorcycle, be accompanied by a person on a separate motorcycle, who has held, for at least two years, a valid driver's licence authorizing the driving of a motorcycle and who is able to provide assistance and advice.
- (2) The holder of the learner's licence referred to in subsection (1) may not carry any passengers.

PART IV

SAFE CONDUCT IN A ROAD VEHICLE

15. Careless driving. No person shall drive a vehicle on a road without due care and attention or without reasonable consideration for other persons using the road.

16. No use of cellular phone while driving.

- (1) Other than in the cases provided in subsections (3), no person may, while driving a road vehicle, use a hand-held device that includes a telephone function.
- (2) For the purposes of subsection (1), a driver who is holding a hand-held device that includes a telephone function is presumed to be using the device.
- (3) The prohibition in subsection (1) does not apply to drivers of emergency vehicles in the performance of their duties or to a driver using a two-way radio, being a cordless voice communication device which does not allow the parties to speak simultaneously.

17. No drinking alcohol in a road vehicle.

- (1) No occupant of a road vehicle may drink alcoholic beverages therein.
- (2) In addition to roads, subsection (1) applies in parking lots and on other land where public traffic is allowed.

18. Protective helmet.

- (1) Every person riding on a motorcycle or moped or in a sidecar must wear a protective helmet that complies with the standards prescribed by provincial regulation.

- (2) Such persons must, if so requested by a police officer, allow the police officer to examine their protective helmets.
- (3) No person may drive a road vehicle carrying a passenger under 16 years of age who does not fulfil the obligations imposed by this section.

PART V

REPORTING OF ACCIDENTS

19. Duty of driver in case of accident. Every driver of a road vehicle that is directly or indirectly involved in an accident shall,

- (a) remain at or immediately return to the scene of the accident;
- (b) render all possible assistance; and
- (c) upon request, give in writing to anyone sustaining loss or injury, or to any police officer or to any witness, his or her name and address, and also the name and address of the registered owner of the vehicle, and the number of the vehicle registration.

PART VI

RULES OF THE ROAD

20. Definitions. In this part,

“children” means

- (a) Persons under the age of eighteen, or
- (b) students of a school; (“*enfants*”)

“school” does not include a post-secondary school education institute; (“*école*”)

“school bus” means a road vehicle that

- (a) is painted chrome yellow,
- (b) used for the transportation of school children,
- (c) is equipped with flashing lights and a retractable stop sign, and

(d) displays on the front and rear thereof the words “*écoliers*,” and on the rear an inscription informing drivers not to pass when the red lights are flashing. (“*autobus scolaire*”)

21. Stop at intersection. Every driver of a road vehicle or rider of a bicycle approaching a stop sign at an intersection shall stop his or her vehicle at the pedestrian crosswalk or marked stop-line or, if none, at the nearest side of the road he is about to cross or enter, and yield the right of way to any traffic in the intersection or so close as to constitute a hazard.

22. Right of way on entering road from driveway. Every driver of a road vehicle or rider of a bicycle entering or crossing a road from a driveway or parking lot shall yield the right of way to all traffic or any pedestrian approaching on the road.

23. Duty of drivers when school bus stopped.

(1) Except in the case of subsection (2), the driver of a road vehicle who is approaching a school bus that has its flashing red lights turned on or whose compulsory stop signal has been activated must stop the vehicle more than 5 metres from the school bus and shall not proceed in either direction until the flashing red lights are turned off and the compulsory stop signal has been retracted, and the driver ensures that it is safe to proceed.

(2) Subsection (1) does not apply to a road vehicle meeting a school bus on an adjacent roadway separated by a median strip or by any other raised physical separation.

PART VII
EQUIPMENT

24. Use of seat belts.

- (1) Subject to subsection (2), every person in a moving road vehicle in which a seat belt is provided shall wear the complete seat belt in a properly adjusted and securely fastened manner.
- (2) Exemption. Subsection (1) does not apply, as the case may be, to a person
 - (a) Driving a vehicle in reverse;
 - (b) Who holds a valid certificate issued by the S.A.A.Q. exempting the person from the use of a seat belt for medical reasons;
 - (c) Is a child less than 63 cm who is restrained by a restraint system (children's car seat) which includes its own seat belt or harness;
 - (d) Who fulfils another exception provided for by law.

25. Special seats for children. Any restraint system used for safely restraining a child must be in a safe condition and installed in compliance with the manufacturer's instructions, being suitable for the child's height and weight and securely attached to the vehicle.

26. Driver to ensure young passenger uses seat belt.

- (1) Except in the cases provided in subsection (2), no person shall drive a road vehicle carrying a passenger under 16 years of age who is not wearing the complete seat belt harness provided, properly adjusted and securely fastened.
- (2) Exemptions. The first paragraph does not apply to taxi, bus or minibus drivers in the performance of their duties. However, an adult passenger accompanying a passenger under 16 years of age in a taxi must ensure that the latter is transported in compliance with the conditions set out in this Part.

27. Winter tires. Unless otherwise exempt by law, between December 15th and March 15th, the owner of a taxi or a passenger vehicle registered in Québec, and anyone renting out such a passenger vehicle, may not put the vehicle into operation unless it is equipped with tires specifically designed for winter driving, in compliance with the standards prescribed by law.

PART VIII

PENALTY

28. Fines and imprisonment.

- (1) Every person who contravenes any of the provisions of this by-law is guilty of an offence and is liable on summary conviction to a fine of not more than \$1,000 or to imprisonment for a term of no more than 30 days, or to both a fine and imprisonment.
- (2) Police officers may administer a fine to any person who contravenes this by-law as well as take all other reasonable measures necessary to prevent further offences from occurring.
- (3) If a fine remains unpaid for more than 30 days, Kebaowek First Nation reserves the right to increase the amount of the fine owing to account for the cost of prosecuting the offence.
- (4) Other than in exceptional circumstances, the fines for offences to the present by-law will be set in accordance with the table of fines set out in “**Schedule 1**” of this by-law.

PART IX

GENERAL

29. The present bylaw is adopted in English and the French version is a translation.
30. Should a court determine that a provision of this by-law is invalid for any reason, the provision shall be severed from the by-law and the validity of the rest of the by-law shall not be affected.
31. Kebaowek First Nation may charge a person who requests a paper copy of this by-law the reasonable cost of printing incurred by such a request.
32. Following its adoption by Council, this by-law comes into force upon publication on the website of Kebaowek First Nation pursuant to s. 86(5) of the *Indian Act*.

BY-LAW NO. _____
of Kebaowek First Nation

By-law respecting the regulation of traffic on the reserve of Kebaowek First Nation

SCHEDULE 1 - TABLE OF FINES

Offence (short form wording)	Section of By-law creating or defining offence	Recommended range of fines
Driving vehicle without valid registration	5(a)	\$300 - \$600
Driving vehicle without registration plates	5(b)	\$50 - \$60
Driving without registration in vehicle	6(1)(a)	\$50 - \$60
Driving without insurance certificate in vehicle	6(1)(b)	\$50 - \$60
Refusal to surrender documents	6(2)	\$100 - \$200
Registration plate not clean or not visible	7(1)	\$50 - \$60
View of registration plate obstructed by attachments	7(2)	\$50 - \$60
Driving without valid licence	8	\$300 – \$600
Permitting another to drive vehicle without valid licence	9	\$300 – \$600

Offence (short form wording)	Section of By-law creating or defining offence	Recommended range of fines
Not carrying licence	10(1)	\$50 – \$60
Refusal to surrender licence	10(2)	\$100 - \$200
Driving with cancelled or suspended licence	11	(A) \$1,000 where the licence was suspended or cancelled by operation of law as a result of a conviction for a <i>Criminal Code</i> offence , where the licence was suspended by a peace officer who carried out a breath test showing a blood alcohol concentration level in excess of 80 mg of alcohol in 100 ml of blood , or where the licence was suspended by a peace officer for refusing a test designed to ascertain the presence of alcohol in the blood of a person; (B) \$600 - \$1,000 in all other cases.
Driving in breach of licence conditions	12	(A) \$1,000 where the holder of a licence to drive a road vehicle mandatorily equipped with an alcohol ignition interlock device fails to comply with that requirement or with the conditions for the use of the device; (B) \$100 - \$200 in all other cases.
Learner not accompanied by experienced driver	13(1)	\$200 - \$300
Experienced driver not beside learner	13(2)	\$50 - \$60
Experienced driver not carrying licence	13(3)	\$50 - \$60
Learner not accompanied by experienced driver on separate	14(1)	\$200 - \$300

Offence (short form wording)	Section of By-law creating or defining offence	Recommended range of fines
motorcycle		
Learner carrying passenger on motorcycle	14(2)	\$200 - \$300
Careless driving	15	\$400 – \$1,000
Using cellphone while driving	16(1)	\$80 - \$100
Drinking alcohol in vehicle	17(1), (2)	(A) \$200 - \$300 where an occupant other than the driver is guilty of the offence; (B) \$300 - \$600 where the driver is guilty of the offence.
Not wearing helmet on motorcycle	18(1)	\$80 - \$100
Not allowing police officer to examine helmet	18(2)	\$80 - \$100
Passenger under 16 not wearing helmet	18(3)	\$80 - \$100
Driver in accident not remaining at scene	19(a)	\$600 - \$1,000
Driver in accident not rendering assistance	19(b)	\$600 - \$1,000
Driver in accident not providing information	19(c)	\$200 - \$300

Offence (short form wording)	Section of By-law creating or defining offence	Recommended range of fines
Not stopping at intersection	21	(A) \$50 where a person riding a bicycle is guilty of the offence; (B) \$100 - \$200 in all other cases.
Not yielding right of way, intersection	22	(A) \$50 where a person riding a bicycle is guilty of the offence; (B) \$100 - \$200 in all other cases.
Not stopping, school bus	23(1)	\$200 - \$300
No/improper use of seat belt	24(1)	\$80 - \$100
Improper child seat	25	\$80 - \$100
No/improper use of seat belt by passenger under 16	26(1)	\$80 - \$100
No winter tires	27	\$200 - \$300

THIS BY-LAW IS HEREBY made at a duly convened meeting of the Council of Kebaowek First Nation this ___ day of _____, 20__ .

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

(Member of the Council, Chief)

(Member of the Council)

(Member of the Council)

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

The quorum of the Council is 3 members.

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