



First Nations Tax Commission
Commission de la fiscalité des premières nations

The First Nations Tax Commission, pursuant to the *First Nations Fiscal Management Act*, hereby approves the following law made by the Mississaugas of Scugog Island First Nation in the Province of Ontario.

Mississaugas of Scugog Island Nation
Sewer Service Fee Law, 2017

Dated at Kamloops, British Columbia this 13th day of February 2018.

On behalf of the First Nations Tax Commission

C.T. (Manny) Jules – Chief Commissioner
First Nations Tax Commission



**MISSISSAUGAS OF SCUGOG ISLAND FIRST NATION
SEWER SERVICE FEE LAW, 2017**

**MISSISSAUGAS OF SCUGOG ISLAND FIRST NATION
SEWER SERVICE FEE LAW, 2017**

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WHEREAS:

A. Pursuant to paragraph 5(1)(a.1) of the *First Nations Fiscal Management Act*, the council of a first nation may make laws respecting the charging of fees for the provision of services or the use of facilities on reserve lands, or for a regulatory process, permit, licence or other authorization, in relation to water, sewers, waste management, animal control, recreation and transportation, as well as any other similar services;

B. The Mississaugas of Scugog Island First Nation provides a sewer service to the reserve and has determined that the costs of this sewer service are to be recovered by fees charged to holders of property benefiting from this sewer service;

C. The fees established in this Law reflect the projected cost of providing the sewer service and are supported by a report setting out the projected cost of the sewer service, how the cost of the service was determined, and the proportion of the total cost that the First Nation will recover through the fees set out in this Law; and

D. The Council of the Mississaugas of Scugog Island First Nation has given notice of this Law and has considered representations received by the Council, in accordance with the requirements of the *First Nations Fiscal Management Act*;

NOW THEREFORE the Council of the Mississaugas of Scugog Island First Nation duly enacts as follows:

**PART I
CITATION**

Citation

1. This Law may be cited as the *Mississaugas of Scugog Island First Nation Sewer Service Fee Law, 2017*.

**PART II
DEFINITIONS AND REFERENCES**

Definitions and References

2. (1) In this Law:

“Act” means the *First Nations Fiscal Management Act*, S.C. 2005, c.9, and the regulations enacted under that Act;

“Council” has the meaning given to that term in the Act;

“customer” means a holder of a property to which the First Nation provides the Service, or for which application has been made for connection to the Service;

“fee” means a fee charged under this Law, including the annual sewer fee, each monthly sewer fee installment, and any other fee charged under this Law;

“First Nation” means the Mississaugas of Scugog Island First Nation, being a band named in the schedule to the Act;

“holder” means a person in possession of an interest in land or a person who, for the time being,

(a) is entitled through a lease, licence or other legal means to possess or occupy the interest in land,

(b) is in actual occupation of the interest in land,

(c) has any right, title, estate or interest in the interest in land, or

(d) is a trustee of the interest in land;

“interest in land” or “property” means land or improvements, or both, in the reserve and, without limitation, includes any interest in land or improvements, any occupation, possession or use of land or improvements, and any right to occupy, possess or use land or improvements;

“Notice of Discontinuance of Sewer Service” means a notice containing the information set out in Schedule III;

“reserve” means reserve land of the First Nation within the meaning of the Act;

“Service” means the sanitary sewer service provided by or on behalf of the First Nation to the reserve;

“tax administrator” means the person appointed to that position pursuant to subsection 4(1); and

“year” means a calendar year.

(2) In this Law, references to a Part (e.g. Part I), section (e.g. section 1), subsection (e.g. subsection 2(1)), paragraph (e.g. paragraph 4(5)(a)) or Schedule is a reference to the specified Part, section, subsection, paragraph or Schedule of this Law, except where otherwise stated.

PART III ADMINISTRATION

Application of Law

3. This Law applies to the entire reserve.

Tax Administrator

4. (1) Council must, by resolution, appoint a tax administrator to administer this Law on the terms and conditions set out in the resolution.

(2) The tax administrator must fulfill the responsibilities given to the tax administrator under this Law.

(3) The tax administrator must oversee the day to day administration and the enforcement of this Law.

(4) The tax administrator may, with the consent of Council, assign the performance of any duties of the tax administrator under this Law to any officer, employee, contractor or agent of the First Nation.

(5) The tax administrator must, keep the following records in respect of the administration of this Law:

- (a) the amount of all fees charged;
- (b) the amount of all fees collected;
- (c) the amount of all refunds of fees;
- (e) any complaints received and the resolution of the complaint, if any; and
- (g) any enforcement proceedings taken.

(6) No later than March 1 in each year, the tax administrator must report to Council on the administration of this Law during the previous fiscal year, which report must include the items referenced in subsection (5).

(7) The tax administrator must make available to any person, either on the First Nation’s website or at the First Nation’s administrative offices, a report respecting how the fees established under this Law were determined that includes the projected cost of the service, how the cost of the service was determined, and the proportion of the total cost of the service that is to be funded by the fees.

Request for Information

5. (1) The tax administrator may send a Request for Information containing the information set out in Schedule IV to a holder or customer and that person must provide to the tax administrator, within 14 days from the date of delivery or such longer period as specified in the notice, information for any purpose related to the administration of this Law.

(2) A person who receives a Request under subsection (1) must, within the time set out in the Request, provide to the tax administrator all the information required that is within the person's knowledge and produce all the documents required that are within the person's possession or control.

Inspections and Information

6. (1) The tax administrator, upon producing proper identification, must at all reasonable times and upon reasonable request be given free access to a property, for any purposes related to the administration of this Law.

(2) Every adult person present on the property when the tax administrator visits the property in the performance of his or her duties must upon request give to the tax administrator all the information in his or her knowledge that will assist the tax administrator in the administration of this Law and to obtain the information that the tax administrator requires with respect to the administration of this Law.

(3) The tax administrator is not bound by any information delivered under section 5 or this section, nor does it excuse the tax administrator from making due inquiry to ascertain the correctness of this information and, despite any such information, the tax administrator may make any determination required by the tax administrator under this Law which the tax administrator believes to be just and correct.

PART IV IMPOSITION OF FEES

Annual Sewer Fee

7. (1) Unless exempted under this Law, the holder of each property that benefits from the Service must pay the annual sewer fee calculated in accordance with this section.

(2) The tax administrator must determine for the purpose of calculating the annual sewer fee for properties connected to the Service the volume of water inflow into such properties.

(3) The tax administrator must calculate and charge the holder of each property that benefits from the Service the annual sewer fee for the property in accordance with Schedule I.

(4) If a customer is first connected to the Service after January 1, the annual sewer fee must be prorated from the day that the Service to the property begins.

Connection, Disconnection, Reconnection and Other Fees

8. (1) A customer applying to connect, disconnect or reconnect to the Service must pay the applicable fees set out in Schedule I.

(2) A customer must pay the call-out fee set out in Schedule I each time an agent or employee of the First Nation is requested by the customer to attend a property for matters related to the Service.

(3) The tax administrator may require a customer to pay the applicable fees in full at the time of making an application for connection, disconnection or reconnection to the Service.

Joint and Several Liability

9. All holders who have an interest in the same property are jointly and severally liable to the First Nation for all fees, costs, penalties, and interest due in respect to the Service under this Law.

Amendment to Fees

10. (1) The fees charged under this Law may be changed at any time by amendment to this Law made in accordance with the requirements of the Act, and the tax administrator must adjust the amounts payable under this Law in accordance with such amendment.

(2) A fee charged under this Law will not be adjusted where the Service is temporarily unavailable for maintenance, emergencies or at the request of the customer.

PART V INVOICING AND PAYMENT

Annual Sewer Fee Invoicing

11. (1) Before January 31 in each year, the tax administrator must mail an invoice to the holder of each property receiving the Service, setting out

- (a) the estimated annual sewer fee to be charged under section 7 for that property;
- (b) the amount of each monthly sewer fee installment for the Service, being the total estimated annual sewer fee divided into eleven (11) equal payments;
- (c) the due date for each monthly sewer installment, which must be the first day of each month, beginning on February 1, unless otherwise specified in the invoice; and
- (d) notification that, at the end of the year, the tax administrator will determine the final annual sewer fee using the actual water inflow to that property for the year, and will mail a final statement and invoice to the customer setting out any balance owing to the First Nation or refund owing to the customer, as applicable.

(2) Where the final statement and invoice mailed under paragraph (1)(d) indicates a balance owing by the customer, the balance owing is due and payable within thirty (30) days of the date of the invoice or such later date specified in the invoice.

(3) Where a refund is owing to the customer under paragraph (1)(d), the First Nation may in its discretion apply the refund, including interest payable on the refund, to the annual sewer fee owing in the subsequent year, or to any fees owing to the First Nation under this Law.

(4) Where a customer fails to pay a monthly sewer fee installment by the due date for that payment, the tax administrator must, as soon as practicable, send a notice to the customer advising of the default, setting out the amount due, and advising the customer of applicable penalties and interest owing on the unpaid amount.

Invoicing of Other Fees

12. (1) Where the tax administrator does not require payment of applicable fees at the time of application under section 8, the tax administrator must mail an invoice for the fees to the customer.

(2) Invoices mailed under subsection (1) are due and payable within thirty (30) days of the date of the invoice or such later date specified in the invoice.

Invoicing Generally

13. (1) Invoices must be mailed to the address of the property receiving the Service, or to such other address provided to the First Nation by the customer in writing from time to time.

(2) The mailing of an invoice to a customer constitutes a statement of and demand for payment of the fees on or before the date indicated in the invoice.

(3) Where, for any reason, a customer was not invoiced in accordance with this Law, or where a

refund or adjustment to fees is required under this Law, the tax administrator must mail an invoice or an amended invoice, as the case may be, to the customer and the fees invoiced are due and payable within thirty (30) days of the date of the invoice or such later date specified in the invoice.

(4) The tax administrator must

(a) create a record of each property subject to fees under this Law; and

(b) indicate for each property the amount of annual sewer fees charged in the current year, the amounts of other fees charged under this Law, the monthly sewer fee installments required, each fee payment received, and any penalties and interest applied to unpaid fees.

Payment

14. (1) All fees must be paid by cheque, money order, cash, or electronic funds transfer.

(2) Fees paid by cheque, money order or cash must be paid at the office of the First Nation during normal business hours.

(3) Payment of fees by cheque or money order must be made payable to the Mississaugas of Scugog Island First Nation.

(4) Fees paid by electronic funds transfer must be paid to the account designated by the First Nation.

Refunds

15. Where a person has

(a) paid a fee in circumstances where a fee was not payable for the Service; or

(b) made an overpayment of a fee,

the tax administrator, subject to subsection 11(3), must refund to that person the fee or any excess fee paid by that person, as applicable, including interest calculated in accordance with subsection (2).

(2) Where interest is payable on a refund of taxes under this Law, the tax administrator must calculate the interest payable as follows:

(a) interest accrues from the date that the fee was originally paid to the First Nation;

(b) the interest rate during each successive three (3) month period beginning on January 1, April 1, July 1 and October 1 in every year is two percent (2%) below the prime lending rate of the principal banker to the First Nation on the 15th day of the month immediately preceding that three (3) month period;

(c) interest will not be compounded; and

(d) interest stops running on the earliest of the day payment of the money owed is mailed, delivered or actually received by the person to whom it is paid.

PART VI EXEMPTIONS

Exempt Customers

16. (1) Customers are exempt from the fee charged under section 7 where the customer is the First Nation, a member of the First Nation, or a First Nation Corporation and the property receiving the Service is occupied solely by the First Nation, members of the First Nation, a First Nation Corporation, or a member of the First Nation and family of that member.

(2) The First Nation must pay from its general revenues into the local revenue account the fees that

would have been payable by a member of the First Nation exempted under subsection (1), and the First Nation must use those amounts for the provision of the Service as required under subsection 17(1).

(3) For clarity, the exemptions in subsection (1) do not apply to fees charged under section 8.

PART VII REVENUES AND EXPENDITURES

Revenues and Expenditures

17. (1) All revenue collected by the First Nation from the fees charged under this Law, including interest and penalties on those fees and interest earned on fee revenues, must only be used for the provision of the Service.

(2) The tax administrator must separately account for all fees collected under this Law.

(3) An expenditure of revenue raised under this Law must be made under the authority of an expenditure law under paragraph 5(1)(b) of the Act or in accordance with section 13.1 of the Act.

PART VIII PENALTIES, INTEREST AND ENFORCEMENT

Penalties and Interest

18. If all or part of a fee remains unpaid for thirty (30) days after it is due under this Law,

(a) a penalty of ten percent (10%) of the unpaid portion will be added to the unpaid fee and the amount so added is, for all purposes, deemed to be part of the fee; and

(b) the unpaid portion of the fee accrues interest at fifteen percent (15%) per year until paid or recovered.

Collection and Enforcement

19. (1) Fees charged under this Law, together with any applicable interest and penalties, are a debt due to the First Nation by the holder of the property receiving the Service, recoverable in a court of competent jurisdiction and may also be recovered by any other method authorized under applicable laws.

(2) The use of one method of collection and enforcement does not prevent seeking recovery by one or more other methods.

(3) A copy of an invoice showing the fees payable by a person, certified as a true copy by the tax administrator, is evidence of that person's debt for the fees.

Discontinuance of Service

20. (1) Subject to this section, the First Nation may discontinue the Service to a property if any part of a fee remains unpaid more than sixty (60) days after

(a) a fee charged under section 8 is due,

(b) a monthly sewer fee installment of an annual sewer fee under section 11 is due; or

(c) any other fee is due under this Law.

(2) At least thirty (30) days before discontinuing the Service, the tax administrator must deliver to the customer, by personal delivery or registered mail, a Notice of Discontinuance of Sewer Service.

(3) Personal delivery of the Notice of Discontinuance of Sewer Service is made

- (a) in the case of an individual, by leaving the notice with that individual or with an individual at least eighteen (18) years of age residing at that individual's place of residence;
 - (b) in the case of a first nation, by leaving the notice with the individual apparently in charge, at the time of delivery, of the main administrative office of the first nation, or with the first nation's legal counsel; and
 - (c) in the case of a corporation, by leaving the notice with the individual apparently in charge, at the time of delivery, of the head office or one of its branch offices, or with an officer or director of the corporation or the corporation's legal counsel.
- (4) A Notice of Discontinuance of Sewer Service is considered to have been delivered
- (a) if delivered personally, on the day that personal delivery is made; and
 - (b) if sent by registered mail, on the fifth day after it is mailed
- (5) If all or any portion of the fee remains unpaid more than thirty (30) days after the delivery of the Notice of Discontinuance of Sewer Service under subsection (2), the First Nation may disconnect the Service to the property.

Reconnection to Service

- 21.** A person applying for reconnection to the Service after discontinuance of the Service under section 20 must pay
- (a) all outstanding fees, including penalties, interest and any costs incurred by the First Nation, and
 - (b) the reconnection fee set out in Schedule I,
- before the Service will be restored to the property.

**PART IX
COMPLAINTS**

Complaints to Tax Administrator

- 22.** (1) A customer may, within fourteen (14) days of receipt of an invoice under this Law, make a complaint respecting a fee charged on any of the following grounds:
- (a) an alleged error or omission respecting the application or calculation of the fee; and
 - (b) that an exemption has been improperly allowed or disallowed.
- (2) A complaint must
- (a) be made in the form set out in Schedule II;
 - (b) be delivered to the tax administrator; and
 - (c) include any reasons in support of the complaint.
- (3) Within fourteen (14) days after receipt of a complaint, the tax administrator must review the matter and attempt to resolve the complaint directly with the customer.
- (4) If the tax administrator determines that there is an error or omission in the application of a fee, or that an exemption has been improperly allowed or disallowed, the tax administrator must correct the invoice and provide the revised invoice to the customer.
- (5) If the tax administrator determines that there is not an error or omission, or that an exemption has not been improperly allowed or disallowed, the tax administrator must advise the customer of this determination and the reasons for the determination.

PART X
GENERAL PROVISIONS

Disclosure of Information

23. (1) The tax administrator or any other person who has custody or control of information or records obtained or created under this Law must not disclose the information or records except

- (a) in the course of administering this Law or performing functions under it;
- (b) in proceedings before a court of law or pursuant to a court order; or
- (c) in accordance with subsection (2).

(2) The tax administrator may disclose to the agent of a customer confidential information relating to the customer's property or fees owing in respect of the Service if the disclosure has been authorized in writing by the customer.

(3) An agent must not use information disclosed under subsection (2) except for the purposes authorized by the customer in writing referred to in that subsection.

Disclosure for Research Purposes

24. Notwithstanding section 23,

(a) the tax administrator may disclose information and records to a third party for research purposes, including statistical research, provided the information and records do not contain information in an individually identifiable form or business information in an identifiable form;

(b) Council may disclose information and records to a third party for research purposes, including statistical research, in an identifiable form where

(i) the research cannot reasonably be accomplished unless the information is provided in an identifiable form, and

(ii) the third party has signed an agreement with Council to comply with Council's requirements respecting the use, confidentiality and security of the information.

Validity

25. Nothing under this Law must be rendered void or invalid, nor must the liability of any person to pay a fee or any other amount under this Law be affected by

- (a) an error or omission in a determination made by the tax administrator;
- (b) an error or omission in any invoice or notice given under this Law; or
- (c) a failure of the First Nation or the tax administrator to do something within the required time.

Limitation on Proceedings

26. (1) No person may commence an action or proceeding for the return of money paid to the First Nation, whether under protest or otherwise, on account of a demand, whether valid or invalid, for fees paid under this Law, after the expiration of six (6) months from the date the cause of action first arose.

(2) If a person fails to start an action or proceeding within the time limit prescribed in this section, then money paid to the First Nation must be deemed to have been voluntarily paid.

Notices

27. (1) Where in this Law an invoice or other document is required to be given by mail, or where the method is not otherwise specified, it must be given

- (a) by ordinary mail to the recipient's ordinary mailing address or the address receiving the Service;
 - (b) by email to the recipient's email address if the recipient has provided an email address for the purpose of notices;
 - (c) where the recipient's address is unknown, by posting a copy of the document in a conspicuous place on the property receiving the Service; or
 - (d) by personal delivery or courier to the recipient or to the recipient's ordinary mailing address.
- (2) Except where otherwise provided in this Law, an invoice or other document
- (a) given by ordinary mail is deemed received on the fifth day after it is posted;
 - (b) given by email is deemed received on the date sent to the recipient;
 - (c) posted on property is deemed received on the second day after it is posted; and
 - (d) given by personal delivery or courier is deemed received upon delivery.

Interpretation

28. (1) The provisions of this Law are severable, and where any provision of this Law is for any reason held to be invalid by a decision of a court of competent jurisdiction, the invalid portion must be severed from the remainder of this Law and the decision that it is invalid must not affect the validity of the remaining portions of this Law.

(2) Where a provision in this Law is expressed in the present tense, the provision applies to the circumstances as they arise.

(3) Words in this Law that are in the singular include the plural, and words in the plural include the singular.

(4) This Law must be construed as being remedial and must be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objectives.

(5) Reference in this Law to an enactment is a reference to the enactment as it exists from time to time and includes any regulations made under the enactment.

(6) Headings form no part of this Law and must be construed as being inserted for convenience of reference only.

Coming into Force

29. This Law comes into force and effect on the day after it is approved by the First Nations Tax Commission.

THIS LAW IS HEREBY DULY ENACTED by Council on the 20th day of December, 2017, at Scugog, in the Province of Ontario.

A quorum of Council consists of two (2) members of Council.



 Chief Kelly LaRocca



 Councillor Jamie Coons



 Councillor Laura Colwell

SCHEDULE I
FEES FOR SERVICE

ANNUAL SEWER FEES

1. The annual sewer fee for each property is that property's proportionate share of the total costs of the Service to be recovered through annual sewer fees, being \$1,060,000.00, calculated by determining the volume of water inflow to the property as measured by the water flow meter installed on the property's water inflow, in relation to the total volume of water inflow to all of the properties connected to the Service, as follows:

$$\text{Annual sewer fee} = \frac{(\text{Total service cost}) \times (\text{water inflow to property})}{(\text{water inflow to all properties})}$$

2. The tax administrator shall, as at the beginning of each year, estimate the anticipated water inflow to each property connected to the Service, using the historical water inflow from the previous year, if available, and other relevant information as the tax administrator considers advisable in the tax administrator's absolute discretion and from those estimates calculate the estimated annual sewer fee for each property.

3. In accordance with section 11 of the Law, the tax administrator shall apportion the estimated annual sewer fee for each property into eleven (11) equal monthly sewer fee installments and shall mail to the customer an invoice for each monthly sewer fee installment.

4. The tax administrator shall, as at the end of each year and before January 31 of the following year, calculate the final annual sewer fee for each property using the actual water inflow to each property connected to the Service in the same manner as set out above in paragraph 1.

OTHER FEES

The customer must pay the following fees related to the Service:

Fee Type	Fee Amount
Connection Fee	\$950.00, plus actual costs incurred by the First Nation in excess of that amount due to access requirements or repairs required to road, sidewalks, curb and gutter.
Disconnection Fee	\$50.00
Reconnection Fee	\$50.00
Call-out Fee	\$50.00 per call out

SCHEDULE II
COMPLAINT TO TAX ADMINISTRATOR RESPECTING
SEWER SERVICE FEE

TO: Tax Administrator for the Mississaugas of Scugog Island First Nation
[address]

PURSUANT to the provisions of the *Mississaugas of Scugog Island First Nation Sewer Service Fee Law, 2017*, I hereby make a complaint respecting the sewer service fee as follows: [description of the property]

This complaint is based on the following reasons:

- (1)
- (2)

(describe the reasons in support of the complaint in as much detail as possible)

Applicant's mailing address to which a reply to the complaint is to be sent:

Name of Complainant (please print)

Signature of Complainant
(or representative)

Dated: _____, 20__ .

SCHEDULE III

NOTICE OF DISCONTINUANCE OF SEWER SERVICE

TO: _____

ADDRESS: _____

DESCRIPTION OF PROPERTY: _____

TAKE NOTICE that fees, penalties, and interest in the amount of _____ dollars (\$_____) remain unpaid and are due and owing in respect of the provision of the sewer service to the above-reference property.

AND TAKE NOTICE that where you fail to pay all unpaid fees, penalties and interest within thirty (30) days of the issuance of this Notice, the First Nation may discontinue the sewer service provided to the property, pursuant to the *Mississaugas of Scugog Island First Nation Sewer Service Fee Law, 2017*.

AND TAKE NOTICE that if the amount owing is not paid in full on or before _____, being thirty (30) days from the date of issuance of this notice, the sewer service will be discontinued to your property. A disconnected sewer service will not be reinstated to the property until all outstanding fees, penalties and interest are paid in full, as well as a reconnection fee.

Tax Administrator for the Mississaugas of Scugog Island First Nation

Dated: _____, 20__ .

SCHEDULE IV

**REQUEST FOR INFORMATION BY TAX ADMINISTRATOR
FOR THE MISSISSAUGAS OF SCUGOG ISLAND FIRST NATION**

TO: _____

ADDRESS: _____

DESCRIPTION OF INTEREST IN LAND: _____

DATE OF REQUEST: _____

PURSUANT to subsection 5 of the *Mississaugas of Scugog Island First Nation Sewer Service Fee Law, 2017*, I request that you provide to me, in writing, no later than fourteen (14) days after the date hereof, the following information relating to the above-noted interest in land:

- (1)
- (2)
- (3)

If you fail to provide the requested information on or before the date specified above, a calculation of the fees for service connected to the property may be made on the basis of the information available to the tax administrator.

Tax Administrator for the Mississaugas of Scugog Island First Nation

Dated: _____, 20__.