

**CERTIFICATION**

Pursuant to Section 86, Indian Act RSC 1985 C.I-5 and amendments thereto, I certify that the attached copy of the Nadleh Whut'en Indian Band's Property Assessment and Taxation By-law, 1998-6, dated the 18th day of December, 1998 is a true copy of the said by-law.



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Gail Ksonzyna, A/Director  
Lands and Trust Services,  
a Superintendent as defined in  
Sec 2(1) Indian Act RSC 1985

Minister of Indian Affairs  
and Northern Development



Ministre des Affaires  
indiennes et du Nord canadien

Ottawa, Canada K1A.0H4

I, the Minister of Indian Affairs and Northern Development, HEREBY APPROVE, pursuant to section 83 of the *Indian Act*, the following by-law made by the Nadleh Whut'en Indian Band, in the Province of British Columbia, at a meeting held on the 18<sup>th</sup> day of December, 1998.

- **Nadleh Whut'en Indian Band No. 612**  
**Property Assessment and Taxation By-law No. 1998-6**

*Jane Stewart*

Dated at Ottawa, Ontario this 7<sup>th</sup> day of April, 1999.

Canada

**NADLEH WHUT'EN INDIAN BAND No. 612**

**PROPERTY ASSESSMENT AND TAXATION BYLAW  
BY-LAW NO. 1998-6**

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WHEREAS pursuant to paragraph 83(1)(a) of the Indian Act the Council of a Band may make bylaws for the purpose of taxation for local purposes of land, or interests in land; in the reserves, including rights to occupy, possess or use land, in the reserves;

AND WHEREAS the Council of the Nadleh Whut'en Indian Band deems it to be in the best interests of the Nadleh Whut'en Indian Band to make a bylaw for such purposes;

NOW THEREFORE BE IT RESOLVED the Council of the Nadleh Whut'en Indian Band at a duly convened meeting, enacts the following bylaw.

### **SHORT TITLE**

1. This bylaw may be cited as the Nadleh Whut'en Indian Band Property Assessment and Taxation Bylaw.

### **PART I INTERPRETATION**

2. (1) In this bylaw,

"Act" means the Indian Act, R.S., c. I-5.

"actual value" means the market value of the interest in land as if it were held in fee simple off reserve.

"appellant" means any person authorized under this bylaw to appeal an assessment notice.

"assessed value" means the actual value of land or improvements, or both, as determined under this bylaw.

"assessment area" means lands situated within the boundaries of existing and future Nadleh Whut'en Indian Band Indian Reserves;

"assessment roll" means a list prepared pursuant to this bylaw and includes a supplementary roll, setting out interests in land within the assessment area and their assessed values for the purposes of taxation and includes any alterations or additions under Part IX of this bylaw.

"assessment year" means the year, from January 1 to December 31, preceding the year in which taxes are to be levied.

"assessor" means a person, or persons appointed by Chief and Council for the purposes of this bylaw and any related duties as required by Chief and Council.

"Band" means the Nadleh Whut'en Indian Band.

"Band Council Resolution" or "resolution" means a motion, as recorded in the minutes of the meeting, passed and approved at a duly convened meeting of the Council pursuant to the consent of a majority of the councilors of the Band present at that meeting.

"Band land" means Reserve land other than land held under a C.P.

"C.P." means a Certificate of Possession as defined under sections 20(1) and 20(2) of the Indian Act; and for the purposes of this bylaw only, includes a Notice of Entitlement and a Certificate of Occupation as defined under sections 20(4) and 20(5) of the Indian Act.

"Chief" means the Chief of the Nadleh Whut'en Indian Band as selected according to the custom of the Band.

"Chief and Council" or "Band Council" means the Chief and Council of the Nadleh Whut'en Indian Band as selected by the custom of the Band.

"Council of the Band" or "Council" means the Chief and Councilors of the Nadleh Whut'en Indian Band.

"fiscal year" means April 1 of any year to March 31 of the succeeding year.

"holder" means a person in lawful possession of real property in the assessment area or a person who, for the time being,

- (a) is entitled to the possession of that property; or
- (b) is an occupant of that property; or
- (c) has any right, title, estate or interest in property; or
- (d) is a trustee of real property;

in the assessment area.

"improvement" mean an addition to land and, without restricting the generality of the foregoing, includes:

- (a) anything erected or placed in, on, over or under land, whether or not it is so affixed to the land as to become transferred without special mention by a transfer of the land;
- (b) anything erected or placed in or upon, or affixed to an improvement, so that without special mention it would be transferred by a transfer of land;
- (c) any item of immovable machinery and equipment which is prescribed assessable by Band Council Resolution;
- (d) a manufactured home.

"interest in land" means land or improvements, or both, and, without restricting the generality of the foregoing, includes any interest in land or improvements, the right to occupy, possess or use land or improvements in the reserve.

"land" means land and improvements, or interest in land and improvements, in the reserve, including rights to occupy, possess or use land and improvements in the reserve.

"local government services" includes local improvements, capital works, utility services, and the provision of any other services normally found in organized communities.

"local improvement" means any of the following works or any combination of them:

- (a) opening, widening, straightening, extending, grading, levelling, diverting or paving a street;
- (b) constructing a sidewalk, footcrossing, curbing, bridge, culvert or embankment forming part of a street, or constructing a system of storm drainage;
- (c) making, deepening, enlarging, or lengthening a common sewer or water system;
- (d) making sewer or water service connections to the street line on land abutting the main;

- (e) constructing a conduit for wires or pipes along or under a street;
- (f) reconstructing, replacing or repairing any of the works mentioned or any other related works.

"local improvement charge" means a charge in respect of a local improvement based on the actual or estimated capital costs and interest amortized over a period of years.

"locatee" means an Indian who is in lawful possession of land in the reserve pursuant to section 20(1)(2) of the Indian Act and for whose benefit the Minister has leased the land pursuant to section 58(3) of the Indian Act.

"manufactured home" means any structure whether equipped with wheels or not and whether homes self-propelled or not, that:

- (a) is used or designed for use as a dwelling or sleeping place, and
- (b) is constructed or manufactured to be moved from one point to another by being towed or carried unless licenced and equipped to travel on a public highway and occupied by a genuine tourist and situated within a mobile home park for a period of less than 60 days.

"Minister" means the Minister of Indian Affairs and Northern Development.

"occupant" means a person who, for the time being, is in actual occupation of real property.

"person" in addition to its ordinary meaning includes a partnership, association, company, society or body corporate.

"pipeline" means any pipe designed for or used in the commercial conveyance or transmission of any substance.

"prescribe" means a decision set out in a Band Council Resolution.

"real property" means land and the improvements thereon and, without restricting the generality of the foregoing, includes any interest in land or improvements, the right to occupy, possess or use land or improvements in the reserve, and includes a highway or railway right-of-way.

"registers" means the Surrendered and Designated Lands Register kept pursuant to section 55 of the Act and the Reserve Land Register kept pursuant to section 21 of the Act.

"Registrar" means the Lands Administrator for the Band as appointed by the Chief and Council.

"Reserve" means Nadleh Whut'en Indian Band Reserves as such reserves are defined in the Indian Act, section 2(1), any land held as a special reserve for the use and benefit of the Nadleh Whut'en Indian Band pursuant to section 36 of the Indian Act and any future reserves or any additions to existing reserves.

"residential property" means real property used primarily for family residential purposes.

"service charge" means a charge in respect of a service based on the estimated or actual annual cost of the service.

"tax" or "taxes" means a levy imposed by section 11 of this bylaw, and includes all interest, penalties, costs or other charges imposed and payable pursuant to this bylaw.

"tax administrator" means the person appointed by Council pursuant to section 3 to administer this bylaw.

"tax debtor" means a person with outstanding obligations to pay taxes imposed by this bylaw after the expiration of time provided for in the Demand for Payment and Notice of Enforcement Proceedings served pursuant to section 60.

"taxation authority" means the Chief and Council of the Nadleh Whut'en Indian Band.

"trailer" means any structure, other than a mobile home, whether ordinarily equipped with a wheels or not, that is constructed or manufactured to be moved from one point to another by being towed or carried.

"trustee" means an executor, administrator, guardian, committee, receiver or any person having or taking upon himself the lawful possession, administration or control of property affected by an express trust, or having by law possession, management and control of the property of a person under any legal disability.

(2) The preamble forms part of this bylaw.

## PART II ADMINISTRATION

### Tax Administration

3. (1) The Council of the Band may appoint a person for a specified or indefinite term to administer this bylaw who shall be called the "tax administrator".

(2) The tax administrator is responsible for collection and enforcement under this bylaw.

(3) The Council of the Band may

- (a) appoint an acting tax administrator who may act in the case of the absence or disability of the tax administrator;
- (b) appoint other officials to assist in the administration of this bylaw;
- (c) establish educational and professional requirements for the tax administrator and other officials who assist in the administration of this bylaw;
- (d) make such reasonable rules and guidelines as may be necessary to establish minimum standards of assessment performance; and
- (e) develop, prescribe, and require the use of all forms necessary for the administration of this bylaw.

## PART III APPLICATION OF BYLAW

4. This bylaw applies to all land and interests in land within the Reserve and to any lands added to the reserves in the future.



## PART IV LIABILITY TO TAXATION

### Taxable Property

5. (1) Subject to section 6, all land and any interest in land including any right to occupy, possess, or use land, is subject to taxation under this bylaw.

(2) Without derogating from Council's taxing authority or jurisdiction, the taxation authority may accept payment of taxes in the form of grants-in-lieu of taxes or may otherwise accept settlement of a taxation issue where it is in the best interests of the Band.

### Exemption

6. The following land and interests in land are not subject to taxation

- (a) any land or interest in land of the Band or of a member of the Band;
- (b) a building used exclusively for school purposes and the land necessary as the site for the building;
- (c) a building occupied by a religious body and used chiefly for divine service, public worship or religious education, and the land necessary as the site for the building;
- (d) a building, or any part thereof, used as a hospital, other than a private hospital, and the land necessary as the site for the building;
- (e) a building, or any part thereof, used as a university, technical institute, or public college, not operated for profit, and the land necessary as the site for the building;
- (f) an institutional building used chiefly for the purpose of providing housing accommodation for the elderly or persons suffering from physical or mental disability, not operated for profit, and the land necessary as the site for the building; and
- (g) a cemetery to the extent that it is actually used for burial purposes.

7. Notwithstanding section 6, all land and interests in land are liable to service and local improvement charges under part XVII of this bylaw.

8. Where an interest in land is not subject to taxation, that fact does not affect the liability to taxation of any other interest in the same land.

9. (1) An exemption does not apply to any portion of a building other than the portion occupied or used for the purpose for which the exemption was granted.

(2) Where an exemption applies to a portion of a building, it applies, in the same proportion, to the land that is necessary as the site for the building.

## PART V LEVY OF TAX

### Persons Subject to Taxation

10. (1) Where land or an interest in land is subject to taxation, any person who has an interest in land, and who has a right to occupy, possess or use the land, or any occupant of the land, is liable to taxation.

(2) Where more than one person is liable to taxation with respect to a parcel of land or an interest in a parcel of land, those persons are liable jointly and severally to taxation.

#### Tax Rates

11.(1) In each taxation year as soon as practicable, Council shall adopt a bylaw to impose tax rates on interests in land subject to taxation under this bylaw. Taxes levied under this bylaw apply to the calendar year in which the levy is first made and are based upon the assessed values of the interest in land and improvements as determined under this bylaw.

(2) Council may, by bylaw, establish different classes of real property and establish different tax rates according to the class of real property to be taxed.

(3) Taxes shall be levied by applying the rate of tax against each \$1,000 of assessed value of the land and improvements.

12. Taxes levied in a taxation notice mailed under section 24 are due and payable on July 15 of the year in which they are levied.

### **PART VI INFORMATION FOR ASSESSMENT ROLL**

#### Information for Assessment Roll

13. (1) Every person liable for tax and every person whose name is shown on the assessment roll shall, on request, forthwith furnish to the assessor, in writing and signed, the information requested in Schedule I concerning the land used or occupied by that person and without restricting the generality of the foregoing, including: purchase price; terms and covenants in leases; construction costs; costs of alterations and repairs; or, rents payable, paid or agreed to be paid.

(2) Where an assessor does not receive the information referred to in subsection (1), or is not satisfied that the information received is accurate, the assessor may value the land on the basis of information in his or her possession.

### **PART VII ASSESSED VALUE**

#### Assessors

14. (1) The Council of the Band may appoint one or more assessors for a specified or indefinite term.

(2) An appointment under subsection (1) may be for the purpose of valuing particular land or particular kinds of lands, including any rights to occupy, possess or use land in the reserve, as set out in the resolution.

#### Valuation Date

15. The assessor shall carry out a valuation no later than December 31, 1998 which valuation shall constitute the assessed value for tax purposes for 1999.

16. For all years subsequent to 1999 the date of valuation is December 31 of the year prior to which a tax is imposed.

#### Criteria for Valuation

17. (1) The assessor shall assess interests in land according to the classes of real property established by this bylaw.

(2) For the purposes of assessing property pursuant to this bylaw the assessor shall utilize the practices and regulations established under British Columbia legislation as amended from time to time.

18. (1) Except as provided in subsections 17(2) and 18 (3), the assessor shall value land and improvements at their actual value.

(2) The assessor shall determine the actual value of the following, using the equivalent rates which would be applied if the interest in land was within the province of British Columbia:

- (a) the pole lines, metallic or fibre optic cables, towers, poles, wires, transformers, conduits and mains of a telecommunication, trolley coach, bus or electrical power corporation, but not including substations;
- (b) the track in place of a railway corporation;
- (c) the pipe lines of a pipe line corporation for the transportation of petroleum, petroleum products, or natural gas, including valves, cleanouts, fastenings, and appurtenances located on the right of way, but not including distribution pipelines, pumping equipment, compressor equipment, storage tanks and buildings;
- (d) the right of way for pole lines, cables, towers, poles, wires, transformers, conduits, mains and pipe lines referred to in paragraphs (a) and (c);
- (e) the right of way for track referred to in paragraph (b).

(3) Notwithstanding subsection (1), if the Council of the Band has, in a lease or other instrument granting an interest in land, placed a restriction on the use of the land, the assessor shall consider the restriction.

(4) The duration of the interest referred to in subsection (3) or the right of the Council of the Band to terminate an interest is not a restriction within the meaning of subsection (3).

## PART VIII THE ASSESSMENT ROLL

19. No later than May 15 for the taxation year the assessor shall prepare an assessment roll containing the following particulars:

- (a) the name and last known address of the person assessed;
- (b) a short description of the land;
- (c) the classification of
  - (i) the land, and
  - (ii) the improvements;
- (d) the actual value by classification of
  - (i) the land, and
  - (ii) the improvements;
- (e) the total assessed value;
- (f) the total assessed value of exemptions from taxation, where applicable;
- (g) the total net taxable value; and
- (h) any other necessary information.

20. The assessor shall include in the assessment roll the particulars set out in section 19 for any land or interest in land in respect of which grants-in-lieu of taxes may be accepted.

21. The assessor shall set out the value of improvements separately from the value of the bare land on which they are located.

22. (1) A person whose name appears in the assessment shall give written notice to the tax administrator or assessor of any change of address.

(2) A person who is the holder of a charge or an interest in land or a right to use, occupy or possess land may give written notice, with full particulars of the nature, extent and duration of the charge to the tax administrator, and request copies of all tax notices issued during the duration of the charge, and the assessor shall enter that person's name and address on the assessment roll.

23. (1) The assessment roll is effective on its adoption by resolution of the Council of the Band.

(2) On adoption, the assessment roll is open to inspection in the Nadleh Whut'en Indian Band office by any person during regular business hours.

24. (1) The tax assessor shall on or before May 15 of each year mail a notice of assessment to every person named in the assessment roll in respect of each parcel of land or interest in land for which that person is liable to taxation or for which grants-in-lieu of taxes may be sought.

(2) The notice of assessment shall be in the form set out in Schedule II and shall contain the information set out in the assessment roll in respect of that parcel and shall contain a statement as to the right of appeal.

25. Where the tax assessor mails a notice of assessment, the tax administrator shall make an entry on the assessment roll of the date of mailing.

## PART IX ALTERATIONS AND ADDITIONS

### Amendment of Assessment Roll

26. (1) Where the assessor finds that during the current taxation year:

- (a) taxable land or an interest in land is not entered in the assessment roll;
- (b) the value of land or an interest in land is not the same as the valuation entered in the assessment roll by reason of
  - (i) the demolition, destruction or damaging of an improvement,
  - (ii) new construction or new improvements,
  - (iii) a change in a permitted use, or
  - (iv) a subdivision;
- (c) there has been a change in the possession, use or occupation;
- (d) there is any clerical error; or
- (e) there has been a change in the eligibility for an exemption from taxation;

the tax assessor shall amend the assessment roll to effect the necessary changes but subject to section 28, no amendments shall be made after December 31 of the current taxation year.

(2) An amendment to the assessment roll is not effective until approved by resolution of the Council of the Band.

**Notice of Amended Assessment**

27. Where the assessment roll is amended, the assessor shall, as soon as practical after adoption of the amended assessment roll by resolution of the band council, mail a notice in the form set out in Schedule II in respect of the amended assessment to each person affected.

**Under Assessment**

28. Where there has been an under-assessment resulting from

- (a) a person's failure to disclose information required under this By-law with respect to land or an interest in land; or
- (b) a person's concealment of information required under this bylaw with respect to land or an interest in land, that results in an incorrect levy of taxes;

the assessor shall issue an amended assessment notice, in the form set out in Schedule II, for the current year and for each previous year during which the condition giving rise to the amendment to the assessment roll persisted.

29. Where a condition that gives rise to an amendment to the assessment roll existed during part of a taxation year, the tax administrator shall, in preparing an amended tax notice, adjust the amount of the taxes due on a pro rata basis.

30. Parts VIII, X, XI, XII and XIV apply with respect to an amended assessment roll and to an amended assessment notice.

31. Where the Council of the Band approves an amendment to the assessment roll for the current year, the tax administrator shall refund any excess taxes that have been paid, together with interest at the rate of six (6) per cent per annum, and any balance unpaid shall, subject to notice of assessment and taxation, be due and payable, notwithstanding a receipt or certificate given by the tax administrator.

**PART X  
APPEALS**

**Establishment of Assessment Review Committee**

32. (1) The Chief and Council shall by Band Council Resolution establish an Assessment Review Committee which shall consist of:

- (a) one person who is or was duly qualified to practice law in the Province of British Columbia, or who is or was a Judge of a Provincial, County or Supreme Court in the Province of British Columbia;
- (b) one person who has sat as a member of an appeal board to review assessments in and for the Province of British Columbia;
- (c) one person who is a member of the Nadleh Whut'en Indian Band who does not have any direct or indirect financial interest in any real property assessment to which an appeal relates, as set out in section 37.

(2) Council shall maintain a list of substitute members of the Assessment Review Committee. Where a member of the Assessment Review Committee is disqualified, unable or unwilling to act, Chief and Council shall appoint the first person on the list of substitute members of the Assessment Review Committee to act for the period for which the member of the Assessment Review Committee is unavailable. If for any reason the first person on the list of substitute members is disqualified, unable or unwilling to act, Chief and Council shall appoint the next person on the list until a substitute member of the Assessment Review Committee is able to act.

(3) Each member of the Assessment Review Committee shall hold office for a period of three years unless the member resigns or is otherwise removed from office in accordance with this bylaw.

(4) Each member of the Assessment Review Committee and each substitute member actually appointed to act, shall be paid for his or her services as a member of the Assessment Review Committee at \$150.00 per day for time spent on activities related to the Assessment Review Committee.

(5) A member of the Assessment Review Committee shall be removed from office if he or she:

- (a) is convicted of an offense under the Criminal Code;
- (b) fails to attend three consecutive appeal hearings; or
- (c) fails to perform any of his or her duties under this bylaw in good faith and in accordance with the terms of this by-law.

33. (1) A person whose name appears in the assessment roll, may, within 30 days of the date of mailing of an assessment notice, appeal to the Assessment Review Committee in respect of the following matters:

- (a) the liability to assessment;
- (b) the assessed value;
- (c) the assessment classification; or
- (d) any alleged error or omission.

(2) An appellant shall file an appeal by delivering a notice of appeal containing the information set out in Schedule III to the office of the assessor within 30 days of the mailing of the assessment notice.

#### Contents of Appeal

(3) An appellant may make the appeal through his solicitor or agent, in which case the appeal shall set forth the name and address of the solicitor or agent, as well as the name and address of the appellant.

(4) Any notice or correspondence required to be given to an appellant shall be properly given if delivered to the solicitor or agent at the address set out in the appeal.

(5) Where an appeal is taken with respect to an amended assessment notice, the appeal shall be confined to the amendment.

#### Duties of Committee

34. (1) The Assessment Review Committee shall:

- (a) hear all appeals from assessment notices;

- (b) investigate and advise Chief and Council upon assessments, classes of assessments and assessment rolls which the Committee deems necessary;
- (c) select a Chairman of the Board who shall supervise and direct the work of the Board;
- (d) give all appellants at least 10 days notice of the time and place for the hearing of appeals;
- (e) have the custody of all records, documents, evidence and proceedings before the Assessment Review Committee;
- (f) have control of its own proceedings in order to fairly and adequately determine any appeal, including the power to require the attendance of any person to give evidence at the hearing of the appeal; and
- (g) where an appeal relates to real property of which a person other than the appellant is the holder, give each such person not less than ten days notice of the time, date and place fixed for the hearing by the Assessment Review Committee of the appeal, and the notice shall specify the nature of the appeal.

(2) In performing its duties under this bylaw the Assessment Review Committee shall:

- (a) ensure that the assessments and assessment rolls are equitable and that they represent fairly the assessment values provided for in this bylaw;
- (b) act impartially, fairly and reasonably, to the best of their skill and ability.

(3) The Chairman of the Assessment Review Committee shall:

- (a) supervise and direct the work of the Assessment Review Committee, and
- (b) preside at sittings of the Assessment Review Committee.

(4) There shall be a Secretary of the Assessment Review Committee, who shall be appointed by the Chief and Council.

(5) The Secretary of the Assessment Review Committee shall:

- (a) have the custody and care of all records regulations, documents and orders made by or pertaining to the Committee; and
- (b) obey the directions given to him by the Chairman or the Committee relating to his office.

#### Parties

35. (1) The assessor shall be a party to all appeal proceedings under this bylaw and the Assessment Review Committee shall give the assessor ten days written notice of any appeal and reasonable opportunity to be heard at any appeal proceedings.

(2) The Assessment Review Committee shall give the Band Council notice of, and a reasonable opportunity to be heard at, any appeal proceedings which raise issues of law regarding anything done under this bylaw.

#### Quorum and Vacancy

36. (1) A majority of the members of the Assessment Review Committee constitutes a quorum.

(2) Where a quorum of the members of an Assessment Review Committee is not present at the time at which a hearing is to be held, the hearing shall be adjourned to the next day that is not a holiday, and so on from day to day until there is a quorum.

(3) All questions respecting the revision of an assessment roll and the deciding of any appeals with respect thereto shall be decided by a majority vote of the members of the Assessment Review Committee at the hearing.

(4) The Chief and Council may by Band Council Resolution establish procedures for the conduct of the proceedings of the Assessment Review Committee which shall not be inconsistent with this bylaw.

#### Conflict of Interest

37. No person shall sit as a member of the Assessment Review Committee hearing an appeal if that person:

- (a) has a direct or indirect financial interest in any property assessment to which an appeal relates;
- (b) is the Chief or a member of Council;
- (c) is an employee of the Band or Council;
- (d) has financial dealings with the Band or Council which might reasonably give rise to a conflict of interest and impair that person's ability to deal fairly and impartially with an appeal as required under the terms of this bylaw.

#### Date of sittings

38. (1) Subject to section 41(2), the sittings of the Assessment Review Committee shall:

- (a) be commenced no later than 14 days after the final date for submission of the Notice of Appeal referred to in section 33; and
- (b) be completed within 90 days of their commencement as set out in subsection 1(a).

(2) The assessor shall deliver the assessment roll to the Assessment Review Committee on or before the date upon which the Committee commences its sittings.

(3) The Assessment Review Committee shall mail a Notice of Hearing to all parties to the appeal in the form provided in Schedule IV.

#### Witnesses and documents

39. (1) The Assessment Review Committee may request the attendance of witnesses and the production and inspection of documents.

- (2) (a) A party to any appeal proceedings before the Assessment Review Committee may request that a Notice be served by any member of the Committee, requesting the attendance of any person as a witness to give evidence at the hearing of the appeal;
- (b) The Notice shall be signed by the Chairman of the Committee who issues it and shall be served on the witness by the party at least 7 days before the appeal.
- (c) The Notice shall be in the form attached as Schedule V.

(3) The party requesting the attendance of a person shall pay a \$2 witness fee plus reasonable travelling expenses to the witness to attend and give evidence before the Assessment Review Committee, on the time and date set out in the Notice.



#### Hearing of Appeals

40. (1) The Assessment Review Committee may hear all appeals from an assessment notice on the same day, or if deemed advisable, adjourn from time to time until all appeals have been heard and determined.

(2) An Assessment Review Committee may hear an appeal, whether the appellant is present or not.

(3) An Assessment Review Committee may, after hearing an appeal, postpone consideration thereof to some future time and the appellant shall, if required by the Committee, produce all relevant books, papers and documents and answer all proper questions and give all necessary information affecting the property or matter under consideration.

(4) An Assessment Review Committee may order that the costs of a proceeding before the Committee shall be paid by or apportioned between the persons affected by the appeal in the manner it thinks fit, provided however that such costs shall not exceed 10% of the amount of the taxes payable concerning the real property which is the subject of the appeal, as finally determined by the Assessment Review Committee.

(5) In any appeal proceedings, the onus of proof is on the person bringing the appeal to establish that the assessed value of the property should be different from the value determined by the assessor.

#### Reference to Band Council

41. (1) Within 7 days from the completion of hearing all appeals, except when the Nadleh Whut'en Indian Band Band Council has adjourned under subsection 41(2), the Assessment Review Committee shall submit to Band Council its decisions on each appeal, including the vote of each member of the Committee, either in favour or against the allowing of the appeal.

(2) Notwithstanding section 38(1), the Assessment Review Committee may, with the consent of all parties to an appeal, adjourn the appeal from time to time beyond the time for completion of the appeals and shall advise Chief and Council as provided in this section.

(3) Within 15 days from the receipt of the decision of the Assessment Review Committee, Chief and Council shall instruct the assessor to prepare a final assessment roll including any amendments resulting from the decision in subsection (1).

#### Notice of decision

(4) Not later than fourteen days from the receipt of the instructions pursuant to subsection (3) the assessor shall notify in writing each appellant and person affected by the appeal, of the decision of the Assessment Review Committee.

(5) The notice given under subsection (4) shall state that the appellant has a further right of appeal to a court of competent jurisdiction.

#### Amendment of Roll

(6) Where the assessor is directed to amend an assessment roll under subsection (3), the assessor shall do so within fourteen days, and shall return the assessment roll forthwith to the Chairman of the Assessment Review Committee.

(7) Amendments made to the assessment roll pursuant to subsection (3) shall be dated and initialled by the assessor.

(8) Forthwith upon the receipt of an amended assessment roll under subsection (6), the Chairman shall:

- (a) verify that the roll has been amended according to the decisions of Chief and Council under subsections (3) and (6);
- (b) authenticate the assessment roll by affixing to it a sworn or affirmed statement in the prescribed form; and
- (c) forward the authenticated assessment roll to the taxation authority;

## PART XI TAX NOTICE

### Tax Notice

42. (1) Where the Council adopts an assessment roll, and after notices of assessment are mailed pursuant to section 24, the tax administrator shall mail to every person whose name appears in the assessment roll, a tax notice in the form set out in Schedule VI, in respect of each parcel of land or interest in land for which that person is liable to taxation, and, in the case of an amended assessment roll that has been adopted, the tax administrator shall mail an amended tax notice to every person affected by the amendment.

(2) The tax notice referred to in subsection (1) shall contain the information set out in Schedule VI which includes the particulars of any arrears and interest, where payment is to be made, and the manner of payment.

43. (1) The tax administrator shall enter the date of mailing the tax notice on the assessment roll.

(2) The mailing of the tax notice by the tax administrator constitutes a statement of and demand for payment of the taxes.

44. Where applicable, a tax notice shall state that taxes are payable in conjunction with periodic lease payments under Part XIII.

45. (1) Where, subsequent to payment of taxes, it is shown that a property recorded on the taxation roll was not liable to taxation for the year for which it was taxed, or has been taxed for more than the proper amount, the tax administrator shall, at the direction of the Council, remit or refund to the person liable for the unpaid taxes the amount of taxes shown to have been imposed in excess of liability.

(2) Where taxes imposed under this bylaw are due from a person liable for the unpaid taxes to whom an amount is to be refunded under this section, the amount may, in the discretion of the council, be refunded in whole or in part by being applied as a credit on account of the taxes due and accruing due.

## PART XII DUE DATE AND INTEREST

### When Taxes Payable

46. (1) Subject to sections 47 and 48 taxes levied in a tax notice mailed under section 42 are due and payable as of July 15 of the year in which they are first levied at the office of the taxation authority notwithstanding that an appeal under Part X may be pending.

(2) All taxes payable under this bylaw are debts due to the taxation authority and are recoverable as such in any court of competent jurisdiction or in any other manner provided by this bylaw.

(3) Where any person alleges that he or she is not liable to pay taxes imposed pursuant to this bylaw, such person shall either initiate proceedings in a court of competent jurisdiction or launch an appeal under section 33. The proceedings shall be initiated within 30 days of the date of mailing of the tax notice referred to in Part XI.

(4) Unless a challenge is initiated pursuant to subsection (3), the taxpayer shall thereafter be estopped from denying liability to pay taxes and estopped from challenging any steps taken to enforce the payment of taxes as provided in Part XVI.

(5) The locatee or any other person who has registered a security interest against the taxpayer's interest in land in the Surrendered and Designated Lands Register, kept pursuant to section 55 of the Indian Act and the Reserve Land Register, kept pursuant to section 21 of the Indian Act, may pay the taxes due and such payment shall extinguish the debt owing to the taxation authority.

47. Where taxes are due and payable in conjunction with payment of rent under Part XIII, the proportionate payment is due and payable on the date that the rent is due and payable.

48. Where an assessment roll is amended under this bylaw, it shall, for the purposes of this Part, be deemed to be amended as of the date of adoption of the assessment roll under section 23.

#### Interest

49. If all or any portion of taxes remain unpaid after July 15 of the year they are first levied, the unpaid portion shall accrue interest at 3% (three per cent) above the Bank of Canada prime rate as it is on the first of each month and shall be compounded annually.

50. Where taxes are in arrears and part payment is received, the payment shall be applied firstly to accrued interest and then arrears, and any balance shall be applied on account of current taxes.

### **PART XIII PERIODIC PAYMENTS**

#### Payment of Percentage

51. The Council of the Band, with the consent of the locatee where applicable, may declare that the tax, with respect to any land or interest in land that is leased, be expressed as a percentage of the rent payment and collected with it in accordance with the terms of a lease agreement or the terms of an agreement with the landlord.

#### Payment on Account

52. Where the Council of the Band has entered into an agreement with the Crown, or with any person entitled to receive rents, for the collection of tax under this Part, the receipt by the Crown or such person of a payment on account of tax shall be a discharge of the liability for tax to the extent of the payment.

### **PART XIV RECEIPTS AND CERTIFICATES**

#### Receipt

53. Except where Part XIII applies, on receipt of a payment of taxes, the tax administrator shall issue an official receipt to the taxpayer and shall enter the number of the receipt on the assessment roll opposite the land or interest in land for which the taxes are paid.

**Certificate**

54. On a request in writing, the tax administrator shall issue a certificate showing whether taxes have been paid with respect to any taxable land or interest in land, and if not, the amount of taxes and interest outstanding.

**PART XV  
APPLICATION OF REVENUES**

**Application of Revenues**

55. (1) All moneys raised under this bylaw shall be placed in a special account or accounts.

(2) Moneys raised shall include

- (a) taxes;
- (b) grants-in-lieu of taxes;
- (c) interest; and
- (d) amounts collected on account of costs.

(3) Subject to section 56, an expenditure made out of moneys raised under this bylaw shall be made under authority of a separate bylaw.

**Authorized Expenditure**

56. (1) The following expenditures of funds raised under this bylaw are hereby authorized:

- (a) refunds of overpayment and interest;
- (b) all expenses of preparation and administration of this bylaw;
- (c) the remuneration of an assessor and the tax administrator;
- (d) all legal costs and other expenses of enforcement of this bylaw.

**PART XVI  
COLLECTION AND ENFORCEMENT**

**PROOF OF DEBT**

**Costs of Enforcement**

57. The taxation authority may charge the person named in an assessment roll with all reasonable costs which are incurred in the collection of all taxes, interest, penalties or other costs imposed by this bylaw. Such costs shall be in accordance with Schedule VII to this bylaw.

**Liability for Taxes**

58. (1) A person named in an assessment roll as having the use, occupation or possession of land or an interest in land in the reserve is liable for all taxes imposed in respect of the land or interest in land during the year and all unpaid taxes imposed in previous years.

(2) Any tax, or portion thereof, due and payable under this bylaw that has not been paid may be certified by the tax administrator, who shall attach a copy of that part of an assessment roll that refers to the property taxes which are payable. Such certification shall be in the form provided in Schedule VIII, and is prima facie proof of the debt.

### **SPECIAL LIEN AND PRIORITY OF CLAIM**

#### **Taxes are a Special Lien**

59. (1) Taxes due and payable are a special lien and encumbrance on the interest of the user, possessor or occupier of the land, as well as on improvements located on the land.

(2) The special lien and encumbrance referred to in section 59(1) attaches to the interest in land being taxed, and without limiting the foregoing, attaches to the interest in land of a subsequent holder.

(3) The person who acquires an interest in land on which a lien under this bylaw has been registered and the person to whom the taxes were originally levied are jointly and severally liable for the lien.

(4) The tax administrator may register a certificate issued under section 58(2) in either register on or after January 2 following the taxation year in which the taxes are imposed.

(5) Pursuant to section 59(4), the special lien and encumbrance shall have priority over every subsequently registered claim, privilege, lien, charge, security interest, or encumbrance of every person, from the time of its registration.

(6) When all taxes levied against the interest in land have been paid, the tax administrator shall certify that the special lien and encumbrance against the interest in land has been discharged, and shall register such certification in either register. Such certification shall be sufficient proof of the payment of the taxes and the discharge of the special lien or encumbrance.

(7) The special lien and encumbrance is not lost or impaired by reason of any technical error or omission.

### **DEMAND FOR PAYMENT AND NOTICE OF ENFORCEMENT PROCEEDINGS**

#### **List of Unpaid Taxes**

60. (1) Except for tax proceedings which have been postponed pursuant to section 60.1(1), on or after January 2 following the year for which taxes are imposed, the tax administrator shall prepare a list of taxes which have not been paid, together with the name of the assessed taxpayer.

#### **Demand for Payment and Notice of Enforcement Proceedings**

(2) Within thirty days of the list pursuant to section 60(1), the tax administrator shall mail, in the form set out in Schedule IX, a Demand for Payment and Notice of Enforcement Proceedings to all persons whose names are on the list, and to any locatee, tenants, agents or employees of such person whose rights, proprietary or otherwise, may be affected by the enforcement proceedings.

#### **Demand for Payment and Notice of Enforcement Proceedings**

(3) For the purposes of this section the mailing of a Demand for Payment and Notice of Enforcement Proceedings is deemed to be delivery to the addressee.

#### Commencement of Enforcement Proceedings

(4) Upon the expiration of the 30 day period provided in the Demand for Payment and Notice of Enforcement Proceedings delivered pursuant to section 60(2) the tax administrator shall request authorization from the Council to commence enforcement proceedings against the tax debtors. The Council may direct the tax administrator to commence enforcement proceedings.

(5) Prior to the authorization of any of the enforcement proceedings set out in sections 61, 63, 64, 65, and 66 the Council shall consult with any affected locatee.

#### Postponement, Reduction and Remission of Taxes

60.1 The Council may upon application by the tax debtor

(1) postpone the taking of enforcement proceedings for a specified period; or

(2) reduce or remit the taxes where the Council determines that:

- (a) full payment would result in undue hardship to the tax debtor; or
- (b) it is necessary and in the best interest of the Band to effect a transfer of the tax debtor's interest.

### **DISTRESS: SEIZURE OF GOODS**

#### Distress

61. (1) With the authorization of the Council, if the taxes or any portion thereof remain unpaid after the 30 day period provided by the Demand for Payment and Notice of Enforcement served pursuant to section 60 has expired, or upon the expiration of the period specified by the Council pursuant to section 60.1(1), proceedings by way of distress, as set out herein, may be taken by the tax administrator.

#### Notice of Distress

(2) The tax administrator shall serve a Notice of Distress on the tax debtor and provide a copy of same to the locatee, where applicable, in the form set out in Schedule X.

#### Seizure of Property

(3) If the taxes, or any portion thereof, remain outstanding following the time provided by the Notice of Distress, then the tax administrator shall effect a seizure by distress of such property, and post a notice of the property which is seized pursuant to this section on the land. The seized property shall then be in the possession of the Band, as represented by the tax administrator.

(4) So long as the taxes, or any portion thereof, remain outstanding, no goods seized pursuant to subsection (3) which are located on reserve shall be removed therefrom, and any such removal shall be considered a trespass. Without restricting the generality of the foregoing, no such property shall be seized by a bailiff, sheriff, assignee or liquidator or trustee, or authorized trustee in bankruptcy, except under the authority of the Council.

### **DISTRESS: SALE OF GOODS SEIZED BY DISTRESS**

#### Sale of Goods Seized by Distress

62. (1) If the tax administrator seizes by distress the tax debtor's goods pursuant to section 61(3), and the tax debtor does not commence legal proceedings in a court of competent jurisdiction within 60 days after the date of seizure challenging such seizure, the property may be sold in accordance with this Part and the tax debtor is estopped from denying the validity of the seizure and sale of such property.
- (2) If the outstanding taxes have not been paid in full 60 days after a seizure by distress pursuant to section 61(3), the goods seized will be deemed to have been abandoned by the tax debtor and may be sold by public auction, the proceeds of which will be used for payment of the outstanding taxes.
- (3) A Notice of Sale of Goods Seized by Distress in the form of Schedule XI to this bylaw shall be published in at least one newspaper of general local circulation for 7 days prior to the sale, and shall be posted on the tax debtor's premises located on reserve.
- (4) The sale of the goods seized by distress shall be conducted at the time and place advertised pursuant to subsection (3), unless it is necessary to adjourn such sale, in which case an additional notice shall be published in the manner provided by subsection (3):
- (5) Any surplus resulting from the sale conducted pursuant to subsection (4), after deducting all liabilities of the tax debtor, including all costs and charges arising from the sale, shall be paid to the owner of the property seized. In the event that the tax administrator is uncertain as to the person entitled to such surplus the tax administrator shall pay such money into court by way of interpleader action.
- (6) Any goods of any tax debtor that would be exempt from seizure under a writ of execution issued by a superior court of the province in which the seizure is made are exempt from seizure under this section.

## SALE OF IMPROVEMENTS OR PROPRIETARY INTEREST

### Sale of Improvements or Proprietary Interest

63. (1) With the authorization of the Council, if the taxes or any part thereof remain unpaid after expiration of the 30 day period provided by the Demand for Payment and Notice of Enforcement served pursuant to section 60, or upon the expiration of the period specified by the Council pursuant to section 60.1(1), proceedings by way of sale of improvements or proprietary interests, may be taken by the tax administrator. The tax administrator shall serve the tax debtor and locatee, where applicable, a Notice of Sale of Improvements and Disposition of Interests on Reserve, in the form of Schedule XII to this bylaw.

### By Public Auction

(2) On June 30 following the year in which the taxes are imposed or if enforcement proceedings are postponed under section 60.1(1) six months from the end of the period specified by the Council, and upon the failure of the tax debtor to pay the outstanding taxes or to commence legal proceedings in a court of competent jurisdiction challenging the sale or disposition, the tax administrator shall sell the improvements or dispose of the interest of the tax debtor in the Reserve by public auction, or pursuant to subsection (3) by public tender.

### Publication of Auction

(3) The Council shall prescribe the method of public tender, including the conditions of sale, method of publication or circulation, and conditions attached to the acceptance of any offer.

(4) A Notice of Sale of Improvements and Disposition of Interest in the Reserve in the form of Schedule XII to this bylaw shall be published in at least one newspaper of general local circulation for 7 days prior to the sale, and shall be posted on the tax debtor's premises located on reserve.

(5) The sale of the improvements and disposition of interest in the Reserve shall be conducted at the time and place advertised pursuant to subsection (3), unless it is necessary to adjourn such disposition. If an adjournment is necessary an additional notice shall be published in the manner provided by subsection (3).

#### Upset Price

(6) The tax administrator, upon receiving the prior approval of the Band Council, may at any sale and disposition conducted pursuant to subsection (2) or (4), set an upset price equal to the outstanding taxes with respect to that property, and that upset price shall be the lowest price for which the improvements may be sold and the interest in the Reserve disposed.

(7) Where the tax administrator sets an upset price pursuant to subsection (6), and there is no bid at the sale and disposition conducted pursuant to subsection (2) or (4) that is equal to or greater than the upset price, the taxation authority shall be deemed to be the purchaser and shall acquire the interest in the land free and clear of all encumbrances or charges.

#### Redemption Period

(8) At any time within six months after the sale and disposition held pursuant to subsection (2) or (4), the tax debtor may redeem his or her improvements and interest in the Reserve by paying to the tax administrator the full amount of all taxes for which the improvements were sold and the interests disposed, together with all taxes which have subsequently fallen due.

(9) If upon the expiration of the redemption period provided by subsection (8), any portion of the taxes remains outstanding, the disposition of the interest shall be considered final and with Ministerial consent, the purchaser shall obtain title to the interest in land. The tax administrator shall certify the transfer in the form provided in Schedule XIII and shall register it in one or both registries and shall serve it on the tax debtor.

(10) Upon the filing of the certificate provided by subsection (9), the Purchaser shall be substituted for the tax debtor as the holder of the interest in the Reserve, and in addition to any other obligations, shall be liable for all future taxes assessed against that interest.

(11) Upon the filing of the certificate provided by subsection (9), any surplus resulting from the sale and disposition conducted pursuant to subsection (2) or (4), after deducting all outstanding taxes of the tax debtor, including all costs and charges arising from the sale and disposition, shall be paid or returned to the tax debtor. In the event that the tax administrator is uncertain as to the person entitled to such surplus the tax administrator shall pay such money into court by way of interpleader action.

(12) Upon the filing of the certificate provided by subsection (9), any remaining debt of the tax debtor with respect to that property, including all costs and charges arising from the sale and disposition, shall be extinguished.

(13) If pursuant to subsections (7) and (8) the Band has become the owner of the improvements and interest in the Reserve, the tax administrator may sell such within 90 days for not less than the upset price set pursuant to subsection (6).



## CANCELLATION OF PROPRIETARY INTEREST HELD BY TAXPAYER

### Notice of Cancellation

64. (1) With the authorization of the Council, if the taxes or any part thereof remain unpaid after the 30 day period provided by the Demand for Payment and Notice of Enforcement served pursuant to section 60 has expired, or upon the expiration of the period specified by the Council pursuant to section 60.1(1), proceedings by way of cancellation of proprietary interest, as set out herein, may be taken by the tax administrator. The tax administrator shall serve a Notice of Cancellation of the tax debtor's interest in the reserve in the form of Schedule XIV.

(2) The tax administrator shall mail a copy of the notice referred to in subsection (1) to every place where the interest is registered and to the locatee, where applicable.

(3) Where taxes are not paid before June 30 of the year following the taxation year in which they were imposed or within six months after the specified period if enforcement proceedings are postponed under subsection 60.1(1), Council may direct the tax administrator to cancel the lease, licence or permit to occupy the interest in land. The tax administrator shall certify the cancellation in the form provided in Schedule XV to this bylaw and shall register it in the registers.

(4) Upon cancellation of the tax debtor's interest and with the consent of the Minister the Taxation Authority shall acquire the interest in the land free and clear of all encumbrances or charges.

## FORFEITURE OF PROPERTY

### Forfeiture of Property

65. (1) Notwithstanding any other action for the recovery of taxes set out in this bylaw, if any taxes remain unpaid 24 months after the mailing of the Demand for Payment and Notice of Enforcement served pursuant to section 60, the tax debtor's interest in the reserve in respect of which the taxes remain unpaid shall, subject to subsections (2), (3), (4) and (5) herein, be absolutely forfeited.

### Notice of Forfeiture

(2) The tax debtor's interest in land shall be forfeited under subsection (1) forty days after the tax administrator serves a Notice of Forfeiture pursuant to subsection (4) in the form set out in Schedule XVI on the tax debtor and on anyone else who may be in lawful possession of the interest in land.

(3) Prior to serving the Notice of Forfeiture pursuant to subsection (4), the tax administrator shall obtain authorization from the Council to proceed by forfeiture.

### Contents of Notice of Forfeiture

(4) The Notice of Forfeiture shall state:

- (a) that the interest held by the tax debtor in the reserve is subject to forfeiture under this section,

- (b) the amount of all taxes, costs and fees that are due and payable to the date of the notice,
- (c) the date on which the interest in the reserve held by the tax debtor will forfeit,
- (d) the right to prevent forfeiture by payment under this section, and
- (e) that on forfeiture under this section, the interest held by the tax debtor in the reserve will be forfeited clear of all charges except those rights of way, easements or other such third party interests which otherwise attach to the land or interest in land.

(5) The Notice of Forfeiture shall be mailed or delivered to the tax debtor's last known address or to the address of the person specified in the records of the Taxation Authority.

(6) Where any taxes remain unpaid on December 31 of the second year after the calendar year in which they were imposed, the payment of those taxes does not prevent forfeiture unless the payment:

- (a) includes all taxes then due and payable, and
- (b) is made before forfeiture occurs under this section.

(7) With the consent of the Minister, the tax administrator shall certify, in the form set out in Schedule XVII to this bylaw, that the interest in land held by the tax debtor has been forfeited and the Registrar shall record the document cancelling the tax debtor's interest in the registers.

(8) Upon forfeiture of the tax debtor's interest the Taxation Authority shall acquire the interest in the land free and clear of all encumbrances or charges.

### ABSCONDING TAXPAYER

#### Collection Proceedings

66. (1) Where the tax administrator has reasonable grounds to believe that the Taxpayer intends to remove his/her goods from the Reserve, or intends to dismantle or remove his/her improvements on Reserve, or take any other actions which may preclude or impede the collection of outstanding taxes owing pursuant to this bylaw, the tax administrator shall apply to a court of competent jurisdiction, notwithstanding the fact that the time for payment of taxes has not yet expired.

### DISCONTINUANCE OF SERVICES

#### Discontinuance of Services

67. With the authorization of the Council, if the taxes or any part thereof remain unpaid after the 30 day provided by the Demand for Payment and Notice of Enforcement served pursuant to section 60 has expired, or upon the expiration of the period specified by Council pursuant to section 60.1(1), any services provided by the Band or pursuant to any contract with the Band, to the tax debtor or to the lands or interests located on the reserve which have been assessed pursuant to this bylaw may be discontinued. A Notice of Discontinuance of Services in the form of Schedule XVIII to this bylaw shall be delivered upon the tax debtor and to the locatee where appropriate 30 days prior to such discontinuance, and shall include the date, time and place within that 30 days when the tax debtor or the locatee may appear before the Band Council to show cause as to why the services should not be discontinued. Following the appearance before Council, the Council shall determine whether or not it will discontinue such services.

## PART XVII SERVICE AND LOCAL IMPROVEMENT CHARGES

### Establishment of Service and Local Improvement Charges

68. (1) The Council of the Band may, by bylaw, impose service and local improvement charges applicable to a part of the reserve (hereinafter in this Part called the "area") to raise money for the following purposes

- (a) the construction or installation of a highway, lane, sidewalk, boulevard, sanitary or storm sewer, irrigation work, street lights, water supply system, parking facility, gas supply system, drain, or other works that benefit property in the area;
- (b) the maintenance, operation, repair or construction of works;
- (c) cutting grass or weeds or trimming trees or shrubbery on any highway, lane or other public place;
- (d) suppression of dust on any highway, lane, or other public place;
- (e) collection and disposal of garbage;
- (f) collection and disposal of night soil or the contents of sewage holding tanks; and
- (g) notwithstanding subsections l(a) to (f) inclusive, such other projects for the maintenance, improvement or repair of properties within the area as the Council of the Band may determine to be necessary or beneficial.

(2) In this Part, "charge" means a local improvement charge and a service charge.

(3) A charge shall be based on the actual or estimated annual cost of the local improvement or service and shall be levied at

- (a) a uniform rate, or
- (b) rates for each class of property based on
  - (i) the number of lineal feet along the fronting or abutting lands;
  - (ii) the area determined by the fronting or abutting lands;
  - (iii) the number of dwelling-units or commercial or industrial occupancies on the lands served; or
  - (iv) the estimated or actual use or consumption of the service by occupants of the lands served.
  - (v) If some areas of land in respect of which a local improvement charge is to be imposed appear to call for a smaller or larger proportionate share of the charge because they are differently sized or shaped from other areas of land, those areas may be assigned the number of units of measurement that the Council considers appropriate to ensure that they will bear a fair portion of the local improvement charge.

(4) The costs levied shall include any expenses of engineering, advertising, interest and carrying costs, sinking-fund or amortization costs, banking, legal fees, administration and any other expenses incidental to initiating and carrying out the work.

(5) Notwithstanding section 6 of this bylaw, land or interests in land not subject to tax are subject to charges levied under this Part.

#### Notice of Charges

69. Before imposing a charge, the Council of the Band shall give notice by

- (a) publishing the notice at least 15 days prior to the meeting referred to in section 70 in newspaper of general circulation on the reserve, if any;
- (b) posting the notice in the band administration offices and in prominent locations on the reserve; and
- (c) sending the notice by registered mail, in the form set out in Schedule XIX, to affected holders or occupiers who are not resident on the reserve and providing the locatee with a copy of the notice.

(2) It shall be sufficient notice under subsection (1) (c) if the address in the current assessment roll is used.

(3) The notice shall state

- (a) the intention of the Council of the Band to have the work performed and to levy the charge;
- (b) the area in respect of which the charge is to be levied;
- (c) the rate at which the charge will be levied; and
- (d) that the Council of the Band shall hold a public meeting to consider written and oral representations.

#### Hearing of Representation

70. (1) On the date and at the time and place set out in the notice referred to in section 71, the Council of the Band shall sit and receive and hear representations.

(2) The Council of the Band shall not proceed with the charge until after it holds public meetings to consider representations.

(3) Where the Council of the Band imposes a charge, it need not give notice in each succeeding year, unless it proposes to amend the bylaw that imposes the charge.

(4) A uniform increase, not exceeding 10% (10 per cent), in the rate of a charge because of an increase in actual or estimated cost shall be deemed not to be an amendment to the bylaw that imposes the charge.

71. (1) The tax administrator shall keep separate accounts for money raised by each charge under this Part.

(2) The Council of the Band shall expend the money raised under this Part, and any interest that has accrued on that money, for the purpose and within the area stated in the implementing bylaw.

72. (1) Charges under this Part shall be administered and enforced under this bylaw in the same manner as taxes.

(2) For greater certainty charges are a special lien under Part XVI.

(3) The roll for a charge may be part of or a supplement to the assessment roll.

## PART XVIII GENERAL AND MISCELLANEOUS

### Interpretation

73. (1) Nothing under this bylaw shall be rendered void or invalid, nor shall the liability of any person to pay tax or any other amount under this bylaw be affected by:

- (a) an error or omission in a valuation or a valuation based solely on information in the hands of an assessor or the tax administrator;
- (b) an error or omission in an assessment roll, tax notice, or any notice hereunder; or
- (c) a failure of the Taxation Authority to do something within the required time.

74. A finding by a court that a provision of this bylaw is void or invalid shall not affect the validity or invalidity of the rest of the bylaw.

75. Where a provision in this bylaw is expressed in the present tense, the provision applies to the circumstances as they arise.

### Limitation Period

76. No action or proceeding for the return of money paid to the Band, whether under protest or otherwise, on account of a demand, whether valid or invalid, made for tax or any amount under this bylaw shall be commenced after the expiration of 6 months from the making of the payment but the payment shall be deemed to have been voluntarily made.

### Extension of Time

77. The Chief and Council may, by Band Council Resolution, extend for a maximum of 30 days the time which anything is required to be done under this bylaw and anything done within this period of time is as valid as if it had been done within the time otherwise provided for by this bylaw.

### Delivery of Notice

78. Where personal service is not required, any notice delivered by the tax administrator or person acting under his direction to a post office or a person authorized by the Canada Post Corporation to receive mail is deemed to have been delivered to the addressee.

### Bylaw Remedial

79. This bylaw shall be construed as being remedial and shall be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objects.

### Headnotes, Marginal Notes, etc

80. (1) Headnotes, marginal notes and headings form no part of the enactment, but shall be construed as being inserted for convenience of reference only.

### Coming into Force

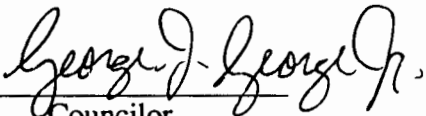
81. This bylaw shall come into force and effect on approval by the Minister.

**Enactment**

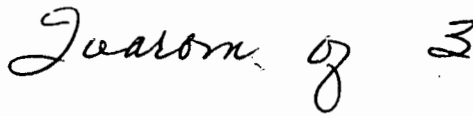
This By-law is hereby enacted by the Council of the Nadleh Whut'en Indian Band at a duly convened meeting held on the 18 day of Dec., 1998.

  
\_\_\_\_\_  
Chief

  
\_\_\_\_\_  
Councilor

  
\_\_\_\_\_  
Councilor

\_\_\_\_\_  
Councilor



**GUIDE FORMAT**

**SCHEDULE I  
(section 13)**

**REQUEST FOR INFORMATION**

To:

Address:

Re: (Property Description)

Pursuant to section 13 of the Nadleh Whut'en Indian Band Property Assessment and Taxation Bylaw, and pursuant to the authority vested in me by Band Council Resolution made the day of , 19\_ I hereby request that you furnish to me, in writing, information concerning the following matters:

- 1.
- 2.
- 3.

Please be advised that if you do not provide me with accurate information as requested, it will be necessary for me to carry out my assessment on the basis of whatever information I may have in my possession.

Yours truly,

Assessor

**GUIDE FORMAT**

**SCHEDULE II**  
**(sections 24(2), 27, 28)**

**NOTICE OF ASSESSMENT**

To:

Address:

Re: (description of property or taxable interest)

Take notice that the assessment roll has been adopted by Band Council Resolution dated the day of \_\_\_\_\_, 19\_\_ and that in respect of the above-noted parcel of land or interest in land the following person(s) is/are liable to pay any taxes levied pursuant to the Nadleh Whut'en Indian Band Property Assessment and Taxation Bylaw:

Name(s)

Address(es)

The assessed value of the (classification) land

The assessed value of the (classification) improvements

The assessed value of exempt land

The assessed value of exempt improvements

Total assessed value

Total net taxable value

And take notice that you may, within 30 days of the date of mailing of this assessment notice, appeal the assessment to the Assessment Review Committee in respect of liability to assessment, assessed value, any alleged assessment classification or alleged error or omission. The notice of appeal must be in writing and signed by the appellant or his/her agent, and shall set out a mailing address to which all notices to such appellant may be sent. The notice of appeal may be mailed to the Assessment Review Committee at (insert an address).

Dated at

the day of \_\_\_\_\_, 19\_\_

Tax Assessor



**GUIDE FORMAT**

**SCHEDULE III  
(section 33)**

**APPEAL TO ASSESSMENT REVIEW COMMITTEE**

Pursuant to the provisions of the Nadleh Whut'en Indian Band Property Assessment and Taxation Bylaw, I hereby appeal the assessment of the following property:

(Description of the Property)

On the following grounds:

- 1.
- 2.
- 3.
- 4.

Dated at            this    day of            199 \_ .

PRINTED NAME OF APPELLANT

APPELLANT'S SIGNATURE

Address to which all notices to appellant are to be sent.

TO: Assessment Review Committee

c/o \_\_\_\_\_ (office of the assessor)

**GUIDE FORMAT**

**SCHEDULE IV  
(section 38(3))**

**NOTICE OF HEARING**

To:

Address:

Re: (Description of Property)

Take notice that the Assessment Review Committee will hear an appeal from a decision of the assessment dated the day of \_\_\_\_\_, 19\_\_ relating to the above-noted property which hearing shall be held at the hour of (a.m./p.m.) on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

And take notice that you should bring to the hearing all relevant documents pertaining to such appeal.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

Chairman  
Assessment Appeal Committee

**GUIDE FORMAT**

**SCHEDULE V  
(section 39)**

**REQUEST FOR ATTENDANCE**

Whereas an appeal has been filed with respect to the assessment of property described as (description of property), and whereas it has been made to appear that you may have information to assist the Assessment Review Committee.

This is therefore to request you to attend before the Assessment Review Committee at (location) on the day of (a.m./p.m.) to give evidence concerning the said assessment, bringing with you any documents in your possession that may relate to the said assessment.

Dated at this day of \_

Chairman  
Assessment Appeal Committee

**GUIDE FORMAT**

**SCHEDULE VI  
(section 42)**

**TAX NOTICE**

To:

Address:

Re:(Description of land or interest in land)

Pursuant to the provisions of the Nadleh Whut'en Indian Band Property Assessment and Taxation Bylaw, taxes in the amount of \_\_\_\_\_ are hereby levied with respect to the above-noted parcel of land or interest therein, and take notice that said taxes are due and payable forthwith, by cheque payable to the Nadleh Whut'en Indian Band which may be remitted to \_\_\_\_\_

The name(s) and address(es) of the person(s) liable to pay the taxes is(are) as follows:

Assessed value \$

Taxes (current year) Arrears \$

Interest \$

Total Payable \$

Dated at \_\_\_\_\_ this \_ day of \_

Tax Administrator

**GUIDE FORMAT**

**SCHEDULE VII  
(section 57)**

**COSTS PAYABLE BY A TAXPAYER  
ARISING FROM ENFORCEMENT PROCEEDINGS**

1. For preparation of and serving any and all notices required by Part XVI on the Taxpayer, Tax Debtor or any other person, newspaper or on any property, etc.: \$35.00 per notice
2. For attending, investigating, inventorying, cataloguing, or seizing property, and preparing and conducting a Sale by Distress, for each person involved: \$40.00 per hour
3. For drafting, filing and executing a lien or encumbrance: \$150.00
4. For sale of improvements or disposition of interests in reserve land, including attending, investigating, inventorying, cataloguing, preparing and executing a Sale of Improvements and Disposition of Interest on Reserve, for each person involved: \$40.00 per hour
5. For issuing and registering any and all certificates required by Part XVI: \$10.00 per certificate
6. For disbursements, including without limiting photocopying (.30 per page), advertising, storage fees, etc.: as and when arising

**GUIDE FORMAT**

**SCHEDULE VIII  
(Subsection 58(2))**

**CERTIFICATION OF DEBT  
OWING BY THE TAXPAYER**

**PURSUANT TO THE NADLEH WHUT'EN BAND PROPERTY TAX Bylaw**

I, \_\_\_\_\_, Tax Administrator of the Nadleh Whut'en Indian Band, certify that \$ \_\_\_\_\_ is the amount of the outstanding taxes which is due and owing by \_\_\_\_\_ (Taxpayer) with respect to (Description of Property/Interest in the Reserve).

Attached hereto is a copy of that part of the assessment roll of the Nadleh Whut'en Indian Band that refers to the property taxes which are due and payable by \_\_\_\_\_ (Taxpayer) with respect to \_\_\_\_\_ (Description of interest on Reserve).

DATED the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_

Tax Administrator

**GUIDE FORMAT**

**SCHEDULE IX  
(section 60)**

**DEMAND FOR PAYMENT AND NOTICE OF ENFORCEMENT PROCEEDINGS**

To:

Address:

Re: (Description of property)

The payment date of June 30, 19 , prescribed by the Notice of Taxes served on you with respect to the above-noted property has now expired. The Nadleh Whut'en Indian Band **HEREBY DEMANDS IMMEDIATE PAYMENT IN FULL** of the following debt which is due and owing:

Taxes:

Interest:

Other costs:

**TOTAL OUTSTANDING TAX DEBT:**

**TAKE NOTICE THAT** the failure to pay in full the above-mentioned tax debt within 30 days from the date of this Demand may result in procedures being taken by the Taxation Authority for the enforcement and collection of such debt. Additional costs may accrue to this debt.

The Nadleh Whut'en Indian Band Property Assessment and Taxation Bylaw contains detailed procedures allowing for the enforcement and collection of a tax debt which is due and owing. These enforcement and collection procedures may affect your property, including personal property located on this property and may affect the on-going services being provided to your property. The remedies and procedures which may be used by the Tax Administrator are set out in the Nadleh Whut'en Indian Band Property Assessment and Taxation Bylaw. A copy of the Bylaw is available for your review from the Tax Administrator upon request.

DATED AT            this    day of            , 19 .

Tax Administrator

**GUIDE FORMAT**

**SCHEDULE X  
(sections 61 and 62)**

**NOTICE OF DISTRESS**

To:

Address

Re: (Description of Property)

TAKE NOTICE THAT failure to pay the outstanding tax debt due and owing with respect to the above-noted property, being \$\_\_\_, on or before the expiration of 7 (seven) days after the date of this notice will result in the Tax Administrator, pursuant to subsection 61(3) of the Nadleh Whut'en Indian Band Property Assessment and Taxation Bylaw, seizing by distress the property described as follows:

(a general description of the property which has been assessed)

AND FURTHER TAKE NOTICE THAT failure to pay the outstanding tax debt upon the expiration of the 7 (seven) days set out above, will result in a copy of this notice being posted at the locations on reserve where the property is located and will result in the seizure of such property, which will be held in the possession of the Tax Administrator, at your cost, such cost being added to the amount of the taxes outstanding, until the tax debt is paid.

AND FURTHER TAKE NOTICE that pursuant to section 62(1) of the Nadleh Whut'en Indian Band Property Assessment and Taxation Bylaw, you must commence legal proceedings in a court of competent jurisdiction to challenge such seizure within 60 (sixty) days from the date of such seizure, or you will be estopped from denying the validity of both the seizure and the sale of such property.

AND FURTHER TAKE NOTICE THAT upon the expiration of 60 (sixty) days after the property has been seized and the failure to pay the outstanding tax debt or to commence court proceedings as set out above, you will be deemed to have abandoned the property seized and the Tax Administrator may authorize that the property will be sold by public auction. A copy of the Notice of Sale of Property seized by Distress will be posted on your property located on reserve, and will be published for at least 7 (seven) days in the \_\_\_\_\_ Newspaper, (one or more newspapers of general local circulation) before the date of sale.

DATED AT        this day of        , 19 .

Tax Administrator



**GUIDE FORMAT**

**SCHEDULE XI  
(section 62)**

**A NOTICE OF SALE OF GOODS SEIZED BY DISTRESS**

TAKE NOTICE THAT a sale by public auction for outstanding taxes owed to the Nadleh Whut'en Indian Band will occur on \_\_\_\_\_, 19 at \_ o'clock at (Location) on the \_\_\_\_\_ Reserve.

At the above-noted sale, the following goods, seized by Distress pursuant to sections 61 and 62 of the Nadleh Whut'en Indian Band Property Assessment and Taxation Bylaw, will be sold, with the proceeds of such sale being used to pay the outstanding tax debt:

**GENERAL DESCRIPTION OF THE GOODS**

DATED AT \_\_\_\_\_ this day of \_\_\_\_\_, 19\_.

Tax Administrator

**GUIDE FORMAT**

**SCHEDULE XII  
(Subsections 63(1) and 63(4))**

**NOTICE OF SALE OF IMPROVEMENTS AND  
DISPOSITION OF INTEREST IN THE RESERVE**

TO:

ADDRESS:

RE:(Description of Property)

(Interest on Reserve)

(Description of Improvements)

TAKE NOTICE THAT failure to pay all outstanding taxes with respect to the above mentioned property, being \$ \_\_\_\_\_, on or before the expiration to 60 (sixty) days after the date of this notice will result in the Tax Administrator for the Nadleh Whut'en Indian Band holding a sale by public auction (or tender) of the improvements located on the above-mentioned property and a disposition by public auction (or tender) of the above-noted interest on the Reserve. The Sale of Improvements and Disposition of Interest in the Nadleh Whut'en Indian Band Reserve shall be published in the newspaper for 7 (seven) days prior to such sale and disposition, and shall be posted on the above noted property located on the Reserve.

AND TAKE NOTICE THAT on or before the expiration of 6 (six) months after the above-mentioned sale and disposition, you may redeem your improvements and interest in the Reserve by paying to the Tax Administrator the full amount of all taxes for which the improvements were sold and the interest disposed, together with all taxes which have subsequently fallen due, including without restricting, the cost of the above- mentioned sale and disposition. If upon the expiration of those 6 (six) months any amount of the taxes remain outstanding, the sale of the improvements and disposition of the interest will be declared final, and the purchaser shall obtain both your title in the improvements sold and your interest in the Reserve.

AND TAKE NOTICE THAT upon the sale and disposition being declared final, you will be required to immediately vacate the property, and any rights or interests which you held in the improvements and to the Reserve land will be transferred in full to the purchaser.

DATED AT \_\_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_, 19 .

Tax Administrator

**GUIDE FORMAT**

**SCHEDULE XIII  
(Subsection 63)**

**CERTIFICATION OF SALE AND  
DISPOSITION OF INTEREST ON RESERVE**

RE: (Description of Interest on Reserve)

(Description of Improvements)

I, \_\_\_\_\_, Tax Administrator of the Nadleh Whut'en Indian Band, hereby certify that resulting from the failure of \_\_\_\_\_ to pay the outstanding tax debt on the above-mentioned interest on Reserve, that interest has been disposed of by Public Auction (or Tender) and the above-mentioned improvements have been sold by Public Auction or Tender pursuant to sections 63(5) and 63(6) for Public Tender) and 63(10) of the Nadleh Whut'en Indian Band Property Assessment and Taxation Bylaw. The following person shall, pursuant to section 63(11) of that Bylaw, be substituted for the Tax Debtor as the holder/owner of the above-noted interest in the Reserve, including the improvements:

NAME AND ADDRESS OF PURCHASER AT SALE

DATED AT \_\_\_\_\_ this day of \_\_\_\_\_, 19\_\_.

Tax Administrator

**GUIDE FORMAT**

**SCHEDULE XIV  
(section 64(1))**

**NOTICE OF CANCELLATION OF INTEREST IN THE RESERVE**

To:

Address:

Re: (Description of Property)

(Interest on Reserve)

TAKE NOTICE THAT failure to pay in full the outstanding tax debt of \$ \_\_\_\_\_ with respect to the above-noted property will result, upon the expiration of 6 (six) months from the date of this notice, in the cancellation of your interest in such property on the Reserve. The failure to pay such taxes is a breach of a term of the (lease, license or permit) which can result in the cancellation of such interest.

Upon the cancellation of such interest you will be required to immediately vacate the reserve, and any rights or interests which you acquired through such (lease, licence or permit) will cease to exist.

DATED AT \_\_\_\_\_ this day of \_\_\_\_\_, 19 .

Tax Administrator

**GUIDE FORMAT**

**SCHEDULE XV  
(section 64)**

**CERTIFICATION OF CANCELLATION OF INTEREST IN THE RESERVE**

RE: (Description of Property)  
(Interest on Reserve)

I, \_\_\_\_\_, Tax Administrator for the Nadleh Whut'en Indian Band, hereby certify that the above mentioned interest on the Nadleh Whut'en Indian Band Reserve has been cancelled or terminated pursuant to section 64(3) of the Nadleh Whut'en Indian Band Property Assessment and Taxation Bylaw as a result of the failure of \_\_\_\_\_ to pay the outstanding tax debt which was due and payable.

DATED AT \_\_\_\_\_ this day of \_\_\_\_\_, 19\_\_\_\_

Tax Administrator

**GUIDE FORMAT**

**SCHEDULE XVI  
(section 65(2))**

**NOTICE OF FORFEITURE**

TO:

ADDRESS: (Description of Property)

RE: (Interest in the Reserve)

TAKE NOTICE THAT taxes imposed by the Nadleh Whut'en Indian Band's Property Assessment and Taxation Bylaw for the above-noted property in the year(s) \_\_\_\_\_, \_\_\_\_\_, have been outstanding for two (2) years and pursuant to section \_\_, the above noted interest on the Reserve is now subject to forfeiture.

The amount of all taxes which are due and payable to the date of this notice is as follows:

**ITEMIZED STATEMENT OF ALL TAXES, INCLUDING INTEREST,  
PENALTIES, COSTS ETC.**

AND FURTHER TAKE NOTICE that unless the above noted outstanding taxes are paid in full on or before the fortieth day after the date of this notice, the interest you hold in this property will be absolutely and unconditionally forfeited to the Nadleh Whut'en Indian Band. Upon such forfeiture, your interest in the Reserve will vest in the Band clear of all charges except those rights of way, easements or other such third party interests which attach to that Reserve land.

AND FURTHER TAKE NOTICE THAT where any taxes remain unpaid on December 1 of the second year after the calendar year in which they were imposed, the payment of those taxes does not prevent forfeiture unless the payment:

- (i) includes all taxes then due and payable, and
- (ii) is made before forfeiture occurs under this section.

DATED AT        this        day of        , 19 .

Tax Administrator

**GUIDE FORMAT**

**SCHEDULE XVII  
(Subsection 65(7))**

**CERTIFICATION OF FORFEITURE**

(Description of Property)

(Interest on Reserve) ,

I, \_\_\_\_\_, Tax Administrator for the Nadleh Whut'en Indian Band, hereby certify that resulting from the failure of (Tax Debtor) to pay the outstanding tax debt owing on the above-mentioned interest in the \_\_\_\_\_ Reserve, such interest has been forfeited to the Nadleh Whut'en Indian Band pursuant to sections \_\_\_ and \_\_\_ of the Nadleh Whut'en Indian Band Property Assessment and Taxation Bylaw.

DATED AT this day of , 19 .

Tax Administrator

**GUIDE FORMAT**

**SCHEDULE XVIII  
(section 67)**

**NOTICE OF DISCONTINUANCE OF SERVICES**

TO:

ADDRESS:

RE: (Description of Property)

TAKE NOTICE THAT the taxes for the above-noted property have been due and outstanding for \_ months, and that unless payment in full for this tax debt is received on or before 30 (thirty) days after the date of this Notice, or you have appeared before the Band Council and shown cause as set out below, the following services provided to this property will be discontinued:

**LIST SERVICES TO BE DISCONTINUED**

AND FURTHER TAKE NOTICE THAT you may attend a meeting of the Band Council scheduled for ,19\_ at o'clock, at (place), (within the 30 days set out above) and show cause as to why the services should not be discontinued.

DATED AT this day of ,19 .

Tax Administrator



**GUIDE FORMAT**  
**SCHEDULE XIX**  
**(Paragraph 69(1)(c))**  
**NOTICE OF HEARING**

TO:

ADDRESS:

RE:

(Specify proposed service or local improvement charge)

Take notice that the Council of the Band shall hold a public meeting at (give location) on the day of , 19\_, to consider representations from affected ratepayers with respect to the above-noted proposed service/local improvement charge.

And take notice that you may also submit to the Council of the Band any written submissions which will be considered at the said meeting.

Dated at this day of , 19 .

Chief and Council  
Nadleh Whut'en Indian Band