

Ministre des Affaires indiennes et
du Nord canadien et interlocuteur fédéral
auprès des Métis et des Indiens non inscrits



Minister of Indian Affairs and
Northern Development and Federal Interlocutor
for Métis and Non-Status Indians

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 Loon River First Nation, in the Province of Alberta, at
a meeting held on the 26th day of June 2007.

- **Loon River First Nation
Property Assessment and Taxation By-law**

A handwritten signature in blue ink, appearing to read 'Chuck Hill'.

Dated at Ottawa, Ontario this 16th day of JANUARY 2008 .

PROPERTY ASSESSMENT AND TAXATION BYLAW

LOON RIVER FIRST NATION

Table of Contents

Part 1 - Interpretation

- 1 Citation
- 2 Definitions
- 3 Preamble

Part 2 - Administration

- 4 Tax administrator

Part 3 - Application

- 5 Application

Part 4 - Liability to Taxation

- 6 Interests subject to taxation
- 7 Interests not subject to taxation
- 8 Grants-in-lieu
- 9 Exemptions

Part 5 - Levy of Tax

- 10 Joint and several interests
- 11 Tax rates
- 12 Payment due date

Part 6 - Information for Assessment Roll

- 13 Obligations of taxpayer

Part 7 - Assessed Value

- 14 Appointment of assessor
- 15 Actual value
- 16 Assessment

Part 8 - Assessment Roll

- 17 Content of assessment roll
- 18 Address information on assessment roll
- 19 Approval and inspection of assessment roll
- 20 Notice of assessment

Part 9 - Amendments to Assessment Roll

- 21 Amendments
- 22 Notification of amendment
- 23 Under-assessment
- 24 Pro-rated re-assessment
- 25 Application of rules to amended assessments
- 26 Refund of excess tax

Part 10 - Appeals

- 27 Assessment Review Committee
- 28 Appeal to Assessment Review Committee
- 29 Jurisdiction of Assessment Review Committee
- 30 Chairperson
- 31 Secretary
- 32 Parties to appeal
- 33 Decision making
- 34 Procedures
- 35 Hearings
- 36 Notice to attend
- 37 Reserving decision
- 38 Costs
- 39 Onus of proof
- 40 Decision of Assessment Review Committee
- 41 Amendment pursuant to decision

Part 11 - Tax Notice

- 42 Delivery
- 43 Refunds

Part 12 - Due Date and Interest

- 44 Due date
- 45 Payment
- 46 Interest

Part 13 - Periodic Payments

- 47 Periodic payment

Part 14 - Receipts and Certificates

- 48 Receipts
49 Certificates

Part 15 - Application of Revenues

- 50 Deposits
51 Expenditures

Part 16 - Collection and Enforcement

- 52 Proof of debt
53 Special lien and priority of claim
54 Demand for payment and notice of enforcement proceedings
55 Distress: seizure of goods
56 Distress: sale of seized goods
57 Sale of improvements or proprietary interest
58 Cancellation of interest in land held by taxpayer
59 Forfeiture of property
60 Absconding taxpayer
61 Discontinuance of services

Part 17 - General and Miscellaneous

- 62 Local Improvement Charges
63 No invalidity
64 Time
65 Service
66 Construction of bylaw
67 Transitional
68 Effective date

WHEREAS pursuant to the *Indian Act*, and specifically paragraph 83(1)(a), the Council of a First Nation may make bylaws for the purpose of taxing interests in land, in the Reserve, including rights to occupy, possess or use land in the Reserve;

AND WHEREAS the Council of the Loon River First Nation deems it to be in the best interests of the First Nation to make a bylaw for such purposes;

NOW THEREFORE BE IT RESOLVED the Council of the Loon River Nation at a duly convened meeting, enacts the following bylaw.

Part 1 Interpretation

1 Citation

- 1.1 This bylaw may be cited as the "Loon River First Nation Property Assessment and Taxation Bylaw".

2 Definitions

2.1 In this bylaw,

- (a) "Act" means the *Indian Act*, R.S.C. 1985, c.I-5 as amended;
- (b) "actual value" means the market value of the interest in land if it were held in fee simple off reserve;
- (c) "assessed value" means the actual value of interests in land as determined under this bylaw;
- (d) "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 9 of this bylaw;
- (e) "assessment year" means the year, from January 1 to December 31, preceding the year in which taxes are to be levied;
- (f) "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;
- (g) "band council resolution" means a motion passed and approved by a majority of the councillors of the band present at a duly convened meeting;

- (h) "Chief and Council" or "Council" means the Chief and Council of the First Nation selected according to the custom of the First Nation;
- (i) "First Nation" means the Loon River First Nation, being an Indian Band within subsection 2(1) of the Act;
- (j) "holder" means a person in lawful possession of an interest in land in the reserve or a person who, for the time being:
 - (i) is entitled to possession of the interest;
 - (ii) is an occupier of the interest;
 - (iii) has any right, title, estate or interest; or
 - (iv) is a trustee of the interest;
- (k) "improvement" means an addition to land or water over land and, without restricting the generality of the foregoing, includes:
 - (i) anything erected or placed in, upon or under land, or affixed to land, so that without special mention it would be transferred by a transfer of land;
 - (ii) 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;
 - (iii) any item of immovable machinery and equipment which is prescribed assessable by band council resolution; or
 - (iv) a manufactured home.
- (l) "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;
- (m) "manufactured home" means any structure whether equipped with wheels or not and whether self-propelled or not, that:
 - (i) is used or designed for use as a dwelling or sleeping place; and

- (ii) is constructed or manufactured to be moved from one point to another by being towed or carried unless licenced or able to be licensed and equipped to travel on a public highway;
- (iii) is a business office or premises; and
- (iv) is accommodation for any other purpose;
- (n) "member" means a person who is or has been admitted to membership pursuant to the laws of the First Nation;
- (o) "Minister" means the Minister of Indian Affairs and Northern Development;
- (p) "occupier" means a person who, for the time being, is in actual occupation of an interest in land;
- (q) "person" in addition to its ordinary meaning includes a partnership, association, company, society or body corporate;
- (r) "pipeline" means an improvement and any pipe designed for or used in the commercial conveyance or transmission of any substance;
- (s) "Registrar" means the Lands Administrator for the First Nation as appointed by Chief and Council;
- (t) "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;
- (u) "Reserve" means all lands defined by subsection 2(1) of the Act, any land held as a special reserve for the use and benefit of the First Nation pursuant to section 36 of the Act, and, without limiting the generality of the foregoing, includes Loon Lake Indian Reserve No. 235, Swampy Lake Indian Reserve No. 236, and Loon Prairie Indian Reserve No. 237, and any new reserves, additions to reserves, or lands which become reserves pursuant to a land entitlement settlement agreement;
- (v) "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;
- (w) "tax administrator" means the person appointed by Council pursuant to section 4 to administer this bylaw;

- (x) "tax debtor" means a person with outstanding obligations to pay taxes imposed by this bylaw after the expiration of time provided for in section 54;
- (y) "taxation authority" means the Chief and Council of the First Nation;
- (z) "trustee" means an executor, administrator, guardian, committee, receiver or any person having or taking upon him or herself the lawful possession, administration or control of property affected by an express trust, or having by lawful possession, management and control of the property of a person under any legal disability.

3 Preamble

- 3.1 The preamble forms part of this bylaw.

Part 2 Administration

4 Tax administrator

- 4.1 Council may appoint a tax administrator for a specified or indefinite term to administer this bylaw.
- 4.2 The tax administrator is responsible for collection of taxes and enforcement of payment under this bylaw.
- 4.3 Council, in consultation with the tax administrator, shall prescribe the form of any notice required by this bylaw.

Part 3 Application

5 Application

- 5.1 This bylaw applies to all interests in land within the Reserve.

Part 4

Liability to Taxation

6 Interests subject to taxation

- 6.1 Subject to section 7, all interests in land including any right to occupy, possess, or use land, is subject to taxation under this bylaw.

7 Interests not subject to taxation

- 7.1 The following interests in land are not subject to taxation:

- (a) any interest in land of the First Nation or of a member;
- (b) any interest in land of a corporation, all the shareholders of which are Council, and which interest in land is held for the benefit of all the members;
- (c) a building used exclusively for school purposes and the land necessary as the site for the building;
- (d) 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;
- (e) 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;
- (f) 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;
- (g) 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
- (h) a cemetery to the extent that it is actually used for burial purposes.

8 Grants-in-lieu

- 8.1 Without derogating from Council's taxing authority or jurisdiction, Council 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 First Nation.

9 Exemptions

- 9.1 Where an interest in land is not subject to taxation, the liability to taxation of any other interest in the same land is not affected.
- 9.2 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.
- 9.3 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 5
Levy of Tax**

10 Joint and several interests

- 10.1 Where an interest in land is subject to taxation, any person who has an interest in the land is jointly and severally liable to taxation.

11 Tax rates

- 11.1 On or before May 1st in each calendar year or as soon thereafter 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.
- 11.2 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.
- 11.3 Taxes shall be levied by applying the rate of tax against the assessed value of the land and improvements.

12 Payment due date

- 12.1 Taxes levied in a taxation notice mailed under section 42 are due and payable on June 30th of the year in which they are levied.

**Part 6
Information for Assessment Roll**

13 Obligation of taxpayer

- 13.1 Every person liable for tax shall, on request, forthwith furnish to the assessor, in writing and signed, any information requested by an assessor 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; income and expense information or, rents payable, paid or agreed to be paid.
- 13.2 Where an assessor does not receive the information referred to in section 13.1, or is not satisfied that the information received is accurate, the assessor shall value the interest in land on the basis of information in his or her possession.

**Part 7
Assessed Value**

14 Appointment of assessor

- 14.1 Council may appoint, by band council resolution, one or more assessors, meeting the requirements of the *Qualifications Assessor Regulation*, Alberta Regulation 233/2005 as amended, for a definite or indefinite term.
- 14.2 An appointment under section 14.1 may be for the purposes of classifying and valuing particular interests in land in the assessment area and applying exemptions in accordance with section 7 as set out in the band council resolution.

15 Actual value

- 15.1 For the purpose of determining the actual value of an interest in land for an assessment roll, the valuation date is July 1st.
- 15.2 The actual value of the interest in land for an assessment roll is to be determined as if on the valuation date:

- (a) the interest in land and all other properties were in the physical condition that they are in on December 31st of the assessment year; and
- (b) the permitted use of the property and all other interests in land were the same as on December 31st of the assessment year.

16 Assessment

16.1 The assessor shall assess interests in land according to the classes of real property and, in default of any other classification of real property by the Council, the classes set out below and otherwise described in the *Municipal Government Act*, RSA 2000, c. M-26 as amended shall apply:

class 1 - residential;
class 2 - non-residential, including linear property;
class 3 - farm land; and
class 4 - machinery and equipment.

16.2 Except as otherwise provided in this bylaw, for the purposes of assessing interests in land the assessor shall use the practices and regulations established under the *Municipal Government Act*, RSA 2000, c. M-26 as amended from time to time.

16.3 Except as provided in sections 16.2 and 16.4, the assessor shall value land and improvements at their actual value.

16.4 If Council 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.

16.5 The duration of the interest in land or the right of Council to terminate an interest in land is not a restriction within the meaning of section 16.4

Part 8 Assessment Roll

17 Content of assessment roll

17.1 No later than May 15th of each 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) an accurate or legal 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.

17.2 The assessor shall include in the assessment roll the particulars set out in section 17.1 for any interest in land in respect of which grants-in-lieu of taxes may be accepted.

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

18 Address information on assessment roll

18.1 A person whose name appears in the assessment roll shall give written notice to the tax administrator or assessor of any change of address.

18.2 The holder of a charge or an interest in 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.

19 Approval and inspection of assessment roll

19.1 The assessment roll is effective on its approval by Chief and Council.

- 19.2 On approval, the assessment roll is open to inspection in the First Nation office by any person during regular business hours.

20 Notice of assessment

- 20.1 The tax administrator or the assessor shall on or before May 31st of each year mail a notice of assessment to every person named in the assessment roll in respect of each interest in land for which that person is liable to taxation or for which grants-in-lieu of taxes may be sought.
- 20.2 The notice of assessment shall contain the information set out in the assessment roll in respect of that interest in land and shall contain a statement as to the right of appeal.

**Part 9
Amendments to Assessment Roll**

21 Amendments

- 21.1 Where the assessor finds that during the current taxation year:

- (a) a taxable interest in land is not entered in the assessment roll;
- (b) the value of 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 a clerical error; or
- (e) there has been a change in the eligibility for an exemption from taxation;

the assessor shall amend the assessment roll to effect the necessary changes but subject to section 23, shall not make any amendments after December 31st of the current taxation year.

22 Notification of amendment

- 22.1 Where the assessment roll is amended, the assessor shall, as soon as practical after adoption of the amended assessment roll by band council resolution, mail a notice of the amended assessment to each person affected including the information described in section 20.2.

23 Under-assessment

- 23.1 Where there has been an under-assessment resulting from:

- (a) a person's failure to disclose information required under this bylaw with respect to an interest in land; or
- (b) a person's concealment of information required under this bylaw with respect to an interest in land;

the assessor shall issue an amended assessment notice for the current year and for each previous year during which the condition giving rise to the amendment to the assessment roll existed including the information described in section 20.2.

24 Pro-rated re-assessment

- 24.1 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.

25 Application of rules to amended assessments

- 25.1 Parts 8, 10, 11, 12, and 14 apply with respect to an amended assessment roll and to an amended assessment notice.

26 Refund of excess tax

- 26.1 Where Council approves an amendment to the assessment roll for the current year, the tax administrator shall forthwith refund any excess taxes that have been paid. Any unpaid balance shall, subject to notice of assessment and taxation, be due and payable, notwithstanding a receipt or certificate given by the tax administrator.

Part 10 Appeals

27 Assessment Review Committee

- 27.1 Chief and Council, by band council resolution, shall establish an Assessment Review Committee consisting of:
- (a) one person who is duly qualified to practice law in the Province of Alberta, or who is or was a Judge or Justice of any level of Court in the Province of Alberta;
 - (b) one person who has sat as a member of an appeal board to review assessments in the Province of Alberta;
 - (c) one person who is a member (excluding any person then serving as a member of the Council) but who does not have any direct or indirect financial interest in any real property assessment to which an appeal relates.
- 27.2 Chief and 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.
- 27.3 Each member of the Assessment Review Committee shall hold office for a period of three (3) years unless the member resigns or is otherwise removed from office in accordance with the terms of this bylaw.
- 27.4 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 a rate to be set by the Council by regulation, from time to time, in relation to the time spent on activities related to the Assessment Review Committee.
- 27.5 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* (Canada);
- (b) fails to attend three (3) 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 bylaw.

28 Appeal to Assessment Review Committee

28.1 A person whose name appears in the assessment roll may appeal to the Assessment Review Committee in respect of:

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

28.2 An appellant shall file an appeal by delivering a notice of appeal containing a statement of the grounds of appeal with the Assessment Review Committee no later than thirty (30) days after the mailing of the assessment notice.

28.3 An appellant may make the appeal through his or her 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.

28.4 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.

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

28.6 All appeals shall be decided by the Assessment Review Committee no later than one hundred and fifty (150) days following the mailing of the assessment notice.

29 Jurisdiction of the Assessment Review Committee

29.1 The Assessment Review Committee shall:

- (a) hear all appeals from assessment notices;

- (b) investigate and advise Chief and Council on assessments, assessment classifications and assessment rolls which the Committee deems necessary;
- (c) select a chairperson who shall supervise and direct the work of the Committee;
- (d) give the appellants, the assessor and the tax administrator at least thirty (30) written notice of the time and place for the hearing of appeals;
- (e) have custody of all records, documents, evidence and proceedings before the Assessment Review Committee;
- (f) have control of its proceedings in order to fairly and adequately determine any appeal; and
- (g) where an appeal relates to an interest in land of which a person other than the appellant is the holder, give that person written notice of the time, date, and place of the hearing of the appeal, and the nature of the appeal.

29.2 In performing their duties under this bylaw, the members of the Assessment Review Committee shall:

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

30 Chairperson

30.1 The chairperson of the Assessment Review Committee shall:

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

31 Secretary

31.1 Chief and Council shall appoint a secretary of the Assessment Review Committee.

31.2 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) relating to his or her office follow the direction of the chairperson or the Committee.

32 Parties to appeal

- 32.1 The assessor, or his or her designate, shall be a party to all appeal proceedings under this bylaw and the Assessment Review Committee shall give the assessor reasonable written notice of any appeal and opportunity to be heard at any appeal proceedings.
- 32.2 The Assessment Review Committee shall give the Chief and Council ten (10) days written notice of, and an opportunity to be heard at any appeal proceedings which raise issues of law regarding anything done under this bylaw.

33 Decision making

- 33.1 A majority of the members of the Assessment Review Committee constitutes a quorum.
- 33.2 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.
- 33.3 All questions respecting appeals shall be decided by a majority vote of the members of the Assessment Review Committee at the hearing.

34 Procedures

- 34.1 Chief and Council, by band council resolution, may establish procedures for the conduct of the proceedings of the Assessment Review Committee which shall not be inconsistent with this bylaw.
- 34.2 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 First Nation or Council; or
- (d) has financial dealings with the First Nation 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.

35 Hearings

- 35.1 The assessor shall deliver the assessment roll to the Assessment Review Committee on or before the date upon which the Committee commences its sittings.
- 35.2 The Assessment Review Committee shall mail a notice of hearing to all parties to the appeal.
- 35.3 The Assessment Review Committee may hear all appeals from an assessment notice on the same day or may adjourn from time to time until all appeals have been heard and determined.
- 35.4 The Assessment Review Committee may hear an appeal whether the appellant is present or not.

36 Notice to attend

- 36.1 The Assessment Review Committee may request the attendance of witnesses and the production and inspection of documents.
- 36.2 A party to any appeal proceedings before the Assessment Review Committee may request that a notice be served by any member of the Assessment Review Committee, requesting the attendance of any person as a witness to give evidence at the hearing of the appeal.
- 36.3 Where a party requests that a notice be served by a member of the Committee, the chairperson of the Committee shall sign and issue the notice and the party shall serve it on the witness at least two (2) days before the appeal.
- 36.4 The party requesting the attendance of a witness shall pay a ten (\$10) dollar witness fee plus reasonable traveling expenses to the witness to attend and give evidence before the Assessment Review Committee, on the time and date set out in the notice.

37 Reserving decision

- 37.1 Subject to section 28.6, the Assessment Review Committee may, after hearing an appeal, postpone consideration and the appellant shall, if required by the Committee, produce all relevant books, papers, documents and answer all proper questions and give all necessary information affecting the interest in land or the matter under consideration.

38 Costs

- 38.1 The Assessment Review Committee may order that the costs of a proceeding before the Committee be paid by or apportioned between the persons affected by the appeal provided that such costs do not exceed ten per cent (10%) of the amount of the taxes payable concerning the interest in land which is the subject of the appeal, as finally determined by the Assessment Review Committee.

39 Onus of proof

- 39.1 In any appeal proceedings, the onus of proof is on the person bringing the appeal to establish that the assessed value of the interest in land should be different from the value determined by the assessor.

40 Decision of Assessment Review Committee

- 40.1 The Assessment Review Committee shall submit to Council its decision on each appeal, including the vote of each member of the Committee, either in favour of, or against allowing the appeal.
- 40.2 Notwithstanding section 28.6, the Assessment Review Committee may, with the consent of all parties to an appeal and without prejudice to the rights of any party, 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.
- 40.3 Upon 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 decisions in section 40.1.
- 40.4 Not later than fourteen (14) days from the receipt of the instructions pursuant to section 40.3 the assessor shall notify in writing each appellant and person affected by the appeal, of the decision of the Assessment Review Committee.

40.5 The notice given under section 40.4 shall state that the appellant has a further right of appeal to a court of competent jurisdiction.

41 Amendment pursuant to decision

41.1 Where the assessor is directed to amend an assessment roll under section 40.3, the assessor shall do so within fourteen (14) days, and shall return the assessment roll forthwith to the chairperson of the Assessment Review Committee.

41.2 The assessor shall date and initial amendments made to the assessment roll.

41.3 Upon receiving an amended assessment roll, the chairperson of the Assessment Review Committee shall:

- (a) verify that the roll has been amended according to the decisions of the Assessment Review Committee under sections 40.3 and 40.4;
- (b) authenticate the assessment roll by affixing to it a sworn or affirmed statement in the form prescribed by Chief and Council; and
- (c) forward the authenticated assessment roll to the taxation authority.

Part 11 Tax Notice

42 Delivery

42.1 Where Council adopts an assessment roll, the tax administrator shall no later than May 31st mail to every person whose name appears in the assessment roll, a tax notice in respect of each 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.

42.2 The tax notice referred to in section 42.1 shall include the particulars of the assessed value, the taxes due, any arrears and interest, where payment is to be made, and the manner of payment.

42.3 The tax administrator shall enter the date of mailing the tax notice on the assessment roll.

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

42.5 Where applicable, a tax notice shall state that taxes are payable in conjunction with periodic lease payments under part 13.

43 Refunds

43.1 Where it is shown that a person liable for taxes on an interest in land was not liable for taxes or was taxed in excess of the proper amount, at the direction of Council, the tax administrator shall refund to the person the amount paid in excess of liability.

43.2 Where taxes imposed under this bylaw are to be refunded under this section, Council may direct the tax administrator to refund the amount in whole or in part by applying it as a credit on account of the taxes due or accruing due.

Part 12 Due Date and Interest

44 Due date

44.1 Subject to sections 45.1 and 45.6, taxes levied in a tax notice mailed under section 42.1 are due and payable as of June 30th of the year in which they are first levied at the office of the taxation authority notwithstanding that an appeal may be pending.

45 Payment

45.1 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.

45.2 Where any person alleges that he or she is not liable to pay taxes imposed pursuant to this bylaw, the person shall either initiate proceedings in a court of competent jurisdiction or launch an appeal within thirty (30) days of the date of mailing of the tax notice.

45.3 Unless a challenge is initiated pursuant to section 45.2, 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.

- 45.4 Any other person who has registered a security interest against the taxpayer's interest in land in the registers may pay the taxes due and such payment shall extinguish the debt owing to the taxation authority.
- 45.5 Where taxes are due and payable in conjunction with payment of rent under part 13, the proportionate payment is due and payable on the date that the rent is due and payable.
- 45.6 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.
- 46 Interest**
- 46.1 If all or any portion of taxes remains unpaid after June 30th of the year they are first levied, the unpaid portion shall accrue interest at one (1%) per cent per month or part thereof and shall be compounded annually.
- 46.2 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 to current taxes.

Part 13 Periodic Payments

47 Periodic payment

- 47.1 Council may declare that the tax, with respect to any 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.
- 47.2 Where Council has entered 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 payment on account of tax shall be a discharge of the liability for tax to the extent of the payment.

Part 14

Receipts and Certificates

48 Receipts

- 48.1 Except where part 13 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 interest in land for which the taxes are paid.

49 Certificates

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

Part 15

Application of Revenues

50 Deposits

- 50.1 All moneys raised under this bylaw shall be placed in a special account or accounts.
- 50.2 Moneys raised shall include:
- (a) taxes;
 - (b) grants-in-lieu of taxes;
 - (c) interest; and
 - (d) amounts collected on account of costs.

51 Expenditures

- 51.1 Subject to section 51.2, an expenditure made out of moneys raised under this bylaw shall be made under authority of a separate bylaw.
- 51.2 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) remuneration of the assessor and the tax administrator; and
- (d) all legal costs and other expenses of enforcement of this bylaw.

Part 16

Collection and Enforcement

52 Proof of debt

- 52.1 The taxation authority may charge the person named in an assessment roll with all reasonable costs incurred in the collection of taxes or other costs imposed by the Council under this bylaw.
- 52.2 A person named in an assessment roll as having an interest in land is liable for all taxes imposed in respect of the interest in land during the year and all unpaid taxes imposed in previous years.
- 52.3 Tax, or a 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 the assessment roll that refers to the taxes payable. Such certification by the tax administrator is *prima facie* proof of the debt.

53 Special lien and priority of claim

- 53.1 Taxes due and payable are a special lien and encumbrance on the interest in land.
- 53.2 The special lien and encumbrance attaches to the interest in land being taxed, and without limiting the foregoing, attaches to the interest in land of a subsequent holder.
- 53.3 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.
- 53.4 The tax administrator may register a certificate issued under section 52.3 in either register on or after January 2nd following the year in which the taxes are imposed.

- 53.5 Pursuant to section 53.4, the special lien and encumbrance shall have priority over every subsequently registered claim, privilege, lien, charge, security interest, or encumbrance of every person.
- 53.6 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.
- 53.7 The special lien and encumbrance is not lost or impaired by reason of any technical error or omission.

54 Demand for payment and notice of enforcement proceedings

- 54.1 Except for tax proceedings postponed pursuant to section 54.6, on or after January 2nd following the year for which taxes are imposed, the tax administrator shall prepare a list of outstanding taxes and of the persons liable for payment.
- 54.2 Within thirty (30) days of completion of the list pursuant to section 54.1, the tax administrator shall mail a demand for payment and notice of enforcement proceedings to every person named on the list, and to every tenant, agent or person whose rights, proprietary or otherwise, may be affected by the enforcement proceedings.
- 54.3 The demand for payment and notice of enforcement proceedings shall state:
- (a) the amount of all taxes, interest, costs and fees due and payable on the date of the notice; and
 - (b) the date on which procedures may be taken for the enforcement and collection of the debt.
- 54.4 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.
- 54.5 Upon the expiration of thirty (30) days from the mailing of the demand for payment and notice of enforcement proceedings, the tax administrator shall request authorization from Council to commence enforcement proceedings against the tax debtors. Council may direct the tax administrator to commence enforcement proceedings.

54.6 Council may upon application by the tax debtor:

- (a) postpone taking enforcement proceedings for a specified period; or
- (b) reduce or remit the taxes where Council determines that:
 - (i) full payment would result in undue hardship to the tax debtor; or
 - (ii) it is necessary and in the best interest of the First Nation to effect a transfer of the tax debtor's interest.

55 Distress: seizure of goods

55.1 With the authorization of Council, the tax administrator may proceed by way of distress if the taxes or any portion thereof remain unpaid after the thirty (30) day period provided by section 54.5 or the period specified by Council pursuant to section 54.6 has expired.

55.2 The tax administrator shall serve a notice of distress on the tax debtor. The notice of distress shall state:

- (a) that the failure to pay the outstanding tax debt will result in the seizure by distress of the property described in the notice;
- (b) that the tax debtor has the right to commence legal proceedings in a court of competent jurisdiction within sixty (60) days of the date of the seizure . failing which the tax debtor is estopped from denying the validity of the seizure; and
- (c) that the tax debtor will be deemed to have abandoned the seized property if the tax debt remains unpaid or the tax debtor fails to commence proceedings as described in section 55.2(b) and that the property will be sold by public auction.

55.3 If the taxes, or any portion thereof, remain outstanding following the time provided by the notice of distress, the tax administrator shall effect a seizure by distress of such goods and post a notice on the goods which are seized. The seized goods shall then be in the possession of the First Nation, as represented by the tax administrator.

- 55.4 So long as the taxes, or any portion thereof, remain outstanding, no goods seized 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 goods shall be seized by a bailiff, sheriff, assignee or liquidator or trustee, or authorized trustee in bankruptcy, except under the authority of Chief and Council.

56 Distress: sale of seized goods

- 56.1 If the tax administrator seizes by distress the tax debtor's goods and the tax debtor does not commence legal proceedings in a court of competent jurisdiction within sixty (60) days after the date of seizure challenging such seizure, the goods may be sold in accordance with this part and the tax debtor is estopped from denying the validity of the seizure and the sale of such goods.
- 56.2 If the outstanding taxes have not been paid in full sixty (60) days after a seizure by distress, 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.
- 56.3 A notice of sale of goods seized by distress shall be published in at least one (1) newspaper of general local circulation at least seven (7) days prior to the sale, and shall be posted on the tax debtor's premises located on Reserve.
- 56.4 The sale of the goods seized by distress shall be conducted at the time and place advertised pursuant to section 56.3, unless it is necessary to adjourn such sale, in which case an additional notice shall be published in the manner provided by section 56.3.
- 56.5 Any surplus resulting from the sale, after deducting all liabilities of the tax debtor, including all costs and charges arising from the sale, shall be paid to the tax debtor. In the event that the tax administrator is uncertain who is entitled to such surplus, the tax administrator shall pay such money into court by way of interpleader action.
- 56.6 Goods of a 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.

57 Sale of improvements or proprietary interest

- 57.1 If the taxes or any part thereof remain unpaid after the thirty (30) day period provided by section 54.5 or the period specified by Council pursuant to section 54.6 has expired, Council may authorize the tax administrator to proceed by way of sale of improvements or proprietary interest. The tax administrator shall serve on the tax debtor a notice of sale of improvements and disposition of interest in land.
- 57.2 The notice of sale of improvements and disposition of interest in land shall state:
- (a) that the failure to pay the outstanding tax debt within sixty (60) days will result in the sale by public auction of the improvements and/or interests in land described in the notice;
 - (b) that the improvements and/or interests in land may be redeemed by payment of the full amount of the tax debt together with all taxes, interest, and costs which have subsequently fallen due;
 - (c) that upon the sale of the improvements and/or interest in land, the purchaser shall obtain title and shall be entitled to immediate vacant possession of the property.
- 57.3 On June 30th following the year in which the taxes are imposed or, if enforcement proceedings are postponed under section 54.6, six (6) months from the end of the period specified by 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 section 57.4 by public tender.
- 57.4 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.
- 57.5 A notice of sale of improvements and disposition of interest in land shall be published in at least one (1) newspaper of general local circulation at least seven (7) days prior to the sale, and shall be posted on the tax debtor's premises located on Reserve.

- 57.6 The sale of the improvements and disposition of interest in land shall be conducted at the time and place advertised pursuant to section 57.5, unless it is necessary to adjourn such disposition. If an adjournment is necessary an additional notice shall be published in the manner provided by section 57.5.
- 57.7 With prior approval of Council, the tax administrator may at any sale and disposition, set an upset price equal to the outstanding taxes and that upset price shall be the lowest price for which the improvements may be sold and the interest in land disposed.
- 57.8 Where the tax administrator sets an upset price, and there is no bid at the sale and disposition 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.
- 57.9 At any time within six (6) months after the sale and disposition, the tax debtor may redeem his or her interest in land by paying to the tax administrator the full amount of all taxes for which the interests were disposed, together with all taxes which have subsequently fallen due and the reasonable costs incurred by the taxing authority in disposing of the interest.
- 57.10 If upon the expiration of the redemption period provided by section 57.9, 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 and register it in one or both registries and shall serve it on the tax debtor.
- 57.11 Upon the filing of the certificate provided by section 57.10, the purchaser shall be substituted for the tax debtor as the holder of the interest in land, and in addition to any other obligations, shall be liable for all future taxes assessed against that interest.
- 57.12 Upon the filing of the certificate provided by section 57.10, any surplus resulting from the sale and disposition, after deducting all outstanding taxes of the tax debtor, including reasonable costs and charges arising from the sale and disposition, shall be returned to the tax debtor. In the event that the tax administrator is uncertain who is entitled to such surplus the tax administrator shall pay such money into court by way of interpleader action.
- 57.13 Upon the filing of the certificate provided by section 57.10, any remaining debt of the tax debtor with respect to that interest in land, including all reasonable costs and charges arising from the sale and disposition, shall be extinguished.

- 57.14 If the First Nation has become the owner of the interest in land, the tax administrator may sell such within ninety (90) days for not less than the upset price set pursuant to section 57.7.

58 Cancellation of interest in land held by taxpayer

- 58.1 If the taxes or any part thereof remain unpaid after the thirty (30) day period provided by section 54.5 or the period specified by Council pursuant to section 54.6 has expired, Council may authorize the tax administrator to proceed by way of cancellation of the interest. The tax administrator shall serve a notice of cancellation of the tax debtor's interest in land.
- 58.2 The notice of cancellation of the tax debtor's interest in land shall state that unless the tax debt is paid in full within six (6) months of the date of the notice, the tax debtor's interest in the land may be subject to cancellation and the tax debtor shall be required to immediately vacate the lands.
- 58.3 The tax administrator shall mail a copy of the notice to every place where the interest is registered.
- 58.4 Where taxes are not paid before June 30th of the year following the taxation year in which they were imposed or within six (6) months after the specified period if enforcement proceedings are postponed under section 54.6, 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 and shall register it in the registers.
- 58.5 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.

59 Forfeiture of property

- 59.1 Notwithstanding any other action for the recovery of taxes set out in this bylaw, if any taxes remain unpaid twenty-four (24) months after the mailing of the demand for payment and notice of enforcement, the tax debtor's interest in land in respect of which the taxes remain unpaid shall, subject to this section, be absolutely forfeited.
- 59.2 The tax debtor's interest in land shall be forfeited forty (40) days after the tax administrator serves a notice of forfeiture on the tax debtor and on anyone else who may be in lawful possession of the interest in land.

- 59.3 Prior to serving the notice of forfeiture, the tax administrator shall obtain authorization from Council to proceed by forfeiture.
- 59.4 The notice of forfeiture shall state:
- (a) that the interest in land held by the tax debtor is subject to forfeiture under this section;
 - (b) the amount of all taxes, costs and fees due and payable on the date of the notice;
 - (c) the date on which the interest in land held by the tax debtor will forfeit;
 - (d) that the tax debtor has 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 third party interests which otherwise attach to the interest in land.
- 59.5 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.
- 59.6 Where any taxes remain unpaid on December 31 of the second year after the calendar year in which they were imposed, payment of those taxes does not prevent forfeiture unless the payment:
- (a) includes all taxes then due and payable;
 - (b) includes the reasonable costs incurred by the taxation authority in the forfeiture proceedings; and
 - (c) is made before forfeiture occurs under this section.
- 59.7 With the consent of the Minister, the tax administrator shall certify 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.
- 59.8 Upon forfeiture of the tax debtor's interest in land the taxation authority shall acquire the interest in the land free and clear of all encumbrances or charges.

60 Absconding taxpayer

- 60.1 Where the tax administrator has reasonable grounds to believe that the taxpayer intends to remove his or her goods from the Reserve, or intends to dismantle or remove his or 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 for remedy, notwithstanding the fact that the time for payment of taxes has not yet expired.

61 Discontinuance of services

- 61.1 If the taxes or any part thereof remain unpaid after the thirty (30) day period provided by section 54.5 or the period specified by Council pursuant to section 54.6, Council may authorize that any services provided by the First Nation or pursuant to any contract with the First Nation, to the tax debtor or to the interest in land assessed pursuant to this bylaw be discontinued. A notice of discontinuance of services shall be delivered to the tax debtor thirty (30) days prior to such discontinuance, and shall include the date, time and place within that thirty (30) days when the tax debtor may appear before Council to show cause as to why the services should not be discontinued and Council shall determine whether or not it will discontinue such services.

**Part 17
General and Miscellaneous**

62 Local Improvement Charges

- 62.1 The Council may, by bylaw pursuant to section 83 of the Act, impose service and local improvement charges to all or any part of the Reserve.

63 No invalidity

- 63.1 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.

63.2 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.

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

64 Time

64.1 No 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, made for tax or any amount under this bylaw shall be commenced after the expiration of six (6) months from the making of the payment but the payment shall be deemed to have been voluntarily made.

64.2 Chief and Council may, by band council resolution, extend for a maximum of thirty (30) days the time in 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.

65 Service

65.1 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.

66 Construction of bylaw

66.1 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.

66.2 Headings form no part of the enactment, but shall be construed as being inserted for convenience of reference only.

67 Transitional

67.1 Following the enactment of this bylaw and for the tax year 2007 only, the dates set out in sections 11.1, 12.1, 17.1, 20.1, 42.1, 44.1, 46.1 shall not apply and, in lieu thereof, the following shall apply:

(a) In respect of section 11.1, the date "May 1st" is replaced with "August 1st";

- (b) In respect of sections 12.1, 44.1, and 46.1 the date of "June 30th" is replaced with "September 30th";
- (c) In respect of section 17.1, the date of "May 15th" is replaced with "August 15th"; and
- (d) In respect of sections 20.1 and 42.1, the date of "May 31st" is replaced with "August 31st".

68 Effective date

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

This bylaw was enacted by Council at a duly convened meeting held on the 26th day of June, 2007.



Chief Arthur Noskey



Councillor Bernadette Nicholson



Councillor Andrew Noskey



Councillor Mabel Noskey



Councillor Ivan Sawan