

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



Minister of Indian Affairs and
Northern Development and Federal Interlocutor
for Metis 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 Chemainus First Nation, in the Province of British
Columbia, at a meeting held on the 8th day of February 2005.

**Chemainus First Nation
Property Assessment and Taxation By-law**

A handwritten signature in black ink that reads "Andy Scott".

Dated at Ottawa, Ontario this 22nd day of April 2005.

Canada

CHEMAINUS FIRST NATION
PROPERTY ASSESSMENT AND TAXATION BY-LAW

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WHEREAS pursuant to the *Indian Act*, and specifically paragraph 83(1)(a), the Council of a Band may make by-laws for the purpose of taxation for local purposes of land, or interests in land, in the reserve, including rights to occupy, possess or use land, in the reserve:

AND WHEREAS the Council of the Chemainus First Nation (the "Band") deems it to be in the best interests of the Band to make a by-law for such purposes;

NOW THEREFORE BE IT RESOLVED the Council of the Chemainus First Nation at a duly convened meeting, enacts the following by-law.

SHORT TITLE

1. This by-law may be cited as the "*Chemainus Property Assessment and Taxation By-law*."

PART I

INTERPRETATION

- 2.(1) In this by-law,

"Act" means the *Indian Act*, R.S.C. 1985, c. I-5;

"actual value" means the market value of the interest in land as if it were held in fee simple off reserves without encumbrance or restriction;

"assessed value" means the actual value of interests in land as determined under this by-law;

"assessment" means a valuation of property for taxation purposes;

"assessment roll" means a list prepared pursuant to this by-law 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 by-law;

"assessment year" means the year from January 1st to December 31st in which taxes are to be levied;

"assessor" means 3 person or persons appointed by Council for the purposes of this by-law and any related duties as required by Council;

"Band or First Nation" means the Chemainus First Nation being 3 band within subsection 2(1) of the Act;

“band council resolution” means a motion passed and approved by a majority of the councillors of the Band present at a duly convened meeting;

“band member” means a member of the band;

“C.P.” means a certificate of possession as referred to in sub-sections 20(1) and 20(2) of the Act and for the purposes of this by-law only includes a notice of entitlement, a certificate of occupation, as referred to in sub-sections 20(4) and 20(5) of the Act, and any such other permits, agreements, licences, or interests as are issued or given from time to time by band council resolution authorizing the use of land in reserve by a band member;

“Council” means the Council of the Chemainus First Nation selected according to Section 74 of the *Indian Act*;

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

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

“improvement” means an addition to land or water over land and, without restricting the generality of the foregoing, includes:

- (a) 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;
- (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; or
- (d) a manufactured home;

“interest holder” means a person who has an interest in, or is an occupier of, land or improvements, or both;

“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, or interest in land, in the reserve, including rights to occupy, possess or use land in the reserve, and includes, but is not limited to:

- (a) land covered by water;
- (b) quarries; and
- (c) sand and gravel;

“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, foot crossing, 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 or 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 of a local improvement and interest amortized over a fixed period of years;

“locatee” means an Indian who is in lawful possession of land in the reserve pursuant to subsections 20(1) and (2) of the Act and for whose benefit the Minister has leased the land pursuant to subsection 58(3) of the Act;

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

- (a) is used or designed for use as a dwelling or sleeping place;

- (b) is constructed or manufactured to be moved from one point to another by being towed or carried unless licensed or able to be licensed and equipped to travel on a public highway;
- (c) is a business office or premises; and
- (d) is accommodation for any other purpose;

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

"occupier" means:

- (a) a person who, if a trespass has occurred, is entitled to maintain an action for trespass;
- (b) a person in possession of land within the reserve that is held directly or indirectly under a lease, licence, agreement, easement or other record from the Crown or who simply occupies the land;
- (c) a person in possession of land within the reserve that is held directly or indirectly under a lease, licence, agreement, easement or other record from a person who is exempted from taxation under this taxation by-law or any act that applies to land in the reserve ~~or~~ who simply occupies the land; ~~or~~
- (d) in relation to land that in ordinary conditions is covered by water, a person who is entitled directly or indirectly under a lease or licence to possess or occupy, or who simply occupies, the land, the water covering the land or the surface of the water covering the land;

"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;

"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 Chemainus First Nation as appointed by the Council of Chiefs;

"Reserve" means any of the following:

- (a) Say-La-Quas Indian Reserve Nu. 10;
- (b) Squaw-Hay-One Indian Reserve No. 11;
- (c) Oyster Bay Reserve No. 12; or
- (d) Chemainus Indian Reserve No. 13

defined in subsection 2(1) of the Act and any land held as a special reserve for the use and benefit of the Chemainus First Nation pursuant to section 36 of the Act;

"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 by-law, and includes all interest, penalties, costs or other charges imposed and payable pursuant to this by-law;

"tax administrator" means the person appointed by the Council pursuant to section 3 to administer this by-law;

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

"taxation authority" means the Council of the Chemainus First Nation;

"taxation year" means a calendar year in which taxes are levied and payable under this by-law;

"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.

- (2) The preamble forms part of this by-law.
- (3) In the event that the Act or any relevant portion of the Act should be repealed or should otherwise not apply to the Chemainus First Nation, then when the context so requires a reference in this by-law to the Act shall be deemed to be a reference to such other relevant authority as may be or may become applicable.

PART II

ADMINISTRATION

- 3.(1) The Council may appoint a tax administrator for a specified or indefinite term to administer this by-law.
- (3) The tax administrator is responsible for collection of taxes and enforcement of payment under this by-law
- (3) The Council 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 by-law;
 - (c) establish educational and professional requirements for the tax administrator and other officials who assist in the administration of this by-law;
 - (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 by-law.

PART III

APPLICATION OF BY-LAW

4. This by-law applies to all interests in land in the Reserve.

PART IV

LIABILITY TO TAXATION

- 5.(1) Subject to section 6, all interests in land including any right to occupy, possess, or use land, is subject to taxation under this by-law.
- (2) Without derogating from the Council's taxing authority or jurisdiction, the 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, in the opinion of the Council, it is in the best interests of the Band to do so.

6. The following interests in land are not subject to taxation:
- (3) any interest in land of the Band or of a member of the Band;
 - (b) any interest in land of a corporation, all the shareholders of which are members of the Band, or the Council, in which case the interest in land is held for the benefit of all the members of the Band;
 - (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.
7. Notwithstanding section 6, all interests in land are liable to service and local improvement charges under Part XVII of this by-law.
8. 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.
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 TAN

10. 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.(1) On or before May 31st in each calendar year or as soon thereafter as practicable, the Council shall adopt a by-law to impose tax rates on interests in land subject to taxation under this by-law. Taxes levied under this by-law 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 by-law.
 - (2) The Council may, by by-law, 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 one thousand dollars (\$1,000.00) 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 2nd of the year in which they are levied.

PART VI

INFORMATION FOR ASSESSMENT ROLL

- 13.(1) Every person liable for tax 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 restrictin the generality of the foregoing, include 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.
 - (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 shall value the interest in land on the basis of information in his or her possession.

PART VII

ASSESSED VALUE

- 14.(1) The Council may appoint by band council resolution *one* or more assessors for a term of one year

- (2) An appointment under subsection (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 6 as set out in the band council resolution.
15. For the purpose of determining the actual value of an interest in land for an assessment roll, the valuation date is January 1st of the year during which the assessment roll is completed.
- 16.(1) The assessor shall assess interests in land according to the classes of real property as set out in Schedule II
- (2) Except as otherwise provided in this by-law, for the purposes of assessing interests in land, the assessor shall use the practices and regulations established under the *Assessment Act* [RSBC 1996] Chapter 20 as amended from time to time.
- 17.(1) Except as provided in subsections 16(2) and 17(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 were held in 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 pipelines of a pipeline corporation for the transportation of 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 or buildings;
 - (d) the right of way for pole lines, cables, towers, poles, wires, transformers, conduits, mains and pipelines 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 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 that restriction.
- (4) The duration of the interest in land or the right of the Council to terminate an interest in land is not a restriction within the meaning of subsection (3).

PART VIII

THE ASSESSMENT ROLL

18. No later than January 1st of the taxation year, and every year thereafter, 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.
19. The assessor shall include in the assessment roll the particulars set out in section 18 for any interest in land in respect of which grants-in-lieu of taxes may be accepted
20. The assessor shall set out the value of improvements separately from the value of the land on which they are located.
- 21.(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.
 - (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.

- 22.(1) The assessment roll is effective on its adoption by band council resolution by the Council.
- (2) On approval, the assessment roll is open to inspection in the Chemainus First Nation administration office by any person during regular business hours
23. The tax administrator or the assessor shall, on or before January 1st of each year or as soon as practicable, after adoption by the Council, 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.
24. The notice of assessment shall be in the form set *our* in Schedule III or a form approved by the Council and 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 IX

AMENDMENTS TO ASSESSMENT ROLL

25. 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 27, shall not make any amendments after October 1st of the current taxation year.

2h. 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 in the form set out in Schedule III or a form approved by the Council in respect of the amended assessment to each person affected.

27. 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 an interest in land; or
- (b) a person's concealment of information required under this by-law with respect to an interest in land;

the assessor shall issue an amended assessment notice, in the form set out in Schedule III or a form approved by the Council, for the current year and for each previous year during which the condition giving rise to the amendment to the assessment roll existed

28. 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.

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

30. Where the 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, together with the interest at the rate of 10 per cent per annum. 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 X

APPEALS

31.(1) The Council by band council resolution shall establish an Assessment Review Committee consisting 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 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 Chemainus First Nation who does not have any direct or indirect financial interest in any real property assessment to which an appeal relates.
- (2) The 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, the 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, the 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 (3) years unless the member resigns or is otherwise removed from office in accordance with the terms of this by-law.
- (4) The Council shall establish by band council resolution a daily rate of pay for each member appointed 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 offence 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 by-law in good faith and in accordance with the terms of this by-law.

The removal of a member shall be by band council resolution and shall be effective the date of the resolution.

- 32.(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 in the assessment roll.

- (2) **An** appellant shall file an appeal by delivering a Notice of Appeal containing the information set out in Schedule IV to the Assessment Review Committee at the address set out in the assessment notice by April 30th of the taxation year.
- (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.
- (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.

33.(1) The Assessment Review Committee shall:

- (a) hear all appeals from assessment notices;
 - (b) investigate and advise the Council on assessments, assessment classifications and assessment rolls which the Council 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) days 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 at least ten (10) days written notice of the time, date and place of the hearing of the appeal, and the nature of the appeal.
- (2) In performing their duties under this by-law, 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 by-law; and
 - (b) act impartially, fairly and reasonably, to the best of their skill and ability.

- (3) 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
- (4) The Chairperson, upon consideration of the Council recommendations, shall appoint a Secretary of the Assessment Review Committee.
- (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) relating to his or her office follow the direction of the Chairperson of the Committee.
- 34.(1) The assessor, or his or her designate, shall be a party to all appeal proceedings under this by-law and the Assessment Review Committee shall give the assessor thirty (30) days written notice of any appeal and a reasonable opportunity to be heard at any appeal proceedings.
- (2) The Assessment Review Committee shall give the Council thirty (30) days or less with the consent of the Council, written notice of, and an opportunity to be heard at any appeal proceedings which raise issues of law regarding anything done under this by-law.
- 35.(1) The Assessment Review Committee constitutes a quorum
- (2) Where a quorum 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 appeals shall be decided by a majority vote of the members of the Assessment Review Committee at the hearing.
 - (3) The Chairperson shall establish procedures for the conduct of the proceedings of the Assessment Review Committee which shall not be inconsistent with this by-law
- 36 So 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 a member of the Council;

- (c) is an employee of the Band or the Council; or
- (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 by-law.

37.(1) Subject to section 40(2), the sittings of the Assessment Review Committee shall

- (a) commence no later than ninety (90) days after the final date for submission of the Notice of Appeal referred to in section 33; and
- (b) be completed within ninety (90) days of its commencement as set out in paragraph 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 V.

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

- (2) 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
- (3) Where, pursuant to subsection (2), a party requests that a Notice be served by a member of the Committee:

- (a) 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; and
- (b) the Notice shall be in the form attached as Schedule VI

- (4) The party requesting the attendance of a witness shall pay a two dollar (\$2.00) 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.

39 (1) 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.

- (2) The Assessment Review Committee may hear an appeal whether the appellant is present or not
 - (3) The Assessment Review Committee may, after hearing an appeal, postpone consideration thereof 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.
 - (4) 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.
 - (5) 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.(1) Within thirty (30) days from the completion of hearing all appeals, except those adjourned under subsection 40(2), the Assessment Review Committee shall submit to the Council its decision on each appeal, including the vote of each member of the Committee, either in favour of or against allowing the appeal.
- (2) Notwithstanding subsection 37(1), 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 the Council as provided in this section.
 - (3) Within fifteen (15) days from the receipt of the decision of the Assessment Review Committee, the Council shall instruct the head assessor to prepare a final assessment roll including any amendments resulting from the decisions in subsection (1).
 - (4) Not later than four-teen (14) days from the receipt of the instructions pursuant to subsection (3), the head 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.
 - (h) Where the head assessor is directed to amend an assessment roll under subsection (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.
 - (7) The assessor shall date and initial amendments made to the assessment roll pursuant to subsection (3).

- (8) Forthwith upon receiving an amended assessment roll under subsection (6), 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 subsections (3) and (6);
 - (b) authenticate the assessment roll by affixing to it a sworn or affirmed statement in the form prescribed by the Council; and
 - (c) forward the authenticated assessment roll to the taxation authority.

PART XI

TAX NOTICE

- 41.(1) Where the Council adopts an assessment roll, and after notices of assessment are mailed pursuant to section 23, the tax administrator shall mail, prior to June 1 of the taxation year, to every person whose name appears in the assessment roll, a tax notice in the form set out in Schedule VII, 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.
 - (2) The tax notice referred to in subsection (1) shall contain the information set out in Schedule VII which includes the particulars of any arrears and interest, where payment is to be made, and the manner of payment.
- 42.(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.
43. Where applicable, a tax notice shall state that taxes are payable in conjunction with periodic lease payments under Part XIII.
- 44.(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 the Council, the tax administrator shall refund to the person the amount paid in excess of liability.
 - (2) Where taxes imposed under this by-law are to be refunded under this section, the 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 XII

DUE DATE AND INTEREST

- 45.(1) Subject to sections 46 and 47, taxes levied in a tax notice mailed under section 41 are due and payable as of July 2nd 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 by-law 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 by-law.
- (3) Where any person alleges that he or she is not liable to pay taxes imposed pursuant to this by-law, the person shall launch an appeal within thirty (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 registers may pay the taxes due and such payment shall extinguish the debt owing to the taxation authority.
46. 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.
47. Where an assessment roll is amended under this by-law, 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 22.
48. If all or any portion of taxes remains unpaid on August 1st of the year they are first levied, the unpaid portion shall accrue interest at two per cent (2%) above the Bank of Canada prime rate as it is on the first of each month and shall be compounded annually.
49. 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 XIII

PERIODIC PAYMENTS

50. The Council, with the consent of the locatee where applicable, 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.
51. Where the Council 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 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

52. 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 interest in land for which the taxes are paid.
53. 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 XV

APPLICATION OF REVENUES

- 54.(1) All moneys raised under this by-law 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 55, an expenditure made out of moneys raised under this by-law shall be made under authority of a separate by-law.
55. The following expenditures of funds raised under this by-law are hereby **authorized**:
- (a) refunds of overpayment and interest;

- (b) all expenses for preparation and administration of this by-law;
- (c) remuneration of the assessor and the tax administrator; and
- (d) all legal costs and other expenses of enforcement of this by-law

PART XVI

COLLECTION AND ENFORCEMENT

Proof of Debt

56. 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 this by-law. Such costs shall be in accordance with Schedule VIII to this by-law.
- 57.(1) 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 the next two years.
- (2) Tax, or a portion thereof, due and payable under this by-law 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 shall be in the form provided in Schedule IS, and is *prima facie* proof of the debt.

Special Lien and Priority of Claim

- 58.(1) Taxes due and payable are a special lien and encumbrance on the interest in land.
- (2) The special lien and encumbrance referred to in subsection (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 by-law 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 2nd following the year in which the taxes are imposed.
- (5) When registered pursuant to subsection (4), the special lien and encumbrance shall have priority over every subsequently registered claim, privilege, lien, charge, security interest, or encumbrance of every person.

- (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 neglect or technical error or omission.

Demand for Payment and Notice of Enforcement Proceedings

- 59.(1) 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.
 - (2) Within thirty (30) days of completion of the list pursuant to subsection 59(1), the tax administrator shall mail, in the form set out in Schedule X, a Demand for Payment and Notice of Enforcement Proceedings to every person named on the list, and to every locatee, tenant, agent or person whose rights, proprietary or otherwise, may be affected by the 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.
 - (4) Upon the expiration of the thirty (30) day period provided in the Demand for Payment and Notice of Enforcement Proceedings delivered pursuant to section 59(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 60, 62, 63, 64 and 65, the Council shall consult with any affected locatee.
- 60.(1) Notwithstanding section 59(1), the Council may upon application by the tax debtor:
 - (1) postpone taking 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 interests of the Band to effect a transfer of the tax debtor's interest.
- (2) The Council may, from time to time, provide by band council resolution for the reduction of taxes due by taxpayers for a taxation year by an amount equal to or less than the

amount to which the taxpayers would be entitled, in accordance with the home owner grant legislation that would apply if the taxpayer's interest in land was subject to taxation by a municipality.

Distress: Seizure of Goods

- 61.(1) With the authorization of the Council first obtained, 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 the Demand for Payment and Notice of Enforcement served pursuant to section 59 or the period specified by the Council pursuant to section 60(1) has expired.
- (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 XI.
- (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 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 goods shall be seized by a bailiff, sheriff, assignee, liquidator or trustee, or authorized trustee in bankruptcy, except under the authority of Council.

Distress: Sale of Goods Seized by Distress

- 62.(1) If the tax administrator seizes by distress the tax debtor's goods pursuant to subsection 61(3), 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.
- (2) If the outstanding taxes have not been paid in full sixty (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 XII shall be published in at least one (1) newspaper of general local circulation for seven (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 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.
- (6) Goods of a tax debtor that would be exempt from seizure under a writ of execution issued by a superior court in the province of British Columbia are exempt from seizure under this section.

Sale of Improvements or Proprietary Interest

- 63.(1j) If the taxes or any part thereof remain unpaid after the thirty (30) day period provided by the Demand for Payment and Notice of Enforcement served pursuant to section 59 or the period specified by the Council pursuant to subsection 60(1) has expired, the Council may authorize the tax administrator to proceed by way of sale of improvements or proprietary interest. The tax administrator shall serve the tax debtor and, where applicable, the locatee with a Notice of Sale of Improvements and Disposition of Interest in Land in the form of Schedule XIII.
- (2) On June 30th following the year in which the taxes are imposed or, if enforcement proceedings are postponed under subsection 60(1), six (6) 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.
 - (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 Land in the form of Schedule XIII to this by-law shall be published in at least one (1) newspaper of general local circulation for seven (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 land 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).
 - (6) With prior approval of the Council, the tax administrator may at any sale and disposition conducted pursuant to subsection (2) or (4), 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.

- (7) Where the tax administrator sets an upset price pursuant to subsection (ti), 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.
- (8) At any time within six (6) months after the sale and disposition held pursuant to subsection (2) or (4), 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.
- (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 XIV 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 (8), 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.
- (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 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.
- (12) Upon the filing of the certificate provided by subsection (9), 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.
- (13) If, pursuant to subsections (7) and (9), the Band has become the owner of the interest in land, the tax administrator may sell such interest within ninety (90) days for not less than the upset price set pursuant to subsection (6).

Cancellation of Interest in Land Held by Taxpayer

- 64 (1) If the taxes or any part thereof remain unpaid after the thirty (30) day period provided by the Demand for Payment and Notice of Enforcement served pursuant to section 59 or the period specified by the Council pursuant to subsection 60(1) has expired, the 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 in the form of Schedule XV.

- (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 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 subsection 60(1), the Council may direct the tax administrator to cancel the lease, licence or permit to occupy the interest in land, or shall request the Minister to cancel the interest in the event the Minister has granted the interest. The tax administrator shall certify the cancellation in the form provided in Schedule XVI to this by-law and shall register it in the registers.
- (4) Upon cancellation of the tax debtor's interest, and subject to 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

- 65.(1) Notwithstanding any other action for the recovery of taxes set out in this by-law, if any taxes remain unpaid twenty-four (24) months after the mailing of the Demand for Payment and Notice of Enforcement served pursuant to section 59, the tax debtor's interest in land in respect of which the taxes remain unpaid shall, subject to subsections (2), (3), (4) and (5), be absolutely forfeited.
- (2) The tax debtor's interest in land shall be forfeited under subsection (1) forty (40) days after the tax administrator serves a Notice of Forfeiture pursuant to subsection (4) in the form set out in Schedule XVII 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 by band council resolution to proceed by forfeiture.
- (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

- (c) that upon 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.
- (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 31st 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 pursuant to this section.
- (7) With the consent of the Minister, the tax administrator shall certify, in the form set out in Schedule XVIII to this by-law, 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 in land, the Taxation Authority shall acquire the interest in the land free and clear of all encumbrances or charges

Absconding Taxpayer

- 66. 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 the Reserve, or take any other actions which may preclude or impede the collection of outstanding taxes owing pursuant to this by-law, the tax administrator may apply to a court of competent jurisdiction for a remedy, notwithstanding the fact that the time for payment of taxes has not yet expired.

Discontinuance of Services

- 67. If the taxes or any part thereof remain unpaid after the thirty (30) day period provided by the Demand for Payment and Notice of Enforcement served pursuant to section 59 or the period specified by the Council pursuant to subsection 60(i) has expired, the Council may authorize that any services provided by the Band or pursuant to any contract with the Band, to the tax debtor or to the interest in land assessed pursuant to this by-law be discontinued. A Notice of Discontinuance of Services in the form of Schedule XIX shall be delivered to the tax debtor and to the locatee, where appropriate, thirty (30) days prior to such discontinuance, and shall include the date, time and place within that thirty (30) days when the tax debtor, or the locatee may appear before the Council to show cause as

to why the services should not be discontinued and the Council shall determine whether or not it will discontinue such services.

PART XVII

SERVICE AND LOCAL IMPROVEMENT CHARGES

68.(1) The Council may by by-law 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) the cutting of grass or weeds or the trimming of trees or shrubbery on any highway, lane or other public place;
- (d) the suppression of dust on any highway, lane or other public place;
- (e) the collection and disposal of garbage;
- (f) the collection and disposal of night soil or the contents of sewage holding tanks; and
- (g) notwithstanding subsections 1(a) to (f) inclusive, such other projects for the maintenance, improvement or repair of properties within the area as the Council 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 linear 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.
 - (4) The costs levied shall include engineering and advertising expenses, interest and carrying costs, sinking-fund or amortization costs, banking and legal fees, administration costs and any other expenses incidental to initiating and carrying out the work.
 - 1) Before imposing a charge, the Council shall give at least thirty (30) days notice by
 - (a) publishing the notice prior to the meeting referred to in section 70 in a newspaper of general circulation on the reserve, if any;
 - (b) posting the notice in the administration office and in prominent locations on the reserve; and
 - (c) sending the notice by registered mail, in the form set out in Schedule XX, to affected holders or occupiers who are not resident on the reserve and providing any locatee with a copy of the notice.
 - (2) It shall be sufficient notice under paragraph (1)(c) if the address in the current assessment roll is used.
 - (3) The notice shall state:
 - (a) the intention of the Council 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 shall hold a public meeting to consider written and oral representations.
- 70.(1) On the date and at the time and place set out in the notice referred to in section 69, the Council shall sit and receive and hear representations.
- (2) The Council shall not proceed with the charge until after it holds public meetings to consider representations.
 - (3) Where the Council imposes a charge, it need not give notice in each succeeding year, unless it proposes to amend the by-law that imposes the charge.

- (4) A uniform increase, not exceeding ten per cent (10%), 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 by-law 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 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 by-law.
- 72.(1) Charges under this Part shall be administered and enforced under this by-law 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

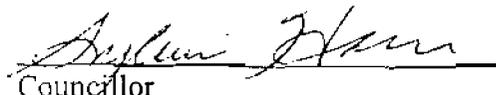
GENERAL AND MISCELLANEOUS

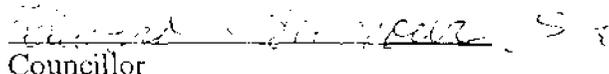
- 73 (1) Nothing under this by-law shall be rendered void or invalid, nor shall the liability of any person to pay tax or any other amount under this by-law be affected by:
- (a) an error or omission in a valuation, or a valuation based solely on information in the hands of an assessor or the tax administrator;
 - (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 by-law is void or invalid shall not affect the validity or invalidity of the rest of this by-law.
75. Where a provision in this by-law is expressed in the present tense, the provision applies to the circumstances as they arise.
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 by-law, 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.

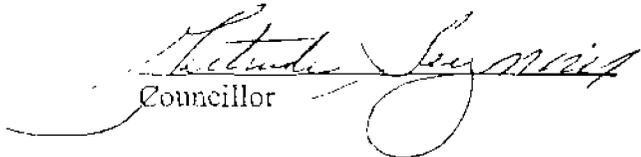
77. The Council may, by band council resolution, extend for a maximum of thirty (30) days the time *in* which anything is required to be done under this by-law and anything done within this period of time is as valid as if it had been done within the time otherwise provided for by this by-law.
78. Where 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.
79. This by-law 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.
- Y0. Headings form no part *of* the enactment, but shall be construed as being inserted for convenience or reference only.
81. This by-law shall come into force and effect on approval by the Minister.

This by-law is hereby enacted by the Council at a duly convened meeting held at Ladysmith, British Columbia on the 8th day of February, 2005.


Chief


Councillor


Councillor


Councillor


Councillor

Councillor

SCHEDULE I

(section 13)

REQUEST FOR INFORMATION

TO: _____

ADDRESS: _____

RE: _____
(description of interest in land)

PURSUANT to section 13 of the *Chemainus Property Assessment and Taxation By-law*, and pursuant to the authority **vested** in me by **band** council resolution made the _____ day of _____, 20____, I hereby request that you furnish to me, in writing, information concerning the following matters:

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

SCHEDULE II

(section 16)

CLASSES OF PROPERTY

Class 1 - Residential

1. Class 1 property shall include only

- (a) land or improvements, or both, used for residential purposes, including single family residences, duplexes, multi-family residences, apartments, condominiums, manufactured homes, nursing homes, rest homes, summer and seasonal dwellings, bunkhouses, cookhouses and ancillary improvements compatible with and used in conjunction with any of the above, but not including
 - (i) hotels or motels other than the portion of the hotel or motel building occupied by the owner or manager as his or her residence; and
 - (ii) land or improvements, or both, that are owned by the Crown in right of Canada or the Province, or by an agent of either, and are used for the purposes of
 - (A) a penitentiary or correctional centre,
 - (B) a provincial mental health facility, or
 - (C) a hospital for the care of the mentally or physically handicapped;
- (b) improvements on land classified as a farm and used in connection with the farm operation, including the farm residence and outbuildings;
- (c) land having no present use and which is neither specifically zoned nor held for business, commercial, forestry or industrial purposes.

Class 2 - Utilities

2. Class 3 property shall include only land or improvements, or both, used or held for the purposes of, or for purposes ancillary to, the business of

- (a) transportation by railway;
- (b) transportation, transmission or distribution by pipeline;
- (c) communication by telegraph or telephone, including transmission of messages by means of electric currents or signals for compensation;
- id)** generation, transmission and distribution of electricity; or
- (e) receiving, transmission and distribution of closed circuit television;

but does not include that part of land or improvements, or both

- (f) included in Classes 1, 4 or 8;
- (g) used as an office, retail sales outlet, administration building or purpose ancillary thereto; or
- (h) used for a purpose other than a purpose defined in paragraphs (a) to (e) of this class.

Class 3 - Unmanaged forest land

3. Class 3 property shall include only land meeting the definition of forest land which is not classified as managed forest land.

Class 4 - Major industry

4 Class 4 property shall include only

- (a) land used in conjunction with the operation of industrial improvements; and
- (b) industrial improvements

Class 5 - Light industry

5 Class 5 property shall include only land or improvements, or both, used or held for the purpose of extracting, processing, manufacturing or transporting of products, and for the storage of these products as an ancillary to or in conjunction with such extraction, processing, manufacture or transportation, but does not include those lands or improvements, or both

- (a) included in Class 2 or 4;
- (b) used principally as an outlet for the sale of a finished product to a purchaser for purposes of his own consumption or use and not for resale in either the form in which it was purchased or any other form; and
- (c) used for processing, manufacturing or storage of food or non-alcoholic beverages

Class 6 - Business and other

6. Class 6 property shall include all land and improvements not included in Classes 1 to 5 and 7 to 9.

Class 7 - Managed forest land

7 Class 7 property shall include only land meeting the definition of forest land which is classified as managed forest land.

Class 8 - Recreational property/non-profit organization

8.(1) Class 8 property shall include only

- (a) land, but not improvements on that land, used solely as an outdoor recreational facility for the following activities or uses:
 - (i) golf,
 - (ii) skiing,
 - (iii) tennis,
 - (iv) ball games of any kind,
 - (v) lawn bowling,
 - (vi) public swimming,
 - (vii) motercar racing
 - (viii) trap shooting,
 - (ix) archery,
 - (x) ice skating,
 - (xi) water slides,
 - (xii) museums,
 - (xiii) amusement parks,
 - (xiv) horse racing,
 - (xv) rifle shooting,

- (xvi) pistol shooting,
- (xvii) horseback riding,
- (xviii) roller skating,
- (xix) marinas,
- (xx) parks and gardens open to the public;

(b) that part of any land and improvements used or set aside for use as a place of public worship or as a meeting hall for a non-profit fraternal organization of persons of either or both sexes, together with the facilities necessarily incidental to that use, for at least one hundred and fifty (150) days in the year ending on June 30, of the calendar year preceding the calendar year for which the assessment roll is being prepared, not counting any day in which the land and improvements so used or set aside are also used for

- (i) any purpose by an organization that is neither a religious organization nor a non-profit fraternal organization,
- (ii) entertainment where there is an admission charge, or
- (iii) the sale or consumption, or both, of alcoholic beverages.

SCHEDULE III
(section 23, Part IX)

NOTICE OF ASSESSMENT

TO: _____
ADDRESS: _____
RE: _____
(description of interest in land)

TAKE NOTICE that the assessment roll has been adopted by band council resolution dated the ____ day of _____, 20__ and that in respect of the above-noted interest in land the following person(s) is/are liable to pay any taxes levied pursuant to the *Chemainus Property Assessment and Taxation By-law*:

Name(s)
Address(es)

The assessed value of the _____ land
(classification)

The assessed value of the _____ improvements
(classification)

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 thirty (30) days of the date of mailing of this assessment notice, appeal to the Assessment Review Committee in respect of liability to assessment, assessed value, assessment classification or an alleged error or omission. The Notice of Appeal must be in writing and signed by the appellant or his or her agent, and must set out a mailing address to which all notices to the appellant may be sent. The Notice of Appeal may be mailed to the Assessment Review Committee at _____

DATED AT _____ this _____ day of _____, 20__.

Tax Administrator

SCHEDULE IV

(section 32)

APPEAL TO ASSESSMENT REVIEW COMMITTEE

PURSUANT to the provisions of the *Chemainus Property Assessment and Taxation By-law*, I hereby appeal the assessment of the following interest in land:

(description of the business and location)

on the following grounds:

3.

4.

DATED AT _____ — this _____ day of _____, 20_____

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)

SCHEDULE V
(subsection 37(3))

NOTICE OF HEARING

TO: _____

ADDRESS: _____

RE: _____
(description of interest in land)

TAKE NOTICE that the Assessment Review Committee will hear an appeal from assessment requested in Schedule IV dated the ____ day of _____, 20____ relating to the above-noted interest in land at ____ (a.m./p.m.) on the ____ day of _____, 20____.

AND TAKE NOTICE that you should bring to the hearing all relevant documents pertaining to such appeal.

DATED AT _____ this ____ day of _____, 20____.

Chairperson
Assessment Review Committee

SCHEDULE VI

(section 38)

REQUEST FOR ATTENDANCE

TO: _____

ADDRESS: _____

WHEREAS an appeal has been filed with respect to the assessment of _____
(description of interest in land), and you may have information to assist the Assessment Review
Committee.

THIS IS TO REQUEST your attendance before the Assessment Review Committee at
(location) on the _____ day of _____, 20____ at
_____ (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 _____, 20____

Chairperson
Assessment Review Committee

SCHEDULE VII

(section 41)

TAX NOTICE

TO: _____

ADDRESS: _____

RE: _____
(description of interest in land)

PURSUANT to the provisions of the *Chemainus Property Assessment and Taxation By-law*, taxes in the amount of \$_____ are hereby levied with respect to the above-noted interest in land, and take notice that said taxes are due and payable forthwith, by cheque payable to the Chemainus First Nation

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 _____, 20__

Tax Administrator

SCHEDULE VIII

(section 56)

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, taking inventory, 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, taking inventory, 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

SCHEDULE IX
(subsection 57(2))

CERTIFICATION OF DEBT OWING BY THE TAXPAYER

PURSUANT to the *Chemainus Property Assessment and Taxation By-law*, I _____ Tax Administrator of the Chemainus First Nation, certify that \$_____ is the amount of the outstanding taxes which is due and owing by _____ (Taxpayer) with respect to _____ (description of interest in land)

Attached hereto is a copy of that part of the assessment roll of the Chemainus First Nation that refers to the property taxes which are due and payable by _____ (Taxpayer) with respect to _____ (description of interest in land)

DATED AT _____ this _____ day of _____, 20__

Tax Administrator

SCHEDULE X

(section 59)

DEMAND FOR PAYMENT AND NOTICE OF ENFORCEMENT PROCEEDINGS

TO: _____

ADDRESS: _____

RE: _____
(description of interest in land)

The payment date of June 30, 20__ , prescribed by the Notice of Taxes served on you with respect to the above-noted property has now expired. The _____ (Taxation Authority) 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 thirty (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 *Chemainus Property Assessment and Taxation By-law* 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 *Chemainus Property Assessment and Taxation By-law*, a copy of which is available from the Tax Administrator upon request.

(NOTE: An option for the Band is to list all of the steps which the By-law provides for the collection of outstanding tax debts.)

DATED AT _____ this _____ day of _____, 20__

Tax Administrator

SCHEDULE XI

(sections 61 and 62)

NOTICE OF DISTRESS

TO: _____

ADDRESS: _____

RE: _____
 (description of interest in land)

TAKE NOTICE that failure to pay the outstanding tax debt due and owing of \$_____ with respect to the above-noted property on or before the expiration of seven (7) days after the date of this Notice will result in the Tax Administrator, pursuant to subsection 61(3) of the *Chemainus Property Assessment and Taxation By-law*, 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 seven (7) 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 subsection 62(1) of the *Chemainus Property Assessment and Taxation By-law*, you must commence legal proceedings in a court of competent jurisdiction to challenge such seizure within sixty (60) 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 sixty (60) 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 Goods Seized by Distress will be posted on your property located on Reserve, and will be published for at least seven (7) days in the _____ newspaper, (one or more newspapers of general local circulation) before the date of sale.

DATED AT _____ this _____ day of _____, 20 _____

 Tax Administrator

SCHEDULE XII

(section 62)

NOTICE OF SALE OF GOODS SEIZED BY DISTRESS

TAKE NOTICE that a sale by public auction for outstanding taxes owed to the _____ (Taxation Authority) will occur on _____, 20____ at _____ o'clock at _____ (location) on the Chemainus First Nation.

At the above-noted sale, the following goods, seized by distress pursuant to sections 61 and 62 of the *Chemainus Property Assessment and Taxation By-law*, 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 _____, 20 _____

Tax Administrator

SCHEDULE XIII
(subsections 63(1) and 63(4))

NOTICE OF SALE OF IMPROVEMENTS AND DISPOSITION OF
INTEREST IN LAND

TO: _____

ADDRESS: _____

11 _____
(description of improvements)

(description of interest in land)

TAKE NOTICE that failure to pay all outstanding taxes with respect to the above-noted property, being \$ _____, on or before the expiration to sixty (60) days after the date of this Notice will result in the Tax Administrator for the Chemainus First Nation holding a sale by public auction (or tender) of the improvements located on the above-noted 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 Chemainus First Nation Reserve shall be published in the _____ newspaper for seven (7) 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 six (6) months after the above-noted sale and disposition, you may redeem your improvements and interest in land 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-noted sale and disposition. If upon the expiration of those six (6) 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 land.

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 _____, 20____.

Tax Administrator

SCHEDULE XIV

(section 63)

CERTIFICATION OF SALE AND DISPOSITION OF INTEREST ON RESERVE

RE:

(description of interest in land)

(description of improvements)

I, _____, Tax Administrator of the Chemainus First Nation, hereby certify that resulting from the failure of _____ to pay the outstanding tax debt on the above-noted interest on Reserve, that interest has been disposed of by public auction (or tender) and the above-noted improvements have been sold by public auction (or tender) pursuant to section 63 of the *Chemainus Property Assessment and Taxation By-law*. The following person shall, pursuant to subsection 63(10) of that By-law, be substituted for the Tax Debtor as the holder of the above-noted interest in land:

(name and address of purchaser at sale)

DATED AT _____ this _____ day of _____, 20____

Tax Administrator

SCHEDULE XV
(subsection 64(1))

NOTICE OF CANCELLATION OF INTEREST IN LAND

TO: _____
ADDRESS: _____
RE: _____
(description of interest in land)

TAKE NOTICE that failure to pay in full the outstanding tax debt of \$_____ with respect to the above-noted interest in land will result, upon the expiration of six (6) months from the date of this Notice, in the cancellation of such interest in land on the Reserve. The failure to pay such taxes is a breach of the _____ (lease, licence 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 interest in land on Reserve, and any rights or interests which you acquired through such _____ (lease, licence or permit) will cease to exist.

DATED AT _____ this _____ day of _____, 20_____

Tax Administrator

SCHEDULE XVI

(section 64(3))

CERTIFICATION OF CANCELLATION OF INTEREST IN LAND

RE: _____

(description of interest in land)

I, _____, Tax Administrator for the Chemainus First Nation, hereby certify that the above-mentioned interest in land on the Chemainus First Nation, has been cancelled or terminated pursuant to subsection 64(3) of the *Chemainus Property Assessment and Taxation By-law* as a result of the failure of _____ to pay the outstanding tax debt.

DATED AT _____ this _____ day of _____, 20__.

Tax Administrator

SCHEDULE XVII

(subsection 65(2))

NOTICE OF FORFEITURE

TO: _____

ADDRESS: _____

RE: _____
(description of interest in land)

TAKE NOTICE that taxes imposed by the *Chemainus Property Assessment and Taxation By-law* for the above-noted interest in the years _____ 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 Chemainus First Nation. Upon such forfeiture, your interest in land 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 31st 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.

DATED AT _____ this _____ day of _____ 20__

Tax Administrator

SCHEDULE XVIII
(subsection 65(7))

CERTIFICATION OF FORFEITURE

RE: _____
(description of interest in land)

I, _____, Tax Administrator for the Chemainus First Nation, hereby verify that resulting from the failure of _____ (Tax Debtor) to pay the outstanding tax debt owing on the above-mentioned interest in land in the Chemainus First Nation Reserve, such interest has been forfeited to the Chemainus First Nation pursuant to sections ____ and ____ of the *Chemainus Property Assessment and Taxation By-law*.

DATED AT _____ this _____ day of _____, 20____

Tax Administrator

SCHEDULE XIX

(section 67)

NOTICE OF DISCONTINUANCE OF SERVICES

TO: _____

ADDRESS: _____

Itl.: _____
(description of interest in land)

TAKE NOTICE that the taxes for the above-noted interest have been due and outstanding for (____) months, and that unless payment in full is received on or before thirty (30) days after the date of this Notice, or you have appeared before 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 _____, _____, 20____ at _____ o'clock, (within the 30 days set out above) at _____ (location), (within the 30 days set out above) and show cause as to why the services should not be discontinued.

DATED AT _____ this _____ day of _____, 20____

Tax Administrator

SCHEDULE XX
(paragraph 69(1)(c))

NOTICE OF HEARING

TO: _____

ADDRESS: _____

RE: _____
(specify proposed service or local improvement charge)

TAKE NOTICE that Council shall hold a public meeting at _____ (location) on the _____ day of _____, 20____, at _____ o'clock, 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 Council any written submissions which will be considered at the said meeting.

DATED AT _____ this _____ day of _____, 20____

Chief and Council