



First Nations Tax Commission
Commission de la fiscalité des premières nations

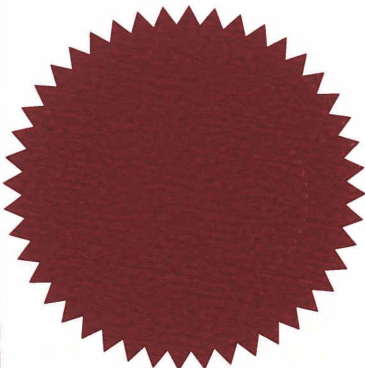
The First Nations Tax Commission, pursuant to the *First Nations*
Fiscal Management Act, hereby approves the following law made
by the Ts'uubaa-asatx Nation in the Province of British Columbia,

Ts'uubaa-asatx Water and Sewer Services Fee Law
(North Shore Estates), 2021

Dated at Kamloops, British Columbia this 13th day of August 2021.

On behalf of the First Nations Tax Commission

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



**TS'UUBAA-ASATX
WATER AND SEWER SERVICES FEE LAW (NORTH SHORE ESTATES), 2021
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SCHEDULES

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WHEREAS:

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

B. Ts'uubaa-asatx has a servicing agreement with the Town of Lake Cowichan pursuant to which the Town agrees to provide services, including water and sewer services, to the residents of a specified portion of the reserve;

C. For the water and sewer services provided by the Town pursuant to the servicing agreement, Ts'uubaa-asatx will charge and collect fees from those residents that are the same as the fees set by the Town for those services for "Outside users" from time to time, plus 10% to cover, in part, Ts'uubaa-asatx's related expenses;

D. The fees established in this Law reflect the projected cost of providing the water and sewer services and are supported by a report setting out the projected cost of such services, how the cost of the services were determined, and the proportion of the total costs of the water and sewer services that Ts'uubaa-asatx will recover through the fees set out in this Law; and

E. The Council of Ts'uubaa-asatx has given notice of this Law and has considered representations received by the Council, in accordance with the requirements of the *First Nations Fiscal Management Act*;

NOW THEREFORE the Council of Ts'uubaa-asatx duly enacts as follows:

**PART I
CITATION**

Citation

1. This Law may be cited as *Ts'uubaa-asatx Water and Sewer Services Fee Law (North Shore Estates), 2021*.

**PART II
DEFINITIONS AND REFERENCES**

Definitions and References

2.(1) In this Law:

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

“billing period” means annual;

“civil resolution tribunal” means the civil resolution tribunal established under the *Civil Resolution Tribunal Act*, S.B.C. 2012, c.25;

“fee” means a fee charged under this Law;

“holder”, in relation to an interest in reserve lands, means a person

- (a) in possession of the interest,
- (b) entitled through a lease, licence or other legal means to the interest,
- (c) in actual occupation of the interest, or
- (d) who is a trustee of the interest;

“interest”, in relation to reserve lands, means any estate, right or interest of any nature in or to the lands, including any right to occupy, possess or use the lands, but does not include title to the lands that is held by Her Majesty;

“Notice of Discontinuance of Services” means a notice containing the information set out in Schedule IV;

“reserve” means any land set apart for the use and benefit of Ts'uubaa-asatx within the meaning of the *Indian Act*;

“service” means water and sewer services provided to or made available to residents of the reserve;

“tax administrator” means the person appointed by Council to that position under the Taxation Law;

“Taxation Law” means the *Ts'uu-baasatx Property Taxation Law, 2020*, as amended; and

“Town” means the Town of Lake Cowichan;

“Ts'uubaa-asatx” means Ts'uubaa-asatx (formerly, Lake Cowichan First Nation), being a band named in the schedule to the Act;

“year” means a calendar year.

(2) For greater certainty, an interest, in relation to reserve lands, includes improvements.

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

**PART III
ADMINISTRATION**

Application of Law

3. This Law applies only to that portion of the reserve outlined in bold on the plan attached as Schedule I.

Tax Administrator

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

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

(3) The tax administrator may, with the consent of the Operations Manager of Ts'uubaa-asatx, or if the tax administrator also holds the position of Operations Manager, then with the consent of Council, assign the performance of any duties of the tax administrator under this Law to any officer, employee, contractor or agent of Ts'uubaa-asatx.

Records and Reporting

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

- (a) the amount of all fees levied;
- (b) the amount of all fees collected;
- (c) the amount of all refunds paid;
- (d) any complaints received; and
- (e) any enforcement proceedings taken.

(2) On or before September 30 in each year, the tax administrator must report to Council on the administration of this Law in the previous fiscal year, which report must include each of the items referenced in subsection (1).

Provision of a Report

6.(1) The tax administrator must make available to any person, either on Ts'uubaa-asatx's website or at Ts'uubaa-asatx's administration offices, a report respecting how the fees levied under this Law were determined.

(2) The report referenced in subsection (1) must include the projected cost of the service, how the cost of the service was determined, and the proportion of the total cost of the service that is to be recovered through the fee.

Revenues and Expenditures

7.(1) All revenue collected by Ts'uubaa-asatx from the fees levied under this Law, and interest earned on those revenues, must be used only for the provision of the service.

(2) The tax administrator must account separately for the fee revenues collected under this Law.

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

Information and Access

8.(1) The tax administrator may deliver a request for information to any person, including a current or former holder of an interest in reserve lands receiving the service, and that person must provide to the

tax administrator, within fourteen (14) days or a longer period as specified in the notice, information, including the production of records, for any purpose related to the administration or enforcement of this Law.

(2) A person authorized by Ts'uubaa-asatx may at all reasonable times enter onto lands to which the service is provided for any purposes related to the administration or enforcement of this Law.

PART IV FEE LEVIES

Connection, Disconnection and Reconnection Fees

9.(1) The holder of an interest in reserve lands to be connected or reconnected to the service must pay in full, at the time of an application to connect or reconnect to the service, the applicable connection or reconnection fees set out in Part 2 of Schedule II.

(2) The holder of an interest in reserve lands must pay in full the applicable fee set out in Part 2 of Schedule II at the time a request is made to disconnect to the service.

User Fees

10.(1) The fees set out Part 1 of Schedule II are hereby levied on each holder of an interest in reserve lands receiving the service, for the provision of the service to the interest.

(2) The tax administrator must determine the applicable fees set out in Part 1 of Schedule II for each interest for a billing period.

(3) A holder of an interest in reserve lands receiving the service must pay all fees levied in accordance with this Law.

PART V INVOICING AND PAYMENT

Invoicing and Payment

11.(1) The tax administrator must include the fee levied under section 10 in the tax notice for the interest in reserve lands given under the Taxation Law.

(2) Where the fee is included in a tax notice, the tax administrator must

(a) note on the tax roll that the fee is included in the tax notice for that interest; and

(b) show the fee separately from the taxes on the tax notice and indicate that the fee is levied for the service.

(3) Where the fee is included in a tax notice,

(a) the mailing of the tax notice constitutes a statement of and demand for payment of the fee; and

(b) the fee is due and payable on the same date as the property taxes for the interest, unless a different due date is set out in the tax notice.

Payment of Fees

12.(1) All fees must be paid at the office of Ts'uubaa-asatx during normal business hours by cheque, cash or electronic payment.

(2) Payment of fees made by cheque must be made payable to Ts'uubaa-asatx.

(3) Fees paid by electronic payment must be paid as directed by the tax administrator.

(4) The tax administrator must apply payments of fees first against any unpaid fees from previous billing periods, including interest and penalties, and then to current amounts due.

Adjustments to Fees

13.(1) The tax administrator must adjust a fee imposed under this Law as follows:

- (a) where the service is disconnected or turned off partway through a billing period, the invoice will include the time period to the end of the last month in which the service was provided;
- (b) where the service is connected partway through a billing period, the invoice will include the time period beginning on the first day of the month in which the connection was made;
- (c) where two (2) or more interests in reserve lands receiving the service are consolidated during a billing period, the consolidated interest will receive a single invoice effective on the invoice for the subsequent billing period;
- (d) where an interest receiving the service is subdivided during a billing period, each new interest will be invoiced separately effective on the invoice for the subsequent billing period.

(2) For clarity,

- (a) there will be no adjustments to fees where the service is temporarily shut off for maintenance, emergencies or for any other reason; and
- (b) fees that are invoiced before an interest is subdivided or consolidated will not be adjusted.

Refund of Fees

14.(1) Where a person has

- (a) paid a fee in circumstances where a fee was not payable, or
- (b) made an overpayment of a fee,

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

(2) The tax administrator must calculate interest payable on a refund given under subsection (1) as follows:

- (a) interest accrues from the date that the fee was originally paid to Ts'uubaa-asatx;
- (b) the interest rate during each successive three (3) month period beginning on January 1, April 1, July 1 and October 1 in every year is two percent (2%) below the prime lending rate of the principal banker to Ts'uubaa-asatx on the 15th day of the month immediately preceding that three (3) month period;
- (c) interest will not be compounded; and
- (d) interest stops running on the earliest of the day payment of the money owed is mailed, delivered or actually received by the person to whom it is owed.

PART VI

PENALTIES, INTEREST AND ENFORCEMENT

Penalties and Interest

15. If all or part of a fee remains unpaid after it is due,

- (a) a one-time penalty of ten percent (10%) of the unpaid portion of the fee will be added to the unpaid fee on the day after it was due, and the amount so added is, for all purposes, deemed to be part of the fee; and
- (b) the unpaid portion of the fee accrues interest at fifteen percent (15%) per year, starting from the day after it was due until paid or recovered.

Enforcement

16.(1) Fees charged under this Law, together with any applicable interest and penalties, are a debt owed to Ts'uubaa-asatx that is recoverable by Ts'uubaa-asatx in a court of competent jurisdiction, in a proceeding before the civil resolution tribunal, or in any manner permitted by law and, unless otherwise provided, the use of one method does not prevent seeking recovery by one or more other methods.

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

(3) Fees overdue and remaining unpaid on December 31 in each year may be collected in the same manner and with the same enforcement remedies as taxes levied under the Taxation Law, and the tax administrator may enter the unpaid amounts on the tax roll for that interest in reserve lands under the Taxation Law as unpaid taxes.

Discontinuance of Services

17.(1) Subject to this section, Ts'uubaa-asatx may discontinue a service to an interest in reserve land if any part of a fee remains unpaid more than ninety (90) days after the fee is due.

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

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

(a) in the case of an individual, by leaving the notice with that individual or with an individual at least eighteen (18) years of age staying at that individual's dwelling on reserve;

(b) in the case of a corporation, by leaving the notice with the individual apparently in charge, at the time of delivery, of the office of that corporation, or with an officer or director of the corporation or with an individual apparently authorized to accept delivery at the corporation's registered and records office.

(4) A Notice of Discontinuance of Service is considered to have been delivered

(a) if delivered personally, on the day that personal delivery is made; and

(b) if sent by registered mail, on the fifth day after it is mailed.

(5) If all or any portion of the fee remains unpaid more than thirty (30) days after the delivery of the Notice of Discontinuance of Services under subsection (2), Ts'uubaa-asatx may disconnect services to the interest in reserve lands.

(6) Notwithstanding subsection (5), Ts'uuba-asatx shall not discontinue water service to an interest in reserve lands that is a residential dwelling.

PART VII COMPLAINTS

Complaints to Tax Administrator

18.(1) A holder of an interest in reserve lands may, within fourteen (14) days of receipt of an invoice under this Law, make a complaint respecting a fee on the basis that the holder has paid a fee when a fee was not payable, or has made an overpayment of a fee.

(2) A complaint must

(a) be made in the form set out in Schedule III;

(b) be delivered to the tax administrator; and

(c) include any reasons in support of the complaint.

(3) Within fourteen (14) days after receipt of a complaint, the tax administrator must review the

matter and attempt to resolve the complaint directly with the holder.

(4) If the tax administrator determines that the holder has paid a fee when a fee was not payable, or has made an overpayment of a fee, as the case may be, the tax administrator must advise the holder of the determination and mail an amended invoice to the holder.

(5) If the tax administrator determines that the holder has not paid a fee when a fee was not payable, or has not made an overpayment of a fee, as the case may be, the tax administrator must notify the holder of this determination and the reasons for the determination.

PART VIII GENERAL PROVISIONS

Disclosure of Information

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

- (a) in the course of administering this Law or performing functions under it;
- (b) in proceedings before a tribunal having jurisdiction, including the civil resolution tribunal, or a court of law; or
- (c) in accordance with subsection (2).

(2) The tax administrator may disclose to the agent of a holder confidential information relating to the holder's interest in reserve lands or fees owing in respect of the service, if the disclosure has been authorized in writing by the holder.

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

Disclosure for Research Purposes

20. Notwithstanding section 19,

- (a) the tax administrator may disclose information and records to a third party for research purposes, including statistical research, provided the information and records do not contain information in an individually identifiable form or business information in an identifiable form; and
- (b) Council may disclose information and records to a third party for research purposes, including statistical research, in an identifiable form where
 - (i) the research cannot reasonably be accomplished unless the information is provided in an identifiable form, and
 - (ii) the third party has signed an agreement with Council to comply with Council's requirements respecting the use, confidentiality and security of the information.

Validity

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

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

Limitation on Proceedings

22.(1) No person may commence an action or proceeding for the return of money paid to Ts'uubaa-asatx, whether under protest or otherwise, on account of a demand, whether valid or invalid, for fees paid

under this Law, after the expiration of six (6) months from the date the cause of action first arose.

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

Notices

23.(1) Where in this Law an invoice or notice is required to be given by mail or where the method of giving a notice is not otherwise specified, it must be given

- (a) by mail to the recipient's ordinary mailing address, or the address for the recipient shown on the tax roll made under the Taxation Law if applicable;
- (b) where the recipient's address is unknown, by posting a copy of the notice in a conspicuous place on the interest in reserve lands to which the service is provided; or
- (c) by personal delivery or courier to the recipient or to the recipient's ordinary mailing address or the address for the recipient shown on the tax roll made under the Taxation Law if applicable.

(2) Except where otherwise provided in this Law, a notice or invoice

- (a) given by mail is deemed received on the fifth day after it is posted;
- (b) posted on the interest in reserve lands is deemed received on the second day after it is posted; and
- (c) given by personal delivery is deemed received upon delivery.

Interpretation

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

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

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

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

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

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

Coming into Force

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

THIS LAW IS HEREBY DULY ENACTED by Council on the 29 day of July, 2021, at Lake Cowichan in the Province of British Columbia.

A quorum of Council consists of three (3) members of Council.

Chief Georgina Livingstone

Sherry Livingstone
Councillor Sherry Livingstone

Melanie Livingstone
Councillor Melanie Livingstone

Carole Livingstone
Councillor Carole Livingstone

SCHEDULE I

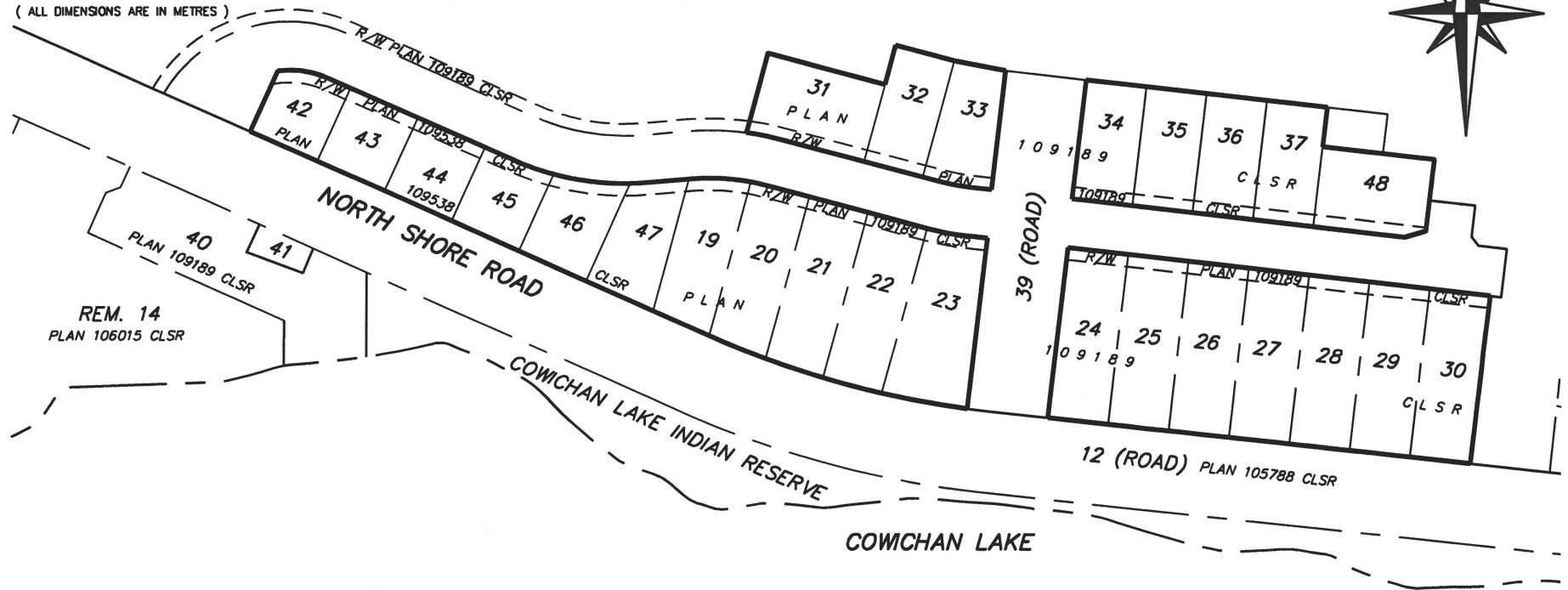
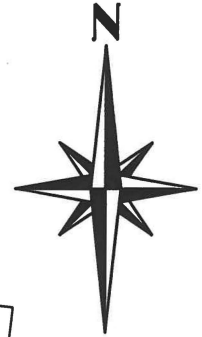
Attach Plan

SKETCH PLAN SHOWING LOTS 19 THROUGH 37, PLAN 109189 CLSR AND LOTS 42 THROUGH 48, PLAN 109538 CLSR COWICHAN LAKE INDIAN RESERVE

SCALE : 1:1000



(ALL DIMENSIONS ARE IN METRES)



PLAN PREPARED MARCH 15, 2021.

**ALLTERRA
LAND SURVEYING LTD.**
264 WESTMINSTER AVENUE W.,
PENTICTON, B.C. V2A 1J9
TEL: 250-492-5903
WWW.ALLTERRASURVEY.CA

OUR DRAWING NO. 200376-0_SKETCH.DWG

**SCHEDULE II
FEES FOR SERVICES**

PART I

The fees established in the following Town bylaws, plus 10%, are established as fees under this Law:

1. For the service of water provided to an interest in reserve lands once an occupancy permit has been issued, the fees established from time to time under the Town of Lake Cowichan Water Regulations and Rates Bylaw for "Outside user" of residential premises.

2. For the service of sewer provided to an interest in reserve lands once an occupancy permit has been issued, the fees established from time to time under the Town of Lake Cowichan Sewer Regulations and Rates Bylaw for "Outside user" of residential premises.

Where a fee referenced under this Law changes, that change will come into effect at the same time, and in the same manner, as the fee comes into effect under the applicable Town bylaw.

PART II

Connection or Reconnection Fees: NIL

Disconnection Fees: Actual cost

SCHEDULE III
COMPLAINT TO TAX ADMINISTRATOR RESPECTING
SERVICE FEE

TO: Tax Administrator for Ts'uubaa-asatx

ADDRESS: _____

]

PURSUANT to the provisions of the *Ts'uubaa-asatx Water and Sewer Services Fee Law (North Shore Estates), 2021*, I hereby make a complaint respecting the fee as follows:

This complaint is based on the following reasons:

- (1)
- (2)

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

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

Name of Complainant (please print)

Signature of Complainant
(or representative)

Dated: _____, 20__.

SCHEDULE IV
NOTICE OF DISCONTINUANCE OF SERVICES

TO: _____

ADDRESS: _____

DESCRIPTION OF INTEREST IN RESERVE LANDS: _____

TAKE NOTICE that fees, penalties, and interest in the amount of _____ dollars (\$____) remain unpaid and are due and owing in respect of the interest in reserve lands described above.

AND TAKE NOTICE that where a holder fails to pay all unpaid fees within ninety (90) days after the fee is due, the tax administrator may discontinue services that it provides to the interest of a holder, pursuant to the *Ts'uubaa-asatx Water and Sewer Services Fee Law (North Shore Estates), 2021*.

AND TAKE NOTICE that if the unpaid fees are not paid in full on or before _____, being thirty (30) days from the date of issuance of this notice, the following service(s) will be discontinued:

[list services to be discontinued]

Tax Administrator for Ts'uubaa-asatx

Dated: _____, 20_____