

Minister of Indian Affairs
and Northern Development



Ministre des Affaires
indiennes et du Nord canadien

On behalf of the Minister of Indian Affairs and Northern Development,
I HEREBY APPROVE, pursuant to section 83 of the *Indian Act*, the
following bylaws made by the Westbank Indian Band, in the Province of
British Columbia, at a meeting held on the 14th day of March 1994.

- **Westbank Indian Band Property Taxation Bylaw**
- **Westbank Indian Band Property Assessment Bylaw**

Dated at Hull, Quebec

this 4th day of July 1994.

A handwritten signature in black ink, appearing to read "D. ...".

LEGAL CODE of the WESTBANK INDIAN BAND

PROPERTY TAXATION BYLAW

Lawrence Fast
Lang Michener
Vancouver, B.C.

LEGAL CODE of the WESTBANK INDIAN BAND

WESTBANK INDIAN BAND PROPERTY TAXATION BYLAW

WHEREAS:

The Band Council of the Westbank Indian Band deems it advisable and in the best interests of the band to continue, by bylaw, the taxation for local purposes of land, or interests in land, in the reserve, including rights to occupy, possess or use land in the reserve;

NOW BE IT HEREBY RESOLVED:

That the following bylaw, being the Property Taxation Bylaw, be and is hereby enacted for the purpose of continuing taxation for local purposes of land, or interests in land, in the reserve, including rights to occupy, possess or use land in the reserve, pursuant to the provisions of the *Indian Act* and in particular pursuant to the provisions of subsection 83(1) of the *Indian Act*,

and,

That upon approval by the Minister of Indian Affairs, the Property Taxation Bylaw shall supersede and replace the Westbank Taxation Bylaw enacted by the council of the Westbank Indian Band on the 17th day of August, 1990, and approved by the Minister of Indian Affairs on the 31st day of August, 1991.

LEGAL CODE of the WESTBANK INDIAN BAND

WESTBANK INDIAN BAND PROPERTY TAXATION BYLAW

PART 1

INTERPRETATION AND TITLES

Interpretation

1. In this bylaw, including without limiting the generality of the foregoing in this section:

"actual value" means actual value as defined in the assessment bylaw,

"assessment" means assessment as defined in the assessment bylaw,

"assessment bylaw" means the Westbank Indian Band Property Assessment Bylaw passed by council and approved by the minister,

"assessment roll" means assessment roll as defined in the assessment bylaw,

"assessor" means an assessor appointed under the assessment bylaw,

"band" means band as defined in the assessment bylaw,

"band business" means any business carried on with a view to profit in which the band participates with another person or persons who is or are not all band members, regardless of whether the band participates therein directly or indirectly such as through a trust arrangement, ownership of an interest in a person, or otherwise,

"band council resolution" means band council resolution as defined in the assessment bylaw,

"band land register" means band land register as defined in the assessment bylaw,

"band manager" means band manager as defined in the assessment bylaw,

"band member" means band member as defined in the assessment bylaw,

"board of review" means board of review as defined in the assessment bylaw,

"British Columbia Assessment Authority" means the British Columbia Assessment Authority as defined in the assessment bylaw,

"council" means council as defined in the assessment bylaw,

"cp" means cp as defined in the assessment bylaw,

"general purposes" means general purposes as defined in this assessment bylaw,

"improvements" means improvements as defined in the assessment bylaw,

"*Indian Act*" means Indian Act as defined in the assessment bylaw,

"interest" means interest as defined in the assessment bylaw,

"interest holder" means interest holder as defined in the assessment bylaw,

"land" means land as defined in the assessment bylaw,

"land title office" means land title office as defined in the assessment bylaw,

"legal description" means a description sufficient to describe a property for the purpose of its registration in a land title office, the reserve land register or the band land register,

"manufactured home" means any structure, whether or not ordinarily equipped with wheels, that is designed, constructed or manufactured to be moved from one place to another by being towed or carried, and to provide:

- (a) a dwelling house or premises,
- (b) a business office or premises,
- (c) accommodation for any person other than those referred to in paragraphs (a) or (b),
- (d) shelter for machinery or other equipment, or
- (e) storage, workshop, repair, construction or manufacturing facilities,

unless exempted pursuant to section 14,

"manufactured home park" means land used or occupied by a person for the purpose of providing space for the accommodation of one or more manufactured homes and for imposing a charge, fee or rental for the use of that space,

"minister" means minister as defined in the assessment bylaw,

"municipality" means municipality as defined in the assessment bylaw and includes a regional district,

"named reserves" means all Westbank Indian Band reserve lands and named reserve means any such reserve lands,

"occupier" means occupier as defined in the assessment bylaw,

"parcel" means a parcel as defined in the assessment bylaw,

"person" means person as defined in the assessment bylaw,

"property" means property as defined in the assessment bylaw,

"property class" means property class as defined in the assessment bylaw,

"registered" and "registration" have the same meaning as they are defined to have in the assessment bylaw,

"registered owner" means registered owner as defined in the assessment bylaw,

"reserve" means those lands:

- (a) the legal title to which is vested in Her Majesty, that have been set apart by Her Majesty for the use and benefit of the band, whether they be designated lands or conditionally surrendered lands or otherwise, and
- (b) that are within the boundaries of the named reserves,

"reserve land register" means reserve land register as defined in the assessment bylaw,

"Schedule" means a schedule to this bylaw,

"surveyor of taxes" means the surveyor of taxes appointed by council under this bylaw,

"tax debtor" means a person with outstanding obligations to pay taxes imposed by this bylaw after the expiration of time provided for in the demand for payment and notice of enforcement proceedings served pursuant to section 29(3),

"taxes" includes all taxes on property or other basis of assessment imposed, levied, assessed or assessable under this bylaw, and all percentage additions, costs, penalties and interest added to taxes or imposed or payable under this bylaw,

"taxation district" means a taxation district established pursuant to section 15(1),

"taxation roll" means a taxation roll prepared under this bylaw,

"taxation year" means the year in which taxes are first levied and payable under this bylaw,

"trustee" means trustee as defined in the assessment bylaw.

Short Title

1.1 This bylaw may be cited for all purposes as the Westbank Indian Band Property Taxation Bylaw.

PART 2

GENERAL TAXATION PROVISIONS

Liability to Assessment and Taxation

2.(1) Subject to the provisions of the assessment bylaw and this bylaw, and for raising a revenue for local purposes:

- (a) all property in the reserve is subject to assessment and taxation, and
- (b) every interest holder shall be assessed and taxed on the property in respect of which he is an interest holder.

(1.1) A manufactured home is deemed to be an improvement for the purpose of property assessment and taxation under the assessment bylaw and this bylaw.

(2) A person assessed may appeal his assessment under the assessment bylaw.

(3) Taxes levied under this bylaw relate to the calendar year in which the levy is first made and are based on the assessed values of property as provided under the assessment bylaw.

Confidentiality

3.(1) A person who has custody of or control over information or records under this bylaw shall not disclose the information or records to any other person except:

- (a) in the course of administering or enforcing this or any other bylaw of the band,
- (b) in court proceedings relating to this or any other bylaw of the band,
- (c) under an agreement that:
 - (i) is between the band and another "band", within the meaning of "band" as used in the Indian Act, another government, the British Columbia Assessment Authority or the British Columbia Municipal Finance Authority,
 - (ii) relates to the administration or enforcement of any assessment bylaw, taxation bylaw, , assessment enactment or taxation enactment, and

- (iii) provides for the disclosure of information and records to and the exchange of similar information and records with that other "band", government, the British Columbia Assessment Authority or the British Columbia Municipal Finance Authority, or
 - (d) for the purpose of the compilation of statistical information by the band, any government, the British Columbia Assessment Authority or the British Columbia Municipal Finance Authority.
- (2) Subsection (1) does not apply in respect of a taxation roll.

Duty of Person Liable for Payment of Taxes to Keep Records

4. Every person shall keep books of account and records that are adequate for the purposes of this bylaw and conform to generally accepted principles of accounting.

Failure to Comply with the Bylaw

5. A person fails to comply with this bylaw, who, without reasonable excuse, in violation of this bylaw:

- (a) refuses or fails to make a required return,
- (b) in making a return, or otherwise, withholds information necessary to ascertain the true taxable amount of a property, or other basis of assessment,
- (c) refuses or fails to furnish a person acting under authority of this bylaw any access, facility or assistance required for an entry on or examination of property or accounts,
- (d) refuses or fails to attend or to submit himself to examination on oath or otherwise, or
- (e) fails to keep a book of account or record required to be kept by him.

False Returns and Records a Failure to Comply

6. A person who knowingly and wilfully makes a false or deceptive statement in a return required under this bylaw, fraudulently omits to give in the return a full and correct statement of the property, or other basis of assessment of the person liable for payment of the taxes, or makes or keeps a false entry or record in a book of account or record required to be kept under this bylaw, fails to comply with this bylaw.

Defacing Posted Advertisement

7. A person who without reasonable excuse tears down, injures or defaces an advertisement, notice or document which, under this bylaw or the assessment bylaw, is posted in a public place, fails to comply with this bylaw.

Penalties for Failure to Comply

8.(1) A person who fails to comply with this bylaw or with any duty imposed by this bylaw may have any services provided by the band or pursuant to any contract with the band to the person or to the property in respect of which the person is an interest holder, discontinued pursuant to section 37.

(2) A discontinuance of services to a person under subsection (1) shall be in addition to, and shall not limit or derogate from, any other right or remedy that the band is entitled to under this bylaw in respect of the failure of the person to comply with this bylaw.

Liability of Officers of Corporations

9. A director, manager, secretary or other officer, agent or trustee of an association or corporation, or a member, agent or trustee of a partnership or syndicate, who knowingly and wilfully authorizes or permits a failure to comply with this bylaw on the part of the corporation, association, partnership or syndicate also fails to comply with this bylaw and, for the purposes of this bylaw, such failure shall be deemed to be a failure to comply with this bylaw by the association, corporation, partnership or syndicate.

Date for Payment of Taxes

10.(1) Taxes levied in a taxation notice mailed under section 20(1) or sent under section 20(1.1) are due and payable on July 2 of the year they are first levied and shall be deemed to have been imposed on and from the 1st day of January of such year.

(2) If a portion of the taxes referred to in subsection (1) remains unpaid on July 2 of the year they are first levied, there shall be added to them, as a penalty, 10% of the unpaid taxes; and if a portion of taxes referred to in subsection (1) remains unpaid on October 31 of the year they are first levied, there shall be added to them, as an additional penalty, a further 10% of the unpaid taxes and the amount so added in each case shall for all purposes be deemed part of the taxes.

(3) If a portion of the taxes referred to in subsection (1), including penalties, remains unpaid on December 31 in the year they are first levied, they are deemed delinquent on that day, and after that day shall bear interest at the rate provided in subsection (4) until actually paid or recovered. Accrued interest shall for all purposes be deemed part of the delinquent taxes as if it had originally formed part of the taxes.

(4) The rate of interest under subsection (3) shall be during each successive period beginning on January 1, April 1, July 1 and September 1 in each year, 5% above the prime lending rate on Canadian dollar commercial loans in Canada made to the prime risk commercial customers by the principal banker to the band on the 15th day of the month immediately preceding that period.

Due Date for Taxes Levied in Supplementary Taxation Notice

10.1(1) Taxes levied in a supplementary taxation notice mailed or sent under section 20(5.1) are due and payable 38 days after the statement date in the notice.

(2) A penalty, calculated as follows, shall be added to any portion of the taxes referred to in subsection (1) that remains unpaid after the due date:

- (a) if the taxes were levied in respect of the taxation year in which the supplementary taxation notice is mailed or sent and the due date is before October 31 of that year, the penalty equals:
 - (i) 10% of the unpaid taxes, plus
 - (ii) a further 10% of any portion of those taxes that remains unpaid on October 31 of that year,
- (b) if the taxes were levied in respect of the taxation year in which the supplementary taxation notice is mailed or sent and the due date is on or after October 31 of that year, the penalty equals 20% of the unpaid taxes,
- (c) if the taxes were levied in respect of a taxation year before the year in which the supplementary taxation notice is mailed or sent, the penalty equals 20% of the unpaid taxes.

(3) Section 10(3) applies in respect of taxes levied in a supplementary taxation notice, except that taxes referred to in paragraph (2)(c) that remain unpaid the day after the due date are deemed to be delinquent on that day.

Interest on Prepaid Taxes

11.(1) The surveyor of taxes shall, and is hereby authorized to, receive on behalf of a taxpayer deposits of money to be applied to taxes levied under this bylaw, pursuant to Schedule I.

(2) Interest at the rate of interest provided in Schedule I shall be payable to a taxpayer who deposits money pursuant to subsection (1).

Taxation Fund And Expenditures

12.(1) All taxes and other moneys raised under this bylaw shall be placed in a special account or accounts maintained in the name of the band.

(1.1) The band may apply to receive funds by way of grant in lieu of taxes from the government of Canada or from a corporation included in Schedule III or IV of the Municipal Grants Act, 1980 (Canada).

(2) The following expenditures of funds raised under this bylaw are hereby authorized:

- (a) refunds of overpayment of taxes due under this bylaw,
- (b) refunds of that part of a deposit referred to in subsection 11(1) in excess of tax payable,
- (c) all expenses of preparation and administration of this bylaw and of preparation and administration of the assessment bylaw,
- (d) remuneration of the surveyor of taxes and any other employees of the band involved in the administration of this bylaw,
- (e) remuneration of the assessor and any other employees of the band involved in the administration of the assessment bylaw,
- (f) payments due under any contract of service entered into pursuant to the assessment bylaw,
- (g) remuneration of members of a board of review under the assessment bylaw,

- (h) all expenses of enforcement of this bylaw or of the assessment bylaw, including legal costs,
 - (i) all expenses incurred in defending any challenge to this bylaw or to the assessment bylaw or any of their provisions, including legal costs,
 - (j) payments due under any service agreement entered into between the band and any municipality or other government in respect of the provision of services to the reserve or to any other "reserve" (as that term is defined in the Indian Act) of the band.
- (3) Except as otherwise provided in subsection (2), all expenditures made out of moneys under this bylaw shall be made under authority of a separate bylaw.

Place and Mode of Payment

13.(1) Taxes are payable to the band at the office of the surveyor of taxes, Westbank Band Administration Office, Victoria, British Columbia, and may be paid by cash, cheque, post office money order, postal note or express orders.

- (2) Payment tendered by cheque or other order shall be made payable in the name of the "Westbank Indian Band" and the tax shall be deemed not paid, even if a receipt is given, until the amount of the cheque or order is actually received by the band.
- (3) If taxes are in arrears and part payment is received, the payment shall be applied firstly to accrued interest and then arrears and penalties and any balance shall be applied on account of current taxes.
- (4) On receipt of payment of taxes the surveyor of taxes may issue an official receipt to the payer. The cancelled cheque of the interest holder shall constitute an official receipt.
- (5) The surveyor of taxes shall not:
 - (a) waive the liability of any person to pay in full an amount due and payable under this bylaw to the band, or
 - (b) extend the time within which payment is to be made.

PART 3

EXEMPTIONS AND TAXATION

Property Exempt From Taxation

14.(1) The following property is exempt from taxation:

- (a) subject to subsection (3), property of a band member held under a cp,
- (b) subject to subsection (4), property of the band located within lands that are not designated lands, as defined in the Indian Act, or surrendered lands, as defined in the Indian Act,
- (c) subject to subsection (5), property used and occupied by the band chiefly for the administration of the affairs of the band,
- (d) subject to subsection (5), property of a non-profit organization owned or controlled by the band,
- (e) manufactured homes licensed and equipped to travel on a public highway, that are occupied by a genuine tourist and are situated within a mobile home park or manufactured home park for a period of less than 60 days,
- (f) campers, motor homes or any vehicle that is capable of being towed on its own permanent wheels and under carriage by motor vehicle, has a current license as a trailer under the Motor Vehicle Act, RSBC 1979, c. 288, as amended from time to time, for use on a highway and is not used as a principal residence,
- (g) a floating manufactured home other than a floating manufactured home that is anchored or secured, for a period of 60 days or more during a year, to land, a structure or a buoy in a manufactured home park that is covered by water,
- (h) if, and for howsoever long as, council by band council resolution may approve, the property of a municipality that is maintained and operated as park or a recreation ground or for athletic or recreational purposes by the municipality.

(2) Where an interest in property is exempt from taxation, that fact does not affect the liability to assessment or to taxation of any other interest in the same property.

(3) The exemption provided in paragraph (1)(a) shall not apply to any part of the property of a band member held under a cp, that is used or occupied:

- (a) by a person or persons who are not band members, and
 - (b) under a lease, licence or any arrangement pursuant to which such person or persons pay rent, licence fees or other moneys to any person, including without limitation a band member.
- (4) The exemption provided in paragraph (1)(b) shall not apply to any part of the property of the band that is used or occupied:
- (a) by a person or persons who are not band members, and
 - (b) under a lease, licence or any arrangement pursuant to which such person or persons pay rent, licence fees or other moneys to any person, including without limitation the band,
- (5) The assessor or the surveyor of taxes may from time to time obtain from council a determination as to whether:
- (a) for the purposes of paragraph (1)(c), property is used and occupied by the band primarily for the administration of the affairs of the band,
 - (b) for the purposes of paragraph (1)(d), any organization is non-profit or is owned or controlled by the band,
 - (c) for the purposes of subsection (3), any part of the property of a band member held under a cp, is used or occupied:
 - (i) by a person or persons who are not band members, and
 - (ii) under a lease, licence or any arrangement pursuant to which such person or persons pay rent, licence fees or other moneys to any person, including without limitation the band,
- or
- (e) for the purposes of subsection (4), any part of the property of the band is used or occupied:
 - (i) by a person or persons who are not band members, and
 - (ii) under a lease, licence or any arrangement pursuant to which such person or persons pay rent, licence fees or other moneys to any person, including without limitation the band,

and any such determination made by council shall be in the form of a band council resolution and shall be final and conclusive for all purposes unless and until council shall make a contrary determination under this subsection (5).

Joint Liability To Taxation

15.(1) Where two or more persons are liable to assessment and taxation in respect of the same property, those persons are liable jointly and severally to taxation.

Assessment and Taxation In Name of Interest Holder

16.(1) Subject to the provisions of the assessment bylaw and this bylaw, property shall be assessed and taxed in the name of the interest holder of the property.

Assessed Value

17. The assessed value of land and improvements shall be determined under the assessment bylaw.

PART 4

LEVY OF TAX

Levy of Tax

18.(1) Subject to section 14, commencing in the year 1994, there is hereby imposed and levied each calendar year on all property subject to taxation under this bylaw a tax in the amount determined pursuant to section 18.1.

(2) Taxes imposed and levied pursuant to subsection (1) shall be deemed for all purposes to be imposed and levied as taxation for local purposes.

Variable Tax Rate System

18.1(1) There are hereby established as taxation districts those taxation districts listed in column 1 of Schedule II.

(2) Each taxation district shall consist of the whole or part of those named reserves as described and set out in column 2 of the part of Schedule II relating to the taxation district.

(3) Subject to subsection (5), council shall during each taxation year enact a bylaw with the approval of the minister establishing, imposing and levying the tax rate for each separate property class within each separate taxation district for the taxation year.

(4) A bylaw enacted pursuant to subsection (3) shall include a schedule (in subsection (6) called the "Annual Rate Schedule") substantially in the same form as Schedule II, in which shall be set out in column 4 the tax rate established for the taxation year for each separate property class within each separate taxation district.

(5) Tax rates may vary for each separate taxation district and for each separate property class within each separate taxation district.

(6) All tax rates established, levied and imposed for a taxation year pursuant to subsections (3) and (4) shall be applied against each \$1,000.00 of actual value of property on the assessment roll applicable for the taxation year in the appropriate property class set out in column 3 in the Annual Rate Schedule for the taxation year within the appropriate taxation district set out in column 1 in the Annual Rate Schedule for the taxation year.

Example of Calculation of Amount of Tax Imposed and Payable during a taxation year under this section 18.1:

If:

- * the taxation year is 1994,
- * the taxable property is located within the Westbank Indian Reserve as the reserve boundaries existed as at January 1, 1992,
- * the taxable property is classified as being property class 6 (Business & Other),
- * the bylaw enacted by council and approved by the minister for the taxation year pursuant to subsection (3) establishes, levies and imposes a tax rate of 22.0682 for property class 6 in the Westbank Indian Reserve Taxation District, and
- * the taxable property has an actual value of \$276,543.00 on the assessment roll applicable for the 1994 taxation year, and therefore the tax rate of 22.0682 shall be applied against 276.543 thousand dollars,

Then the amount of tax imposed, levied and payable for the taxation year in respect of the taxable property shall be:

$$22.0682 \times 276.543 = \$6102.81.$$

(7) Notwithstanding subsection (6), where the amount of tax levied on a taxation property in a taxation year is less than \$100.00, the taxable property shall be taxed \$100.00 for the taxation year, and that sum shall be placed on the taxation roll.

(8) On receipt of a copy of the bylaw referred to in subsection (3) approved by the minister, the surveyor of taxes shall have the taxes levied for the taxation year placed on the taxation roll for the taxation year.

PART 5
TAXATION ROLLS

Taxation Roll

19.(1) Where pursuant to the assessment bylaw the assessment roll has been completed by the assessor and pursuant to section 18.1(3) of this bylaw the tax rate for each property class within each separate taxation district has been established for the taxation year, the surveyor of taxes shall forthwith prepare a taxation roll in which shall be entered each parcel of taxable property described in the assessment roll for the year.

(2) The taxation roll may be an extension of the assessment roll and shall be prepared as and contain the information specified in Schedule XVI.

(3) Where a person is named in an assessment roll as the person assessed in respect of property, he shall be deemed for the purposes of preparation of the taxation roll to be the assessed interest holder of the property.

(4) The taxation roll shall be amended from time to time as necessary to incorporate changes or amendments made to the assessment roll under section 47 of the assessment bylaw.

Taxation Notice

20(1) On completion of the taxation roll the surveyor of taxes shall forthwith mail to every person named in it a taxation notice.

(1.1) Notwithstanding subsection (1), the surveyor of taxes may, with written agreement of a taxpayer, send a taxation notice to the taxpayer other than by mail.

(1.2) Where the surveyor of taxes mails a taxation notice under subsection (1) or sends a taxation notice under subsection (1.1), the mailing or sending of the taxation notice, as the case may be, constitutes a statement, and demand for payment, of the taxes and other amounts set out in the taxation notice.

(2) A taxation notice shall be in such form and contain such information as council may from time to time prescribe by bylaw.

(3) The taxation notice shall be directed to the last known assessed interest holder at the last known address of the last known assessed interest holder.

(3.1) The surveyor of taxes may at any time send a true copy of any taxation notice sent by him under this section 20 to any person who is an interest holder in respect of the taxable property.

(4) Taxes levied and collected under this bylaw shall, except as otherwise provided, be calculated, levied and accounted for by the surveyor of taxes to the council on the assessed values entered in the assessment roll as provided under the assessment bylaw.

(5) Subject to subsection (5.1), the duties imposed on the surveyor of taxes as to the annual taxation roll and all provisions of this bylaw on taxation rolls apply to supplementary taxation rolls.

(5.1) Unless a supplementary assessment roll has been incorporated into the taxation roll for the purposes of subsection (4) or under subsection (6), the surveyor of taxes shall mail pursuant to subsection (1) or send pursuant to subsection (1.1) to every person named on the supplementary taxation roll a supplementary taxation notice.

(5.2) Subsection (3.1) applies in respect of the supplementary taxation roll and supplementary taxation notices.

(6) Where, before or after the taxation roll is completed and before a taxation notice is mailed under subsection (1) or sent under subsection (1.1), a supplementary assessment roll is prepared under the assessment bylaw that results in a change in the tax payable for that taxation year, the surveyor of taxes may incorporate the supplementary assessment roll into the taxation roll to reflect the amended tax payable and may issue a single taxation notice showing the amended tax payable.

Taxation Roll Open to Public

21. The taxation roll shall be placed in the office of the surveyor of taxes, or such other place as the council may direct, and the roll shall be open to inspection by the public during regular business hours.

Taxation Roll Property of the Westbank Indian Band

22. The taxation roll is the property of the band.

Refund of Taxes Wrongfully Assessed

23.(1) Where, subsequent to completion, certification or deposit of a taxation roll under this Part, it is shown that a property recorded on the taxation roll was not liable to taxation for the year for which it was taxed, or has been taxed for more than the proper amount, the surveyor of taxes shall, at the direction of the council, remit or refund to the person liable for the unpaid taxes the amount of taxes shown to have been imposed in excess of liability.

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

Power to Remit or Reduce Taxes on Ground of Poverty

23.1(1) Council may, at any time after the mailing of taxation notices for that year, with or without notice receive a petition from an interest holder of property who declares himself, from sickness or extreme poverty, unable to pay the taxes levied against him, and may remit, reduce or delay the due date for the payment of the taxes due by the petitioner or reject the petition.

(2) If council delays the due date for payment of taxes pursuant to subsection (1), it may as a condition of granting such delay require the petitioner to:

- (a) pay interest on the tax arrears at such rate as council deems appropriate, and
- (b) provide any form of security for payment of the tax arrears that council deems appropriate.

Power To Reduce Taxes by Amount Equal to Provincial Home Ownership Grants

23.2 Council may from time to time provide by band council resolution for the reduction of taxes due by a taxpayer for a taxation year by an amount equal to or less than the amount by which the taxpayer would be entitled to have their tax indebtedness for the tax year reduced pursuant to the Home Owner Grant Act, RSBC 1979, c. 171, as amended from time to time, if the taxpayer's property was not located within or part of the reserve or subject to taxation under this bylaw but, rather, was located within a municipality and was subject to taxation by the municipality and to the provisions of such Act.

Collection Pending Appeals

24. Where:

- (a) an appeal or complaint in respect of the completed assessment roll is made to a board of review under the assessment bylaw,
- (b) an appeal from the decision of a board of review or in respect of an omission or refusal of the board of review to hear or determine a complaint, is made to a court of competent jurisdiction, under the assessment bylaw, or
- (c) an appeal from a decision of a court of competent jurisdiction, referred to in paragraph (b) is made to an appellate court of competent jurisdiction,

the giving of any notice of appeal or complaint or delay in hearing any appeal or complaint, shall not affect the due date, the delinquency date, the interest or any liability for payment provided by this bylaw in respect of tax levied on the assessed value that is the subject of the appeal or complaint; but if the assessment is set aside or the assessed value reduced:

- (d) by a decision of the board of review under the assessment bylaw upon completion of the hearing of the appeal or complaint referred to in paragraph (a) and no appeal from such decision is made to a court of competent jurisdiction, under the assessment bylaw within the time permitted under the assessment bylaw for an appeal in respect thereof,
- (e) by a decision of a court of competent jurisdiction, upon completion of hearing an appeal referred to in paragraph (b) and no appeal from such decision is made to an appellate court of competent jurisdiction within the time permitted for appeal in respect thereof, or
- (f) by a decision of the final appellate court of competent jurisdiction,

then the band shall refund to the taxpayer the tax or excess tax paid by him, or any interest imposed or paid on the tax or arrears.

Apportionment of Taxes

24.1(1) On satisfactory evidence being produced to the assessor that a parcel of land for which taxes are due has been subdivided by plan of subdivision, or part of another parcel of land on which taxes are due has been sold or assigned and documentation executed and delivered to the purchaser or assignor, the assessor may, by certificate signed by him, deposit with the surveyor of taxes on behalf of the band, an apportionment of the assessed values as approved by the board of review for the land and improvements, between:

- (a) the separate parts of the subdivided parcel shown on the plan, or
- (b) the part of the other parcel sold and conveyed and the remainder of the parcel.

(2) The council may apportion the taxes to the separate parcels, receive payment of the taxes so apportioned for part of the subdivided parcel or for the part of the other parcel sold and conveyed, and leave the remainder of the subdivided parcel or other parcel chargeable with the remainder of the taxes due.

Costs of Collection

25. The council on behalf of the band may charge the person named in a taxation roll with all reasonable costs which are incurred in the collection of all taxes, interest, penalties or other costs imposed by this bylaw . Such costs shall be in accordance with Schedule III.

PART 6
RECOVERY OF TAXES

Recovery: Personal Liability

26.(1) An interest holder of property named in the taxation roll in any year is liable for all taxes imposed during the year and all unpaid taxes imposed in respect of the property in, or in respect of, previous years.

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

Proving Tax Debt

27. Any tax, or portion thereof, due and payable under this bylaw that has not been paid may be certified by the surveyor of taxes, who shall attach a copy of that part of an taxation roll that refers to the taxes which are payable. Such certification shall be in the form provided in Schedule IV, and when so certified is *prima facie* proof of the debt.

Special Lien and Priority of Claim

28.(1) Taxes due and payable are a special lien and encumbrance in favour of the band on the entire property taxed.

(2) The special lien and encumbrance referred to in subsection (1) attaches to the entire property taxed, and without limiting the foregoing, attaches to the interest of a subsequent interest holder of the property.

(3) A certificate issued under section 27 may:

- (a) if relating to an interest that is registerable in the reserve land register kept pursuant to section 21 of the Indian Act, be registered therein,
- (b) if relating to an interest that is registerable in the surrendered and designated lands register kept pursuant to section 55 of the Indian Act, be registered therein, and
- (c) if relating to an interest that is not registerable in a register referred to in paragraph (a) or (b), be listed or filed in the band land register.

(4) When registered pursuant to subsection (3), the special lien and encumbrance shall have priority over every other claim, privilege, lien, charge, security interest, or encumbrance of every person, from the time of its registration.

(5) When all taxes levied against the property have been paid, the surveyor of taxes shall certify that the special lien and encumbrance against the property referred to in subsection (1) has been discharged, and shall register such certification in:

- (a) if the certificate issued under section 27 was registered pursuant to paragraph (3)(a), the reserve land register kept pursuant to section 21 of the Indian Act,
- (b) if the certificate issued under section 27 was registered pursuant to paragraph (3)(b), the surrendered and designated lands register kept pursuant to section 55 of the Indian Act, and
- (c) if the certificate issued under section 27 was listed or filed pursuant to paragraph (3)(c), the band land register.

Such certification shall be sufficient proof of the payment of the taxes and the discharge of the special lien or encumbrance referred to in subsection (1).

(6) No property subject to a special lien and encumbrance or any interest therein shall be sold, transferred or assigned, nor shall there be any further transaction in respect of such property, until the special lien and encumbrance has been discharged in accordance with subsection (5).

(6.1) Notwithstanding subsection (5), no sale, transfer, assignment or transfer of possession of property or any interest therein referred to in subsection (5) shall affect any right of distress or sale of the property under this bylaw for the recovery of taxes.

(6.2) Where property or any interest therein is sold, transferred or assigned, the amount of the unpaid special lien and encumbrance constitutes a first charge on the proceeds of sale.

(7) The special lien and encumbrance is not lost or impaired by reason of any neglect or technical error or omission including, without limiting the generality of the foregoing, by any neglect, error or omission of council, the surveyor of taxes, or any other person, or by taking or failing to take proceedings to recover the taxes due, or by tender or acceptance of partial payment of the taxes or, subject to subsection (4) in respect of priorities only, by way of registration.

Demand for Payment and Notice of Enforcement Proceedings

29.(1) In January following the year for which taxes are imposed, or so soon as is practical thereafter, the surveyor of taxes shall prepare a list of taxes which have not been paid, together with the name of the assessed taxpayers named in the taxation roll liable for payment of unpaid taxes. The list shall be submitted to the council who shall, subject to subsection (2), approve collection proceedings be taken on all overdue taxes.

(2) Immediately following receipt of the approval provided pursuant to subsection (1), the surveyor of taxes shall, by mail, and in the form set out in Schedule V, serve a demand for payment and notice of enforcement proceedings on all persons whose names are on the approved list, and all persons who have a registered interest in the property in respect of which the taxes have been paid.

(3) Failure to give notice required by this section does not affect the validity of proceedings taken for the recovery of taxes under this bylaw.

Distress: Seizure of Personal Property and Sale of Personal Property Seized by Distress

30.(1) If the taxes or any portion thereof remain unpaid, after the time provided by the demand for payment and notice of enforcement served pursuant to subsection 29(2), then proceedings by way of distress of personal property, as set out in this section, may be taken by the surveyor of taxes.

(2) The surveyor of taxes shall serve a notice of distress on the tax debtor, in the form set out in Schedule VI.

(3) If the taxes, or any portion thereof, remain outstanding following the time provided by the notice of distress, then the surveyor of taxes shall himself or by an agent, bailiff or sheriff effect a seizure by distress of the personal property generally described in the notice of distress referred to in subsection (2) and post a notice of the personal property which is seized pursuant to this section on the property in respect of which the tax debtor is an interest holder. The seized personal property shall then be in the possession of the band, as represented by the surveyor of taxes.

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

- (5) If the surveyor of taxes seizes by distress the tax debtor's personal property pursuant to subsection (3), and the tax debtor does not commence legal proceedings in a court of competent jurisdiction within 30 days after the date of such seizure challenging such, the personal property may be sold in accordance with this section and the tax debtor is estopped from denying the validity of the seizure and sale of such personal property.
- (6) Upon the expiration of 30 days after a seizure by distress pursuant to subsection (3), if the outstanding taxes have not been paid in full, the personal property 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 applied for payment of taxes.
- (7) A notice of sale of personal property seized by distress in the form of Schedule VII to this bylaw shall be published in at least one newspaper of general local circulation for 7 days prior to the sale, and shall be posted on the property in respect of which the tax debtor is an interest holder.
- (8) The sale of the personal property seized by distress shall be conducted at the time and place advertised pursuant to subsection (7), unless it is necessary to adjourn such sale. If an adjournment is necessary an additional notice shall be published in the manner provided by subsection (7).
- (9) Any surplus resulting from the sale conducted pursuant to subsection (8), after deducting all liabilities of the tax debtor, including all costs and charges arising from the sale, shall be paid to the owner of the personal property seized. In the event that the surveyor of taxes is uncertain as to the person entitled to such surplus the surveyor of taxes shall pay such money into court by way of interpleader action.
- (10) Any goods and chattels of any tax debtor that would be exempt from seizure under a writ of execution issued out of a superior court of the province of British Columbia are exempt from seizure under this section.

Cancellation of Proprietary Interest Held by Taxpayer

- 31.(1) Upon the expiration of 6 months after the time provided in the demand for payment and notice of enforcement proceedings served pursuant to subsection 29(2), the surveyor of taxes may request authorization from the council to issue a notice of cancellation of the tax debtor's interest in the reserve in the form of Schedule VIII. Prior to giving such authorization the council shall obtain the consent of the minister or such other party as may be lawfully required.
- (2) The surveyor of taxes shall mail a copy of the notice of cancellation referred to in subsection (1) to every place where the interest is registered.

(3) Where taxes with interest are not paid within 30 days of the mailing of the notice of cancellation, the tax debtor's interest in the reserve may be cancelled. The surveyor of taxes shall certify the cancellation in the form provided in Schedule IX. A certificate issued under this subsection shall:

- (a) if relating to an interest that was registered in the reserve land register kept pursuant to section 21 of the Indian Act, be registered therein,
- (b) if relating to an interest that was registered therein, be registered in the surrendered and designated lands register kept pursuant to section 55 of the Indian Act, and
- (c) if relating to an interest that was not registered in a register referred to in paragraph (a) or (b), be listed or filed in the band land register.

Sale of Improvements or Proprietary Interests

32.(1) The surveyor of taxes may, upon the expiration of six months following the service of the demand for payment and notice of enforcement proceedings pursuant to section 29(2) and upon receiving the authorization provided for in section 31(1), serve upon the tax debtor a notice of sale of improvements and disposition of interests on reserve, in the form of Schedule X.

(2) Upon the expiration of the time provided by the notice served pursuant to subsection (1) and failure of the tax debtor to pay the outstanding taxes or commence legal proceedings in a court of competent jurisdiction challenging the sale or disposition, the surveyor of taxes shall sell the improvements and dispose of the interest of the tax debtor in the reserve by public auction, or pursuant to subsection (4) by public tender.

(3) A notice of sale of improvements and disposition of interest in the reserve in the form of Schedule X shall be published in at least one newspaper of general local circulation for 7 days prior to the sale, and shall be posted on the property in respect of which the tax debtor is an interest holder.

(4) If in the sole discretion of the surveyor of taxes, the sale of improvements and disposition of the interest in the reserve pursuant to subsection (2) would fairly and efficiently occur by sale by public tender, then the surveyor of taxes shall seek prior approval from the council to hold the sale and disposition by public tender. Upon granting such approval, 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.

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

(6) The sale of the improvements and disposition of the interest in the reserve by public tender approved by the council pursuant to subsection (4), shall be conducted in the manner provided by the council pursuant to that section.

(7) The surveyor of taxes, upon receiving the prior approval of the council, may at any sale and disposition conducted pursuant to subsections (2) or (4), set an upset price equal to the outstanding taxes with respect to that property, and that upset price shall be the lowest price for which the improvements may be sold and the interest in the reserve disposed.

(8) Where the surveyor of taxes sets an upset price pursuant to subsection (7), and there is no bid at the sale and disposition conducted pursuant to subsections (2) or (4) that is equal to or greater than the upset price, the band shall become the purchaser of the improvements and the holder of the tax debtor's interest in the reserve at the upset price.

(9) At any time within 6 months after the sale and disposition held pursuant to subsections (2) or (4), the tax debtor may redeem his improvements and interest in the reserve by paying to the surveyor of taxes the full amount of all taxes for which the improvements were sold and the interests disposed, together with all taxes which have subsequently fallen due.

(10) If upon the expiration of the redemption period provided by subsection (9), any amount of the taxes remains outstanding, the sale of the improvements and disposition of the interests shall be considered final and the purchaser shall obtain title to the improvements and to the tax debtor's interest in the reserve. The surveyor of taxes shall certify the sale in the form provided in Schedule XI. A certificate issued under this section shall:

- (a) if relating to an interest that was registered in the reserve land register kept pursuant to section 21 of the Indian Act, be registered therein,
- (b) if relating to an interest that was registered therein, be registered in the surrendered and designated lands register kept pursuant to section 55 of the Indian Act, and
- (c) if relating to an interest that was not registered in a register referred to in paragraph (a) or (b), be listed or filed in the band land register.

and shall be served on the tax debtor.

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

(12) Upon the filing of the certificate provided by subsection (10), any surplus moneys resulting from the sale and disposition conducted pursuant to subsection (2) or (4), after deducting all outstanding taxes of the tax debtor, including all costs and charges arising from the sale and disposition, shall be paid or returned to the tax debtor. In the event that the surveyor of taxes is uncertain as to the person entitled to such surplus the surveyor of taxes shall pay such money into court by way of interpleader action.

(13) Upon the filing of the certificate provided by subsection (10), any remaining debt of the tax debtor with respect to the property referred to in the certificate, including all costs and charges arising from the sale and disposition, shall be extinguished.

(14) If, pursuant to subsections (8) and (10) the band has become the owner of the improvements and interest in the reserve, the surveyor of taxes may sell such within 90 days for not less than the upset price set pursuant to subsection (8).

Garnishment of Rent

33.(1) Where taxes are due on property occupied by a lessee whose landlord is liable for the taxes, the surveyor of taxes may, by registered mail, in the form set out in Schedule XII, give no less than 30 days' notice to the landlord that, on continued default of payment of taxes, the surveyor of taxes shall proceed with collection of rent under this section.

(2) Where a landlord fails to pay taxes in full within 30 days after the surveyor of taxes gives notice pursuant to subsection (1), the surveyor of taxes shall give the lessee notice in writing, in the form set out in Schedule XII, to pay to the band the rent otherwise due and owing as it becomes due, and from time to time, until the amount of the outstanding taxes are paid in full.

(3) A lessee may deduct from his rent any amounts paid by him or her to the band in response to a notice served pursuant to subsection (2).

Garnishment of Other Monies

34.(1) When the surveyor of taxes has reasonable knowledge that a person is, or will be, within 90 days, liable to make a payment on reserve to a tax debtor then the surveyor of taxes may serve a garnishee notice by registered mail or in person, in the form of Schedule XII, on that person requiring that those monies, in whole or in part, be paid to the band on account of the outstanding taxes of the tax debtor. The garnishee notice shall also be served on the tax debtor.

(2) Unless the taxes of the tax debtor have been paid, the recipient of a garnishment notice pursuant to subsection (1), shall pay the amount immediately, or, if the amount is not yet payable to the Tax debtor when the amount becomes payable, to the surveyor of taxes.

(3) Monies paid to the surveyor of taxes pursuant to subsection (2) shall be deposited into an interest bearing account and shall be paid against the tax debtor's outstanding taxes, upon the expiration of 30 days from the receipt of such, unless the tax debtor has initiated court proceedings in a court of competent jurisdiction with respect to such payment.

Forfeiture of Property

35.(1) Notwithstanding any other action for the recovery of taxes set out in this bylaw, if any taxes remain unpaid until the end of December of the second year after the calendar year in which they were first imposed, the tax debtor's interest in the reserve in respect of which the taxes remain unpaid shall, subject to subsections (2), (3), (4) and (5) herein, be absolutely forfeited.

(2) The tax debtor's interest in the reserve shall not be forfeited under subsection (1) until the surveyor of taxes serves a notice of forfeiture pursuant to subsection (4) and in the form set out in Schedule XIII, on the tax debtor and on anyone else who may be in lawful possession of the property and the date on which the tax debtor's interest in the reserve forfeits shall be the 40th day after the date on which the notice was served.

(3) Prior to serving the notice of forfeiture pursuant to subsection (4), the surveyor of taxes shall obtain authorization from the council to proceed by forfeiture. The council shall obtain the consent of the minister or such other party as may be lawfully required, prior to giving the surveyor of taxes authority to serve a notice of forfeiture.

(4) The notice of forfeiture shall state:

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

(5) The notice of forfeiture shall be given by mailing or delivering it to the person entitled to it at that person's last known address or to the address of that person which is specified in the records of the surveyor of taxes.

(6) Where any taxes remain unpaid on December 1 of the second year after the calendar year in which they were imposed, the payment of those taxes does not prevent forfeiture unless the payment:

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

(7) The surveyor of taxes shall certify, in the form set out in Schedule XIV that the interest in the reserve held by the tax debtor has been forfeited and such certification shall:

- (a) if relating to an interest that was registered therein, be registered in the reserve land register kept pursuant to section 21 of the Indian Act,
- (b) if relating to an interest that was registered therein, be registered in the surrendered and designated land register kept pursuant to section 55 of the Indian Act, and
- (c) if relating to an interest that was not registered in a register referred to in paragraph (a) or (b), be listed or filed in the band land register.

Upon registration, the registrar shall take any and all steps necessary to remove the tax debtor's interest in the reserve.

Absconding Taxpayer

36.(1) Notwithstanding section 29, where the council considers it appropriate, it may authorize the surveyor of taxes to commence collection proceedings set out in sections 30, 31, 32 and 35 or abridge or dispense with the time periods required therein, at any time when the council believes, on reasonable grounds, that taxes will be uncollectible because of the actions or proposed actions of the tax debtor.

(2) Without limiting subsection (1), where the surveyor of taxes has reasonable grounds for believing that the assessed taxpayer is planning to remove any or all of his personal property from the reserve, dismantle or remove his improvements located on reserve, or take any other actions which will either preclude or substantively impair the collection of any outstanding taxes owing pursuant to this by-law, he shall apply to the council for authorization to immediately commence any of the collection proceedings set out in sections 30, 31, 32, and 35 and abridge or dispense with the time periods required therein.

(3) In the alternative to subsection (1), or upon the request of the council following the application provided by subsection (2), the surveyor of taxes may initiate proceedings in a court of competent jurisdiction, notwithstanding the fact that the time for payment of taxes has not yet expired.

Discontinuance of Services

37.(1) With the approval of the council, any services (including but not limited to water and sewer services) provided by the band or pursuant to any contract with the band, to any person who fails to comply with any provision of this bylaw, including without limiting the generality of the foregoing any tax debtor, or to the property in respect of which the person is an interest holder assessed pursuant to the assessment bylaw, may be discontinued. A notice of discontinuance of services in the form of Schedule XV, shall be served upon the person, 30 days prior to such discontinuance, and shall include the date, time and place within that 30 days, upon which the person can appear before the council to show cause as to why the services should not be discontinued. Following the appearance before council, the council shall in its absolute discretion determine whether or not it shall discontinue the provision of any services. If council determines to discontinue the provision of any services, it may, as and when it deems appropriate, itself discontinue the provision of services and notify any other person providing services to the person or to the property pursuant to any contract with the band to discontinue the provision of services thereto.

(2) Neither the band, council, nor any councillor, employee, agent, contractor or subcontractor of the band shall be liable for any claims, losses, damages or expenses of any kind or nature whatsoever of or to any person, property or personal property, arising directly or indirectly from, in respect of or relating to, any discontinuance of the provision of any service pursuant to subsection (1).

Powers for Recovery of Taxes

38.(1) The powers conferred in this bylaw for recovery of taxes may be exercised separately, concurrently or cumulatively.

(2) Without limiting the generality of subsection (1), discontinuance of services to any person pursuant to section 38 shall not limit or restrict the exercise of any power conferred in this bylaw for recovery of taxes, and visa versa.

Statement of Taxes Paid or in Arrears

39. The surveyor of taxes shall give on written request, to a person making application, a written statement of the taxes, penalty and interest outstanding or a statement that no taxes are outstanding, as the case may be, at that date and may charge for a search and written statement:

- (a) where 3 or less taxation rolls folios are searched and for which a written statement is prepared as a result of a request, \$10.00 for each taxation roll folio searched, and

- (b) where more than 3 taxation roll folios are searched and for which a written statement is prepared as a result of a request, the amount resulting by multiplying \$45.00 per hour by the number of hours taken to perform the search and prepare the written statement, but not less than \$30.00 in respect of any request.

PART 7

ADMINISTRATION OF BYLAW

Staff Appointments

40. The council may appoint a surveyor of taxes, and appoint such staff as are considered necessary for the proper administration of this bylaw.

Duty of Surveyor of Taxes

41. The surveyor of taxes appointed under this bylaw shall:
- (a) perform the duties required of the surveyor of taxes under this bylaw, the assessment bylaw and any other bylaw in respect of the assessment or taxation of land or improvements, or both, and
 - (b) perform such other duties as may be required to effectively implement and administer this bylaw and other bylaws of the band, when so directed by council.

Rules and Directions

42. The surveyor of taxes shall obey the rules, orders, and directions of the council which are issued by the council pursuant to this bylaw or any other bylaw of the band for the purposes of this or any other bylaw of the band.

Cancellation of Taxes

43. If taxes become delinquent and there is no property on which they may be levied, or there is no personal property which can be distrained for them, or in default of sufficient distress, the surveyor of taxes shall forward to the council a statement giving a detailed list of all taxes on the books which the surveyor of taxes considers uncollectible, showing the efforts that have been made to recover the taxes, and that there are no property or effects, that the property or effects are insufficient for the recovery of the taxes or that the person assessed has left the country, and the surveyor of taxes, if instructed by the council, shall cause the taxes to be cancelled on the books.

Administrative Procedures

44. The council may, by band council resolution, establish such administrative procedures, subject to the provisions of this bylaw and the Indian Act, as may be required to carry out the provisions of this bylaw effectively.

PART 8
GENERAL

Applies Within Reserve

45. This bylaw applies with respect to all property within the reserve.

Assessment Bylaw

46. The surveyor of taxes shall do those things required of the surveyor of taxes under the assessment bylaw.

Schedules

47. The following schedules are attached to and constitute part of this bylaw:

- Schedule I - Interest on Prepaid Tax (Section 11)
- Schedule II - Property Classes Within Each Taxation District (Section 18.1(1))
- Schedule III - Costs Payable by a Taxpayer Arising from Enforcement Proceedings (Section 25)
- Schedule IV - Certification of Debt Owing by the Taxpayer (Section 27)
- Schedule V - Demand for Payment and Notice of Enforcement Proceedings (Section 29(2))
- Schedule VI - Notice of Distress (Section 30(2))
- Schedule VII - Notice of Sale of Goods Seized by Distress (Section 30(7))
- Schedule VIII - Notice of Cancellation of Interest in the Reserve (Section 31(1))
- Schedule IX - Certification of Cancellation of Lease (Section 31(3))
- Schedule X - Notice of Sale of Improvements and Disposition of Interest in the Reserve (Sections 32(1) and 32(3))
- Schedule XI - Certification of Sale and Disposition of Interest on Reserve (Section 32(10))

- Schedule XII - Garnishee Notice (Sections 33(1), 33(2) and 34(1))
- Schedule XIII - Notice of Forfeiture (Section 35(2))
- Schedule XIV - Certification of Forfeiture (Section 36(7))
- Schedule XV - Notice of Discontinuance of Services (Section 38)
- Schedule XVI - Taxation Rolls and Taxation Notices (Section 19(2))

Council May Extend Time

48. The council may from time to time by band council resolution extend the time by or within which anything is required to be done under this bylaw and anything done by or within such extended time is as valid as if it had been done within the time otherwise provided for in this bylaw.

Procedural Irregularities

49.(1) Provided that there has been substantial compliance with the provisions of this bylaw by the person or persons concerned, a procedural irregularity, technical failure to carry out a provision of this bylaw, or an insubstantial failure to comply with a requirement of this bylaw, by the council, by the surveyor of taxes, by any other person appointed to carry out this bylaw, or by a person required to pay taxes under this bylaw, shall not, of itself, provide sufficient grounds to invalidate any matter or thing required to be made, performed or done by the council, by the surveyor of taxes, by any other person appointed to carry out this bylaw, or by a person required to pay taxes under this bylaw.

(2) Without limiting the generality of subsection (1), nothing under this bylaw shall be rendered void or invalid, nor shall the liability of any person to pay tax or any other amount under this bylaw be affected by:

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

Limitation On Return Of Money

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

(2) Nothing in subsection (1) shall relieve the band from any obligation under section 24, to refund to a taxpayer the tax or excess tax paid by him, or any interest imposed or paid on the tax or arrears, as provided in section 24.

Amendments

51. Any section of this bylaw or Schedule to this bylaw may be amended by a bylaw adopted by the council and sent to the minister in accordance with appropriate section or sections of the Indian Act.

Tense

52. Where a provision in this bylaw or Schedule to this bylaw is expressed in the present tense, future tense or in the past tense, the provision applies to the circumstances as they may from time to time arise without reference to the present tense, future tense or the past tense.

Bylaw Remedial

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

Head Notes

54. Head notes, marginal notes and provision headings form no part of this bylaw but shall be construed as being inserted for convenience of reference only.

Notices

55.(1) Except where otherwise specifically provided in this bylaw, where any notice, notification, demand, statement or direction is required or permitted to be delivered or given under this bylaw, such notice, notification, demand, statement or direction shall be sufficient if mailed by registered mail, postage prepaid, or delivered personally to:

- (a) the address of the person set forth in the assessment roll, or
- (b) such other address of which the surveyor of taxes has received notice.

(2) Any notice, notification, demand, statement or direction shall be conclusively deemed to have been received on the second business day following the mailing thereof.

Severance of Sections

56. A finding by a court of competent jurisdiction that a section or provision of this bylaw is void or invalid shall not affect or bear upon the validity or invalidity of any other section or part of this bylaw or this bylaw as a whole.

Use of Forms and Words

57. In this bylaw :

- (a) words signifying the masculine gender include the feminine gender and the neuter gender and, where necessary or the context permits a person as defined in the assessment bylaw,
- (b) words in the singular include the plural, and words in the plural include the singular, and
- (c) where a word or expression is defined, other parts of speech, and grammatical forms of the same word or expression have corresponding meanings.

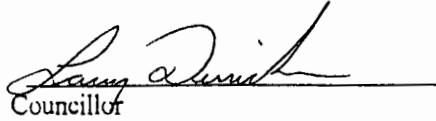
Coming Into Force

58. This bylaw shall come into force and effect upon approval by the minister.

APPROVED AND PASSED at a duly convened meeting of the Band Council of the Westbank Indian Band held at the Westbank Indian Band Administration Office, Westbank, British Columbia, this 16th day of March, 1994.



Chief

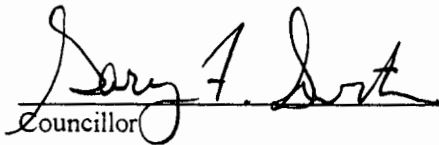


Councillor

Councillor



Councillor



Councillor

SCHEDULE I

Interest on Prepaid Tax (Section 11)

Prepayment

1.(1) The surveyor of taxes is authorized to receive on behalf of a taxpayer not more than one deposit each month between January 1 and May 15 each year to be applied to the taxes levied for that taxation year under this bylaw on the property of the taxpayer recorded on the taxation roll prepared for that taxation year under this bylaw.

(2) Where property of a taxpayer is recorded on more than one parcel in the taxation roll, a separate deposit may be made during a month under subsection (1) in respect of each parcel.

Minimum prepayment

2. The minimum amount that may be received under section 1 as a deposit is the lessor of
- (a) \$1000, or
 - (b) the amount of the gross taxes levied on the property in the immediately preceding taxation year.

Interest

3. Interest on money deposited under section 1 shall be paid to the taxpayer from the date of the deposit to June 30 of that year at:

- (a) a rate of 3.5% below, or
- (b) such other rate of percent as council may from time to time prescribe by band council resolution, below, equal to or above,

the prime lending rate on Canadian dollar commercial loans in Canada made to the prime risk commercial customers by the principal bank to the band on the 15th day of the month immediately preceding the month in which the deposit is made and shall be compounded monthly.

Further limit on prepayment

4. A deposit shall not be accepted under section 1 respecting a property if the resulting total, as of June 30 of that year, for all deposits and interest earned on those deposits in respect of the property would exceed the amount of the property taxes on that property under this bylaw in the immediately preceding year.

SCHEDULE "II"

Property Classes Within Each Taxation District
(Section 18.1)

Column 1 Name of Taxation District	Column 2 Named Reserves Comprising Taxation District	Column 3 Property Classes	Column 4 Tax Rate for the Taxation Year
Taxation District	The whole of the reserve lands of the Westbank Indian Band	<ol style="list-style-type: none"> 1. Residential 2. Utilities 3. Unmanaged Forest Land 4. Major Industry 5. Light Industry 6. Business & Other 7. Managed Forest Land 8. Recreational Property/ Non-Profit Organization 9. Farm 	as established annually by bylaw for each property class

**SCHEDULE III
(Section 25)**

**Costs Payable by a Taxpayer
Arising from Enforcement Proceedings**

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

SCHEDULE IV
(Section 27)

WESTBANK INDIAN BAND

CERTIFICATION OF DEBT
OWING BY THE TAXPAYER

PURSUANT TO THE WESTBANK INDIAN BAND PROPERTY TAXATION BYLAW

I, _____, Surveyor of Taxes of the Westbank Indian Band, certify that \$ _____ is the amount of the outstanding taxes which is due and owing by _____ (Taxpayer) with respect to _____ (Description of Property/Interest in the Reserve).

Attached hereto is a copy of that part of the taxation roll of the Westbank Indian Band that references the property taxes which are due and payable by _____ (Taxpayer) with respect to _____ (Description of Property/Interest on Reserve).

DATED the _____ day of _____, 19__.

Surveyor of Taxes

**SCHEDULE V
(Section 29(2))**

WESTBANK INDIAN BAND

DEMAND FOR PAYMENT AND NOTICE OF ENFORCEMENT PROCEEDINGS:

TO: _____
ADDRESS: _____

RE: _____

(Description of property)

The payment date of July 2, 19__, prescribed by the Taxation Notice served on you with respect to the above-noted property has now expired. The Westbank Indian Band **HEREBY DEMANDS IMMEDIATE PAYMENT IN FULL** of the following debt which is due and owing:

Taxes:
Interest:
Other costs:

TOTAL OUTSTANDING TAX DEBT:

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

The Westbank Indian Band Property Taxation Bylaw contains detailed procedures allowing for the enforcement and collection of a tax debt which is due and owing. These enforcement and collection procedures may affect your property, including personal property located on this property and may affect the on-going services being provided to your property. The remedies and procedures which may be used by the Surveyor of Taxes are set out in the Westbank Indian Band Property Taxation Bylaw. A copy of the Bylaw is available for your review at the Westbank Indian Band Taxation Office.

DATED AT ____this__ day of ____, 19__.

Surveyor of Taxes

SCHEDULE VI
(Section 30(2))

WESTBANK INDIAN BAND

NOTICE OF DISTRESS

TO: _____
ADDRESS: _____

RE: _____

(Description of Property)

TAKE NOTICE THAT failure to pay the outstanding tax debt due and owing with respect to the above-noted property, being \$_____, on or before the expiration of 7 (seven) days after the date of this notice will result in the Surveyor of Taxes, pursuant to section 30(3) of the Westbank Indian Band Property Taxation Bylaw, seizing by distress the personal property generally described as follows:

(a general description of the personal property which are located on the property of which the taxpayer is an interest holder)

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

AND FURTHER TAKE NOTICE that pursuant to section 30(5) of the Westbank Indian Band Property Taxation Bylaw, you must commence legal proceedings in a court of competent jurisdiction to challenge such seizure within 30 (thirty) 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 personal property.

AND FURTHER TAKE NOTICE THAT upon the expiration of 30 (thirty) days after the personal property has been seized and the failure to pay the outstanding tax debt or commence court proceedings as set out above, you will be deemed to have abandoned the personal property seized and the Surveyor of Taxes may authorize that the personal property will be sold by public auction. A copy of the Notice of Sale of Personal Property seized by distress will be posed on your property located on reserve, and will be published for at least 7 (seven) days in the _____ Newspaper (one or more newspapers of general local circulation) before the date of sale.

DATED AT _____ this _____ day of _____, 19__.

Surveyor of Taxes

**SCHEDULE VII
(Section 30(7))**

WESTBANK INDIAN BAND

A NOTICE OF SALE OF PERSONAL PROPERTY SEIZED BY DISTRESS

TAKE NOTICE THAT a sale by public auction for outstanding taxes owed to the Westbank Indian Band will occur on ____, 19__ at __ o'clock at ____ (Location) on the ____ Reserve.

At the above-noted sale, the following personal property, seized by Distress pursuant to section 30 of the Westbank Indian Band Property Taxation Bylaw, will be sold, with the proceeds of such sale being used to pay the outstanding tax debt:

GENERAL DESCRIPTION OF THE PERSONAL PROPERTY

DATED AT _____ this __ day of __, 19__.

Surveyor of Taxes

SCHEDULE VIII
(Section 31(1))

WESTBANK INDIAN BAND

NOTICE OF CANCELLATION OF INTEREST IN THE RESERVE

TO: _____
ADDRESS: _____

RE: _____
(Description of Property)

(Interest on Reserve)

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

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

DATED AT _____ this ___ day of __, 19 __.

Surveyor of Taxes

**SCHEDULE IX
(Section 31(3))**

WESTBANK INDIAN BAND

CERTIFICATION OF CANCELLATION OF LEASE

RE: _____
(Description of Property)

(Interest on Reserve)

I, _____, Surveyor of Taxes for the Westbank Indian Band, hereby certify that the above-mentioned interest on the Westbank Reserve has been cancelled or terminated pursuant to Section 31(3) of the Westbank Band Property Taxation Bylaw as a result of the failure of _____ to pay the outstanding tax debt which was due and payable.

DATED AT _____ this ___ day of ___, 19__.

Surveyor of Taxes

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

DATED AT _____ this _____ day of _____, 19__.

Surveyor of Taxes

**SCHEDULE XI
(Section 32(10))**

WESTBANK INDIAN BAND

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

RE: _____

(Description of Interest on Reserve)

(Description of Improvements)

I, _____, Surveyor of Taxes of the Westbank Indian Band, hereby certify that resulting from the failure of _____ to pay the outstanding tax debt on the above-mentioned interest on Reserve, that interest has been disposed of by Public Auction (or Tender) and the above-mentioned improvements have been sold by Public Auction (or Tender) pursuant to Sections 32(2), 32(4) (for Public Tender) and 32(10) of the Westbank Band Property Taxation Bylaw. The following person shall, pursuant to section 32(11) of that Bylaw, be substituted for the Tax Debtor as the holder/owner of the above-noted interest in the Reserve, including the improvements:

NAME AND ADDRESS OF PURCHASER AT SALE

DATED AT _____ this _____ day of _____, 19__.

Surveyor of Taxes

Surveyor of Taxes shall not pay the money out to the Band until there has been a judgment of the Court.

DATED AT _____ this ____ day of _____, 19__.

Surveyor of Taxes

**SCHEDULE XIII
(Section 35(2))**

WESTBANK INDIAN BAND

NOTICE OF FORFEITURE

TO: _____
ADDRESS: _____

RE: _____
(Description of Property)

(Interest in the Reserve)

TAKE NOTICE THAT taxes imposed by the Westbank Indian Band's Property Taxation Bylaw for the above-noted property in the year(s) _____, ____, have been outstanding for two (2) years and pursuant to Section 35, 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 40th (fortieth) day after the date of this notice, the interest you hold in this property will be absolutely and unconditionally forfeited to the Westbank Indian Band. Upon such forfeiture, your interest in the Reserve will vest in the Band clear of all charges except those rights of way, easements or other such third party interests which attach to that Reserve land.

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

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

DATED AT ____ this __ day of __, 19__.

Surveyor of Taxes

SCHEDULE XIV
(Section 36(7))

WESTBANK INDIAN BAND

CERTIFICATION OF FORFEITURE

RE: _____
(Description of Property)

(Interest on Reserve)

I, _____, Surveyor of Taxes for the Westbank Indian Band, hereby certify that resulting from the failure of _____ (Tax Debtor) to pay the outstanding tax debt owing on the above-mentioned interest in the _____ Reserve, such interest has been forfeited to the Westbank Indian Band pursuant to Section 35 of the Westbank Indian Band Property Taxation Bylaw.

DATED AT _____ this _____ day of _____, 19__.

Surveyor of Taxes

SCHEDULE XV
(Section 37)

WESTBANK INDIAN BAND

NOTICE OF DISCONTINUANCE OF SERVICES

TO: _____
ADDRESS: _____

RE: _____
(Description of Property)

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

LIST SERVICES TO BE DISCONTINUED

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

DATED AT _____ this ___ day of _____, 19__.

Surveyor of Taxes

SCHEDULE XVI

**Taxation Rolls And Taxation Notices
(Section 19(2))**

1. A taxation roll shall be prepared in microfiche, paper form or electronic form.
2. A taxation roll shall contain the following particulars in respect of each property contained in the assessment roll for the taxation year:
 - (a) a short description of the property,
 - (b) the name and last known address of each person assessed in respect of the property,
 - (d) the classification of:
 - (i) the land, and
 - (ii) the improvements,set out in the assessment roll for the taxation year,
 - (e) the actual value by classification of:
 - (i) the land, and
 - (ii) the improvements,set out in the assessment roll for the taxation year,
 - (f) the total assessed values for:
 - (i) general purposes, and
 - (ii) other than general purposes,set out in the assessment roll for the taxation year,

- (g) the total assessed value of exemptions, if any, from taxation for:
 - (i) general purposes, and
 - (ii) other than general purposes,set out in the assessment roll for the taxation year,
- (h) the total net taxable value for:
 - (i) general purposes, and
 - (ii) other than general purposes,set out in the assessment roll for the taxation year,
- (i) the tax rate or rates applicable to the property,
- (j) the total amount of taxes levied on the property for the current taxation year,
- (k) any amount set forth in a previous taxation roll in respect of the property that remains unpaid, and any penalty or accrued interest on the amount and the penalty,
- (l) the amount of any tax for the current taxation year, other than taxes, placed on the taxation roll for collection,
- (m) the total amount required to be paid in respect of the property, and
- (n) such further or other information as may be prescribed from time to time by council by band council resolution.

BAND COUNCIL RESOLUTION
of the
WESTBANK INDIAN BAND

WHEREAS:

The Band Council of the Westbank Indian Band deems it advisable and in the best interests of the band to continue, by bylaw, the taxation for local purposes of land, or interests in land, in the reserve, including rights to occupy, possess or use land in the reserve;

NOW BE IT HEREBY RESOLVED:

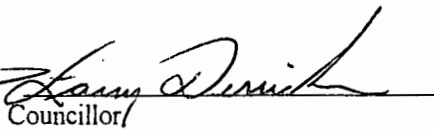
That the following bylaw, being the Property Taxation Bylaw, be and is hereby enacted for the purpose of continuing taxation for local purposes of land, or interests in land, in the reserve, including rights to occupy, possess or use land in the reserve, pursuant to the provisions of the *Indian Act* and in particular pursuant to the provisions of subsection 83(1) of the *Indian Act*,

and,

That upon approval by the Minister of Indian Affairs, the Property Taxation Bylaw shall supersede and replace the Westbank Taxation Bylaw enacted by the council of the Westbank Indian Band on the 17th day of August, 1990, and approved by the Minister of Indian Affairs on the 31st day of August, 1991.

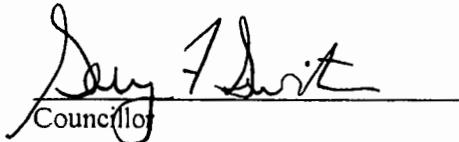
APPROVED AND PASSED at a duly convened meeting of the Band Council of the Westbank Indian Band held at the Westbank Indian Band Administration Office, Westbank, British Columbia, this 19th day of March, 1994.


Chief


Councillor

Councillor


Councillor


Councillor