

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



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

Ottawa, Canada K1A 0H4

I, the Minister of Indian Affairs and Northern Development, HEREBY  
APPROVE, pursuant to section 83 of the *Indian Act*, the following  
by-law made by the Penticton Indian Band, in the Province of British  
Columbia, at a meeting held on the 19th day of June 2007.

- **Penticton Indian Band**  
**Property Taxation By-law, 07-TX-02**

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

Dated at Ottawa, Ontario this 1<sup>ST</sup> day of FEBRUARY 2008.

Canada

**Legal Code of the Penticton Indian Band**

**Penticton Indian Band**

**Property Taxation Bylaw  
07-TX-02**

**June 19, 2007**

# **PENTICTON INDIAN BAND PROPERTY TAXATION BYLAW 07-TX-02**

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# Legal Code of the Penticton Indian Band

## Penticton Indian Band Property Taxation Bylaw 07-TX-02

### Whereas:

The Band Council of the Penticton Indian Band deems it advisable and in the best interests of the band to engage in, 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 engaging in 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 pursuant to the inherent right of self-government,

and,

The Property Taxation Bylaw as enacted herein shall supersede any property taxation bylaws previously enacted by the Band council and approved by the Minister of Indian Affairs to the extent necessary to give full force and effect to the Property Taxation Bylaw for the 2008 taxation year and all following years,

and,

That upon approval by the Minister of Indian Affairs, the Property Taxation Bylaw shall be of full force and effect.

# **Legal Code of the PENTICTON INDIAN BAND**

## **Penticton Indian Band Property Taxation Bylaw 07-TX-02 Part 1**

### **Interpretation and Titles**

#### **Interpretation**

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

"actual value" means a price which land and improvements might reasonably be expected to bring if held in fee simple off reserve and offered for sale in the open market on the valuation date,

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

"assessment bylaw" means the Penticton Indian Band Property Assessment Bylaw, passed by the council and approved by the minister, and, where the context requires, all property assessment bylaws and assessment bylaws which may have been superseded by this bylaw or by a previous property assessment or assessment bylaw,

"assessment roll" includes a supplementary assessment roll and anything recorded as an addendum to the assessment roll,

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

"band" means the Penticton Indian Band, a band within the meaning of the *Indian Act*,

"band council resolution" means a resolution passed in accordance with Section 2(3) (b) of the *Indian Act*,

"band land register" means the lists and files kept by the land management department of the band in which are listed or filed particulars in respect of property including particulars in respect of property not listed or filed in any land title office or reserve land register,

"band member" means a member of the band,

"board" and "board of review" means board of review appointed under section 40 of the assessment bylaw,

"business day" means Monday through Friday, exclusive of statutory holidays,

"British Columbia Assessment Authority" means the British Columbia Assessment Authority as defined in the *Assessment Authority Act*,

"Chief and Council" means council as defined herein,

"council" means the council of the Penticton Indian Band within the meaning of the *Indian Act*,

"cp" means a certificate of possession as referred to under subsections 20(1) and 20(2) of the *Indian Act*, and for the purposes of this bylaw only, includes a notice of entitlement, a certificate of occupation as referred to under subsections 20(4) and 20(5) of the *Indian Act* and any such other permits, agreements, licenses or interests as are issued or given from time to time by band council resolution authorizing the use of land in reserve by a band member,

"general purposes" means local purposes,

"improvements" means any building, fixture, structure or similar thing constructed or placed on or in land, or water over land, or on or in another improvement, but does not include any of the following things unless that thing is a building or is deemed to be included in the definition by subsection (2) and section 1.(1):

- (a) production machinery,
- (b) anything intended to be moved as a complete unit in its day to day use,
- (c) furniture and equipment that is not affixed for any purpose other than its own stability and that is easily moved by hand,



**"Indian Act"** means the *Indian Act*, R.S.C. 1985, c. I-5, and any amendments thereto,

**"interest"** includes any legal or beneficial right, title, estate or interest, except where the context refers to a rate of interest,

**"interest holder"** means a person who has an interest in, or is an occupier of, land or improvements, or both,

**"land"** means land, or interests in land, in the reserve, including rights to occupy, possess or use land in the reserve, and includes, but is not limited to:

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

**"land title office"** means the land title office or offices for the land title district in which land located in the reserve may have been registered under the *Land Title Act* of the Province of British Columbia, and without limiting the generality of the foregoing but for greater certainty includes each land title office in which land located in any named reserve may have been so registered,

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

**"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 the Minister of Indian Affairs and Northern Development and includes a person designated in writing by the Minister,

**"municipality"** means, in accordance with the context, either any area incorporated as a city, district, township, town or village, under any Act of the Province of British Columbia, or the corporation into which the residents of the area have been incorporated as a municipality or regional district pursuant to the provisions of the *Local Government Act* of the Province of British Columbia,

"occupier" means:

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

"parcel" means a lot, block, or other area in which land is held or into which land is subdivided, and does include a highway or portion of a highway and the right or interest of an occupier of Crown land,

"person", in addition to its ordinary meaning, includes a partnership, syndicate, association, corporation, government or any agency or political subdivision thereof and the agent or trustee of a person,

"principal residence" means principal residence as defined in section 54 of the *Income Tax Act*, R.S.B.C., 1996 c.215,

"property" includes land and improvements,

"property class" means a class of property established under section 26 (7) of the assessment bylaw,

"quarter" means each of the three month periods in a calendar year beginning January 1, April 1, July 1, and October 1,

"registered" and "registration", when used in respect of land, refer to registration in the books of the land title office or the books of the reserve land register or listed or filed in the band land register,

"reserve" has the same meaning as in the *Indian Act*,

"reserve land register" means the register or registers kept by the Department of Indian Affairs and Northern Development pursuant to section 21 of the *Indian Act* and the register or registers kept by the Department of Indian Affairs and Northern Development pursuant to section 55 of the *Indian Act*, and without limiting the generality of the foregoing but for greater certainty includes each such register relating to each named reserve,

"schedule" means a schedule to this bylaw,

"service charge" means a charge imposed to recover costs related to the provision, construction, alteration or expansion of growth related infrastructure,

"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,

"taxation bylaw" means the Penticton Indian Band Property Taxation Bylaw, passed by the council and approved by the minister, and, where the context requires, all property taxation bylaws and taxation bylaws which may have been superseded by this bylaw or by a previous property taxation or taxation bylaw,

"taxation district" means a taxation district established pursuant to this bylaw,

"taxation fund" means monies collected by the band under this bylaw,

"taxation roll" means a taxation roll prepared under this bylaw and includes a supplementary taxation roll,

"taxation year" means a calendar year in which taxes are levied and payable under this bylaw,

"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,

"trustee" includes a personal representative, guardian, committee, receiver and any person having or taking on himself the possession, administration or control of property affected by any express trust, or having, by law, the possession, management or control of the property of a person under a legal disability.

(2) In the event that the *Indian Act* or any relevant portion of the *Indian Act* should be repealed or should otherwise not apply to the Penticton Indian Band, then, when the context so requires, a reference in this bylaw to the *Indian Act* shall be deemed to be a reference to such other relevant authority as may be or may become applicable.

## Short Title

1.1 This bylaw may be cited for all purposes as the Penticton Indian Band Property Taxation Bylaw, 07-TX-02.

## **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 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.
- (2) A manufactured home is deemed to be an improvement for the purpose of property assessment and taxation under the assessment bylaw and this bylaw.
- (3) Taxes levied under this bylaw relate to the full calendar year in which the levy is first made and are based on the assessed values of property as provided under the assessment bylaw.
- (4) Property shall be assessed and taxed in the names of all interest holders of the property.

#### **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, the British Columbia Municipal Finance Authority, or the First Nations 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, the British Columbia Municipal Finance Authority, or the First Nations Finance Authority, or
  - d) for the purpose of the compilation of statistical information by the band, any government, the British Columbia Assessment Authority, the British Columbia Municipal Finance Authority, or the First Nations Finance Authority.
- (2) Subsection (1) does not apply in respect of a taxation roll.

#### **Duty of Person Liable for Payment of Taxes**

4. Every person shall comply with the provisions of this bylaw and 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 and commits an offence, 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 attend or to submit himself to examination on oath or otherwise,
  - d) fails to keep a book of account or record required to be kept by him, or,
  - e) fails to pay taxes as and when required by this bylaw.

### **False Returns and Records a Failure to Comply**

6. A person who knowingly and willfully 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, upon fourteen days notice to appear before the band council to show cause why services should not be discontinued, 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 willfully 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 such 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 shall be jointly and personally liable with the association, corporation, partnership or syndicate for payment of the taxes due and the penalties established by this bylaw for failure to comply with this bylaw,

## **Date for Payment of Taxes**

10. (1.) Taxes levied in a taxation notice mailed under section 20(1), 20(8), or 20(10), are due and payable at the location specified in the taxation notice before 4:00 p.m. on the first business day following July 1 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 at 4:00 p.m. on the first business day following July 1 of the year they are first levied, there shall be added to them, as a penalty, 10% of the unpaid taxes and the amount so added 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 set for each quarter at 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 as that rate stood 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(8) 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 due and payable 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 on or after the first business day following July 1 of that year, the penalty equals 10% of the unpaid taxes,
  - b) 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 10% of the unpaid taxes.
- (3) Section 10(2) applies in respect of taxes due and payable levied in a supplementary taxation notice, except that taxes referred to in paragraph (2) (b) 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 deposit 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 or deposited in a special account or accounts maintained in the name of the band in a chartered bank, credit union, trust company, the First Nations Finance Authority, or an association which provides for the pooling and investment of funds raised through property taxation.

- (2) The band may apply to receive funds by way of grant in lieu of taxes from the Crown or any Crown corporation and may accept payment of taxes in the form of grants-in-lieu of taxes or may otherwise accept settlement of a taxation issue where it is in the best interests of the band to do so.
- (3) 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, the assessment bylaw or to the expenditure 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" or "special reserve" (as those terms are defined in the Indian Act) of the band.
- k) expenses incurred in the preparation, administration and enforcement of all bylaws made pursuant to sections 81, 83 and 85.1 of the Indian Act,
- l) an annual contribution of ten percent (10%) of the annual gross taxes to a cumulative capital projects fund to be used from time to time for such capital projects as may be authorized by bylaw,
- m) an annual contribution of ten percent (10%) of the annual gross taxes to an income contingency fund to be used as designated by Chief and Council from time to time for extraordinary expenditures authorized under section 12 (3) (a) through (k) of this bylaw.

(4) Except as otherwise provided in subsection (3), 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, Pentiction Indian Band Administration Office, Pentiction, 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 "Pentiction 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 to 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 shall, at the request of the interest holder, issue an official receipt to the payer. The cancelled cheque of the payer 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) Property of a band member held under a cp, except any part of the property of a band member held under a cp that is used or occupied or that is subject to an interest held:
  - (i) by a person or persons who are not band members, or
  - (ii) under a lease, licence, permit or any arrangement pursuant to which such person or persons pay, or have an obligation to pay, rent, licence fees or other moneys to any person, including without limitation a band member
- b) 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*, except any part of the property of the band that is used or occupied:
  - (i) by a person or persons who are not band members, or
  - (ii) under a lease, licence, permit or any arrangement pursuant to which such person or persons pay, or have an obligation to pay, rent, licence fees or other moneys to any person, including without limitation the band,
- c) notwithstanding subsection (1) (a) and subject to subsection (3), property used and occupied by the band chiefly for the administration of the affairs of the band,
- d) notwithstanding subsection (1)(b) and subject to subsection (3), property of an organization, incorporated or otherwise, owned or controlled by the band, or an aboriginal organization, unless the council decides that this exemption shall not apply,
- e) manufactured homes licensed and equipped to travel on a public highway, that are occupied by a person or persons not ordinarily resident on the reserve 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 1996, c. 318, 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,
- i) property owned by a body corporate, all issued and outstanding shares of which are held by a band member, which is used and occupied by the band member holding all of the issued and outstanding shares of the body corporate, as that band member's principal residence,
- j) a building used exclusively for school purposes and land necessary as the site for the building,
- k) a building occupied by a religious body used chiefly for divine service, public worship or religious education, and the land necessary as the site for the building.

(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 surveyor of taxes shall determine 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 owned or controlled by the band,
- c) for the purposes of subsection (1) (a), 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, or
  - (ii) under a lease, licence or any arrangement pursuant to which such person or persons pay, or have an obligation to pay, rent, licence fees or other moneys to any person, including without limitation the band, or
- d) for the purposes of subsection (1) (b), any part of the property of the band is used or occupied:
  - (i) by a person or persons who are not band members, or
  - (ii) under a lease, licence or any arrangement pursuant to which such person or persons pay, or have an obligation to pay, rent, licence fees or other moneys to any person, out limitation the band,

and any such determination shall be final and conclusive for all purposes unless and until the surveyor of taxes shall make determination under this subsection (3).

(4) Notwithstanding subsection 14(1) through 14(3), all land and interests in land are liable to service and local improvement charges.

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

- (6) a) An exemption does not apply to any portion of a building other than the portion occupied or used for the purpose for which the exemption was granted.
- b) Where an exemption applies to a portion of a building, it applies, in the same proportion, to the land that is necessary as the site for the building.

### **Joint Liability To Taxation**

15. 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.

[The next section is 18.]

## **Part 4**

### **Levy of Tax**

#### **Levy of Tax**

18.(1) Subject to section 14, 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 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 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.

(4) A bylaw enacted pursuant to subsection (3) shall include a schedule (in subsection (6) called the "Rate Schedule") substantially in the same form as Schedule II, in which shall be set out in column 4 the tax rate established 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 pursuant to subsections (3) and (4) shall be applied against each \$1,000.00 of actual value of property on the assessment roll applicable in the appropriate property class set out in column 3 in the Rate Schedule within the appropriate taxation district set out in column 1 in the Rate Schedule.

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

**If:**

- the taxation year is 2008,
- the taxable property is located within a Penticton Indian reserve,
- the taxable property is classified as being property class 6(Business & Other),
- the bylaw enacted by council and approved by the minister pursuant to subsection (3) establishes, levies and imposes a tax rate of 22.0682 for property class 6 in the Penticton Indian Band Reserve Taxation District, and
- the taxable property has an actual value of \$276,543.00 on the assessment roll applicable for the 2008 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 primary residential property in a taxation year is less than \$350.00 the property shall be taxed \$350.00 for the taxation year, and that sum shall be placed on the taxation roll.

## **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 a person assessed in respect of property, he shall be deemed for the purposes of preparation of the taxation roll to be an assessed interest holder of the property.

(4) The taxation roll shall be amended from time to time by a supplementary taxation roll as may be necessary to incorporate changes or amendments made to the assessment roll under the assessment bylaw or whenever a supplementary assessment roll is created.

#### **Taxation Notice and Supplementary 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.

(2) 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.

(3) The surveyor of taxes is not required to mail or send a taxation notice to a person exempt from taxation under this bylaw.

(4) The taxation notice shall be directed to each assessed interest holder at their last known address

(5) 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.

(6) 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.

- (7) 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.
- (8) Unless a supplementary assessment roll has been incorporated into the taxation roll, the surveyor of taxes shall mail to every person named on the supplementary taxation roll a supplementary taxation notice.
- (9) Subsection (5) applies in respect of the supplementary taxation roll and supplementary taxation notices.
- (10) Where, before or after the taxation roll is completed and before a taxation notice is mailed, 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 Penticton Indian Band taxation office, or such other place as the council may direct, and the roll shall be open to public inquiry during regular business hours.

### **Taxation Roll Property of the Penticton Indian Band**

22. Taxation roll is the property of the band.

### **Refund of Taxes Wrongfully Assessed**

23. (1) Except as provided in this section, no person has a right to recover monies paid to the Penticton Indian Band as taxes paid under a mistake.

(2) Council shall refund the amount paid in excess of liability where, subsequent to completion or certification of a tax roll under this Part, it is shown that for the current taxation year a property recorded on the taxation roll was not liable to taxation, or a person had been taxed in excess of liability, or a person was wrongfully named as an interest holder. Except by Order of a Court, no refund will be made after December 31 of the year following the year in which the tax notice was issued.

(3) 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, at the request of the person liable for the unpaid taxes, be refunded in whole or in part by being applied as a credit on account of the taxes due or accruing due.

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

23.1(1) Council may from time to time provide for a general reduction of taxes due by a taxpayer for a Taxation year in an amount determined by band council resolution, to be known as the Penticton Indian Band Grants, provided however that the balance of taxes must be actually paid within the taxation year, or no Reduction will be allowed.

### **Power To Reduce Taxes for Poverty and Sickness**

23.2(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 delay the due date for the payment of the taxes due by the petitioner until April 30th of the year following the year in which taxes were due, or reject the petition.

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

- a) pay interest on the tax arrears at such rate as determined under section 10(4), and
- b) provide any form of security for payment of the tax arrears that council deems appropriate,

and in every such case the Surveyor of Taxes may register a lien on the property which lien shall attach to the entire property taxed, and without limiting the foregoing, attaches to the interest of a subsequent interest holder of the property.

### **Collection Pending Appeals**

24. Where:

- a) an appeal 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 an appeal, 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 delay in hearing any appeal, shall not affect the due date, the delinquency date, the interest, penalty, 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; but if the assessment is set aside or the assessed value reduced:

- (i) by a decision of the board of review under the assessment bylaw upon completion of the hearing of the appeal 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,

- (ii) 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
- (iii) 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 or penalty 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 shall, 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 surveyor of taxes shall 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.

(3) On satisfactory evidence being produced to the surveyor of taxes that a property has become exempt or taxable or ceased to be exempt or taxable, the surveyor of taxes shall apportion the taxes in accordance with the number of days in the taxation year that the property has become exempt or taxable or ceased to be exempt or taxable.

### **Costs of Collection**

25. The surveyor of taxes shall 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, including legal costs. Such costs shall be in accordance with Schedule III.



## Part 6

### Recovery of Taxes

#### Recovery: Personal Liability

26.(1) An interest holder named in the taxation roll in any year is liable for all taxes imposed in respect of the property 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. Taxes are recoverable by:

- (a) action in a court of competent jurisdiction,
- (b) filing of a special lien,
- (c) seizure and sale of personal property by distress,
- (d) cancellation of proprietary interests held by the interest holder,
- (e) sale of improvements and proprietary interests held by the interest holder,
- (f) garnishment of rent owed to the interest holder,
- (g) by garnishment of other monies owed to the interest holder,
- (h) by forfeiture of property held by the interest holder,
- (i) by discontinuance of services provided by the band, and
- (j) in any other manner provided in this bylaw or at law.

#### Proving Tax Debt

27. Any tax, or portion thereof, due and payable under this bylaw that has not been paid shall be certified by the surveyor of taxes, who shall attach a copy of that part of any 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,**
- d) be filed with the District Registrar of the Supreme Court of British Columbia and when so filed, the certificate shall be of the same force and effect and proceeding may be taken on the certificate as if it were a judgment of the court for the recovery of a debt in the amount stated in the certificate against the person or persons named in the certificate, and**
- e) may be filed in the registries established pursuant to the Manufactured Home Act or the Personal Property Security Act as amended from time to time.**

**(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 where necessary, including:**

- 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 approve that notice be given to all persons named that collection proceedings may be taken against them for recovery of overdue taxes.

(2) Following receipt of the approval provided pursuant to subsection (1), the Surveyor of Taxes shall, by mail or personal delivery to the taxpayer's last known address, and in the form set out in Schedule V, serve a demand for payment and notice of pending enforcement proceedings on all persons whose names are on the approved list, and all persons who have an interest in the property in respect of which taxes have not 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 owned by a taxpayer indebted to the Penticton Indian Band for unpaid taxes and located on the Penticton Indian Band reserve lands, as set out in this section, may be taken by the surveyor of taxes.

(2) The surveyor of taxes may 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.

(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 once in at least one newspaper, whether distributed free or by sale, of general local circulation no less than 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 reasonable 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 and upon receiving such authorization may issue a notice in the form of Schedule VII. Prior to giving such authorization the council shall obtain the consent of 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 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 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, reasonable 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 he 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) Notwithstanding section 8, and in addition to the power contained in section 8, 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 37 shall not limit or restrict the exercise of any power conferred in this bylaw for recovery of taxes, and *vice 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. (1) The council shall appoint a surveyor of taxes, and the Surveyor of Taxes may 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.

42.(Empty)

#### **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, or are otherwise uncollectable, 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 uncollectable, 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 jurisdiction, 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 (Sec. 11)
Schedule	II	Property Classes within Each Taxation District (Sec. 18.1 (1))
Schedule	III	Costs Payable by a Taxpayer Arising from Enforcement Proceedings (Sec. 25)
Schedule	IV	Certification of Debt Owning by the Taxpayer (Sec. 27)
Schedule	V	Demand for Payment and Notice of Enforcement proceedings (Sec. 29.2)
Schedule	VI	Notice of Distress (Sec. 30 (2))
Schedule	VII	Notice of Sale of Goods Seized by Distress (Sec. 30(7))
Schedule	VIII	Notice of Cancellation of Interest in the Reserve (Sec. 31(1))
Schedule	IX	Certification of Cancellation of Lease (Sec. 31(3))
Schedule	X	Notice of Sale of Improvements and Disposition of Interest in Reserve (Sec. 32(1); (2))
Schedule	XI	Certification of Sale and Disposition of Interest on Reserve (Sec. 32(10))
Schedule	XII	Garnishee Notice (Sec. 33(1); 33(2) and 34(1))
Schedule	XIII	Notice of Forfeiture (Sec. 35(2))
Schedule	XIV	Certification of Forfeiture (Sec. 36(7))
Schedule	XV	Notice of Discontinuance of Services (Sec. 38)
Schedule	XVI	Taxation Rolls and Taxation Notices (Sec. 19(2))
Schedule	XVII	Notice of Hearing (Sec. 60(1) (c))

### **Council May Extend Time**

48. The council may from time to time by band council resolution extend the time for a maximum of sixty (60) days 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 council, By the surveyor of taxes, by any other person appointed to carry out this bylaw, 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 the requirement of a person 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 by the surveyor of taxes 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 approved by 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.

## **Interpretation**

53. (1) 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.

(2) Where a liability for tax or taxes arose under one or more former bylaws which has been superseded and replaced by this bylaw, the provisions of the Interpretation Act, RSBC, 1996, c. 238 apply, and without restricting the generality of this provision:

- a) every person appointed under the former bylaw or bylaws continues to act as if appointed under this bylaw until replaced or appointed under this bylaw;
- b) all forms or things made or used under the former bylaw or bylaws may be continued under this bylaw to the extent possible;
- c) any and all procedures established by this bylaw shall be applicable and followed for the recovery or enforcement of tax, taxes, fines, penalties, interest, cancellations or forfeiture imposed under the former bylaw or bylaws;
- d) if any penalty or interest rate is increased or decreased under this bylaw, then the increased or decreased penalty or interest rate shall apply from the date that this bylaw came into effect.

## **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 served, 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 served, delivered, given or received on the fifth 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 full force and effect upon approval by the minister.

APPROVED AND PASSED at a duly convened meeting of the Band Council of the Penticton Indian Band held at the Penticton Indian Band Administration Office, Penticton, British Columbia, this \_\_\_\_ day \_\_\_\_\_, 2007.

\_\_\_\_\_  
**Grand Chief Stewart Phillip**

\_\_\_\_\_  
**Councillor Chad Eneas**

\_\_\_\_\_  
**Councillor K. Joan Gabriel**

\_\_\_\_\_  
**Councillor Naomi Gabriel**

\_\_\_\_\_  
**Councillor Kristine Jack**

\_\_\_\_\_  
**Councillor Jonathon Kruger**

\_\_\_\_\_  
**Councillor Timmothy Lezard**

\_\_\_\_\_  
**Councillor Anna Tonasket**

\_\_\_\_\_  
**Councillor Inez Pierre**

## PART 9

### **SERVICE AND LOCAL IMPROVEMENT CHARGES**

#### **Authority to Impose charges**

59(1) Penticton Indian Band may by bylaw impose charges applicable to any part of the Penticton Indian Band Reserve for any of the following local improvements:

- a) opening, widening, straightening, extending, grading, leveling, diverting or paving a road;
- b) constructing a sidewalk, street lighting, foot crossing, curbing bridge, culvert or embankment forming part of a street or constructing a system of storm drainage;
- c) making, deepening, enlarging, or lengthening a common sewer or water system;
- d) making sewer or water service connections to the road line on land abutting the main;
- e) constructing, a conduit for wires or pipes along or under a road;
- f) reconstructing, replacing or repairing of any items listed in paragraphs (a) to (e) above; and
- g) such other projects for maintenance, improvement or repair of properties within the area as Penticton Indian Band may determine to be necessary or beneficial.



**Schedule I**  
**Interest on Prepaid Tax**

(Section 11)

**Prepayment**

1. (1) The surveyor of taxes is authorized to receive prepayments on behalf of a taxpayer to be applied to the taxes levied under this bylaw on the property of the taxpayer.
- (2) Where property of a taxpayer is recorded on more than one parcel in the taxation roll, a separate deposit may be made 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 \$50.00.

**Interest**

3. Interest on money deposited under section 1 shall be paid to the taxpayer, by way of a credit to the taxpayer's account. Such interest shall commence on the 1st day of the calendar month following the month in which the deposit was made, at a rate which shall be set for each quarter at 3.5% below 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 as that rate stood on the 15th day of the month immediately preceding that period.

**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 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 Penticton Indian Band	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 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 6 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 per hour 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 6:   | \$ 10.00 per Certificate |
| 6. | For disbursements, including without limiting photocopying (\$ . 3 0 per page,) advertising, storage fees, actual legal fees, etc.   | As and when arising      |

Schedule IV  
(Section 40)

Penticton Indian Band

CERTIFICATION OF DEBT  
OWING BY THE TAXPAYER

PURSUANT TO THE Penticton Indian Band PROPERTY TAXATION BYLAW

I \_\_\_\_\_, Surveyor of Taxes of the Penticton 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).

The amount due and owing includes all taxes, penalties, and other costs imposed under section 25 of the Penticton Indian Band Property Taxation Bylaw as of the date of issuance of this certificate.

Attached hereto is a copy of that part of the taxation roll of the Penticton Indian Band that references the property taxes which are due and payable with respect to this property.

DATED the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Surveyor of Taxes

Schedule V  
(Section 41(2))

Penticton Indian Band

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

**TO:**  
**ADDRESS:**

**RE:**  
(Description of property)

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

**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 Penticton Indian Band for the enforcement and collection of such debt. Additional costs may accrue to this debt.

The Penticton 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 Penticton Indian Band Property Taxation Bylaw. A copy of the Bylaw is available for your review from the Surveyor of Taxes upon request.

DATED AT \_\_\_\_\_ this \_\_\_\_ day of \_\_\_\_, 20\_\_.

Surveyor of Taxes

Schedule VI  
(Section 42(2))

Penticton 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 Penticton 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 Penticton 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 set 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 posted on your property located on reserve and will be published once in one or more newspapers of general local circulation, whether distributed free or by sale, at least 7 (seven) days before the date of sale.

DATED AT \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Surveyor of Taxes

**Schedule VII  
(Section 43(7))**

**Penticton 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 Penticton Indian Band will occur on \_\_\_\_\_20\_\_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 Penticton Indian 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 \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Surveyor of Taxes

**Schedule VIII**  
**(Section 44(1))**

Penticton 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 in the cancellation of your interest in such property on the Reserve, 30 (thirty) days from the date of the notice.

Upon the cancellation of such interest you will be required to immediately vacate the Reserve, and any rights or interests which you acquired in the property will cease to exist.

DATED AT \_\_\_\_\_ this \_\_ day of \_\_\_\_\_, 20

\_\_\_\_\_  
Surveyor of Taxes



Schedule IX  
(Section 31(3))

Penticton Indian Band

**CERTIFICATION OF CANCELLATION OF LEASE**

RE: \_\_\_\_\_  
(Description of Property)

\_\_\_\_\_  
\_\_\_\_\_  
(Interest on Reserve)

I, \_\_\_\_\_, Surveyor of Taxes for the Penticton Indian Band, hereby certify that the above-mentioned interest on the Penticton Indian Band Reserve has been cancelled or terminated pursuant to Section 31(3) of the Penticton Indian 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 \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Surveyor of Taxes

Schedule X  
(Section 32(1) and 32(3))

Penticton Indian Band

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

TO: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
RE: \_\_\_\_\_

\_\_\_\_\_  
(Description of Property)

\_\_\_\_\_  
(Interest on Reserve)

\_\_\_\_\_  
(Description of Improvements)

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

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

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

DATED AT \_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_ 20\_\_.

\_\_\_\_\_  
Surveyor of Taxes

Schedule XI  
(Section 32(10))

Penticton 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 Penticton 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 Penticton Indian 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 \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Surveyor of Taxes

Schedule XII  
(Section 33(1), 33(2) and 34(1))

Penticton Indian Band

GARNISHEE NOTICE

TO: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
RE: \_\_\_\_\_  
      (Outstanding Tax debt)  
      \_\_\_\_\_  
      (Name of Tax Debtor)  
      \_\_\_\_\_  
      (Description of Property)

TAKE NOTICE THAT the above-noted Tax Debtor has failed to pay the outstanding tax debt due and owing the Penticton Indian Band. Pursuant to the Penticton Indian Band Property Taxation Bylaw, the Surveyor of Taxes may require the payment of monies which are payable to the Tax Debtor on Reserve to be paid to the Band, as such become due from time to time, until the outstanding tax debt is paid in full.

YOU ARE HEREBY REQUIRED TO pay to the Surveyor of Taxes at the Penticton Indian Band Taxation Administration Office, on account of the Tax Debtor's outstanding tax debt, the monies which are either immediately payable or, as and when they become payable, from you to the Tax Debtor.

AND FURTHER TAKE NOTICE THAT this requirement will not be withdrawn unless the Tax Debtor settles the outstanding tax debt by payment in full and notice of such settlement is provided to you by the Penticton Indian Band. This notice is applicable to all such payments to be made by you to the Tax Debtor until the outstanding tax debt is paid.

AND FURTHER TAKE NOTICE THAT the monies paid will be deposited into an interest bearing account and shall be paid out to the Band upon the expiration of 30 (thirty) days from the receipt of the monies, unless the Tax Debtor has served the Band with notice that court proceedings have been taken in respect of the garnishment. If court proceedings are taken, the Surveyor of Taxes shall not pay the money out to the Band until there has been a judgment of the Court.

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 \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Surveyor of Taxes

Schedule XIII  
(Section 35(2))

Penticton Indian Band

NOTICE OF FORFEITURE

TO: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_

RE: \_\_\_\_\_  
(Description of Property)  
\_\_\_\_\_  
(Interest in the Reserve)

TAKE NOTICE THAT taxes imposed by the Penticton 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 Penticton 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 \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Surveyor of Taxes

Schedule XIV  
(Section 41(7))

Penticton Indian Band

CERTIFICATION OF FORFEITURE

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

I, \_\_\_\_\_ Surveyor of Taxes for the Penticton 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 Penticton Indian Band pursuant to Section 35 of the Penticton Indian Band Property Taxation Bylaw.

DATED AT \_\_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Surveyor of Taxes

Schedule XV  
(Section 42)

Penticton 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 \_, 20\_ 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 \_\_, 20\_.

\_\_\_\_\_  
Surveyor of Taxes

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

1. A taxation roll may be prepared in microfiche, paper form or electronic form.
2. A taxation roll may 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,
  - c) the classification of:
    - (i) the land, and
    - (ii) the improvements,set out in the assessment roll for the taxation year,
  - d) the actual value by classification of:
    - (i) the land, and
    - (ii) the improvements,set out in the assessment roll for the taxation year,
  - e) the total assessed values for:
    - (i) general purposes, and
    - (ii) other than general purposes,set out in the assessment roll for the taxation year,
  - f) 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,
  - 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,
  - 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.



WHEREAS:

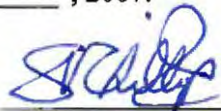
The Band Council of the Penticton Indian Band deems it advisable and in the best interests of the band to engage in, by bylaw, the taxation for local purposes of land, or interests in land, in the reserve, including rights to occupy, possess or use land in the reserve.

NOW BE IT HEREBY RESOLVED:

That the following bylaw, being the Property Taxation Bylaw, be and is hereby enacted for the purpose of engaging in 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 pursuant to the inherent right of self-government, and  
The property Taxation Bylaw as enacted herein shall supersede any property taxation bylaws previously enacted by the Band council and approved by the Minister of Indian Affairs to the extent necessary to give full force and effect to the Property Taxation Bylaw for the 2008 taxation year and all following years, and

That upon approval by the Minister of Indian Affairs, the Property Taxation Bylaw shall be of full force and effect.

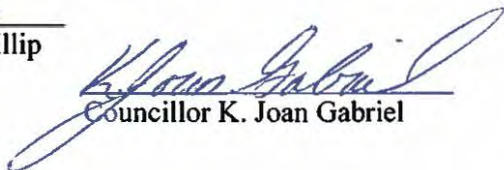
APPROVED AND PASSED at a duly convened meeting of the Band Council of the Penticton Indian Band held at the Penticton Indian Band Administration Office, Penticton, British Columbia, this 19th day of June, 2007.



Grand Chief Stewart Phillip



Councillor Chad Eneas



Councillor K. Joan Gabriel



Councillor Naomi Gabriel

Councillor Kristine Jack



Councillor Jonathan Kruger



Councillor Timmothy Lezard



Councillor Anna Tonasket



Councillor Mez Pierre