

Minister of Indian Affairs
and Northern Development



Ministre des Affaires
indiennes et du Nord canadien

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 bylaw
made by the Chemainus First Nation, in the Province of British Columbia, at
a meeting held on the 23rd day of August 2000.

- **Chemainus First Nation
Financial Administration Bylaw**

A handwritten signature in cursive script, appearing to read "Robert D. McNeil".

Dated at Ottawa, Ontario this 30th day of March 2001.

Canada

Chemainus First Nation Financial Administration Bylaw

A bylaw to regulate the receipt, management, and expenditure of Chemainus First Nation funds and establish the administrative structure of the Chemainus First Nation, which manages the funds.

Whereas the Indian Act, R.S.C. 1985, c. I-5, provides that Council may, subject to the approval of the Minister of Indian Affairs and Northern Development, make bylaws for the following purposes:

- the appropriation and expenditure of moneys of the Chemainus First Nation to defray the Chemainus First Nation expenses;
- the appointment of officials to conduct the business of the Council and prescribing their duties; and
- with respect to any matter arising out of or additional to the exercise of the aforementioned power;

Whereas the Chief and Council of the Chemainus First Nation has determined that it is desirable and necessary that a financial management bylaw be established for the better administration and accountability of the Chemainus First Nation's business;

The Chemainus First Nation at a duly convened meeting of the Council enacts the following bylaw:

1. Short Title

This bylaw shall be known as the Financial Administration Bylaw.

2. Definitions

"Act" means the Indian Act R.S.C. 1985, c.I-5 as amended from time to time.

"Agencies" means any board, committee of the Chemainus First Nation or any corporate body controlled by Chemainus First Nation including a society, non-profit corporation or business corporation.

"Band" means the Chemainus First Nation as a whole.

"Band Administrator" means the employee or contractor appointed as Administrator of the Band on terms set out and approved by Band Council resolution.

"Band Council" or "Council" means the Chief and Council of the Chemainus First Nation duly elected by means of the custom of the Band as approved by the Minister of Indian and Northern Affairs Canada.

"Band Council Resolution" means a motion of Council that has been approved by a majority of a quorum of the Council members at a duly convened meeting and is recorded in the minutes of that meeting and may include a written instrument containing the wording of such motion signed by a quorum of Band Council at such meeting.

"Band Council Meeting" means a duly convened meeting of a quorum of Band council in accordance with the practice of the Band or pursuant to procedures adopted by Band Council Resolution.

"Band Member" means any person who is registered by the Department of Indian and Northern Affairs as a member of Chemainus First Nation in accordance with the band's membership policies.

"Finance Committee" means a committee appointed by Band Council resolution to plan Band financial programs and budget procedures not inconsistent with procedures outlined in this bylaw. It will also review expenditures in accordance with this bylaw.

"Capital Projects" or "Capital" means the purchase, construction or major renovation of physical assets of the Band. This includes roads, bridges, utilities, water supply and septic systems, ditches and water

spillways, buildings, waste control facilities, land purchase, landscaping and fencing. This does not include purchase, construction or renovation of large physical assets of Band business enterprises. These assets may also be called Band Capital Assets.

"Chemainus First Nation Funds" means all monies belonging to the Chemainus First Nation and includes:

- a) all revenues of Chemainus First Nation;
- b) money borrowed by the Chemainus First Nation;
- c) money received or collected on behalf of the Chemainus First Nation; and
- d) all monies that are received or collected by the Chemainus First Nation pursuant to any agreement or funding arrangement and is to be disbursed for a purpose specified by Council or pursuant to that agreement or funding arrangement.

"Chief" means the Chief of the Chemainus First Nation elected by the means and customs of the Band as approved by the Minister of Indian and Northern Affairs Canada.

"Councillor" means a Councillor of the Chemainus First Nation elected by the means of the custom of the Band as approved by the Minister of Indian and Northern Affairs Canada.

"Financial Manager" means a person employed by the Band Council to review and control Band expenditures. The Financial Manager is a member of the Finance Committee.

"Financial Benefit" or "Personal Gain" means financial, material or any other direct or indirect financial benefit received, or to be received, by an individual beyond the benefits normally provided to the Band or Band Members as a whole.

"Immediate Family" means a common-law or legally married spouse, natural, or adopted children, parent or grandparent, spouse's parent

or grandparent, spouse's parent or grandparent, sister, brother, half-sister, half-brother or grandchild. It also includes anyone who has lived with a member of Council within three months of assuming his present term of office or during his/her term.

"Minutes" means the duly certified written record of proceedings at all Band Council meetings.

"Reserve" means Reserve #11, 12 and 13 and any other lands held by the Band.

3. COUNCIL OVERALL RESPONSIBILITIES

3.1 Council shall conduct Band business in a manner that ensures sound financial management by carrying out the following duties and responsibilities:

- a) Planning and budgeting for monies and other resources for local services and capital projects;
- b) Overseeing the work of the Band employees through the Band Administrator, and ensuring the Band employees conduct financial matters in accordance with procedures set out in this bylaw;
- c) Ensuring there is full financial accountability to Band Members at all times and to funding agencies as required under any agreement with those agencies.
- d) Ensuring that Band employees responsible for maintaining financial records and management of Band programs are qualified for the position to which they are appointed, that that they receive adequate training in respect to their duties and become qualified within a reasonable period of time;
- e) Ensuring that records including software, that are kept in the Band Administration Office, as required under this bylaw, are kept in a secure safe condition, and are not removed from the Band Administration Office without authority of Band Council;

- f) Setting policies and procedures of the Band to safeguard the resources of the Band and maximize the well-being of the Band Members;
- g) Ensuring that all investments in financial instruments are made in accordance with Treasury Board Guidelines;
- h) Ensuring that the sale of any Band assets is at fair market value.

3.2 Every member of Band Council, in exercising his/her powers and performing his/her function shall:

- a) Act honestly and in good faith and in the best interests of the Band;
- b) Exercise the care, diligence and skill of a reasonably careful person;
- c) Ensuring the Band's annual budget is presented in a written report to the Band Membership in the first quarter of the new fiscal year.

3.3 The Band council shall ensure that in any given fiscal year, the Band's operational budget does not have expenditures exceeding revenues.

4.0 DISCLOSURE OF CONFLICT OF INTEREST

4.1 If a decision is to be made by Band which may result in a member of Band Council, or his immediate family receiving any financial benefit, such member shall make a full and complete disclosure to Band Council of his financial interest at a meeting of Band Council.

4.2 It shall be the duty of the Chief and each Councillor to disclose to Band Council any real or perceived financial interest of any other Councillor.

4.3 A person may avoid conflict of interest by disclosing his or her interest prior to making of a decision and by not participating in the decision.

4.4. This conflict of interest disclosure required by subsections 4.1 and 4.2 shall be made:

- a) at the meeting at which the decision is first considered;
- b) if the Chief or Councillor or his immediate family was not aware, at the time of the meeting referred to in the subsection a), going to receive financial benefit from the decision, then at the first meeting after he/she becomes aware of the financial interest;
- c) at the first meeting after the Chief or Councillor becomes aware of the financial interest; or
- d) in writing to Band Council.

4.4. Immediately upon the disclosure set out in this bylaw, the Chief or Councillor having a financial interest shall withdraw from the meeting or Council and shall not participate in any discussions or vote concerning the matter.

4.5. The minutes of the Band Council meeting shall record the details of the disclosure made pursuant to this section, including the point of departure and re-entrance of the Chief and/or councillor to the meeting, pursuant to subsection 4.4.

4.6. Every Chief and/or Councillor shall account to the Band for any financial interest made as a result of the decision of Band Council, unless:

- a) the Chief and/or Councillor has disclosed his financial interest as required by this section, and has followed the procedures set out in subsection 4.3 and 4.4; and
- b) the Chief and/or councillor has abstained from voting on the decision.

4.7 No vote shall be taken on a matter in which a Chief and/or Councillor or Councillors have disclosed a financial interest and have withdrawn from the meeting unless the number of the remaining Councillors present constitutes a quorum.

4.8 If a person violates the disclosure provision, Council will shall suspend official from all privileges and benefits of office for a period up to three (3) weeks.

5.0 BAND ADMINISTRATOR'S RESPONSIBILITIES

The Band Administrator, or his designate, under the direct supervision of Council shall be responsible for the following duties set out in this bylaw;

5.1 Recording of Council minutes, resolutions, decisions and other proceedings of Council and maintaining these records in an orderly and chronological fashion.

5.2 Keeping books, records and accounts of Council, and Band, in accordance with principles and procedures set out in this bylaw;

5.3 Maintaining an orderly filing system in which is kept all minutes of the Band Council meetings, and bylaws, and copies of all vouchers, financial statements, canceled cheques and correspondence relating to the financial business of the Band;

5.4 Receiving, recording and depositing all monies received by the Band and paying out these monies in accordance with principles and procedures set out in this bylaw;

5.5 Preparing and presenting to Council a departmental financial management report on a quarterly basis. This report shall include:

- a) Yearly budget of revenues and expenditures;
- b) Cumulative summary of year-to-date revenues and expenditures;
- c) Balance of remaining budget of expenditures and revenues to year end;
- d) Bank balances of all Band bank accounts.

6. ACCOUNTING DEPARTMENT

6.1 The Accounting Department shall maintain an adequate bookkeeping system on a daily basis to record all financial transactions of the Band. This system shall include:

- a) A daily journal for receipts and disbursements;
- b) Accounts receivable journal;
- c) Accounts payables journal;
- d) Payroll records; and
- e) General Ledger.

6.2 The Accounting Department shall prepare a monthly bank reconciliation upon receipt of the bank statement and canceled cheques.

7.0 DEPOSITS, BANKING AND RECIEPTS

7.1 The Band Council, by means of a Band Council Resolution, shall establish all bank accounts in the Band's name in an approved chartered bank, trust company or credit union.

7.2 The Band Council, by Band Council Resolution, shall establish one bank account only for the purposes of day to day financial operations.

8.0 EXPENDITURES

8.1 Expenditures from Band funds may be made by Band Council, if and only if, the necessary funds to pay for such expenditures are budgeted for or have been authorized by Band Council Resolution.

9.0 PAYMENTS AND PROCEDURES

9.1 All payments are to be issued only in accordance with financial polices and procedures. These are to be issued only in accordance

with expenditure procedures as established by this bylaw or by a Band Council Resolution consistent with this bylaw. All expenditures must be accounted for in the month-end and year-end financial statements.

9.2 Band Council shall by Band Council Resolution, authorize four people as signing authorities, two Councillors and the Band Administrator and Financial Manager. One of the Councillors and either the Band Administrator or Financial Manager shall sign all cheques issued in the name of the Band or drawn on the Band's accounts.

9.3 The Band Council resolution made pursuant to section 9.2 shall be deposited at the bank of the Band and shall continue to be in

force and effect until replaced by a Band Council resolution made pursuant to this bylaw.

10. FINANCE COMMITTEE

10.1 Finance Committee shall consist of two or more members* of Band Council, the Band Administrator, the Financial Manager and one other person appointed (if desired by Council) by Band Council Resolution.

* At least one of these members should not have signing authority

The Committee shall:

- a) Plan and place financial commitments in order of priority for the ensuing financial year. It shall, in this process, review any long term financial planning programs for both local services and capital programs that have previously been approved by Band Council resolution and set priorities in respect to this plan and/or alternatives suggested by Band council.

- b) Meet as required with Band Council and other Band committees and Band employees to prepare a provisional budget which is to be submitted to Band Council by March 15 of each year.
- c) Keep minutes of Budget Committee meetings and keep them at the Band Administration Office and make them available to Band Council upon request.
- d) Review matters with the Auditor including management letters, internal contracts, and financial statements approved by the Band Council, and
- e) Attend, at the request of Council, to examine or audit various accounts. The terms of reference for this examination or audit function shall be established by Band Council Resolution.

11. INVENTORIES

The Band Council shall maintain an updated inventory for all equipment, buildings, vehicles and other real assets.

12. PROCEDURES FOR LOANS, BORROWING POWERS AND DEBTS

For the purposes of conducting the Band's business, Council may on behalf of the Band, borrow monies from a Chartered Bank, Trust Company, Credit Union or any other accredited lending source under the following conditions:

- a) by Band Council Resolution, Council may obtain credit not exceeding \$1,000,000 to maintain local services and/or capital programs. Prior to obtaining this credit, a repayment plan recommended by the Finance Committee shall be in place;
- b) Any loans over \$1,000,000 made by the Band must have the approval of the Band Membership at a duly convened Band

meeting. Approval shall be obtained by the Band Council in the following manner;

- i) Notice to authorize the loan shall be given by Council to all households on the Reserve and Band members who live off the Reserve, that the Band Council wishes to engage in a loan and details of the loan and repayment shall be made part of the notice. A similar notice shall be posted at the Band Administration Office and at one conspicuous place on the Reserve ten (10) days prior to the meetings;
- ii) The notice shall state a time, date and location of a meeting of the Band Membership to authorize the loan;
- iii) Band Council must inform the membership at the meeting of the amount of the loan, its purpose, the cost of the interest and how it will be repaid; and
- iv) The Band Council must hold a vote of members present at the meeting, before proceeding to contract the loan. Fifty-one percent (51%) of the persons present must indicate, by a show of hands, or secret ballot, approval to contract the loan.

13. AUDIT

The Band Council shall have all Band finances audited annually by an independent auditor who is designated as a Chartered Accountant or Certified General Accountant and is a member in good standing with the registered accounting association, which regulates their designation.

14. FISCAL YEAR

The fiscal year begins on April 1 and ends March 31 of the following year.

15. PENALTIES

Any person interfering with the provisions of this bylaw or not complying with the provisions of this bylaw will be prosecuted under other applicable law not specifically set out under this bylaw.

16. AMENDMENTS AND REPEAL

Portions of this bylaw may be added to or amended from time to time by Band Council resolution provided that the portion to be amended is repealed and the new wording is added to this bylaw.

The amendment shall be forwarded to the Minister of Indian Affairs in the usual manner of bylaw approval as set out in section 83 of the Act. Notice of any additions and amendments must be posted for 30 days at the Band Administration Office.

This bylaw is hereby enacted by the Chemainus First Nation Band Council at a duly convened meeting held on the 23rd day of August 2000.

Chief *C. J. Seymour*
 Councillor *Robert Daniels*
 Councillor *Diane Harris*
 Councillor *Robert Harris*
 Councillor *Kenneth French*
 Councillor _____
 Councillor _____