



**MUSQUEAM INDIAN BAND
UTILITY SERVICE FEE LAW, 2024**

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WHEREAS:

- A. Pursuant to paragraph 5(1)(a.1) of the First Nations Fiscal Management Act, the council of a first nation may make laws respecting the charging of fees for the provision of services or the use of facilities on reserve lands, or for a regulatory process, permit, license or other authorization, in relation to water, sewers, waste management, animal control, recreation and transportation, as well as any other similar services;
- B. The First Nation provides a utilities service to residents of the reserve, and has determined that certain costs related to the provision of this service are to be recovered by fees charged to users of the service;
- C. The fees established in this Law reflect the projected cost of providing a portion of the service to be funded by the fees and are supported by a report setting out the projected cost of the service, how the cost of the service was determined, and the proportion of the total cost that the First Nation will recover through the fees set out in this Law; and
- D. The Council of the Musqueam Indian Band has given notice of this Law and has considered representations received by the Council, in accordance with the requirements of the *First Nations Fiscal Management Act*;

NOW THEREFORE the Council of the Musqueam Indian Band duly enacts as follows:

PART I: CITATION

Citation

- 1.(1) This Law may be cited as the Musqueam Indian Band *Utility Fee Law, 2024*.

PART II: DEFINITIONS AND REFERENCES

Definitions and References

- 2.(1) In this Law:

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

“**billing period**” means annual for fixed billings and quarterly for volume based billings;

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

“**fee**” means a fee charged under this Law;

“**First Nation**” means the Musqueam Indian Band, being a band named in the schedule to the Act;

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

- (a) in possession of the interest;
- (b) entitled through a lease, license or other legal means to the interest;

- (c) in actual occupation of the interest; or
- (d) who is a trustee of the interest;

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

“**reserve**” means a reserve of the First Nation within the meaning of the *Indian Act*;

“**service**” means the Utility service provided to or made available to residents of the reserve;

“**Surveyor of Taxes**” means the person appointed by Council to that position under the Taxation Law;

“**Taxation Law**” means the *Musqueam Indian Band Property Taxation Law, 2024*; and

“**year**” means a calendar year.

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

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

PART III: ADMINISTRATION

Application of Law

3.(1) This Law applies to the entire reserve.

Surveyor of Taxes

4.(1) The Surveyor of Taxes must fulfill the responsibilities given to the Surveyor of Taxes under this Law.

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

(3) The Surveyor of Taxes may, with the consent of Council, assign the performance of any duties of the Surveyor of Taxes under this Law to any officer, employee, contractor or agent of the First Nation.

Records and Reporting

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

- (a) the amount of all fees levied;
- (b) the amount of all fees collected;

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

- (2) On or before July 1 in each year, the Surveyor of Taxes must report to Council on the administration of this Law in the previous fiscal year, which report must include each of the items referenced in subsection (1).

Provision of a Report

- 6.(1) The Surveyor of Taxes must make available to any person, either on the First Nation's website or at the First Nation's administration offices, a report respecting how the fees levied under this Law were determined.
- (2) The report referenced in subsection (1) must include the projected cost of the service, how the cost of the service was determined, and the proportion of the total cost of the service that is to be recovered through the fee.

Revenues and Expenditures

- 7.(1) All revenue collected by the First Nation from the fees levied under this Law, and interest earned on those revenues, must be used only for the provision of the service.
- (2) The Surveyor of Taxes must account separately for the fee revenues collected under this Law.
- (3) An expenditure of revenue raised under this Law must be made under the authority of an expenditure law made under paragraph 5(1)(b) of the Act, or in accordance with section 13.1 of the Act.

Information and Access

- 8.(1) The Surveyor of Taxes may deliver a request for information to any person, including a current or former holder of an interest in reserve lands receiving the service, and that person must provide to the Surveyor of Taxes, within fourteen (14) days or a longer period as specified in the notice, information, including the production of records, for any purpose related to the administration or enforcement of this Law.
- (2) A person authorized by the First Nation may at all reasonable times enter onto lands to which the service is provided for any purposes related to the administration or enforcement of this Law.

PART IV: FEE LEVIES

Connection, Disconnection and Reconnection Fees

- 9.(1) The holder of an interest in reserve lands to be connected to the service must pay in full, at the time of an application to connect to the service, the applicable connection fees set

out by either the City of Vancouver or Delta dependent upon the location of the reserve lands.

- (2) The holder of an interest in reserve lands must pay in full the applicable fee at the time a request is made to disconnect or reconnect to the service.

User Fees

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

- (2) The Surveyor of Taxes must determine the applicable fees set out in Schedule I for each interest in reserve lands for a billing period.

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

- (4) (1) Exemptions for the fees as set out in this section are as follows:

- (a) subject to subsections (2), (3) and (4) an interest held or occupied by Musqueam, a Member or a Musqueam Entity;
- (b) an interest occupied as a residence by one (1) or more members and related individuals and by no other persons, within the area described in schedule III and in no other area.

(2) Where an interest in reserve lands is held by Musqueam, a Musqueam Entity or a Member, as the case may be, and is wholly occupied by a person who is not Musqueam, a Musqueam Entity or a Member:

- (a) the exemption in paragraph (1)(a) does not apply to the person who is not Musqueam, a Musqueam Entity or a Member;
- (b) that person is responsible for the taxes levied in respect of the interest; and
- (c) the taxes are a liability only on that person.

(3) Where an interest in reserve lands is occupied by Musqueam, a Musqueam Entity or a Member and is also occupied by a person who is not Musqueam, a Musqueam Entity or a Member:

- (a) the exemption in paragraph (1)(a) does not apply to that person;
- (b) taxes under this Law must be levied in respect of that person's proportionate occupation of the interest; and
- (c) the taxes are a liability only on that person.

(4) The exemption in paragraph (1)(a) does not apply to any interest held by a for-profit enterprise of Musqueam, a Musqueam Entity, or a Member.

- (5) In consideration of the exemptions set out in (4) the First Nation will fund from general revenues that portion of the services provided to members of the First Nation.

PART V: INVOICING AND PAYMENT

Invoicing and Payment of Variable and Fixed Utility Fees

- 11.1.(1) The Surveyor of Taxes must invoice the fees levied under section 10 on each holder of an interest in reserve lands receiving a metered service.
- (2) The Surveyor of Taxes must mail the invoices for each billing period on or about the 30th day of the month following the end of each billing period.
- (3) The Surveyor of Taxes must mail each invoice to the holder at the address of the interest receiving the service, or to such other address provided to the First Nation by the holder in writing from time to time.
- (4) Fees are due and payable in full on receipt of the invoice, and not later than forty-five (45) days after the date of the invoice or such later date specified in the invoice.
- 11.2.(1) The Surveyor of Taxes must include any fixed fee levied under section 10 in the tax notice for the interest in reserve lands given under the Taxation Law.
- (2) Where the fee is included in a tax notice, the Surveyor of Taxes must:
- (a) note on the tax roll that the fee is included in the tax notice for that interest; and
- (b) show the fee separately from the taxes on the tax notice and indicate that the fee is levied for the service.
- (3) Where the fee is included in a tax notice:
- (a) the mailing of the tax notice constitutes a statement of and demand for payment of the fee; and
- (b) the fee is due and payable on the same date as the property taxes for the interest, unless a different due date is set out in the tax notice.

Payment of Fees

- 12.(1) All fees must be paid at the office of the First Nation during normal business hours by cheque, money order or cash.
- (2) Payment of fees made by cheque or money order must be made payable to the Musqueam Indian Band.
- (3) The Surveyor of Taxes must apply payments of fees first against any unpaid fees from previous billing periods, including interest and penalties, and then to current amounts due.

Adjustments to Fees

- 13.(1) The Surveyor of Taxes must adjust a fee imposed under this Law as follows:
- (a) where the service is disconnected or turned off partway through a billing period, the invoice will include the time period to the end of the last month in which the service was provided;
 - (b) where the service is connected partway through a billing period, the invoice will include the time period beginning on the first day of the month in which the connection was made;
 - (c) where two (2) or more interests in reserve lands receiving the service are consolidated during a billing period, the consolidated interest will receive a single invoice effective on the invoice for the subsequent billing period;
 - (d) where an interest receiving the service is subdivided during a billing period, each new interest will be invoiced separately effective on the invoice for the subsequent billing period; or
 - (e) where the type of utility is adjusted by the interest receiving the service.
- (2) For clarity:
- (a) there will be no adjustments to fees where the service is temporarily shut off for maintenance, emergencies or for any other reason; and
 - (b) fees that are invoiced before an interest is subdivided or consolidated will not be adjusted.

Refund of Fees

- 14.(1) Where a person has:
- (a) paid a fee in circumstances where a fee was not payable, or
 - (b) made an overpayment of a fee;
- the Surveyor of Taxes must refund to that person the fee, or any excess fee paid by that person, as applicable, including interest calculated in accordance with subsection (2).
- (2) The Surveyor of Taxes must calculate interest payable on a refund given under subsection (1) as follows:
- (a) interest accrues from the date that the fee was originally paid to the First Nation;
 - (b) the interest rate during each successive three (3) month period beginning on January 1, April 1, July 1 and October 1 in every year is two percent (2%) below the prime lending rate of the principal banker to the First Nation on the 15th day of the month immediately preceding that three (3) month period;
 - (c) interest will not be compounded; and
 - (d) interest stops running on the earliest of the day payment of the money owed is mailed, delivered or actually received by the person to whom it is owed.
- (3) A change in the level of service required by the interest holder that reduces the level of fees will not qualify for interest payable under section (2).

PART VI: PENALTIES, INTEREST AND ENFORCEMENT

Penalties and Interest

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

Enforcement

- 16.(1) Fees charged under this Law, together with any applicable interest and penalties, are a debt owed to the First Nation that is recoverable by the First Nation in any court of competent jurisdiction, in a proceeding before the civil resolution tribunal, or in any manner permitted by law and, unless otherwise provided, the use of one method does not prevent seeking recovery by one or more other methods.
- (2) A copy of an invoice showing the fees payable by a person, certified as a true copy by the Surveyor of Taxes, is evidence of that person's debt for the fees.
- (3) Fees overdue and remaining unpaid on December 31 in each year may be collected in the same manner and with the same enforcement remedies as taxes levied under the Taxation Law, and the Surveyor of Taxes may enter the unpaid amounts on the tax roll for that interest in reserve lands under the Taxation Law as unpaid taxes.

PART VII: COMPLAINTS

Complaints to Surveyor of Taxes

- 17.(1) A holder of an interest in reserve lands may, within fourteen (14) days of receipt of an invoice under this Law, make a complaint respecting a fee on the basis that the holder has paid a fee when a fee was not payable, or has made an overpayment of a fee.
- (2) A complaint must
- (a) be made in the form set out in Schedule II;
 - (b) be delivered to the Surveyor of Taxes; and
 - (c) include any reasons in support of the complaint.
- (3) Within fourteen (14) days after receipt of a complaint, the Surveyor of Taxes must review the matter and attempt to resolve the complaint directly with the holder.
- (4) If the Surveyor of Taxes determines that the holder has paid a fee when a fee was not payable, or has made an overpayment of a fee, as the case may be, the Surveyor of Taxes must advise the holder of the determination and mail an amended invoice to the holder.

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

PART VIII: GENERAL PROVISIONS

Disclosure of Information

- 18.(1) The Surveyor of Taxes or any other person who has custody or control of information or records obtained or created under this Law must not disclose the information or records except:
- (a) in the course of administering this Law or performing functions under it;
 - (b) in proceedings before a tribunal having jurisdiction including the civil resolution tribunal, or a court of law; or
 - (c) in accordance with subsection (2).
- (2) The Surveyor of Taxes may disclose to the agent of a holder confidential information relating to the holder's interest in reserve lands or fees owing in respect of the service, if the disclosure has been authorized in writing by the holder.
- (3) An agent must not use information disclosed under subsection (2) except for the purposes authorized by the holder in writing referred to in that subsection.

Disclosure for Research Purposes

- 19.(1) Notwithstanding section 18:
- (a) the Surveyor of Taxes may disclose information and records to a third party for research purposes, including statistical research, provided the information and records do not contain information in an individually identifiable form or business information in an identifiable form; and
 - (b) Council may disclose information and records to a third party for research purposes, including statistical research, in an identifiable form where:
 - (i) the research cannot reasonably be accomplished unless the information is provided in an identifiable form, and
 - (ii) the third party has signed an agreement with Council to comply with Council's requirements respecting the use, confidentiality and security of the information.

Validity

- 20.(1) Nothing under this Law must be rendered void or invalid, nor must the liability of any person to pay a fee under this Law be affected by:
- (a) an error or omission in a determination made by the Surveyor of Taxes;
 - (b) an error or omission in any invoice or notice given under this Law; or
 - (c) a failure of the First Nation or the Surveyor of Taxes to do something within the required time.

Limitation on Proceedings

- 21.(1) No person may commence an action or proceeding for the return of money paid to the First Nation, whether under protest or otherwise, on account of a demand, whether valid or invalid, for fees paid under this Law, after the expiration of six (6) months from the date the cause of action first arose.
- (2) If a person fails to start an action or proceeding within the time limit prescribed in this section, then money paid to the First Nation must be deemed to have been voluntarily paid.

Notices

- 22.(1) Where in this Law an invoice or notice is required to be given by mail or where the method of giving a notice is not otherwise specified, it must be given:
 - (a) by mail to the recipient's ordinary mailing address, or the address for the recipient shown on the tax roll made under the Taxation Law if applicable;
 - (b) where the recipient's address is unknown, by posting a copy of the notice in a conspicuous place on the interest in reserve lands to which the service is provided; or
 - (c) by personal delivery or courier to the recipient or to the recipient's ordinary mailing address or the address for the recipient shown on the tax roll made under the Taxation Law if applicable.
- (2) Except where otherwise provided in this Law, a notice or invoice:
 - (a) given by mail is deemed received on the fifth day after it is posted;
 - (b) posted on the interest in reserve lands is deemed received on the second day after it is posted; and
 - (c) given by personal delivery is deemed received upon delivery.

Interpretation

- 23.(1) The provisions of this Law are severable, and where any provision of this Law is for any reason held to be invalid by a decision of a court of competent jurisdiction, the invalid portion must be severed from the remainder of this Law and the decision that it is invalid must not affect the validity of the remaining portions of this Law.
- (2) Where a provision in this Law is expressed in the present tense, the provision applies to the circumstances as they arise.
- (3) Words in this Law that are in the singular include the plural, and words in the plural include the singular.
- (4) This Law must be construed as being remedial and must be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objectives.

- (5) Reference in this Law to an enactment is a reference to the enactment as it exists from time to time and includes any regulations made under the enactment.
- (6) Headings form no part of this Law and must be construed as being inserted for convenience of reference only.

DRAFT

Coming into Force

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

THIS LAW IS HEREBY DULY ENACTED by Council on the ____ day of _____, 20____, at _____, in the Province of British Columbia.

A quorum of Council consists of _____ (____) members of Council.

Chief Wayne Sparrow

Councillor Rosalind Campbell

Councillor Nolan Charles

Councillor Allyson Fraser

Councillor Gordon Grant

Councillor Howard Grant

Councillor Tammy Harkey

Councillor Jordan Point

Councillor Michele Point

Councillor Richard Sparrow

Councillor Brett Sparrow

SCHEDULE I: FEES FOR SERVICES

The fees established in the following bylaws are established as fees under this Law:

1. For the service of water, the fees established from time to time under:
 - (a) The City of Vancouver Waterworks Bylaw number 4848, for service provided to interests in reserve lands on Musqueam IR2; and
 - (b) The City of Delta Water Service Bylaw number 7441, for service provided to interests in reserve lands on Musqueam IR4.
2. For the service of sewer, the fees established from time to time under:
 - (a) the City of Vancouver Sewer and Watercourse Bylaw number 8093, for service provided to interests in reserve lands on Musqueam IR2; and
 - (b) The City of Delta Sewer Rates Bylaw number 5782, for service provided to interests in reserve lands on Musqueam IR4.
3. For the service of garbage and recycling collection and street cleaning, the fees established from time to time under:
 - (a) the City of Vancouver Solid Waste Bylaw number 8417, for service provided to interests in reserve lands on Musqueam IR2; and
 - (b) The City of Delta Garbage Collection and Regulation Bylaw number 4723, for service provided to interests in reserve lands on Musqueam IR4.
4. Where a fee referenced under this Law changes, that change will come into effect at the same time, and in the same manner, as the fee comes into effect under the applicable City bylaw.

SCHEDULE II: COMPLAINT TO SURVEYOR OF TAXES RESPECTING SERVICE FEE

TO: Surveyor of Taxes for the _____ First Nation
[address]

PURSUANT to the provisions of the _____ *First Nation* _____ *Service Fee Law, 20__* , I
hereby make a complaint respecting the fee as follows:

This complaint is based on the following reasons:

- (1)
- (2)

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

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

Name of Complainant (please print)

Signature of Complainant
(or representative)

Dated: _____ , 20__ .

SCHEDULE III UTILITY SERVICE FEE LAW SCH 10 EXEMPTION AREA

Schedule III Utility Service Fee Law s10.(4)(1)(b) Exemption Area

