

# Legal Code of the Penticton Indian Band

**Expenditure Bylaw, 2007**

**June 19, 2007**

**WHEREAS:**

The Penticton Indian Band Taxation Expenditure By-law, 2007-03 was passed by the Chief and Council of the Penticton Indian Band in the best interest of the members of the Penticton Indian Band as a by-law in accordance with section 83(2) of the *Indian Act* for the purpose of the expenditure of monies collected by the Penticton Indian Band pursuant to enabling by-laws made in accordance with section 83(1) of the *Indian Act*; and

**NOW BE IT HEREBY RESOLVED THAT**

The Penticton Indian Band Taxation By-law, No. 2007-03 is hereby enacted pursuant to section 83(2) of the *Indian Act* for the purposes of the expenditure of monies collected by the Penticton Indian Band pursuant to enabling by-laws of the Penticton Indian Band made in accordance with section 83(1) of the *Indian Act*.

**1. SHORT TITLE**

The *Penticton Indian Band Taxation Expenditure By-law, No. 2007-03* may be cited in short form as the “*Expenditure By-law*”.

**2. DEFINITIONS**

In this Expenditure By-law,

“**Annual Budget**” means the budget for a Fiscal Year projecting all revenues and expenditures anticipated to be required for the provision of Local Services on-reserve during that Fiscal Year, as approved by the Band Council;

“**Band**” means the Penticton Indian Band and any successor thereto,

“**Band Council**” means the Chief and Council of the Band as elected by the eligible members of the Band pursuant to the Indian Act and any successor thereto.

“**Band Council Resolution**” means a motion passed and approved by a majority of the councilors of the band.

“**Community Services**” includes, without limitation, designing, constructing, reconstructing, creating, replacing, enlarging, extending, removing, moving, repairing, maintaining and operating buildings, works and facilities (other than public works), located within the reserve and owned, operated, controlled, managed, administered, provided or financially supported, wholly or in part, by the band or council on behalf of the band and used for community services or general government services, including, without limiting the generality of the foregoing, band administration offices, band public works yards, cemeteries, cultural centres, daycare centres, group homes, libraries, archives, museums, art galleries, recreation centres, parks and playgrounds, together with reserve lands appurtenant thereto;

**“Fiscal Year”** means January 1 of a calendar year through December 31 of the same calendar year;

**“Fiscal Services”** include contribution to reserve funds, homeowner grants, debt charges, capital funds and conditional transfers to other governments;

**“General Government Services”** includes, without imitations, government and administrative programs, services and operations of the band or council on behalf of the band including, without limiting the generality of the foregoing, and operations of council and the development, preparation, enforcement and administration of council or band policies, by-laws and programs and the administration and operation of departments of the band; also including tax appeals, tax administration, legislative, computers and general administration;

**“Indian Act”** means the Indian Act, R.S.C. 1985, c. I-5, and any amendments thereto and regulations authorized thereunder.

**“Local Services”** includes Local Improvements, utility services, capital works and the provision of any other services required on-reserve.

**“Local Improvements”** includes the following works and any combination of them:

- (a) opening, widening, straightening, extending, grading, leveling, diverting or paving a road;
- (b) Constructing a sidewalk, 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) public works services as they apply to the Reserve;
- (g) reconstructing, replacing or repairing of the above.

**“Minister”** means the Minister of Indian Affairs and Northern Development and any of the Minister’s duly authorized delegates.

**“Property Tax Revenue”** includes all taxes and other moneys raised under the Property Assessment and Taxation By-Laws, including, without limiting the generality of the foregoing, all interest earned thereon and other accumulations there from time to time;

**“Provisional Budget”** means an interim or preliminary budget projecting revenues and expenditures anticipated to be required for the provision of Local Services on Reserve during all or part of that Fiscal Year but not an Annual Budget;

**“Protective Services”** include 911, administration, fire protection, police protection, inspections, emergency measures and animal / pest control;

**“Reserve”** means those lands:

- (a) the legal title to which is vested in Her Majesty, that have been set apart by Her Majesty for the use and benefit of the band, whether they de designated lands or conditionally surrendered lands or otherwise, and
- (b) that are within the boundaries of the Penticton Indian Band No. 1; No. 2; No. 3A and any additions to Reserve subsequent to the enactment of this *Expenditure By-law*;

**“Stabilization Fund”** means a fund designed to hold any surplus monies remaining in the Taxation Fund at the end of the Fiscal year specified in the *Expenditure By-law* Annual Budget Schedule;

**“Surveyor of Taxes”** means the Surveyor of Taxes appointed in accordance with the *Penticton Indian Band Taxation By-law* in force and effect from time to time;

**“Taxation Fund”** is defined in and established pursuant to the *Penticton Indian Band Taxation By-law* in force and effect from time to time;

**“Transportation Services”** include parking, streetlights, public transit, traffic signals, roads and streets, road signs, transportation planning and engineering.

**“Utility Services”** includes water, storm sewer, sanitary sewer, garbage collection, garbage disposal, solid waste disposal, sewage treatment and water treatment programs, services and operations.

### **3. Budgets**

3.1 ON or before February 1 of each Fiscal Year, the Band Council will by Band Council Resolution direct the preparation of the Provisional Budget by the Band’s employee(s) or agent(s).

3.2 On or before March 30 of each Fiscal Year, the Band Council will prepare the Annual Budget by Band Council Resolution and add the Annual Budget as a schedule to this *Expenditure By-law*.

### **4. AUTHORIZED EXPENDITURES**

4.1 All expenditures, including all costs of administrations, collections, realization of security, complaints, legal and consultant services, education, training and honoraria from the Taxation Fund will be made in accordance with the Annual Budget and the *Penticton Indian Band Taxation By-law* and when made are authorized expenditures from the Taxation Fund provided section 3.2 above has be complied with.

4.2 All funds received pursuant to the *Penticton Indian Band Taxation By-law* will be deposited in the Taxation Fund.

4.3 All monies deposited in the Taxation Fund and any interest earned thereon will be expended in accordance with the *Expenditure By-law* Annual Budget solely for local purposes including the provision of Local Services on Reserve, capital projects and all costs associated with the administration and enforcement of the *Penticton Indian Band Property Assessment and Taxation By-laws* in accordance with subsection 4.1.

4.4 All surplus monies remaining in the Taxation Fund at the end of the Fiscal Year specified in the *Expenditure By-law* Annual Budget Schedule may be transferred into the Stabilization Fund and may be applied towards the operation and administration costs for the next Fiscal Year, overruns on existing capital projects or for any other contingencies.

## **5. EXTENSION OF TIME**

5.1 Provided that there has been substantial compliance with the provisions of this By-law, a procedural irregularity or a technical failure to carry out a provision of this *Expenditure By-law* or an insubstantial failure to comply with a requirement of this *Expenditure By-law* by the Band Council, the Surveyor of Taxes or any other person appointed to carry out the administration or enforcement of this By-law does not in itself constitute a failure to comply with this *Expenditure By-law* by such person.

5.2 The Chief and Council may by Band Council Resolution extend the time by 60 days and anything done by or within such extended time is as valid as if it had been done by or within the time otherwise provided for in this *Expenditure By-law*.

## **6. BY-LAW REMEDIAL**

6.1 This *Expenditure By-law* is to be construed as being remedial and is to be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objects.

## **7. TENSE**

7.1 Where a provision or Schedule of this *Expenditure By-law* is expressed in the present tense or future tense, the provision applies to the circumstances as they may from time to time arise without reference to the present, future or past tenses.

## **8. HEAD NOTES**

8.1 Head notes, marginal notes and headings form no part of this by-law and are to be construed as being inserted for convenience of reference only.

## **9. SEVERANCE OF SECTIONS**

9.1 A finding by a court of competent jurisdiction that a section or provision of this *Expenditure By-law* is void does not affect or bear upon the validity of any other section or provision of this *Expenditure By-law* or this *Expenditure By-law* as a whole, same remaining in full force and effect, subject to section 11.1 below, notwithstanding the severance of such section or provision.

**10. USE OF FORMS AND WORDS**

10.1 In this *Expenditure By-law*,

(i) 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 this *Expenditure By-law*;

(ii) words in the singular include the plural, and words in the plural include the singular; and

(iii) where a word or expression is defined, other parts of speech and grammatical forms of the same word or expression have corresponding meanings.

**11. AMENDMENTS**

11.1 Any section of this *Expenditure By-law* may be amended by the Band Council by a by-law passed and approved in accordance with appropriated section or sections of the *Indian Act* or constitution of a Band as the case may be.

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

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

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Councillor Chad Eneas

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Councillor K. Joan Gabriel

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

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

\_\_\_\_\_  
Councillor Jonathan Kruger

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

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

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

Comprising the majority of those members of the Band Council of the Penticton Indian Band present at the aforesaid meeting of the Penticton Council, a quorum of the Band Council being five members and the number of members of the Band Council present at the aforesaid meeting of the Band Council being [ 5 ].