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June 6, 2006.

Tsawout First Nation  
PO Box 121  
SAANICHTON BC V8M 2C3

E4216-654(BG)

C.C. TO GOVERNMENT   
 HUMAN RESOURCES   
 FINANCIAL SERVICES   
 LANDS   
 HEALTH CARE   
 OTHER: *Manpower*

ATTENTION: Chief & Council

**RE: MORICETOWN INDIAN BAND BY-LAW**

Please find attached three certified true copies of each of the following by-law;

Waterworks By-law No. 2006-02

You may wish to provide a copy to whoever will be enforcing the by-law on behalf of the band. Please keep a certified copy in a safe place in the event it is required to prove the by-law in court. We have kept copies of the original on our file should you require further copies certified pursuant to section 86 Indian Act in future.

I trust this is satisfactory.

*James Westhaver*

James Westhaver  
Band Governance Officer  
Governance & Capacity Building Unit  
British Columbia Region  
600 - 1138 Melville Street  
VANCOUVER BC V6E 4S3

Attach. Waterworks By-law No. 2006-02

**Canada**

**CERTIFICATION**

Pursuant to Section 86, Indian Act RSC 1985 C.I-5 and amendments thereto, I certify that the attached copy of the Tsawout First Nation Waterworks By-law No. 2006-2 dated 11th. day of April, 2006 is a true copy of the said by-law.



Joseph Whiteside, A/Associate Director  
Lands and Trust Services,  
a Superintendent as defined in  
Sec 2(1) Indian Act RSC 1985

**TSAWOUT FIRST NATION  
WATERWORKS BYLAW NO. 2006-2**

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**A BYLAW RESPECTING  
THE OPERATION AND USE OF WATERWORKS  
FOR THE TSAWOUT FIRST NATION**

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**WHEREAS:**

The Council deems it advisable, necessary, expedient and in the best interest of Tsawout First Nation and all residents and occupiers of the Tsawout Lands, to establish a bylaw concerning the operation, use and construction of the waterworks on Tsawout Lands;

The Council has deemed it necessary to control and regulate the use, transmission and provision of water and water services on Tsawout Lands; and

The Council has authority to regulate waterworks on Tsawout Lands pursuant to section 81 of the *Indian Act*.

The Council has the authority to amend this bylaw from time to time as it deems necessary in its sole discretion.

**NOW THEREFORE** the Council enacts as a bylaw the following:

**SHORT TITLE**

This bylaw may be cited as the “**waterworks bylaw**”.

**1.0 DEFINITIONS**

1.1. In this bylaw, including the recitals, unless the context otherwise requires:

- (a) “**Administrator**” means the person appointed by the Council to administer this bylaw;
- (b) “**applicant**” means any person, including an agent or employee, who has made or is required to make an application pursuant to section 5.1 of this bylaw or disconnection pursuant to section 9.1;
- (c) “**application**” means a written application to connect, suspend, disconnect or terminate water service in the form attached hereto as schedule “A”;
- (d) “**backflow**” means the flow of water or other fluids in the direction opposite to normal flow;
- (e) “**backflow prevention assembly**” means a mechanical assembly, device or method that has been specifically designed and/or installed for the purpose of preventing the occurrence of a backflow;

- (f) **“Backflow Prevention Assembly Tester”** means an individual who is certified by the British Columbia Section, American Water and Wastewater Association (or other agency acceptable to the Administrator) to test, maintain and repair backflow prevention assemblies;
- (g) **“band council resolution”** means a duly approved resolution of the Council;
- (h) **“commercial premises”** means any premises that is not a single family residential premises;
- (i) **“contaminant”** means any physical, chemical, biological or radiological substance or matter in water which may render the water non-potable;
- (j) **“Council”** means the lawfully elected Chief and councillors of the Tsawout First Nation;
- (k) **“damage”** means any loss, cost, damage, expense or liability of any kind or nature whatsoever, including those in respect of negligence, negligent misrepresentation or mis-statement, failure to warn, nuisance or other tort, personal injury, death, contract damages or debt, economic loss, consequential damage and any reasonable legal or other professional fee or disbursement and any tax on any of the foregoing;
- (l) **“flat rate service fee”** means a fee in respect of a water service based on the estimated or actual cost of providing such water service, which shall include any expenses for engineering, leakage, maintenance, interest and carrying costs, capital costs, sinking fund or amortization costs, banking, legal and professional fees, administration and any other expenses incidental to the provision of the water service;
- (m) **“Indian Act”** means the *Indian Act*, R.S.C., 1985, c. I-5, and any amendments thereto and any statutes or any regulations that may be passed which have the effect of supplementing or superseding such statutes or regulations;
- (n) **“lawful authority”** means Tsawout First Nation, the Council and any other government or governmental authority, office or official exercising lawful authority, and includes any authorized delegate, appointee, board, bureau, commission, department, administrative agency or regulatory body thereof;
- (o) **“laws”** means any applicable law, statute, regulation, bylaw or other lawful requirement issued by or under the direction or authority of any lawful authority;
- (p) **“notice of discontinuance”** means a notice of suspension, disconnection or termination of water service in the form attached hereto as schedule “B”;
- (q) **“notice of review”** means a notice in the form set out in schedule “C”;
- (r) **“occupier”** means any person who is in possession of or occupies any premises to which water service is supplied or made available from the waterworks whether or not the person is an actual user of any water supplied to the premises by water service;

- (s) **“officer”** means any person who is appointed by Council as a bylaw officer to enforce Tsawout First Nation bylaws, and any peace officer entitled or authorized to enforce Tsawout First Nation bylaws;
- (t) **“owner”** means a person who is legally entitled to possession or control of a parcel of land, and where applicable, includes the duly authorized agent, heirs, executor or administrator of such person;
- (u) **“parcel of land”** means any portion of real property within the Tsawout Lands, including any lot, block, manufactured home pad or other area within the Tsawout Lands, with or without improvements thereon;
- (v) **“plumbing system”** means any and all works used or required for the supply of water services from the service connection or temporary service connection to any premises on the parcel of land and includes the plumbing fixtures in the premises, fire hydrants and water meters located on the parcel of land;
- (w) **“premises”** means both commercial premises and single family residential premises;
- (x) **“single family residential premises”** means any improvement located on a parcel of land or any portion thereof which is used primarily for single family residential occupancy purposes and includes an apartment and a mobile home;
- (y) **“schedule”** means the following schedules attached to and constituting an integral part of this bylaw:
  - (i) Schedule “A” – Application for Water Service Connection Disconnection;
  - (ii) Schedule “B” – Notice of Discontinuance of Water Service;
  - (iii) Schedule “C” – Notice of Review; and
  - (iv) Schedule “D” – Fee Schedule;
- (z) **“service connection”** means the connecting pipe between any water main and the property line of a premises that borders on the water main and for which water service is available, and includes the necessary corporation stop, curb-stop and/or shut-off valve;
- (aa) **“temporary service connection”** means the connecting pipe between any water main and the property line of a premises that does not border upon the water main and for which water service is available, and includes the necessary curb-stop and/or shut-off valve;
- (bb) **“Tsawout First Nation”** means the body of people formerly known as a “Band” under the *Indian Act* and for whose use and benefit in common Tsawout Lands have been set apart by Her Majesty the Queen;
- (cc) **“Tsawout Lands”** means the East Saanich Indian Reserve #2 and Fulford Harbour Indian Reserve #5, which are reserves as defined in the *Indian Act* set aside for the use and benefit of Tsawout First Nation;

- (dd) **“water service”** means the supply of water from the waterworks to any person; and
- (ee) **“water service permit”** means the application, with written approval of the Administrator endorsed thereon;
- (ff) **“waterworks”** means the waterworks system of the Tsawout First Nation, and includes all storage facilities, water mains, service pipes, standpipes, fire hydrants, meters, pumps, electrical fittings, taps, valves and all other apparatus of any nature whatsoever maintained, used, or operated under authority of Council to deliver water to any lands, premises, standpipe or fire hydrant located within Tsawout Lands.

## **2.0 TSAWOUT WATER SERVICES**

- 2.1. Tsawout First Nation has jurisdiction in relation to public works, community infrastructure and local services on Tsawout Lands including works and services in relation to the supply, treatment, conveyance, storage and disposal of water. All water under, within, upon or which may be conveyed onto Tsawout Lands is the property of and under the control of Tsawout First Nation except for any private wells.
- 2.2. Tsawout First Nation may supply water service to consumers within Tsawout Lands and the provisions of this bylaw will apply to all persons so served.
- 2.3. Nothing in this bylaw obligates Tsawout First Nation to supply water service to any person where the cost to Tsawout First Nation, in the opinion of the Administrator, would be excessive or where the waterworks do not have sufficient capacity to provide the additional required flow, unless such person enters into a written agreement with Tsawout First Nation to pay the cost of upgrading the waterworks to be of sufficient capacity to provide the additional water required.

## **3.0 APPOINTMENT AND AUTHORITY OF ADMINISTRATOR**

- 3.1. The Council will appoint a person to be the Administrator under this bylaw, and may appoint such other staff and officers as may be considered necessary for the proper administration and enforcement of this bylaw.
- 3.2. The Administrator is authorized and directed to:
  - (a) supervise, control and administer the provision of water services under this bylaw;
  - (b) manage all construction, operations and maintenance related to the provision of water services;
  - (c) receive, investigate, and process all applications for water services;
  - (d) consider and make recommendations to Council on those matters under this bylaw which require Council’s determination or about which the Administrator requests their direction;
  - (e) perform all acts that may be necessary for the efficient management, operation and use of the waterworks; and

- (f) administer, apply and enforce this bylaw.

#### **4.0 APPLICATION FOR SERVICE CONNECTION AND TEMPORARY SERVICE CONNECTION**

- 4.1. Any person wanting to use any water from the waterworks or any service connection or temporary service connection, for any purpose, must:
  - (a) submit a written application to the Administrator;
  - (b) receive advance written approval from the Administrator;
  - (c) pay all required fees, rates, charges or rents, as determined by Council from time to time; and
  - (d) comply with the provisions of this bylaw.
- 4.2. Any service connection or temporary service connection shall be constructed and installed to specifications as may be determined by the Administrator from time to time.
- 4.3. The Administrator shall determine which water main and the location on any particular water main that will be used for any service connection or temporary service connection.
- 4.4. No service connection or temporary service connection shall be connected or reconnected to the waterworks unless the Administrator has inspected the service connection or the temporary service connection and determined that, in his or her opinion, the requirements of this bylaw and any standards set hereunder have been met.
- 4.5. Any service connection or temporary service connection that is approved by the Administrator must be completed in accordance with the specifications that received the Administrator's approval.
- 4.6. If the Administrator refuses to approve an application made under this article 4.0, then the Administrator shall deliver written reasons for his or her refusal to the applicant.

#### **5.0 PLUMBING SYSTEM INSPECTION AND MAINTENANCE**

- 5.1. Subject to section 5.7, each applicant must, at his or her own cost, construct, install, repair, maintain and replace as necessary any plumbing systems in compliance with Part 7 of the British Columbia Building Code, as amended from time to time.
- 5.2. The Administrator may refuse to provide water service to a parcel of land if the plumbing systems do not, in his or her opinion, meet the standards required under this bylaw.
- 5.3. If the Administrator refuses to provide water service pursuant to section 5.2, then the Administrator shall deliver written reasons for his or her refusal to the applicant.
- 5.4. If the Administrator is of the opinion that a pressure regulator is prudent, the owner or occupier must provide a pressure regulator that complies with the standard set out in

the BC Plumbing Code for the service connection or temporary service connection to the premises.

- 5.5. No owner or occupier may allow water to run to waste, whether willfully or by permitting pipes, taps, toilets or other fixtures and means of distributing or storing water to remain in disrepair or increase by any device or expedite the amount of water agreed to be supplied to him or her by Tsawout First Nation according to the terms of his or her application.
- 5.6. Subject to section 5.7, Tsawout First Nation shall be responsible for maintenance of the waterworks only up to the point of connection at the boundary line of each parcel of land.
- 5.7. Despite any other provision of this bylaw, Tsawout First Nation may install, repair and maintain any fire hydrants, or any works ancillary to such fire hydrants, on any parcel of land that the Administrator, in his or her sole discretion, is of the opinion is necessary for safe operation of such fire hydrant and shall have the right to recover all costs and premiums incurred in exercising such rights and obligations as a further charge or fee under this bylaw.

## **6.0 WATER PERMIT**

- 6.1. Once an applicant has completed the application process to the satisfaction of the Administrator and has met all pre-conditions required by this bylaw, including installation of a plumbing system pursuant to article 5.0, the Administrator will issue a water service permit and the service connection or temporary service connection will be made by Tsawout First Nation at the boundary line of the parcel of land.
- 6.2. Despite any other provision in this bylaw, the Administrator may refuse any application and not issue a permit if:
  - (a) he or she is of the opinion that such connection is likely to have a detrimental effect on the waterworks or the water service to other consumers;
  - (b) the subject of the application, including any extension of an already existing service connection or temporary service connection, does not comply with this bylaw or any other laws; or
  - (c) the applicant has any outstanding money owing to Tsawout First Nation.
- 6.3. Where an application has been refused, the applicant may apply to have the decision reviewed by Council in the manner provided for in article 16.0. If the Administrator refuses the application, the applicant will be informed of the reasons for its refusal.
- 6.4. In the event the Administrator refuses an application, no water service permit will be issued and the service connection or temporary service connection applied for shall not be installed or connected.
- 6.5. Upon issuance of the water service permit pursuant to section 6.1, the Administrator will cause to be constructed at the cost of the applicant, a service connection or temporary service connection.
- 6.6. The Administrator shall have the authority to suspend a water service permit where he or she has reasonable grounds for believing that the applicant has breached a provision of this bylaw and shall give immediate notice of such suspension to the



applicant. A person whose water service permit has been suspended may apply to have the decision reviewed by the Council in the manner provided for in article 16.0.

## **7.0 NO INTERFERENCE WITH WATERWORKS**

- 7.1. Other than as is specifically otherwise permitted in this bylaw and unless he or she has first obtained the written consent of the Administrator, no person other than the Administrator, persons acting under the direction of the Administrator or a member of the fire department of the District of Central Saanich carrying out his or her appointed duties shall:
- (a) open, shut, adjust or draw water from, or tamper with, any fire hydrant or any part of the waterworks;
  - (b) construct or carry out any maintenance on or improvements to any fire hydrant, the waterworks, service connection or temporary service connection (other than emergency maintenance); or
  - (c) obstruct access to any fire hydrant, standpipe, valve, curb-stop, public well, reservoir or other fixture constituting part of or connected with the waterworks in any way, including placing any shrub, lumber, timber, wood, brick, stone, gravel, sand or any other material or thing on or within a two-metre radius of the waterworks.
- 7.2. Every person who receives authority from the Administrator to open any fire hydrant, standpipe, curb-stop or valve and use water therefrom pursuant to the subsection 6.1(a), must pay to Tsawout First Nation any fees, rates, charges or rents for the administration, use of water or repair charges for any damage to the waterworks from which the water is taken, as determined by Council from time to time.
- 7.3. If any person breaches subsection 7.1(c), the Administrator may order the removal of any obstruction and the expense of such removal shall be charged to and be paid by the person in breach of that section, which payment shall be in addition to any penalty that may be imposed under this bylaw for breach of that section.
- 7.4. Any person who detects that any part of the waterworks are leaking or defective must notify the Administrator immediately in writing.

## **8.0 WATER USER FEES**

- 8.1. Except as provided in section 10.1, all consumers are required to pay a flat rate service fee, based on the equivalent number of housing units that the premises represents, due and payable in the manner provided for in this part, and as set out in schedule "D".
- 8.2. In addition to the flat rate service fee payable under section 8.1, all consumers are also required to pay any connection fees and administrative fees established by Council from time to time.
- 8.3. After an owner or occupier pays the required flat rate service fee to Tsawout First Nation, the Administrator shall cause the payment to be entered in the water rates roll for that billing period.
- 8.4. The Administrator shall classify each premise applying for or receiving water service, in accordance with the categories set out in schedule "D", and the corresponding rate for such premise is the flat rate service fee levied against each owner or occupier pursuant to section 8.1.

- 8.5. The Administrator may, at any time, determine that a premise needs to be reclassified due to any of the following:
- (a) renovation, repair, addition or any other change to the premises;
  - (b) repair, addition or any other change to or failure to maintain the plumbing system located on the parcel of land
- in accordance with the categories set out in schedule "D" and the corresponding additional rates shall be levied against the owner or occupier accordingly.
- 8.6. The owner or occupier will be charged a flat rate service fee in each billing period established by the Council or the Administrator and that flat rate service fee shall be due and payable within 30 days of the billing date. Any person to whom water is supplied from the Waterworks for fire protection purposes only shall pay the annual fee set out in schedule "D" and that annual fire protection fee shall be due and payable within 30 days of the billing date.
- 8.7. If an applicant receives final approval during the billing period, the flat rate service fee shall be prorated from the day during which the water service begins.
- 8.8. Any amount owing under this bylaw that remains unpaid 30 days after the billing date shall have added to it an additional fee in the amount of 10% of all outstanding amounts for that premise. Any amounts remaining unpaid on the 45<sup>th</sup> day after the billing date will have a further 10% fee added to the outstanding amounts.
- 8.9. If any portion of the amount owing under this bylaw, including any additional fees pursuant to section 8.7, remains unpaid on the 90<sup>th</sup> day after the billing date will have a further 10% added to the outstanding amount.
- 8.10. All additional fees added pursuant to sections 8.8 and 8.9 shall for all purposes be deemed part of any outstanding flat rate service fee.
- 8.11. Any premises for which an amount owing under this bylaw remains unpaid on the 120<sup>th</sup> day after the billing date may have its water service disconnected pursuant to section 9.5.
- 8.12. A reconnection fee in the amount set out in schedule "D" is payable by any person whose water service has been disconnected.
- 8.13. Water service will not be restored to any premises disconnected, until the reconnection fee required by section 8.12, plus all outstanding flat rate service fees, have been paid.
- 8.14. If the fees due under schedule "D" are amended at any time, the amounts payable pursuant to this bylaw shall be altered in accordance with such amendment without notice to any person.

## **9.0 SUSPENSION, DISCONNECTION OR TERMINATION OF WATER SERVICES**

- 9.1. Where a service connection or temporary service connection is no longer in use, or an owner or occupier no longer requires water service either temporarily or indefinitely, the owner or occupier must submit a written application to the Administrator for

approval and pay to Tsawout First Nation the disconnection fee in the amount set out in schedule "D".

- 9.2. Upon approval of the application to disconnect by the Administrator, the Administrator shall cause the disconnection of the service connection or the temporary service connection.
- 9.3. The Administrator may, without notice, cease, suspend or restrict water service to any owner or occupier or to any parcel of land if, in the sole and reasonable opinion of the Administrator, an emergency makes such action necessary.
- 9.4. The Administrator may, in a non-emergency situation, including scheduled repairs or alterations to the waterworks, cease, suspend or restrict water service to any owner or occupier or to any parcel of land, provided the Administrator shall, when it is practical to do so, provide public notice of such intended cessation, suspension or restriction of water service to all affected occupiers.
- 9.5. Upon providing the notice required by section 9.8, the Administrator may discontinue, suspend, terminate or revoke the water service, including disconnecting any service connection or temporary service connection from the waterworks in any of the following circumstances:
  - (a) failure to apply for water service as required by this bylaw;
  - (b) fraudulent application for water service under this bylaw;
  - (c) non payment of fees or charges levied pursuant to this bylaw;
  - (d) failure to provide access to the premises required or permitted under this bylaw;
  - (e) contravention of this bylaw;
  - (f) activities on the premises are being conducted in a manner that is detrimental to the health, welfare, safety or environment of Tsawout First Nation or the Tsawout Lands; or
  - (g) where any premises are not fit to be occupied, planned to be demolished, or otherwise abandoned,

until such time as there is no contravention of this bylaw and a reconnection has been authorized by the Administrator.

- 9.6. When water service is discontinued pursuant to section 9.5, none of the Tsawout First Nation, the Council, nor the Administrator or other employee or agent of the Tsawout First Nation, will be responsible for any costs or damages to the owner or occupier or premises resulting from the discontinuance of such water service.
- 9.7. In determining whether to direct a suspension, termination, revocation or disconnection under section 9.5 the following will be considered:
  - (a) the type and length of contravention;
  - (b) whether the contravention could be resolved or remedied by actions willingly taken by a person other than the owner or occupier;

- (c) the impact of the contravention on the safety and integrity of the waterworks or the provision of water services; and
  - (d) such further and other matters relevant to its consideration.
- 9.8. Ten days prior to any suspension, termination, revocation or discontinuance of water service under section 9.5, the Administrator shall provide written notice by registered mail in the form attached as schedule "B", to the owner or occupier stating:
- (a) the infraction;
  - (b) the remedy to be made; and
  - (c) the date that water service will be discontinued unless the remedy is made.
- 9.9. The Administrator will post the notice of suspension, termination, revocation or discontinuance of a water service upon the premises and mail a copy to the owner and occupier, and the notice posted on the premises must not be removed until the water service is reinstated or the premises are demolished.
- 9.10. An owner or occupier may, upon application, have a suspension, termination, revocation or discontinuance of water service reviewed by Council in the manner provided for in article 16.0.

## **10.0 EXEMPTIONS**

- 10.1. An applicant or owner or occupier is exempt from paying the connection fee imposed pursuant to section 8.2 or the flat rate service fee imposed pursuant to section 8.1 for the following premises or buildings:
- (a) the primary residence of a member of the Tsawout First Nation, provided that in this subsection "primary residence" means a single family residential premises where the member of the Tsawout First Nation resides more than 50% of the time, provided that each member of the Tsawout First Nation may have only one primary residence; and
  - (b) premises owned or occupied by the Tsawout First Nation, the Council, or any entity owned or controlled by the Tsawout First Nation or the Council which assists the Council to perform a function of government, including those providing local government services, community, health and recreational services, and social housing services.

## **11.0 CONTAMINATION, CROSS-CONNECTION AND BACKFLOW PREVENTION**

- 11.1. No person shall discharge, emit, dump, abandon, spill, release or cause or allow to be discharged, emitted, dumped, abandoned, spilled, released or allow to escape into the environment any contaminant that could cause or allow drinking water quality, the water service, or a private water service to become contaminated, degraded or polluted in any way and under any condition.
- 11.2. No person will connect, cause to be connected, or allow to remain connected any piping, fixture, fitting, container, appliance or cross-connection that could cause or allow drinking water quality, the water service, or a private water service to become contaminated, degraded or polluted in any way and under any condition, including

but not limited to a backflow caused by backpressure or backsiphonage resulting from the disruption of the water supply from the waterworks, unless an approved backflow prevention assembly has been installed and tested in accordance with this article 11.0.

- 11.3. Where the Administrator determines that there exists a connection or cross-connection prohibited by this bylaw, he or she may give written notice to the owner or occupier to correct the connection or cross-connection at the expense of the owner or occupier within the time specified in the notice.
- 11.4. An owner or occupier to whom notice has been given under section 11.2 will correct the connection or cross-connection, as the case may be, by installing a backflow prevention assembly unit approved by the Administrator.
- 11.5. Where the Administrator determines that a connection or cross-connection prohibited by this article 11.0 places an owner or occupier or any other person at immediate risk, or if the owner or occupier fails to correct the connection or cross-connection as required by this bylaw, then the Administrator may order the discontinuance of the water service without notice until such time as the connection or cross-connection is corrected.
- 11.6. Every owner or occupier will, upon the installation of an approved backflow prevention assembly and annually thereafter, or more often as required by the Administrator, arrange for the inspection and testing of the assembly unit by a Backflow Prevention Assembly Tester. The owner or occupier will cause the written results of all inspections and testing to be submitted to the Administrator within 30 days of such inspection and testing.
- 11.7. Any connection to an underground sprinkler system requires that a double check valve assembly be properly installed and inspected by the Administrator before the service is turned on.
- 11.8. A new connection must not be turned on at the curb-stop until the owner's or occupier's water service has been inspected by the Administrator. This will not prohibit the use of a water service for construction purposes for a limited time, provided the Administrator is satisfied that adequate provision is made to prevent backflow into the waterworks.

## **12.0 PRIVATE WELLS**

- 12.1. No person shall use or maintain a private well on any parcel of land, without the written authorization of the Administrator.
- 12.2. Any person who knows, or reasonably ought to know about a well located on Tsawout Lands, shall immediately inform the Administrator in writing of the location of the well.

## **13.0 RIGHT OF ENTRY**

- 13.1. The Administrator or any officer is hereby authorized upon providing reasonable notice to enter any premises situated on the Tsawout Lands between 9:00 a.m. and 5:00 p.m. in order to:
  - (a) ascertain whether or not there is compliance with this bylaw;
  - (b) conduct regular repair and maintenance upon any part of the plumbing system

necessary for the safe operation of any fire hydrant, including any works ancillary thereto, on the parcel of land; and

- (c) fulfill any of the rights or obligations of the Tsawout First Nation, the Administrator or any officer under this bylaw.

For greater clarity, "reasonable notice" in this section means 72 hours in the case of single family residential premises and 48 hours for commercial premises.

- 13.2. Despite any other provision of this bylaw, the Administrator or any officer is hereby authorized, without notice and at any time, to enter any premises or parcel of land in case of emergency.
- 13.3. An owner and occupier shall provide to the Administrator and to any officer such further information as may be required by the Administrator to enforce this bylaw or administer an emergency, as the case may be.
- 13.4. Any person interfering with or obstructing the entry onto any premises located within the Tsawout Lands by the Administrator or officer, after the Administrator or officer has identified himself, shall be deemed to be guilty of an offence under article 15.0 of this bylaw.
- 13.5. No person shall hinder or prevent the Administrator or officer from entering and making reasonable inspection of any premises under this article 13.0.

#### **14.0 PROHIBITIONS**

- 14.1. No person shall sell or dispose of any water from the water service or waterworks or permit the same to be carried or taken away, or used, or apply it for the benefit or use of any other person.
- 14.2. No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of or connected to the waterworks.
- 14.3. No building or obstruction of any kind shall be erected on, or limit any access to, any waterworks, or be built or installed in a manner which could obstruct or prevent ease of access for maintenance of the waterworks.
- 14.4. Where any waterworks are laid on property over which the Tsawout First Nation holds a right of way for water purposes, no person shall connect to or disturb such waterworks except in accordance with this bylaw and by the direction of, and with permission of, the Administrator.
- 14.5. Other than in accordance with the provisions of this bylaw, no person shall connect, attempt to connect, allow to be connected, or allow to remain connected, any premises to the waterworks.
- 14.6. No person other than the Tsawout First Nation, its servants, employees, agents, contractors or licensees shall install or cause to be installed any part of a service connection or temporary service connection or in any way break, interfere or tamper with the waterworks.
- 14.7. The Administrator may at any time and from time to time introduce restrictions on the use of water for sprinkling or any other purpose being advertised by way of local

media or by written notice to the occupier, and no person shall use water for those purposes prohibited by or in excess of any limits imposed by, such restrictions.

- 14.8. Notwithstanding anything to the contrary elsewhere contained in this bylaw, no person shall, without the prior written consent of the Administrator:
- (a) use water for sprinkling in excess of reasonable requirements;
  - (b) use more than two outlets at one time for sprinkling purposes, neither of which said outlets shall exceed 20 millimetres in internal diameter;
  - (c) use an outlet exceeding 20 millimetres in internal diameter for sprinkling water;
  - (d) use an open pipe or hose for sprinkling purposes;
  - (e) use water as a motive power for the purpose of operating machinery; or
  - (f) use water for watering stock, filling swimming pools or reservoirs; or
  - (g) use water for any other purpose other than normal domestic use.
- 14.9. Any consent granted by the Administrator under section 14.8 shall specify the purpose, time of use, quantity of water permitted to be used, any charges for such use and any special works required to be installed by the user before commencing such use.
- 14.10. No person shall pollute any reservoir from which water is conveyed by the waterworks or water flowing through the waterworks or deposit anywhere any deleterious substance which may in any way contaminate such reservoir or water.

## **15.0 OFFENCES**

- 15.1. Every person who violates any of the provisions of this bylaw or who suffers or permits any act or thing to be done in contravention or in violation of any of the provisions of this bylaw, or who neglects to do or refrains from doing anything required to be done by any of the provisions of this bylaw is guilty upon summary conviction of an offence against this bylaw
- 15.2. Each day that a violation, contravention or breach is permitted to exist shall constitute a separate offence.
- 15.3. Every person who commits an offence against this bylaw is liable upon summary conviction to a fine not exceeding \$1000 or imprisonment for a term not exceeding 30 days, or both.
- 15.4. Every person who commits an offence of a continuing nature is liable to the penalties as set out in section 15.3 herein for each day such offence occurs.
- 15.5. Without restricting any other remedy available under this bylaw or any other law, if any fee imposed under this bylaw is unpaid after its due date, the Administrator may issue written demand for payment and if any such amount due and payable is not paid forthwith after such demand, the Council may, in addition to any other remedies or action available by law, commence an action for its recovery and costs in any court of competent jurisdiction.

15.6. No fee or charge paid pursuant to this bylaw is refundable.

## **16.0 REVIEWS**

- 16.1. Within 30 days of service of written reason under sections 4.6 or 5.3, or within 10 days of service of a notice under section 9.8 of this bylaw, the applicant or owner or occupier may apply for a review by Council by completing and filing with the Administrator a notice of review.
- 16.2. Upon receipt of a notice of review, the Administrator, will forthwith transmit to the Council and the applicant or owner or occupier:
- (a) a copy of any relevant application;
  - (b) a copy of the applicant's or owner's or occupier's completed notice of review; and
  - (c) a copy of the Administrator's refusal and reasons for refusal.
- 16.3. Upon receipt of the material described in section 16.2 of this bylaw, Council will determine the date, time and place of the review hearing, which will be at least 15 days hence but no more than 45 days thereafter and will advise the Administrator of its decision. Council will hold the review hearing at the date, time and place determined hereunder.
- 16.4. Council will cause the applicant or owner or occupier, as the case may be, to be served personally or by registered mail to the address listed on the notice of review, with at least seven days' written notice of the date, time and place of the review hearing determined by Council. If the applicant or owner or occupier, after reasonable efforts of the Council and the Administrator, cannot be found and has not come forward, then the notice will be considered to be duly served if delivered and posted at the premises and an ex parte decision may be issued against such person.
- 16.5. At the review hearing, the Administrator, applicant or owner or occupier are entitled to submit arguments in reply to the evidence and argument presented.
- 16.6. At the review hearing the applicant or owner or occupier has the onus to show just cause why the decision to refuse, suspend or terminate water services or the service connection or temporary service connection should be reviewed and reversed or otherwise changed.
- 16.7. When making its decision, Council may consider those matters set out in sections 4.4 and 9.5, and such further and other matters which are in the best interests of Tsawout.
- 16.8. Council shall cause its written decision and notification to the applicant or owner or occupier that he or she has a further right of appeal to a court of competent jurisdiction to be served personally or by registered mail to the applicant or owner or occupier at the address shown on the notice of review.
- 16.9. All review hearings will be held in camera unless the applicant or owner or occupier requests in the notice of review that the hearing be open to the public, in which case Council will approve such request. The decision resulting from the review hearing will be made public forthwith, and any minutes of the review hearing will be available to the public.



- 16.10. If Council renders a decision granting or continuing the water service, the grant or continuance will be subject to the applicant or owner or occupier complying with this bylaw.

## 17.0 GENERAL POWERS

- 17.1. Where the Council imposes an annual or on-going flat rate service fee, it need not give notice of such fee in each succeeding year, unless it proposes to amend the bylaw that imposes the flat rate service fee.
- 17.2. Where any fees or charges are related to matters included in the budget of the Council, the Council may, in fixing the fees or charges, take into consideration, the Tsawout Community or Physical Development Plan and whether the fees or charges:
- (a) are excessive or inadequate in relation to the cost of prevailing standards or service in jurisdictions reasonably comparable to the Tsawout Lands; or
  - (b) will deter development on the Tsawout Lands;
- and amend the fees or charges accordingly.
- 17.3. All orders, specifications and forms prescribed by Council shall be available for inspection by an owner or occupier during regular business hours at the Tsawout First Nation administration office.
- 17.4. Nothing in this bylaw relieves a person discharging wastewater from complying with all applicable laws governing the discharge of substances, including the requirements set out in the Tsawout First Nation Sewer Source Control bylaw, as amended from time to time.
- 17.5. Council, by band council resolution, or the Administrator in writing, may extend for up to 30 days the time which anything is required to be done under this bylaw and anything done within the extended period of time is as valid as if it had been done within the time otherwise provided for in this bylaw.
- 17.6. The Administrator may for the purpose of repairing, maintaining, adding to or extending the waterworks, shut off the water service anywhere within the Tsawout Lands for such a period of time as he or she considers necessary.
- 17.7. If the Administrator shuts off the water service pursuant to this bylaw for less than one hour, or where an emergency arises, no notice to the owner or occupier is required.
- 17.8. If it is anticipated that water service is to be interrupted pursuant to this bylaw for more than four consecutive hours, notice shall be given to those occupants likely to be affected, provided that no notice of disruption in water service shall be required in the event of any emergency or unanticipated conditions affecting the waterworks.
- 17.9. None of the Tsawout First Nation, the Council, any member of Council or any employee or agent of the Tsawout First Nation shall be liable for any damages to any property or person in any way relating to or arising out of any:
- (a) break of any part of the waterworks, any service connection or any temporary service connection;

- (b) interruption or cessation in the provision of water service;
- (c) variation in or inadequacy of water pressure,
- (d) inadequate quality of water; or
- (e) any injury or damage resulting from any steam or hot water boiler or other equipment located on a parcel of land and fed with water by pressure direct from the waterworks,

unless such action has been shown to be directly due to the negligence of Tsawout First Nation, its Council or employees.

- 17.10. If at any time Council deems it to be in the interests of the Tsawout First Nation, it may direct that any water service be reduced or discontinued until such time as Council deems it advisable to restore such service.

## **18.0 NOTICES**

- 18.1. Notice to the Tsawout First Nation shall be made in writing to the Tsawout First Nation and mailed by registered mail, postage pre-paid or personally delivered to:

Tsawout First Nation  
 P.O. Box 121  
 7725 Tetayut Road  
 Saanichton, BC V8M 2C3

Attention: Water Administrator

- 18.2. Notice from the Tsawout First Nation to an applicant or owner or occupier, including flat rate service fee invoices, notices of overdue payments, contravention of any provision or requirement of this bylaw, or for any other reasons, shall be in writing and mailed postage pre-paid or personally delivered to the address on the application for water connection, or at the last known address of the applicant or owner or occupier.
- 18.3. Public notice must be given to the general public in any one or more of the following ways:
- (a) by inserting at least one notice in a newspaper circulating on the Tsawout Lands; and
  - (b) by posting a notice in at least three different and conspicuous places on the Tsawout Lands.

## **19.0 INTERPRETATION**

- 19.1. Words within this bylaw importing the male gender include the female gender and either includes the neuter, and vice versa, and words importing the singular number include the plural number and vice versa.
- 19.2. The schedules annexed to this bylaw shall be deemed to be part of and integral to this bylaw.

- 19.3. 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 objectives.
- 19.4. 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.
- 19.5. A finding by a court of competent jurisdiction that a section or provision of this bylaw is *ultra vires*, 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.
- 19.6. Where a provision in this bylaw is expressed in the present tense, future tense or in the past tense, the provision applies to the circumstances as they arise.
- 19.7. Any section of this bylaw, including its schedules, may be amended by a bylaw adopted by Council and approved in accordance with the *Indian Act*.
- 19.8. This bylaw shall come into force upon it not being disallowed by the Minister pursuant to section 82(2) of the *Indian Act*.

**APPROVED AND PASSED** at a duly convened meeting of the Tsawout First Nation held at the Tsawout First Nation Administration Offices at 7725 Tetayut Road Saanichton, British Columbia, this 11 day of April, 2006.

A QUORUM OF COUNCIL CONSISTS OF FOUR COUNCILLORS


  
CHIEF ALLAN CLAXTON

  
COUNCILLOR LOUIS CLAXTON


  
COUNCILLOR TOBY JOSEPH

  
COUNCILLOR STANLEY SAM

  
COUNCILLOR FRANK PELKEY

  
COUNCILLOR GWEN  
UNDERWOOD

  
COUNCILLOR HARVEY  
UNDERWOOD

I,  a Councillor of the Tsawout First Nation, do hereby certify that a true copy of the foregoing bylaw was forwarded to the Minister of Indian Affairs and Northern Development pursuant to subsection 82(1) of the *Indian Act* this 11 day of April, 2006.

**WATERWORKS BYLAW NO. 2006-2  
SCHEDULE "A"**

**APPLICATION FOR WATER SERVICE  
CONNECTION OR DISCONNECTION**

Application Date: \_\_\_\_\_ Legal Description of Lot: \_\_\_\_\_

Owner's Name: \_\_\_\_\_ Lessee/Occupant's Name (if different): \_\_\_\_\_

Mailing Address: \_\_\_\_\_  
\_\_\_\_\_

Date Service Required: \_\_\_\_\_ Type of Premises Served: \_\_\_\_\_

Size of Service Connection \_\_\_\_\_ Type of Waste Discharge: \_\_\_\_\_

Detailed Description of Type of Water Usage Requested \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*Type of Application (check one only)*

Water Connection

Disconnection

Reconnection

I hereby agree to comply with all the requirements and provisions of Tsawout's Waterworks Bylaw as amended and in effect from time to time.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Applicant

**WATER SERVICE PERMIT**

This Water Service Permit is allowed this \_\_\_\_\_, 20\_\_\_\_\_.

by \_\_\_\_\_  
(Administrator)

**WATERWORKS BYLAW NO. 2006-2  
SCHEDULE "B"**

**NOTICE OF DISCONTINUANCE OF WATER SERVICE**

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

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

\_\_\_\_\_

\_\_\_\_\_

RE: \_\_\_\_\_

(Description of Property)

TAKE NOTICE THAT PURSUANT to the Tsawout Waterworks Bylaw the following infraction(s) has/have occurred:

[set out in detail the infraction(s) under this bylaw] \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Please remedy the above infraction(s) on or before 10 days after the date of this Notice. If you fail to remedy this infraction, the following services may be suspended/discontinued on \_\_\_\_\_, 20\_\_:

[LIST SERVICES TO BE DISCONTINUED]

AND FURTHER TAKE NOTICE THAT you may appeal the decision to suspend/discontinue the above services by filing a notice of review in the prescribed form with the Administrator within 10 days of service of a this notice under the Tsawout Waterworks Bylaw

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

\_\_\_\_\_  
Administrator

**WATERWORKS BYLAW NO. 2006-2  
SCHEDULE "C"**

**NOTICE OF REVIEW**

TO: Tsawout Council  
c/o \_\_\_\_\_  
(Administrator)

PURSUANT to the Tsawout Waterworks Bylaw, I hereby request a review of the decision as outlined in the NOTICE OF \_\_\_\_\_, dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ and signed by the Administrator: \_\_\_\_\_ to refuse to issue a \_\_\_\_\_

for the following premises located at:

\_\_\_\_\_  
(description of the Premises)

On the following grounds:

- 1.
- 2.
- 3.
- 4.

I request that the review hearing be open to the public. [If not requested, all review hearings are held in camera before Council only.]

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

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Address to which All Notices to are to be Sent

**WATERWORKS BYLAW NO. 2006-2  
SCHEDULE "D"**

**FEE SCHEDULE**

**1.0 BILLING PERIODS**

- 1.1. All water services will be billed according to the billing period established by the Administrator. The billing period may range from one billing per year to 12 billings per year.

**2.0 FLAT RATE SERVICE FEES**

- 2.1. Each premises will be billed a flat rate service fee based on the equivalent number of housing units the particular premises represents. The total flat rate fee for any one premises shall be calculated based on the following formula:

$$X = \frac{\text{total cost of water supply for all Tsawout Lands}}{\text{total equivalent housing units}} \times \text{equivalent housing units}$$

where:

- (i) "X" means the flat rate service fee for any premises per billing period;
- (ii) "total cost of water supply for all Tsawout Lands" means the total cost incurred by Tsawout First Nation to administer and provide all water services to Tsawout Lands per billing period;
- (iii) "total equivalent housing units" means the total number of housing units on Tsawout Lands per billing period, where one single residential premises is equal to one equivalent housing unit; and
- (iv) "equivalent housing units" means the number of housing units that any one premises is deemed to represent per billing period, where one single family residential premises is equal to one equivalent housing unit.

**3.0 CONNECTION FEES**

- 3.1. A connection fee of \$950.00 or the actual installation costs incurred by the Tsawout First Nation will be charged for all water service connections to the waterworks, and may be payable in advance and prior to connection.:

**4.0 DISCONNECTION AND RECONNECTION FEES**

4.1. The following fees are charged for disconnection and reconnection:

<b>Service</b>	<b>Fee</b>
Disconnect water service (either temporarily or permanently)	\$50.00 or actual costs incurred, whichever is greater
Reconnect water service (including reconnections required due to non-payment of rates or rents)	\$50.00

**5.0 FIRE PROTECTION FEE**

5.1. Every person to whom water is supplied from the Waterworks for fire protection purposes only shall pay an annual fee of \$115.00.

**6.0 FIRE HYDRANT, AND VALVE USAGE FEE**

6.1. A flat rate rental fee of \$150.00 per day will be charged for use of any fire hydrant or valve.

**7.0 FLAT RATE CALL-OUT FEE**

7.1. A flat rate call out fee of \$50.00 will be charged for each time an owner or occupier requires the Administrator or any other agent or employee of the Tsawout First Nation to attend a premises for matters related to water service.