

ANNOTATED SAMPLE FIRST NATION PROPERTY ASSESSMENT LAW (ONTARIO)

The *First Nations Fiscal Management Act* (“FMA”) provides a framework for First Nation real property taxation on reserve. First Nation fiscal powers are set out in Part 1 of the FMA and include, under section 5, the authority to make laws respecting taxation for local purposes of reserve lands and interests in reserve lands.

A First Nation wishing to implement property taxation will require two core laws, the assessment law and taxation law. These two laws work together to establish the property taxation framework. The assessment law creates the framework for conducting assessments of interests in land on reserve, including the duties of the assessor, the applicable assessment rules and practices, and the establishment and conduct of the Assessment Review Board.

Laws enacted under the FMA must comply with the legislative framework, which includes all requirements in the FMA, any regulations made under paragraph 36(1)(d) of the FMA and any standards established by the First Nations Tax Commission (“Commission”) under section 35 of the FMA. Canada has made *the First Nations Assessment Appeal Regulations* (“Assessment Appeal Regulations”) and the *First Nations Assessment Inspection Regulations* (“Assessment Inspection Regulations”). The Commission has established *Standards for First Nation Property Assessment Laws* (“Assessment Law Standards”) that provide further requirements for the form and content of assessment laws. The Commission has also established the *Standards for the Timing of First Nation Annual Tax Rates and Expenditure Laws* (“Timing Standards”).

The Commission prepares sample laws for use and adaptation by First Nations. The sample First Nation Property Assessment Law (“sample law”) complies with the legislative framework and provides a comprehensive assessment law that reflects assessment practices on reserve lands and incorporates components of the Ontario provincial assessment scheme where appropriate. It provides a best practices sample for use and adaptation by First Nations in drafting their own FMA assessment laws.

This annotation of the sample law provides explanatory and additional information on key aspects of the sample law and is intended to assist First Nations in creating their own property taxation laws. This annotated law is not intended to provide legal advice or legal interpretation and should not be relied upon as such.

FIRST NATION
PROPERTY ASSESSMENT LAW, 20__
(ONTARIO)

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EXPLANATORY NOTES & COMMENTS

The title of the law should include the name of the First Nation, and the year the First Nation will enact the law.

This indicates that the sample law has been created for First Nations located in Ontario. This wording should be deleted in the First Nation's law.

When the drafting is complete, ensure that all of the Part numbers and headings correspond to the actual Part numbers and the headings used in the law.

When the drafting is complete, ensure that the Schedule numbers and names correspond to the numbers and names used in the law.

WHEREAS:

A. Pursuant to section 5 of the *First Nations Fiscal Management Act*, the council of a first nation may make laws respecting taxation for local purposes of reserve lands and interests in reserve lands;

B. The Council of the _____ First Nation deems it to be in the best interests of the First Nation to make a law for such purposes; and

C. The Council of the _____ First Nation has given notice of this law and has considered any representations received by the Council, in accordance with the requirements of the *First Nations Fiscal Management Act*,

NOW THEREFORE the Council of the _____ First Nation duly enacts as follows:

These recitals are recommended in order to show the authority for the law and the fulfillment of notice requirements. Additional recitals can also be included as the First Nation determines appropriate.

The enactment clause is required in order to show Council's intention to enact the law.

**PART I
CITATION**

Citation

1. This Law may be cited as the _____ *First Nation Property Assessment Law, 20__*.

The citation includes the First Nation's name and the year the law is made by the First Nation. Proper citation of the law should be used when referencing it in documents, forms or other laws.

**PART II
DEFINITIONS AND REFERENCES**

Definitions and References

The definitions used are the same as set out in the FMA, the *Indian Act*, the FMA Regulations and the First Nation's Taxation Law. Where terms are not defined in those enactments, additional definitions are included to assist in the interpretation of the law. All definitions in this law should be consistent in the First Nation's Taxation Law. When drafting is complete, any definitions that are not used in the law should be deleted.

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;

“assessable property” means an interest in reserve lands that is liable to assessment under this Law;

“assessed value” means, in relation to an interest in reserve lands, the amount of money the fee simple of that interest, if unencumbered and held off the reserve, would realize if sold at arm’s length by a willing seller to a willing buyer, as determined under this Law;

This definition ensures that the assessor can determine the assessed value of each interest on reserve as if held in fee simple off reserve.

“assessment” means a valuation and classification of an interest in reserve lands;

“Assessment Notice” means a notice containing the information set out in Schedule IV;

Assessment Notices must contain the information set out in Schedule IV, but are not required to be in the exact form set out in that Schedule. [Assessment Law Standards](#) subsection 7.2.

“Assessment Review Board” means a board established by Council in accordance with Part X;

“assessment roll” means a roll prepared pursuant to this Law, and includes a supplementary assessment roll and a revised assessment roll prepared pursuant to this Law;

“assessor” means a person appointed by Council under subsection 3(1);

“chair” means the chair of the Assessment Review Board;

“complainant” means a person who commences an appeal of an assessment under this Law;

“Council” has the meaning given to that term in the Act;

This term is defined in the FMA and it therefore cannot be changed in this law.

“eligible increase” has the meaning prescribed by the Province under the *Assessment Act* (Ontario);

This definition is used in the provincial assessment legislation.

“First Nation” means the _____ First Nation, being a band named in the schedule to the Act;

“general reassessment” means the updating of assessments as a result of the application of a new valuation day under subsection 5(3) or 5(4);

The law follows the provincial approach and timing for general reassessments.

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

This definition is used in the Assessment Law and in Commission Standards and sample laws, and therefore should remain consistent in this law

(a) in possession of the interest,

(b) entitled through a lease, licence, or other legal means to the interest,

(c) in actual occupation of the interest, or

(d) who is a trustee of the interest;

“improvement” includes

(a) all buildings, or any part of any building, and all structures, machinery and fixtures erected or placed upon, in, over, under or affixed to land, and

(b) all structures and fixtures erected or placed upon, in, over, under or affixed to a highway, lane or other public communication or water, but not the rolling stock of a transportation system;

“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 Her Majesty;

“land” includes

(a) land covered with water, and

(b) all trees and underwood growing upon land;

“Notice of Appeal” means a notice containing the information set out in Schedule VI;

“Notice of Hearing” means a notice containing the information set out in Schedule VIII;

“Notice of Withdrawal” means a notice containing the information set out in Schedule VII;

“Order to Attend/Produce Documents” means an order containing the information set out in Schedule IX;

“party”, in respect of an appeal of an assessment under this Law, means the parties to an assessment appeal under section 33;

“person” includes a partnership, syndicate, association, corporation and the personal or other legal representatives of a person;

“pipe line” means a transmission, distribution or field and gathering pipe line for the transportation of oil or gas, and includes

This definition is used in the Taxation Law and in provincial assessment legislation and therefore should remain consistent in this law.

This definition is used in the Taxation Law and in Commission Standards and sample laws, and therefore should remain consistent in this law.

The Notice of Appeal must include the name and address of the complainant and any representative of the complainant, a description of the assessable property, and the grounds for the appeal. [Assessment Appeal Regulations](#) subsection 7(2).

- (a) all valves, couplings, cathodic protection apparatus, protective coatings and casings,
- (b) all haulage, labour, engineering and overheads in respect of such pipe line,
- (c) any section, part or branch of any pipe line,
- (d) any easement, right of way, permit or license area used by a pipe line company, and
- (e) any franchise or franchise right,

but does not include a pipe line or lines situate wholly within an oil refinery, oil storage depot, oil bulk plant or oil pipe line terminal;

“pipe line company” means a person, firm, partnership, association or corporation owning or operating a pipe line all or any part of which is in the reserve;

“property class” means the categories of interests in reserve lands established in subsection 6(1) for the purposes of assessment and taxation;

“Province” means the province of Ontario;

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

“resolution” means a motion passed and approved by a majority of Council present at a duly convened meeting;

“secretary” means the secretary of the Assessment Review Board appointed under subsection 26(1);

“tax administrator” means the person appointed by Council to that position under the Taxation Law;

“Taxation Law” means the _____ *First Nation Property Taxation Law, 20__*;

“Tax Notice” has the same meaning as under the Taxation Law;

“taxation year” means the calendar year to which an assessment roll applies for the purposes of taxation; and

The law uses the property classes established in the Province, where applicable.

Laws made under the FMA can apply only on the reserve lands of a First Nation, as that term is defined in the [Indian Act](#).

“taxes” includes

(a) all taxes imposed, levied, assessed or assessable under the Taxation Law, and all penalties, interest and costs added to taxes under the Taxation Law, and

(b) for the purposes of collection and enforcement, all taxes imposed, levied, assessed or assessable under any other local revenue law of the First Nation, and all penalties, interest and costs added to taxes under such a law.

(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(9)(a)), subparagraph (e.g. subparagraph 19(1)(b)(i)) or Schedule (e.g. Schedule I) is a reference to the specified Part, section, subsection, paragraph, subparagraph or Schedule of this Law, except where otherwise stated.

PART III ADMINISTRATION

Assessor

3.(1) Council must appoint one or more assessors to undertake assessments of assessable property in accordance with this Law and such other duties as set out in this Law or as directed by Council.

The law must require Council to appoint an assessor to undertake assessments of assessable property and other specified duties. [Assessment Law Standards](#) paragraph 1(a).

(2) An assessor appointed by Council must be qualified to conduct assessments of land in the Province.

The assessor must be qualified to assess lands for taxation purposes in the Province. [Assessment Law Standards](#) paragraph 1(b).

Application of Law

4. This Law applies to all interests in reserve lands.

The law applies to all interests in reserve lands.

PART IV ASSESSED VALUE

Assessment and Valuation

5.(1) The assessor must assess all interests in reserve lands that are subject to taxation under the Taxation Law and all interests for which payments-in-lieu may be accepted by Council.

The assessor is required to assess all interests subject to taxation, and all properties for which payments in lieu are made. The law could also require the assessment of non-taxable interests.

(2) The assessor must determine the assessed value of an interest in reserve lands and must enter the assessed value of the interest in the assessment roll.

(3) For the period consisting of the two (2) taxation years from 2019 to 2020, interests in reserve lands are valued as of January 1, 2016, and subsection (11) does not apply.

The law must set the same valuation date for assessment purposes that is set in the Province. [Assessment Law Standards](#) subsection 2.1.

(4) After 2020, for each subsequent period consisting of four (4) consecutive taxation years, interests in reserve lands are valued as of January 1 of the year that precedes the period by two (2) years.

[Note to First Nation: Consider the inclusion of subsection (5) and discuss with the assessor.]

(5) Where an easement is appurtenant to any interest in reserve lands, it must be assessed in connection with and as part of the interest at the added value it gives to the interest as the dominant tenement, and the assessment of the interest that, as the servient tenement, is subject to the easement must be reduced accordingly.

Subsections 5(5) to (9) set out the basic rules for property assessment, including specific rules easements and rights of way, railway, and pipelines. These rules reflect provincial assessment practices. [Assessment Law Standards](#) subsection 4.1.

(6) A restrictive covenant running with the interest in reserves land must be deemed to be an easement within the meaning of subsection (5).

(7) The assessor must not make an assessment against the name of any deceased person, but, when the assessor is unable to ascertain the name of the person who should be assessed instead of the deceased person, the assessor may enter, instead of the name, the words "Representatives of A.B., deceased" (giving the name of the deceased person).

(8) Where a block of vacant land subdivided into lots is owned by the same person, it may be entered on the roll as so many acres of the original block or lot if the numbers and description of the lots into which it is subdivided are also entered on the roll.

(9) Except as otherwise provided in this Law, for the purposes of the assessment of interests in reserve lands the assessor must use

(a) the valuation methods, rates, rules, procedures and formulas established under provincial assessment legislation existing at the time of assessment; and

(b) the assessment rules, procedures and practices used by assessors in the Province for conducting assessments off the reserve.

(10) On or before March 1 of every year or such other date prescribed by the Province from time to time under subsection 25(2) of the *Assessment Act* (Ontario), every pipe line company that owns or operates a pipe line located on the reserve must notify the assessor of the following information, in respect of each pipe line and as of January 1 of that year,

(a) its age, length and diameter;

(b) the material of construction; and

(c) the number of connections to an end user, if any.

(11) If the assessed value of an interest in reserve lands increases because of a general reassessment, the assessed value of the interest must be reduced according to the following rules:

(a) for the first taxation year to which the general reassessment applies, the assessed value of the interest is reduced by an amount equal to seventy-five percent (75%) of the eligible increase;

(b) for the taxation year following the taxation year in paragraph (a), the assessed value of the interest is reduced by an amount equal to fifty percent (50%) of the eligible increase;

(c) for the taxation year following the taxation year in paragraph (b), the assessed value of the interest is reduced by an amount equal to twenty-five percent (25%) of the eligible increase.

The law must require the use of the valuation methods, rates, rules and formulae established under provincial assessment legislation, and the provincial assessment practices, except where otherwise provided in the law. [Assessment Law Standards](#) subsection 4.1.

The law follows the provincial approach of phasing in increases in assessed values following each general reassessment.

Classification

6.(1) Council hereby establishes the property classes established by the Province for provincial property assessment purposes, for the purposes of assessment under this Law and imposing taxes under the Taxation Law.

(2) The day as of which an interest in reserve lands must be classified for a taxation year is June 30 of the previous year.

(3) The property classes established under subsection (1) are set out in Schedule I to this Law, and the assessor must use the provincial classification rules for each property class, including any subclasses.

(4) The assessor must

(a) assess interests in reserve lands according to the property classes established under this Law; and

(b) where a property falls into two (2) or more property classes, determine the share of the assessed value of the property attributable to each class and assess the interest according to the proportion each share constitutes of the total assessed value.

The law must establish property classes for assessment and taxation purposes that are the same as those property classes established in the Province. [Assessment Law Standards](#) section 3.

The law must use the same classification rules as are applied in the Province. Schedule I sets out the property classes applicable in Ontario. [Assessment Law Standards](#) subsection 3.1.

Where an interest includes two or more property uses, the assessor must create a split classification

PART V

INFORMATION AND INSPECTIONS

Request for Information

7.(1) The assessor may send a Request for Information containing the information set out in Schedule II, to a holder or a person who has disposed of assessable property, and that person must provide to the assessor, within fourteen (14) days from the date of delivery or a longer period as specified in the notice, information for any purpose related to the administration of this Law.

(2) A person who receives a Request under subsection (1) must, within the time set out in the Request, provide to the assessor all the information required that is within the person's knowledge and produce all the documents required that are within the person's possession or control.

The assessor is given the authority to request information respecting a property for any purpose related to the administration of this law.

(3) The assessor may apply to a court of competent jurisdiction for an order directing a person to comply with a request made under this section.

Inspections and Information

8.(1) The assessor, upon producing proper identification, must at all reasonable times and upon reasonable request be given free access to all land and to all parts of every building, structure, machinery and fixture erected or placed upon, in, over, under or affixed to the land, for any purposes related to the assessment of that interest in reserve lands.

(2) Every adult person present when the assessor visits the interest in reserve lands in the performance of his or her duties must upon request give to the assessor all the information in his or her knowledge that will assist the assessor to make a proper assessment of the land and improvements and to obtain the information the assessor requires with respect to any person whose name the assessor is required to enter on the assessment roll or concerning whom the assessor is required to obtain any information for the purpose of this Law.

(3) The assessor is not bound by any statement or information delivered under section 7 or this section nor does it excuse the assessor from making due inquiry to ascertain the correctness of the statement or information and, despite any such statement or information, the assessor may assess every person for the amount that the assessor believes to be just and correct and may omit from the assessment roll the person's name or any interest in reserve lands that the person claims to hold if the assessor has reason to believe that the person is not entitled to be placed on the roll or to be assessed for the interest.

All inspections undertaken for assessment purposes must be conducted either in accordance with the procedures set out in the Assessment Inspection Regulations, or in accordance with procedures set out in provincial law. The First Nation should set out the procedures it will use in this Part of the law. The sample law sets out the provincial procedures. [Assessment Inspection Regulations](#) section 2.

PART VI ASSESSMENT ROLL

Assessment Roll

9.(1) Except as provided in sections 17, 18 and 19, assessments of interests in reserve lands under this Law must be made annually at any time between January 1 and the second Tuesday following December 1.

The First Nation may wish to discuss the dates and time periods for preparing the assessment roll, sending assessment notices, undertaking reconsiderations and providing for appeals with its assessment services provider before finalizing this law.

(2) The assessor must complete a new assessment roll containing a list of every interest in reserve lands that is liable to assessment under this Law not later than the second Tuesday following December 1 of the year before the taxation year.

The law must require the completion of an annual assessment roll by the date set out in the law. [Assessment Law Standards](#) subsection 5.1.

(3) The assessment roll must be in paper or electronic form and must contain the following information in respect of each interest in reserve lands:

This information must be included on the assessment roll. [Assessment Law Standards](#) subsection 5.3.

- (a) the name and mailing address of the holder of the interest;
- (b) the civic address of the interest;
- (c) a description of the interest;
- (d) the classification of the interest;
- (e) the assessed value by classification of the interest;
- (f) the total assessed value of the interest in; and
- (g) any other information the assessor considers necessary or desirable.

[Note to First Nation: Include this language only if this law is repealing and replacing an existing property assessment law.]

For First Nations whose laws are replacing transitioned section 83 assessment by-laws, subsection 9(4) should be included to clarify that an assessment roll made under the previous law is valid.

(4) For greater certainty, an assessment roll prepared under the enactment repealed by section 58 is and continues to be an assessment roll under this Law and must be used until such time as the next assessment roll is prepared and certified in accordance with this Law.]

Certification by Assessor

10. On completion of an assessment roll and no later than the second Tuesday following December 1 in the year in which the assessments are made, the assessor must

The assessor must complete the assessment roll, certify that the roll was completed in accordance with the requirements in the law, and deliver the roll to Council, by the date set out in the law. The date for fulfilling these requirements is the date set out in subsection 9(1) of this law. [Assessment Law Standards](#) subsection 5.3 and 5.4.

- (a) certify in writing or electronically substantially in the form set out in Schedule X that the assessment roll was completed in accordance with the requirements of this Law; and
- (b) deliver a copy of the certified assessment roll to Council.

Amendments to Assessment Roll

11.(1) Where the assessor amends the assessment roll under subsection 17(2) or (3), or amends the assessment roll to reflect reconsideration decisions or implement decisions of the Assessment Review Board or a court of competent jurisdiction, the assessor must

This section sets out the process for the assessor to amend the certified assessment roll and report changes to the Council where changes are made in accordance with this law.

(a) date and initial amendments made to the assessment roll, in writing or electronically, and

(b) report the change or correction to Council.

(2) Where the assessor amends the assessment roll or creates a supplementary assessment roll under this Law, the changes are an integral part of the assessment roll and, except as provided in subsection 19(7), are deemed to be effective as of the date the assessment roll was certified under section 10.

(3) The assessor must not amend the assessment roll contrary to a decision of the Assessment Review Board or a court of competent jurisdiction.

(4) Where the assessor amends the assessment roll to implement a decision of the Assessment Review Board, the assessment applies in the years that follow the year in which the assessment is amended until the next general reassessment, subject to amendments under sections 17, 18 or 19.

(5) No appeal may be brought to the Assessment Review Board and no request for reconsideration may be made under section 21 respecting an assessment amended to reflect a decision of the Assessment Review Board or a court of competent jurisdiction.

Validity of Assessment Roll

12. An assessment roll is effective on certification and, unless amended in accordance with this Law, by a decision of the Assessment Review Board or by an order of a court of competent jurisdiction, is

This provision provides for the validity of the assessment roll, despite any errors, omissions or defects.

(a) valid and binding on all parties concerned, despite any

(i) omission, defect or error committed in, or with respect to, the assessment roll,

(ii) defect, error or misstatement in any notice required, or

(iii) omission to mail any notice required; and

(b) for all purposes, the assessment roll of the First Nation until the next certified assessment roll.

The assessment roll remains the First Nation's assessment roll until replaced by the next year's certified assessment roll.

Inspection and Use of Assessment Roll

13.(1) On receipt by Council, the assessment roll is open to inspection in the First Nation office by any person during regular business hours.

The law must provide for the assessment roll to be available for inspection by any person. [Assessment Law Standards](#) paragraph 5.4(c).

(2) In addition to inspection under subsection (1), the Council may allow the assessment roll to be inspected electronically through an online service, provided that the information available online does not include any names or other identifying information about a holder or other person.

(3) A person must not, directly or indirectly, use the assessment roll or information contained in the assessment roll to

The law must include a prohibition on using information in an assessment roll for solicitation purposes. [Assessment Law Standards](#) paragraph 5.4(d).

(a) obtain names, addresses or telephone numbers for solicitation purposes, whether the solicitations are made by telephone, mail or any other means; or

(b) harass an individual.

(4) The tax administrator may require a person who wishes to inspect the assessment roll to complete a declaration substantially in the form set out in Schedule III.

(a) specifying the purpose for which the information is to be used; and

(b) certifying that the information contained in the assessment roll will not be used in a manner prohibited under this section.

Protection of Privacy in Assessment Roll

14.(1) On application by a holder and where directed by the tax administrator, the assessor must omit or obscure the holder's name, address or other information about the holder that would ordinarily be included in an assessment roll.

The law must include a procedure where holders can apply to have their personal information omitted or obscured from any assessment roll available for public inspection. This approach provides for the tax administrator to make the decision, and then direct the assessor. [Assessment Law Standards](#) paragraph 5.4(e).

(2) The tax administrator may direct the assessor as set out in subsection (1) if, in the tax administrator's opinion, the inclusion of the name, address or other information could reasonably be expected to threaten the safety or mental or physical health of the holder or a member of the holder's household.

(3) Where the assessor omits or obscures information under subsection (1), such information must be obscured from all assessment rolls that are available for public inspection under subsection 13(1) or are otherwise accessible to the public.

Chargeholders

15.(1) Any person holding a charge on assessable property may, at any time, give notice, with full particulars of the nature, extent and duration of the charge, to the assessor and request that the assessor add his or her name to the assessment roll in respect of that assessable property, for the duration of the charge.

This section allows chargeholders to have their names added to the assessment roll in respect of an assessable property

(2) On receipt of a notice and request under subsection (1), the assessor must enter the person's name and address on the assessment roll and provide copies of all Assessment Notices issued in respect of the assessable property.

Once the chargeholder has been added to the roll, they will receive copies of all assessment notices sent in respect of the property.

PART VII ASSESSMENT NOTICES

Assessment Notice

[Note to First Nation: The Law provides for an Assessment Notice to be delivered in the first year of a general reassessment, and thereafter only where there is a change to an assessment. This reflects the approach taken in Ontario.]

16.(1) The assessor must,

The law must provide for assessment notices to be delivered to all persons named on the assessment roll in respect of an assessable property. [Assessment Law Standards](#) subsection 7.1.

(a) in the first taxation year to which a general reassessment applies, mail an Assessment Notice to every person named in the assessment roll in respect of each assessable property; and

(b) in a taxation year other than the year referenced in paragraph (a), mail an Assessment Notice to every person named in the assessment roll in respect of an assessable property where there is a change, from the previous assessment roll, in any information described in subsection 9(3) in respect of that assessable property.

(2) The assessor must mail an Assessment Notice required under subsection (1).

Assessment notices must be mailed before or on the same day as tax notices under the Taxation Law.

(a) no later than fourteen (14) days before the assessment roll is completed; and

(b) on or before the day that the tax administrator mails the Tax Notices under the Taxation Law.

(3) An Assessment Notice must be mailed to the recipient at the person's mailing address indicated on the assessment roll.

(4) Despite subsection (3), where requested by the recipient an Assessment Notice may be e-mailed to the recipient and, where e-mailed, is deemed to have been delivered on the date that the e-mail is sent by the assessor.

This provision enables e-mail delivery of the assessment notice.

(5) Where a person named on the assessment roll provides the tax administrator with a written request that the Assessment Notice be delivered to the address stated in the request, the tax administrator must advise the assessor of the request and the assessor must thereafter deliver the Assessment Notice to the recipient at the requested address.

(6) Any number of interests in reserve lands assessed in the name of the same holder may be included in one Assessment Notice.

(7) If several interests in reserve lands are assessed in the name of the same holder at the same value, the Assessment Notice may clearly identify the interest assessed, without giving the full description of each interest as it appears in the assessment roll.

**PART VIII
ERRORS AND OMISSIONS
IN ASSESSMENT ROLL**

Correction of Errors in the Assessment Roll

17.(1) Any time before the certification of the assessment roll under section 10, the assessor may correct any defect, error, omission or misstatement in any assessment and amend the roll accordingly.

(2) If prior to the end of the current taxation year or all or part of the preceding year, and as a result of an amendment to this Law or an amendment to any provincial legislation referred to under subsection 5(9),

(a) the classification of an interest in reserve lands is changed and taxes have been levied on the interest that exceed the amount of taxes that would have been levied if it had been classified in accordance with the change,

(b) an interest becomes exempt from taxation, or

(c) the method of determining the assessed value of an interest is changed,

then the assessor must make any assessment necessary to reflect the change and amend the assessment roll accordingly.

(3) The assessor may, at any time during the taxation year, correct any error in the assessment or classification of an interest that has resulted from incorrect factual information about the interest, and not from a change in opinion as to assessed value.

Omissions and Incorrect Exemptions

18.(1) If after the assessment roll has been certified under section 10 the assessor is informed that

(a) an interest in reserve lands that is liable to assessment has been in whole or in part omitted from the assessment roll, or

(b) an interest in reserve lands that is liable to taxation has been entered on the assessment roll as exempt from taxation,

The law must include procedures for the correction by the assessor of errors and omissions in the assessment roll. [Assessment Law Standards](#) section 6. The procedures in this Part follow the procedures set out in the *Ontario Assessment Act*.

The assessor may correct errors and amend the roll before it is certified under section 10.

The assessor must amend the roll where changes to specified legislation changes the classification of property, the assessed value or provides an exemption.

The assessor may correct errors at any time where the error resulted from incorrect factual information about the property.

The assessor must make an assessment where an interest in land has been omitted from the roll or is entered on the roll as exempt when it is liable to taxation.

for the current taxation year or for any part of either or both of the last two (2) preceding taxation years, and no taxes have been levied on that interest, the assessor must make any additional assessment necessary to rectify the omission.

(2) As an exception to subsection (1), if a court or tribunal has decided that the interest is not liable to taxation, the assessor must not make any additional assessment.

(3) For the purposes of subsection (1), “omitted” includes the invalidation or setting aside of an assessment by any court or assessment tribunal on any ground except that the interest is not liable to taxation.

(4) If subsection (1) applies with respect to an interest in land or a portion of an interest, the assessor, in addition to making an additional assessment, may also change the classification of the interest.

(5) If the assessor makes an assessment or changes a classification under this section, the assessor must make the appropriate changes

(a) on a supplementary assessment roll and forward the supplementary roll to the tax administrator at the earliest opportunity; and

(b) on the assessment roll for the next year, even if the day as of which an interest is valued for the next year is the same as for the current year.

Supplementary Assessments and Classifications

19.(1) If, after Assessment Notices have been given under subsection 16(1) and before the last day of the current taxation year,

(a) an increase in value occurs which results from the erection, alteration, enlargement or improvement of any building, structure, machinery, equipment or fixture or any portion thereof that commences to be used for any purpose, or

(b) land or a portion of land ceases,

(i) to be exempt from taxation,

(ii) to be in the farm property class, or

The assessor may make supplementary assessments in the circumstances set out in this section.

(iii) to be classified in a subclass of property class,

the assessor may make any additional assessment that may be necessary to reflect the change.

(2) If, during the taxation year or the period after June 30 in the preceding taxation year, a change event occurs that would change the property class applicable to all or part of an interest in reserve lands, the assessor may change the classification accordingly, including any subclass, for the current taxation year.

(3) For the purposes of subsection (2), “change event” includes:

(a) a change in the use of all or part of the interest; and

(b) an act or omission that results in all or part of the interest ceasing to be in a property class.

(4) If subparagraphs (1)(b)(ii) applies to an interest or a portion of an interest, the assessor, in addition to making an additional assessment, may also change the classification of the interest.

(5) If the assessor makes an assessment or classification under this section, the assessor must make the appropriate changes

(a) on a supplementary assessment roll and forward the supplementary roll to the tax administrator at the earliest opportunity; and

(b) on the assessment roll for the next year, even if the day as of which the interest is valued for the next year is the same as for the current year.

(6) If the assessor could have made an assessment or classification under this section but did not, the appropriate changes must be made on the assessment roll for the next year, even if the day as of which the interest is valued for the next year is the same as for the current year.

(7) An amendment made under this section applies for the portion of the taxation year left remaining after the change occurred as if the assessment had been made in the usual way.

Amended Assessment Notice

20. The assessor must, at the earliest opportunity, mail or e-mail (where subsection 16(4) applies) an amended Assessment Notice to every person named in the assessment roll in respect of the interest in reserve lands affected if the assessor does any of the following under the provisions of this Law:

- (a) amends the assessment roll;
- (b) makes an additional assessment under section 18 or 19; or
- (c) changes the classification of an interest under section 18 or 19.

Where the assessment roll is amended, the assessor must send an amended Assessment Notice to all persons named on the assessment roll in respect of the interest affected.

PART IX

RECONSIDERATION OF ASSESSMENT

[Note to First Nation: It is recommended that the First Nation discuss workable timelines for reconsiderations and assessment appeals with its assessment services provider. The minimum timeline for making a request for reconsideration is 21 days and the minimum time frame for making an assessment appeal is 30 days.]

Reconsideration by Assessor

21.(1) A person named on the assessment roll in respect of an assessable property may request that the assessor reconsider the assessment of that assessable property.

(2) A request for reconsideration may be made on one or more of the grounds on which an assessment appeal may be made under this Law.

[Note to First Nation: In a year where an Assessment Notice is sent, the timeline is 30 days from the delivery of the notice. In other years, the timeline is a fixed time frame intended to generally match the timeline for sending the Assessment Notices.]

(3) A request for reconsideration of an assessment must be delivered to the assessor,

The law must include a reconsideration procedure under which a person named on the assessment roll may request that the assessor reconsider the assessment of that property. [Assessment Appeal Regulations](#) section 3 and [Assessment Law Standards](#) section 8.

(a) in a year where an Assessment Notice is mailed or e-mailed to the persons named on the assessment roll in respect of the assessable property, within thirty (30) days after the day on which the Assessment Notice was mailed or e-mailed; or

(b) in a year where paragraph (a) does not apply, at any time from November 1 and on or before November 30 of the year before the taxation year in respect of which the request is made.

(4) A request for reconsideration of an assessment must

(a) be delivered to the assessor at the address or e-mail address indicated on the last Assessment Notice received in respect of an assessable property;

(b) be made in writing and include the information set out in Schedule V; and

(c) include any reasons in support of the request and the facts under which the request is made.

(5) The assessor must consider the request for reconsideration and either

(a) advise the person who requested the reconsideration that the assessor confirms the assessment; or

(b) where the assessor determines that assessable property should have been assessed differently, offer to the person who requested the reconsideration to modify the assessment.

(6) The assessor must consider and advise on a request for reconsideration under subsection (4) within sixty (60) days after the end of the applicable time frame referenced in subsection (3).

(7) Where the person who requested the reconsideration agrees with the modification proposed by the assessor, the assessor must

(a) amend the assessment roll as necessary to reflect the modified assessment;

The law must give the requester at least twenty-one days from the delivery of the assessment notice to make a request. The sample law provides a thirty day time period to reflect the timeline requested by MPAC.

The assessor must complete the reconsideration within twenty-one days after the end of the period given to make a request for reconsideration. The sample law provides a sixty day time period to reflect the timeline requested by MPAC.

If the assessor does not agree that the assessable property should have been assessed differently, the assessor must advise the requester that the assessor confirms the assessment.

If the assessor agrees that the assessable property should have been assessed differently, the assessor offers to modify the assessment.

If the requester agrees with the proposed modification, the assessor amends the assessment roll and gives notice of the amendment.

(b) give notice of the amended assessment to the tax administrator and to all other persons who received the Assessment Notice in respect of the assessable property; and

(c) where a Notice of Appeal has been delivered in respect of the assessable property, advise the Assessment Review Board of the modification.

(8) Where the person who requested the reconsideration accepts an offer to modify an assessment, that person must not appeal the modified assessment and must withdraw any Notice of Appeal filed in respect of the assessable property.

If the assessment is amended, the assessor must send amended assessment notices to all persons who received the original assessment notice for the property.

The requester must withdraw any appeal filed in respect of the assessment.

PART X ASSESSMENT REVIEW BOARD

Council to Establish Assessment Review Board

22.(1) Council must, by resolution, establish an Assessment Review Board to hear and determine assessment appeals under this Law.

(2) The Assessment Review Board must consist of not less than three (3) members, including at least one (1) member who is a practising or non-practising member in good standing of the law society of the Province and at least one (1) member who has experience in assessment appeals in the Province.

[Note to First Nation: The First Nation can choose to require the appointment of a member who is also a member of the First Nation, with the following wording:

(3) The Assessment Review Board must consist of at least one (1) member who is a member of the First Nation but not a member of Council.]

(4) Each member of the Assessment Review Board must hold office for a period of three (3) years unless the member resigns or is removed from office in accordance with this Law.

This Part incorporates the procedures set out in the Assessment Appeal Regulations. The law must include an appeal procedure in respect of assessments. The law must incorporate either the appeal procedures set out in the Assessment Appeal Regulations, or assessment appeal procedures that are the same as those set out in the Province. [FMA](#) subsection 5(4). [Assessment Appeal Regulations](#) section 2.

Council must establish an Assessment Review Board. [FMA](#) subsection 5(4).

The Assessment Review Board must have at least three members, at least one of whom is a member of the provincial law society, and one who has experience in assessment appeals. [Assessment Appeal Regulations](#) section 5.

If the law does not include this wording, Council still has the ability to appoint First Nation members to the Assessment Review Board.

The law must fix the term of office for Assessment Review Board members. The term must be at least two years. [FMA](#) subsection 5(4) and [Assessment Law Standards](#) paragraph 10.1(b).

(5) If a member of the Assessment Review Board is absent, disqualified, unable or unwilling to act, Council may appoint another person, who would otherwise be qualified for appointment as a member, to replace the member until the member returns to duty or the member's term expires, whichever comes first.

Remuneration and Reimbursement

[Note to First Nation: The Law must set out the remuneration that will be paid to members of the Assessment Review Board. The Law can either fix the rates of remuneration directly, or can incorporate rates paid by the Province to similar adjudicative tribunal members. These rates are set by the provincial Cabinet directive and change periodically. The First Nation should choose one of following options and delete the other option. Please note that the sample wording below provides for three levels of remuneration. The chair is paid the highest rate, members who are lawyers or have assessment experience are paid a middle rate, and members without those qualifications are paid a lower rate. First Nations can choose to implement these three levels, or can choose to have two levels of remuneration, one for the chair and one for other members.]

23.(1) The First Nation must remunerate

- (a) the chair (or acting chair) at a rate of _____ dollars (\$_____) per hour [or day],
- (b) a member (or replacement member appointed to act), other than the chair, who meets the criteria set out in subsection 22(2), at a rate of _____ dollars (\$_____) per hour [or day], and
- (c) a member (or replacement member appointed to act), other than those referenced in paragraphs (a) and (b), at a rate of _____ dollars (\$_____) per hour [or day],

The law must set out the remuneration that will be paid to members of the Assessment Review Board. [FMA](#) subsection 5(4).

for time spent on activities of the Assessment Review Board required under this Law or expressly authorized by Council.

OR

23.(1) The First Nation must remunerate

(a) the chair (or acting chair) at the maximum rate established from time to time by the Province for a part-time chair of a provincially-appointed adjudicative tribunal,

(b) a member (or replacement member appointed to act), other than the chair, who meets the criteria set out in subsection 22(2), at the maximum rate established from time to time by the Province for a part-time vice-chair of a provincially-appointed adjudicative tribunal, and

(c) a member (or replacement member appointed to act), other than those referenced in paragraphs (a) and (b), at the maximum rate established from time to time by the Province for a part-time member of a provincially-appointed adjudicative tribunal,

for time spent on activities of the Assessment Review Board required under this Law or expressly authorized by Council.

(2) For clarity, a reference in subsection (1) to the maximum rate established by the Province does not include the rate set for persons appointed in their professional capacity or to a labour-related tribunal.

(3) The First Nation must reimburse a member of the Assessment Review Board, including a replacement member, for reasonable travel and out of pocket expenses necessarily incurred in carrying out his or her duties.

Conflicts of Interest

24.(1) A person must not serve as a member of the Assessment Review Board if the person

(a) has a personal or financial interest in the assessable property that is the subject of an appeal;

(b) is the Chief of the First Nation or a member of Council;

(c) is an employee of the First Nation; or

The law must include a conflict of interest provision in accordance with the Regulations. [Assessment Appeal Regulations](#) subsection 5(3).

(d) has financial dealings with the First Nation that might reasonably give rise to a conflict of interest or impair that person's ability to deal fairly and impartially with an appeal, as required under the terms of this Law.

(2) For the purposes of paragraph (1)(a), membership in the First Nation does not in itself constitute a personal or financial interest in assessable property.

Appointment of Chair

25.(1) Council must, by resolution, appoint one of the members of the Assessment Review Board as chair.

(2) The chair must

(a) supervise and direct the work of the Assessment Review Board;

(b) undertake administrative duties as necessary to oversee and implement the work of the Assessment Review Board;

(c) determine procedures to be followed at hearings consistent with this Law;

(d) administer an oath or solemn affirmation to a person before his or her evidence is taken; and

(e) preside at hearings of the Assessment Review Board.

(3) If the chair is absent or incapacitated, Council must designate a member of the Assessment Review Board as the acting chair for the period that the chair is absent or incapacitated.

Appointment of Secretary

26.(1) Council must, by resolution, appoint a secretary of the Assessment Review Board.

(2) The secretary of the Assessment Review Board must

(a) have the custody and care of all records, documents, orders and decisions made by or pertaining to the Assessment Review Board; and

The law must provide for the appointment of a chair of the Assessment Review Board. [Assessment Appeal Regulations](#) subsection 5(1).

The law must set out the chair's powers, duties and functions. At minimum, the chair would typically be responsible for chairing appeal proceedings, administering oaths and directing the work of the Assessment Review Board. [Assessment Law Standards](#) paragraph 10.1(a).

This section provides for Council to appoint a secretary to the Assessment Review Board.

(b) fulfill such other duties as directed by the chair and the Assessment Review Board.

(2) The secretary must not be a person who is

(a) the Chief of the First Nation or a member of Council; or

(b) an employee of the First Nation.

Removal of Member

27. Council may terminate the appointment of a member of the Assessment Review Board for cause, including where a member

The law must set out when and how members may be removed from office. [Assessment Law Standards](#) paragraph 10.1(c).

(a) is convicted of an offence under the *Criminal Code*;

(b) fails to attend three (3) consecutive hearings of the Assessment Review Board; or

(c) fails to perform any of his or her duties under this Law in good faith and in accordance with the terms of this Law.

Duty of Member

28. In performing their duties under this Law, the members of the Assessment Review Board must act faithfully, honestly and impartially and to the best of their skill and ability, and must not disclose to any person information obtained by them as a member, except in the proper performance of their duties.

This section requires Assessment Review Board members to act faithfully, honestly and impartially in performing their duties.

PART XI

APPEAL TO ASSESSMENT REVIEW BOARD

Appeals

29. The Assessment Review Board must hear and determine appeals made under this Part.

This Part sets out the procedures and requirements for appeals to the Assessment Review Board. The Assessment Appeal Regulations set out detailed procedures that are incorporated in this sample law. [Assessment Appeal Regulations](#).

Notice of Appeal

30.(1) Any person, including without limitation the First Nation and the assessor, may commence an appeal of an assessment or a reconsideration of an assessment of assessable property to the Assessment Review Board by delivering

An appeal is commenced by submitting a Notice of Appeal to the assessor.

(a) a completed Notice of Appeal,

- (b) a copy of the Assessment Notice, and
- (c) an administration fee of thirty dollars (\$30),

to the assessor at the date at the address or e-mailed to the persons named on the assessment roll in respect of the assessable property.

[Note to First Nation: In a year where an Assessment Notice is sent, the timeline is 105 days from the delivery of the notice. In other years, the timeline is a fixed time frame (of at least 45 days) intended to generally match the last 45 days of the 105-day timeline where an Assessment Notice is sent. A First Nation can change paragraph (b) to provide the same timeline as in paragraph (a).]

(2) An appeal of an assessment must be delivered to the assessor,

(a) in a year where an Assessment Notice is mailed or e-mailed to the persons named on the assessment roll in respect of the assessable property, within one hundred and five (105) days after the day on which the Assessment Notice was mailed or e-mailed; or

(b) in a year where paragraph (a) does not apply, at any time from January 1 and on or before February 15 of the taxation year in respect of which the appeal is made

(3) The grounds for an appeal may be in respect of one or more of the following:

- (a) the assessed value of the assessable property;
- (b) the assessment classification of the assessable property;
- (c) the applicability of an exemption to the assessable property;
- (d) any alleged error or omission in an assessment or Assessment Notice; and
- (e) the liability of the holder to taxation under the Taxation Law.

If a fee is charged to initiate an appeal it must not exceed thirty dollars (\$30). [Assessment Law Standards](#) subsection 9.2.

The law must provide a period of not less than one hundred and five days after the date the assessment notice is mailed to the person named on the assessment roll. The sample provides a one hundred and five day time period to reflect the timeline requested by MPAC. [Assessment Appeal Regulations](#) section 6.

The law must allow an appeal on at least the grounds set out in paragraphs 30(3)(a) to (d). Paragraph (e) is optional. [Assessment Law Standards](#) subsection 9.1.

[Note to First Nation: The inclusion of the ground set out in paragraph (3)(e) is optional. The First Nation may wish to confirm with its assessor that it is able to defend an assessment appeal on this ground before the First Nation includes this ground of appeal.]

(4) The assessor must, as soon as possible after a Notice of Appeal is received,.

(a) deliver a copy of the Notice of Appeal to the chair and to the tax administrator; and

(b) deliver the administration fee collected under paragraph (1)(c) to the tax administrator.

Agents and Solicitors

31. Where a complainant is represented in an appeal through a solicitor or agent, all notices and correspondence required to be given to the complainant are properly given if delivered to the solicitor or agent at the address set out in the Notice of Appeal.

Scheduling of Hearing

32.(1) On delivery of a Notice of Appeal to the assessor, the chair must, in consultation with the assessor, schedule a hearing of the appeal.

(2) The chair may consult with the other parties when scheduling a hearing under subsection (1).

(3) The chair must, at least twenty (20) days before the hearing, deliver a Notice of Hearing setting out the date, time and place of the hearing, to the parties and to each person named on the assessment roll in respect of the assessable property.

The chair sets a hearing date, in consultation with the assessor, and delivers a written notice of the date, time and place of the hearing at least ten days before the hearing date. The sample provides a 20 day time period to reflect the timeline requested by MPAC. [Assessment Appeal Regulations](#) subsection 8(1).

Parties

33. The parties in a hearing are

(a) the complainant;

(b) the holder of the assessable property, if not the complainant;

(c) the assessor; and

The parties are entitled to notices and to be heard and represented at a hearing. At a minimum, the complainant, the assessor and the holder of the property are parties to an appeal. [Assessment Law Standards](#) subsection 10.4.

(d) any person who the Assessment Review Board determines may be affected by the appeal, upon request by that person.

Delivery of Documentation

34.(1) The chair must, without delay, deliver a copy of any document submitted by a party in relation to an appeal to all other parties.

The assessor is required to deliver all documents submitted by a party to all other parties to the appeal. [Assessment Appeal Regulations](#) section 11.

(2) The chair may, in respect of an appeal,

(a) require the assessor, in advance of a hearing, to provide any relevant document or record obtained or created in respect of an assessment that is in the custody or control of the assessor, subject to privilege and excluding documents that cannot be disclosed by law;

(b) require a party to provide in advance of a hearing any documents and records the party intends to submit in relation to the appeal.

Timing for Hearing

35. Subject to subsection 47(1), the Assessment Review Board must commence a hearing within forty-five (45) days after delivery of the Notice of Appeal to the assessor, unless all parties consent to a delay.

The Assessment Review Board must commence a hearing within forty-five days of a notice of appeal, except where all parties consent to a later date or where there is a court proceeding that relates to the appeal. [Assessment Appeal Regulations](#) subsection 8(2).

Daily Schedule

36.(1) The chair must

(a) create a daily schedule for the hearings of the Assessment Review Board; and

(b) post the daily schedule at the place where the Assessment Review Board is to meet.

(2) The Assessment Review Board must proceed to deal with appeals in accordance with the daily schedule, unless the Assessment Review Board considers a change in the schedule necessary and desirable in the circumstances.

Conduct of Hearing

37.(1) The Assessment Review Board must give all parties a reasonable opportunity to be heard at a hearing.

(2) A party may be represented by counsel or an agent and may make submissions as to facts, law and jurisdiction.

(3) The Assessment Review Board may conduct a hearing whether the complainant is present or not, provided the complainant was given notice of the hearing in accordance with this Law.

(4) The burden of proof in an appeal is on the person bringing the appeal.

(5) In an oral hearing, a party may call and examine witnesses, present evidence and submissions and conduct cross-examination of witnesses as reasonably required by the Assessment Review Board for a full and fair disclosure of all matters relevant to the issues in the appeal.

(6) The Assessment Review Board may reasonably limit further examination or cross-examination of a witness if it is satisfied that the examination or cross-examination has been sufficient to disclose fully and fairly all matters relevant to the issues in the appeal.

(7) The Assessment Review Board may question any witness who gives oral evidence at a hearing.

(8) The Assessment Review Board may receive and accept information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in a court of law.

(9) The Assessment Review Board may conduct its proceedings by any combination of written, electronic and oral hearings.

(10) An oral hearing must be open to the public unless the Assessment Review Board, on application by a party, determines that the hearing should be held *in camera*.

The law must establish the practices and procedures for the conduct of the Assessment Review Board. The procedures set out in this section reflect best practices. [Assessment Law Standards](#) subsection 10.2.

(11) In determining the assessed value for an assessable property, the Assessment Review Board may have reference to the value of similar interests in reserve lands in the vicinity, determined as if those interests are unencumbered and held in fee simple off the reserve, and adjust the assessed value to make it equitable with the assessed values of the similar interests in reserve lands in the vicinity if such an adjustment would result in a reduction of the assessed value.

Maintaining Order at Hearings

38.(1) The Assessment Review Board may, at an oral hearing, make orders or give directions that it considers necessary to maintain order at the hearing.

These provisions give the Assessment Review Board the power to make orders during the hearing to ensure that the hearing can proceed in an orderly manner.

(2) Without limiting subsection (1), the Assessment Review Board may, by order, impose restrictions on a person's continued participation in or attendance at a hearing and may exclude a person from further participation in or attendance at a hearing until the Assessment Review Board orders otherwise.

Summary Dismissal

39.(1) At any time after a Notice of Appeal is received by the Assessment Review Board, the Assessment Review Board may dismiss all or part of the appeal where it determines that any of the following apply:

This section provides for the summary dismissal of an appeal in specified situations. These provisions are not required; however, it may be helpful for the Assessment Review Board to have the ability to dismiss an appeal in certain situations.

- (a) the appeal is not within the jurisdiction of the Assessment Review Board;
- (b) the appeal was not filed within the applicable time limit; or
- (c) the complainant failed to diligently pursue the appeal or failed to comply with an order of the Assessment Review Board.

(2) Before dismissing all or part of an appeal under subsection (1), the Assessment Review Board must give the complainant an opportunity to make submissions to the Assessment Review Board.

(3) The Assessment Review Board must give written reasons for any dismissal made under subsection (1) to all parties.

Quorum

40.(1) A majority of the members of the Assessment Review Board constitutes a quorum, provided that there must not be less than three (3) members present at any time.

The law must indicate the quorum required for the Assessment Review Board to conduct a hearing. Where the Assessment Review Board has only three members, all three members must be present for the hearing.

(2) Where a quorum of the members of an Assessment Review Board is not present at the time at which a hearing is to be held, the hearing must be adjourned to the next day that is not a holiday, and so on from day to day until there is a quorum.

Decisions

41. A decision of the majority of the members is a decision of the Assessment Review Board and, in the case of a tie, the decision of the chair governs.

Combining Hearings

42. The Assessment Review Board may conduct a single hearing of two (2) or more appeals or assessor recommendations related to the same assessment if the matters in each hearing are addressing the same assessable property or substantially the same issues.

The Assessment Review Board has the power to combine hearings in certain circumstances. [Assessment Appeal Regulations](#) section 10.

Power to Determine Procedures

43.(1) Subject to this Law, the Assessment Review Board has the power to control its own procedures and may make rules respecting practice and procedure to facilitate the just and timely resolution of the matters before it.

This section gives the Assessment Review Board the power to determine its own procedures that will apply during a hearing, subject to the provisions set out in the law. [Assessment Law Standards](#) paragraph 10.3(b).

(2) Without limiting subsection (1), the Assessment Review Board may make rules respecting the holding of pre-hearing conferences and requiring the parties to attend a pre-hearing conference.

Orders to Attend or Produce Documents

44.(1) At any time before or during a hearing, but before its decision, the Assessment Review Board may make an order requiring a person to

The Assessment Review Board may compel the delivery of documents and the attendance of witnesses.

- (a) attend a hearing to give evidence, or
- (b) produce a document or other thing in the person's possession or control as specified by the Assessment Review Board,

by issuing an Order to Attend/Produce Documents and serving it on the person at least two (2) days before the person's attendance or the requested document is required at the hearing, as the case may be.

(2) Where an order is made under paragraph (1)(a), the Assessment Review Board must pay to the person a twenty dollar (\$20) witness fee plus reasonable travel expenses to attend and give evidence before the Assessment Review Board.

(3) A party may request that the Assessment Review Board make an order under subsection (1) to a person specified by the party.

(4) Where a party makes a request under subsection (3),

(a) the chair must sign and issue an Order to Attend/Produce Documents and the party must serve it on the witness at least two (2) days before the person's attendance or the requested document is required at the hearing, as the case may be; and

(b) a party requesting the attendance of a witness must pay a twenty dollar (\$20) witness fee plus reasonable travel expenses to the witness to attend and give evidence before the Assessment Review Board.

(5) The Assessment Review Board may apply to the Superior Court of Justice of Ontario for an order directing a person to comply with an order under this section.

Adjournments

45. The Assessment Review Board may

(a) hear all appeals on the same day or may adjourn from time to time until all matters have been heard and determined; and

(b) at any time during a hearing, adjourn the hearing.

Costs

46. The Assessment Review Board may make orders requiring a party

(a) to pay all or part of the costs of another party in respect of the appeal,

(b) to pay all or part of the costs of the Assessment Review Board in respect of the appeal,

where the Assessment Review Board considers the conduct of a party has been improper, vexatious, frivolous or abusive.

Reference on Question of Law

[Note to First Nation: This section can provide that a reference can go to either the Superior Court of Justice of Ontario or to the Federal Court of Canada, or it could specify only one of these courts if the First Nation has a preference.]

47.(1) At any stage of a proceeding before it, the Assessment Review Board, on its own initiative or at the request of one or more of the parties, may refer a question of law in the proceeding to the Superior Court Justice of Ontario or to the Federal Court of Canada in the form of a stated case.

(2) The stated case must be in writing and filed with the court registry and must include a statement of the facts and all evidence material to the stated case.

(3) The Assessment Review Board must

(a) suspend the proceeding as it relates to the stated case and reserve its decision until the opinion of the court has been given; and

(b) decide the appeal in accordance with the court's opinion.

Matters before the Courts

48. If a proceeding with respect to liability to pay taxes in respect of assessable property that is the subject of an appeal is brought before a court of competent jurisdiction

(a) before the hearing is to commence, the hearing must be deferred until the matter is decided by the court;

(b) during the hearing, the hearing must be adjourned until the matter is decided by the court;
or

The Assessment Review Board may order costs against a party to an appeal where the party's conduct has been improper, vexatious, frivolous or abusive.

This section provides for the Assessment Review Board to refer a question of law the Superior Court Justice of Ontario or to the Federal Court of Canada in the form of a stated case.

This section requires an Assessment Review Board hearing to be deferred where a proceeding respecting the liability to taxation in respect of assessable property is before a court of competent jurisdiction. [Assessment Appeal Regulations](#) section 9.

(c) after the hearing has concluded but before a decision on the appeal is given, the decision must be deferred until the matter is decided by the court.

Withdrawal of Appeal

49.(1) A complainant may withdraw an appeal under this Part by

(a) delivering a Notice of Withdrawal to the assessor if a Notice of Hearing has not been delivered in respect of an appeal; or

These provisions enable a Notice of Withdrawal to be delivered to the assessor if a Notice of Hearing has not been delivered. These provisions can be modified if the First Nation wants to have Notices of Withdrawal delivered to the Assessment Review Board in all circumstances.

(b) delivering a Notice of Withdrawal to the Assessment Review Board if a Notice of Hearing has been delivered in respect of the appeal.

(2) Upon receipt of a Notice of Withdrawal

(a) under paragraph (1)(a), the assessor must advise the chair and the First Nation that the appeal is withdrawn and will not proceed; and

(b) under paragraph (1)(b), the Assessment Review Board must dismiss the appeal and notify the parties that the appeal has been dismissed.

Delivery of Decisions

50.(1) The Assessment Review Board must, at the earliest opportunity after the day on which a hearing is completed, deliver a written decision on the appeal to all parties.

The Assessment Review Board is required to deliver a written decision to the parties. [Assessment Appeal Regulations](#) section 12.

[Note to First Nation: The following alternate wording may be used where the First Nation wishes to impose a time limit on the assessment review board to deliver its written decision. Such a period must not be less than 90 days after the day the hearing is completed.]

The First Nation has the option of imposing a time limit of not less than ninety days on the Assessment Review Board for delivering a decision. Optional wording is provided where the First Nation wishes to impose a time limit. [Assessment Appeal Regulations](#) subsection 12(2).

(1) The Assessment Review Board must, not more than ninety (90) days after the day on which a hearing is completed, deliver a written decision on the appeal to all parties.]

(2) Any person may obtain a copy of a decision of the Assessment Review Board from the tax administrator on request and payment of a fee of _____ dollars (\$_____).

The fee set to obtain a copy of a decision should be a reasonable administrative fee.

(3) The tax administrator may obscure or omit personal information (other than name and address) and financial business information from decisions provided under subsection (2), provided that assessment and property tax information must not be obscured or omitted.

Delivery of Documents under this Part

51.(1) Delivery of a document under this Part may be made personally or by sending it by registered mail, fax or e-mail.

Documents in respect of Assessment Review Board matters must be delivered in accordance with this section. [Assessment Appeal Regulations](#) section 13.

(2) Personal delivery of a document is made

(a) in the case of an individual, by leaving the document with the individual or with a person at least eighteen (18) years of age residing at the individual's place of residence;

(b) in the case of a first nation, by leaving the document with the person apparently in charge, at the time of delivery, of the first nation's administrative office, or with the first nation's legal counsel; and

(c) in the case of a corporation, by leaving the document with the person apparently in charge, at the time of delivery, of the corporation's head office or a branch office of the corporation, or with an officer or director of the corporation, or with the corporation's legal counsel.

(3) Subject to subsection (4), a document is considered delivered if

(a) delivered personally, at the time that personal delivery is made;

(b) sent by registered mail, on the fifth day after it is mailed;

(c) sent by fax, at the time indicated on the confirmation of transmission; or

(d) sent by e-mail, at the time indicated in the electronic confirmation that the e-mail has been opened.

(4) A document delivered on a non-business day or after 17:00 local time on a business day is considered delivered at 09:00 on the next business day.

Appeals

52.(1) An appeal lies to the Superior Court of Justice of Ontario from a decision of the Assessment Review Board on a question of law.

There is a right of appeal from a decision of the Assessment Review Board. The law can impose a time limit of not less than thirty days for an appeal to be made.

(2) An appeal under subsection (1) must be made within thirty (30) days after the day on which the decision is delivered under subsection 50(1).

PART XII GENERAL PROVISIONS

Disclosure of Information

53.(1) The tax administrator, the assessor, a member of the Assessment Review Board, the secretary 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

This section sets out the circumstances under which information or records obtained or created under the law can be disclosed. [Assessment Law Standards](#) section 11.

- (a) in the course of administering this Law or performing functions under it;
- (b) in proceedings before the Assessment Review Board, or a court of law; or
- (c) in accordance with subsection (2).

(2) The assessor may disclose to the agent of a holder confidential information relating to the interest in reserve lands 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

54. Notwithstanding section 53,

(a) the tax administrator 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

This section enables the tax administrator to disclose information for research and statistical purposes provided the information is not in an identifiable form. [Assessment Law Standards](#) section 11.

(b) Council may disclose information and records to a third party for research purposes, including statistical research, in an identifiable form, where

Council may disclose this information in an identifiable form provided Council takes steps to protect the confidentiality of the information.

(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

55. Nothing under this Law must be rendered void or invalid, nor must the liability of any person to pay taxes or amounts levied under the Taxation Law be affected by

This section supports the validity of the law where errors or omissions are made. Although it may be helpful to include this type of provision, First Nations should strive for compliance with the law and not rely on this section to ensure the validity of its actions.

(a) an error or omission in a valuation or a valuation based solely on information in the hands of an assessor or the tax administrator;

(b) an error or omission in an assessment roll or any notice given under this Law; or

(c) a failure of the First Nation, tax administrator or the assessor to do something within the required time.

Notices

56.(1) Where in this Law a notice is required to be given by mail or where the method of giving the notice is not otherwise specified, it must be given

This section sets out notice provisions that apply under the law unless otherwise specified.

(a) by mail to the recipient's ordinary mailing address or the address for the recipient shown on the assessment roll;

(b) where the recipient's address is unknown, by posting a copy of the notice in a conspicuous place on the recipient's property; 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 assessment roll.

(2) Except where otherwise provided in this Law, a notice

(a) given by mail is deemed received on the fifth day after it is posted;

(b) posted on property is deemed received on the second day after it is posted; and

(c) given by personal delivery or courier is deemed received upon delivery.

Interpretation

57.(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 the enactment and must be construed as being inserted for convenience of reference only.

These general rules apply to the interpretation of the law. The federal [Interpretation Act](#) also applies when interpreting the law.

[Note to First Nation: Include this repeal provision only if this law is repealing and replacing an existing property assessment law.]

Repeal

58. The _____ *First Nation Property Assessment By-law, 20__*, as amended, is hereby repealed in its entirety.]

If the First Nation does not have an existing assessment law or by-law then this section is not required.

Force and Effect

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

The law comes into force on the day after the Commission approval. The First Nation can specify a later date for the law to come into force by modifying this language.

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

These enactment provisions must be filled in and completed at the time the law is enacted by the Council.

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

_____ [Name]

Chief [please spell out name]

_____ [Name]

Councillor [please spell out name]

SCHEDULES:

The sample law contains ten schedules. Each Schedule should be completed as much as possible, including by filling in the name of the First Nation and the references to the First Nation's law where indicated.

If a change is made to the substance of the law, any related schedules should be carefully reviewed, and changes made to those schedules as necessary to ensure consistency. Conversely, if a substantive change is made to a schedule, the law should be reviewed, and changes made as necessary to ensure consistency.