

**CERTIFICATION**

Pursuant to Section 86, Indian Act RSC 1985 C.1-5 and amendments thereto, I certify that the attached copies of the **Shxw'owhamel First Nation Property Assessment and Taxation By-laws** dated October 2, 2003 are true copies of the said by-laws.

*Kathy Hankin*

*for* Thomas Howe  
Director, Lands and Trust Services,  
a superintendent as defined in  
Section 2(1) Indian Act RSC 1985

Minister of Indian Affairs  
and Northern Development



Ministre des Affaires  
indiennes et du Nord canadien

Ottawa, Canada K1A 0H4

I, the Minister of Indian Affairs and Northern Development, HEREBY APPROVE, pursuant to section 83 of the *Indian Act*, the following by-laws made by the Shxw'owhamel First Nation, in the Province of British Columbia, at a meeting held on the 2nd day of October 2003.

- **Shxw'owhamel First Nation  
Property Assessment and Taxation By-laws**

A handwritten signature in black ink, appearing to read "Robert D. ...".

Dated at Ottawa, Ontario this 11<sup>th</sup> day of December 2003.

Canada

**Shxw'owhamel First Nation  
(Ohamil Indian Band)**

**ASSESSMENT BY-LAW**

WHEREAS:

The Shxw'owhamel First Nation (Ohamil Indian Band) deems it advisable and in the best interests of the members of the Shxw'owhamel First Nation (Ohamil Indian Band) to establish, by by-law, a system for the assessment and taxation of land, or interests in land, including rights to occupy, possess or use land in the reserves, such assessment being ancillary to and necessary for the establishment of an equitable system of levying taxes for local purposes on land, or interests in land, including rights to occupy, possess or use land in the reserves;

NOW BE IT HEREBY RESOLVED

That the following by-law be and is hereby enacted for the purpose of taxation for local purposes of land, or interests in land, including rights to occupy, possess or use land in the Ohamil Indian Reserve No. 1, Wahleach Island Indian Reserve No. 2 and Kuthlalth Indian Reserve No. 3 pursuant to the provisions of the Indian Act, R.S.C., and in particular pursuant to the provisions of section 83 (1) of the Indian Act, R.S.C.

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## **Interpretation**

### **1. In this by-law**

<b>“administrator”</b>	<b>“administrator” means the administrator of the Shxw’owhamel First Nation (Ohamil Indian Band);</b>
<b>“appraiser”</b>	<b>“appraiser” means a property valuator appointed by si:yam council under this by-law;</b>
<b>“assessment”</b>	<b>“assessment” means a valuation of property for taxation purposes;</b>
<b>“assessment roll”</b>	<b>“assessment roll” includes a supplementary assessment roll;</b>
<b>“assessor”</b>	<b>“assessor” means an assessor appointed by the si:yam council under this by-law;</b>
<b>“band”</b>	<b>“band” means the Shxw’owhamel First Nation (Ohamil Indian Band);</b>
<b>“si:yam council resolution”</b>	<b>“si:yam council resolution” means a motion, as recorded in the minutes of the meeting, passed and approved at a duly convened meeting of the si:yam council pursuant to the consent of a majority of the si:yam of the band present at the meeting;</b>
<b>“band land”</b>	<b>“band land” means reserve land other than land held under a cp;</b>
<b>“closed circuit television corporation”</b>	<b>"closed circuit television corporation" includes a person operating for a fee or charge a television signal receiving antenna or similar device, or equipment for the transmission of television signals to television receivers of subscribers, or any or all of those devices and equipment;</b>

“cp”

“cp” means a Certificate of Possession as defined under subsections 20 (1) and 20 (2) of the Indian Act; and for the purposes of this By-law only, includes a Notice of Entitlement and a Certificate of Occupation as defined under subsections 20 (4) and 20 (5) of the Indian Act or any other permits, agreements or licenses issued from time to time by si:yam council resolution authorizing the use of band land by a band member;

“si:yam council”

“si:yam council” means the si:yam council of the Shxw’owhamel First Nation (Ohamil Indian Band) as elected by the members of the Shxw’owhamel First Nation (Ohamil Indian Band) pursuant to the provisions of section 74 of the Indian Act or as chosen according to the custom of the Band;

“highway”

“highway” includes a street, road, lane, bridge, viaduct, and any other way open to the use of the public, and also includes a street, road, lane, bridge, viaduct, and any other way not open to the public;

“improvements”

(1) means any building, fixture, structure or similar thing constructed, or placed on or in reserve land, or water over reserve land, or on or in another improvement, but does not include any of the following things unless that thing is a building or is deemed to be included in this definition by subsection (2):

- (a) production machinery;
- (b) anything intended to be moved as a complete unit in its day to day use;
- (c) furniture and equipment that is not affixed for any purpose other than its own stability and that is easily moved by hand;

- (2) Without limiting the definition of “improvements” in subsection (1), the following things are deemed to be included in that definition unless excluded from it under subsection 3:
- (a) anything that is an integral part of a building or structure and is intended to serve or enhance the building or structure, including elevators, escalators and systems for power distribution, heating, lighting, ventilation, air conditioning, communication, security and fire protection;
  - (b) any building or structure that is capable of maintaining a controlled temperature or containing a special atmosphere, including dry kilns, steam chests, greenhouses and cooling towers;
  - (c) any lighting fixtures, paving and fencing;
  - (d) any
    - (i) piling, retaining walls and bulkheads, and
    - (ii) water system, storm drainage system and industrial or sanitary sewer system, the value of which is not included by the assessor in the value of the land;
  - (e) any foundation, such as footings, for perimeter walls, slabs, foundations for machinery and equipment;
  - (f) any pipe racks, tending platforms, conveyor structures, log decks and supports for machinery and equipment, including structural members comprising trestles, bents, truss and joint sections, stringers, beams, channels, angles and similar things;
  - (g) any aqueducts, dams, reservoirs and artificial lagoons and any tunnels other than mine working;

- (h) any roads, airstrips, bridges, trestles and towers, including ski towers;
- (i) any mains, pipes or pipelines for the movement of fluids or gas;
- (j) any track in place, including railway track in place;
- (k) any pole lines, metallic or fibre optic cables, towers, poles, wires, transformers, substations, conduits and mains that are used to provide electric light, power, telecommunications, transportation and similar services, including power wiring for production machinery up to the main electrical panels or motor control centre, those panels and that centre;
- (l) any vessels, such as tanks, bins, hoppers and silos, with a prescribed capacity and any structure that is connected to those vessels;
- (m) docks, wharves, rafts and floats;
- (n) floating homes and other floating structures and devices that are used principally for purposes other than transportation;
- (o) that part of anything referred to in paragraphs (a) to (o) or of any building, fixture, structure or similar thing that, whether or not completed or capable of being used for the purpose which it is designed,
  - (i) is being constructed or placed, and,
  - (ii) is intended, when completed, to constitute, or will with the addition of further construction constitute, any of those things.

- (3) The following categories and types of things, which are deemed to be included in the definition of “improvements” in subsection (2) are excluded from the definition of “improvements”, but any foundations associated with them are not excluded:
- (a) portable elements of communications, security or fire protection systems;
  - (b) bucket elevators;
  - (c) fans, motors, piping other than piping used to supply fuel, or other equipment that is used to control or provide the temperature, irrigation or atmosphere within a dry kiln, steam chest, greenhouse, cooling tower, controlled atmosphere warehouse or cold storage warehouse, and all ventilating and heating equipment used for process purposes in farms as set out in subsection 2(b);
  - (d) coolers, freezers or controlled environment cabinets that are
    - (i) of a modular walk-in or reach-in type, and
    - (ii) located within a building or structure, and any associated machinery and controls,
  - (e) portable lighting or portable lighting plants;
  - (f) those pumps, motors, traveling screens, traveling cranes and hoists, filter, chlorinators, skimmers, aerators and similar things that are in water or sewer systems;



- (g) in the case of rail car and truck dumpers, lifts for marine vessels, platform scales, hoppers, stacker-reclaimers, conveyors, screw conveyors and traveling cranes, their moving parts and all controls related to their moving parts;
- (h) casings for screw conveyors or bucket elevators;
- (i) those catwalks or tending platforms that are principally mounted on or are supported either by an improvement exempted by this by-law or by production machinery;
- (j) idler arms for conveyors;
- (k) chip or hog blow lines;
- (l) J-bar or tray sorters, excluding any enclosure and associated framing;
- (m) turbines, generators and related controls;
- (n) those surface tows or aerial chairs, gondolas or tramways that are supported by towers, including their supporting cables, sheave assemblies, bull wheels, motor and controls;
- (n.1) snow making systems except piping or associated structure;
- (o) haul roads within active mine pits;
- (p) subject to paragraph (c), piping in a plant that is within property classified for assessment purposes as Class 4 or 5, other than that portion of piping which supplies or moves

- (i) water that is used for drinking, cooking or personal hygiene,
  - (ii) water to the beginning of plant process for use in that process,
  - (iii) materials that are used for fire protection,
  - (iv) fuel or steam that used for heating or power production,
  - (v) materials to the point where major processing of the materials begins,
  - (vi) industrial or non-industrial waste, or
  - (vii) materials that have been refined, manufactured or otherwise processed in the plant and which are not subject to any further refinement, manufacturing or other processing in that plant;
- (q) casings or piping in oil or gas wells;
- (r) electrical distribution equipment and materials, not including the load break switch or circuit breaker referred to in subparagraph (ii), that are located
- (i) within properties classified for assessment purposes as Class 4, 5 or 6, and
  - (ii) between a medium voltage load break switch, or a medium voltage circuit breaker, and production machinery, where “medium voltage” is 601 volts to and including 15 kilovolts and the load break switch or circuit breaker is located, as determined by the current flow, immediately before a distribution transformer that serves production machinery;

- (s) portable power or generation facilities;
- (t) the following vessels:
  - (i) cyclones, dust and particulate collectors or separators, power and recovery boilers, furnaces used in industrial processes, rotary dyers rotary kilns, rotary mixers, compressor tanks, evaporators, heat exchangers, electrolytic cells, electrolytic tanks, stripping or scrubbing vessels or expansion tanks;
  - (ii) those floatation cells, crushers, grinding mills, dewatering filters, primary and secondary leach filters, aeration columns, carbon columns, heavy media separators and floatation columns that are used in the mining industry;
  - (iii) those rotary modulizers, absorption towers, cottrell treaters, humidifying towers, spray towers, glover towers, hot treaters, mist eliminators, melting pots, scrubbers and acidifiers that are used in the smelting industry;
  - (iii) those cat cracker columns, desalters, atmospheric columns, vacuum columns, rectifier columns, fractionator columns, reactors, distillation towers, reformer stacks, asphalt oxidizers, hydrotreater units, reformer units, platformer units, crude units, alkylation units, fluid cat cracker units, isomerization units, rerefined oil process units, blending or shipping kettles, oxidation towers, gas or oil separator towers, emulsion treater towers condensate accumulators, contractor towers, reboilers, stills, instrument air receivers, treater pressure filters, treater zeolite softeners,

water treater towers, coalescers, inlet scrubbers, sour water stripper towers, condensate receivers, sulfreen reactors, converters, reflux accumulators, water wash towers, methanol towers, methanol degassers, methanol strippers, instrument air receivers, dehydrator towers, separator towers, demethanizer towers, deethanizer towers, depropanizer towers, refrigerant receivers, refrigerant blowcases and condensers, except cooling condensers that are used in the petroleum and gas industry;

- (v) those resin blenders, batch or continuous digester vessels, bleaching towers, demineralizers, water softeners, chlorine or chlorine dioxide generators, air receivers, steaming vessels (TMP), deaerators, impregnation vessels, oxygen reactors, repulpers, oxygen drum washers, preheaters, brown stock decker washers and brown stock steam vessels that are used in the forest industry;
- (vi) those distillation towers, graphite cells, synthesizer towers, cooler vessels, solution treaters, hydrogenator treaters, rotary pebble mills, prilling towers, degasser eliminators, vacuum dryers, methanator units, extractor units, reboilers, converters, still columns, kettles, untreated chlorate dryers, deaerator systems and steam drums that are used in the chemical industry;
- (vii) those spas, hot-tubs and swimming pools that are free standing and any associated machinery and controls.

- “Indian Act” means the *Indian Act*, R.S.C. 1985 c. I-5 and any amendments thereto;
- “interest” includes any legal or beneficial right, title, estate or interest;
- “interest holder” includes a person who has an interest in land or improvements or both within the reserves, including rights to occupy, possess or use land or improvements or both within the reserves and also includes a person who simply occupies land or improvements or both within the reserves;
- “interest in land” means any legal or beneficial interest or estate in land, or interests in land, including rights to occupy, possess or use land in the reserves,
- “land” means land, or interests in land, including rights to hold, occupy, possess or use land in the reserves, and improvements and includes;
- (a) land covered by water
  - (b) quarries, and
  - (c) sand and gravel;
- “land cooperative” means a parcel of land of which an interest holder is a corporation which holds its interest in the land exclusively for the benefit of its shareholders who
- (a) have rights to occupy a portion of the parcel, and
  - (b) hold, own or have the use of shares or shares and other securities in the corporation that has a value equivalent to the value of the portion in relation to the value of the parcel;

“land title office”

“land title office” means the land title office for the land title district in which land located on the reserve may have been registered under the *Land Title Act* of the Province of British Columbia;

“manufactured home”

“manufactured home” or “mobile home means”

(i) any structure, whether or not ordinarily equipped with wheels, that is designed, constructed or manufactured to be moved from on place to another by being towed or carried, and to provide

(a) a dwelling house or premises,

(b) a business office or premises,

(c) accommodation for any other purpose other than those referred to in paragraphs (a) and (b),

(d) shelter for machinery or other equipment, or

(e) storage, workshop, repair, construction or manufacturing facilities.

(ii) for the purposes of assessment, “manufactured” or “mobile” homes shall be deemed to be an improvement unless exempted by resolution of the si:yam council.

“minister”

“minister” means the Minister of Indian Affairs and Northern Development and includes a person designated in writing to act on behalf of the minister;

“multi dwelling leased parcel”

“multi dwelling leased parcel” means a parcel of land on which are located 2 or more residences, the interest holders of one or more of which lease portions of the parcel from the interest holder of the parcel or from a lessee of the interest holder of the parcel and on which portion the interest holder of the residence has his residence;

- “municipality” “municipality” means in accordance with context, either any area incorporated as a city, district, township, town or village, under any Act of the Province of British Columbia, or the corporation into which the residents of the area have been incorporated as a municipality or regional-district pursuant to the provisions of the *Local Government Act* [RSBC 1996] c. 323;
- “natural gas” “natural gas” means a gaseous mixture of hydrocarbon and other gases received from the wells, and includes that gas after refinements;
- “occupier” “occupier” means a person who, for the time being, is in actual occupation of land and improvements or both within the reserves;
- “parcel” “parcel” means a lot, block, or other area in which land is held or into which land is subdivided, and does include a highway or portion, and the right or interest of an occupier of Crown land;
- “person” “person” in addition to its ordinary meaning, includes a partnership, syndicate, association, any government or any agency or political subdivision thereof, or any corporation and the agent and trustee of person;
- “petroleum” “petroleum” or “petroleum products” means crude oil or liquid hydrocarbons, or any product or by-product of them;
- “pipe line corporation” “pipe line corporation” means a person having an interest in or operating a pipe line, all or any part of which is situate in on the reserves, for the purpose of gathering or transporting natural gas, petroleum or petroleum products;

“production machinery”	“production machinery” means any,  (a) engine, (b) motor, or (c) machine used to manufacture, process, repair or convey a product;
“property”	“property” includes land and improvements as defined in this by-law;
“registered”	“registered” and “registration” when used in respect of land refer to registration in the books of the land title office or the books of the Reserve Land Register;
“registered owner”	“registered owner” means a person registered in the books of the land title office or the Reserve Land Register having or entitled to an interest in land and, includes a person who registers a charge;
“reserve”	“reserve” means reserve as defined in the Taxation By-Law;
“reserve land register”	“reserve land register” means the register kept by the Department of Indian Affairs and Northern Development pursuant to section 21 of the Indian Act and the register kept by the Department of Indian Affairs and Northern Development pursuant to section 55 of the Indian Act;
“residential building”	“residential building” means a building used or designed to be used in whole or in part for residential purposes and includes an associated outbuilding of and other improvements to a building used or designed to be used in whole or in part for residential purposes, but does not include a floating mobile home.



“taxation administrator”

“taxation administrator” means the taxation administrator appointed under the Taxation By-Law;

“taxation by-law”

“taxation by-law” means the Taxation by-law passed by the si:yam council of the band approved by the Minister or the same as may be amended from time to time,

“taxes”

“taxes” means taxes as defined in the Taxation By-Law;

“trustee”

“trustee” includes a personal representative, guardian, committee, receiver and any person having or taking on himself the possession, administration or control of property affected by any express trust, or having, by law, the possession, management or control of the property of a person under a legal disability.

**PART 1****Preparation of Annual Assessment Roll****Completion of roll**

2. (1) The assessor shall, not later than the last day of February of each year, complete a new assessment roll enumerating each property liable to assessment within the reserves and give to every interest holder named in the assessment roll a notice of assessment. This assessment roll shall, subject to this by-law, be the completed assessment roll for the purpose of taxation during that calendar year.
- (2) The assessment roll and notice of assessment shall contain the information specified in this by-law.
- (3) The assessor may, when completing an assessment roll make reference to the records of the land title office or the Reserve Land Register as those records stood on November 30 of the year previous to which he completes that assessment roll.
- (4) In the case of a parcel of land for which no land title office or Reserve Land Register description is available, the assessor shall use the best description available to him.
- (5) The assessor shall exercise reasonable care in obtaining and setting down the address of an interest holder and shall more particularly adopt the following alternatives in the order named:
  - (a) the address known to the assessor;
  - (b) the address as it appears in the application for registration or otherwise in the land title office or the Reserve Land Register.
- (6) In the event that the address of the interest holder of the land is not known to the assessor or is not recorded in the land title office or the Reserve Land Register, the assessor, shall set down the address of the interest holder as the post office situated nearest the land in question.

### **Request for copy of assessment notice**

3. A person who is holder of a registered charge may, at any time, give notice, with full particulars of the nature, extent, and duration of the charge, to the assessor and request copies of all assessment and tax notices issued during the duration of the charge, and the assessor shall enter his name and address on the assessment roll.

### **Grouping of parcels**

4. Where a building or other improvement extends over more than one parcel of land, those parcels, if contiguous, may be treated by the assessor as one parcel and assessed accordingly.

### **Notice of assessment**

5.
  - (1) Any number of parcels of land assessed in the name of the same interest holder may be included in one assessment notice.
  - (2) In the event that several parcels of land are assessed in the name of the same interest holder at the same value, the assessment notice is sufficient if it clearly identifies the property assessed, setting it out as a block, parts of a block or as a series of lots, without giving in full the description of each parcel as it appears in the assessment roll
  - (3) Notwithstanding section 2, where property is wholly exempt from taxation, the assessor need not mail an assessment notice in respect of that property.
  - (4) Before completion of the assessment roll, the assessor shall mail to each person from whom he has received a notice and request under section 3, at the address given by the person in the notice, a copy of the assessment notice in respect of the property subject to the charge held by that given person.

- (5) Before completion of the assessment roll, the assessor shall send by registered mail a true copy of any assessment notice sent by him under section 2 to any person from whom he has received during the 12 months preceding completion of that assessment roll, a request in writing for a copy, if the request contains a short description of the property in respect of which the copy is required, and is accompanied by the fee of \$10.00 for each parcel of land.
- (6) In subsection (7) "lessee" means a person having an interest in property under a lease or sublease, other than a registered lease or registered sublease.
- (7) On receipt of an assessment notice for a property included in a class defined in this by-law, the interest holder of the property shall, on request by a lessee of all or part of the property, promptly deliver a copy of a notice to the lessee.

#### **Return of completed assessment roll**

- 6. (1) On completing the assessment roll under section 2, the assessor shall make a statutory declaration in the form and manner prescribed by section 186 of this by-law.
- (2) The assessor shall return the completed roll to the administrator of the Shxw'owhamel First Nation (Ohamil Indian Band) as soon as possible after it has been completed.

#### **Assessment roll open for inspection**

- 7. On completion by the assessor, the assessment roll shall be open to inspection during regular business hours.

#### **Certification**

- 8. The assessor shall attach to the completed assessment roll a statutory declaration of the assessor in the form prescribed by section 186 of the by-law.

**Correction of errors**

9. (1) The assessor shall bring all errors or omissions in a roll completed under section 2 to the Board of Review for correction.
- (2) The assessor shall not make changes in the completed assessment roll without the consent of the Board of Review.

**Validity of the Completed Assessment Roll**

10. The completed assessment roll, except for changes or amendments directed by the Board of Review or the Federal Court of Canada is valid and binding on all parties concerned, notwithstanding any omission, defect or error committed in, or with respect to, that assessment roll, or any defect, error or misstatement in any notice required, or the omission to mail the notice. The completed assessment roll is, for all purposes, the assessment roll of the Shxw'owhamel First Nation (Ohamil Indian Band) until a new roll is issued.

**Supplementary roll**

11. (1) Where, subsequent to the completion of an assessment roll, the assessor finds that any property or anything liable to assessment
  - (a) was liable to assessment for the current year, but has not been assessed on the current roll; or
  - (b) has been assessed for less than the amount for which it was liable to assessment,

he shall assess the property or thing on a supplementary roll, or further supplementary roll, subject to the conditions of assessment governing the current assessment roll on which the property or thing should have been assessed.

- (2) Where, subsequent to the completion of an assessment roll, the assessor finds that any property or anything liable to assessment
- (a) was liable to assessment for a previous year, but has not been assess on the roll for that year; or
  - (b) has been assessed in a previous year for less than amount for which it was liable to assessment,

he shall assess the property or thing on a supplementary roll or further supplementary roll for that year, subject to the conditions of assessment governing the assessment roll on which the property or thing should have been assessed, but only if the failure to assess the property or thing, or the assessment for less than it was liable to be assessed, is attributable to

- (c) an interest holder's failure to disclose;
  - (d) an interest holder's concealment of particulars relating to assessable property;
  - (e) a person's failure to make a return; or
  - (f) a person's making of an incorrect return, required under this or any other by-law.
- (3) Notwithstanding section 9 and 10, and in addition to supplementary assessments under subsection (1) and (2), the assessor may, at any time before December 31st for each year following the return of the completed assessment roll under section 6, correct errors and supply omissions in the completed assessment roll by means of entries in a supplementary assessment roll.
- (4) The assessor shall not make a change or amendment that would be contrary to a change or amendment in the assessment roll ordered or directed by the Board of Review or made as a result of a decision of the Federal Court or Federal Court of Appeal under section 60.

- (5) Nothing in subsection (1), (3) or (4) authorizes the preparation of a supplementary roll, or the correction of a roll, for the purpose of changing or updating an assessment roll, completed as required by section 2 (1), later than 12 months after the completion of that assessment roll.

### **Provisions applicable to supplementary assessment roll**

12. (1) The duties imposed on the assessor with respect to the annual assessment roll and the provisions of this by-law relating to assessment rolls shall, so far as they are applicable, apply to supplementary assessment rolls
- (2) Where a notice of appeal is given in writing to the assessor on a supplementary assessment roll in accordance with section 41, the assessor shall make an entry of the notice in his appeal book, and shall place the appeal before the next sitting of the Board of Review.

## **PART 2**

### **Inspection and Returns**

#### **Inspections and assessment powers of assessor**

13. When so directed by the si:yam council, the assessor or an appraiser may for any purposes relating to assessment enter into or on and inspect land and improvements at a time mutually agreed upon between the assessor and the interest holder and failing any such agreement upon five (5) days advance notice.

#### **Return of information**

- 14 (1) In this section, "assessor" includes an appraiser.
- (2) A person who has an interest in or disposes of property shall, when requested by the si:yam council, furnish to the assessor any information in that person's possession that is directly related to the value of the property and that the assessor requires to assist him to determine the actual value of the property.

- (3) The assessor is not bound by the information furnished, but he may, if he has reason to doubt its accuracy, or if a person fails to comply with this section within 3 weeks after being required in writing to do so, assess the property in the manner and for the amount the assessor believes to be correct.

### **Power to examine property and accounts**

15. (1) To determine an assessment of land and improvements, in respect of which he thinks a person may be liable to assessment, the assessor or an appraiser, when so directed by the si:yam council, and with the written consent of the person who he thinks may be liable to assessment, may enter on any premises and, with written consent may examine any property, may have access to, and may examine and take copies of and extracts from, the books, accounts, vouchers, documents and appraisals of the person giving such written consent.
- (2) No person engaged in the administration of this by-law shall, without consent of the person liable to assessment,
  - (a) communicate, or allow to be communicated, to a person not legally entitled to it information obtained under this by-law, except information required by law to be shown on the assessment roll, or
  - (b) allow a person not legally entitled to it to inspect or have access to a return made under this by-law.

[The next section is section 26]



## PART 3

### Valuation

#### Valuation for purposes of assessment

26. (1) In this by-law

“actual value”      “actual value” means the price which land and improvements might reasonably be expected to bring if held in fee simple off reserve and offered for sale in the open market on the valuation date;

26. (1) (a) For the purposes of determining the actual value of property, the valuation date is July 1 of the year preceding the year for which the assessment roll is completed.

26. (1) (b) The actual value of property for an assessment roll is to be determined as if on the valuation date

(i) the property and all other properties were in the physical condition that they are in on October 31 following the valuation date, and

(ii) the permitted use of the property and all other properties were the same as on October 31 following the valuation date.

"industrial property"

"industrial property" means in subsection (3.4) property used or held for the purposes of extracting, processing or manufacturing any product or for storage ancillary to those purposes;

"October 31" and "July 1"

"October 31" and "July 1" mean:

- (a) in relation to an assessment roll completed as required by section 2 (1), October 31 and July 1 of previous year in which the assessment roll was completed, and
  - (b) in relation to a revised assessment roll completed as required by section 2 (1.1), October 31 of the previous year in which the revised assessment roll was completed, and July 1 of the year immediately before that.
- (2) The assessor shall determine the actual value of land and improvements and shall enter the actual value of the land improvements in the assessment roll.
  - (3) In determining actual value, the assessor may, except where this by-law has a different requirement, give consideration to present use, location, original cost, replacement cost, revenue or rental value, market value of the land and improvements and comparable land and improvements, economic and functional obsolescence and any other circumstances affecting the value of the land and improvements.
    - (3.1) Without limiting the application of subsections (1) to (3), where an industrial or commercial undertaking, a business or a public utility enterprise is carried on, the land and improvements used by it shall, subject to subsection (3.4), be valued as the property of a going concern.
    - (3.2) Where the land and improvements are liable to assessment under section 34, 35 or 36, the assessor shall include in the factors that he considers under subsection (3), any restriction placed on the use of the land and improvements by an interest holder of the land.
    - (3.3) The duration of the interest of an interest holder of land and improvements referred to in subsection (3.2), or the right of an interest holder of the land to terminate that interest, is not a restriction within the meaning of subsection (3.2).

- (3.4) The assessor shall determine the actual value of industrial property in accordance with the rates, formulae, rules or principles prescribed in this by-law.
- (4) Notwithstanding this or any other by-law, where land and improvements are exempt from taxation, unless ordered by the si:yam council, the assessor need not, in respect of the exempt land and improvements,
  - (a) assess the land and improvements; or
  - (b) prepare an annual assessment roll.
- (5) Notwithstanding this or any other by-law, improvements designed, constructed, or installed to provide emergency protection for persons or domestic animals in the event of a disaster or emergency within the meaning of the *Emergency Program Act* of the Province of British Columbia are exempt from assessment.
- (6) Land and improvements shall be assessed at their actual value.
- (7) The classes of property prescribed in those sections of this by-law included in Part 11, Prescribed Classes of Property, for the purpose of administrating property taxes, define the types or uses of land and improvements to be included in each class.
- (8) The actual values of land and improvements determined under this section shall be set down separately on the assessment notice and in the assessment roll with the information specified pursuant to section 2 (2)

## Major industry valuation

26.1 (1) In this section

“cost of industrial improvement” means the cost of replacing an existing industrial improvement with an improvement that

- (a) has the same area and volume as the existing industrial improvement,
- (b) serves the same function that the existing industrial improvement was designed for or, where the existing industrial improvement is no longer used for that function, serves the same function that the existing industrial improvement now serves, and
- (c) is constructed using current, generally accepted construction techniques and materials for the type of improvement being constructed

and, for the purposes of determining cost, manuals or texts or reference works for the determination of rates, formulae, rules or principles for the calculation of cost as used for assessment purposes and as prescribed in section 105 of this by-law;

“industrial improvement” means an improvement that is part of a plant that is designed and built for the purpose of one or more of the following.

- (a) mining, extracting, beneficiating or milling of metallic or non-metallic ore;
- (b) mining, breaking, washing, grading or beneficiating of coal,
- (c) producing of aluminum;
- (d) smelting or refining of metal from ore or ore concentrate;
- (e) producing, manufacturing, processing or refining of petroleum or natural gas;

- (f) manufacturing of lumber or other sawmill and planing mill products;
- (g) manufacturing of wood veneer, plywood, particleboard, wafer board, hardboard and similar products;
- (h) manufacturing of gypsum board;
- (i) manufacturing of pulp, paper or linerboard;
- (j) manufacturing of chemicals;
- (k) manufacturing of chemical fertilizer;
- (l) manufacturing of synthetic resins or the compounding of synthetic resins into molding compounds;
- (m) manufacturing of cement;
- (n) manufacturing of insulation;
- (o) manufacturing sheet glass or glass bottles;
- (p) building, refitting or repairing ships;
- (q) loading cargo onto sea going or lake going ships or barges, including associated cargo storage and loading facilities,

notwithstanding that the plant cannot be operated as a going concern or is temporarily or permanently unprofitable, but does not include an improvement exempted under subsection (1.1).

- (1.1) The si:yam council may for economic adversities, pursuant to section 34 of the Shxw'owhamel First Nation (Ohamil Indian Band) Taxation Bylaw, exempt from the definition of "industrial improvement" improvements in a plant or class of plant that has less than a prescribed capacity and may prescribe different capacities for different types of plants and shall notify the assessor of such exemptions.

### **Valuation for certain purposes not actual value**

27. (1) Notwithstanding sections 26 and 26.1, the Assessor shall, by using rates established by regulation under the *Assessment Act* [RSBC 1996] c. 20, as amended from time to time, determine the value of the following properties:
- (i) the pole lines, metallic or fibre optic cables, towers, poles, wires, transformers, pipe lines, conduits and mains of a telecommunications, cable television, bus or electrical power corporation;
  - (ii) the track in place of a railway corporation, whether the track is on a highway, or on a privately held, owned or occupied right of way, or on band land;
  - (iii) the pipe lines of a pipe line corporation for the transportation of petroleum, petroleum products, or natural gas, including valves, cleanouts, fastenings, and appurtenances located on the right-of-way, but not including pumping equipment, compressor equipment, storage tanks and buildings;
  - (iv) the right-of-way for the pole lines, cables, towers, poles, wires, transformers, conduits, mains and pipe lines referred to in paragraphs (i) and (iii);
  - (v) the right-of-way for track referred to in paragraph (ii);
- (2) For the purposes of subsection (1) (iv) and (v), “right-of-way” means land and improvements that a corporation is entitled to use for the operation of those things referred to in paragraphs (i), (ii) or (iii) that are to be valued under this section, but “right-of-way” does not include land and improvements of which the corporation is not an interest holder within the meaning of this by-law.

- (3) For the purpose of applying subsection (1) (ii), the track in place of a railway corporation is inclusive of all structure, erections and things, other than such buildings, bridges, trestles, viaducts, overpasses and similar things, coal bunkers, corrals, stand pipes, fuel oil storage tanks, oil fueling equipment, water tanks, station houses, engine houses, roundhouses, turntables, docks, wharves, freight sheds, weigh scales, repair and cleaning shops and equipment, boiler houses, offices, sand towers and equipment, pavement, platforms, yard fencing and lighting, powerhouses, transmission stations or substations, and the separate equipment for each of them, as are necessary for the operation of the railway.

[The next section is section 33.1]

### **Occupiers of railway land**

- 33.1 (1) Where any parcel liable to assessment is land in which a railway has an interest and part of it is leased, that part shall be treated under this by-law as a separate parcel and a separate entry made on the assessment roll in respect of the land or improvements or both.
- (2) Where part of a parcel of land in which a railway has an interest is treated as a separate parcel under subsection (1), the remainder of the parcel shall be treated under this by-law as a separate parcel and a separate entry made on the assessment roll in respect of the land.
  - (3) Where the whole of any parcel of land in which a railway has a interest is liable to assessment and is leased or a part of a parcel is assessed under subsection (1), an interest holder may give notice, with full particulars of the duration of the lease, to the assessor and request that copies of all assessment and tax notices issued during the duration of the lease be sent to the lessee, and the assessor shall enter the name and address of the lessee on the assessment roll.

**Assessment of land the fee of which is in the Crown**

34. (1) Land the fees of which is in the Crown, or in some person on behalf of the Crown, that is held or occupied otherwise than by, or on behalf of, the Crown, is, with the improvements on it, liable to assessment in accordance with this section.
- (2) The land referred to in subsection (1) with the improvements on it shall be entered in the assessment roll in the name of an interest holder whose interest shall be valued at the actual value of the land and improvements determined under sections 26 and 26.1.
- (3) This section applies, with the necessary changes and so far as it is applicable, to improvements in which some person other than the Crown has an interest and which are situated on land the fee of which is in the Crown, or in some person on behalf of the Crown.
- (4) This section applies, with the necessary changes and so far as it is applicable, where land is held in trust for the Shxw'owhamel First Nation (Ohamil Indian Band) or the members of the Shxw'owhamel First Nation (Ohamil Indian Band) and occupied by a person not a member of the Shxw'owhamel First Nation (Ohamil Indian Band).
- (5) As soon as the assessor ascertains that land is held or occupied in the manner referred to in subsection (1), he shall enter the land with improvements on it on a supplementary assessment roll in the name of an interest value of the land and improvements.

**Exempt land held by occupier liable to assessment**

- 35.1 (1) Subject to section 26 (4), land, the interest in which is held by or on behalf of a person who is exempted from taxation under this by-law or any other by-law of the Shxw'owhamel First Nation (Ohamil Indian Band) is, with its improvements, liable to assessment under this section.



- (2) The land and improvements referred to in subsection (1) shall be entered in the assessment roll in the name of the interest holder whose interest shall be valued at the actual value of the land and improvements determined under this by-law.
- (3) This section applies to improvements in which a person exempted from taxation by this by-law or any other by-law of the Shxw'owhamel First Nation (Ohamil Indian Band) has an interest and which are, situated on land which is held by or on behalf of a person exempted from taxation by this by-law or any by-law of the Shxw'owhamel First Nation (Ohamil Indian Band).

**Assessment of land or interests in land held by a municipality or the Crown in Right of the Province of British Columbia**

- 36
- (1) Land held or occupied by a municipality or the Crown in Right of the Province of British Columbia held or occupied by, or on behalf of, a municipality or the Crown in Right of the Province of British Columbia, is, with the improvements on it, liable to assessment under this section, subject to the *Constitution Act*, S.C.
  - (2) The land referred to in subsection (1) with the improvements on it shall be entered in the assessment roll in the name of an interest holder whose interest shall be valued at the actual value of the land as determined under this by-law.
  - (3) This section applies, with the necessary changes and so far as it is applicable, to improvements in which some person other than a municipality or the Crown in Right of the Province of British Columbia has an interest, situated on land held or occupied by a municipality or the Crown in Right of the Province of British Columbia, or in some person on behalf of a municipality or the Crown in Right of the Province of British Columbia.

### **Joint interests and termination of interests**

- 36.1 (1) Where land and improvements or all are held or occupied in the manner referred to in section 34, 35, or 36 by 2 or persons, and there is no paramount interest holder, the land and improvements or all shall be assessed in the names of those persons jointly.

[The next section is section 38]

### **Further assessment of an improvement on land**

38. (1) A structure, aqueduct, pipe line, tunnel, bridge, dam, reservoir, road, storage tank, transformer, or substation, pole lines, cable, towers, poles, wires, transmission equipment or other improvement, that extends over, under or through land may be separately assessed to the person having an interest in, maintaining, operating or using it, notwithstanding that some other person may have an interest in the land and improvements.
- (2) Each individual residential building located on a land cooperative or multi dwelling leased shall be separately assessed.

[The next section is section 40]

## **PART 4**

### **Board of Review**

#### **Establishment of Board of Review**

- 40 (1) Notwithstanding any other by-law, the si:yam council shall appoint a Board of Review to hear appeals on assessments of interests of land and improvements located on the reserve.

- (2) A Board of Review shall consist of three qualified members. One professional member shall be qualified as a lawyer, in good standing, of the Law Society of British Columbia. At least one professional member shall be qualified as an accredited appraiser, in good standing, of the Appraisal Institute of Canada / Institut Canadien Des Evaluateurs. One member may be solely qualified by being a member of the Shxw'owhamel First Nation (Ohamil Indian Band).
- (3) The members of a Board of Review shall be paid their reasonable and necessary travelling and out of pocket expenses incurred in carrying out their duties. The professional members shall be remunerated in accordance with hourly fees prevailing in their respective professions. A member of Shxw'owhamel First Nation (Ohamil Indian Band), if appointed, shall be remunerated at a rate not to exceed the professional member's remuneration rate, determined by si:yam council.
- (4) Every member of a Board of Review shall take and subscribe before a lawyer, Notary Public or a Commissioner for taking oaths an oath or affirmation in the form prescribed by this by-law in Schedule "E".
- (4) Unless the member of a Board of Review sooner dies, resigns or is removed from office for just cause by si:yam council resolution or otherwise, a member of a Board of Review shall hold office during good behaviour for a term of not less than three years, commencing on the date of the appointment under sub-section (1) of this section.

### **Appeals to Board of Review**

- 41 (1) Where an assessed interest holder is of the opinion that an error of omission exists in the completed assessment roll in that,
- (a) land and improvements within the reserve have been wrongfully entered on, or omitted from the assessment roll,
  - (b) land and improvements have been valued at too high or too low an amount;

- (c) the value at which an individual parcel under consideration is assessed bears a fair and just relation to the value at which similar land and improvements are assessed in the reserve in which it is situated;
- (d) land and improvements have been improperly classified;
- (e) an exemption has been improperly allowed or disallowed,

they may personally, or by a written notice, or by a solicitor, or by their authorized agent, together with a fee of \$25.00 per roll entry, payable to the Shxw'owhamel First Nation (Ohamil Indian Band), come before, or notify, the Board of Review and make a complaint of the error or omission and the Board of Review shall deal with the complaint, error or omission and either confirm, or alter, the assessment.

- (2) Where an assessed interest holder is of the opinion that the assessor made revisions to the assessment roll in a manner not authorized by this by-law or failed to make revisions to the assessment roll as required by section this by-law, he may complain in the same manner as in subsection (1) of this section.
- (3) The Shxw'owhamel First Nation (Ohamil Indian Band) may, by its administrator, solicitor, or agent authorized by it, or the assessor, make complaint against the assessment roll or any individual entry in the assessment roll on any ground whatever, and the Board of Review shall deal with the complaint, and either confirm or alter the assessment.
- (5)
  - (a) Notice in writing of every complaint in respect to an entry in an assessment roll shall be delivered to the assessor not later than March 31 for each year in which the assessment roll is completed;
  - (b) Notice in writing of every complaint in respect to an entry in a supplementary assessment roll or further supplementary assessment roll shall be delivered to the assessor not later than 30 days after the completion of the supplementary assessment roll or further supplementary assessment roll.

**Assessor to notify interest holder**

42. (1) Where it appears by the notice of complaint under section 41 that the complaint concerns land and improvements in which some person other than the complainant may have an interest, the assessor shall promptly mail a notice to the interest holder of the property at the address appearing on the assessment roll, giving particulars of the complaint and requiring him to attend before the Board of Review at a time and place stated and dealt with in the same manner as other complaints.

**Notice of hearing**

43. The assessor shall mail to the person, or his solicitor or agent, as the case may be, who has notified the assessor under section 41, a notice setting out the date, time and place scheduled for the hearing of that person's complaint by the Board of Review.

**Address for service of notice of decision**

44. A person making a complaint under section 41 shall provide the assessor an address to which notices for that person are to be sent.

**Powers of Board of Review**

45. (1) The powers of a Board of Review constituted under this by-law are.
- (a) to meet at the dates, times, and places appointed, and to hear and determine all complaints delivered to the assessor under this by-law,
  - (b) to direct amendments in the assessment roll necessary to give effect to its decisions.
- (2) Any member of the Board of Review may issue a notice in writing to any person to attend as a witness, and any member of the Board of Review may administer an oath to a person or witness before his evidence is taken.

- (3) If the si:yam council have not appointed a chairperson, the Board of Review shall appoint a chairperson, who shall preside at all meetings and who may, unless otherwise provided by the Board of Review, call meetings and regulate procedure.
- (4) If no secretary has been appointed by the si:yam council, the chairperson of the Board of Review shall appoint a secretary, who may or may not be a member of the Board of Review, and the secretary shall keep the minutes of all meetings of the Board of Review.
- (5) A majority of the members of the Board of Review constitutes a quorum.
- (6) All questions before the Board of Review shall be decided by a majority of the members present and the chairperson votes as an ordinary member of the Board of Review.

### **Hearing of appeals**

46. (1) The Board of Review may grant an adjournment or postponement of the hearing of any complaint.

### **Inquiry**

47. Where directed by the Board of Review, any one member of the Board of Review may hold an inquiry or conduct a hearing on behalf of the Board of Review.

### **Orders**

48. Orders made by one member are, when confirmed by the Board of Review, orders of the Board of Review.

### **Oaths**

49. The members of the Board of Review may respectively administer oaths in the course of a proceeding or in connection with their official duties.

**Board of Review sets own rules**

- 50 All inquiries and hearings before the Board of Review or a member of it shall be governed by the rules it may adopt, and the Board of Review is not bound by the technical rules of legal evidence.

**Action by Board of Review**

51. The Board of Review may, in its discretion, accept and act on evidence by affidavit, or written statement, or by the report of any officer appointed by it, or obtained in any manner as it may decide.

**Orders of Board of Review obtainable**

52. A person may, on payment of a fee of \$25.00, obtain from the Shxw'owhamel First Nation (Ohamil Indian Band), at their administration office at 58700A St. Elmo Road, Hope, British Columbia, a copy of an order or decision of the Board of Review. The Assessor shall be entitled to receive copies without charge.

**Inspection powers of Board of Review**

53. The Board of Review, or a person authorized by it to make any inquiry or report, may
- (a) enter on and inspect any land and improvement;
  - (b) require the attendance of all persons as it considers necessary to summon an examine, and take the testimony of those persons;
  - (c) require the production of all books, plans, papers and documents; and
  - (d) administer oaths, affirmations or declarations.

### **Delivery of the Decision of the Board of Review**

54. (1) The Board of Review shall cause its decisions regarding any complaint to be forwarded, without reasonable delay, to the Assessor.
- (2) The Assessor shall promptly forward a copy of each decision of the Board of Review to the complainant and any other person having an interest in the property affected by the decision of the Board of Review.
- (3) The Assessor, when notifying a complainant of the decision of the Board of Review shall also advise that the complainant may, subject to the provisions of the Federal Court Act and the "Rules of Procedure at the Federal Court of Canada", appeal the decision of the Board of Review to the Federal Court of Canada.

## **PART 5**

### **Appeals to Federal Court from Board of Review**

60. (1) Where a person, including the assessor, is dissatisfied with the decision of a Board of Review, or with the omission or refusal of the Board of Review to hear or determine the complaint on the completed assessment roll, he may within 21 days after receiving the decision, subject to the provisions of the Federal Court Act and the rules of procedure of the Federal Court of Canada (Trial Division), appeal from the Board of Review to the Federal Court of Canada.
- (2) The assessor, at the time that he notifies a complainant of the decision of the Board of Review in respect of his complaint, shall also notify him that he may, within 21 days after receiving the decision, subject to the provisions of the Federal Court Act and the rules of procedure of the Federal Court of Canada, appeal the decision of the Board of Review to the Federal Court of Canada by delivering to the Board of Review, within 21 days after his receipt of the decision, a written request to appeal the decision of the Board of Review to the Federal Court of Canada.
- (3) The Board of Review shall, within 21 days after receiving a notice of appeal, submit the appeal in writing to the Federal Court of Canada.



[The next section is section 81]

## **PART 6**

### **General**

#### **By-law prevails**

81. Where there is a conflict between this by-law and any other by-law, the provisions of this by-law prevail over the other by-laws.

[The next section is section 83]

#### **General**

83. Any section of this by-law or schedule to this by-law may be amended by by-law adopted by the si:yam council and sent to the Minister in accordance with appropriate section or sections of the Indian Act as amended from time to time.
84. Where a provision in this by-law or schedule to this by-law is expressed in the present tense, future tense or in the past tense, the provision applies to the circumstances as they may from time to time arise without reference to the present tense, future tense or the past

[The next section is section 86]

86. Where any notice, notification, demand, statement or direction is required or permitted to be delivered or given under this by-law, such notice, notification, demand, statement or direction shall be sufficient if mailed by registered mail, postage pre-paid, or delivered personally to:

Shxw'owhamel First Nation (Ohamil Indian Band)  
58700A St. Elmo Road  
Hope, British Columbia  
V0X 1L2

Attention: Assessor

87. A finding by a court of competent jurisdiction that a section or provision of this by-law is void or invalid shall not effect or bear upon the validity or invalidity of any other section or part of this by-law or this by-law as a whole.

### **Nomenclature**

88. When in this by-law the singular is used, the singular shall also imply the plural and the plural shall imply the singular and the masculine shall imply the feminine and the feminine shall imply the masculine. When the conjunction is used, the conjunctive shall imply the disjunctive and the disjunctive shall imply the conjunctive.

89. This by-law shall come into force and effect upon approval by the Minister.

[The next section is section 101]

## **PART 7**

### **Depreciation of Industrial Improvements**

#### **Interpretation**

101. In this by-law

“chronological age”

“chronological age” means the number of years determined by subtracting

- (a) the year in which the plant first commenced operation, or
- (b) in the case of an industrial improvement or part of an industrial improvement that was constructed or installed after the plant commenced operation, the year in which the construction or installation of the industrial improvement or part of it was completed from the year in which the new assessment roll is completed;

“effective age”

“effective age” means the number of years determined by

- (a) calculating the total cost of the industrial improvement,
- (b) multiplying the chronological age of each part of the industrial improvement by the cost of that part to give the weighted age of that part,
- (c) adding the weighted ages of all of the parts of the industrial improvement, and
- (d) dividing the sum of the weighted ages by the total cost of the industrial improvements and rounding the quotient up to the next whole year to yield the effective age.

### **Determining Depreciation**

102. (1) Subject to the other provisions of this by-law, for the purposes of section 26.1 of this by-law, depreciation of an industrial improvement shall be applied in accordance with the following formula:

$$\text{Depreciation} = \text{annual depreciation rate} \times \text{age}$$

where

- (a) “annual depreciation rate” is the percentage for category of plant which the industrial improvement is a part, and
- (b) “age” is the chronological age or, where parts of an industrial improvement have different chronological ages, the effective age of the industrial improvement.

### **Maximum Depreciation**

103. If the depreciation determined under section 102 for an industrial improvement is equal to or in excess of 80%, the depreciation shall be deemed to be 80%.

## Closure allowances

104. (1) If the assessor determines

- (a) that a plant is closed on or before October 31 of any year and an interest holder of the plant or a senior executive officer of the corporation that holds, owns or occupies the plant confirms in writing that the closure is permanent, or
- (b) that a plant has been closed for a minimum of 3 consecutive years immediately preceding October 31 in any year and an interest holder of the plant or a senior executive officer of the corporation that has an interest in the plant confirms in writing the fact that the plant is closed and the duration of that closure,

the depreciation applicable to industrial improvements that are part of the plant shall, for the purposes of the assessment roll in the succeeding year, be deemed to be an amount sufficient to reduce the actual value of the industrial improvements to 10% of the cost of those industrial improvements.

(2) If the assessor determines that

- (a) a separate industrial improvement within a plant is permanently closed or shut down on or before October 31 in any year and as interest holder or plant manager of the plant confirms in writing that the closure or shut down is permanent, or
- (b) a separate industrial improvement within a plant has been closed or shut down for a minimum of 3 consecutive years immediately preceding October 31 in any year and an interest holder or plant manager confirms in writing the fact that the industrial improvement is closed or shut down and the duration of that closure or shut down,

the depreciation applicable to that industrial improvement shall, for the purpose of the assessment roll in the succeeding year, be deemed to be an amount sufficient to reduce the actual value of the industrial improvement to 10% of the cost of that improvement.

- (3) Subsection (2) applies only with respect to a complete industrial improvement and shall not be applied to a part of an industrial improvement.
- (4) If a previously closed plant or industrial improvement is reopened or reactivated, this section ceases to apply for the purposes of the assessment roll in the succeeding year and depreciation shall be determined in accordance with sections 102 and 103.

#### **References**

105. (1) Volumes 1 and 2 of the British Columbia Assessment Authority Major Industrial Properties Manual, as amended from time to time, are prescribed for the purposes of the definition of “cost of industrial improvement” in section 26.1 of this by-law.
- (2) The Marshall Valuation Service as compiled by Marshall and Swift and as amended from time to time, is prescribed for the purpose of defining the “cost of industrial improvement” in section 26.1 of this by-law to the extent directed in Volumes 1 and 2 of the British Columbia Assessment Authority Major Industrial Properties Manual.

[The next section is section 151]

[The next part is Part 11]

## Part 11

### Prescribed Classes of Property

#### Class 1 - Residential

151. Class 1 property shall include only

- (a) land and improvements, used for residential purposes, including single family residence, duplexes, multi-family residences, apartments, condominiums, mobile homes, nursing homes, rest homes, summer and seasonal dwellings, bunkhouses, cookhouses, and ancillary improvements compatible with and used in conjunction with any of the above, but not including
  - (i) hotels or motels other than the portion of the hotel or motel building occupied by an interest holder as his residence, and
  - (ii) land and improvements that in which the Crown in right of Canada or the Province of British Columbia has an interest and are used for the purposes of
    - (A) a penitentiary or correctional centre,
    - (B) a mental health facility as defined in the *Mental Health Act* of the Province of British Columbia, or
    - (C) a hospital for the care of the mentally or physically handicapped:
- (b) improvements on land classified as a farm and used in conjunction with the farm operation, including the farm residence and outbuildings;

**Class 2 - Utilities**

152. Class 2 property shall include only land and improvements used or held for the purposes of, or for purposes ancillary to, the business of
- (a) transportation by railway,
  - (b) transportation, transmission or distribution by pipeline,
  - (c) communication by telegraph or telephone, including transmission of messages by means of electric currents or signals for compensation,
  - (d) generation, transmission or distribution of electricity, or
  - (e) receiving, transmission and distribution of closed circuit television;
- but does not include that part of land and improvements
- (f) included in Classes 1, 4 or 8,
  - (g) used as an office, retail sales outlet, administration building or purpose ancillary thereto, or
  - (h) used for a purpose other than a purpose defined in paragraphs (a) to (e) of this class.

**Class 3 - Unmanaged forest land**

153. Class 3 property shall include only land the highest and best use of which is unmanaged forest land.

**Class 4 - Major industry**

154. Class 4 property shall include only the following land and improvements:

- (a) land used in conjunction with the operation of industrial improvements, and
- (b) industrial improvements.

**Class 5 - Light industry**

155. Class 5 property shall include only land and improvements used or held for the purpose of extracting, processing, manufacturing or transporting of products, and for the storage of these products as an ancillary to or in conjunction with such extraction, processing, manufacture or transportation, but does not include those lands and improvements,

- (a) included in class 2 or 4,
- (b) used principally as an outlet for the sale of a finished product to a purchaser for purposes of his own consumption or use and not for resale in either the form in which it was purchased or any other form, and
- (c) used for processing, manufacturing or storage of food or non-alcoholic beverages.

**Class 6 - Business and other**

156. Class 6 property shall include all land and improvements not included in Classes 1 to 5 and 7 to 9.

**Class 7 - Managed forest land**

157. Class 7 property shall include only land for which the highest and best use is managed forest land.



**Class 8 - Recreational property/Non-profit organization**

158. (1) Class 8 property shall include only

- (a) that part of any land and improvements used to provide overnight sleeping accommodation, including hotels, motels, trailer parks, recreational vehicle parks, campgrounds and resorts where, during one or more off season periods that in total include 150 days a year or more,
  - (i) the accommodation is closed, or
  - (ii) at least 50% of the gross rental income from the accommodation is derived from rent paid by tenants residing in the accommodation for periods comprising 28 consecutive days or more;
  
- (b) land but not improvements on that land used solely as an outdoor recreational facility for the following activities or uses:
  - (i) golf;
  - (ii) skiing;
  - (iii) tennis;
  - (iv) ball games of any kind;
  - (v) lawn bowling;
  - (vi) public swimming pool,
  - (vii) motor car racing;
  - (viii) trap shooting;
  - (ix) archery;

- (x) ice skating;
  - (xi) waterslides;
  - (xii) museums;
  - (xiii) amusement parks;
  - (xv) rifle shooting;
  - (xvi) pistol shooting;
  - (xvii) horse back riding;
  - (xviii) roller skating;
  - (xix) marinas;
  - (xx) parks and gardens open to the public;
- (c) that part of any land and improvements used or set aside for use as a place of public worship or as a meeting hall for a nonprofit fraternal or cultural organization of persons of either or both sexes, together with the facilities necessarily incidental to that use, for at least 150 days in the year ending on June 30, of the calendar year preceding the calendar year for which the assessment roll is being prepared, not counting any day in which the land and improvements so used or set aside are also used for
- (i) any purpose by an organization that is neither a spiritual organization nor a non-profit fraternal organization,
  - (ii) entertainment where there is an administration charge, or
  - (iii) the sale or consumption, or both, of alcoholic beverages.

- (2) Notwithstanding subsection (1), in relation to the levying of property taxes payable in respect of years after 1992, and in relation to the assessment of property for the purpose of such property taxation, Class 8 property shall include only property referred to in subsection (1) (b) and (c).

### **Class 9 - Farm**

159. Class 9 property shall include only land classified as farm land.

159.1 An application by the occupier / lessee to have or part of his land classified as farm shall be in the form available at the office of the assessor.

159.2 The assessor shall set the standards for the classification of land as farm in accordance with the *Assessment Act* [RSBC 1996] c 20.

159.3 The application for classification of land as a farm must be delivered to the assessor on or before October 31 in the year preceding the year for which the assessment roll is prepared.

[The next section is section 170]

## **PART 12**

### **Assessor and Assessment Roll**

#### **Powers and duties**

170. The si:yam council shall establish and maintain assessments that are uniform in the whole of the reserves in accordance with the Assessment By-Law.
171. In order to establish and maintain assessments that are uniform in the whole of the reserves, the si:yam council may:
- (a) develop and maintain programs for the education, training and technical or professional development of assessors, appraisers and other persons qualified in property assessment matters with particular reference to the development of programs designed to educate and train members of the Shxw'owhamel First Nation (Ohamil Indian Band),
  - (b) prescribe and maintain standards of education, training and technical or professional competence for assessors, appraisers and other persons employed or engaged in property assessment, and to require compliance with these standards;
  - (c) if considered advisable, authorize employees to perform technical or professional services, other than those required under the Assessment By-Law, at the request of the si:yam council;
  - (d) ensure that the general public and members of the Shxw'owhamel First Nation (Ohamil Indian Band) are adequately informed respecting procedures relating to property assessment in the reserve;
  - (e) exercise and carry out other powers and duties that may be required to carry out its purpose, or as may be required under any other by-law or order of the si:yam council.

[The next section is section 175]

**Appointment of assessor**

175. (1) The si:yam council shall appoint an assessor.
- (2) The assessor shall be paid remuneration, shall receive other benefits and be subject to the terms and conditions of employment or contract as determined by the si:yam council.

**Duties of assessor**

176. The assessor appointed under this by-law shall, when so directed by the si:yam council:
- (a) perform the duties required of him under this or any other by-law and as may be required by si:yam council,
  - (b) carry out policies consistent with this by-law, the Taxation By-Law and any other by-law or law respecting assessment and taxation;
  - (c) develop and administer a complete system of property assessment and taxation consistent with the relevant sections of the Indian Act and with this by-law and other by-laws of the Shxw'owhamel First Nation (Ohamil Indian Band);
  - (d) make reports and recommendations to the si:yam council respecting any matter that he considers advisable in carrying out the purposes of this by-law,
  - (e) administer the preparation and completion of assessment rolls;
  - (f) perform such other duties as may be required to effectively implement and administer this by-law and other by-laws of the Shxw'owhamel First Nation (Ohamil Indian Band) when so directed by the si:yam council.

**Staff**

177. (1) The si:yam council may appoint a secretary and other employees as it considers necessary to carry out the purposes of this by-law, fix their remuneration and designate their functions and duties.

- (2) The si:yam council or, if authorized by the si:yam council by si:yam council resolution, the assessor, may, appoint appraisers and other employees necessary to carry out this by-law, fix their remuneration, designate their functions and duties, and supervise their activities.

[The next section is section 180]

### **Assessment rolls**

180. An assessment roll shall be prepared in paper form or in electronic form.
181. A notice of assessment shall be prepared in paper form or in electronic form.
182. (1) An assessment roll and notice of assessment shall contain the following particulars:
- (a) the name and last known address of the person assessed;
  - (b) a short description of the land;
  - (c) the classification of
    - (i) the land, and
    - (ii) the improvements;
  - (d) the actual value by classification of
    - (i) the land, and
    - (ii) the improvements;
  - (e) the total assessed value for
    - (i) general purposes, and
    - (ii) other than general purposes;

- (f) the total assessed value of exemptions from taxation for
  - (i) general purposes, and
  - (ii) other than general purposes;
- (g) the total net taxable value for
  - (i) general purposes, and
  - (ii) other than general purposes;
- (h) a statement on the notice of assessment as to the method of submitting a complaint and the date by which the complaint must be delivered to the assessor,
- (i) such other information not inconsistent with the by-law or regulations as the si:yam council may require.

(2) Where one or more notices of assessment are prepared in electronic form for the same person, subsection (1) is complied with if the statement and information referred to in paragraphs (h) and (i) of that subsection are prepared and sent to that person in paper form.

183. Notwithstanding section 182 (e), (f) and (g), separate values for general purposes and other than general purposes need not be shown if the values are the same.

184 Information concerning a single parcel may be recorded in more than one entry in the assessment roll or in more than one assessment notice if

- (a) each roll entry and notice clearly identifies the other entries which relate to that parcel, and
- (b) the actual value, assessed value and exemptions from taxation for that parcel are the total of the respective amounts shown in the individual entries.

185. Where there is a conflict between an entry identified as “amended” and any other entry on the original assessment roll, the entry identified as “amended” prevails.
186. The assessor shall complete the following statutory declaration and attach it to the completed assessment roll:

I, \_\_\_\_\_, of \_\_\_\_\_,  
in the Province of British Columbia, do solemnly declare that

- (a) I am the assessor for the Shxw’owhamel First Nation (Ohamil Indian Band);
- (b) the assessment roll for the reserve lands of the Shxw’owhamel First Nation (Ohamil Indian Band); for the year 20 \_\_\_\_ has been completed in accordance with the Assessment By-Law and sets out the assessed value of the land and improvements within the reserve lands of the Shxw’owhamel First Nation (Ohamil Indian Band); in accordance with the Assessment By-Law, and the name or names of the interest holders in respect of each parcel and all other information required to be entered and set by the Assessment By-law has been entered and set out,

and I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath

Declared before me at \_\_\_\_\_

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_



190. (1) A notice of the intention of the Board of Review to direct an increase in the amount of assessment or a change in classification under section 45 of this by-law shall be mailed or delivered to the assessed interest holder at the address shown on the assessment roll
- (2) The notice shall show the following:
- (a) the name and last know address of the person assessed;
  - (b) a short description of the land;
  - (c) the amount to which it is intended to increase the assessed values;
  - (d) the classification into which it is intended to place the property;
  - (e) the time and place of holding the adjourned sitting of the Board of Review at which the direction is to be made;

and such other information not inconsistent with this by-law or other application by-laws as the si:yam council may require.

## SCHEDULE "A"

### INDUSTRIAL IMPROVEMENT DEPRECIATION RATES (Category as listed in section 26.1)

Category	Annual Rate of Depreciation
(a) mining, extracting, beneficiating or milling of metallic or non-metallic ore	6.5
(b) mining, breaking, washing, grading or beneficiating of coal	4.0
(c) producing of aluminum	3.0
(d) smelting or refining of metal from ore or ore concentrates	3.0
(e) manufacturing of refined petroleum and natural gas products including fuels, blended oils and greases	3.0
(f) manufacturing of lumber or other sawmill and planing mill products	4.0
(g) manufacturing of wood veneer, plywood, particle board, wafer board, hardboard and similar products	4.0
(h) manufacturing of gypsum board	3.0
(i) manufacturing of pulp, paper or linerboard	3.0
(j) manufacturing of chemicals	3.0
(k) manufacturing of chemical fertilizer	3.0
(l) manufacturing of synthetic resins or the compounding of synthetic resins into molding compounds	3.0
(m) manufacturing of cement	3.0

(n)	manufacturing of installation	3.0
(o)	manufacturing of sheet glass or glass bottles	3.0
(p)	building, refitting or repairing ships	5.0
(q)	(I) loading cargo into sea going ships or barges, including associated cargo storage and loading facilities (except grain elevators)	5.0
	(ii) grain elevators associated with loading cargo onto sea going or lake going ships or barges	2.5

**Shxw'owhamel First Nation  
(Ohamil Indian Band)**

**ASSESSMENT BY-LAW**

APPROVED AND PASSED at a duly convened meeting of the Shxw'owhamel Si:yam Council held at the Shxw'owhamel First Nation (Ohamil Indian Band) Administration Office, 58700A, St. Elmo Road, Hope, British Columbia.

This 2<sup>ND</sup> day of October, 2003.

A QUORUM CONSISTS OF 4 (FOUR) COUNCILLORS.

*Alan Jones*  
COUNCILLOR

*Ken Jones*  
COUNCILLOR

*Melody Andrews*  
COUNCILLOR

\_\_\_\_\_  
COUNCILLOR

*Harry Casimir*  
COUNCILLOR

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COUNCILLOR

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COUNCILLOR

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COUNCILLOR