

Ministre des
Relations Couronne-Autochtones



Minister of
Crown-Indigenous Relations

Ottawa, Canada K1A 0H4

I, Minister of Crown-Indigenous Relations, HEREBY APPROVE, pursuant to section 83 of the *Indian Act*, the following by-law made by the Westbank First Nation, in the Province of British Columbia, at a meeting held on April 17, 2023.

Westbank Property Assessment Bylaw No. 23-TX-02

Dated at Ottawa, Ontario, this 19 day of May 2023.

A handwritten signature in blue ink, consisting of a stylized, cursive 'M' followed by a flourish.

Hon. Marc Miller, P.C., M.P.

Canada

stqá?tkw4niwt sqilxw (WESTBANK FIRST NATION)
PROPERTY ASSESSMENT BYLAW No. 23-TX-02

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SCHEDULES

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WHEREAS:

- A. stqá?tkw?niwt sqilx^w (Westbank) has jurisdiction and authority over Westbank Lands;
- B. Pursuant to paragraph 83(1)(a) of the *Indian Act*, the Council of a First Nation may make bylaws respecting taxation for local purposes of reserve lands, interests in reserve lands or rights to occupy, possess or use reserve lands;
- C. Paragraph 83(1)(a) of the *Indian Act* continues to apply to stqá?tkw?niwt sqilx^w (Westbank), in accordance with section 275 of the i? sck^wl? skc?ipla?tet i? sc?enwix^wtet (Westbank First Nation Self-Government Agreement);
- D. yí sɛx^wk^winma?m (Council) of stqá?tkw?niwt sqilx^w (Westbank) enacted the *Westbank First Nation Property Assessment Bylaw, 95-TX-07*, which came into force on April 23, 1996;
- E. The yí sɛx^wk^winma?m (Council) of stqá?tkw?niwt sqilx^w (Westbank) deems it to be in the best interests of stqá?tkw?niwt sqilx^w (Westbank) to repeal the *Westbank First Nation Property Assessment Bylaw, 95-TX-07*, as amended, and to enact this Bylaw - a Local Revenue Law within the meaning of the stqá?tkw?niwt i? Stk^wnk^winpla?s (Constitution) and the i? sck^wl? skc?ipla?tet i? sc?enwix^wtet (Westbank First Nation Self-Government Agreement) - in accordance with the *Indian Act* and in accordance with the i? sck^wl? skc?ipla?tet i? sc?enwix^wtet (Westbank First Nation Self-Government Agreement); and
- F. The yí sɛx^wk^winma?m (Council) of stqá?tkw?niwt sqilx^w (Westbank) has given notice of this Bylaw in accordance with the stqá?tkw?niwt i? Stk^wnk^winpla?s (Constitution) and the *WFN Advisory Council Law No. 2017*, and has considered any representations received by the sɛx^wk^winma?m (Council),

NOW THEREFORE the yí sɛx^wk^winma?m (Council) of stqá?tkw?niwt sqilx^w (Westbank) repeals the *Westbank First Nation Property Assessment Bylaw, 95-TX-07*, as amended, and replaces it with the following:

PART 1 – TITLE AND INTERPRETATION**1. TITLE**

- 1.1 This Bylaw may be cited as the "*Westbank Property Assessment Bylaw No. 23-TX-02*".

2. DEFINITIONS AND INTERPRETATION

- 2.1 In this Bylaw, unless the context requires otherwise:

"Agent" means a Person who acts with the written authority of a Person or Holder;

"Assessable Property" means an Interest in Westbank Lands that is liable to Assessment under this Bylaw;

"Assessed Value" means the market value of Land or Improvements, or both, comprising an Interest in Westbank Lands as if the Land or Improvements, or both, were

held in fee simple off Westbank Lands and offered for sale in the open market on the valuation date, as determined under this Bylaw;

“Assessment” means a valuation and classification of an Interest in Westbank Lands;

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

“Assessment Roll” means a roll prepared pursuant to this Bylaw, and includes a Supplementary Roll, a Revised Roll and an Assessment Roll referenced in section 11.6;

“Assessor” means a Person appointed by yí səxwkwínmaʔm̓ (Council) under section 4.1, and may include an authority established by the Province for the purpose of conducting Assessments;

“Board of Review” means the board of review appointed under article 24 of this Bylaw;

“Business Day” means Monday through Friday, exclusive of statutory holidays;

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

“Complainant” means a Person who commences an appeal of an Assessment under this Bylaw;

“stqáʔtkwʔniw̓t iʔ Stkw̓nkʔwinplaʔs (Constitution)” means the *Westbank First Nation Constitution*;

“yí səxwkwínmaʔm̓ (Council)” means the governing body of Westbank elected under Part VI of the stqáʔtkwʔniw̓t iʔ Stkw̓nkʔwinplaʔs (Constitution);

“Court” means a court of competent jurisdiction;

“Electronic Transmission” means

- (a) the transmission of a notice by electronic means, or
- (b) the provision of access to a notice by electronic means;

“Holder”, in relation to an Interest in Westbank Lands, means a Person

- (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,
- (d) who is a Trustee of the Interest; or
- (e) in relation to Land that in ordinary conditions is covered by water, a Person who is entitled directly or indirectly under a lease or licence to possess or occupy, or who simply occupies, the Land, the water covering the Land or the surface of the water covering the Land;

“Improvements” means any building, fixture, structure or similar thing constructed, placed or affixed on, in or to Land, or water over Land, or on, in or to another improvement and includes a Manufactured Home;

“Interest”, in relation to the assessment and taxation of Westbank 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, and includes Improvements, as applicable;

“Land” includes

- (a) land covered by water,
- (b) quarries, and
- (c) sand and gravel;

“Land Co-operative” means a parcel of Land of which a Holder is a corporation that holds its Interest exclusively for the benefit of its shareholders who have rights to occupy a portion of the parcel, and hold, own or have the use of shares or shares and other securities in the corporation that have a value equivalent to the value of the portion in relation to the value of the parcel;

“Local Revenue Law” has the meaning given to that term in the Taxation Bylaw;

“Manufactured Home” means a structure, whether or not ordinarily equipped with wheels, that is designed, constructed or manufactured to

- (a) be moved from one place to another by being towed or carried, and
- (b) provide
 - (i) a dwelling house or premises,
 - (ii) a business office or premises,
 - (iii) accommodation for any other purpose,
 - (iv) shelter for machinery or other equipment, or
 - (v) storage, workshop, repair, construction or manufacturing facilities;

“Manufactured Home Park” means Land used or occupied by a Person for the purpose of providing space for the accommodation of one or more Manufactured Homes and for imposing a charge, fee or rental for the use of that space;

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

“Notice of Fees” means a notice containing the information set out in Schedule X, which may be amended from time to time by Resolution, and which shall be posted on the website of [stqá?tkw4niwt sqilxw](#) (Westbank);

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

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

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

“Party”, in respect of an appeal of an Assessment under this Bylaw, means the parties to an Assessment appeal under article 28;

“Person”, in addition to its ordinary meaning, includes a partnership, syndicate, association, corporation, government or any agency or political subdivision thereof, and personal or other legal representatives of a person;

“Property Class” means the categories of Interests in Westbank Lands established under section 7.6;

“Province” means the province of British Columbia;

“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 and, for clarity, includes a floating home;

“Resolution” means a formal motion moved by a yí səxʷkʷinmaʔr̄h (Council) member, seconded by another yí səxʷkʷinmaʔr̄h (Council) member and passed by yí səxʷkʷinmaʔr̄h (Council) under the stqáʔtkʷiniwt̄ iʔ Stkʷnkʷinplaʔs (Constitution);

“Revised Roll” means an Assessment Roll amended in accordance with article 19;

“Supplementary Roll” means an Assessment Roll produced under article 21;

“xatus iʔ kí s̄xaq̄q̄ (Surveyor of Taxes)” means the Person appointed by yí səxʷkʷinmaʔr̄h (Council) to that position under the Taxation Bylaw;

“Taxation Bylaw” means the *Westbank First Nation Property Taxation Bylaw No. 23-TX-01*;

“Taxation Year” means the calendar year to which an Assessment Roll applies for the purposes of taxation;

“Taxes” include

- (a) all taxes imposed, levied, assessed or assessable under this Bylaw, and all penalties, interest and costs added to Taxes under this Bylaw, and
- (b) for the purposes of collection and enforcement, all taxes imposed, levied, assessed or assessable under any other Local Revenue Law made under the authority of section 83(1) of the *Indian Act*, and all penalties, interest and costs added to taxes under such a law or bylaw;

“Trustee” includes a personal representative, guardian, committee, receiver and any Person having or taking on 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 an individual under a legal disability;

“stqáʔtkʷiniwt̄ sqilxʷ (Westbank)” means the Westbank First Nation, being a self-governing Indigenous Government as defined in the stqáʔtkʷiniwt̄ iʔ Stkʷnkʷinplaʔs (Constitution);

“Westbank Lands” means

- (a) the following Westbank Indian Reserves:
 - (i) Mission Creek (sənχ^waqwaʔstən) Indian Reserve No. 8 in British Columbia,
 - (ii) Tsinstikeptum Indian Reserve No. 9 in British Columbia,
 - (iii) Tsinstikeptum Indian Reserve No. 10 in British Columbia,
 - (iv) Medicine Hill (akʰ mʰimstn) Indian Reserve No. 11 in British Columbia, and
 - (v) Medicine Creek (nmʰmsitk^w) Indian Reserve No. 12 in British Columbia; and
- (b) lands set apart by Canada in the future as lands reserved for the use and benefit of stqáʔtk^wniwʰt sqilx^w (Westbank), within the meaning of subsection 91(24) of the *Constitution Act, 1867* and section 2(1) of the *Indian Act*; and

“Westbank Lands Register” means the register of Westbank Lands established by Canada and held in Ottawa, Ontario.

- 2.2 Unless otherwise provided in this Bylaw, words, expressions, and rules of construction used in this Bylaw have the same meaning as in the stqáʔtk^wniwʰt iʔ Stk^wnk^winplaʔs (Constitution).
- 2.3 Schedules I to XIII are attached to and constitute part of this Bylaw.
- 2.4 In this Bylaw:
 - (a) words in the singular include the plural, and words in the plural include the singular;
 - (b) where a word or expression is defined, other parts of speech, and grammatical forms of the same word or expression have corresponding meanings; and
 - (c) where both English and *syilx* terms are used in this Bylaw, both versions are equally authoritative and may be used interchangeably.
- 2.5 If any section or paragraph of this Bylaw is for any reason held invalid by a decision of a Court, the invalid section or paragraph shall be severed from and will not affect the remaining provisions of this Bylaw.
- 2.6 The headings given to the Parts and sections in this Bylaw are for convenience of reference only, do not form part of this Bylaw and shall not be used in the interpretation of this Bylaw.
- 2.7 Unless otherwise noted, a reference to an enactment is a reference to the enactment as it exists from time to time and includes any regulations made under the enactment, and any law or bylaw referred to herein is a reference to a stqáʔtk^wniwʰt sqilx^w (Westbank) law or bylaw, as amended, revised, consolidated or replaced from time to time, and includes any regulations made under that law or bylaw.
- 2.8 Where an obligation arose, a person was appointed or an appeal was commenced under one or more former bylaws which have been superseded and replaced by this

Bylaw, the provisions of the *Interpretation Act*, RSC 1985, c I-21 apply, and without restricting the generality of this provision:

- (a) every person appointed under the former bylaw or bylaws continues to act as if appointed under this Bylaw until replaced or appointed under this Bylaw;
 - (b) all forms or things made or used under the former bylaw or bylaws may be continued under this Bylaw to the extent possible; and
 - (c) any and all procedures established by this Bylaw shall be applicable and followed with respect to any action required under the former bylaw or bylaws.
- 2.9 Where a provision in this Bylaw is expressed in the present tense, future tense or in the past tense, the provision applies to the circumstances as they may from time to time arise without reference to the present tense, future tense or the past tense.
- 2.10 This Bylaw shall be construed as being remedial, and shall be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objects.

PART 2 – APPLICATION

3. APPLIES WITHIN WESTBANK LANDS

- 3.1 This Bylaw applies to all Interests in Westbank Lands.

PART 3 – ASSESSOR

4. ASSESSOR

- 4.1 yí səx^{wk}winma?rḥ (Council) shall appoint one or more Assessors to undertake Assessments of Assessable Property in accordance with this Bylaw.
- 4.2 An Assessor appointed by yí səx^{wk}winma?rḥ (Council) shall be qualified to conduct Assessments of real property in the Province.

5. ASSESSOR DUTIES

- 5.1 The Assessor shall:
- (a) assess all Interests in Westbank Lands that are subject to taxation under the Taxation Bylaw;
 - (b) assess all Interests for which payments-in-lieu may be accepted by yí səx^{wk}winma?rḥ (Council);
 - (c) assess non-taxable Interests, as and when requested to do so by yí səx^{wk}winma?rḥ (Council); and

- (d) carry out such other duties as set out in this Bylaw or as directed by yí sɛxʷkʷínmaʔm̓ (Council).

PART 4 – VALUATION

6. VALUATION AND STATUS DATES

- 6.1 For the purpose of determining the Assessed Value of an Interest in Westbank Lands for an Assessment Roll, the valuation date is July 1 of the year before the Taxation Year for which the Assessment applies.
- 6.2 The Assessed Value of an Interest in Westbank Lands for an Assessment Roll is to be determined as if on the valuation date:
- (a) the Interest was in the physical condition that it is in on October 31 following the valuation date; and
 - (b) the permitted use of the Interest was the same as on October 31 following the valuation date.
- 6.3 Paragraph 6.2(a) does not apply to an Interest in Westbank Lands referred to in paragraphs 19.3(b) and (d) and the Assessed Value of an Interest referred to in those paragraphs for an Assessment Roll shall be determined as if on the valuation date the Interest was in the physical condition that it is in on December 31 following the valuation date.

7. VALUATION FOR PURPOSES OF ASSESSMENT

- 7.1 The Assessor shall determine the Assessed Value of an Interest in Westbank Lands in accordance with this Part and shall enter the Assessed Value of the Interest in the Assessment Roll.
- 7.2 In determining Assessed Value, the Assessor may, except where this Bylaw has a different requirement, give consideration to the following:
- (a) present use;
 - (b) location;
 - (c) original cost;
 - (d) replacement cost;
 - (e) revenue or rental value;
 - (f) selling price of the Interest in Westbank Lands and comparable Interests;
 - (g) economic and functional obsolescence; and
 - (h) any other circumstances affecting the value of the Interest.

- 7.3 Without limiting the application of sections 7.1 and 7.5, where an industrial or commercial undertaking, a business or a public utility enterprise is carried on, the Land and Improvements used by it shall be valued as the Interest of a going concern.
- 7.4 The Assessor may include in the factors that they consider under sections 7.2 and 7.3, any restriction placed on the use of the Land and Improvements by *stqá?tkwłniwt sqilxw* (Westbank) provided that where the restriction is not being complied with the Assessor may assess the Interest at the Assessed Value without taking the restriction into account.
- 7.5 Interests in Westbank Lands shall be assessed at their Assessed Value.
- 7.6 *yí səxwkwínma?rh* (Council) hereby establishes those Property Classes established by the Province for provincial property assessment purposes that are set out in Schedule I, for the purposes of Assessment under this Bylaw and imposing Taxes under the Taxation Bylaw.
- 7.7 The Assessor shall
- (a) assess Interests in Westbank Lands according to the Property Classes established under section 7.6; and
 - (b) use the provincial classification rules for each Property Class.
- 7.8 Where an Interest in Westbank Lands falls into two or more Property Classes, the Assessor shall determine the share of the Assessed Value of the Interest attributable to each Property Class and assess the Interest according to the proportion each share constitutes of the total Assessed Value.
- 7.9 The Assessed Values of Interests determined under this article shall be set down on the Assessment Notice and in the Assessment Roll separately as Land and Improvements, in addition to the information specified pursuant to sections 11.4 and 13.2.
- 7.10 For greater certainty, a structure, aqueduct, pipeline, tunnel, bridge, dam, reservoir, road, storage tank, transformer, or substation, pole lines, cables, 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.
- 7.11 Each individual Residential Building located on a Land Co-operative or multi-dwelling leased Interest shall be separately assessed.
- 7.12 Except as otherwise provided in this Bylaw, for the purposes of assessing Interests in Westbank Lands the Assessor shall use
- (a) the valuation methods, rates, rules and formulas established under provincial Assessment legislation existing at the time of Assessment; and

- (b) the Assessment rules and practices used by Assessors in the Province for conducting Assessments outside of Westbank Lands.

PART 5 – INSPECTIONS AND REQUESTS FOR INFORMATION

8. INSPECTIONS AND POWER TO EXAMINE PROPERTY AND ACCOUNTS

- 8.1 The Assessor may, for any purposes related to Assessment, enter into or on and inspect Land and Improvements.
- 8.2 The Assessor may enter onto any Interest in Westbank Lands and may examine any property
 - (a) to determine an Assessment of Land and Improvements, in respect of which the Assessor thinks a Person may be liable to Assessment; or
 - (b) to confirm an Assessment.
- 8.3 The Assessor shall be given access to, and may examine and take copies of and extracts from, the books, accounts, vouchers, documents and appraisals of the Person referred to in paragraph 8.2(a) who shall, on request, furnish every facility and assistance required for the entry and examination.
- 8.4 If an Assessor is unable to enter into or on and inspect Land or Improvements, the Assessor shall assess the Assessable Property in the manner and for the amount the Assessor believes to be correct based upon such information as may be in the possession of the Assessor.

9. REQUEST FOR INFORMATION

- 9.1 The Assessor may deliver 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 shall provide to the Assessor, within 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 Bylaw.
- 9.2 The Assessor may in all cases assess the Assessable Property based on the information available to the Assessor and is not bound by the information provided under section 9.1.
- 9.3 A Person who provides false or misleading information in response to a Request for Information commits an offence.

10. MANUFACTURED HOME PARK INFORMATION

- 10.1 The Holder of an Interest upon which a Manufactured Home Park is located or the operator of a Manufactured Home Park shall notify the Assessor and the xatus i? kl sxaqeq (Surveyor of Taxes), in writing, promptly after a Manufactured Home is moved into, or out of, the Manufactured Home Park that a Manufactured Home has been moved into, or out of, the Manufactured Home Park.

PART 6 – ASSESSMENT ROLL AND ASSESSMENT NOTICE

11. COMPLETION OF ROLL

- 11.1 On or before December 31 of each year, the Assessor shall complete a new Assessment Roll containing a list of each Interest in Westbank Lands that is liable to Assessment under this Bylaw or any other law of stqá?tkw4niwt sqilxw (Westbank).
- 11.2 When completing an Assessment Roll, the Assessor shall make reference to the records of the Westbank Lands Register as those records stood on October 31 of the year in which that Assessment Roll is completed.
- 11.3 In the case of an Interest for which a Westbank Lands Register description is available, the Assessor shall use the best description available to the Assessor.
- 11.4 The Assessment Roll shall be in paper or electronic form and shall contain the following information in respect of each Interest in Westbank Lands:
- (a) the name and last known address of the Holder;
 - (b) a short description of the Interest;
 - (c) the classification of the Interest;
 - (d) the Assessed Value by classification of the Interest;
 - (e) the total Assessed Value of the Interest;
 - (f) the net Assessed Value of the Interest subject to taxation under the Taxation Bylaw; and
 - (g) any other information the Assessor considers necessary or desirable.
- 11.5 A Person whose name appears in the Assessment Roll shall give written notice to the Assessor of any change of address.
- 11.6 For greater certainty, an Assessment Roll prepared under the enactment repealed by section 52.1 is and continues to be an Assessment Roll under this Bylaw and shall be used until such time as the next Assessment Roll is prepared and certified in accordance with this Bylaw.

12. RETURN AND CERTIFICATION OF ASSESSMENT ROLL

- 12.1 On completing the Assessment Roll under section 11.1 and on or before December 31 in that year, the Assessor shall certify in writing substantially in the form and manner provided in Schedule IV that the Assessment Roll was completed in accordance with the requirements of this Bylaw.

12.2 The Assessor shall return the completed Assessment Roll to the xatus i? k' s'axaq' (Surveyor of Taxes) as soon as possible after it has been completed, and not later than December 31.

13. ASSESSMENT NOTICE

13.1 On or before December 31 of each year, the Assessor shall, subject to sections 13.3 and 13.6, deliver an Assessment Notice to each Person named in the Assessment Roll

- (a) at the Person's address on the Assessment Roll, by mail; or
- (b) by Electronic Transmission to a recipient who has provided authorization to the assessor to Electronically Transmit an Assessment Notice, and the Assessment Notice is deemed to have been delivered on the date that the e-mail is sent or the Electronic Transmission is made available by the Assessor.

13.2 The Assessment Notice shall contain the information specified in Schedule III.

13.3 Where there are two or more Holders in respect of the same Interest, the Interest may be assessed in the name of any of those Persons or in the names of any two or more of those persons jointly.

13.4 Any number of Interests in Westbank Lands assessed in the name of the same Holder may be included in one Assessment Notice.

13.5 If several Interests in Westbank Lands are assessed in the name of the same Holder at the same value, the Assessment Notice may clearly identify the Interest assessed, setting it out as a block, parts of a block or as a series of lots, without giving the full description of each Interest as it appears in the Assessment Roll.

13.6 Notwithstanding anything in this Bylaw, where an Interest in Westbank Lands is wholly exempt from taxation under the Taxation Bylaw, the Assessor need not deliver an Assessment Notice to any Holder in respect of that Interest unless otherwise directed by the xatus i? k' s'axaq' (Surveyor of Taxes).

13.7 For greater certainty, where a partial exemption applies with respect to an Interest in Westbank Lands with multiple Holders, the Interests of each taxable Holder shall be assessed separately.

13.8 For greater certainty, and except where the grounds for an appeal is that an exemption has been improperly allowed, where an Interest is exempt from taxation under the Taxation Bylaw, there shall be no right to reconsideration or appeal under this Bylaw with respect to any Assessment of that Interest and Parts 8 and 9 shall not apply to any Assessment of that Interest.

13.9 Subject to sections 13.10 and 16.2, the Assessor shall provide, to any Person who requests it and pays to the Assessor the fee as charged by the Assessor, the information contained in the current Assessment Notice sent by the Assessor.

13.10 Where information has been omitted or obscured under section 17.1, the Assessor shall omit that information from a notice provided under section 13.9.

13.11 The Assessor may at any time send a copy of any Assessment Notice sent by the Assessor under section 13.1 to a Person named in the Assessment Roll, to any Person who is a Holder in respect of the Interest assessed.

14. REQUESTS BY CHARGEHOLDERS

14.1 Any Person holding a charge registered in the Westbank Lands Register on Assessable Property may, at any time, give written notice, with full particulars of the nature, extent, and duration of the charge, to the Assessor and

- (a) request copies of all Assessment Notices issued during the duration of the charge; and
- (b) request that the Person's name be added to the Assessment Roll in respect of that Assessable Property, for the duration of the charge.

14.2 On receipt of a notice and request under section 14.1, the Assessor shall enter the Person's name and address on the Assessment Roll and provide copies of all Notices of Assessment issued in respect of the Assessable Property.

15. ASSESSOR TO PREPARE AND CERTIFY REVISED ROLL

15.1 No later than March 31 after the certification of the Assessment Roll under section 12.1, the Assessor shall

- (a) modify the Assessment Roll to reflect all reconsideration decisions, corrections of errors and omissions, and decisions and directions received by the Assessor from the Board of Review;
- (b) date and initial amendments made to the Assessment Roll under this section; and
- (c) prepare a Revised Roll.

15.2 On completion of the Revised Roll under section 15.1, the Assessor shall

- (a) certify in writing in substantially the form set out in Schedule IV that the Revised Roll was completed in accordance with the requirements of this Bylaw; and
- (b) deliver a copy of the certified Revised Roll to the xatus i? kíl s'xaq'eq (Surveyor of Taxes) and to the Chair.

15.3 On certification under this article, the Revised Roll becomes the Assessment Roll for the Taxation Year and it is deemed to be effective as of the date the Assessment Roll was certified under section 12.1.

16. INSPECTION AND USE OF ASSESSMENT ROLL

- 16.1 On receipt by the xatus i? k'ł s'xaqeq (Surveyor of Taxes), the Assessment Roll is open to inspection 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.
- 16.2 A Person shall not, directly or indirectly, use the Assessment Roll or information contained in the Assessment Roll to
- (a) obtain names, addresses or telephone numbers for solicitation purposes, whether the solicitations are made by telephone, mail, electronic or any other means; or
 - (b) harass an individual.
- 16.3 The xatus i? k'ł s'xaqeq (Surveyor of Taxes) may require a Person who wishes to inspect the Assessment Roll to complete a declaration in substantially the form set out in Schedule V
- (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.

17. PROTECTION OF PRIVACY IN ASSESSMENT ROLL

- 17.1 On application by a Holder, the Assessor may omit or obscure the Holder's name, address or other information about the Holder that would ordinarily be included in an Assessment Roll if, in the Assessor'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.
- 17.2 Where the Assessor omits or obscures information under section 17.1, such information shall be obscured from all Assessment Rolls that are available for public inspection under section 16.1 or are otherwise accessible to the public.

18. VALIDITY OF COMPLETED ASSESSMENT ROLL

- 18.1 The completed Assessment Roll, regardless of whether or not it has been confirmed under article 22 is, unless changed or amended under this Bylaw, 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 deliver any notice.
- 18.2 Changes or amendments to an Assessment Roll under this Bylaw shall be valid and binding upon all Parties concerned, but no such change or amendment shall be of any force or effect until it is actually made and no such change or amendment shall affect the validity or binding effect under section 18.1 of any part of the Assessment Roll that is not changed or amended.

- 18.3 The Assessment Roll is, for all purposes, the Assessment Roll of *stqá?tkwłniwt sqilxw* (Westbank) for the Taxation Year in respect of which it has been prepared.

PART 7 – ERRORS AND OMISSIONS IN ASSESSMENT ROLL

19. AMENDMENTS BY ASSESSOR

- 19.1 Before March 16 in each year after the certification of an Assessment Roll under section 12.1, the Assessor shall notify and recommend correction to the Board of Review of all errors or omissions in the Assessment Roll, except those errors or omissions corrected under section 19.2 or article 23.
- 19.2 Before March 16 in each year after the certification of an Assessment Roll under section 12.1, the Assessor may amend an individual entry in the Assessment Roll to correct an error or omission, with the consent of the
- (a) Holder of the Interest in Westbank Lands; and
 - (b) the Complainant, if the Complainant is not the Holder.
- 19.3 In addition to those requirements set out in section 19.1, the Assessor shall give notice to the Board of Review and recommend correction of the Assessment Roll in any of the following circumstances:
- (a) because of a change in a Holder that occurs before January 1 in a Taxation Year that is not reflected in the certified Assessment Roll and that results in
 - (i) Land or Improvements, or both, that were not previously subject to taxation becoming subject to taxation, or
 - (ii) Land or Improvements, or both, that were previously subject to taxation ceasing to be subject to taxation;
 - (b) after October 31 and before the following January 1, a Manufactured Home is moved to a new location or destroyed;
 - (c) after October 31 and before the following January 1, a Manufactured Home is placed on Land that has been assessed or the Manufactured Home is purchased by the Holder of Land that has been assessed; and
 - (d) Improvements, other than a Manufactured Home, that
 - (i) are substantially damaged or destroyed after October 31 and before the following January 1, and
 - (ii) cannot reasonably be repaired or replaced before the following January 1.

19.4 Except as provided in article 20, or pursuant to an order of a Court, the Assessor shall not make any amendments to the Assessment Roll after March 31 of the current Taxation Year.

19.5 Where the Assessment Roll is amended under section 19.1, the Assessor shall deliver an amended Assessment Notice to every Person named in the Assessment Roll in respect of the Interest in Westbank Lands affected.

20. SUPPLEMENTARY ROLL

20.1 If, after the certification of the Revised Roll or where there is no Revised Roll, after March 31, the Assessor finds that any Interest in Westbank Lands

- (a) was liable to Assessment for the current Taxation Year, but has not been assessed on the current Assessment Roll; or
- (b) has been assessed for less than the amount for which it was liable to Assessment,

the Assessor shall assess the Interest on a Supplementary Roll, or further Supplementary Roll, in the same manner that it should have been assessed on the current Assessment Roll, provided that a Supplementary Roll under this section shall not be prepared after December 31 of the Taxation Year in which the Assessment Roll certified under article 15 applies.

20.2 If, after the certification of the Revised Roll or where there is no Revised Roll, after March 31, the Assessor finds that any Interest:

- (a) was liable to Assessment for a previous Taxation Year, but has not been assessed on the Assessment Roll for that year; or
- (b) has been assessed in a previous Taxation Year for less than the amount for which it was liable to Assessment,

the Assessor shall assess the Interest on a Supplementary Roll or further Supplementary Roll for that year, in the same manner that it should have been assessed, but only if the failure to assess the Interest, 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 Act.

20.3 Where, at any time before December 31 of the Taxation Year in which the Assessment Roll certified under section 12.1 applies, the xatus i? kl s'xaqeq (Surveyor of Taxes) determines that property that was exempt from taxation under the Taxation Bylaw has

become taxable, the xatus i? kí s'xaqéq (Surveyor of Taxes) shall advise the Assessor, who shall make an entry on a Supplementary Roll.

- 20.4 Notwithstanding article 18 and in addition to supplementary Assessments under sections 20.1, 20.2 and 20.3, the Assessor may, at any time before December 31 of the Taxation Year in which the Assessment Roll certified under article 15 applies, correct errors and supply omissions in a completed Assessment Roll, and shall correct errors and supply omissions in the completed Assessment Roll by means of entries in a Supplementary Roll.
- 20.5 Where, after March 31 in a Taxation Year, the Assessor receives a decision or direction of the Board of Review, the Assessor shall create a Supplementary Roll reflecting the decision or direction of the Board of Review and deliver it to the Chair, and this article applies.
- 20.6 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 a Court.
- 20.7 A Supplementary Roll that implements an amendment ordered or directed by the Board of Review or by a Court may not be appealed to the Board of Review.
- 20.8 Nothing in sections 20.1, 20.3 or 20.6 authorizes the preparation of a Supplementary Roll, or the correction of an Assessment Roll, for the purpose of changing or updating an Assessment Roll later than 12 months after the Assessment Roll is completed but nothing in this article shall prevent or prohibit the preparation of a Supplementary Roll, the correction of an Assessment Roll, or any change or amendment to an Assessment Roll made under Part 8 or 9 of this Bylaw at any time.

21. PROVISIONS APPLICABLE TO SUPPLEMENTARY ROLL

- 21.1 The duties imposed on the Assessor with respect to the Assessment Roll and the provisions of this Bylaw relating to Assessment Rolls shall, so far as they are applicable, apply to Supplementary Rolls.
- 21.2 The Assessor shall, as soon as practicable, after issuing a Supplementary Roll,
- (a) deliver a certified copy of the Supplementary Roll to the xatus i? kí s'xaqéq (Surveyor of Taxes);
 - (b) where the Supplementary Roll reflects a decision or direction of the Board of Review, deliver a certified copy of the Supplementary Roll to the Chair; and
 - (c) deliver an amended Assessment Notice to every Person named on the Assessment Roll in respect of the Assessable Property affected.
- 21.3 Where a Supplementary Roll is issued under this Bylaw, the Supplementary Roll is deemed to be effective as of the date the Assessment Roll was certified under section 12.1 in respect of the Assessable Property affected.

- 21.4 Despite section 21.3, a Supplementary Roll issued under section 20.3 is deemed to be effective as of the date the affected Interest became taxable under the Taxation Bylaw.

22. CONFIRMATION OF ROLL

- 22.1 If the Assessor makes changes to the Assessment Roll as a result of directions received from the Board of Review in accordance with section 15.1(a) or 20.5(b), the Chair shall, upon receipt of the Assessment Roll
- (a) confirm the roll by inscribing or endorsing on it or attaching to it a certificate as set out in Schedule VI signed by the Chair; and
 - (b) deliver the confirmed roll to the xatus i? kl sxaqeq (Surveyor of Taxes).

PART 8 – RECONSIDERATION OF ASSESSMENT

23. RECONSIDERATION BY ASSESSOR

- 23.1 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.
- 23.2 A request for reconsideration may be made on one or more of the grounds on which an Assessment appeal may be made under this Bylaw.
- 23.3 A request for reconsideration of an Assessment shall
- (a) be delivered to the Assessor within 21 days after the day that the Assessment Notice is mailed or Electronically Transmitted to the Person named on the Assessment Roll in respect of an Assessable Property;
 - (b) be made in writing and include the information set out in Schedule VII; and
 - (c) include any reasons in support of the request.
- 23.4 The Assessor shall, no later than 21 days after the end of the 21-day period referenced in paragraph 23.3(a), consider the request for reconsideration and advise the Person who requested the reconsideration that
- (a) the Assessor confirms the Assessment; or
 - (b) the Assessor has determined that the Assessable Property should have been assessed differently, and that the Assessor offers to modify the Assessment.
- 23.5 Where the Person who requested the reconsideration agrees with the modification proposed by the Assessor, the Assessor shall
- (a) amend the Assessment Roll as necessary to reflect the modified Assessment;

- (b) give notice of the amended Assessment to the xatus i? kí sǎađeđ (Surveyor of Taxes) 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 Board of Review of the modification.

23.6 Where the Person who requested the reconsideration accepts an offer to modify an Assessment, that Person shall not appeal the modified Assessment and shall withdraw any Notice of Appeal filed in respect of the Assessable Property.

PART 9 – BOARD OF REVIEW AND APPEALS

24. BOARD OF REVIEW

- 24.1 yí sǎxwkwínma?m (Council) shall, by Resolution, establish a Board of Review to carry out the duties required and exercise the powers authorized under this Bylaw.
- 24.2 The Board of Review shall consist of not less than three sitting members and one additional alternate member, including at least
- (a) one member who is a practising or non-practising member in good standing of the law society of the Province; and
 - (b) at least one member who has experience in assessment appeals in the Province.
- 24.3 yí sǎxwkwínma?m (Council) shall maintain a list of substitute members of the Board of Review.
- 24.4 Where a sitting member of the Board of Review is disqualified, unable or unwilling to act,
- (a) the alternate member of the Board of Review shall act for the period for which the member of the Board of Review is unavailable; or
 - (b) if for any reason the alternate member of the Board of Review is disqualified, unable or unwilling to act, the yí sǎxwkwínma?m (Council) shall appoint the first qualified Person on the list of substitute members to act for the period for which the member of the Board of Review is unavailable.
- 24.5 The stqá?tkw?niwt sqilxw (Westbank) shall remunerate the members of the Board of Review for time spent on activities of the Board of Review required under this Bylaw or expressly authorized by the yí sǎxwkwínma?m (Council).
- 24.6 The rates of remuneration for the Board of Review are as follows:
- (a) for the Chair or acting Chair, the maximum per diem rate established from time to time by the Province for a part-time chair of a provincial administrative tribunal categorized as Group 3;

- (b) for a member appointed to act, other than the chair, who meets the criteria set out in paragraph 24.2 (a) or (b), the maximum per diem rate established from time to time by the Province for a part-time vice-chair of a provincial administrative tribunal categorized as Group 3; and
- (c) for any member appointed to act, other than those referenced in paragraphs (a) and (b), the maximum per diem rate established from time to time by the Province for a part-time member of a provincial administrative tribunal categorized as Group 3,

calculated in accordance with section 24.7.

24.7 The remuneration under section 24.6 shall be calculated as follows:

- (a) a member of the Board of Review shall be paid the applicable per diem rate where the members spends more than four hours of time on the activities of the Board of Review in a 24 hour day; and
- (b) a member of the Board of Review shall be paid one-half of the applicable per diem rate where the member spends four hours or less of time on the activities of the Board of Review in a 24 hour day.

24.8 The members of a Board of Review shall be paid their reasonable and necessary travelling and out of pocket expenses necessarily incurred in carrying out their duties.

24.9 Every member of a Board of Review shall, before entering on their duties, take and subscribe before the *stqá?tkw̄niwt sqilxw* (Westbank) Council Secretariat, the *xatus i? kí s̄xaq̄q̄* (Surveyor of Taxes) or a notary public or a commissioner for taking oaths, an oath or affirmation in the form provided in Schedule VIII.

24.10 Each member and alternate member of the Board of Review shall be appointed by the *yí s̄xw̄k̄w̄inma?r̄n* (Council) for a term of three years commencing on the date of their appointment.

24.11 A member of the Board of Review shall continue in their office subject to death, resignation, or removal for just cause by Resolution including for any of the following reasons:

- (a) conviction of an offence under the *Criminal Code*;
- (b) failure to perform any of their duties under this Bylaw in good faith and in accordance with the terms of this Bylaw; or
- (c) any similar just cause.

24.12 A Person is not eligible to serve as a member or alternate member of the Board of Review if that Person

- (a) is the Chief of *stqá?tkw̄niwt sqilxw* (Westbank) or a member of the *yí s̄xw̄k̄w̄inma?r̄n* (Council); or

- (b) is an employee of the *stqá?tkw?niwt sqilxw* (Westbank) or the *yí səxwkwínma?m* (Council).

24.13 A Person shall not serve as a member of the Board of Review if the Person

- (a) has a personal or direct or indirect financial interest in any Assessment to which an appeal relates;
- (b) has been convicted of an offence under the *Criminal Code of Canada*; or
- (c) has financial dealings with *stqá?tkw?niwt sqilxw* (Westbank) or the *yí səxwkwínma?m* (Council) which 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 Bylaw.

24.14 For the purposes of paragraph 24.13(a), membership in *stqá?tkw?niwt sqilxw* (Westbank) does not in itself constitute a personal or financial interest in Assessable Property.

24.15 The *xatus i? kí sxaqəq* (Surveyor of Taxes) shall act as administrator to the Board of Review, and shall have the following duties:

- (a) ensuring that attendance is taken of Board of Review members present at meetings;
- (b) ensuring minutes of meetings of the Board of Review are kept and maintained;
- (c) ensuring decisions and votes are recorded at meetings of the Board of Review; and
- (d) such other duties, consistent with this Bylaw, as may be assigned to the administrator by the Chair, the Board of Review and *stqá?tkw?niwt sqilxw* (Westbank).

24.16 The *xatus i? kí sxaqəq* (Surveyor of Taxes) shall have the custody and care of all records, minutes of meetings of the Board of Review, documents, orders and decisions made by or pertaining to the Board of Review.

25. POWERS OF BOARD OF REVIEW

25.1 The powers of the Board of Review are to:

- (a) meet at the dates, times and places appointed and to hear and determine all appeals delivered to the Assessor under this Bylaw;
- (b) investigate the Assessment Roll and the various Assessments made in it, whether appealed against or not, and to adjudicate on the Assessments in respect of which an appeal is made under this Bylaw;

- (c) direct amendments to be made in the Assessment Roll necessary to give effect to its decisions;
- (d) consider and determine Assessor recommendations made under section 19.1 for changes to the Assessment Roll;
- (e) confirm the Assessment Roll, either with or without amendment; and
- (f) perform any duties as required under this Bylaw or expressly authorized by yí səx^wk^wínmaʔrñ (Council).

25.2 The members of the Board of Review shall annually appoint one of the members of the Board of Review as Chair, whose duties shall include:

- (a) supervising and directing the work of the Board of Review;
- (b) undertaking administrative duties as necessary to oversee and implement the work of the Board of Review;
- (c) determining procedures to be followed at hearings consistent with this Bylaw;
- (d) administering an oath or solemn affirmation to a Person or witness before their evidence is taken;
- (e) organizing, calling and presiding at hearings of the Board of Review;
- (f) confirming the Assessment Roll in accordance with section 22.1; and
- (g) performing the duties of the Chair in accordance with this Bylaw and as may be assigned to the Chair by the Board of Review.

25.3 If the Chair is absent or incapacitated, the Board of Review shall designate a member or alternate member of the Board of Review as the acting chair for the period that the Chair is absent or incapacitated.

26. POWERS OF A SINGLE BOARD MEMBER

26.1 Notwithstanding section 27.8, where directed by the Board of Review, any one member of the Board of Review may review a Notice of Appeal, hold an inquiry or conduct an appeal on behalf of the Board of Review and without restricting the generality of the foregoing, where the Chair directs, a single member of the Board of Review may:

- (a) dismiss an appeal that was not filed within the applicable time limit; and
- (b) deal with any other uncontested matters.

27. APPEALS TO BOARD OF REVIEW

- 27.1 Any Person, including without limitation *sqá?tkw4niwt sqilxw* (Westbank) and the Assessor, may appeal an Assessment or a reconsideration of an Assessment of Assessable Property to the Board of Review by delivering
- (a) a completed Notice of Appeal signed by that Person, their solicitor or an Agent authorized in writing by them;
 - (b) a copy of the Assessment Notice; and
 - (c) a non-refundable fee in the amount set out in the Notice of Fees payable to Westbank First Nation,
- to the Assessor within 45 days after the date on which the Assessment Notice was mailed or Electronically Transmitted to the Person named on the Assessment Roll in respect of the Assessable Property..
- 27.2 If the appeal fee required under paragraph 27.1(c) is not submitted with the Notice of Appeal, the Assessor shall provide notice to the Complainant that the appeal will be deemed invalid if the appeal fee is not received in the offices of the Assessor within 21 days from the date the notice is sent.
- 27.3 An appeal is commenced by delivery of a completed Notice of Appeal, a copy of the Assessment Notice, and the required appeal fee to the Assessor in the manner set out in the Assessment Notice.
- 27.4 The grounds for an appeal may be in respect of one or more of the following:
- (a) the name of a Person has been wrongfully inserted in, or omitted from, the Assessment Roll;
 - (b) Land or Improvements or both Land and Improvements within Westbank Lands have been wrongfully entered on, or omitted from the Assessment Roll;
 - (c) Land or Improvements or both Land and Improvements are not assessed at Assessed Value;
 - (d) Land or Improvements or both Land and Improvements have been improperly classified; or
 - (e) an exemption has been improperly allowed or disallowed, or there has been any other error or omission.
- 27.5 Where the Complainant is not a Holder of the Interest to which the appeal relates, the Complainant shall include with the Notice of Appeal an address to which notices for the appeal may be sent.
- 27.6 Where an appeal is commenced with respect to a supplementary Assessment, the appeal shall be confined to the supplementary Assessment.

- 27.7 The Assessor shall, 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 xatus i? k'l s'xaq'eq (Surveyor of Taxes); and
 - (b) deliver the fee collected under paragraph 27.1(c) to stqá?tkw'niwt sqilxw (Westbank).
- 27.8 Subject to section 26.1,
- (a) three members of the members of the Board of Review constitutes a quorum;
 - (b) where a quorum of the members of a Board of Review is not present at the time at which a hearing is to be held, the hearing shall be adjourned to a time that is no later than the next Business Day, and so on from day to day until there is a quorum;
 - (c) all appeals and questions before the Board of Review shall be decided by a majority of the members present;
 - (d) the Chair votes as an ordinary member of the Board of Review, except in the case of a tie the decision of the Chair governs.
- 27.9 The Board of Review shall commence a hearing within 45 days after delivery of the Notice of Appeal to the Assessor or receipt of an Assessor recommendation under section 19.1, unless all Parties consent to a delay, and shall endeavour to complete its hearings by June 30 of the year following the Taxation Year in which the appeal or complaint was made.
- 27.10 The Board of Review may
- (a) hear all appeals or Assessor recommendations 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.
- 28. PARTIES**
- 28.1 The Parties in a Board of Review hearing, except as provided in section 31.3, are
- (a) the Complainant;
 - (b) the Holder of the Assessable Property, if not the Complainant;
 - (c) the Assessor; and
 - (d) any Person who the Board of Review determines may be affected by the appeal or Assessor recommendation, upon request by that Person.

29. DELIVERY OF DOCUMENTATION

- 29.1 The Chair shall, without delay, deliver a copy of any document submitted by a Party in relation to an appeal to all other Parties.
- 29.2 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.

30. APPEALS MANAGEMENT

- 30.1 The xatus i? kl s̄xaq̄əq̄ (Surveyor of Taxes) may appoint an appeals manager and make an appeals management conference process available to the Parties for the purposes of the resolution of appeals and the clarification of issues on appeal prior to appeals being heard by the Board of Review.
- 30.2 The xatus i? kl s̄xaq̄əq̄ (Surveyor of Taxes) may establish policies and procedures to facilitate the appeals management process to the extent not inconsistent with this Bylaw.

31. NOTICE OF HEARING

- 31.1 On delivery of a fully completed Notice of Appeal to the Assessor or on receipt of a recommendation from the Assessor under section 19.1, the Chair shall, in consultation with the Assessor, schedule a hearing of the appeal or the Assessor recommendation.
- 31.2 The Chair shall, at least 30 days before the hearing, deliver a Notice of Hearing, setting out the date, time of the hearing and how the hearing will be held, to the Parties and to each Person named on the Assessment Roll in respect of the Assessable Property.
- 31.3 Notwithstanding section 31.2, the Chair is not required to deliver a Notice of Hearing to a Holder of an Interest in Westbank Lands affected by an Assessor recommendation under section 19.1 where the recommendation
- (a) results in a decrease in the Assessed Value of the Interest;
 - (b) does not change the classification of the Interest; and
 - (c) does not result in the removal of an exemption.

32. ORDERS TO ATTEND OR PRODUCE DOCUMENTS

- 32.1 At any time before or during a hearing, but before its decision, the Board of Review may postpone consideration of the hearing to some future time and may make an order requiring a Person to
- (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 Board of Review,

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

- 32.2 A Party may request that the Board of Review make an order under section 32.1 to a Person specified by the Party.
- 32.3 Where a Party makes a request under section 32.2,
- (a) the Chair shall sign and issue an Order to Attend Hearing/Produce Documents and the Party shall serve it on the witness at least two 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 shall pay a witness fee in the amount specified in the Notice of Fees plus reasonable travel expenses to the witness to attend and give evidence before the Board of Review.
- 32.4 An order under section 32.3 may be filed with the Registrar of the Supreme Court of British Columbia and when so filed, the order shall be of the same force and effect and proceeding may be taken on the order as if it were a judgment of the Court.
- 32.5 Without limiting section 32.4, the Board of Review may apply to the Court for an order directing a Person to comply with an order under this article.

33. BOARD OF REVIEW SETS OWN RULES

- 33.1 All inquiries and hearings before the Board of Review or a member of it shall be governed by the processes and procedures it may adopt and the Board of Review is not bound by the technical rules of legal evidence.
- 33.2 Without limiting section 33.1, the Board of Review may hold pre-hearing conferences and require the Parties to attend a pre-hearing conference.

34. INSPECTION POWERS BY BOARD OF REVIEW

- 34.1 The Board of Review may, with the consent of the Parties to an appeal and the Holder, if applicable, direct a Person to enter on and inspect Land and Improvements, or any aspect thereof, that are relevant to that appeal, and to provide a report of the inspection to the Board of Review and to the Parties to the appeal.
- 34.2 The Chair may, in respect of an appeal,
- (a) require the Assessor 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
 - (b) require a Party to provide relevant documents and records in advance of a hearing.

35. CONDUCT OF HEARING

- 35.1 The Board of Review shall give all Parties a reasonable opportunity to be heard at a hearing.
- 35.2 A Party may be represented by counsel or an Agent and may make submissions as to facts, law and jurisdiction.
- 35.3 The Board of Review may conduct a hearing whether the Complainant is present or not, provided the Complainant was given notice of the hearing in accordance with this Bylaw.
- 35.4 The burden of proof in an appeal is on the Person bringing the appeal.
- 35.5 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 Board of Review for a full and fair disclosure of all matters relevant to the issues in the appeal.
- 35.6 The Board of Review 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.
- 35.7 The Board of Review may question any witness who gives oral evidence at a hearing.
- 35.8 The Board of Review 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.
- 35.9 The Board of Review may conduct its proceedings by any combination of written, telephone, electronic and oral hearings.
- 35.10 An oral hearing shall be open to the public unless the Board of Review, on application by a Party, determines that the hearing should be held in camera.

36. MAINTAINING ORDER AT HEARINGS

- 36.1 The Board of Review may, at an oral hearing, make orders or give directions that it considers necessary to maintain order at the hearing.
- 36.2 Without limiting section 36.1, the Board of Review 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 Board of Review orders otherwise.

37. SUMMARY DISMISSAL

- 37.1 At any time after a Notice of Appeal is received by the Board of Review, the Board of Review may dismiss all or part of the appeal where it determines that any of the following apply:

- (a) the appeal is not within the jurisdiction of the Board of Review;
- (b) the appeal was not filed within the applicable time limit;
- (c) the Notice of Appeal was not filled out in full and does not contain sufficient information to proceed; or
- (d) the Complainant failed to diligently pursue the appeal or failed to comply with an order of the Board of Review.

37.2 Before dismissing all or part of an appeal under section 37.1, the Board of Review shall give the Complainant an opportunity to make submissions to the Board of Review.

37.3 The Board of Review shall give written reasons for any dismissal made under section 37.1 to all Parties.

38. COMBINING HEARINGS

38.1 The Board of Review may conduct a single hearing of two 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.

39. COSTS

39.1 The Board of Review may make orders requiring a Party

- (a) to pay all or part of the costs of another Party in respect of the appeal; and
- (b) to pay all or part of the costs of the Board of Review in respect of the appeal,

where the Board of Review considers the conduct of a Party has been improper, vexatious, frivolous or abusive, in the manner the Board of Review thinks fit.

39.2 An order under section 39.1 may be filed with the Registrar of the Supreme Court of British Columbia and when so filed, the order shall be of the same force and effect and proceeding may be taken on the order as if it were a judgment of the Court.

40. BOARD OF REVIEW DECISIONS

40.1 The Board of Review shall, at the earliest opportunity, and not more than 90 days, after the day on which a hearing is completed deliver a written decision on the appeal or Assessor recommendation to all Parties and to the xatus i? k?l s?xa?e?e? (Surveyor of Taxes).

41. DECISIONS OF BOARD OF REVIEW OBTAINABLE

41.1 A Person may, on payment of a fee set out in the Notice of Fees, obtain from the xatus i? k?l s?xa?e?e? (Surveyor of Taxes) a copy of a decision of the Board of Review.

- 41.2 The Board of Review may obscure or omit personal information (other than name and address) and financial business information from decisions provided under section 41.1, provided that Assessment and property tax information shall not be obscured or omitted.

42. APPEALS ON MATTERS OF LAW

- 42.1 An appeal on a question of law may be taken within 30 days of the date of the delivery by the Assessor of the decision of the Board of Review by a Person affected including *yí s̥əxʷkʷínmaʔm̓* (Council) or the *xatus iʔ k̓l̓ s̥x̥aʔəq̓* (Surveyor of Taxes) from the decision of the Board of Review to the Supreme Court of British Columbia.
- 42.2 Upon receipt of an order of the Court, the Assessor shall make such amendments to the Assessment Roll as may be necessary to give full force and effect to the order.

43. MATTERS BEFORE THE COURTS

- 43.1 If an appeal on a question of law is taken in accordance with section 42.1, with respect to a matter before the Board of Review,
- (a) before the hearing is to commence, the hearing shall be deferred until the matter is decided by the Court;
 - (b) during the hearing, the hearing shall be adjourned until the matter is decided by the Court; or
 - (c) after the hearing has concluded but before a decision on the appeal is given, the decision shall be deferred until the matter is decided by the Court.

44. WITHDRAWAL OF APPEAL

- 44.1 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 the appeal; or
 - (b) delivering a Notice of Withdrawal to the Board of Review if a Notice of Hearing has been delivered in respect of the appeal.
- 44.2 Upon receipt of a Notice of Withdrawal
- (a) under paragraph 44.1(a), the Assessor shall advise the Chair and *stqáʔtkʷniw̓t sqilxʷ* (Westbank) that the appeal is withdrawn and will not proceed; and
 - (b) under paragraph 44.1 (b), the Board of Review shall dismiss the appeal and notify the Parties that the appeal has been dismissed.
- 44.3 For greater certainty, if a Notice of Hearing has been issued but not delivered, paragraph 44.1(b) applies.

45. DELIVERY OF DOCUMENTS UNDER THIS PART

- 45.1 Delivery of a document under this Part may be made personally or by sending it by registered mail, fax, or by Electronic Transmission.
- 45.2 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 18 years of age residing at the individual's place of residence;
 - (b) in the case of *stqá?tk^wniwt sqilx^w* (Westbank) or another 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, or with an officer or director of the corporation, or with the corporation's legal counsel.
- 45.3 Subject to section 45.4, 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.
- 45.4 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.

PART 10 – GENERAL

46. DISCLOSURE OF INFORMATION

- 46.1 The *xatus i? k'í s'xaqéq* (Surveyor of Taxes), a member of the Board of Review or any other Person who has custody or control of information or records obtained under this Bylaw shall not, without consent of the Person liable to Assessment, disclose the information or records to any other Person, except:
- (a) in the course of administering this Bylaw or another bylaw or law of *stqá?tk^wniwt sqilx^w* (Westbank), or performing functions under it;
 - (b) in proceedings before a Board of Review or a Court or pursuant to a Court order; or
 - (c) if permitted by section 46.2.

- 46.2 The Assessor may disclose to the Agent of the Holder of an Interest confidential information relating to the Interest if the disclosure has been authorised in writing by the Holder.
- 46.3 An Agent shall not use information disclosed under section 46.2 except for the purposes authorized by the Holder in writing referred to in that section.
- 46.4 Notwithstanding section 46.1,
- (a) the xatus i? k'ł s'xaqeq (Surveyor of Taxes) may disclose information and records for research purposes, including statistical research, provided the information and records do not contain information in an individually identifiable form or business information in an identifiable form; and
 - (b) yí səx'kw'winma?m (Council) may disclose information and records for research purposes, including statistical research, in an identifiable form where
 - (i) the research cannot reasonably be accomplished unless the information is provided in an identifiable form, and
 - (ii) the Person conducting the research has signed an agreement with yí səx'kw'winma?m (Council) to comply with yí səx'kw'winma?m (Council)'s requirements respecting the use, confidentiality and security of the information.

47. yí səx'kw'winma?m (COUNCIL) MAY EXTEND TIME

- 47.1 On request by the xatus i? k'ł s'xaqeq (Surveyor of Taxes), the yí səx'kw'winma?m (Council) may on a case by case basis in the case of emergency or unforeseen circumstances, by Resolution, extend the time by or within which anything is required to be done under this Bylaw, and anything done by or within such extended time is as valid as if it had been done within the time otherwise provided for in this Bylaw.

48. FAILURE TO COMPLY WITH THE LAW

- 48.1 A Person fails to comply with this Bylaw and commits an offence, who, without reasonable excuse, in violation of this Bylaw:
- (a) refuses or fails to provide information as required under this Bylaw;
 - (b) refuses or fails to attend or to submit themselves to examination on oath or otherwise;
 - (c) fails to keep a book of account or record required to be kept under this Bylaw;
 - (d) provides false information under this Bylaw; or
 - (e) without reasonable excuse, tears down, injures or defaces a notice or document which is posted in a public place or on Taxable Property in accordance with this Bylaw.

49. VALIDITY

- 49.1 Nothing under this Bylaw shall be rendered void or invalid, nor shall the liability of any Person to pay Taxes or amounts levied under the Taxation Bylaw be affected by
- (a) an error or omission in a valuation or a valuation based solely on information in the hands of an Assessor or the xatus i? kíl sǎaǎǎǎ (Surveyor of Taxes);
 - (b) an error or omission in an Assessment Roll, Assessment Notice, or any notice given under this Bylaw; or
 - (c) a failure of stqá?tkw4niwt sqilxw (Westbank), the xatus i? kíl sǎaǎǎǎ (Surveyor of Taxes) or the Assessor to do something within the required time.

50. NOTICES

- 50.1 Where in this Bylaw a notice is required to be given by mail or Electronic Transmission, or where the method of giving the notice is not otherwise specified, it shall be given
- (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;
 - (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; or
 - (d) by e-mail to the address provided by the recipient, or by other means of Electronic Transmission.
- 50.2 Except where otherwise provided in this Bylaw,
- (a) a notice given by mail is deemed received on the fifth day after it is posted;
 - (b) a notice posted on property is deemed received on the second day after it is posted;
 - (c) a notice given by personal delivery is deemed received upon delivery.; and
 - (d) a notice given by Electronic Transmission on or before 5:00 P.M. local time on a Business Day is deemed received on the day of transmission or the provision of electronic access to the notice, and after 5:00 P.M. local time on a Business Day, or on a non-Business Day, is deemed received at 9:00 A.M. on the next Business Day.

51. APPLICATION OF LAW

51.1 Where any federal Act or regulation or a provincial Act or regulation or any other *stqá?tkwániwt sqilxw* (Westbank) bylaw or law may apply to any matter covered by this Bylaw, compliance with this Bylaw does not relieve a Person from also complying with the provisions of the other applicable Act, regulation, bylaw or law.

52. REPEAL

52.1 The *Westbank First Nation Property Assessment Bylaw 95-TX-07*, as amended, is hereby repealed in its entirety.

53. COMING INTO FORCE

53.1 This Bylaw comes into force and effect on the day after it is approved by the Minister of Crown-Indigenous Relations or the Minister of Indigenous Services Canada, as applicable.

BE IT HEREBY RESOLVED AND AGREED: That this Bylaw, entitled the *Westbank Property Assessment Bylaw No. 23-TX-02* is enacted, being read for the first, and third and final time by the *yí səxwákwínma?m* (Council) of *stqá?tkwániwt sqilxw* (Westbank) held at duly convened meetings.

1st Reading: Kelowna, British Columbia, the 6th day of March, 2023.

2nd Reading: Exempt from second reading as per section 60.9 of the *stqá?tkwániwt i? Stkwákwínpla?S* (Constitution) pertaining to enactment of a Local Revenue Law.

3rd Reading: Kelowna, British Columbia, this 17th day of April, 2023.



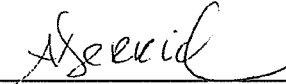
Chief Robert Louie




Councillor Andrea Alexander



Councillor Jordan Coble



Councillor Angie Derrickson



Councillor Sara Tronson

Schedule I
Classes of Property

Class 1 - Residential

Class 2 - Utilities

Class 4 - Major Industry

Class 5 - Light Industry

Class 6 - Business and Other

Class 8 - Recreational Property/Non-Profit Organization

Class 9 - Farm

Schedule II
Request for Information by the Assessor for the Westbank First Nation

TO: _____

ADDRESS: _____

DESCRIPTION OF PROPERTY: _____

DATE OF REQUEST: _____

PURSUANT to section 9.1 of the *Westbank Property Assessment Bylaw No. 23-TX-02*, I request that you provide to me, in writing, no later than _____ **[Note: must be a date that is at least fourteen (14) days from the date of delivery of the request]**, the following information relating to the above-noted Interest:

- (1)
- (2)
- (3)

If you fail to provide the requested information on or before the date specified above, an assessment of the Interest may be made on the basis of the information available to the Assessor.

Assessor for Westbank First Nation

Dated: _____, 20__.

**Schedule III
Assessment Notice**

TO: _____

ADDRESS: _____

[DESCRIPTION OF PROPERTY] _____

The following person(s) is/are the holders of the interest in reserve lands: [Name(s) & addresses]

Classification

The assessed value of the land

The assessed value of the improvements

Total assessed value

TOTAL ASSESSED VALUE LIABLE TO TAXATION:

You may, within twenty-one (21) days of the date of mailing or electronic transmission of this notice, request a reconsideration of this assessment by delivering a written request for reconsideration in the form specified in the *Westbank First Nation Property Assessment Law No. 23-TX-02*. Within twenty-one (21) days after the end of the period during which you may request a reconsideration, the assessor will review the assessment and provide you with the results of the reconsideration. If the assessor determines that your interest should have been assessed differently, the assessor will offer to modify the assessment.

You may, by January 31, 20__, appeal this assessment to the Board of Review. The Notice of Appeal must be in writing in the form and accompanied by the fee specified in the *Westbank First Nation Property Assessment Law No. 23-TX-02* and must be delivered to the Assessor at the following address: [insert address].

Schedule IV
Certification of Assessor

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 Westbank First Nation, and
- (b) the Assessment Roll/Revised Assessment Roll/Supplementary Assessment Roll for the reserve lands of Westbank First Nation for the year 20__ has been completed in accordance with the *Westbank Property Assessment Bylaw No.23-TX-02* (the "Assessment Bylaw"), and sets out the assessed value of the land and improvements within the reserve lands of Westbank First Nation in accordance with the Assessment Bylaw, and the name or names of the interest holders in respect of each interest and all other information required to be entered and set out by the Assessment 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.

(Signature of Assessor)

Dated _____, 20__ at _____, _____
(City) (Province)

Schedule V

Declaration of Purpose for the Use of Assessment Information

I, _____ [name], of _____ [address], _____ [city], _____ [province], _____ [postal code], declare and certify that I will not use the Assessment Roll or information contained in the Assessment Roll to obtain names, addresses or telephone numbers for solicitation purposes, whether the solicitations are made by telephone, mail, electronic or any other means, or to harass an individual.

I further declare and certify that any Assessment information I receive will be used for the following purpose(s):

- (1) a complaint or appeal under the Westbank Property Assessment Bylaw No. 23-TX-02;
- (2) a review of an Assessment to determine whether to seek a reconsideration or appeal of the assessment; or
- (3) other: _____

Signed: _____
 [print name]

Dated: _____, 20____.

Schedule VI

Certificate of Chair Confirming the Assessment Roll

For the purposes of section 22.1 of the *Westbank Property Assessment Bylaw No. 23-TX-02*, the certificate by which the Chair of the Board of Review shall identify and confirm the Assessment Roll shall be in the following forms:

This Revised/Supplementary Assessment Roll comprising the assessed values of the land and improvements within the reserve lands of Westbank First Nation is hereby confirmed by the Board of Review and, except as may be amended upon further appeal or by means of an entry in a Supplementary Assessment Roll, is hereby certified to be a Supplementary Roll for the year 20____.

Dated at _____, in the Province of British Columbia this ____ day of _____, 20____.

**Schedule VII
Request for Reconsideration of Assessment**

TO: Assessor for Westbank First Nation
[address]

PURSUANT to the provisions of the *Westbank Property Assessment Bylaw No. 23-TX-02*, I hereby request a reconsideration of the Assessment of the following Interest in Westbank Lands:

[description of the interest as described in the Assessment Notice]

I am: ___ a Holder of the Interest
___ named on the Assessment Roll in respect of this Interest

This request for a reconsideration of the Assessment is based on the following reasons:

- (1)
- (2)
- (3)

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

Address, e-mail and telephone number at which applicant can be contacted:

Name of Applicant (please print)

Signature of Applicant

Dated: _____, 20__ .

Schedule VIII**Oath or Affirmation of Members of the Board of Review**

Every member of the Board of Review, before entering on their duties, shall take and subscribe before the Westbank Council Secretariat, the xatus i? kl s'xaqeq (Surveyor of Taxes) or a notary public or a commissioner for taking oaths, the following oath or affirmation:

"I, _____, do solemnly swear [or affirm] that I will, to the best of my judgment and ability, and without fear, favour or partiality, honestly decide the appeals to the Board of Review which may be brought before me for hearing and decision as a member of the Board of Review."

**Schedule IX
Notice of Appeal to Board of Review**

TO: Assessor for Westbank First Nation
[address]

PURSUANT to the provisions of the *Westbank Property Assessment Bylaw No. 23-TX-02*, I hereby appeal the Assessment/reconsideration of the Assessment of the following interest in Westbank Lands:

[description of the Interest, including Assessment Roll number, as described in the
Assessment Notice]

The grounds for the appeal are:

- (1)
- (2)
- (3)

(describe the grounds for the appeal in as much detail as possible)

Complainant's mailing and e-mail address to which all notices in respect of this appeal are to be sent:

Name and address of any representative acting on Complainant's behalf in respect of this appeal:

The required fee of \$_____ is enclosed with this Notice of Appeal.

Name of Complainant (please print)

Signature of Complainant (or
representative)

Dated: _____, 20__ .

NOTE: A copy of the Assessment Notice must be enclosed with this Notice of Appeal.

**Schedule X
Notice of Fees**

Appeal fee (s. 27.1(c)):	\$30.00
Witness fee (s. 32.3(b)):	\$20.00
Fee for copy of decision of Board of Review (s. 41.1):	\$20.00

**Schedule XI
Notice of Hearing**

TO:

ADDRESS:

RE:

[DESCRIPTION OF PROPERTY]

Complainant in respect of this appeal: _____

TAKE NOTICE that the Board of Review will hear an appeal/Assessor recommendation from the Assessment/reconsideration of the Assessment of the above-noted Interest at:

Date: _____, 20__

Time: _____ (A.M./P.M.)

Location: _____ [address]

AND TAKE NOTICE that you should bring to the hearing [insert # copies] copies of all relevant documents in your possession respecting this appeal.

A copy of the Assessment Notice and the Notice of Appeal are enclosed with this notice, as well as copies of:

(all submissions and documents received in respect of the appeal will be forwarded to all Parties)

Chair, Board of Review

Dated: _____, 20__ .

**Schedule XII
Order to Attend Hearing/Produce Documents**

TO:

ADDRESS:

RE:

TAKE NOTICE that an appeal has been made to the Board of Review for Westbank First Nation in respect of the Assessment of _____

[describe Interest in Westbank reserve lands].

The Board of Review believes that you may have information [OR documents] that may assist the Board of Review in making its decision.

THIS NOTICE REQUIRES you to [indicate the applicable provisions below]:

1. Attend before the Board of Review at a hearing at

Date: _____, 20__

Time: _____ (A.M./P.M.)

Location: _____ [address]

to give evidence concerning the assessment and to bring with you the following documents:

and any other documents in your possession that may relate to this assessment.

A \$_____ witness fee is enclosed. Your reasonable travelling expenses will be reimbursed as determined by the Board of Review.

2. Deliver the following documents [list documents] OR any documents in your possession that may relate to this assessment to the Chair, Board of Review _____ [address] on or before _____.

Please contact _____ at _____ if you have any questions or concerns respecting this Order.

Chair, Board of Review

Dated: _____, 20__ .

**Schedule XIII
Notice of Withdrawal**

TO: Assessor, Westbank First Nation
OR
Chair, Board of Review for Westbank First Nation
[address]

PURSUANT to the provisions of the *Westbank Property Assessment Bylaw No. 23-TX-02* I hereby withdraw my appeal of the Assessment of the following Interest in Westbank Lands:

Description of Interest:

Date of Notice of Appeal:

Name of Complainant (please print)

Signature of Complainant (or representative)

Dated: _____, 20__.