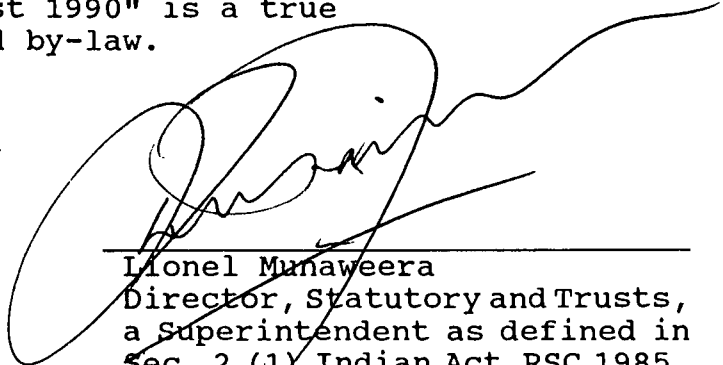


CERTIFICATION

Pursuant to Section 86 Indian Act RSC 1985 C.I-5 and amendments thereto, I certify that the attached copy of the Westbank Indian Band "Assessment By-law dated 16th August 1990" is a true copy of the said by-law.



\_\_\_\_\_

Lionel Munaweera  
Director, Statutory and Trusts,  
a Superintendent as defined in  
Sec. 2 (1) Indian Act, RSC 1985.



**WESTBANK INDIAN BAND**

**ASSESSMENT BY-LAW**

**PASSED PURSUANT TO SECTION 83 (1)**

**OF THE INDIAN ACT**

Prepared on Behalf of the  
WESTBANK INDIAN BAND by:

Lawrence Roland Fast  
Barrister & Solicitor  
202 - 506 Fort Street  
Victoria, B.C.

**WESTBANK INDIAN BAND**

**ASSESSMENT BY-LAW**

**WHEREAS:**

The Westbank Indian Band deems it advisable and in the best interests of the members of the Westbank 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 reserve, 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 reserve;

**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 Westbank Reserve, 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

- "administrator" "administrator" means the administrator of the Westbank Indian Band;
- "appraiser" "appraiser" means a property valuator appointed by chief and council under this by-law;
- "assessment" "assessment" means a valuation of property for taxation purposes;
- "assessment roll" "assessment roll" includes a supplementary assessment roll and, except in sections 2 (1) to (1.3), (1.6) and (3), 11 (8) (a), 26 (1), 41 (1), (2), (3), (6) and (7), and 45 (3), includes a revised assessment roll;
- "assessor" "assessor" means an assessor appointed by the chief and council under this by-law;
- "band" "band" means the Westbank Indian Band;
- "band council resolution" "band council resolution" means a motion, as recorded in the minutes of the meeting, passed and approved at a duly convened meeting of the council pursuant to the consent of a majority of the councillors of the band present at that meeting;
- "band land" "band land" means reserve land other than land held under a CP;
- "closed circuit television corporation" "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;

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- "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 Band council Resolution authorizing the use of band land by a Band member;
- "chief" "chief" means the chief of the Westbank Indian Band as elected by the members of the Westbank Indian Band pursuant to the provisions of section 74 of the Indian Act;
- "chief and council" "chief and council" means the chief and council of the Westbank Indian Band as elected by the members of the Westbank Indian Band pursuant to the provisions of section 74 of the Indian Act;
- "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" "improvements" means
- (a) buildings, fixtures, structures and similar things erected on or affixed to land or to anything referred to in paragraph (k), and without limiting the generality of this, "improvements" includes
  - (b) machinery affixed to or forming part of anything referred to in paragraph (a),
  - (c) tunnels including mine workings,
  - (d) aqueducts, dams and reservoirs,
  - (e) roads, highways and bridges,
  - (f) transformers,
  - (g) storage tanks,

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(h) pole lines, cables, towers, poles, wires, mains and pipe lines of an electric light, electric power, telephone, telegraph, water, gas, closed circuit television, street railway, trolley coach or bus corporation,

(i) pipe lines for the transportation of water, petroleum, petroleum products or gas,

(j) railway track in place,

(k) rafts, floats, docks, other floating structures and devices, and vessels used principally for purposes other than transportation, that are anchored or secured, whether or not their owner, holder, or possessor is an interest holder of the land to which they are anchored or secured;

(l) anything referred to in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (i) or (k) that is being constructed, erected or affixed, whether or not complete and whether or not capable of being used for the purposes for which it is designed, and which is intended when completed to constitute, or will with the addition of further construction constitute, anything referred to in that paragraph, and

(m) all parts, components and constituents of anything that is referred to in paragraph (l) except parts, components and constituents that have not been erected or affixed,

but notwithstanding the foregoing, "improvements" does not, except for buildings and storage tanks, include

(n) anything referred to in paragraph (a), (b) or (f) as, if erected or affixed by a tenant, would, as between landlord and tenant, be removable by the tenant as personal property,

(o) machinery that is used to manufacture, process or repair anything or that is used principally to convey anything that is being manufactured, processed or repaired,

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(p) anything referred to in paragraph (l) or (m) which, on being erected or affixed, would fall under paragraph (n) or (o), or

(q) anything exempted pursuant to the provisions of this by-law;

"Indian Act"

"Indian Act" means the Indian Act, R.S. 1985 c.I-6 and any amendments thereto;

"interest holder"

"interest holder" means interest holder as defined in the Taxation By-Law;

"interest in land"

"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 reserve,

"land"

"land" means land, or interests in land, including rights to hold, occupy, possess or use land in the reserve, and improvements and includes;

(a) land covered by water

(b) quarries, and

(c) sand and gravel, including coal or other minerals;

"land cooperative"

"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 have 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;



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- "minister" "minister" means the Minister of Indian Affairs and Northern Development and includes a person designated in writing by 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 the 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 Municipal Act of the Province of British Columbia;
- "natural gas" "natural gas" means a gaseous mixture of hydrocarbon and other gases received from the wells, and includes that gas after refinements;
- "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" includes a partnership, syndicate, association, corporation and the agent and trustee of a 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 reserve, for the purpose of gathering or transporting natural gas, petroleum or petroleum products;

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"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 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.
"surveyor of taxes"	"surveyor of taxes" means the surveyor of taxes appointed under the Taxation By-Law;
"taxation by-law"	"taxation by-law" means the taxation by-law passed by the chief and council of the band and 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, when so directed by the chief and council and not later than May 1st, 1991 and May 1st in each odd numbered year after that, complete a new assessment roll in which he shall set down each property liable to assessment within the reserve and give to every person named in the assessment roll a notice of assessment, and in each case the roll so completed shall, subject to this by-law, be the assessment roll for the purpose of taxation during that year and the following calendar years.
  - (1.1) The assessor shall, when so directed by the chief and council and not later than May 1st, 1992 and May 1st in each even numbered year after that, complete a revised assessment roll containing revisions to the assessment roll for the purpose of taxation during the calendar year.
  - (1.2) Subsection (1.1) applies only to cases where
    - (a) land or improvements that are liable to assessment by the operation of section 34, 35 or 36 are not entered in the assessment roll or where land or improvements that have ceased to be liable under those sections are shown on the roll,
      - (a.1) a restriction, not previously taken into account pursuant to section 26 (3.2) and (3.3), affects the value of land and improvements that are liable to assessment under section 34, 35 or 36,
      - (b) the actual value, determined under this by-law in relation to a revised assessment roll, is not the same as the actual value entered in the assessment roll by reason of
        - (i) an error or omission,
        - (ii) new found inventory,
        - (iii) the permanent closure of a commercial or industrial undertaking, business or going concern operation,

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- (iv) new construction or new development to, on or in the land or improvements or both, or
  - (v) a change in any of the following:
    - (A) physical characteristics;
    - (B) permitted uses;
    - (C) the classification;
    - (D) exemption from assessment in accordance with section 26,
  - (c) there has been a change in any of the following:
    - (i) the interest holders of land;
    - (ii) legal description;
    - (iii) the classification referred to in section 26 (7);
    - (iv) the eligibility for, or the amount of, an exemption from assessment or taxation;
    - (v) reserve boundaries;
- (1.3) The assessor shall not
- (a) when acting in a case referred to in subsection (1.2), make an entry on a revised assessment roll so as to increase or decrease the amount of an actual value shown on the assessment roll except to the extent that the increase or decrease is attributable to a factor referred to in that subsection, or
  - (b) act in a case referred to in subsection (1.2) (b) (iii) unless he has received a written statement that the closure is permanent.
- (1.4) In subsection (1.2) (b) (i) "error" means an entry resulting from a clerical or arithmetical error, or an entry based on incorrect facts.
- (1.5) Notwithstanding anything in this section, depreciation occurring since the completion of the assessment roll shall not be a basis for the making of any entry on a revised assessment roll.
- (1.6) The assessor shall give to every person named in a revised assessment roll a notice of assessment.

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- (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 or a revised assessment roll, make reference to the records of the land title office or the Reserve Land Register as those records stood on August 31 of the year in which he completes that assessment roll or that revised assessment roll, as the case may be.
- (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 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 the 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 Westbank 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 this 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) No assessor shall make changes in the completed assessment roll without the consent of the Board of Review.

**Validity as confirmed by Board of Review**

10. The completed assessment roll as confirmed and authenticated by the Board of Review is, unless changed or amended under this by-law, 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 mis-statement in any notice required, or the omission to mail the notice. The assessment roll is, for all purposes, the assessment roll of the Westbank Indian Band and may be, until a new roll is revised, confirmed and authenticated by the Board of Review.



**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 assessed on the roll for that year; or
  - (b) has been assessed in a previous year 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 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 or is attributable to the re-opening of a commercial or industrial undertaking, business or going concern operation that has been previously recorded, pursuant to section 2 (1.2) (b) (iii), as closed.

- (3) Notwithstanding sections 9 and 10, and in addition to supplementary assessments under subsections (1) and (2), the assessor may, at any time before May 1st of the year following the return of the completed assessment roll under section 6, 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 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) Notwithstanding section 2 (3), where, by reason of a change of an interest holder of land that occurs between August 31 and December 31 in any year and that is recorded in the records of the land title office or the Reserve Land Register by that December 31, land and improvements that were not previously liable to taxation become liable to taxation, or land and improvements that were previously liable to taxation cease to be liable to taxation, the matter shall be treated as if it were an omission or error in the assessment roll prepared in that year, and subsection (3) of this section applies.
- (6) Where in respect of any year a mobile home has been assessed and the mobile home is moved to a new location after the completion of the assessment roll on September 30 of that year and before the following January 1, the matter shall be treated as if it were an error or omission in the assessment roll prepared in that year, and subsection (3) applies.
- (7) Where, during October, November or December in any year a mobile home is placed on land in respect of which an assessment has been made, the matter shall be treated as if it were an error or omission in the assessment roll completed on September 30 of that year, and subsection (3) applies.
- (8) 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
  - (a) an assessment roll, completed as required by section 2 (1), later than 12 months after the completion of that assessment roll, or

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- (b) a revised assessment roll, completed as required by section 2 (1.1), later than 12 months after the completion of that revised 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

Inspections and Returns

Inspections and assessment powers of assessor

13. When so directed by the chief and council, the assessor or an appraiser may for any purposes relating to assessment enter into or on and inspect land and improvements.

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 chief and 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 chief and council, and with the consent of the person who he thinks may be liable to assessment, may enter on any premises and, with 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 consent.

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- (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 rolls; 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" during calender year 1991 means the actual value that land and improvements would have had on July 1, 1989 had they and all other land and improvements been on July 1, 1989 in the state and condition that they are in on September 30, 1990 and had their use and permitted use been on July 1, 1989 the same as they are on September 30, 1990, and during calender year 1992 and all subsequent calender years "actual value" means the actual value of land as determined under the provisions of this by-law;

"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;

"September 30",  
"July 1"

"September 30" and "July 1" mean

- (a) in relation to an assessment roll completed as required by section 2 (1), September 30 and July 1 of the 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), September 30 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 and improvements in the assessment roll.

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- (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 chief and 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 administering 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 together with 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, reference may be made to such manuals or texts or reference works for the determination of rates, formulae, rules or principles for the calculation of cost as may be commonly used for assessment purposes;

"industrial improvement" means an improvement that is part of a plant that is designed, built and can be used 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;



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- (e) manufacturing of refined petroleum and natural gas products including fuels, blended oils and greases;
  - (f) manufacturing of lumber or other sawmill and planing mill products;
  - (g) manufacturing of wood veneer, plywood, particle board, 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 moulding 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,
- (2) Notwithstanding section 26, there is established a class of properties consisting of
- (a) land used in conjunction with the operation of industrial improvements, and
  - (b) industrial improvements.
- (3) The actual value of properties to which this section applies is
- (a) the actual value of the land as determined under this by-law, and
  - (b) the cost of industrial improvements less depreciation that is at a rate applied in a manner prescribed in this by-law for individual properties or classes or types of properties.

- (4) In this section
- (a) the definition of "industrial improvement" and subsection (2) apply for the 1991 and subsequent taxation years, and
  - (b) the definition of "cost of industrial improvement" and subsection (3) apply for the 1991 and subsequent taxation years.

**Improvements**

26.2 For the purposes of section 26.1, the exclusions contained in paragraphs (n) to (q) of the definition of "improvements" in section 1 do not apply and improvements that fall within the definition of "industrial improvement" in section 26.1 means all improvements that fall within paragraphs (a) to (m) of the definition of "improvements" in section 1.

**Valuation for certain purposes not actual value**

27. (1) The actual value of the following land and improvements shall be determined using, and in accordance with, the appropriate rates prescribed in those sections of this by-law contained in Part 10, Part 11, Part 12, Part 13, and Part 14:
- (a) the pole lines, cables, towers, poles and wires of a telegraph, telephone, trolley coach, bus or electrical power corporation ;
  - (b) 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;
  - (c) 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, including pumping equipment, compressor equipment, storage tanks and buildings;
  - (d) the right of way for pole lines, cables, towers, poles, wires and pipe lines referred to in paragraphs (a) and (c);
  - (e) the right of way for track referred to in paragraph (b).

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- (6) For the purposes of subsection (1) (d) and (e) "right of way" means land and improvements that a corporation is entitled to use for the operation of those things referred to in paragraph (a), (b) or (c) 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.
- (7) For the purpose of applying subsection (1) (b), the track in place of a railway corporation is inclusive of all structures, erections and things, other than such buildings, bridges, trestles, viaducts, overpasses and similar things, coal bunkers, corrals, stand pipes, fuel oil storage tanks, oil fuelling 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 an 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 fee 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 section 26.
- (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 Westbank Indian Band or the members of the Westbank Indian Band and occupied by a person not a member of the Westbank 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 holder whose interest shall be assessed at the actual value of the land and improvements.

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

35. (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 Westbank 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 Westbank 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 Westbank 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 more persons, and there is no paramount occupier, the land and improvements or all shall be assessed in the names of those persons jointly.
- (2) Where land and improvements or all referred to in section 34, 35 or 36 are held or occupied by any person otherwise than as an interest holder of land, an entry on the assessment roll in respect of that person's land and improvements, where the interest is terminated prior to the year in which taxes are levied, the assessment will be cancelled by means of an entry on a supplementary assessment roll.
- (3) Where, after September 30 and before the following January 1, and land and improvements become held or occupied in the manner referred to in section 34 (1), the assessor shall enter the land and the improvements thereon on a supplementary assessment roll in the name of an interest holder whose interest shall be assessed at the actual value of the land.

[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, 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 and improvements.
- (2) Each individual residential building located on a land cooperative or multi dwelling leased parcel shall be separately assessed.

[The next section is section 40]

PART 4

Boards of Review

Establishment of Boards of Review

40. (1) Notwithstanding any other by-law, the chief and council shall appoint Boards of Review to hear appeals on assessments of land and improvements located on the reserve.
- (2) A Board of Review shall consist of three members, only one of which may be a member of the Westbank 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 and in addition may be paid the remuneration as may be ordered by the chief and council.
- (4) Every member of a Board of Review shall, before entering on his duties, take and subscribe before the administrator or a notary Public or a commissioner for taking oaths an oath or affirmation in the form prescribed by this by-law in Schedule "C".

Appeals to Board of Review

41. (1) Where a person is of the opinion that an error or omission exists in the completed assessment roll in that
  - (a) the name of a person has been wrongfully inserted in, or omitted from, the assessment roll;
  - (b) land and improvements within the reserve have been wrongfully entered on, or omitted from the assessment roll;
  - (c) land and improvements, have been valued at too high or too low an amount;
  - (d) land and improvements have been improperly classified;
  - (e) an exemption has been improperly allowed or disallowed,

he may personally, or by a written notice signed by him, or by a solicitor, or by an agent authorized by him in writing, together with a fee of \$25.00 per roll entry, payable to the Westbank Indian Band, come before, or notify, the Board of Review and make his complaint of the error or omission, and may in general terms state his ground of complaint, and the Board of Review shall deal with the complaint, and either confirm, or alter, the assessment.

- (2) Where a person is of the opinion that an 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) For the purposes of subsection (1) of this section "person" includes a person referred to in subsection (2) of this section.
- (4) The Westbank 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) Notice in writing of every complaint in respect of an entry in
  - (a) an assessment roll shall be delivered to the assessor not later than May 30 of the year in which the assessment roll is completed, or
  - (b) a revised assessment roll shall be delivered to the assessor not later than May 30 of the year in which the revised assessment roll is completed.
- (6) Notwithstanding subsection (6)(a), where no complaint is made within the time limit specified in subsection (6)(a) in respect of an entry in an assessment roll, a notice of complaint in respect of that entry may be delivered to the assessor not later than May 30 of the year following the calendar year in which the assessment roll was completed, but an amendment in the assessment roll made pursuant to that complaint shall have effect only in relation to liability for taxation in the second calendar year following the completion of the assessment roll.



- (7) Notwithstanding subsections (5)(a) and (6), where no interest holder of land that is included in an entry in an assessment roll has made a complaint in respect of that entry within the time limit specified in subsection (5)(a), a notice of complaint in respect of that entry may be delivered to the assessor by an interest holder of that land not later than May 30 of the year following the calendar year in which the assessment roll was completed, but an amendment in the assessment roll made pursuant to that complaint shall have effect only in relation to liability for taxation in the second calendar year following the completion of the 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 in the notice, and then the complaint shall be heard and dealt with in the same manner as other complaints.
- (2) Where the complaint is against the assessment roll, the requirements of subsection (1) do not apply.

**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 42 may leave the assessor an address to which notices for that person may be sent. Promptly after a decision has been made by the Board of Review, the assessor shall forward to that person a notice setting out the decision of the Board of Review.

**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 try all complaints delivered to the assessor under this by-law;
  - (b) to adjudicate on the appealed assessment so that the assessment shall be fair and equitable and fairly represent actual values within the reserve;
  - (c) to direct amendments to be made in the assessment roll necessary to give effect to its decisions; and
  - (d) to confirm the assessment roll, either with or without amendment.
- (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) Where the Board of Review acts in relation to an entry made pursuant to section 2 (1.1) in a revised assessment roll, it shall be the duty of the Board of Review to ensure that the entry on the revised assessment roll does not amend an entry shown on the last completed and authenticated assessment roll except to the extent that the amendment could properly have been made by the assessor acting under section 2 (1.1) to (1.5).
- (4) If no chairman has been appointed by the chief and council, the Board of Review shall appoint a chairman, who shall preside at all meetings and who may, unless otherwise provided by the Board of Review, call meetings and regulate procedure.
- (5) If no secretary has been appointed by the chief and council, 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 draw up and enter, in a book to be kept for that purpose, the minutes of all meetings of the Board of Review, and, together with the chairman or other member presiding, shall sign them as correct.
- (6) A majority of the members of the Board of Review constitutes a quorum.

- (7) All questions before the Board of Review shall be decided by a majority of the members present and the chairman 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.
- (2) The burden of proof is, in all cases, on the person complaining.

#### **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 \$20.00 obtain from the Board of Review a certified copy of an order of the Board of Review, but the assessor shall be entitled to receive a certified copy of an order 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 and 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.

PART 5

Appeals to Federal Court from Board of Review

Appeals to Federal Court

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, subject to the provisions of the Federal Court Act and the rules of procedure of the Federal Court of Canada, appeal from the Board of Review to the Federal Court.
- (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, 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.

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.

**Schedules**

82. On an assessment of land and improvements the classifications, standards, criteria, and valuation information in the Schedules "A" and "B" and as otherwise provided in this by-law, shall, as appropriate in each specific circumstances, be applied to the assessment of each parcel assessed pursuant to this by-law and all other applicable by-laws of the Westbank Indian Band.

**General**

83. Any section of this by-law or schedule to this by-law may be amended by a by-law adopted by the chief and 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 tense.
85. This by-law, including the schedules to this by-law, 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.

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:

Westbank Indian Band  
Westbank Band Administration Office  
301 - 515 Highway 97 South  
Kelowna, British Columbia

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 affect 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 conjunctive 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 on January 1st, 1991, 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 rate set out in Schedule "A" to this by-law for the category of plant of 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 September 30 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 September 30 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 September 30 in any year and an 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 September 30 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 111]

Part 8

Railway, Pipeline and Electric Power Corporation  
Rights of Way

Interpretation

111. In this by-law "gathering pipelines" means pipelines for the transportation of
- (a) natural gas from the final point of well-head preparation to the intake-valve at the scrubbing, processing or refining plant, or
  - (b) petroleum or petroleum products from the delivery-valve to the intake-valve at the refining, processing or storage facilities which precede transfer of the oil to a transportation pipeline.

Application

112. Part 11 of this by-law shall be used for determinations of value for the purposes of assessment for the 1991 and subsequent taxation years.

Determination of value

113. The actual value of the rights of way for the items listed in Column 1 shall be determined using the rates set out opposite them in Column 2:

"Column 1	Column 2
For the track in place of a railway corporation.....	\$2150 per acre
For the pipelines of a pipeline corporation other than gathering pipelines.....	\$880 per acre
Gathering pipelines of a pipeline corporation.....	\$120 per acre
The transmission lines of an electrical power corporation.....	\$880 per acre
Fibre optics cables of a telephone or telegraph corporation.....	\$880 per acre"

PART 9

**Railway and Pipeline Corporations Valuation**

**Application**

121. Part 12 of this by-law shall be used for determinations of value for the purposes of assessment for the 1991 and subsequent years.

**Telegraph corporations, pole lines, etc.**

122. The actual value of the pole lines, cables, towers, poles and wires of a telegraph corporation shall be determined using the rate of \$1,500/km.

**Railway corporations track-in-place**

123. (1) In this section a reference to

- (a) "Class 1 track" means track-in-place comprising a trackage system that carries an annual gross tonnage of 25 million tons or more,
- (b) "Class 2 track" means track-in-place comprising a trackage system that carries an annual gross tonnage of 15 million tons but under 25 million tons,
- (c) "Class 3 track" means track-in-place comprising a trackage system that carries an annual gross tonnage of 5 million tons but under 15 million tons,
- (d) "Class 4 track" means
  - (i) track in place comprising a trackage system that carries an annual gross tonnage of 500,000 tons but under 5 million gross tons, or
  - (ii) track in place of a siding, spur or wye not classed as Class 5 track,
- (e) "Class 5 track" means
  - (i) track in place comprising a trackage system of any gauge that carries an annual gross tonnage of under 500,000 tons, or

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- (ii) track in place of a siding, spur or wye associated with a trackage system that carries an annual gross tonnage of under 500,000 tons, or
  - (iii) track in place of a siding, spur or wye which is not in use on September 30 in the year preceding the year for which the assessment roll or revised assessment roll is prepared, was unused for the immediately preceding year, and is not usable in any other trackage system.
  - (f) "Class 6 track" means track-in-place comprising a trackage system where the gauge of the track is not more than 90% of that which is standard for trackage systems in Classes 1 to 4.
- (2) The actual value of the track-in-place of a railway corporation shall be determined using the following rates:
- (a) for Class 1 track, \$127,000 for each kilometer of track in place;
  - (b) for Class 2 track, \$104,800 for each kilometer of track in place;
  - (c) for Class 3 track, \$71,000 for each kilometer of track in place;
  - (d) for Class 4 track, \$62,000 for each kilometer of track in place;
  - (e) for Class 5 track, \$12,000.00 for each kilometer of track in place;
  - (f) for Class 6 track, \$48,800 for each kilometer of track in place.

**Pipeline corporations, pipelines**

124. The actual value of pipelines referred to in section 27(1)(c) of the Assessment By-Law shall, except where section 125 applies, be determined by applying the rates set out in Schedule "B".

**Pipeline corporations, special cases**

125. (1) Where, in respect of a pipeline referred to in section 27(1)(c) of the Assessment By-Law, the pipeline would, if valued under section 26 of the Assessment By-Law and in that reference to section 27 of the Assessment By-Law, have no value, the actual value of the pipeline shall be determined using a rate of zero.
- (2) Where operations of a pipeline have been suspended for a period of one year or more, 10% of the scheduled rate for the pipe size shall be used.
- (3) Where a pipeline is placed directly on the ground and, except for extraordinary stream or ravine crossings, is without man-made foundations, it shall be valued at 50% of the scheduled rate if
- km or over, and
  - (b) the diameter of the pipe, throughout the section, is not more than 168 mm.

PART 10

Electrical Power Corporations

**Interpretation**

131. In this by-law

"circuit kilometer" means one kilometer of electrical transmission or distribution circuitry including all necessary conductors, insulators and supporting structures required to provide a complete circuit or double circuit;

"distribution line" means the overhead and underground portion of an electrical power corporation's power line system which carries electric power from the distribution sub-station to those customers served at the secondary voltage of up to 347/600 volts or at a primary voltage of up to 19.9/34.5 kv;

"transmission line" means all portions of an electrical power corporation's power line system other than distribution lines.

**Application**

132. This part of this by-law shall be used for the determination of assessment for the 1991 and subsequent taxation years.

**Electrical power distribution - line classification**

133. (1) In this section a reference to

- (a) "Class 1 electric power distribution lines" means the distribution lines of an electrical power corporation in a municipality that has a population, as of the 1981 Census of Canada, of 30,000 persons or greater, and has a parcel density of not less than 0.5 per acre,
- (b) "Class 2 electric power distribution lines" means the distribution lines of an electrical power corporation in a municipality, other than those referred to in Class 1,
- (c) "Class 3 electric power distribution lines" means the distribution lines of an electrical power corporation outside a municipality, and

- (d) "Class 4 electric power distribution lines" means the additional conductors, insulators and supporting structures which have been installed on the towers or poles of a previously constructed line.
- (2) Subject to section 5, the actual value of electrical power distribution lines of an electric power corporation shall be determined using the following rates:
- (a) Class 1, \$30,700 per circuit kilometer;
  - (b) Class 2, \$21,500 per circuit kilometer;
  - (c) Class 3, \$14,200 per circuit kilometer;
  - (d) Class 4, \$4,600 per circuit kilometer.

**Electrical power corporation - special cases**

134. Where, in respect to an electrical power transmission line or an electrical power distribution line which remains in place but for any reason has not been utilized for a period of one year or more, the actual value shall be determined by applying 10% of the rate prescribed for its class.

**Electrical power transmission - line classifications**

135. (1) In this section a reference to
- (a) "Class 1" means an electrical transmission line rated at 69 kilovolts or less,
  - (b) "Class 2" means an electrical transmission line utilizing wood or concrete poles and rated from 132 to 138 kilovolts,
  - (c) "Class 3" means an electrical transmission line with a rating of 230 kilovolts and having heavy duty double circuits and metal poles,
  - (d) "Class 4" means an electrical transmission line with a rating of 230 kilovolts and having double circuits and metal poles,



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- (e) "Class 5" means an electrical transmission line with a rating of 230 kilovolts and having heavy duty double circuits and metal towers,
  - (f) "Class 6" means an electrical transmission line with a rating of 230 kilovolts and having double circuits and metal towers,
  - (g) "Class 7" means an electrical transmission line with a rating of 230 kilovolts and having wood or concrete poles,
  - (h) "Class 8" means an electrical transmission line with ratings from 287 to 360 kilovolts having a single circuit and wood or concrete poles,
  - (i) "Class 9" means an electrical transmission line with ratings from 230 to 360 kilovolts having a single circuit and metal towers,
  - (j) "Class 10" means an electrical transmission line with a rating of 500 kilovolts and having metal towers,
  - (k) "Class 11" means submarine electrical transmission line with a rating of 500 kilovolts A.C.,
  - (l) "Class 12" means submarine electrical transmission line with a rating of 230 kilovolts D.C., and
  - (m) "Class 13" means submarine electrical transmission line with a rating from 132 kilovolts to 138 kilovolts A.C.
- (2) Subject to section 134, the actual value of electrical power transmission lines of an electric power corporation shall be determined using the following rates:
- (a) Class 1, \$30,100 per circuit kilometers;
  - (b) Class 2, \$38,000 per circuit kilometers;
  - (c) Class 3, \$750,900 per circuit kilometers;
  - (d) Class 4, \$4226,300 per circuit kilometers;
  - (e) Class 5, \$449,100 per circuit kilometers;
  - (f) Class 6, \$297,000 per circuit kilometers;

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- (g) Class 7, \$56,000 per circuit kilometers;
- (h) Class 8, \$66,000 per circuit kilometers;
- (i) Class 9, \$199,900 per circuit kilometers;
- (j) Class 10, \$263,600 per circuit kilometers;
- (k) Class 11, \$6,918,000 per circuit kilometers;
- (l) Class 12, \$158,000 per circuit kilometers;
- (m) Class 13, \$495,000 per circuit kilometers.

[The next section is section 151]

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 residences, 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,

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- (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 1/2 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;

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- (x) ice skating;
- (xi) waterslides;
- (xii) museums;
- (xiii) amusement parks;
- (xiv) horse racing;
- (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 admission 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 1990, 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**

9. Class 9 property shall include only land for which the highest and best use is farming or agricultural use.

[The next section is section 170]

PART 12  
Assessor and Assessment Roll

**Powers and duties**

170. The chief and council shall establish and maintain assessments that are uniform in the whole of the reserve in accordance with the Assessment By- Law.
171. In order to establish and maintain assessments that are uniform in the whole of the reserve, the chief and 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 Westbank 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 Chief and Council;
  - (d) ensure that the general public and members of the Westbank 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 Chief and Council.

[The next section is section 174]



**Appointment of assessor**

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

**Duties of assessor**

176. The assessor appointed under this by-law shall, when so directed by the chief and council:
- (a) perform the duties required of him under this or any other by-law and as may be required by chief and 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 Westbank Indian Band;
  - (d) make reports and recommendations to the chief and 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 Westbank Indian Band when so directed by the chief and council.

**Staff**

177. (1) The chief and 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 chief and council or, if authorized by the chief and council by band 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

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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 chief and 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.

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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 assessor for the Westbank Indian Band;

(b) the assessment roll for the reserve lands of the Westbank Indian Band for the year 19\_\_ 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 Westbank 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 out 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 \_\_\_\_\_, 19\_\_ )  
\_\_\_\_\_ )

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 known 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 applicable by-laws as the chief and council may require.

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SCHEDULE "A"

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

Category	Annual Rate of Depreciation	.pm1
(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 concentrate	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 moulding compounds	3.0	
(m) manufacturing of cement	3.0	
(n) manufacturing of insulation	3.0	
(o) manufacturing of sheet glass or glass bottles	3.0	
(p) building, refitting or repairing ships	5.0	

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|---------|--|-----|
| (q) (i) | loading cargo onto 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 |

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SCHEDULE "B"

Outside diameter of Pipe in millimeters	Rate per kilometer
under 76	\$ 14,000
76 or more and under 88	15,000
88 or more and under 114	18,000
114 or more and under 141	27,000
141 or more and under 168	29,000
168 or more and under 219	33,000
219 or more and under 273	43,000
273 or more and under 323	67,000
323 or more and under 355	102,000
355 or more and under 406	112,000
406 or more and under 457	153,000
457 or more and under 508	223,000
508 or more and under 558	229,000
558 or more and under 609	248,000
609 or more and under 660	318,000
660 or more and under 711	337,000
711 or more and under 762	362,000
762 or more and under 863	381,000
863 or more and under 914	428,000
914 or more and under 965	453,000
965 or more and under 1016	535,000
1016 or more and under 1066	615,000
1066 or more and under 1219	671,000
1219 or more and under 1422	823,000
1422 and more	954,000

SCHEDULE "C"

Oath or Affirmation of Members of the Board of Review Pursuant to section 40 (4) of this by-law.

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 that Board.



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APPROVED AND PASSED at a duly convened meeting of the Council of the Westbank Indian Band held at 301 - 515 Highway 97 South, Kelowna, British Columbia, this 16<sup>th</sup> day of August, 1990.

  
CHIEF

  
COUNCILLOR

  
COUNCILLOR

  
COUNCILLOR

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COUNCILLOR

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