


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 Property Assessment Bylaw 95-TX-07 dated March 1, 1996 is a true copy of the said by-law.


Richard Frizell
Lands and Trust Services,
a Superintendent as defined in
Section 2(1) Indian Act RSC 1985

Minister of Indian Affairs
and Northern Development



Ministre des Affaires
indiennes et du Nord canadien

Ottawa, Canada K1A 0H4

I, the Minister of Indian Affairs and Northern Development, HEREBY
APPROVE, pursuant to section 83 of the *Indian Act*, an amendment to the
Order dated April 23, 1996 which approved the **Westbank Indian Band
Property Taxation Bylaw 95-TX-08** and the **Westbank Indian Band
Property Assessment Bylaw 95-TX-07**.

The reference in that Order to the title of the bylaws is hereby amended to
read:

Westbank First Nation Property Taxation Bylaw 95-TX-08
Dated December 11, 1995

Westbank First Nation Property Assessment Bylaw 95-TX-07
Dated March 1, 1996

A handwritten signature in black ink, consisting of a large, stylized initial 'D' followed by a series of loops and a horizontal line.

Dated at Ottawa, Ontario this 5th day of June, 1996.

Canada

Legal Code of the Westbank First Nation

Property Assessment Bylaw

95-TX-07

Legal Code of the Westbank First Nation

Westbank First Nation Property Assessment Bylaw 95-TX-07

Whereas:

The Band Council of the Westbank First Nation deems it advisable and in the best interests of the band to engage in the taxation for local purposes of land, or interests in land, in the reserve lands of the Westbank First Nation, including rights to occupy, possess or use land in the reserve lands of the Westbank First Nation.

Now Therefore Be It Hereby Resolved:

That the Property Assessment Bylaw be and is hereby enacted for the purpose of engaging in the assessment and taxation for local purposes of land, or interests in land, in the reserve, including rights to occupy, possess or use land in the reserve, pursuant to the provisions of the *Indian Act* and in particular pursuant to the provisions of subsection 83(1) of the *Indian Act*, and pursuant to the inherent right of self-government,

and,

The Property Assessment Bylaw as enacted herein shall supersede any property assessment bylaws previously enacted by the Band council and approved by the Minister of Indian Affairs to the extent necessary to give full force and effect to the Property Assessment Bylaw for the 1996 taxation year and all following years,

and,

That upon approval by the Minister of Indian Affairs, the Property Assessment Bylaw shall come into full force and effect.

Legal Code of the Westbank First Nation

Westbank First Nation Property Assessment Bylaw 95-TX-07

Part 1

Interpretation and Titles

Interpretation

1.(1) In this bylaw, including without limiting the generality of the foregoing in this subsection:

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

"agent" means a person who acts with the written authority of a person or interest holder,

"appraiser" means a person who is a property valuator engaged by the assessor or appointed by council under this bylaw,

"assessment" means a valuation of property for taxation purposes,

"*Assessment Act*" means the *Assessment Act*, RSBC 1979, c. 21,

"*Assessment Authority Act*" means the *Assessment Authority Act*, RSBC 1979, c. 22,

"assessment bylaw" means the Westbank First Nation Property Assessment Bylaw, passed by the council and approved by the minister, and, where the context requires, all property assessment bylaws and assessment bylaws which may have been superseded by this bylaw or by a previous property assessment or assessment bylaw,

"assessment roll" includes a supplementary assessment roll and anything recorded as an addendum to the assessment roll,

"assessor" means an assessor appointed by the council under this bylaw,

"band" means the Westbank First Nation, a band within the meaning of the *Indian Act*,

"band council resolution" means a resolution passed in accordance with Section 2(3)(b) of the *Indian Act*,

"band land register" means the lists and files kept by the land management department of the band in which are listed or filed particulars in respect of property including particulars in respect of property not listed or filed in any land title office or reserve land register,

"band manager" means the band manager of the band or his delegate,

"band member" means a member of the band,

"board" and "board of review" means the board of review appointed under section 40 of the assessment bylaw,

"British Columbia Assessment Authority" means the British Columbia Assessment Authority as defined in the *Assessment Authority Act*,

"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,

"council" means the council of the Westbank First Nation within the meaning of the *Indian Act*,

"court" means a court of competent jurisdiction,

"farm" means an area of land classified as such by the assessor;

"forest land" means land that has as its highest and best use the production and harvesting of timber,

"highway" includes a street, road, lane, bridge, viaduct and any other way open to the use of the public, but does not include a private right of way on private property,

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

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

"*Indian Act*" means the *Indian Act*, R.S.C. 1985, c. I-5, and any amendments thereto,

"interest" includes any legal or beneficial right, title, estate or interest, except where the context refers to a rate of interest,

"interest holder" means a person who has an interest in, or is an occupier of, land or improvements, or both,

"land" means land, or interests in land, in the reserve, including rights to occupy, possess or use land in the reserve, and includes, but is not limited to:

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

"land co-operative" 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" means the land title office or offices for the land title district in which land located in the reserve may have been registered under the *Land Title Act* of the Province of British Columbia, and without limiting the generality of the foregoing but for greater certainty includes each land title office in which land located in any named reserve may have been so registered,

"manufactured home" means any structure, whether or not ordinarily equipped with wheels, that is designed, constructed or manufactured to be moved from one place to another by being towed or carried, and to provide:

- (a) a dwelling house or premises,
 - (b) a business office or premises,
 - (c) accommodation for any person other than those referred to in paragraphs (a) or (b),
 - (d) shelter for machinery or other equipment, or
 - (e) storage, workshop, repair, construction or manufacturing facilities,
- unless exempted pursuant to section 14,

"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,

"minister" means the Minister of Indian Affairs and Northern Development and includes a person designated in writing by the Minister,

"multi dwelling leased parcel" means a parcel of land on which are located two or more residences, the interest holders of one or more of which, under leases having terms of not less than one year, 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" 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" means a gaseous mixture of hydrocarbon and other gases received from the wells, and includes that gas after refinements,

"occupier" means:

- (a) a person who, if a trespass has occurred, is entitled to maintain an action for trespass,
- (b) a person in possession of land within the reserve that is held directly or indirectly under a lease, licence, agreement, easement or other record from the Crown, or who simply occupies the land,
- (c) a person in possession of land within the reserve that is held directly or indirectly under a lease, licence, agreement, easement or other record from a person who is exempted from taxation under the taxation bylaw or any Act that applies to land in the reserve or who simply occupies the land, or
- (d) 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,

"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 of a highway and the right or interest of an occupier of Crown land,

"person", in addition to its ordinary meaning, includes a partnership, syndicate, association, corporation, government or any agency or political subdivision thereof and the agent or trustee of a person,

"petroleum" or "petroleum products" means crude oil or liquid hydrocarbons, or any product or by-product of them,

"pipe line corporation" means a person having an interest in or operating a pipe line, all or any part of which is situate in or on the reserve, for the purpose of gathering or transporting natural gas, petroleum or petroleum products,

"production machinery" means any:

- (a) engine,
- (b) motor, or
- (c) machine

used to manufacture, process, repair or convey a product,

"property" includes land and improvements,

"property class" means a class of property established under section 26(7),

"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 or listed or filed in the band land register,

"reserve" has the same meaning as in the *Indian Act*,

"reserve land register" means the register or registers kept by the Department of Indian Affairs and Northern Development pursuant to section 21 of the *Indian Act* and the register or registers kept by the Department of Indian Affairs and Northern Development pursuant to section 55 of the Indian Act, and without limiting the generality of the foregoing but for greater certainty includes each such register relating to each named reserve,

"residential building" means a building used or designed to be used in whole or in part for residential purposes and includes an associated outbuilding of and other improvements to a building used or designed to be used in whole or in part for residential purposes, but does not include a floating manufactured home,

"Schedule" means a schedule to this bylaw,

"surveyor of taxes" means the surveyor of taxes appointed under the taxation bylaw,

"taxation bylaw" means the Westbank First Nation Property Taxation Bylaw, passed by the council and approved by the minister, and, where the context requires, all property taxation bylaws and taxation bylaws which may have been superseded by this bylaw or by a previous property taxation or taxation bylaw,

"taxation year" means the calendar year to which an assessment roll applies for the purposes of taxation as referred to in section 2 (1.2),

"taxes" includes all taxes on property or other basis of assessment imposed, levied, assessed or assessable under this bylaw, and all percentage additions, costs, penalties and interest added to taxes or imposed or payable under this bylaw,

"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.

- (2) Without limiting the definition of "improvements" in subsection (1), the following things are deemed to be included in that definition unless excluded from it by the provisions of B.C. Reg.

70/91, Assessment Act Improvements Exclusion (1987 to 1990) Regulation, as amended from time to time:

- (a) anything that is an integral part of a building or structure and is intended to serve or enhance the building or structure, including elevators, escalators and systems for power distribution, heating, lighting, ventilation, air conditioning, communications, security and fire protection,
 - (b) any building or structure that is capable of maintaining a controlled temperature or containing a special atmosphere, including dry kilns, steam chests, green houses and cooling towers,
 - (c) any lighting fixtures, paving and fencing,
 - (d) any
 - (i) piling, retaining walls and bulkheads, and
 - (ii) water system, storm drainage system and industrial or sanitary sewer system,the value of which is not included by the assessor in the value of the land,
 - (e) any foundations, such as footings, perimeter walls, slabs, pedestals, piers, columns and similar things, including foundations for machinery and equipment,
 - (f) any pipe racks, tending platforms, conveyor structures and supports for machinery and equipment, including structural members and comprising tresses, bents, trusts and joist sections, stringers, beams, channels, angles and similar things,
 - (g) any aqueducts, dams, reservoirs, and artificial lagoons and any tunnels other than mine workings,
 - (h) any roads, air strips, bridges, trestles and towers, including ski towers,
 - (i) any mains, pipes or pipe lines for the movement of fluids or gas,
 - (j) any track in place, including railway track in place,
 - (k) any pole lines, metallic or fibre optic cables, towers, poles, wires, transformers, substations, conduits and mains, that are used to provide electric light, power, telecommunications, transportation and similar services, including power wiring for production machinery up to the main electrical panels or motor control centre, those panels and that centre,
 - (l) any vessels, such as tanks, bins, hoppers and silos, with a capacity prescribed by the provisions of B.C. Reg. 305/90 Prescribed Capacity Regulation, as amended from time to time, and any structure that is connected to those vessels,
 - (m) docks, wharves, rafts and floats,
 - (n) floating homes and any other floating structures and devices that are used principally for purposes other than transportation,
 - (o) that part of anything referred to in paragraphs (a) to (n) or of any building, fixture, structure or similar thing that, whether or not completed, or capable of being used for the purpose for which it is designed,
 - (i) is being constructed or placed, and
 - (ii) is intended, when completed, to constitute, or will with the addition of further construction constitute, any of those things.
- (3) In the event that the *Indian Act* or any relevant portion of the *Indian Act* should be repealed or should otherwise not apply to the Westbank First Nation, then, when the context so

requires, a reference in this bylaw to the *Indian Act* shall be deemed to be a reference to such other relevant authority as may be or may become applicable.

Manufactured Home a Deemed Improvement

1.1 Without limiting:

- (a) the definition of "improvements" in subsection 1(1), or
- (b) subsection 1(2),

a manufactured home is deemed to be an improvement for the purpose of property assessment and taxation under this bylaw and the taxation bylaw.

Short Title

1.2 This bylaw may be cited for all purposes as the Westbank First Nation Property Assessment Bylaw, 95-TX-07.

Part 2

Preparation of Annual Assessment Roll

Completion of Roll

- 2.(1) On or before December 31 of each year, the assessor shall:
- (a) complete a new assessment roll containing a list of each property that is within each reserve and that is liable to assessment under this bylaw, the taxation bylaw or any other bylaw of the band, and
 - (b) mail a notice of assessment to each person named in the assessment roll.
- (1.1) Where two or more interest holders are liable to assessment under the taxation bylaw or any other bylaw of the band in respect of the same property, the property may be assessed in the name of any of those persons or in the names of any two or more of those persons jointly.
- (1.2) Subject to this bylaw, an assessment roll completed under subsection (1) is the assessment roll for the purpose of taxation during the calendar year following completion of that roll.
- (2) The notice of assessment shall contain the information specified in Schedule XIII.
- (3) When completing an assessment roll, the assessor shall make reference to the records of the land title office, the reserve land register or the band land register as those records stood on October 31 of the year in which that assessment roll is completed.
- (4) In the case of a parcel of land for which no land title office, reserve land register or band 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, the reserve land register or the band land register.
- (6) In the event that the address of the interest holder of the property is not known to the assessor or is not recorded in the land title office, the reserve land register or the band land register, the assessor shall set down the address of the interest holder as the post office situated nearest the property in question.

Request for Copy of Assessment Notice

3. A person who is an interest holder of a registered charge may, at any time, give written notice, with full particulars of the nature, extent, and duration of the charge, to the assessor and request copies of all assessment and taxation 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 written 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 a fee of \$10.00 for each parcel of land.

(5.1) The assessor may at any time send a true copy of any assessment notice sent by him under section 2 to a person named in the assessment roll, to any person who is an interest holder in respect of the property assessed.

(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, for a term of one year or more.

(7) On receipt of an assessment notice for a property included in a class defined in this bylaw, 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 provided in of Schedule XIV.

(2) The assessor shall return the completed roll to the band in care of the surveyor of taxes as soon as possible after it has been completed.

Assessment Roll Open for Inspection

7. On receipt by the surveyor of taxes, the assessment roll shall be open to inspection by the public at the office of the surveyor of taxes during regular business hours.

[Section 8 is omitted]

Correction of Errors

9. The assessor shall bring all errors or omissions in a roll completed under section 2 to the board of review for correction.

Validity of Completed Assessment Roll

10.(1) The completed assessment roll, regardless of whether or not it has been confirmed pursuant to section 44(1)(d), is, unless changed or amended under section 11 or 44, valid and binding on all parties concerned, notwithstanding any omission, defect or error committed in, or with respect to, that assessment roll, or any defect, error or misstatement in any notice required, or the omission to mail any notice.

(2) Changes or amendments to an assessment roll under section 11 or 44 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 subsection (1) of any part of the assessment roll that is not changed or amended.

(3) The assessment roll is, for all purposes, the assessment roll of the band for the year in respect of which it has been prepared.

Supplementary Roll

11.(1) Where, subsequent to the certification of an assessment roll, the assessor finds that for the taxation year:

- (a) assessable property is not entered in the assessment roll;
- (b) the value of property is not the same as the valuation entered in the assessment roll by reason of:
 - (i) the demolition, destruction or damaging of an improvement,
 - (ii) new construction or new improvements,
 - (iii) a change in an actual use or a permitted use,
 - (iv) a subdivision,
 - (v) a manufactured home is moved to a new location or destroyed, or
 - (vi) a manufactured home is placed on land that has been assessed or the home is purchased by the owner of the land that has been assessed;
- (c) there is any clerical error;
- (d) there has been a change in eligibility for exemption from taxation;
- (e) the name of an interest holder has been omitted from the assessment roll;

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

(2) Where, subsequent to the completion of an assessment roll, the assessor finds that for any previous taxation year:

- (a) assessable property was not entered in the assessment roll,
- (b) the value of property was not the same as the valuation entered in the assessment roll by reason of:
 - (i) the demolition, destruction or damaging of an improvement,
 - (ii) new construction or new improvements,
 - (iii) a change in an actual use or a permitted use,
 - (iv) a subdivision;
 - (v) a manufactured home is moved to a new location or destroyed; or
 - (vi) a manufactured home is placed on land that has been assessed or the home is purchased by the owner of the land that has been assessed;
- (c) there is any clerical error;
- (d) there has been a change in eligibility for exemption from taxation; or

- (e) the name of an interest holder has been omitted from an assessment roll;

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:

- (i) an interest holder's failure to disclose,
- (ii) an interest holder's concealment of particulars relating to assessable property,
- (iii) a person's failure to make a return, or
- (iv) a person's making of an incorrect return, required under this or any other bylaw.

(3) Notwithstanding sections 9 and 10 and in addition to supplementary assessments under subsections (1) and (2), the assessor may, at any time before December 31 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 a court of competent jurisdiction or an appellate court of competent jurisdiction.

(5) Nothing in subsections (1), (3) or (4) authorizes the preparation of a supplementary roll, or the correction of a roll, for the purpose of changing or updating an assessment roll later than 12 months after the assessment roll is completed but nothing in this section 11 shall prevent or prohibit the preparation of a supplementary roll, the correction of a roll, or any change or amendment to an assessment roll made under Part V of this bylaw at any time.

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 bylaw 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 3

Inspections and Returns

Inspections & Assessment Powers of Assessor

13.(1) The assessor or an appraiser may, at a time mutually agreeable with the interest holder, for any purposes relating to assessment enter into or on and inspect land and improvements, and if an assessor is unable to enter into or on and inspect the land and improvement the assessor shall assess the 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.

(2) The interest holder or person in charge of the land and improvements entered by an assessor pursuant to subsection (1) shall give the assessor all reasonable assistance and furnish the assessor with such information as the assessor reasonably may require in order to assist the assessor in establishing the actual value of the land or improvements, or both, for the purposes of this bylaw.

Return of Information

14.(1) In this section, section 15 and section 16, "assessor" includes an appraiser and, if authorised by the assessor, any other employee of the band, the British Columbia Assessment Authority or an employee of the British Columbia Assessment Authority.

(2) A person who has an interest in or disposes of property shall, upon written request of the assessor, furnish to the assessor, within 21 days or a longer period specified in the notice, any information in that person's possession that is 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 21 days or the longer period specified in the notice as referred to in subsection (2), assess the 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.

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 or to confirm an assessment, the assessor, with the consent of the person who he thinks may be liable to assessment, may enter on any premises and may examine any property. He 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, who shall comply with section 13(2).

(2) The 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 of the band or performing functions under it,
- (b) in proceedings before a board of review or a court of law, or
- (c) if permitted by subsection (3).

(3) The assessor may disclose to the agent of the interest holder of property confidential information relating to the property if the disclosure has been authorised in writing by the interest holder.

Manufactured Home Park Information

16.(1) The interest holder of land upon which a manufactured home park is located or the operator of a manufactured home park shall, on demand, furnish to the assessor and the surveyor of taxes full information respecting the owner of each manufactured home in the manufactured home park.

(2) The interest holder of land upon which a manufactured home park is located or the operator of a manufactured home park shall notify the assessor and the 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.

(3) The assessor may, during business hours as defined in the Property Taxation Bylaw and with the consent of the interest holder, enter a manufactured home park or a manufactured home for assessing the manufactured home and inspecting any records kept by the operator of the manufactured home park.

[THE NEXT SECTION IS 25.1]

Part 4

Valuation

Valuation and Status Dates

25.1(1) For the purpose of determining the actual value of property for an assessment roll, the valuation date is July 1 of the year during which the assessment roll is completed.

- (2) The actual value of property for an assessment roll is to be determined as if on the valuation date:
- (a) the property and all other properties were in the physical condition that they are in on October 31 following the valuation date, and
 - (b) the permitted use of the property and of all properties were the same as on October 31 following the valuation date.

Valuation for Purposes of Assessment

26(1) Except as provided in this Part, the assessor shall determine the actual value of land and improvements and shall enter the actual value of the land and improvements within each named reserve in the assessment roll.

(2) In determining actual value, the assessor may, except where this bylaw has a different requirement, give consideration to present use, location, original cost, replacement cost, revenue or rental value, selling price of the land and improvements and comparable land and improvements both within and without the reserve, economic and functional obsolescence, the market value of comparable land and improvements both within and without the reserve, jurisdiction, community facilities and amenities, and any other circumstances affecting the value of the land and improvements provided such considerations do not conflict with subsection (1).

(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 be valued as the property of a going concern.

(3.2) The assessor may include in the factors that he considers under subsection (3), any restriction placed on the use of the land and improvements by the band provided that where the restriction is not being complied with the assessor may assess the property at the actual value without taking the restriction into account.

(3.3) The duration of the interest of an interest holder, or the right of an interest holder or any other person to terminate that interest, is not a restriction within the meaning of subsection (3.2).

- (4) Until further directed by council, the assessor need not assess roads, band owned property, property exempt from taxation or any property on reserve #8.
- (5) Notwithstanding this or any other bylaw, 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) Council hereby establishes in Schedule "IV" to this bylaw classes of property for the purpose of administering property taxes and in Schedule "IV" defines the types or uses of land or improvements, or both, to be included in each property 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, council shall prescribe those manuals establishing rates, formulae, rules or principles for the calculation of cost prescribed in Schedule "V",

"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 aluminium,
- (d) smelting or refining of metal from ore or ore concentrate,
- (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,

but council may exempt from this definition the industrial improvements in a plant or a class of plant that has less than a prescribed capacity and may prescribe different capacities for various types of plant, and hereby makes such exemptions as set out in Schedule "VI".

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- (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 section 26, and
 - (b) the cost of industrial improvements less depreciation that is at a rate and applied in a manner prescribed by council in Schedule "VII" for individual properties or classes or types of properties.

Valuation for Certain Purposes not Actual

27.(1) The assessor shall determine the actual value of the following, using the equivalent rates for the current year which would be applied if the interest in land was within the province of British Columbia:

- (a) the pole lines, metallic or fibre optic cables, towers, poles, wires, transformers, conduits and mains of a telecommunication, cable television, trolley coach, bus or electrical power corporation, but not including substations;
 - (b) the pipe lines of a pipe line corporation for the transportation of petroleum, petroleum products, or natural gas, including valves, cleanouts, fastenings, and appurtenances located on the right of way, but not including distribution pipelines, pumping equipment, compressor equipment, storage tanks and buildings;
 - (c) the right of way for pole lines, cables, towers, poles, wires, transformers, conduits, mains and pipe lines referred to in paragraphs (a) and (b);
- (2) For the purposes of paragraph (1) (c) "right of way" means land and improvements that an interest holder is entitled to use for the operation of those things referred to in paragraphs (1)(a) or (b) that are to be valued under this section, but "right of way" does not include land and

improvements in which the interest holder does not have an interest within the meaning of this bylaw.

[The next section is 35]

Exempt Land held by Occupier Liable to Assessment

35.(1) Land and improvements, the interest in which is held by or on behalf of a person who is exempted from taxation under this bylaw or any other bylaw of the band and which is held or occupied otherwise than by, or on behalf of that person, are 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 bylaw.

(3) This section applies to improvements in which a person who is not exempted from taxation by this bylaw or any other bylaw of the 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 bylaw or any other bylaw of the band.

Assessment of 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*.

(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 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 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

36.1 Where land or improvements or both are held or occupied in the manner referred to in sections 35 or 36 by two or more persons, the land or improvements, or both, may be assessed in the name of any of those persons or in the names of any two or more of those persons jointly.

[The next section is 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.

(2) Each individual residential building located on a land co-operative or multi dwelling leased parcel shall be separately assessed.

[The next section is 40]

Part 5

Board of Review

Establishment of Board of Review

40.(1) Notwithstanding any other bylaw, the council shall by resolution appoint a board of review to hear appeals on assessments of land and improvements located on the reserve.

(2) Subject to section 51 the board of review shall consist of three members, only one of which may be a band member. One member of a board of review shall consist of a person qualified to practice law in the Province of British Columbia, or formerly so qualified, and at least one member shall have had experience in the appraisal of real property prior to appointment to the board of review.

(2.1) Council shall maintain a list of substitute members of the board of review. Where a member of the board of review is disqualified, unable or unwilling to act, Council shall appoint the first person on the list of substitute members of the board of review to act for the period for which the member of the board of review is unavailable. If for any reason the first person on the list of substitute members is unable or unwilling to act Council shall appoint the next person on the list until a substitute member of the board of review is able to act.

(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 shall be paid remuneration equal to the remuneration paid to the members of the Assessment Appeal Board pursuant to sub-section 48 (5) of the British Columbia Assessment Act, R.S.B.C., 1979, c. 21, during their term of office.

(4) Every member of a board of review shall, before entering on his duties, take and subscribe before the band manager, surveyor of taxes or a notary public or a commissioner for taking oaths an oath or affirmation in the form provided in section 1 of Schedule "XII".

(5) A member of a board of review shall be appointed by council for a term of three years commencing on the date of their appointment under sub-section (1) of this section. A member of a board of review shall continue in their office subject to death, resignation, or removal for just cause by a resolution of the band council including for any of the following reasons:

- (a) is convicted of an offence under the Criminal Code;
 - (b) fails to attend three consecutive appeal hearings;
 - (c) fails to perform any of his or her duties under this by-law in good faith and in accordance with the terms of this bylaw; or
 - (d) any similar just cause.
- (6) No person may sit as a member of the board of review hearing an appeal if that person:
- (a) has a direct or indirect financial interest in any real property assessment to which an appeal relates;
 - (b) is the Chief or a member of the Council of the Band;
 - (c) is an employee of the Band or the Band Council; or
 - (d) has financial dealings with the Band or the Band Council which might reasonably give rise to a conflict of interest and impair that person's ability to deal fairly and impartially with an appeal as required under the terms of this bylaw.

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 or improvements or both land and improvements within the reserve have been wrongfully entered on, or omitted from the assessment roll,
- (c) land or improvements, or both land and improvements are not assessed at actual value,
- (d) land or improvements or both land and improvements have been improperly classified,
- (e) an exemption has been improperly allowed or disallowed, or
- (f) there has been any other error or omission.

he may by a written notice signed by him, his solicitor, or an agent authorised by him in writing addressed to the assessor together with a fee of \$25.00 per roll entry, payable to the "Westbank First Nation", appeal an assessment.

(2) The council, by the surveyor of taxes, its solicitor, or agent authorised by it, or the assessor, may make an appeal 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.

(2.1) Where the appellant is not an interest holder of the property to which the complainant relates, the complainant shall include with the notice of appeal an address to which notices for the appeal may be sent.

(3) Written notice of an appeal about an entry in the assessment roll must be delivered to the assessor not later than January 31 of the year following the year in which the assessment roll is completed.

Board of Review to be Notified

41.1(1)(a) The assessor shall notify the board if he has made changes to the assessment roll pursuant to section 11.

(b) Without restricting the generality of the foregoing, the assessor shall notify the board if land or improvements or both that are referred to in section 35 or 36 are held or occupied by a person other than the person shown on the assessment roll as the interest holder, and that person's interest commences or terminates after October 31 and before the following January 1.

Assessor to Notify Interest Holder

42.(1) Where an appeal relates to property in which a person other than the appellant is the interest holder the assessor shall give each such person not less than ten days notice of the time, date and place fixed for the hearing of the appeal by the board, and the notice shall specify the nature of the appeal.

(2) Upon request from the surveyor of taxes, the assessor shall by further notice within thirty days of receipt of the request from the surveyor of taxes, require the persons referred to in subsection (1) to attend before the board of review at a time and place stated in the further notice, and then the appeal shall be heard and dealt with in the same manner as other appeals.

(3) Where the appeal is against the assessment roll, the requirements of subsection (1) do not apply.

(4) Where the person other than the appellant that may have the interest from or under which the appellant's interest is derived, as referred to in subsection (1), is the Crown in Right of Canada, the requirements of subsection (1) and the provisions of subsection (2) shall not apply in respect of the Crown in Right of Canada.

Notice of Hearing

43. The assessor shall, after receipt of the notice of appeal, mail to the person, or his solicitor or agent, as the case may be, a notice setting out the date, time and place scheduled for the hearing of that person's appeal.

Powers of Board of Review

44.(1) The powers of a board of review constituted under this bylaw are:

- (a) to meet at the dates, times and places appointed and to hear and determine all appeals delivered to the assessor under this bylaw,

- (b) to 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) 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) No increase in the amount of assessment and no change in classification shall be directed under subsection (1) until after five days' notice of the intention to direct the increase or change and of the time and place of holding the adjourned sittings of the board of review at which the direction is to be made, has been given by the assessor to the assessed interest holders of the property on which the assessments are proposed to be increased, or changed as to classification. A party interested, or his solicitor or agent duly authorized under this bylaw, if he appears, shall be heard by the board of review.

(3.1) Subsection (3) does not apply where an increase in the amount of assessment or change in classification is directed under subsection (1) as a result of an appeal that has been heard and determined in accordance with subsection (1)(a).

(4) The members of the board of review shall annually appoint one of the members of the board of review as chairperson, who shall preside at the meetings and who may, unless otherwise provided by the board of review, call meetings and regulate procedure.

(5) 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 chairperson or other member presiding, shall sign them as correct.

(6) All appeals and questions before the board of review shall be decided by a majority of the members present and the chairperson votes as an ordinary member of the board of review.

(7) A board of review constituted under section 40(1) shall hold its first sitting on a day designated by the surveyor of taxes and shall use its best endeavours to complete its sittings not later than June 30 of the year following the taxation year in which the appeal or complaint was made.

(8) A board of review may adjourn its sittings from day to day and from time to time, and may also adjourn its sittings from place to place.

Costs

45. The board of review may order that the costs of an appeal before the board shall be paid by or apportioned between the persons affected by the appeal in the manner the board thinks fit.

Board of Review Sets Own Rules

46. 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.

Hearing of Appeals

47.(1) The board of review may hear all appeals from an assessment notice on the same day, or if deemed advisable, adjourn from time to time until all appeals have been heard and determined.

(2) A board of review may hear an appeal, whether the appellant is present or not.

(3) A board of review may, after hearing an appeal, postpone consideration thereof to some future time and the appellant shall, if required by the board, produce all relevant books, papers and documents and answer all proper questions and give all necessary information affecting the property or matter under consideration.

(4) The burden of proof is in all cases on the person appealing an assessment notice.

Oaths

48. The members of the board of review may administer oaths in the course of an appeal or in connection with their official duties.

Action by Board of Review

49. Evidence by affidavit, or written statement, or by the report of any officer appointed by the board of review shall be accepted by the board of review.

Inspection Powers of Board of Review

50. The board of review, or a person authorized by it to make any inquiry or report, may:
- (a) with the consent of the appellant, enter on and inspect any land and improvements,
 - (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.

Powers of a Single Board Member

51.(1) Where directed by the board of review, any one member of the board of review may hold an inquiry or conduct an appeal on behalf of the board of review and without restricting the generality of the foregoing, where the chairman of the board directs, a single member of the board may:

- (a) confirm the assessment roll,
 - (b) dismiss appeals as abandoned,
 - (c) make changes to the assessment roll based on a recommendation by the assessor,
 - (d) confirm supplementary assessment rolls, and
 - (e) deal with any other uncontested matters.
- (2) Where only one member of the board of review is directed to hold an inquiry or conduct an appeal pursuant to subsection (1), that one member may not be a band member.

Board of Review Decisions

- 52.(1) The board shall deliver a copy of each decision to the Assessor and to the surveyor of taxes.
- (2) The assessor shall, within 14 days of receipt of a copy of a decision of the board:
- (a) forward a copy to the appellant,
 - (b) forward a copy to any other interest holder of the property which was the subject of the appeal,
 - (c) make any changes to the assessment roll if so directed by the board,
 - (d) attach a copy of the decision to the assessment roll,
 - (e) file a copy of the decision and make the same available for inspection by any interest holder at no cost to the interest holder.

Amendment to Assessment Roll

53.(1) The assessor shall by a statutory declaration declare that he has made the amendments directed by the board of review.

(1.1) Where there is a conflict between the assessment roll and an amendment made under section 44 (1)(c), the amendment prevails.

(2) Upon all amendments made to an assessment roll under section 44 (1)(c) being completed, the chairman of the board of review shall confirm the roll by inscribing or endorsing on it or attaching to it a certificate as set out in section 2 of Schedule "XII" signed by the chairman of the board of review.

Orders of Board of Review Obtainable

54. A person may, on payment of a fee of \$20.00, obtain from the Surveyor of Taxes a certified copy of a decision of the board of review.

Appeals on Matters of Law

55.(1) An appeal may be taken within 30 days of the date of the mailing by the assessor of the decision of the board by a person affected including council or the surveyor of taxes from the decision of the board to a court of competent jurisdiction.

(2) Upon receipt of the opinion 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 opinion of the court.

Part 6 Assessor and Assessment Roll

Powers and Duties

56. The assessor shall establish and maintain assessments in accordance with this bylaw, the taxation bylaw, and the bylaws of the band.
57. The assessor may:
- (a) authorise employees to perform technical or professional services, other than those required under the assessment bylaw,
 - (b) answer questions from the general public and band members respecting procedures relating to property assessment in the reserve, and
 - (c) exercise and carry out other powers and duties that may be required to establish and maintain assessments under this bylaw, the taxation bylaw, any other bylaw, or order of the council.

Assessor

58.(1) The council shall either appoint an assessor or contract with the BC Assessment Authority for carrying out the purposes of this bylaw. Where council appoints an assessor, council shall fix the remuneration and may designate functions and duties in addition to those prescribed by this bylaw.

- (2) Without limiting the generality of subsection (1) but for greater certainty, council may:
- (a) appoint an assessor or assessors pursuant to subsection (1) who is also duly appointed as an assessor pursuant to the *Assessment Authority Act*, or
 - (b) contract for assessment services from the B.C. Assessment Authority
 - (c) obtain such materials, equipment and services in respect of assessment of land or improvements, or both, or any other matter under this bylaw, as council may consider appropriate, from the British Columbia Assessment Authority, pursuant to a contract, or contracts, of or for service or otherwise.

Duties of Assessor

59. The assessor appointed under this bylaw shall, consistent with this bylaw, the taxation bylaw and any other bylaw of the band:
- (a) perform the duties required of the assessor,
 - (b) carry out policies respecting assessment and taxation,
 - (c) develop and administer a complete system of property assessment,

- (d) make reports and recommendations respecting any matter that he considers advisable to the surveyor of taxes who may bring such reports to the attention of council,
- (e) prepare and complete assessment rolls,
- (f) perform such other duties as may be required to effectively implement and administer this bylaw, when so directed by the council, and
- (g) supply to the surveyor of taxes, provincial assessment rates and assessment rate schedules which are incorporated by reference as they are amended from time to time.

Staff

60.(1) The council may appoint a secretary and other employees as it considers necessary to carry out the purposes of this bylaw, fix their remuneration and designate their functions and duties.

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

Part 7
General

Applies Within Reserve

61. This bylaw applies with respect to all property within the reserve.

[Section 62 is omitted]

Schedules Part of Bylaw

63. The following Schedules are attached to and constitute part of this bylaw:

| | | |
|-----------------|---|--|
| Schedule "IV" | - | Classes of Property |
| Schedule "V" | - | Prescribed Manuals |
| Schedule "VI" | - | Exemption From Industrial Improvements |
| Schedule "VII" | - | Depreciation of Individual Improvements |
| Schedule "XII" | - | Confirmation of Roll |
| Schedule "XIII" | - | Assessment Rolls and Notices of Assessment |
| Schedule "XIV" | - | Statutory Declaration of Assessor |

Council May Extend Time

64. The council may on a case by case basis by band council 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.

[The next section is section 67]

Bylaw Remedial

67.(1) 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.

(2) Where a liability to assessment or any duty derived from or arising under a bylaw or bylaws which has been superseded or replaced by this bylaw in whole or in part by this bylaw or any provision of this bylaw, the provisions of the Interpretation Act, R.S.C. 1985, c. I-21 shall apply.

Head Notes

68. Head notes, marginal notes and provision headings form no part of this bylaw but shall be construed as being inserted for convenience of reference only.

Notices

69.(1) Except where otherwise specifically provided in this bylaw, where any notice, notification, demand, statement or direction is required or permitted to be delivered or given under this bylaw, such notice, notification, demand, statement or direction shall be sufficient if mailed to:

- (a) the address of the person set forth in the assessment roll, or
- (b) such other address of which the assessor has received notice,

whether or not such mail is returned as undeliverable.

(2) Any notice, notification, demand, statement or direction shall be conclusively deemed to have been received on the fifth business day following the mailing thereof.

(3) Where the assessor has not received written notice of the address of a person or his address is not set forth in the assessment roll, the assessor may deliver any notice to that person by mailing any notice to the last known address.

Severance of Sections

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

Use of Forms and Words

71. In this bylaw:

- (a) words signifying the masculine gender include the feminine gender and the neuter gender and, where necessary or the context permits, a person as defined in this bylaw,
- (b) words in the singular include the plural, and words in the plural include the singular, and
- (c) where a word or expression is defined, other parts of speech, and grammatical forms of the same word or expression have corresponding meanings.

Transitional Provisions

72.(1) Notwithstanding anything to the contrary elsewhere contained in this bylaw:

- (a) the assessment roll for the 1996 taxation year shall be compiled and completed by the assessor from all assessments prepared on or before December 31, 1995 by the British Columbia Assessment Authority that are in respect of any land, or improvements, or both, in the reserve, or from any previous Westbank First Nation assessment or property assessment bylaw, and

- (b) the notice of assessment required to be mailed to each person named in the assessment roll for the 1996 taxation year may be the notice of assessment mailed by the British Columbia Assessment Authority under any previous Westbank First Nation assessment or property assessment bylaw,

but in all other respects the provisions of this bylaw shall be of full force and effect for the purposes of any assessment roll created and notice of assessment mailed for the 1996 taxation year.

Power to Round Values


73. The assessor may round the actual values for land and improvements determined under section 27 of this bylaw for each property class:

- (a) down to the nearest \$100, where the value determined is greater than \$101 and less than \$99,999, and
- (b) down to the nearest \$1,000, where the value determined is \$100,000 or greater.

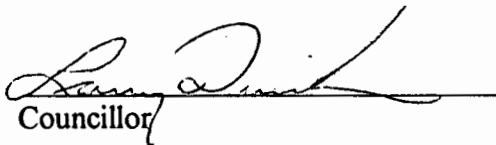
Coming Into Force

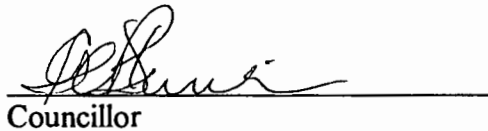
74. This bylaw shall come into force and effect upon approval by the minister.

APPROVED AND PASSED at a duly convened meeting of the Band Council of the Westbank First Nation held at the Westbank First Nation Administration Office, Kelowna, British Columbia, this 1 day of March, 1996.


Chief

Councillor


Councillor


Councillor


Councillor

SCHEDULES

TO THE

PROPERTY ASSESSMENT BYLAW

SCHEDULE "IV"

Classes of Property (Section 26(7))

Class 1 - Residential

1. Class 1 property shall include only:
 - (a) land or improvements, or both, used for residential purposes, including single family residences, duplexes, multi-family residences, apartments, condominiums, manufactured 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 or improvements or both in which the Crown in Right of Canada or the Province of British Columbia has an interest or by an agent of either 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,
 - (iii) 20 or more strata or leasehold lots
 - (A) on a parcel or contiguous parcels,
 - (B) controlled or managed by persons, or a person, who control or manage 85% or more of the strata or leasehold lots on the parcel or contiguous parcels referred to in clause (a), and
 - (C) offered for rent, or rented, for periods of less than 7 days to persons, or a person, as overnight accommodation for at least 50% of the 12 month period ending on October 31 of the current calendar year:
 - (b) improvements on land classified as a farm and used in conjunction with the farm operation, including the farm residence and outbuildings,
 - (c) land having no present use and which is neither specifically zoned nor held for business, commercial, forestry or industrial purposes,
 - (d) child care facilities.

Class 2 - Utilities

2. Class 2 property shall include only land or improvements, or both, 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 pipe line,
- (c) communication by telegraph or telephone, including transmission of messages by means of electric currents or signals for compensation,
- (d) generation, transmission or distribution of electricity, or
- (e) receiving, transmission and distribution of closed circuit television,

but does not include that part of land or improvements or both:

- (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 - Forest Land

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

Class 4 - Major Industry

4. Class 4 property shall include only property referred to in section 26.1(2) of this bylaw, that is to say:

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

Class 5 - Light Industry

5. Class 5 property shall include only land or improvements, or both, 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 or improvements, or both:

- (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

6. 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

7. 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

8. (1) Class 8 property shall include only:
- (a) land, but not improvements on that land, used solely as an outdoor recreational facility for the following activities or uses:
 - (i) golf;
 - (ii) skiing;
 - (iii) tennis;
 - (iv) ball games of any kind;
 - (v) lawn bowling;
 - (vi) public swimming pool;
 - (vii) motor car racing;
 - (viii) trap shooting;
 - (ix) archery;
 - (x) ice skating;
 - (xi) waterslides;
 - (xii) museums;
 - (xiii) amusement parks;
 - (xiv) horse racing;
 - (xv) rifle shooting;
 - (xvi) roller skating;
 - (xvii) marinas;
 - (xviii) parks and gardens open to the public;
 - (xix) hang gliding;
 - (b) 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 non-profit fraternal 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 religious 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.

Class 9 - Farm

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

Apportionment

10. Where a property falls into two or more prescribed classes the assessor shall determine the share of the actual value of the property attributable to each class and assess the property according to the proportion each share constitutes of the total actual value.

SCHEDULE "V"

Prescribed Manuals (Section 26.1(1))

Manual For Determining Costs of Industrial Improvement

1. Volumes 1 and 2 of the British Columbia Assessment Authority Major Industrial Properties Manual as deposited with the office of the Assessment Commissioner of the British Columbia Assessment Authority as of November 30 in any year are prescribed for the purposes of the definition of "cost of industrial improvement" in section 26.1(1) of this bylaw.

Other Manual

2. The Marshall Valuation Service, as compiled by Marshall and Swift, is prescribed for the purpose of defining the "cost of industrial improvement" in section 26.1(1) of this bylaw to the extent directed in Volumes 1 and 2 of the British Columbia Assessment Authority Major Industrial Properties Manual.

SCHEDULE "VI"

Exemption From Industrial Improvements (Section 26.1(1))

1. The industrial improvements in plants or classes of plants described in column 1 of the following Table that have less than the capacities set out opposite them in column 2 are exempt from the definition of "industrial improvements" in section 26.1(1) of this bylaw.

| Column 1 Plant | Column 2 Capacity |
|--|--|
| 1. Placer mines | 500 m ³ pay dirt per day |
| 2. Mines, other than coal mines or placer mines | 75 tonnes milling capacity per day or no milling capacity |
| 3. Natural gas | 2,850,000 m ³ per day |
| 4. Sawmills that manufacture lumber and other wood products from raw logs | 15 million fbm per year based on 480 shifts a year of 8 hours each shift |
| 5. Remanufacturing plants, not part of a sawmill, which manufacture lumber or other wood products from rough lumber or cants, but not raw logs | 24 million fbm per year based on 480 shifts a year of 8 hours each shift |
| 6. Chemical plants | 5,000 tonnes per year |
| 7. Building, refitting or repairing ships | 750 tonnes light displacement weight retrieval capacity or no retrieval capacity |

SCHEDULE "VII"

Depreciation of Industrial Improvements (Section 26.1(3)(b))

Interpretation

1. The following definitions apply herein:

"bylaw" means this bylaw,

"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" 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 age 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

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

depreciation = annual depreciation rate age

where:

- (a) "annual depreciation rate" is the percentage rate set out in the Table below in this Schedule 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

3. If the depreciation determined under section 2 of this Schedule for an industrial improvement is equal to or in excess of 80%, the depreciation shall be deemed to be 80%.

Closure Allowances

4.(1) If the assessor determines:

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

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

(2) If the assessor determines that:

- (a) a separate industrial improvement within a plant is permanently closed or shut down on or before October 31 in any year and 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 three consecutive years immediately preceding October 31 in any year and an interest holder or plant manager confirms in writing the fact that the industrial improvement is closed or shut down and 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 2. and 3.

TABLE

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

| Category | Annual Rate of Depreciation |
|--|-----------------------------|
| (a) mining, extracting, beneficiating or milling of metallic or non-metallic ore | 6.5 |
| (b) mining, breaking, washing, grading or beneficiating of coal | 4 |
| (c) producing of aluminium | 3 |
| (d) smelting or refining of metal from ore or ore concentrate | 3 |
| (e) producing, manufacturing, processing or refining of petroleum or natural gas products | 3 |
| (f) manufacturing of lumber or other sawmill and planing mill products | 4 |
| (g) manufacturing of wood veneer, plywood, particle board, wafer board, hardboard and similar products | 4 |
| (h) manufacturing of gypsum board | 3 |
| (i) manufacturing of pulp, paper or linerboard | 3 |
| (j) manufacturing of chemicals | 4 |
| (k) manufacturing of chemical fertilizer | 3 |
| (l) manufacturing of synthetic resin or the compounding of synthetic resins into moulding compounds | 3 |
| (m) manufacturing of cement | 3 |
| (n) manufacturing of insulation | 3 |
| (o) manufacturing of sheet glass or glass bottles | 3 |
| (p) building, refitting or repairing ships | 5 |
| (q)(i) loading of cargo onto seagoing ships or barges, including associated cargo storage and loading facilities | 5.0 |
| (ii) the maritime structure of a grain terminal operation including piers, wharves, shipping galleries and loading gallery towers used to transport grain from a grain elevator to seagoing ships or barges, but excluding those things included in paragraph (q)(iii) | 5.0 |
| (iii) grain elevators and associated structures | 2.5 |

SCHEDULE "XII"

Confirmation Of Roll
(Sections 40(4) and 53(2))

1. Every member of the board of review, before entering on his duties, shall take and subscribe before the band manager, or the 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."

2. For the purposes of section 53(2) of the bylaw, the certificate by which a board of review shall identify and confirm the assessment roll shall be in form 1 or 2 of the following forms, as appropriate:

FORM 1

This roll comprising the gross assessed values of properties within the reserve of the 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 the assessment roll for the year 19__.

Dated at _____, in the Province of British Columbia this ___ day of _____, 19__.

FORM 2

This supplementary roll comprising the gross assessed values of properties within the reserve of the 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 revised or further supplementary assessment roll, is hereby certified to be a supplementary assessment roll for the year 19__.

Dated at _____, in the Province of British Columbia this ___ day of _____, 19__.

**SCHEDULE " XIII"
(Sections 2(2))**

NOTICE OF ASSESSMENT

To: _____

Address:

RE:

(Description of property or taxable interest)

Take notice that in respect of the above-noted parcel of land or interest in the land the following person(s) is/are liable to pay any taxes levied pursuant to the Westbank First Nation Property Taxation Bylaw:

Name(s)

Address(es)

The assessed value of the land

The assessed value of the improvements

The assessed value of exempt land

The assessed value of exempt improvements

Total assessed value

Total net taxable value

SCHEDULE "XIV"
(Subsection 6(1))
Statutory Declaration 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 assessor for the Westbank First Nation,
- (b) the assessment roll for the reserve lands of the Westbank First Nation for the year 19____ has been completed in accordance with the Westbank First Nation Assessment Bylaw and sets out the assessed value of the land and improvements within the reserve lands of the Westbank First Nation in accordance with the assessment bylaw, 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 bylaw 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____) _____
_____)