

Minister of Indian Affairs  
and Northern Development



Ministre des Affaires  
indiennes et du Nord canadien

I, the Minister of Indian Affairs and Northern Development, HEREBY APPROVE, pursuant to Section 83 of the Indian Act, the following by-laws made by the Kwaw-Kwaw Apilt Band of the Province of British Columbia, at a meeting held on the 13th day of August 1991.

- **Kwaw-Kwaw Apilt Assessment By-Law**
- **Kwaw-Kwaw Apilt Taxation By-Law**

dated at OTTAWA

this 27th day of SEPT. , 1991

A handwritten signature in black ink, appearing to read "Jan Erik".

**KWAW KWAW APILT INDIAN BAND**

**PROPERTY ASSESSMENT BY-LAW**

**WHEREAS:**

The Kwaw Kwaw Apilt Indian Band deems it advisable to establish a By-law for the purpose of taxation for local purposes of land, or interest in land, in the reserve, including rights to occupy, possess or use land in the reserve.

**BE IT HEREBY RESOLVED:**

That the Chief and Council of the Kwaw Kwaw Apilt Band of Indians enacts the following By-law for the purposes of land and property assessment pursuant to the Indian Act and in particular section 83(1) thereof:

**1. SHORT TITLE:**

This By-law may be cited as the Assessment By-law.

**2. DEFINITIONS:**

- "appellants" means any person authorized under this By-law to appeal an assessment notice;
- "assessment area" means lands situated within the boundaries of the Kwaw Kwaw Apilt Indian Reserve;
- "assessment roll" means a list prepared pursuant to this By-law setting out real properties within the assessment area and their assessed values, and includes a supplementary assessment roll and a revised assessment roll;
- "assessment year" means the year preceeding the year in which taxes are to be levied;
- "assessor" means a person, or persons, including the Head Assessor, appointed from time to time by Chief and Council for the purposes of all or part of this By-law and any related duties as required by Band Chief and Council;

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- "actual value"** means the actual value that land and improvements would have had on July 1 on even numbered years, had they and all other land and improvements been on July 1 on even numbered years in the physical condition that they would be in on September 30 each year, and had their permitted use been on July 1 of even numbered years the same as on September 30 of each year;
- "Band"** means the Kwaw Kwaw Apilt Indian Band;
- "Band Council Resolution"** means a motion, 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"** means Reserve land other than land held under a Certificate of Possession;
- "Chief"** means the Chief of the Kwaw Kwaw Apilt Indian Band as selected according to the custom of the Band;
- "Chief and Council" or "Band Council"** means the Chief and Council of the Kwaw Kwaw Apilt Indian Band as selected by the custom of the Band;
- "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;
- "Collector"** means the Band administrator of the Kwaw Kwaw Apilt Indian Band or any person(s) delegated by the Band Council for such purposes;
- "Commissioner"** means the assessment commissioner appointed under the Assessment Authority Act (R.S.B.C. 1979 c.22);
- "Committee"** means the Assessment Review Committee as established under this By-law;
- "farm"** means an area of land classified as such by the assessor;

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**"forest land"** means land which has as its highest and best use the growing and harvesting of trees and includes land which is being managed in accordance with a forest management plan, but does not include a farm;

**"highway"** includes a street, road, lane, bridge, viaduct, and any other way open to the use of the public, including any real property used for such purposes under the authority of any section of the Indian Act, or under the authority of any other statutory instrument or executive order;

**"holder"** means a person in lawful possession of real property in the assessment area or a person who, for the time being,

- (A) is entitled to the possession of that property; or
- (B) is an occupant of that property; or
- (C) has any right, title, estate or interest in property; or
- (D) is a trustee of real property;

in the assessment area;

**"improvement"** (A) 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 this definition by subsection (B):

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

(B) without limiting the definition of "improvements" in subsection (a), the following things are deemed to be included in that definition:

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- (1) 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;
- (2) any building or structure that is capable of maintaining a controlled temperature or containing a special atmosphere, including dry kilns, steam chests, greenhouses, and cooling towers;
- (3) any lighting fixtures, paving, and fencing;
- (4) 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;
- (5) any foundations, such as footings, perimeter walls, slabs, pedestals, piers, columns and similar things, including foundations for machinery and equipment;
- (6) any pipe racks, tending platforms, conveyor structures and supports for machinery and equipment, including structural members comprising trestles, vents, truss and joist sections, stringers, beams, channels, angles, and similar things;
- (7) any aqueducts, dams, reservoirs, and artificial lagoons and any tunnels other than mine workings;
- (8) any roads, airstrips, bridges, trestles and towers, including ski towers;
- (9) any mains, pipes, or pipelines for the movement of fluids or gas;
- (10) any track in place, including railway track in place;

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- (11) 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;
- (12) any vessels, such as tanks, bins, hoppers, and silos, with a prescribed capacity and any structure that is connected to those vessels;
- (13) docks, wharfs, rafts, and floats;
- (14) floating homes and any other floating structures and devices that are used principally for purposes other than transportation;
- (15) that part of anything referred to in subsections (1) to (14) 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;

**"industrial improvement"**

- (A) 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:
  - (1) mining, extracting, beneficiating, or milling of metallic or non-metallic ore;
  - (2) mining, breaking, washing, grading, or beneficiating of coal;
  - (3) producing of aluminum;
  - (4) smelting or refining of metal from ore or ore concentrate;

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- (5) manufacturing of refined petroleum and natural gas products including fuels, blended oils and greases;
- (6) manufacturing of lumber or other sawmill and planing mill products;
- (7) manufacturing of wood veneer, plywood, particle board, wafer board, hardboard and similar products;
- (8) manufacturing of gypsum board;
- (9) manufacturing of pulp, paper or liner board;
- (10) manufacturing of chemicals;
- (11) manufacturing of chemical fertilizer;
- (12) manufacturing of synthetic resins or the compounding of synthetic resins into moulding compounds;
- (13) manufacturing of cement;
- (14) manufacturing of insulation;
- (15) manufacturing sheet glass or glass bottles;
- (16) building, refitting or repairing ships;
- (17) loading cargo onto sea going ships or barges, including associated cargo storage and loading facilities,

but the Chief and 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 plants.

(B) Notwithstanding subsection (A), there is established a class of properties consisting of

- (1) land used in conjunction with the operation of industrial improvements, and
- (2) industrial improvements;

"industrial improvement, cost of"

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;

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- (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, the for the purposes of determining cost, the Chief and Council may prescribe manuals establishing rates, formulae, rules, or principles for the calculation of cost;

"land"

includes

- (A) land covered by water;
- (B) quarries; and
- (C) sand and gravel;

but does not include coal or other minerals;

"local  
government  
services"

includes local improvements, capital, and the provision of any other services normally found in organized communities;

"local  
improvement"

means any of the following works or combination of them:

- (A) opening, widening, straightening, extending, grading, levelling, diverting, or paving a street;
- (B) constructing a sidewalk, foot crossing, curbing, bridge, culvert or embankment forming part of a street, or constructing a system of storm drainage;
- (C) making, deepening, enlarging, or lengthening a common sewer or water system;
- (D) making sewer or water service connections to the street line on land abutting the main;
- (E) constructing a conduit for wires or pipes along or under a street;
- (F) reconstructing, replacing or repairing any of the works mentioned or any other related works;

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- "Minister"** means the Minister of the Department of Indian Affairs and Northern Development;
- "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 purpose other than those referred to in subsections (A) and (B);
  - (D) shelter for machinery or other equipment; or
  - (E) storage, workshop, repair, construction or manufacturing facilities;
- "natural gas"** means a gaseous mixture of hydrocarbon and other gases received from the wells, and includes that gas after refinements;
- "occupant"** means a person who, for the time being, is in actual occupation of real property;
- "parcel"** means a lot, block, or other area in which real property is held or into which real property is subdivided, but does not include a highway;
- "person"** in addition to its ordinary meaning includes a partnership, association, company, society or body corporate, and the agent and trustee of a person;
- "petroleum"** or "petroleum products" means crude oil or liquid hydrocarbons, or any product or byproduct of them;
- "pipe line corporation"** means a person owning or operating a pipe line, all or any part of which is situate in the Province, 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" means "real property" as defined in this By-law;
- "real property" means land and the improvements therein and, without restricting the generality of the foregoing, includes any interest in land or improvements, the right to occupy, possess, or use land or improvements in the reserve, including railway right-of-ways, but does not include a highway;
- "Reserve" means Kwaw Kwaw Apilt Indian Reserve as such reserve is defined in the Indian Act, section 2(1);
- "taxation authority" means the Chief and Council of the Kwaw Kwaw Apilt Indian Band;
- "trustee" means an executor, administrator, guardian, committee, receiver or any person having or taking upon himself the lawful possession, administration or control of property affected by an express trust, or having by law possession, management, and control of the property of a person under any legal disability.

### 3. ASSESSORS

- (A) Chief and Council shall appoint a head assessor and such other assessors as deemed necessary, for carrying out the purposes of this By-law.
- (B) Chief and Council may appoint an assessor, pursuant to subsection (A), who is also duly appointed pursuant to the Assessment Authority Act (R.S.B.C. 1979, c. 22), or amendments thereto.
- (C) The head assessor shall assess all real property, within the assessment area, according to the provision of this By-law and shall:

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- (1) supervise and direct the work of other assessors;
- (2) ensure that assessment rolls are correctly prepared as required by this By-law;
- (3) ensure that assessors comply with the provisions of this By-law in the performance of their duties; and
- (4) perform such other duties and exercise such other powers not inconsistent with this By-law.

**4. ASSESSABLE PROPERTY**

For the purposes of this By-law, all real property within the assessment area shall be assessed by an assessor excepting:

- (A) Vacant and unoccupied Band land.
- (B) All vacant and unoccupied land held under C.P.
- (C) Real property that is used primarily for educational, cultural, religious, the housing of band members, and for community purposes, as determined by By-law no less than one month preceeding the preparation of the assessment roll.
- (D) Pollution control installations prescribed by By-law.

**5. MANUFACTURED HOMES**

- (A) This By-law does not apply to manufactured homes
  - (1) owned by the Band or by a Band member and occupied by or on behalf of the Band or Band member;
  - (2) which are held in storage or which form part of the inventory of a manufacturer or dealer; or
  - (3) licensed and equipped to travel on a public highway, that are occupied by a genuine tourist and are situated within a mobile home park or manufactured home park for a period of less than 60 days.

**6. ACTUAL VALUE**

- (A) Subject to section 4, the assessor shall determine the actual value of real property in the assessment area.
- (B) In determining the actual value under subsection (A) the assessor may give consideration to the present use, location, original cost, cost of replacement, revenue, or

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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.

- (C) The actual value of industrial improvements is,
- (1) the actual value of the land as determined under this section, and
  - (2) the cost of industrial improvements less depreciation that is at a rate and applied in a manner prescribed by the Chief and Council, and Chief and Council may by By-law prescribe different rates and different manners of application of depreciation for individual properties or classes or types of properties.

#### 7. GOING CONCERN

Without limiting the application of sections 6(A) and (B), where an industry, commercial undertaking, public utility enterprise, or other operation is carried on within the assessment area, the land and improvements so used shall be valued as the property of a going concern.

#### 8. CLASSES OF PROPERTY

Chief and Council shall by way of By-law prescribe classes of property for the purpose of administering property taxes and shall define the types or uses of real property to be included in each class.

#### 9. VALUATION FOR CERTAIN PURPOSES

- (A) The actual value of the following shall be determined using rates prescribed by the commissioner, pursuant to the Assessment Authority Act (R.S.B.C. 1979 c.22), as amended from time to time:
- (1) the pole lines, metallic or fibre optic cables, towers, poles, wires, transformers, conduits, and mains of a telecommunications, trolley coach, bus or electrical power corporation, but not including substations;
  - (2) the track in place of a railway corporation, whether the track is on a public highway, or on a privately owned right-of-way;

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- (3) 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;
  - (4) the right-of-way for pole lines, cables, towers, poles, wires, transformers, conduits, mains, and pipe lines referred to in subsections (1) and (3);
  - (5) the right-of-way for track referred to in subsection (2).
- (B) For the purposes of this section, telecommunications does not include cable television.
- (C) In prescribing rates respecting improvements referred to in subsection (A)(1) to (3), the commissioner
- (1) shall base the rates on the average current cost of the existing improvements,
  - (2) may, within the rates, make an allowance for physical depreciation,
  - (3) may express the rates in terms of an amount
    - (i) per customer served by the improvements, or
    - (ii) per kilometre of the improvements that may vary according to
      - (a) the size of the improvements,
      - (b) the capacity of the improvements,
      - (c) the type of use or extent of use of the improvements, or
      - (d) the location of the improvements, and
  - (4) may prescribe different rates or a reduction in rates for improvements that should, in the opinion of the commissioner, be valued differently from other improvements of the same type by reason of
    - (i) lack of use for a period specified in the regulation,
    - (ii) in the case of railway track in place, use at less than its annual rated capacity, or
    - (iii) other special circumstances that are specified in the regulation and relate to the construction or installation of the improvements.

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- (D) For the purposes of subsection (C) "average current cost" means the cost to construct or install the existing improvements
- (1) including all materials, labour, overhead, and indirect costs, and
  - (2) assuming the improvements were to be constructed or installed
    - (i) on July 1 of the year in which the assessment roll is prepared, and
    - (ii) at a location that has average construction and installation difficulty.
- (E) The rates prescribed by the commissioner are subject to appeal to the Committee by notice served on the Committee and the commissioner before November 1 following receipt of the assessment notice.
- (F) An appeal under subsection (E) of rates prescribed in respect of improvements referred to in subsection (A)(1) to (3) shall be made, heard, and decided only on the ground that the commissioner did not prescribe the rates in accordance with subsection (C)(1) or (2), or both.
- (G) The Committee shall appoint a time, date and place for the hearing of the appeal and shall give notice to the commissioner and to the appellant of the time, date, and place fixed for hearing the appeal.
- (H) Where, on an appeal referred to in subsection (F), the Committee decides that the commissioner did not prescribe the rates in accordance with subsection (C)(1) or (2), or both, the Committee shall
- (1) refer the rates back to the commissioner for the purpose of prescribing new rates under subsection (I), and
  - (2) advise the commissioner of its reasons.
- (I) Where rates prescribed under subsection (A)(1) to (3) are referred back to the commissioner by the Committee, the commissioner may prescribe new rates to replace those rates within
- (1) three months from the date on which the Committee referred the rates back to the commissioner, or
  - (2) a period of time longer than three months that the Committee, on application by the commissioner, may direct.

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- (J) Rates prescribed under subsection (A)(1) to (3) that are referred back to the commissioner by the Committee remain in full force and effect until
- (1) new rates are prescribed under subsection (I), or
  - (2) the time for prescribing new rates under subsection (I) has expired,
- whichever is earlier.
- (K) Rates prescribed under subsection (I)
- (1) apply for the purposes of assessment and taxation for the taxation years to which the rates they are replacing applied, and
  - (2) may, within one month from the date on which they were prescribed, be appealed as if they were rates prescribed under subsection (A).
- (L) For the purposes of subsection (A)(4), "right-of-way" does not include
- (1) land of which the corporation referred to in subsection (A)(1) or (3) is not the owner within the meaning of the Assessment Act (R.S.B.C. 1979 c.21), and
  - (2) land that the corporation referred to in subsection (A)(1) or (3) leases to a lessee.
- (M) For the purposes of subsection (A)(5), "right-of-way" means land that a corporation is entitled to use for the operation of the things referred to in subsection (A)(2) that are to be valued under this section, but "right-of-way" does not include land of which the corporation is not the owner within the meaning of the Assessment Act (R.S.B.C. 1979 c.21).
- (N) For the purpose of applying subsection (A)(2), 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.

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**10. CLASSIFICATION OF LAND AS A FARM**

- (A) An owner of land may apply to the commissioner to have all or part of his land classified as a farm and the application shall be made in the form and manner the commissioner prescribes and the commissioner may, subject to this By-law, approve the classification of the land as a farm.
- (B) The commissioner may prescribe standards for classification of land as a farm and the assessor shall classify as a farm land that is in accordance with the standards.
- (C) Land classified by the assessor as a farm shall, while so classified, be valued at its actual value as a farm, without regard to its value for other purposes.
- (D) Subsection (C) does not apply in respect of the valuation of improvements on a farm.
- (E) For the purposes of valuing a farm under subsection (C), the commissioner shall prescribe land value schedules for use by assessors in determining the actual value of the land as a farm without regard to its value for other purposes.
- (F) Where the assessed value for any year of land classified as a farm exceeds the assessed value for the preceding year by more than 10%, its assessed value for that year shall be
  - (1) 110% of the assessed value for the preceding year;  
plus
  - (2) 25% of that difference between the assessed value for that year and 110% of the assessed value for the preceding year.
- (G) Where an obvious error or omission occurred in the preparation of the assessed value in the preceding year, the assessed value under subsection (F) shall be determined as though the error or omission had not occurred.

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## 11. FOREST LAND

- (A) In this section "managed forest land" and "unmanaged forest land" mean forest land classified as such in accordance with classification standards as may be prescribed by By-law.
- (B) The actual value of forest land is
- (1) the value that the land has for the purpose of growing and harvesting trees, but without taking into account the existence on the land of any trees, plus
  - (2) a value for cut timber determined in accordance with subsection (D).
- (C) The value of land referred to in subsection (B)(1) shall be determined on the basis of its topography, accessibility, soil quality, parcel size, and location and for the purpose of valuing forest land the commissioner shall prescribe land value schedules for use by assessors in determining the actual value of the land.
- (D) For the purpose of taxation during
- (1) an odd numbered year, the value of cut timber referred to in subsection (B)(2) shall be determined by the assessor on the basis of
    - (i) the scale of that timber under the Forest Act (R.S.B.C. 1979 c. 140) during the last odd numbered year before that taxation year, and
    - (ii) schedules of timber value prescribed by the commissioner under subsection (E), and
  - (2) an even numbered year, the value of cut timber referred to in subsection (B)(2) shall be determined by the assessor on the basis of
    - (i) the scale of that timber under the Forest Act (R.S.B.C. 1979 c. 140) during the last even numbered year before that taxation year, and
    - (ii) schedules of timber value prescribed by the commissioner under subsection (E).
- (E) The commissioner shall prescribe schedules of timber values based on the following factors:
- (1) the species and grade of logs;
  - (2) the locality in which the timber is cut;
  - (3) where timber is cut from
    - (i) a coastal area, the average price for logs in the year of cutting determined on the basis of

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- the value reported for the Vancouver log market and the distance from Howe Sound of the parcel on which the cutting occurred;
- (ii) an interior area, the average prices in the year of cutting for logs delivered to the nearest sawmill, determined on the basis of the selling prices of timber products, the costs of milling, and the distance from the nearest sawmill of the parcel on which the cutting occurred.
- (F) The assessor shall classify forest land on the assessment roll as either managed forest land or unmanaged forest land.
- (G) In determining whether forest land is managed forest land or unmanaged forest land the assessor shall apply prescribed classification standards.
- (H) A holder of forest land shall submit to the commissioner information as required respecting the location and nature of harvesting or destruction of trees and the location, nature, and success of reforestation carried out on the forest land.

## 12. OCCUPIERS OF RAILWAY LAND

- (A) Where any parcel liable to assessment is railway land 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.
- (B) Where part of a parcel of railway land is treated as a separate parcel under subsection (A), the remainder of the parcel shall be treated under this Act as a separate parcel and a separate entry made on the assessment roll in respect of the land or improvements or both.
- (C) Where the whole of any parcel of railway land liable to assessment is leased or a part of a parcel is assessed under subsection (A), the holder or lessee 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.

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**13. ASSESSMENT OF AN IMPROVEMENT ON LAND UNDER OTHER OWNERSHIP**

- (A) 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 owning, leasing, maintaining, operating or using it, notwithstanding that the land may be owned or held by some other person.
- (B) Where an interest in Reserve land is held by a residential land co-operative, the interests of the shareholders shall be separately assessed.

**14. DEMAND FOR INFORMATION**

- (A) An assessor may deliver to a holder of real property assessable under this By-law a notice requiring the holder to furnish the assessor with a statement in writing setting forth such information as the assessor may reasonably require in order to assess the property for the purposes of this By-law.
- (B) The statement required to be furnished under subsection (A) shall be in writing and signed by the holder.
- (C) An assessor is not bound by any information furnished to him under subsection (B).
- (D) If any holder of real property does not comply with a notice delivered to him under subsection (A) by failing to deliver the required statement to the assessor within thirty days of the receipt of the notice by him, then the assessor shall assess the property based on information available.
- (E) The assessor shall be given access to, and may examine and take copies of and extracts from the books, accounts, vouchers, documents, and appraisals of the holder of real property who shall, on request, furnish every facility and assistance required for the examination.

**15. RIGHT OF ENTRY**

- (A) An assessor is entitled to enter any real property at any reasonable time in order to assess the property for the purposes of this By-law.

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- (B) The holder, occupier, or person in charge of any real property entered by an assessor pursuant to subsection (A) shall give the assessor all reasonable assistance and furnish the assessor with such information as the assessor reasonably may require in order to assess the property for the purposes of this By-law.
- (C) Where an assessor is so entitled to enter a property under subsection (A) he shall deliver a demand for permission to enter to the holder of that property.
- (D) Where the holder or occupier who receives a demand for permission set out in subsection (D) refuses to allow the assessor to enter the real property, the assessor may assess the real property on the basis of the information available to the assessor.
- (E) An assessor shall be issued with a certificate of identification, and upon entering or seeking to enter any real property for the purposes of this By-law the assessor shall, if so required, produce the prescribed certificate to the holder, occupant, or person in charge.

#### 16. CONFIDENTIALITY

- (A) The commissioner, the collector, a member of a Court of Revision, a member of the Committee or any other person who has custody or control of information or records obtained under this By-law shall not disclose the information or records to any other person except
  - (1) in the course of administering this By-law or performing functions under it,
  - (2) in proceedings before a Court of Revision, the Committee or a court of law, or
  - (3) if permitted by Band Council Resolution under subsection (B).
- (B) The Chief and Council may by Band Council Resolution permit the disclosure of information respecting the declared value, financing, and physical characteristics of property.

#### 17. COMPLETION OF ROLL

- (A) The assessor shall not later than September 30 in each even numbered year, complete a new assessment roll in which he shall set down each property liable to

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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 the two following calendar years.

(B) The assessor shall, not later than September 30 in each odd numbered year, complete a revised assessment roll containing revisions to the assessment roll for the purpose of taxation during the following calendar year.

(C) Subsection (B) applies only to cases where

(1) 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,
- (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) zoning;
  - (c) the classification regarding farm land or forest land.

(2) there has been a change in any of the following:
 

- (i) ownership;
- (ii) legal description;
- (iii) the classification of real property;
- (iv) the eligibility for, or the amount of, an exemption from assessment or taxation;

(3) section 10(F) applies, or

(4) section 11(D) applies.

(D) The assessor shall not

(1) when acting in a case referred to in subsection (C), 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

.../cont.

- (2) act in a case referred to in subsection (C)(1)(iii) unless he has received a written statement that the closure is permanent.
- (E) In subsection (C)(1)(i) "error" means an entry resulting from a clerical or arithmetical error, or an entry based on incorrect facts.
- (F) 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.
- (G) The assessor shall give to every person named in a revised assessment roll a notice of assessment.
- (H) An assessment roll and notice of assessment shall contain the following particulars:
  - (1) the name and last known address of the person assessed;
  - (2) a short description of the land;
  - (3) the classification of
    - (i) the land, and
    - (ii) the improvements;
  - (4) the actual value by classification of
    - (i) the land, and
    - (ii) the improvements;
  - (5) the total assessed value for
    - (i) general purposes, and
    - (ii) other than general purposes;
  - (6) the total assessed value of exemptions from taxation, if any, for
    - (i) general purposes, and
    - (ii) other than general purposes;
  - (7) the total net taxable value for
    - (i) general purposes, and
    - (ii) other than general purposes;
  - (8) 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;
  - (9) such other information not inconsistent with this By-law or as may be prescribed by way of By-law.
- (I) The assessor shall exercise reasonable care in obtaining and setting down the address of a holder, and shall more particularly adopt the following alternatives in the order named:

.../cont.

- (1) the address known to the assessor;
- (2) the address as it appears in the application for registration or otherwise.

#### 18. REQUEST FOR COPY OF ASSESSMENT NOTICE

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.

#### 19. GROUPING OF PARCELS

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.

#### 20. NOTICE OF ASSESSMENT

- (A) Any number of parcels of land assessed in the name of the same owner or holder may be included in one assessment notice.
- (B) In the event that several parcels of land are assessed in the name of the same owner 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.
- (C) Notwithstanding section 17, where property is wholly exempt from taxation, the assessor need not mail an assessment notice in respect of that property.
- (D) Before completion of the assessment roll, the assessor shall mail to each person from whom he has received a notice, and request under section 18, 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.

- (E) 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 17 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 prescribed by the regulations for each parcel of land.
- (F) In subsection (G) "lessee" means a lessee holding property under a lease or sublease, other than a registered lease or registered sublease, for a term of one year or more.
- (G) On receipt of an assessment notice for a property included in a class defined by the Chief and Council, the owner or 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.
- (H) The actual value of real property shall be set down separately in the assessment notice.

#### 21. RETURN OF COMPLETED ASSESSMENT ROLL

- (A) On completing the assessment roll under section 17, the assessor shall make a statutory declaration, that the assessment roll has been completed.
- (B) The assessor shall return the completed roll to the collector as soon as possible after it has been completed.

#### 22. ADOPTION OF ASSESSMENT ROLL

- (A) The assessment roll is effective on its adoption by resolution of Chief and Council.
- (B) On adoption, the assessment roll is open to inspection by any person during regular business hours.

#### 23. CORRECTION OF ERRORS

- (A) The assessor shall bring all errors or omissions in a roll completed under section 17, to the Court of Revision for correction.

.../cont.



- (B) No assessor shall make changes in the completed assessment roll without the consent of the Court of Revision.

#### 24. VALIDITY AS CONFIRMED BY COURT OF REVISION

The completed assessment roll as confirmed and authenticated by the Court of Revision under section 34 is, unless changed or amended under section 25, 55, or 57, and adopted by resolution of Chief and Council under section 22, valid and binding on all parties concerned, notwithstanding any omission, defect or 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 Band, until a new roll is revised, confirmed, and authenticated by the Court of Revision.

#### 25. SUPPLEMENTARY ROLL

- (A) Where, subsequent to the completion of an assessment roll, the head assessor finds an error or omission in the assessment roll such that real property liable to assessment

- (1) was liable to assessment for the current year, but had not been assessed on the current roll; or
- (2) had been assessed for less than the amount for which it was liable to assessment,

the head assessor shall assess the real property on a supplementary roll.

- (B) Where, subsequent to the completion of an assessment roll, the assessor finds that any real property or anything liable to assessment

- (1) was liable to assessment for the current year, but had not been assessed on the roll for that year; or
- (2) had been assessed in a previous year for less than the amount for which it was liable to assessment,

he shall assess the real property on a supplementary roll for that year, but only if the failure to assess the real property or thing, or the assessment for less than it was liable to be assessed, is attributable to

.../cont.

- (i) a holder's failure to disclose; or
- (ii) a 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 By-law or any other Act or is attributable to the re-opening of a commercial or industrial undertaking, business or going concern operation that has been previously recorded as closed.

- (C) Notwithstanding sections 23, 24 and 34, and in addition to supplementary assessments under subsections (A) and (B), the head assessor may, at any time before September 30 of the year following the return of the completed assessment roll under section 21, on his own initiative or where requested by an assessor, correct errors and supply omissions in a completed assessment roll, and an assessor, where instructed by the head assessor, shall correct errors and supply omissions in the completed assessment roll by means of entries in a supplementary assessment roll.
- (D) The head 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 Assessment Review Committee or made as a result of a decision of the Federal Court of Canada.
- (E) Where, by reason of a change of ownership that occurs between August 31 and December 31 in any year, 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 (C) of this section applies.
- (F) Where in respect of any year a manufactured home has been assessed and the manufactured home is moved to a new location or is destroyed 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 (C) applies.
- (G) Where, during October, November, or December in any year a manufactured 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

.../cont.

roll completed on September 30 of that year, and subsection (C) applies.

- (H) Nothing in subsection (A), (C), or (D) authorizes the preparation of a supplementary roll, or the correction of a roll, for the purpose of changing or updating
  - (1) an assessment roll, completed as required by section 17 (A), later than 12 months after the completion of that assessment roll, or
  - (2) a revised assessment roll, completed as required by section 17 (B), later than 12 months after the completion of that revised assessment roll.

## 26. PROVISIONS APPLICABLE TO SUPPLEMENTARY ASSESSMENT ROLL

- (A) 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.
- (B) Where a notice of appeal is given in writing to the assessor on a supplementary assessment roll in accordance with section 28, the assessor shall record an appeal, and shall place the appeal before the next sitting of the Court of Revision.
- (C) Failure to enter in an assessment roll of any of the particulars required by this By-law shall not affect the liability of any person to taxation under this By-law.

## 27. ESTABLISHMENT OF COURTS OF REVISION

- (A) The Chief and Council shall by Band Council resolution each year appoint Courts of Revision to hear appeals on assessments of land and improvements.
- (B) Notwithstanding the provisions of subsection (A), the Chief and Council may appoint one or more special Courts of Revision, comprised of persons experienced in agriculture, to hear complaints in respect of the classification, or refusal of classification, of land as a farm.
- (C) The members of a Court of Revision 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 reasonable remuneration.

.../cont.

## 28. APPEALS TO COURT OF REVISION

- (A) Where a person is of the opinion that an error or omission exists in the completed assessment roll in that:
- (1) the name of a person has been wrongfully inserted in, or omitted from, the assessment roll;
  - (2) land or improvements, or both land and improvements, have been wrongfully entered on, or omitted from the assessment roll;
  - (3) land or improvements, or both land and improvements, have been valued at too high or too low an amount;
  - (4) land or improvements or both land and improvements have been improperly classified;
  - (5) an exemption has been improperly allowed or disallowed; or
  - (6) the commissioner has failed to approve an application for classification of land as a farm under section 10, or has revoked a classification of land as a farm under the regulations,

he may personally, or by a written notice signed by him, or by a solicitor, or by an agent authorized by him in the prescribed form or, if no form is prescribed for the class of complaint, authorized in writing to appear on his behalf, come before, or notify the Court of Revision and make his complaint of the error or omission, and may in general terms state his ground of complaint, and the court shall deal with the complaint, and either confirm, or alter, the assessment.

- (B) Where a person is of the opinion that an assessor made revisions to the assessment roll in a manner not authorized by section 17(B) to (F) or failed to make revisions to the assessment roll as required by section 17(B) to (F), he may complain in the same manner as in subsection (A) of this section.
- (C) For the purposes of subsection (B) of this section "person" includes a person referred to in subsection (D) of this section.
- (D) Chief and Council, or the commissioner, or the assessor, may make complaint against the assessment roll or any individual entry in the assessment roll on any ground whatever, and the Court of Revision shall deal with the complaint, and either confirm or alter the assessment.

.../cont.

- (E) Where the complainant is not the owner or holder of the property to which the complaint relates, the complainant shall include with the notice of complaint an address to which notices for the complainant may be sent.
- (F) Notice in writing of every complaint in respect of an entry in
  - (1) an assessment roll shall be delivered to the assessor not later than October 31 of the year in which the assessment roll is completed, or
  - (2) a revised assessment roll shall be delivered to the assessor not later than October 31 of the year in which the revised assessment roll is completed.
- (G) Notwithstanding subsection (F)(1), where no complaint is made within the time limit specified in subsection (F)(1) 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 October 31 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.
- (H) Notwithstanding subsections (F)(1) and (G), where no owner or 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 (F)(1), a notice of complaint in respect of that entry may be delivered to the assessor by an owner or a holder of that land not later than October 31 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.

**29. ASSESSOR TO NOTIFY OWNER WHEN COMPLAINT LODGED BY OTHERS**

- (A) Where it appears by the notice of complaint under section 28 that the complaint concerns real property owned or held by some person other than the complainant, the assessor shall promptly mail a notice to the owner or holder of the property at the address appearing on the assessment roll, giving particulars of the complaint and requiring him to attend before the Court of Revision at a time and place stated in the notice, and then the

.../cont.

complaint shall be heard and dealt with in the same manner as other complaints.

- (B) Where the complaint is against the assessment roll, the requirements of subsection (A) do not apply.

### 30. NOTICE OF HEARING

The assessor shall mail to the person, or his solicitor or agent, as the case may be, who has notified the assessor under section 28 a notice setting out the date, time, and place scheduled for the hearing of that person's complaint by the Court of Revision.

### 31. NOTICE OF DECISION

The assessor shall, before January 8 following the sitting of the Court of Revision, deliver

- (A) to

- (1) the complainant, and
- (2) the owner or holder of the property to which the complaint relates if that person is not the complainant,

a notice stating the decision of the Court of Revision, and

- (B) to the Committee a list of the properties to which the complaints heard by that Court of Revision relate.

### 32. POWERS OF COURT OF REVISION

- (A) The powers of a Court of Revision constituted under this By-law are

- (1) to meet at the dates, times, and places appointed, and to try all complaints delivered to the assessor under this By-law;
- (2) to investigate the assessment roll and the various assessments made in it, whether complained against or not, and subject to subsections (D) and (F), to adjudicate on the assessments and complaints so that the assessments shall be fair and equitable and fairly represent actual values within the municipality or rural area;

.../cont.

- (3) to direct amendments to be made in the assessment roll necessary to give effect to its decisions; and
  - (4) to confirm the assessment roll, either with or without amendment.
- (B) Any member of the Court of Revision may issue a summons in writing to any person to attend as a witness, and any member of the Court of Revision may administer an oath to a person or witness before his evidence is taken.
- (C) No increase in the amount of assessment and no change in classification shall be directed under subsection (A) until after 5 days' notice of the intention to direct the increase or change and of the time and place of holding the adjourned sittings of the Court of Revision at which the direction is to be made, has been given by the assessor to the assessed owners or 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, if he appears, shall be heard by the Court of Revision.
- (D) Subsection (C) does not apply where an increase in the amount of assessment or change in classification is directed under subsection (A) as a result of a complaint that has been tried in accordance with subsection (A)(1).
- (E) The assessment of property complained against shall not be varied if the value at which it is assessed bears a fair and just relation to the value at which similar or neighbouring property in the municipality or rural area is assessed.
- (F) Where the Court of Revision acts in relation to an entry made pursuant to section 17(B) in a revised assessment roll, it shall be the duty of the Court of Revision 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 17(B) to (F).
- (G) The Court of Revision shall appoint a chairman, who shall preside at all meetings and who may, unless otherwise provided by the Court of Revision, call meetings and regulate procedure.
- (H) The Court of Revision shall appoint a secretary, who may or may not be a member of the Court of Revision, and the secretary shall draw up and enter, in a book to be kept

.../cont.

for that purpose, the minutes of all meetings of the Court of Revision, and, together with the chairman or other member presiding, shall sign them as correct.

- (I) A majority of the members of the Court of Revision constitutes a quorum.
- (J) All questions before the Court of Revision shall be decided by a majority of the members present and the chairman votes as an ordinary member of the Court of Revision.
- (K) A Court of Revision constituted under section 27 shall hold its first sitting on a day designated by Chief and Council and shall complete its sittings not later than December 15 of that year.
- (L) The Court of Revision may adjourn its sittings from day to day or from time to time, and may also adjourn its sittings from place to place within the area of its jurisdiction, but it shall confirm and authenticate the assessment roll not later than December 31 following the first sitting.

### 33. HEARING OF APPEALS IN ORDER OF ENTRY ON LIST

- (A) A Court of Revision shall proceed with the complaints in the order, as nearly as may be, in which they are entered on the list of complaints compiled by the assessor.
- (B) Instead of proceeding in accordance with subsection (A), the Court of Revision may order the complaints to be presented and proceeded with according to designated districts or portions of the Reserve or in any other manner that the Court of Revision, in its discretion, may consider desirable.
- (C) Every order made under subsection (B) shall be posted immediately at the place in which the Court of Revision is held.
- (D) The Court may grant an adjournment or postponement of the hearing of any complaint.
- (E) The burden of proof is, in all cases, on the person complaining.



**34. AMENDMENT OF ASSESSMENT ROLL**

- (A) The chairman of a Court of Revision shall ensure that each amendment made under section 32(A)(3) is recorded as an addendum to the assessment roll and that "Court of Revision Decision" is printed as a heading on each page of the addendum.
- (B) Where there is a conflict between the assessment roll and an amendment made under section 32(A)(3), the amendment prevails.
- (C) The chairman of the Court of Revision shall ensure that, where an amendment is made under section 32(A)(3), the entry on the assessment roll completed under section (D) is identified in a prescribed manner.
- (D) A Court of Revision shall identify, confirm, and authenticate the roll by inscribing or endorsing on it or attaching to it a certificate, signed by a majority of the members of the Court of Revision.
- (E) Where the Court of Revision amends an assessment roll pursuant to a complaint made under section 28(G), the amendment referred to in subsection (A) of this section shall be made by means of an addendum to the revised assessment roll completed under section 17(B).

**35. ESTABLISHMENT OF THE ASSESSMENT REVIEW COMMITTEE**

- (A) The Chief and Council by Band Council Resolution shall each year establish an Assessment Review Committee which shall consist of:
  - (1) one person who is or was duly qualified to practise law in the Province of British Columbia, or who is or was a Judge of a Provincial or Supreme Court in the Province of British Columbia;
  - (2) one person who has sat as member of an appeal committee to review assessments in and for the Province of British Columbia;
  - (3) one person who is a member of the Kwaw Kwaw Apilt Indian Band or who is an agent of the Band who does not have any conflict of interest in any real property assessment to which an appeal relates, as set out in Section 41; and

.../cont.

- (4) notwithstanding anything above stated in this section, one of the above three persons shall be an accredited appraiser or a retired accredited appraiser.
- (B) The Chief and Council shall establish the terms of appointment, duties, and remuneration of members.
- (C) A member of the Committee shall be paid his reasonable travelling and out of pocket expenses for his attendance to hear appeals or at any meeting of the Committee.

### 36. DUTIES OF COMMITTEE

- (A) The Assessment Review Committee as established pursuant to section 35, shall:
  - (1) hear all appeals from assessment notices;
  - (2) investigate and advise Chief and Council upon assessments, classes of assessments, and assessment rolls which the Committee deems necessary;
  - (3) select a chairman of the Committee who shall supervise and direct the work of the Committee;
  - (4) give all appellants at least ten days notice of the time and place for the hearing of appeals;
  - (5) have the custody of all records, documents, evidence, and proceedings before the Assessment Review Committee;
  - (6) have control of its own proceedings in order to fairly and adequately determine any appeal, including the power to require the attendance of any person to give evidence at the hearing of the appeal; and
  - (7) where an appeal relates to real property of which a person other than the appellant is the holder, give each such person not less than ten days notice of the time, date, and place fixed for the hearing by the Assessment Review Committee of the appeal, and the notice shall specify the nature of the appeal.
- (B) In performing its duties under this By-law the Assessment Review Committee shall:
  - (1) ensure that the assessments and assessment rolls are equitable and that they represent fairly the assessment values provided for in this By-law;
  - (2) act impartially, fairly, and reasonably, to the best of their skill and ability.

.../cont.

- (C) The members of the Committee may respectively administer oaths in the course of a proceeding or in connection with their official duties.
- (D)
  - (1) An appeal to and an inquiry and hearing by the Committee shall be governed by rules adopted by the Committee.
  - (2) For a hearing, the Committee or member conducting the hearing is not bound by the legal or technical rules of evidence, and the Committee, or member may, at its or his discretion, accept and act on evidence by affidavit or by written statement or by the report of any officer appointed by the Committee, or member, or obtained in any manner the Committee, or member thinks suitable.
- (E) The Committee may appoint or direct a person to make an inquiry and report on a matter pending before the Committee, or a matter or thing over which the Committee has jurisdiction under this By-law, or any other By-law.
- (F) The Chief and Council may by Band Council Resolution establish procedures for the conduct of the proceedings of the Assessment Review Committee which shall not be inconsistent with this By-law.

### 37. PARTIES

The head assessor, or his designate, shall be a party to all appeal proceedings under this By-law and the Assessment Review Committee shall give the head assessor notice of any appeal and reasonable opportunity to be heard at any appeal proceedings.

### 38. CHAIRMAN

- (A) The Chairman of an Assessment Review Committee shall:
  - (1) supervise and direct the work of the Assessment Review Committee; and
  - (2) preside at sittings of the Assessment Review Committee.

**39. SECRETARY**

- (A) There shall be a Secretary of the Assessment Review Committee, who shall be appointed by the Chief and Council.
- (B) The Secretary of the Assessment Review Committee shall:
  - (1) have the custody and care of all records, regulations, documents, and orders made by or pertaining to the Committee; and
  - (2) obey the directions given to him by the Chairman or the Committee relating to his office.

**40. QUORUM AND VACANCY**

- (A) A majority of the members of the Assessment Review Committee constitutes a quorum.
- (B) Where a quorum of the members of an Assessment Review Committee is not present at the time at which a hearing is to be held, the hearing shall be adjourned to the next day that is not a holiday, and so on from day to day until there is a quorum.
- (C) All questions respecting the revision of an assessment roll and the deciding of any appeals with respect thereto shall be decided by a majority vote of the members of the Assessment Review Committee at the hearing.

**41. CONFLICT OF INTEREST**

- (A) Any person having a direct or indirect financial interest in any real property assessment to which an appeal relates is disqualified from sitting as a member of an Assessment Review Committee hearing the appeal.
- (B) This section applies to Chief and Council.
- (C) For the purpose of this section, the appellant or a member of his immediate family shall be deemed to be disqualified pursuant to subsection (A) hereof.
- (D) Where any member of the Assessment Review Committee is disqualified by virtue of subsection (A) the Chief and Council shall appoint a new member to the Committee, for the purpose of hearing that appeal only.

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**42. DATE FOR SITTINGS**

- (A) The Chief and Council shall prescribe by Band Council Resolution annually the date on which the Assessment Review Committee shall commence its sittings.
- (B) The head assessor shall deliver the assessment roll to the Assessment Review Committee on or before the date upon which the Committee commences its sittings.

**43. WITNESSES AND DOCUMENTS**

- (A) The Assessment Review Committee may request the attendance of witnesses and the production and inspection of documents.
- (B)
  - (1) A party to any appeal proceedings before the Assessment Review Committee may request that a notice, be served by any member of the Committee, requesting the attendance of any person as a witness to give evidence at the hearing of the appeal;
  - (2) The notice shall be signed by the member of the Committee who issues it and shall be served on the witness by the party at least two days before the appeal.
- (C) Every witness served with a notice under subsection (B) shall be paid reasonable travelling expenses to attend and give evidence before the Assessment Review Committee, on the time and date set out in the notice.
- (D) A copy of an official document and order filed in the office of the Committee, certified by the chairman or secretary under the official seal of the Committee to be a true copy of the original, is evidence in the same manners the original in all courts of the Province, and is, without proof of the signature, evidence in all courts of the Province.
- (E) A person may, on payment of reasonable fee, obtain from the secretary a certified copy of an order or regulation of the Committee, but the collector, commissioner, or an assessor shall be entitled to receive a certified copy of an order or regulation without charge.

**44. HEARING OF APPEALS**

- (A) The Assessment Review Committee 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.
- (B) An Assessment Review Committee may hear an appeal, whether the appellant is present or not.
- (C) An Assessment Review Committee may, after hearing an appeal, postpone consideration thereof to some future time and the appellant shall, if required by the Committee, produce all relevant books, papers, and documents and answer all proper questions and give all necessary information affecting the property or matter under consideration.
- (D) Where there is default in doing any act, matter, or thing that the Committee directs to be done by the commissioner or other person referred to in section 46(B), the Committee may authorize the person it considers necessary to do the act, matter or thing, and the person so authorized may do the act, matter, or thing, and any expense incurred by him may be recovered from the British Columbia Assessment Authority where the head assessor or its employee is in default, or otherwise from the collector in default, as money paid for and at the request of the person in default, and the certificate of the Committee of the amount so expended is conclusive proof of the fact.

**45. ONUS OF PROOF**

In any appeal proceedings, the onus of proof is on the person bringing the appeal to establish that the assessed value of the property should be different from the value determined by the assessor.

**46. POWERS OF COMMITTEE**

The Committee:

- (A) has jurisdiction to hear all assessment appeals from the Courts of Revision established by this By-law;
- (B) may direct the commissioner and any other person appointed under the Assessment Authority Act (R.S.B.C.

.../cont.

1979, C. 22) or amendments thereto and any Band, Provincial, or Federal official to make returns to the Committee on matters of assessment in any form it may consider necessary to assist the Committee in its decisions; and

- (C) may make rules, not inconsistent with this By-law, for its own government and for conducting hearings and proceedings before it.

#### 47. INSPECTION POWERS OF COMMITTEE

The Committee, or a person authorized by it to make any inquiry or report, may:

- (A) enter on and inspect any land or 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.

#### 48. COPIES OF COMMITTEE'S DOCUMENTS

A copy of an official document and order filed in the office of the Committee, certified by the chairman or secretary under the official seal of the Committee to be a true copy of the original, is evidence in the same manner as the original in all courts, and is, without proof of the signature, evidence in all courts.

#### 49. APPEALS TO COMMITTEE

- (A) Where a person, including the Band, the commissioner, or the assessor, is dissatisfied with the decision of a Court of Revision, or with the omission or refusal of the Court of Revision to hear or determine the complaint on the completed assessment roll, he may appeal from the Court of Revision to the Committee.
- (B) The assessor, at the time that he notifies a complainant of the decision of the Court of Revision in respect of his complaint, shall also notify him that he may appeal

.../cont.

the decision of the Court of Revision to the Committee and advise him of the procedure to be followed in respect of an appeal.

50. PROCEDURE ON APPEAL TO COMMITTEE

- (A) The last day for starting an appeal under section 50 is January 31 following the sitting of the Court of Revision whose decision, omission, or refusal respecting property is being appealed.
- (B) An appeal is started by serving on the Committee or sending by registered mail to the Committee a written notice of appeal that states the grounds of the appeal.
- (C) An appellant must include the prescribed fee with the notice of appeal.
- (D) Where the Committee receives a notice of appeal, it shall, before February 16 following the date referred to in subsection (A), send a copy of the notice of appeal to each of the following who is not the appellant:
  - (1) the owner or holder of the property;
  - (2) the assessor;
  - (3) the collector;
  - (4) the commissioner;
  - (5) the complainant at the Court of Revision, if that person is not a person referred to in paragraphs (1) to (4).
- (E) The chairman of the Committee shall set a time, date, and place for hearing the appeal, and shall give notice of this to the appellant and to those persons notified under subsection (D).
- (F) In addition to the appellant, the following may be a party to the appeal:
  - (1) the persons notified under subsection (D);
  - (2) any other person affected by the appeal who is accepted as a party by the Committee or the panel or member conducting the appeal.
- (G) The assessor shall attend at the appeal hearing with
  - (1) a copy of the assessment roll,

.../cont.



- (2) the minutes of the Court of Revision relating to the property in respect of which the appeal is made, and
  - (3) all other records in the assessor's possession or under the assessor's control relating to the appeal.
- (H) A party to the appeal may
- (1) call witnesses and may present other evidence at the hearing, and
  - (2) apply to the Committee for an order that another person attend at the appeal hearing to
    - (i) give evidence as a witness, and
    - (ii) produce records in that person's possession or in that person's control relating to the appeal.
- (I) The appeal may be heard and decided whether or not any party to the appeal is present at the appeal hearing.
- (J) For the purposes of subsection (C), Chief and Council may prescribe by By-law different levels of fees for
- (1) different classes of property,
  - (2) different assessed values of property, and
  - (3) different appeals by the same appellant respecting assessments recorded on the assessment roll.

#### 51. WHEN COMMITTEE MAY VARY ASSESSMENT

- (A) In an appeal under this By-law the Committee has and may exercise with reference to the land or improvements, or both, in respect of which the appeal is made, all the powers of the Court of Revision, and without restricting the generality of the foregoing, the Committee may determine, and make an order accordingly,
- (1) whether or not the land or improvements, or both, have been valued at too high or too low an amount;
  - (2) whether or not the land or improvements, or both, have been properly classified;
  - (3) whether or not an exemption has been properly allowed or disallowed;
  - (4) whether or not the land or improvements, or both, have been wrongfully entered on or omitted from the assessment roll;

.../cont.

- (5) whether or not the value at which an individual parcel under consideration is assessed bears a fair and just relation to the value at which similar land and improvements are assessed in the Reserve; and
  - (6) whether or not the commissioner has erred in failing to approve an application for classification of land as a farm under section 10, or in revoking a classification of land as a farm.
- (B) Where an appeal is in respect of an entry in a revised assessment roll, it shall, notwithstanding subsection (A), be the duty of the Committee 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 17(B) to (F)
- (C) Where, on the appeal, the Committee finds that the assessed value of land and improvements in a Reserve is in excess of assessed value as determined under section 6, it may order a reassessment by the commissioner in all or part of the Reserve, and the reassessment, on approval by the Committee, shall, subject to section 57, be binding on the Reserve, as the case may be.

## 52. APPEAL INCLUDES BOTH LAND AND IMPROVEMENTS

An appeal under this part shall be deemed to be in respect of both land and improvements and, at the request of a party to the appeal, the Committee shall take evidence with respect to, and determine the assessment of, both land and improvements in accordance with section 51.

## 53. COMMITTEE MAY REOPEN ROLL

- (A) On an appeal, on any ground, from the decision of the Court of Revision in respect of the assessment of property, the Committee may reopen the whole question of the assessment on that property, so that omissions from, or errors in, the assessment roll may be corrected, and an accurate entry of assessment for that property and the person to whom it is assessed may be placed on the assessment roll by the Committee.

- (B) Where an appeal is from a decision of the Court of Revision in respect of an entry in a revised assessment roll, it shall, notwithstanding subsection (A), be the duty of the Committee 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 17(B) to (F)

#### 54. APPORTIONMENT OF COSTS

The Committee may order that reasonable costs of a proceeding before the Committee shall be paid by or apportioned between the persons affected by the appeal in the manner it thinks fit.

#### 55. REPORT BY COMMITTEE TO ASSESSOR

- (A) The Committee shall deliver a copy of each decision on an appeal to
- (1) the parties to the appeal,
  - (2) the commissioner, if the commissioner was not a party,
  - (3) the chairman of the Court of Revision whose decision, omission, or refusal was appealed, if the appeal was made under section 49(A), and
  - (4) the collector.
- (B) An addendum under subsection (A) shall have "Assessment Appeal Committee Decision" printed on it as a heading.
- (C) Where there is a conflict between the authenticated assessment roll and an amendment made under this section, the amendment prevails.
- (D) The assessor shall promptly, on receiving a copy of a decision of the Committee referred to in subsection (A),
- (1) make the changes, if any, ordered to be made in the assessment roll by means of an addendum to the assessment roll,
  - (2) attach a copy of the decision to the assessment roll, and
  - (3) file a copy of the decision for the inspection of any ratepayer, free of charge.

.../cont.

- (E) The assessment roll as finally completed and signed is, subject to further appeal from the Committee permitted by this By-law on a point of law, final, and conclusive.
- (F) There is a further right of appeal from the Assessment Review Committee to the Federal Court of Canada.
- (G) The notice given under subsection (A) shall state that the appellant has a further right of appeal to the Federal Court of Canada.

**56. PROCEDURE ON APPEAL ON LAW TO FEDERAL COURT OF CANADA**

- (A) At any stage of the proceedings before it, the Committee, on its own initiative or at the request of one or more of the persons affected by the appeal, may submit, in the form of a stated case for the opinion of the Federal Court of Canada, a question of law arising in the appeal, and shall suspend the proceedings and reserve its decision until the opinion of the final court of appeal has been given and then the Committee shall decide the appeal in accordance with the opinion.
- (B) A person affected by a decision of the Committee on appeal, including the collector, the commissioner, or an assessor acting with the consent of the commissioner, may require the Committee to submit a case for the opinion of the Federal Court on a question of law only by
  - (1) delivering to the Committee, within 21 days after his receipt of the decision, a written request to state a case; and
  - (2) delivering, within 21 days after his receipt of the decision, to all persons affected by the decision, a written notice of his request to the Committee to state a case to the Federal Court.
- (C) The Committee shall, within 21 days after receiving the notice under subsection (B), submit the case in writing to the Federal Court.
- (D) The costs of and incidental to a stated case shall be at the discretion of the Federal Court.
- (E) Where a case is stated, the secretary of the Committee shall promptly file the case, together with a certified copy of the evidence dealing with the question of law taken during the appeal, in the Federal Court Registry.

.../cont.

**57. ACTION BY COMMITTEE ON RECEIPT OF COURT'S DECISION**

After receipt of the decision of the Court on an appeal or a stated case, the Committee shall, if the opinion is at variance with the conclusion at which it had itself arrived, direct the assessor to make the necessary amendment to the assessment roll in accordance with the decision.

**58. GENERAL PROVISIONS**

- (A) The Chief and Council may by Band Council Resolution extend the time which anything is required to be done under this By-law and anything done within this period of time is as valid as if it had been done within the time otherwise provided for by this By-law.
- (B) Where a provision in this By-law is expressed in the present tense, the provision applies to the circumstances as they arise.
- (C) 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.
- (D) Head notes, marginal notes, and headings form no part of the enactment, but shall be construed as being inserted for convenience of reference only.
- (E) A finding by a court that a provision of this By-law is void or invalid shall not affect the validity or invalidity of the rest of the By-law.
- (F) Wherever the singular of masculine is used throughout this By-law, the same shall be constructed as meaning the plural or the feminine.
- (G) Where there is a conflict between this By-law and any other Act or By-law, the provisions of this By-law prevail over the other By-laws or Acts.

**59. AMENDMENTS**

Any section of this By-law may be amended by a by-law of Chief and Council and approved by the Minister.

**60. DELIVERY OF NOTICES**

- (A) Where any notice, notifications, demand, statement, or direction is required or permitted to be delivered or given under this By-law, it shall be sufficient if mailed by registered mail, postage pre-paid, or delivered personally to:
- (1) the address of the person set forth in the assessment roll, or
  - (2) such other address of which the assessor has received notice.
- (B) Any notice, demand, statement, or direction shall be conclusively deemed to have been received on the second business day following the mailing thereof.
- (C) Where an assessor has not received written or verbal notice of the address of a person and his address is not set forth in the assessment roll, the assessor may deliver any notice to that person by publishing it in one edition of the local newspaper and such publication shall be deemed to be sufficient notice on the date of its publication thereof.

**61. TRANSITIONAL PROVISIONS**

- (A) In the event that an assessment roll is required for the 1992 taxation year Chief and Council shall adopt by Band Council Resolution the 1991/1992 assessments of the band lands as prepared by the B.C. Assessment Authority for municipal and provincial purposes, with such revisions as shall be necessary to create a revised assessment roll and notices in accordance with the terms of this By-law.
- (B) For the purposes of the creation of the 1991 revised assessment roll, and for that roll only, the following interim provisions apply:
- (1) in section 2 the definition of "assessment year" is changed to "assessment year" means the 1991 taxation year',
  - (2) in section 9(A)(5) the words "except in respect of land that has a higher and better use than use for a right-of-way" shall be inserted after the words "subsection (2)",

.../cont.

- (3) in section 17(B) the words "not later than September 30 in each odd numbered year" shall be replaced with the words "not later than January 8, 1992", and the word "following" shall be replaced with "1992",
- (4) in section 25(C) the word "following" shall be replaced with the word "of",
- (5) in section 25(E) the words "in any year" shall be replaced with the word "1991" and the words "in that year" shall be replaced with the words "for 1992",
- (6) in section 25(F) the words "September 30 of that year" shall be replaced with "September 1991" and the words "in that year" shall be replaced with "for 1992",
- (7) in section 25(G) the words "in any year" shall be replaced with the words "in 1991" and the words "on September 30 of that year" shall be replaced with "for 1992",
- (8) in section 25(H)(2) the words "later than 12 months after the completion of that revised assessment roll" shall be replaced with the words "later than September 30, 1992",
- (9) in section 28(F)(2) the words "October 31" shall be replaced with the words "January 31",
- (10) in section 31 the words "January 8" shall be replaced with the words "March 19",
- (11) in section 32(K) the words "December 15" shall be replaced with the words "March 12",
- (12) in section 32(L) the words "December 31" shall be replaced with the words "March 19",
- (13) in section 50(A) the words "January 31" shall be replaced with "April 15", and
- (14) in section 50(D) the words "February 16" shall be replaced with "May 1",

but in all other respects the provisions of this By-law shall be in full force and effect for the purposes of any assessment roll created for the 1992 taxation year.

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62. DATE IN FORCE

This By-law is in force from the date of the approval of the Minister.

Approved by Chief this 13 day of August, 1991.

Harold Henry  
Chief