

_____ **FIRST NATION**
PROPERTY ASSESSMENT BY-LAW, 20__
(BRITISH COLUMBIA)

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WHEREAS:

A. Pursuant to paragraph 83(1)(a) of the *Indian Act*, the council of a first nation may make by-laws for the purpose of taxation for local purposes of land, or interests in land, in the reserve, including rights to occupy, possess or use land in the reserve; and

B The Council of the _____ First Nation deems it to be in the best interests of the First Nation to make a by-law for such purposes;

NOW THEREFORE the Council of the _____ First Nation duly enacts as follows:

PART I
CITATION

Citation

1. This By-law may be cited as the _____ *First Nation Property Assessment By-law, 20__*.

PART II DEFINITIONS AND REFERENCES

Definitions and References

2.(1) In this By-law,

“assessable property” means property that is liable to assessment under this By-law;

“assessed value” means the market value of an interest in land or improvements, or both, as if the land or improvements were held in fee simple off the reserve, as determined under this By-law;

“assessment” means a valuation and classification of an interest in land;

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

“Assessment Review Board” means a board established by Council in accordance with section 20;

“assessment roll” means a roll prepared pursuant to this By-law and includes a supplementary assessment roll and a revised assessment roll prepared pursuant to this By-law;

“assessor” means a person appointed by Council under subsection 3(1);

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

“complainant” means a person who commences an appeal of an assessment under this By-law;

“Council” has the meaning given to that term in the *Indian Act*;

“First Nation” means the _____ First Nation, being a band as defined under the *Indian Act*;

“holder” means a person in possession of an interest in land or a person who, for the time being,

- (a) is entitled through a lease, licence or other legal means to possess or occupy the interest in land,
- (b) is in actual occupation of the interest in land,
- (c) has any right, title, estate or interest in the interest in land, or
- (d) is a trustee of the interest in land;

“improvement” means any building, fixture, structure or similar thing constructed, placed or affixed on, in or to land, or water over land, or on, in or to another improvement and includes a manufactured home;

“interest in land” or “property” means land or improvements, or both, in the reserve and, without limitation, includes any interest in land or improvements, any occupation, possession or use of land or improvements, and any right to occupy, possess or use land or improvements;

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

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

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

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

- “Notice of Hearing” means a notice containing the information set out in Schedule IX;
- “Notice of Withdrawal” means a notice containing the information set out in Schedule VIII;
- “Order to Attend Hearing/Produce Documents” means notice containing the information set out in Schedule X;
- “party”, in respect of an appeal of an assessment under this By-law, means the parties to an assessment appeal under section 31;
- “person” includes a partnership, syndicate, association and corporation, and the personal or other legal representatives of a person;
- “property class” means those categories of property established in subsection 5(10) for the purposes of assessment and taxation;
- “Province” means the province of British Columbia;
- “Request for Information” means a notice containing the information set out in Schedule II;
- “reserve” means any land set apart for the use and benefit of the First Nation within the meaning of the *Indian Act*;
- “resolution” means a motion passed and approved by a majority of Council present at a duly convened meeting;
- “revised assessment roll” means an assessment roll amended in accordance with this By-law;
- “secretary” means the secretary of the Assessment Review Board appointed under subsection 25(1);
- “supplementary assessment roll” means an assessment roll under section 18;
- “tax administrator” means the person appointed by Council to that position under the Taxation By-law;
- “Tax Notice” has the meaning given to that term in the Taxation By-law;
- “Taxation By-law” means the _____ *First Nation Property Taxation By-law, 20__*;
- “taxation year” means the calendar year to which an assessment roll applies for the purposes of taxation; and
- “taxes” includes all taxes imposed, levied, assessed or assessable under the Taxation By-law, and all penalties, interest and costs added to taxes under the Taxation By-law.

(2) In this By-law, references to a Part (e.g. Part I), section (e.g. section 2), subsection (e.g. subsection 3(1)) paragraph (e.g. paragraph 5(8)(a)) or Schedule (e.g. Schedule I) is a reference to the specified Part, section, subsection, paragraph or Schedule of this By-law, except where otherwise stated.

PART III ADMINISTRATION

Assessor

3.(1) Council must appoint one or more assessors to undertake assessments of assessable property in accordance with this By-law and such other duties as set out in this By-law or as directed by Council.

(2) An assessor appointed by Council must be qualified to conduct assessments of real property in the Province.

Application of By-law

4. This By-law applies to all interests in land.

PART IV
ASSESSED VALUE

Assessment and Valuation

5.(1) The assessor must assess all interests in land that are subject to taxation under the Taxation By-law and all interests in land for which payments-in-lieu may be accepted by Council.

(2) For the purpose of determining the assessed value of an interest in land for an assessment roll, the valuation date is July 1 of the year during which the assessment roll is completed.

(3) Where a lease or other instrument granting an interest in land places a restriction on the use of the property, other than a right of termination or a restriction on the duration of the interest in land, the assessor must consider the restriction.

(4) The assessed value of an interest in land for an assessment roll is to be determined as if on the valuation date

(a) the interest in land was in the physical condition that it is in on October 31 following the valuation date; and

(b) the permitted use of the interest in land was the same as on October 31 following the valuation date.

(5) Subsection (4) does not apply to property referred to in paragraphs 17(3)(b) and (d) and the assessed value of property referred to in those paragraphs for an assessment roll must be determined as if on the valuation date the property was in the physical condition that it is in on December 31 following the valuation date.

(6) Except where otherwise provided, the assessor must assess interests in land at their market value as if held in fee simple off the reserve.

(7) The assessor must determine the assessed value of an interest in land and must enter the assessed value of the interest in land in the assessment roll.

(8) In determining assessed value, the assessor may, except where this By-law has a different requirement, give consideration to the following:

(a) present use;

(b) location;

(c) original cost;

(d) replacement cost;

(e) revenue or rental value;

(f) selling price of the interest in land and comparable interests in land;

(g) economic and functional obsolescence; and

(h) any other circumstances affecting the value of the interest in land.

(9) Without limiting the application of subsections (6) and (7), an interest in land used for an industrial or commercial undertaking, a business or a public utility enterprise must be valued as the property of a going concern.

(10) Council hereby establishes the property classes established by the Province for provincial property assessment purposes, for the purposes of assessment under this By-law and imposing taxes under the Taxation By-law.

(11) The property classes established under subsection (10) are set out in Schedule I to this By-law,

and the classification criteria for each property class shall be determined using the corresponding provincial classification rules.

(12) As an exception to subsection (11), Class 7 (forest land) must include only lands respecting which a licence or permit to cut timber has been issued under the *Indian Act*.

(13) The assessor must assess interests in land according to the property classes established under this By-law.

(14) Where a property falls into two (2) or more property classes, the assessor must determine the share of the assessed value of the property attributable to each class and assess the property according to the proportion each share constitutes of the total assessed value.

(15) Where two (2) or more persons are holders of assessable property, the assessor may choose to assess the property in the name of any of those persons or in the names of two (2) or more of those persons jointly.

(16) If a building or other improvement extends over more than one (1) property, those properties, if contiguous, may be treated by the assessor as one property and assessed accordingly.

(17) Where an improvement extends over, under or through land and is owned, occupied, maintained, operated or used by a person other than the holder of the land, that improvement may be separately assessed to the person owning, occupying, maintaining, operating or using it, even though some other person holds an interest in the land.

(18) Except as otherwise provided in this By-law, for the purposes of assessing interests in land the assessor must use

- (a) the valuation methods, rates, rules and formulas established under provincial assessment legislation existing at the time of assessment; and
- (b) the assessment rules and practices used by assessors in the Province for conducting assessments off the reserve.

Exemption from Assessment

6. Notwithstanding any other provision in this By-law, improvements designed, constructed or installed to provide emergency protection for persons or domestic animals in the event of a disaster or emergency within the meaning of the *Emergency Program Act* (British Columbia) are exempt from assessment under this By-law.

PART V

REQUESTS FOR INFORMATION AND INSPECTIONS

Requests for Information

7.(1) The assessor may deliver a Request for Information to a holder or a person who has disposed of assessable property, and that person must provide to the assessor, within fourteen (14) days from the date of delivery or a longer period as specified in the notice, information for any purpose related to the administration of this By-law.

(2) A person who receives a Request under subsection (1) must, within the time set out in the Request, provide to the assessor all the information required that is within the person's knowledge and produce all the documents required that are within the person's possession or control.

Inspections

8.(1) The assessor may, for any purposes related to assessment, enter into or on and inspect land and improvements.

(2) Where the assessor wishes to conduct an inspection of assessable property for the purpose of assessing its value, the assessor must deliver a Notice of Assessment Inspection by personal delivery, mail, fax or e-mail to the person named on the assessment roll at the address indicated on the assessment roll.

(3) Personal delivery of a Notice of Assessment Inspection is made

(a) in the case of delivery to a residential dwelling, by leaving the notice with a person at least eighteen (18) years of age residing there; and

(b) in the case of delivery to any other assessable property, by leaving the notice with the person apparently in charge, at the time of delivery, on those premises.

(4) A Notice of Assessment Inspection is considered to have been delivered

(a) if delivered personally, at the time personal delivery is made;

(b) if sent by mail, five (5) days after the day on which the notice is postmarked;

(c) if sent by fax, at the time indicated on the confirmation of transmission; and

(d) if sent by e-mail, at the time indicated in the electronic confirmation that the e-mail has been opened.

(5) Where an assessable property is occupied by a person other than the person named on the assessment roll, the person named on the assessment roll must make arrangements with the occupant to provide access to the assessor.

(6) Unless otherwise requested by the person named on the assessment roll, inspections of an assessable property must be conducted between 09:00 and 17:00 local time.

(7) If the assessor attends at an assessable property to inspect it and no occupant eighteen (18) years of age or older is present or permission to inspect the property is denied, the assessor may assess the value of the assessable property based on the information available to the assessor.

(8) As part of an inspection under this section, the assessor must be given access to, and may examine and take copies of and extracts from, the books, accounts, vouchers, documents and appraisals respecting the assessable property and the occupant must, on request, furnish every facility and assistance required for the entry and examination.

PART VI

ASSESSMENT ROLL AND ASSESSMENT NOTICE

Assessment Roll

9.(1) On or before December 31 of each year [OR January 31 of each taxation year (if not using BC Assessment)], the assessor must complete a new assessment roll containing a list of every interest in land that is liable to assessment under this By-law.

(2) The assessment roll must be in paper or electronic form and must contain the following information:

(a) the name and last known address of the holder of the interest in land;

(b) a short description of the interest in land;

(c) the classification of the interest in land;

(d) the assessed value by classification of the interest in land;

(e) the total assessed value of the interest in land;

- (f) the net assessed value of the interest in land subject to taxation under the Taxation By-law; and
- (g) any other information the assessor considers necessary or desirable.

Certification by Assessor

10. On completion of an assessment roll and on or before December 31 in that year [OR January 31 of each taxation year], the assessor must

- (a) certify in writing in substantially the form set out in Schedule XI that the assessment roll was completed in accordance with the requirements of this By-law; and
- (b) deliver a copy of the certified assessment roll to Council.

Assessor to Prepare and Certify Revised Assessment Roll

11.(1) No later than March 31 after the certification of the assessment roll under section 10, the assessor must

- (a) modify the assessment roll to reflect all corrections of errors and omissions, and decisions received by the assessor from the Assessment Review Board;
- (b) date and initial amendments made to the assessment roll under this section; and
- (c) prepare a revised assessment roll.

(2) On completion of the revised assessment roll, the assessor must

- (a) certify in writing in substantially the form set out in Schedule XI that the revised assessment roll was completed in accordance with the requirements of this By-law; and
- (b) deliver a copy of the certified revised assessment roll to Council and to the chair.

(3) On certification under this section, the revised assessment roll becomes the assessment roll for the taxation year and is deemed to be effective as of the date the assessment roll was certified under section 10.

Validity of Assessment Roll

12. An assessment roll is effective on certification and unless amended in accordance with this By-law, by a decision of the Assessment Review Board or by an order of a court of competent jurisdiction, is

- (a) valid and binding on all parties concerned, despite
 - (i) any omission, defect or error committed in, or with respect to, the assessment roll,
 - (ii) any defect, error or misstatement in any notice required, or
 - (iii) any omission to mail any notice required; and
- (b) for all purposes, the assessment roll of the First Nation until the next certified assessment roll or certified revised assessment roll.

Inspection and Use of Assessment Roll

13.(1) On receipt by Council, the assessment roll is open to inspection in the First Nation office by any person during regular business hours.

(2) A person must not, directly or indirectly, use the assessment roll or information contained in the assessment roll to

- (a) obtain names, addresses or telephone numbers for solicitation purposes, whether the solicitations are made by telephone, mail or any other means; or
- (b) harass an individual.

(3) The tax administrator may require a person who wishes to inspect the assessment roll to complete

a declaration in substantially the form set out in Schedule IV

- (a) specifying the purpose for which the information is to be used; and
- (b) certifying that the information contained in the assessment roll will not be used in a manner prohibited under this section.

Protection of Privacy in Assessment Roll

14.(1) On application by a holder, the tax administrator may omit or obscure the holder's name, address or other information about the holder that would ordinarily be included in an assessment roll if, in the tax administrator's opinion, the inclusion of the name, address or other information could reasonably be expected to threaten the safety or mental or physical health of the holder or a member of the holder's household.

(2) Where the tax administrator omits or obscures information under subsection (1), such information must be obscured from all assessment rolls that are available for public inspection under subsection 13(1) or are otherwise accessible to the public.

Chargeholders

15.(1) Any person holding a charge on assessable property may, at any time, give notice with full particulars of the nature, extent and duration of the charge, to the assessor and request that the assessor add his or her name to the assessment roll in respect of that assessable property for the duration of the charge.

(2) On receipt of a notice and request under subsection (1), the assessor must enter the person's name and address on the assessment roll and provide copies of all Assessment Notices issued in respect of the assessable property.

Assessment Notice

16.(1) The tax administrator [Note to First Nation: can insert "assessor" instead] must, on or before December 31 of each year [OR January 31 of each taxation year], mail an Assessment Notice to every person named in the assessment roll in respect of each assessable property, at the person's address on the assessment roll.

(2) Where requested by the recipient, an Assessment Notice may be e-mailed to a person named on the assessment roll, and the Assessment Notice will be deemed to have been delivered on the date that the e-mail is sent by the tax administrator [assessor].

(3) A person whose name appears in the assessment roll must give written notice to the tax administrator [assessor] of any change of address.

(4) Any number of interests in land assessed in the name of the same holder may be included in one Assessment Notice.

(5) If several interests in land are assessed in the name of the same holder at the same value, the Assessment Notice may clearly identify the property assessed, without giving the full description of each property as it appears in the assessment roll.

(6) The tax administrator [assessor] must provide, to any person who requests it and pays to the assessor the fee of six dollars (\$6), the information contained in the current Assessment Notice sent by the tax administrator [assessor].

(7) Where information has been omitted or obscured under subsection 14(1), the assessor must omit that information from a notice provided under subsection (6).

PART VII
ERRORS AND OMISSIONS IN ASSESSMENT ROLL

Amendments by Assessor

17.(1) Before March 16 in each year after the certification of an assessment roll under section 11, the assessor must notify and recommend correction to the Assessment Review Board of all errors or omissions in the assessment roll, except those errors or omissions corrected under subsection (2) or section 18.

(2) Before March 16 in each year after the certification of an assessment roll under section 11, the assessor may amend an individual entry in the assessment roll to correct an error or omission, with the consent of the

- (a) holder of the interest in land; and
- (b) the complainant, if the complainant is not the holder.

(3) Without limiting subsection (1), the assessor must give notice to the Assessment Review Board and recommend correction of the assessment roll in any of the following circumstances:

- (a) because of a change in a holder that occurs before January 1 in a taxation year that is not reflected in the certified assessment roll and that results in
 - (i) land or improvements, or both, that were not previously subject to taxation become subject to taxation, or
 - (ii) land or improvements, or both, that were previously subject to taxation cease to be subject to taxation;
- (b) after October 31 and before the following January 1, a manufactured home is moved to a new location or destroyed;
- (c) after October 31 and before the following January 1, a manufactured home is placed on land that has been assessed or the manufactured home is purchased by the holder of land that has been assessed; and
- (d) improvements, other than a manufactured home, that
 - (i) are substantially damaged or destroyed after October 31 and before the following January 1, and
 - (ii) cannot reasonably be repaired or replaced before the following January 1.

(4) Except as provided in section 18, or pursuant to an order of a court of competent jurisdiction, the assessor must not make any amendments to the assessment roll after March 31 of the current taxation year.

(5) Where the assessment roll is amended under subsection (1), the assessor must mail an amended Assessment Notice to every person named in the assessment roll in respect of the interest in land affected.

Supplementary Assessment Roll

18.(1) If, after the certification of the revised assessment roll or where there is no revised assessment roll, after March 31, the assessor finds that any interest in land

- (a) was liable to assessment for the current taxation year, but has not been assessed on the current assessment roll, or
- (b) has been assessed for less than the amount for which it was liable to assessment,

the assessor must assess the interest in land on a supplementary assessment roll, or further supplementary assessment roll, in the same manner that it should have been assessed on the current

assessment roll, provided that a supplementary assessment roll under this section must not be prepared after December 31 of the taxation year in which the assessment roll certified under section 10 applies.

(2) If, after the certification of the revised assessment roll or where there is no revised assessment roll, after March 31, the assessor finds that an interest in land

(a) was liable to assessment for a previous taxation year, but has not been assessed on the assessment roll for that taxation year, or

(b) has been assessed in a previous taxation year for less than the amount for which it was liable to assessment,

the assessor must assess the interest in land on a supplementary assessment roll, or further supplementary assessment roll, in the same manner that it should have been assessed, but only if the failure to assess the interest in land, or the assessment for less than it was liable to be assessed, is attributable to

(c) a holder's failure to disclose,

(d) a holder's concealment of particulars relating to assessable property,

(e) a person's failure to respond to a request for information under subsection 7(1), or

(f) a person's making of an incorrect response to a request for information under subsection 7(1),

as required under this Law.

(3) In addition to supplementary assessments under subsections (1) and (2), the assessor may, at any time before December 31 of the taxation year in which the assessment roll certified under section 10 applies, correct errors and omissions in the assessment roll by means of entries in a supplementary assessment roll.

(4) The duties imposed on the assessor with respect to the assessment roll and the provisions of this By-law relating to assessment rolls, so far as they are applicable, apply to supplementary assessment rolls.

(5) Where the assessor receives a decision of the Assessment Review Board after March 31 in a taxation year, the assessor must create a supplementary assessment roll reflecting the decision of the Assessment Review Board and this section applies.

(6) Nothing in this section authorizes the assessor to prepare a supplementary assessment roll that would be contrary to an amendment ordered or directed by the Assessment Review Board or by a court of competent jurisdiction.

(7) A supplementary assessment roll that implements an amendment ordered or directed by the Assessment Review Board or by a court of competent jurisdiction may not be appealed to the Assessment Review Board.

(8) The assessor must, as soon as practicable, after issuing a supplementary assessment roll

(a) deliver a certified copy of the supplementary assessment roll to the Council;

(b) where the supplementary assessment roll reflects a decision of the Assessment Review Board, deliver a certified copy of the supplementary assessment roll to the chair; and

(c) mail an amended Assessment Notice to every person named on the assessment roll in respect of the interest in land affected.

(9) Where a supplementary assessment roll is issued under this By-law, the supplementary assessment roll is deemed to be effective as of the date the assessment roll was certified under section 10 in respect of the assessable property affected.

PART VIII
RECONSIDERATION OF ASSESSMENT

Reconsideration by Assessor

19.(1) A person named on the assessment roll in respect of an assessable property may request that the assessor reconsider the assessment of that assessable property.

(2) A request for reconsideration may be made on one or more of the grounds on which an assessment appeal may be made under this By-law.

(3) A request for reconsideration of an assessment must

(a) be delivered to the assessor within thirty (30) days after the day that the Assessment Notice is mailed or e-mailed to the person named on the assessment roll in respect of an assessable property;

(b) be made in writing and include the information set out in Schedule VI; and

(c) include any reasons in support of the request and the facts under which the request is made.

(4) The assessor must consider the request for reconsideration and, within fourteen (14) days after receiving the request for reconsideration, either

(a) advise the person who requested the reconsideration that the assessor confirms the assessment; or

(b) where the assessor determines that assessable property should have been assessed differently, offer to the person who requested the reconsideration to modify the assessment.

(5) Where the person who requested the reconsideration agrees with the modification proposed by the assessor, the assessor must

(a) amend the assessment roll as necessary to reflect the modified assessment;

(b) give notice of the amended assessment to the tax administrator and to all other persons who received the Assessment Notice in respect of the assessable property; and

(c) where a Notice of Appeal has been delivered in respect of the assessable property, advise the Assessment Review Board of the modification.

(6) Where the person who requested the reconsideration accepts an offer to modify an assessment, that person must not appeal the modified assessment and must withdraw any Notice of Appeal filed in respect of the assessable property.

PART IX
ASSESSMENT REVIEW BOARD

Council to Establish Assessment Review Board

20.(1) Council must, by resolution, establish an Assessment Review Board to

(a) consider and determine all recommendations from the assessor under subsection 17(1); and

(b) hear and determine assessment appeals under this By-Law.

(2) The Assessment Review Board must consist of not less than three (3) members, including:

(a) at least one (1) member who is a member of the law society of the Province; and

(b) at least one (1) member who has experience in assessment appeals in the Province; and

(c) **[Note to First Nation: the following wording is optional:]** at least one (1) member who is a member of the First Nation but not a member of Council.

(3) Each member of the Assessment Review Board must hold office for a period of three (3) years

unless the member resigns or is removed from office in accordance with this By-law.

(4) If a member of the Assessment Review Board is absent, disqualified, unable or unwilling to act, Council may appoint another person, who would otherwise be qualified for appointment as a member, to replace the member until the member returns to duty or the member's term expires, whichever comes first.

Remuneration and Reimbursement

[Note to First Nation: The sample wording below provides for three levels of remuneration. The chair is paid the highest rate, members who are lawyers or have assessment experience are paid a middle rate, and members without those qualifications are paid a lower rate. First Nations can choose to implement these three levels, or can choose to have two levels of remuneration, one for the chair and one for other members.]

21.(1) The First Nation must remunerate

- (a) the chair (or acting chair) at a rate of _____ dollars (\$_____) per hour [or day],
- (b) a member (or replacement member appointed to act), other than the chair, who meets the criteria set out in subsection 20(2), at a rate of _____ dollars (\$_____) per hour [or day], and
- (c) a member (or replacement member appointed to act), other than those referenced in paragraphs (a) and (b), at a rate of _____ dollars (\$_____) per hour [or day],

for time spent on activities related to the Assessment Review Board.

(2) The First Nation must reimburse a member, including a replacement member, of the Assessment Review Board for reasonable travel and out of pocket expenses necessarily incurred in carrying out his or her duties.

Removal of Member

22. Council may terminate the appointment of a member of the Assessment Review Board for cause, including where a member

- (a) is convicted of an offence under the *Criminal Code*;
- (b) fails to attend three (3) consecutive hearings of the Assessment Review Board; or
- (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 By-law.

Conflicts of Interest

23.(1) A person must not serve as a member of the Assessment Review Board if the person

- (a) has a personal or financial interest in the assessable property that is the subject of an appeal;
- (b) is the Chief of the First Nation or a member of Council;
- (c) is an employee of the First Nation; or
- (d) has financial dealings with the First Nation that might reasonably give rise to a conflict of interest or impair that person's ability to deal fairly and impartially with an appeal as required under the terms of this By-law.

(2) For the purposes of paragraph (1)(a), membership in the First Nation does not in itself constitute a personal or financial interest in assessable property.

Appointment of Chair

24.(1) Council must, by resolution, appoint one of the members of the Assessment Review Board as chair.

(2) The chair must

- (a) supervise and direct the work of the Assessment Review Board;
- (b) undertake administrative duties as necessary to oversee and implement the work of the Assessment Review Board;
- (c) determine procedures to be followed at hearings consistent with this By-law;
- (d) administer an oath or solemn affirmation to a person or witness before his or her evidence is taken; and
- (e) preside at hearings of the Assessment Review Board.

(3) If the chair is absent or incapacitated, Council must designate a member of the Assessment Review Board as the acting chair for the period that the chair is absent or incapacitated.

Appointment of Secretary

25.(1) Council must, by resolution, appoint a secretary of the Assessment Review Board.

(2) The secretary of the Assessment Review Board must

- (a) have the custody and care of all records, documents, orders and decisions made by or pertaining to the Assessment Review Board; and
- (b) fulfill such other duties as directed by the chair and the Assessment Review Board.

Duty of Member

26. In performing their duties under this By-law, the members of the Assessment Review Board must act faithfully, honestly and impartially and to the best of their skill and ability, and must not disclose to any person information obtained by them as a member, except in the proper performance of their duties.

PART X

APPEAL TO ASSESSMENT REVIEW BOARD

Appeals

27. The Assessment Review Board

- (a) must consider and determine assessor recommendations made under subsection 17(1) for changes to the assessment roll; and
- (b) must hear and determine appeals made under this Part.

Notice of Appeal

28.(1) Any person, including without limitation the First Nation and the assessor, may appeal an assessment or a reconsideration of an assessment of assessable property to the Assessment Review Board by delivering

- (a) a completed Notice of Appeal
- (b) a copy of the Assessment Notice, and
- (c) an administration fee of thirty dollars (\$30),

to the assessor at the address set out in the Assessment Notice within sixty (60) days after the date on which the Assessment Notice was mailed or e-mailed to the person named on the assessment roll in respect of the assessable property.

- (2) The grounds for an appeal may be in respect of one or more of the following:
 - (a) the assessed value of the property;

- (b) the assessment classification of the property;
- (c) the applicability of an exemption to the property;
- (d) any alleged error or omission in an assessment or Assessment Notice; and
- (e) the liability of the holder to taxation under the Taxation By-law.

(3) Where an appeal is commenced with respect to a supplementary assessment roll, the appeal must be confined to the supplementary assessment roll.

Agents and Solicitors

29. Where a complainant is represented in an appeal through a solicitor or agent, all notices and correspondence required to be given to the complainant are properly given if delivered to the solicitor or agent at the address set out in the Notice of Appeal.

Scheduling of Hearing

30.(1) On delivery of a Notice of Appeal to the assessor, or on receipt of a recommendation from the assessor under subsection 17(1), the chair must, in consultation with the assessor, schedule a hearing of the appeal or the assessor recommendation.

(2) The chair must, at least thirty (30) days before the hearing, deliver a Notice of Hearing, setting out the date, time and place of the hearing, to the parties and to each person named on the assessment roll in respect of the assessable property.

(3) Notwithstanding subsection (2), the chair is not required to deliver a Notice of Hearing to a holder of a property affected by an assessor recommendation under subsection 17(1) where the recommendation

- (a) results in a decrease in the assessed value of the property;
- (b) does not change the classification of the property; and
- (c) does not result in the removal of an exemption.

Parties

31. The parties in a hearing are, except as provided in subsection 30(3),

- (a) the complainant;
- (b) the holder of the assessable property, if not the complainant;
- (c) the assessor; and
- (d) any person who the Assessment Review Board determines may be affected by the appeal or assessor recommendation, upon request by that person.

Delivery of Documentation

32. The assessor must, without delay, deliver a copy of any document submitted by a party in relation to a hearing to all other parties.

Timing for Hearing

33. Subject to section 46, the Assessment Review Board must commence and complete all appeal hearings within ninety (90) days after delivery of the Notice of Appeal to the assessor or receipt of an assessor recommendation under subsection 17(1), unless all parties consent to a delay.

Daily Schedule

34.(1) The chair must

- (a) create a daily schedule for the hearings of the Assessment Review Board; and

(b) post the daily schedule at the place where the Assessment Review Board is to meet.

(2) The Assessment Review Board must proceed to deal with appeals and assessor recommendations in accordance with the daily schedule, unless the Assessment Review Board considers a change in the schedule necessary and desirable in the circumstances.

Conduct of Hearing

35.(1) The Assessment Review Board must give all parties a reasonable opportunity to be heard at a hearing.

(2) A party may be represented by counsel or an agent and may make submissions as to facts, law and jurisdiction.

(3) The Assessment Review Board may conduct a hearing whether the complainant is present or not, provided the complainant was given notice of the hearing in accordance with this By-law.

(4) The burden of proof in an appeal is on the person bringing the appeal.

(5) In an oral hearing, a party may call and examine witnesses, present evidence and submissions and conduct cross-examination of witnesses as reasonably required by the Assessment Review Board for a full and fair disclosure of all matters relevant to the issues in the appeal.

(6) The Assessment Review Board may reasonably limit further examination or cross-examination of a witness if it is satisfied that the examination or cross-examination has been sufficient to disclose fully and fairly all matters relevant to the issues in the appeal.

(7) The Assessment Review Board may question any witness who gives oral evidence at a hearing.

(8) The Assessment Review Board may receive and accept information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in a court of law.

(9) The Assessment Review Board may conduct its proceedings by any combination of written, electronic and oral hearings.

(10) An oral hearing must be open to the public unless the Assessment Review Board, on application by a party, determines that the hearing should be held *in camera*.

Maintaining Order at Hearings

36.(1) The Assessment Review Board may, at an oral hearing, make orders or give directions that it considers necessary to maintain order at the hearing.

(2) Without limiting subsection (1), the Assessment Review Board may, by order, impose restrictions on a person's continued participation in or attendance at a hearing and may exclude a person from further participation in or attendance at a hearing until the Assessment Review Board orders otherwise.

Summary Dismissal

37.(1) At any time after a Notice of Appeal is received by the Assessment Review Board, the Assessment Review Board may dismiss all or part of the appeal where it determines that any of the following apply:

(a) the appeal is not within the jurisdiction of the Assessment Review Board;

(b) the appeal was not filed within the applicable time limit; or

(c) the complainant failed to diligently pursue the appeal or failed to comply with an order of the Assessment Review Board.

(2) Before dismissing all or part of an appeal under subsection (1), the Assessment Review Board must give the complainant an opportunity to make submissions to the Assessment Review Board.

(3) The Assessment Review Board must give written reasons for any dismissal made under subsection (1) to all parties.

Quorum

38.(1) A majority of the members of the Assessment Review Board constitutes a quorum, provided that there shall not be less than three (3) members present at any time.

(2) Where a quorum of the members of an Assessment Review Board is not present at the time at which a hearing is to be held, the hearing must be adjourned to the next day that is not a holiday, and so on from day to day until there is a quorum.

Decisions

39. A decision of the majority of the members is a decision of the Assessment Review Board and, in the case of a tie, the decision of the chair governs.

Combining Hearings

40. The Assessment Review Board may conduct a single hearing of two (2) or more appeals related to the same assessment roll if the matters in each hearing are addressing the same assessable property or substantially the same issues.

Power to Determine Procedures

41.(1) Subject to this By-law, the Assessment Review Board has the power to control its own processes and may make rules respecting practice and procedure to facilitate the just and timely resolution of the matters before it.

(2) Without limiting subsection (1), the Assessment Review Board may make rules respecting the holding of pre-hearing conferences and requiring the parties to attend a pre-hearing conference.

Orders to Attend/Provide Documents

42.(1) At any time before or during a hearing, but before its decision, the Assessment Review Board may make an order requiring a person to

- (a) attend a hearing to give evidence, or
- (b) produce a document or other thing in the person's possession or control as specified by the Assessment Review Board,

by issuing an Order to Attend Hearing/Produce Documents and serving it on the person at least two (2) days before the hearing.

(2) Where an order is made under subsection (1), the Assessment Review Board must pay to the person a twenty dollar (\$20) witness fee plus reasonable traveling expenses to attend and give evidence before the Assessment Review Board.

(3) A party may request that the Assessment Review Board make an order under subsection (1) to a person specified by the party.

(4) Where a party makes a request under subsection (3),

(a) the chair must sign and issue an Order to Attend Hearing/Produce Documents and the party must serve it on the witness at least two (2) days before the hearing; and

(b) a party requesting the attendance of a witness must pay a twenty dollar (\$20) witness fee plus reasonable travel expenses to the witness to attend and give evidence before the Assessment Review Board.

(5) The Assessment Review Board may apply to a court of competent jurisdiction for an order

directing a person to comply with an order under subsection (1).

Adjournments

43. The Assessment Review Board may

- (a) hear all appeals or assessor recommendations on the same day or may adjourn from time to time until all matters have been heard and determined; and
- (b) at any time during a hearing, adjourn the hearing.

Costs

44. The Assessment Review Board may make orders for payment of costs by

- (a) requiring a party to pay all or part of the costs of another party in connection with the appeal,
- (b) requiring a party to pay all or part of the costs of the Assessment Review Board in connection with the appeal,

where the Assessment Review Board considers the conduct of a party has been improper, vexatious, frivolous or abusive.

Reference on Question of Law

45.(1) At any stage of a proceeding before it, the Assessment Review Board, on its own initiative or at the request of one or more of the parties, may refer a question of law in the proceeding to a court of competent jurisdiction in the form of a stated case.

(2) The stated case must be in writing and filed with the court registry, and must include a statement of the facts and all evidence material to the stated case.

(3) The Assessment Review Board must

- (a) suspend the proceeding as it relates to the stated case and reserve its decision until the opinion of the court has been given; and
- (b) decide the appeal in accordance with the opinion of the court.

Matters before the Courts

46. If a proceeding with respect to liability to pay taxes in respect of assessable property that is the subject of an appeal is brought before a court of competent jurisdiction

- (a) before the hearing is to commence, the hearing must be deferred until the matter is decided by the court;
- (b) during the hearing, the hearing must be adjourned until the matter is decided by the court; or
- (c) after the hearing has concluded but before a decision on the appeal is given, the decision must be deferred until the matter is decided by the court.

Withdrawal of Appeal

47.(1) A complainant may withdraw an appeal under this By-law by delivering a Notice of Withdrawal to the Assessment Review Board.

(2) Upon receipt of a Notice of Withdrawal under subsection (1), the Assessment Review Board must dismiss the matter set for its consideration.

Delivery of Decisions

48.(1) The Assessment Review Board must, at the earliest opportunity after the completion of a hearing, deliver a written decision on the appeal or assessor recommendation to all parties.

(2) Any person may obtain a copy of a decision of the Assessment Review Board from the tax

administrator on request and payment of a fee of _____ dollars (\$_____).

(3) The tax administrator may obscure or omit personal information (other than name and address) and financial business information from decisions provided under subsection (2) provided that assessment and property tax information must not be obscured or omitted.

Appeals

49.(1) An appeal lies from the Assessment Review Board to a court of competent jurisdiction on a question of law.

(2) An appeal under subsection (1) must be commenced within thirty (30) days of the delivery of the Assessment Review Board's decision under subsection 48(1).

Delivery of Documents under this Part

50.(1) Delivery of a document under this Part may be made personally or by sending it by registered mail, fax or e-mail.

(2) Personal delivery of a document is made

(a) in the case of an individual, by leaving the document with the individual or with a person at least eighteen (18) years of age residing at the individual's place of residence;

(b) in the case of a first nation, by leaving the document with the person apparently in charge, at the time of delivery, of the administrative office of the first nation;

(c) in the case of a corporation, by leaving the document with the person apparently in charge, at the time of delivery, of the head office or a branch office of the corporation, or with an officer or director of the corporation.

(3) Subject to subsection (4), a document must be considered to have been delivered

(a) if delivered personally, at the time that personal delivery is made;

(b) if sent by registered mail, on the fifth day after it is mailed;

(c) if sent by fax, at the time indicated on the confirmation of transmission; or

(d) if sent by e-mail, at the time indicated in the electronic confirmation that the e-mail has been opened.

(4) A document delivered on a non-business day or after 17:00 local time on a business day must be considered to have been delivered at 09:00 on the next business day.

PART XI

GENERAL PROVISIONS

Disclosure of Information

51.(1) The tax administrator or any other person who has custody or control of information or records obtained or created under this By-law must not disclose the information or records except

(a) in the course of administering this By-law or performing functions under it;

(b) in proceedings before the Assessment Review Board, a court of law or pursuant to a court order; or

(c) in accordance with subsection (2).

(2) The tax administrator or the assessor may disclose to the agent of a holder confidential information relating to the property if the disclosure has been authorized in writing by the holder.

(3) An agent must not use information disclosed under subsection (2) except for the purposes

authorized by the holder in writing referred to in that subsection.

Disclosure for Research Purposes

52. Notwithstanding section 51, Council may disclose information and records to a third party for research purposes, including statistical research, provided

- (a) the information and records do not contain information in an individually identifiable form or business information in an identifiable form; or
- (b) where the research cannot reasonably be accomplished unless the information is provided in an identifiable form, the third party has signed an agreement with Council to comply with Council's requirements respecting the use, confidentiality and security of the information.

Validity

53. Nothing under this By-law must be rendered void or invalid, nor must the liability of any person to pay taxes or amounts levied under the Taxation By-law be affected by

- (a) an error or omission in a valuation or a valuation based solely on information in the hands of an assessor or the tax administrator;
- (b) an error or omission in an assessment roll or any notice given under this By-law; or
- (c) a failure of the First Nation, tax administrator or the assessor to do something within the required time.

Notices

54.(1) Where in this By-law a notice is required to be given by mail or where the method of giving the notice is not otherwise specified, it must be given

- (a) by mail to the recipient's ordinary mailing address or the address for the recipient shown on the assessment roll;
- (b) where the recipient's address is unknown, by posting a copy of the notice in a conspicuous place on the recipient's property; or
- (c) by personal delivery or courier to the recipient or to the recipient's ordinary mailing address or the address for the recipient shown on the assessment roll.

(2) Except where otherwise provided in this By-law

- (a) a notice given by mail is deemed received on the fifth day after it is posted;
- (b) a notice posted on property is deemed received on the second day after it is posted; and
- (c) a notice given by personal delivery is deemed received upon delivery.

Interpretation

55.(1) The provisions of this By-law are severable, and where any provision of this By-law is for any reason held to be invalid by a decision of a court of competent jurisdiction, the invalid portion must be severed from the remainder of this By-law and the decision that it is invalid must not affect the validity of the remaining portions of this By-law.

(2) Where a provision in this By-law is expressed in the present tense, the provision applies to the circumstances as they arise.

(3) Words in this By-law that are in the singular include the plural, and words in the plural include the singular.

(4) This By-law must be construed as being remedial and must be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objectives.

(5) Reference in this By-law to an enactment is a reference to the enactment as it exists from time to time and includes any regulations made under the enactment.

(6) Headings form no part of the enactment and must be construed as being inserted for convenience of reference only.

Force and Effect

56. This By-law comes into force and effect on approval by the Minister of Indian Affairs and Northern Development.

THIS BY-LAW IS HEREBY DULY ENACTED by Council on the ___ day of _____ , 20___, at _____ in the Province of British Columbia.

A quorum of Council consists of _____ (__) members of Council.

[Name] _____

Chief [please spell out the name]

[Name] _____

Councillor [please spell out the name]

[Name] _____

Councillor [please spell out the name]

[Name] _____

Councillor [please spell out the name]

SCHEDULE I
PROPERTY CLASSES

Class 1 - Residential

Class 2 - Utilities

Class 4 - Major Industry

Class 5 - Light Industry

Class 6 - Business and Other

Class 7 - Forest Land

Class 8 - Recreational Property/Non-Profit Organization

Class 9 - Farm

SCHEDULE II
REQUEST FOR INFORMATION

TO: _____

ADDRESS: _____

DESCRIPTION OF INTEREST IN LAND: _____

PURSUANT to the _____ *First Nation Property Assessment By-law, 20* __, I request that you provide to me, in writing, no later than _____ **[Note: must be a date that is at least fourteen (14) days from the date of delivery of the request]**, the following information relating to the above-noted interest in land:

1. _____
2. _____
3. _____

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

Assessor for the _____ First Nation

Dated: _____, 20____ .

SCHEDULE III

NOTICE OF ASSESSMENT INSPECTION

TO: _____

ADDRESS: _____

DESCRIPTION OF INTEREST IN LAND: _____
(the "assessable property")

DATE OF REQUEST: _____

TAKE NOTICE that, pursuant to section ____ of the _____ *First Nation Property Assessment By-law, 20__* , the assessor for the _____ First Nation proposes to conduct an inspection of the above-referenced assessable property on _____ , 20__ at _____ A.M./P.M.

If the above date and time is not acceptable, please contact the assessor on or before _____ [date], at _____ [contact number], to make arrangements for an alternate time and date.

If the assessable property is occupied by a person other than you, you must make arrangements with the occupant to provide access to the assessor.

AND TAKE NOTICE that if, on attending at the assessable property, no occupant eighteen (18) years of age or older is present or permission to inspect the assessable property is denied, the assessor may assess the value of the assessable property based on the information available to the assessor.

Assessor for the _____ First Nation

Dated: _____ , 20____ .

SCHEDULE IV

DECLARATION OF PURPOSE FOR THE USE OF ASSESSMENT INFORMATION

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

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

- (a) a complaint or appeal under the _____ *First Nation Property Assessment By-law*, 20__;
- (b) a review of an assessment to determine whether to seek a reconsideration or appeal of the assessment; or
- (c) other: _____
[insert description]

(Signature of Person Requesting Information)

Dated: _____, 20____.

SCHEDULE V
ASSESSMENT NOTICE

TO: _____

ADDRESS: _____

DESCRIPTION OF INTEREST IN LAND: _____

TAKE NOTICE that the assessment roll has been certified by the assessor for the _____ First Nation and delivered to the First Nation Council.

The following person(s) is/are the holders of the interest in land: [insert name(s) & addresses]

The interest in land is classified as:

The assessed value by classification of the land is:

TOTAL ASSESSED VALUE: _____

TOTAL ASSESSED VALUE LIABLE TO TAXATION: _____

AND TAKE NOTICE that you may, within thirty (30) days of the date of mailing of this notice, request a reconsideration of this assessment by delivering a written request for reconsideration in the form specified in the _____ *First Nation Property Assessment By-law, 20__* . Within fourteen (14) days of receipt by the assessor of your request for reconsideration, the assessor will review the assessment and provide you with the results of the reconsideration. If the assessor determines that the property should have been assessed differently, the assessor will offer to modify the assessment.

AND TAKE NOTICE that you may appeal this assessment to the Assessment Review Board within sixty (60) days after the date on which this Assessment Notice was mailed or e-mailed to you. The Notice of Appeal must be in writing and in the form and accompanied by the fee specified in the _____ *First Nation Property Assessment By-law, 20__* .

Assessor for the _____ First Nation

Dated: _____, 20__ .

SCHEDULE VI

REQUEST FOR RECONSIDERATION OF ASSESSMENT

TO: Assessor for the _____ First Nation
[address]

PURSUANT to the provisions of the _____ *First Nation Property Assessment By-law, 20__*, I hereby request a reconsideration of the assessment of the following interest in land:

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

I am: ___ a holder of the interest in land
___ named on the assessment roll in respect of this interest in land

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

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

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

Address and telephone number at which applicant can be contacted:

Name of Applicant (please print)

Signature of Applicant

Dated: _____, 20____ .

SCHEDULE VII

NOTICE OF APPEAL TO ASSESMENT REVIEW BOARD

TO: Assessor for the _____ First Nation

[insert address for Assessor]

PURSUANT to the provisions of the _____ *First Nation Property Assessment By-law, 20__*, I hereby appeal the assessment of the following interest in land:

[description of the assessable property, including the assessment roll number as described in the Assessment Notice]

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

1. _____
2. _____
3. _____
4. _____

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

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

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

Name of Complainant (please print)

Signature of Complainant (or representative)

Dated: _____, 20____.

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

SCHEDULE VIII

NOTICE OF WITHDRAWAL

TO: Chair, Assessment Review Board for the _____ First Nation
[address]

PURSUANT to the provisions of the _____ *First Nation Property Assessment By-law* 20__, I hereby withdraw my appeal of the assessment of the following interest in land:

Description of the interest in land: _____

Date of Notice of Appeal: _____

Name of Complainant (please print)

Signature of Complainant (or representative)

Dated: _____, 20____.

SCHEDULE IX
NOTICE OF HEARING

TO: _____

ADDRESS: _____

DESCRIPTION OF INTEREST IN LAND: _____

TAKE NOTICE that the Assessment Review Board will hear an appeal from the assessment of the above-noted interest in land at:

Date: _____, 20__

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

Location: _____ [address]

AND TAKE NOTICE that you should bring to the hearing all relevant documents in your possession respecting this appeal.

AND TAKE NOTICE that you may file written submissions to the Assessment Review Board prior to the above noted hearing date at the following address, instead of appearing in person at the hearing.

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

Chair, Assessment Review Board

Dated: _____, 20__ .

SCHEDULE X

ORDER TO ATTEND HEARING/PRODUCE DOCUMENTS

TO: _____

ADDRESS: _____

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

_____ [describe interest in land].

The Assessment Review Board believes that you may have information or documents that may assist the Assessment Review Board in making its decision.

THIS NOTICE REQUIRES you to [check the applicable boxes below]:

- 1. Attend before the Assessment Review Board at a hearing at

Date: _____, 20__

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

Location: _____ [address]

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

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

A twenty dollar (\$20) witness fee is enclosed. Your reasonable travelling expenses will be reimbursed as determined by the Assessment Review Board.

- 2. Deliver the following documents [list documents] OR any documents in your possession that may relate to this assessment, to the chair, Assessment Review Board, at _____

_____ [address] on or before _____.

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

Chair, Assessment Review Board

Dated: _____, 20____ .

SCHEDULE XI

FORM OF ASSESSOR CERTIFICATION

The assessor must certify the assessment roll in the following form:

I, _____, being the assessor for the _____ First Nation, hereby certify that this is the _____ First Nation [supplementary] assessment roll for the year 20__ and that this assessment roll is complete and has been prepared and completed in accordance with all requirements of the _____ *First Nation Property Assessment By-law 20__*.

(Signature of Assessor)

Dated: _____, 20____ .