

FIRST NATION
PROPERTY ASSESSMENT BY-LAW, 20__
(NOVA SCOTIA)

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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 lands, 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:

- “aquaculture property” means the land, land covered by water and complementary buildings used for aquaculture purposes, but does not include any residential property or the land used in connection with residential property;
- “assessable property” means property that is liable to assessment under this By-law;
- “assessed value” means the value of 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 value of property determined in accordance with this By-law;
- “Assessment Notice” means a notice containing the information set out in Schedule IV and includes an amended assessment notice;
- “Assessment Review Board” means a board established by Council in accordance with Part IX;
- “assessment roll” means a roll prepared pursuant to this By-law, and includes an assessment roll amended in accordance with this By-law;
- “assessor” means a person appointed by Council under subsection 3(1);
- “base date” means the date prescribed by the Director of Assessment under the *Assessment Act* (Nova Scotia) for the purposes of determining the market value of assessable property;
- “bed and breakfast establishment” means a private home in which the owner resides and provides accommodation to the travelling or vacationing public of a maximum of four bedrooms and a common living room and serves breakfast of which the cost is included in the price of the accommodation;
- “chair” means the chair of the Assessment Review Board;
- “commercial property” means all property except residential and resource property;
- “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*;
- “farm property” means the land and complementary buildings used for agricultural purposes but does not include any residential property or the land used in connection with residential property;
- “First Nation” means the _____ First Nation, being a band defined under the *Indian Act*;
- “forest property” means any land, excluding any buildings or structures on such land, not used or intended to be used for residential or commercial or industrial purposes or any combination of such purposes;
- “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

- (a) any building, fixture, structure or similar thing, other than land, that is included in the definition of “assessable property” in the *Assessment Act* (Nova Scotia), and
- (b) poles and lines;

“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;

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

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

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

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

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

“party”, in respect of an appeal of an assessment under this By-law, means the parties to an assessment appeal under section 32;

“person” includes a partnership, syndicate, association, corporation and the personal or other legal representatives of a person;

“poles and lines” includes 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, broadcasting, rebroadcasting, 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;

“property class” means those categories of property established in subsection 7(1) for the purposes of assessment and taxation;

“Province” means the province of Nova Scotia;

“reserve” means any land set apart for the use and benefit of the First Nation within the meaning of the *Indian Act*;

“residential property” means property used or intended to be used for residential purposes, but does not include the portion of a hotel or motel used for the purpose of lodging for the public or an apartment hotel;

“resource property” means

- (a) farm property,
- (b) aquaculture property,
- (c) forest property held by a person who holds less than fifty thousand (50,000) acres of forest property in the reserve,
- (d) land of a municipal water utility, excluding any building or structure on that land, and
- (e) community fishermen’s service buildings, occupied and used by boat owners who are licensed commercial fishermen, and the land used in connection with such buildings;

“resolution” means a motion passed and approved by a majority of Council present at a duly convened meeting;

“secretary” means the secretary of the Assessment Review Board appointed under section 25;

“tax administrator” means the person appointed by Council to that position under the Taxation By-law;

“Taxation By-law” means the _____ *First Nation Property Taxation By-law, 20__* ;

“taxation year” means the fiscal 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 1), subsection (e.g. subsection 2(2)), paragraph (e.g. paragraph 9(3)(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 Generally

5.(1) The assessor must assess all interests in land

(a) that are subject to taxation under the Taxation By-law, including interests in land that would be non-assessable under provincial laws; and

(b) for which payments-in-lieu may be accepted by Council.

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

(3) The assessor must assess each property at its market value, such value being the amount that, in the opinion of the assessor, would be paid if it were sold on the base date in the open market by a willing seller to a willing buyer as if both the property and the parties were off the reserve.

(4) In forming his or her opinion under subsection (3), the assessor must have regard to the assessment of other properties, both on the reserve and in the vicinity of the reserve, to ensure that taxation falls in a uniform manner upon all residential and resource property, and in a uniform manner upon all commercial property in the reserve.

(5) Notwithstanding subsections (3) and (4), the assessment of a property must reflect the state of the property as it existed on the first day of December immediately preceding the filing of the assessment roll.

(6) Except as provided in this By-law, the assessor must make no reduction in the assessed value of a property merely because the property is subject to any lien, mortgage, lease, claim, licence or other encumbrance.

(7) Where there is an easement or right-of-way appurtenant to any property, the assessment of the dominant tenement must be increased by the added value that in the opinion of the assessor it receives from the easement or right-of-way and the assessment of the servient tenement must be reduced by the amount that in the opinion of the assessor the value has lost because of the easement or right-of-way.

(8) Property in which there exists any life or similar tenancy or estate, arising otherwise than by a lease, must be assessed to the life tenant or person entitled to possession as if that person were the owner in fee simple off the reserve, but if the remainderman, or all the remaindermen if there are more than one (1), request the assessor in writing to do so, the property may thereafter be assessed to the remainderman or remaindermen as if that person or persons were the owner in fee simple off the reserve.

(9) Whenever two (2) or more persons are, either as business partners, joint tenants, tenants in common or by any other kind of joint interest, the holders of any property, the names of each of them, or of so many of them as can be ascertained by diligent inquiry, must be entered on the assessment roll and the assessment may be apportioned among them to the best of the assessor's judgment or the property may be assessed as a unit to all of the holders known to the assessor.

(10) Where the holder of any property is unknown to the assessor, the property shall be duly assessed if entered on the assessment roll in the name of "holder unknown".

(11) When the assessor believes that the holder formerly assessed is deceased, the assessor may assess property in the name of the "Estate of _____ (giving name of deceased former holder), deceased".

(12) Property under the control of a person as executor, administrator, trustee, guardian or agent may be assessed in that person's name in his or her representative capacity, and the assessment and any subsequent proceedings must be kept separate and distinct from those based on assessment of the property held by that person in his or her own right.

(13) Where property referred to in subsection (12) is under the control of more than one (1) person, the assessor is not required to serve all of them with an Assessment Notice or any other notice required to be given, but notice given to any one of them is deemed to be notice given to all of them.

(14) The assessor must assess property that is non-assessable under provincial legislation and must not apply any exemptions from taxation provided for in provincial legislation and standards.

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

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

Assessment and Valuation - Specific Rules

6.(1) Where in determining the assessment of a hotel or motel it is necessary to determine the value of the personal property used in the operation of the hotel or motel, the personal property is deemed to have a value equal to fifteen percent (15%) of the value of the hotel or motel.

(2) For greater certainty, nothing in subsection (1) shall be construed to mean that personal property used in respect of the operation of a hotel or motel is assessable property.

(3) In calculating the acreage of forest property, the assessor must include, as forest property held by a person, any forest property held by that person either in his own name or in the name of another, be it by trust, a corporation in which that person owns a majority of the voting shares, a subsidiary wholly owned corporation, a subsidiary controlled corporation or otherwise.

(4) The assessor must assess a pipeline in the name of its owner as a separate assessment from the land on, in, under, along or across which it is located, and a pipeline must be assessed notwithstanding that it is located on, in, under, along or across lands exempt from taxation or lands that are non-assessable under provincial legislation.

(5) Notwithstanding subsection 5(3), a pipeline market value for assessment purposes may be calculated as follows:

(a) the assessed value of a pipeline is the base cost for each pipe or class of pipe in the pipeline prescribed by provincial regulations less depreciation in the pipeline determined in accordance with the depreciation rate prescribed by such regulations; and

(b) the depreciation of a pipeline that is relocated continues as if the pipeline were not relocated.

(6) The assessor must assess poles and lines in the name of their owner as a separate assessment from the land on, in, under, along or across which it is located, and poles and lines must be assessed notwithstanding that they are located on, in, under, along or across lands exempt from taxation or lands that are non-assessable under provincial legislation.

Property Classes

7.(1) Council hereby establishes the property classes of residential property, commercial property and resource property for the purposes of assessment under this By-law and imposing taxes under the Taxation By-law.

(2) When preparing an assessment of property, the assessor must designate each property as being residential property, commercial property or resource property, or partly one and partly another.

(3) In designating a property class to each property, the assessor must use the provincial classification rules for each property class.

(4) Where a property is in part one of, and in part another one or more of, residential property, commercial property or resource property, the assessor must enter on the assessment roll the value of each such part.

(5) Notwithstanding any other section of this By-law, the assessor must classify a bed and breakfast establishment as residential property.

(6) The assessor must classify farm property as resource property.

(7) The assessor must classify forest property as resource property.

PART V

REQUESTS FOR INFORMATION AND INSPECTIONS

Requests for Information

8.(1) The assessor may, for any purpose related to the administration of this By-law, deliver a Request for Information containing the information set out in Schedule I, to a holder, a person who has disposed of assessable property, or any other person that in the reasonable opinion of the assessor may have information to assist the assessor in the administration of this By-law.

(2) A person to whom a request has been delivered under subsection (1) must provide the assessor all reasonable assistance and must provide the information requested by answering and completing the request with a true statement of the particulars requested by the assessor, and must sign and return the information to the assessor within thirty (30) days from the date of delivery, or a longer period as specified in the notice.

(3) Information received under subsection (2) does not bind the assessor nor excuse the assessor from making due inquiry to ascertain its correctness, and notwithstanding such information the assessor may assess any property at such assessment as the assessor believes to be just and correct, or may omit from the assessment roll a person's name or any property which that person claims to own if the assessor believes the person is not liable to be placed on the roll or to be assessed for such property.

Inspections

9.(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 if

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

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

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

(d) 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

10.(1) On or before December 31 of each year, 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;
- (b) a concise 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 assessed value of the interest in land subject to taxation under the Taxation By-law; and
- (g) any other information the assessor deems necessary.

Certification by Assessor

11. On completion of an assessment roll, the assessor must

- (a) certify in writing in substantially the form set out in Schedule X 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.

Amendments to Assessment Roll

12.(1) Where the assessor amends the assessment roll to correct errors and omissions, reflect reconsideration decisions and implement decisions of the Assessment Review Board, the assessor must

- (a) date and initial amendments made to the assessment roll; and
- (b) report the change or correction to Council and to the tax administrator.

(2) Where the assessment roll is amended under this By-law, the amendments are an integral part of the assessment roll and are deemed to be effective as of the date the assessment roll was certified under section 11.

(3) The assessor must not amend the assessment roll contrary to an order or direction of the Assessment Review Board or a court of competent jurisdiction.

Validity of Assessment Roll

13. 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 any
 - (i) omission, defect or error committed in, or with respect to, the assessment roll,
 - (ii) defect, error or misstatement in any notice required, or
 - (iii) omission to give any notice required; and
- (b) for all purposes, the assessment roll of the First Nation until the next certified assessment roll.

Inspection and Use of Assessment Roll

14.(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 III

(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

15.(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 section 14 or are otherwise accessible to the public.

Chargeholders

16.(1) Any person holding a financial charge on assessable property may, at any time, give notice, with full particulars and evidence of the nature, extent and duration of the charge, to the assessor and request that his or her name be added 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 this section, the assessor, on being satisfied with the evidence provided respecting the charge, 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

17.(1) The assessor must, on completion of the assessment roll each 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) If a person who is assessed in the assessment roll dies either before or after the completion of the assessment roll, the assessor may mail the Assessment Notice to the deceased's executors or administrators or one of them and if no executor or administrator has been appointed, or if they are not known to the assessor, the assessor may mail the notice to a person whom the assessor believes to have an interest in the property, or it may be posted on the property assessed.

(3) 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 assessor.

(4) A person whose name appears in the assessment roll must give written notice to the assessor of any change of address.

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

(6) Subject to subsection 14(2) and subsection (7), the assessor must provide, to any person who requests it and pays the fee of _____ dollars (\$___), the information contained in the current Assessment Notice.

(7) Where information has been omitted or obscured under subsection 15(1), the assessor must omit that information from a notice provided under subsection (6).

PART VII
AMENDMENTS TO THE ASSESSMENT ROLL

Omissions, Errors and Changes in Assessment Roll

18.(1) If in any taxation year after the certification of the assessment roll under section 11, the assessor discovers that property liable to assessment has been omitted from the assessment roll, the assessor must before the end of the taxation year assess the property and amend the assessment roll, and mail an amended Assessment Notice to every person named in the assessment roll in respect of the property affected.

(2) Where in any taxation year after certification of the assessment roll under section 11, the assessor determines that

- (a) property has been assessed in the name of someone other than the holder,
- (b) property has been entered on the assessment roll in error,
- (c) property has been improperly classified,
- (d) property has been improperly assessed as taxable or exempt, or
- (e) a gross and manifest error has occurred in the assessment,

the assessor may, at any time before the end of the taxation year in respect of which the assessment roll has been certified, amend the assessment roll to correct the error and mail an amended Assessment Notice to every person named in the assessment roll in respect of the property affected.

(3) If the assessor discovers that any property exempt from taxation ceases to be so exempt on or before the first day of March in any taxation year, the assessor must amend the assessment roll to reflect the change and classify the property according to its current use, and mail an amended Assessment Notice to every person named in the assessment roll in respect of the property affected.

(4) If the assessor is notified by a holder or otherwise determines that a property has become exempt from taxation during a taxation year, the assessor must amend the assessment roll to reflect the change and mail an amended Assessment Notice to every person named in the assessment roll in respect of the property affected.

Improper Classification of Commercial Property

19.(1) If in any taxation year after the certification of the assessment roll under section 11, the assessor discovers that property liable to assessment has been improperly classified as other than commercial property, the assessor must before the end of the taxation year assess the property and amend the assessment roll, and mail an amended Assessment Notice to every person named in the assessment roll in respect of the property affected.

(2) If in any taxation year after the certification of the assessment roll under section 11, the assessor discovers that property liable to assessment has been improperly classified as commercial property, the assessor must before the end of the taxation year assess the property and amend the assessment roll, and mail an amended Assessment Notice to every person named in the assessment roll in respect of the property affected.

PART VIII
RECONSIDERATION OF ASSESSMENT

Reconsideration by Assessor

20.(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 V; and

(c) include any reasons in support of the request.

(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

21.(1) Council must, by resolution, establish an Assessment Review Board to hear and determine assessment appeals under this By-law.

(2) The Assessment Review Board must consist of not less than three (3) members, including at least one (1) member who is a member of the law society of the Province and at least one (1) member who has experience in assessment appeals in the Province.

[Note to First Nation: The First Nation can choose to require the appointment of a member who is also a member of the First Nation, with the following wording:

(3) The Assessment Review Board must consist of at least one (1) member who is a member of the First Nation but not a member of Council.]

(4) 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.

(5) 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.]

22.(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 21(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 of the Assessment Review Board required under this By-law or expressly authorized by Council.

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

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, which might reasonably give rise to a conflict of interest or impair that person's ability to deal fairly and impartially with an appeal, as required under the terms of this 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.

Removal of Member

- 26.** 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.

Duty of Member

27. 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

28. The Assessment Review Board must hear and determine appeals made under this Part.

Notice of Appeal

29.(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 within sixty (60) days after the date on which the Assessment Notice was mailed or e-mailed to the persons named on the assessment roll in respect of the assessable property.

- (2) The address for delivery of a Notice of Appeal to the assessor is **[insert address]**.
- (3) 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.

(4) Where an appeal is commenced with respect to an assessment amended under section 18 or 19, the appeal must be confined to the amendment.

(5) No appeal may be brought respecting an assessment amended to reflect a decision of the Assessment Review Board or a court of competent jurisdiction.

Agents and Solicitors

30. 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

31.(1) On delivery of a Notice of Appeal to the assessor, the chair must, in consultation with the assessor, schedule a hearing of the appeal.

(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.

Parties

32. The parties in a hearing are

- (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, upon request by that person.

Delivery of Documentation

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

Timing for Hearing

34. Subject to section 46, the Assessment Review Board must commence a hearing within ninety (90) days after delivery of the Notice of Appeal to the assessor, unless all parties consent to a delay.

Daily Schedule

35.(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 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

36.(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

37.(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

38.(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

39.(1) A majority of the members of the Assessment Review Board constitutes a quorum, provided that there must 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

40. 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

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

Power to Determine Procedures

42.(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 or Produce Documents

43.(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 person's attendance or the requested document is required at the hearing, as the case may be.

(2) Where an order is made under paragraph (1)(a), the Assessment Review Board must pay to the person a twenty dollar (\$20) witness fee plus reasonable travel 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 this section.

Adjournments

44. The Assessment Review Board may

- (a) hear all appeals 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

45. The Assessment Review Board may make orders requiring a party

- (a) to pay all or part of the costs of another party in respect of the appeal,

(b) to pay all or part of the costs of the Assessment Review Board in respect of the appeal, where the Assessment Review Board considers the conduct of a party has been improper, vexatious, frivolous or abusive.

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 Part 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 to all parties.

(2) Any person may obtain a copy of a decision of the Assessment Review Board from the tax administrator [assessor] on request and payment of a fee of _____ dollars (\$___).

(3) The tax administrator [assessor] 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.

(4) The assessor must make any changes to the assessment roll that are necessary to reflect a decision of the Assessment Review Board and must mail an amended Assessment Notice to every person named in the assessment roll in respect of the interest in land affected.

Delivery of Documents under this Part

49.(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; and
- (c) in the case of a corporation, by leaving the document with the person apparently in charge, at the time of delivery, of the 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 is considered delivered if

- (a) delivered personally, at the time that personal delivery is made;
- (b) sent by registered mail, on the fifth day after it is mailed;

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

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

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

Appeals

50.(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).

PART XI GENERAL PROVISIONS

Disclosure of Information

51.(1) The tax administrator, the assessor, a member of the Assessment Review Board, the secretary 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 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 validity of any general or individual assessment or 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, Assessment Notice, 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 notice

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

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

Current ver. 2014-10-09

[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
REQUEST FOR INFORMATION BY ASSESSOR
FOR THE _____ FIRST NATION

TO: _____

ADDRESS: _____

DESCRIPTION OF INTEREST IN LAND: _____

DATE OF REQUEST: _____

PURSUANT to section ___ of 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 II
NOTICE OF ASSESSMENT INSPECTION

TO: _____

ADDRESS: _____

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

DATE: _____

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 III
DECLARATION OF PURPOSE FOR THE USE OF
ASSESSMENT INFORMATION

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

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

- (1) a complaint or appeal under the _____ *First Nation Property Assessment By-law, 20__* ;
- (2) a review of an assessment to determine whether to seek a reconsideration or appeal of the
assessment; or
- (3) other: _____ .

Signed: _____

[please print name]

Dated: _____, 20__ .

SCHEDULE IV
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: [Name(s) & addresses]

The interest in land is classified as:

The assessed value by classification of the interest in 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, within sixty (60) days of the date of mailing of this notice, appeal this assessment to the Assessment Review Board. The Notice of Appeal must be in writing in the form and accompanied by the fee specified in the _____ *First Nation Property Assessment By-law, 20__*.

Tax Administrator for the _____ First Nation

Dated: _____, 20__.

SCHEDULE V
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 VI
NOTICE OF APPEAL TO ASSESSMENT REVIEW BOARD

TO: Assessor for the _____ First Nation
[address]

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

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

The grounds for the appeal are:

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

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

Complainant's mailing 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 VII
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 interest in land:

Date of Notice of Appeal:

Name of Complainant (please print)

Signature of Complainant (or representative)

Dated: _____, 20__ .

SCHEDULE VIII
NOTICE OF HEARING

TO: _____

ADDRESS: _____

DESCRIPTION OF INTEREST IN LAND: _____

Complainant in respect of this appeal: _____

TAKE NOTICE that the Assessment Review Board will hear an appeal from the assessment/reconsideration of 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 [insert # copies] copies of all relevant documents in your possession respecting this appeal.

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

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

Chair, Assessment Review Board

Dated: _____, 20__ .

SCHEDULE IX
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 [indicate the applicable provisions 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 X
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__ at _____, _____ .
(City) (Province)