

**_____ FIRST NATION
PROPERTY ASSESSMENT BY-LAW, 20____
(ONTARIO)**

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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, in relation to an interest in land, the amount of money the fee simple of that interest, if unencumbered and held off the reserve, would realize if sold at arm’s length by a willing seller to a willing buyer, 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 22;

“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*;

“eligible increase” has the meaning prescribed by the Province under the *Assessment Act* (Ontario);

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

“general reassessment” means the updating of assessments as a result of the application of a new valuation day under subsection 5(3) or 5(4);

“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, other than land, that is included in the definition of “land”, “real property” and “real estate” in the *Assessment Act* (Ontario) and any 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 33;

“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 6(1) for the purposes of assessment and taxation;

“Province” means the province of Ontario;

“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;

“secretary” means the secretary of the Assessment Review Board appointed under subsection 27(1);

“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 6(4)(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) 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.

(3) For the period consisting of the four taxation years from 2013 to 2016, interests in land are valued as of January 1, 2012.

(4) For each period consisting of four taxation years subsequent to 2016, interests in land are valued as of January 1 of the year preceding the first of those four taxation years.

(5) Where an easement is appurtenant to any interest in land, it must be assessed in connection with and as part of the interest in land at the added value it gives to the interest in land as the dominant tenement, and the assessment of the interest in land that, as the servient tenement, is subject to the easement must be reduced accordingly.

(6) A restrictive covenant running with the interest in land must be deemed to be an easement within the meaning of subsection (5).

(7) The assessor must not make an assessment against the name of any deceased person, but, when the assessor is unable to ascertain the name of the person who should be assessed instead of the deceased person, the assessor may enter, instead of the name, the words "Representatives of A.B., deceased" (giving the name of the deceased person).

(8) Where a block of vacant land subdivided into lots is owned by the same person, it may be entered on the roll as so many acres of the original block or lot if the numbers and description of the lots into which it is subdivided are also entered on the roll.

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

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

(10) If the assessed value of an interest in land increases because of a general reassessment, the assessed value of the interest in land shall be reduced according to the following rules:

- (a) for the first taxation year to which the general reassessment applies, the assessed value of the interest in land is reduced by an amount equal to seventy-five percent (75%) of the eligible increase;
- (b) for the taxation year following the taxation year in paragraph (a), the assessed value of the interest in land is reduced by an amount equal to fifty percent (50%) of the eligible increase; and
- (c) for the taxation year following the taxation year in paragraph (b), the assessed value of the interest in land is reduced by an amount equal to twenty-five percent (25%) of the eligible increase.

Classification

6.(1) 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.

(2) The day as of which an interest in land must be classified for a taxation year is June 30 of the previous year.

(3) The property classes established under subsection (1) are set out in Schedule I to this By-law, and the assessor must use the provincial classification rules for each property class, including any subclasses.

(4) The assessor must

(a) assess interests in land according to the property classes established under this By-law; and

(b) where a property falls into two (2) or more property classes, 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.

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) The assessor is not bound by any statement delivered under section 7 or this section nor does it excuse the assessor from making due inquiry to ascertain the correctness of the statement and, despite any such statement, the assessor may assess every person for the amount that the assessor believes to be just and correct and may omit from the assessment roll the person's name or any land that the person claims to own or occupy if the assessor has reason to believe that the person is not entitled to be placed on the roll or to be assessed for the land.

(9) 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) Except as provided in sections 17, 18, and 19, assessments of interests in land under this By-law must be made annually at any time between January 1 and the second Tuesday following December 1.

(2) 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 not later than the second Tuesday following December 1 of the year before the taxation year.

(3) 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 no later than the second Tuesday following December 1 in the year in which the assessments are made, 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.

Amendments to Assessment Roll

11.(1) Where the assessor amends the assessment roll under section 17, or amends the assessment roll to reflect reconsideration decisions or 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.

(2) Where the assessor amends the assessment roll or creates a supplementary assessment roll under this By-law, the changes are an integral part of the assessment roll and, except as provided in subsection 19(7), are deemed to be effective as of the date the assessment roll was certified under section 10.

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

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.

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 assessor must, on or before December 31 in 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) Notwithstanding subsection (1), the assessor must mail out the Assessment Notice in that subsection on or before the day that the tax administrator mails out Tax Notices under the Taxation By-law.

(3) When a person named on the assessment roll furnishes the assessor with a notice in writing giving the address to which the Assessment Notice may be delivered to the person and requesting that the Assessment Notice be delivered to the address, the Assessment Notice must be so delivered, and the notice stands until revoked in writing.

(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) A person who receives an Assessment Notice or an amended Assessment Notice under this By-law must, within fourteen (14) days after receiving the notice, give a copy of the Assessment Notice or amended Assessment Notice to any tenant who, under the tenant's lease, is required to pay or reimburse the person for all or part of the taxes on the interest in land.

(7) For greater certainty, a copy given to a tenant under subsection (6) is not an Assessment Notice and the tenant may not make a request for reconsideration under subsection 21(1).

PART VII

ERRORS AND OMISSIONS IN ASSESSMENT ROLL

Correction of Errors in the Assessment Roll

17.(1) Any time before the certification of the assessment roll under section 10, the assessor may correct any defect, error, omission or misstatement in any assessment and amend the roll accordingly.

(2) If prior to the end of the current taxation year or all or part of the preceding year, and as a result of an amendment to this By-law or an amendment to any provincial legislation referred to under subsection 5(9),

(a) the classification of an interest in land is changed and taxes have been levied on the interest in land that exceed the amount of taxes that would have been levied if it had been classified in accordance with the change,

(b) an interest in land becomes exempt from taxation, or

(c) the method of determining the assessed value of an interest in land is changed, then the assessor must make any assessment necessary to reflect the change and amend the assessment roll accordingly.

(3) The assessor may, at any time during the taxation year, correct any error in the assessment or classification of a property that has resulted from incorrect factual information about the property, and not from a change in opinion as to assessed value.

Omissions and Incorrect Exemptions

18.(1) If after the assessment roll has been certified under section 10 the assessor determines that

(a) an interest in land that is liable to assessment has been in whole or in part omitted from the assessment roll, or

(b) an interest in land that is liable to taxation has been entered on the assessment roll as exempt from taxation,

for the current taxation year or for any part of either or both of the last two (2) preceding taxation years, and no taxes have been levied on that interest in land, the assessor must make any additional assessment necessary to rectify the omission.

(2) As an exception to subsection (1), if a court or tribunal has decided that the interest in land is not liable to taxation, the assessor must not make any additional assessment.

(3) For the purposes of subsection (1), “omitted” includes the invalidation or setting aside of an assessment by any court or assessment tribunal on any ground except that the interest in land is not liable to taxation.

(4) If subsection (1) applies with respect to an interest in land or a portion of an interest in land, the assessor, in addition to making an additional assessment, may also change the classification of the interest in land.

(5) If the assessor makes an assessment or changes a classification under this section, the assessor must make the appropriate changes

(a) on a supplementary assessment roll and forward the supplementary roll to the tax administrator at the earliest opportunity; and

(b) on the assessment roll for the next year, even if the day as of which land is valued for the next year is the same as for the current year.

Supplementary Assessments and Classifications

19.(1) If, after notices of assessment have been given under subsection 16(1) and before the last day of the current taxation year referred to in that roll,

(a) an increase in value occurs which results from the erection, alteration, enlargement or improvement of any building, structure, machinery, equipment or fixture or any portion thereof that commences to be used for any purpose, or

(b) land or a portion of land ceases,

(i) to be exempt from taxation,

(ii) to be in the farm property class,

(iii) to be land in the managed forests property class, or

(iv) to be classified in a subclass of land,

the assessor may make any additional assessment that may be necessary to reflect the change.

(2) If, during the taxation year or the period after June 30 in the preceding taxation year, a change event occurs that would change the property class that all or part of an interest in land is in, the assessor may change the classification accordingly, including any subclass, for the current taxation year.

(3) For the purposes of subsection (2), “change event” includes

- (a) a change in the use of all or part of the interest in land; and
- (b) an act or omission that results in all or part of the interest in land ceasing to be in a property class.

(4) If subparagraphs (1)(b)(ii) or (iv) apply with respect to an interest in land or a portion of an interest in land, the assessor, in addition to making an additional assessment, may also change the classification of the interest in land.

(5) If the assessor makes an assessment or classification under this section, the assessor must make the appropriate changes

- (a) on a supplementary assessment roll and forward the supplementary roll to the tax administrator at the earliest opportunity; and
- (b) on the assessment roll for the next year, even if the day as of which land is valued for the next year is the same as for the current year.

(6) If the assessor could have made an assessment or classification under this section but did not, the appropriate changes must be made on the assessment roll for the next year, even if the day as of which land is valued for the next year is the same as for the current year.

(7) An amendment made under this section applies for the portion of the taxation year left remaining after the change occurred if the assessment had been made in the usual way.

Amended Assessment Notice

20. The assessor must, at the earliest opportunity, mail an amended Assessment Notice to every person named in the assessment roll in respect of the interest in land affected if the assessor does any of the following under the provisions of this By-law:

- (a) amends the assessment roll;
- (b) makes an additional assessment under section 18 or 19; or
- (c) changes the classification of an interest in land under section 18 or 19.

PART VIII

RECONSIDERATION OF ASSESSMENT

Reconsideration by Assessor

21.(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

22.(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
 - (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.]

23.(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 22(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

24. 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

25.(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

26.(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

- 27.(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

28. 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

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

Notice of Appeal

30.(1) Any person, including without limitation the First Nation and the assessor, may appeal an assessment or a consideration 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

31. 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

32.(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 to the parties and to each person named on the assessment roll in respect of the assessable property.

Parties

33. 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

34. 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

35. Subject to section 48, 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, unless all parties consent to a delay.

Daily Schedule

36.(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

37.(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*.

(11) In determining the value at which any interest in land must be assessed, the Assessment Review Board must have reference to the value at which similar interests in land in the vicinity are assessed and adjust the assessment of the land to make it equitable with that of similar interests in the vicinity if such an adjustment would result in a reduction of the assessment of the interest in land.

Maintaining Order at Hearings

38.(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

39.(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

40.(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

41. 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

42. 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

43.(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

44.(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

- 45.** 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

- 46.** 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

47.(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

48. 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

49.(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

50.(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 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

51.(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 50(1).

Delivery of Documents under this Part

52.(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

53.(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

54. Notwithstanding section 53, 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

55. 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

56.(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

57.(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

58. 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 _____.

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

Residential

Multi-Residential

Commercial

Industrial

Pipeline

Farm

Managed Forests

[Optional classes:

New Multi-Residential

Office Building

Shopping Centre

Parking Lots and Vacant Land

Large Industrial

Professional Sports Facility

Resort Condominium]

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____ .