

NOTE TO FIRST NATION: This sample By-law provides alternate wording options to cover a number of different circumstances. When using this sample By-law, please ensure that the appropriate options are selected to suit the First Nation's specific circumstances and that all drafting instructions and unused alternate wording are deleted from the final By-law. When deleting an unwanted section, subsection, paragraph or schedule please sequentially renumber/reletter the remaining provisions or schedules and revise, as appropriate, the numbering or lettering of any internal references affected by the deletion. Drafting instructions are indicated in square brackets and bold type as a "Note to First Nation", while alternate wording is indicated in square brackets with an "OR". Please also ensure that the schedules are fully completed to correspond to the wording of the final version of the by-law.

Please note that this sample By-law assumes that the First Nation has enacted its section 83 taxation by-law.

_____ FIRST NATION
LOCAL IMPROVEMENT TAX BY-LAW, 20__

WHEREAS:

A. Pursuant to section 83(1)(a) of the *Indian Act*, the council of a First Nation may make by-laws respecting taxation for local purposes of reserve lands, interests in reserve lands or rights to occupy, possess or use reserve lands;

B. Council has determined that it is in the best interests of the First Nation to make a by-law for the provision of a [Note to First Nation: insert type of local improvement] to the reserve [OR to a defined area of the reserve] and to provide for the costs [OR a portion of the costs] of the local improvement to be paid for by a local improvement tax on property within the reserve [OR a defined area of the reserve];

C. The holders of the properties within the area of the reserve that will benefit from the local improvement have shown their support for the local improvement by [Note to First Nation: This recital is necessary only if the local improvement is to a defined area of the reserve. Insert how holders have shown their support and indicate the proportion of holders that are in favour of the local improvement.]; and

D. The Council of the _____ First Nation has given notice of this By-law and has considered representations received by the Council, in accordance with the requirements of the First Nations Tax Commission's section 83 Taxation Policy.

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* _____ [Note to First Nation: insert type or description of local improvement] *Local Improvement Tax By-law, 20__*.

**PART II
DEFINITIONS AND REFERENCES**

Definitions and References

2.(1) In this By-law:

"Act" means the *Indian Act*, R.S.C. 1985, c. I-5, and the regulations enacted under that Act;

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

“chair” means the chair of the Review Panel;

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

“First Nation” means the _____ First Nation, being a band as defined in the Act;

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

(a) is entitled through a lease, licence or other legal means to possess or occupy the interest in land,

(b) is in actual occupation of the interest in land,

(c) has any right, title, estate or interest in the interest in land, or

(d) is a trustee of the interest in land;

[“holders’ portion of the cost” means that portion of the total cost of the local improvement that will be paid by the holders of property in the reserve [OR local improvement area] through the tax;] **[Note to First Nation: This definition is necessary only if the First Nation will recover a portion of the costs of the local improvement from the holders. If the entire cost of the local improvement will be recovered, delete this definition and subsection 4(2).]**

“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;

“local improvement” means the works described in subsection 3(1); **[Note to First Nation: insert type of local improvement to be provided. See Commission Policy for a list of local improvements.]**

[“local improvement area” means the area of the reserve in or to which the local improvement is provided, as described in subsection 3(2); **[Note to First Nation: This definition is necessary only if the local improvement is to be provided to a defined area of the reserve and not the entire reserve.]**

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

“Notice of Refusal to Amend Local Improvement Tax Roll” means a notice containing the information set out in Schedule V;

“Notice of Local Improvement Tax” means a notice containing the information set out in Schedule III;

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

“Province” means the province of **[Note to First Nation: insert province in which reserve is located];**

“registered professional” means an individual qualified and licensed as a professional engineer or architect in the Province;

“Request to Amend Local Improvement Tax Roll” means a request containing the information set out in Schedule VI;

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

“Review Panel” means a Review Panel established under this By-law to hear and determine appeals respecting the local improvement tax roll;

“tax” or “local improvement tax” means the tax imposed in respect of the provision of the local improvement as set out in this By-law, and includes all penalties, interest and costs added to those taxes;

“tax administrator” means a person appointed by Council to that position for the purposes of this By-law;

“tax roll” means the roll prepared under section 12 for the tax and includes any amendments to the tax roll under this By-law; and

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

(2) Except where otherwise defined, words and expressions used in this By-law have the meanings given to them in the Assessment By-law and the Taxation By-law.

(3) In this By-law, references to a Part (e.g. Part I), section (e.g. section 1), subsection (e.g. subsection 2(1)), paragraph (e.g. paragraph 12(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

LOCAL IMPROVEMENT AND LOCAL IMPROVEMENT TAX LEVY

Local Improvement Described

3.(1) The local improvement to be provided to the residents of the reserve [**OR** local improvement area] is [**Note to First Nation: describe details of local improvement.**].

(2) [The local improvement area is that portion of the reserve shown outlined on the map attached as Schedule VIII and includes those properties listed in Schedule VIII.] [**Note to First Nation: This subsection is required only where the local improvement is to be provided to a defined area of the reserve and not the entire reserve. Where included, complete Schedule VIII. Where deleted, delete Schedule VIII as well.**]

Estimated Cost of Local Improvement

4.(1) The estimated cost of the local improvement is _____ dollars (\$ _____). [**Note to First Nation: Costs can include land acquisition, capital costs, professional service or debt servicing costs and other expenses incidental to undertaking and financing the local improvement. Costs must be certified by a registered professional in accordance with the Commission Policy.**]

[(2) The holders’ portion of the cost is _____ percent (___%) of the total cost of the local improvement.]

Tax Levy

5.(1) A tax is hereby imposed on all property in the reserve [**OR** in the local improvement area] as set out in this By-law.

(2) Any person who shares the same interest in property subject to taxation under this By-law is jointly and severally liable to the First Nation for all taxes imposed under this By-law during the taxation year, and for all unpaid taxes imposed in a previous taxation year, including for clarity interest, penalties and costs.

(3) The tax for the local improvement is based on [**Note to First Nation: select the basis for the tax and insert the rates, as applicable. Delete all other options.**]

- a property value tax on the assessed value of the property as determined under the Assessment By-law, at a rate of _____ dollars (\$ _____) per one thousand dollars (\$1000) of assessed value [**OR** at the following rates for each class of property: class 1 - _____ dollars (\$ _____) per one thousand dollars (\$1000) of assessed value, etc.].
- a fixed amount of _____ dollars (\$____) for each property.
- the taxable area of the property, at a rate of _____ dollars (\$____) per square metre of area.
- the taxable area of the property, at a rate of _____ dollars (\$____) per square metre for properties of up to _____ (____) square metres, _____ dollars (\$____) per square metre for properties between _____ (____) square metres and _____ (____) square metres, and _____ dollars (\$____) per square metre for properties greater than _____ (____) square metres.
- the taxable frontage of the property, at a rate of _____ dollars (\$____) per metre of frontage.

- the taxable frontage of the property, at a rate of _____ dollars (\$) per metre for properties of up to ____ () metres of frontage, _____ dollars (\$) per metre for properties with between _____ () metres and _____ () metres of frontage, and _____ dollars (\$) per metre for properties with more than ____ () metres of frontage.

[(4) The taxable area [**OR** frontage] of a property must be determined by the tax administrator using the formula set out in Schedule I.]

(5) The tax rate or formula set out in this section must not be amended other than by an amendment to this By-law.

Duration of Tax

6. The tax will be imposed in each taxation year for not more than _____ () years.

Construction Schedule

7.(1) A construction schedule for the local improvement, certified by a registered professional, is attached as Schedule II to this By-law.

(2) The First Nation must commence and complete the construction of the local improvement in accordance with the construction schedule and must in any event commence construction within one (1) year from the date the tax is due and payable in the first year it is imposed.

Exemptions from Taxes [Note to First Nation: Delete this section if no exemptions will be given from the tax.]

8.(1) The following properties are exempt from the tax because the holders of the property have provided all or a part of the cost of the local improvement or have already paid towards the cost of the local improvement: [**Note to First Nation: insert description of properties**].

(2) The following properties are exempt from the tax and the tax that would have been paid by the holders of these properties will be paid by the First Nation: [**Note to First Nation: insert description of properties**].

Payment

[**Note to First Nation: The sample provides for annual collection of the tax on the same timetable as the property taxes. A First Nation can choose to follow a different time frame by making appropriate changes to this By-law.**]

9.(1) The tax is deemed imposed January 1 of each year in which the tax is imposed.

(2) The tax forms part of the taxes due and owing in respect of each property in each year, and is due and payable by the holder on or before [**Note to First Nation: insert same date as general property tax due date**] in each year in which it is levied.

(3) Payments for taxes must be credited by the tax administrator, first, to unpaid taxes from previous taxation years, with taxes imposed earlier being discharged before taxes imposed later, and, second, to unpaid taxes for the current taxation year.

(4) Taxes must be paid at the office of the First Nation during normal business hours, by cheque, money order or cash.

(5) Payment of taxes made by cheque or money order must be made payable to the _____ First Nation.

(6) Where a person is taxed in excess of the proper amount in a taxation year, the tax administrator must refund to that person any excess taxes paid by that person, in the same manner as taxes are refunded under the Taxation By-law.

Prepayment

[Note to First Nation: Allowing prepayment is optional but recommended. If it is allowed, it will reduce the amount the First Nation will need to finance for the project and will reduce administration in future years.]

10.(1) A holder of property subject to the tax may prepay the tax imposed on the property by paying, on or before **[Note to First Nation: suggest using same date as tax due date]** in the year the tax is first imposed, the prepayment amount determined by the tax administrator in respect of that property.

(2) The tax administrator must calculate the prepayment amount by multiplying the number of years the tax is payable, by the amount payable in each year, by a factor of _____ (____). **[Note to First Nation: This factor should be calculated to eliminate the financing component of the local improvement tax.]**

Revenues and Expenditures

11.(1) All revenue collected by the First Nation from the tax, and interest earned on it, must only be used for the provision of the local improvement.

(2) The tax administrator must establish a separate account for the tax revenues.

(3) An expenditure of revenue raised under this By-law must be made under the authority of an expenditure By-law under subsection 83(2) of the Act.

PART IV

LOCAL IMPROVEMENT TAX ROLL AND TAX NOTICE

Tax Roll

12.(1) The tax administrator must prepare a tax roll for the purposes of imposing the tax.

(2) On or before _____ in each subsequent taxation year, the tax administrator must update the tax roll in accordance with Part VIII.

(3) The tax 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) if the tax is imposed on the basis of the assessed value of the interest in land, the total assessed value of the interest in land as shown on the assessment roll;

(d) unless the tax is imposed on the basis of the assessed value or a single amount for each property, the taxable area or the taxable frontage of each interest in land, as applicable; and

(e) if the name of a holder of a registered charge is included on the assessment roll for a property, the name and address of that person.

(4) Where the tax is levied on the basis of taxable area or taxable frontage, the calculation of the taxable area or taxable frontage of each interest in land must be reviewed by a registered professional who must certify that these amounts are correctly shown on the tax roll.

(5) The tax administrator may correct errors on the tax roll at any time before the tax roll is certified under Part VII.

(6) Once it has been prepared by the tax administrator, the tax roll must be available for public inspection at the offices of the First Nation during regular office hours.

(7) If requested by a holder, the tax administrator must amend a tax roll available for public inspection by omitting or obscuring the address of the holder or other information about the holder in order to protect the privacy and security of the holder.

Tax Notice

13.(1) If property taxes are levied on the property under the Taxation By-law, the tax must be

- (a) included in the annual tax notice given under the Taxation By-law; and
- (b) shown separately from other taxes on the tax notice.

(2) If property taxes are not levied on a property under the Taxation By-law, the tax administrator must, in each year in which the tax is levied, mail a tax notice to the holder in the same manner as a tax notice would be given under the Taxation By-law.

(3) The mailing of the tax notice constitutes a statement of and demand for payment of the taxes.

(4) The tax administrator must enter on the tax roll the date of mailing a tax notice.

PART V

PENALTIES, INTEREST AND ENFORCEMENT

Penalties and Interest

14. (1) If all or part of the taxes levied in any year remain unpaid after [**Note to First Nation: insert due date**], a penalty of ____ percent (____ %) of the portion that remains unpaid will be added to the amount of the unpaid taxes in that year and the amount so added is, for all purposes, deemed to be part of the taxes. [**Note to First Nation: maximum is a one-time ten percent (10%) penalty each year**]

(2) If all or any portion of taxes levied in any year remain unpaid after [**Note to First Nation: insert due date**], the unpaid portion accrues interest at ____ percent (____%) per year. [**Note to First Nation: maximum interest is fifteen percent (15%) per year**]

Tax Collection and Enforcement

15.(1) Taxes imposed under this By-law, together with any applicable interest and penalties, are a debt due to the First Nation by the holder, recoverable in a court of competent jurisdiction and may also be recovered by any other method authorized under the Taxation By-law or other applicable by-laws, and for this purpose Parts XIII, XIV, XV and XVI [**Note to First Nation: Confirm these Parts accurately refer to the collection and enforcement provisions in the First Nation's Taxation By-law**] of the Taxation By-law apply to the collection and enforcement of unpaid taxes.

(2) The use of one method of collection and enforcement does not prevent seeking recovery by one or more other methods.

(3) A copy of the tax notice that refers to the taxes payable by a person, certified as a true copy by the tax administrator, is evidence of that person's debt for the taxes.

PART VI

REVIEW PANEL

Council to Establish Review Panel

16.(1) Where there is an appeal under Part VII or VIII of this By-law, Council must, by resolution, appoint at least three (3) persons as members of the Review Panel to hear and determine appeals and certify the tax roll as provided in this By-law.

(2) Each member of the Review Panel 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.

(3) If a member of the Review Panel 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.

Appointment of Chair

17.(1) Council must, by resolution, appoint one of the members of the Review Panel as chair.

(2) The chair must

(a) supervise and direct the work of the Review Panel;

(b) determine procedures to be followed at hearings that are consistent with this By-law;

(c) administer an oath or solemn affirmation to a person or witness before his or her evidence is taken; and

(d) preside at hearings of the Review Panel.

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

Remuneration and Reimbursement

18. The First Nation must

(a) remunerate a member of the Review Panel, other than the chair, for his or her services at a rate of _____ dollars (\$ _____) per day for time spent on activities related to the Review Panel;

(b) remunerate the chair of the Review Panel for his or her services at a rate of _____ dollars (\$ _____) per day for time spent on activities related to the Review Panel; and

(c) reimburse a member of the Review Panel for reasonable travel and out of pocket expenses necessarily incurred in carrying out his or her duties.

Conflicts of Interest

19.(1) A person must not serve on the Review Panel if the person

(a) has a personal or financial interest in the property that is the subject of an appeal;

(b) is the Chief 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 the property that is the subject of an appeal.

Duty of Member

20. In performing their duties under this By-law, the members of the Review Panel 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.

Removal of Member

21. Council may terminate the appointment of a member of the Review Panel 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 Review Panel; 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.

Assessment Review Board Sitting as the Review Panel

22.(1) Despite section 16, Council may, by resolution, appoint the Assessment Review Board established under the Assessment By-law to be the Review Panel.

(2) Where Council appoints the Assessment Review Board under subsection (1),

(a) the members of the Review Panel must be the same members that comprise the Assessment Review Board;

(b) the chair must be the same person appointed as chair of the Assessment Review Board;

(c) the members must follow the requirements and procedures set out in this By-law when acting as the Review Panel under this By-law;

(d) the members of the Review Panel must be remunerated and reimbursed for their work on the Review Panel as provided for the Assessment Review Board in the Assessment By-law; and

(e) the removal of a member of the Review Panel under section 21 is a removal of that member from the Assessment Review Board.

PART VII

APPEALS TO REVIEW PANEL

[Note to First Nation: Under this model, the Review Panel hears appeals, if any, respecting the local improvement tax roll in the first year the tax is imposed. Thereafter there is an annual opportunity for holders to appeal the tax to the Review Panel.]

Appeals to Review Panel

23. Before a tax is imposed for the first time, the Review Panel must hear and determine any appeals respecting the tax roll and must certify the roll in accordance with this Part.

Tax Administrator to Certify Where No Appeals

24. Where no appeals are filed in accordance with this Part, the tax administrator must

(a) certify in writing that the tax roll completed under section 12 was completed in accordance with the requirements of this By-law; and

(b) deliver a copy of the certified local improvement tax roll to Council.

Review Panel Sitting

25.(1) At least twenty-one (21) days before the tax is due in the first year the tax is imposed, Council must establish the proposed date, time and place for the sitting of the Review Panel to hear appeals respecting the tax roll.

(2) At least fourteen (14) days before the proposed date of the sitting of the Review Panel, the tax administrator must post a notice of the date, time and place of the proposed sitting on the First Nation's website and at the First Nation's administrative offices.

Notice of Tax

26. At least fourteen (14) days before the date proposed for the sitting of the Review Panel, the tax administrator must mail to the holder of every property that is to be taxed a Notice of Local Improvement Tax stating

(a) the local improvement in relation to which the tax is to be imposed;

(b) the taxable area or the taxable frontage of the property, if applicable;

(c) the tax rate or formula applicable to the property;

(d) the date, time and place of the sitting of the Review Panel; and

(e) that the tax roll is available for inspection at the offices of the First Nation during its regular office hours.

Grounds for Appeal

27.(1) A person may appeal the tax to the Review Panel on one or more of the following grounds:

- (a) there is an error or omission respecting a name or address on the local improvement tax roll,
- (b) there is an error or omission respecting the inclusion of a property,
- (c) there is an error or omission respecting the taxable area or the taxable frontage of a property, and **[Note to First Nation: Delete this ground for appeal if the tax is not based on area or frontage.]**
- (d) an exemption has been improperly allowed or disallowed, **[Note to First Nation: Delete this ground for appeal if the By-law does not provide for any exemptions from the tax.]**

by delivering a completed Notice of Appeal and a copy of the Notice of Local Improvement Tax to the tax administrator within seven (7) days after the Notice of Local Improvement Tax was delivered to the holder of the property.

(2) Where an appeal is received under this section, the tax administrator must immediately advise the Council and the chair, and confirm the sitting of the Review Panel as scheduled.

(3) A Review Panel hearing an appeal under this section only has authority to amend the tax roll in relation to properties in respect of which an appeal under this section has been made.

Withdrawal of Appeal

28.(1) A complainant may withdraw an appeal under this Part by delivering a Notice of Withdrawal to the tax administrator.

(2) On receipt, the tax administrator must forward a Notice of Withdrawal to the chair of the Review Panel.

(3) Where a Notice of Withdrawal is received before a hearing has commenced, the chair must accept the withdrawal and cancel the hearing for that appeal.

(4) Where a Notice of Withdrawal is received after a hearing has commenced, the Review Panel must dismiss the appeal.

Hearings

29.(1) A majority of the members of the Review Panel constitutes a quorum.

(2) Where a quorum of the members of the Review Panel 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.

(3) The Review Panel may conduct its proceedings by any combination of written, electronic and oral hearings.

(4) The Review Panel must give all parties a reasonable opportunity to be heard at a hearing.

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

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

(7) The Review Panel 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.

(8) The Review Panel may question any witness who gives oral evidence at a hearing.

(9) The Review Panel 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.

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

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

(12) The Review Panel may

(a) hear all appeals on the same day or may adjourn from time to time until all appeals have been heard and determined;

(b) hear an appeal whether the complainant is present or not; and

(c) at any time during a proceeding, adjourn the proceeding.

(13) If two (2) or more appeals involve the same or similar questions, the Review Panel may combine the appeals, or any part of them, hear the appeals at the same time or one immediately after the other, or stay one or more of the appeals until after the determination of another one of them.

(14) Subject to this By-law, the Review Panel has the power to control its own processes to facilitate the just and timely resolution of the matters before it.

Parties to an Appeal

30. The parties to an appeal are

(a) the complainant;

(b) the holder of the interest in land, if not the complainant;

(c) the tax administrator; and

(d) any other person who may be affected by the appeal, as determined by the Review Panel.

Maintaining Order at Hearings

31.(1) The Review Panel 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 Review Panel 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 Review Panel orders otherwise.

Summary Dismissal

32.(1) At any time after a Notice of Appeal is received by the Review Panel, the Review Panel 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 Review Panel;

(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 Review Panel.

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

(3) The Review Panel must make a record of its decision for any dismissal made under subsection (1) and provide a copy of the record to all parties.

Decisions of the Review Panel

33.(1) A decision of the majority of the members is a decision of the Review Panel and, in the case of a tie, the decision of the chair governs.

(2) If a member is unable for any reason to complete the member's duties, the remaining members may continue to hear and determine the appeal and the vacancy does not invalidate the hearing.

(3) The chair must, within ten (10) days after completion of a hearing, make a record of the Review Panel's decision and provide the tax administrator with the information necessary to amend the tax roll and provide the notices required under section 35.

(4) Within ten (10) days of receipt of the information provided under subsection (3), the tax administrator must amend the tax roll in accordance with the chair's directions and return the amended tax roll to the chair.

Certification of Tax Roll by Chair

34.(1) The chair must review the amended tax roll returned under subsection 33(4) to confirm that the directed amendments have been made.

(2) If the chair confirms that the directed amendments have been made, the chair must certify the tax roll and deliver a copy of the certified tax roll to the tax administrator.

(3) On receipt of the certified tax roll under subsection (2), the tax administrator must deliver a copy of the tax roll to the Council.

Notices to Complainants

35.(1) Within ten (10) days after a tax roll is certified under section 34, the tax administrator must mail a notice of the decision made by the Review Panel to

- (a) the holder of the property to which the decision relates; and
- (b) the complainant, if the complainant is not the holder of the property.

(2) The notice under subsection (1) must include a statement that the complainant has the right to judicial review of the Review Panel's decision by a court of competent jurisdiction.

PART VIII

UPDATING THE LOCAL IMPROVEMENT TAX ROLL

Tax Administrator Must Update Tax Roll

36. In each year after the first year in which the tax is imposed, the tax administrator must update the tax roll to

- (a) reflect any changes from the previous year in relation to matters referred to in subsection 12(3); and
- (b) reflect changes where there is
 - (i) a subdivision affecting a property, or
 - (ii) a consolidation of two (2) or more properties,

such that each of the new properties bears an appropriate share of the tax.

Annual Notice to Holders

37. In each year after the first year in which a tax is imposed, the tax administrator must post a notice on the First Nation's website and at the First Nation's administrative offices stating

- (a) that the tax roll for that year is available for inspection at the First Nation offices during its regular

office hours;

(b) that a person who holds property included on the tax roll may request that the roll be amended respecting a matter referred to in subsection 27(1); and

(c) the date and time by which a request must be made in order to be considered for that year.

Requests for Amendment to the Tax Roll

38.(1) A person who holds a property included on a tax roll may request that the tax roll be amended respecting a matter referred to in subsection 27(1), by delivering a Request to Amend Local Improvement Tax Roll to the tax administrator before the time specified in the notice given under section 37.

(2) A request under subsection (1) may be made only in relation to the person's own property.

(3) A request under subsection (1) must not be made in respect of an amendment that a holder has requested in a previous year.

(4) If the tax administrator does not make the amendment requested under subsection (1), the tax administrator must deliver a Notice of Refusal to Amend Local Improvement Tax Roll to the holder of the property in respect of which the request was made.

Appeals to Review Panel

39.(1) A holder who receives a Notice of Refusal to Amend Local Improvement Tax Roll may appeal the decision by delivering a completed Notice of Appeal to the tax administrator within thirty (30) days after the date on which the notice was given, provided that the appeal is

(a) on one or more of the grounds set out in subsection 27(1); and

(b) in respect of property held by that person.

(2) If the tax administrator receives an appeal in accordance with subsection (1), the tax administrator must advise Council, and Council must convene a Review Panel to hear and determine the appeal, and for these purposes Part VII applies.

(3) A Review Panel hearing an appeal under this section only has authority to amend the tax roll in relation to properties in respect of which an appeal under this section has been made.

(4) If no appeals are received under this section, the tax administrator must

(a) certify in writing that the tax roll as it is amended under this Part was completed in accordance with the requirements of this By-law; and

(b) deliver a copy of the certified local improvement tax roll to Council.

Validity of Tax Roll

40. Despite

(a) any omission, defect or error committed in or with respect to a tax roll,

(b) any defect, error or misstatement in any notice given, or

(c) any omission to mail or deliver a notice,

the initial tax roll, as certified by the tax administrator or the chair, is valid and binding on all parties concerned until updated in accordance with this By-law in each subsequent year, and each update to the tax roll certified by the tax administrator or the chair is valid and binding on all parties concerned until the next certified tax roll under this By-law.

PART IX GENERAL PROVISIONS

Disclosure of Information

41.(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 Review Panel, a court of law or pursuant to a court order; or
- (c) in accordance with subsection (2).

(2) The tax administrator 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

42. Notwithstanding section 41, 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

43. Nothing under this By-law must be rendered void or invalid, nor must the liability of any person to pay tax or any other amount under this By-law be affected by

- (a) an error or omission in a determination made by the tax administrator;
- (b) an error or omission in a tax roll or any notice given under this By-law; or
- (c) a failure of the First Nation, the tax administrator or the Review Panel to do something within the required time.

Limitation on Proceedings

44.(1) No person may commence an action or proceeding for the return of money paid to the First Nation, whether under protest or otherwise, on account of a demand, whether valid or invalid, for taxes or any other amount paid under this By-law, after the expiration of six (6) months from the making of the payment.

(2) If a person fails to start an action or proceeding within the time limit prescribed in this section, then money paid to the First Nation must be deemed to have been voluntarily paid.

Notices

45.(1) Where in this By-law a notice is required to be delivered, 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 tax 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 tax 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

46.(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.

Coming into Force

47. This By-law comes into force upon the approval of 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]

Update 2018 10 30

SCHEDULE I
CALCULATION OF TAXABLE AREA [FRONTAGE]

[Note to First Nation: Delete if not applicable.]

[Note to First Nation: If applicable, set out any rules for calculating frontage or irregular parcels or other physical characteristics which may affect the calculation.]

Update 2018 10 30

SCHEDULE II
CONSTRUCTION SCHEDULE

[Note to First Nation: The Construction Schedule must be certified by a registered professional that it includes all necessary design and construction components of the local improvement and that it provides a reasonable and achievable time frame for the completion of the local improvement.]

SCHEDULE III
NOTICE OF LOCAL IMPROVEMENT TAX

TO: _____

ADDRESS: _____

DESCRIPTION OF PROPERTY: _____

TAKE NOTICE that, pursuant to the _____ *First Nation* _____ *Local Improvement Tax By-law, 20*____, a local improvement tax roll has been prepared by the Tax Administrator for the _____ First Nation.

AND TAKE NOTICE: **[Note to First Nation: complete this part to correspond to the By-law.]**

The local improvement tax is imposed in relation to [describe local improvement].

The tax is to be imposed on the basis of [the assessed value of the property/the taxable frontage of the property/the taxable area of the property/a fixed amount per property].

[The taxable area [frontage] of the property is: _____ (_____) [square] metres.]

AND TAKE NOTICE that the local improvement tax roll is available for inspection at the offices of the _____ First Nation, located at [address], during regular office hours.

AND TAKE NOTICE that you may make an appeal to the Review Panel in respect of the imposition of this tax on your property on one or more of the following grounds:

1. there is an error or omission respecting a name or address on the local improvement tax roll,
2. there is an error or omission respecting the inclusion of a property,
3. there is an error or omission respecting the taxable area or the taxable frontage of a property, and
4. an exemption has been improperly allowed or disallowed,

by delivering, within seven (7) days of delivery of this Notice, a Notice of Appeal in the form specified in the _____ *First Nation* _____ *Local Improvement Tax By-law, 20*____, along with a copy of this Notice, to the Tax Administrator at the following address [insert address]. The Notice of Appeal must be signed by the holder of the property or his or her agent, and must set out a mailing address to which all notices to the complainant may be sent.

AND TAKE NOTICE that the following date, time and place has been set for the Review Panel to hear appeals respecting the local improvement tax roll:

_____, 20__ at _____ (A.M./P.M.) at _____ [location]

You may contact the Tax Administrator for the _____ First Nation directly if you have any questions or concerns respecting this Notice and tax that will be imposed on your property for the [describe local improvement].

Tax Administrator for the _____ First Nation

Dated: _____, 20__ .

SCHEDULE IV
NOTICE OF APPEAL

TO: Tax Administrator for the _____ First Nation
[address]

PURSUANT to the provisions of the _____ *First Nation* _____ *Local Improvement Tax By-law, 20__* , I hereby make an appeal about the imposition of a local improvement tax on property described as _____ .

A copy of the Notice of Local Improvement Tax is enclosed.

My appeal is on the following grounds:

- (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:

Name of Complainant (please print)

Signature of Complainant (or representative)

Dated: _____, 20__ .

NOTE: A copy of the Notice of Local Improvement Tax or Notice of Refusal to Amend Local Improvement Tax Roll, as applicable, must be enclosed with this Notice of Appeal.

SCHEDULE V

NOTICE OF REFUSAL TO AMEND LOCAL IMPROVEMENT TAX ROLL

TO: _____

ADDRESS: _____

DESCRIPTION OF PROPERTY: _____

TAKE NOTICE that, pursuant to your Request to Amend the Local Improvement Tax Roll, dated _____, 20__ , the Tax Administrator has not made the requested amendment.

AND TAKE NOTICE that you may make an appeal respecting this refusal to amend the local improvement tax roll to the Review Panel. An appeal may only be made by a holder of the property and on one or more of the following grounds:

- (1) there is an error or omission respecting a name or address on the local improvement tax roll;
- (2) there is an error or omission respecting the inclusion of a property;
- (3) there is an error or omission respecting the taxable area or the taxable frontage of a property; and
- (4) an exemption has been improperly allowed or disallowed.

To make an appeal, you must deliver, within thirty (30) days of mailing of this Notice, a Notice of Appeal in the form specified in the _____ *First Nation* _____ *Local Improvement Tax By-law*, 20__ , along with a copy of this Notice, to the Tax Administrator at the following address: [insert address]. The Notice of Appeal must be signed by the holder of the property or his or her agent, and must set out a mailing address to which all notices to the complainant may be sent.

AND TAKE NOTICE that you will receive a further notice advising you of the date, time and place of the hearing at which the Review Panel will hear your appeal respecting the local improvement tax roll.

Tax Administrator for the _____ First Nation

Dated: _____, 20__ .

SCHEDULE VI
REQUEST TO AMEND LOCAL IMPROVEMENT TAX ROLL

TO: Tax Administrator for the _____ First Nation
[address]

PURSUANT to the provisions of the _____ *First Nation* _____ *Local Improvement Tax By-law, 20__*, I hereby request that the local improvement tax roll be amended in respect of the following property:

[description of the property as described in the local improvement tax roll]

This request for an amendment to the local improvement tax roll is based on the following grounds:

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

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

Holder's mailing address to which the amendment decision is to be sent:

Name of Complainant (please print)

Signature of Complainant (or representative)

Dated: _____, 20__ .

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SCHEDULE VII
NOTICE OF WITHDRAWAL

TO: Tax Administrator for the _____ First Nation
[address]

PURSUANT to the provisions of the _____ *First Nation* _____ *Local Improvement Tax By-law, 20*____, I hereby withdraw my appeal respecting the imposition of a local improvement tax on the following property:

[description of property as described in the Notice of Local Improvement Tax]

Name of Complainant (please print)

Signature of Complainant (or representative)

Dated: _____, 20__ .

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SCHEDULE VIII
MAP OF LOCAL IMPROVEMENT AREA AND LIST OF PROPERTIES