

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

TABLE OF CONTENTS

PART I Citation

PART II Definitions and References

PART III Administration

PART IV Assessed Value

PART V Requests for Information and Inspections

PART VI Assessment Roll and Assessment Notice

PART VII Corrections to Assessment Roll

PART VIII Reconsideration of Assessment

PART IX Assessment Review Board.....

PART X Appeal to Assessment Review Board.....

PART XI General Provisions.....

SCHEDULES

- I Property Classes
- II Request for Information by Assessor
- III Declaration of Purpose for the Use of Assessment Information
- IV Assessment Notice
- V Request for Reconsideration of Assessment
- VI Notice of Appeal to Assessment Review Board
- VII Notice of Withdrawal
- VIII Notice of Hearing
- IX Order to Attend Hearing/Produce Documents
- X Certification of Assessment Roll by Assessor

WHEREAS:

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

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

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

PART I
CITATION

Citation

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

PART II DEFINITIONS AND REFERENCES

Definitions and References

2.(1) In this By-law:

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

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

“assessment” means the valuation and classification of property determined in accordance with this By-law;

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

“Assessment Review Board” means a board established by Council in accordance with Part IX;

“assessment roll” means a roll prepared pursuant to this By-law and includes a supplementary assessment roll, an amended assessment roll and an assessment roll referenced under subsection 9(3);

“assessment year” means the year prior to the taxation year;

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

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

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

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

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

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

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

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

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

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

“improvement” means

(a) a structure,

(b) any thing attached or secured to a structure that would be transferred without special mention by transfer or sale of the structure,

(c) a manufactured home, mobile home, modular home or travel trailer, and

(d) machinery and equipment;

“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;

“linear property” has the meaning given to that term in the *Municipal Government Act* (Alberta) from time to time;

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

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

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

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

“party”, in respect of an appeal of an assessment under this By-law, means the parties to an assessment appeal under section 31;

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

“property class” means the categories of property established in subsection 6(1) for the purposes of assessment and taxation;

“Province” means the province of Alberta;

“reserve” means a reserve 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 section 24;

“supplementary Assessment Notice” means a notice containing the information required under subsection 18(9);

“supplementary assessment roll” means an assessment roll under subsections 18(5) and 18(6);

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

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

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

PART III ADMINISTRATION

Assessor

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

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

Application of By-law

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

PART IV ASSESSED VALUE

Assessment and Valuation

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) An assessment must be an estimate of the value of an interest in land on July 1 of the assessment

year.

(3) Each assessment of non-linear property must reflect the

(a) characteristics and physical condition of the interest in land on December 31 of the assessment year; and

(b) valuation standard that would apply under the Provincial regulations for that interest in land if it were located off the reserve.

(4) Each assessment of a railway must be based on a report provided by December 31 to the First Nation by the holder or the person that operates the railway, showing the

(a) amount of land on the reserve occupied by the railway for roadway; and

(b) amount of land on the reserve occupied by the railway for purposes other than roadway.

(5) If the person who received the request does not provide the report required by subsection (4), the assessor must prepare the assessment using whatever information is available about the railway.

(6) Unless subsection (5) applies, an assessment must be prepared for an improvement whether or not it is complete or capable of being used for its intended purpose.

(7) No assessment is to be prepared for

(a) linear property that is under construction but not completed on or before October 31 of the assessment year, unless it is capable of being used for the transmission of gas, oil or electricity;

(b) new improvements that are intended to be used for or in connection with a manufacturing or processing operation and are not completed or in operation on or before December 31 of the assessment year; or

(c) new improvements that are intended to be used for the storage of materials manufactured or processed by the improvements referred to in paragraph (b), if the improvements are not completed or in operation on or before December 31 of the assessment year.

(8) Each assessment of linear property must reflect

(a) the valuation standard that would apply under the Provincial regulations for that interest in land if it were located off the reserve; and

(b) the specifications and characteristics of the linear property on October 31 of the assessment year in respect of the linear property, as contained in

(i) the records of the Alberta Energy and Utilities Board; or

(ii) the report requested by the assessor under subsection (9).

(9) If the assessor considers it necessary, the assessor may request the holder or the operator of linear property to provide a report relating to that property setting out the information requested by the assessor.

(10) On receiving a request under subsection (9), the person who received the request must provide the report not later than December 31 of the assessment year.

(11) If the person who received the request does not provide the report in accordance with subsection (10), the assessor must prepare the assessment using whatever information is available about the linear property.

(12) 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.

(13) The assessor must provide, to any holder of assessable property who requests it, sufficient information to show how the assessor prepared the assessment of that person's property.

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

(a) the valuation methods, standards, rates, rules and formulas established under Provincial assessment legislation existing at the time of assessment; and

(b) the assessment rules, practices, procedures and guidelines used by assessors in the Province for conducting assessments off the reserve.

Property Classes

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 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.

(3) When preparing an assessment of property, the assessor must assign one or more of the property classes to the property.

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

PART V

REQUESTS FOR INFORMATION AND INSPECTIONS

Requests for Information

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

(2) The assessor may in all cases assess the assessable property based on the information available to him or her and is not bound by the information provided under subsection (1).

Inspections

8.(1) After giving reasonable notice to the holder of an interest in land, an assessor may at any reasonable time, for the purpose of preparing an assessment of the interest in land or determining if the interest in land is to be assessed,

(a) enter on and inspect the interest in land,

(b) request anything to be produced to assist the assessor in preparing the assessment or determining if the interest in land is to be assessed; and

(c) make copies of anything necessary to the inspection.

(2) A person must provide, on request by the assessor, any information necessary for the assessor to prepare an assessment or determine if an interest in land is to be assessed.

PART VI ASSESSMENT ROLL AND ASSESSMENT NOTICE

Assessment Roll

9.(1) On or before _____ of each year, the assessor must complete a new assessment roll containing a list of every interest in land that is liable to assessment under this By-law.

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

- (a) the name and last known address of the holder 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.

[Note to First Nation: Include the following language only if this By-law is repealing and replacing an existing property assessment by-law:

(3) For greater certainty, an assessment roll prepared under the enactment repealed by section 56 is and continues to be an assessment roll under this By-law and must be used until such time as the next assessment roll is prepared and certified in accordance with this By-law.]

Certification by Assessor

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

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

Amendments to Assessment Roll

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

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

(2) Where the assessment roll is amended under this By-law, the amendments are an integral part of the assessment roll and are deemed to be effective as of the date the assessment roll was certified under section 10.

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

Validity of Assessment Roll

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

Inspection and Use of Assessment Roll

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 III

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

Protection of Privacy in Assessment Roll

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 section 13 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 his or her name be added to the assessment roll in respect of that assessable property, for the duration of the charge.

(2) On receipt of a notice and request under this section, the assessor 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 May 31 of 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) Where requested by the recipient, an Assessment Notice may be e-mailed to a person named on the assessment roll, and the Assessment Notice is deemed to have been delivered on the date that the e-mail is

sent by the assessor.

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

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

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

(6) If there is an error, omission or misdescription in any of the information shown on an Assessment Notice, the assessor may prepare and send an amended Assessment Notice to all persons named on the assessment roll in respect of that interest in land.

(7) Subject to subsection 13(2) and subsection (8), the assessor must provide to any person who requests it the information contained in the current Assessment Notice.

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

(9) The Assessment Notice and the Tax Notice required under the Taxation By-law relating to the same property may be mailed together or combined into one notice.

PART VII

CORRECTIONS TO ASSESSMENT ROLL

Corrections to Assessment Roll

17.(1) Where the assessor determines that

- (a) there is an error, omission or misdescription in any of the information shown on the assessment roll,
- (b) no assessment has been prepared for an assessable property, or
- (c) property that was exempt from taxation under the Taxation By-law has become taxable or taxable property has become exempt from taxation,

the assessor must make the necessary correction or amendment to the assessment roll and mail an amended Assessment Notice to every person named in the assessment roll in respect of the interest in land affected.

(2) The assessor must not make an amendment to the assessment roll after December 31 of the current taxation year.

Supplementary Assessments

18.(1) The assessor must prepare supplementary assessments for machinery and equipment used in manufacturing and processing if those improvements are completed or begin to operate during the taxation year.

- (2) The assessor must prepare supplementary assessments for other improvements if
 - (a) they are completed in the taxation year;
 - (b) they are occupied during all or any part of the taxation year; or
 - (c) they are moved onto the reserve during the taxation year.
- (3) A supplementary assessment must reflect the

- (a) value of an improvement that has not been previously assessed; or
- (b) increase in the value of an improvement since it was last assessed.

(4) Supplementary assessments must be prepared in the same manner as assessments prepared under this By-law, but must be prorated to reflect only the number of months during which the improvement is complete, occupied, in operation or located on the reserve, including the whole of the first month in which the improvement was completed, occupied, began to operate or was moved onto the reserve.

(5) The assessor must prepare a supplementary assessment roll on or before December 31 in the taxation year in which supplementary assessments are prepared.

(6) A supplementary assessment roll must include the same information required to be shown on the assessment roll, and the date that the improvement

- (a) was completed, occupied, or moved onto the reserve, or
- (b) began to operate.

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

(8) The assessor must, no later than December 31 in the taxation year in which a supplementary assessment roll is prepared,

- (a) deliver a certified copy of the supplementary assessment roll to the Council;
- (b) prepare a supplementary Assessment Notice for every assessed improvement shown on the supplementary assessment roll; and
- (c) mail a supplementary Assessment Notice to every person named on the supplementary assessment roll in respect of each assessed improvement affected.

(9) A supplementary Assessment Notice must contain the information

- (a) set out in Schedule IV; and
- (b) required under subsection (6).

(10) For greater certainty, this section does not apply to linear property and the assessor must not prepare supplementary assessments for linear property.

PART VIII

RECONSIDERATION OF ASSESSMENT

Reconsideration by Assessor

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

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

(3) A request for reconsideration of an assessment must

- (a) be delivered to the assessor within twenty-one (21) days after the day that the Assessment Notice is mailed or e-mailed to the person named on the assessment roll in respect of an assessable property;
- (b) be made in writing and include the information set out in Schedule V; and
- (c) include any reasons in support of the request.

(4) The assessor must, no later than twenty-one (21) days after the end of the twenty-one (21) day

period referenced in paragraph (3)(a), consider the request for reconsideration and advise the person who requested the reconsideration that

(a) the assessor confirms the assessment; or

(b) the assessor has determined that the assessable property should have been assessed differently, and that the assessor offers to modify the assessment.

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

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

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

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

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

PART IX

ASSESSMENT REVIEW BOARD

Council to Establish Assessment Review Board

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

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

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

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

(4) Each member of the Assessment Review Board must hold office for a period of three (3) years unless the member resigns or is removed from office in accordance with this By-law.

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

Remuneration and Reimbursement

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

21.(1) The First Nation must remunerate

(a) the chair for his or her services at a rate of _____ dollars (\$ _____) per hour [or day],

(b) a member (or replacement member appointed to act), other than the chair, who meets the criteria set out in subsection 20(2), for his or her services at a rate of _____ dollars (\$ _____) per hour [or day], and

(c) a member (or replacement member appointed to act), other than those referenced in paragraphs (a) and (b), at a rate of _____ dollars (\$ _____) per hour [or day],

for time spent on activities of the Assessment Review Board required under this By-law or expressly authorized by Council.

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

Conflicts of Interest

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

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

(b) is the Chief of the First Nation or a member of Council;

(c) is an employee of the First Nation; or

(d) has financial dealings with the First Nation, which might reasonably give rise to a conflict of interest or impair that person's ability to deal fairly and impartially with an appeal, as required under the terms of this By-law.

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

Appointment of Chair

23.(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

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

(2) The secretary of the Assessment Review Board must

(a) have the custody and care of all records, documents, orders and decisions made by or pertaining to the Assessment Review Board; and

(b) fulfill such other duties as directed by the chair and the Assessment Review Board.

Removal of Member

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

- (a) is convicted of an offence under the *Criminal Code*;
- (b) fails to attend three (3) consecutive hearings of the Assessment Review Board; or
- (c) fails to perform any of his or her duties under this By-law in good faith and in accordance with the terms of this By-law.

Duty of Member

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

PART X

APPEAL TO ASSESSMENT REVIEW BOARD

Appeals

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

Notice of Appeal

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

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

to the assessor within forty-five (45) days after the date on which the Assessment Notice was mailed or e-mailed to the persons named on the assessment roll in respect of the assessable property.

(2) An appeal is commenced by delivery of a completed Notice of Appeal, a copy of the Assessment Notice, and the required administration fee to the assessor at the address set out in the Assessment Notice.

(3) The grounds for an appeal may be in respect of one or more of the following:

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

(4) Where an appeal is commenced with respect to an assessment amended under section 17, the appeal must be confined to the amendment.

(5) Where an appeal is commenced with respect to a supplementary assessment under section 18, the appeal must be confined to the supplementary assessment.

(6) The assessor must, as soon as possible after a Notice of Appeal is received,

- (a) deliver a copy of the Notice of Appeal to the chair and to the First Nation; and
- (b) deliver the administration fee collected under paragraph (1)(c) to the First Nation.

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

Agents and Solicitors

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

Scheduling of Hearing

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

(2) The chair must, at least ten (10) days before the hearing, deliver a Notice of Hearing setting out the date, time and place of the hearing, to the parties and to each person named on the assessment roll in respect of the assessable property.

Parties

31. 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

32.(1) The chair must, without delay, deliver a copy of any document submitted by a party in relation to an appeal to all other parties.

(2) The chair may, in respect of an appeal,

- (a) require the assessor to provide any relevant document or record obtained or created in respect of an assessment that is in the custody or control of the assessor, subject to privilege;
- (b) require a party to provide relevant documents and records in advance of a hearing.

Timing for Hearing

33. Subject to section 46, the Assessment Review Board must commence a hearing within ninety (90) days after the end of the forty-five (45) day appeal period referenced in subsection 28(1), unless all parties consent to a delay.

Daily Schedule

34.(1) The chair must

- (a) create a daily schedule for the hearings of the Assessment Review Board; and
- (b) post the daily schedule at the place where the Assessment Review Board is to meet.

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

Conduct of Hearing

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

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

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

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

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

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

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

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

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

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

Maintaining Order at Hearings

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

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

Summary Dismissal

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

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

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

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

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

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

Quorum

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

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

day to day until there is a quorum.

Decisions

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

Combining Hearings

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

Power to Determine Procedures

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

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

Orders to Attend or Produce Documents

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

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

by issuing an Order to Attend Hearing/Produce Documents and serving it on the person at least two (2) days before the person's attendance or the requested document is required at the hearing, as the case may be.

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

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

- (4) Where a party makes a request under subsection (3),
 - (a) the chair must sign and issue an Order to Attend Hearing/Produce Documents and the party must serve it on the witness at least two (2) days before the person's attendance or the requested document is required at the hearing, as the case may be; 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 the Alberta Court of Queen's Bench for an order directing a person to comply with an order under this section.

Adjournments

43. 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

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

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

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

Reference on Question of Law

[Note to First Nation: This section can provide that a reference can go to either the Alberta Court of Queen's Bench or to the Federal Court of Canada, or it could specify only one of these courts if the First Nation has a preference.]

45.(1) At any stage of a proceeding before it, the Assessment Review Board, on its own initiative or at the request of one or more of the parties, may refer a question of law in the proceeding to the Alberta Court of Queen's Bench or to the Federal Court of Canada 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 court's opinion.

Matters before the Courts

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

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

Withdrawal of Appeal

47.(1) A complainant may withdraw an appeal under this Part by

- (a) delivering a Notice of Withdrawal to the assessor if a Notice of Hearing has not been delivered in respect of the appeal; or
- (b) delivering a Notice of Withdrawal to the Assessment Review Board if a Notice of Hearing has been delivered in respect of the appeal.

(2) Upon receipt of a Notice of Withdrawal

- (a) under paragraph (1)(a), the assessor must advise the chair and the First Nation that the appeal is withdrawn and will not proceed; and
- (b) under paragraph (1)(b), the Assessment Review Board must dismiss the appeal and notify the parties that the appeal has been dismissed.

(3) For greater certainty, if a Notice of Hearing has been issued but not delivered, paragraph (1)(b) applies.

Delivery of Decisions

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

[Note to First Nation: The following wording alternate wording may be used where the First Nation wishes to impose a time limit on the assessment review board to deliver its written decision. Such a period must not be less than 90 days after the day the hearing is completed.]

(1) The Assessment Review Board must, not more than ninety (90) days after the day on which a hearing is completed, deliver a written decision on the appeal to all parties.]

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

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

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

Delivery of Documents under This Part

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

(2) Personal delivery of a document is made

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

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

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

(3) Subject to subsection (4), a document is considered delivered if

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

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

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

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

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

Appeals

50.(1) An appeal lies to the Alberta Court of Queen's Bench from a decision of the Assessment Review Board on a question of law.

(2) An appeal under subsection (1) must be made within thirty (30) days after the day on which the decision is delivered under subsection 48(1).

PART XI GENERAL PROVISIONS

Disclosure of Information

51.(1) The tax administrator, the assessor, a member of the Assessment Review Board, the secretary or any other person who has custody or control of information or records obtained or created under this By-law must not disclose the information or records except

- (a) in the course of administering this By-law or performing functions under it;
- (b) in proceedings before the Assessment Review Board, a court of law or pursuant to a court order;
or
- (c) in accordance with subsection (2).

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

(3) An agent must not use information disclosed under subsection (2) except for the purposes authorized by the holder in writing referred to in that subsection.

Disclosure for Research Purposes

52. Notwithstanding section 51,

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

Validity

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

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

Notices

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

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

(c) by personal delivery or courier to the recipient or to the recipient's ordinary mailing address or the address for the recipient shown on the assessment roll.

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

(a) given by mail is deemed received on the fifth day after it is posted;

(b) posted on property is deemed received on the second day after it is posted; and

(c) given by personal delivery is deemed received upon delivery.

Interpretation

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

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

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

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

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

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

[Note to First Nation: Include this repeal provision only if this By-law is repealing and replacing an existing property assessment By-law.]

Repeal

56. The _____ *First Nation Property Assessment By-law No. __*, as amended, is hereby repealed in its entirety.]

Force and Effect

57. 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 Alberta.

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

[Name] _____

Chief [please spell out the name]

[Name] _____

Councillor [please spell out the name]

[Name] _____

Councillor [please spell out the name]

[Name] _____

Councillor [please spell out the name]

SCHEDULE I
PROPERTY CLASSES

Class 1 - Residential

Class 2 - Non-Residential (including linear)

Class 3 - Farmland

Class 4 - Machinery and Equipment

[Note to First Nation: The First Nation may also establish subclasses within class 1 or class 2. Class 1 may be divided into subclasses on any basis Council considers appropriate. Class 2 may be divided into 2 subclasses: vacant non-residential and improved non-residential. Any proposed subclasses should first be discussed with the First Nation's assessor. All subclasses must be set out in this Schedule.]

SCHEDULE II
REQUEST FOR INFORMATION BY ASSESSOR
FOR THE _____ FIRST NATION

TO: _____

ADDRESS: _____

DESCRIPTION OF INTEREST IN LAND: _____

DATE OF REQUEST: _____

PURSUANT to section __ of the _____ *First Nation Property Assessment By-law*, 20__, I request that you provide to me, in writing, no later than _____ **[Note: must be a date that is at least fourteen (14) days after 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
DECLARATION OF PURPOSE FOR THE USE OF
ASSESSMENT INFORMATION

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

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

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

Signed: _____
[please print name]

Dated: _____ , 20__ .

SCHEDULE IV
ASSESSMENT NOTICE

TO: _____

ADDRESS: _____

DESCRIPTION OF INTEREST IN LAND: _____

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

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

The interest in land is classified as:

The assessed value by classification of the interest in land is:

TOTAL ASSESSED VALUE: _____

TOTAL ASSESSED VALUE LIABLE TO TAXATION: _____

AND TAKE NOTICE that you may, within twenty-one (21) 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 twenty-one (21) days after the end of the period during which you may request a reconsideration, the assessor will review the assessment and provide you with the results of the reconsideration. If the assessor determines that the property should have been assessed differently, the assessor will offer to modify the assessment.

AND TAKE NOTICE that you may, within forty-five (45) days of the date of mailing of this notice, appeal this assessment to the Assessment Review Board. The Notice of Appeal must be in writing in the form and accompanied by the fee specified in the _____ *First Nation Property Assessment By-law, 20__* and must be delivered to the Assessor at the following address: [insert address].

Tax Administrator for the _____ First Nation

Dated: _____, 20__ .

SCHEDULE V
REQUEST FOR RECONSIDERATION OF ASSESSMENT

TO: Assessor for the _____ First Nation
[address]

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

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

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

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

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

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

Address and telephone number at which applicant can be contacted:

Name of Applicant (please print)

Signature of Applicant

Dated: _____, 20__.

SCHEDULE VI
NOTICE OF APPEAL TO ASSESSMENT REVIEW BOARD

TO: Assessor for the _____ First Nation
[address]

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

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

The grounds for the appeal are:

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

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

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

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

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

Name of Complainant (please print)

Signature of Complainant (or representative)

Dated: _____, 20__ .

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

SCHEDULE VII
NOTICE OF WITHDRAWAL

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

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

Description of interest in land:

Date of Notice of Appeal:

Name of Complainant (please print)

Signature of Complainant (or representative)

Dated: _____, 20__ .

SAMPLE

SCHEDULE VIII
NOTICE OF HEARING

TO: _____

ADDRESS: _____

DESCRIPTION OF INTEREST IN LAND: _____

Complainant in respect of this appeal: _____

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

Date: _____, 20__

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

Location: _____ [address]

AND TAKE NOTICE that you should bring to the hearing [insert # copies] copies of all relevant documents in your possession respecting this appeal.

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

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

Chair, Assessment Review Board

Dated: _____, 20__ .

SCHEDULE IX
ORDER TO ATTEND HEARING/PRODUCE DOCUMENTS

TO: _____

ADDRESS: _____

TAKE NOTICE that an appeal has been made to the Assessment Review Board for the _____ First Nation in respect of the assessment of _____ [describe interest in land].

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

THIS NOTICE REQUIRES you to [indicate the applicable provisions below]:

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

Date: _____, 20__

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

Location: _____ [address]

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

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

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

2. Deliver the following documents [list documents] OR any documents in your possession that may relate to this assessment, to the Chair, Assessment Review Board, at _____ [address] on or before _____.

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

Chair, Assessment Review Board

Dated: _____, 20__ .

SCHEDULE X

CERTIFICATION OF ASSESSMENT ROLL BY ASSESSOR

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

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

(Signature of Assessor)

Dated _____, 20__ at _____, _____.
(City) (Province)

