

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

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WHEREAS:

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

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

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

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

“assessment and tax roll” means a roll prepared under Part VI of this By-law and includes an amended assessment and tax roll;

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

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

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

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

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

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

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

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

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

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

“improvement” means any building, fixture, structure or similar thing, other than land, that is included in the definition of “real property” in the *Assessment Act* (New Brunswick);

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

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

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

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

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

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

“party”, in respect of an appeal of an assessment under this By-law, means the parties to an assessment appeal under section 30;

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

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

“Province” means the province of New Brunswick;

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

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

“secretary” means the secretary of the Assessment Review Board appointed under section 23;

“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 and tax roll applies for the purposes of taxation; and

“taxes” includes all taxes imposed, levied, assessed or assessable under the Taxation By-law, and all penalties, interest and costs added to taxes under the Taxation By-law.

(2) In this By-law, references to a Part (e.g. Part I), section (e.g. section 2), subsection (e.g. subsection 3(1)), paragraph (e.g. paragraph 5(9)(a)) or Schedule (e.g. Schedule I) is a reference to the specified Part, section, subsection, paragraph or Schedule of this By-law, except where otherwise stated.

PART III ADMINISTRATION

Assessor

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

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

Application of By-law

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

PART IV ASSESSED VALUE

Assessment and Valuation

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

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

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

(4) The assessor must not apply any discretionary assessment reductions.

(5) 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 and tax roll.

(6) Where there is an undivided interest in property other than that of a deceased person, and where the assessor cannot ascertain the several names and interests of the holders, the assessor may assess the property in the names of the holders known to the assessor or last registered as the holder of the property.

(7) The assessor must assess installations, machinery, equipment, apparatus, structures, pipes or pipelines forming part of a gas holding, storage, transportation, transmission or distribution system, or any oil pipeline, in the name of its owner.

(8) Where the owner of a mobile home does not hold the land on which it is located, the assessor may assess the mobile home in the name of its owner.

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

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

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

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

(4) Where a property falls into more than one (1) property class, 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) The assessor may, for any purposes related to assessment, enter into or on and inspect land and improvements.

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

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

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

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

(4) A Notice of Assessment Inspection is considered delivered if

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

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

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

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

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

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

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

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

PART VI
ASSESSMENT AND TAX ROLL AND
ASSESSMENT AND TAX NOTICE

Assessment and Tax Roll

9.(1) On or before December 31 of each year, the assessor must complete a new assessment and tax roll containing a list of every interest in land that is liable to assessment under this By-law.

(2) The assessment and 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) 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;

(g) the tax rate applicable to the interest in land;

(h) the amount of taxes levied on the interest in land in the current taxation year under the Taxation By-law;

(i) the amount of any unpaid taxes, including penalties and interest, from previous taxation years; and

(j) any other information the assessor considers necessary or desirable.

Certification by Assessor

10. On completion of an assessment and tax roll and on or before December 31 in that year, the assessor must

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

Amending the Assessment and Tax Roll

11.(1) Where the assessor amends the assessment and tax 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 and tax roll; and
- (b) report the change or correction to Council.

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

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

Validity of Assessment and Tax Roll

12. An assessment and tax 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 and tax roll,
 - (ii) defect, error or misstatement in any notice required, or
 - (iii) omission to mail any notice required; and
- (b) for all purposes, the assessment and tax roll of the First Nation until the next certified assessment and tax roll.

Inspection and Use of Assessment and Tax Roll

13.(1) On receipt by Council, the assessment and tax roll, as modified under subsection (2), is open to inspection in the First Nation office by any person during regular business hours.

(2) The assessment and tax roll available for inspection under subsection (1) must not include information respecting

- (a) the amount of taxes levied on each property in the current taxation year; and
- (b) the amount of any unpaid taxes on each property, including penalties and interest, from previous taxation years.

(3) A person must not, directly or indirectly, use the assessment and tax roll or information contained in the assessment and tax 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.

(4) The assessor [tax administrator] may require a person who wishes to inspect the assessment and tax roll to complete a declaration in substantially the form set out in Schedule IV

(a) specifying the purpose for which the information is to be used; and

(b) certifying that the information contained in the assessment and tax roll will not be used in a manner prohibited under this section.

Protection of Privacy in Assessment and Tax 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 and tax 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 and tax rolls that are available for public inspection under subsection 13(1) or are otherwise accessible to the public.

Chargeholders

15.(1) Any person holding a charge on assessable property may, at any time, give notice, with full particulars of the nature, extent and duration of the charge, to the assessor and request that his or her name be added to the assessment and tax 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 and tax roll and provide copies of all Assessment and Tax Notices issued in respect of the assessable property.

Assessment and Tax Notice

16.(1) The tax administrator [assessor] must, on or before March 1 of each taxation year, mail an Assessment and Tax Notice to every person named in the assessment and tax roll in respect of each assessable property, at the person's address on the assessment and tax roll.

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

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

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

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

(6) The tax administrator [assessor] must enter on the assessment and tax roll the date of mailing an Assessment and Tax Notice.

(7) The mailing of the Assessment and Tax Notice by the tax administrator [assessor] constitutes a statement of and demand for payment of the taxes by the First Nation.

(8) Where applicable, an Assessment and Tax Notice must state that taxes are payable in conjunction with periodic lease payments under Part IX of the Taxation By-law.

(9) Subject to subsection 13(3) and subsection (10), the tax administrator [assessor] must provide, to

any person who requests it and pays the fee of ___ dollars (\$___), the information contained in the current Assessment and Tax Notice.

(10) Where information has been omitted or obscured under subsection 14(1), the assessor must omit that information from a notice provided under subsection (9).

(11) The assessor may correct an Assessment and Tax Notice that contains an error, omission or misdescription and may mail an amended Assessment and Tax Notice, notwithstanding the fact that the time for issuance of the Assessment and Tax Notice has passed, and an Assessment and Tax Notice so amended is valid and effective from the date on which the original Assessment and Tax Notice was mailed.

(12) No Assessment and Tax Notice is irregular, incomplete or otherwise invalid and no exemption from assessment or taxation is conferred by reason of an error, omission or misdescription in an Assessment and Tax Notice or by reason of the non-receipt of an Assessment and Tax Notice by any person.

PART VII

ERRORS AND OMISSIONS IN ASSESSMENT AND TAX ROLL

Corrections of Errors and Omissions in Assessment and Tax Roll

17.(1) If at any time the assessor discovers that there is an error in any part of the assessment and tax roll, the assessor must correct the error and amend the assessment and tax roll accordingly.

(2) If at any time assessable property has been in whole or in part omitted from the assessment and tax roll, the assessor must make any assessment necessary to rectify the omission and must enter the assessable property on the assessment and tax roll.

(3) Where the assessment and tax roll is amended under subsection (1) or (2), the assessor must mail an amended Assessment and Tax Notice to every person named in the assessment and tax roll in respect of the interest in land affected.

PART VIII

RECONSIDERATION OF ASSESSMENT

Reconsideration by Assessor

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

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

(3) A request for reconsideration of an assessment must

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

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

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

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

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

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

- (a) amend the assessment and tax roll as necessary to reflect the modified assessment;
- (b) give notice of the amended assessment to the tax administrator and to all persons who received the Assessment and Tax 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

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

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

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

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

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

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

Remuneration and Reimbursement

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

20.(1) The First Nation must remunerate

- (a) the chair (or acting chair) at a rate of _____ dollars (\$ _____) per hour [or day],
- (b) a member (or replacement member appointed to act), other than the chair, who meets the criteria set out in subsection 19(2), at a rate of _____ dollars (\$ _____) per hour [or day], and
- (c) a member (or replacement member appointed to act), other than those referenced in paragraphs (a)

and (b), at a rate of _____ dollars (\$ _____) per hour [or day],
for time spent on activities of the Assessment Review Board required under this By-law or expressly
authorized by Council.

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

Conflicts of Interest

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

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

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

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

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

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

Appointment of Chair

22.(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

23.(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

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

(a) is convicted of an offence under the *Criminal Code*;

(b) fails to attend three (3) consecutive hearings of the Assessment Review Board; or

(c) fails to perform any of his or her duties under this By-law in good faith and in accordance with the terms of this By-law.

Duty of Member

25. 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

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

Notice of Appeal

27.(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 and Tax Notice, and
- (c) an administration fee of _____ dollars (\$___),

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

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

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

- (a) the assessed value of the property;
- (b) the assessment classification of the property;
- (c) the applicability of an exemption to the property;
- (d) any alleged error or omission in an assessment or Assessment and Tax 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) 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

28. 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

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

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

Parties

30. 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

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

Timing for Hearing

32. Subject to section 45, the Assessment Review Board must commence a hearing within ninety (90) days after delivery of the Notice of Appeal to the assessor, unless all parties consent to a delay.

Daily Schedule

33.(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

34.(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

35.(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

36.(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

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

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

Decisions

38. 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

39. 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

40.(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

41.(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 a court of competent jurisdiction for an order directing a person to comply with an order under this section.

Adjournments

42. 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

43. 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

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

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

(3) The Assessment Review Board must

(a) suspend the proceeding as it relates to the stated case and reserve its decision until the opinion of the court has been given; and

(b) decide the appeal in accordance with the court's opinion.

Matters before the Courts

45. 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

46.(1) A complainant may withdraw an appeal under this Part by delivering a Notice of Withdrawal to the Assessment Review Board.

(2) Upon receipt of a Notice of Withdrawal under subsection (1), the Assessment Review Board must dismiss the appeal.

Delivery of Decisions

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

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

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

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

Delivery of Documents under this Part

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

(2) Personal delivery of a document is made

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

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

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

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

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

- (b) sent by registered mail, on the fifth day after it is mailed;
- (c) sent by fax, at the time indicated on the confirmation of transmission; or
- (d) sent by e-mail, at the time indicated in the electronic confirmation that the e-mail has been opened.

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

Appeals

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

(2) An appeal under subsection (1) must be commenced within thirty (30) days of the delivery of the Assessment Review Board's decision under subsection 47(1).

PART XI GENERAL PROVISIONS

Disclosure of Information

50.(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

51. Notwithstanding section 50, 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

52. 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 and tax roll, Assessment and Tax 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

53.(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 and 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 assessment and tax 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

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

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

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

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

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

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

Force and Effect

55. 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 New Brunswick.

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

[Name] _____

Chief [please spell out the name]

[Name] _____

Councillor [please spell out the name]

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[Name] _____

Councillor [please spell out the name]

[Name] _____

Councillor [please spell out the name]

Current ver. 2014-06-25

SCHEDULE I
PROPERTY CLASSES

Residential

Non-Residential

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
NOTICE OF ASSESSMENT INSPECTION

TO: _____

ADDRESS: _____

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

DATE: _____

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

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

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

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

Assessor for the _____ First Nation

Dated: _____, 20__.

SCHEDULE IV
DECLARATION OF PURPOSE FOR THE USE OF
ASSESSMENT AND TAX INFORMATION

I, _____ [name], of _____ [address], _____ [city],
_____ [province], _____ [postal code], declare and certify that I will not use the assessment
and tax roll or information contained in the assessment and tax 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) an 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 V
ASSESSMENT AND TAX NOTICE

TO: _____

ADDRESS: _____

DESCRIPTION OF INTEREST IN LAND: _____

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

1. Assessment Information:

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:

THE TOTAL ASSESSED VALUE IS: _____

THE TOTAL ASSESSED VALUE LIABLE TO TAXATION IS: _____

2. Taxation Information:

PURSUANT to the provisions of the _____ *First Nation Property Taxation By-law, 20__*, taxes are hereby levied on the above-noted interest in land as follows:

Taxes (current year):	\$ _____
Unpaid taxes (previous years)	\$ _____
Penalties:	\$ _____
Interest:	\$ _____
TOTAL DUE AND OWING	\$ _____

All current year taxes are due and payable on or before _____. Payments for unpaid taxes, penalties and interest are past due and must be paid immediately.

Payments must be made at the offices of the _____ First Nation, located at [address] during normal business hours. Payment must be by cheque, money order or cash.

Current year taxes that are not paid by _____ shall incur penalties and interest in accordance with the _____ *First Nation Property Taxation By-law, 20__*.

The name(s) and address(es) of the person(s) liable to pay the taxes is (are) as follows:

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

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

Assessor [Tax Administrator] for the _____ First Nation

Dated: _____, 20__ .

SCHEDULE VI
REQUEST FOR RECONSIDERATION OF ASSESSMENT

TO: Assessor for the _____ First Nation
[address]

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

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

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

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

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

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

Address and telephone number at which applicant can be contacted:

Name of Applicant (please print)

Signature of Applicant

Dated: _____, 20__ .

SCHEDULE VII
NOTICE OF APPEAL TO 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 and tax roll number, as described in the
Assessment and Tax 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 and Tax Notice must be enclosed with this Notice of Appeal.

SCHEDULE VIII
NOTICE OF WITHDRAWAL

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

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

Description of the interest in land: _____

Date of Notice of Appeal: _____

Name of Complainant (please print)

Signature of Complainant (or representative)

Dated: _____, 20__ .

SCHEDULE IX
NOTICE OF HEARING

TO: _____

ADDRESS: _____

DESCRIPTION OF INTEREST IN LAND: _____

Complainant in respect of this appeal: _____

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

Date: _____, 20__

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

Location: _____ [address]

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

A copy of the Assessment and Tax 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 X
ORDER TO ATTEND HEARING/PRODUCE DOCUMENTS

TO: _____

ADDRESS: _____

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

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

THIS NOTICE REQUIRES you to [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 dollars (\$20) witness fee is enclosed. Your reasonable travelling expenses will be reimbursed as determined by the Assessment Review Board.

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

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

Chair, Assessment Review Board

Dated: _____, 20__.

SCHEDULE XI

CERTIFICATION OF ASSESSMENT AND TAX ROLL BY ASSESSOR

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

I, _____, being the assessor for the _____ First Nation, hereby certify that this is the _____ First Nation assessment and tax roll for the year 20__ and that the assessment information in this assessment and tax 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)