

**BYLAW 11-05
TOWN OF BLACK DIAMOND**

**BEING A BYLAW OF THE TOWN OF BLACK DIAMOND FOR THE PURPOSE
OF ESTABLISHING AN ASSESSMENT REVIEW BOARD**

WHEREAS the Council for the Town of Black Diamond wishes to exercise its authority under the Municipal Government Act R.S.A. 2000, Chapter M-26 (“the Act”) and amendments thereto , to establish one or more Assessment Review Boards and may establish one or more positions to carry out the duties or functions of a designated officer;

NOW THEREFORE the Council of the Town of Black Diamond, in the Province of Alberta, duly assembled enact as follows:

Definitions:

“Assessment Notice”

includes any amended assessment notice and supplementary assessment notice.

“Assessment Roll”

includes a supplementary assessment roll.

“Clerk”

a designated officer appointed by Council to act as the clerk of the assessment review boards having jurisdiction in the municipality. The clerk must not be an assessor.

“Composite Assessment Review Board” (CARB)

shall mean an Assessment Review Board, consisting of 2 members who are not provincial members and 1 provincial member, designated to hear complaints regarding assessments of residential property consisting of 4 or more dwelling units, or assessments of non-residential property.

“Council”

shall mean the Council of the Town of Black Diamond.

“Local Assessment Review Board” (LARB)

shall mean an Assessment Review Board, consisting of 3 members who are not provincial members, designated to hear complaints regarding assessments of residential property consisting of 3 or less dwelling units, farm land, or business tax assessments.

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“Member” shall mean a Member of an Assessment Review Board duly appointed by Council in accordance with the Municipal Government Act.

“One-member LARB” shall mean a Local Assessment Review Board, consisting of 1 member who is not a provincial member, designated to hear complaints of non-assessment matters on an assessment notice, matters regarding a tax notice, or administrative or procedural matters.

“One-member CARB” shall mean a Composite Assessment Review Board, consisting of one provincial member, designated to hear complaints of non-assessment matters on an assessment notice, or administrative or procedural matters.

“Provincial member” shall mean a person appointed as a provincial member to a composite assessment review board by the Minister under section 454.2(2) or (3) of the Act.

“Regional Pool” shall mean a group of Assessment Review Board members duly appointed by Councils of municipalities, of which Black Diamond is one, participating in a joint regional agreement.

“Tax notice” includes any amended or supplementary tax notice.

“Tax roll” includes a supplementary tax roll.

1. TERMS OF REFERENCE

- (1) This Bylaw may be cited as the Assessment Review Board Bylaw.
- (2) Council shall establish one or more Local Assessment Review Boards for the Town of Black Diamond that shall consist of three (3) Members to hear complaints as required.
- (3) Council shall establish one or more Composite Assessment Review Boards for the Town of Black Diamond that shall consist of two (2) Members and one (1) Provincial Member to hear complaints as required.

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- (4) Council shall establish one or more Local Assessment Review Boards for the Town of Black Diamond that shall consist of one (1) Member to hear complaints as required.
- (5) Council shall establish one or more Composite Assessment Review Boards for the Town of Black Diamond that shall consist of one (1) Provincial Member to hear complaints as required.
- (6) Members of any Assessment Review Board shall serve a three-year term.
- (7) Members of any Assessment Review Board shall be paid in accordance with Schedule "B" attached.
- (8) All membership vacancies shall be advertised to request formal submission of applications.
- (9) Members shall be appointed to the Regional Pool from time to time by resolution of Council.
- (10) Council deems that a member appointed to the Regional Pool by a municipality, who is a party, along with the Town of Black Diamond, to the Assessment Review Board Joint Regional Agreement, is a Member appointed by Council.
- (11) Subject to Section 457(1) of the Act, a member of an assessment review board may not participate in any hearing of the board unless the member is qualified to do so in accordance with the regulations.
- (12) The Members of each Local Assessment Review Board shall choose a presiding officer (Chair) from among themselves.
- (13) The Provincial Member is the presiding officer (Chair) of any Composite Assessment Review Board.
- (14) Two (2) Members of a Local Assessment Review Board constitutes a quorum of a Local Assessment Review Board.
- (15) The Provincial Member and one other Member of a Composite Assessment Review Board constitutes a quorum of a Composite Assessment Review Board.
- (16) A decision of a majority of the Members of the Assessment Review Board is the decision of the Assessment Review Board.

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2. COMPLAINTS

- (1) A person wishing to make a complaint about any assessment or any business tax or any local improvement tax must do so in accordance with this section.
- (2) A complaint must be in the form prescribed in the regulations and must be accompanied by the fee set by the Council as set forth in Schedule "A".
- (3) A complaint may be made only by an assessed person or a taxpayer.
- (4) A complaint may relate to any assessed property or business.
- (5) A complaint may be about any of the following matters, as shown on an assessment or tax notice:
 - (a) the description of a property or business;
 - (b) the name and mailing address of an assessed person or taxpayer;
 - (c) an assessment;
 - (d) an assessment class;
 - (e) an assessment sub-class;
 - (f) the type of property;
 - (g) the type of improvement;
 - (h) school support;
 - (i) whether the property is assessable;
 - (j) whether the property or business is exempt from taxation under Part 10.
- (6) There is no right to make a complaint about any tax rate.
- (7) A complainant must
 - (a) indicate what information shown on an assessment notice or tax notice is incorrect,
 - (b) explain in what respect the information is incorrect,
 - (c) indicate what the correct information is, and
 - (d) identify the requested assessed value, if the complaint relates to an assessment.
- (8) A complaint about a local improvement tax must be made within one year after it is first imposed.
- (9) Despite section 2(8), where a local improvement tax rate has been revised under section 403(3) of the Act, a complaint may be made about the revised local improvement tax whether or not a complaint was made about the tax within the year after it was first imposed.

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- (10) A complaint under section 2(9) must be made within one year after the local improvement tax rate is revised.
- (11) A complaint must include the mailing address of the complainant if the mailing address of the complainant is different from the address shown on the assessment notice or tax notice.
- (12) An assessment review board has no jurisdiction to deal with a complaint about linear property or an amount set by the Minister under Part 9 of the Act as the equalized assessment for a municipality.

3. PROCESS FOR FILING A COMPLAINT

- (1) A complaint must be filed with the clerk at the address shown on the assessment or tax notice, not later than the date shown on that notice.
- (2) On receiving a complaint, the clerk must set a date, time and location for a hearing before an assessment review board, in accordance with the regulations.
- (3) If a complaint is to be heard by a local assessment review board, the clerk must
 - (a) within 30 days after receiving the complaint, provide the municipality with a copy of the complaint, and
 - (b) within the time prescribed by the regulations, notify the municipality, the complainant and any assessed person other than the complainant who is affected by the complaint of the date, time and location of the hearing.
- (4) If a complaint is to be heard by a composite assessment review board, the designated officer must
 - (a) within 30 days after receiving the complaint, provide the municipality with a copy of the complaint, and
 - (b) within the time prescribed by the regulations, notify the Minister, the municipality, the complainant and any assessed person other than the complainant who is affected by the complaint of the date, time and location of the hearing.
- (5) If any person who is given notice of the hearing does not attend, the assessment review board must proceed to deal with the complaint if
 - (a) all persons required to be notified were given notice of the hearing, and

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- (b) no request for a postponement or an adjournment was received by the board or, if a request was received, no postponement or adjournment was granted by the board.

4. DECISIONS OF ASSESSMENT REVIEW BOARD

- (1) An assessment review board may, with respect to any matter referred to in section 2(5) of this bylaw, make a change to an assessment roll or tax roll or decide that no change is required.
- (2) An assessment review board must dismiss a complaint that was not made within the proper time or that does not comply with section 2(7) of this bylaw.
- (3) An assessment review board must not alter any assessment that is fair and equitable, taking into consideration
 - (a) the valuation and other standards set out in the regulations,
 - (b) the procedures set out in the regulations, and
 - (c) the assessments of similar property or businesses in the same municipality.
- (4) An assessment review board must not alter any assessment of farm land, machinery and equipment or railway property that has been prepared correctly in accordance with the regulations.
- (5) Subject to the regulations, an assessment review board must, in writing, render a decision and provide reasons, including any dissenting reasons,
 - (a) within 30 days from the last day of the hearing, or
 - (b) before the end of the taxation year to which the complaint that is the subject of the hearing applies,whichever is earlier.
- (6) In accordance with Alberta Regulation 310/2009 *Matters Relating to Assessment Complaints Regulation* and any amendments thereto, a composite assessment review board may, or in the circumstances set out in the regulation must, order that costs of and incidental to any hearing before it be paid by one or more of the parties in the amount specified in the regulation.

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- (7) An order of the composite assessment review board under section 4(6) may be registered in the Personal Property Registry and at any land titles office and, on registration, has the same effect as if it were a registered writ of enforcement issued after judgment has been entered in an action by the Court of Queen's Bench.
- (8) The clerk must, within 7 days after an assessment review board renders a decision, send the board's written decision and reasons, including any dissenting reasons, to the persons notified of the hearing under section 3(3)(b) or 3(4)(b) as the case may be.

5. APPEAL

- (1) In accordance with the Act, an appeal lies to the Court of Queen's Bench on a question of law or jurisdiction with respect to a decision of an assessment review board.
- (2) In accordance with the Act, any of the following may appeal the decision of an assessment review board;
 - (a) the complainant;
 - (b) an assessed person, other than the complainant who is affected by the decision;
 - (c) a municipality, if the decision being appealed relates to property that is within the boundaries of that municipality;
 - (d) the assessor for a municipality referred to in subsection 5(2)(c).

6. SEVERABILITY

Each provision of this Bylaw is independent of all other provisions. If any provision is declared invalid for any reason by the Court of competent jurisdiction, all other provisions of this Bylaw shall remain valid and enforceable.

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Bylaw 10-05 and any amendments thereto is hereby rescinded.

This Bylaw shall come into effect on the date of its THIRD and FINAL READING.

READ A FIRST TIME THIS 4th **day of** May, A.D., 2011.

Original Signed

MAYOR

Original Signed

CHIEF ADMINISTRATIVE OFFICER

READ A SECOND AND THIRD TIME THIS 4th **day of** May, A.D., 2011.

Original Signed

MAYOR

Original Signed

CHIEF ADMINISTRATIVE OFFICER

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SCHEDULE "A"**

ASSESSMENT COMPLAINT FEES

Complaint fee for a residential assessment complaint that will be heard by a Local Assessment Review Board	\$ 50.00
Complaint fee for a non-residential assessment complaint that will be heard by a Local Assessment Review Board (i.e. business tax, local improvement tax)	\$ 30.00
Complaint fee for a complaint that will be heard by a Composite Assessment Review Board	\$ 650.00

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SCHEDULE "B"**

Assessment Review Board Member Remuneration

**For Black Diamond ARB members travelling to Joint Regional ARB hearings,
and Non-resident ARB members travelling to Black Diamond hearings:**

<u>TIME per DAY</u>	<u>CHAIR</u>	<u>MEMBER</u>
Up to 4 hours	\$219	\$164
4 – 8 hours	\$383	\$290
Over 8 hours	\$601	\$427

** the above-noted amounts include travel time and expenses.

For Black Diamond ARB members participating in a Black Diamond hearing:

<u>TIME per DAY</u>	<u>CHAIR</u>	<u>MEMBER</u>
Up to 4 hours	\$100	\$ 75
4 – 8 hours	\$190	\$150
Over 8 hours	\$260	\$225

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SCHEDULE “C**

COMPOSITION AND ROLES OF ONE LEVEL BOARDS			
APPLICATION	LOCAL ASSESSMENT REVIEW BOARD	COMPOSITE ASSESSMENT REVIEW BOARD	MUNICIPAL GOVERNMENT BOARD
Authority	Established by bylaw	Established by bylaw	Established through the <i>Municipal Government Act</i>
Appointment	Council appoints persons as members.	Council appoints 2 persons as members, Minister appoints provincial member	Members appointed by Order in Council
Composition	All local members. The chair is selected amongst the members	Two local members and one provincial member. The chair must be the provincially appointed member.	Members of the Municipal Government Board. The chair is selected amongst the members.
	Three member panels with exceptions. One member panel appointed by Council.	Three member panels with exceptions. One member panel must be the person appointed by the Minister.	Minimum of three members on a panel, with exceptions. The administrator may select one member to sit as a panel.
Training	Basic level mandatory training for all members.	Advanced level mandatory training for all members. Provincial appointed member must meet provincial requirements.	Advanced level mandatory training for all members. Presiding officers must meet provincial requirements, same as the presiding officers.
*** Jurisdiction ***	Hears complaints about non-assessment matters, such as local improvement tax and business tax, and about assessments of residential properties with 3 or less dwelling units and farm land.	Hears complaints about the assessment of non-residential properties and residential properties with 4 or more dwelling units.	Hears complaints about linear property and equalized assessments.
Quorum and Decision-making	Majority decision. Decision must be in writing giving reasons for the decision. If decision is not unanimous, dissenting member must provide written dissenting decision.	Majority decision. Decision must be in writing giving reasons for the decision. If decision is not unanimous, dissenting member must provide written dissenting decision.	Majority decision. Decision must be in writing giving reasons for the decision. If decision is not unanimous, dissenting member must provide written dissenting decision.
Awarding of costs	Does not have authority to award costs for non-compliance matters.	Has authority to award costs, in accordance with the regulations, for non-compliance matters such as disclosure and timelines, and improper conduct.	Has authority to award costs, in accordance with the regulations, for non-compliance matters such as disclosure and timelines as well as improper conduct.
Remuneration	Municipalities have discretion for remuneration of members	Municipalities with 10 or more complaints will be responsible for the remuneration of the provincial appointed member and have discretion for the remuneration of the remaining members. The province will be responsible for remuneration for the provincial chair in municipalities with less than 10 complaints.	Remuneration for members is the responsibility of the province.