

**WESTBANK FIRST NATION**  
**DOG AND CAT CONTROL LAW NO. 2005-04**

WHEREAS Council of Westbank First Nation deems it advisable and in the best interests of Westbank First Nation to enact a law to regulate the keeping of dogs and cats within Westbank Lands;

NOW THEREFORE Council of Westbank First Nation repeals Dog Bylaw No. 1991-01 and enacts the following Law:

**1. TITLE**

1.1 This Law may be cited as "*WFN Dog and Cat Control Law No. 2005-04*".

**2. DEFINITIONS**

2.1 In this Law unless the context otherwise requires:

“**cat**” means an animal of the species feline, irrespective of sex or age;

“**Council**” means the governing body of Westbank elected pursuant to the *Westbank First Nation Constitution*;

“**dangerous dog**” means a dog which meets any one or more of the following conditions:

- (a) a dog that has attacked, bitten or caused injury to a person or has demonstrated a propensity, tendency or disposition to do so;
- (b) a dog that, while running at large, has attacked, bitten, killed or caused injury to a domestic animal;
- (c) a dog that, while running at large, has aggressively pursued or harassed a person;
- (d) a dog that, while running at large, has aggressively pursued or harassed a domestic animal;
- (e) a dog with a known propensity to attack or injure a person without provocation or to otherwise threaten the safety of human beings or domestic animals;
- (f) a potentially dangerous dog:
  - (i) that has been impounded 3 times within the previous 24 months;
  - (ii) for which the owner has received a conviction ticket pursuant to this Law for running at large 3 times within the previous 24 months; or
  - (iii) for which the total number of impounds and tickets totals 3 within the previous 24 months;

- (g) a dog that has been deemed dangerous, vicious or similar under a law or bylaw of any other first nation, municipality or regional district of the Province of British Columbia;

**“dog”** means an animal of the species canine, irrespective of sex or age;

**“Dog and Cat Control Officer”** means the person appointed by Council or contracted by Council to enforce and carry out the provisions of this Law and includes the WFN Law Enforcement Officer and any special provincial constable of the SPCA;

**“domestic animal”** means an animal that is tame or kept, or that has been or is being sufficiently tamed or kept, to serve some purpose for the use of people;

**“Enclosure”** means a fence, pen, run or other structure, built in accordance with criteria established by Council, from time to time, suitable to prevent the entry of young children, and suitable to confine a dog, in conjunction with other measures which may be taken by the owner or keeper, such as tethering;

**“impounded”** means seized, delivered, received or taken into the Pound, or into the custody of the Poundkeeper as provided in this Law;

**“kennel”** means a house or range of buildings in which a dog or dogs are kept for the purpose of boarding or breeding;

**“leash”** means a rope, chain, cord, leather strip or other device attached to the collar of a dog capable of controlling and restraining the activity of the dog in a manner which conforms to requirements of this Law;

**“noise”** means continuous barking, howling or yelping sounds lasting more than 5 minutes or the sound of barking, howling or yelping sporadically or erratically for a cumulative duration of 5 minutes or longer in any 15 minute period which sounds are repeated again within 72 hours;

**“non-resident”** means a person who is not resident on Westbank Lands and includes any person who is residing within Westbank Lands for a short duration and who has not taken up permanent residency;

**“occupant”** or **“occupier”** means a person who is legally entitled to occupy or simply occupies a parcel of land, building, dwelling or premises within Westbank Lands;

**“owner”** when used in relation to the ownership of a dog, includes a person owning, possessing, harbouring or having custody, care and control of a dog or permitting a dog to remain about the person’s house, premises or parcel of land and, where the owner is a minor, the person responsible for the custody of the minor;

**“pack”** means 2 or more dogs that are running at large;

**“parcel of land”** or **“parcel”** means any lot, block, manufactured home pad or other area in which real property within Westbank Lands is held or into which real property within Westbank Lands is subdivided and the improvements affixed to it;

**“peace officer”** means a member of the local detachment of the Royal Canadian Mounted Police responsible for policing Westbank Lands, or any delegate;

**“person”** in addition to its ordinary meaning, includes any association, household, society, corporation, partnership or party, whether acting by themselves or by a servant, agent or employee, and the successors, assigns and personal or other legal representatives of such person to whom the context can apply according to law;

**“potentially dangerous dog”** means a dog regardless of age, sex or breed, which is running at large;

**“Pound”** means any building, enclosure or place designated as a dog pound, either by Council or by the person with whom Council has an agreement to act as Poundkeeper, for the keeping of dogs impounded under this Law;

**“Poundkeeper”** means the person or persons appointed from time to time by Council to be Poundkeeper, or the authorized agent of any corporation, society, governmental body or other organization with whom Council has an agreement to act as Poundkeeper, including their assistants;

**“registered holder”** means a person who is registered in the Westbank Lands Register as the holder of an interest in Westbank Lands and, where applicable, includes the occupant;

**“run at large”** with reference to a dog or a cat means:

- (a) a dog or a cat located elsewhere than on the premises of the person owning or having the custody, care or control of the dog or cat that is not under the immediate charge and control of a responsible and competent person;
- (b) a dog located upon a highway or other public place, including a school ground, park or public bench, that is not secured on a leash to a responsible and competent person; or
- (c) a dangerous dog that is on the premises of the owner that is not contained in an Enclosure or securely confined within a dwelling;

and **“running at large”** has a corresponding meaning, and includes a dog without a leash located in a designated “off leash” area within a park is not “running at large” for the purposes of this Law provided that the dog is otherwise under the immediate charge and control of a responsible and competent person;

**“SPCA”** means the Society for the Prevention of Cruelty to Animals;

**“Westbank”** or **“WFN”** means the Westbank First Nation as defined in the *Westbank First Nation Constitution*.

**“Westbank Lands”** means:

- (a) the following Westbank Indian Reserves:

- (i) Mission Creek Indian Reserve No. 8
  - (ii) Tsinstikeptum Indian Reserve No. 9
  - (iii) Tsinstikeptum Indian Reserve No. 10
  - (iv) Medicine Hill Indian Reserve No. 11
  - (v) Medicine Creek Indian Reserve No. 12; and
- (b) lands set apart by Her Majesty the Queen in right of Canada in the future as lands reserved for the use and benefit of Westbank, within the meaning of subsection 91(24) of the *Constitution Act, 1867*;

**“WFN Law Enforcement Officer”** means the person or persons appointed by Council, from time to time, to administer and enforce the provisions of Westbank Laws enacted by Council, and includes any delegate or any peace officer.

2.2 Unless otherwise provided in this Law, words, expressions and rules of construction used in this Law have the same meaning as in the *Westbank First Nation Constitution*.

### **3. LICENSING OF DOGS**

3.1 No person will own, keep, harbour or possess, within Westbank Lands, a dog over three (3) months of age unless a licence for the dog has been obtained.

3.2 The owner of every dog must, annually on or before the last day of February of each year, or as soon thereafter as such dog attains the age of three (3) months, cause the dog to be registered, numbered, described and licensed in the administration offices of Westbank and must cause the dog to wear around its neck a leather or metal collar to which must be attached the metal tag referred to in section 3.10 of this Law.

3.3 The licence will be issued by the Dog and Cat Control Officer, and applications for licences may be made to the Dog and Cat Control Officer, or to any other person duly authorized to receive applications for licences. Every licence will be distinguished by a number. A record will be kept by the Dog and Cat Control Officer of all licences issued, and for the purpose of identification, will include a general description of the dog in respect of which the licence was issued.

3.4 A non-resident dog owner will, at the expiry of thirty (30) days residency upon Westbank Lands, cause that dog to be registered, numbered, described and licensed as outlined in sections 3.2 and 3.3 of this Law.

3.5 Every application for a licence must be accompanied by a licence fee payable to Westbank or such other agency with whom Westbank has an agreement to collect such fee.

3.6 A late fee will be payable by the owner of any dog, if the applicable licence fee is not paid in full prior to the last day of February of the licensing year.

3.7 All owners of seeing eye and hearing aid guide dogs are required to obtain a licence, but there will be no charge for this licence.

- 3.8 If an owner has a dog spayed or neutered within three (3) months from time of purchase of a licence in any licence year, a refund for the difference in the licence fee will be made providing a valid veterinarian certificate is presented by the owner.
- 3.9 A fifty percent (50%) discount will apply to licence fees paid by new residents and new dog owners after July 31<sup>st</sup> in each calendar year.
- 3.10 Every licence issued under this Law will be for the calendar year in which the licence is issued and will expire on the thirty-first (31st) day of December next following the date on which the licence was issued. There will be issued with each licence a metal tag which will be impressed or stamped with a number corresponding to the number of the licence and with figures denoting the year in which the licence expires.
- 3.11 Where the owner of a dog in respect of which a licence is issued under this Law sells or otherwise ceases to be the owner of the dog, the licence, in respect of that dog, is cancelled.
- 3.12 A person holding a valid licence for a dog under the provisions of the *Livestock Protection Act*, RSBC 1996, c. 273, as amended, or under a law of any other municipality or regional district of the Province of British Columbia who takes up residence within Westbank Lands is not required to obtain a licence nor pay the corresponding licence fee pursuant to this Law in respect of the same dog for the unexpired portion of the period for which the valid licence for the dog has been issued. Upon expiry of the unexpired portion of the period, section 3.1 will apply. The exemption contained in this section will not apply to a person who has obtained the licence in another jurisdiction while residing upon Westbank Lands.
- 3.13 (a) No person may keep or harbour more than two (2) dogs in or on any premises on a parcel of land within Westbank Lands unless a kennel licence is held.
- (b) Every person who keeps or harbours three (3) or more dogs is deemed to operate a kennel and must obtain a kennel licence.
- (c) Any owner raising, training or keeping more than two (2) dogs is required to obtain a kennel licence.
- (d) Veterinary hospitals which keep dogs inside a closed building at all times and other dog service businesses which hold dogs inside a closed building and do not provide overnight care are exempted from the requirements of subsection 3.13(b).
- (e) Applications for a kennel licence may be made to the Dog and Cat Control Officer, or to any other person duly authorized by Council to receive these applications and must be accompanied by the applicable kennel licence fee payable in accordance with section 3.5. Kennel licences will be issued by the Dog and Cat Control Officer. Issuance of a kennel licence is conditional on a kennel structure being built in accordance with standards for dog kennels established by Council, from time to time, and which structure is approved by the Dog and Cat Control Officer.

- 3.14 Council must establish a schedule of fees payable pursuant to this Law, in respect of licensing, seizure of dogs and destruction of dogs.
- 3.15 A copy of the current schedule of fees must be available for viewing free of charge at the administrative offices of Westbank and available for distribution at a nominal charge.

#### **4. CONTROL OF DOGS**

- 4.1 No owner will take or allow any dog onto any public beaches, swimming areas, parks or school grounds unless the park or public area has been otherwise designated by Council and posted to allow for dogs in the area.
- 4.2 Council may, from time to time, designate specific parks or public areas to allow either for dogs on leash or for dogs off leash.
- 4.3 All dogs while outside and not under effective control on a leash held by a competent person in urbanized areas or under the immediate care and effective control of a responsible and competent person in rural areas, must be kept in an Enclosure in the back yard, which Enclosure must be constructed in accordance with the standards for Enclosures established by Council from time to time.
- 4.4 No owner will tie, secure, tether or pen any dog in a front yard or within 1.5 metres (5 feet) of any side or backyard property line.
- 4.5 No owner will tie, secure, or tether any dog except in a back yard and the tethering system must allow adequate freedom of movement, with a minimum of 3 metres (10 feet) radius.
- 4.6 Notwithstanding section 4.3 hereof, where a back yard of a property is fully enclosed with a secure fence and a self-locking gate which will effectively prevent any dog from escaping therefrom, a dog may be allowed to roam free anywhere therein.
- 4.7 It will be unlawful for a person to have a dangerous dog:
- (a) in a street or in a public place or other place that is not owned or controlled by the person unless the dog is leashed, controlled and effectively muzzled to prevent it from biting another animal or a person; or
  - (b) on the premises owned or controlled by the person and is not kept securely confined either indoors or in an Enclosure required under this Law.
- 4.8 No owner of a dog, will allow or suffer the dog to run at large within Westbank Lands. This prohibition does not apply to a dog that is under the charge and control of:
- (a) a responsible and competent person and is actively engaged in dog trials, dog shows, or other similar activities; or
  - (b) a peace officer, WFN Law Enforcement Officer or other person employed for the preservation and maintenance of the public peace, an officer or a person having the powers of a customs and excise officer when performing a duty in the administration of the federal *Customs Act* or *Excise Act*, or an officer or member

of the Canadian Forces, or a duly licensed and qualified security guard, while in the course of performing lawful duties.

- 4.9 On receipt of a complaint of a dog running at large or a dog tied, secured or tethered in violation of sections 4.4 or 4.5, a dog owner will be required within fourteen (14) days to erect a secure fence or pen in accordance with standards for Enclosures established by Council from time to time. If the fence or pen is not built within the fourteen (14) days, a charge may be laid pursuant to the provisions of this Law.
- 4.10 No person being the owner or occupant of any private premises on a parcel of land within Westbank Lands will permit, allow or suffer the noise of barking, yelping or howling sounds from a dog(s) to be caused or made at the private premises owned or occupied by that person in a manner that can easily be heard or otherwise perceived by an individual who is not at the same private premises.

## **5. EXCREMENT**

- 5.1 No owner of a dog will allow or suffer the dog to leave or deposit any feces or excrement in any public property or any park, boulevard or road allowance unless the person immediately removes the feces or excrement and disposes of it in a sanitary manner.
- 5.2 No owner of a dog will allow or suffer the dog to deposit any feces or excrement on private property not under the care and control of the dog owner or onto private property on which the dog owner has not been invited, unless the person immediately removes the feces or excrement and disposes of it in a sanitary manner.
- 5.3 A person who is certified as being blind is not exempted from the provisions of sections 5.1 and 5.2.

## **6. IMPOUNDING OF DOGS AND CATS**

- 6.1 Council will itself, or contract to, establish and operate a Pound for the impounding of dogs and cats pursuant to the provisions of this Law.
- 6.2 Council will, from time to time, as may be required, appoint or contract with a Poundkeeper, who will operate a Pound for the impounding of dogs and cats pursuant to the provisions of this Law.
- 6.3 Council will, from time to time, as may be required, appoint or contract with a Dog and Cat Control Officer to enforce the provisions of this Law.
- 6.4 The Dog and Cat Control Officer is authorized to seize any dog found running at large, or any dog that is not securely fenced or penned in accordance with standards for Enclosures established by Council, from time to time, or any dog which is tethered contrary to section 4.4 or 4.5 of this Law, or any dog which is unlicensed or is not wearing a tag as referred to in sections 3.1 and 3.2 of this Law or any cat which is found running at large contrary to section 10.3.
- 6.5 Dog and Cat Control Officer will, immediately after making the seizure under section 6.4, cause for the dog or cat to be impounded, and the Poundkeeper will retain the dog or cat, as the case may be, for seventy-two (72) hours, and if the dog or cat is not

reclaimed or the infraction is not remedied within the seventy-two (72) hour period, it will be the duty of the Poundkeeper to cause the dog or cat to be sold or humanely destroyed or to take such further measures as the Poundkeeper determines necessary.

- 6.6 Notwithstanding the provisions of section 6.5 of this Law, the owner of a dog will, upon written request, be allowed to leave the dog in the pound for up to fourteen (14) days while an Enclosure required pursuant to section 4.3 is being constructed, without the Poundkeeper selling or humanely destroying the impounded dog after seventy-two (72) hours as provided in this Law.
- 6.7 It is the duty of the Poundkeeper to receive any dog or cat delivered to him which has been seized or impounded pursuant to the provisions of this Law, and to retain the dog or cat and deal with it in the manner as other dogs and cats seized, received and retained by him, pursuant to this Law.
- 6.8 If the owner of an impounded dog or cat is known to the Poundkeeper, the Poundkeeper will immediately notify the owner by mail or telephone in accordance with the form of Impounding Notice established by Council, from time to time.
- 6.9 Subject to section 11.4, if an owner contacts the Poundkeeper and requests that their dog or cat be taken away and destroyed, the Poundkeeper may direct the Dog and Cat Control Officer to call for and take away the dog or cat and may humanely destroy or otherwise dispose of the dog or cat.
- 6.10 The owner of a dog or cat impounded under this Law, may reclaim their dog or cat on application to the Poundkeeper after providing proof of ownership and payment in full of all applicable license, penalty, impounding and maintenance fees, and where the dog is a dangerous dog, demonstrating that an Enclosure is available for that dangerous dog at their normal premises.
- 6.11 Notwithstanding sections 6.4, 6.6 or 6.10, where a dangerous dog has caused injury to a person or a domestic animal, the Poundkeeper may humanely destroy the dog.
- 6.12 The Dog and Cat Control Officer may, where he has reason to believe that either a dog for which the license for the current year has not been paid, or a dog not bearing the collar and tag as required by sections 3.1 and 3.2 of this Law, has taken refuge on any premises, request the occupant of the premises to satisfy him that the requisite licence has been paid for and to exhibit the requisite tag, or to forthwith deliver to him the dog; and where any dog is found to be on any such premises to produce the license and tag for the dog. Any person, who fails or refuses to produce the license receipt and tag, or who fails, neglects, or refuses to deliver the dog on request, and who resists or interferes with the Dog and Cat Control Officer in seizing the dog, is deemed to be guilty of an infraction of this Law.
- 6.13 It is unlawful for any person to release or rescue or to attempt to release or rescue any dog lawfully in the custody of the Poundkeeper or Dog and Cat Control Officer, and no person may intervene or otherwise interfere with the Poundkeeper or Dog and Cat Control Officer in the lawful exercise of their respective duties.
- 6.14 Where the owner is not known or the owner so notified pursuant to section 6.8 of this Law, does not within three (3) days of impoundment or notification, as the case may be,



appear at the Pound and reclaim their impounded dog by payment of the applicable charges, in accordance with the provisions of this Law, the Poundkeeper may sell or humanely destroy the dog as provided for in this Law.

- 6.15 The Poundkeeper must not allow a person to adopt any dog unless that person firstly pays in full all applicable license fees and secondly, can demonstrate that there is adequate fencing or an adequate pen provided, or signs a declaration that they will provide a fence or pen in accordance with the standards for Enclosures established by Council, from time to time. The new owner must be allowed fourteen (14) days to cause the fence or pen to be constructed, and if the fence or pen is not constructed at the expiry of the fourteen (14) days, a fine may be imposed pursuant to the provisions of this Law. Apartment dwellers are exempt from this fence or pen requirement.
- 6.16 (a) Every owner or other person entitled to the possession of a dog which has been impounded must within seventy two (72) hours upon being notified or becoming aware of such impounding, reclaim the dog in accordance with the provisions of this Law.
- (b) If the Pound is broken into and the dog escapes and gets back to the possession or custody of the owner or any person caring for the dog, the owner or person will still be liable for the payment of fees and expenses chargeable and recoverable under section 6.10 of this Law.
- (c) When selling or adopting out a dog to a person other than the previous owner, the Poundkeeper must ensure that the dog is neutered or spayed, and if neutering or spaying is required, must charge the veterinary fee to the purchaser.
- 6.17 Any dog found trespassing on Westbank Lands must be subject to this Law and its owner must be subject to the conditions and penalties set out in this Law.

## **7. RIGHT OF ENTRY**

- 7.1 The Dog and Cat Control Officer is authorized to enter, at all reasonable times, upon any parcel of land within Westbank Lands that is subject to any of the terms and conditions of this Law, in order to determine the health and well-being of any dog within the premises and to ascertain whether the provisions of this Law are being obeyed.
- 7.2 Where the Dog and Cat Control Officer or the Poundkeeper is satisfied that an animal is not receiving proper care, treatment or shelter or is being kept on any premises contrary to the provisions of this Law, they are each authorized to enter upon any parcel of land or premises within Westbank Lands in order to control, impound or destroy any dangerous dog, or wounded or sick dog or cat.

## **8. DOGS CAUSING INJURY OR DAMAGE**

- 8.1 A Dog and Cat Control Officer, or any other person(s) or agencies authorized by Council for the purpose of this Law, may destroy a dog(s) if the dog(s) is found:
- (a) running in packs; and

(b) attacking or viciously pursuing a person or a domestic animal.

8.2 An authorization under 8.1 must be in writing, but Council may, if of the opinion that the situation is urgent, grant authority verbally or by means of an electronic communications device.

## **9. DOGS RUNNING AT LARGE**

9.1 A Dog and Cat Control Officer may take a dog that is running at large into custody, and impound the dog pursuant to the provisions of this Law.

9.2 If a dog that is taken into custody under 9.1 is apparently ownerless, the Dog and Cat Control Officer may:

(a) release the dog to any person who:

(i) obtains a valid and subsisting licence for the dog, and pays the applicable impounding fee; and

(ii) is, in the opinion of the Dog and Cat Control Officer, capable of owning and being responsible for the dog; or

(b) destroy the dog.

9.3 If a dog that is taken into custody under 9.1 is licensed or if the owner of the dog is ascertained, the Dog and Cat Control Officer must release the dog to the owner on payment of the applicable impounding fee.

## **10. CONTROL OF CATS**

10.1 No person may keep or harbor more than two (2) cats in or on any premises on a parcel of land within Westbank Lands which is less than .20 hectares ( $\frac{1}{2}$  acre) in area.

10.2 No person may be or become an owner of any cat that is actually or apparently over the age of six (6) months unless:

(a) the cat has been spayed or neutered, as the case may be, by a veterinarian; or

(b) the person holds a valid cat breeding permit for an unspayed or unneutered cat as provided for in this Law; or

(c) the person is not normally resident within Westbank Lands and while within Westbank Lands for any temporary period or periods ensures that his or her cat, if unspayed or unneutered, is not permitted to be running at large within Westbank Lands.

10.3 Every owner of a cat must ensure that the cat, if it is unspayed or unneutered, whether pursuant to a cat breeding permit issued under this Law or otherwise, is not permitted to be running at large within Westbank Lands.

- 10.4 Any person finding a cat running at large that the person believes to be unspayed or unneutered and takes into his or her possession must immediately notify the Dog and Cat Control Officer and either deliver the cat to the Dog and Cat Control Officer or, upon request, release the cat to the Dog and Cat Control Officer.
- 10.5 Every owner of a cat is responsible for ensuring that the cat bears sufficient identification to allow any person finding the cat running at large to identify and contact the owner. For clarity, but without limiting the identification options open to an owner, cat identification may take the form of a collar and tag worn by the cat, a traceable tattoo or microchip.
- 10.6 It is unlawful for any person other than the owner of a cat or the Dog and Cat Control Officer to remove any identification worn by a cat pursuant to this Law.
- 10.7 Any person who wishes to obtain a cat breeding permit that will exempt that person from the provisions of section 10.2(b) during the life of the permit, must submit to the Dog and Cat Control Officer the form of permit application, established by Council from time to time.
- 10.8 The Dog and Cat Control Officer shall, upon receipt of a completed cat breeding permit application form together with the applicable fees, issue a cat breeding permit which permit will be valid for a period of two years from the date of issuance.
- 10.9 An owner who holds a cat breeding permit is responsible for ensuring that the cat to which the permit relates is not permitted to be running at large within Westbank Lands.

## **11. ORDER TO DESTROY A DOG OR CAT**

- 11.1 On being satisfied that a dog or a cat has killed or injured, or is likely to kill or injure, a person or a domestic animal, the Poundkeeper or the Dog and Cat Control Officer may, apply to the Provincial Court for an order that the dog or cat, as the case may be, be killed in a manner specified in the order.
- 11.2 A Dog and Cat Control Officer may, with the consent of either the Poundkeeper or the WFN Law Enforcement Officer, or the person whom Council may in writing designate, and on being satisfied that the situation is urgent and an application cannot reasonably be made to the Provincial Court under 11.1, make an order under 11.1.
- 11.3 A consent under 11.2 must be in writing, if however the Poundkeeper, the Dog and Cat Control Officer or the person designated under 11.2 is of the opinion that the situation is urgent, then they may give a consent verbally or by means of an electronic communications device.
- 11.4 An owner who requests that their dog or cat be humanely destroyed or otherwise disposed of by the Poundkeeper must first complete the form of Consent for Euthanasia established by Council, from time to time.
- 11.5 A dog or cat which is to be humanely destroyed will be destroyed under direct supervision of a person authorized to practice veterinary medicine under the *Veterinarians Act* of British Columbia, and in possession of a valid and subsisting Westbank or City of Kelowna business licence, as the case may be.

## **12. WARNINGS**

- 12.1 Despite any other provision of this Law, if a Dog and Cat Control Officer has reasonable grounds to believe that a person is not complying with a provision of this Law, the Dog and Cat Control Officer may give that person a warning.

## **13. VIOLATION REPORTS**

- 13.1 If a Dog and Cat Control Officer has reasonable grounds to believe that a dog for which a valid and subsisting licence has been issued is, or has been, running at large, the officer may issue, by personal service on or by registered mail to, the person to whom the licence was issued, a form of initial violation report established by Council, from time to time.
- 13.2 A person on whom an initial violation report is served must, not more than five (5) days from the date on the report, submit to the Dog and Cat Control Officer who issued the report a written explanation of the circumstances in which the dog was running at large.
- 13.3 If an initial violation report has been issued under section 13.1 and, before December 31 in the same year, a Dog and Cat Control Officer finds the same dog again running at large, the officer may issue by personal service on or by registered mail to, the person to whom the initial violation report was issued, a form of final violation report established by Council, from time to time.
- 13.4 A person to whom a final violation report is issued must, not more than 10 days from the date on the final violation report, pay the applicable penalty fee.
- 13.5 If a violation report is issued under 13.3, the Dog and Cat Control Officer who issues the report may, after considering the initial violation report and the written explanation, if any, and with the consent of the WFN Law Enforcement Officer or the Poundkeeper or Council:
- (a) take the dog into custody and humanely destroy it or take such other measures to be determined appropriate; and
  - (b) order that the person to whom the final violation report is issued be prohibited from owning or keeping any other dog for a period of one year from the date of the order.
- 13.6 An order made under 13.5(b) must be personally served on the person against whom the order is made.
- 13.7 If a person owns or keeps a dog in contravention of an order made under 13.5(b), a Dog and Cat Control Officer may take the dog into custody and humanely destroy it or take such other measures as he determines appropriate.

## **14. DESTROYING AND DISPOSING OF DOGS**

- 14.1 For the purposes of this Law, a Dog and Cat Control Officer may enter any parcel of land during reasonable hours if the officer:

- (a) is acting under this Law to take a dog into custody or to destroy a dog;
- (b) has reasonable grounds to believe that a dog is ownerless, or
- (c) has reasonable grounds to believe that a dog is, or has been, running at large.

14.2 A person who destroys a dog under this Law or an order made under this Law must destroy and dispose of the dog, or cause the dog to be destroyed and disposed of, in the prescribed manner.

14.3 A person who destroys and disposes of a dog under any of Part 8, 11 or 13 of this Law must, not more than two (2) days after destroying the dog, submit to the nearest domestic animal protection officer a written report containing their name, position and address, a description of the dog, and the circumstances surrounding the killing and disposition of the dog.

## **15. TRANSIENT DOGS**

15.1 A dog that has attached to its collar or harness a valid and subsisting licence tag issued by any jurisdiction outside British Columbia must not be considered ownerless, but it is subject to every other provision of this Law.

## **16. FEES AND FORMS**

16.1 Council may, by resolution passed at a duly convened meeting, establish, correct, revise or update the terms of any applicable fee schedules, forms, protocols or other related documentation which complement and support this Law, and will post notice of same in a public area of the WFN administration building and make a copy of same available for viewing free of charge at the administrative offices of Westbank and available for distribution at a nominal charge.

## **17. NOTICES & CHARGES AGAINST REGISTERED HOLDERS**

17.1 Where Westbank is required to give notice to or imposes an additional cost or charge against the registered holder and two or more persons are shown as registered holders in respect of a parcel of land, then a notice given to or a cost or charge imposed against one registered holder is not invalidated by the failure to give notice to or impose a charge against any other registered holder.

## **18. OFFENCES**

18.1 No person shall obstruct, interfere with or hinder Council, the Dog and Cat Control Officer, WFN Law Enforcement Officer or any authorized employee, officer or agent in the carrying out of their duties and responsibilities under this Law.

18.2 Any person who violates any of the provisions of this Law or who suffers or permits any act or thing to be done in contravention or in violation of any of the provisions of this Law, or who neglects to do or refrains from doing any act or thing required by any of the provisions of this Law, is guilty of an offence under this Law, and is liable to the penalties imposed by this Law.

- 18.3 Each day a violation of this Law continues will be deemed to be a separate offence for which a fine or imprisonment may be imposed.
- 18.4 Any person who is guilty of an offence under this Law is liable, on summary conviction to a fine of not more than One Thousand Dollars (\$1,000.00) or to a term of imprisonment not exceeding thirty (30) days, or both.

## **19. IMMUNITY**

- 19.1 No action for damages lies or may be instituted against present or past Council, WFN Law Enforcement Officer, Dog and Cat Control Officer or members, employees, servants or agents of either Westbank or Council:
- (a) for anything said or done or omitted to be said or done by that person in the performance or intended performance of the person's duty or the exercise of the person's authority; or
  - (b) for any alleged neglect or default in the performance or intended performance of the person's duty or the exercise of the person's authority.
- 19.2 Section 19.1 does not provide a defence if:
- (a) Council, WFN Law Enforcement Officer, members, employees, servants or agents have, in relation to the conduct that is the subject matter of the action, been guilty of dishonesty, gross negligence or malicious or wilful misconduct; or
  - (b) the cause of action is libel or slander.
- 19.3 Westbank, present or past Council, or members, employees, servants or agents of any of Westbank or Council is not liable for any damages or other loss, including economic loss, sustained by any person, or to the property of any person, as a result of neglect or failure, for any reason, to discover or detect any contravention of this Law or any other Westbank Law, or from the neglect or failure, for any reason or in any manner, to enforce this Law or any other Westbank Law.
- 19.4 All actions against Westbank for the unlawful doing of anything that:
- (a) is purported to have been done by Westbank under the powers conferred by this Law or any Westbank Law, and
  - (b) might have been lawfully done by Westbank if acting in the manner established by law,
- must be commenced within six (6) months after the cause of action first arose, or within a further period designated by Council in a particular case, but not afterwards.
- 19.5 Westbank is in no case liable for damages unless notice in writing, setting out the time, place and manner in which the damage has been sustained, is delivered to Westbank, within two (2) months from the date on which the damage was sustained. In case of the death of a person injured, the failure to give notice required by this section is not a bar

to the maintenance of the action. Failure to give the notice or its insufficiency is not a bar to the maintenance of an action if the court before whom it is tried, or, in case of appeal, the Court of Appeal, believes:

- (a) there was reasonable excuse, and
- (b) Westbank has not been prejudiced in its defence by the failure or insufficiency.

19.6 Section 18.1 does not provide a defence if:

- (a) Council, WFN Law Enforcement Officer, Dog and Cat Control Officer, members, employees, servants or agents have, in relation to the conduct that is the subject matter of the action, been guilty of dishonesty, gross negligence or malicious or wilful misconduct; or
- (b) the cause of action is libel or slander.

## **20. APPLICATION OF LAW**

20.1 Where any federal Act or regulation or provincial Act or regulation or any other Westbank Law may apply to any matter covered by this Law, compliance with this Law will not relieve the person from also complying with the provisions of the other applicable Act, regulation or law.

20.2 If any section of this Law is for any reason held invalid by a decision of a court of competent jurisdiction, the invalid section or subsection will be severed from and not affect the remaining provisions of this Law.

20.3 The headings given to the sections and paragraphs in this Law are for convenience of reference only. They do not form part of this Law and will not be used in the interpretation of this Law.

20.4 Unless otherwise noted, any specific statute named in this Law is a reference to a statute of British Columbia and the regulations thereto, as amended, revised, consolidated or replaced from time to time, and any Law referred to herein is a reference to a law of Westbank, as amended, revised, consolidated or replaced from time to time.

## **21. REPEAL**

21.1 Dog Bylaw, 1991-01 is hereby repealed.



BE IT KNOWN that this Law entitled, "WFN Dog and Cat Control Law No. 2005-04" is hereby read for the first, second, and third and final time and is hereby enacted as Law No. 2005-04 by the Council of Westbank First Nation at a duly convened meeting of Council held on the 7<sup>th</sup> day of February, 2005.

Voting in favour of the Law are the following members of Council:

  
Chief Robert Louie

  
Councillor Michael De Guevara

  
Councillor Brian Eli

  
Councillor Loretta Swite

  
Councillor Michael Werstuik

being a majority of those members of Council of Westbank First Nation present at the aforesaid meeting of Council.

The Quorum of Council is three (3) members.

Number of members of Council present at the meeting: 5.