

WESTBANK FIRST NATION
GARBAGE COLLECTION LAW NO. 2005-6

WHEREAS Council of Westbank First Nation deems it advisable and in the best interests of Westbank First Nation to enact a law to provide for the operation and control of a system of collection, removal and disposal of garbage on Westbank Lands;

NOW THEREFORE Council of Westbank First Nation repeals Bylaw No. 1968-01 and Bylaw No. 1986-02 and enacts the following law:

1. TITLE

1.1 This Law may be cited as the "WFN *Garbage Collection Law No. 2005-6*".

2. DEFINITIONS

2.1 In this Law, unless the context otherwise requires:

"Biomedical Waste" means any of the following:

Human Anatomical Waste consisting of human tissue, organs and body parts, but does not include teeth, hair and nails.

Animal Waste consisting of contaminated animal waste with viruses and agents listed in Risk Group 4 of the Medical Research Council of Canada/Health and Welfare Canada publication "Laboratory Biosafety Guidelines", and all animal tissues, organs, body parts, carcasses, bedding, fluid blood and blood products, items saturated or dripping with blood, body fluids contaminated with blood, and body fluids removed for diagnosis or removed during surgery, treatment or autopsy excluding teeth, hair, nails, hooves and feathers.

Microbiology Laboratory Waste consisting of laboratory cultures, stocks or specimens of micro-organisms, live or attenuated vaccines, human or animal cell cultures used in research and laboratory material that has come into contact with any of these.

Human Blood and Body Fluid Waste consisting of human fluid blood and blood products, items saturated or dripping with blood, body fluids contaminated with blood, and body fluids removed for diagnosis during surgery, treatment or autopsy, but does not include urine or feces.

Waste Sharps are clinical and laboratory materials consisting of needles, syringes, blades, or laboratory glass capable of causing punctures or cuts,

but specifically excludes cremated human remains.

"commercial premises" means a building or self-contained part thereof, occupied and used for other than a dwelling, including but not restricted to warehouses, stores, eating places, wholesale or retail business places and office blocks, packing-houses, canneries, processing plants, manufacturing plants, and apartments or condominium, where garbage must be stored and collected from a single point on the premises;

"collection container" includes both standard containers and special containers;

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

“garbage” means and includes any and all rubbish, trade waste, ashes, household waste, discarded matter, rejected, abandoned or discarded waste or vegetable or animal food, floor sweepings, crockery, glass or metal ware having contained food and includes tree prunings of a diameter of less than five centimetres (two inches), hedge clippings and other garden refuse or rubbish if cut into one metre (three feet) lengths or less and tied in suitable bundles weighing not more than 25 kilograms (55 lbs), and includes grass, if placed in a standard container or special container, and newspapers, reading material and magazines, if tied securely in bundles of not more than 25 kilograms (55 lbs), but does not include waste or rubbish from renovating, remodeling or rebuilding;

“garbage collection area” means the areas of Westbank Lands designated for garbage disposal by Council from time to time;

“garbage disposal” means the collection of garbage under the provisions of this Law;

“Manager” means the head of WFN Engineering, Planning and Public Works Department, or any delegate;

“multiple dwelling premises” means all buildings containing more than four individual dwelling units;

“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;

“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;

“premises” means commercial premises, multiple dwelling premises and residential premises;

“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;

“residential premises” means one or more rooms constituting a unit of living accommodation used or intended to be used for living and sleeping purposes and containing a sink and cooking facilities;

“special container” means a specially designed non-corrosive, durable receptacle of two, three, four, or six cubic yard capacity fitted with equipment that will allow the

receptacle to be elevated and dumped mechanically by a garbage truck. The design of such special containers must be pre-approved by the WFN Law Enforcement Officer. Such special containers must be stored on a hard surfaced pad acceptable to the WFN Law Enforcement Officer;

“standard container” means either a non-corrosive, durable receptacle, fitted with secure handles and a watertight cover, which receptacle must be of not more than three and one-half cubic feet, or approved plastic bags, which must contain not more than 95 litres (25 gallons), and must not weigh more than 25 kilograms (55 pounds) when full, used for the collection of garbage from residential dwelling premises;

“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*; and

“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. GARBAGE DISPOSAL

3.1 No person within the garbage collection area will dispose of garbage except in accordance with the provisions by this Law.

4. GARBAGE COLLECTION SYSTEM

4.1 The Manager and the WFN Law Enforcement Officer are each hereby authorized to carry out their respective duties as are necessary to perform the responsibilities set forth in this Law.

4.2 Council is authorized to establish, maintain and operate a system of garbage collection, removal and disposal within Westbank Lands, either by contract with a person appointed by Council, or by use of equipment owned by Westbank, and such service will be under the control and inspection of the Manager.

- 4.3 Council is authorized to establish a billing and collection system, either by contract with the person appointed under section 4.2, or by use of Westbank facilities under the control and inspection of the Manager.
- 4.4 Every registered holder of premises within Westbank Lands must dispose of all garbage generated on their parcel of land in accordance with this Law.
- 4.5 Every registered holder of premises within Westbank Lands must dispose of garbage either by:
- (a) utilizing a disposal system established by Council pursuant to this Law and pay the rates and fees established by Council, from time to time; or
 - (b) where a WFN system is not available, then either by utilizing:
 - (i) where applicable, an independent garbage collection service provider, provided by Westbank and contracted by the strata corporation, homeowner's association or some such similar association;
 - (ii) an independent garbage collection service provider approved by Westbank.

5. CONTAINER REQUIREMENTS

- 5.1 Every registered holder of premises within the garbage collection area must provide and maintain in sanitary condition and in good order and repair either standard containers or special containers sufficient in number at all times to contain all garbage. Council or its contractors will not be responsible for the replacement of any collection containers or lids damaged or lost for any reason whatsoever.
- 5.2 Collection containers must be kept on the premises at all times and must not be kept or put on, encroached upon, or project over any street, lane or public place except when placed on such street or lane for the purpose of collection under this Law.
- 5.3 All standard containers must be kept on the ground level or on a platform not more than 609 centimeters (two feet) in height above the ground and must be readily accessible from the street, or land abutting the premises.
- 5.4 All collection containers must be kept and maintained at, and readily accessible for emptying, between the hours of 7:00 a.m. and 7:00 p.m. on the day of collection.
- 5.5 If a collection container is enclosed in a structure, it must be built with doors opening upon the pick-up side so that the container may be readily removed.
- 5.6 Where arrangements have been made for on-site pick-up, a passage-way and ready means of access to collection containers on premises to which no lane has access must, at all reasonable times, be provided from the street, and such passage-way means of access must be unobstructed, satisfactorily maintained, and of sufficient size and kind to enable any employee or contractor of Westbank to have access thereto.

- 5.7 Residential premises will be permitted to place out for pick-up an average weekly volume of garbage totaling .3 cubic metres (10.5 cubic feet), this being equivalent to two (2) standard containers. Standard containers must not weigh in excess of 25 kilograms (55 pounds) per individual container when full. Inert refuse, not bagged or placed in containers, must be tied securely in bundles not exceeding a length of one metre (three feet) or a weight of 25 kilograms (55 pounds).
- 5.8 Multiple dwelling premises and commercial premises may use standard containers or special containers with a cubic yard capacity approved by the Manager.
- 5.9 All collection containers and any structures used as a cover for such containers must, at all times, be kept in good repair, clean and accessible for inspection at all reasonable hours. When any collection container has been condemned by the WFN Law Enforcement Officer, such container must be removed by the registered holder of the premises who must provide a suitable container in its place.
- 5.10 All containers must be kept covered with watertight lids, or fastened in such a manner that they are watertight.
- 5.11 The Manager may suspend collection service from premises where collection containers or location or design of pick-up facilities are contrary to the provisions of this Law, but such suspension will not waive any requirement, or abate or waive any charges or rates under the provisions of this Law.

6. DISPOSAL REQUIREMENTS

- 6.1 No liquids shall be put in or allowed to accumulate in any collection container.
- 6.2 All table and kitchen garbage, all wet garbage, leaves, floor sweepings, ashes and sawdust or other granular materials must be separately wrapped or disposed of within individual disposable wrappings or containers before being placed within any collection container.
- 6.3 All solids, gases or liquids which might adhere to any collection container, must be separately wrapped or disposed of within individual disposable wrappings or containers before being placed within the collection container.
- 6.4 Ashes must be placed in non-combustible containers, separate from other garbage or inflammable material.
- 6.5 Christmas trees, cut to a maximum of one metre (three feet) in length and tied into bundles, will be collected following the Christmas holiday season.
- 6.6 Biomedical Waste must be disposed of in accordance with the protocols established by Council, from time to time.

7. PROHIBITED MATERIALS

- 7.1 No person shall place or mix with any material for removal as garbage any explosive, volatile, corrosive materials, dangerous chemicals or any other material dangerous to the health and/or safety of the garbage collection personnel.
- 7.2 Garbage disposal will not include any of the following:
- (a) hot ashes from incinerators or burning barrels;
 - (b) any liquid wastes, bulk chemical composition waste;
 - (c) animal cuttings wastes or dead animals;
 - (d) oil, fuel or other equipment lubricant filters; or
 - (e) construction waste or materials.
- 7.3 Council reserves the right to refuse to remove any waste material which is not garbage, as defined by this Law, including but not restricted to packing cases, wood or scrap materials, scrap iron or metal and waste oil or petroleum products.

8. GENERAL PROVISIONS

- 8.1 The Manager will implement seasonal variations or clean-up periods in the residential areas of Westbank Lands for pick-up of extra garbage, restricted to separate three week periods in the Spring and Fall of each year on dates to be approved by the Manager.
- 8.2 No garbage collector will enter any premises for the purpose of carrying out or returning thereto a collection container.
- 8.3 No garbage collector will demand or receive any gratuity, gift, payment or consideration for services rendered in connection with garbage collection beyond their regular remuneration.

9. RIGHT OF ENTRY

- 9.1 The Manager and the WFN Law Enforcement Officer are authorized to enter, at all reasonable times, upon any parcel of land within Westbank Lands, subject to any of the terms and conditions of this Law, in order to ascertain whether the provisions of this Law are being obeyed.

10. FEES AND FORMS

- 10.1 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.

11. NOTICES & CHARGES AGAINST REGISTERED HOLDERS

11.1 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.

12. OFFENCES

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

12.2 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.

12.3 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.

12.4 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.

13. IMMUNITY

13.1 No action for damages lies or may be instituted against present or past Council; WFN Law Enforcement 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.

13.2 Section 13.1 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.

13.3 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.

13.4 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.

13.5 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.

14. APPLICATION OF LAW

14.1 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.

14.2 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.

14.3 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.

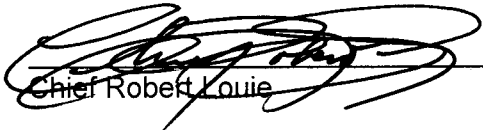
14.4 Unless otherwise noted, any specific statute named in this Law is a reference to an enactment of British Columbia and the regulations thereto, as amended, revised, consolidated or replaced from time to time, and any Law referred to herein is a reference to a law of Westbank, as amended, revised,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

15. REPEAL

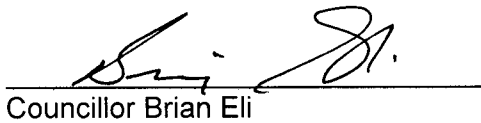
15.1 Bylaws No. 1968-01 and No. 1986-02 are hereby repealed.

BE IT KNOWN that this Law entitled, "WFN Garbage Collection Law No. 2005-6" is hereby read for the first, second, and third and final time and is hereby enacted as Law No. 2005-6 by the Council of Westbank First Nation at a duly convened meeting of Council held on the 7th 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.