WESTBANK FIRST NATION
BUILDING LAW NO. 2005-14

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 construction, repair, demolition, or removal of buildings and structures within Westbank Lands;

NOW THEREFORE Council of Westbank First Nation repeals Building Bylaw No.1979-08, 1992-03 and 1996-07 and enacts the following law:

1. TITLE

1.1 This Law may be cited for all purposes as "*WFN Building Law No. 2005-14*".

2. DEFINITIONS

2.1 In this Law, unless the context otherwise requires

"agent" means a person, firm, or corporation representing the registered holder, by designation or contract, and includes a hired tradesman or contractor who may be granted a permit for work within the limitations of his licence;

"Application" means the form of application for building permit established by Council, from time to time, which is to be completed by any person who carried out or intends to carry out any work on Westbank Lands;

"approved" means approved in writing;

"Building Code" means the British Columbia *Building Code* established under section 692 of the *Local Government Act* by BC Reg. 295/98, and all amendments made thereto, from time to time;

"Building Inspector" means the person appointed from time to time by Council, or with whom Council has as agreement, to act as building inspector for the purpose of enforcing and carrying out the provisions of this Law and includes any delegate;

"building permit" means the form of permit established by Council, from time to time, and when signed by the Building Inspector it will be the authority for a person to proceed with the work authorized thereon;

"construction" means any erection, repair, alteration, enlargement, addition, demolition, removal or excavation;

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

"demolition permit" means the form of permit established by Council, from time to time, and when signed by the Building Inspector it will be the authority for a person to demolish a building;

"Director of Operations" means the person appointed by Council pursuant to the *Westbank First Nation Constitution*;

"inspection notice" means the form of notice established by Council, from time to time, and when signed by the Building Inspector will serve as notice that he intends to inspect the works indicated thereon;

"inspection report" means the form of report established by Council, from time to time, and when signed by the Building Inspector serves as the record of his approval or disapproval of any work and includes any recommendations by the Building Inspector regarding any work;

"manufactured home" means a transportable single family dwelling unit meeting minimum CSA Standards Z240 or A-277, or National Building Code Standards suitable for long term occupancy and designed to be transported on wheels;

"occupancy permit" means the form of permit established by Council, from time to time, and when signed by the Building Inspector it will be the authority for a person to occupy premises for which a building permit was issued;

"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;

"Officer in Charge" means the officer in charge of the detachment of the RCMP 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;

"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;

"registered professional" means:

(a) a person who is registered or licensed to practice as an architect under the *Architects Act*, or

(b) a person who is registered or licensed to practice as a professional engineer under the *Engineers and Geoscientists Act*;

"retaining wall" means a wall constructed of concrete, steel, wood, stone, masonry, brick, concrete block, or combination thereof, designed so as to support, confine, contain, retain, or keep in place earth material;

"scale of fees" means the schedule of fees established by Council, from time to time, which sets the fees applicable to any work other than plumbing;

"scale of fees - plumbing" means the schedule of fees established by Council, from time to time, which sets the fees applicable only to plumbing work;

"stop work notice" means the form of notice established by Council, from time to time, and when signed by the Building Inspector orders the stoppage of work on the work stated thereon;

"swimming pool" means a structure capable of being filled with water, used or intended to be used for swimming, bathing, wading or soaking having a surface area exceeding 14 m^2 or a depth of more than 600mm;

"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*;

"work" means any construction, erection, repair, alteration, enlargement, addition, demolition, removal or excavation.

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*.

2.3 The standards contained in or made pursuant to the *Building Code* and the provincial *Electrical Safety Act*, as amended from time to time, governing the design and construction of buildings, apply to the design and construction of buildings, within Westbank Lands.

3. APPLICATION

3.1 This Law will apply:

(a) to the design and construction of a building when the building, or part thereof, is constructed on a parcel of land or as a factory-built unit or component;

(b) to the work involved in the demolition when the whole or any part of a building is demolished or removed;

(c) to all parts of the building when the whole or any part of a building is moved, either within or onto Westbank Lands;

(d) to any alteration and to any part of a building affected by alterations to an extent which, in the opinion of the Building Inspector, reduces the levels of public health and safety below the levels existing prior to the alteration;

(e) to all such replacements and alterations when materials and equipment regulated are replaced or altered in a building;

(f) to any part remaining when a building is demolished to an extent of more than 75% of its value above its foundations as determined by the Building Inspector;

(g) to site grading and/or asphalt or other permanent surfacing, which will affect the drainage characteristics of the parcel.

3.2 Council must appoint, from time to time, a person who will carry out the duties set out in this Law pursuant to the terms and conditions established by Council.

4. PROHIBITIONS

4.1 No person shall fail to comply with any order or notice issued by the Building Inspector.

4.2 No person shall work or authorize or allow work to proceed on a project for which a building permit is required unless a valid building permit has been issued by the Building Inspector.

4.3 No person shall deviate from the approved plans and specifications forming part of the building permit or omit or fail to complete work required by the said plans and specifications without first having obtained approval in writing from the Building Inspector to do so.

4.4 No person shall occupy or allow the occupancy of any building, or part thereof, unless the registered holder has obtained an occupancy permit from the Building Inspector in the form contemplated by this Law.

4.5 No person having authority in the construction, reconstruction, demolition, alteration, removal, relocation, or occupancy of a building shall cause, allow or maintain any unsafe condition.

4.6 No person shall excavate or undertake work on, over or under community lands or erect or place any construction or work or store any materials thereon, without approval having first been obtained from the Building Inspector.

4.7 No person shall submit false or misleading information to the Building Inspector.

4.8 No person shall interfere with or obstruct the entry of the Building Inspector acting in the administration or enforcement of this Law.

4.9 No person shall excavate, or fill any building site in the absence of a valid or subsisting building permit.

4.10 No person shall continue construction beyond the foundation stage until:

(a) in the opinion of the Building Inspector an acceptable level of fire protection has been provided; and

(b) a certificate of location by a registered British Columbia Land Surveyor has been received and approved by the Building Inspector.

5. DUTIES AND RESPONSIBILITIES OF THE REGISTERED HOLDER

5.1 Every registered holder must allow the Building Inspector to enter any building or premises at any reasonable time for the purpose of administering and enforcing this Law or any other applicable Westbank Law or any other applicable construction related federal or provincial Act or regulation.

5.2 Every registered holder must obtain all permits and approvals required in connection with proposed work, prior to commencing such work.

5.3 Every registered holder must ensure that plans and specifications on which a permit is based are continuously available at the work site during working hours.

5.4 Every registered holder must notify the Building Inspector of the date of commencement of work on a building site.

5.5 Every registered holder must, when required by the Building Inspector with written notice, provide:

(a) the name, address and telephone number of the contractor or person in charge of the work; and

(b) the name, address and telephone number of the engineer or architect reviewing the work, together with a letter of commitment from such engineer or architect setting forth the extent and limits of his reviewing function.

5.6 Every registered holder must give 24 hours written notice to the Building Inspector:

(a) of intent to do work that has been ordered inspected during construction;

(b) of intent to cover work that has been ordered to be inspected prior to covering;

(c) when work has been completed so that a final inspection can be made; and

(d) while not limiting the generality of the foregoing, at the following stages of construction:

(i) when excavation and footing forms are complete, including placement of required reinforcing, but prior to placing of any concrete;

(ii) when foundation concrete, damp-proofing, water-proofing and perimeter drains are complete, but prior to any backfill being placed;

(iii) when all structural components are in place but uncovered including windows, concrete, structural iron, stairs, ductwork, rough plumbing, wiring and gas venting;

(iv) when insulation and vapor barrier are complete but prior to placement of any finish thereon; and

(v) when all work is complete but prior to occupancy.

5.7 Every registered holder must give notice to the Building Inspector of an intent to occupy or allow occupancy of a building or portion of a building.

5.8 Every registered holder must make or have made at its expense tests or inspections necessary to prove compliance with this Law and must file copies of test results and inspection reports with the Building Inspector.

5.9 Every registered holder when required by the Building Inspector must uncover and replace at its own expense any work that has been covered contrary to an order issued by the Building Inspector.

5.10 Every registered holder must ensure that all work will be confined within the boundaries of the parcel of land on which the work is, or is to be located.

5.11 Every registered holder is responsible for the cost to repair any damage to community lands, other public property or works that may occur as a result of undertaking work for which a permit was required under this Law.

5.12 Every registered holder must obtain an occupancy permit from the Building Inspector prior to any occupancy of a building or part thereof after construction, partial demolition, or alteration of that building.

5.13 Every registered holder when required by the Building Inspector, must provide, in a form satisfactory to the Building Inspector, evidence to certify compliance with the requirements of this Law and of any permits required.

5.14 Every registered holder, when a building or part thereof is in an unsafe condition, must forthwith take all action necessary to put the building in a safe condition.

5.15 Every registered holder is responsible, when making application for a building permit, for the verification of the existence and location of any utility services required for the subject permit.

6. DUTIES AND RESPONSIBILITIES OF THE BUILDING INSPECTOR

6.1 The Building Inspector is responsible for the administration and enforcement of this Law.

6.2 The Building Inspector must keep copies of all permits and orders issued, inspections and tests made, and of all papers and documents connected with the administration of this Law for a period of not less than ten (10) years from the date of issuance of the permit.

6.3 The Building Inspector must:

(a) issue such notices or orders as may be required to inform the registered holder where a contravention of this Law has been observed;

(b) issue an order to the registered holder to correct any unsafe condition observed in any building.

6.4 The Building Inspector, when issuing a stop work notice as provided for in section 8.2(b) of this Law, must post such notice in a conspicuous location on the construction site, in the presence of the permit holder or the permit holder's agent.

6.5 The Building Inspector, when requested to do so, must within a reasonable time, provide reasons for refusal to grant a permit.

6.6 The Building Inspector must answer such questions as may be reasonably relative to the administration of this Law, but, except for standard design aids, is not authorized to assist in the laying out of any work or to act in the capacity of a design consultant.

6.7 The Building Inspector must issue a permit when, to the best of his knowledge, the conditions set forth in this Law or any other applicable Westbank Law or any other applicable construction related federal or provincial Act or regulation have been met.

6.8 The Building Inspector must issue an occupancy permit when, after inspection, it appears to him that the building or part thereof so inspected complies in all respects with the provisions of this Law and any other applicable Westbank Law or any other applicable construction related federal or provincial Act or regulation.

6.9 The Building Inspector must carry proper credentials and produce them for inspection upon request.

7. POWERS OF THE BUILDING INSPECTOR

7.1 The Building Inspector may enter any building or premises at any reasonable time for the purpose of administering or enforcing this or any other applicable Westbank Law.

7.2 The Building Inspector is empowered to order:

(a) a person who contravenes this Law to comply with this Law in a specified time period;

(b) work to stop on a building or part thereof, if work is proceeding in a contravention of the Law or if an unsafe condition is deemed to exist;

(c) the removal of any unauthorized encroachment on community lands;

(d) the removal of any building or part thereof constructed in contravention of this Law;

(e) the termination of any occupancy, in the contravention of this Law or other applicable Westbank Law; and

(f) the termination of any occupancy if any unsafe condition is deemed to exist because of work undertaken or not completed.

7.3 The Building Inspector may direct that sufficient evidence or proof be submitted at the expense of the registered holder to determine whether a material, device, construction method, assembly, construction or foundation condition meets the requirements of this Law.

7.4 The Building Inspector may require any registered holder to submit an up to date plan of survey by a registered British Columbia Surveyor, which plan must contain sufficient information regarding the site, the location of the building and the building to:

(a) establish prior to construction that requirements of this Law and any other applicable Westbank Law will be complied with; and

(b) verify at the earliest practicable time after work is in place that all such requirements have been complied with.

7.5 The Building Inspector may require any plans and/or specifications submitted to bear the seal and signature of a member of the Architectural Institute of British Columbia or the Association of Professional Engineers of British Columbia before it is accepted, if in the opinion of the Building Inspector:

(a) the site condition, soil types, contours or drainage requires special foundation design; or

(b) the proposed building or structure is not standard construction; or

(c) the proposed building or structure is valued at $25,000 or more; or

(d) the proposed building or structure is of a category requiring professional design.

The Building Inspector may further require that all phases of the construction are reviewed, inspected and certified on completion by the architect or engineer over their respective, official seals and signatures.

7.6 The Building Inspector may issue, solely at the risk of the registered holder, a building permit for the construction of a phase of a building or complex prior to all required plans and specifications for the whole building or complex having been submitted or approved, provided:

(a) plans and specifications for the phase in question have been submitted in sufficient detail to satisfy the Building Inspector that the work to be done will comply with all requirements of the *Building Code* and of this Law or any other applicable Westbank Law or any other applicable construction related federal or provincial Act or regulation; and

(b) adequate information and detailed statements have been filed to the extent that the Building Inspector is satisfied the remainder of the building or complex will comply with all other applicable Westbank Law or any other applicable construction related federal or provincial Act or regulation.

The requirements of this Law apply to the remainder of the building or complex, as if the building permit had been issued for the entire structure.

7.7 The Building Inspector may refuse to issue a permit:

(a) if in his opinion, information submitted is inadequate to ensure compliance with this or any other applicable Westbank Law;

(b) if incorrect information is submitted;

(c) that would be prohibited by any other law, Act or regulation;

(d) if site work has been carried out previous to issuance of a permit, including but not limited to, excavation or fill;

(e) if a water meter has not been installed on new construction as required by *WFN Waterworks Law*, as amended from time to time.

7.8 The Building Inspector may revoke a permit:

(a) if there is a contravention of any condition under which the permit was issued;

(b) that was issued in error;

(c) that was issued on the basis of incorrect information;

(d) for violation of any provision of the *Building Code*.

The revocation must be in writing and transmitted to the permit holder by registered mail.

7.9 The Building Inspector may, for the purpose of determining permit fees, place a value on the work to be carried out, where no cost estimate is available, or the Building Inspector is not satisfied with the value submitted with the permit Application.

7.10 The Building Inspector may, when of the opinion that any building, construction, excavation or part thereof is in an unsafe condition as a result of being open or unguarded, or because of danger of fire or risk of accident, and when due notice to correct such condition has not been complied with, make safe such condition at the expense of the registered holder and if the registered holder does not pay the cost on or before December 31st in the year that the compliance was effected, the cost for so doing may be added to the current year's property taxes or rent, as the case may be.

7.11 The Building Inspector may, when immediate measures must be taken to correct an imminent danger of fire or risk of accident, take appropriate action, without notice and at

the expense of the registered holder and the cost for so doing may be added to the current year's property taxes or rent, as the case may be.

7.12 The Building Inspector may, before issuing an occupancy permit, require the registered holder to provide certification that the requirements of this Law and other applicable Laws have been complied with.

7.13 The Building Inspector may issue, in the case of single or two-family dwellings only, where weather conditions have prevented the completion of exterior work, a temporary occupancy permit, provided that:

(a) interior of building is complete;

(b) utility services are complete;

(c) sufficient proof has been provided that remaining work will be completed by a specified date; and

(d) no unsafe conditions exist.

7.14 The Building Inspector, in order to prevent unnecessary delay, may, prior to issuing a building permit, grant permission, subject to such conditions as deemed prudent, for a registered holder to excavate or fill on a proposed building site.

7.15 The Building Inspector, prior to issuing a building permit, or during the course of construction, is empowered to impose such conditions as deemed reasonable to protect neighboring parcels.

8. PERMITS

8.1 A building permit is required whenever work regulated by this Law is to be undertaken.

8.2 An occupancy permit is required to allow the occupancy of a building or part thereof.

8.3 To obtain a building permit, the registered holder must submit a completed Application.

8.4 Every Application must be accompanied by the applicable fee as detailed in the scale of fees.

8.5 Every Application must:

(a) identify and describe in detail the work and occupancy to be covered by the permit;

(b) describe the parcel of land on which the work is to be done, by a description that will readily locate and identify the building lot;

(c) include plans and specifications, and show the occupancy of all parts of the building;

(d) indicate the proposed siting of all buildings on the parcel, including front and rear yard set-backs, and side yard set-backs (a minimum of 4 feet from the property line to the face of the building), which must be approved on a site by site basis;

(e) state the valuation of the proposed work;

(f) state the names, addresses and telephone number of the registered holder, architect, engineer or other designer and constructor.

8.6 Sufficient information must be filed with each Application to enable the Building Inspector to determine whether the proposed work:

(a) may affect neighboring parcels; or

(b) will conform with this Law or any other applicable Westbank Law or any other applicable federal or provincial Act or regulation.

8.7 Plans must be drawn to scale and must be clear and durable, suitable for microfilm reproduction, and must indicate the nature and extent of the work or proposed occupancy in sufficient detail that when completed, the work and proposed occupancy will conform to this Law and other applicable Westbank Laws or any other applicable construction related federal or provincial Act or regulation.

8.8 Site plans must be referenced to the current registered legal survey for the subject parcel and must show:

(a) by dimensions from property lines, the location of the proposed building, or buildings;

(b) means of access and egress to service the property;

(c) the similarly dimensioned location of any other existing building or buildings on the site;

(d) existing and finished ground levels to an established datum;

(e) all easements and rights of way whether registered or not.

8.9 The Building Inspector may allow the essential information to be shown on the plans in lieu of written specifications but in no case will such terms as "in accordance with the Law", "legal", similar terms be used as substitutes for specific information.

8.10 When work requiring a building permit is commenced or undertaken prior to the issuance of such building permit, the permit fee must be doubled, provided, however, that the amount of such increase must not exceed maximum amounts specified on the scale of fees.

8.11 Within six (6) months of a building permit having been issued, should the registered holder make written Application to cancel the building permit, provided no construction

has taken place, the Building Inspector may refund the permit fee less the greater of $40.00 or 25% or the original permit fee.

8.12 No occupancy permit shall be issued until utility services for the subject property are completed to the approval of the Building Inspector and all appropriate connection fees or other construction costs have been paid.

8.13 If sanitary sewer is not available, no occupancy permit will be issued until the Building Inspector is provided with written evidence that the disposal system is approved by Health Canada, Central Interior District.

8.14 If water service is not available, no occupancy permit will be issued until a source of portable water is proven to the satisfaction of the Building Inspector.

8.15 Where application is made to erect a building on the site of an existing building or structure, which act would be in violation of the WFN Land Use Plan or any other related Law or regulation, the Building Inspector may issue a building permit provided:

(a) the existing building or structure is removed prior to issuance of the building permit; or

(b) security in a form satisfactory to Council in an amount double the appraised value of the existing building or structure and in any case, no less than $5,000.00 in value is deposited with Westbank prior to issuance of the building permit as a guarantee that the offending building or structure will be removed immediately upon occupancy of the new building.

8.16 The word "temporary", as used in this subsection, must mean a period not exceeding twelve (12) months. A person desiring to erect a temporary building, structure or shelter must make application for a building permit therefore, in writing, to the Building Inspector. The Application must be accompanied by:

(a) plans showing the location of the building on the site and construction details of the building;

(b) a statement of the intended use and duration of the use; and

(c) a bond, certified cheque or irrevocable letter of credit issued by a chartered bank, sufficient, in the opinion of the Building Inspector, but in any event not less than $2,000.00 in value, to guarantee that the building will be removed from the site within the time limit indicated.

8.17 No building permit shall be issued for the erection of an accessory building or structure on any lot, unless the principal building to which the accessory building or structure as an incidental use, has been erected, or will be erected simultaneously with said accessory building or structure.

8.18 Construction must be commenced within 180 days of the issue of a building permit, and must be completed to final inspection stage within twelve (12) months or the building permit will be deemed invalid. The Building Inspector may grant a renewal permit for a

further twelve (12) period if satisfied that construction is progressing in accordance with the approved plans at a reasonable rate of progress. A permit renewal fee must be levied in accordance with the scale of fees.

8.19 Every building, structure or tenant space must be the subject of a separate building permit and must be assessed a separate building permit fee in accordance with the scale of fees.

9. APPEAL

9.1 A decision of the Building Inspector, subject to section 9.2, may be appealed to the Director of Operations.

9.2 An appeal against a decision of the Building Inspector may be submitted to the Director of Operations by any person who:

(a) has applied under the provisions of this Law for a permit which has not been granted;

(b) has had a permit revoked; or

(c) feels adversely affected by a decision of the Building Inspector.

9.3 The appellant must file with the Director of Operations a statement in writing in such detail as will enable the Director of Operations to properly consider the appeal, setting out:

(a) the address of the building affected by the appeal;

(b) the sections of this Law affected by the appeal, and

(c) the grounds for appeal.

9.4 The Director of Operations may either concur with, reverse or modify the decision of the Building Inspector and must render his decision within ten (10) days of receipt of the written appeal.

9.5 If the appellant or the Building Inspector is dissatisfied with the decision of the Director of Operations, either may appeal further to Council whose decision will be final and not subject to further appeal.

9.6 An appeal to Council must be in writing and Council must consider the appeal at a regular Council meeting within a reasonable time after the receipt of the further written appeal. The appellant and Building Inspector have the right to be heard when the appeal is being considered by Council.

10. RELOCATION OF BUILDINGS

10.1 The moving of a building from one property to another within Westbank Lands or into Westbank Lands requires a building permit.

10.2 Every Application to move a building must identify the existing site of the building and the proposed site to which the building is to be moved.

10.3 No building permit to move a building shall be issued until the time, manner and route of the move has been approved by the Building Inspector, the Officer in Charge and the provincial Ministry of Transportation and Highways when applicable.

10.4 No building permit to move a building shall be issued until evidence is submitted to the Building Inspector to certify that all services to the building have been disconnected and sealed if and as required.

10.5 No building shall be moved to another site within Westbank Lands unless in the opinion of the Building Inspector it conforms or is made to conform to the architectural standards and applicable building codes in the vicinity of the proposed new site and to the requirements of this Law.

10.6 Every Application to relocate a building must be accompanied by security in a form acceptable to Council, and in an amount equal to the estimated cost of completing the building in its new location to occupancy stage. The amount so estimated must be acceptable to the Building Inspector, but in no case will the amount of the security be less than $5,000.00.

10.7 Should a building which has been relocated subject to the provisions of section 10.6 not be completed to occupancy stage within one (1) year from the date of issuance of the building permit, the Building Inspector may draw upon the security required under the subject section and take whatever action is necessary to effect completion of the building.

11. DEMOLITIONS

11.1 The demolition of any building requires a demolition permit.

11.2 Every person making application for a demolition permit to demolish a building must, as part of his Application, provide the Building Inspector with satisfactory evidence that:

(a) no unsafe condition will be created or permitted;

(b) all utility services to the building have been disconnected and all such disconnections have been approved by the appropriate authority.

11.3 Before issuing a demolition permit to demolish any building, the Building Inspector may demand that security be provided in a form satisfactory to Council to ensure that the site of the demolition will be left in a safe, neat condition, free from debris or dust, and compatible with neighboring properties. The amount of the security must be equal to the estimated cost of site restoration, in the event that the site is not properly restored to a standard satisfactory to the Building Inspector for the purpose of restoring the site.

11.4 Prior to issuing a demolition permit to demolish any building, the Building Inspector may impose such conditions as seem to him reasonable to protect the public.

12. OTHER REQUIREMENTS

Site Drainage and Grading

12.1 All sites must be graded so that all buildings contained thereon are effectively protected from surface water.

Roof Drainage

12.2 On any building which is the subject of a permit, the Building Inspector may direct that perimeter drains, rainwater leaders, gutters and down spouts or other drainage appurtenances be installed where, in his opinion, they are necessary for proper drainage and may further direct that they be connected to storm drains.

Site Grades

12.3 Slopes must not exceed the natural angle of repose of the soil and all transitions of slope must be gradual.

Parking and Screening for Commercial Buildings

12.4 All required parking, driveways and other areas on site utilized by vehicular traffic must be constructed and surfaced in accordance with the off street parking and loading requirements contained in any WFN Land Use Plan.

12.5 Traffic control curbs and/or bumper curbs must be effectively anchored in place.

12.6 Parking bumpers must be so placed that parked vehicles are prevented from encroaching on neighboring property or public property.

12.7 External storage, mechanical equipment or roof mounted equipment must be screened in a manner approved by the Building Inspector.

Maintenance of Construction Sites

12.8 Every construction site must be maintained free of loose or blowing debris and must be subject to a continuous and effective program of dust control during the various phases of construction. The Building Inspector may require, as a condition of issuance of the building permit, that security in a form acceptable to Council and in an amount acceptable to the Building Inspector be provided to guarantee compliance with this section. In the event the conditions contained herein are violated, the Building Inspector may draw upon the security for the purpose of effecting adequate maintenance of the site. In the event the forfeited security is not sufficient to provide continuous maintenance of dust and debris until construction is finalized, Westbank may enter onto the site and take whatever actions are required to resolve the matter, and charge the cost directly to the registered holder. The costs incurred will be due and payable upon notice served by Westbank upon the permit holder. Such charges will bear interest at 2% per month, compounded semi-annually and not in advance, within thirty (30) days of date of notice.

Protection of WFN Works and Adjacent Properties

12.9 Where work is being done subject to a building permit under the provisions of this Law, WFN works and property adjacent to the work must be protected and Westbank must be saved harmless from any damage or cost arising out of or incidental to the work.

Flood Control Requirement

12.10 No building shall be constructed:

(a) with the elevation of the surface of the lowest floor (slab, crawl-space or basement) less than 30 cm above the overflow level of WFN drainage system servicing the parcel, or as approved by the Building Inspector; or

(b) with any area used for human habitation located at an elevation such that the underside of the floor system thereof is more than 0.5 m below the two hundred year flood level as determined from elevations provided by the provincial Ministry of the Environment.

12.11 Notwithstanding the provisions of Part 10, it is the responsibility of the registered holder to ensure that the building will be safe from water action, whether caused by surface runoff or not.

12.12 Prior to the issuance of a building permit for any building or structure within flood plain, the registered holder must enter into a covenant which must be registered in the Westbank Land Register and must run with the parcel of land.

12.13 Proof of registration of the following covenant language must be provided to the Building Inspector prior to issuance of the building permit.

> "The registered holder agrees to save harmless Westbank in the event of any damage being caused by flooding to any building, improvement, or other structure built, constructed or placed upon the said lands, and to any contents thereof."

General Workmanship

12.14 All work must at least conform to the rules and customs of good trade practice and must be performed by people familiar with the work, well equipped and adequately supervised and must comply with standards contained in or made pursuant to the *Building Code* and the provincial *Electrical Safety Act*, as amended from time to time.

Retaining Walls

12.15 All retaining walls in excess of 1.2 metres in height must be designed and constructed in accordance with good engineering practice.

Site Identification

12.16 For the purpose of identification, and as a condition of occupancy, every parcel of land containing a building subject to a permit under this Law must display the street address of the property by means of clear and legible numbers.

13. MANUFACTURED HOME INSTALLATION, ALTERATIONS AND ADDITIONS

13.1 All manufactured homes must be installed in accordance with CSA Standards Z240.10.1-94, "Site Preparation, Foundation, and Anchorage of Manufactured Homes".

13.2 All building permits issued for manufactured home alteration or addition must conform to the following terms and conditions:

(a) additions to manufactured homes must be set on a temporary foundation which allows for each removal of the addition without affecting the original manufactured home;

(b) no part of the addition may be attached to the manufactured home or depend on the structure of the manufactured home for support;

(c) additions must not affect the structural integrity of the manufactured home;

(d) no plumbing may be installed in any additions to a manufactured home;

(e) all additions must have their own heating system and must not depend on the manufactured home heating system to maintain an interior temperature of 22 degrees Celsius during the winter heating season;

(f) all electrical connections must be made to allow for easy disconnection of the addition from the original manufactured home.

14. PRIVATE SWIMMING POOLS

14.1 No person shall construct a swimming pool on any parcel of land without first obtaining a building permit to do so.

14.2 Every Application for construction of a swimming pool must be accompanied by a plan showing:

(a) the location of the proposed swimming pool in relation to all existing buildings on the parcel and the parcel boundaries;

(b) the location of the accessory building housing the swimming pool equipment in relation to all existing buildings on the parcel and the parcel boundaries;

(c) the type of construction;

(d) the water supply and proposed method of drainage; and

(e) the proposed method of fencing.

14.3 The registered holder of the parcel of land on which a swimming pool is to be constructed must provide fencing or equivalent barrier from grade of not less than one point zero seven metres (1.07 m) in height, with any openings through or under said fence or barrier to be of a size as to prevent the passage of a spherical object having a diameter of ten centimetres (10cm). The fence or barrier must be designed so that no member, attachment or opening located between ten centimetres (10 cm) and ninety centimetres (90 cm) above grade will facilitate climbing. Access to the swimming pool, other than through a dwelling unit, must be equipped with a self-closing gate or door designed to return to a locked position when not in use and secured by a spring lock located on the pool side of the fence at least ninety centimetres (90 cm) above grade.

14.4 Swimming pools one point zero seven metres (1.07m) or more above surrounding ground will only be required to enclose the ladder or other access points to the swimming pool by a fence conforming to the requirements of section 14.5 of this Law.

14.5 Chain link fencing may be used for a swimming pool enclosure provided the openings do not exceed five centimetres (5 cm).

14.6 The registered holder of any parcel of land on which the swimming pool is situated must maintain the required fence and gate in good repair at all times.

15. CANOPIES AND MARQUEES

15.1 Any canopy or marquee projecting over public property must:

(a) be designed by a registered professional;
(b) be supported entirely from the structure to which it is attached;
(c) be capable of bearing a live load of not less than one point nine kilopascals (1.9kPa);
(d) consist of non-combustible or protected combustible material;
(e) not project over a lane or a roadway where a sidewalk or curb does not exist;
(f) be not less than two point five metres (2.5m) above the sidewalk;
(g) be not less than one metre (1 m) from the curb line of the sidewalk; and
(h) not interfere with standpipes, fire escapes, traffic lights, traffic signs, traffic, utilities or WFN public works.

15.2 Every owner of a canopy which is installed or erected over public property must enter into an agreement with Westbank in the form established by Council from time to time, to indemnify against and save Westbank harmless from any and all liability resulting from injury to persons or damage to property which results from the presence, collapse, or failure of the canopy.

16. AWNINGS

16.1 Any awning projecting over public property must:

(a) have the support structure designed by a registered professional;

(b) be constructed on a metal frame supported entirely from the structure to which it is attached;

(c) be not less than two point metres (2.2m) above the sidewalk if located greater than one point five metres (1.5m) from the curb line of the sidewalk or not less than two point five metres (2.5m) above the sidewalk id located less than one point five metres (1.5m) from the curb line of the sidewalk;

(d) be not less than one metre (1 m) from the curb line of the sidewalk;

(e) not project over a lane or a roadway where a sidewalk or curb does not exist; and

(f) not interfere with standpipes, fire escapes, traffic lights, traffic signs, traffic, utilities or WFN public works.

16.2 Every owner of an awning which is installed or erected over public property must enter into an agreement with Westbank in the form established by Council from time to time, to indemnify against and save Westbank harmless from any and all liability resulting from injury to persons or damage to property which results from the presence, collapse, or failure of the awning.

17. CERTIFIED PROFESSIONALS

17.1 A registered professional may qualify as a Certified Professional by successful completion of a course approved by the Union of British Columbia Municipalities, Certified Professional Committee applicable to the design, construction and inspection of buildings and structures. A Certified Professional must provide evidence to the Building Inspector that the Certified Professional is covered by professional liability insurance.

17.2 The Building Inspector may qualify an architect or engineer who meets the requirements of section 17.1 as a Certified Professional.

17.3 The Building Inspector may suspend the privileges of a Certified Professional if the Certified Professional:

(a) is found guilty of related unprofessional conduct with respect to the *Architects' Act* or the *Engineers' and Geoscientists' Act*, as applicable;

(b) fails, when required by the Building Inspector, to demonstrate a satisfactory familiarity with the current provisions of the *Building Code*;

(c) ceases to be a registered professional;

(d) knowingly submits to the Building Inspector a document which is in any material way inaccurate or misleading;

(e) fails to disclose to the Building Inspector substantial deviation, changes or violations of the requirements of design, construction, or inspection in respect of building or structure for which he/she is the Certified Professional; or

(f) fails to perform any duties or obligations required by this Law.

17.4 The Building Inspector may accept any Application from a Certified Professional for a building permit under the Certified Professional Program provided that:

(a) the building is regulated by Part 3 of the *Building Code*; and

(b) the Application is accompanied by letters of "Confirmation of Commitment by Owner and by Certified Professional", and letters of Certification of Building Code and letter of "Assurance of Certified Professional Code Coordination and Commitment for Field Review", duly executed (Schedules A, B-1 and B-2 of the *Building Code*).

17.5 The Building Inspector may also require that the Certified Professional provide:

(a) a *Design Checklist*;

(b) a *Project Directory*; and/or

(c) such other documents as deemed necessary.

17.6 Upon issuance of a building permit under the Certified Professional Program, a Certified Professional must conduct inspections and provide the Building Inspector with applicable field review reports in a form acceptable to the Building Inspector at the earliest reasonable opportunity, or upon demand by the Building Inspector.

17.7 A Certified Professional must, in respect of the project for which he/she made application for a building permit under the Certified Professional Program:

(a) undertake and/or coordinate and review Development Permit and *Building Code* related design criteria and field reviews required for the project;

(b) certify that the design will substantially comply and construction of the project will substantially conform in all material respects to the *Building Code*;

(c) certify that construction of the project substantially conforms in all material respects to the above certified design and to the *Building Code*;

(d) review, in advance of Tenant Improvement building permit issuance, any tenant improvement work to be constructed prior to occupancy of the base building;

(e) review for adequacy and acceptability any report, oral or written, concerning testing, inspection and field review requirements; and maintain a detailed record of such reports or comments; and make same available to the Building Inspector upon request;

(f) advise the Building Inspector in writing of any matter of design or construction that does not substantially meet with the requirements of the *Building Code* or Development Permit, coordinate corrective measures to bring work in substantial conformance with the *Building Code* and Development Permit requirements;

(g) after issuance of a building permit under the Certified Professional Program, submit a written monthly Progress Report to the Building Inspector;

(h) forthwith advise the Building Inspector if he/she has ceased to be retained, or of the date upon which he/she will cease to be retained by the registered holder as a Certified Professional;

(i) provide to the Building Inspector, prior to occupancy of the project, a letter of "Assurance of Certified Professional Field Review and Compliance" (Schedule C of the *Building Code*); and

(j) provide to the Building Inspector, prior to occupancy of the project, a set of record drawings sealed by each registered professional involved along with a written letter of Assurance of the Certified Professional that no significant changes in the project's design or construction occurred other than those that had been approved by the Building Inspector.

17.8 The Building Inspector may stop work and revoke a building permit issued under a Certified Professional Program in the following circumstances:

(a) if a Certified Professional is no longer retained by the registered holder for that project;

(b) if a Certified Professional is suspended by the Building Inspector under subsection 17.3 herein;

(c) if a Certified Professional fails to perform any of their duties or obligations under subsection 17.7 herein; or

(d) if a Certified Professional ceases to be a registered professional.

17.9 Nothing contained herein, nor the acceptance by the Building Inspector of any Letter of Assurance, nor the issuance of a building permit or occupancy permit will relieve the registered holder, Certified Professional or registered professional(s) from compliance with the Building Code and any and all Westbank Laws, and Westbank may enforce all provisions of such Laws, by the issuance of stop work orders, injunctions, prosecution or other such means as are available at law or in equity.

17.10 Where the Building Inspector accepts any Certification of Compliance or any Letter of Assurance of a Certified Professional or registered owner, neither Westbank nor the Building Inspector, nor any other WFN employee will be liable for any loss, damage or expense caused or contributed to because a building in respect of which a certificate is issued is unsafe or does not comply with the *Building Code*, a Westbank Law or any other applicable federal or provincial Act, regulation, code or law.

18. LIMITATION OF LIABILITY

18.1 The purpose of inspections under this Law is to satisfy Council that the requirements of this Law have been complied with, and no inspection report or decision will be construed as any assertion or warranty by Westbank, or any person acting for, on behalf of or

under the authority of Westbank, to any person other than Westbank, as to any other matter whatsoever, including:

(a) the compliance of the works inspected with the *Building Code* or any other code or standard;

(b) the safety of the works inspected;

(c) the quality of the design, workmanship or materials of the works inspected; or

(d) the sufficiency of the works inspected for any use.

18.2 Section 18.1 applies with the necessary changes to the issuance of an occupancy permit.

19. FEES AND FORMS

19.1 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.

19.2 Notwithstanding the provisions of section 19.1, any change made to any fees or charges payable under this Law will come into effect on the date which is six months after the date of the Council resolution approving such amendment.

20. NOTICES & CHARGES AGAINST REGISTERED HOLDERS

20.1 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.

21. OFFENCES

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

21.2 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.

21.3 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.

21.4 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.

22. IMMUNITY

22.1 No action for damages lies or may be instituted against present or past Council, Building Inspector, 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.

22.2 Section 22.1 does not provide a defence if:

(a) Council, Building Inspector, 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.

22.3 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.

22.4 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.

22.5 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.

23. APPLICATION OF LAW

23.1 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.

23.2 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.

23.3 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.

23.4 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.

24. REPEAL

24.1 Building Bylaws No. 1979-08, 1992-03 and 1996-07 are hereby repealed.

BE IT KNOWN that this Law entitled, "*WFN Building Law No. 2005-14*" is hereby read for the first, second, and third and final time and is hereby enacted as Law No. 2005-14 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.