

**WESTBANK FIRST NATION
WATERWORKS LAW NO. 2005-16**

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 regulation of waterworks on Westbank Lands;

NOW THEREFORE Council of Westbank First Nation repeals WFN Waterworks Bylaw No. 2001-01 and enacts the following law:

1. TITLE

1.1 This Law may be cited as the "*WFN Waterworks Law No. 2005-16.*"

2. DEFINITIONS

2.1 In this Law, unless the context otherwise requires:

"apartment house" or **"multiple dwelling"** means any building, not being a lodging-house or hotel, or portion thereof, which is designed, built, rented, leased, let or hired out to be occupied, or which is occupied, as the home or residence of three or more families living independently of each other and doing their own cooking within their apartment or suite;

"auto court" means a group of furnished rooms or separate buildings providing sleeping and parking accommodation for transient tourist trade and commonly known as tourist cabins, motor-courts or motels, as distinguished from furnished rooms in an existing residential building;

"AWWA" means the American Water Works Association, an international non-profit scientific and educational society dedicated to the improvement of drinking water quality and supply in North America;

"backflow" means the flow of water or other fluids in the direction opposite to normal flow;

"backflow prevention assembly" means an assembly that has been approved in accordance with the *BC Plumbing Code* and Westbank, for preventing backflow;

"Backflow Prevention Assembly Tester" means an individual who is certified by the Province of British Columbia and approved by the Manager to approve backflow prevention assemblies;

"BC Plumbing Code" means Part 7 of 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;

"boarding house" means a building containing not more than five (5) sleeping rooms, where lodging and meals for three (3) or more persons are provided for compensation pursuant to previous arrangements or agreements, and with no provision for cooking in any such sleeping room so contained;

“commercial premises” means all parcels of land or any portions thereof, on or within which, any interchange of commodities, or any dealing or trading in any article of commerce or other thing is carried on as a business, and will include all premises in which any service, professional or otherwise is provided, given, or made available and for which any fee, charge, rent or commission is payable, and without limiting the foregoing will include hotels, lodging houses, boarding houses, offices, theatres, bowling alleys, billiard rooms, places of entertainment or amusement, golf courses, tent camping grounds and car washes; and for the purpose of this Law will also include all lands and buildings used for industrial or manufacturing purposes;

“commercial unit” means any business which is operated separately from any other business on or within commercial premises;

“consumer” means any registered holder of any premises to which water is supplied or made available from the waterworks system and includes any person who is actually a user of water supplied to any premises or by any service from the waterworks system;

“contaminant” means any physical, chemical, biological or radiological substance or matter in water which may render the water non-potable;

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

“cross-connection” means any connection between the waterworks system and a secondary source of water, fixture or device where the quality is undetermined or subject to contamination;

“Fire Department” includes the fire department of any fire protection district, municipal corporation, or first nation attending fires on Westbank Lands;

“fire service” means any installation which may be provided to supply water for fire protection purposes, being fire-fighting or fire control, over and above the supply of water required for the usual purposes of the consumer;

“garden irrigation” means the sprinkling, irrigating or pouring of water by means of a hose, pipe or any sprinkling device upon, over or under the surface of the ground;

“hotel” means a building occupied as the more or less temporary abiding place of individuals who are lodged therein with or without meals and in which there are more than five (5) sleeping rooms, and with no provision for cooking in any such individual sleeping room or apartment;

“lodging house” means a building (other than a hotel) containing not more than five (5) sleeping rooms where lodging for three (3) or more persons is provided for remuneration and with no provision for cooking in any such sleeping room so contained;

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

“metered service” means a service having attached thereto a meter or other measuring device for determining the quantity of water used or supplied through such service;

“manufactured home”, “manufactured home pad”, and “manufactured home park” have the same meaning as assigned to them by *WFN Residential Premises Law*, as amended from time to time;

“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;

“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” includes both commercial premises and residential premises;

“rate” means the price or sum of money to be paid by any consumer for any water supplied or made available from the waterworks system;

“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;

“rent” means the sum of money charged for the use of a water meter or other measuring device;

“residential premises” means all parcels of land or any portion thereof, on or within which, one or more rooms constituting a unit of living accommodation is used or intended to be used for living and sleeping purposes and containing a sink and cooking facilities;

“service” means the supply of water from the waterworks system to any person, and all the pipes, taps, valves, connections, meters and other things necessary to and actually used for the purpose of such supply;

“service connection” means the connecting pipe between any water main and the property line of the premises served and will include the necessary corporation stop, curb-stop and shut-off valve;

“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 m² or a depth of more than 600mm;

“temporary service connection” means the connecting pipe between any water main and the property line of premises which do not border upon the water main from which service is provided and will include the necessary corporation curb-stop, shut-off valve and meter;

“waterworks system” means the waterworks system of Westbank First Nation, and includes public wells, reservoirs and all engineering and mechanical work connected therewith;

“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 Cashier” means the person or persons appointed by the Director of Operations, from time to time, and includes any delegate;

“WFN Corporation” means a corporation, the majority of the issued shares of which are held directly or indirectly on behalf of the members of Westbank, incorporated to operate the waterworks system and includes a not-for-profit entity incorporated by or on behalf of Westbank to operate the waterworks system.

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 *BC Plumbing Code*, as amended from time to time, and the standards made by AWWA, as amended from time to time, governing the design, construction and maintenance of waterworks systems, apply to the design, construction and maintenance of waterworks systems within Westbank Lands.

3. GENERAL APPLICATION

3.1 Westbank has jurisdiction in relation to WFN public works, community infrastructure and local services on Westbank Lands including works and services in relation to the supply, treatment, conveyance, storage and disposal of water. All water under, within, upon or which may be conveyed on to Westbank Lands is the property of and under the control of Westbank except for private wells or individually held water licences.

- 3.2 No person will sell or dispose of any water from the waterworks system or permit the same to be carried or taken away, or used, or apply it for the benefit or use of others or to any other person.
- 3.3 This Law references and applies to the waterworks system owned and operated or permitted by Westbank.
- 3.4 Westbank may supply water to consumers within Westbank Lands, who may be served from WFN waterworks system or may be served from waters extracted from within, under or upon Westbank Lands or brought onto Westbank Lands, and the provisions of this Law will extend to and be binding upon all persons so served.
- 3.5 Nothing in this Law will obligate Westbank to supply water to any person where the cost, in the opinion of the Manager would be excessive or where the waterworks system do not have sufficient capacity to provide the additional required flows unless such person is prepared to pay to Westbank the cost of installing the waterworks system to the premises, as well as any cost of upgrading the waterworks system to be of sufficient capacity to provide the additional water required for such service.
- 3.6 The Manager is responsible for the rating of all premises supplied with water from the waterworks system and the control of all properties and works in connection with the waterworks system.
- 3.7 The Manager or any employee of Westbank in the exercise of their duties, 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 ascertain whether the provisions of this Law are being obeyed.
- 3.8 No person will use or draw any water from the waterworks system except in accordance with this Law.
- 3.9 All persons using or drawing any water from the waterworks system will pay for such service and will pay the rate, rent, charge or fee established by Council, from time to time.
- 3.10 No person will pollute, damage or tamper with the waterworks system.

4. INTERFERENCE WITH WATERWORKS SYSTEM

- 4.1 No person will obstruct, at any time, or in any manner, the access to any hydrant, standpipe, valve, curb-stop, public well, reservoir, or other fixture connected with the waterworks system, by placing thereon or within a two (2) metre radius thereof, any shrub, lumber, timber, wood, brick, stone, gravel, sand or other material or thing; and the Manager may order the removal of such obstruction and the expense of such removal will be charged to and paid by the person so offending in addition to any other penalty imposed by this Law.
- 4.2 Unless otherwise provided in this Law, no person other than those persons authorized by Westbank in the exercise of their duties, will interfere with, make any connection to or do

work of any kind related with the waterworks system, without first obtaining written authority of the Manager.

- 4.3 Except as provided by section 4.4, no person, except those persons authorized by Westbank in the exercise of their duties, will open, turn on, tamper with or in any manner interfere with any hydrant, standpipe, curb-stop, valve or other fixture or any property of the waterworks system.
- 4.4 No person, except a member of the Fire Department in the exercise of their duties, will without first obtaining written authority of the Manager,
- (a) interfere in any manner with the waterworks system in any street or make any addition or alteration in or about or turn on or off any valve; nor
 - (b) open any hydrant, standpipe, curb-stop or valve or use water therefrom.
- 4.5 Every person who receives authority from the Manager to open any hydrant, standpipe, curb-stop or valve and use water therefrom pursuant to the provisions of subsection 4.4(b), must as a condition of such authority, pay to the WFN Cashier:
- (a) a maintenance fee in an amount established by Council, from time to time;
 - (b) a rent charge for use of the water in an amount established by Council, from time to time; and
 - (c) whatever charges are payable for any damage to the main, hydrant, standpipe, curb-stop or valve from which such service is taken.
- 4.6 The authority granted by the Manager in subsection 4.4(b) will be limited to a period not exceeding thirty (30) days and will reserve the right of Westbank to stop such use at any time for any reason without liability for damages resulting therefrom in any manner whatsoever.

5. APPLICATIONS FOR AND CONDITIONS OF SERVICE

- 5.1 All applications to install either a water service connection or a temporary service connection must be made in writing to the Manager by the registered holder or prospective consumer, and must be accompanied by an executed agreement with Westbank, both of which must be in the form established by Council, from time to time.
- 5.2 Each applicant for the installation of water service pursuant to the provisions of section 5.1 hereof, must give a full, true and correct statement on the form of the size and description of the premises, the use for which the service is required and all other information which may be necessary to form a correct estimate of the volume of water required and the rates to be charged against the consumer for water supplied to the premises. If the statement so given is not correct, and any additional rate will be chargeable by reason of the statement being incorrect, such additional rate will be payable forthwith. An applicant will be personally responsible for the payment of all rates, rents and fees until the consumer has delivered to the Manager a duly executed

notice in writing pursuant to the provisions of section 11.1 of this Law ordering discontinuance of such service.

- 5.3 The service connection provided by Westbank must be of such size, type and capacity as may be determined by the Manager, from time to time, based upon the standards of the AWWA. Each applicant must provide and construct at their own expense the pipe from such connection to the premises for which such connection is provided.
- 5.4 A person wishing to connect to the waterworks system for purposes other than fire protection purposes will:
 - (a) disconnect all other systems or sources of water to the premises to be supplied;
 - (b) decommission any wells that are or have been connected solely to the premises; and
 - (c) if the well is legally providing water to other premises, then disconnect from the well without affecting any of the remaining users.
- 5.5 If water service is to be provided from either of two or more mains, then the Manager will determine both the main from which service will be given, and the point of connection to that main.
- 5.6 No service connection will be provided, where the distance from the nearest main to the boundary line of the applicant's parcel of land exceeds one hundred (100) feet, however the applicant may apply for a temporary water service connection in accordance with this Law.
- 5.7 Every temporary service connection provided by Westbank must be of such size, type, length and capacity as may be determined by the Manager, who will also determine the location of the main to which the service will be connected, provided however, that the Manager may refuse a temporary service connection if such a connection would have a detrimental effect on the water supply system.
- 5.8 Every temporary service connection will be provided subject to the following conditions:
 - (a) each temporary service connection must serve one consumer and one premises only;
 - (b) each applicant for such service must pay the connection fee established by Council, from time to time, and Westbank will provide a connection from the main within the boundaries of the road allowance, lane or easement where such main is laid to the boundary line of the parcel of land. Where such pipe is to be laid within any road or lane allowance or WFN right-of-way or easement, the applicant must conform to the requirements determined by the Manager;
 - (c) each applicant must provide and construct at their own expense the pipe required from such connection to the premises for which such connection is provided and will be responsible for the maintenance and upkeep of such pipe from the point of connection to the premises for which such connection is provided;

- (d) every applicant must pay, in addition to the rates, rents, charges and fees established by Council, from time to time:
 - (i) frontage taxes for water service which may be levied by Westbank in respect of the parcel of land or premises for which such connection is provided, notwithstanding that such parcel or premises may not actually front upon a water main from which service is taken; and
 - (ii) the cost of providing the temporary service from the main to the boundary line of the subject property;
- (e) every such connection will be deemed to be temporary and Westbank may discontinue service in any of the following circumstances:
 - (i) when application is made by any other person or persons for extension of a water main along the street or road allowance upon which the property served by any such temporary service connection fronts;
 - (ii) when Westbank decides to proceed with the construction of a water main on the street, lane or road allowance upon which such property has frontage;
 - (iii) if the applicant fails to properly maintain the pipe from the point of connection to the premises for which such connection is provided; or
 - (iv) if the applicant contravenes any of the provisions of this Law;
- (f) where any temporary service connection is discontinued pursuant to paragraph (i) or (ii) of subsection (e) of this section and the premises served thereby are to be subsequently connected to a water main which has been constructed by Westbank to serve the premises, the connection fee paid by such applicant for such temporary connection, less the costs to Westbank incurred in connecting and disconnecting same, will be credited to the applicant and applied toward payment of the connection fee payable with respect to the connection to the new water main. In these circumstances service to the premises by means of the temporary service connection will be continued until the connection to the new main has been provided.

5.9 Every applicant must, with the requisite application, pay the connection fee, and if a flat rate service is applied for, must also pay in advance the flat rate service fee, less a proportionate rebate for that portion of the then current billing period expired at the date of such application and the WFN Cashier will cause such flat rate service fee or part thereof paid to be entered in the water rates roll for that billing period.

5.10 Once an applicant has completed the application process to the satisfaction of the Manager and has met all pre-conditions required by this Law, the water service connection will be made by Westbank at the boundary line of the parcel of land.

- 5.11 Any contractor, builder or other person wanting to use any water from any pipe or main of the waterworks system, or from any other consumer, for building purposes of any kind or description, must first ensure receipt of written permission from the Manager, payment of all required fees, rates, charges or rents and compliance with all other provisions of this Law.

6. CONTAMINATION, CROSS-CONNECTION and BACKFLOW PREVENTION

- 6.1 No person will connect, cause to be connected, or allow to remain connected any piping, fixture, fitting, container, appliance or cross-connection that could cause or allow drinking water quality, the service, or a private service to become contaminated, degraded or polluted in any way and under any condition, including but not limited to a backflow caused by backpressure or backsiphonage resulting from the disruption of the water supply from the water system, unless an approved backflow prevention assembly has been installed and tested in accordance with this section.
- 6.2 Where the Manager determines that there exists a connection or cross-connection prohibited by this Law, he may give written notice to the consumer to correct the connection or cross-connection at the expense of the consumer within the time specified in the notice.
- 6.3 A consumer to whom notice has been given under section 6.2 will correct the connection or cross-connection, as the case may be, by installing a backflow prevention assembly unit approved by the Manager.
- 6.4 Where the Manager determines that a connection or cross-connection prohibited by this section places a consumer or any other person at immediate risk, or if the consumer fails to correct the connection or cross-connection as required by this Law, then the Manager may order the discontinuance of the supply of water without notice until such time as the connection or cross-connection is corrected.
- 6.5 Every consumer will, upon the installation of an approved backflow prevention assembly and annually thereafter, or more often as required by the Manager, arrange for the inspection and testing of the assembly unit by a Backflow Prevention Assembly Tester. The results of all inspections and testing will be submitted to the Manager within thirty (30) days of such inspection and testing.
- 6.6 Any connection to an underground sprinkler system requires that a double check valve assembly be properly installed and inspected by the Manager before the service is turned on.
- 6.7 A new service connection must not be turned on at the curb-stop until the consumer's water service has been inspected by the Manager. This will not prohibit the use of a water service for construction purposes for a limited time, provided the Manager is satisfied that adequate provision is made to prevent backflow into the waterworks system.

7. MAINTENANCE REQUIREMENTS

- 7.1 All underground pipes for any premises must be placed not less than sixty (60) inches below the surface of the ground and all other pipes exposed to frost must be properly and sufficiently protected therefrom. It will be the duty of every consumer to provide that all taps, fittings and other things connected to the service within the premises are good and sufficient and installed and connected in accordance with the requirements of all applicable Westbank Laws and every premises will be equipped with a properly placed stop and waste cock and a separate stop and waste cock will be placed at the foot of every outdoor standpipe or other fixture. The Manager or any other employee of Westbank will refuse to turn on the water to any premises and may discontinue service to any premises should these provisions not be complied with to the satisfaction of the Manager.
- 7.2 Westbank is responsible for maintenance of the waterworks system only up to the point of connection at the boundary line of each parcel of land.
- 7.3 All persons must maintain their service pipes, stops, and other fixtures on their own premises, inside the boundary line of the parcel of land, in good order and repair and when a building is vacant for greater than thirty (30) days, the stop on the inside of the building will be turned off by the person vacating the building, or by the registered holder.
- 7.4 Every consumer must provide a pressure regulator for the service connection to their premises when the initial pressure on the main, from which service is given, amounts to or exceeds 75 pounds, or in such other circumstances as may be required by the Manager. The pressure regulator must comply with the standard set out in the BC *Plumbing Code*.
- 7.5 No consumer may allow water to run to waste, whether willfully or by permitting pipes, taps, toilets or other fixtures and means of distributing or storing water to remain in disrepair, or increase by any device or expedient the amount of water agreed to be supplied to them by Westbank according to the terms of their application.
- 7.6 Every person to whom water is supplied under this Law must at all reasonable times allow, suffer and permit the Manager or any person authorized by the Manager for such purpose (either generally or in any particular instance) to enter into and upon the premises in respect of which water is supplied, for the purpose of inspecting the same and the water pipes, connections, cross-connections, fixtures, taps, meters and any other apparatus used in connection with such water supply. If any such pipes, connections, fixtures, taps or other fixtures are found to be leaking or defective or if any wastage of water is found to exist, notice in writing will be given by the Manager requiring the registered holder of such premises, to remedy such defects or leaks or to stop such wastage and if such requirements are not fulfilled within 72 hours from the provision of such notice, the water supply to such premises may be shut off without any further notice.
- 7.7 Any person who detects that any pipes, connections, fixtures, taps or other fixtures used in connection with the waterworks system are leaking or defective, must notify the Manager immediately.

7.8 Where steam or hot water boilers or other equipment is fed with water by pressure direct from Westbank's water mains, Westbank will not be liable for any injury or damage which may result from such pressure or from lack of such pressure.

8. WATER METERS

8.1 Metered service must be installed in all new construction of premises, at the expense of the applicant, and must be of such size, type and capacity of which will be determined by the Manager.

8.2 Notwithstanding section 8.1, the Manager may, whenever it deems it advisable, compel the use of water meters by any person using or consuming water supplied by Westbank and may refuse to supply water to any premises whatsoever unless the person requiring the water first enters into an agreement with Westbank to take, use and pay for such water.

8.3 Except as hereinafter provided, meters must be installed on the following services:

- (a) any service larger than 4 inches (100 mm) in diameter;
- (b) any service used for industrial purposes;
- (c) any service to auto courts, hotels, lodging houses, boarding houses, and manufactured home parks;
- (d) any service to premises having underground garden irrigation systems;
- (e) any service to premises having any extraordinary installation connected to the waterworks system which, by their nature or use can be expected to increase the consumption or use of water beyond that normally consumed or used on the premises;
- (f) all temporary service connections; and
- (g) any service used to feed carwashes, irrigation of nurseries or golf courses, or where water is required to produce a commercial product.

8.4 The Manager will have the right at any time to install a water meter in any premises and to substitute in lieu of the flat rate (whether already paid or not) a meter rate established by Council, from time to time. When this is done, the WFN Cashier will adjust the water rates roll accordingly and a credit will be allowed to the consumer on the meter rate account for the balance of the flat rate proportionate to the unexpired portion covered by the flat rate payment. The balance of the meter rate will be payable from the time such meter is installed whether during any period already paid for by the flat rate or not.

8.5 Meters of two (2) inch capacity, or greater, must be furnished by the registered holder or agent of the registered holder and approved by the Manager. The Manager will have the right to remove for testing all such privately owned meters. If the meter is found in error of plus or minus five per centum (5%), it must be immediately repaired by the registered holder of the meter. Repairs to all privately owned meters must be made by or under the

direction of the Manager and the cost of such repairs must be paid by the registered holder of the meter. If a meter cannot be repaired to the satisfaction of the Manager, it must be replaced at once and the cost of replacement must be paid by the registered holder of the meter.

- 8.6 Every consumer having a metered service must pay for the full amount of water as registered by the meter, according to the rate applicable to the service, and no reduction will be allowed on account of any waste of water.
- 8.7 If any meter stops, sticks or fails to indicate correctly the quantity of water which is passing or which has passed through it, Westbank will be entitled to charge for such water according to the average consumption for the six (6) months immediately preceding the date upon which such meter was last found to be in order.
- 8.8 All damages to meters owned by Westbank will be chargeable against the consumer or registered holder of the premises supplied by the damaged meter.
- 8.9 Westbank will maintain and repair all WFN owned meters when rendered unserviceable through reasonable wear and tear and will renew if necessary, provided however, that where replacement or repair of any meter is rendered necessary by the act, neglect, or carelessness of the consumer of any premises, any expense caused to Westbank will be charged against and collected from that consumer and their premises.
- 8.10 When any consumer whose water service is metered makes a complaint that their account for service for any prior period of time has been excessive, Westbank will, upon written request, have such meter re-read and the service inspected for leaks. Should that consumer then desire that the meter be tested, the consumer will then make a deposit with the WFN Cashier in an amount to be established the Manager, from time to time, and the Manager will arrange to have the meter tested. The consumer may, if he or she so desires, be present when the test is made. In case the test shows an error in registering the quantity of water passing through the meter of greater than five per centum (5%) in favour of Westbank, the deposit must be refunded to the consumer, a correct registering meter must be installed and the account for service must be adjusted accordingly. If the test of such meter should show an accurate measurement of water or should show an error in favour of the consumer, and the amount deposited will be retained by Westbank to cover part of the expense of making such test.

9. FIRE PROTECTION SERVICES

- 9.1 All existing or future services installed for the purpose of providing fire protection must be subject to the following provisions:
 - (a) any fire service connection must have a backflow prevention assembly installed and maintained in accordance with the provisions of this Law;
 - (b) all fire service connections will be installed in order that water used or which could be used for other than fire protection purposes will be metered;
 - (c) if, in the opinion of the Manager, a fire service connection could be used exclusively for fire protection purposes by being directly connected to an

automatic sprinkling system, then such a connection may be connected directly to the waterworks system without having a meter installed;

- (d) if, in the opinion of the Manager, the water from any fire service connection could be used for other than fire protection purposes, the Manager may seal the outlets from such fire service connection, in which event such seal will not be broken except in case of fire. The Manager, or any person authorized by the Manager, will have the right to enter in and upon any premises in respect of which a fire service connection has been provided for the purpose of inspecting same and sealing or resealing the same. When the seal on any fire service connection has been broken in cases of fire or otherwise, the consumer in respect of the premises must so report to the Manager within twenty-four (24) hours after the breaking of such seal and the Manager must thereupon have the same resealed;
- (e) if it is found that water is being used for other than fire protection purposes on any fire service connection the Manager will notify the Fire Department without delay, have the power and is hereby authorized to shut off such service until a meter has been installed on such service at the expense of the consumer;
- (f) the cost of installing each fire service connection including the cost of the meters, gate valves and backflow prevention assembly as provided for in this section 9.1, will be borne by the consumer;
- (g) Westbank will not charge for water used for fire protection purposes. If fire lines are connected through regular distribution service and meter, the amount to be paid by the consumer must be determined by taking the average reading of the meter for the six (6) months immediately preceding, which average quantity must be paid for at the rate for such service established by Council, from time to time.

10. TURNING OFF AND TURNING ON OF SERVICES

- 10.1 A consumer wishing to have service to their premises turned off on a short term basis to conduct maintenance or repair within their premises, must make a written request to the Manager for temporary discontinuance. The Manager will arrange for the service to be turned off within a reasonable and practicable time and will be responsible for arranging to have the service turned back on. No fees of any kind will be charged for this service.

11. DISCONTINUANCE and RECONNECTION OF SERVICES

- 11.1 A consumer wishing to have service to their premises discontinued must pay the applicable disconnection fee established by Council, from time to time, to cover the cost of turning off such service and will give not less than five (5) days written notice of the discontinuance of such service. The notice will be signed by the consumer and delivered together with the applicable disconnection fee, to the WFN Cashier. The burden of proof of delivery of such notice will be upon the consumer. Every consumer will be liable for the full amount of rates and rents chargeable for the service for five (5) days after such notice has been delivered to or received at the said office and in default of such notice, the rates therefor will be charged until such notice is given and the water turned off.

- 11.2 When any water service is discontinued upon request of a consumer, the WFN Cashier will allow such consumer from the date of discontinuance a rebate of the applicable flat rate service fee proportionate to that portion of the then current billing period unexpired at such date, and will cause such rebate to be entered upon the current water rates roll, provided that the WFN Cashier will apply such rebate first against any arrears of charges owing by such consumer under this Law.
- 11.3 Where rates, fees, charges or rents are overdue for more than fifteen (15) days after the day upon which they will have become due and payable Westbank will provide the delinquent consumer with written notice advising that if full payment is not received by Westbank within fifteen (15) days of the notice their service may be discontinued without further notice.
- 11.4 In case of non-payment of rates, fees, charges or rents for fifteen (15) days after the day upon which notice was provided to the consumer under section 11.3, Westbank may, without further notice, discontinue the service in respect of which rates, fees, charges or rents are outstanding.
- 11.5 When any service has been discontinued from any premises for non-payment of rates, fees, charges or rents or violation of any of the provisions of this Law, Westbank may before reconnection is made to the premises require payment of a reconnection fee and all arrears of charges owing by such consumer under this Law as well as the flat rate service charge, provided that the WFN Cashier will allow a rebate of such fee proportionate to that portion of the then current billing period expired at the date of such reconnection. The WFN Cashier will cause such flat rate service fee or part thereof together with any additional fee to be entered in the current water rates roll.
- 11.6 When any service has been discontinued from any premises at the request of the consumer or of the registered holder of the premises pursuant to the provisions of section 11.1, Westbank may, before reconnection is made to the premises, require payment of a reconnection fee and if the service is charged for on the applicable flat rate service fee, also require payment of the applicable flat rate service fee less a proportionate rebate for that proportion of the then current billing period expired at the date of such application for reconnection. The WFN Cashier will cause such applicable flat rate service charge or part thereof together with any additional fee, to be entered in the current water rates roll. All applications for the turning on of water service connections pursuant to this clause will be made in writing to the WFN Cashier at least five (5) days before service is required.
- 11.7 No person will reconnect any service which has been discontinued by Westbank and should any service be reconnected by any person other than an employee of Westbank, in addition to any other penalty, the service will be deemed to have been continued from the date the same was discontinued and the consumer will be liable for payment of the rates from that date.
- 11.8 If, at any time, the Manager deems it to be in the public interest he may order that any or all services be reduced, restricted or discontinued until it will be considered advisable to restore the same.
- 11.9 Where the Manager has issued an order pursuant to section 11.8:

- (a) the order will be in writing and will be signed by the Manager;
- (b) the order will be effective as of the date of its issuance;
- (c) the Manager will:
 - (i) post a copy of the order in a public area of the Westbank administration building and in such other conspicuous place or places on Westbank Lands, as the Manager sees fit; and
 - (ii) publish the order on at least one occasion in a newspaper of local circulation; and
- (d) following the posting and publication of the order, any person violating such order will be guilty of an infraction of this Law.

11.10 In addition to any other penalty Westbank may reduce the quantity of water supplied to, or entirely discontinue the service to, any consumer who has violated any of the provisions of this Law.

12. PRIVATE WELLS

- 12.1 Any person who owns, uses, is connected to, or purveys to others from a private well must:
- (a) keep the private well in good repair; and
 - (b) regularly test the water for the presence of microbial contaminants in accordance with Health Canada guidelines established from time to time.
- 12.2 If the results of the test conducted in section 12.1(b) show continuous unacceptable levels of bacteria, the private well must be disabled and the prospective consumer must connect to the waterworks system.
- 12.3 If the Manager determines or is advised by Health Canada that a private well on a parcel of land is not being regularly tested in accordance with section 12.1, the Manager will immediately give notice in writing of the failure to test to the registered holder and require the registered holder of the parcel of land to comply with the provisions of section 12.1 of this Law within ten (10) days from the date of the notice.
- 12.4 Any written notice to be given under section 12.3 of this Law is deemed to be validly given if either delivered personally or mailed by regular mail addressed to the registered holder of the parcel of land and posted in a reasonably visible location on the parcel.
- 12.5 If after the expiry of ten (10) days from the date of notice given pursuant to section 12.3 the registered holder of the parcel of land has failed to comply with the provision of the notice, the Manager is hereby authorized to enter upon the parcel of land and carry out the testing required to be carried out pursuant to the said notice at the expense of the registered holder.

- 12.6 If the compliance is carried out under section 12.5 of this Law, and the registered holder does not pay the costs on or before December 31st in the year that the compliance was effected, the costs may be added to and form part of the taxes payable by the registered holder in respect of the parcel of land and deemed to be taxes in arrears.

13. INTERMITTENT, IRREGULAR AND SEASONAL USAGE

- 13.1 The Manager may, in consultation with the Regional District of Central Okanagan, declare a period of water shortage and implement a reduction in water use plan, as needed.
- 13.2 Where a consumer requires intermittent or seasonal access to the waterworks system, the consumer must:
- (a) apply to install a temporary service connection; and
 - (b) install metered service; and

then water will be supplied only if Westbank has capacity, as the Manager may determine from time to time.

14. RATES, RENTS, CHARGES, AND FEES AND PENALTIES

- 14.1 Council must establish a schedule of the fees payable pursuant to this Law, in respect of the use of the waterworks system, which schedule will set out at a minimum:
- (a) the rates, rents, charges and fees for water supplied from the waterworks system;
 - (b) the rent to be paid for water meters;
 - (c) the amount of standby charge;
 - (d) the deposit amounts and rent charges in respect of usage of hydrant, standpipe or valves;
 - (e) the fees payable in respect of all service connections;
 - (f) the rates in respect of flat rate service;
 - (g) the rates payable in respect of metered services;
 - (h) the deposit amount in respect of meter testing;
 - (i) the rates in respect of fire service, stand-by services and special rates;
 - (j) the fees payable in respect of discontinuance and re-connection of water service; and
 - (k) the penalty for overdue fees.

- 14.2 The rates, fees, charges, rents and penalties, established by Council, from time to time, will form a charge on the parcel of land of the respective consumers using such water and may be recovered in the same manner and by the same means as any other unpaid account which constitutes a charge on a parcel of land.
- 14.3 If the consumer does not pay the rates, fees, charges, rents and penalties in respect of a parcel of land on or before December 31st in the year that such costs are rendered, the costs may be added to and form part of the taxes payable by the registered holder in respect of the parcel of land and deemed to be taxes in arrears
- 14.4 All rates, fees, charges, rents and penalties, established by Council, from time to time, will be due and payable at the office of the WFN Cashier.
- 14.5 No rebate, refund or credit whatsoever of any moneys paid or payable for water service will be made except as provided in this Law.
- 14.6 No prepayment for any service will prevent the amount of any increase being charged to and collected from any consumer.
- 14.7 Westbank will furnish to any consumer or ratepayer on request one copy of a schedule showing the rates, fees, charges, rents and penalties, established by Council, for the time being in force for each type of service.

15. FEES AND FORMS

- 15.1 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.
- 15.2 Notwithstanding the provisions of section 15.1, 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.

16. NOTICES & CHARGES AGAINST REGISTERED HOLDERS

- 16.1 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.

17. OFFENCES

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

- 17.2 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.
- 17.3 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.
- 17.4 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.

18. IMMUNITY

- 18.1 No action for damages lies or may be instituted against WFN Corporation; present or past Council; 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.
- 18.2 Section 18.1 does not provide a defence if:
- (a) WFN Corporation, Council, 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.
- 18.3 Westbank or WFN Corporation, as the case may be, is not liable for:
- (a) the failure of the water supply in consequence of any accident or damage to the waterworks system, or to excessive pressure or lack of pressure, or
 - (b) any temporary stoppage thereof on account of alterations or repairs,

whether such failure arises from the negligence of any person in the employ of either Westbank or WFN Corporation or other person whomsoever, or through natural deterioration or obsolescence of the waterworks system, or otherwise howsoever; but in the event of such failure or stoppage continuing for more than five (5) consecutive days, an equitable reduction will be made on all rates for services affected thereby.

- 18.4 Westbank, WFN Corporation, present or past Council, or members, employees, servants or agents of any of Westbank, Council or WFN Corporation is not liable in any action based on nuisance or on the rule in the Rylands v. Fletcher case or in any claim or action

for injurious affection where the damages giving rise to the action arise, directly or indirectly, out of the breakdown or malfunction of the waterworks system.

- 18.5 Westbank, WFN Corporation, present or past Council, or members, employees, servants or agents of any of Westbank, Council or WFN Corporation 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 contraventions 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.
- 18.6 In case an action is brought against Westbank or WFN Corporation to recover damages sustained by reason of any obstruction, excavation works or repairs to the waterworks system within Westbank Lands, placed, made or maintained by any person, other than an employee or agent of Westbank or WFN Corporation, or to recover damages sustained by reason of any negligent or wrongful act or omission of or failure to comply with the provisions of this Law or any other Westbank Law, or any contract, covenant, or agreement by any person, other than an employee or agent of Westbank or WFN Corporation, then Westbank or WFN Corporation, as the case may be, will have a remedy against such person, for the damages and costs, if any, which the plaintiff in the action may recover against Westbank or WFN Corporation.
- 18.7 All actions against Westbank or WFN Corporation for the unlawful doing of anything that
- (a) is purported to have been done by Westbank or WFN Corporation under the powers conferred by this Law or any Westbank Law, and
 - (b) might have been lawfully done by Westbank or WFN Corporation 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.
- 18.8 Neither Westbank nor WFN Corporation is in any 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 or WFN Corporation, as the case may be, 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 or WFN Corporation, as the case may be, has not been prejudiced in its defence by the failure or insufficiency.

19. APPLICATION OF LAW

- 19.1 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.
- 19.2 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.
- 19.3 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.
- 19.4 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.


20. REPEAL

- 20.1 WFN Waterworks Bylaw No. 2001-01 is hereby repealed.

BE IT KNOWN that this Law entitled, "WFN Waterworks Law No. 2005-16" is hereby read for the first, second, and third and final time and is hereby enacted as Law No. 2005-16 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.

