

WESTBANK FIRST NATION
OUTDOOR EVENTS LAW NO. 2005-20

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 holding of outdoor events on Westbank Lands;

NOW THEREFORE Council of Westbank First Nation repeals Bylaw No. 1995-06 and enacts the following law:

1. TITLE

1.1 This Law may be cited for all purposes as the "*WFN Outdoor Events Law No. 2005-20*".

2. DEFINITIONS

2.1 In this Law, unless the context otherwise requires:

"applicant" means a person who has applied for a Permit and is either the occupant of the site on which the Outdoor Event is to be held or the Event Organizer;

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

"Event Organizer" means the person who has the financial responsibility for the Outdoor Event and whose responsibilities include but are not limited to:

- (a) contracting with entertainers, ambulance or fire services, security firms;
- (b) having use of or renting the facility or site; and
- (c) advertising the Outdoor Event;

"Fire Chief" means the person duly appointed as head of the fire department of any fire protection district, municipal corporation or first nation responsible for fire prevention and protection within Westbank Lands;

"medical health officer" means a medical health officer as that term is defined in the *Health Act*, or equivalent, of the authority having jurisdiction for Westbank Lands;

"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;

"Outdoor Event" means any public or private gathering, show, exhibition, carnival, parade, procession, athletic event, performance, concert or production, held outdoors on any parcel of land within Westbank Lands, including any street, road, lane, bridge, park or other WFN right of way or place, attended by or which might reasonably be expected to be attended by more than 500 people;

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

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

“Permit” means written approval of Council in the form of a resolution, to hold an outdoor event in accordance with the terms and conditions contained in this Law;

“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;

“RCMP” means the local detachment of the Royal Canadian Mounted Police;

“site” means the portion of the parcel of land described in an Outdoor Event Permit Application Form and in the resulting Permit, if granted, on which an Outdoor Event is to be held;

“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 facility” means a WFN-owned facility located outdoors on community lands and intended for community purposes and includes but is not limited to ball fields, playgrounds, picnic areas and all outdoor areas connected to WFN-owned buildings used for community purposes;

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

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

3. PERMIT REQUIRED

- 3.1 Except as otherwise provided in this Law, no Outdoor Event may be held on Westbank Lands unless a Permit for that Outdoor Event has been applied for by the applicant and approved by resolution of Council, as indicated through issuance of a Permit by Council or their authorized delegatee.
- 3.2 An Outdoor Event must not be publicized in any manner before a Permit for it has been issued by Westbank, unless prior written permission to do so has been provided by the WFN Law Enforcement Officer.
- 3.3 Where an Outdoor Event is to be held at a WFN facility in addition to a Permit, the applicant must:
 - (a) submit a completed WFN Recreation Rental Agreement to the Recreation Coordinator; and
 - (b) comply with all the rules and regulation established in respect of the particular WFN facility.

4. OBTAINING PERMIT

- 4.1 A person who is required to obtain a Permit, must submit an application for a Permit to the WFN Law Enforcement Officer and follow through the Preliminary Approval Stage and Final Approval Stage processes.

Preliminary Approval

- 4.2 At least sixty (60) days before the date on which the Outdoor Event is to commence, an Applicant must complete and submit to the WFN Law Enforcement Officer, Part One of an application for a Permit, in the form established by Council, from time to time, in order to obtain preliminary approval of the Outdoor Event from Council.
- 4.3 The completed Part One application must be accompanied by the following and such other information as may be determined by Council, from time to time:
 - (a) non-refundable permit processing fee, which fee may be waived by Council for not-for-profit Outdoor Events; and
 - (b) written consent and save harmless agreement of the occupant of the site, if the applicant is someone other than the occupant of the site.
- 4.4 The WFN Law Enforcement Officer must review and process Part One of the Application and upon completion must present to Council for its consideration a report on matters relevant to the Application.
- 4.5 Council may, upon receipt of the report from the WFN Law Enforcement Officer, by resolution provide preliminary approval of the Outdoor Event.

Final Approval

- 4.6 If the applicant receives preliminary approval from Council and the applicant still wants the Outdoor Event to take place, then the applicant must obtain final approval from Council by completing both Part Two of the Application and all the requirements of the Final Approval Stage.
- 4.7 The Final Approval Stage requires that the applicant consult with various local agencies and provide to the WFN Law Enforcement Officer:
- (a) written approval of the medical health officer certifying that adequate arrangements have been made for the following facilities and services for the Outdoor Event, as may be applicable:
 - (i) potable water supply,
 - (ii) toilet facilities,
 - (iii) garbage collection and removal facilities,
 - (iv) food and drink storage, preparation, dispensing and use,
 - (v) emergency medical facilities, and
 - (vi) public health facilities.
 - (b) written approval of the officer-in-charge of the RCMP or of any other police force having jurisdiction over the site, as the case may be:
 - (i) certifying that adequate arrangements have been made for the following, as may be applicable:
 - (1) off-street parking near the site of motor vehicles, as that term is defined in the *Highway Act*,
 - (2) policing and other necessary security to, on and near the site, including provision of a police and security command post,
 - (3) traffic control to, on and near the site,
 - (4) the prevention of excessive or disturbing noises or nuisances; and
 - (5) crowd control;
 - (ii) setting out the estimated cost of providing the above policing for the Outdoor Event;
 - (c) written approval of the Fire Chief certifying that the site complies with applicable fire safety enactments and that adequate arrangements for fire protection have been made to protect persons and property from possible injury by fire;

- (d) confirmation by the WFN Cashier of deposit in full of the requisite security for policing and other costs and copies of the related undertakings required pursuant to sections 4.6(b) and Part 5 of this Law;
 - (e) copies of all business licences or completed applications for business licences which may be required to be in effect during the period of the Outdoor Event pursuant to other applicable Westbank Laws;
 - (f) satisfactory proof of adequate public liability insurance in the amount of \$2,000,000.00 showing Westbank as a named insured under the policy; and of fire insurance covering the site, buildings, and the event taking place thereon, including copies of all insurance policies issued to the applicant which are relevant to the Outdoor Event; and
 - (g) copy of liquor licence, issued under the *Liquor Control and Licensing Act*, if liquor is to be served.
- 4.8 A Permit will not be issued until and unless all the conditions set out in this Law have been met and the requisite non-refundable permit fee for processing the application and monitoring compliance with the Permit has been paid to Westbank.
- 4.9 The WFN Law Enforcement Officer must review and process Part Two of the Application and the additional information submitted pursuant to section 4.7 and upon completion must present to Council for its consideration a final report on matters relevant to the Application.
- 4.10 Council may, upon receipt of the final report from the WFN Law Enforcement Officer, issue a Permit for the Outdoor Event.

5. SECURITY FOR COSTS

- 5.1 A Permit will not be issued until the applicant has placed in trust with Westbank a policing security deposit equal to the estimate of the policing costs described in section 4.6(b).
- 5.2 The policing security deposit is to be held, pursuant to an undertaking signed by the applicant to pay, or cause to be paid, the security deposit to the RCMP or such other police force having jurisdiction over the site, as the case may be, on account of the actual costs incurred in policing the Outdoor Event.
- 5.3 If the policing costs exceed the policing security deposit held in trust, the excess of the actual costs must be paid for by the applicant to the RCMP or other police force having jurisdiction over the site, as the case may be, and Westbank assumes no liability for the shortfall.
- 5.4 Council may require as a condition precedent to issuance of a Permit that the applicant provide to Westbank an additional clean-up security deposit for costs for clean-up of the site.

- 5.5 If the site for an Outdoor Event is located at a WFN facility, Council may require as a condition precedent to issuance of a Permit that the applicant provide to Westbank a further damage security deposit for costs for damage to the site.

6. ADDITIONAL RESPONSIBILITIES OF APPLICANT

- 6.1 The applicant is responsible for all costs incurred or connected with the Outdoor Event including the cost of providing policing for the Outdoor Event, the set up and clean up of the site and any damage caused to the site.
- 6.2 Upon completion of the Outdoor Event, the applicant is responsible for cleaning up the site immediately thereafter. The applicant must notify by the WFN Cashier when the clean-up has been completed in order for an inspection of the site to take place. The site must be cleaned up to a standard acceptable to the WFN Law Enforcement Officer prior to the release of any security deposit submitted by the applicant.
- 6.3 Council may require as a condition precedent to issuance of a Permit that the applicant enter into either or both of a *Save Harmless Agreement* or *Release and Waiver Agreement* in the form established by Council, from time to time.
- 6.4 Notwithstanding any other section of this Law, all things done on the site must comply with all applicable Westbank Laws and all other applicable laws and regulations.

7. RIGHT OF ENTRY

- 7.1 The WFN Law Enforcement Officer and any other person(s) authorized by Council are hereby authorized to enter at all reasonable times prior to, during and reasonably subsequent to the Outdoor Event, upon any site which is subject to the terms of this Law, in order to ascertain whether the provisions of this Law are being or have been complied with.

8. EMPLOYMENT

- 8.1 The applicant will use best efforts to employ as many members of Westbank or companies controlled by a member of Westbank as may be possible for all aspects of, preparation for, running of and clean up of the Outdoor Event.

9. FEES AND FORMS

- 9.1 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.

10. NOTICES & CHARGES AGAINST REGISTERED HOLDERS

- 10.1 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.

11. OFFENCES

- 11.1 No person shall obstruct, interfere with or hinder Council, the WFN Law Enforcement Officer or any authorized employee, officer or agent in the carrying out of their duties and responsibilities under this Law.
- 11.2 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.
- 11.3 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.
- 11.4 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.

12. IMMUNITY

- 12.1 No action for damages lies or may be instituted against present or past Council, WFN Law Enforcement Officer, or members, employees, servants or agents of either Westbank or Council:
 - (a) for anything said or done or omitted to be said or done by that person in the performance or intended performance of the person's duty or the exercise of the person's authority; or
 - (b) for any alleged neglect or default in the performance or intended performance of the person's duty or the exercise of the person's authority.
- 12.2 Section 12.1 does not provide a defence if:
 - (a) Council, WFN Law Enforcement Officer, members, employees, servants or agents have, in relation to the conduct that is the subject matter of the action, been guilty of dishonesty, gross negligence or malicious or wilful misconduct; or
 - (b) the cause of action is libel or slander.
- 12.3 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.

12.4 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.

12.5 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.

13. APPLICATION OF LAW

13.1 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.

13.2 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.

13.3 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.

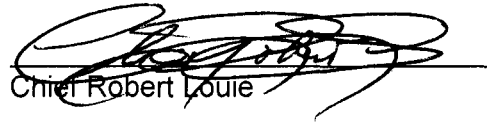
13.4 Unless otherwise noted, any specific statute named in this Law is a reference to a statute of British Columbia and the regulations thereto, as amended, revised, consolidated or replaced from time to time, and any Law referred to herein is a reference to a law of Westbank, as amended, revised, consolidated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

14. REPEAL

14.1 Special Events Bylaw No. 1995-06 is hereby repealed.

BE IT KNOWN that this Law entitled, "WFN Outdoor Events Law No. 2005-20" is hereby read for the first, second, and third and final time and is hereby enacted as Law No. 2005-20 by Council of Westbank First Nation at a duly convened meeting of Council held on the 14th 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.