

**WESTBANK FIRST NATION  
COMMUNITY PROTECTION LAW NO. 2009-01**

**WHEREAS** Westbank First Nation deems it advisable and in the best interests of Westbank First Nation to enact a Law to provide for the protection of the community, children and the vulnerable on Westbank Lands from violent crime, exposure to illegal drugs and sexual exploitation and abuse;

**AND WHEREAS** Westbank First Nation, in accordance with the Syilx tradition, has recognized the importance of the collective rights of the community and the priority of those collective rights over the rights of the individual;

**AND WHEREAS** the Syilx people have historically used banishment to help preserve and promote the order, peace and safety of the community;

**AND WHEREAS** Westbank First Nation has the authority under PART XXII of its Self-Government Agreement to make laws concerning public order, peace and safety on Westbank Lands;

**AND WHEREAS** the Westbank First Nation membership has been consulted and supports a law which would allow Council to restrain from entering onto certain areas of Westbank Lands persons who pose a threat to their community, their children and the vulnerable;

**AND WHEREAS** this law balances the rights of the individual guaranteed under the *Canadian Charter of Rights and Freedoms* and the *Canadian Human Rights Code* with the safety of the Westbank First Nation community, its children and its vulnerable;

**NOW THEREFORE** Westbank First Nation Council enacts the following law:

**1. TITLE**

1.1 This Law may be cited for all purposes as "WFN Community Protection Law No. 2009-01".

**2. DEFINITIONS**

2.1 In this Law, unless the context otherwise requires:

"**Administrator**" means a person appointed under section 3.1;

"**Child Care Facility**" means a public or private pre-kindergarten facility, day-care centre, child care learning centre, preschool facility or long-term care facility for children;

"**Church**" means a place of public religious worship;

"**Community Centre**" means a public facility operated by Westbank for the use of local residents;

"**Community Facility**" means a Child Care Facility, School, School Bus Stop, Church, Community Centre, Recreational Facility, building owned by Westbank, Community Gathering Place and Library;

**“Community Gathering Place”** means a location designated by Council, by Resolution at a duly convened meeting, as a community gathering place for the purpose of holding a community event;

**“Controlled Drugs and Substances Act”** means the *Controlled Drugs and Substances Act*, Canada (1996 c. 19) as amended or replaced from time to time;

**“Convicted Person”** means a person with a criminal record that includes a conviction for a Drug Offence, a Sex Offence or a Violent Offence on or after January 1, 2000, for which conviction a Pardon has not been granted;

**“Criminal Code”** means the *Criminal Code of Canada* (R.S., 1985, c. C-46) as amended or replaced from time to time;

**“Drug Offence”** means an offence under sections 4 to 7 of the Controlled Drugs and Substances Act;

**“Interest”** means an interest in Westbank Lands as set out in section 100.3 of the *Westbank First Nation Constitution*, and, for greater certainty, does not include any claims of interest in Community Lands by a person by virtue of that person being a Member;

**“Library”** means a library open to the public;

**“Notice of Offence”** means a notice made under section 6.1;

**“Pardon”** means a pardon granted by the National Parole Board under the *Criminal Records Act* (R.S., 1985, c. C-47);

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

**“Rescission Order”** means an order made under section 18.1;

**“Rescission Order Hearing”** means a hearing carried out in accordance with section 16.3;

**“Recreational Facility”** means a public facility operated by Westbank for the use of local residents for sports and recreational activities, including pools, beaches, public parks, skate boarding parks and bicycle paths;

**“Referendum”** means a referendum held under Part XII of the *Westbank First Nation Constitution*;

**“Restraining Order”** means an order made under section 10.1;

**“Restraining Order Hearing”** means a hearing carried out in accordance with section 7.3;

**“School”** means a public or private kindergarten, elementary or secondary school;

**“School Bus Stop”** means a school bus stop as designated by a board of education, private school or Westbank;

**“Sex Offence”** means an offence under sections 151 to 173 of the *Criminal Code*;

**“Suspension Order”** means an order made under section 15.1;

**“Violent Offence”** means an offence under sections 229 to 240, 244 to 248, 264 to 273 and 279 to 286 of the *Criminal Code*;

**“WFN Dispute Adjudication Law”** means the *WFN Dispute Adjudication Law 2008-01*, as amended or replaced from time to time;

**“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. APPOINTMENT OF ADMINISTRATOR**

3.1 Council must, by Resolution at a duly convened meeting, appoint one or more Administrators to carry out the duties of the Administrator as set out in this Law.

### **4. PUBLICATION OF LAW**

4.1 Upon the coming into force of this Law, the Administrator shall:

- (a) cause to be published in at least one newspaper of general local circulation; and
- (b) cause to be posted in all Community Facilities a notice containing:
  - (i) an announcement of the date of the coming into force of this Law;
  - (ii) a summary of the purpose of this Law; and
  - (iii) a list of the Drug Offences, Sex Offences and Violent Offences to which this Law applies.

### **5. RULES OF PRACTICE AND PROCEDURE**

5.1 Within 30 days of the coming into force of this Law, Council must, by Resolution at a duly convened meeting, make rules respecting the practice and procedure to be followed at Restraining Order Hearings and Rescission Order Hearings.

5.2 Council may, at any time, by Resolution at a duly convened meeting, amend the rules respecting the practice and procedure to be followed at Restraining Order Hearings and Rescission Order Hearings, but such amendments must not:

- (a) apply to any:
  - (i) Restraining Order Hearing in which a Resolution under section 7.1 has been passed before the date on which the Resolution under section 5.1 is passed; or
  - (ii) Rescission Order Hearing in which an application under section 16.1 has been made before the date on which the Resolution under section 5.1 is passed; or
- (b) come into force until sixty (60) days after the date on which the Resolution amending the rules is passed.

5.3 A copy of all rules established under section 5.1, and any amendments made to those rules under section 5.2, must be retained by the Administrator and made available for viewing to any person upon request.

## **6. NOTICE OF OFFENCE**

- 6.1 Council may, by Resolution at a duly convened meeting, authorize that a Notice of Offence be issued regarding a Convicted Person.
- 6.2 Council must not pass a Resolution under section 6.1 unless it is reasonably satisfied that the presence of the Convicted Person on Westbank Lands could pose a threat to the health, safety or wellbeing of any person residing on Westbank Lands or using a Community Facility.
- 6.3 If Council passes a Resolution under section 6.1, the Administrator must, within fourteen (14) days of the date of the Resolution:
- (a) prepare a Notice of Offence in a form approved by Council and in accordance with the Resolution;
  - (b) deliver a copy of the Notice of Offence to all Community Facilities with instructions that it be posted in a place visible to all employees and volunteers of the Community Facility; and
  - (c) publish a summary of the Notice of Offence in at least one newspaper of general local circulation.
- 6.4 A Notice of Offence must contain:
- (a) the name of the Convicted Person;
  - (b) a description or photograph of the Convicted Person, or both;
  - (c) the offence for which the Convicted Person has been convicted;
  - (d) the date upon which the Convicted Person was convicted of the offence;
  - (e) the sentence received by the Convicted Person for the offence; and
  - (f) any other information that Council considers relevant and appropriate.

## **7. RESTRAINING ORDER HEARING**

- 7.1 Council may, by Resolution at a duly convened meeting, order that a Restraining Order Hearing be held in order to determine whether a Restraining order should be issued against a Convicted Person.
- 7.2 Council must not pass a Resolution under section 7.1 unless it is reasonably satisfied that the presence of the Convicted Person on Westbank Lands could pose a significant threat to the health, safety or wellbeing of any person residing on Westbank Lands or using a Community Facility.
- 7.3 If Council passes a Resolution under section 7.1, it must, within sixty (60) days, convene a Council meeting at which the only order of business is to determine whether a Restraining Order should be issued against a Convicted Person.
- 7.4 If Council passes a resolution under section 7.1, the Administrator must, within fourteen (14) days of the date of the Resolution, deliver to the Convicted Person who is the subject of that hearing:

- (a) a copy of the Resolution passed under section 7.1;
  - (b) a notice setting out the date, time and place of the hearing; and
  - (c) a copy of this Law and a copy of the rules respecting practice and procedure at Restraining Order Hearings.
- 7.5 The Convicted Person must be provided with the opportunity to be heard at the Restraining Order Hearing, and Council must take into consideration the submissions of the Convicted Person when deciding whether or not to issue a Restraining Order.
- 7.6 Despite section 7.5, if the Convicted Person does not attend the Restraining Order Hearing, Council may by Resolution:
- (a) reschedule the hearing, in which case section 7.4 applies to the Resolution made under this section; or
  - (b) hold the hearing in the absence of the Convicted Person.
- 7.7 The Convicted Person may be represented by an agent or counsel at the Restraining Order Hearing.
- 7.8 The Convicted Person may present evidence and call witnesses at the Restraining Order Hearing and all evidence must be given under oath.
- 7.9 Council must:
- (a) prepare written reasons for its decision; and
  - (b) deliver a copy of those reasons to the Convicted Person within thirty (30) days of the date of the Restraining Order Hearing.
- 7.10 Subject to this Law and the rules established under sections 5.1 and 5.2, Council has the power to control the processes of Restraining Order Hearings.

## **8. AUTHORIZATION OF RESTRAINING ORDER**

- 8.1 If, after conducting a Restraining Order Hearing, Council determines that a Restraining Order should be issued against a Convicted Person, Council may, by Resolution at a duly convened meeting, authorize that a Restraining Order be issued against the Convicted Person.
- 8.2 A Resolution passed under section 8.1 may require the Restraining Order to include such other terms and conditions as Council deems just and appropriate.
- 8.3 A Resolution passed under section 8.1 must specify the date upon which the Restraining Order
- (a) becomes effective, which date must not be less than thirty (30) days from the date of the Resolution; and
  - (b) expires, which date must not be more than five (5) years from the date the Restraining Order becomes effective.

**9. CONVICTED PERSON MUST REPRESENT SIGNIFICANT THREAT**

- 9.1 Council must not pass a Resolution under section 8.1 unless it is reasonably satisfied that:
- (a) the presence of the Convicted Person in the areas identified in section 11.1 poses a significant threat to the health, safety or wellbeing of any person residing on Westbank Lands or using a Community Facility;
  - (b) authorizing a Restraining Order will significantly reduce the threat identified under subsection 9.1 (a); and
  - (c) there is no other less intrusive way to significantly reduce the threat identified under subsection 9.1 (a).

**10. PREPARATION AND DELIVERY OF RESTRAINING ORDER**

- 10.1 If Council passes a Resolution under section 8.1, the Administrator must, within fourteen (14) days from the date the Resolution:
- (a) prepare the Restraining Order in a form approved by Council and in accordance with the Resolution;
  - (b) deliver a copy of the Restraining Order to:
    - (i) the Convicted Person;
    - (ii) each employer of the Convicted Person that is located on Westbank Lands;
    - (iii) each employer of the Convicted Person that is not located on Westbank Lands if, in the opinion of the Administrator, the Convicted Person's employment with that employer could require the Convicted Person to enter onto the areas described in section 11.1;
    - (iv) the local RCMP detachment;
    - (v) the Director of Operations;
    - (vi) each Community Facility, with instructions that it be posted in a place visible to all employees and volunteers of the Community Facility; and
  - (c) post a summary of the Restraining Order in at least one newspaper of general local circulation.
- 10.2 A Restraining Order made under section 10.1 must contain:
- (a) the name of the Convicted Person;
  - (b) a description or photograph of the Convicted Person, or both;
  - (c) the offence for which the Convicted Person was convicted;
  - (d) the date upon which the Convicted Person was convicted for the offence;
  - (e) the date upon which the Resolution under section 8.1 was passed;
  - (f) the date upon which the Restraining Order was issued;
  - (g) the date upon which the Restraining Order becomes effective;
  - (h) the date upon which the Restraining Order expires;

- (i) any terms or conditions imposed or required to be included in accordance with sections 8.2 and 12.1, and subsection 11.2 (e); and
- (j) a map of Westbank Lands clearly showing the areas proscribed in accordance with section 11.1.

## **11. EFFECT OF RESTRAINING ORDER**

11.1 A Convicted Person who is the subject of a Restraining Order made in accordance with this Law and delivered in accordance with section 10.1 (b) (i) must:

- (a) not reside within 500 metres of any Community Facility;
- (b) not come within 500 metres of any Community Facility;
- (c) not be employed in any capacity, with or without remuneration, by any
  - (i) Community Facility; or
  - (ii) person, if that employment requires the Convicted Person to come within 500 metres of a Community Facility; and
- (d) comply with all additional terms and conditions included in the Restraining Order.

11.2 Notwithstanding section 11.1, a Convicted Person who is the subject of a Restraining Order and who is also a Member may attend a Community Facility for the purpose of participating in an Election or Referendum, but only if:

- (a) the Convicted Person notifies the Administrator not less than seven (7) days before the date on which the Convicted Person proposes to attend at the Community Facility, and then only in accordance with any terms imposed by the Administrator; or
- (b) the terms of the Convicted Person's restraining Order allow, and then only in accordance with those terms.

## **12. IF CONVICTED PERSON HAS AN INTEREST IN WESTBANK LANDS**

12.1 If a Convicted Person who is the subject of a Restraining Order made under section 10.1 has a right or Interest in Westbank Lands within an area proscribed under section 11.1, the Restraining Order must:

- (a) provide for the Convicted Person to have access to those lands associated with the right or Interest; and
- (b) include a map of Westbank Lands clearly showing the means by which the Convicted Person is permitted to access those lands

and the Convicted Person may access those lands in accordance with the Restraining Order.

### **13. CONVICTED PERSON MAY NOT ACQUIRE AN INTEREST IN WESTBANK LANDS**

- 13.1 A Convicted Person who is subject to a Restraining Order and is not a Member may not acquire a right or Interest in Westbank Lands that is within an area proscribed under section 11.1.
- 13.2 A Convicted Person who is subject to a Restraining Order and is also a Member may acquire a right or Interest in Westbank Lands that is within an area proscribed under section 11.1, but only by testamentary disposition.
- 13.3 If a Convicted Person who is subject to a Restraining Order acquires a right or Interest under section 13.2 the Convicted Person must notify the Administrator of the existence of the right or Interest within 30 days from the date of the registration in the Westbank Lands Office of that right or Interest.
- 13.4 A Convicted Person who is subject to a Restraining Order who does not comply with the requirement in section 13.3 is guilty of an offence and is subject to the penalties established by this Law.
- 13.5 Upon receipt of the notification in subsection 13.3, the Administrator must:
- (a) modify the Restraining Order to provide for access to the lands that are the subject of the right or Interest in accordance with section 12.1;
  - (b) deliver a copy of the Restraining Order to:
    - (i) the Convicted Person;
    - (ii) the local RCMP detachment;
    - (iii) the Director of Operations;
    - (iv) each Community Facility, with instructions that it be posted in a place visible to all employees and volunteers of the Community Facility; and
  - (c) post a summary of the changes to the Restraining Order in at least one newspaper of general local circulation.

### **14. SUSPENSION OF RESTRAINING ORDER**

- 14.1 A Convicted Person who is subject to a Restraining Order may apply to have a provision or provisions of that Restraining Order suspended.
- 14.2 Only those provisions of the Restraining Order made under subsections 11.1 (b) and 11.1 (d) may be suspended.
- 14.3 An application under section 14.1:
- (a) must be in the form established by the Administrator; and
  - (b) must not be filed within six (6) months of:
    - (i) the date upon which the Restraining Order was issued; or
    - (ii) the date upon which any previous application was made under section 14.1.whichever is later.



- 14.4 Within fourteen (14) days of receiving an application under section 14.1, Council must:
- (a) consider the application at a duly convened meeting; and
  - (b) by Resolution either:
    - (i) approve the application; or
    - (ii) reject the application.
- 14.5 A Council meeting held under subsection 14.4 (a) must be held *in camera*.
- 14.6 A decision made under subsection 14.4 (a) must be based on the written application of the Convicted Person.
- 14.7 A Resolution under paragraph 14.4 (b) (i):
- (a) must not be passed unless there are, in the opinion of Council, compelling compassionate or humanitarian grounds to do so;
  - (b) must not be passed if, in the opinion of Council, doing so would pose a threat to the health, safety or wellbeing of any person residing on Westbank Lands or using a Community Facility which cannot be satisfactorily mitigated by the imposition of specific terms or conditions under subsection 14.7 (f);
  - (c) must specify which provisions of the Restraining Order are suspended;
  - (d) must specify the dates upon which the Suspension Order:
    - (i) becomes effective; and
    - (ii) expires;
  - (e) must not be effective for more than fourteen (14) days; and
  - (f) may impose such other terms and conditions as Council deems just and appropriate.
- 14.8 Council must:
- (a) prepare written reasons for its decision; and
  - (b) deliver a copy of those reasons to the Convicted Person within seven (7) days of the date of the meeting at which Council considered the application.

## **15. PREPARATION AND DELIVERY OF A SUSPENSION ORDER**

- 15.1 If Council passes a Resolution under paragraph 14.4 (b) (i), the Administrator must, within seven (7) days from the date of the Resolution:
- (a) prepare the Suspension Order in a form approved by Council and in accordance with the Resolution;
  - (b) deliver a copy of the Suspension Order to:
    - (i) the Convicted Person;
    - (ii) the local RCMP detachment; and
    - (iii) each Community Facility, with instructions that it be posted in a place visible to all employees and volunteers of the Community Facility; and

- (c) post a summary of the Suspension Order in at least one newspaper of general local circulation.

15.2 A Suspension Order made under section 15.1 must contain the following information:

- (a) the name of the Convicted Person;
- (b) the date upon which the Resolution under paragraph 14.4 (b) (i) was passed;
- (c) the date upon which the Suspension Order becomes effective;
- (d) the date upon which the Suspension Order expires; and
- (e) any terms or conditions imposed in accordance with subsection 14.7 (f).

## **16. RESCISSION ORDER HEARING**

16.1 A Convicted Person who is subject to a Restraining Order may apply to have the Restraining Order rescinded.

16.2 An application for rescission of a Restraining Order under section 16.1:

- (a) must be in the form established by the Administrator; and
- (b) must not be filed within 12 months of:
  - (i) the date upon which the Restraining Order was issued; or
  - (ii) the date upon which any previous application was made under section 16.1. whichever is later.

16.3 Council must, within sixty (60) days of receiving an application under section 16.1, consider the application at a duly convened meeting at which the only order of business is to determine whether a Rescission Order should be issued.

16.4 At a meeting convened under section 16.3, sections 7.4 to 7.10 apply, *mutatis mutandis*.

## **17. AUTHORIZATION OF RESCISSION ORDER**

17.1 If, after conducting the Rescission Order Hearing, Council determines that the Restraining Order issued against a Convicted Person should be rescinded, Council may, by Resolution at a duly convened meeting, authorize that a Rescission Order be issued.

17.2 A Resolution passed under section 17.1 must specify the date upon which the Rescission Order becomes effective.

## **18. CONVICTED PERSON MUST NO LONGER REPRESENT THREAT**

18.1 Council must not pass a Resolution under subsection 17.1 unless it is reasonably satisfied that some material change has occurred such that the Convicted Person no longer poses a significant threat to the health, safety and wellbeing of any person residing on Westbank Lands or using a Community Facility.

## **19. PREPARATION AND DELIVERY OF RESCISSION ORDER**

- 19.1 If Council passes a Resolution under section 17.1, the Administrator must, within fourteen (14) days from the date of the Resolution:
- (a) prepare the Rescission Order in a form approved by Council and in accordance with the Resolution;
  - (b) deliver a copy of the Rescission Order to:
    - (i) the Convicted Person;
    - (ii) the local RCMP detachment;
    - (iii) the Director of Operations; and
    - (iv) each Community Facility, with instructions that it be posted in a place visible to all employees and volunteers of the Community Facility; and
  - (c) post a summary of the Rescission Order in at least one newspaper of general local circulation.
- 19.2 A Rescission Order made under section 19.1 must contain the following information:
- (a) the name of the Convicted Person;
  - (b) the date upon which the Restraining Order was issued;
  - (c) the date upon which the Restraining Order was to expire;
  - (d) the date upon which the Resolution under section 17.1 was passed; and
  - (e) the date upon which the Rescission Order becomes effective.

## **20. EFFECT OF RESCISSION ORDER**

- 20.1 As of the effective date of the Rescission Order, the Restraining Order specified in the Rescission Order is null and void and may not be revived.

## **21. CONSEQUENCES OF NON-COMPLIANCE WITH ORDERS**

- 21.1 A Convicted Person who breaches any requirement, term or condition of a Restraining Order made in accordance with this Law and delivered in accordance with paragraph 10.1 (b) (i) commits an offence and is subject to the penalties established by this Law.
- 21.2 A person who knowingly and willingly employs a Convicted Person in contravention of a Restraining Order made in accordance with this Law and delivered in accordance with paragraph 10.1 (b) (ii) commits an offence and is subject to the penalties established by this Law.
- 21.3 A person who knowingly and willingly allows a Convicted Person to remain on their property in contravention of a Restraining Order made in accordance with this Law and published in accordance with subsection 10.1 (c) commits an offence and is subject to the penalties established by this Law.

## **22. DUTY TO REPORT**

- 22.1 A person who has reasonable grounds to believe that a Convicted Person has breached any requirement, term or condition of a Restraining Order or Suspension Order, must immediately report these grounds to a Peace Officer or a WFN Law Enforcement Officer.
- 22.2 A person who does not comply with section 22.1 commits an offence and is subject to the penalties set out in this Law.

## **23. POWERS OF REMOVAL AND ARREST**

- 23.1 If a Convicted Person is in breach of any requirement, term or condition of a Restraining Order made in accordance with this Law and delivered in accordance with paragraph 10.1 (b) (i), a peace officer or a WFN Law Enforcement Officer may remove the Convicted Person from the area proscribed in the Restraining Order, or may arrest the Convicted Person.
- 23.2 In order to carry out his or her duties under section 23.1, a peace officer or a WFN Law Enforcement Officer has jurisdiction throughout Westbank Lands to exercise and carry out the powers, duties, privileges and responsibilities that a Peace Officer is entitled or required to carry out at law in Canada or under an enactment of British Columbia or Canada.

## **24. ENFORCEMENT OF ORDERS**

- 24.1 Westbank may file a certified copy of an order made under this Law with the Provincial Court of British Columbia.
- 24.2 An order filed under section 24.1 has the same force and effect, and all proceedings may be taken on it, as if it were a judgment of the Court.

## **25. APPEALS**

- 25.1 A Resolution passed in accordance this Law may be disputed in accordance with the WFN Dispute Adjudication Law, but only on the following grounds:
- (a) the Convicted Person was unable to attend the Restraining Order Hearing or a Rescission Order Hearing due to circumstances that could not reasonably be anticipated by the Convicted Person and that were beyond his or her control;
  - (b) the Convicted Person has new and relevant evidence that was not available at the time of the Restraining Order Hearing or Rescission Order Hearing;
  - (c) the Convicted Person has evidence that a Restraining Order was authorized as a result of fraud; or
  - (d) the Convicted Person has evidence that Council refused to authorize a Suspension Order or a Rescission Order as a result of fraud..

## **26. RESOLUTION OF COUNCIL NOT REVIEWABLE**

- 26.1 A Resolution passed in accordance with this Law is final and conclusive, and, except in accordance with section 25.1, is not open:

- (a) to review in any court; or
- (b) to dispute to any body.

**27. PENALTIES**

- 27.1 In addition to any other penalty or liability, any person who violates any provision of this Law or any requirement, term or condition of an order made and delivered in accordance with this Law, is guilty of an offence and liable upon summary conviction to a fine of up to ten thousand dollars (\$10,000) or to a term of imprisonment not exceeding thirty (30) days, or both.
- 27.2 Each day that a Convicted Person is in breach of a requirement, term or condition of a Restraining Order or Suspension Order will be deemed a separate offence for which the penalties authorized in section 27.1 may be imposed.

**28. DELIVERY**

- 28.1 A copy of an order, notice or written reasons made under this Law may be delivered in any of the following ways:
- (a) in person;
  - (b) by leaving a copy of the order with a person who appears to be at least 16 years of age at the actual or last known address of the addressee;
  - (c) by posting a copy of the order prominently on a door of a building at the actual or last known address of the addressee; or
  - (d) by mailing a copy of the order to the actual or last known address of the addressee.
- 28.2 A copy of an order, notice or written reasons delivered under subsection 28.1 (d) is presumed to have been received by the addressee on the fifth (5<sup>th</sup>) day after mailing.

**29. FEES AND FORMS**

- 29.1 Council may, by Resolution 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 must 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.

**30. APPLICATION OF LAW**

- 30.1 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 must not relieve the person from also complying with the provisions of the other applicable Act, regulation or law.
- 30.2 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 must be severed from and not affect the remaining provisions of this Law.

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

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

## **31. IMMUNITY**

31.1 No action for damages lies or may be instituted against 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

31.2 Section 31.1 does not provide a defence if:

- (a) 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.

31.3 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.

31.4 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.

31.5 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.

**BE IT KNOWN** that this law entitled, "WFN Community Protection Law No. 2009-01" is hereby:

Read a first time by Council at a duly convened meeting held on the 21<sup>st</sup> day of July, 2008;

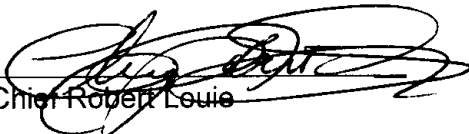
Presented to the Membership at a Special Membership Meeting held on the 28<sup>th</sup> day of August, 2008;

Presented to the Membership at a Special Membership Meeting held on the 7<sup>th</sup> day of May, 2009;

Read a second time by Council at a duly convened meeting held on the 1st day of June, 2009;

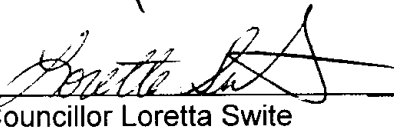
Read a third time and enacted by Council at a duly convened meeting held on the 29<sup>th</sup> day of June, 2009.

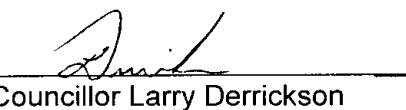
Signed by the following Members of Council:

  
Chief Robert Louie

  
Councillor Miguel De Guevara

  
Councillor Brian Eli

  
Councillor Loretta Swite

  
Councillor Larry Derrickson