

**WESTBANK FIRST NATION
ANIMAL CONTROL LAW 2019**

WHEREAS:

- A. Westbank First Nation honours its connection to the land, and recognizes its responsibility to protect the land and her resources for future generations.
- B. Westbank First Nation has jurisdiction in relation to public order, peace, safety, or danger to public health on Westbank Lands; and
- C. The Council of Westbank First Nation deems it advisable and in the best interests of Westbank to enact a Law to regulate, prohibit and impose requirements respecting the keeping of animals, pets, and bees on Westbank Lands;

NOW THEREFORE the Council of Westbank First Nation repeals the *Animal Control Law No. 2005-05* and replaces it with the following:

1. TITLE

- 1.1 This Law may be cited as the "*WFN Animal Control Law 2019*".

2. DEFINITIONS

- 2.1 In this Law, unless the context otherwise requires:

"Animal" means any Large Livestock, Small Livestock, or Farmed Fur Bearing Animal, but does not include Pets;

"Animal Control Officer" means the person appointed by Council or contracted by Council to enforce or carry out the provisions of this Law, and includes WFN Law Enforcement Officers and any special provincial constable of the Society for the Prevention of Cruelty to Animals;

"Beehive" means an enclosed, man-made structure that is typically made up of a series of frames, in which Bees live and raise their young;

"Bees" means honeybees kept in an apiary that is registered under the provisions of the British Columbia *Bee Act*, as amended or replaced from time to time;

"Brand Inspector" means any inspector appointed under the British Columbia *Livestock Brand Act*, as amended or replaced from time to time;

"Cattle" means any bull, cow, ox, heifer, steer, or calf;

"Farmed Fur Bearing Animals" means all animals that are wild by nature but kept in captivity, and whose pelts are commonly used for commercial purposes, but does not include a species of animal excluded by any Westbank Law or provincial regulations;

"Farmed Game" means any animal held for agricultural purposes, under the authority of a license issued under the British Columbia *Game Farm Act*, as amended or replaced from time to time, and includes but is not limited to fallow deer, bison, and reindeer;

"Game Birds" means birds raised and/or pursued for the purposes of sport, including but not limited to guinea fowl, pheasant, partridge, quail, silkies, squab, and tinamou;

"Horse" means any horse, mare, gelding, colt, filly, ass, or mule;

"Impounded" means seized, delivered, received, or taken into the Pound, or into the custody of the Poundkeeper;

"Keep", "Keeper", and "Keeping" means raising, maintaining, owning, possessing, or harbouring;

"Livestock" includes Cattle, mule, ass, sheep, goat, swine, musk, ox, llama, alpaca, Farmed Game, and Ratites;

"Nucleus Colony" means a Beehive consisting of not more than five (5) frames, primarily used for the rearing and storing of queen Bees;

"Ornamental Bird" means any bird which is normally kept in a cage or aviary, primarily as a show or decorative bird, and not for a utilitarian purpose;

"Owner" when used in relation to the ownership of an Animal or Pet, includes a person owning, possessing, harbouring, or having custody, care, and control of an Animal or Pet, or permitting an Animal or Pet to remain about the person's house, premises, or Parcel, and, where the Owner is a minor, the person responsible for custody of the minor;

"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 a member of the British Columbia Conservation Officer Service, responsible for

natural resource law enforcement and human-wildlife conflict prevention, or any delegate of either;

"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;

"Pet" means a domesticated animal kept for pleasure, not for a utilitarian purpose, and includes but is not limited to dogs, cats, Ornamental Birds, fish, reptiles, rodents, and miniature swine;

"Poultry" means domesticated birds kept for utilitarian purposes, such as eggs, meat, feathers, hide, cosmetic, or medicinal purposes, and includes but is not limited to chickens, ducks, geese, turkeys, and Game Birds;

"Pound" means any building, enclosure, or place designated as an animal pound, either by Council or the Poundkeeper, for the keeping of Animals and Pets impounded under this Law;

"Poundkeeper" means the Person appointed by Council, from time to time, to be Poundkeeper, or the authorized agent of any corporation, society, governmental body, or other organization with whom Council has an agreement to act as Poundkeeper, including their assistants for the keeping of Animals and Pets impounded under this Law;

"Ratite" means birds that have small or rudimentary wings and no keel to the breastbone, and include but are not limited to ostriches, rheas, and emus;

"Rooster" means a male chicken which, if permitted, must be housed in a sound-resistant Structure between 7:00 p.m. of one day and 7:00 a.m. of the following day;

"Run" or **"Running at Large"** when used in reference to any Animal or Pet, means being elsewhere than on the premises of the Owner, and not being under direct charge and effective control of a responsible and competent person;

"Small Livestock" means Poultry, rabbit, or other small animals similar in size and weight, and kept for utilitarian purposes, but does not include Farmed Fur Bearing Animals;

"SPCA" means the Society for the Prevention of Cruelty to Animals;

"Structure" means any building, shed, stable, or other type of housing used for the shelter or enclosure of Animals;

"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. KEEPING OF ANIMALS

- 3.1 No person shall keep or harbour Animals on a Parcel of Land unless in compliance with the following restrictions:
- (a) if the Parcel is greater than 200 m² and less than 400 m² in area, the Keeping of Animals must be limited to four (4) Small Livestock, except Roosters;
 - (b) if the Parcel is greater than 400 m² and less than 1,500 m² in area, the Keeping of Animals must be limited to five (5) Small Livestock, except Roosters;
 - (c) if the Parcel is greater than 1,500 m² in area and less than 2,500 m² in area, the Keeping of Animals must be limited to ten (10) Small Livestock;
 - (d) if the Parcel is greater than 2,500 m² in area and less than 5,000 m² in area, the Keeping of Animals must be limited to twenty five (25) Small Livestock;
 - (e) if the Parcel is greater than 5,000 m² and less than one (1) hectare in area, the Keeping of Animals must be limited to one (1) Livestock and twenty five (25) Small Livestock per 5,000 m² of Parcel area;
 - (f) if the Parcel is greater or equal to one (1) hectare and less than two (2) hectares in area, the Keeping of Animals must be limited to five (5) Livestock and one hundred (100) Small Livestock per one (1) hectare of Parcel area;
 - (g) if the Parcel is greater or equal to two (2) hectares and less than four (4) hectares in area, the Keeping of Animals must be limited to ten (10) Livestock and one hundred (100) Small Livestock per one (1) hectare of Parcel area;
 - (h) if the Parcel is greater or equal to four (4) hectares, the Keeping of Animals will be unlimited.

- 3.2 Structures used to shelter or house Animals, with the exception of Pets, must, unless exempted by the Animal Control Officer, be situated:
- (a) a minimum of 15.25 meters from any building used for residential purposes located on the same Parcel;
 - (b) a minimum of 15.25 meters from any front, side, or rear lot line of the Parcel it occupies; and
 - (c) a minimum of 30.5 meters from all wells and streams.
- 3.3 No Owner shall allow their Animal to Run at Large.
- 3.4 When outside of buildings all Animals must be kept enclosed within secure fences, corrals, or pens sufficient to retain them. This does not include Livestock that are under permits that allows for grazing on Westbank Lands.
- 3.5 Subject to the requirements of the *WFN Dog and Cat Control Law*, as amended or replaced from time to time, Pets may be kept in a reasonable number, as determined by an Animal Control Officer on a case-by-case basis, on all Parcels within Westbank Lands, provided they are kept primarily within the household to which they are associated and their Keeping does not create a nuisance to persons on adjacent Parcels.
- 3.6 Aviaries for Ornamental Birds must not be located on Parcels with an area of less than one (1) hectare, and must include facilities for keeping the Ornamental Birds in a sound-resistant Structure between 7:00 p.m. of one day and 7:00 a.m. of the following day.
- 3.7 Farmed Fur Bearing Animals must not be kept on a Parcel with an area of less than two (2) hectares.

4. KEEPING OF BEES

- 4.1 No person shall keep or harbour Bees on a Parcel of Land unless in compliance with the following restrictions:
- (a) if the Parcel is greater or equal to 200 m² and less than 950 m² in area, the Keeping of Bees must be limited to two (2) Beehives and two (2) Nucleus Colonies;
 - (b) if the Parcel is greater than 950 m² and less than 1,900 m² in area, the Keeping of Bees must be limited to four (4) Beehives and four (4) Nucleus Colonies;

- (c) if the Parcel is greater than 1,900 m² and less than one (1) hectare in area, the Keeping of Bees must be limited to six (6) Beehives and six (6) Nucleus Colonies;
 - (d) if the Parcel is greater or equal to one (1) hectare and less than two (2) hectares in area, the Keeping of Bees must be limited to ten (10) Beehives and ten (10) Nucleus Colonies;
 - (e) if the Parcel is greater or equal to two (2) hectares, the Keeping of Bees will be unlimited.
- 4.2 In the case of residentially zoned Parcels of Land, any Beehive must be located in the rear yard of the Parcel;
- 4.3 Any Beehive must be oriented to:
- (a) face away from adjacent Parcels, lanes, and streets; and
 - (b) be sited to allow a clear flight path of at least 7.5 m straight ahead from the front of the Beehive to any Parcel line, and 3.0 m from the side and rear of the Beehive to any property line,
- except where the Beehive is:
- (c) situated behind a solid fence or hedge that is at least 1.8 m in height, in which case it must be sited to allow a clear flight path of at least 6.0 m straight ahead from the front of the Beehive to any Parcel line, and 1.0 m from the side and rear of the Beehive to any property line; or
 - (d) elevated such that the underside of the Beehive is raised a minimum of 2.5 m above ground level, in which case it must be sited to allow a clear flight path of at least 3.0 m straight ahead from the front of the Beehive to any Parcel line.
- 4.4 Every person Keeping Bees must:
- (a) comply with the British Columbia *Bee Act*, as amended or replaced from time to time;
 - (b) provide a water supply to prevent the Bees from seeking water from other sources; and
 - (c) take all reasonable measures to prevent and manage swarming or defensive behaviour by the Bees.

5. IMPOUNDING OF ANIMALS

- 5.1 Any Owner or Person who suffers, permits, or allows Animals to Run at Large, stray, depasture, or trespass on any street, lane, highway, boulevard, park, or public place within Westbank Lands is acting in contravention of this Law.
- 5.2 Any Owner or Person who suffers, permits, allows Animals to trespass on private property within Westbank Lands, to graze on unfenced land within Westbank Lands without being securely tethered, or releases any Animal from an enclosure or tether, leaves any gate open, or removes, cuts, or breaks any fences so as to release any Animal contained therein, is acting in contravention of this Law.
- 5.3 The Poundkeeper, or any other person, is authorized to seize and impound any Animal found Running at Large or trespassing in or upon any Parcel of Land, premises, or public place.
- 5.4 The Poundkeeper must notify the Brand Inspector of the impoundment of any branded Animal, and furnish the Brand Inspector with any particulars requested of them in connection with the Impounded Animal.
- 5.5 Council must establish a schedule of fees in relation to this Law, in respect of the seizure, boarding, haulage, and destruction of Animals. A copy of the current schedule of fees must be available for viewing free of charge at the Westbank administration building and available for distribution at a nominal charge.
- 5.6 The Poundkeeper must detain seized Animals until their Owner has paid the applicable fees for impoundment, boarding, and any hauling resulting from the impoundment.
- 5.7 The applicable fees will be assessed per impoundment occurrence by the Poundkeeper.
- 5.8 The Poundkeeper must not release any impounded animals without receiving the applicable fees, and must furnish a receipt to the payee of such payment.
- 5.9 The Poundkeeper must request the attendance of a veterinarian, to examine any impounded Animal who, in the opinion of the Poundkeeper, is suffering from any injury, disease, or sickness, or from any other cause. The Poundkeeper is entitled to demand and receive from the Owner, if known, the amount equivalent to the veterinary charges for the services rendered, or such expenditure is to be realized from Westbank for Animals whose Owner cannot be located.
- 5.10 The Poundkeeper, in their sole discretion, may authorize that a suffering Animal be humanely destroyed.

6. NOTICE OF IMPOUNDING

- 6.1 If the Owner of any Impounded Animal is known to the Poundkeeper, the Poundkeeper will immediately notify the Owner, by mail, telephone, or such other means as the Poundkeeper deems appropriate, in accordance with the form of Impounding Notice established by Council, from time to time.
- 6.2 In the case the Owner of an Animal is not known, or the Owner so notified does not, within three (3) days of the Animal being Impounded or their receipt of an Impounding Notice, as the case may be, appear at the Pound and reclaim the Impounded Animal by payment of the applicable fees, the Poundkeeper must publish a Notice of Sale in the form established by Council, from time to time.
- 6.3 The Notice of Sale must be posted at the Pound and in a public area of the Westbank administration building, and if considered advisable by the Poundkeeper, by publication in one (1) issue of a newspaper of local circulation.
- 6.4 The Notice of Sale must be posted for at least six (6) clear days before the day of sale named thereon. More than one (1) Animal may be included in each Notice of Sale, and the wording of the Notice of Sale amended accordingly to merit the circumstances.

7. SALE OF IMPOUNDED ANIMALS

- 7.1 Every Owner of an Impounded Animal must immediately, upon being notified or becoming aware of the impoundment, reclaim the Animal in accordance with the provisions of this Law.
- 7.2 If an Animal escapes or is removed from the Pound and returns to the possession or custody of the Owner or any Person claiming the Animal, the Owner or other Person remains liable for the payment of an impoundment, boarding, or haulage fees due and payable under this Law.
- 7.3 Where any Impounded Animal has not been claimed in accordance with the provisions of this Law, the Poundkeeper will take whatever action is necessary to sell such Animal by public auction on the day named in the Notice of Sale.
- 7.4 If more than one (1) Animal is impounded and:
 - (a) the Owner thereof is known, the Poundkeeper must not sell or cause to be sold, any more of such Animals after there has been realized from the sale sufficient funds to satisfy the outstanding fees due against the Animals under this Law, and the Owner of the Animals is entitled to those remaining unsold Animals; or

(b) the Owner of the Animals is unknown, the Poundkeeper must sell all the Impounded Animals.

7.5 Where at any public auction held pursuant to this Law, no bid is received for the Impounded Animal being sold or where a bid received is less than the outstanding fees due under this Law, the Poundkeeper may, in their sole discretion, sell the Impounded Animal through a private sale, and if in the opinion of the Poundkeeper it is impossible to dispose of the Impounded Animal for valuable consideration, the Poundkeeper may cause the Impounded Animal to be humanely destroyed or otherwise disposed of.

7.6 If the proceeds from the sale or disposal of any Impounded Animals are not sufficient to satisfy the outstanding fees payable, then the Owner or other Person entitled to possession of the Animal must pay the balance owing and may be sued at the insistence of the Poundkeeper.

8. DESTRUCTION OF ANIMALS

8.1 Subject to section 8.2, if an Owner contacts the Poundkeeper and requests that their Animal be destroyed, the Poundkeeper may direct the Animal Control Officer to call for and take away the Animal, or may humanely destroy the Animal.

8.2 An Owner who makes a request under section 8.1 must first complete the form of Consent for Euthanasia, established by Council from time to time.

8.3 An Animal which is to be humanely destroyed will be destroyed under the direct supervision of an individual authorized to practise veterinary medicine under the British Columbia *Veterinarians Act*, as amended or replaced from time to time, and in possession of a valid and subsisting business license from Westbank or other local government, as the case may be.

9. RIGHT OF ENTRY

9.1 The Animal Control Officer is authorized to enter, at all reasonable times, upon any Parcel of Land or premises within Westbank Lands in order to determine the health and well-being of any Animal within the Parcel or premises, and to ascertain whether the provisions of this Law are being obeyed.

9.2 Where the Animal Control Officer or Poundkeeper is satisfied that an Animal is not receiving proper care, treatment, or shelter, or is being kept on any Parcel of Land contrary to the provisions of this Law, each is authorized to enter upon the subject Parcel of Land in order to control, impound, or destroy any dangerous, wounded, or sick Animal.

10. OFFENCE AND PENALTY

- 10.1 Every Person who contravenes any provisions of this Law commits an offence punishable upon summary conviction and is liable to a fine not exceeding ten thousand dollars (\$10,000.00).
- 10.2 If an offence is a continuing offence, each day that the offence is continued constitutes a separate and distinct offence.

11. FEES AND FORMS

- 11.1 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 such resolution in a public area of the Westbank administration building and make a copy of such resolution available for viewing free of charge.

12. APPLICATION OF LAW

- 12.1 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 does not relieve a Person from also complying with the provisions of the other applicable Act, regulation or law.
- 12.2 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 will not affect the remaining provisions of this Law.
- 12.3 The headings given to the parts and sections in this Law are for convenience of reference only, do not form part of this Law and must not be used in the interpretation of this Law.
- 12.4 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 Westbank Law, as amended, revised, consolidated or replaced from time to time.

13. IMMUNITY

- 13.1 No action for damages lies or may be instituted against Council or past Council, 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 actual or required performance of the person's duty, or exercise of their authority; or

- (b) for any alleged neglect or default in the actual or required performance of the person's duty or exercise of their authority.

13.2 Section 13.1 does not provide a defence if:

- (a) Council, employees, servants, or agents have, in relation to the conduct that is the subject matter of the action, been guilty of dishonesty, gross negligence, or malicious or wilful misconduct; or
- (b) the cause of action is libel or slander.

13.3 None of Westbank, Council or past Council, or employees, servants, or agents of Westbank or Council, is liable for any damages or other loss, including economic loss, sustained by any person, or to the property of any person, as a result of neglect or failure, for any reason, to discover or detect any contravention of this Law or any other Westbank Law, or from the neglect or failure, for any reason or in any manner, to enforce this Law or any other Westbank Law.

13.4 All actions against Westbank for the unlawful doing of anything that:

- (a) is purported to have been done by Westbank under the powers conferred by this Law or any Westbank Law; and
- (b) might have been lawfully done by Westbank if acting in the manner established by law,

must be commenced within six (6) months after the cause of action first arose, or within a further period designated by Council in a particular case, but not afterwards.

13.5 Westbank is in no case liable for damages unless notice in writing setting out the time, place, and manner in which the damage has been sustained, is delivered to Westbank within two (2) months from the date on which the damage was sustained. In case of the death of a person injured, the failure to give notice required by this section is not a bar to the maintenance of an action.

13.6 Failure to give the notice under this Law 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, "Westbank First Nation Animal Control Law 2019" is hereby:

Read a first time by Council of Westbank First Nation at a duly convened meeting held on the 21st day of October, 2019;

Presented to the Membership at a Special Membership Meeting held on the 21st of November, 2019;

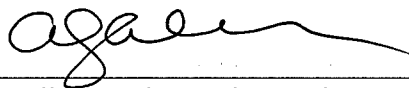
Read a second time by Council at a duly convened meeting held on the 16th day of December, 2019;

Read a third time and enacted by Council of Westbank First Nation at a duly convened meeting held on the 16th day of December, 2019.

Signed by the following Members of Council:



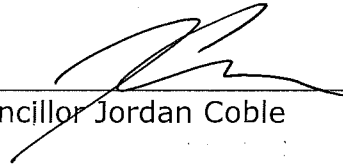
Chief Christopher Derickson



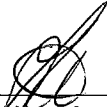
Councillor Andrea Alexander



Councillor Fernanda Alexander



Councillor Jordan Coble



Councillor Lorrie Hogaboam