



AMENDED – Date Change

WESTBANK FIRST NATION NOTICE OF SECOND READING

Council Meeting:

April 8th, 2019

Time:

9:00 AM

Location:

**Council Chambers, Lindley Building
310-515 Hwy. 97 South, Kelowna, BC**

AT THIS MEETING, THE SECOND READING OF PROPOSED AMENDMENTS TO THE WESTBANK FIRST NATION SAFE PREMISES LAW (SPL), WESTBANK FIRST NATION BUSINESS LICENCE LAW (BLL) AND THE WESTBANK FIRST NATION LAND USE LAW (LUL), WILL BE READ AND:

1. Accepted;
2. Amended and accepted; OR
3. Referred to a further Special Membership Meeting if the changes to the draft are substantive.

The proposed amendments previously sent out in the Notice of Second Reading for the Council Meeting date of March 25th, 2019 remain unchanged. This is a meeting date change only.

A COPY OF THE SECOND READING DRAFT AMENDMENTS TO THE SPL, BLL, AND LUL CAN BE OBTAINED AT THE OFFICE OF THE COUNCIL SECRETARIAT, THIRD FLOOR OF THE WFN GOVERNMENT OFFICES AT 301 - 515 HWY 97 SOUTH, KELOWNA, BC.

COPIES OF THIS NOTICE WERE POSTED ON MARCH 14th, 2019 AND THE AMENDED NOTICE WAS POSTED ON MARCH 19th, 2019 AT THE WFN GOVERNMENT BUILDING AND ON THE WEBSITE PURSUANT TO SECTION 62.7 OF THE WFN CONSTITUTION.

SUMMARY OF AMENDMENTS TO THE SPL

The following substantive amendments to the SPL are proposed:

2. Definitions

Grow Operation changed to "Production Operation" throughout, and redefined to include "the unregulated cultivation of cannabis plants in excess of statutorily allowed personal amounts..."

Parcel and Peace Officer defined;

Registered Owner definition updated to properly reference WFN Self Governing First Nation Land Registry;

2B Application of Federal Law - medical cannabis amendments removed;

7. Discontinuance of Service

7.2(a) and (b) changed body responsible for reviewing appeals from Council to the Director of Development Services, or designate;

7.3(a) changed "within 2 hours" to "immediately after";

7.3(c) changed body responsible for reviewing appeals from Council to the "Director of Development Services, or designate";

SUMMARY OF AMENDMENTS TO THE BLL

The following substantive amendments to the BLL are proposed:

2. Definitions

"WFN Cashier" changed authority for appointment from Director of Operations to the Director of Finance;

3. Licence Required

3.3 removed for redundancy; payment of fees addressed in section 14.1.

3.4 moved to become 14.2, for the purposes of consistency.

4. Issuing of Licences

4.3 new provision, requiring the operation of the proposed business on the parcel of land where the business premises is located to not violate any WFN Law.

4.8 new provision: "The Business Licence Officer must refer all applications for a licence to operate a Cannabis Store or Cannabis Production Facility to Council for consideration and a decision on whether such licence will be granted. Such decision by Council will be final and not subject to appeal."

7. Licences to be Displayed

7.2 removed requirement to have name/address of licensee displayed on vehicles granted business licenses, in favour of the business license itself being required to be displayed in the vehicle;

9. Renewal of Licence

9.3 removed requirement to notify Business License Officer if license no longer required.

13. Appeals new section; further number adjusted accordingly;

13.6 added a mandatory \$150.00 fee to be paid if an appeal is submitted;

20. Carnivals – Insurance and Inspections Required (formerly section 19)
Changed insurance requirement from \$2,000,000.00 to \$5,000,000.00, and changed bond amount from \$1,000.00 to \$5,000.00;

25. Offences

25.3 (formerly section 24.3) changed maximum fine amount from \$200 to \$1,500;
Business License Law - Form A Amendments
Creation of new business category, “Cannabis Licensed Establishment”, with sub-categories of Retail Store, Non-Profit Society, Production – Indoor, Production – Outdoor, Lounge/Café Recreational. Associated fees to be discussed and directed by Council.
Added new business categories under “Other Businesses” heading, based on demand identified by the Business License Officer.

SUMMARY OF AMENDMENTS TO THE LUL

The defined terms no longer utilized have been removed and the following substantive amendments to the LUL are proposed:

Moved “Part X – Interpretation” into “Part I – Definitions and Interpretation”

“Development” added as defined term.

“Special Plan” and “Special Planning Area” defined, to accommodate removal of Land Use Plan as Schedule “A” (see below).

“WFN Comprehensive Community Plan” added as defined term to replace the term “Land Use Plan”, which had previously been attached to this law as Schedule A. References to the Land Use Plan throughout this amended law have been replaced with the Comprehensive Community Plan.

Schedules “B” and “C” renamed Schedules “A” and “B”.

4.2 (formerly 3.2) Notwithstanding any provision in the WFN Comprehensive Community Plan or Zoning Regulation a Member who holds a Certificate of Possession in Westbank Lands is permitted to, in conjunction with an appropriate amendment to this Law, construct one single family residential dwelling on the parcel of land described in that Certificate of Possession for use by themselves or their Immediate Family.

[Commentary: To support good planning principals, this provision has been added to continue to permit members to build on their land but recognize the need to appropriately zone the property to ensure future planning considers the residential use, ensure proper servicing is met and so properties retain their value.]

5.2 (formerly 4.2) – detailed reference to the Land Use Principles removed, as they are defined in the WFN Comprehensive Community Plan.

Parts IV, V, VI and VII – procedural aspects of sections removed and revisions mirrored

in each to provide Council the authority to approve a Policy and related governance instruments to outline these processes.

Part VI – Servicing Maps – removed as no longer relevant to this law.

Part X – Transition – removed, process out of date.

Schedule “A” - Zoning Regulation (formerly Schedule “B”)

2.2 (formerly 1.2.2) revised definition of compliance to include common definitions that allows the law to apply more generally to development.

2.4 (formerly 1.2.4) “Bylaw Officer” replaced with “Law Enforcement Officer”.

3.2 Definitions – added the following as defined terms: “Assisted Living Residence”, “Campground”, “Cannabis Production Facility”, “Cannabis Store”, “Community Garden”, “Community Care Facility”, “ Dwelling or Dwelling Unit”, “Energy Efficiency”, “Floor Area Ratio”, “Garage Setback”, “Grade, Finished”, “Grade, Natural”, “Gross Floor Area”, “Landscape Buffer”, “Limited Agriculture”, “Manufactured Home Space”, “Modular Home”, “Parcel Line, Front”, “Parcel Line, Interior Side”, “Parcel Line, Exterior Side”, “Parcel Line, Rear”, “Qualified Environmental Professional”, “Secondary Suite”, “Short Term Rental”, “Storage, Commercial”, “Storage, Outdoor”, “Storage Container”, “Strata”.

3.2 Definitions – added illustration for new “Parcel Line” defined terms.

3.2 Definitions – revised the definition for “Mobile Home” and “Water Body” (formerly “Watercourse”).

4.1.2 (formerly 1.4.2) added “Limited Agriculture” to General Regulations.

4.1.3 new section, added to clarify treatment of Split Zone Parcels.

4.1.6 (formerly 1.4.5) revised and updated to enhance setback requirements near Water Bodies, including an increased ravine boundary requirement from 15m to 30m.

4.1.7 (new section) addresses Crime Prevention Through Environmental Design.

4.1.10 (new section) outlines method of calculating height and grade, and with addition of illustration and calculation tables.

4.1.11 and 4.1.12 added references to Height and Setback exceptions in cases where buildings are constructed using principles of Energy Efficiency.

4.1.16 (new section) allows for Limited Agriculture and provides formal direction with conditions in which it is permitted.

4.1.17 (new section) allows for Short-term Rentals and provides formal direction with conditions in which it is permitted.

4.1.18 revised section regarding Secondary Suites and provides formal direction with conditions in which it is permitted, including meeting Building Code requirements.

Removed requirement for re-zoning.

4.1.20 (new section) Single Family Residential Development for WFN Member use on CP Held Land – added to support good planning principals, and will continue to permit members to build on their land while recognizing the need to appropriately zone the property to ensure future planning considers the residential use, ensure proper servicing is met, and so properties retain their value.

4.1.21 (new section) allows for Community Gardens and provides formal direction with conditions in which it is permitted.

4.1.22 (new section) allows for Cannabis Stores and Cannabis Production Facilities, and provides formal direction with conditions in which it is permitted. Specifically, as follows: Cannabis Stores and Cannabis Production Facilities are subject to the following:

(a) No Cannabis Store or Cannabis Production Facility can be located within five hundred (500) meters of another Cannabis Store or Cannabis Production Facility.

(b) No Cannabis Store or Cannabis Production Facility can be located within one hundred fifty (150) meters of any designated park space, elementary school, or child care facility.

(c) No Cannabis Store or Cannabis Production Facility can be located within five hundred (500) meters of a middle or secondary school.

(d) No Cannabis Store or Cannabis Production Facility can be located within sixty (60) meters of a residential Dwelling.

4.2 (new section) Landscaping and Screening Regulations.

4.3.2 (l) (formerly 1.5.2) allows Approving Officer to exercise discretion in terms of how many visitor parking spaces are required in instances of residential buildings with less than 10 units.

4.3.2. tables relating to parking requirements relocated.

Parts 6 – 11 added "Purpose" statement reference to "Other Regulations" to detailed zone descriptions.

Sections 6.4, 6.5, 6.6 added:

- Minimum and Maximum Density provisions; and
- Conditions for Group Homes reference added, includes requiring Group Homes providing mental health or substance abuse treatment to get a Resolution from Council to support such use.

Section 6.6.3(f) limited maximum number of storeys to 4;

Added Cannabis Store to list of Permitted Uses in 7.1 Neighbourhood Commercial,

7.2 Retail Commercial, and 7.3 Highway Commercial.

New section 7.6 Campground added;

Added Cannabis Store and Cannabis Production Facility to list of Permitted Uses in

7.7 Business Park and 8.1 Light Industrial.
New section 9.1 Holding added;

Section 11 PUD – PLANNED UNIT DEVELOPMENT AREAS – Updated to reference subsection as a table as opposed to individual descriptions for each project. A new Reference governance instrument is contemplated to hold detailed PUD summaries.

Section 12 ZONING DESIGNATION AMENDMENT REGISTER – Removed; A new Reference governance instrument is contemplated to hold this register.
First reading of the draft Advisory Council Law was given by Council on January 16, 2017. The Advisory Council Law was presented to the Membership at a Special Membership Meeting held on April 5, 2017.

If council concludes at the meeting of April 24, 2017 that it is satisfied with the form of the proposed amendments to the ACL, it will by resolution accept the Second Reading amendments to the ACL. Subsequently, Council will by resolution provide Third Reading to the amendments to the ACL and enact the amendments at that meeting.

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