

**WESTBANK FIRST NATION  
FIRE PROTECTION LAW NO. 2005-11**

WHEREAS Council of Westbank First Nation deems it advisable and in the best interests of Westbank First Nation to enact a law to regulate fire prevention and protection within Westbank Lands;

NOW THEREFORE Council of Westbank First Nation repeals Fire Protection Bylaw No. 2000-01 and Open Burning Bylaw No. 1995-04 and enacts the following law.

**1. TITLE**

1.1 This Law may be cited as the "*WFN Fire Protection Law No. 2005-11*".

**2. DEFINITIONS**

2.1 In this Law, unless the context otherwise requires:

"**Agreement**" means a Fire Protection Agreement entered into by Council, on behalf of Westbank, and a fire protection district, municipal corporation or other First Nation;

"**approved plastic container**" means a plastic container approved by a recognized testing authority;

"**authorized**" means authorized by the Fire Chief of the Fire Department;

"**building**" means any structure or building used or intended to be used for the support, shelter or enclosure of persons, animals or chattels;

"**campfire**" means a fire not exceeding one meter in diameter and one meter in height used for the purpose of cooking and/or to provide heat and light associated with camping and recreation;

"**combustible material**" means construction that does not meet the requirements for noncombustible construction; dusts and particles ignitable and liable to produce an explosion; finely divided combustible vegetable or animal fibres and thin sheets or flakes of such materials, which in a loose, unbaled condition present a flash fire hazard, including cotton, wool, hemp, sisal, jute, kapok, paper and cloth; and liquid having a flash point at or above 37.8 degrees Celsius and below 93.3 degrees Celsius;

"**compostable materials**" means waste products from plants, trees or other vegetation that are naturally biodegradable including grass clippings, leaves, tree needles, garden waste and weeds;

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

"**defensible space**" means the area within 10 metres of a building in which ground cover is kept to a minimum, and includes the area 30 metres from a building in which branches of coniferous trees are recommended to be removed to a minimum of 2.5 metres from

the ground and coniferous trees thinned so that their crowns/branches are separated by at least 3 metres;

**“dwelling”** means any building or part of a building occupied or intended to be occupied for residential purposes;

**“equipment”** means any tools, contrivances, devices or materials used by the Fire Department to combat an Incident or other emergency;

**“extinguished”** means no visible flame, sparks, glowing embers or smoke;

**“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;

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

**“fire fighter”** means a fire fighter who provides fire protection to Westbank Lands;

**“fire hazard”** means any condition that is conducive to the destruction of life or property by fire, or that will, or is likely to, increase the extent or severity of the fire;

**“fire protection”** means all aspects of fire safety including but not limited to fire prevention, fire fighting or suppression, pre-fire planning, fire investigation, public education and information, training or other staff development and advising;

**“flammable material”** means any waste, rags, papers, or other substance liable by spontaneous combustion to cause fire and any liquid having a flash point below 37.8 degrees Celsius;

**“forestland”** means land in which the coniferous trees have a spacing of less than 3 metres between the crowns/branches, the branches extend to closer than 2.5 metres from the ground or where low bush-type ground cover is general over the area;

**“gasoline”** means any product of petroleum or any liquid that will flash or emit a flammable vapour below the temperature of one hundred ten degrees Fahrenheit (110° F.) or forty-four degrees Celsius (44° C);

**“incident”** means a fire or a situation where a fire or explosion is imminent and includes assistance response circumstances described in this Law;

**“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;

**“Officer”** means any person duly appointed by the Fire Chief as an Officer of the Fire Department;

**“open burning”** means the combustion or burning of any substance or material in the open air by any means but does not include:

- (a) the operation of a permanent outdoor barbeque or outdoor portable barbeque intended for and used solely for the preparation of food;
- (b) fires used by the Fire Department for the purposes of education, training and other fire department purposes;
- (c) fires used or recommended by authorities having jurisdiction to manage ecosystems for purposes of silvicultural management, forest fuel management, fire hazard reduction, wildlife enhancement, domestic range improvement and the use of fire as a means of fire control;
- (d) burning lawfully conducted as part of a farm operation pursuant to the provisions of the *Farm Practices Protection (Right to Farm) Act*;
- (e) campfires;

**"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 a permit issued by the Fire Chief to allow open burning within Westbank Lands in such Westbank form as is established by Council, from time to time;

**"permitted burning materials"** means seasoned and dry parts of trees or other vegetation that do not constitute compostable materials and includes prunings, branches, trunks and tree stumps;

**"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;

**"prohibited burning materials"** means

- (a) waste material including demolition, renovation or construction waste material;
- (b) material resulting from land being cleared or partially cleared of vegetation to prepare for development, including wood, trees, stumps and other woody debris; and
- (c) those materials listed in the *Open Burning Smoke Control Regulation* enacted pursuant to the *Waste Management Act*, as amended from time to time, including the following:

tires, plastics, drywall, demolition waste, domestic waste, paint, special waste, tar paper, treated lumber, railway ties, manure, rubber, asphalt, asphalt products, fuel and lubricant containers; biomedical waste;

**“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;

**“rubber”** means rubber goods, tires, plastics, and tar, and asphalt roofing materials;

**“rubbish”** means any animal, vegetable or food wastes or scraps and any readily combustible inorganic dry waste material;

**“smoke”** means the gases, particulate matter and all other products of combustion emitted into the atmosphere when a substance or material is burned including, without limitation, smoke, dust, gas, sparks, ash, soot, cinders, fumes or other effluvia;

**“smoking”** means the carrying of a lighted pipe, cigar or cigarette;

**“vehicle”** means any vehicle provided with machinery, devices, equipment or materials for fire protection, vehicles used to transport fire fighters or supplies or other vehicle;

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

**“wood burning appliance”** means a solid fuel-burning device including, without limitation, a stove, and fireplace insert.

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 Unless otherwise provided in this Law, the standards and requirements of the *British Columbia Fire Code*, BC Reg. 318/2003 and *BC Building Code*, BC Reg. 295/98, as amended from time to time in respect of fire prevention and fire protection, are hereby

adopted and made part of this Law as the standards and requirements applicable on Westbank Lands in respect of fire prevention and fire protection.

## **PART I: RIGHTS AND RESPONSIBILITIES OF FIRE CHIEF**

### **3. FIRE CHIEF**

3.1 The Fire Chief may designate Officers or fire fighters to act as Fire Chief as required.

3.2 The Fire Chief is authorized to direct and control all fire protection and assistance response activities, and such other fire protection and prevention activities for which he is authorized under Westbank Law, including but not limited to:

- (a) first response medical emergencies;
- (b) rescue operations;
- (c) mutual aid to fire services including Ministry of Forests;
- (d) response to hazardous material incidents, and public services.

3.3 The Fire Chief may establish policies, procedures and committees necessary for the proper organization and administration of fire protection services on Westbank Lands.

3.4 The Fire Chief will from time to time report to Council on the operations of the Fire Department or on any other matter.

3.5 The Fire Chief may obtain assistance from peace officers as deemed necessary in order to discharge the duties and responsibilities assigned to the Fire Chief under this Law.

### **4. RIGHT OF ENTRY**

4.1 The Fire Chief may enter any building or dwelling within Westbank Lands at any reasonable time for the purpose of administering or enforcing this Law or any other Westbank Law, regional, provincial or federal laws and regulations related to fire protection, including:

- (a) to inspect for conditions which may cause a fire, increase the danger of a fire or increase the danger to persons;
- (b) to ensure that any flammable material is rendered harmless or suitably safeguarded against fire by requiring:
  - (i) the establishment of boundaries or limits and keeping persons from entering the area within such prescribed boundaries or limits unless authorized to enter;
  - (ii) the posting of "no admittance" signs, or
  - (iii) any other measures deemed necessary by the Fire Chief;

- (c) to respond to an alarm of fire; and
  - (d) to investigate the cause, origin or circumstances surrounding an incident.
- 4.2 Every registered holder must allow the Fire Chief to enter any parcel of land, building or dwellings at any reasonable time for the purpose of making an inspection or investigation in the ordinary course of the execution of official duties by the Fire Chief.

## **PART II: ROLES AND RESPONSIBILITIES AT INCIDENTS**

### **5. RIGHT OF ENTRY**

- 5.1 At an incident the Fire Chief is empowered to enter at any time any parcel of land, buildings, dwelling or premises where the incident occurred and to cause any Officer or fire fighter, vehicle or equipment of the Fire Department to enter, as deemed necessary, in order to combat, control or deal with the incident.
- 5.2 During an incident the Fire Chief is empowered to enter, pass through or over any parcel of land, building, dwelling or premises adjacent to the incident and to cause Officers or fire fighters and the vehicle and equipment of the Fire Department to enter or pass through or over parcels, buildings, dwellings or premises, where deemed necessary to gain access to the incident or to protect any person or property.

### **6. DEMOLITION**

- 6.1 At an incident the Fire Chief is empowered to cause a building, structure or part thereof or object to be demolished or otherwise removed if deemed necessary to prevent the spread of fire to other buildings, dwellings or objects.

### **7. BOUNDARIES**

- 7.1 At an incident or demolition the Fire Chief may establish boundaries or limits and keep persons from entering the area within such prescribed boundaries or limits unless authorized to enter.
- 7.2 No person shall enter the boundaries or limits of an area established in accordance with section 7.1 unless they have been authorized to enter by the Fire Chief.
- 7.3 At an incident the Fire Chief may request peace officers to enforce restrictions on persons entering within the boundaries or limits established in section 7.1.

### **8. OBTAINING ASSISTANCE**

- 8.1 At an incident the Fire Chief may request persons who are not fire fighters or Officers to assist in whatever manner considered necessary to deal with the incident, including removing furniture, goods and merchandise from any building on fire or in danger thereof and in guarding and securing same in demolishing a building or structure at or near the fire or other incident.

8.2 At an incident, the Fire Chief is empowered to commandeer privately owned equipment which is considered necessary to deal with an incident. Remuneration rates will be paid to the owner of the equipment at rates based on industry standards for comparable equipment.

## **9. NO OBSTRUCTION OR HINDRANCE**

9.1 No person will impede, obstruct or hinder a fire fighter or Officer or other person assisting or acting under the direction of the Fire Chief.

9.2 No person will damage, destroy, obstruct, impede or hinder the operation of any Fire Department vehicle or equipment.

9.3 Except with the permission of the Fire Chief, no person will be permitted to enter any burning building or within the lines across any alley, lane, street or area marked by ropes or guards established in section 7.1.

9.4 At an incident, the Fire Chief may request peace officers to enforce restrictions on persons entering within the boundaries or limits established in section 7.1.

9.5 No person will drive over any equipment at an incident without the permission of the Fire Chief.

9.6 No person will obstruct or otherwise interfere with access roads, streets or other approaches to an incident, fire hydrant, cistern or body of water designated for fire fighting purposes.

## **PART III: FIRE PREVENTION**

### **10. PROHIBITIONS**

10.1 Where, in his opinion, there exists within Westbank Lands a fire or explosion hazard, the Fire Chief may prohibit smoking or the possession of any naked light, flame, or light not enclosed in a shade or other non-combustible guard.

10.2 If prohibitions are required under section 10.1, the Fire Chief may give notice in writing to the registered holder to post suitable prohibition signs and the registered holder thereof must prohibit smoking or the carrying of a naked light or flame.

### **11. CHIMNEYS & FLUES**

11.1 No registered holder of any building will permit any chimney, stovepipe or flue to remain in any condition which may cause or create a fire hazard.

11.2 Every registered holder of any building must keep all chimney openings in such buildings closed by a proper stopper of metal or other non-combustible material, while such openings are not in use.

- 11.3 The Fire Chief may examine any chimney, flue, fireplace, hearth, oven, furnace, heater, boiler, stove, steam-pipe, funnel or any other equipment he may deem to be a fire hazard.
- 11.4 Where any chimney, flue, fireplace, hearth, oven, furnace, heater boiler, stove, steampipe, funnel or any other equipment is found to be a fire hazard, the Fire Chief must give written notice to the registered holder of the building of the condition and indicate the remedy and the time within which the condition must be remedied.
- 11.5 Any registered holder who has received notice under section 11.4, must comply with the notice within the time indicated.

## **12. DEPOSITING FLAMMABLE MATERIALS**

- 12.1 No person will deposit any ashes or allow any ashes to be deposited or remain:
- (a) in any combustible container;
  - (b) on the floor of any building belonging or occupied by him; or
  - (c) in any metallic container which is within 300 mm of any woodwork or any other combustible material.
- 12.2 It is unlawful for any person to deposit, or allow or cause to be deposited, any paper, straw, hay, shavings, or other combustible or flammable material or object in or among any ashes or other materials or objects taken from any stove, furnace, or fireplace.

## **13. CONTROL OF FLAMMABLE MATERIAL**

- 13.1 No person will keep any flammable or combustible materials except in a container made of metal or other non-combustible material and with an airtight top or lid of the same type of material.
- 13.2 No person will deposit or allow to collect or be deposited, any flammable or combustible materials likely to cause or promote fire dangerous to buildings or other property.
- 13.3 No registered holder of any building will allow any flammable or combustible materials or rubbish to accumulate upon the roof of the building.
- 13.4 Any person who makes, uses or has charge of flammable or combustible materials must at the close of each day, ensure that each item is safely stored or disposed so as to be safe from fire.

## **14. DUTY OF REGISTERED HOLDER**

- 14.1 A registered holder of a parcel of land must remove any matter or object situated in or on any building or dwelling which, in the opinion of the Fire Chief, is a fire hazard or increases the danger of fire.
- 14.2 A registered holder of any unoccupied building must ensure that it is properly secured against entry by unauthorized persons.

- 14.3 Where, in the opinion of the Fire Chief, any fire hazard exists or any unoccupied building is not properly secured, the Fire Chief will give written notice to the registered holder at his last known address or by posting a notice in a conspicuous place on the building or dwelling.
- 14.4 In any notice given under section 14.3, the Fire Chief will indicate the nature of the condition to be remedied, the manner in which the condition may be remedied, and the time within which the registered holder must comply.
- 14.5 A registered holder of a building located within 30 metres of forest land is encouraged to provide and maintain a defensible space to increase the probability of protecting the survivability of the building from approaching wildfire, as well as to reduce the potential for a building fire spreading to the forestland.

## **15. STORAGE OF GASOLINE**

- 15.1 Individuals, other than commercial enterprises permitted pursuant to Westbank Law or other applicable law, must not store or keep gasoline other than:
- (a) gasoline not exceeding 45 litres in closed metal containers or in approved plastic containers for outdoor storage only; or
  - (b) gasoline in the gasoline tank of an automobile, gasoline engine, motor boat, or airplane, whose tank is permanently connected to and supplies its engine.
- 15.2 All unused gasoline storage tanks on service station sites must be either filled or removed.

## **16. STORAGE OF EXPLOSIVE OR FLAMMABLE COMPOUND, LIQUID OR MATERIAL IN PUBLIC BUILDINGS**

- 16.1 It is unlawful for any person to keep, store or use any combustible explosives or flammable compound, liquid or material in any part of a building used or maintained as a hotel, apartment house, school or place of public assembly, except in a place especially provided for that purpose in accordance with Westbank Law.

## **PART IV: OPEN BURNING**

### **17. PROHIBITIONS**

- 17.1 No person shall light, ignite or maintain any fire or permit or cause any fire to be lit, ignited or maintained in the open air within Westbank Lands, without first having obtained a written Permit to do so from the Fire Chief or an Officer, in accordance with this Law.
- 17.2 The operation of a domestic outdoor or backyard incinerator, or any structure or container serving as a domestic incinerator is expressly prohibited.

- 17.3 Stumps or other material in excess of eight (8) inches in diameter, must not be burned unless they have been allowed to dry for at least two (2) years or to the satisfaction of the Fire Chief.
- 17.4 Notwithstanding the issuance of a Permit, no burning shall take place unless the venting index as provided daily by the Federal Mountain Services Weather Office is fifty-four (54) or greater when the fire is started.
- 17.5 It will be unlawful for any person to burn or to permit or to cause to be burned any prohibited burning materials.
- 17.6 Open burning is permitted without a permit:
- (a) in areas designated by the WFN Law Enforcement Officer for camping and picnics by persons lawfully using the grounds for those purposes;
  - (b) for social and recreational purposes where a fire pit or fire container exists,
  - (c) for ceremonial purposes;
- provided that
- (d) the open burning is supervised by a competent person over the age of nineteen (19) years knowledgeable about controlling fires;
  - (e) for ceremonial purposes, prior written notice is provided to the WFN Law Enforcement Officer;
  - (f) smoke nuisance is kept to a minimum; and
  - (g) the open burning must be terminated by first placing water on the fire, then stirring the remnants of the fire and, finally, where available, placing sand or dirt on top of the remnant of the fire.

## **18. PERMITS**

- 18.1 The Fire Chief may, by issuance of a permit, allow open air burning, provided that:
- (a) parcels of land are greater than .81 hectares (2 acres) in area;
  - (b) a minimum separation of thirty (30) metres can be maintained between the fire location and any building, combustible material or forested area;
  - (c) all materials to be burned originate from the parcel of land on which the Permit is issued;
  - (d) only permitted burning materials are burned.
- 18.2 Any person wishing to obtain a Permit will apply in writing to the Fire Chief in such Westbank form as is established by Council, from time to time.

- 18.3 Where an applicant is an occupant but not a registered holder, the applicant must provide with their application the written consent of the registered holder.
- 18.4 The Fire Chief must consider all permit applications and supporting information and may:
- (a) refuse to issue the Permit;
  - (b) grant the Permit, with or without conditions, precedent or subsequent; or
  - (c) request further information from the applicant.
- 18.5 If a Permit application is approved, a Permit will be issued by the Fire Chief upon payment of the applicable fee, and upon satisfaction of any conditions precedent.
- 18.6 A person to whom a Permit is issued must ensure that a competent person over the age of nineteen (19) years is in charge of the fire at all times and must provide that person with readily available equipment to control a fire.
- 18.7 A person to whom a Permit is issued must immediately notify the Fire Chief of any changes to the matters or information relevant to the granting of the Permit.

## **19. GENERAL**

- 19.1 The Fire Chief, Officer or fire fighter or any person specifically appointed by the Fire Chief, is authorized to:
- (a) enter and inspect, from time to time, any location upon which a permit application has been made or open burning is taking place;
  - (b) make enquiries of and request from any person information relevant to the permit application or to the purposes of this Law;
  - (c) monitor any permitted open fire to ensure that the provisions of this Law and/or the conditions of the Permit are being complied with.
- 19.2 Where the Fire Chief determines that false information has been provided to obtain a Permit or that a person is open burning in contravention of this Law, the Fire Chief may cancel or suspend the Permit, and order the extinguishment of the burning.
- 19.3 Where the Fire Chief considers it expedient for safety reasons or that hazardous conditions or adverse weather conditions exist, the Fire Chief may suspend, cancel or restrict a Permit issued pursuant to this Law for such time as the Fire Chief considers prudent or may attach to the Permit such conditions and restrictions as the Fire Chief considers prudent.
- 19.4 Open burning is prohibited during Fair or Poor air quality conditions as defined by the BC Ministry of Water, Land and Air Protection, based on information provided by Environment Canada and the BC Ministry of Water, Land and Air Protection.
- 19.5 Council may set dates in any year when:
- (a) there will be no open burning permitted whatsoever; and

- (b) no Permits, or a limited number of Permits, will be issued pursuant to this Law.

## **PART V: SMOKE CONTROL**

### **20. PROHIBITIONS**

- 20.1 No person shall cause or permit smoke from open burning except in accordance with this Law.
- 20.2 No person shall cause or permit smoke from open burning on a parcel of land of which the person is not the registered holder, unless authorized to do so by the registered holder and in accordance with this Law.
- 20.3 No person shall cause or permit smoke from open burning except on land having an area of one hectare (2.47 acres) or more and in accordance with this Law.
- 20.4 No person shall cause or permit smoke from open burning of prohibited burning materials or compostable materials.
- 20.5 No person shall cause or permit smoke from burning by use of an incinerator, burning barrel or similar device.
- 20.6 No person shall cause or permit smoke from open burning except in accordance with the following conditions:
- (a) only permitted burning materials must be burned;
  - (b) all permitted burning materials to be burned must originate from the parcel of land on which it is to be burned;
  - (c) all burning must be conducted and concluded between 7:00 a.m. and sunset of the same day except for burning permitted under paragraph (d);
  - (d) stumps and other materials exceeding 20 cm. (8 in.) in diameter must not be burned unless they have been allowed to dry for a minimum of two (2) years or are in an equivalent state. Fires for such materials may be maintained for a maximum of 72 hours if the fire is substantially smokeless, provided that no further combustible materials must be added to a fire after 5:00 p.m. of each day of the fire;
  - (e) a minimum separation of 30 metres must be maintained between the location of a fire and all property lines, buildings and structures;
  - (f) all fires must be continuously controlled and supervised by a competent person over the age of nineteen (19) years, properly equipped with sufficient fire extinguishing equipment and material;
  - (g) all fires must be maintained so as to not constitute a nuisance;

- (h) all fires are subject to fire restrictions contained in this Law and are subject to cancellation at any time by any authority having jurisdiction.

## **21. CAMPFIRES**

- 21.1 No persons shall cause or permit smoke from a campfire except in accordance with the following conditions:
  - (a) only permitted burning materials, including seasoned untreated lumber, must be used in campfires and firewood must be dry and seasoned;
  - (b) campfires must be continuously controlled and supervised by a competent person equipped with extinguishing equipment and material;
  - (c) campfires must be maintained so as not to cause a nuisance;
  - (d) campfires are subject to fire restrictions contained in this Law and are subject to cancellation at any time by any authority having jurisdiction.

## **22. WOOD BURNING APPLIANCES**

- 22.1 Only permitted wood burning appliance fuels must be used in a wood burning appliance or fireplace.
- 22.2 No registered holder of a parcel of land shall cause or permit smoke from burning of prohibited burning materials, except seasoned untreated lumber, in a wood burning appliance or fireplace.
- 22.3 No person shall install a wood burning appliance that does not comply with either the Canadian emission standards or the US emission standards established by the Canadian Standards Association and the United States Environmental Protection Agency, respectively, as outlined in the *Solid Fuel Burning Domestic Appliance Regulation* enacted pursuant to the provincial *Waste Management Act* as amended from time to time.
- 22.4 Council is hereby authorized to establish a removal program for uncertified wood burning appliances that may incorporate incentives for energy conservation and air quality improvement including, but not limited to, household insulation, insulating products, uncertified wood stove replacement and substitution of heating methods and devices including certified wood stoves.

## **23. SMOKE ALARMS**

- 23.1 In addition to the requirements of the *BC Building Code* and the *BC Fire Code*:
  - (a) the registered holder of every building must ensure that one or more smoke alarms are installed and maintained in every dwelling unit or suite and, except for institutional occupancies required to have a fire alarm system, in each sleeping room not within a dwelling unit;

- (b) the registered holder must ensure that smoke alarms required to be installed by paragraph (a) are tested according to the manufacturer's specifications to ensure that they are functioning correctly, and are repaired immediately if not functioning;
- (c) smoke alarms required by this Law must conform to *CAN/ULC-S531, Standard for Smoke Alarms* and must be installed and maintained in conformance with *CAN/ULC Standard for the Installation of Smoke Alarms*; and
- (d) smoke alarms required for motels, hotels, boarding houses, rooming houses and dormitories must be installed in accordance with the *BC Building Code*.

## PART VI: FIRE HYDRANTS

### 24. FIRE HYDRANTS

24.1 In addition to the requirements of the *BC Fire Code*:

- (a) a person must not make any attachment or connection to any hydrant or standpipe except as authorized by the Fire Chief or pursuant to the *WFN Waterworks Law*;
- (b) all private hydrants must conform to the requirements for hydrants as specified under the *WFN Subdivision, Development and Servicing Law*;
- (c) the registered holder of a parcel of land on which a hydrant is installed must maintain a clear and unobstructed area having a radius of two metres around each hydrant or standpipe;
- (d) each hydrant must be in clear view of the adjacent access roadway or its location must be made clearly obvious by other means; and
- (e) the color of a hydrant must be as specified by the Fire Chief in accordance with the *N.F.P.A. Standards* that reference hydrant colors.

## PART VII: GENERAL PROVISIONS

### 25. COST RECOVERY

25.1 In addition to any other remedy or offence imposed by this Law, a person who starts a fire without a valid permit pursuant to Part IV of this Law will be responsible for the costs of providing additional personnel and equipment that the Fire Chief may deem necessary to extinguish the fire or to suppress any escape or threatened escape of the fire.

**26. FEES AND FORMS**

- 26.1 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.

**27. NOTICES & CHARGES AGAINST REGISTERED HOLDERS**

- 27.1 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.

**28. OFFENCES**

- 28.1 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.
- 28.2 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.
- 28.3 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.
- 28.4 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.

**29. IMMUNITY**

- 29.1 No action for damages lies or may be instituted against present or past Council; WFN Law Enforcement Officer, Fire Chief, Officer or fire fighter, 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.
- 29.2 Section 29.1 does not provide a defence if:

(a) Council, WFN Law Enforcement Officer, Fire Chief, Officer or fire fighter, or 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.

29.3 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.

29.4 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.

29.5 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.

### **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 will 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 will 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. They do not form part of this Law and will 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 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.

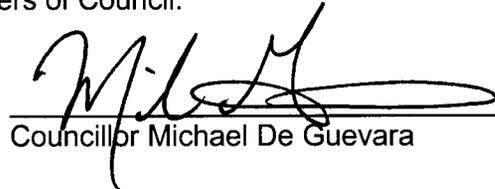
**31. REPEAL**

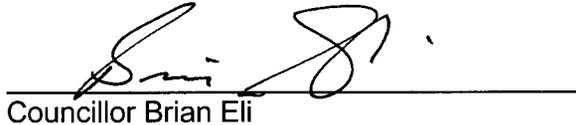
31.1 Fire Protection Bylaw, 2000-01 and Open Burning Bylaw 1995-04 are hereby repealed.

BE IT KNOWN that this Law entitled, "WFN Fire Protection Law No. 2005-11" is hereby read for the first, second, and third and final time and is hereby enacted as Law No. 2005-11 by 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.