

WESTBANK FIRST NATION
BUSINESS LICENCE LAW NO. 2005-17

WHEREAS Council of Westbank First Nation deems it advisable and in the best interests of Westbank First Nation to make a law to regulate the licensing of businesses, callings, trades and occupations;

NOW THEREFORE Council of Westbank First Nation repeals Bylaw Nos. 1980-02, 1980-04 and 1996-08 and enacts the following law:

PART I - INTERPRETATION

1. TITLE

1.1 This Law may be cited as the "*WFN Business Licence Law No. 2005-17*".

2. DEFINITIONS

2.1 This Law is divided into three parts dealing with the following subjects:

Part I Interpretation;
Part II General Requirements;
Part III General Provisions.

2.2 In this Law unless the context otherwise requires:

"applicant" means any person who makes application for any licence under the provisions of this Law;

"application" means an application for business licence in the form established by Council and when duly signed by the Business Licence Officer will be the authority for the issuance of a business licence;

"business" means carrying on a commercial or industrial undertaking of any kind or nature or the providing of professional, personal, contractual, or other services within Westbank Lands for the purpose of gain or profit;

"business licence" or "licence" means the actual licence in the form established by Council and when duly signed by the Business Licence Officer will state that the holder is licensed to carry on the business stipulated in such licence in a lawful manner for the period specified in the license at the place stated in the license;

"Business Licence Officer" means the person appointed by Council, from time to time, to administer the issuance of business licences;

"carrying on a business" includes, without restricting the generality of the term, any person who advertises himself by newsprint publicity or otherwise as open for business of any kind, or who deals in, or buys, rents, sells, barter, or displays, or offers by advertisement or otherwise to buy, sell, barter, rent or display any commodity or other things of any kind, either on behalf of himself or others, or who advertises or indicates by any means that he is open to render or offer to render professional, personal,

contractual or other services to any other person for the purpose of gain or profit, and all such persons will be deemed to be carrying on, engaged in or practising within Westbank Lands his respective profession, business, trade, occupation, employment, calling or purpose;

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

“Director of Operations” means the person appointed by Council pursuant to the *Westbank First Nation Constitution*;

“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;

“floor area” means that area within a building that is used for display purposes, or to service customers and will include storage areas, but will not include those areas used exclusively for the purpose or use of the employees or participants of the business;

“ground area” means that area outside a building that is used for display purposes or to service customers and will include storage areas, but will not include those areas set aside exclusively for the purpose of the employees or participants of the business;

“Health Officer” means a medical health officer, or equivalent, of the authority having jurisdiction for Westbank Lands;

“non-resident business” means a business, other than a resident business, carried on within Westbank Lands, or with respect to which any work or service is performed within Westbank Lands;

“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;

“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;

“persons engaged in the business” will mean and include the owner or proprietor, assistants and employees, including part-time and casual employees of the business;

“premises” includes store, office, warehouse, factory building, enclosure, yard or other place occupied or capable of being occupied by any person for the purpose of any business, trade or occupation and will also mean any area situated within any of the foregoing where more than one separate and/or distinct class or classification of business is carried on;

“resident business” means a business carried on in or from premises within Westbank Lands;

“Westbank” or **“WFN”** means the Westbank First Nation as defined in the *Westbank First Nation Constitution*;

“Westbank Lands” means:

- (a) the following Westbank Indian Reserves:
 - (i) Mission Creek Indian Reserve No. 8
 - (ii) Tsinstikeptum Indian Reserve No. 9
 - (iii) Tsinstikeptum Indian Reserve No. 10
 - (iv) Medicine Hill Indian Reserve No. 11
 - (v) Medicine Creek Indian Reserve No. 12; and
- (b) lands set apart by Her Majesty the Queen in right of Canada in the future as lands reserved for the use and benefit of Westbank, within the meaning of subsection 91(24) of the *Constitution Act, 1867*;

“WFN Cashier” means the person or persons appointed by the Director of Operations, from time to time, and includes any delegate.

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

- 2.3 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*.
- 2.4 Metric units are used for all measurements in this Law.

PART II - GENERAL REQUIREMENTS

3. LICENCE REQUIRED

- 3.1 Council must establish a schedule of trades, businesses, callings, professions, occupations, employments and undertakings, which schedule must be further organized into categories and classifications pursuant to this Law. A copy of the current schedule must be available for viewing free of charge at the administrative offices of Westbank and available for distribution at a nominal charge.
- 3.2 Every person using, following, practising, carrying on, maintaining, owning or exercising within Westbank Lands, any trade, business, calling, profession, occupation, employment, undertaking or thing classified or purpose enumerated, described, named or set forth in the Business Licence schedule, must apply for, obtain and hold a licence.
- 3.3 A licence will be paid for in advance in the established amount.

- 3.4 Where a business is carried on, in or from, more than one premises within Westbank Lands, the business being carried on, from or in each premises is deemed to be a separate business.
- 3.5 Notwithstanding section 3.3, payment of a licence fee is waived where a business includes an activity carried on:
- (a) by Westbank, its departments or WFN-owned corporations, or
 - (b) for not-for-profit purposes.
- 3.6 Council must establish a schedule of fees payable pursuant to this Law, in respect of issuing of licences. A copy of the current schedule of fees must be available for viewing free of charge at the administrative offices of Westbank and available for distribution at a nominal charge.

4. ISSUING OF LICENCES

- 4.1 The Business Licence Officer is authorized to grant, issue or transfer licences as provided in this Law.
- 4.2 Before any licence is issued, the applicant must ensure that the premises for which the licence is sought will not violate the provisions of any Westbank Law.
- 4.3 Before any licence is issued by the Business Licence Officer, the premises for which the licence is sought must be approved by all authorities having jurisdiction over the business or the premises from which the business will be carried on. Letters of approval or certificates for approval, as required, must be submitted to the Business Licence Officer upon request.
- 4.4 Before any licence is issued to a person to carry on a business that is classified therein as requiring insurance coverage, such proof of insurance coverage must be submitted to the Business Licence Officer two weeks prior to the requirements of such business licence. The manner of proof must be in a form acceptable to the Business Licence Officer.
- 4.5 Every licence granted pursuant to this Law must state that the holder is licenced to carry on the business stipulated therein in a lawful manner for the period specified.
- 4.6 All business licences issued with respect to a business must designate the premises in respect of which the licence is issued, and must authorize the person granted the Licence to carry on the business only from the premises so designated.
- 4.7 Except as provided in section 10,2, every licence will be considered to be a personal licence to the licensee therein named and cannot be transferred, given, lent or sold to any other person.
- 4.8 The Business Licence Officer is authorized to classify each application for a business licence according to the established categories. The applicant may appeal such classification.

- 4.9 An applicant may appeal the decision of the Business Licence Officer to refuse to grant a licence.

5. APPLICATION FOR LICENCE

- 5.1 Every person applying for an initial licence for a business must complete the form of application, established by Council, from time to time.
- 5.2 Every application for an initial licence, or a transfer of a licence, must be signed by the owner or operator of a business or the owner or operator's duly authorized agent in writing, provided that in the case of partnerships or multiple owners any one of such partners or owners may apply and such partner or owner will be deemed to be duly authorized by all the remaining partners or owners.
- 5.3 The application form must be delivered to the Business Licence Officer and must be accompanied by the established non-refundable licence fee according to the classification of such business as approved by the Business Licence Officer and any supporting inspection certificates, approvals and confirmations required under this Law.

6. DECLARATIONS

- 6.1 Any person making an application for a licence, under the provisions of this Law, must at the time of making such application, give true and correct details for such business that the licence is being applied for, on the forms supplied by the Business Licence Officer.
- 6.2 A person must not make a false declaration or conceal material facts, which under the provisions of this Law should be disclosed.

7. LICENCES TO BE DISPLAYED

- 7.1 Every person granted a business licence under this Law must cause that licence to be displayed in a conspicuous place on the premises or on the article or on the vehicle or at the location in respect of which the licence was issued.
- 7.2 Every person licenced to do business within Westbank Lands must, where operating a commercial vehicle in connection with the business, have displayed and on both sides of the vehicle the name and address of the licensee or alternatively the trade name and telephone number of the owner of the vehicle.

8. CHANGES AFFECTING LICENCE

- 8.1 Every person granted a business licence under this Law must notify the Business Licence Officer in writing of:
- (a) any change in the mailing and/or business address; provided that if it is intended for a relocation of the business, a business licence application form must be completed and submitted for approval prior to such relocation;
 - (b) any change in the classification of the business;

- (c) any change in the number of vehicles used in the business;
- (d) any change in the premises in which the business is being carried on.

8.2 Every person granted a business licence under this Law, where the licence fee is based on floor area, ground area, number of persons engaged in the business, number of machines, number of rental units, must notify the Business Licence Officer of any change in the floor area, ground area, number of persons engaged in the business, number of machines, number of rental units, prior to any change.

8.3 Where changes are made under sections 8.1 and 8.2 then the powers, conditions, requirements and procedures, relating to the granting or refusal of licences and appeals thereon, will apply to all such changes.

9. RENEWAL OF LICENCE

9.1 Each person holding a licence and wishing to continue operation of their business must renew their licence prior to the beginning of each licensing period.

9.2 Failure to renew an existing licence prior to the beginning of the subsequent licensing period, may result in the levying of a late renewal fee in an amount determined by the Business Licence Officer, which amount will not exceed 25% of the actual licence fee.

9.3 Every person granted a business licence must notify the Business Licence Officer in writing forthwith when the licence is no longer required.

10. TRANSFER OF LICENCE

10.1 Any person desiring to remove a business from the location of which the business licence was issued to different premises within Westbank Lands must first make application the same as required to obtain an initial licence under this Law and the powers, conditions, and requirements relating to the granting or refusal of licences and appeals therein, will apply. No fee will be charged for this transfer of licence.

10.2 Any person who purchases the interest of any person licenced pursuant to this Law must first, before carrying on or continuing such business, make application for a new licence in accordance with section 5.3. The fee payable for such new licence may be pro-rated as provided under section 13.2. In the case of a Limited or Incorporated company where the business is to be continued under the same name or trade style, a new licence is not required but a signed licence application must be completed prior to continuance of the business.

11. PERIOD OF LICENCE

11.1 Except as hereinafter provided, licences are issued for a twelve month period to commence on the first day of January and to terminate on the thirty first day of December in each and every year. Licence fees paid pursuant to this Law are not refundable.

- 11.2 The period for a licence in respect of a theatre, including a drive-in theatre, amusement hall, concert hall, music hall, rink, amusement park or other place of amusement, entertainment or exhibition will be for the period requested and will be submitted in writing with the application.
- 11.3 The period for a licence with respect to a circus, horse show, dog or pony show, exhibition or other itinerant show or entertainment, when held elsewhere than in a licenced theatre or other licenced place will be one day.
- 11.4 The period for a licence in respect of horse racing will be one day.

12. SUSPENSION AND REVOKING OF LICENCE

Suspension of Business Licence

- 12.1 The Business Licence Officer may suspend any licence for any period determined to be necessary if the holder of the licence:
- (a) is convicted of an offence indictable in Canada in respect of the business for which the holder is licenced or with respect to the premises named in the holder's licence;
 - (b) is convicted of an offence under any First Nation law; or statute of the Province of British Columbia in respect of the business for which the holder is licenced or with respect to the premises named in the holder's licence;
 - (c) has in the opinion of the Business Licence Officer been guilty of such gross misconduct in respect of the business or in respect to the premises named in the holder's licence as to warrant the suspension of the holder's licence;
 - (d) has ceased to meet the lawful requirement to carry on the business for which the holder is licenced, or with respect to the premises named on the holder's licence;
 - (e) had, in the opinion of the Business Licence Officer, conducted their business in a manner, or performed a service in a manner, or sold, or distributed anything that may be harmful or dangerous to the health or safety of a person actually or apparently under the age of sixteen (16) years;
 - (f) has refused to provide persons entitled to receive, with an exemption for the payment of GST or PST, as the case may be, in accordance with the respective federal and provincial legislation creating such exemptions.
- 12.2 The suspension of a licence by the Business Licence Officer must be made in writing, signed by the Business Licence Officer and served on the person holding such licence or delivered by registered mail to the address stated on the licensee's application or renewal form. A notice of suspension may be posted by the Business Licence Officer upon the premises for which the licence was issued and this notice must not be removed until the licence is reinstated or the suspended licensee ceases to occupy the premises, or a new business other than the one carried on by the former licensee is started on the premises.

Observation of Suspension

- 12.3 No person will carry on a business for which a licence is required by this Law during the period of suspension of such licence.

Revocation

- 12.4 The Business Licence Officer may revoke a licence for reasonable cause, after giving notice to the licensee in writing and giving the licensee an opportunity to be heard.
- 12.5 The notice and opportunity to be heard referred to in section 13.4 is not required in respect of a licensee who, by reasonable efforts, cannot be found.
- 12.6 A notice of revocation may be posted by the Business Licence Officer upon the premises for which the licence was issued and such notice must not be removed until the former licensee ceases to occupy the premises, or a new business other than the one carried on by the former licensee is started on the premises.

Appeals

- 12.7 A decision of the Business Licence Officer, subject to section 12.8, may be appealed to the Director of Operations.
- 12.8 An appeal against a decision of the Business Licence Officer may be submitted to the Director of Operations by an applicant who:
- (a) has applied under the provisions of this Law for a business licence which has not been granted;
 - (b) has had their licence suspended; or
 - (c) wishes to appeal the classification of their business as given by the Business Licence Officer.
- 12.9 The appellant must file with the Director of Operations a statement in writing in such detail as will enable the Director of Operations to properly consider the appeal, setting out in a concise manner, the grounds upon which the appeal is made and any new information.
- 12.10 The Director of Operations may either concur with, reverse or modify the decision of the Business Licence Officer and must render his decision within ten (10) days of receipt of the written appeal.
- 12.11 If the appellant or the Business Licence Officer is dissatisfied with the decision of the Director of Operations, either may appeal further to Council whose decision will be final and not subject to further appeal.
- 12.12 An appeal to Council must be in writing and Council must consider the appeal at a regular Council meeting within a reasonable time after the receipt of the further written

appeal. The appellant and Business Licence Officer have the right to be heard when the appeal is being considered by Council. Council may confirm or set aside the decision of the Director of Operations.

13. PAYMENT OF FEES

- 13.1 Every person required to be licenced under the provisions of this Law is required to pay for such licence in advance of the due date shown on the licence and all licence renewal fees are due and payable on the first day of January in any year.
- 13.2 The applicable licence fees may be reduced pro-rata in respect of any person who becomes liable to be licenced after the commencement of the licence period on a half-yearly basis provided, however, that these provisions will only apply to the first licence issued to any specific business.

14. DUTIES OF WFN LAW ENFORCEMENT OFFICER

- 14.1 The duty of each of the WFN Law Enforcement Officer and the Business Licence Officer, is to carry out and enforce the provisions of this Law.
- 14.2 The WFN Law Enforcement Officer is authorized to enter, at all reasonable times, upon any parcel of land or premises within Westbank Lands that is subject to any of the terms and conditions of this Law, in order to ascertain whether the provisions of this Law are being complied with.
- 14.3 Subject to section 14.2, every registered holder of any parcel of land must give to the WFN Law Enforcement Officer such access at any reasonable hour to such parcel and every part thereof and such information with respect thereto as may be reasonably required to enforce this Law.

15. DIRECT SELLING

- 15.1 A person must not sell or offer for sale any book, magazine or other periodicals, other than a newspaper, on any street or sidewalk within Westbank Lands. This restriction does not apply to the operator of any newsstand, for which a licence has been issued.
- 15.2 A person must not canvass or solicit business on any street or sidewalk within Westbank Lands from cards or samples, or in any other manner whatsoever for the sale of goods, wares or merchandise or any article or thing for future delivery.

16. SOLICITING FOR CHARITY

- 16.1 No person will carry on any soliciting for charity when such person is to receive either directly or indirectly any compensation or reward without first obtaining a licence for that purpose.
- 16.2 Before any licence to solicit for charity is issued by the Business Licence Officer, an applicant must file with the Business Licence Officer each specific purpose for which soliciting is to be made; a statement setting out the name and address of the applicant and the names and addresses of all other persons who may be engaged in such

soliciting; the name and address and description of any organization on whose behalf, and the class of person for whose benefit such service is to be made, the total amount intended or expected to be raised; the method or scheme to be employed in such soliciting; the estimated total amount to be expended or received as compensation or reward; the proposed use of the funds; and the method of distribution thereof; the specific times when such soliciting will be carried on, all of which will be verified by affidavit of the person or chief officer of the organization on whose behalf or for whose benefit solicitation is to be done. Official of such organization to accompany and be filed with such sworn statement.

- 16.3 No person will carry on any soliciting for charity within Westbank Lands unless such person has first obtained permission from the Business Licence Officer.
- 16.4 The provisions of section 17.3 will not apply to solicitations made by Church organizations, religious denominations or other bonafide societies where such solicitations are made solely and exclusively to the members of such organizations, denominations or societies.

17. SOLICITING –GENERAL

- 17.1 The soliciting of sales of any article, commodity or thing, or soliciting of any service or contract service, or the soliciting of any agreement or promise that will lead to any service or contract to service, or the sale of any article, commodity or things, requires a business licence be issued under the provisions of this Law.
- 17.2 Every licence to solicit will be a personal licence to the applicant and is not transferable.
- 17.3 No person may apply for a licence to solicit on behalf of any other person.
- 17.4 Soliciting within Westbank Lands between the hours of 9:00 p.m. and 9:00 a.m. is not permitted, except by special permission of the Business Licence Officer.
- 17.5 No person will sell any goods whatsoever from out of any vehicle or conveyance on any street or road within Westbank Lands provided that this will not apply to vendors of frozen confections. Such selling may only be undertaken from private property and with the approval and knowledge of the registered holder. This approval in no way releases such person from other requirements of this Law.

18. BUILDING CONTRACTORS

- 18.1 Every person licenced as a building contractor or general contractor must, on the request of the Business Licence Officer, provide the Business Licence Officer with the list of all subtrades engaged on each specific job, on a form established by the Business Licence Officer, from time to time.
- 18.2 Where any subtrade work requiring mandatory Trade Qualification Certificates is to be undertaken by the General Building Contractor or Residential Building Contractor or one of their employees, Trade Qualification Certificates must be produced prior to the issuing of a licence.

18.3 Trade Qualification Certificates are required as follows:

- (a) plumbing, steam fitting, pipe fitting and sprinkler fitting;
- (b) roofing, damp and waterproofing;
- (c) refrigeration; and
- (d) sheet metal.

19. CARNIVALS - INSURANCE AND INSPECTIONS REQUIRED

19.1 Any person seeking a licence to hold a carnival or circus must obtain public liability insurance in the minimum amount of \$2,000,000 for personal injury, death and property damage. The insurance must contain a clause excluding Westbank from liability in the event of injury or damage being done to any person or property as a result of any activity or street parade of the carnival or circus. Proof of such insurance must be submitted to the satisfaction of the Business Licence Officer prior to the granting of the licence.

19.2 An inspection certificate from an accredited safety engineer must be submitted to the Business Licence Officer before a licence will be granted. The inspection certificate must state in precise terms that all machines, rides or equipment used by the public conform to acceptable standards and such certificates must be submitted every seven days during the term of licence or as directed by the Business Licence Officer.

19.3 A minimum cash bond in the amount \$1,000.00 must be deposited with the WFN Cashier and such bond or part thereof will be forfeited to Westbank to pay for any damages or the cost of any clean-up required during or after the term of the licence. Such bond or part thereof will be returned to the licensee upon determination by the Business Licence Officer that all conditions regarding damages and clean-up are satisfactory.

20. DANCE HALLS AND CABARETS

20.1 The Business Licence Officer and the WFN Law Enforcement Officer are required to inspect or supervise all dance halls or cabarets licenced or intended to be licenced under the provisions of this Law, and to ensure that such provisions are conducted properly and that all persons who are patrons, guests or customers of such dance hall or cabaret, or persons engaged in any dance or form of any entertainment therein conduct themselves in a proper and orderly manner. Any person refusing any such authorized person admittance or preventing such inspection, will be guilty of an offence and subject to the penalty provisions contained in this Law.

21. FRUIT AND VEGETABLE VENDORS

21.1 All vehicles and produce must be inspected by the Medical Health Officer at Health Canada, Central Interior District. All applicants must receive certification from the Medical Health Officer prior to a business licence being issued. All sites for these sales are to conform to the provisions of any valid and subsisting Westbank Laws.

22. VENDING MACHINES

- 22.1 Every person owning, keeping or maintaining any vending machine must, when applying for a licence under this Law, notify the Business Licence Officer in writing of the number of vending machines owned, kept or maintained by him. In the event of any such person increasing the number of vending machines owned, kept or maintained by him during the current period of the licence, such person must forthwith notify the Business Licence Officer in writing of such increase in number.
- 22.2 No person will own, keep or maintain any vending machine unless there be affixed or attached in some conspicuous place thereon a certificate or plate supplied by the Business Licence Officer indicating that the owner or operator thereof has procured a licence under this Law for the current licence period.
- 22.3 No person other than the WFN Law Enforcement Officer can alter, remove, damage, deface or destroy any such certificate or plate so affixed or attached to any vending machine.

PART III - GENERAL PROVISIONS

23. FEES AND FORMS

- 23.1 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.
- 23.2 Notwithstanding the provisions of section 23.1, any change made to any fees or charges payable under this Law will come into effect on the date which is six months after the date of the Council resolution approving such amendment.

24. OFFENCES

- 24.1 No person shall obstruct, interfere with or hinder Council, the Business Licence Officer, WFN Law Enforcement Officer or any authorized employee, officer or agent in the carrying out of their duties and responsibilities under this Law.
- 24.2 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.
- 24.3 Any person who is guilty of an offence under this Law is liable, on summary conviction to a fine of not more than Two Hundred Dollars (\$200.00).

25. IMMUNITY

- 25.1 No action for damages lies or may be instituted against present or past Council, Business Licence Officer, WFN Law Enforcement Officer, or members, employees, servants or agents of either Westbank or Council:
- (a) for anything said or done or omitted to be said or done by that person in the 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.
- 25.2 Section 25.1 does not provide a defence if:
- (a) Council, Business Licence Officer, WFN Law Enforcement Officer, members, employees, servants or agents have, in relation to the conduct that is the subject matter of the action, been guilty of dishonesty, gross negligence or malicious or wilful misconduct; or
 - (b) the cause of action is libel or slander.
- 25.3 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.
- 25.4 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.
- 25.5 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.

26. APPLICATION OF LAW

- 26.1 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.
- 26.2 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.
- 26.3 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.
- 26.4 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.

27. REPEAL

- 27.1 Business Licence Bylaw Nos. 1980-02, 1980-04 and 1996-08 are hereby repealed.

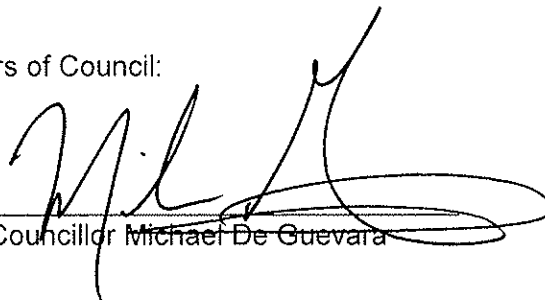
28. EFFECTIVE DATE

- 28.1 This Law will come into full force and effect on March 31, 2005.

BE IT KNOWN that this Law entitled, "WFN Business Licence Law No. 2005-17" is hereby read for the first, second, and third and final time and is hereby enacted as Law No. 2005-17 by Council of Westbank First Nation at a duly convened meeting of Council held on the 14th day of February, 2005.

Voting in favour of the Law are the following members of Council:


Chief Robert Louie


Councillor Michael De Guevara


Councillor Brian Eli


Councillor Loretta Swite


Councillor Michael Werstuik

being a majority of those members of Council of Westbank First Nation present at the aforesaid meeting of Council.

The Quorum of Council is three (3) members.

Number of members of Council present at the meeting: 5.

