

WESTBANK FIRST NATION
TRAFFIC AND PARKING CONTROL LAW NO. 2005-13

WHEREAS Council of Westbank First Nation deems it advisable and in the best interests of Westbank First Nation to enact a Law to regulate traffic and the use of highways within Westbank Lands;

NOW THEREFORE Council of Westbank First Nation repeals Bylaw No. 1979-16 and enacts the following law:

1. TITLE

- 1.1 This Law may be cited for all purposes as "*WFN Traffic and Parking Control Law No. 2005-13*".

PART 1 - INTERPRETATION

2. DIVISION OF PARTS

- 2.1 This Law is divided into six parts dealing with the following subjects:
- (a) Part I - Interpretation
 - (b) Part II - Traffic Control Devices
 - (c) Part III - Parking Requirements
 - (d) Part IV - Highway Use
 - (e) Part V - Vehicle Requirements
 - (f) Part VI - Permits
 - (g) Part VII - General Provisions

PART 1 - INTERPRETATION

3. DEFINITIONS

- 3.1 In this Law, unless the context otherwise requires

"angle parking" means the parking of a vehicle other than parallel to a curb or lateral lines of the roadway;

"boulevard" on a highway with curbs means that portion of the highway lying between a curb and the adjacent property line exclusive of the sidewalk or a sidewalk crossing; and on a highway without curbs, means that portion of the highway lying between the ditch and the adjoining property line or if there is no ditch, then between the shoulder and the adjoining property line; exclusive of the sidewalk or a sidewalk crossing; and on a highway designed for the segregation of traffic traveling in opposite directions by leaving a central portion thereof in an undeveloped state or improved by the planting of grass or shrubs or separated from the roadways by curbs, then that portion of the street so left will be included in the term "boulevard";

"boulevard crossing" means any pipe, bridge or other structure which is installed in or over a ditch on any street to provide passage for vehicles or pedestrians from the street to private property;

“combination of vehicles” means a combination of motor-vehicle and trailer, motor-vehicle and semi-trailer, or motor-vehicle, semi-trailer and trailer;

“commercial vehicle” means a vehicle engaged in carrying or which is designed to carry goods, wares or merchandise and which is licensed as a commercial vehicle under the appropriate municipal or provincial laws or regulations, but does not include an emergency vehicle, a WFN vehicle or a public passenger vehicle;

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

“cycle” means a device having a number of wheels that is propelled by human power and on which a person may ride;

“emergency vehicle” means an emergency vehicle as defined in the *Motor Vehicle Act* and includes a WFN vehicle and a public utility service vehicle, when such vehicle is proceeding to or from emergency work within Westbank Lands;

“Engineer” means the person appointed by resolution of Council to perform the duties prescribed within this Law and any delegate;

“extraordinary traffic” includes any carriage of goods or persons over a highway, at either one or more times, and whether in vehicles drawn by animal power or propelled by some other means, which taken in conjunction with the nature of existing condition of the highway is so extraordinary or improper in the quality or quantity of the goods or the number of persons carried, or in the mode or time of use of the highway, or in the speed at which the vehicles are driven or operated, or in the volume of traffic utilizing the highway, as, in the opinion of Council, substantially to alter or increase the burden imposed on the highway through its proper use by ordinary traffic, and to cause damage and expense in respect of the highway beyond what is reasonable or ordinary;

“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 zone” means that portion of a highway which is contained within the projected extension of the lateral boundaries of every parcel of land upon which any fire hall or fire station is constructed and in which any equipment for use in fighting fire and/or other emergency uses is held, stored or maintained;

“heavy truck” means a commercial vehicle having a gross vehicle weight in excess of 10,000 kg (22,046 lbs.);

“highway” includes all public streets, roads, lanes, ways, trails, bridges, viaducts, trestles, ferry landings and approaches and any other public way designated or intended for use by the general public for the passage of vehicles, and every private place or passageway to which the public, for the purpose of the parking or servicing of vehicles, has access or is invited and includes the roadway, shoulder, boulevard, ditch and

sidewalk area and whatever lands lie between the property lines of the highway, but does not include a private right of way on private property;

“lane” means a road having a right of way not exceeding 6.1 m (20 ft.) and not being named or numbered as a street or avenue;

“No Heavy Truck Route” means a portion of a highway, a highway, or a series of connected highways, designated by resolution of Council as a “No Heavy Truck Route” and on which a heavy truck is prohibited from use or presence thereon, and on which no person shall drive or operate a heavy truck at any time;

“overload” means the number of pounds derived by subtracting from the gross vehicle weight of a commercial vehicle the licensed gross vehicle weight; or the number of pounds derived by subtracting from the weight on any one axle or combination of axles of a commercial vehicle, the weight authorized by this Law to be carried on the axle or combination of axles, whichever is the greater;

“oversize” means the amount derived by subtracting from the outside width, height, or overall length of a commercial vehicle with its load (if any), the permissible outside width, height, or overall length prescribed under this Law;

“parade” means any procession of more than thirty (30) pedestrians or of more than ten (10) vehicles upon any street;

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

“pedestrian corridor” means a section of highway containing one or more crosswalks the boundaries of which are designated by signs and flashing amber lights, and within which the speed limit is reduced to 30 km/h (18.64 m.p.h.) during the time the lights are flashing;

“Permit” means a document in writing issued pursuant to this Law;

“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;

“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;

“roadway” means the portion of the highway that is improved, designed, or ordinarily used for the movement of vehicular traffic, but does not include the shoulder; and where a highway includes two or more separate roadways, the term “roadway” refers to any one roadway separately and not to all of the roadways, collectively;

“shoulder” means the portion of the highway usable by vehicles for the purpose of stopping off the roadway which lies between the lateral lines of the uncurbed roadway

and the ditch; or if there is no ditch, then between the lateral line of the roadway and the adjacent area improved by the planting of grass or shrubs provided that if such landscaped area extends closer to the edge of the roadway than 2 m (6.56 feet) the shoulder should be considered to be 2 m (6.56 feet) in width; provided further that if a sidewalk intervenes between the roadway and any of the above limits, the shoulder ends at the near edge of the sidewalk;

“sidewalk” means that portion of a street between the curb lines or lateral lines of a highway, and the adjacent property lines, or any walkway, improved by the laying of concrete, gravel, planks or other material for the use of pedestrians;

“sidewalk crossing” means that portion of a sidewalk permanently improved or designed for the passage of vehicular traffic crossing between the roadway and private property;

“traffic control device” means a regulatory or warning sign, signal, line, meter, marking, space, barrier, or device, placed or erected by authority of Council or person duly authorized by Council to exercise such authority;

“trailer” means a vehicle that is capable of being drawn upon a highway by a motor vehicle and includes camper trailers, boat trailers, mobile homes and truck trailer units;

“truck route” means a portion of a highway, or a series of connected highways, designated by resolution of Council as a “truck route” on which a heavy truck may be present, use and travel on at any and at all times;

“walkway” means a path, whether fenced or not, designed for the use of pedestrians and constructed on its own right of way distinctly separate from a highway right of way;

“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 Westbank Laws enacted by Council, and includes any delegate or any peace officer;

“WFN vehicle” means any vehicle owned or leased by Westbank.

- 3.2 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*.
- 3.3 Unless otherwise provided in this Law or unless the context otherwise requires, words or expressions defined in the provincial *Motor Vehicle Act*, and regulations made pursuant thereto, shall have the same meaning when used in this Law.
- 3.4 Unless otherwise provided in this Law, standards, protocols and procedures contained in the provincial *Motor Vehicle Act*, and regulations made pursuant thereto, are hereby adopted and made part of this Law as the standards, protocols and procedures applicable to the operation of motor vehicles on Westbank Lands.
- 3.5 Unless otherwise provided in this Law, standards, protocols and procedures contained in the provincial *Highway Act*, and regulations made pursuant thereto, are hereby adopted and made part of this Law as the standards, protocols and procedures applicable to highway use within Westbank Lands.
- 3.6 Metric units are used for all measurements in this Law. The approximate equivalent of these units is currently used units of Canada measure (feet, etc.) are shown in brackets following each metric measurement and such bracketed figures are included for convenience only and do not form part of this Law.
- 3.7 Unless otherwise indicated, this Law does not apply to arterial highways classified as such by order of the Lieutenant Governor in Council pursuant to the *Highways Act*.

PART II - TRAFFIC CONTROL DEVICE

4. TRAFFIC REGULATIONS

- 4.1 Traffic control devices installed pursuant to this Law must conform to the same standards and have the same meaning as the corresponding device in the *Motor Vehicle Act*; and where such device is not included in the *Motor Vehicle Act* must conform to the same standards and have the same meaning ascribed to it in the *Manual of Uniform Traffic Control Devices for Canada*, as published by the Transportation Association of Canada, and as amended from time to time.

5. AUTHORITY OF ENGINEER

- 5.1 The Engineer is responsible for the authorization, erection and maintenance of traffic control devices to give effect to the provisions of this Law and the *Motor Vehicle Act* and for such purpose to make orders in respect of those matters in this Law and the *Motor Vehicle Act* contained, and to rescind, revoke, amend or vary any order made by him.
- 5.2 When any highway or any portion thereof, is unsafe or unsuitable for traffic, or it is necessary that traffic should be restricted thereon or diverted therefrom, due to work of construction, repair, or owing to damage by accident or storm or other emergency, the Engineer or the Fire Chief or any person duly authorized by anyone of them, may close such highway, or portion thereof, or restrict or divert the traffic thereon or therefrom, and

for that purpose may erect or place lamps, barriers, signboards, notices, or other warnings upon such highway, or portion thereof.

6. OBEDIENCE TO TRAFFIC CONTROLS

- 6.1 Where traffic control devices as authorized by section 5 of this Law are erected or placed on any highway, no person shall park, drive or operate a vehicle in a manner different or at a greater rate of speed from that indicated by the traffic control device, except where directed to do so by a peace officer.
- 6.2 Every person must at all times comply with any lawful order, direction, signal or command made or given by a peace officer in the performance of his duty in directing or regulating traffic.
- 6.3 Except as authorized by the Fire Chief, no person shall stop, park or turn a vehicle within the boundaries of any fire zone, provided however, that the restriction will not apply to prohibit the turning movement of traffic while legally entering or leaving the fire hall or fire station or any parcel of land within the boundaries of such fire zone.

7. UNAUTHORIZED SIGNS

- 7.1 No person, other than the Engineer, shall place or maintain signs of any nature in any manner upon a highway or upon erected highway signs or upon any pole or structure on a highway.
- 7.2 Any sign erected in contravention of section 7(1) may be removed by the Engineer.
- 7.3 Any such sign so removed by the Engineer may be claimed at the Westbank administration office on payment of the appropriate fee. Westbank accepts no liability for any damage done to any such sign in any way. Signs not claimed within five (5) clear working days will be destroyed in a manner determined by the Engineer.

8. PEDESTRIAN RIGHTS AND DUTIES

- 8.1 Pedestrians will have the same rights and duties given under the *Motor Vehicle Act* and must also conform to the following regulations:
 - (a) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection, must give the right of way to all vehicles upon the roadway.
 - (b) Where a traffic control device such as a crosswalk or signal is provided across a roadway, no pedestrian shall cross the roadway at any place other than at that traffic control device within a distance of one block or 200 m (656.2 ft.) from that device, whichever is less.
 - (c) No person shall start to cross any street in front of a bus which has stopped to load or unload passengers unless such crossing is made in compliance with traffic-control signals, signs or markings, or the direction of a peace officer. This provision will not apply where such bus has stopped at its regular terminus.

- (d) Upon an emergency vehicle approaching a pedestrian on a roadway, the pedestrian must immediately get off and keep off the roadway until such vehicle has passed or stopped.
- (e) Where a marked crosswalk is controlled by signals or flashers operated by pushing a button, no pedestrian shall cross the roadway except after assuring that he has been given the right of way by the traffic control device.

9. SPLASHING OF PEDESTRIANS

- 9.1 When water, mud or slush is lying on any public highway, the driver of every motor vehicle thereon must so reduce the speed of his motor vehicle to avoid splashing any pedestrian.

PART III - PARKING REQUIREMENTS

10. PASSING AND PARKING AT SCHOOL ZONES AND CROSSWALKS

- 10.1 Where a portion of a highway is designated as a school or playground zone with the appropriate signs, as ascribed in the *Motor Vehicle Act*, no driver shall overtake or pass a vehicle going in the same direction within the zone marked by the school or playground signs, between the hours of 8:00 a.m. to 5:00 p.m. on days when school is normally in session.
- 10.2 No person shall park a vehicle on a highway within 15 m (49.21 ft.) of an unfenced portion of a school or playground or an opening in a fenced portion of a school or playground on the side adjacent to the school or playground; provided that where a specially constructed pick-up area is provided or where the width of the shoulder available for parking is more than 5 m (16.50 ft.), vehicles may pull as far off the roadway as possible and park parallel to the roadway, unless parking is restricted by signs.
- 10.3 No person shall stop, park or pass another vehicle on a highway within a zone commencing 15 m (49.21 ft.) from the approach side of a marked crosswalk and ending 6 m (19.69 ft.) from the far side of a marked crosswalk.

11. PARKING RESTRICTIONS FOR TRUCKS

- 11.1 No person shall stop, stand or park any vehicle, or combination parking of vehicles, having a total length exceeding 6 m (19.69 ft.):
 - (a) in any lane; or
 - (b) in any designated angle parking zone.
- 11.2 No person shall park any motor vehicle or any trailer having a gross vehicle weight exceeding 5,000 kg (11,023 lbs.) on any highway between the hours of 9:00 p.m. and 7:00 a.m. of the following day.

12. NO STOPPING IN BUS ZONES

- 12.1 No person shall stop or park a vehicle on any highway where buses stop for the purpose of allowing passengers to enter or alight therefrom:
- (a) within an area 2 m (65.62 ft.) on the near side to 10 m (32.81 ft.) on the far side of any sign indicating a bus stop, whether erected by Westbank; or
 - (b) within an area designated by signs as being a bus zone.

13. GENERAL PARKING RESTRICTIONS

- 13.1 No person shall park a vehicle:
- (a) on any boulevard;
 - (b) in an intersection;
 - (c) on a crosswalk;
 - (d) within 6 m (19.69 ft.) of the imaginary projection of the property line of any intersecting highway excepting lanes, unless otherwise directed by a traffic sign;
 - (e) within 2 m (6.56 ft.) of the imaginary projection of the property line of any intersecting lane;
 - (f) in front of, or within 2 m (6.56 ft.) of the approach or away side of a private road, driveway or sidewalk crossing;
 - (g) within 6 m (19.69 ft.) of the approach of a flashing beacon, stop sign or traffic control signal located at the side of a roadway;
 - (h) within 5 m (16.40 ft.) of a fire hydrant;
 - (i) at an angle to the edge of the roadway, except where authorized by an "angle parking" sign;
 - (j) in such a manner or under such conditions as to leave available less than 3 m (9.84 ft.) of the traveled portion of a roadway or lane or opposite to or in such close proximity to another vehicle already stopped on such roadway or lane as to obstruct or unduly restrict the free movement of vehicular traffic on such roadway or lane;
 - (k) on the highway side of vehicle stopped or parked at the edge or curb of a highway;
 - (l) on any highway for a consecutive period longer than 72 hours;

- (m) on a highway for the principal purpose of:
 - (i) advertising, painting, wrecking, storing or repairing a vehicle, except where repairs are necessitated by an emergency; or
 - (ii) selling flowers, fruit, vegetables or other commodities or articles;
- (n) in such a manner as to block the exit of a vehicle already parked;
- (o) on or adjacent to a median;
- (p) on a roadway other than on the right-hand side of the roadway and the vehicle facing in the direction of travel on that side of the road, except where authorized by a traffic sign;
- (q) in a disabled zone on a highway without displaying on the vehicle:
 - (i) a valid disabled person's parking permit issued pursuant to the *Motor Vehicle Act*; or
 - (ii) a permit of similar nature issued by another jurisdiction.

13.2 The provisions of the Law prohibiting stopping or parking will not apply to:

- (a) WFN vehicles, provincial or public utility service vehicles, or emergency vehicles; or
- (b) tow cars, while such vehicles are actually engaged in works of necessity requiring them to be stopped or parked in contravention of any of such provisions provided that this exemption will not relieve the drivers of such vehicles from taking due precautions to indicate the presence of such vehicles on the street while so parked or stopped; or
- (c) persons operating under the provisions of a "Road Obstruction Permit" issued by the Engineer pursuant to this Law.

PART IV - HIGHWAY USE

14. SPEED LIMIT IN LANES

14.1 No person shall drive or operate a vehicle upon any lane within Westbank Lands at a greater rate of speed than 25 km/h (15.53 m.p.h.).

15. CYCLE REQUIREMENTS

15.1 No person shall use in-line skates, roller skates, cycles, skateboards, sleighs, skates, skis or other similar means of conveyance on a highway or sidewalk except as otherwise permitted in this Law.

- 15.2 Subject to paragraph 15.3(a), where a walkway is more than 2 m (6.56 ft.) wide, its use by cycles is not prohibited, provided however, that pedestrians must have the right of way at all times.
- 15.3 A person operating a cycle:
- (a) must not ride on a sidewalk unless otherwise directed by a traffic control device, unless that person is under the age of 12 years and is operating a non-chain driven 3 or 4 wheeled cycle which is designed for recreational use;
 - (b) must not, for the purpose of crossing a highway, ride on a crosswalk unless otherwise directed by a traffic control device;
 - (c) must ride as near as practical to the right side of a highway, within a bicycle path if available;
 - (d) must not ride abreast of another person operating a cycle on the highway;
 - (e) must keep at least one hand on the handlebars;
 - (f) must not ride other than on or astride a regular seat of the cycle;
 - (g) must not use the cycle to carry more persons at one time than the number for which it is designed and equipped;
 - (h) must not ride on a highway recklessly or negligently or at a speed or in a manner dangerous to the rider or to the public or without having both wheels on the roadway at the same time;
 - (i) must not carry a load which:
 - (i) is of a greater weight than 25 kg (55.12 lbs.);
 - (ii) extends to a greater width than the handlebars of the cycle nor to such a height as to obstruct the clear vision in all directions of the rider when seated on the seat of the cycle;
 - (j) must not leave a cycle in a reclining position on a highway, sidewalk, or any public place where it may be a hazard to vehicles or pedestrians;
 - (k) where stands are provided for use by cycles, must not leave a cycle on any highway or public place except in an upright position in the bicycle stand.
- 15.4 No person shall operate a cycle on a highway between ½ hour after sunset and ½ hour before sunrise unless it has the following equipment:
- (a) a lighted lamp mounted on the front and under normal atmospheric conditions capable of displaying a white light visible at least 150 metres in the direction the cycle is pointed;

- (b) a red reflector of a make or design approved under the *Motor Vehicle Act*; and
 - (c) a lighted lamp, mounted and visible to the rear, displaying a red light.
- 15.5 Except as otherwise authorized by this Law, no person shall operate a cycle or ride as a passenger on a cycle on a highway unless that person is properly wearing a bicycle safety helmet that is designated as an approved bicycle safety helmet or meets the standards and specifications of an approved bicycle safety helmet pursuant to the *Motor Vehicle Act*.
- 15.6 No parent or guardian of a person under the age of 16 years shall authorize or knowingly permit the person to operate a cycle, or ride as a passenger on a cycle on a highway if that person is not properly wearing a bicycle safety helmet that is designated as an approved bicycle safety helmet or meets the standards and specifications of an approved bicycle safety helmet pursuant to the *Motor Vehicle Act*.
- 15.7 The following persons are exempt from the requirement under section 15.5 of this Law to wear a bicycle safety helmet:
- (a) a person for whom the wearing of a helmet would interfere with an essential religious practice;
 - (b) a person who has a head measurement that exceeds 64 centimeters in circumference;
 - (c) a person who is in possession of, and produces on request to a WFN Law Enforcement Officer, a valid and subsisting certificate issued by the Superintendent of Motor Vehicles certifying that the person is, for the period stated in the certificate, unable for medical reasons to wear a bicycle safety helmet;
 - (d) a person under the age of 12 years who operates a non-chain driven 3 or 4 wheeled cycle which is designed for recreational use by children.
- 15.8 A person using in-line skates or roller skates on a highway:
- (a) has the same rights and duties as the operator of a cycle;
 - (b) must be on a bicycle lane, if there is a bicycle lane adjacent to the roadway;
 - (c) must, subject to paragraph (b), be as near as practicable to the right side of the highway;
 - (d) must not be on a sidewalk unless directed by a traffic control device;
 - (e) must not be abreast of another person or cycle on a highway;
 - (f) must only cross a highway at an intersection using the pedestrian crosswalk and obeying pedestrian crossing signals where applicable;

- (g) must not be attached by the arm and hand of the operator or otherwise to a vehicle on a highway; and
- (h) must not be on a highway between ½ hour after sunset and ½ hour before sunrise unless equipped with lights and/or reflective clothing visible from the front and rear.

16. USE OF HIGHWAYS

- 16.1 No person shall place, throw, or cause to be deposited or to flow upon a highway or walkway any noxious, offensive or filthy water or substance, or any empty bottle, glass container or any other article, whether broken or intact, or any earth, refuse, debris, derelict motor vehicle, or any other thing.
- 16.2 No person shall construct or maintain a ditch, sewer or drain, the effluent from which causes damage, fouling, nuisance or injury to any portion of a highway or walkway.
- 16.3 In the event that any article, substance or materials, due to any cause whatsoever, becomes loose or detached, or blows, spills or falls from any vehicle on to any highway within Westbank Lands, then the driver of such vehicle will have a duty forthwith to take all necessary precautions to safeguard traffic and to remove such material from such highway.
- 16.4 It is the responsibility of the driver or operator of a commercial vehicle, removing from the highway any vehicle damaged in an accident or otherwise, to also remove dirt, broken glass, metal and debris deposited on the highway as a result of such occurrence.
- 16.5 No person shall cause the emission of any loud and unnecessary noise from a vehicle:
 - (a) by using or by means of the horn, engine, exhaust system, braking system, engine retarder, acceleration system, tires in contact with the highway;
 - (b) by the amplified sound of an alarm system, radio, television, player or other sound playback device or amplification equipment, or the sound of a musical instrument, that emanates from a vehicle and can easily be heard by someone outside the vehicle;
 - (c) or otherwise, from the vehicle, any part thereof, or any thing or substance that the vehicle or a part thereof comes into contact with.

17. WASHING ON HIGHWAY

- 17.1 No person shall stand or park any vehicle on any highway for the purpose of washing, greasing, or repairing such vehicle except repairs necessitated by an emergency.

18. REMOVAL OF SNOW FROM SIDEWALK

- 18.1 The registered holder of any parcel of land which is developed or used in whole or in part for commercial, industrial, or multi-family dwelling use other than a two-family

dwelling, must remove all snow and ice from any sidewalk adjacent to such parcel for a distance that coincides with the property line of his real property, not later than 10:00 in the morning of any day except Sunday.

- 18.2 No person shall place snow or ice from a parcel of land or a sidewalk or walkway on any traveled portion of any highway or sidewalk.

19. SLEDDING, SKIING ON HIGHWAY

- 19.1 No person shall coast or slide with sleds, skis, skates or other apparatus on any highway, lane or other public place; provided, however, that Council may declare any highway lane or other public place closed to all other traffic for the purpose of permitting coasting with sleds, skis, skates or other apparatus thereon; and the Engineer may make such provision for protecting such persons using such highways, lanes, or public places as aforesaid for the purpose of enabling such coasting and sledding to be carried on with safety.

20. MERCHANDISE ON A HIGHWAY

- 20.1 No person shall place or cause or suffer to be placed by a person in his employ or under his control, any merchandise, chattel, or wares of any nature on any highway or walkway for the purpose of sale or display, or for any other purpose whatsoever except in the actual course of receipt or delivery, or to use any portion of any highway or walkway for the purpose of selling any goods, wares, or merchandise of any nature or for measuring, packing or unpacking goods, wares or merchandise.

21. CONTROL OF ANIMALS

- 21.1 No person shall leave any horse or other animal within the highway without being tethered in such manner as to prevent such horse or other animal from running away or from moving onto the roadway in any way or from obstructing any portion of the roadway or sidewalk.
- 21.2 No person shall tie or fasten any horse or other animal to any traffic sign, parking meter, young tree, or any object which can be pushed or dragged on a highway.
- 21.3 Subject to the provisions of any related Westbank Law, no person shall ride, drive or lead a horse or other animal except household pets, such as dogs or cats, on any sidewalk or walkway within Westbank Lands.
- 21.4 No person shall ride or drive any animal through or along any highway, unless such animal is being ridden or led in such a manner that such animal is under the control of such person at all times, except with the written permission of the Engineer.

22. CAUSING DAMAGE

- 22.1 Except in the course of authorized construction or maintenance on a highway, whether by the Engineer or by a public utility company, no person shall:

- (a) cause damage to a boulevard or to any pole or structure erected or placed on a boulevard;
- (b) cause damage to any underground utility in a highway or public right of way;
- (c) cause damage to trees, shrubs, plants and hedges on or over a highway;
- (d) cause damage to a fence adjacent to any highway or walkway;
- (e) mark or imprint or deface in any manner whatsoever, a highway or sign or structure on a highway or walkway.

23. AWNINGS AND OVERHANGS

- 23.1 No person shall erect or maintain over any highway within Westbank Lands, any awning at a height less than 2.4 m (7.87 ft.) above the sidewalk at any point.
- 23.2 The owner of any sign, awning, canopy or any other structure or thing, any part of which overhangs a highway, must keep such sign, awning or canopy, or any other structure or thing, in a state of good repair, and if so ordered, must repair such sign, awning, canopy or any other structure or thing, in a manner, and to the extent, satisfactory to the Engineer, and further must not allow such sign, awning, canopy or any other structure or thing to become faded, dilapidated or unsightly.

24. DRIVING OVER CURB AND SIDEWALK

- 24.1 No person shall park, move, drive or propel any vehicle except light vehicles such as wheelchairs, carriages drawn by hand, upon or across any walkway, sidewalk, curb or boulevard except at:
 - (a) lane crossing or sidewalk crossings specially constructed for vehicular traffic;
 - (b) locations for which the Engineer has granted a permit.

25. WORK ON A HIGHWAY

- 25.1 Except as authorized by a permit issued by the Engineer pursuant to this Law, no person shall:
 - (a) build, construct, place or maintain, or cause to be built, constructed, placed or maintained in, upon, or over any highway or lane, any structure, sign, building, fence, or thing, other than a temporary hoarding during construction work on adjacent property, or plant any tree, shrub or plant other than grass upon any boulevard;
 - (b) break, tear up, remove, or otherwise interfere with any sidewalk, curb or surfacing of any highway or lane, or excavate any highway or lane, or under any highway or lane, or cut down or remove trees or timber growing on a highway;
 - (c) construct a boulevard crossing, including a curb, ditch or sidewalk crossing;

- (d) change the level of a highway whatsoever, or stop the flow of water through any drain, sewer or culvert on or through a highway;
- (e) open up, construct or develop any roadway or boulevard, or improve any roadway or do works of any kind on any highway or lane allowance dedicated or established by Council for public use by resolution or Law;
- (f) obstruct or interfere with the free flow of traffic or attempt to control or detour traffic on any highway or lane, whether by use of signs or flagmen or by barricades or other physical obstruction on the road, provided that this clause will not apply to:
 - (i) a WFN Law Enforcement Officer acting in the normal course of his duties;
 - (ii) a student or adult school patrol acting under the authority of the *School Act*, the Engineer or Westbank Law;
 - (iii) emergency vehicles or public utility or WFN crews while making emergency repairs within a highway or lane; or
 - (iv) vehicles while legally parked on a highway or lane or while obeying the instructions of a traffic control device or peace officer.

26. EXTRAORDINARY TRAFFIC

- 26.1 Where, in the opinion of Council, any highway is liable to damage through extraordinary traffic thereon, Council may regulate, limit or prohibit the use of the highway by any person operating or in charge of the extraordinary traffic, or owning the goods carried thereby or the vehicles used therein; and every person driving on or using the highway in contravention of such regulation, limitation, or prohibition shall be guilty of an offence against this Law; provided that any person to whom this section might otherwise apply may, with the approval of Council enter into an agreement for the payment to Westbank, compensation in respect of the damage or expense which may, in the opinion of Council, be caused by extraordinary traffic, and thereupon that person must not in respect of that traffic be subject to any prohibition or penalty under this Law.

27. TRUCK ROUTES

- 27.1 Notwithstanding any other provision in this Law to the contrary, Council may by resolution, designate certain highways as "truck route" and certain other highways as "No Heavy Truck Route", and upon the passage of each such resolution, the Engineer, must, pursuant thereto, post such designated route with the appropriate signs, and the provisions of this Law shall apply to the enforcing of each such resolution.
- 27.2 Section 27.1 does not apply to any heavy truck while engaged in the construction, upkeep and maintenance of such designated highways and any utility installed thereon, or the provision of any essential service to a resident whose parcel fronts thereon, provided however, that any heavy truck providing such essential service does so by

following the most direct route which requires the least travel on any "No Heavy Truck Route".

PART V - VEHICLE REQUIREMENTS

28. SIZE AND WEIGHT RESTRICTIONS

- 28.1 Except as authorized by a permit issued by the Engineer pursuant to this Law, no person shall drive or operate on a highway a vehicle or combination of vehicles exceeding the limits of dimensions, weights and loads, drive axles, horsepower, or other limits prescribed in the regulations pursuant to the provincial *Commercial Transport Act*, as amended from time to time.
- 28.2 Without limiting the generality of the foregoing, except as authorized by a permit issued by the Engineer, no person shall drive or operate on a WFN highway:
- (a) a combination of vehicles having an overall length, with or without load, in excess of 15 m (49.2 ft.);
 - (b) a passenger vehicle so loaded that any part of the load extends beyond the sides of the vehicles;
 - (c) a combination of vehicles consisting of more than two vehicles.
 - (d) a vehicle having wheels, tires, or tracks constructed or equipped with projecting spikes, cleats, ribs, clamps, flanges, lugs, or other attachments or projections which extend beyond the tread or traction surface of the wheel, tread, or track, provided that such vehicle may be driven or operated on a highway not having a cement concrete, asphaltic concrete, bituminous-treated, or other stabilized or wooden surface, provided however, that nothing in this clause is intended to prohibit the use of snow chains during the period from October 1st to April 30th; and provided further that nothing in this clause is intended to prohibit the use at any time between October 1st and April 30th, of studs that do not protrude more than one-eighth of an inch from the tread or traction surface of a tire;
 - (e) a vehicle unless it is so constructed or loaded as to prevent any of its load from dropping, sifting, leaking or otherwise escaping therefrom, but sand may be dropped for the purpose of securing traction, and water or other substance may be sprinkled on a roadway in cleaning or maintaining the highway;
 - (f) a vehicle or other device in such a manner that any part of such vehicle or other device other than revolving wheels or rollers will come into contact with such highway or in such a manner that any part of any substance or thing upon such vehicle or other device will come into contact with such highway.
- 28.3 Notwithstanding any of the provisions of this Law or of a permit issued pursuant to this Law, the maximum height, length, or width of a vehicle or load allowable on a highway or portion of a highway or bridge that is expressly limited as to maximum height, length

or width of a vehicle or load by a sign erected by the Engineer will be that set out on the sign.

29. WEIGHING AND INSPECTION OF VEHICLES

- 29.1 The driver of a vehicle on a highway, when so required by a WFN Law Enforcement Officer, must:
- (a) stop the vehicle at the time and place specified by such WFN Law Enforcement Officer or authorized person for the purpose of weighing the whole or part thereof by means of stationary or portable scales, measuring the dimensions of the vehicle and load, measuring and inspecting the tires thereon, inspecting the load carried, or for any other purpose under section 28;
 - (b) drive the vehicle to the nearest public or Department of Commercial Transport stationary or portable scales for the purpose of weighing the vehicle and load;
 - (c) rearrange the load upon the vehicle or remove the whole or part of the load from the vehicles in order to comply with section 28 before continuing to drive or operate the vehicles.

30. DRIVING OVER SCALES

- 30.1 The driver of a vehicle on a highway, when directed by a traffic sign on the highway to drive over scales, must drive the vehicle to the scales for the purpose of having an axle or a group of axles weighed, having tires measured, having the dimensions of the vehicle and load measured, or having the load inspected for any other purpose under this Law.

PART VI - PERMITS

31. PERMITS ISSUED BY ENGINEER

- 31.1 The Engineer may issue a permit to do those things otherwise prohibited by sections 25 and 29 inclusive, subject to the payment of the appropriate fee and subject to such other conditions in this section and in section 33 which may be applicable.
- 31.2 The Engineer is hereby authorized to charge fees for permits issued pursuant to this section in accordance with fee schedules established by Council, and as amended from time to time.
- 31.3 Permits issued pursuant to this section will not apply to any provincial arterial highway.
- 31.4 In respect of oversize vehicles, an annual permit will not be issued, except in special cases at the discretion of the Engineer, for vehicles or combinations of vehicles or loads which exceed any of the following dimensions:
- (a) width - 3.66 m (12.01 ft.);

- (b) height - 4.60 m (15.09 ft.);
 - (c) length - 24.50 m (80.38 ft.).
- 31.5 In respect of overweight vehicles, an annual permit will not be issued for loads which can be broken down in such a manner that they would not exceed the weight restrictions; and not in any case for loads exceeding 10 percent overload except in special cases at the discretion of the Engineer where, by virtue of the number of trips, or the route, the overload is not expected to have a significant effect on the road system.
- 31.6 (a) A pilot car permit is issued specifically for the use of companies in the business of providing a service to oversize vehicles, and is in fact a series of pre-paid single trip permits for unspecified vehicles.
- (b) The holder of a pilot car permit must notify the Engineer by telephone prior to each trip with all the details normally required for a single trip permit and the Engineer will provide him with a permit number to use for that trip.
- (c) The cost of a single trip permit will be deducted from the holder's deposit for each permit issued during the year up to a maximum of 20 permits; provided, however, that the pilot car permit holder may renew his permit by making a further deposit.
- 31.7 The operating and driving of any vehicles for which the permit has been issued will at all times be subject to the conditions stated therein.
- 31.8 With the exception of pilot car permits, such permit must be carried in the vehicle whenever it is being driven on WFN highways and must be produced to any peace officer for inspection upon request.
- 31.9 A permit issued pursuant to this section may, in addition to any other limitations:
- (a) prohibit the driving or operating of any commercial vehicle on any highway during certain hours;
 - (b) specify the maximum rate of speed at which any commercial vehicle may travel;
 - (c) require that any commercial vehicle be preceded or followed, or both, by a pilot car in accordance with the regulations made pursuant to the *Commercial Transport Act*;
 - (d) require that the commercial vehicle be driven or operated on certain specified highways; or
 - (e) with the exception of pilot car permits, not be issued for the driving or operation of more than one commercial vehicle.

32. PRE-REQUISITE FOR ISSUANCE OF A PERMIT

- 32.1 As a pre-requisite to the issuance of a permit under section 31, the Engineer may require the applicant to:
- (a) deposit with Westbank a sum of money sufficient to pay:
 - (i) for the cost of repairing any damage likely to be done to the highway and installation therein or thereon;
 - (ii) as sufficient security that the obligations imposed by the permit will be fulfilled and completed within the time specified in such permit;
 - (b) provide satisfactory plans of the work to be undertaken and when such plans are supplied and approved by the Engineer and the necessary permit issued, the said work must conform in every respect to the approved plans, to the current specifications as approved by the Engineer, and to the minimum general requirements of the *WFN Subdivision Law* for the land use in which such highway is situate;
- 32.2 Where a deposit has been made in accordance with this section, and upon satisfactory compliance with the permit within the time specified, the deposit will be refunded to the applicant, less, where applicable, an appropriate inspection fee, or the actual cost of administration and inspection, whichever is the greater.
- 32.3 Where completed work is to be taken over by Westbank, the applicant must maintain such work for a period of one (1) year from the date of expiry of the permit. A new permit and applicable security deposit will be required for the maintenance period.
- 32.4 Where adjustments to completed works are required due to reconstruction of a highway, the person responsible for the maintenance as shown on the permit must pay all the cost of such adjustments.
- 32.5 The applicant must indemnify, protect and save harmless Westbank from and against all claims, demands and lien claims of every kind arising out of or in any way connected with the work or other things for which a permit has been issued.
- 32.6 Failure by the permit holder to repair damage and/or fulfil such obligations as are set out in a permit within the specified time, will result in the forfeiture of the deposit to the Westbank as liquidated damages.

33. PERMITS ISSUED BY COUNCIL

- 33.1 Except as authorized by a permit issued by Council, no person shall:
- (a) operate or occupy a vehicle while sounding a calliope, loudspeaker or other noise-making device;
 - (b) fire, light or let off any cannon, gun pistol or other firearms, fireworks, firecrackers or explosive substances upon or over any highway;

- (c) organize, operate or run a soap box derby on any highway;
 - (d) organize, march, drive or otherwise take part in a parade or procession, except a funeral procession, on any highway.
- 33.2 Before receiving a permit for any soap box derby or parade or procession, other than a funeral procession, the applicant will be required to:
- (a) obtain from the Engineer, approval for the route, the place of assembly and dispersal, and the date and time;
 - (b) where, in the opinion of the Engineer, any traffic control devices will be required, deposit with the Engineer a sum sufficient to cover the expense of placing and removing such traffic control device.

34. CONDITIONS OF PERMIT TO BE FOLLOWED

- 34.1 All permits granted under the provisions of the Law will be subject to all the terms and conditions contained in such permit, and it shall be an offence against the provisions of this Law for any person to act upon any such permit except in compliance with the terms and conditions of such permit.
- 34.2 All permits granted under any of the provisions of this Law will be revocable by the authority issuing the permit.

PART VII - GENERAL PROVISIONS

35. FEES AND FORMS

- 35.1 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.

36. NOTICES & CHARGES AGAINST REGISTERED HOLDERS

- 36.1 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.

37. OFFENCES

- 37.1 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.
- 37.2 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.
- 37.3 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.
- 37.4 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.
- 37.5 In addition to all other penalties herein provided, any person causing damage to any highway or any person being the owner or operator of any vehicle which causes damage to any highway within Westbank Lands will be responsible for the cost of repairing such damage.

38. IMMUNITY

- 38.1 No action for damages lies or may be instituted against present or past Council, 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 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.
- 38.2 Section 38.1 does not provide a defence if:
- (a) Council, 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.
- 38.3 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.

- 38.4 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.

- 38.5 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.

39. APPLICATION OF LAW

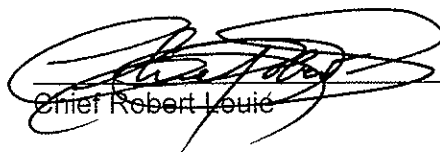
- 39.1 Where any federal Act or regulation or provincial Act or regulation or any other Westbank Law may apply to any matter covered by this Law, compliance with this Law will not relieve the person from also complying with the provisions of the other applicable Act, regulation or law.
- 39.2 If any 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.
- 39.3 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.
- 39.4 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.

40. REPEAL

- 40.1 Highway and Traffic Bylaw No. 1979-16 is hereby repealed.

BE IT KNOWN that this Law entitled, "WFN Traffic and Parking Control Law No. 2005-13" is hereby read for the first, second, and third and final time and is hereby enacted as Law No. 2005-13 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.

