

Tzeachten First Nation

LAW NO. 10-03

FIREWORKS LAW 2010



**TZEACHTEN FIRST NATION
FIREWORKS LAW, 2010**



(A Law to Ban Sales of Fireworks and Require Permits for Fireworks Shows)

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WHEREAS the Tzeachten First Nation has an inherent right to self-government which emanates from our people, culture and land and which is recognized and affirmed by section 35 of the *Constitution Act, 1982*;

AND the Tzeachten First Nation has taken over control and management of Tzeachten Reserve lands and resources pursuant to the *Framework Agreement on First Nation Land Management* and has enacted the *Tzeachten Land Code* effective the 21st day of August, 2008;

AND under the *Tzeachten Land Code*, Tzeachten Council is authorized to pass various laws relating to lands including laws relating to use and storage of fireworks under section 3.3 of the Code;

AND Council is concerned about the safety of lands, buildings, people and resources on Tzeachten Lands and wishes to ban the sale of Fireworks and Firecrackers and to regulate usage of Fireworks;

NOW THEREFORE this *Tzeachten First Nation Fireworks Law, 2010* is hereby enacted as a Law of the Tzeachten First Nation.

PART 1. NAME

1.1 This Law may be cited as the *Tzeachten First Nation Fireworks Law, 2010*.

PART 2. PURPOSE

2.1 The purpose of this Law is to promote safety and to protect Tzeachten Lands, Members, occupants, buildings and resources from potentially hazardous or disruptive uses of Fireworks and Firecrackers.

PART 3. WHERE THIS LAW APPLIES

3.1 The provisions of this Law apply to the whole area of the Reserve and Tzeachten Lands

as defined in the Tzeachten Land Code.

PART 4. DEFINITIONS

4.1 For the purposes of this Law, terms have the same definitions as in the Land Code;

4.2 For the purposes of this Law, the following definitions apply:

"Act" means the federal "*Explosives Act*, RSC 1985, c. E-17", and the regulations enacted thereunder, as amended or replaced from time to time;

"Administrator" means any person who is appointed and employed by Council in the capacity of Administrative Manager of Tzeachten,

"Consumer Fireworks" means a pyrotechnic device producing quantities or effects of light, sound and/or smoke by the combustion of explosive or flammable composition and includes fireworks showers, fountains, golden rain, lawn lights, pin wheels, Roman candles, and volcanoes, classed under the Act as low hazard, Class 7.2.1 fireworks, but does not include Christmas Crackers, sparklers or caps for toy guns;

"Display Fireworks" means the manufactured pyrotechnic device producing effects of light and/or sound classed under the Act as high hazard, Class 7.2.2 fireworks, but does not include Firecrackers;

"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 Tzeachten Lands;

"Firecracker" means a pyrotechnic device that explodes instantaneously when ignited and does not produce any visible effect after the explosion, but does not include items classed under the Act as low hazard Class 7.2.1 fireworks, nor Christmas Crackers, sparklers or caps for toy guns;

"Fireworks" means any Display Fireworks, Consumer Fireworks or Pyrotechnic Special Effects but does not include Christmas Crackers, sparklers or caps for toy guns;

"Permit" means a Fireworks Display Permit issued under Part 7 of this Law in the form established by Council, from time to time;

"Pyrotechnic Special Effects" means a manufactured pyrotechnic device used to produce a special effect for indoor or outdoor performance use, and that any for device used, is an authorized pyrotechnic effect under the Explosives Regulatory Division of Natural Resources Canada, Class 7.2.5, Class 11 and Class 3;

"Tzeachten" or "TZFN" means the Tzeachten First Nation;

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

PART 5. GENERAL PROVISIONS

- 5.1 The headings of parts and sections in this Law have been inserted as a matter of convenience and for reference only and in no way define or limit or any of its provisions.
- 5.2 In the event that all or any part of any section or sections of this Law are found by a court of competent jurisdiction to be invalid, such sections shall be severable, and the remaining portions or sections shall remain in full force and effect.

PART 6. PROHIBITIONS

- 6.1 No Person shall manufacture, package, re-package, sell or offer for sale any Fireworks or Firecrackers within Tzeachten Lands.
- 6.2 No person shall discharge, fire or set off any Fireworks or Firecrackers within Tzeachten Lands, unless the person has obtained a valid Permit authorized under this Law.
- 6.3 No person shall use, set off or allow to be used or set off any Fireworks or Firecrackers in such a place or in such a manner as might create danger or constitute a nuisance to any Person or property, or to do or cause or allow any unsafe act or omission at the time and place for the setting off of any Fireworks.

PART 7. FIREWORKS PERMIT

- 7.1 The Lands Manager is hereby authorized to issue a Fireworks Permit to any person to use Fireworks for the purpose of the observance or celebration of any special event or festival by the use of Fireworks, subject to the terms and conditions outlined in this Law.
- 7.2 For greater certainty, no Permits are available for the manufacture, packaging or re-packaging, or sale of Fireworks or Firecrackers.
- 7.3 Every application for a Permit must be made by the person setting off the Fireworks, must be submitted in writing to the Lands Manager, and be in the form established by Council, from time to time.
- 7.4 Every applicant for a Fireworks Permit must be at least 18 years of age, and must, at the time of their application:
- (a) provide basic information such as their name, address, phone number, cell phone number, a back-up contact person, etc.;
 - (b) hold a current and valid Fireworks Supervisors and/or Pyrotechnics Certification card as issued by Natural Resources Canada and provide a copy with their application;
 - (c) for CP land, submit a written agreement from the CP-holder or lessee of the parcel of land on which the Fireworks are to be used stating that the person agrees to have a Fireworks display on their land on the specified date;
 - (d) for Community Lands, provide the location where the applicant proposes to display the Fireworks;
 - (e) specify the date and time at which they propose to display Fireworks;
 - (f) specify the type of Fireworks to be used, the approximate value of them, and the estimated length of time the display will last;
 - (g) set out their proposed safety plan including:

- (i) a sketch plan with property boundaries and distances in meters showing where the Fireworks will be launched in relation to spectators, neighbours, trees, structures, vehicles, etc.,
- (ii) identification of the sources of water available to extinguish any errant sparks or fires,
- (iii) availability of cell phones or land lines in case fire or ambulance services need to be called, and
- (iv) any other related items required by Council or the Lands Manager; and
- (h) if required by Council, and without limiting its obligations or liabilities under the Permit, agree to obtain and maintain, at its own expense and cost, such insurance policy or policies with coverage in amounts as determined by Council.

7.5 Every applicant must, prior to being granted a Permit:

- (a) sign a document in the form established by Council, from time to time, which includes:
 - (i) a release of Tzeachten from all claims and liability in relation to the activities or events relating to the Permit;
 - (ii) a commitment from the applicant to follow all relevant laws and all Permit requirements,
 - (iii) a commitment to only use Fireworks that are permitted for use in Canada under the federal *Explosives Regulation*;
 - (iv) a commitment to follow the Safety Instructions for Consumers of Fireworks as set out by Natural Resources Canada;
 - (v) a commitment to allow access at any time by the Administrator, the Lands Manager, and any Law Enforcement Officer, to the site where the Fireworks are stored and to the site where the Fireworks will be or are being displayed to allow for monitoring and inspection;
- (b) provide proof of insurance for any insurance required under subsection 7.4(h) above; and
- (c) pay any prescribed Permit fees.

7.6 Every Permit authorized pursuant to this Law must be in the form established by Council, from time to time, and shall include at least the following:

- (a) A requirement to follow this Law and all other applicable laws;
- (b) A requirement not to launch or light any Fireworks prior to 9:00 a.m. or after 11:00 p.m.;
- (c) A requirement to only launch or light Fireworks within the time period specified on the Permit;
- (d) A requirement to allow access at any time by the Administrator, the Lands Manager, the RCMP or a Peace Officer, to the site where the Fireworks or stored and to the site where the Fireworks will be or are being displayed to allow for monitoring and inspection;
- (e) A statement that the Permit is only valid for the specified use and time period in the specified location by the specified permittee and is not assignable or transferable to any other person, event, location or situation;
- (f) A requirement to clean up the site after the event in accordance with this Law; and
- (g) Any other specific terms or conditions imposed by Council or the Lands Manager.

7.7 The Administrator, the Lands Manager and any Law Enforcement Officer are hereby authorized to enter upon any parcel of land or into any structure within Tzeachten Lands at all reasonable times prior to, during and reasonably subsequent to the time period specified on the Permit, subject to the terms of this Law, in order to determine whether the provisions of this Law are being or have been complied with.

7.8 The Administrator, Lands Manager, and any Enforcement Officer are hereby authorized to revoke a Permit issued under this Law at any time if there is evidence the Permit, this Law or any other relevant law have been contravened.

- 7.9 A Permit issued under this Law is non-transferable.
- 7.10 All Fireworks and all debris from the Fireworks, including exploded and unexploded Fireworks, must be removed and safely disposed of by the holder of the Permit as soon as practical after the Fireworks is completed and in any event on or before the expiry of the Permit.

PART 8. FEES AND FORMS

- 8.1 Council may, by Resolution, 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 make a copy of these available for viewing free of charge at the administrative offices of Tzeachten and available for distribution at a nominal charge.

PART 9. AUTHORIZATIONS AND DELEGATIONS

- 9.1 Council hereby authorizes any and all of the following to carry out inspections, monitoring or enforcement under this Law:
- (a) The Fire Chief from the Chilliwack Fire Department or his or her delegate to the extent that Tzeachten has an agreement with the Chilliwack Fire Department to carry out inspections, monitoring or enforcement under this Law on Tzeachten Lands;
 - (b) Any peace officer including an officer of the RCMP;
 - (c) Any person appointed by Council by Resolution;
 - (d) The Administrator; and
 - (e) The Lands Manager.

PART 10. OFFENCES AND PENALTIES

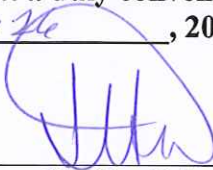
- 10.1 No person shall obstruct, interfere with or hinder Council, a Law Enforcement Officer or any authorized employee, officer or agent in the carrying out of their duties and responsibilities under this Law.
- 10.2 Any person who violates any of the provisions of this Law or a Permit issued under it, 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 a Permit issued under it, or who neglects to do or refrains from doing any act or thing required by any of the provisions of this Law or a Permit issued under it, is guilty of an offence under this Law, and is liable to the penalties imposed by this Law.
- 10.3 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.
- 10.4 Any person who is guilty of an offence under subsection 6.2 of this Law is liable, on summary conviction to a fine of not more than One Thousand Dollars (\$1,000.00).
- 10.5 Any person who is guilty of an offence under any provision of this Law except subsection 6.2 is liable, on summary conviction, to a fine of not more than Five Thousand Dollars (\$5,000.00) or to a term of imprisonment not exceeding thirty (30) days, or both.

PART 11. IMMUNITY

- 11.1 No action for damages lies or may be instituted against Tzeachten, present or past Council, any Law Enforcement Officer, or any employees, contractors, servants or agents of Tzeachten for any

claim, loss, harm or damage arising from the transport, storage or use of Fireworks or Firecrackers on Tzeachten Lands whether with or without a permit.

BE IT KNOWN that this Law entitled the *Tzeachten Fireworks Law, 2010* is hereby enacted by a quorum of Council at a duly convened Council of the Tzeachten First Nation held on May 7th, 2010.




Chief Joe Hall



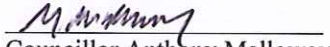
Councillor Glenda Campbell



Councillor Leslie Joe



Councillor Lawrence Roberts



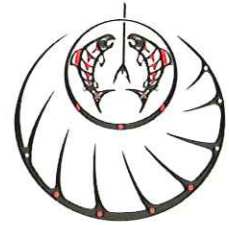
Councillor Anthony Malloway

A quorum consists of 3
Council Members



Tzeachten First Nation

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TZEACHTEN COUNCIL RESOLUTION

RES 10-17

FIREWORKS LAW

WHEREAS the Tzeachten First Nation has an inherent right to self-government which emanates from our people, culture and land and which is recognized and affirmed by section 35 of the *Constitution Act, 1982*;

AND the Tzeachten First Nation has taken over control and management of Tzeachten Reserve lands and resources pursuant to the *Framework Agreement on First Nation Land Management* and has enacted the *Tzeachten Land Code* effective the 21st day of August, 2008;

AND under the *Tzeachten Land Code*, Tzeachten Council is authorized to pass various laws relating to lands including laws relating to use and storage of fireworks under section 3.3 of the Code;

AND Council is concerned about the safety of lands, buildings, people and resources on Tzeachten Lands and wishes to ban the sale of Fireworks and Firecrackers and to regulate usage of Fireworks;

NOW THEREFORE the Council of Tzeachten First Nation, at a duly convened meeting, enacts this *Tzeachten First Nation Fireworks Law, 2010* as a Law of the Tzeachten First Nation.

A QUORUM for the Tzeachten First Nation consists of 3.

DATED this 26th of March, 2010.

Chief Joe Hall

Councilor Glenda Campbell

Councilor Anthony Malloway

Councilor Lawrence Roberts

Councilor Leslie Joe