



TSAWWASSEN FIRST NATION
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2009

COMMUNITY GOVERNANCE ACT

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Tsawwassen Legislature enacts as follows:

Title

- 1 This Act may be called the *Community Governance Act*.

Definitions

- 2 In this Act

“Executive Council” means the Executive Council of Tsawwassen First Nation established under the *Government Organization Act*;

“final agreement” means the Tsawwassen First Nation Final Agreement signed on behalf of Tsawwassen First Nation, Her Majesty the Queen in Right of Canada, and Her Majesty the Queen in Right of British Columbia;

“local road” means:

- (a) Nulelum Way, including the road allowance,
- (b) the portions of the following roads that are located within Tsawwassen Lands, including the road allowance:
 - (i) 41B Street (portion bisecting Tsawwassen Lands),
 - (ii) 28B Avenue (portion bisecting Tsawwassen Lands),
 - (iii) 27B Avenue (portion bisecting Tsawwassen Lands), and
- (c) any roads, including the road allowance, that are within lands added to Tsawwassen Lands in accordance with the lands chapter of the final agreement.

“non-member” means an individual who has reached the age of majority, who is ordinarily resident on Tsawwassen Lands, and who is not a Tsawwassen Member;

“person” includes an individual, a partnership, a corporation, a trust, an unincorporated association or any other entity, and a government or any agency or political subdivision thereof, and their heirs, executors, administrators and other legal representatives;

“public utility” means:

- (a) a person, or the person’s lessee, trustee, receiver or liquidator who owns or operates in British Columbia equipment or facilities for the:
 - (i) production, gathering, processing, storage, transmission, sale, supply, distribution or delivery of petroleum, or petroleum products or by-products;
 - (ii) production, generation, gathering, processing, storage, transmission, sale, supply, distribution or delivery of gas (including natural gas, natural gas liquids, propane and coal bed methane), electricity, steam or water or any other agent for the production of light, heat, cold or power;
 - (iii) emission, transmission or reception of information, messages or communications by guided or unguided electromagnetic waves, including systems of cable, microwave, optical fibre or radio

communications, if that service is offered to the public for compensation, or

- (b) a local or regional authority providing services in connection with air quality, dikes, water, sewage, solid waste disposal and wastewater treatment,

but for the purposes of this definition, “person” does not include a person engaged in the petroleum industry who is not otherwise a public utility;

“**regulation**” means regulations made under this Act and includes a bylaw of a local authority adopted as a regulation under section 25 [*Adoption of bylaws of local authorities*];

“**Tsawwassen Lands**” means the lands set out in Appendix C-4 of the final agreement as Tsawwassen Lands, as amended from time to time under that agreement;

“**Tsawwassen Member**” means a Tsawwassen individual who is enrolled under the final agreement in accordance with the eligibility and enrolment chapter;

“**Tsawwassen road**” means a road, including the road allowance, located within Tsawwassen Lands, but does not include a road designated by Tsawwassen First Nation as a private road, or a local road;

“**vehicle**” has the same meaning as it has in the *Motor Vehicles Act* (British Columbia).

PART 1 – COMMUNITY SERVICES AND COMMUNITY PARTICIPATION

Community services

- 3 (1) Executive Council may provide services or make arrangements for services to be provided that Executive Council considers necessary or desirable
 - (a) to Tsawwassen Members on Tsawwassen Lands;
 - (b) to non-members on Tsawwassen Lands;
 - (c) on Tsawwassen Lands.
- (2) Services provided under this Act or the regulations may be provided directly or through
 - (a) a Tsawwassen institution, as defined in the final agreement,
 - (b) another entity or jurisdiction, or
 - (c) any other public authority, person or organization.
- (3) Executive Council may, by regulation,
 - (a) establish or describe how fees or payments for any service provided under this Act or the regulations are to be determined, or describe the manner by which fees or payments for services are to be established or calculated;
 - (b) set or provide for fees or rates for anything deposited on or removed from Tsawwassen Land;
 - (c) set or provide for different fees or rates of fees based on volume, quantity, quality, weight, value, benefit, use, time or otherwise;

- (d) prescribe fees for the application or issue, or both, of permits, approvals, licences or other authorization under the regulations;
- (e) providing for differential rates or fees for different services or matters, which may vary depending on the location in respect of which the fee or rate is charged.

Consultation generally to discuss proposals and services

- 4** Executive Council may consult with any person, government, institution or organization for any purpose Executive Council considers necessary including
- (a) considering or developing proposals for, or discussing proposals for, regulations under this Act;
 - (b) considering services to be provided under this Act for Tsawwassen Members, for the community, or in respect of Tsawwassen Lands, and for related matters.

Consultation with Tsawwassen Members

- 5** Executive Council must consult Tsawwassen Members on any proposed regulation or service, or any replacement or significant change to a regulation or service and must at least 7 days before the date scheduled for the consultation, give public notice under section 6 [*How public notice can be given*] of
- (a) the date, time and place the consultation will occur,
 - (b) any regulatory impact statement that has been prepared, and where it may be read and where a copy can be obtained, and
 - (c) the manner or method of the consultation.

How public notice can be given

- 6** If public notice may be or is required to be given under this Act or the regulations, public notice may be given in any one or more of the following ways:
- (a) by publishing the notice in the Tsawwassen First Nation community newsletter;
 - (b) by posting the notice in one or more visible locations in the Tsawwassen administration office;
 - (c) by delivering the notice to each person who may be affected;
 - (d) by publishing the notice on the Tsawwassen First Nation website.

PART 2 – TSAWWASSEN REGULATIONS AND RESPONSIBILITIES

Regulatory impact statement

- 7** (1) Executive Council may prepare or authorize the preparation of a regulatory impact statement about a proposed regulation.
- (2) A regulatory impact statement must include
- (a) a statement explaining the policy objective;
 - (b) an explanation of the regulation proposed and how it is intended to meet the policy objective;
 - (c) a forecast of the impact that the regulation will have.

Public order, peace and safety

- 8** Executive Council may make regulations in respect of the regulation, control or prohibition of any actions, activities or undertakings on Tsawwassen Lands that constitute, or may constitute, a nuisance, a trespass, a danger to public health, or a threat to public order, peace or safety including
- (a) in respect of animals,
 - (b) requirements regarding the discharge of firearms, the use of bows and arrows, knives and other weapons, firecrackers, fireworks, explosives, and
 - (c) public games, sports, races and athletic contests.

Access to Tsawwassen Lands

- 9** Executive Council may make regulations in respect of access to Tsawwassen Lands.

Tsawwassen roads

- 10** Executive Council is delegated the following responsibilities:
- (a) responsibility for maintenance and repair of Tsawwassen roads;
 - (b) responsibility for temporarily closing Tsawwassen roads for reasons of safety or public order, or for cultural reasons;
 - (c) responsibility to decide when to permanently close a Tsawwassen road, but before a Tsawwassen road is permanently closed Executive Council must
 - (i) provide at least 30 days public notice under section 6 [*How public notice can be given*] and an opportunity for affected persons to make representations to Executive Council, and
 - (ii) give at least 30 days notice to the operators of public utilities whose facilities or works may be affected.

Local roads and local boundary roads

- 11** Executive Council is delegated authority and responsibility in respect of a local boundary road under clause 10, Chapter 7 [*Access*] of the final agreement.

Responsibility for local roads

- 12** In respect of a local road,
- (a) Executive Council is delegated responsibility to keep open, maintain, keep in repair and improve a local road to the same extent as would a municipality in respect of similar roads, and
 - (b) before Executive Council seeks to close all or part of a local road to all or some types of traffic or to remove the dedication of the local road, Executive Council must
 - (i) provide at least 30 days public notice under section 6 [*How public notice can be given*] and an opportunity for affected persons to make representations to Executive Council, and
 - (ii) give at least 30 days notice to the operators of public utilities whose facilities or works may be affected.

Public works

- 13** Executive Council may make regulations in respect of public works and related services on Tsawwassen Lands.

Traffic, parking, transportation and highways

- 14** Executive Council may make regulations in respect of traffic, parking, transportation and highways on Tsawwassen Lands to the same extent as local governments have authority to make laws in respect of traffic, parking, transportation and highways in municipalities in British Columbia.

Liquor control

- 15** Executive Council may make regulations in respect of the prohibition of, and the terms and conditions for, the sale, exchange, possession, manufacture or consumption of liquor, on Tsawwassen Lands.

Businesses

- 16** (1) Executive Council may make regulations in respect of the regulation, licensing, and prohibition of businesses on Tsawwassen Lands, which laws may impose licence fees or other fees, including the authority to prohibit:
- (a) a public show, exhibition, carnival, or performance of any kind or in any particular location,
 - (b) the operation of places of amusement to which the public has access, and
 - (c) professional boxing, professional wrestling and other professional athletic contests.
- (2) The authority to make regulations under subsection (1) does not include the authority to make regulations in respect of the accreditation, certification, or professional conduct of professions and trades except as provided in clauses 16, 77 and 79 of Chapter 16 [*Governance*] of the final agreement.

Dikes and flood protection

- 17** Executive Council is delegated authority and responsibility under clauses 23 and 24 of Chapter 7 [*Access*] of the final agreement.

Water lots

- 18** Executive Council is delegated authority to make laws for the purpose of clause 27, chapter 4 [*lands*] of the final agreement.

Soil transportation, deposit and removal

- 19** (1) Executive Council may make regulations
- (a) respecting the transportation of soil to and on Tsawwassen Lands, and the deposit and maintenance of soil deposited on Tsawwassen Lands;
 - (b) prohibiting, regulating or controlling the transportation or deposit of soil from outside Tsawwassen Lands on to Tsawwassen Lands;
 - (c) requiring a permit or other authorization to be obtained before soil is removed or deposited on Tsawwassen Lands;
 - (d) respecting the terms and conditions of a permit or other authorization issued under the regulations including
 - (i) the quality and quantity of soil removed or deposited and the location of the soil deposited;

- (ii) the transportation, treatment, care and maintenance of soil transported, deposited or removed;
 - (iii) the removal of soil deposited;
 - (iv) the financial or other guarantees or assurances to ensure that the terms and conditions of a permit and the requirements of the regulations are complied with;
 - (v) health and safety requirements;
 - (vi) the clean-up of a site after soil is removed.
- (2) In this section, “soil” includes sand, gravel, rock and other substances of which land is formed.

Cemeteries

- 20** Executive Council may make regulations
- (a) respecting the control, management, maintenance, use of and the respect to be accorded to a cemetery or grave sites on Tsawwassen Lands;
 - (b) regulating who may be buried in cemeteries;
 - (c) respecting the location and terms and conditions for burial;
 - (d) designating a Tsawwassen public institution or person as responsible for the administration of all or part of the regulations made under this section;
 - (e) prohibiting or regulating disinterment.

Forest resources

- 21** (1) Executive Council may make regulations in respect of the management of forest resources on Tsawwassen Lands.
- (2) In subsection (1), “**forest resources**” means
- (a) all trees, whether standing, fallen, living, dead, limbed, bucked or peeled;
 - (b) medicinal plants, fungi, branches, bark, cones, bushes, roots, moss, mushrooms, ferns, floral greens, herbs, berries, species, seeds and plants association with grazing, including all biota, but does not include
 - (i) wildlife or migratory birds, as those terms are defined in the final agreement,
 - (ii) water or fish, or
 - (iii) aquatic plants, as that term is defined in the final agreement.

Trees and shrubs

- 22** Executive Council may make regulations
- (a) prohibiting, regulating or controlling trees and shrubs;
 - (b) requiring trees or shrubs to be removed or trimmed and describing the person who is required to do that work.

Agriculture

- 23** Executive Council may make regulations respecting agriculture and agricultural practices on Tsawwassen Lands including, without limitation,
- (a) the production, processing, transportation and handling of farm and food products;

- (b) the use of land for all or any of the purposes described in paragraph (a).

Regulations about services provided under this Act

- 24** Executive Council may make regulations respecting
- (a) the terms and conditions for providing services under this Act;
 - (b) the terms and conditions to be complied with when services are provided;
 - (c) the reasons for terminating services;
 - (d) any matter necessary to regulate or control the efficient, effective and fair provision of services.

Adoption of bylaws of local authorities

- 25** (1) Executive Council may, with respect to any matter on which Executive Council may make regulations under this Act, adopt as a regulation, bylaws of a local authority, as that term is defined in the *Community Charter* (British Columbia), with or without modifications.
- (2) If Executive Council adopts, as a regulation, a bylaw of a local authority, Executive Council must negotiate and, before bringing the regulation into effect, reach agreement with the local authority with respect to the operation of the bylaw as a regulation on Tsawwassen Lands.
- (3) A regulation under subsection (1) may provide for enforcement of the regulation, including, without limitation, the adoption of the enforcement provisions of the local authority with respect to the bylaw adopted as a regulation, and the appointment of enforcement officers of the local authority as enforcement officers with respect to the regulation.
- (4) A regulation under subsection (1) may provide for offences and penalties, including but not limited to the offences and penalties of the local authority with respect to contravention of the regulation.

PART 3 – PENALTIES AND COURT ASSISTANCE

Penalties

- 26** (1) Executive Council may, by regulation, specify that any contravention of this Act or a regulation under this Act is an offence.
- (2) Executive Council may, by regulation, establish one or more of the following penalties to which a person convicted of an offence in a prosecution under the *Offence Act* (British Columbia), is liable:
- (a) a minimum fine;
 - (b) a maximum fine of up to \$ 10,000;
 - (c) in the case of a continuing offence, for each day that the offence continues either or both of
 - (i) a minimum fine under paragraph (a), or
 - (ii) a maximum fine under paragraph (b);
 - (d) imprisonment for not more than 6 months.

- (3) If no other penalties are established in relation to an offence referred to in subsection (1), the penalties established by section 4 [*General penalty*] of the *Offence Act* (British Columbia) apply.
- (4) In a prosecution for an offence against a regulation under this Act, the justice or court may impose all or part of the penalties applicable in relation to the offence, together with the costs of prosecution.

Court assistance to enforce regulations

- 27** Executive Council is delegated authority under clause 145, Chapter 16 [*Governance*] of the final agreement to bring a proceeding in the Supreme Court of British Columbia to enforce, or prevent or restrain the contravention of this Act and any regulations under this Act.

PART 4 – INTERPRETATION, REPEAL, TRANSITION AND COMMENCEMENT

Interpretation Act (British Columbia)

- 28** Unless the context otherwise requires, the *Interpretation Act* (British Columbia) applies to this Act.

Transitional

- 29** (1) A licence, permit or authorization issued under bylaws enacted by Tsawwassen Band Council before the effective date and in effect on the effective date continue in effect until such time as they are terminated, repealed, continued or replaced by Tsawwassen law or by a regulation made under this Act.
- (2) In subsection (1), “effective date” has the same meaning as it has in the final agreement.

Repeal of bylaws

- 30** The following are repealed:
- (a) *Noise Bylaw* No. 1996/12/05.02;
 - (b) *Animal Control Bylaw* No. 1996/05/03;
 - (c) *Transport and Deposit of Soil Bylaw* No. 2005/06/27;
 - (d) *Traffic Bylaw* No. 1996/12/17.01;
 - (e) *Fire Prevention Bylaw* No. 1997/10/07;
 - (f) *Removal and Trespassers Bylaw* No. 1996/12/05.

Commencement

- 31** (1) This Act, except section 5, comes into effect on the date of its enactment.
- (2) Section 5 comes into effect on July 15, 2009.