

REGISTERED IN THE FIRST NATIONS
LAND REGISTRY OTTAWA AS NUMBER
LMA05864 ON THE 28 DAY
OF APR 2010
PLEASE QUOTE ABOVE NUMBER IN ANY
FURTHER TRANSACTIONS AS PER THE
TZEACHTEN LAND CODE



Tzeachten First Nation

LAW NO. 10-01

ZONING AND LAND USE LAW 2010



**TZEACHTEN FIRST NATION
ZONING AND LAND USE LAW 2010**



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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 had a zoning by-law in place since 1991 which designated Tzeachten Lands as a Special Development Zone and required a rezoning process for changes in use;

AND the Tzeachten First Nation has taken back control and management of 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 regulation of zoning, subdivision and developments under section 3.3 of the Code;

NOW THEREFORE this Tzeachten First Nation Zoning and Land Use Law 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 Zoning and Land Use Law*.

PART 2. PURPOSE

2.1 The purpose of this Law is to promote environmentally sustainable, healthy, safe, convenient and well planned use of Tzeachten Lands.

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:

“By-law 1991-03” means the Tzeachten Zoning By-law duly passed by Tzeachten Council and amended by By-law 1992-01 and sub-titled, “A By-law to designate the Tzeachten Indian Reserve as a Special Development Zone and to prohibit any use of land, or the carrying on of any class of business or trade within such Special Development Zones except to the extent that such use of land or the carrying on of any such class of business or trade conforms to the requirements of this By-law”,

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

“Dwelling Unit” means one or more habitable rooms intended or used for the residential housing,

“Non-conforming” means a lawful building, structure or use of land that was in place prior to November 13, 1991 and that is conditionally grandfathered to allow its continued use in accordance with this Law”,

"Person" means any natural person, corporation, and, except where stated otherwise, any person who is a Member of Tzeachten,

"Reserve" means the whole of the Tzeachten Indian Reserve No.I3, including, without limiting the generality of the foregoing, any conditionally surrendered lands,

designated lands, and lands subject to any form of leasehold interest, allotment, certificate of possession or permit, and

"Special Development Zone" means any part of the Reserve so designated by this Law,

PART 5. AMENDMENT

By-law 1991-03 Repealed and Replaced

5.1 By-law 1991-03, as amended, is repealed and replaced with this Law.

PART 6. GENERAL PROVISIONS

6.1 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.

6.2 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 7. ZONING AND LAND USE

Designation

7.1 The designation of Tzeachten Lands as a Special Development Zone is hereby continued and remains in place until displaced or defined by the Tzeachten Land Use Plan or an amendment to this Law.

Prohibited Activities without Authorization

7.2 Within the Special Development Zone or other zones set out in the Tzeachten Land Use Plan, none of the following are permitted except in strict conformity with the requirements of this Law and any other applicable Laws including the Tzeachten Subdivision, Development and Servicing Law:

- (a) any activity, use or development on a parcel of land which is not in strict conformity with the activities, uses and developments permitted for that parcel of land in that zone,
- (b) commencement of operations by a business or trade which involves a land use that is not in conformity with the requirements of this Law, and
- (c) re-zoning.

Uses Generally Prohibited in All Zones

7.3 The following uses of land, buildings and structures shall be generally prohibited in the Special Development Zone and all zones unless specifically permitted:

- (a) the storage of fuel or other flammable liquids for commercial or industrial purposes in quantities greater than 230 litres in or adjacent to a dwelling unit or accessory buildings except under permit obtained through Tzeachten Law in consultation with the Fire Chief;
- (b) use of any land as a garbage dump, waste facility or hazardous waste facility;
- (c) on-street parking or visible storage of:
 - (i) unlicensed, uninsured or inoperable heavy equipment;

- (ii) more than one unlicensed, uninsured or inoperable motor vehicles for personal or family use unless specifically permitted;
- (d) Notwithstanding any other provisions of this Law, a use which results in any of the following impacts on neighbours or other owners or occupiers outside of the originating parcel of land:
 - (i) Unreasonable or objectionable levels of sound, noise, heat or glare;
 - (ii) Unsafe, unhealthful or objectionable levels of odour, vapour, dust, fumes, ash or any other potentially toxic or noxious substance or material;
 - (iii) Ground vibration;
 - (iv) Radiation or electromagnetic interference; or
 - (v) Any environmental, health or safety hazard to persons or property in areas surrounding the use;
- (e) the growing, propagation or harvesting of cannabis or controlled crops in any building or structure;
- (f) production or manufacture of a controlled substance in a laboratory in any building or structure, excluding a compounding pharmacy; and
- (g) all uses not listed as "Uses Permitted in All Zones" or as "Permitted Uses" in a specific zone, or otherwise permitted by Law.

Uses Permitted in All Zones

- 7.4 Despite subsections 7.2 and 7.3, the following uses are generally permitted in the Special Development Zones and in all zones:
- (a) community recreation playgrounds or fields;
 - (b) greenspace, parks and trails,
 - (c) construction of any structure which is not a Dwelling Unit and the footprint of which is less than 200 square feet,
 - (d) construction, maintenance or finishing of trails, driveways, and internal roads for single family residential sites on which the driveway is completely within a single parcel of land,
 - (e) landscaping, and minor yard work which does not require an excavation deeper than 1.5 m or the removal or deposit of more than 10 m³ of soil, gravel or other material, and
 - (f) trailers and temporary structures with no hook-ups.

Non-conforming Uses Conditionally Continued

- 7.5 Despite subsections 7.2 and 7.3, the lawful use of land, or the lawful carrying on of any class of business or trade in a Special Development Zone that was in place at the time of the passage of Bylaw 03-1991 on November 13, 1991 may be continued as a non-conforming use subject to section 7.6.

- 7.6 In the event that a non-conforming use is discontinued for a period of thirty (30) days or longer, such non-conforming use shall not be resumed except in compliance with the provisions of this Law.

Procedure if non-conforming structure significantly damaged

- 7.7 A building or structure which is non-conforming and sustains damage to sixty-six percent

(66%) or more of its value cannot be repaired or replaced except in compliance with this Law.

- 7.8 Where any building or structure, the use of which is non-conforming, is significantly damaged, the owner or person lawfully in possession of the building or structure shall report the damage to Tzeachten and:
- (a) the Administrative Manager or Lands Manager shall carry out an inspection or shall retain a qualified professional to carry out an inspection to assess that building or structure, and,
 - (b) if it is determined that the extent of the damage is sixty-six percent (66%) or more of its value, the Administrative Manager or Lands Manager shall report the initial determination to Council for review.
- 7.9 After having reviewed the determination of the Administrative Manager or Lands Manager, Council shall:
- (a) decide whether to confirm, reject or vary the initial determination; and
 - (b) give written notice of its decision to the person lawfully in possession of the building or structure.
- 7.10 The notice referred to in subsection 7.9 shall state:
- (a) the percentage of the value of the building or structure which has, in the opinion of Council, been damaged;
 - (b) that where any building or structure, the use of which is non-conforming, is damaged to the extent of 66% or more of its value, that building or structure shall not be repaired or reconstructed except in conformity with this Law; and
 - (c) that the person lawfully in possession of the building or structure may appeal the decision of Council within 15 days of his receipt of the notice by sending a Notice of Appeal to Council.
- 7.11 The Notice of Appeal referred to in subsection 7.10(c) shall:
- (a) be in writing and signed by the appellant;
 - (b) set out the name and address of the appellant; and
 - (c) state the percentage of the value of the building or structure which has, in the opinion of the appellant, been damaged; and
 - (d) include any supporting photos, documents, expert reports, or other relevant information.
- 7.12 Within 20 days of receipt of a Notice of Appeal under section 7.11, Council shall hold a public hearing respecting the appeal.
- 7.13 Council shall give at least 7 days notice in writing of the public hearing to:
- (a) the appellant;
 - (b) those persons lawfully in possession of any lands adjacent to the land on which the building or structure is situated and any other person who, in the opinion of Council, may be affected by the decision; and
 - (c) such other person or persons specified by Council.

- 7.14 The Administrative Manager or Lands Manager shall make available for public inspection before the commencement of the public hearing all photos, documents, reports and other material relevant to the determination of the extent of the damage to the building or structure.
- 7.15 At the public hearing, Council shall provide the following persons with an opportunity to present evidence and to make oral and written submissions regarding the extent of the damage to the building or structure in question:
- (a) the appellant;
 - (b) the Administrative Manager or the Lands Manager;
 - (c) any other person who was given notice in writing of the hearing and who wishes to be heard; and
 - (d) any other person who, in the opinion of Council, is potentially affected or has information which could contribute to a fair determination.
- 7.16 Within 15 days after the public hearing, Council shall make a decision about the appeal by confirming, rejecting or varying the determination made by the Administrative Manager, the Lands Manager, or a qualified professional regarding the extent of the damage to the building or structure.
- 7.17 If Council confirms that the building or structure has been damaged to the extent of sixty-six percent (66%) or more of its value, the building or structure shall not be repaired or reconstructed except in conformity with this Law.
- 7.18 Within 5 days after making a decision about the appeal Council shall:
- (a) give written notice of its decision to the appellant; and
 - (b) post a notice of its decision in the Administrative office.
- 7.19 Any notice which Tzeachten is required to give may be served personally or sent by registered mail, provided that where the notice is sent by registered mail, it shall be deemed to be received by the addressee on the fifth day after it is mailed.

PART 8. APPLICATIONS AND APPROVALS

Temporary Use Permit

- 8.1 An applicant may apply for a Temporary Use Permit to allow them to carry out for up to one year an activity or land use that would otherwise be prohibited by this Law.
- 8.2 The intent of Temporary Use Permits is to enable the applicant to carry on a use, which is not a major deviation from allowable uses in that zone, for a short period of time while they apply for a rezoning or land use text amendment.
- 8.3 An applicant for a Temporary Use Permit must pay the prescribed fee and complete the prescribed application form.

8.4 After circulating an application under section 8.3 internally for review and comment, the Lands Manager shall refer the application to Council along with any comments and recommendations from the Tzeachten Lands Management Advisory Committee.

8.5 Council shall decide whether or not to approve the application and, without limiting the generality of Council's authority, Council may by Resolution:

- (a) Request further information, review or analysis,
- (b) Reject the application, or
- (c) Approve the application with any reasonable terms or conditions.

8.6 A Temporary Use Permit approved by Council under subsection 8.5 expires upon the earlier of:

- (a) The date set for expiration by Council in the Resolution approving the Permit; or
- (b) the first anniversary of the date of the Council Resolution approving the Permit.

Only one Renewal

8.7 A Person with a Temporary Use Permit may apply to renew the Permit only once for a period of up to one more year.

8.8 It is prohibited for a Person to apply for more than one renewal for a Temporary Use Permit for the same use on the same parcel of land.

Rezoning or Land Use Amendment Application

8.9 Every applicant applying for a re-zoning or change in land use to carry out a project, development, activity or procedure set out in section 7.2 or 7.3 shall pay the prescribed fee and submit an application to the Lands Manager in the prescribed form that meets the applicable requirements set out in the following:

- (a) Rezoning and Land Use Amendment Application and Checklist; and
- (b) Any other relevant requirements.

Review and Processing of Applications

8.10 Within a reasonable time after receiving a complete application under subsection 8.9, the Lands Manager shall:

- (a) refer the application to a meeting of the Tzeachten Lands Management Advisory Committee along with all relevant information and documentation;
- (b) circulate the application and all relevant information and documentation to relevant internal Tzeachten departments for comment;
- (c) refer the application to all adjacent CP-holders on Tzeachten Lands; and
- (d) if appropriate, refer aspects of the application to the City of Chilliwack.

8.11 The Committee shall review the application and shall provide recommendations to Council about:

- (a) Whether the application should be approved or not; and
- (b) Any suggested modifications, terms or conditions that should be set by Council.

8.12 For each application, the Committee shall consider the following general principles and

factors:

- (a) The promotion of health, safety, convenience and welfare of Tzeachten members and of residents and occupants and other persons who have a lawful interest in Tzeachten Lands;
- (b) Well planned and orderly development of Tzeachten Lands and the preservation of amenities and special features of Tzeachten Lands;
- (c) Compliance with this Law, the Tzeachten Land Use Plan, Tzeachten Laws and with relevant federal, provincial and municipal laws and standards;
- (d) Environmental protection and enhancement;
- (e) Adherence to Tzeachten housing policies;
- (f) Provision of community benefits including land and/or funds to Tzeachten for the development of community amenities;
- (g) Protection and enhancement of cultural and heritage sites;
- (h) Compatibility with Tzeachten and Sto:lo culture;
- (i) Viewscapes, aesthetics and visual qualities;
- (j) Ensuring adequate parking, access and emergency access;
- (k) The character of the proposed activity or project in relation to the character of the zone, neighbourhood, and the buildings already erected;
- (l) The conservation of property values;
- (m) Potential impacts on adjacent uses, owners and occupants;
- (n) The development of the zone, neighbourhood and Reserve in a manner that contributes to the economic, environmental, cultural and community health of Tzeachten and its Members and the occupants of Tzeachten Land; and
- (o) Any other factors which may have an impact on the community or Tzeachten Lands.

8.13 In making recommendations to Council, the Committee may make any relevant recommendations including:

- (a) any recommendation relating to the general factors set out in subsection 8.12;
- (b) dedication of up to 5% of the area of the land for parks, greenspace or community use or a cash donation in lieu;
- (c) installation, upgrading, and/or enhancement of roads and sidewalks and/or dedication of roads and/or sidewalks to the First Nation;
- (d) set-backs or buffers including set-backs or buffers from property lines and environmental features; and
- (e) any other relevant terms or conditions.

8.14 The Lands Manager shall ensure that recommendations from the Committee are written up within 7 calendar days after the Committee meeting.

8.15 After reviewing the recommendations from the Committee and any comments from adjacent land-owners and from Tzeachten managers and departments, the Lands Manager may request further information, plans, reports, or other relevant material from the applicant which the applicant shall provide.

8.16 The Lands Manager shall as soon as practicable after having received the initial application or within 7 days of having received the additional information requested

under section 8.15, forward the application to Council along with:

- (a) All relevant documents, maps, plans, reports and other information;
- (b) Recommendations from the Committee;
- (c) Any comments received from adjacent land-owners or Members;
- (d) Any comments or recommendations from the Lands Manager and other Tzeachten managers or departments; and
- (e) Any comments from the City of Chilliwack.

8.17 Within a reasonable time of receiving the application and information set out in section 8.16 Council shall decide whether or not to approve the application and, without limiting the generality of Council's authority, Council may:

- (a) Reject the application,
- (b) Approve the application with any reasonable terms or conditions, including, but not limited to terms or conditions relating to the items set out in subsections 8.12 and 8.13.

PART 9. OFFENCES AND PENALTIES

Penalties

- 9.1 A person who contravenes this Law or an order made by a Court pursuant to this Law is guilty of an offence and liable on summary conviction to a fine of not more than \$10,000 or to imprisonment for a term of not more than three months, or to both.
- 9.2 A fine payable under paragraph 9.1 shall be remitted to the Tzeachten First Nation by the Court, after reasonable Court costs have been deducted.

Enforcement and Stop Work Orders

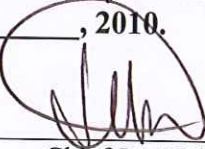
- 9.3 In addition to any other applicable fine, penalty or remedy, Council, the Lands Manager, or a designated official may:
- (a) issue a Stop Work Order to order any Person who has not received full and proper authorization under this Law to cease carrying out any activity, use or construction listed under Part 7 or any related activity or use;
 - (b) order any structures, works or installations carried out in violation of this Law to be removed within 30 days, failing which Council may order them to be removed at the expense of the CP-holder or the Person who constructed or installed the structures, works or installations without proper authorization.
- 9.4 A Stop Work Order imposed under subsection 9.3:
- (a) may be registered in Court and enforced as a court order; and
 - (b) continues in force until the condition that led to it is remedied or until the activity or use that is the subject of the Stop Work Order receives a permit or authorization under this Law.

PART 10. COMING INTO FORCE

Date Law Comes into Force

10.1 This Law shall come into force and effect on the date it is passed by Council Resolution after complying with the requirements of Part 3 of the Land Code.

BE IT KNOWN that this Law entitled **Tzeachten Zoning and Land Use Law** is hereby enacted by a quorum of Council at a duly convened Council of the Tzeachten First Nation held on April 14, 2010.



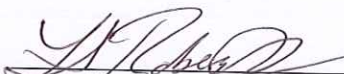
Chief Joe Hall



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 10-09

ZONING AND LAND USE 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 had a zoning by-law in place since 1991 which designated Tzeachten Lands as a Special Development Zone and required a rezoning process for changes in use;

AND the Tzeachten First Nation has taken back control and management of 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 regulation of zoning subdivision and developments under section 3.3 of the Code;

NOW THEREFORE the Council of Tzeachten First Nation, at a duly convened meeting, enacts this Zoning and Land Use as a Law of the Tzeachten First Nation.

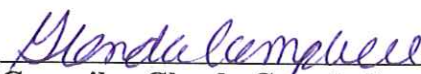
AND THEREFORE By-law 1991-03, as amended, is repealed and replaced with this Law.

A QUORUM for Tzeachten First Nation consists of 3.

DATED this 14th of April, 2010.



Chief Joe Hall



Councilor Glenda Campbell



Councilor Anthony Malloway



Councilor Lawrence Roberts



Councilor Leslie Joe