



TSAWWASSEN FIRST NATION
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2009

COMMUNITY SAFETY AND SECURITY
(LAND USE AND PROHIBITED
SUBSTANCES) ACT

Enacted April 3, 2009

CHIEF KIM BAIRD

TSAWWASSEN FIRST NATION

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COMMUNITY SAFETY AND SECURITY (LAND USE AND PROHIBITED SUBSTANCES) ACT

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Preamble

WHEREAS the Tsawwassen Government is committed to taking comprehensive measures to protect Tsawwassen Lands, the health and safety of residents of Tsawwassen Lands and the peace and order of the Tsawwassen First Nation;

AND WHEREAS activity involving prohibited substances on Tsawwassen Lands poses a serious threat to the health and safety of residents of Tsawwassen Lands and the peace and order of the Tsawwassen First Nation;

NOW THEREFORE the Tsawwassen Legislature enacts as follows:

Citation

- 1 This Act may be cited as the *Community Safety and Security Act*.

Definitions

- 2 In this Act:
“**chief administrative officer**” means the person appointed to that position under the *Government Organization Act*;

“**drug activity**”, in respect of a prohibited substance, means producing, providing, selling, storing, trafficking, or possessing for the purpose of trafficking;

“**interest holder**” means a Tsawwassen Member or person who holds an interest in land as set out in section 8 (1) of the *Land Act*;

“**prohibited substance**” means a substance included in Schedule I, II, III, IV or V to the *Controlled Drugs and Substances Act* (Canada);

“**sell**” means sell as defined in the *Controlled Drugs and Substances Act* (Canada);

“**traffic**” means traffic as defined in the *Controlled Drugs and Substances Act* (Canada).

Responsibility of interest holder

- 3** An interest holder must ensure that no drug activity occurs on the land in which the interest is held.

Orders of Executive Council

- 4** (1) If Executive Council believes, on reasonable and probable grounds, that drug activity is occurring on Tsawwassen Lands, Executive Council may make any order it considers advisable in respect of the land to
- (a) inspect that land,
 - (b) stop the drug activity, and
 - (c) prevent the recurrence of drug activity.
- (2) Without limiting subsection (1), any order made under that subsection by Executive Council may include the revocation of an interest in the land.

Reconsideration

- 5** (1) An interest holder or a person directly affected by an order of Executive Council under section 4, may, within 60 days of the order
- (a) apply to Executive Council for a reconsideration of the order, or
 - (b) waive any right to a reconsideration of the order and apply to Judicial Council for a review of that order.
- (2) As soon as practicable after receipt of an application for reconsideration, Executive Council must conduct a reconsideration, and may
- (a) revoke the order;
 - (b) modify the order, with or without conditions, or
 - (c) confirm the order.
- (3) On reconsidering an order, Executive Council may take into account any information it considers relevant and reliable.

- (4) As soon as practicable after completion of the reconsideration, the chief administrative officer must notify the interest holder or affected person of
 - (a) the outcome of the reconsideration, and
 - (b) the interest holder or affected person's right to apply to Judicial Council for a review of the order.
- (5) An order of Executive Council is a final order if
 - (a) no application for a reconsideration of the order is made within 60 days of the date of that order,
 - (b) the right for a reconsideration is waived, or
 - (c) after a reconsideration, the order is confirmed or modified.

Review of final order of Executive Council

- 6 (1) An interest holder or person affected by a final order of Executive Council may apply to Judicial Council for a review of that order.
- (2) An application to Judicial Council for a review of a final order of Executive Council must be initiated within 60 days of the order becoming final.
- (3) At the review before Judicial Council, the onus is on the applicant to establish to Judicial Council's satisfaction that the final order being reviewed was
 - (a) unnecessary because no drug activity was occurring,
 - (b) not made on reasonable and probable grounds, or
 - (c) inappropriate in the circumstances.
- (4) At the review, Judicial Council may consider any information it deems relevant and reliable.
- (5) Judicial Council, upon review of a final order of Executive Council, may
 - (a) set aside the order,
 - (b) modify the order with or without conditions, or
 - (c) confirm the order.
- (6) As soon as practicable after completion of the review, the chief administrative officer must notify the interest holder or the affected person of the outcome of that review.

Failure to comply with order of Executive Council or Judicial Council

- 7 (1) If an interest holder does not comply with an order of Executive Council or Judicial Council within a reasonable time or a time specified in the order, Executive Council or Judicial Council, as applicable, must direct the chief administrative officer to do the following:
 - (a) enter onto the land to inspect it,
 - (b) enter onto the land and, at the expense of the interest holder, undertake any work necessary to ensure compliance with the order, and

- (c) if necessary, prohibit any interest holder or occupant of the land from entering onto or occupying that land until the land is in compliance with the order.
- (2) If an interest holder or person affected by an order does anything not authorized by this Act that interferes with Executive Council or Judicial Council doing whatever it considers necessary to ensure compliance with the order, Executive Council or Judicial Council, as applicable, may declare
 - (a) the land that is the subject of the order to be Tsawwassen Public Land, and
 - (b) any interest holder or person who is on or enters onto the land that is the subject of the order is trespassing on that land,and may make any order it considers necessary under sections 35, 36, 37 and 42 of the *Land Act*.

Police assistance

- 8** Nothing in this Act precludes anyone from reporting any suspected drug activity to the police.

Regulations

- 9** Executive Council may make regulations for the purposes of this Act

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Interpretation

- 10** The *Interpretation Act* (British Columbia) applies to this Act and the regulations, unless the context or another Tsawwassen enactment otherwise requires.

Commencement

- 11** This Act comes into force on the date of its enactment by Tsawwassen Legislature.