



TSAWWASSEN FIRST NATION  
s̓c̓awaθən məsteyəx<sup>w</sup>

2009

## CULTURE AND HERITAGE ACT

Enacted April 3, 2009

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CHIEF KIM BAIRD



# TSAWWASSEN FIRST NATION

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## CULTURE AND HERITAGE ACT

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Tsawwassen Legislature enacts as follows:

#### **Citation**

- 1 This Act may be cited as the *Culture and Heritage Act*.

#### **Definitions**

- 2 In this Act:
  - “**Archaeological Human Remains**” means human remains, of aboriginal ancestry, that are found within Tsawwassen Territory and determined not to be the subject of investigation by the police or a coroner;
  - “**Cultural Property**” means
    - (a) ceremonial regalia and similar personal property associated with a chief, clan or family, or
    - (b) other personal property that has cultural significance to Tsawwassen First Nation;
  - “**final agreement**” means the Tsawwassen First Nation Final Agreement among Tsawwassen First Nation, Her Majesty the Queen in Right of Canada, and Her Majesty the Queen in Right of British Columbia and includes amendments to that agreement made in accordance with it;
  - “**manager**” means the employee designated by Executive Council as the manager of Culture and Heritage

“**Tsawwassen Artifact**” means any object created by, traded to, commissioned by, or given as a gift to a Tsawwassen Individual or that originated from the Tsawwassen community, past or present, and that has past and ongoing importance to the culture or spiritual practices of Tsawwassen First Nation, but does not include any object that has been traded to, commissioned by, or given as a gift to another aboriginal individual or community;

“**Tsawwassen culture**” includes those features of Tsawwassen culture described in section 3;

“**Tsawwassen First Nation**” means the collectivity that comprises all Tsawwassen Individuals;

“**Tsawwassen Lands**” means the lands set out in Appendix C-24 of the final agreement as Tsawwassen Lands;

“**Tsawwassen Member**” means a Tsawwassen Individual who is enrolled as a member of Tsawwassen First Nation in accordance with Chapter 21 [*Eligibility and Enrolment*] of the final agreement;

“**Tsawwassen Territory**” means the area of land that Tsawwassen First Nation identified in its Statement of Intent to the British Columbia Treaty Commission, as shown in Appendix A of the final agreement.

### **Cultural rights**

- 3** (1) Tsawwassen Members, individually and collectively, are entitled to
- (a) enjoy, advance and promote the Hun'qum'i'num language, Tsawwassen art, literature, lifestyle, value systems and ways of living together,
  - (b) engage in the spiritual, material, intellectual and emotional features of Tsawwassen society,
  - (c) preserve and protect Tsawwassen First Nation history, traditions, traditional beliefs and symbols,
  - (d) advance, promote and participate in Tsawwassen First Nation ceremonies, songs, dance, storytelling, and naming practices, and
  - (e) engage in other practices of Tsawwassen culture.
- (2) The cultural rights set out in subsection (1) are limited only by
- (a) the law of Canada, the law of British Columbia and Tsawwassen law, and
  - (b) the oral and written traditions of Tsawwassen First Nation.

### **Government to promote Tsawwassen culture**

- 4** Executive Council must seek ways to preserve, promote and develop Tsawwassen culture.

### **Ancestral remains and burial objects**

- 5** (1) Tsawwassen First Nation holds as a sacred and irrevocable trust the Archeological Human Remains of Tsawwassen ancestors and burial objects associated with such remains.

- (2) If Tsawwassen Archeological Human Remains are discovered outside Tsawwassen Lands, Executive Council must seek to negotiate their ownership and return, or their care, custody or control and the respect to be accorded to them.

#### **Ancestral remains and burial objects on Tsawwassen Lands**

- 6 (1) Burial objects and ancestral remains located on Tsawwassen Lands are the property of Tsawwassen First Nation.
- (2) A person may not remove, relocate, modify, alter, destroy or otherwise interfere with burial objects and ancestral remains located on Tsawwassen Lands without first obtaining a permit from the manager setting out terms and conditions.
- (3) If Tsawwassen burial objects are located outside Tsawwassen Lands, the manager must
  - (a) assess their significance or importance, and
  - (b) make a written report to Executive Council on their location, their significance and related matters.
- (4) If, after considering a report by the manager, Executive Council concludes that the burial objects are of significance or importance to Tsawwassen First Nation it may authorize a person to seek to negotiate the ownership and return of the burial objects or their care, custody or control and the respect to be accorded to them.

#### **Ownership of Tsawwassen Artifacts**

- 7 (1) Every Tsawwassen Artifact discovered on, in or under Tsawwassen Lands on or after April 3, 2009, is owned by the Tsawwassen First Nation, unless ownership is proved to be vested in another person under subsection (2).
- (2) Ownership of a Tsawwassen Artifact may be proved by another person if that other person created it, traded for it, commissioned it, purchased it, or acquired it by gift, by will or other devolution of property on death.
- (3) Disputes about the ownership of a Tsawwassen Artifact that cannot be resolved by agreement must be resolved by Judicial Council.

#### **Tsawwassen Artifacts elsewhere**

- 8 Executive Council must negotiate an agreement about the ownership, return of, care, custody, control or exhibition of, and respect to be accorded to, Tsawwassen Artifacts held by
  - (a) the Royal British Columbia Museum,
  - (b) the government of British Columbia or the government of Canada or any agency of either government,
  - (c) any person or organization inside or outside Canada, and
  - (d) any museum or entity inside or outside Canada.

### **Traditional names**

- 9** Executive Council may establish and maintain
- (a) a list of traditional names for places, features, items or things on Tsawwassen Territory, and
  - (b) a description of the traditional, permitted and prohibited uses at locations or in respect of features, items or things on Tsawwassen Territory.

### **Standing to represent Tsawwassen First Nation**

- 10** Executive Council may exercise a right to commence an action, intervene in an action, or exercise a right of standing, representation or appearance provided by or under Tsawwassen law or an enactment of British Columbia, Canada, or other jurisdiction inside or outside Canada with respect to
- (a) the validity or variation of a will of a Tsawwassen Member, or the disposition of property of a Tsawwassen Member who dies without a valid will, and
  - (b) the ownership, possession, custody, control or devolution of Tsawwassen Artifacts or the property of a Tsawwassen Member.

### **Standing Committee and Cultural Purposes Fund**

- 11**
- (1) A Standing Committee on Language and Culture must be established consisting of up to 5 members.
  - (2) Members of the Standing Committee on Language and Culture must be appointed by the Tsawwassen Legislature on the recommendation of the Chief.
  - (3) A Cultural Purposes Fund must be established as an account within the general revenue fund with the object of protecting and promoting Tsawwassen culture, including language.
  - (4) Moneys may not be paid from the Cultural Purposes Fund without authorization in the annual budget.
  - (5) The Standing Committee on Language and Culture must
    - (a) work with Tsawwassen Members to develop an awareness and understanding of Tsawwassen culture and heritage,
    - (b) develop and recommend policies and programs to Executive Council to protect and promote Tsawwassen culture, including language,
    - (c) carry out culture and heritage information and education programs for Tsawwassen Members,
    - (d) assist Tsawwassen Members in recognizing and developing cultural practices, including language,
    - (e) advise the manager regarding approval of project funding, grants, funding agreements and other expenditures from the Cultural Purposes Fund consistent with the authorization in the annual budget, and
    - (f) do such other things as directed by Executive Council.

## **Regulations**

- 12** Executive Council may make regulations respecting
- (a) the preservation, promotion and development of
    - (i) the culture of Tsawwassen First Nation, including its history, laws, ceremonies, symbols, songs, dances, storytelling, and traditional naming practices, and
    - (ii) the Hun'qum'i'num language,
  - (b) the conservation and protection of, and access to, heritage resources on Tsawwassen Lands including archeological sites, traditional use sites, culturally modified trees, trails and routes, burial or other funeral sites, structural features and cultural landscapes,
  - (c) the archaeological sites on Tsawwassen Lands and archaeological material discovered on Tsawwassen Lands on and after April 3, 2009,
  - (d) Tsawwassen Artifacts owned by Tsawwassen First Nation,
  - (e) Archaeological Human Remains found on and after April 3, 2009 on Tsawwassen Lands and any Archaeological Human Remains that come into the possession of Tsawwassen First Nation from Canada, British Columbia or otherwise, on or after April 3, 2009,
  - (f) the devolution of cultural property of a Tsawwassen Member who dies without a valid will,
  - (g) specifying sites on Tsawwassen Lands which a Tsawwassen Member may access for cultural purposes and activities, including gathering, and
  - (h) setting out procedures for designating Tsawwassen Members' access to specified sites on Tsawwassen Lands for cultural purposes and activities, including gathering.

## **Authority to negotiate and conclude agreements**

- 13** Executive Council is authorized to negotiate and enter into every agreement referred to in Chapter 14 [*Culture and Heritage*] of the final agreement.

## **Interpretation**

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

## **Commencement**

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

