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TSAWWASSEN FIRST NATION
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Community Governance Act

GOOD NEIGHBOUR REGULATION

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[Preamble]

[Amended by order number 041-2010]

Citation and Short Title

1.1 This regulation may be cited as the Tsawwassen First Nation Good Neighbour Regulation, 2009.

Interpretation and Application

2.1 Unless specifically defined herein, words and phrases used in this regulation shall be construed in accordance with the meanings assigned to them in the *Tsawwassen First Nation Final Agreement* or the *Community Governance Act*, the *Criminal Code of Canada* (“*Criminal Code*”) and the *Firearms Act* of Canada, as the context and circumstances require.

[Amended by order number 041-2010]

2.2 In this regulation:

“**Administrator**” means the chief administrative officer appointed to act for Tsawwassen First Nation;

“**armoured car guard service**” has the same meaning in the *Security Services Act* of British Columbia;

[Amended by order number 041-2010]

“**chief firearms officer**” means the individual who is designated in writing as the chief provincial firearms officer by the Attorney General of British Columbia;

[Amended by order number 041-2010]

“**construction**” includes erection, reconstruction, alteration, repair, dismantling, demolition, relocation and removal of a building, structure or thing, structural maintenance, painting, land clearing, earth moving, excavation, grading, the laying of pipe and conduit whether above or below ground level, street and highway building, concreting, installation, alteration or removal of construction equipment, components and materials in any form or for any purpose, and includes any associated work or activity;

“**construction equipment**” means any equipment or device designed and intended for use in construction or material handling, including but not limited to air compressors, pile drivers, pneumatic or hydraulic tools, bulldozers, tractors, excavators, trenchers, cranes, derricks, loaders, scrapers, pavers, generators, off-highway haulers or trucks, ditchers, compactors and rollers, pumps, concrete mixers, graders, or other material handling equipment;

“**conveyance**” includes a vehicle and any other device employed to transport a person or persons or goods from place to place but does not include any such device or vehicle if operated only within the premises of a person;

“**motor vehicle**” includes an automobile, motorcycle, and any other vehicle propelled or driven otherwise than any muscular power; but does not include the cars of electric or steam railways or other motor vehicles running only upon rails, or a motorized snow vehicle, a traction engine, a farm tractor, a self-propelled implement of husbandry or a road-building machine within the meaning of the Commercial Transport Act R.S.B.C. 1996, c. 58;

“**noise**” means an unwanted sound;

“**noxious weeds**” means any weed designated by to be a noxious weed pursuant to the Weed Control Act R.S.B.C.1996, c. 487;

“**officer**” means any police officer, police constable or any other person charged with the duty to preserve and maintain the peace; or a person appointed by resolution of the Executive Council or retained through an agreement as a regulation enforcement officer; and

“**person**” includes a corporation.

“**weapon**” includes a firearm, cross-bow, prohibited weapon or restricted weapon, all as defined in the *Criminal Code*.

[Amended by order number 041-2010]

2.3 Without limiting the generality of any provision in this regulation or other laws that may be applicable, it is expressly confirmed that Part III of the *Criminal Code* and the *Firearms Act* of Canada apply to the Tsawwassen Lands.

[Amended by order number 041-2010]

2.4 If any part, section, subsection or phrase of this regulation is held to be invalid by a court of competent jurisdiction, the invalid portion shall be severed and the remainder of the regulation will be deemed to have been enacted without the invalid portion.

2.5 This regulation does not apply to:

- (a) the operation of emergency vehicles;
- (b) actions carried out pursuant to an authorized emergency planning protocol;
- (c) the emergency repair of a highway, road allowance, public or community facility;
- (d) peace officers or fire officials acting in the course of their duties;
- (e) the operation of farm vehicles during planting and harvesting;
- (f) the operation of a public utility or an activity of the Provincial or Federal government pursuant to a prevailing law; or
- (g) traditional or cultural practices, services or ceremonies, or parades or special events, that are authorized by the Tsawwassen Government or the Executive Council.

Prohibited Noise

3.1 A person must not, except in accordance with an enactment, this regulation, or a permit or other form of authorization issued under this regulation, make or cause any noise or sound, or permit, suffer or allow any noise or sound to be made, that disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort or convenience of the neighbourhood, or of any person in the vicinity.

3.2 Without limiting subsection 3.1, a person must not do, or cause, permit, suffer or allow to be done, any of the following:

- (a) operate a motor vehicle in such a way that the tires squeal;
- (b) race any motor vehicle or any motorized conveyance;
- (c) operate a motor vehicle or motorized conveyance, engine, motor, or construction equipment without an effective exhaust, intake-muffling device or other sound attenuation device of a type specified by the manufacturer, which is in good working order and in constant operation;
- (d) operate a siren, whistle, motor vehicle horn or other warning device except where required or authorized by law or in accordance with good traffic safety practices;
- (e) cause or allow a sound from a radio, cassette or CD player, television or other sound playback device or amplification equipment to emanate from a motor vehicle, residence or business

- premises such that it can easily be heard by someone outside the vehicle, residence or business premises;
- (f) operate a bell, gong, or similar device that can easily be heard by a person not on the premises from which the sound emanates, except in connection with a cultural or religious ceremony or service;
 - (g) operate any motor vehicle or motorized conveyance other than on a highway or other place intended for its operation between the hours of 11 p.m. to 7 a.m.;
 - (h) operate a garbage truck, solid waste bulk lift or refuse compacting equipment between the hours of 11 p.m. to 7 a.m.;
 - (i) operate any electronic device, loudspeakers, electro-mechanical transducers, or other device intended for the production, reproduction or amplification of sound between the hours of 11 p.m. to 7 a.m.;
 - (j) operate a lawn-mower, leaf-blower, edge trimmer, line trimmer, rototiller, pressure washer, carpet cleaning equipment, or a household power tool other than for ice or snow removal, between the hours of 11 p.m. and 7 a.m.;
 - (k) sell or advertise by shouting or outcry or amplified sound between the hours of 7 p.m. and 8 a.m.;
 - (l) yell, shout, hoot, or make a clamorous noise between the hours of 11 p.m. and 7 a.m.
 - (m) allow a domestic pet or other animal within the person's possession, care or supervision, other than livestock animals, to continuously bark, call, whine, or make a similar noise for a period of time exceeding fifteen (15) minutes so that it disturbs or tends to disturb the peace, quiet, rest, enjoyment, comfort, convenience or tranquility of the neighbourhood or of any person in the vicinity;

Construction Noise

- 4.1 Except as provided in this section, a person must not operate construction equipment, or carry out construction in any manner that disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort, or convenience of the neighbourhood or of persons in the vicinity:
- (a) before 7 a.m. on any day from Monday to Saturday;
 - (b) before 9 a.m. on any Sunday or statutory holiday, or after 11 p.m. on any day.
- 4.2 On receiving an application submitted in accordance with section 1 of Schedule A, the Administrator may, by written permit, vary the time restrictions set out in subsection 4.1 for a certain location and activity if, in the opinion of the Administrator:
- (a) public safety or traffic considerations make it necessary or expedient that the work or activity commence or continue beyond those time restrictions, or
 - (b) it is impossible or impractical to carry out, within those time restrictions, excavation, concrete pouring or finishing, major structural or mechanical component delivery or placement, or relocation of a building or structure; and
- the Administrator may impose such terms and conditions as he or she deems reasonable or necessary in the circumstances.
- 4.3 Where the Administrator has issued a permit under this section, the owner or occupier of the real property identified in the permit and any agent, contractor or servant of the owner or occupier shall comply with, and shall ensure compliance of any and all time restrictions, notice requirements, and other terms and conditions of the permit.

Prohibited Conduct

- 5.1 A person must not disrupt, impede, obstruct or otherwise interfere with the orderly conduct of commercial, administrative, educational, recreational, health care, cultural or religious services or ceremonial activities.
- 5.2 A person must not conduct themselves in a manner that disrupts or interferes with the peace, order, convenience, comfort, health or safety of the community or other members of the community, and in particular, without limiting the generality of the foregoing, in any setting described in subsection 5.1 or in an open or public place, must not:
- (a) fight with, bully or behave in an intimidating manner toward other persons;
 - (b) use abusive or offensive language, gestures, or displays;
 - (c) impede or obstruct the free movement of vehicular traffic or of any other person on a roadway or other public place except in accordance with law or by authorized permit;
 - (d) tamper with, deface, injure, remove or destroy community or public property, equipment, utilities, gardens, shelters, benches or other amenities.
- 5.3 A person must not place graffiti, or cause graffiti to be placed, on any building, wall, fence, sign, or other structure or thing on or adjacent to a road, sidewalk, parking lot, park or other public place.
- 5.4 A person must not:
- (a) deposit, leave, place or toss bottles, broken glass, plastic, styrofoam, bags, newspapers, flyers, paper, litter, rubbish or discarded items; or
 - (b) abandon cars or car parts, or household appliances or furniture,
- in any roadway, sidewalk, ditch, parking lot, waterway, park or other open space or community facility other than in a receptacle or within a site intended or designated for that purpose;
- (a) burn tires, discarded items, garbage, leaves or grass;
 - (b) discharge any unhealthy substance into the air or water; or
 - (c) cause, suffer or allow a dog to leave or deposit excrement or vomit on any roadway, park or other public place, or on property other than that which the person owns or occupies, without immediately taking action to remove and dispose of the excrement or vomit in a sanitary manner and in an appropriate receptacle.

Problem Properties

- 6.1 A person who owns or occupies real property:
- (a) must not cause or permit, suffer or allow the property to become or remain unsightly;
 - (b) must not cause or permit, suffer or allow on or around the property:
 - (i) an accumulation of water;
 - (ii) accumulation of discarded materials, substances or objects;
 - (iii) abandoned vehicles or household appliances, or parts thereof;
 - (iv) noxious weeds;
 - (v) offensive or unwholesome materials;
 - (vi) unsanitary conditions; or
 - (vii) graffiti to be placed on any wall, fence, building or other structure so that it is visible to persons passing by the property;
 - (a) must ensure that lawn grass is trimmed so that its height does not exceed 30 centimetres (12 inches);

- (b) must not cause or permit, suffer or allow a building or other structure on the property to be used for any purpose that results or could result in the building or other structure becoming unsafe for lawful human habitation or other permitted use, or a hazard, danger or nuisance to the community; and
- (c) must remove or cause to be removed from the property any accumulation of water, unsightly accumulations of discarded materials, substances or objects, abandoned vehicles or appliances or parts thereof, noxious weeds, offensive or unwholesome materials, unsanitary conditions, graffiti, or unsafe or hazardous conditions on a regular basis or when directed to do so under section 8, and in accordance with any requirements and conditions accompanying the remedial action notice or directive.

Snow and Ice Removal

- 7.1 Every owner or occupier of real property must remove, or cause to be removed, snow or ice from any sidewalk or footpath bordering that property by 10 p.m. of the day following the accumulation of snow or ice.

Restriction on Use of Weapons

- 8.1 A person must not use a weapon while on Tsawwassen Lands except in accordance with the *Criminal Code*, the *Firearms Act* of Canada and this regulation.
- 8.2 This section of the regulation does not apply to a peace officer or a person employed by an armoured car guard service who is in possession of a firearm for use in connection with his or her duties.
- 8.3 A Tsawwassen Member may use a weapon on Tsawwassen Lands in accordance with the terms, conditions, restrictions and requirements of a valid and subsisting licence or permit issued to that person by the chide firearms officer.
- 8.4 A person permitted to use a weapon under subsection 8.2 must retain a copy of a licence or permit and produce it at the request of a peace officer, the Executive Council or its authorized delegate.
- 8.5 A person who is in possession or control of a weapon must exercise care for the safety of other persons or property.

[Amended by order number 041-2010]

Remedial Action

- 9.1 Where it appears to the Administrator that a person has not complied with this regulation in respect of real property which the person owns or occupies or for which the person is otherwise responsible, the Administrator may issue a remedial action notice requiring the person to bring the property into compliance with this regulation within the time specified in the notice.
- 9.2 Delivery of the remedial action notice will be sufficient if the notice:
- (a) is delivered personally or mailed by prepaid registered mail to the owner or any occupier of the real property subject to the remedial action notice;
 - (b) advises that the person subject to the requirement may request a reconsideration by the Executive Council; and
 - (c) advises that, if the remedial action is not completed by the date specified in the notice, the Tsawwassen Government may take action to affect compliance with the Regulation in accordance with subsection 8.3.
- 9.3 If the owner, occupier or other responsible person fails to comply with:
- (a) a remedial action notice within 30 days of receiving such notice, or within a lesser period of time as may be provided for in the notice where a situation is urgent; or

- (b) a directive of the Executive Council pursuant to a reconsideration within a time stated in the directive,

the Tsawwassen Government, by any officials, servants, agents, or contractors appointed by resolution of the Executive Council, may, at a reasonable time and in a reasonable manner and on providing reasonable notice, may enter the real property, accompanied by an officer as may be advisable or necessary in the circumstances, and affect such compliance at the cost of the defaulting owner, occupant or other responsible person. Such cost shall consist of all costs and expenses incurred by the Tsawwassen Government including, without limitation, administrative costs, costs of attending at the property by officials, servants, agents, contractors and officers, and the costs of removal, clean-up and disposal.

Reconsideration

10.1 The Executive Council may, on receiving an application or request in accordance with Schedule A of this regulation, grant a temporary exemption or variation from a provision of this regulation or reconsider a decision of the Administrator, and in so doing:

- (a) may limit its consideration to written materials;
- (b) may consider any information it considers relevant to the application or request;
- (c) may provide the applicant or another person or persons with an opportunity to be heard;
- (d) may impose any restrictions, requirements, terms and conditions it considers necessary or desirable to reduce or alleviate any adverse or prejudicial effects on the community or other person(s) resulting from the exemption or variation; and
- (e) must specify the time period, not in excess of 6 months, during which any exemption, variation or directive is effective.

10.2 Reconsideration under section 10.1 of this Regulation does not apply to section 8 of this Regulation.

[Amended by order number 041-2010]

Offence, Penalties and Enforcement

11.1 A person who contravenes or violates any of the provisions of this regulation or of any licence or permit issued by the chief firearms officer, who suffers or permits any act to be done in contravention or violation of this regulation, or who fails or neglects to do anything required to be done by any provision of this regulation or any licence or permit, commits an offence, and each day that the offence continues shall constitute a separate offence.

[Amended by order number 041-2010]

11.2 This regulation may be enforced:

- (a) by an enforcement officer in a proceeding under the Tsawwassen First Nation *Laws Enforcement Act*;
- (b) by the Police Department for the Corporation of Delta in accordance with Part 8 of the *Community Charter* (British Columbia) and the *Community Charter Bylaw Enforcement Ticket Regulation* under that Act; or
- (c) by way of an information under the *Offence Act* (British Columbia).

11.3 A person convicted of an offence in Provincial Court is liable to:

- (a) If the proceeding was commenced by the Police Department for the Corporation of Delta by issuance of a ticket,

- (i) a fine established under the *Municipal Ticketing Information Bylaw No. 6639, 2007* (Delta) for an offence related to a bylaw that is substantially similar to the provision of this Regulation for which the person has been convicted; or
 - (ii) where subparagraph 10.3 (a)(i) does not apply, a fine of \$200;
- (b) a fine not exceeding \$10,000 if a proceeding is brought by way of an information approved by a justice of the peace; or
- (c) to community service in lieu of or in combination with a fine, as ordered by the court.

12 Schedule A is attached to and forms part of this regulation.

13 Upon enactment of this regulation, the Weapons Regulation 065-2009, is repealed.

[Amended by order number 041-2010]

Schedule A
to
Tsawwassen First Nation Good Neighbour Regulation, 2009

1. An application for permission to vary a provision of the regulation shall be in writing and submitted to the Administrator at least 5 business days prior to the date of the proposed activity, and shall include:
 - (a) the applicant's name, address and telephone number;
 - (b) the address of the real property for which the variation is sought;
 - (c) the owner(s) of the real property, if different from the applicant;
 - (d) a description of the source(s) of sound in respect of which the variation is sought;
 - (e) the reason(s) why the variation should be permitted;
 - (f) a statement of the steps, if any, that are planned or presently being taken to minimize the sound associated with the proposed activity ; and
 - (g) a non-refundable application fee of \$100.00.

2. A request for reconsideration shall be in writing and shall include the information listed in section 1 (a) through (c) of this Schedule and in addition, submissions as to why the Executive Council should reconsider the decision and any proposed steps the person is willing to take to address the situation and any adverse or prejudicial effects on the community or any persons in the vicinity.