



TSAWWASSEN FIRST NATION
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2009

LAWS ENFORCEMENT ACT

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TSA WWASSEN FIRST NATION

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Tsawwassen Legislature enacts as follows:

Title

- 1 This Act may be called the *Laws Enforcement Act*.

Definitions

- 2 In this Act
 - “**enforcement officer**” means a person appointed as an enforcement officer under section 3 [*Appointment of enforcement officers*];
 - “**Executive Council**” means the Executive Council established under the *Government Organization Act*.

PART 1 – ENFORCEMENT OFFICERS

Division 1 – Appointment, Conduct, Authority and Accountability

Appointment of enforcement officers

- 3 (1) Executive Council may
 - (a) appoint or provide for a person to appoint one or more persons as enforcement officers and prescribe their duties and responsibilities;
 - (b) establish or adopt a code of conduct for enforcement officers.
- (2) The terms of an appointment may limit the Act or regulations or the provisions of either of them in respect of which an enforcement officer has authority.

Authority of enforcement officers

- 4 (1) Unless limited by the terms of an appointment, an enforcement officer, by virtue of his or her appointment, is authorized to issue
 - (a) tickets and compliance notices under Part 2 [*Tickets and Compliance Notices*],

- (b) community improvement notices and special community improvement notices under Part 3 [*Remedying Community Problems*], and
 - (c) enforcement notices or orders that under another Act or regulation are authorized to be enforced by an enforcement officer under this Act.
- (2) An enforcement officer may be given such other authority with respect to enforcement of Tsawwassen law as Executive Council, by regulation, determines.

Enforcement officers are peace officers

- 5 Enforcement officers, by virtue of their appointment, are persons employed or engaged for the preservation and maintenance of the public peace.

Conduct of enforcement officers

- 6 Executive Council may make regulations
- (a) respecting or adopting protocols for the manner in which enforcement officers are to carry out their duties and responsibilities and the manner in which they are to conduct themselves as enforcement officers;
 - (b) respecting uniforms to be worn or a dress code to be observed by enforcement officers when they are on duty;
 - (c) prescribing conditions for appointing an enforcement officer and the terms and conditions of retaining the appointment of enforcement officer;
 - (d) respecting the training, certification and periodic re-certification or re-training or new training required of enforcement officers;
 - (e) respecting reports and record-keeping by enforcement officers, and the privacy of and access to records;
 - (f) respecting the issue, use, production, revocation, and periodic renewal of items that identify a person as an enforcement officer and the restrictions or prohibition on use of those items;
 - (g) respecting the weapons, other than the carriage or use of firearms, that an enforcement officer may carry and rules respecting the use and reporting of use of weapons;
 - (h) respecting the use and marking of vehicles and equipment and the use, identification and restrictions on use of vehicles and equipment.

Authority of officers

- 7 (1) In the performance of their duties, enforcement officers may, at any reasonable time,
- (a) enter land or unoccupied premises;
 - (b) enter a dwelling with the consent of the occupier.
- (2) For the purpose of performing their duties an enforcement officer may
- (a) inspect land, property or records,
 - (b) take or make copies of anything;
 - (c) make any reasonable inspection, investigation or inquiry that is necessary to determine if an Act or a regulation made under an Act, or a compliance agreement or an order, notice or other instrument issued under this or any other Act or regulation has been complied with or has been contravened.

- (3) On request and in the course of performing their duties, an enforcement officer must show his or her identification as an enforcement officer.
- (4) The authority of an enforcement officer
 - (a) may be limited by their terms or conditions of appointment as an enforcement officer;
 - (b) may be increased if the enforcement officer is, under another Act or regulation, appointed or designated to enforce the provisions of any other Act or regulation.

Complaints and discipline of enforcement officers

- 8** (1) A person may complain about the conduct of an enforcement officer in accordance with the regulations.
- (2) Executive Council must make regulations
 - (a) designating a Tsawwassen public institution or person to whom a complaint about an enforcement officer may be made;
 - (b) respecting the time within which and the manner in which the complaint must be made;
 - (c) respecting the investigation of the complaint, including
 - (i) dismissal of the complaint if it is considered to be without merit;
 - (ii) how and by whom a complaint is to be investigated if an investigation is warranted;
 - (d) respecting the notice to be given to the enforcement officer about the complaint and the information to be provided to the person making the complaint about the progress of the investigation;
 - (e) respecting the findings that may be made and the consequences, including the discipline that may be imposed which may include the suspension or revocation of the enforcement officer’s appointment as an enforcement officer;
 - (f) providing for an appeal of a discipline decision or the revocation of an appointment, the time within which it must be made, to whom, and the authority of the appeal body.

PART 2 – TICKETS AND COMPLIANCE NOTICES

Division 1 – Issue of Tickets and Compliance Notices

When compliance notices can be used

- 9** (1) This Part applies to those contraventions of Acts and regulations specified by another Act, a regulation under another Act, or by regulations made by Executive Council under this Act
 - (a) as contraventions in respect of which a ticket may be issued,
 - (b) as contraventions in respect of which the compliance notice provisions of this Act apply.

- (2) For contraventions for which a ticket or a compliance notice may be issued, Executive Council, by regulation, must establish the amount of
 - (a) the penalty for the contravention,
 - (b) the discounted amount of the penalty payable if the penalty is received on or before the 14th day after the date the ticket or compliance notice was received or presumed to have been received, and
 - (c) the surcharge if the penalty is paid on or after the 29th day after the day on which the ticket or compliance notice was received or presumed to have been received.
- (3) Executive Council must prescribe the form or forms of the ticket or compliance notice.

Contents of tickets and compliance notice

- 10** A ticket and a compliance notice must be in the form prescribed in regulations made by Executive Council and when a ticket or compliance notice is issued it must contain the following information:
- (a) particulars of the alleged contravention in sufficient detail that a recipient of the notice is able to identify the offence alleged,
 - (b) the amount of the penalty, the discounted penalty and the surcharge specified in the regulations,
 - (c) the methods of paying the penalty,
 - (d) how to dispute the alleged contravention,
 - (e) the date the ticket or compliance notice is issued,
 - (f) a means of identifying the enforcement officer who issued the notice,
 - (g) in the case of a compliance notice, that a screening officer may be asked to review the notice,
 - (h) in the case of a ticket, that the person receiving the ticket may appeal the ticket to Judicial Council, and
 - (i) any other information required by the regulations.

Issue of ticket or compliance notice

- 11**
- (1) An enforcement officer may complete and issue a ticket or compliance notice to a person in respect of an alleged contravention for which a ticket or compliance notice, as the case may be, may be issued.
 - (2) A ticket or compliance notice may be completed, issued and stored,
 - (a) in electronic format by electronic means, or
 - (b) by another means,that allows the ticket or notice to be reproduced in intelligible form.
 - (3) A ticket or compliance notice must be issued to a named person unless it is issued in respect of a contravention involving a vehicle, in which case it may be issued to,
 - (a) the vehicle's license plate, or
 - (b) the vehicle's identification number, temporary operation permit or interim permit under the *Motor Vehicle Act* (British Columbia).

- (4) If a ticket or compliance notice is issued under subsection (3)(a) or (b), the ticket or notice is deemed to have been issued to each registered owner of the vehicle as contained in the records of
- (a) the government (*British Columbia*), or
 - (b) a person responsible for maintaining records of vehicle registrations in British Columbia or in another province or territory of Canada.

Limitation period for compliance notices

- 12** A ticket or a compliance notice may not be issued more than 6 months after the contravention in respect of which it is issued is alleged to have occurred.

Service of tickets and compliance notices

- 13** (1) A ticket or a compliance notice may be served,
- (a) in person on the named person,
 - (b) by mailing a copy of the ticket or compliance notice,
 - (i) if the ticket or notice is in respect of a contravention involving a vehicle, to the address of each registered owner of the vehicle involved as contained in the records of,
 - (A) the government (*British Columbia*), or
 - (B) a person responsible for maintaining records of vehicle registrations in British Columbia or in another province,
 - (ii) to the actual or last known address of the named person, or
 - (iii) if the named person is a corporation or a business, to the registered office or head office as contained in the records of the Registrar of Companies under the *Business Corporations Act* (British Columbia),
 - (c) if the ticket or notice is in respect of a parking contravention, by leaving the ticket or notice on the vehicle involved, and
 - (d) in a manner other than those listed in paragraphs (a) to (c), as prescribed by regulation.
- (2) A ticket or compliance notice mailed under subsection (1)(b) is presumed to have been received by the person to whom it is addressed on the 7th day after mailing.
- (3) A ticket or compliance notice delivered under subsection (1)(c) is presumed to have been received by each registered owner of the vehicle, as contained in the applicable records described under subsection (1)(b)(i), on the day it is left.
- (4) A ticket or compliance notice delivered under subsection (1)(d) is presumed to have been received within the period prescribed by the regulations.
- (5) Executive Council may make regulations prescribing a method of service in addition to the methods described in this section and prescribing a period within which a person is presumed to have received the ticket or compliance notice.

Paying or disputing a compliance notice

- 14** (1) A person who receives a compliance notice must, within 14 days after receipt or presumed receipt of the notice,
- (a) pay the penalty in accordance with the notice either in person at the Tsawwassen administration office or by mail to the Tsawwassen administration office, or
 - (b) dispute the allegation contained in the notice by
 - (i) delivering or having delivered to the Tsawwassen administration office a written notice of dispute, or
 - (ii) appearing in person at the Tsawwassen administration office to give notice of dispute.
- (2) The notice of dispute must contain or provide an address for the person disputing the allegation and sufficient information to identify the compliance notice and the alleged contravention that is disputed.

Paying or disputing a ticket

- 15** (1) A person who receives a ticket must, within 14 days after receipt or presumed receipt of the ticket,
- (a) pay the penalty in accordance with the ticket either in person at the Tsawwassen administrative office or by mail to the Tsawwassen administrative office, or
 - (b) dispute the allegation contained in the ticket by filing a notice of the dispute with the Judicial Council under section 25 [*Appeal to Judicial Council*].
- (2) The notice of dispute must contain or provide an address for the person disputing the allegation and sufficient information to identify the ticket and the alleged contravention that is disputed.

Failure to respond to ticket or compliance notice

- 16** If a person who receives or is presumed to have received a ticket or compliance notice does not file or give notice of dispute within 14 days of receipt or presumed receipt of the notice, the penalty set out in the ticket or notice is immediately payable to the Tsawwassen First Nation by the person to whom the ticket or notice is issued in the manner indicated on the ticket or notice.

Process if ticket or compliance notice not received

- 17** If a person is not personally served with a ticket or compliance notice and notifies the chief administrative officer of the Tsawwassen First Nation that they did not receive a copy of the original ticket or notice, the time limit for responding to a ticket or compliance notice does not start to run until a copy of the ticket or notice is delivered or served according to the delivery or service provisions of this *Act* or the regulations.

Division 2 – Disputes about Compliance Notices

Screening officer

- 18** (1) Executive Council must appoint an employee or engage a person as a screening officer.

- (2) Executive Council may prescribe terms and conditions of the appointment.

Role of the screening officer

- 19** If a compliance notice is disputed in accordance with section 14(1)(b) [*Paying or disputing a compliance notice*], the compliance notice and notice of dispute must be referred to the screening officer.

Power, duties and functions of the screening officer

- 20** (1) On request of the person in respect of whom a compliance notice is issued, the screening officer must communicate,
- (a) information respecting the nature of the alleged contravention,
 - (b) the provision alleged to have been contravened,
 - (c) the facts on which the alleged contravention allegation is based,
 - (d) the penalty for the alleged contravention,
 - (e) the opportunity to enter into a compliance agreement, and
 - (f) the right to appeal to the Judicial Council.
- (2) The screening officer may communicate with,
- (a) the person against whom a contravention is alleged or their representative,
 - (b) the enforcement officer who issued the notice, and
 - (c) Tsawwassen employees regarding the disputant's history of compliance or non-compliance with Tsawwassen laws.

Authority of screening officer

- 21** (1) The screening officer may confirm a compliance notice.
- (2) The screening officer may cancel a compliance notice if the screening officer is satisfied that
- (a) the contravention did not or may not have occurred, or
 - (b) the compliance notice did not comply with this Act or the regulations.

Compliance agreement

- 22** (1) The screening officer may prepare and enter into a compliance agreement with a person who disputes a compliance notice,
- (a) respecting past and future compliance with Tsawwassen law,
 - (b) for a reduced penalty if a compliance agreement is entered into,
 - (c) respecting the cancellation of a compliance notice in accordance with the regulations, and
 - (d) respecting the terms and conditions of the compliance agreement.
- (2) The maximum duration of a compliance agreement is one year from the date it is signed by both parties.

Fee if disputed offence is confirmed

- 23** If a compliance notice is confirmed by the screening officer, or if the person in respect of whom a compliance notice is issued enters into a compliance agreement, the person in respect of whom the agreement is entered into must pay an

administration fee set by Executive Council by regulation, in addition to the amount of the penalty, or the amount of the penalty and surcharge.

Breach of compliance agreement

- 24**
- (1) If a screening officer considers that a compliance agreement has been breached, the compliance officer may by reasonable notice in writing to the person concerned, terminate the compliance agreement.
 - (2) If a compliance agreement is terminated the person in respect of whom the agreement is entered into becomes liable to double the amount of the penalty that the person would have been liable to pay if the compliance agreement had not been entered into, unless that amount is reduced by the screening officer.

Division 3 – Appeals and Penalties

Appeal to Judicial Council

- 25**
- (1) A person may appeal to Judicial Council if:
 - (a) the person receives a ticket or a compliance notice and requests dispute adjudication,
 - (b) in the case of a compliance notice, rejects the decision of the screening officer to confirm a compliance notice, or
 - (c) a compliance agreement is terminated.
 - (2) The appeal must be made by filing notice in writing with Judicial Council
 - (a) if no request is made to a screening officer, within 14 days of receipt or presumed receipt of the compliance notice,
 - (b) if the compliance officer confirms the compliance notice, within 14 days of notice being received by the person concerned that the compliance notice is confirmed,
 - (c) with respect to cancellation of a compliance agreement, within 14 days of the notice being received by the person concerned that the agreement is cancelled, or
 - (d) with respect to a ticket, within 14 days after receipt or presumed receipt of the ticket.
 - (3) An appeal to Judicial Council suspends the operation of the ticket or compliance notice, decision of the screening officer or decision to cancel the compliance agreement until the appeal is finally decided.

Penalties

- 26**
- (1) Executive Council may, by regulation, specify as an offence
 - (a) any contravention of this Act or a regulation under this Act,
 - (b) a contravention of any other Act or regulation, or
 - (c) contravention of an order or notice issued under this or any other Act or regulation.

- (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.

PART 3 – REMEDYING COMMUNITY PROBLEMS

Community improvement notice

- 27** (1) If an enforcement officer, for good reason, is satisfied that a person is not following Tsawwassen law, the enforcement officer may write out a community improvement notice and serve it on the person concerned in one of the ways described or referred to in section 13 [*Service of tickets and compliance notices*].
- (2) The community improvement notice may
 - (a) tell a person to stop doing something, to do something, or to change the way something is being done;
 - (b) tell a person to do whatever is necessary to fix what the officer thinks is a problem, to remedy the problem;
 - (c) state a time within which the person must fix the problem or take some action described in the notice;
 - (d) say that if the person does not fix the problem within a specified time and in accordance with the notice, a person authorized by Executive Council may take the action or measure at the expense of the person who gets the notice.

Special community improvement notice

- 28** (1) In this section,
 - (a) “detrimental to the surrounding area” includes causing the decline of the market value of property in the surrounding area;
 - (b) “unsightly condition”,
 - (i) in respect of a structure, includes a structure whose exterior shows signs of significant physical deterioration, and

- (ii) in respect of land, includes land that shows signs of a serious disregard for general maintenance or upkeep.
- (2) If an enforcement officer, for good reason, is satisfied that a building, structure, excavation or hole is dangerous to public safety or property or because of its unsightly or deteriorated condition is detrimental to the surrounding area, including causing or contributing to lower property values, the enforcement officer may, by a written community improvement notice:
 - (a) tell the owner of the structure to
 - (i) eliminate the danger to public safety in the way that is described in the notice, or
 - (ii) remove or demolish the structure and level the site;
 - (b) require the owner of the land that contains an excavation or hole to
 - (i) eliminate the danger to public safety in the way described in the notice, or
 - (ii) cover or fill in the excavation or hole and level the site;
 - (c) tell the owner of the property that is in unsightly condition to
 - (i) improve the appearance of the property in the way described in the notice, or
 - (ii) if the property is a structure, remove or demolish the structure, level the site, and make it safe.
- (3) The notice may
 - (a) state a time within which the person must do what the order says, or
 - (b) say that if the person does not do what the notice says within a specified time, a person authorized by Executive Council will do what the notice says at the expense of the person receiving the notice.

Review of notices

- 29**
- (1) A person who receives a written notice under section 27 [*Community improvement notice*] or section 28 [*Special community improvement notice*] may by written notice sent to, or by oral request made at the Tsawwassen administrative office, request the notice to be reviewed.
 - (2) The request for review must be received within 14 days after the date the notice is received by the person requesting the review.
 - (3) Executive Council may make regulations
 - (a) setting up or adopting a process to review community improvement notices and special community improvement notices, and prescribe matters relating to that process;
 - (b) designating one or more persons to advise, counsel, make recommendations or assist in dealing with the problem;
 - (c) authorize a person designated by Executive Council to enter into an agreement or arrangement with the person concerned to fix a problem.
 - (4) As a result of the process, the community improvement notice or special community improvement notices, may be
 - (a) confirmed or confirmed with modifications agreed to by the person to whom it is given;

- (b) revoked;
- (c) withdrawn in place of another community improvement notice or special community improvement notices.

Appeal to Judicial Council

- 30** (1) If no process is established under section 29 [*Review of notices*] or if the person who receives the notice does not agree with any resolution proposed or suggested at the process established under section 29, that person may appeal to Judicial Council
- (a) within 14 days of receiving the community improvement notice or special improvement notice if there is no community resolution process, or
 - (b) within 7 days of the conclusion of a community resolution process that did not resolve the problem.
- (2) The appeal must be filed in writing with Judicial Council stating the reasons for the appeal and accompanied by the community improvement notice or special community improvement notice, as the case requires.
- (3) After considering the matter, the Judicial Council may
- (a) confirm the community improvement notice or special community notice, with or without modifications, or
 - (b) revoke the notice.
- (4) The decision of Judicial Council is final.

Executive Council remedying contraventions

- 31** (1) Executive Council may direct or authorize whatever action or measures are necessary to remedy a contravention of Tsawwassen law or to prevent a re-occurrence of the contravention if
- (a) a community improvement notice has been given under section 27 [*Community improvement notice*] or section 28 [*Special community improvement notice*],
 - (b) the notice included a description of the action or measures a person authorized by Executive Council would take if the notice was not followed,
 - (c) the person who received the notice has not done what the notice required, and
 - (d) the appeal periods have passed or, an appeal has been made, the appeal has been decided and the appeal decision allows Executive Council to authorize or direct the action or measures to be taken.
- (2) If the notice directs that premises be put and maintained in a sanitary condition, Executive Council may authorize the premises to be closed.
- (3) The expenses and costs of an action or measure authorized by Executive Council under this section are a debt due to the Tsawwassen First Nation owing by the person who did not follow Tsawwassen law.
- (4) If Executive Council authorizes the sale of all or a part of a structure that has been removed under this section, the proceeds of the sale must be used to pay the expenses and costs of the removal and any excess proceeds must be paid to the person entitled to them.

Emergencies

- 32** (1) Despite anything in this Part, in an emergency Executive Council may take whatever actions or measures are necessary to eliminate or deal with the emergency.
- (2) This section applies whether or not the emergency involves a contravention of Tsawwassen law.
- (3) A person who receives an oral or written order under this section requiring the person to provide labour, services, equipment or materials must comply with the order.
- (4) Any person who provides labour, services, equipment or materials under this section who did not cause the emergency is entitled to reasonable remuneration from the Tsawwassen First Nation.
- (5) The expenses and costs of the actions or measures, including the remuneration referred to in subsection (4), are a debt due to the Tsawwassen First Nation by the person who caused the emergency.

Recovery of amounts owing by civil action

- 33** A debt due to Tsawwassen First Nation under this Act may be collected or recovered in accordance with the *Financial Administration Act*.

General regulation-making authority

- 34** Executive Council may make regulations respecting any matter for which regulations may be made under this Act and for the proper administration, operation, and compliance with and enforcement of this Act and the regulations made under this Act.

Interpretation Act (British Columbia)

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

Commencement

- 36** This Act comes into effect on the date of its enactment.

