

Order Number: 048-2009

Date Enacted: April 3, 2009



TSAWWASSEN FIRST NATION
s̓əwaθən məsteyəx^w

Community Governance Act

LOCAL WATER WORKS REGULATION

Contents

1. Citation and Short Title	2
2. Interpretation	2
3. No construction without permit.....	2
4. Permit	3
5. Inspection and Orders.....	4
6. Offence and Penalty	4
7. Effective Date.....	4

Whereas the *Tsawwassen First Nation Final Agreement* authorizes the Tsawwassen Government to make laws in respect of services, structures, and public works on Tsawwassen Lands; and

The *Community Governance Act* authorizes the Executive Council of the Tsawwassen First Nation to make community regulations in respect of public works;

The Executive Council of the Tsawwassen First Nation enacts as follows:

Citation and Short Title

1.1 This Regulation may be cited as the Tsawwassen First Nation Local Water Works Regulation,

Interpretation

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*, as the context and circumstances require.

2.2 In this Regulation:

“**construction**” means the new construction or installation of a system or structure, or the replacement, reinstallation or structural alteration of or addition to an existing system or structure, but does not include the repair of an existing system or structure;

“**inspector**” means a person who has been appointed by resolution of the Executive Council or retained through an agreement to inspect and determine whether a Work is or has been constructed in accordance with this Regulation;

“**qualified professional**” means a professional engineer, architect, geoscientist or other person who is qualified under the laws of British Columbia to provide professional advice in respect of a Work or a condition related to a Work; and

“**Work**” includes a road, sidewalk, boulevard, curb or gutter, bridge, waterway, ditch, culvert, water main, sewer, storm sewer or drainage system, public well, cistern, reservoir or other water collection or distribution system.

2.3 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.

2.4 The *British Columbia Building Code* as amended or replaced from time to time (“Code”), applies to the construction of Work on Tsawwassen Lands. In the event of a conflict, discrepancy, variation or inconsistency between a restriction, requirement or condition of a permit or order issued under this Regulation and the Code, the Code shall prevail to the extent of any conflict, discrepancy, variation or inconsistency.

No construction without permit

3.1 A person must not construct, or cause, permit, suffer or allow any other person to construct, any Work except as authorized by this Regulation and in accordance with a permit issued pursuant to section 4 and any requirements, restrictions and conditions established in the permit or orders issued in relation to that permit.

Permit

- 4.1 A person may apply in writing to the Executive Council for a permit to construct a Work, accompanied by the following information:
- (a) a description of the proposed Work, its nature and scope;
 - (b) statement of purpose and rationale for the proposed Work;
 - (c) the location, civic address, and legal description, if any, of the land where the Work is proposed to be constructed;
 - (d) consent in writing of the registered owner of the land, if applicable;
 - (e) a description of any roadways, buildings, structures, poles, pipes, wells, utilities, waterways, ditches, drainage systems or other Works on the land or in the vicinity;
 - (f) potential impacts on persons, other properties, trees, or any of the items listed in paragraph (e);
 - (g) a drawing or plan of the proposed Work, drawn to approximate scale;
 - (h) the proposed method or methods:
 - (i) for constructing the Work;
 - (ii) for preventing any adverse impacts on persons, properties, or other Works in the vicinity; and
 - (iii) for controlling noise and disposal of waste and debris related to construction of the Work;
 - (i) if required by the Executive Council:
 - (i) a report prepared by a qualified professional as to impacts and safe construction, use and maintenance of the proposed Work;
 - (ii) an agreement that the Work will be constructed, used and maintained only in accordance with a professional report, which agreement may include requirements for security deposit and conditions for reimbursing Tsawwassen Government for any expenses that may be incurred by it as a result of a breach of the covenant; and
 - (iii) consent in writing of the owners or occupiers of property or those responsible for utilities that may be affected by the proposed Work.
- 4.2 At the request of the applicant, the Executive Council shall provide an opportunity to appear before the Executive Council and explain the basis of the application.
- 4.3 The Executive Council may provide notice and an opportunity to be heard for persons whom it considers may be affected by the proposed Work
- 4.4 The Executive Council, having considered the application and other relevant information may, by resolution, issue a permit for a proposed Work if
- (a) the Executive Council is satisfied that the work will not result in deprivation of other occupiers of access or use of water, or otherwise result in undue hardship for other persons or significant adverse effects on properties, utilities or Works in the vicinity or otherwise on the Tsawwassen Lands; and
 - (b) the applicant pays the permit fee identified in Schedule A.
- 4.5 A permit issued under this Regulation is not transferable unless the permit identifies a person to whom it may be transferred.
- 4.6 The Executive Council may refuse to issue a permit if it considers that the proposed Work is against the interest generally of the Tsawwassen First Nation or the overall development of the Tsawwassen Lands.

- 4.7 In issuing a permit the Executive Council may impose any restrictions, requirements, terms and conditions that it considers appropriate in the circumstances.

Inspection and Orders

- 5.1 An inspector may enter a property at reasonable times and in a reasonable manner, to inspect and determine whether all provisions of this Regulation, and any restrictions, requirements, terms and conditions of the permit are being met.
- 5.2 If it is apparent to the inspector that a Work has been or is being constructed other than in compliance with this Regulation and a permit issued under section 4, the inspector may issue a temporary order to cease construction of the Work. The temporary order is deemed to be delivered:
- (a) when the inspector delivers the order personally to the owner or adult occupier of the land on which the Work is located or to the person apparently responsible for carrying out the Work on behalf of the owner or occupier, or
 - (b) when the order is posted at the entrance to a building or other prominent place on the land on which the Work is located.
- 5.3 A person who is subject to a temporary order may request that the Executive Council reconsider the order. On reconsideration, the Executive Council may take into account any relevant information and submissions and may confirm, vary or set aside the order, or revoke or cancel the permit.
- 5.4 The owner or occupier of property or the person to whom an order has been delivered under this section shall, without delay, comply with that order and shall ensure that the order is complied with by other persons.

Offence and Penalty

- 6.1 Any person who contravenes or violates any provision of this Regulation or of any permit issued under this Regulation, or who suffers or allows any act or thing to be done in contravention or violation of this Regulation or any permit issued under this Regulation, or who fails or neglects to do anything required to be done under this Regulation or any permit issued under this Regulation, commits an offence; and where the offence is a continuing one, each day that the offence is continued shall constitute a separate offence.
- 6.2 Upon being convicted of an offence under this Regulation, a person shall be liable to pay a fine not exceeding \$10,000.

Effective Date

- 7.1 This Regulation comes into force on the Effective Date of the Tsawwassen First Nation Final Agreement.