

TSEYCUM FIRST NATION CANNABIS LAW

WHEREAS:

- A. The Tseycum First Nation (the "Nation") has an inherent right to self-Government which emanates from its people, culture, language, aboriginal rights, including title, over its traditional lands, which includes, but is not limited to, our First Nation Land, and is recognized and affirmed by section 35 of the *Constitution Act*, 1982;
- B. As an aspect of our inherent right of self-government, Tseycum First Nation has the jurisdiction to address issues such as the right to cultivate or sell Cannabis on our Lands, and deter and prevent illegal activities respecting Cannabis from taking place on our First Nation Land and this inherent right has not been, nor can it be, extinguished by any other level of government;
- C. It is essential to the health and survival of the Nation that we maintain our community through the passage of laws; and
- D. This Law will apply in conjunction with applicable federal laws concerning the environment, construction and building, and the construction and operation of a cannabis growing operation, as well as the sale of cannabis.
- E. This Law has been passed pursuant to the provisions of subsections 81(a), (e), (m), (p), and (9) of the *Indian Act*.

NOW THEREFORE TSEYCUM FIRST NATION hereby enacts the following Law:

1.0 TITLE

- 1.1 This Law may be cited as the "First Nation Cannabis Law".

2.0 DEFINITIONS

2.1 In this Law:

- (a) "Bill C-45" means the factual legislation known as "An Act respecting cannabis and to amend the Controlled Drugs and Substances Act, the Criminal Code and other Acts";
- (b) "British Columbia Building Code" means the current *British Columbia Building Code* and any amendments thereto;
- (c) "Cannabis" means a plant that belongs to the genus *Cannabis* and includes:

- (i) any part of a Cannabis plant, including the phytocannabinoids produced by, or found in, such a plant, regardless of whether that part has been processed or not, other than a part of the plant referred to below;
- (ii) any substance or mixture of substances that contains or has on it any part of such a plant; and
- (iii) any substance that is identical to any phytocannabinoid produced by, or found in, such a plant, regardless of how the substance was obtained;

but does not include:

- i. a non-viable seed of a Cannabis plant;
 - ii. a mature stalk, without any lead, flower, seek or branch, of such a plant;
 - iii. fibre derived from a stalk referred to above; and
 - iv. the root or any part of the root of such a plant.
- (d) "Certificate of Completion" means the certificate issued by the Lands Manager to the Proponent certifying that the construction of the Project has been completed to the satisfaction of Tseycum First Nation.
 - (e) "Council" means the elected Chief and Council of Tseycum First Nation.
 - (f) "First Nation Land" means Tseycum First Nation's Indian reserves that have been set apart for the use and benefit of Tseycum First Nation.
 - (g) "Health Canada" means the Department of Health (Canada);
 - (h) "Lands" means those portions of the First Nation Land to be used for the construction and operation of a Cannabis growing facility legally described as: Tseycum Indian Reserve No. 0
 - (i) "Lands Managers" means the Tseycum First Nation employee responsible for the administration of First Nation Land or his or her authorized representative(s), employees or contractors, or a Person authorized by the Council to act as his or her delegate;
 - (j) "Law" means this Tseycum First Nation Cannabis Law;
 - (k) "Laws" means laws, bylaws, and regulations passed by the Council of the Tseycum First Nation;
 - (l) "Tseycum" means the Tseycum First Nation;

- (m) "MMCD" means Master Municipal Construction Documents as prepared by the Master Municipal Construction Documents Association;
- (n) "Permit" means the written authority granted by the Lands Manager pursuant to this Law for the construction and operation of a Cannabis growing facility;
- (o) "Person" includes a natural Person, a company, corporation, partnership, firm, association, society, or party and the personal or other legal representatives of a Person to whom the context can apply according to law;
- (p) "Project" means the Cannabis growing facility to be constructed and operated on the Lands;
- (q) "Proponent" means a Person proposing to construct and operate a Cannabis growing facility on First Nation Land or sell Cannabis on First Nation Land, or both;
- (r) "Registered Professional" has the same definition as in the British Columbia Building Code;
- (s) "Resolution" means a resolution of Council passed at a duly convened meeting; and
- (t) "Supreme Court" means the Supreme Court of British Columbia.

3.0 PURPOSE

- 3.1 The purpose of this Law is to allow for the construction and operation of a Cannabis facility or facilities on the Lands in a safe and well-planned manner through the implementation of appropriate building standards for structures placed on the Lands as set out in this Law and for the responsible sale of Cannabis on the Lands, all in accordance with Bill C-45.

4.0 AUTHORIZATION BY COUNCIL REQUIRED

- 4.1 No Person shall commence the construction of a Cannabis growing facility (including greenhouses), on First Nation Land, nor undertake Cannabis processing on First Nation Land except by way of an authorizing Resolution.
- 4.2 No Person shall sell, produce, or distribute Cannabis, or operate a Cannabis dispensary, on First Nation Land except by way of an authorizing Resolution.

5.0 COMPLIANCE WITH BILL C-45 AND HEALTH CANADA REQUIREMENTS

5.1 Any Person proposing to construct and operate a Cannabis growing facility on First Nation Land, or sell Cannabis on First Nation Land, or both, must obtain all licences and permits required by Bill C-45, Health Canada and this Law.

6.0 BUILDING REQUIREMENTS FOR CANNABIS GROWING FACILITIES ON FIRST NATION LAND

6.1 Upon passage of the requisite Resolution approving a Project in principle the Proponent may apply for a Permit.

7.0 APPLICATIONS AND APPROVALS

7.1 Every Proponent applying for a Permit shall pay the prescribed fees, including the costs of the Registered Professional retained by the Tseycum First Nation, and submit an application to the Lands Manager in the prescribed form that meets the following applicable requirements:

- (a) it confirms that the Proponent has complied with Bill C-45 and the requirements of Health Canada;
- (b) it confirms that all construction will comply with the highest standards of the British Columbia Building Code and the MMCD;
- (c) it submits a development plan for the Project which requires the approval of the Lands Manager and the Registered Professional;
- (d) it posts any bonds required by the Lands Manager.

Review by Land Manager and other Departments

7.2 As soon as practicable after receiving the prescribed fees and a complete application under this part, the Lands Manager shall:

- (a) review the application along with all relevant information and documentation;
- (b) circulate the application and all relevant information and documentation to internal Tseycum First Nation departments for comment;
- (c) seek advice from the Registered Professional chosen by the Lands Manager.

7.3 The Lands Manager shall provide recommendations to the Council about:

- (a) whether the application should be approved; and
- (b) suggested modifications, terms or conditions that should be set by the Council.

Principles and Factors in Reviewing Applications

- 7.4 For each application, the Lands Manager shall consider the following general principles and factors:
- (a) the economic benefits to be received by the Project; Tseycum First Nation and its members resulting from the Project;
 - (b) employment and training opportunities for members;
 - (c) potential contracting opportunities for and its members;
 - (d) the promotion of health, safety, convenience and welfare of the members and of residents and occupants and other persons who have a lawful interest in the Lands;
 - (e) well-planned and orderly development of the Lands;
 - (f) compliance with any applicable land use plan, zoning and land use law, other Laws, and applicable federal laws and standards;
 - (g) environmental protection and enhancement;
 - (h) provision of community benefits including land and/or funds provided to the Tseycum First Nation for the development of community amenities;
 - (i) protection and enhancement of cultural and heritage resources and sites;
 - (j) protection or improvement of viewsapes, aesthetics and visual qualities;
 - (k) ensuring adequate parking, access and emergency access;
 - (l) minimalization of excessive noise, sound or odour,
 - (m) potential impacts on adjacent uses, owners and occupants; and
 - (n) any other factors that may affect the community or the Lands.

Lands Manager May Request Additional Information

- 7.5 After reviewing the submitted application the Lands Manager may request additional information, plans, reports, or other relevant material from the Proponent which the Proponent shall provide forthwith.

Timelines

- 7.6 The Lands Manager shall as soon as practicable after having reviewed the application, or within ten (10) business days of having received the additional information requested under section 7.5, forward the application to the Council along with:
- (a) relevant documents, maps, plans, reports and other information;
 - (b) comments received from adjacent land-owners, interest-holders or members of the Tseycum First Nation, and
 - (c) comments or recommendations from the Lands Manager and other managers or departments.

Council Decisions

- 7.7 As soon as practicable after receiving the application and information set out in section 7.6, the Council shall decide whether or not to approve the application and, without limiting the generality of the Council's authority, the Council may:
- (a) approve the application;
 - (b) reject the application; or
 - (c) approve the application subject to any reasonable terms or conditions, including, but not limited to, terms or conditions recommended by the Lands Manager pursuant to subsection 7.3(b).
- 7.8 If the Council approves the Proponent's application the Lands Manager may issue the Permit to the Proponent and the Proponent may thence commence construction on the Project.

8.0 COMPLETION OF CONSTRUCTION OF THE PROJECT

- 8.1 Upon completion of construction of the Project the Proponent shall apply to the Lands Manager for a Certificate of Completion in the manner prescribed by the Lands Manager.

9.0 CERTIFICATE OF COMPLETION

- 9.1 The Lands Manager shall not issue a Certificate of Completion until:
- (a) the Lands Manager has received final as-constructed drawings and plans in digital form and in accordance with MMCD standards;
 - (b) each Registered Professional of record for the Project has approved of the Project;

- (c) water and sanitary sewer connection permits have been issued, unless waived in writing by the Lands Manager;
- (d) the Proponent and Registered Professional has certified that any conditions of the Permit have been complied with; and
- (e) the Proponent has fulfilled all other reasonable requirements of the Council.

10.0 INSPECTOR POWER

10.1 The Lands Manager and any contractor or employee acting under his or her authority may, at all reasonable times, enter upon any property for the purpose of administering and enforcing this Law. No person shall prevent or obstruct, or attempt to prevent or obstruct, the entry of any authorized official upon any property as authorized under this Law.

11.0 PENALTIES

11.1 A Person who contravenes this Law, the terms or conditions of any authorization issued under this Law, or an order made by the Supreme Court pursuant to this Law, is guilty of an offence and liable on summary conviction to a fine of not more than \$10,000 daily and accruing daily until rectified or to imprisonment for a term of not more than three months, or to both.

11.2 The Supreme Court has the authority to grant orders pursuant to this Law.

12.0 APPLICATION OF LAW

12.1 Where any federal Act or regulation or any other Laws may apply to any matter covered by this Law, compliance with this Law will not relieve the Person from also complying with the provisions of the other applicable laws, provided that the subject matter of those laws does not conflict with the provisions of this Law;

12.2 If any section of this Law is for any reason held invalid by a decision of a court of competent jurisdiction, the invalid section or subsection will be severed from and not affect the remaining provisions of this Law.

12.3 The headings given to the sections and paragraphs in this Law are for convenience of reference only. They do not form part of this Law and will not be used in the interpretation of this Law.

12.4 Unless otherwise noted, any specific statute named in this Law is a reference to an enactment of Canada and the regulations thereto, as amended, revised, consolidated or replaced from time to time, and any Law referred to herein is a reference to a law of Tseycum First Nation, as amended, revised, consolidated or replaced from time to time.

13.0 AMENDING PROCEDURES

Substantive Amendments

13.1 Substantive amendments to this Law may only be made in accordance with the processes for amending Laws.

Minor Amendments

13.2 Despite section 13.1 of this Law, the Council may adopt minor amendments to this Law if approved in writing by a quorum of the Council.

13.3 For the purposes of section 13.2, minor amendments include:


- (a) amendments to correct typographical errors;
- (b) amendments required to reference any relevant new or amended Laws;
- (c) amendments ordered by any court of competent jurisdiction, and
- (d) amendments which serve to clarify the Law, where there is no reasonable dispute about the intention underlying the original provision.

14.0 COMING INTO FORCE

14.1 This Law shall come into force and effect on the date that it is approved by a quorum of Council.

THIS LAW IS HEREBY ENACTED BY THE approval of a quorum of the Council on the 26th day of July, 2019.

Chief Tanya Jimmy



Councillor Robin Bill



Councillor Brian Jimmy