



TSAWOUT FIRST NATION TRESPASS LAW

No. 02-2008

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- WHEREAS** the Tsawout First Nation members have inherent rights, customs, traditions and the inherent right to self-government as defined in the Douglas Treaty and reinforced through Section 35 of the *Constitution Act*;
- AND WHEREAS** Tsawout First Nation has jurisdiction and authority over Tsawout lands, resources and interests through Aboriginal title to their lands which is reinforced pursuant to the *Tsawout First Nation Land Code*, which came into force and effect on May, 29th, 2007;
- AND WHEREAS** Section 6.2 (n) of the Land Code allows the Tsawout First Nation the authority to enact rules and procedures, applicable to trespass upon Tsawout lands.
- NOW THEREFORE** until Tsawout re-establishes their trespass law powers within the context of the Douglas Treaty, the Chief and Council of the Tsawout First Nation in open meeting assembled, enacts as follows, the *Tsawout First Nation Trespass Law No. 02-2008*.

1.0 TITLE

- 1.0 This law may be cited as the *Tsawout First Nation Trespass Law No. 02-2008*.

2.0 DEFINITIONS

For the purposes of this law the following definitions apply:

Chief and Council

means the Chief and Council of the Tsawout First Nation;

Natural Resources

means any renewable and non-renewable resource in and of the Tsawout lands;

Peace Officer

means any RCMP member, municipal police force or any individual employed by the Tsawout First Nation to enforce their laws;

Tsawout Lands

means the East Saanich Reserve No. 2 and the Fulford Harbour Reserve No. 5.

3.0 PROHIBITED PURPOSES

- (1) Any person, other than a person referred to in subsection (2) who conducts any of the following on Tsawout lands, without the expressed authority of the Chief and Council;
- (a) hunting, fishing or trapping;
 - (b) removal of any natural resources;
 - (c) hawking or peddling of wares or merchandise;
 - (d) loitering;
 - (e) soliciting financial assistance; or
 - (f) activities contrary to the criminal code.

Must be deemed to be frequenting Tsawout lands for a prohibited purpose.

- (2) Notwithstanding the above subsection (1), this does not apply to:
- (a) a person who is a registered Tsawout Band member; or
 - (b) is authorized by the Chief and Council to be on Tsawout land to perform their authorized activity.
- (3) Any Peace Officer may order any person to leave Tsawout lands who frequents Tsawout for a prohibited purpose.
- (4) Where a person who has been ordered to leave Tsawout lands fails or refuses to do so, the peace officer may take such measures as may be necessary to remove that person from Tsawout land.
- (5) A person who fails or refuses to comply with an order made under subsection (1) to leave the reserve, or shall resist or interfere with an officer acting under subsection (3) commits an offence.
- (6) Notwithstanding subsection (2) a person found on Tsawout land is presumed not to have the consent of the Chief and Council to be on Tsawout lands.

4.0 TRESPASS

- (1) A person commits an offence if the person does any of the following:
- (a) enters Tsawout land without permission;
 - (b) enters premises without the occupier's permission; or
 - (c) engages in an activity on or in a premise after the person has had notice from the occupier of the premises that the activity is prohibited

- (2) Notwithstanding the above subsection (1), this does not apply to:
 - (c) a person who is a registered Tsawout Band member; or
 - (d) is authorized by the Chief and Council to be on Tsawout land to perform their authorized activity.
- (3) Any Peace Officer may order any person to leave Tsawout lands who is trespassing on Tsawout land.
- (4) Where a person who has been ordered to leave Tsawout lands fails or refuses to do so, the peace officer may take such measures as may be necessary to remove that person from Tsawout land.
- (5) A person who fails or refuses to comply with an order made under subsection (1) to leave the reserve, or shall resist or interfere with an officer acting under subsection (3) commits an offence.
- (6) Notwithstanding subsection (2) a person found on Tsawout land is presumed not to have the consent of the Chief and Council to be on Tsawout lands.

5.0 PENALTY

- (1) A person who violates any provision of this law commits an offence and is liable on summary conviction to a fine not exceeding \$1,000.00 or to imprisonment for a term not exceeding thirty days, or to both.

BE IT KNOWN that this law cited as the *Tsawout First Trespass Law No. 02-2008*, is hereby;

Read a First Time by the Council on the ___ day of _____, 2008;
Read a Second Time by the Council on the _____ day of _____, 2008;
Read a Third Time by the Council on the _____ day of _____, 2008;
Adopted this ___ day of _____, 2008.

Chief

Councillor

Councillor

Councillor

Councillor

Councillor

Councillor

Councillor