

REGISTERED IN THE FIRST NATIONS
LAND REGISTRY OTTAWA AS NUMBER
9021417 ON THE 18 DAY
OF Feb 2014
PLEASE QUOTE ABOVE NUMBER IN ANY
FURTHER TRANSACTIONS AS PER THE
TZEACHTEN LAND CODE

Tzeachten First Nation

LAW NO. 14-01

CP LAW, 2014



TZEACHTEN FIRST NATION
CP LAW, 2014



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WHEREAS Tzeachten First Nation has an inherent right to self-government which emanates from our people, culture and land and which is recognized and affirmed by section 35 of the *Constitution Act, 1982*;

AND Tzeachten First Nation has taken over control and management of Tzeachten Reserve lands and resources pursuant to the *Framework Agreement on First Nation Land Management* and has enacted *Tzeachten Land Code* effective the 21st day of August, 2008;

AND under *Tzeachten Land Code*, Tzeachten Council is authorized to pass various laws relating to lands including laws relating to regulation and use of Tzeachten Lands and laws relating to allotments and creation of interests under sections 9.16 - 9.18 of the Code;

AND Council wishes to provide a fair and transparent process for granting of CPs;

NOW THEREFORE this *Tzeachten CP Law, 2014* is hereby enacted at a duly convened meeting as a Law of Tzeachten First Nation.

PART 1. NAME

1.1 This Law may be cited as the *Tzeachten CP Law, 2014*.

PART 2. PURPOSE

2.1 The purpose of this Law is to provide a fair and transparent process for granting of Allotments and CPs in Tzeachten Lands.

PART 3. WHERE THIS LAW APPLIES

3.1 The provisions of this Law apply to the whole area of the Reserve and Tzeachten Lands as defined in *Tzeachten Land Code*.

PART 4. DEFINITIONS

4.1 For the purposes of this Law, terms have the same definitions as in the Land Code;

4.2 For the purposes of this Law, the following definitions apply:

“Certificate of Possession” or “CP” means an official document issued under the Land Code or formerly issues under section 20 of the *Indian Act* to confirm a Member’s Allotment; and

"Proposal for Allotment of Community Lands" means a document prepared in accordance with Section 7.3 of this Law.

PART 5. GENERAL ALLOTMENT CRITERIA

5.1 An Allotment or CP may only be granted in accordance with this Law.

5.2 A new Allotment of Community Lands:

(a) may only be granted to a Member;

(b) may only be granted for Residential Use, unless a Ratification Vote is held to approve an Allotment for non-Residential use as set out in section 9.16 of the Land Code;

(c) must have road access which may include a right-of-way, and must not result in the land locking or blocking of access to another Allotment or CP; and

(d) may only be for a maximum lot size of not greater than one half acre.

5.3 For greater certainty, subsection 5.2(d) does not apply to:

(a) Subdivisions of existing Allotments or CPs; or

(b) existing rent-to-own or surrender-and-return agreements where the parcel of land is greater than half an acre.

5.4 Subject to sections 5.1 and 5.2, Council may grant an Allotment in Community Lands according to the processes and for the purposes set out in this Law.

5.5 Nothing in this Law prevents the granting of an Allotment in a strata title in accordance with this Law.

PART 6. NATURAL RESOURCES

6.1 Unless specifically excluded by the document granting an Allotment of Tzeachten Lands, the Allotment includes all Natural Resources on or under that land to the extent they are under Tzeachten jurisdiction, excluding water.

6.2 Despite section 6.1, the use and development of all Natural Resources on or under Tzeachten Lands is subject to any fees, stumpage, and royalties that may be imposed by Tzeachten and to all relevant Tzeachten Laws and other laws.

PART 7. PROCESS FOR ALLOTTING COMMUNITY LANDS

- 7.1 Council may grant an Allotment in accordance with this Law under any of the circumstances set out below.
- 7.2 For greater certainty, sections 7.3-7.5 do not apply to an Allotment that is granted in relation to section 7.6 [*housing, tenancy, or temporary surrender agreements*], 7.7 [*foreclosure*], or 7.8 [*court order*].

Proposal for Allotment

- 7.3 Where land is available and Council determines it is in the best interests of Tzeachten to grant one or more new Allotments in Community Lands for the purposes of housing, community development, raising revenues, or for other legitimate purposes, the Lands Department shall prepare or have prepared a Proposal for Allotment of Community Lands which shall set out:
- (a) the location and description of the Community Lands available for Allotment;
 - (b) any terms, conditions and exceptions in the Allotment to be granted;
 - (c) the permitted uses under the Land Use Plan or Zoning and Land Use Law for the Community Lands to be allotted;
 - (d) an assessment of whether hook-up, servicing, or other fees are required to cover or offset expenses incurred by Tzeachten in acquiring or developing the lot;
 - (e) the minimum Allotment price, if any, to cover planning, servicing, subdivision, land purchase costs, surveying, administration, and other related and appropriate costs;
 - (f) the access to the land with a notification to Council regarding any access issues;
 - (g) any existing encumbrances or third party interests;
 - (h) the proposed selection or sale process; and
 - (i) such other information as Council deems necessary.
- 7.4 Council may choose to hold a community meeting of Members to seek input on any aspect of a Proposal for Allotment of Community Lands.
- 7.5 Council will give full and fair consideration to any input, objections, or recommendations made by Members received prior to the Council meeting at which a decision is made to grant one or more Allotments in accordance with a Proposal for Allotment of Community Lands under section 7.3.

Allotments Relating to Mortgages and Housing Agreements

- 7.6 Where, under an agreement between Tzeachten and a Member,
- (a) Tzeachten has committed to grant an Allotment to a Member once that Member has paid out a mortgage, built a home, or otherwise satisfied the conditions of the agreement, or
 - (b) All or part of an Allotment or CP is temporarily cancelled or surrendered for the purpose of allowing a Member to participate in a housing program authorized by Tzeachten or to allow the Member to benefit from a

guarantee provided by Tzeachten or for other purposes,

Council shall by Resolution grant an Allotment of the subject lands to the Member once the following conditions have been met:

- (c) the Member has provided documents to demonstrate that all relevant mortgages, loans and housing agreements relating to Tzeachten have been paid out;
- (d) the Member has satisfied all the conditions of the agreement;
- (e) the Member has complied with all relevant Tzeachten Laws and has paid any relevant servicing, administration or Allotment acquisition fees; and
- (f) if requested by Council, the Member has signed an acknowledgement agreement and a release and indemnity to release and indemnify Tzeachten from any liability or payments for any past mortgages or debts relating to the house, unit and/ or the Allotment.

Allotment After a Foreclosure

- 7.7 Where under a mortgage which involves Tzeachten as a guarantor or for which Tzeachten has a right of first refusal, there is a default by the Member and the Member's Allotment is forfeited and Tzeachten assumes liability,
- (a) Council may directly grant the Allotment to another Member from the same family as the defaulting Member, with individuals from the immediate family being given first priority, followed by individuals from the extended family, provided that this other Member pays the amount that was owing under the mortgage, any costs and expenses incurred in the foreclosure and sale proceedings, and any other costs or fees set by Council; or
 - (b) Council may sell the Allotment for a price at least equal to the amount owing under the mortgage and any costs and expenses incurred in the foreclosure and sale proceedings; and
 - (c) Council shall by Resolution grant an Allotment of the subject lands to the Member once all requirements are complied with.

Allotment After a Court Order

- 7.8 Where, a court of competent jurisdiction orders an Allotment or CP to be issued or transferred, Council shall by Resolution grant the Allotment or CP after complying with any relevant requirements under this Law.

Other Allotments Under Regulation

- 7.9 Council may grant any other Allotments in accordance with the Land Code or a Regulation passed by Council under this Law.

Non-Residential Allotments

- 7.10 Council may grant an Allotment for Non-Residential Use but only after holding a Ratification Vote as set out in 9.16(b) and Part 4 of the Land Code.

Conditional Allotments

- 7.11 Council may attach reasonable conditions to any Allotments granted which may include, without limit the generality of the conditions, a requirement to begin construction of a new home on any residential Allotment within six

months.

- 7.12 The conditions for any conditional grants shall be in writing and shall specify if the Allotment will be automatically cancelled if the one or more of the conditions are not met.
- 7.13 If a Member fails to comply with specific conditions that lead to automatic cancellation, the Allotment shall be cancelled and Council shall re-issue it to another Member in accordance with this Law.

PART 8. EXCHANGE OF LANDS

- 8.1 Council may, by Resolution, exchange a grant of an Allotment in Community Lands for one or more Allotments held by a Member, where it is in the best interests of Tzeachten, provided the following conditions are met:
- (a) the lands being exchanged are of approximately equal size or value;
 - (b) Council has made full disclosure through a newsletter or other means to Tzeachten Members of the purpose and all the circumstances surrounding the proposed exchange; and
 - (c) Council has complied with all relevant Tzeachten Laws, Laws and Land Use Plans.
- 8.2 For greater certainty, an exchange of land under section 8.1 does not constitute an exchange of Tzeachten Land for land outside of Tzeachten Land under section 7.11 of the Land Code and does not require a Ratification Vote under section 7.12 of the Land Code.

PART 9. REGISTRATION OF ALLOTMENTS AND CPs

- 9.1 For each Allotment granted under this Law, Council shall direct the Lands Manager to:
- (a) ensure that all Laws and policies have been complied with; and
 - (b) after ensuring such compliance, to register the Allotment in the First Nations Lands Register and provide a Certificate of Possession to the holder of the Allotment.

PART 10. CONFLICT OF INTEREST

- 10.1 A conflict of interest arises in any situation where a Council member or a staff member or their immediate family has a personal or business interest in the matter under consideration in relation to an Allotment or proposed Allotment.
- 10.2 All Council members and staff members shall notify Council in writing, if they have a potential conflict of interest in relation to a decision about an Allotment or proposed Allotment.
- 10.3 No Council member shall participate in a decision, and no staff member shall make a recommendation, where a potential conflict of interest may improperly influence the result of the decision relating to an Allotment or

proposed Allotment.

- 10.4 For greater certainty, section 10.3 does not prevent Council members from participating in decisions, or staff members from making recommendations, in relation to Allotment which will be granted via lottery or independent sale or auction processes.

PART 11. CONFIDENTIALITY AND PRIVACY

- 11.1 Neither Council nor staff will release or make public any information about a Member's interest in housing or Allotments except as required by Law or for the carrying out of an Allotment process under this Law.

PART 12. GENERAL

- 12.1 This Law is without prejudice and will not abrogate, derogate from, diminish or suspend any of Tzeachten's aboriginal rights or title.
- 12.2 Where any federal Act or regulation or provincial Act or regulation or any other Tzeachten Law or Law 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 Act, regulation, Law or law.
- 12.3 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 will not affect the remaining provisions of this Law.
- 12.4 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.

Regulations

- 12.5 Council may make regulations or pass Council Resolutions as follows:
- (a) Setting out the details and process for other types of Allotments;
 - (b) prescribing the form and content of applications for Allotments; and
 - (c) setting in place any other matter required to implement this Law.

PART 13. PENALTY

- 13.1 Any person who violates any provision of this Law is guilty of an offence and liable upon summary conviction to a fine of up to one thousand (\$1,000) dollars or to a term of imprisonment not exceeding thirty (30) days, or both.

PART 14. REPEAL AND REPLACEMENT

- 14.1 This Law repeals and replaces the Tzeachten Land Allotment Bylaw.


PART 15. COMING INTO FORCE

Date Law Comes into Force

- 15.1 This Law shall come into force and effect on the date it is passed by Council Resolution after complying with the requirements of the Land Code.

BE IT KNOWN that this Law entitled the *Tzeachten CP Law, 2014* is hereby enacted by a quorum of Council at a duly convened Council of the Tzeachten First Nation held on January 29th, 2014.


Chief Glenda Campbell

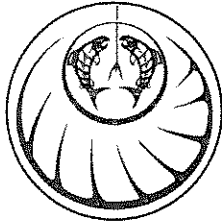

Councillor Lawrence Roberts


Councillor Cathy Hall

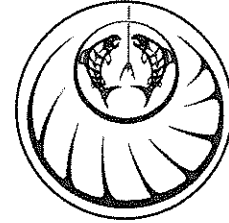
Councillor Melanie Williams

Councillor Anthony Malloway

A quorum consists of 3
Council Members



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TZEACHTEN COUNCIL RESOLUTION

RES 14-03

TZEACHTEN CP LAW 2014

WHEREAS the Tzeachten First Nation has an inherent right to self-government which emanates from our people, culture and land and which is recognized and affirmed by section 35 of the Constitution Act, 1982;

AND the Tzeachten First Nation has taken over control and management of Tzeachten Reserve lands and resources pursuant to the Framework Agreement on First Nation Land Management and has enacted Tzeachten Land Code effective the 21st day of August, 2008;

AND under the Tzeachten Land Code, Tzeachten Council is authorized to pass various Laws relating to lands including Laws relating to regulation and use of Tzeachten Lands and Laws relating to allotments and creation of interests under section 9.16-9.18 of the Code;

AND Council wishes to provide a fair and transparent process for granting of CPs;

NOW THEREFORE, the Tzeachten CP Law, 2014 is hereby enacted at a duly convened meeting as a Law of Tzeachten First Nation.

A QUORUM for Tzeachten First Nation consists of 3.

DATED this 29th day of January, 2014.


 Chief Glenda Campbell



 Councilor Catherine R. Hall

 Councilor Anthony Malloway



 Councilor Lawrence Roberts

 Councilor Melanie Williams