



TZEACHTEN FIRST NATION



**MINIMUM REQUIREMENTS FOR
REGISTRATION LAW (Amended)**

History of Amendments

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| Law Enacted | May 24, 2022 |
| Amended to include Corporate Residential Holdings and Include PTT Anti-avoidance | June 23, 2023 |
| Amended to put Corporate Restrictions on hold | June 30, 2023 |

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| REGISTERED IN THE FIRST NATIONS LAND REGISTRY OTTAWA AS NUMBER 4042345 ON THE 4 DAY OF July 2023 PLEASE QUOTE ABOVE NUMBER IN ANY FURTHER TRANSACTIONS AS PER THE TZEACHTEN LAND CODE |
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WHEREAS:

- A. The Tzeachten First Nation ("Tzeachten") 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*;
- B. 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 the *Tzeachten Land Code* effective the 21st day of August, 2008;
- C. Under the *Tzeachten Land Code*, Tzeachten Council is authorized to pass various laws relating to lands including laws relating regulation and use of Tzeachten Lands, regulation of Interests and fees for permits and licenses under section 3 of the Code;
- D. Under subsection 6.2 of the *Tzeachten Land Code* "an Interest in Tzeachten Lands created or granted after this Land Code comes into effect is void and unenforceable unless it is registered...";
- E. Under subsection 9.19:
 "A Member or Members holding an Allotment in Tzeachten Lands may grant a Leasehold, Easement, Permit or License in those lands by a written document registered in the Tzeachten Lands Register provided that:
 - (a) The Member or Members are the sole lawful possessor of the Allotment (i.e. that another Member with an interest in the Allotment does not oppose the granting of the sub-interest),
 - (b) There is a proper legal description of the lands, and if required, the lands have been surveyed and the survey registered or recorded in the Tzeachten Lands Register,
 - (c) The sub-interest complies with this Land Code and all Tzeachten laws and bylaws, and
 - (d) The Member states in writing that the terms of the document creating the sub-interest will not violate any agreement with a person who has, or will have, an interest in the lands affected, or any portion thereof, or the Member has obtained the written consent of the other interest holder or holders."

- F. Council is concerned that Members and CP-holders may be taken advantage of or not have full information before they grant leases and other interests to third parties;
- G. Council would like to clarify procedures for registration of Interests, Licenses and documents;
- H. Council deems it advisable, necessary and in the best interests of Tzeachten and all residents, occupiers and developers of Tzeachten Lands to enact a Law to regulate minimum requirements regarding the creation and registration of Interests and Licences; and
- I. Council has received recommendations from the Lands Management Advisory Committee regarding additional requirements for Corporate Residential Holdings to reduce the likelihood of avoidance of Property Transfer Tax and to promote ownership of homes on Tzeachten Lands for residential purposes by Members and individuals rather than by corporate entities for investments but developers have raised concerns about the proposed approach to restrictions and more time is required to find an appropriate balance;

NOW THEREFORE this Tzeachten *Minimum Requirements for Registration Law* is hereby amended at a duly convened meeting as a Law of the Tzeachten First Nation.

PART 1. NAME

- 1.1 This Law may be cited as the Tzeachten Minimum Requirements for Registration Law.

PART 2. PURPOSE

- 2.1 The purpose of this law is to protect CP-holders and interest-holders and set out minimum requirements regarding the creation, transfer and registration of Interests and Licenses in their lands.

PART 3. INTERPRETATION

Definitions

- 3.1 For the purposes of this Law, and unless they are otherwise defined in this Law, terms have the same definition as in the Tzeachten Land Code.

- 3.2 For the purposes of this Law, the following definitions apply:

“Corporate Residential Holding” means a lease or a sublease of one or more Dwelling Units which are registered in the name of:

- (a) a corporation,
- (b) a partnership; or

- (c) any other entity prescribed by Council;

but for the purposes of this Law a Corporate Residential Holding does not include:

- (d) the first lease or sublease held by a development corporation or partnership that owns the development in which the Dwelling Units are located, until such a time as

the construction or development is completed and the Dwelling Units are leased or subleased to another individual or entity;

- (e) a lease or sublease held by a corporation in which all the voting shares are held by one Tzeachten Member or one Member plus one or more of that Member's brother, sister or close family members, and the shareholders are the residents of the Dwelling Units that are subject to the lease or sublease;
- (f) a lease or sublease held by a company, partnership or other entity for which Tzeachten First Nation is the majority owner; or,
- (g) a lease or sublease held by any other entity, which may, from time to time be prescribed by Council.

"Dwelling Unit" has the meaning prescribed to it in the *Tzeachten First Nation Zoning Law, 2015*;

"Fair Market Value" means an amount equivalent to the amount that would have been paid for the interest or license if it had been sold on Tzeachten Lands, with all of the rights, limits and restrictions that apply to interests and licenses and transactions on Tzeachten Lands, by a willing seller to a willing buyer;

"Land Code" means the *Tzeachten Land Code*; and

"Transferee" means any person or entity who is receiving an Interest, License, sub-interest or portion thereof relating to an Allotment or CP.

Validity

3.3 Nothing under this Law shall be rendered void or invalid by:

- (a) an error or omission in a notice, form, permit or other document given or authorized under this Law; or
- (b) a failure of the Tzeachten, a Tzeachten Official or a Tzeachten employee to do something within the required time.

PART 4. APPLICATION

Law Applies to the Creation or Transfer of Interests and Licenses in Allotments and CP Property

4.1 Except as otherwise provided by this Law, a regulation, or any other Tzeachten Law, this Law only applies to:

- (a) the creation, transfer or transacting with Interests or Licenses in relation to Allotment and CPs on Tzeachten Lands; and
- (b) any other interests, licenses, transactions or types of interests, licenses or transactions prescribed by Council.

Exceptions

4.2 This Law does not apply to:

- (a) the creation of a Life Estate;
- (b) the leaving or devising of an Allotment, CP, Interest or License in a will;

- (c) subject to subsection 7.2(d) [*potential requirement of proof of mental competency*] the gifting of an Allotment, CP, Interest or License from one Member to another Member where no non-Members or third parties are involved, provided the gift is set out in a legal document which is duly notarized; or
- (d) any other interests, licenses transactions or types of interests, licenses or transactions prescribed by Council.

4.3 PART 7 of this Law does not apply to any transaction for which a CP-holder or Member:

- (a) has provided a certificate of independent legal advice; and
- (b) signs a waiver and indemnity in a form approved by the Tzeachten Lands Office confirming that they do not wish an appraisal, and indemnifying Tzeachten and Tzeachten against any liability.

Law cannot be avoided

4.4 The Transferee and the Allotment/CP Holder may not avoid or contract out of this Law or a regulation made pursuant to this Law and any attempt by the Transferee and the Allotment/CP Holder to avoid or contract out of this Law or a regulation made pursuant to this Law is of no effect.

Liability for not complying with this Law or a Tenancy Agreement

4.5 If the Transferee does not comply with this Law, then:

- (a) the Interest or License created is not legally valid; and
- (b) the non-complying Transferee must compensate the Allotment/CP Holder for any damage or loss that results.

PART 5. REGISTRATION OF INSTRUMENTS

Limit on Registration

- 5.1 Except for the matters exempted in subsection 4.2, none of the following shall be registered until the Lands Manager or Council have determined that the minimum requirements under this law have been met:
- (a) the creation, grant, transfer, sale, gifting or dealing with an Interest or License:
 - (i) by a Member in or to their Allotment or CP; or
 - (ii) in relation to Corporate Residential Holdings; and
 - (b) any similar transaction prescribed by Council.

PART 6. RESTRICTIONS ON REGISTRATION OF CORPORATE RESIDENTIAL HOLDINGS

6.1 Except as provided for in this Part, no Corporate Residential Holding is legally valid, and no Corporate Residential Holding shall be registered in the Tzeachten Lands Office or the First Nations Land Registry.

6.2 Subject to sections 6.3 and 6.4, Corporate Residential Holdings are valid and may be

registered in the Tzeachten Lands Office or the First Nations Land Registry only if the total Corporate Residential Holdings make up less than 5% of total Dwelling Units that are leased or subleased under the Allotment or CP or within a development or phase of a development.

- 6.3 The holder of an Allotment or CP may submit an application to the Tzeachten Lands Office requesting that a greater percentage Corporate Residential Holdings be permitted to be registered, on the basis that such additional Corporate Residential Holdings meet the interests set out in Whereas clause "I" and are in the best interests of Tzeachten First Nation.
- 6.4 On receipt of an application for a greater percentage of Corporate Residential Holdings the Lands Manager or Council shall examine the application and, in their sole discretion, either:
- (a) reject the application; or
 - (b) or approve of the application, and may include any terms or conditions to the approval that they deem advisable.

PART 7. MINIMUM REQUIREMENTS FOR INTEREST CREATION, TRANSFER OR REGISTRATION

- 7.1 The Lands Manager or Council must decide if the minimum requirements for interest creation are adequately met prior to issuing a letter or confirmation under subsection 9.19(c) of the Tzeachten Land Code.
- 7.2 The minimum requirements for creating and registering an identified Interest or License under this Law are:
- (a) An appraisal of fair market value;
 - (b) Written confirmation that the Allotment/CP Holder has received independent legal advice;
 - (c) Written confirmation from the Tzeachten Lands Office or a review for compliance with the Tzeachten Land Code, Land Use Plan(s), and applicable Laws;
 - (d) At the sole discretion of the Lands Manager or Council may require:
 - (i) proof of mental competency of any of the individuals signing the documentation or instrument; or
 - (ii) proof of an environmental site profile, sampling or assessments and of advice from a qualified professional, and/ or proof of bonding or security from lessees or permittees to protect the Allotment/ CP Holder against potential environmental liabilities; and
 - (iii) for a corporation, partnership or any other entity which may be prescribed by Council, identifying information regarding the entity which may include information regarding the entity's interest holders, a certified copy of a central securities register, a Transparency Register, and other such identifying information and certified documents.

Responsibilities of the Transferees

- 7.3 In addition to the requirements set out in subsection 7.2, all Transferees must facilitate and pay in full to ensure the following minimum requirements:
- (a) An appraisal of fair market value; and
 - (b) Independent legal advice for the Allotment/CP Holder pertaining to the Sub-Interest Agreement.

Responsibilities of Corporate Transferees

- 7.4 The holder of a Corporate Residential Holding must notify the Tzeachten Lands Office within two months after they become aware or reasonably ought to have become aware that the interest holders of the entity have changed.
- 7.5 Upon being informed that the holder of a Corporate Residential Holding has had a change in interest holders, the Lands Manager or Council may require the entity to provide identifying information regarding the entity which may include information regarding the entity's interest holders, a certified copy of a central securities register, a Transparency Register, and other such identifying information.

Submitting Documentation

- 7.6 Neither Tzeachten, Tzeachten nor any Council member, employee or contractor is responsible or liable for ensuring that anything submitted under this Law:
- (a) is valid or accurate;
 - (b) complies with the Land Code; or
 - (c) will be accepted for consideration to meet the minimum requirements under this Law.
- 7.7 For any documentation or instrument required under this Law or prescribed by Council by Regulation, the Transferee must provide to the Tzeachten Lands Office:
- (a) at least one (1) original copy; and
 - (b) further original copies if required by a law or application procedure.
- 7.8 Required documentation includes:
- (a) a copy of the appraisal of fair market value;
 - (b) written confirmation that Allotment/CP Holder received independent legal advice;
 - (c) written confirmation from an authorized representative of the Tzeachten Lands Office that they have completed the review required subsection 7.2(c); and
 - (d) any other document or instrument prescribed by Council.

Application to be Submitted to Tzeachten

- 7.9 To apply to meet the minimum requirements under this Law, the Transferee must submit an application to the Tzeachten Lands Office including the following:
- (a) a completed application form as required by the Tzeachten Lands Office, or such other forms as Council as approved by regulation or Resolution;
 - (b) the required application fee, if any, or as prescribed by Council by regulation or Resolution;

- (c) at least one (1) original copy, or further original copies if required by a law or application procedure, of the documents listed above in subsection 7.2; and
- (d) any other related surveys, documentation or supporting information required by Law or regulation, or as requested by Tzeachten

7.10 The application to the Tzeachten Lands Office may be submitted in person, by mail or courier or, if permitted by Tzeachten, electronically, with any required confirmations or verifications.

7.11 Despite the requirements for original documents set out in subsections 7.7 and 7.9, an applicant may provide an electronic copy of a document provided that:

- (a) they provide proof of notarization of the original signature for the document; or
- (b) other requirements are met as set out in a regulation passed under this Law.

Notarization, Witnesses and Affidavits

7.12 Subject to subsection (a), a document submitted as part of the application to meet the minimum requirements for interest creation shall not be approved unless it meets the requirements for that particular type of document to be either notarized or witnessed by at least one person who has attained 18 years of age and who is not a party to the document, but;

- (a) This subsection does not apply to:
 - (i) a Council Resolution;
 - (ii) a document under seal of a corporation; or
 - (iii) a document which has been approved by a Council Resolution.

Affidavits for Individuals Unable to Sign

7.13 A document submitted to the Tzeachten Lands Office for an application to meet the minimum requirements for interest creation that is not executed by means of a signature in writing shall not be approved unless it is accompanied by an affidavit attesting:

- (a) that the contents and effect of the document were sufficiently made known to the person executing the document; and
- (b) that the person named in the document executed the document and appeared fully able to understand its content and effect, and voluntarily executed the document or adopted the execution of it made on his or her behalf in the manner shown on the document.

7.14 An affidavit referred to in subsection 7.13 shall only be executed in the presence of a person who is:

- (a) authorized to receive a solemn declaration under section 41 of the Canada Evidence Act;
- (b) a commissioner for the taking of oaths under section 108 of the Indian Act; or
- (c) a commissioner for the taking of oaths authorized in accordance with the Law of the province in which the affidavit was executed.

7.15 A document submitted for registration that is executed by a guardian ad litem or an

agent under a power of attorney shall not be approved unless:

- (a) the guardian or agent has executed the document on behalf of the principal by signing his or her own name and indicating the principal on the document; and
- (b) the document is accompanied by
- (c) the original appointment of the guardian or the original power of attorney, as the case may be; or
- (d) a copy of the original appointment of the guardian approved by the appropriate court or a copy of the original power of attorney, as the case may be.

Decision of Whether to Approve

7.16 The Lands Manager or Council shall not find that the minimum requirements for interest creation are adequately met if:

- (a) the application is incomplete or fails to meet the requirements of this Law;
- (b) there is evidence of potential fraud, abuse, coercion or a violation of Tzeachten Law in relation to the application and Council requires more time for an investigation; or
- (c) there is a valid court order, applicable to the interest or license, that prevents the assessment of the application.

7.17 Subject to receiving a completed application and to compliance with this Part 5, on receipt of a complete application, including the fee, the Lands Manager or Council shall examine the application and either:

- (a) reject the application and inform the Transferee and the Allotment/CP Holder in writing of the reasons for the rejection and the steps or information or revisions required to remedy the defects; or
- (b) find the minimum requirements for interest creation adequately met and factor this into their assessment under section 9.19(c) of the Tzeachten Land Code.

7.18 A finding that the minimum requirements have been adequately met does not guarantee that the Member will receive a letter or confirmation from the Lands Manager or, if required by Law or regulation, a Council Resolution, stating that the interest or license complies with the Tzeachten Land Code and all Tzeachten Laws and Land Use Plans.

No Validity Without Approval

7.19 No creation, grant, transfer, transaction, document or instrument relating to or purporting to deal with an interest or license in Tzeachten Land that requires approval under this Law, is valid or of legal force and effect, unless approved by the Lands Manager or Council in accordance with this Law and the Tzeachten Land Code.

PART 8. FORMS, FEES and COPIES

8.1 Council may, by regulation, approve forms to be used and set fees to be charged in relation to this Law.

8.2 Any fee for an application or approval under this Law shall be paid to the Tzeachten Lands Office, by cash, approved cheque or other method approved by Council.

- 8.3 Upon written request to the Tzeachten Land Office and payment of applicable fees, and provided there are no privacy or legal issues, the Tzeachten Lands Office shall provide summaries, or copies or certified copies of a document relating to Tzeachten Lands registered or recorded in the Registry.

PART 9. OFFENCES AND PENALTIES

Administrative Remedies and Penalties

- 9.1 If the Lands Manager determines that a Transferee has contravened this Law or the regulations, the Lands Manager may assess an administrative penalty payable to Tzeachten or to the Allotment/CP Holder up to the maximum amount and in the manner prescribed.
- 9.2 Before the Lands Manager assesses an Administrative Penalty under this section, the Lands Manager must consider all of the following:
- (a) previous contraventions of a similar nature by the person;
 - (b) the gravity and magnitude of the contravention;
 - (c) whether the contravention was repeated or continuous;
 - (d) whether the contravention was deliberate;
 - (e) any economic benefit derived by the person from the contravention;
 - (f) the person's cooperativeness and efforts to correct the contravention; and
 - (g) any other prescribed consideration.
- 9.3 When assessing an Administrative Penalty under this section, the Lands Manager must give a notice of the determination to the person against whom the Administrative Penalty is assessed setting out all of the following:
- (a) the nature of the contravention;
 - (b) the amount or nature of the Administrative Penalty;
 - (c) the date by which the Administrative Penalty must be paid or the community service must be carried out.

Order for compliance

- 9.4 If the Council considers that a person is not complying, or has not complied, with a decision, determination, or administrative penalty of the Lands Manager under this Law or the regulations, Council or their designate may apply to a Court for an order directing the person to comply.

Offences

- 9.5 A person must not obstruct, interfere with or hinder the Lands Manager, the Council, or any authorized employee, officer, or agent in the carrying out of their duties and responsibilities under this Law.
- 9.6 Any person who violates any of the provisions of this Law or who suffers or permits any act or thing to be done in contravention or in violation of any of the provisions of this Law, or who neglects to do or refrains from doing any act or thing required by any of the provisions of this Law, is guilty of an offence under this Law.

- 9.7 Subject to sections 9.8 and 9.9, any person who is guilty of an offence under this Law is liable, on summary conviction, to a fine of not more than Ten Thousand Dollars (\$10,000.00) and to potentially losing or invalidating their interest or license.
- 9.8 A corporation, partnership or other entity that does not give notice of a change in interest holders pursuant to section 7.4, fails to provide or provides false or misleading information pursuant to subsection 7.2(d)(iii) or 7.5 is guilty of an offence under this Law and is liable, on summary conviction or otherwise, to a fine of not more than Two Hundred Thousand Dollars (\$200,000.00) and to potentially losing or invalidating their interest or license.
- 9.9 If a corporation or limited liability company commits an offence under this Law, an officer, director, manager or agent of a corporation or limited liability company who authorizes, permits or participates in the commission of the offence also commits an offence, whether or not the corporation or limited liability company is prosecuted or convicted.
- 9.10 A person who commits or continues an offence under this Law on more than one day is liable to be convicted for a separate offence for each day on which the offence is committed or continued.
- 9.11 A fine payable under this Law shall be remitted to the Tzeachten Lands Office by the Court, after reasonable Court costs have been deducted.
- 9.12 Council may also authorize by Resolution or regulation for the Lands Manager, a designated official or an Enforcement Officer to issue an order, a ticket or violation notice to impose a sanction or fine for contraventions of this Law.

PART 10. GENERAL PROVISIONS

No Liability for Tzeachten

- 10.1 No proceeding may be brought against Tzeachten or Tzeachten Lands Office, including Council, Committee members, staff, contractors or Enforcement Officers, in relation to decision-making or the discharge or purported discharge of responsibilities under this Law, either pursuant to an operational or policy decision, for anything done or omitted to be done in relation to the Law by any of the above acting in good faith.

Severable

- 10.2 All provisions of this Law are severable. If a Court determines that any provision of this Law is invalid or inapplicable, the provision shall be severed from the Law and the remainder of the Law shall remain in force with any necessary revisions.

Forms

- 10.3 Council may approve forms for the purposes of this Law.

- 10.4 Deviations from an approved form that do not affect its substance and are not intended to mislead do not invalidate the form used.

PART 11. REGULATIONS

- 11.1 Council may make regulations it considers necessary or advisable for purposes of implementing or administering this Law.
- 11.2 Without prejudice to the generality of subsection 11.1, Council may make regulations:
- (a) for any purpose in relation to which regulations are provided for in this Law,
 - (b) prescribing any matter or thing referred to in this Law as prescribed or to be prescribed,
 - (c) defining words and expressions that are used but not defined in this Law,
 - (d) setting or clarifying permit requirements,
 - (e) setting or clarifying requirements for applications,
 - (f) approving forms, fees or processes,
 - (g) prescribing areas where specified activities can or cannot take place under this Law;
 - (h) regulating or restricting the number of or type of renters or occupants that can occupy a rental home, suite or unit
 - (i) setting or clarifying fines or penalties, and
 - (j) generally for the purpose of giving effect to this Law.

PART 12. COMING INTO FORCE

Date Law Comes into Force

- 12.1 With the exception of the sections set out below, the amendments and this Law shall come into force and effect on the date it is passed by Council Resolution.
- 12.2 Despite subsection 12.1, the following are not in force but may be brought into force at any time in the future by a Council Resolution or Regulation:
- (a) The Corporate Residential restrictions in Part 6 including sections 6.1 to 6.4.

June, 2023

BE IT KNOWN that this Law entitled the Tzeachten *Minimum Requirements for Registration Law* is hereby amended by a quorum of Council at a duly convened Council of the Tzeachten First Nation held on June 30, 2023.



Chief Derek Epp

Councillor Loren Muth



Councillor Sandra Pederson



Councillor Anthony
Malloway

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| quorum consists of 3 Council Members |
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