

12.14.14.07.CIF



MATRIMONIAL
PROPERTY LAW



Under the guidance of Almighty God, Our Creator, and as a sovereign Nation; We, the peoples of Tsuu T'ina Nation, in preservation and continuation of the Tsuu T'ina Nation's unique culture, identity, traditions, language and institutions, and with respect to the special relationship to the land and resources, in continued relationship with all First Nations and Canada; Do ordain and establish this law in accordance with our inherent right to governance.

**A Document to Ratify the Tsuu T'ina Matrimonial Property Law LRN.12.14.14.07.CIF
Within the Tsuu T'ina Nation Lands**

**Enacted on the 22nd of December, 2014 in Tsuu T'ina Nation
Coming Into Force Date: April 30, 2015**

WHEREAS the Tsuu T'ina Nation Chief and Council desire to make a law governing matrimonial real property on the Tsuu T'ina Nation Reserve;

AND WHEREAS the Government of Canada recognizes the inherent right of self-government as an existing aboriginal right under section 35 of the *Constitution Act, 1982*;

AND WHEREAS it is recognized that the inherent right of governance includes the right to govern in relation to matters that are internal to the community, and integral to the unique culture, identity, traditions, languages and institutions of the Nation;

AND WHEREAS it is considered to be necessary for the benefit, security and preservation of the Tsuu T'ina Nation and culture;

NOW THEREFORE: the Tsuu T'ina Citizens hereby enact this Law through the Tsuu T'ina Legislative Process and give authority to Chief and Council to ratify this Law:

Title

1 This Law may be cited as the "Tsuu T'ina Matrimonial Property Law".

Interpretation

2 In this law:

- (a) "Chief and Council" means the duly elected Chief and Council of the Tsuu T'ina Nation;
- (b) "Child" means a person under 18 years of age;
- (c) "Citizenship List" means the list of Nation citizens maintained according to the *Tsuu T'ina Citizenship Code First Amendment*, as amended;
- (d) "Common law partnership" means a person, who is involved with another person in an unmarried relationship where they share one another's lives, are emotionally committed to one another, and function as a domestic and economic unit. To be considered partners in a common-law union, partners must fall under one of three categories: they must be living in an interdependent relationship for at least three years, there is a child of the partnership (through birth or adoption), or they have entered into an adult partnership agreement.
- (e) "Dissolution of union" means:
 - (i) the legal end of a marriage; or
 - (ii) the legal end of a common law partnership.
- (f) "Housing List" means the registry of allocated Nation owned residences on Reserve held by the Nation's Housing Department.
- (g) "Marriage" means a lawful union of two people to the exclusion of all others, and includes:
 - (i) a marriage solemnized by a recognized religious official;
 - (ii) a marriage solemnized by a recognized marriage commissioner; and

- (iii) a traditional marriage performed by custom of the Tsuu T'ina Nation.
- (h) "Nation" means the Tsuu T'ina First Nation;
- (i) "Nation citizen" means a person whose name appears on the Tsuu T'ina Citizenship List
- (j) "Nation owned residence," means a residence on Reserve owned by the Nation and allocated for use and enjoyment from time to time, and includes any attached buildings, structures or lands of exclusive use;
- (k) "Non-Nation person" means a person whose name does not appear on the Tsuu T'ina Citizenship List;
- (l) "Notice of Separation" means a notice provided to the Nation by former spouses with shared matrimonial real property upon the dissolution of marriage.
- (m) "Peace officer" means a police officer or police constable of the Tsuu T'ina Police Service (*Tusguna*) or affiliated police service;
- (n) "Reserve" means those lands designated as Reserve lands for the Tsuu T'ina Band (Nation) pursuant to Treaty #7, more generally described as Reserve No. 145;
- (o) "Reside" means to live in a residence for normal occupancy home;
- (p) "Residence" means a dwelling, house, apartment, mobile home, a room located therein, or any similar lodging;
- (q) "Residency Law" means the Tsuu T'ina Residency Law
- (r) "Residency List" means the list of people entitled or permitted to reside on Reserve as either a Principal Resident or Conditional Resident in reference to the Tsuu T'ina Residency Law No. ;
- (s) "Spousal Residence Agreement" means an agreement signed by spouses and the Nation, independent from or as an addendum to a Prenuptial Agreement or Cohabitation Agreement, that explains the terms of use and reallocation of Tsuu T'ina real property in the event of the dissolution of union, and may for greater certainty be described as:

- (i) a "Marital Residence Agreement" entered into prior to or during a marriage;
- (ii) a "Common Law Residence Agreement" entered into prior to or during a common law partnership; or
- (iii) a "Separation Agreement" entered into within 90 days of the dissolution of union.

- (t) "Spouse" means a husband, wife or common law partner, considered in relation to their partner.
- (u) "Surviving spouse" means a person whose marriage or common law partnership has ended due to his or her spouse's death.
- (v) "Tsuu T'ina Real Property" means the Nation Owned Residence shared by spouses during marriage or a common law partnership. It is a Nation owned residence or land on Reserve allocated from time to time by the Nation for the exclusive use of the recipient, and shall not include personal property such as furniture, vehicles or financial assets.
- (v) "Two Spirited" means a person or persons that implies a masculine spirit and a feminine spirit living in the same body. Traditionally, two-spirited individuals were seen as having a gift and they performed traditional duties of both genders.

Application of Law

- 3 (1) This law shall only apply to Tsuu T'ina real property, and shall not govern the division or right to other property or assets between spouses.
- (2) Nothing in this law may be construed so as to abrogate or derogate from any existing aboriginal or treaty rights.

PART I

Land and Nation Owned Residences

- 4 (1) Reserve lands shall be held in common for all Nation citizens, and the allocation of land or a Nation owned residence to a person or spouses shall not confer a right to continued access to or use of that land or residence.
- (2) For greater certainty, no non-Nation person may hold an interest in any land on Reserve or a Nation owned residence.

(3) The allocation of land and house occupancy is determined by the Tsuu T'ina Chief and Council in the absence of a ratified housing policy and in consideration of need, and availability.

Spousal Residence Agreement

5 (1) A Nation citizen or non-Nation person who is:

- (a) in or entering into a marriage or common law partnership with a non-Nation person; and
- (b) is being allocated a Nation owned residence or on land on Reserve;

shall sign a Spousal Residence Agreement with their spouse or future spouse and the Nation.

(2) A Nation citizen in or entering into a marriage or common law partnership with another Nation citizen may enter into the appropriate Spousal Residence Agreement.

(3) Spousal Residence Agreements shall be provided to the Nation's Legal Department for legal review and written approval prior to their signing.

(4) A Spousal Residence Agreement addressing the future use or reallocation of a matrimonial real property shall only be enforceable if:

- (a) the Nation Legal Department gave the agreement written approval under section 5(3); and
- (b) the agreement was duly signed by both spouses and the Nation.

(5) Spousal Residence Agreements shall include provisions for voiding the arranged reallocation of matrimonial property where:

- (a) a spouse was convicted during the marriage or common law partnership under the *Criminal Code of Canada* of a serious indictable offence. Without limiting the foregoing, for the purposes of this Law the following indictable offences are applicable: theft over \$5,000, break and enter, aggravated sexual assault, murder and offenses considered to be threatening to the safety or well being of a child;
- (b) the Nation's Housing Department has received, investigated and confirmed a complaint against a spouse of damage or defacement to the matrimonial real property during the marriage, common law partnership or separation period; or

- (c) Chief and Council considers reallocation under the terms of the Spousal Residence Agreement to be contrary to the housing needs of the Nation.
- (6) The Nation shall not sign a Spousal Residence Agreement that deviates from the reallocation protocol sections 8, 9, and 10.

Reallocation Upon Dissolution of Union

- 6 (1) In the absence of an enforceable Spousal Residence Agreement the reallocation of occupancy for house and land shall be determined based on custody of a child or children and citizenship, or where doubt remains, if a decision cannot be determined through the Tsuu T'ina Residency Tribunal, per the Tsuu T'ina Residency Law it is then made by Chief and Council decision.

Nation Citizen and Nation Citizen

- 7 (1) If spouses are:
 - (a) both Nation citizens; and
 - (b) one person is granted full legal custody of their child or children upon dissolution of union,the spouse with full legal custody shall receive occupation reallocation of house and land.
- (2) If spouses are:
 - (a) both Nation citizens; and
 - (b) the spouses share legal custody of their child or children upon dissolution of union,Tsuu T'ina real property shall be reallocated to the mother.
- (3) Under section 7(2), if both spouses are the same gender and both seek the matrimonial real property,
- (4) If spouses are:
 - (a) both Nation citizens;
 - (b) have no shared child or children; and

(c) both seek the matrimonial real property upon dissolution of union, reallocation shall be decided by the Tsuu T'ina Residency Tribunal per the Tsuu T'ina Residency Law, if a decision cannot be determined it is then made by Chief and Council decision.

Nation Citizen and Non-Nation Person

8 (1) If spouses are:

- (a) a Nation citizen and a non-Nation person; and
- (b) one person is granted full legal custody of their child or children upon dissolution of union,

the spouse with full legal custody shall receive the reallocated matrimonial real property. If the Non Citizen has full legal custody, he or she will be allocated the property until the Tsuu T'ina Citizen child in custody reaches the age of eighteen (18). At that time, the Tsuu T'ina Citizen shall be allocated the Tsuu T'ina Real Property.

(2) If spouses are:

- (a) a Nation citizen and a non-Nation person; and
- (b) the spouses share legal custody of their child or children upon dissolution of union,

the Nation citizen shall receive the reallocated matrimonial real property.

(3) If spouses are:

- (a) a Nation citizen and a non-Nation person; and
- (b) have no shared child or children,

the Nation citizen shall receive the reallocated matrimonial real property upon dissolution of union.

Non-Nation Person and Non-Nation Person

9 (1) If spouses are:

- (a) non-Nation persons; and

(b) one person is granted full legal custody of their Tsuu T'ina Citizen child or children upon dissolution of union,

the person with full legal custody shall receive the reallocated matrimonial real property.

(2) If spouses are:

(a) non-Nation persons; and

(b) legal custody of their child or children is shared upon dissolution of union,

matrimonial real property shall be reallocated to the mother.

(3) Under section 9(2), if both spouses are the same gender and both seek the Tsuu T'ina property, reallocation shall be decided by Chief and Council.

(4) If spouses are:

(a) non-Nation persons;

(b) have no shared child or children,

Chief and Council may reallocate the matrimonial real property to one of the spouses or allow the Nation Housing Department to allocate the land or Nation owned residence in another way.

Death of a Spouse

10 (1) If a surviving spouse is a Nation citizen or has legal custody of a child or Children, matrimonial real property shall be reallocated to that surviving spouse.

(2) If a surviving spouse is:

(a) a non-Nation person; and

(b) has no child or children in his or her legal custody,

matrimonial real property shall be reallocated to that spouse for a period of 12 months from the dissolution of union to allow for alternate living arrangements.

- (3) Under section 10(1), where a surviving spouse has applied for Conditional Residency under the Residency Law, that spouse may retain matrimonial real property beyond 6 months until such time as the application and any subsequent appeal have been decided.
- (4) If a surviving spouse is granted Conditional Residency under section 3, the matrimonial real property shall be reallocated to the surviving spouse until such time as the surviving spouse re-marries or enters a new common-law partnership.

11 (1) Chief and Council shall rule on the reallocation of matrimonial real property of any marital or common law partnership not addressed under sections 7, 8, 9 or 10.

PART II

Notice of Separation

12 (1) Former spouses shall provide a signed Notice of Separation to the Nation Legal Department within 30 days of the dissolution of union.

(2) Former spouses without an enforceable Marital Residence Agreement or Common Law Residence Agreement may agree to a Separation Agreement with the Nation within 365 days of filing their Notice of Separation.

PART III

Severability

13 If any section or sections of this law or parts thereof are found in any court of competent jurisdiction to be illegal or beyond the power of Council to enact, such section or sections or parts thereof shall be deemed to be severable and all other sections or parts of this law shall be deemed to be separate and independent therefrom and to be enacted as such.

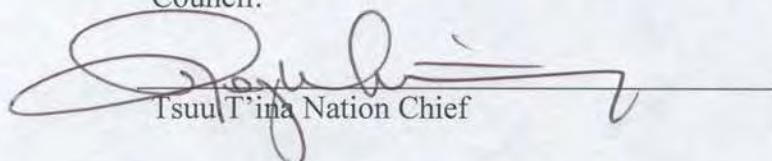
Regulations

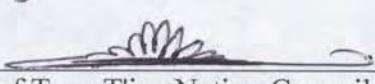
14 Chief and Council may make regulations through the Legislative Process that Chief and Council consider necessary to carry out the intent of this law.

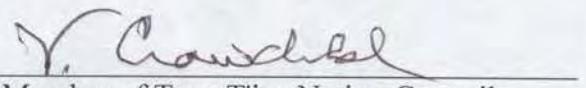
THIS LAW IS HEREBY made at this duly convened meeting of the Council of the Tsuu T'ina Nation this 22nd day of December 2014, by Band Council Resolution.

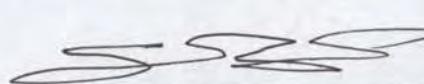
COMING INTO FORCE: April 30, 2015

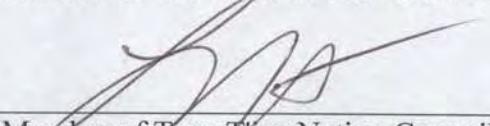
Voting in favour of the Law, as evidenced by signatures, are the following members of the Council:

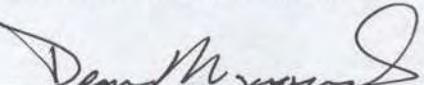

Tsuu T'ina Nation Chief

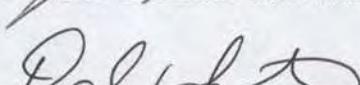

Member of Tsuu T'ina Nation Council

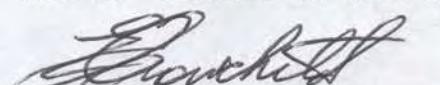

Member of Tsuu T'ina Nation Council

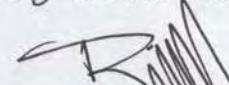

Member of Tsuu T'ina Nation Council


Member of Tsuu T'ina Nation Council


Member of Tsuu T'ina Nation Council


Member of Tsuu T'ina Nation Council

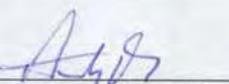

Member of Tsuu T'ina Nation Council


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Member of Tsuu T'ina Nation Council



RE: TSUU T'INA MATRIMONIAL PROPERTY LAW

INDIAN AND NORTHERN AFFAIRS CANADA		Chronological No. PAGE / OF /			
BAND COUNCIL RESOLUTION		File Reference No. BCR #: 3237			
Note: The words from our Band Funds "capital" or "revenue" whichever is the case must appear in all resolutions requesting expenditures from Band Funds.					
The Council of the: TSUU T'INA NATION		Cash Free Balance			
Date of Duly Convened Meeting: 2012 12 14	Date	Month	Year	Province	Capital Account \$ _____
				Alberta	Revenue Account \$ _____

WHEREAS CHIEF AND COUNCIL OF THE TSUU T'INA NATION HAS BEEN DULY ELECTED PURSUANT TO THE PROVISIONS OF THE INDIAN ACT AND IS EMPOWERED TO ACT ON BEHALF OF THE MEMBERS OF THE TSUU T'INA NATION;

WHEREAS CHIEF AND COUNCIL HAVE MET IN A QUORUM AT A DULY CONVENED CHIEF AND COUNCIL MEETING ON DECEMBER 22 2014 2014; AND

WHEREAS CHIEF AND COUNCIL IS ACTING ON ITS AUTHORITY WHICH IS DIRECTLY DERIVED FROM THE ELECTORATE OF THE TSUU T'INA NATION; AND

WHEREAS THE TSUU T'INA NATION CHIEF AND COUNCIL DESIRE TO MAKE A LAW GOVERNING MATRIMONIAL REAL PROPERTY ON THE TSUU T'INA NATION RESERVE; AND

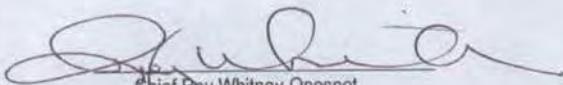
WHEREAS THE GOVERNMENT OF CANADA RECOGNIZES THE INHERENT RIGHT OF SELF-GOVERNMENT AS AN EXISTING ABORIGINAL RIGHT UNDER SECTION 35 OF THE CONSTITUTION ACT, 1982; AND

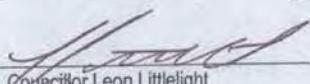
WHEREAS IT IS RECOGNIZED THAT THE INHERENT RIGHT OF GOVERNANCE INCLUDES THE RIGHT TO GOVERN IN RELATION TO MATTERS THAT ARE INTERNAL TO THE COMMUNITY, AND INTEGRAL TO THE UNIQUE CULTURE, IDENTITY, TRADITIONS, LANGUAGES AND INSTITUTIONS OF THE NATION; AND

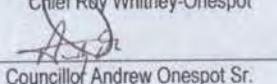
WHEREAS IT IS CONSIDERED TO BE NECESSARY FOR THE BENEFIT, SECURITY AND PRESERVATION OF THE TSUU T'INA NATION AND CULTURE.

NOW THEREFORE BE IT RESOLVED: THE TSUU T'INA CITIZENS HEREBY ENACT THIS LAW THROUGH THE TSUU T'INA LEGISLATIVE PROCESS AND GIVE AUTHORITY TO CHIEF AND COUNCIL TO RATIFY THIS LAW:

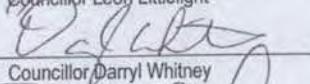
Quorum: 7

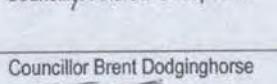

Chief Ray Whitney-Onespot

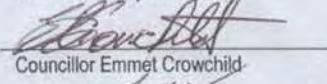

Councillor Leon Littlelight

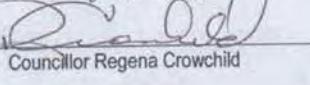

Councillor Andrew Onespot Sr.

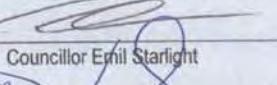

Councillor Ellery Starlight

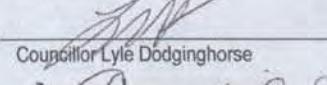

Councillor Darryl Whitney

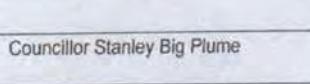

Councillor Brent Dodginghorse

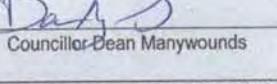

Councillor Emmet Crowchild

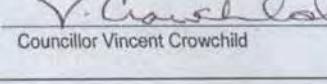

Councillor Regena Crowchild


Councillor Emil Starlight


Councillor Lyle Dodginghorse


Councillor Stanley Big Plume


Councillor Dean Manywounds


Councillor Vincent Crowchild

FOR DEPARTMENTAL USE ONLY

Expenditure	Authority - (Indian Act Section)	Source of Funds <input type="checkbox"/> Capital <input type="checkbox"/> Revenue	Expenditure	Authority - (Indian Act Section)	Source of Funds <input type="checkbox"/> Capital <input type="checkbox"/> Revenue
Recommending Officer			Recommending Officer		
Signature		Date	Signature		Date
Approving Officer			Approving Officer		
Signature		Date	Signature		Date



Tsuu T'ina Nation
CHIEF AND COUNCIL

9911 Chiila Blvd. Tsuu T'ina, AB. T2W 6H6
Ph. 403.281.4455 Fax: 403.251.6061 Email: ccouncil@tsuutina.com

CCD: 33

CHIEF AND COUNCIL DIRECTIVE

To: Peter K. Manywounds, Chief Executive Officer
Vanessa Big Plume, Legislative Procedures – Executive Director

From: Council Member, Emmett Crowchild
TTN Chief and Council February 2015 Chairperson

Date: February 10, 2015

RE: MATRIMONIAL PROPERTY LAW, RESIDENCY LAW AND ACCOUNTABILITY CODE

At a duly convened meeting held February 10, 2015 Chief and Council agreed by majority, and directed the following:

The Matrimonial Property Law, Residency Law and Accountability Code shall come into force on April 30, 2015.

Any questions regarding the above directive may be addressed to the undersigned.

A handwritten signature in black ink.

Council Member, Emmett Crowchild
TTN Chief and Council February 2015 Chairperson

ahf

pc: Chief and Council
Stephen Runner, Assistant Chief Executive Officer
Eva Korpela, Executive Director – Finance
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