



ELECTION LAW

TNL 04/2016

Enacted on April 5, 2016.



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DEPOSITED IN THE TLA'AMIN
REGISTRY

ON 12 / 04 / 16
(day/month/year)



Signature of Law Clerk

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PREAMBLE

WHEREAS:

- A. Tla'amin Ta'ow (*teachings*) are our traditional teachings and unwritten laws that our Ancestors lived by. In creating written laws, we continue to honour and uphold our Ancestral practices, teachings and core values. Through our laws, we reinforce the principles of respect, unity and connection to our lands and resources. We vow to keep these teachings and principles in mind in all that we do as Tla'amin people;
- B. Through this Law and other Tla'amin enactments, we are continuing to exercise our inherent right of self-determination. The Tla'amin Government will govern in an accessible, accountable and transparent manner;
- C. As we have always done, we continue to occupy our lands and carry out our Ta'ow (*teachings*) that require us to be stewards of our lands and resources today and always, and we are committed to the responsible, sustainable stewardship of lands, waters, air and other resources. In upholding our responsibilities, we will continue to seek the guidance of the Creator, our Ancestors and the knowledge of Tla'amin Elders as we protect and make decisions about managing our lands and resources;
- D. Our vision of self-government and of a healthy, self-sufficient Tla'amin Nation began long ago with our Ancestors and our leadership of the past. Many of those who were involved in shaping and advancing our vision have passed on and we acknowledge their contributions and sacrifice. They put in place the foundation that we have built upon today. Those respected ones have cleared the path so that we, the Tla'amin Nation, could achieve our vision of "one heart, one mind, one Nation";
- E. It is on this basis that we accept the obligations and responsibilities inherent in governing and work to blend our traditional and modern-day governing approaches, including the development of election laws;
- F. Through our written *Constitution* and this *Election Law*, we reinforce our Nation's objectives including Tla'amin unity, good faith engagement among ourselves and with our neighbours and maintaining enduring connections to our lands and resources;
- G. Further, we are committed to pursuing the economic, social and cultural wellbeing of our Nation with the aim of sustaining and improving the quality of life for present and future Tla'amin generations;
- H. It is our intention to accomplish this through a democratically elected government that is accessible, accountable, transparent and adheres to the principle of fairness;
- I. We vow to keep our Ta'ow (*teachings*) and these principles in mind in all that we do as Tla'amin people. The Tla'amin Nation adopts this Law based on these values and principles;
- J. Under section 31 of the *Constitution*, the Tla'amin Government may exercise any right, power, privilege or authority, and may carry out any duty, function or obligation, of the Tla'amin Nation or Tla'amin Government in accordance with Tla'amin law, the

Constitution of the Tla'amin Nation and the Final Agreement including making any law within the authority of the Tla'amin Government;

- K.** Under paragraph 1 of Chapter 15 [*Governance*] of the Final Agreement, the Tla'amin Nation has the right to self-government, and the authority to make laws, as set out in the Final Agreement;
- L.** Under paragraph 47 of Chapter 15 [*Governance*] of the Final Agreement, the Tla'amin Nation has the authority to make laws in relation to the administration, management and operation of the Tla'amin Government; and
- M.** Under paragraph 3 of Chapter 15 [*Governance*] of the Final Agreement, the authority of the Tla'amin Nation to make laws in relation to a subject matter under the Final Agreement includes the authority to make laws and do other things as may be necessarily incidental to exercising its authority.

NOW THEREFORE the Legislative Assembly enacts as follows:

PART 1 - INTRODUCTORY PROVISIONS

Citation

1. This Law may be cited as the *Election Law*.

Application

2. This Law applies to the processes by which members of the Tla'amin Government are elected.

Definitions

3. In this Law,

“candidate” means a candidate for election;

“election” means a general election for the office of Hegus and for the office of Legislators, or a by-election for any one or more of those offices, as the case requires;

“election day” means the day fixed for an election by the Executive Council;

“elections officer” means the individual appointed as elections officer under section 13;

“elections official” means an individual appointed by the elections officer under section 14;

“eligible voter” means a Tla'amin Citizen who is eligible to vote in an election under section 16;

“Oath of office” has the meaning given to that term in the *Government Law*; and

“scrutineer” means an individual appointed as a scrutineer by a candidate under section 43.

Interpretation

4. (1) In addition to the terms defined in section 3 of this Law, terms used in this Law may be defined in the *Interpretation Law*.
- (2) Only those defined terms that are capitalized in section 3 or in the *Interpretation Law* are presented capitalized in the text of this Law, and all other defined terms are presented in lower case.
- (3) References to “this Law” include any regulations made under this Law.

Severability

5. The provisions of this Law are severable, and where any provision of this Law is for any reason held to be invalid by a decision of a court of competent jurisdiction, the invalid portion must be severed from the remainder of this Law and the decision that it is invalid must not affect the validity of the remaining portions of this Law.

Validity

6. Nothing under this Law must be rendered void or invalid by
- (a) an error or omission in a notice, form or other document given or authorized under this Law; or
 - (b) a failure of the Tla'amin Nation or a Tla'amin official to do something within the required time.

PART 2 - TERMS OF OFFICE OF THE MEMBERS OF THE LEGISLATIVE ASSEMBLY

Terms of office of the Members of the Legislative Assembly

7. (1) The term of office of elected officials is not less than 42 months and not more than 48 months.
- (2) The term of office of the elected officials is subject to this Law, the Code of Conduct Policy and other Tla'amin laws.
 - (3) An elected official begins their term of office when they have taken their Oath of Office and completed their disclosure form in accordance with the *Government Law*.
 - (4) The term of office of each elected official concludes when
 - (a) their office is declared vacant in accordance with Tla'amin law; or
 - (b) within 10 business days following an election.

PART 3 - CALLING ELECTIONS AND CANDIDATES FOR ELECTION

Division 1 - Election Dates

Date for general elections

8. (1) A general election for Hegus and Legislators may only be called by the Executive Council for a date in the six month period after 42 months have passed from the start of a term of the Legislative Assembly.
- (2) The Executive Council must give at least 90 days' notice of the date a general election will be held by posting notices of the general election.

By-election for Hegus or Legislator

9. (1) If a vacancy occurs in the office of an elected official, the Executive Council must
- (a) set a date for a by-election to fill the vacancy for the balance of the term that is within 90 days of when the vacancy occurred, and
 - (b) post notices of the by-election,
- except where subsection (2) applies.

- (2) If the vacancy occurs more than 42 months after the start of a term of the Legislative Assembly, no by-election will be called to fill the vacancy.
- (3) If a general election is called after a date has been set for a by-election, the Executive Council must cancel the by-election by notice in writing posted in accordance with the regulations.

Division 2 - Eligible Candidates for Election

Eligibility to be a candidate for Hegus or an elected member of the Legislative Assembly

- 10. (1)** To be eligible to be nominated as a candidate for the office of Hegus or to be nominated as a candidate for any elected office of the Tla'amin Government to be filled in an election or by-election, an individual must
- (a) be at least 18 years old on the election day for that election or by-election;
 - (b) be nominated and seconded for Hegus or any elected office of the Tla'amin Government by mail or in person by eligible voters at a nomination meeting in accordance with this Law;
 - (c) not be in personal bankruptcy under the *Bankruptcy Act* (Canada) during the period between the date the election or by-election is called and election day;
 - (d) not be disqualified from holding elected office, by or under, this Law or any other Tla'amin law;
 - (e) sign in the prescribed form, a certificate of qualification verified by the chief administrative officer;
 - (f) in the five years immediately preceding election day, not have been convicted of an offence that carried the possibility of imprisonment for two years or more but less than 10 years under Canadian, American or Tla'amin law;
 - (g) in the 10 years immediately preceding election day, not have been convicted of an offence that carried the possibility of imprisonment for 10 years or more under Canadian, American or Tla'amin law; and
 - (h) not be serving a sentence in a correctional institution on nomination day or at any time between nomination day and up to and including election day.
- (2) The Executive Council may, in addition to requirements set out in this Law, make regulations respecting any criteria or conditions for nominating an individual for the office of Hegus or the office of Legislator.
- (3) The elections officer may only include the name of an individual who has been nominated on the ballot as a candidate for a vacant position as an elected official, if the nominated individual has provided, at least five business days before the election day, satisfactory evidence to the elections officer that they
- (a) meet established criteria to qualify as a candidate;

- (b) have participated in relevant training modules established by the Tla'amin Nation; and
 - (c) have submitted to the elections officer a certificate of qualification verified by the chief administrative officer.
- (4) If a candidate is disqualified from nomination and there is insufficient time to strike the candidate's name or reprint the ballots, a prominent notice shall be placed at each affected polling place advising voters of the disqualification of the candidate and all votes cast for such candidate shall be void and shall not be counted.

Candidate for office of both Hegus and Legislator

11. (1) An individual may be a candidate for both the office of Hegus and the office of Legislator but if the candidate is elected to both offices, the candidate is elected to the office of Hegus and is not elected to the office of Legislator.
- (2) If a Legislator is elected to the office of Hegus in a by-election, the Legislator ceases to hold the office of Legislator as soon as they take office as Hegus, and a vacancy then occurs in the office of Legislator.
- (3) If the Hegus is elected to the office of Legislator in a by-election, the Hegus ceases to hold the office of Hegus as soon as they take office as Legislator, and a vacancy then occurs in the office of Hegus.

Holding two offices prohibited

12. No individual may hold the office of the Hegus and the office of the Legislator at the same time.

PART 4 - THE ELECTION PROCESS

Division 1 - Elections Officer and Elections Officials

Elections officer

13. (1) The Legislative Assembly must appoint an individual to act as elections officer
- (a) not less than 90 days before the date of a general election; or
 - (b) as soon as practicable after the office of an elected official becomes vacant.
- (2) The elections officer must
- (a) be at least 18 years of age or older;
 - (a) not be a Tla'amin Citizen; and
 - (b) sign an Oath of Office and confidentiality in the prescribed form.
- (3) The elections officer is responsible for the fair, efficient and proper conduct of an election in accordance with this Law.

- (4) The elections officer may make any decision or rule to deal with any matter or issue not addressed or inadequately addressed by this Law to protect the integrity of the election within generally accepted standards for the conduct of elections.
- (5) The Legislative Assembly may terminate the services of the elections officer if the elections officer does not comply with this Law or fails to fulfill their duties.

Elections officials

14. The elections officer may appoint individuals to serve as elections officials to assist the elections officer in the fair, efficient and proper conduct of an election in accordance with this Law.

Individuals ineligible for appointment as elections officials

15. The following individuals must not be appointed, accept an appointment, or act as an elections official:
- (a) a Tla'amin official;
 - (b) a member of a Tla'amin advisory body;
 - (c) an individual who is a candidate or a candidate's representative in that election;
 - (d) an individual who has been employed by, or holds a position with or has made a contribution to the candidacy of any individual who is, intends to be or was a candidate in the election;
 - (e) an individual who has been convicted of an offence under this Law, or other Tla'amin law within the past 10 years; or
 - (f) an individual convicted of a criminal offence within the past five years.

Division 2 - Voters List

Eligible voters

16. A Tla'amin Citizen who is at least 18 years old on or before the election day is an eligible voter.

Preparation of voters list

17. (1) The elections officer must prepare a voters' list containing all eligible voters for the election based on information obtained from or provided by the Citizenship Registrar.
- (2) The voters list must be arranged in alphabetical order and prepared in two versions
- (a) one confidential version containing the name, date of birth, and address of each eligible voter which will remain confidential for use only by the elections officer and the elections officials, subject to section 18(3); and
 - (b) one public version containing only the names of eligible voters, for public review.

Posting a voters list

- 18. (1)** The elections officer must
- (a) post the voters list in the Tla'amin Governance House; and
 - (b) give public notice of where the voters list can be looked at.
- (2) When the elections officer is required to post or give public notice of the voters list, the elections officer must use the voters list containing only the names of eligible voters without the dates of birth and addresses of eligible voters.
- (3) An eligible voter is entitled to examine their own information contained on the confidential version of the voters list to ensure that their date of birth and address are correct.
- (4) The Executive Council may make regulations respecting
- (a) who is entitled to see the voters list containing names, dates of birth and addresses;
 - (a) the process for access to the confidential version of the voters list; and
 - (b) restrictions on the use and disclosure of the voters list.

Correcting a voters list

- 19. (1)** After the certified voters list is prepared, the elections officer
- (a) may correct errors and add or remove a name if the elections officer is satisfied a correction, addition, or removal is necessary; and
 - (b) must give written notice of the correction, addition, or removal to the individual concerned.
- (2) A question or dispute over an error, omission or correction to the voters list may be referred by the elections officer to the Citizenship Committee.

Application to correct a voters list

- 20.** An eligible voter whose own name is omitted from the voters list may request the elections officer to correct the list by giving to the elections officer
- (a) written confirmation from the Citizenship Registrar that the individual is an eligible voter and should be on the voters list; or
 - (b) a statutory declaration of a right to vote in the prescribed form.

Appealing decision regarding eligible voter

21. (1) If the elections officer is not satisfied that an individual who requests a change to the voters list is an eligible voter and should be added to the voters list, the elections officer must notify the applicant in writing.
- (2) An applicant may submit an appeal from a decision of the elections officer on one or more of the following grounds, namely, that
- (a) the individual is eligible to vote at the election;
 - (b) their name is on the Citizenship Register and that they are or will be 18 years old on election day;
 - (c) their name was mistakenly omitted from the voters list; and
 - (d) they are not disqualified from voting.
- (3) The appeal is made by filing a written notice of appeal with the Citizenship Committee that includes the reasons for the appeal, verified by statutory declaration, together with material in support of the appeal.
- (4) The Citizenship Committee will issue a decision as follows:
- (a) dismiss the application; or
 - (b) order the voters list to be corrected.

Corrected voters list

22. After any disputes over the voters list are resolved, the elections officer must post a corrected voters list.

Responsibility of eligible voters to keep their address current

23. Every eligible voter is responsible for keeping the Citizenship Registrar informed of
- (a) their current address;
 - (b) their legal spelling of name;
 - (c) their date of birth; and
 - (d) any changes to the above information.

Division 3 - Nomination of Candidates and All-Candidates Meeting

Setting date and procedure for nomination meeting and all-candidates meeting

24. (1) The elections officer must make arrangements and set a date for
- (a) a nomination meeting; and

- (b) an all-candidates meeting, but only after candidates have been declared to be properly nominated for election under section 35.
- (2) The Executive Council may make regulations
 - (a) respecting the notice to be given of the nomination meeting, how the notice is to be given, and the information to be contained in the notice;
 - (b) respecting the rules to be followed before, during and after a nomination meeting and the procedure to be followed during the meeting; and
 - (c) respecting the notice to be given and the rules for the conduct of the all-candidates meeting.

Notice of nomination meeting

- 25.** The elections officer must, in the prescribed form, send or deliver to each eligible voter on the voters list, to the address shown on the list
- (a) notice of the nomination meeting including the date, time location and duration of the nomination meeting;
 - (b) a mail-in nomination in the prescribed form together with an envelope addressed to the elections officer; and
 - (c) instructions for how to nominate a candidate by mail.

Nomination meeting

- 26.** (1) Once declared open by the elections officer, a nomination meeting must remain open for at least two consecutive hours for the purpose of receiving nominations of candidates.
- (2) After the expiry of two hours from the opening of the nomination meeting, the meeting closes after a motion to close the meeting is passed, or if no one is present, at the discretion of the elections officer.

Nominating candidates

- 27.** (1) A candidate must be eligible for the office for which they wish to be a candidate and must be nominated at the nomination meeting
- (a) verbally in person, by two eligible voters; or
 - (b) by a mail-in nomination in the prescribed form and received by the elections officer before the close of the nomination meeting.
- (2) In order for a nomination under paragraph (1)(b) to stand, the nomination must be seconded by an eligible voter in person at the nomination meeting.
- (3) An eligible voter may not

- (a) nominate and second the nomination of the same nominee;
- (b) nominate themselves; or
- (a) nominate or second the nomination of more than one nominee for the same elected office in an election.

After the nomination meeting

28. After the nomination meeting closes, the elections officer must send to each nominated candidate a notice of their nomination in the prescribed form.

Nomination must be accepted by candidate

29. (1) If a nominated candidate intends to be a candidate in the election, the candidate must file with the elections officer
- (a) a statutory declaration in the prescribed form accepting the nomination;
 - (b) a deposit payable to the Tla'amin Nation of an amount prescribed by the Executive Council; and
 - (c) a certificate of qualification in the prescribed form verified by the chief administrative officer in accordance with this Law or other Tla'amin law.
- (2) If the nominated candidate does not comply with the criteria and any requirements set out in this Law, the candidate is conclusively presumed to have declined the nomination and is not permitted to be a candidate in the election.

Questionable candidates

30. (1) The elections officer is not required to investigate the eligibility, candidacy or nomination of a candidate unless a Tla'amin Citizen provides written documentation and submits a formal complaint questioning any of those matters directly to the attention of the elections officer, in which case the elections officer may
- (a) investigate and make a decision about whether an individual is a valid candidate and whether the candidate and nomination complies with this Law; and
 - (b) notify the individual concerned of the decision, giving written reasons.
- (2) If the elections officer decides that a candidate is not a valid candidate that individual may, within three business days after receipt of the elections officer's decision, appeal to
- (a) the Citizenship Committee, if the candidate has been determined to be ineligible based on the grounds of citizenship, or
 - (b) the Review and Appeal Panel by filing an appeal with reasons for the appeal and any supporting documentation, if the candidate has been determined to be ineligible based on grounds other than citizenship

and send a copy of the appeal and supporting documents to the elections officer.

- (3) An individual appealing the elections officer's decision under subsection (2) is to be treated for all purposes as a candidate for the election until the Citizenship Committee or the Review and Appeal Panel renders a decision to the contrary.

Election by acclamation

- 31. (1) If only one individual accepts a nomination for the office of Hegus, the elections officer must declare that individual elected as Hegus, effective at the commencement of the next term of the Legislative Assembly.
- (2) If there is the same number of candidates as there are vacancies to be filled for the office of Legislator, the elections officer must declare those individuals elected as Legislators, effective at the commencement of the next term of the Legislative Assembly.
- (3) If an individual who is declared elected resigns before taking office, then that resignation takes effect and creates a vacancy as it would if the resignation were effective immediately after the individual took office.

Too few nominations

- 32. (1) If there are no nominations for Hegus, the elections officer must make arrangements to hold another nomination meeting and give notice of the date, time and place it will be held.
- (2) If there are no nominations or an inadequate number of nominations for the office of Legislator to fill vacancies required to be filled, the elections officer must make arrangements to hold another nomination meeting and give notice of the date, time and place it will be held.
- (3) In the circumstances described in subsection (1) or (2), the elections officer may adjust any dates or time periods established by this Law to accommodate a new nomination meeting, but the elections officer may not change the identified election day.

Division 4 - Declaration of Candidates and Notice of Election

Strict compliance

- 33. If a candidate is not permitted to be a candidate because they are not in compliance with this Law, the elections officer must
 - (a) remove the name of the individual as candidate from any ballot or election materials; and
 - (b) not place the name of the individual on a ballot.

Use of filed information

- 34. (1) The elections officer must retain the certificate of qualification and any documents and any amendments to those documents submitted in accordance with this Law,

regulations and policies, along with other election material and compile the documents into a binder for submission to the chief administrative officer after the election.

- (2) On written request, the elections officer must produce for inspection by a Tla'amin Citizen a candidate's certificate of qualification and other documents submitted in compliance with this Law and policies.

Declaration of recognized candidates

35. When the requirements of this Law and policies have been satisfied, the elections officer must declare the candidates for election.

Withdrawal of candidate

36. (1) A candidate who has accepted a nomination and has been declared a candidate for an election may only withdraw as a candidate if
 - (a) they send or give to the elections officer a written notice of withdrawal, signed by the candidate; and
 - (b) the notice of withdrawal is received by the elections officer before the close of the voting station on election day.
- (2) A candidate who withdraws from an election forfeits their deposit to the Tla'amin Nation.
- (3) If the withdraw of a candidate results in no candidate or an insufficient number of candidates to fill all vacancies in an election, the withdrawal must be treated as creating a vacancy immediately after the individual would otherwise have assumed office.

Campaign advertising

37. (1) Candidates must not access or utilize any resources belonging to the Tla'amin Nation in conducting campaign activities, without prior approval of the chief administrative officer.
- (2) Candidates may send campaign advertising to the elections officer.
- (3) The elections officer may, in accordance with the regulations, mail the campaign advertising to eligible voters at the address shown on the voters list.
- (4) The Executive Council may make regulations
 - (a) respecting the ethical standards required for campaign advertising and for the campaign advertising to be mailed out;
 - (b) limiting the type, amount, size and weight of the campaign advertising material to be mailed out;
 - (c) establishing fees to be paid by candidates to cover the cost of the mail out;

- (d) requiring the name of the candidate for whom the advertising is distributed to be identified on the campaign advertising; and
 - (e) requiring the elections officer to conduct additional mail outs and the rules related to them.
- (5) The elections officer must reject campaign advertising that is not received on time or that does not meet the requirements of the regulations, or that the elections officer considers offensive, inappropriate or that brings the election into disrepute.

Notice of the election

38. (1) The elections officer must, in the prescribed form, post notices of the election
- (a) in conspicuous public places frequented by Tla'amin Citizens on Tla'amin Lands;
 - (b) on the Tla'amin Nation website; and
 - (c) in the Tla'amin Nation newsletter.
- (2) The notices must include
- (a) the date of election day;
 - (a) the individuals who are declared by the elections officer to be candidates;
 - (b) the times during which voting stations will be open;
 - (c) the location of the one or more voting stations where eligible voters may vote;
 - (d) the methods for voting at the election; and
 - (e) any other matters described in the regulations.

Distribution of ballots for mail-in vote

39. (1) In accordance with the regulations, the elections officer must
- (a) prepare separate mail-in ballots, as required, for the election of Hegus and for the election of the Legislators;
 - (b) distribute mail-in ballots to each individual on the voters list at the address shown on the list, with instructions for voting by mail; and
 - (c) mail out any other information required by the regulations.
40. (1) Candidates campaign material may be distributed with the notice of the election or in a separate mailing.

Mail-in voting regulations

41. (1) The Executive Council may make regulations

- (a) respecting the verification of mail-in votes;
 - (b) respecting the maintenance of secrecy of mail-in votes;
 - (c) governing how mail-in voting is to be conducted;
 - (d) ensuring that an eligible voter only votes once in each election;
 - (e) respecting any other matter to regulate mail-in voting and to protect the integrity of the election;
 - (f) respecting the preparation, printing and security of mail-in ballots; and
 - (g) respecting the nature and form of mail-in ballots, including distinguishing features for mail-in ballots.
- (2) The Executive Council may make regulations authorizing advance voting by eligible voters before election day in accordance with this Law and policies for advance voting.

Electronic voting regulations

42. The Executive Council may make regulations

- (a) respecting the verification of electronic votes;
- (b) governing how electronic voting is to be conducted;
- (c) respecting any other matter to regulate electronic voting and to protect the integrity of the election;
- (d) respecting the preparation, printing and security of electronic ballots; and
- (e) respecting the nature and form of electronic ballots, including distinguishing features for electronic ballots.

PART 5 - ELECTION DAY

Division 1 - Voting

Scrutineers appointed by candidates

- 43. (1)** Each candidate may appoint scrutineers by using the prescribed form and giving the form to the elections officer.
- (2) Not more than two scrutineers for each candidate are entitled to be present at voting stations to watch voting and the counting of ballots.
- (3) Scrutineers may be appointed by a candidate up to the time voting stations close.

No electioneering on election day

44. No candidate or any individual on their behalf may

- (a) campaign on election day; or
- (b) on election day, display election campaign advertising in a voting station or within an area outside the voting station designated by the elections officer.

Preparing for voting

45. The Executive Council may make regulations

- (a) respecting the conduct of the voting process in addition to the requirements in this Law;
- (b) respecting the acquisition and use of ballot boxes for the election and their security;
- (c) respecting the acquisition, use and location of voting booths to ensure a secret ballot and accessibility for eligible voters;
- (d) respecting the materials to be provide for marking ballots and the instructions to be provided; and
- (e) respecting who may or who may not stay in voting stations before, during and after voting takes place.

Voting by secret ballot

46. Voting at an election must be by way of secret ballot.

How votes may be cast

47. A vote for a candidate may be cast

- (a) on election day, in person;
- (b) by mail-in ballot;
- (c) if permitted, by electronic voting; or
- (d) if an advance vote is permitted, in person at the advance vote.

Voting rules

- 48. (1)** An eligible voter may only vote once for a candidate for the office of Hegus.
- (2)** For the election to the office of Legislator, an eligible voter
- (a) may vote for as many candidates as there are vacancies to be filled; and
 - (b) may only vote once for each candidate.
- (3)** If an eligible voter, in the opinion of the elections officer, deliberately votes or attempts to vote more than once for the same candidate

- (a) no vote by that eligible voter for that candidate is to be counted;
 - (b) the ballot must be marked "spoiled"; and
 - (c) the elections officer must record the reason why the ballot is marked "spoiled".
- (4) Votes cast for a candidate who withdraws or dies before the voting stations close will not be counted, but votes cast for other candidates on the same ballot will be counted as valid provided that the ballot otherwise complies with this Law and policies.

Voting in person

49. (1) When an individual wishes to vote in person at a voting station, the elections officer must
- (a) verify that the individual's name is on the voters list and may request photograph identification so that the individual can be reliably identified as an eligible voter and the individual that they claim to be;
 - (b) verify on the voters list whether or not the individual has already voted;
 - (c) if the individual is an eligible voter and has not already voted in the election for which the individual wishes to vote, issue a ballot to the eligible voter in a manner that ensures secrecy and protects the eligible voter's secret ballot;
 - (d) mark the back of the ballot in a distinctive manner;
 - (e) provide, in the prescribed form, voting instructions for marking the ballot; and
 - (f) indicate on the voters list that the eligible voter has voted as soon as the ballot has been deposited in the ballot box.
- (2) If an individual who wishes to vote on election day is not on the voters list, the elections officer may issue the individual a ballot and allow the individual to vote only if
- (a) the elections officer is satisfied the individual is an eligible voter and was omitted from the voters list in error; or
 - (b) the individual concerned provides the elections officer with a statutory declaration that the individual is an eligible voter and any other verification the elections officer considers necessary to verify the individual is an eligible voter.

No loitering in voting stations

50. The elections officer must not allow anyone to stay in a voting station for an unreasonable period before or after voting unless permitted by regulations or there is an appropriate reason for the individual to be present.

Special voting provisions

51. (1) This section applies only to eligible voters resident on Tla'amin Lands unless the regulations otherwise provide.

- (2) Eligible voters with a disability or who are incapacitated and unable to attend a voting station on election day may request the elections officer to make arrangements so that the eligible voter is able to vote at home.
- (3) The elections officer or an individual acting on the eligible voter's behalf may assist the eligible voter to cast their ballot and the marked ballot must be deposited in a sealed ballot box.
- (4) The Executive Council may make regulations
 - (a) respecting the conditions and time period for applying for and casting a vote under this section;
 - (b) respecting the procedures to be followed when a vote is cast under this section; and
 - (c) extending the area to which this section applies.

Spoiled ballots

52. If an eligible voter makes a mistake on a ballot they may exchange their ballot for another ballot issued by the elections officer, and the elections officer must write the word "cancelled" on the original ballot and store it separately.

Deposit of ballots in ballot box

53. (1) After marking their ballot, an eligible voter must return the folded ballot to the elections officer.
- (2) The elections officer must verify that the ballot is the same ballot issued to the eligible voter and the folded ballot must then be deposited in the ballot box.
 - (3) Only ballots issued by the elections officer on election day may be cast in person on election day.

Forfeited ballots

54. (1) If an eligible voter who received a ballot refuses to vote, or leaves the voting station without returning their ballot to the elections officer, then they forfeit their right to vote in the election.
- (2) If an eligible voter forfeits their right to vote, the elections officer must mark "declined" on the voters list beside the individual's name.
 - (3) If a ballot is returned by an eligible voter who has forfeited their vote, the elections officer must mark the ballot "declined" and deposit or allow the ballot to be deposited in the ballot box.

Reconciling mail-in ballots, in person ballots and electronic voting

55. In accordance with the regulations, the elections officer must determine whether

- (a) an eligible voter has voted by mail-in ballot, in which case any ballot cast or attempted to be cast in person must be set aside and not counted; and
- (b) an eligible voter has voted by electronic ballot, if electronic voting is provided for by regulation, in which case any ballot cast or attempted to be cast in person must be set aside and not counted.

Voting hours

- 56.** (1) Voting stations open at 8:00 A.M. and close at precisely 8:00 P.M. unless section 58(1) applies.
- (2) Despite subsection (1), an eligible voter who is inside a voting station when the voting station closes and who has not voted is entitled to vote.

Division 2 - Counting Ballots

Counting ballots

- 57.** The Executive Council may make regulations respecting

- (a) when, how and the manner in which ballots are collected, verified and counted;
- (b) processes and procedures to ensure that the secrecy of the vote is maintained;
- (c) a means for a fair, efficient and accurate count and if necessary, recount of ballots;
- (d) processes to ensure all valid ballots are counted;
- (e) when a ballot must not be counted because it is spoiled or would result in an eligible voter voting twice, and when ballots must be declined;
- (f) the mailing, marking, receipt, security, storage, handling, verification and, counting of mail-in ballots, electronic ballots and ballots cast in an advance vote, if any, and how and when they are counted;
- (g) the role, responsibility and function of elections officials and those permitted to observe the count;
- (h) the sealing and unsealing of ballot boxes and the verification or examination of those processes;
- (i) the integrity, honesty, and fairness of voting at an election and the counting of ballots, and the verification of processes required by this Law;
- (j) the process to ensure that electronic ballots are securely stored, handled and counted if electronic voting is provided for by regulation;
- (k) the process to identify whether the ballot is a valid ballot and cast by an eligible voter;

- (l) record-keeping of mail-in ballots that are spoiled, declined, rejected or set aside;
- (m) procedures to prevent an eligible voter from voting by mail-in ballot, electronic ballot and in person and to prevent ballots being counted contrary to this Law; and
- (n) the record to be made that an eligible voter has voted in an election.

Arrangements for the count

58. (1) The elections officer must

- (a) seal the ballot boxes after the vote is concluded, verify that fact and arrange to collect all ballot boxes in one location;
 - (b) arrange the room in which ballots are to be counted so that those Tla'amin Citizens who wish to do so and other individuals permitted to do so may watch the count without interfering with the ballots or the count; and
 - (c) verify that those present are Tla'amin Citizens or others who are permitted to be present.
- (2) The Executive Council may make regulations respecting any of the matters described in section 59(1), including who is permitted to watch the count of the ballots in addition to Tla'amin Citizens.

Observers

- 59. (1)** Tla'amin Citizens are entitled to be present and watch the counting of ballots, and other individuals are only entitled to be present if so permitted under the regulation, unless any individual is excluded by the elections officer.
- (2) The elections officer at their discretion may exclude or direct the exclusion from the place where ballots are counted any individual whose activities interfere with the efficient and accurate counting of ballots.

Election witnesses

60. An election witness must

- (a) be present at the voting station at least one hour before the voting station closes, and witness the closing; and
- (b) be present while ballots are counted and watch the count.

Counting duties of elections officer

61. (1) The elections officer must examine each ballot and reject those ballots that

- (a) were not issued, mailed, handed out or electronically provided by the elections officer;

- (b) are not identified as a ballot mailed out, handed out or electronically provided by the elections officer;
 - (c) are marked "spoiled", "cancelled" or "declined";
 - (d) contain votes for more than the number of vacancies to be filled; or
 - (e) contain a mark that identifies or may identify an eligible voter.
- (2) Ballots that contain votes for less than the number of vacancies to be filled must be counted if they are otherwise valid ballots.
 - (3) The elections officer must document the results of the count of ballots in the prescribed form and record the results in a prescribed form of the official results of the vote.

Declaration of election results

- 62.** (1) Immediately after completing the prescribed form of the official result of the vote, the elections officer must declare
- (a) the number of votes received by each candidate; and
 - (b) the candidates who are elected.
- (2) The candidate for Hegus who receives the most votes must be declared by the elections officer as elected to the office of Hegus.
 - (3) The candidates for the office of Legislator who receive the most votes for the vacant offices must be declared by the elections officer as elected as Legislators to the Legislative Assembly.

Tie votes

- 63.** (1) If there is a tie vote for the office of Hegus, the elections officer must conduct a recount of the votes for the office of Hegus.
- (2) If there is a tie vote for the office of Legislator, the elections officer must conduct a recount of all the votes of all candidates for the office of Legislator.
 - (3) If the recount fails to determine a successful candidate, the elections officer shall cast ballots in order to break the tie as follows:
 - (a) the elections officer shall place the names of the candidates having the same number of votes on separate pieces of paper, one paper per candidate, and place each paper in a receptacle;
 - (b) without looking, the elections officers shall draw as many pieces of papers as there are positions available; and
 - (c) the candidate(s) whose name(s) appear on the pieces of paper the elections officer has drawn from the receptacle, in the order in which they are drawn, shall

constitute the candidate(s) for whom the elections officer shall cast a vote and must be declared elected by the elections officer.

Division 3 - Appeal of Election

Candidates take office despite an appeal

- 64.** (1) A candidate who is declared elected by the elections officer takes office
- (a) in the case of a general election, at the start of the next term of the Legislative Assembly and in compliance with requirements set out in this Law;
 - (b) in the case of a by-election, when the result of the election is finally declared; and
 - (c) in compliance with requirements set out in this Law.
- (2) Subsection (1) applies whether or not an appeal is filed under this Law and whether or not the appeal is filed before or after the candidate who is declared elected takes office.

Appeal of election to Review and Appeal Panel

- 65.** (1) In accordance with this Law, within 10 business days after election day, a candidate or an eligible voter may submit a written appeal of the results of the election, to the Review and Appeal Panel, on the grounds that
- (a) this Law was contravened and the contravention did or may have affected the outcome of the election;
 - (b) an offence was committed, whether or not the offence is or was the subject of a legal investigation or proceeding, and the contravention did or may have affected the outcome of the election; or
 - (c) it was identified during the voting period or within 10 business days after election day that the candidate may be ineligible to be a candidate or to be elected.
- (2) An appeal submitted to the Review and Appeal Panel must
- (a) be in writing in the prescribed form set out in the regulation, containing particulars and information to support the grounds for the appeal;
 - (b) be accompanied by any supporting documentation and evidence, the gathering and provision of which is the sole responsibility of the appellant;
 - (c) be accompanied by a non-refundable deposit prescribed by regulation; and
 - (d) be delivered in person or by registered mail to the chief administrative officer.

Notice of appeal

- 66.** (1) The Review and Appeal Panel must as soon as practicable after receiving an appeal of election, send a copy of the appeal and supporting documentation to

- (a) the elections officer;
 - (b) each candidate; and
 - (c) the Executive Council.
- (2) The elections officer or a candidate may, within five business days of receipt of the appeal of the election, send to the Review and Appeal Panel a written response, together with any supporting documents for its consideration.
- (3) As soon as practicable after an appeal is received and after such consideration it deems necessary, the Review and Appeal Panel must make a decision on the appeal.
- (4) The Review and Appeal Panel may
- (a) dismiss the appeal;
 - (b) disqualify the Hegus or one or more Legislators from office;
 - (c) order a by-election for the office of Hegus or for some or all of the offices of Legislator; or
 - (d) make recommendations to the Legislative Assembly.

Inadvertent errors

67. No election is to be declared invalid and an individual elected to the office of Hegus or office of Legislator will not be disqualified by reason of mistake or non-compliance with this Law if, in the opinion of the Review and Appeal Panel
- (a) the non-compliance or mistake did not reasonably affect the final result of the election; and
 - (b) the election was otherwise conducted in accordance with this Law.

Division 4 - Final Responsibilities of the Elections Officer

Disposal of election materials

68. (1) The elections officer must retain the ballots and documents related to the election in a secure location until they are disposed of in accordance with this Law.
- (2) The elections officer must dispose of the ballots and election material used in the election
- (a) when the results of an election are conclusively resolved; and
 - (b) in the presence of two witnesses who must certify that they witnessed the destruction of the ballots by signing a certificate in the prescribed form.

- (2) The disposal of the ballots and election material used in the election must not take place earlier than 45 days after election day, or if an appeal has been initiated, 45 days after the appeal is conclusively resolved.

Report of the election

69. When an election is fully decided the elections officer must

- (a) send to the chief administrative officer a final report of the election results in the prescribed form and the complete elections binder;
- (b) promptly post the election results; and
- (c) mail a copy of the election results to each eligible voter at the address shown on the voters list.

PART 6 - OFFENCES, PENALTIES, DISQUALIFICATIONS AND SUSPENSION

Inducement and intimidation

70. In this Part,

“inducement” includes money, gift, valuable consideration, refreshment, entertainment, office, placement, employment and any other benefit of any kind; and

“intimidate” means to do or threaten to do any of the following:

- (a) use force, violence or restraint against an individual,
- (b) inflict injury, harm, damage or loss on an individual or property, or
- (c) intimidate an individual.

Inducement offence

71. (1) An individual is guilty of an offence who, by inducement, directly or indirectly, through an agent or personally, seeks to persuade another individual to vote or refrain from voting in an election, or seeks to persuade another individual to vote or refrain from voting for a particular candidate.

- (2) An individual is guilty of an offence who accepts an inducement to vote or refrain from voting in an election, or to vote or refrain from voting for a particular candidate.

Intimidation offence

72. An individual is guilty of an offence who intimidates or coerces another individual for any of the following purposes:

- (a) to persuade or compel an individual to vote or refrain from voting in an election;
- (b) to persuade or compel an individual to vote or refrain from voting for a particular candidate; or

- (c) to punish an individual for having voted or refrained from voting in an election or for voting or refraining from voting for or against a particular candidate.

Interference with voting

73. An individual is guilty of an offence who directly or indirectly, personally or through an agent, by abduction, duress or fraudulent means, does any of the following:

- (a) without authority obtains a ballot or supplies a ballot to an individual;
- (b) impedes, prevents or otherwise interferes with an individual's right to vote at an election;
- (c) compels, persuades or otherwise causes an individual to vote or refrain from voting at an election;
- (d) compels, persuades or otherwise causes an individual to vote or refrain from voting for a particular candidate; or
- (e) impedes or obstructs the elections officer or other individual from performing duties and exercising powers given to the individual under this Law.

General offences

74. An individual is guilty of an offence who contravenes any provision of this Law.

Penalties

75. An individual who is guilty of an offence under this Law is, on conviction, liable to one or more of the following penalties:

- (a) a fine of not more than \$10,000; and
- (b) a prohibition for a period of not longer than seven years from holding the office of Hagus or the office of Legislator.

PART 7 - COMING INTO FORCE

Coming into force

76. This Law comes into force on the date it is enacted by the Legislative Assembly.

THIS LAW IS HEREBY DULY ENACTED by the Legislative Assembly on the 5th day of April 2016, at the Tla'amin Governance House, in the Province of British Columbia.



ORDER OF THE LEGISLATIVE ASSEMBLY OF THE TLA'AMIN NATION

Legislative Assembly Order No.: TNO-LA 06 /2016

Approved and Ordered: April 5, 2016

Order

The Legislative Assembly hereby enacts the *Election Law* to take effect on the Effective Date.

Authority

This Legislative Assembly Order is made under the authority of the Final Agreement and the Constitution and in accordance with the *Order of the Legislative Assembly of the Tla'amin Nation* TNO-LA 01/2016 (respecting the Tla'amin Nation Effective Date Period Procedures).

*Signed by the Hegus on behalf of the
Legislative Assembly of the Tla'amin Nation*

(Note: This portion is for administrative purposes only and is not part of the Order)

Authority under which the Order is made:

Law: *Constitution*

Other (please specify): Final Agreement and the Order of the Legislative Assembly of the Tla'amin Nation TNO-LA 01/2016 (respecting the Tla'amin Nation Effective Date Period Procedures).

DEPOSITED IN THE TLA'AMIN
REGISTRY

ON 12/04/16
(day/month/year)


Signature of Law Clerk