



Land Law

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Hegus Clint Williams

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Signature of Law Clerk

LAND LAW

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PREAMBLE

WHEREAS:

- A. Since the beginning of time, Tla'amin people have lived on the lands that the Creator provided for our ancestors and all future generations of Tla'amin people;
- B. Our ancestors lived by a traditional system of governance grounded in our *Ta'ow* (teachings) and *Ee ah ju thum* (language), which were our unwritten constitution that influenced all forms of environmental stewardship matters, social and political relations. It is this system that has sustained our way of life and *Tums gijeh* (lands) and resources;
- C. 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 since 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". 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 governance laws;
- 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;
- E. Under section 16 of the Constitution of the Tla'amin Nation, the Tla'amin Government exercises governance authority over and may make laws in respect of Tla'amin Lands and Resources, including their use, protection, granting of ownership and other forms of interest;
- F. Under section 19 of the Constitution of the Tla'amin Nation, the Tla'amin Government is required to make laws in respect of the designation and zoning of Tla'amin Lands; the process for Tla'amin Citizens gaining an interest in Tla'amin Lands; and changes to the boundaries of Tla'amin Lands;
- G. Sections 21 to 27 of the Constitution of the Tla'amin Nation state as follows:
 - "21. The Tla'amin Government will not substantially decrease the size of Tla'amin Lands over time.
 - 22. Prior to the Tla'amin Government or a Tla'amin Public Institution making any significant change to land use or making a significant land acquisition, it will carry out a community consultation process.
 - 23. The Tla'amin Government or a Tla'amin Public Institution may not enter into a transaction that results or could result in the sale or lease of a significant parcel of Tla'amin Lands, unless that transaction is approved in advance by a majority of Tla'amin Citizens who vote in a referendum that is held in accordance with a law made by the Tla'amin Government.

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24. The Tla'amin Government will make laws or establish policies that set out criteria for determining what amounts to:
 - (a) a substantial decrease in the size of Tla'amin Lands;
 - (b) a significant change to land use;
 - (c) a significant land acquisition;
 - (d) the sale of a significant parcel of Tla'amin Lands; and
 - (e) the lease of a significant parcel of Tla'amin Lands;
 25. Prior to the Tla'amin Government or a Tla'amin Public Institution making any significant change to land use or making a significant land acquisition, it will carry out a community consultation process.
 26. The Tla'amin Government will establish policies that set out criteria for determining what amounts to:
 - (a) a substantial decrease in the size of Tla'amin Lands;
 - (b) a significant change to land use; and
 - (c) a significant land acquisition.
 27. Prior to establishing or amending a policy made under section 24, the Tla'amin Government will carry out a community consultation process.”; and
- H. Under Chapter 3 [*Lands*], paragraph 116 of the Tla'amin Final Agreement, the Tla'amin Nation has the authority to make laws with respect to the use of Tla'amin Lands, including the management, planning, zoning and development of Tla'amin Lands;

NOW THEREFORE the Tla'amin Legislative Assembly enacts as follows:

PART 1 - INTRODUCTORY PROVISIONS

Title

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

Definitions

2. In this Law:

“**Acquire**” means to obtain by any method and includes accept, receive, purchase, be vested with, lease, take possession, control or occupation of, and agree to do any of those things, but does not include expropriate;

“**Corporation**” means an incorporated association, company, society, municipality or other incorporated entity, where and however incorporated, and includes a corporation sole;

“**Dinner Rock Lands**” means the lands at District Lot 5343, Group 1, New Westminster District, except Blocks A, B, and C and District Lot 921, Group 1, New Westminster District, identified in Appendix C-2, Part 2, Map 4 of the Final Agreement;

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“Director of Lands and Resources” means the Tla’amin Director of Lands and Resources appointed by the Executive Council or the CAO;

“Dispose” means to transfer or alienate by any method and includes assign, give, sell, grant, charge, convey, bequeath, devise, lease, divest, release and agree to do any of those things;

“Effective Date” means the date upon which the Final Agreement takes effect;

“Environment” has the same meaning as in Chapter 1 [*Definitions*] of the Final Agreement;

“Executive Council” means the Executive Council of Tla’amin Nation established under the Tla’amin Constitution;

“Final Agreement” means the Tla’amin Nation Final Agreement among Tla’amin Nation, Her Majesty the Queen in right of Canada and Her Majesty the Queen in right of British Columbia, and includes amendments to that agreement made in accordance with it;

“Land Title Office” means the New Westminster land title office under the *Land Title Act* (British Columbia);

“Lease of a Significant Parcel of Tla’amin Lands” means Lease of a Significant Parcel of Tla’amin Lands as set out in section 14:

“Limitation” means a condition, proviso, restriction, including restriction on alienation, exception, reservation, or royalty;

“Lund Filled Foreshore Parcels” means the lands identified in Appendix C-2, Part 2, Map 10, of the Final Agreement;

“Lund Hotel Parcels” means the Lund Hotel Parcels identified in paragraph 2(c) of Chapter 3 [*Lands*] of the Final Agreement;

“Non-Member” has the same meaning as in Chapter 1 [*Definitions*] of the Final Agreement;

“Other Tla’amin Lands” has the same meaning as in Chapter 1 [*Definitions*] of the Final Agreement;

“Oyster Plant Parcels” means the lands identified in Appendix C-2, Part 2, Map 4a and Appendix C-4 of the Final Agreement;

“Person” includes a corporation, unincorporated entity, partnership or party, and the personal or other legal representatives of a person to whom the context can apply according to law;

“Qualified Land Appraiser” means a person who

- (a) carries on the business of land appraisal and is certified to carry out appraisals that will be accepted for registration in the provincial Land Title Office, and

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(b) has any other qualifications prescribed by regulation of the Executive Council;

“Registrar” means the registrar of the land title office appointed in that capacity under the *Land Title Act* (British Columbia);

“Significant Land Acquisition” means a significant land acquisition as set out in section 14;

“Sale of a Significant Parcel of Tla’amin Lands” means the sale of a significant parcel of Tla’amin Lands as set out in section 14;

“Substantial Decrease in the Size of Tla’amin Lands” means a substantial decrease in the size of Tla’amin Lands as set out in section 14;

“Tla’amin Citizen” means a Tla’amin individual who is enrolled as a member of Tla’amin Nation in accordance with Chapter 21 [Eligibility and Enrolment] of the Final Agreement;

“Tla’amin Citizen Land Title” means a fee simple interest in Tla’amin Lands that is subject to any condition, proviso, restriction, exception, or reservation that may be set out in this Law or in a registration under this Law, but does not include a fee simple interest in Tla’amin Lands held by the Tla’amin Government unless otherwise specified on the title of that fee simple interest at the Land Title Office;

“Tla’amin Lands and Interests File Registry” means Tla’amin Lands and Interests File Registry established under the *Tla’amin Lands and Interests File Registry Law*;

“Tla’amin Nation Certificate” means a certificate that

- (a) is issued by:
 - (i) the Chief Administrative Officer;
 - (ii) the Director of Lands and Resources; or
 - (iii) another person designated in writing by the Executive Council to issue certificates under this Law;
- (b) certifies that:
 - (i) the certificate is issued in accordance with the Final Agreement, the *Land Title Act* (British Columbia) and this Law;
- (c) a person named in the certificate as transferee of the Tla’amin Citizen Land Title is a permitted transferee of that interest under the *Land Title Act* (British Columbia) and this Law; and
- (d) sets out the date the certificate ceases to be valid for the purposes of section 28 of Schedule 1 [*Application of Act to Treaty Lands*] of the *Land Title Act* (British Columbia);

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“Tla’amin Lands” means the lands set out in paragraph 1 of Chapter 3 [*Lands*] of the Final Agreement as Tla’amin lands, as amended from time to time under that agreement, and includes all subsurface resources on or beneath the surface of those lands;

“Tla’amin Public Lands” means Tla’amin Lands other than Tla’amin Private Lands;

“Tla’amin Private Lands” means Tla’amin Lands designated as private by Tla’amin in accordance with paragraphs 3 to 7 of Chapter 5 [*Access*] of the Final Agreement; and

“Westview Parcel” means the Westview Parcel identified in Appendix C-2, Part 2, Map 8 of the Final Agreement.

3. [*Repealed*]¹

4. [*Repealed*]²

5. [*Repealed*]³

PART 2 – ADMINISTRATION

Administration of Tla’amin Lands and Other Tla’amin Lands

3. (1) The Executive Council is responsible on behalf of Tla’amin Government for the administration of Tla’amin Lands and Other Tla’amin Lands and, for that purpose, may exercise the powers assigned under this Law to Tla’amin Government or the Executive Council.
- (2) The Executive Council, by conditional or unconditional written authority, may delegate any of the powers referred to in subsection 6(1) to a Tla’amin employee or contractor.

¹ Repealed April 25, 2016. The section enacted on April 5, 2016, originally read:

Interpretation

3. (1) In addition to the terms defined in this Law, terms used in this Law may be defined in the Interpretation Law.

(2) Only those defined terms that are capitalized in section 2 or in the Interpretation Law are presented capitalized in the text of the Law, and all other defined terms are presented in lower case.

² Repealed April 25, 2016. The section enacted on April 5, 2016, originally read:

Severability

4. 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.

³ Repealed April 25, 2016. The section enacted on April 5, 2016, originally read:

Validity

5. Nothing under this Law must 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 Tla’amin Nation, a Tla’amin Official, or an Enforcement Officer to do something within the required time.

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- (3) Despite subsection 6(1), the Executive Council must not delegate a power referred to in section 13(1) (a) to (i).
- (4) A person to whom the Executive Council, under section (2), delegates any powers may exercise the powers and must perform the functions and duties associated with those powers in accordance with the written authority referred to in that section or in the delegation.

Tla'amin Private Lands

- 4. The whole of Ahgykson (Harwood Island) is designated as Tla'amin Private Lands in accordance with paragraphs 3 to 7 of Chapter 5 [Access] of the Final Agreement.
- 5. Executive Council may designate by regulation or Resolution any area of Tla'amin Lands as Tla'amin Private Lands in accordance with paragraphs 3 to 7 of Chapter 5 [Access] of the Final Agreement, including the provision of notice to British Columbia and Canada.

Land ownership, land title and Land Title Office

- 6. (1) There are no land titles, land ownership, or ownership interests in Tla'amin Land except as authorized under this Law and, for greater certainty, any traditional or custom holdings asserted or in existence prior to the Effective Date, have no legal validity.
- (2) All Tla'amin Citizen Land Titles must be registered
 - (a) in the Land Title Office, and
 - (b) in accordance with this Law and the *Land Title Act* (British Columbia)
- (3) Despite paragraph (2)(a), if a Tla'amin Member or group of Tla'amin Members referenced in Part 1 of Appendix F-1 of the Final Agreement as a person who formerly held a Certificate of Possession signs the prescribed document or waiver to decline registration of their former interest in their Certificate of Possession in the provincial Land Title Office on the Effective Date of the Final Agreement, Tla'amin may provide to that individual or those individuals a Form 'A' transfer in accordance with section 185(1) the *Land Title Act* (British Columbia) and section 171(2) of this Law entitling them to register a Tla'amin Citizen Land Title at any time.

PART 3 – LAND DISPOSITIONS AND ACQUISITIONS

Division 1 – Permitted Dispositions and Limits on Dispositions and Interests

Limits on mortgages of Tla'amin Lands

- 7. (1) Despite paragraph 10 of Chapter 3 [Lands] of the Final Agreement, Tla'amin Nation must not mortgage or pledge as security:
 - (a) a total of more than 20 ha of Tla'amin's fee simple interest in any of its Tla'amin Lands owned by Tla'amin Nation in fee simple at any one time;

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- (b) any Tla'amin Private Lands; or
- (c) one or more parcels of Tla'amin fee simple Tla'amin Lands to fund a development or project on other parcels of Tla'amin Lands.

Restrictions on leases and rentals

8. (1) A holder of a Tla'amin Citizen Land Title shall not rent or lease that interest to any lessee or renter for any purpose for a period of longer than:
- (a) the maximum prescribed period for a lease or rental without a permit, unless a permit has been issued by the Director for that lease or rental in accordance with the prescribed requirements; or
 - (b) for a period longer than the maximum period prescribed by regulation for leases or rentals of this type.
- (2) Any lease or rental that:
- (a) exceeds the prescribed period in paragraph 11(1)(a) and for which the holder of the Tla'amin Citizen Land Title has not applied for and received a permit; or
 - (b) exceeds the maximum prescribed period in paragraph 11(1)(b);
- is void and any lessee or renter under the lease or rental agreement is subject to immediate removal or eviction.
- (3) In addition to the restrictions set out in section 14, neither Tla'amin Nation, nor a Tla'amin Corporation or Public Institution shall lease a parcel of Tla'amin Public Lands for a period longer than
- (a) for a residential lease, 99 years for a residential lease, or
 - (b) for a non-residential lease, 60 years, or a longer period of not more than 99 years which the Executive Council may specify on a case by case basis, if it considers that it is appropriate to do in the particular circumstances,
- including in that period the term of the lease and the term or terms of any renewal or renewals of the lease.
- (4) A lease for a period longer than as described in subsection (3) is void and any lessee is subject to immediate removal or eviction.

Pre-payments and rent reviews

9. (1) Except as provided for in subsection 1(2), all head leases from the Tla'amin Nation for parcels or interests in Tla'amin Public Lands shall be pre-paid leases at fair market value as determined by a qualified appraiser.
- (2) Executive Council may approve a lease at less than fair market value or without full pre-payment but only if:

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- (a) the approval is carried out under a Tla'amin law, regulation or policy approved by resolution with the objective of encouraging home ownership or economic development for Tla'amin Citizens.

Permitted Dispositions of Tla'amin Lands and Other Tla'amin Lands

10. (1) Subject to section 6 [*areas designated as Tla'amin Private Lands*], the Final Agreement, the Tla'amin Constitution and any applicable Tla'amin laws and policies, the Executive Council on behalf of Tla'amin Nation may Dispose of any interests in Tla'amin Lands or Other Tla'amin Lands including but not limited to the following:

- (a) subject to the Tla'amin Land Use Plan, any Tla'amin land use planning and zoning laws, and sections 14 and 17, Tla'amin Citizen Land Titles in Tla'amin Lands;
- (b) subject to the Tla'amin Land Use Plan, any Tla'amin land use planning and zoning laws, and section 14, unrestricted fee simple interests in the following areas of Tla'amin Public Lands:
 - (i) the Lund Hotel Parcels;
 - (ii) the Lund Filled Foreshore Parcels;
 - (iii) the Westview Parcel;
 - (iv) the Oyster Plant Parcels;
 - (v) the Dinner Rock Lands; and
 - (vi) any Tla'amin Public Lands for which Tla'amin Citizens vote in favour of a Sale of a Significant Parcel of Tla'amin Lands under section 14;
- (c) subject to section 14, a lease;
- (d) a rental agreement including a rent-to-own agreement;
- (e) a right of way;
- (f) a statutory right of way;
- (g) an easement;
- (h) a covenant;
- (i) a priority agreement;
- (j) a certificate of allocation;
- (k) a certificate of occupation;
- (l) a licence of occupation;

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- (m) a life estate;
 - (n) a temporary use permit;
 - (o) a permit; and
 - (p) any other interests permitted under a law or regulation.
- (2) There may be included in a Disposition under this section any terms, conditions, covenants, stipulations, reservations, restrictions, exemptions or other limits that are permitted by law or that the Executive Council considers advisable.
- (3) Nothing in this section affects the responsibility of the Tla'amin Nation under the Final Agreement to make a transfer described in section 15 of a Tla'amin Citizen Land Title to an individual identified in Appendix F-1 of the Final Agreement.
*[Amended April 25, 2016]*⁴

Criteria and limits on changes to or dispositions of Tla'amin Lands under the Tla'amin Constitution

11. (1) For the purposes of section 24 of the Tla'amin Constitution and land transactions under this law, the following criteria apply:

- (a) "Lease of a Significant Parcel of Tla'amin Lands" means the leasing out by the Tla'amin Nation or a Tla'amin Institution of any parcels or combination of parcels or interests in Tla'amin Lands that are:
 - (i) greater than twenty hectares in total area;
 - (ii) for an intended or potential use that includes heavy industrial use or any use that involves the storage, import, creation, production or discharge of significant volumes of contaminants or hazardous waste; or
 - (iii) In an area or on a parcel of land which is designated as heritage site;
but, for greater certainty, does not include the leasing of surrendered lease lands, including:
 - (iv) the lands subject to the Klahanie interests referred to in Part 2 of Appendix F-1 of the Final Agreement and any roads or access areas within or servicing these lands; and
 - (v) the lands subject to the Southview interests referred to in Part 3 of Appendix F-1 of the Final Agreement and any roads or access areas within or servicing these lands;

⁴

The reference to section "18" was changed to section "15".

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- (c) “Sale of a Significant Parcel of Tla’amin Lands” means the sale or commitment to sell any parcel of Tla’amin Lands to a non-Citizen or person but, for greater certainty, does not include:
- (i) The sale or transfer of parcels of Tla’amin Lands to Citizens as Tla’amin Citizen Land Title lands;
 - (ii) Subject to the definition of a Lease of Significant Parcel of Tla’amin Lands, a lease;
 - (iii) the sale of one or more parcels of Tla’amin Lands as part of an exchange of lands that results in equal value or amount of lands being returned to the Tla’amin Nation as Tla’amin Lands;
 - (iv) the sale of designated or surrendered lease lands, including Klahanie and Southview lease lands and any roads or access areas within or servicing these lands, to a wholly owned Tla’amin corporation or partnership, provided there are restrictions against the wholly owned Tla’amin corporation or partnership selling or re-selling the fee simple title to any of the parcels; or
 - (v) the sale of:
 - (A) the Lund Hotel Parcels;
 - (B) the Lund Filled Foreshore Parcels;
 - (C) the Westview Parcel;
 - (D) the Oyster Plant Parcels; or
 - (E) the Dinner Rock Lands;
- (d) “Significant Land Acquisition” means an acquisition, excluding by gift or donation of non-contaminated land, of, or an offer or commitment to acquire, one or a combination of parcels of land by the Tla’amin Government or a Tla’amin Public Institution where the land:
- (i) has a total area of greater than five hectares;
 - (ii) is not identified in paragraphs 89 [Non-Crown Lands Surrounded by Tla’amin Lands], 91 [Crown Lands Surrounded by Tla’amin Lands] or 95 [Future Acquisition Lands] of the Lands Chapter of the Final Agreement; and
 - (iii) has never been part of Tla’amin Lands;
- (e) “Substantial Decrease in the Size of Tla’amin Lands” means any sale or offer or commitment to sell the fee simple title or any parcels of Tla’amin Lands and to release jurisdiction and taxation authority and have these lands removed from Tla’amin Lands, but, for greater certainty, does not include the sale of any lands

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listed under the exceptions to the Sale of a Significant Parcel of Tla'amin Lands, if Tla'amin does not release jurisdiction and taxation authority over these lands;

- (2) The Tla'amin Government or a Tla'amin Public Institution will not enter into a transaction that results or could result in a Substantial Decrease in the Size of Tla'amin Lands over time.
- (3) The Tla'amin Government or a Tla'amin Public Institution will not enter into a transaction that results or could result in the Sale of a Significant Parcel of Tla'amin Lands or a Lease of a Significant Parcel of Tla'amin Lands, unless that transaction is approved in advance by a majority of Tla'amin Citizens who vote in a referendum that is held in accordance with this law.
- (4) A referendum held under subsection (3) will:
 - (a) be held in accordance with the Tla'amin Constitution;
 - (b) be held in accordance with any Tla'amin law or regulation setting out rules and processes for Tla'amin community referenda;
 - (c) despite paragraph (b), at a minimum:
 - (i) be open to all Tla'amin Citizens;
 - (ii) include notice to Tla'amin Citizens posted at least 30 days in advance of the referendum; and
 - (iii) include a summary of the proposed transaction including a description of the lands and a map showing their location.
- (5) Prior to the Tla'amin Government or a Tla'amin Public Institution making a Significant Land Acquisition, it will carry out a community consultation process which will:
 - (a) be held in accordance with the Tla'amin Constitution;
 - (b) be held in accordance with any Tla'amin law or regulation setting out rules and processes for Tla'amin community referenda;
 - (c) despite paragraph (4)(b), at a minimum:
 - (i) be open to all Tla'amin Citizens;
 - (ii) be open for at least part of the process to any Non-Members that may be directly and significantly affected, and meet the requirements for Consultations with Non-Members set out in section 20 of the Governance Chapter of the Final Agreement;
 - (iii) include notice posted at least 30 days in advance of any decisions to be made by the Tla'amin Government; and
 - (iv) include a summary of the proposed transaction including a description of the lands and a map showing their location.

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Division 2 – Restrictions on Sales of Leases of Certain other Lands

- 12.** (1) The following lands shall be retained for cultural and recreational use by Tla'amin Citizens, and Executive Council shall not grant any Tla'amin Citizen Land Titles, fee simple interests or leases in these lands:
- (a) Ahgykson, the Former Harwood Island Indian Reserve No. 2, described in Part 1 of Appendix C-1 and identified for illustrative purposes in Map 2, Part 2 of Appendix C-1 of the Final Agreement;
 - (b) the Former Toquana Indian Reserve No. 4 at Theodosia Inlet described in Part 1 of Appendix C-1 and identified for illustrative purposes in Map 4, Part 2 of Appendix C-1 of the Final Agreement;
 - (c) the Former Tokenatch Indian Reserve No. 5 at Okeover Inlet described in Part 1 of Appendix C-1 and identified for illustrative purposes in Map 5, Part 2 of Appendix C-1 of the Final Agreement;
 - (d) the Kahkaykay Indian Reserve No. 6 at Grace Harbor described in Part 1 of Appendix C-1 and identified for illustrative purposes in Map 6, Part 2 of Appendix C-1 of the Final Agreement;
 - (e) the Savary Island Parcel of Other Tla'amin Lands identified for illustrative purposes in Part 2 of Appendix D of the Final Agreement; and
 - (f) any Tla'amin Lands within 500m of the shoreline of Sliammon Lake.

Division 3 -- Initial Tla'amin Citizen Land Titles and Certificates required for transfers of Tla'amin Citizen Land Title

Signatory and other Functions on Effective Date for Tla'amin Nation in relation to Chapters 3 and 4 of Final Agreement

- 13.** The Tla'amin Hegus, another member of the Executive Council designated by a resolution or order, or the Chief Administrative Officer of the Tla'amin Government are hereby authorized on behalf of Tla'amin Nation:
- (a) to carry out on the Effective Date all the duties, functions and obligations of Tla'amin Nation that:
 - (b) are set out in Chapter 3 [Lands] and Chapter 4 [Land Title] of the Final Agreement; and
 - (c) pertain to the subject matter set out in Appendices F-1 through F-6 of the Final Agreement;
 - (d) without prejudice to the generality of paragraph (a), to execute the instruments and other documents pertaining to the subject matter set out in Appendices F-1 through F-6 of the Final Agreement; and

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- (e) to appoint any necessary authorities or individuals, including an approving officer for Tla'amin Lands to act in that capacity under the *Land Title Act* (British Columbia), or another enactment, whether of British Columbia or of Tla'amin Nation, under which a representative or an approving officer has powers, duties or obligations.

Certificate of transfer requirements for Tla'amin Citizen Land Title

14. (1) Subject to section 15 and 18 a person shall not: *[Amended April 25, 2016]* ⁵

- (a) acquire a Tla'amin Citizen Land Title, whether from Tla'amin Nation or in a private transaction between that person and another person; or
- (b) register a transfer of a Tla'amin Citizen Land Title in the provincial Land Title Office,

unless the person is named in a Tla'amin Nation Certificate as a permitted transferee of that interest and any such transfer without a valid Tla'amin Nation Certificate is void.

(2) At the request of a person who is eligible to receive a Tla'amin Nation Certificate and who meets the requirements set out in this Law and any regulations:

- (a) the Chief Administrative Officer;
- (b) the Director of Lands and Resources; or
- (c) another person employed by or contracted with by the Tla'amin Government and designated by name or position by the Chief Administrative Officer or the Director of Lands and Resources

shall issue a Tla'amin Nation Certificate to that Person.

(3) On the Chief Administrative Officer's or the Director of Lands and Resources' own initiative and without the need for a request under subsection (2),

- (a) the Chief Administrative Officer,
- (b) the Director of Lands and Resources, or
- (c) another person employed by the Tla'amin Government and designated by name or position by the Director of Lands and Resources

may issue a Tla'amin Nation Certificate for the benefit of a person who is eligible and meets the requirements for a Tla'amin Nation Certificate under this Law and any regulations.

Transitional Tla'amin Citizen Land Title Dispositions

⁵ The reference to section "18" was changed to section "15"; and, the reference to section "21" was changed to section "18".

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15. (1) On the Effective Date, subject to section 16, Tla'amin Nation will transfer, to each individual identified in Part 1 of Appendix F-1 of the Final Agreement, a Tla'amin Citizen Land Title, or, as appropriate, a joint Tla'amin Citizen Land Title, registered in the provincial Land Title Office, free and clear of all interests except: *[Amended April 25, 2016]*⁶

- (a) any condition, proviso, restriction, including restrictions on alienation, exception or reservation that may be set out in this Law or any other Tla'amin Law or registered in the Land Title Office under these laws; and
- (b) any applicable Public Utility or other interests referred to in Part 4 of Appendix F-1,

and the Certificate of Possession or other interest held by that individual or individuals will cease to exist.

(2) On the transfer of a Tla'amin Citizen Land Title described in subsection (1) to an individual identified in Appendix F-1 of the Final Agreement, that individual

- (a) acquires that Tla'amin Citizen Land Title despite not having applied for it under section 14(2) of this Law, and *[Amended April 25, 2016]*⁷
- (b) may hold that Tla'amin Citizen Land Title lawfully under this Law.

(3) Section 17(2) and 17(3) do not apply in respect of a Tla'amin Citizen Land Title that is the subject of a transfer described in subsection (1) of this section. *[Amended April 25, 2016]*⁸

If CP-Holder declines registration of Tla'amin Citizen Land Title

16. (1) An individual identified in Part 1 of Appendix F-1 of the Final Agreement, may, in his or her sole discretion, decline to have their Tla'amin Citizen Land Title or their joint interest in a joint Tla'amin Citizen Land Title, registered in the provincial Land Title Office, under section 18 but only if that individual provides to the Sliammon First Nation Lands Manager at least forty-five days prior to the Effective Date a signed and notarized document stating that:

- (a) the individual declines registration of their Tla'amin Citizen Land Title or their joint interest in a joint Tla'amin Citizen Land Title;
- (b) the individual realizes that this refusal of registration in the provincial Land Title Officer of their Tla'amin Citizen Land Title or a joint interest in a joint Tla'amin Citizen Land Title will result in that individual having no registered interest in the Land Title Office to replace their interest in their former Certificate of Possession and that their Certificate of Possession ceases to exist as of the Effective Date;

⁶ The reference to section "19" was changed to section "16".

⁷ The reference to section "17" was changed to section "14".

⁸ The reference to section "20(2)" was changed to section "17(2)"; and the reference to section 20(3) was changed to subsection 17(3).

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- (c) the individual realizes they may not be able to secure any mortgages or financing without a Tla'amin Citizen Land Title registered in the Land Title Office;
 - (d) the individual will be subject to all applicable Tla'amin Nation laws including zoning and land use laws;
 - (e) the individual realizes they are liable to pay property taxes; and
 - (f) the individual agrees to save harmless and indemnify the Tla'amin Nation, British Columbia and Canada against any and all claims, damages or losses of any kind relating to the individual's refusal of registration in the Land Title Officer of their Tla'amin Citizen Land Title or a joint interest in a joint Tla'amin Citizen Land Title.
- (2) For an individual who provides the signed and notarized document required in subsection (1), if the individual is the sole interest-holder, or for a jointly held former Certificate of Possession identified in Part 1 of Appendix F-1 of the Final Agreement, if all joint interest holders provide the signed and notarized document required in subsection (1):
- (a) on the Effective Date, Tla'amin Nation will:
 - (i) grant them an unregistered Form 'A' transfer for the Land Title Office, and
 - (ii) certificate of occupation, notation in the Tla'amin Lands and Interests File Registry, or similar document to signify their interest in their former CP land and Tla'amin Nation will keep a record of this interest internally;
 - (b) the individual will have no authority to arrange a mortgage, loan or financing secured against the interest in paragraph (a) except with the written consent of Tla'amin Nation; and
 - (c) the individual can only sell, transfer, or will their interest to:
 - (i) a Tla'amin Citizen; or
 - (ii) the Tla'amin Nation.
- (3) For greater certainty, if a former Certificate of Possession identified in Part 1 of Appendix F-1 of the Final Agreement is jointly held and not all interest holders provide to the Sliammon First Nation Lands Manager the signed and notarized document required in subsection (1), the interest will be registered in the Land Title Officer and transferred to all the joint interest holders as a Tla'amin Citizen Land Title under section 15. *[Amended April 25, 2016]*⁹

Process when ineligible person holds Tla'amin Citizen Land Title

⁹ The reference to section "18" was changed to section "15".

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17. (1) If, by court order or operation of law, including the law relating to wills and estates, a person other than one who is eligible to hold a Tla'amin Citizen Land Title lawfully under this Law becomes the holder of a Tla'amin Citizen Land Title, that holder,
- (a) may continue to hold that Tla'amin Citizen Land Title, but for no longer than
 - (i) a period of 2 years after the date on which that person becomes the holder,
 - (ii) for a period of time granted in a life estate approved in writing by Council in accordance with any laws or regulations; or
 - (iii) a single further period specified by the Executive Council in the special circumstances of a particular case, and,
 - (b) before the end of that 2 year period or of the life estate specified under sub-paragraph (ii) or further period, if any, specified under sub-paragraph (iii), must Dispose of that interest to a person referred to in section 22(1). *[Amended April 25, 2016]*¹⁰
- (2) If there are any issues regarding whether an individual, trustee, executor, administrator or personal representative is eligible to hold a Tla'amin Citizen Land Title for a particular parcel of Tla'amin Land or about the authority of that individual,
- (a) the Tla'amin Nation has standing in any court proceeding relating to these issues; and
 - (b) the Tla'amin Nation has the authority to act as a trustee, administrator, executor or personal representative in the interim if requested by family representatives or if appointed by the court.
- (3) If a Tla'amin Citizen who holds a Tla'amin Citizen Land Title unenrolls or relinquishes his or her Citizenship in the Tla'amin Nation, he or she, nevertheless,
- (a) may continue to hold that interest, but for no longer than
 - (i) a period of two (2) years after the date on which he or she unenrolls or relinquishes the membership, or
 - (ii) a single further period specified by the Executive Council in writing in the special circumstances of a particular case, and
 - (b) before the end of that two (2) year period or of the further period, if any, specified under paragraph (a) (ii), must Dispose of that interest to an eligible person referred to in section 22. *[Amended April 25, 2016]*¹¹
- (4) If an ineligible person holding a Tla'amin Citizen Land Title does not transfer their Tla'amin Citizen Land Title to an eligible Tla'amin Citizen within the period set out in paragraph (2)(a), that Tla'amin Citizen Land Title reverts to Tla'amin Nation

¹⁰ The reference to subsection "16(1)" was changed to subsection "22(1)".

¹¹ The reference to section "25" was changed to section "22".

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immediately at one minute after midnight on the expiration of the time period set out in paragraph (2)(a),

- (5) For any lands that revert to the Tla'amin Nation pursuant to subsection (4):
- (a) the land will be subject to any right, title or interest in or to such Tla'amin Lands existing at the time of such reversion; and
 - (b) the former holder of the Tla'amin Citizen Land Title in the lands shall remain responsible and liable for all:
 - (i) payments, debts, fees and taxes; and
 - (ii) all remediation duties and environmental liabilitiesfor which they were responsible or liable immediately prior to the reversion of the lands to the Tla'amin Nation.
- (6) For an individual whose interest in a Tla'amin Citizen Land Title reverts to Tla'amin under subsection (4) and has relinquished any possession of the land or buildings on the land, the Tla'amin Nation:
- (a) may pay compensation or make an *ex gratia* payment; and
 - (b) must pay any compensation ordered by a court.

Individuals who declined Registration of Tla'amin Citizen Land Title may Register

18. (1) The following individuals may register the Form 'A' transfer provided to them under subsection 16(2) at any time and receive a Tla'amin Citizen Land Title to their lands which are the subject of the Form 'A' transfer, provided they apply for and receive a Tla'amin Nation Certificate: *[Amended April 25, 2016]*¹²

- (a) An individual identified in Part 1 of Appendix F-1 of the Final Agreement who is a former CP-Holder and holds an unregistered Form 'A' transfer from Tla'amin Nation under subsection 16(2) solely in his or her name; and *[Amended April 25, 2016]*¹³
- (b) A group of individuals identified in Part 1 of Appendix F-1 of the Final Agreement who are the former joint CP-Holders and who hold an unregistered Form 'A' transfer from the Tla'amin Nation under subsection 16(2), provided that all of the individuals who jointly hold the interest agree to the registration. *[Amended April 25, 2016]*¹⁴

Division 4 – Restrictions on transfers of fee simple lands transferred to Tla'amin Corporations

Restrictions on transfers of fee simple land transferred to Tla'amin Corporations

¹² The reference to subsection "19(2)" was changed to subsection "16(2)".

¹³ The reference to subsection "19(2)" was changed to subsection "16(2)".

¹⁴ The reference to subsection "19(2)" was changed to subsection "16(2)".

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19. (1) The fee simple title to the following lands or interests in lands cannot be sold or transferred to any entity unless that entity:

- (a) is named in a Tla'amin Nation Certificate as a permitted transferee of that interest; and
- (b) is the Tla'amin Nation, a Tla'amin Public Institution, a Corporation the shares of which are wholly owned by the Tla'amin Nation:
 - (i) the fee simple titles that are the subject of the Klahanie interests referred to in Part 2 of Appendix F-1 of the Final Agreement;
 - (ii) the fee simples that are the subject of the Southview interests referred to in Part 3 of Appendix F-1 of the Final Agreement;
 - (iii) any additional parcels of land that are transferred to the Tla'amin Development Corporation or another Tla'amin corporation as part of the transfer of the fee simple titles set out in sub-paragraphs (i) and (ii) including road parcels and access strips or access lots; and
 - (iv) any additional parcels of land prescribed by regulation

and any transfer of these lands or interests which does not comply with this section is void.

(2) At the request of an authorized representative of an entity referred to in section 19(1)(b), if the entity meets the requirements set out in this Law and any regulations: *[Amended April 25, 2016]*¹⁵

- (a) the Chief Administrative Officer;
- (b) the Director of Lands and Resources; or
- (c) another person employed by or contracted with by the Tla'amin Government and designated by name or position by the Chief Administrative Officer or the Director of Lands and Resources

must issue a Tla'amin Nation Certificate.

(3) On the Chief Administrative Officer's or the Director of Lands and Resources' own initiative and without the need for a request under subsection (2),

- (a) the Chief Administrative Officer,
- (b) the Director of Lands and Resources, or
- (c) another person employed by the Tla'amin Government and designated by name or position by the Director of Lands and Resources

¹⁵ The reference to section "22(1)(b)" was changed to section "19(1)(b)".

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may issue a Tla'amin Nation Certificate for the benefit of an entity person that meets the criteria for a Tla'amin Nation Certificate under this Law.

Division 5 -- Exceptions and Reservations Applicable to Tla'amin Lands

Exceptions and reservations for Tla'amin Lands Dispositions

20. A Disposition of Tla'amin Lands:

- (a) excepts and reserves the following interests, rights, privileges and titles:
 - (i) a right in the Tla'amin Government, or any person acting for it to resume any part of the land that is deemed to be necessary by the Tla'amin Government for making roads, canals, bridges or other public works, but not more than 1/20 part of the whole of the land, and no resumption may be made of any land on which a building has been erected, or that may be in use as a garden or otherwise;
 - (ii) provided the Tla'amin Nation has not exercised a right to resume land under sub-paragraph (i) above, a right in the Tla'amin Government, or any person acting for it to grant and register in the Land Title Office or the Tla'amin Lands and Interests File Registry, a permit, an easement, right of way or statutory right of way for any part of the land that is deemed to be necessary by the Tla'amin Government for making roads, canals, bridges or other public works, but: *[Amended April 25, 2016]*¹⁶
 - (A) not more than 1/20 part of the whole of the land,
 - (B) no easement, right of way or statutory right of way may be registered over any land on which a primary residence or smokehouse has been erected and in place for at least five years prior to the proposed registration, and
 - (C) where possible, Tla'amin Nation shall be required to restore the surface to at least the condition it was in prior to any land disturbance resulting from an interest registered under sub-paragraph (ii);
 - (iii) a right in the Tla'amin Government, or any person acting for it or under its authority, to enter any part of the land, and
 - (A) to raise and get out of it any geothermal resources, minerals, whether precious or base, as defined in section 1 of the *Mineral Tenure Act* (British Columbia), coal, petroleum and any gas or gases, that may be found in, on or under the land, and

¹⁶ The reference to section "1(4)(a)(i)" was changed to section "(i)".

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(B) to use and enjoy any and every part of the land, and its easements and privileges, for the purpose of the raising and getting, and every other purpose connected with them,

(iv) a right in any person authorized by the Tla'amin Government:

(A) to take and occupy water privileges, and

(B) to have and enjoy the rights of carrying water over, through or under any part of the land granted,

as may be reasonably required for mining or agricultural purposes in the vicinity of the land;

(v) a right in any person authorized by the Tla'amin Government to take from any part of the lands, without compensation, gravel, sand, stone, lime, timber or other material that may be required in the construction, maintenance or repair of a road, ferry, bridge or other public work,

and there shall be no compensation due or payable for any interest under this paragraph (a) except for reasonable compensation for surface disturbance payable by the Tla'amin Nation to the interest holder for any rights exercised by the Tla'amin Nation under sub-paragraphs (i), (iii) and (v);

(b) conveys no right or title to, or interest in,

(i) geothermal resources as defined in the *Geothermal Resources Act* (British Columbia),

(ii) minerals and placer minerals as defined in the *Mineral Tenure Act* (British Columbia),

(iii) coal,

(iv) petroleum as defined in the *Petroleum and Natural Gas Act* (British Columbia), or

(v) gas,

that may be found in or under the land, and

(c) conveys no right or title to, or interest in, highways, within the meaning of the *Transportation Act* (British Columbia), existing over or through the land at the date of the Disposition.

Further about exceptions and reservations

21. (1) This section applies whether or not express words are used in the instrument of Disposition.

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- (2) Despite subsection (1), a Disposition of Tla'amin Lands, by express words, may except or reserve to the Tla'amin Government rights and privileges more extensive than those referred to in section 20. *[Amended April 25, 2016]*¹⁷
- (3) For all purposes, including section 23 of the *Land Title Act* (British Columbia), every Disposition of Tla'amin Land is conclusively deemed to contain express words making the exceptions and reservations referred to in section 23 of this Law.
- (4) The power under subsection (2) to except and reserve rights and privileges includes a power to create a right of way, and if this is done,
 - (a) the Tla'amin Government, with respect to the right of way, is a grantee,
 - (b) the right of way is conclusively deemed to be necessary for the operation and maintenance of the Tla'amin Government's undertaking, and
 - (c) section 218 of the *Land Title Act* (British Columbia) applies.
- (5) A Disposition of Tla'amin Lands conveys no right or title to, or interest in, riparian rights, as defined in common law.

Division 6 – Who May Apply for or hold Tla'amin Citizen Land Titles and other Tla'amin Public Land Interests

Persons eligible to apply for or hold Tla'amin Citizen Land Title

- 22.** (1) Only the following persons are eligible to apply under section 25 for a Tla'amin Citizen Land Title or to hold a Tla'amin Citizen Land Title: *[Amended April 25, 2016]*¹⁸
- (a) a Tla'amin Citizen of the age of 19 years or over;
 - (b) an individual identified in Part 1 of Appendix F-1 of the Final Agreement;
 - (c) a person acting as trustee or in another official capacity for a Tla'amin Citizen
 - (i) under the age of 19 years, or
 - (ii) incapable of managing his or her affairs;
 - (d) subject to this law and any regulations, an official administrator, executor or personal representative of the estate of a deceased Tla'amin Citizen or of a deceased individual identified in Part 1 of Appendix F-1 of the Final Agreement;
 - (e) a Tla'amin Public Institution, as defined in Chapter 1 [*Definitions*] of the Final Agreement;
 - (f) the Tla'amin Nation; and

¹⁷ The reference to section "23" was changed to section "20".

¹⁸ The reference to section "28" was changed to section "25".

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- (g) any person, or category of persons prescribed by regulation of the Executive Council.
- (2) For greater certainty, an individual referenced in paragraph (1)(b) is entitled to apply for or hold their interest in a Tla'amin Citizen Land Title for their interest set out in Part 1 of Appendix F-1 of the Final Agreement regardless of whether or not they enroll as a Tla'amin Citizen but all subsequent transfers of their interest must be in compliance with section 23. *[Amended April 25, 2016]*¹⁹
- (3) If the application or requested transfer into the name of a person referred to in subsection (1) is accepted, the person may hold the interest in Tla'amin Public Lands that was the subject of the application or transfer.

Dispositions, Interests, and Prohibitions against Disposition of Tla'amin Citizen Land Title to ineligible persons

- 23.** (1) A person who holds a Tla'amin Citizen Land Title must not transfer that interest to a person other than
- (a) a person who under section 22 may hold such an interest, or *[Amended April 25, 2016]*²⁰
 - (b) the Tla'amin Nation.
- (2) A Disposition of a Tla'amin Citizen Land Title is void if made to a person other than one referred to in subsection (1) (a) or to the Tla'amin Nation.

Potentially permissible dispositions and interests

- (3) Subject to the prohibitions and restrictions in this section and this law, nothing contained in subsection (1) or (2) will prevent any person who holds a Tla'amin Citizen Land Title in any Tla'amin Lands in accordance with this Law from granting or consenting to interests in such Tla'amin Lands, including but not limited to the following:
 - (a) a mortgage;
 - (b) subject to PART 3, Division 1, a lease;
 - (c) a right of way;
 - (d) an easement; or
 - (e) any other interests expressly authorized by law or regulation.
- (4) No court shall make an order under Federal or Provincial Law in respect of the division of matrimonial real property requiring the transfer or sale of a Tla'amin Citizen

¹⁹ The reference to section "26" was changed to section "23".

²⁰ The reference to section "25" was changed to section "22".

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Land Title to a person other than a person who eligible to hold such an interest under section 22. *[Amended April 25, 2016]*²¹

- (5) Any court order contrary subsection (4) is void.
- (6) Any oral agreement or provision in any written agreement under Federal or Provincial Law in respect of the division of matrimonial real property including a cohabitation, domestic, marriage, pre-nuptial or separation agreement is void if it purports to allocate, transfer, or create a Tla'amin Citizen Land Title in favour of a spouse, common-law partner, or any person other than a person who under section 22 is eligible to hold such an interest. *[Amended April 25, 2016]*²²
- (7) In accordance with Chapter 3 [Lands], paragraphs 118 and 119 of the Final Agreement, this section is Tla'amin Law which prevails to the extent of a Conflict with Federal or Provincial Law.
- (8) If there is a conflict between this section and section 17, this section prevails to the extent of any inconsistency. *[Amended April 25, 2016]*²³

Mortgages

- (9) Once a mortgage is validly granted in compliance with this law and any other applicable laws against an interest in Tla'amin Lands, subject to this Law, the mortgagee has the legal and equitable rights it would have had if the mortgage were granted on fee simple lands outside of Tla'amin Lands and for greater certainty, the mortgagee has a right of access onto Tla'amin Lands and onto leasehold lands if necessary to deal with seizure, forfeiture or any related matter.

Persons eligible to apply for Tla'amin Public Lands or Other Tla'amin Lands

- 24.** (1) Only the following persons are eligible to apply under section 26 for an interest in Tla'amin Public Lands or Other Tla'amin Lands: *[Amended April 25, 2016]*²⁴
- (a) a person of the age of 19 or over;
 - (b) a person acting as trustee or in another official capacity for a person under the age of 19 years, or incapable of managing his or her own affairs;
 - (c) a corporation;
 - (d) a Tla'amin Public Institution, as defined in Chapter 1 [Definitions] of the Final Agreement;
 - (e) a Tla'amin Corporation, as defined in Chapter 1 [Definitions] of the Final Agreement;

²¹ The reference to section "25" was changed to section "22".

²² The reference to section "25" was changed to section "22".

²³ The reference to section "20" was changed to section "17".

²⁴ The reference to section "29" was changed to section "26".

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- (f) British Columbia;
 - (g) Canada;
 - (h) any person, or category of persons prescribed by regulation of the Executive Council.
- (2) If the application of a person referred to in subsection (1) is accepted, the person may hold the interest in Tla'amin Public Lands or Other Tla'amin Lands that was the subject of the application.

Division 7 – Applications for Land

Application for Tla'amin Citizen Land Title

- 25.** (1) A person eligible under section 22 may apply to the Director for a Tla'amin Citizen Land Title in Tla'amin Public Lands if Tla'amin Citizen Land Titles in those lands, by regulation prescribed by the Executive Council, are made available for conveyance to persons eligible under that section. *[Amended April 25, 2016]* ²⁵
- (2) An application referred to in subsection (1) must be:
- (a) made in the form and have the content prescribed by regulation, which shall include, at a minimum:
 - (i) that a single family residence be constructed on the parcel for occupation by that Citizen and his or her family, if any;
 - (ii) that construction of that residence be completed not later than the end of the period after the date of the disposition that is prescribed by regulation; and
 - (iii) that the Citizen and his or her family, if any, must commence occupation of the residence as soon as practicable after the issuance by the director of an occupancy permit that is in the form and has the contents prescribed by regulation; and
 - (b) accompanied by the application fee prescribed by regulation of the Executive Council.
- (3) The Executive Council may approve an application referred to in subsection (1) on the recommendation of the Director.
- (4) If the Executive Council approves an application referred to in subsection (1), then, by a conveyance that is in the form and has the content prescribed by regulation of the Executive Council, it must grant to the applicant the Tla'amin Citizen Land Title that is the subject of the application.

Application for Tla'amin Public Lands or Other Tla'amin Lands

²⁵ The reference to section "25" was changed to section "22".

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- 26.** (1) A person eligible under section 24 may apply to the Director for an interest in Tla'amin Public Lands, or Other Tla'amin Land if interests in those lands, by regulation of the Executive Council, are made available for Disposition to persons eligible under that section. *[Amended April 25, 2016]* ²⁶
- (2) An application referred to in subsection (1) must be
- (a) made in the form and have the content specified by regulation or resolution of the Executive Council, and
 - (b) accompanied by the application fee prescribed by regulation or resolution of the Executive Council.
- (3) The Executive Council may approve an application referred to in subsection (1).
- (4) If the Executive Council approves an application referred to in subsection (1), then, by a Disposition that is in the form and has the content prescribed by regulation, it must grant to the applicant the interest in Tla'amin Public Lands, or in Other Tla'amin Lands, that is the subject of the application.

Discretion to refuse application if incomplete or land reserved or withdrawn

- 27.** Despite section 26, the Executive Council may refuse to receive an application under this Division if: *[Amended April 25, 2016]* ²⁷
- (a) the application is incomplete, or
 - (b) the land concerned is reserved or withdrawn from Disposition by regulation.

Public notice of application for interest in Tla'amin Public Lands or Other Tla'amin Lands

- 28.** (1) An applicant for an interest in Tla'amin Public Lands or Other Tla'amin Lands must publish notice of the application in accordance with this section and with the regulations, if any, prescribed by the Executive Council.
- (2) The notice must bear the heading "Tla'amin Land Law: Notice of Intention to Apply for an Interest in Tla'amin Public Lands or Other Tla'amin Lands" or such other heading prescribed by Executive Council and must:
- (a) state the applicant's name, address and occupation,
 - (b) specify the interest applied for,
 - (c) describe the location and approximate surface area of the land,
 - (d) state the purpose for which the interest is required, and

²⁶ The reference to section "27" was changed to section "24".
²⁷ The reference to "sections 1(3) and 1(3)" was changed to "section 26".

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- (e) be signed by the applicant or an agent of the applicant.
- (3) The applicant must:
 - (a) publish the notice in Tla'amin Nation's newsletter (the "TFN Community Notice"),
 - (b) post the notice at the administration offices of Tla'amin Nation, and
 - (c) provide to the Director of Lands and Resources proof of both the publication and the posting.

Feasibility studies, etc., and costs

29. (1) The Director of Lands and Resources may require an applicant under section 25 or 26 to obtain and file with the Director of Lands and Resources at the applicant's expense one or more of the following: *[Amended April 25, 2016]* ²⁸

- (a) feasibility studies;
 - (b) environmental assessments;
 - (c) land valuation appraisals; or
 - (d) other information about the application required by the Director of Lands and Resources or the Executive Council.
- (2) If an application for an interest in Tla'amin Public Lands or Other Tla'amin Lands is made, the Director of Lands and Resources may:
- (a) estimate the cost to the Tla'amin Government of either or both of the following if the application is approved:
 - (b) assessing the potential impact of Disposing of the interest;
 - (c) monitoring compliance with the requirements of the instrument of Disposition, and
 - (d) require the applicant to pay to the Tla'amin Government all or part of that estimated cost before the application is considered or the Disposition made.
- (3) The Director of Lands and Resources, in his or her absolute discretion, may refund to an applicant in a particular case all or a part of the costs estimated under subsection (2) if the Director of Lands and Resources considers that the refund is warranted in that case due to special circumstances.

Security may be required

30. (1) The Director of Lands and Resources may require an applicant under section 25 or 26 to deposit with the Tla'amin Government a bond or other form of security for the

²⁸ The reference to section "28" was changed to section "25"; and, the reference to "29" was changed to "26".

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performance and completion by the applicant of one or more of the requirements under section 29. *[Amended April 25, 2016]*²⁹

- (2) The bond or other form of security required under subsection (1) must be payable to the Tla'amin Government for the amount, and on the terms, as may be reasonably required by the Director of Lands and Resources in writing.

Interest on outstanding balance of costs

- 31.** (1) Unless otherwise expressly stated in writing by the Executive Council, interest is to be charged on the outstanding balance of the costs referred to in this section at the rate prescribed by the Executive Council on any deferred or past due payment for any: *[Amended April 25, 2016]*³⁰

- (a) Disposition of Tla'amin Public Lands or Other Tla'amin Lands;
- (b) lease, right of way, easement, licence of occupation or royalty; or
- (c) survey carried out for a Disposition of Tla'amin Public Lands or Other Tla'amin Lands.

Affidavit may be required

- 32.** (1) The Director of Lands and Resources may require an applicant under section 25 or 26 to provide proof, by affidavit, or other means approved by the Director of Lands and Resources, of any matter connected with the application, including the applicant's financial capacity. *[Amended April 25, 2016]*³¹

PART 4 – LAND DISPOSITION, DISALLOWANCE, CANCELLATION, AMENDMENT AND ABANDONMENT

Disallowance of application for incomplete survey or for reasons disclosed by survey

- 33.** (1) If an application for an interest in Tla'amin Public Lands is approved by the Executive Council subject to completion of a satisfactory survey, the Executive Council may disallow the application if:
- (a) the survey is not completed by the date specified by the Director of Lands and Resources, or
 - (b) the Executive Council considers the Disposition not to be in the interest of Tla'amin Nation, on the basis of information:
 - (i) disclosed by the completed survey,

²⁹ The reference to section "28" was changed to section "25"; and, the reference to section "29" was changed to section "26"; and, the reference to section "32" was changed to section "29".

³⁰ Subsection (1) was amended April 25, 2016.

³¹ The reference to section "28" was changed to section "25"; and, the reference to "29" was changed to "26".

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- (ii) reported by the British Columbia land surveyor who conducted the survey, or
 - (iii) received by the Executive Council from another source.
- (2) If the Executive Council under paragraph (1) (b) disallows an application, the Tla'amin Government must reimburse the applicant for the applicant's survey costs, unless the applicant knowingly made a misrepresentation that resulted in the disallowance.

Amendment, correction, disallowance or cancellation of land Dispositions

34. (1) The Executive Council by order may

- (a) amend or correct
 - (i) a Disposition made by Tla'amin Nation under this Law, or
 - (ii) a certificate issued or an approval granted by Tla'amin First Nation of a Disposition given under this Law,
- (b) disallow an application for a Tla'amin Citizen Land Title made under Division 7 of PART 3, or
- (c) cancel a Disposition by Tla'amin Nation of a Tla'amin Citizen Land Title made under that Division if the Executive Council determines that
 - (i) there is an error in the names or description of the applicant, the description of the land, or any other material part of the approval or Disposition,
 - (ii) the land is not available for Disposition pursuant to section 25 or 26 of this Law, or *[Amended April 25, 2016]*³²
 - (iii) the survey of the land is incorrect.

Consequences of amendments, disallowances and cancellations of land Dispositions

- 35. (1)** If under section 34 the Executive Council amends or corrects a Disposition or approval, the amended or corrected Disposition or approval is effective as of the date of the original Disposition or approval. *[Amended April 25, 2016]*³³
- (2) If under section 34 the Executive Council disallows an application made under Division 7 of PART 3, the Executive Council may: *[Amended April 25, 2016]*³⁴
- (a) reimburse the applicant for all or part of the money paid on the application,

³² The reference to section "28" was changed to section "25"; and, the reference to section "29" was changed to section "26".

³³ The reference to section "37" was changed to section "34".

³⁴ The reference to section "37" was changed to section "34".

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- (b) reimburse the applicant for the applicant's survey costs, and
 - (c) pay to the applicant any compensation that the Executive Council considers advisable.
- (3) If under section 34 the Executive Council cancels a Disposition, *[Amended April 25, 2016]*³⁵
- (a) the Disposition holder's interest in the land and the interest of all persons claiming through that holder are terminated,
 - (b) all improvements on, in or under the land become the property of Tla'amin Nation, and
 - (c) the Executive Council may do one or more of the following:
 - (i) reimburse the former Disposition holder for all or part of the money paid for or under the Disposition;
 - (ii) reimburse the former Disposition holder for the Disposition holder's survey costs;
 - (iii) pay to the former Disposition holder fair compensation as may be determined by the Executive Council.
- (4) If a Disposition that is amended, corrected or cancelled under section 34 is a Disposition that is registered in the land title office, *[Amended April 25, 2016]*³⁶
- (a) the Executive Council must deposit a copy of the relevant order under section 34 in the land title office, and *[Amended April 25, 2016]*³⁷
 - (b) the Registrar must amend or cancel the registration on receipt of the order.

Review and Appeal Panel may review order under section 34 *[Amended April 25, 2016]*³⁸

- 36.** (1) A person who is affected by an order of the Executive Council under section 34 may apply to the Review and Appeal Panel for a review of that order, including a review of whether any compensation paid under section 35 is fair. *[Amended April 25, 2016]*³⁹
- (2) As soon as practicable after receipt of the application, the Review and Appeal Panel must conduct the review applied for, and by order may

³⁵ The reference to section "37" was changed to section "34".

³⁶ The reference to section "37" was changed to section "34".

³⁷ The reference to section "37" was changed to section "34".

³⁸ The reference to section "37" was changed to section "34".

³⁹ The reference to section "37" was changed to section "34"; and, the reference to section "38" was changed to section "35".

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- (a) rescind the decision or order and send it back to the Executive Council for reconsideration, and may include clarifications or findings of fact, or
- (b) confirm the decision or order.
- (3) As soon as practicable after completion of the review, the Director of Lands and Resources must notify the affected person of
 - (a) the outcome of the review, and
 - (b) the person's right under the *Judicial Review Procedure Act* (British Columbia) to apply to the Supreme Court of British Columbia for judicial review of the order.

Abandonment of Disposition

- 37.** (1) A person holding a Disposition under this Law may abandon and terminate the Disposition by giving written notice to the Director of Lands and Resources
- (2) On abandonment and termination of a Disposition under subsection (1)
- (a) all improvements to the land become the property of Tla'amin Nation, and
 - (b) all money paid for or under the terms of the Disposition is forfeited to Tla'amin Nation.
- (3) If a Disposition that is abandoned and terminated under subsection (1) is registered in the land title office,
- (a) the Executive Council must deposit a copy of the written notice given to the Director of Lands and Resources under subsection (1) in the land title office,
 - (b) the Registrar must cancel the registration on receipt of the written notice, and
 - (c) the Director of Lands and Resources must keep a record of the written notice under subsection (1).

Debts payable on cancelled Disposition

- 38.** (1) Unless the Executive Council otherwise directs, the former holder of a Disposition that is cancelled or abandoned and terminated under this Law must
- (a) pay all money remaining due under the Disposition, and
 - (b) perform all terms, covenants and stipulations of the Disposition.
 - (c) Money remaining due to Tla'amin Nation on a cancelled or abandoned and terminated Disposition is recoverable by Tla'amin Nation as a debt due to it.

PART 5 – TRESPASS ON TLA'AMIN LANDS

Trespass – protective and other actions by Executive Council

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- 39. (1)** No person shall trespass on Tla'amin Lands.
- (2) Executive Council has the authority to determine what constitutes trespass on Tla'amin Lands and to prescribe situations where activities constitute trespass and where Persons, individuals or types of individuals are trespassing on Tla'amin Lands.
- (3) If a person trespasses on Tla'amin Land, the Executive Council may do one or more of the following:
- (a) require the person to cease the trespass;
 - (b) if the land on which the trespass occurred has been affected as a consequence of the trespass, require the person to restore the land to a condition satisfactory to the Director of Lands and Resources;
 - (c) require the person to pay to Tla'amin Nation a sum of money considered by the Executive Council as being reasonable compensation for one or more of any
 - (i) possession of the land,
 - (ii) occupation of the land, or
 - (iii) use of the landthat was comprised in or associated with the trespass;
 - (d) require the person to pay to Tla'amin Nation a sum of money considered by the Executive Council as being the reasonable costs or estimated costs incurred or to be incurred by Tla'amin Nation to restore the land to a condition satisfactory to the Director of Lands and Resources;
 - (e) require the person to remove, to the satisfaction of the Director of Lands and Resources and within a period specified by the Director of Lands and Resources, any improvements made by or on behalf of the person on the Tla'amin Public Lands;
 - (f) instruct and authorize the Director of Lands and Resources to seize, on behalf of Tla'amin Nation, any goods or other materials left by the person on the Tla'amin Lands; or
 - (g) if the person fails or neglects to comply with the requirement under paragraph (e) within the specified period under that paragraph, instruct and authorize the Director of Lands and Resources to remove the improvements at the person's cost.
- (4) Money required to be paid to Tla'amin Nation by a person under this section is recoverable by Tla'amin Nation as a debt due to it.

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Powers ancillary to those under section 39 *[Amended April 25, 2016]*⁴⁰

- 40.** The powers under section 39 given to the Executive Council or the Director of Lands and Resources to do or enforce the doing of an act or thing, are deemed to include all the other powers necessary to enable the doing or enforcement of that act or thing by the Executive Council or the Director of Lands and Resources, as the case may be. *[Amended April 25, 2016]*⁴¹

Requirements for written notice

- 41.** (1) Except in the case of an emergency or a need for urgent action to prevent potential damage to Tla'amin Land, the environment or human health or to prevent a person who is trespassing or has trespassed from fleeing, the Executive Council shall provide or cause to be provided written notice to the person trespassing prior to implementing any of the provisions set out in section 39. *[Amended April 25, 2016]*⁴²

(2) A written notice under subsection (1)

(a) must set out:

- (i) details the Executive Council, in its sole discretion, considers necessary or desirable, including but not limited to the time and place of the unauthorized activity,
- (ii) the requirement or instruction of the Executive Council under subsection (1), and
- (iii) if applicable, the date by which the person must comply with a requirement of the Executive Council under subsection (1);

(b) may be given

- (i) by personal service on the person,
- (ii) by registered mail addressed to the person, or
- (iii) if the person or the address of the person is unknown to the Executive Council, by posting it on the Tla'amin Lands on which the trespass occurred or is occurring, and

(c) may be issued more than once for the same matter, as necessary.

Seized improvements, goods or other materials, in relation to trespass

- 42.** (1) Any improvements removed or goods or other materials seized under section 39 become the property of Tla'amin Nation. *[Amended April 25, 2016]*⁴³

⁴⁰ The reference to section "42" was changed to section "39".

⁴¹ The reference to section "42" was changed to section "39".

⁴² The reference to section "42(1)" was changed to section "39".

⁴³ The reference to section "42" was changed to section "39".

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- (2) The Executive Council may authorize the improvements, goods or other materials to be sold, rented, removed or destroyed by the Director of Lands and Resources.

Review of actions taken by Executive Council under section 39 [Amended April 25, 2016]⁴⁴

- 43.** (1) A person who is adversely affected by an order given or action taken by the Executive Council under section 39(1)(e), (f), or (g) may apply to the Review and Appeal Panel for a review of the order or action. [Amended April 25, 2016]⁴⁵

- (2) As soon as practicable after receipt of the application, the Review and Appeal Panel must conduct the review applied for, and by order may
- (a) rescind the decision or order and send it back to the Executive Council for reconsideration, and may include clarifications or findings of fact, or
 - (b) confirm the order or action taken.
- (3) As soon as practicable after completion of the review, the Director of Lands and Resources must notify the affected person of
- (a) the outcome of the review, and
 - (b) the person's right under the *Judicial Review Procedure Act* (British Columbia) to apply to the Supreme Court of British Columbia for judicial review of the cancellation order.

PART 6 – MANAGEMENT AND USE OF TLA'AMIN LANDS

Definitions

- 44.** In this Part:

“**occupant**” includes a user or holder of a Tla'amin Citizen Land Title; and

“**premises**” includes

- (a) land and structures or either of them, excepting portable structures and equipment other than those described in paragraph (b), and
- (b) trailers and portable structures designed or used for a residence, business or shelter.

Limitations on proceedings and liabilities

- 45.** (1) Despite the *Occupiers' Liability Act* (British Columbia), no proceeding may be brought against the Tla'amin Nation, including the Tla'amin Government, in relation to the discharge or purported discharge of its responsibilities of either a legislative or executive

⁴⁴ The reference to section “42” was changed to section “39”.

⁴⁵ The reference to section “42” was changed to section “39”.

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nature, either pursuant to an operational or policy decision, for anything done or omitted to be done by a person acting in good faith in relation to the management or use of Tla'amin Lands. *[Amended April 25, 2016]*

(2) *[Repealed]*⁴⁶

(2) For greater certainty, no person

(a) who has acquired a right to occupancy or use from the Tla'amin Government;

(b) who exercises or purports to exercise an interest in Tla'amin Lands, including a holder of a Tla'amin Citizen Land Title; or

(c) who is present on Tla'amin Lands for any reason

may bring any proceeding against the Tla'amin Nation or the Tla'amin Government arising from its exercise or purported exercise of powers, duties and responsibilities in relation to the ownership, management and use of Tla'amin Lands, except as may be otherwise provided in a valid legal agreement. *[Amended April 25, 2016]*

Duty of Care

46. (1) The Tla'amin Government owes no duty of care to a person in respect of risks willingly assumed by that person, other than a duty not to

(a) create a danger with intent to do harm to the person or damage to the person's property, or

(b) act with reckless disregard to the safety of the person or the integrity of the person's property.

Trespassers assume all risks

47. A person who is trespassing on premises owned or leased by the Tla'amin Government is deemed to have willingly assumed all risks and the Tla'amin Government is subject only to the duty of care set out in section 46. *[Amended April 25, 2016]*⁴⁷

Recreational Users of Tla'amin Lands

48. (1) A person who has entered lands owned or leased by the Tla'amin Nation for the purpose of a recreational activity is deemed to have willingly assumed all risks reasonably related to that activity in which he or she is engaged and the Tla'amin Nation is subject only to the duty of care set out in section 46, unless the Tla'amin Nation receives

⁴⁶ Repealed April 25, 2016. The section enacted on April 5, 2016, originally read:

(2) To the extent of any inconsistency with this Law, the *Occupiers' Liability Act*, RSBC 1996, c. 337, as amended from time to time, shall not apply to the Tla'amin Government or in relation to the ownership, management and use of Tla'amin Lands.

⁴⁷ The reference to section "52" was changed to section "46".

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payment and enters into an agreement for that recreational activity. *[Amended April 25, 2016]*⁴⁸

- (2) For greater certainty, for purposes of this section it is immaterial whether such person is present on Tla'amin Lands with permission of Tla'amin Nation or a Tla'amin Citizen or is in trespass.
- (3) Any failure to post on Tla'amin Lands notices warning of potential dangers or disclaiming liability shall not be taken into account for purposes of this section.

Trails

49. (1) The Executive Council may order:

- (a) the establishment of an area of Tla'amin Public Land as an interpretive site, a recreation site or a recreation trail, except Tla'amin Public land that already has interests granted that would be incompatible with these uses,
 - (b) the variance of the boundaries of an interpretive site, a recreation site or a recreation trail, and
 - (c) the disestablishment of an interpretive site, a recreation site or a recreation trail.
- (2) The Executive Council may establish an objective for an interpretive site, recreation site or recreation trail established under subsection (1).
 - (3) An objective established under subsection (2) must be consistent with objectives set by Tla'amin Law that pertain to the area.

Unauthorized trail or recreation facility construction

50. (1) Unless authorized by a permit or license issued under Tla'amin law, a person must not

- (a) construct,
- (b) rehabilitate, or
- (c) maintain

a trail or other recreation facility on Tla'amin Land.

- (2) In addition to any other requirements set out in Tla'amin Law, the Executive Council may impose pre-conditions or conditions of an authorization that the Executive Council considers necessary or desirable, to be met by the person, including, but not limited to, requiring that the person provide security.
- (3) If the Executive Council requires security under subsection (2), the Executive Council may specify

⁴⁸

The reference to section "52" was changed to section "46".

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- (a) when the security must be paid,
 - (b) the amount of security that is required,
 - (c) the form of the security, and
 - (d) the circumstances under which the security may be realized.
- (4) A person who obtains an authorization under subsection (1) must comply with any conditions of the authorization.
- (5) A person who contravenes this section commits an offence and is liable upon conviction to a fine not exceeding \$10 000, or to imprisonment for not more than 6 months, or to both. *[Amended April 25, 2016]*

Contamination of Tla'amin Lands

51. (1) Any person who knowingly or otherwise deposits on Tla'amin Lands hazardous waste, as defined pursuant to the *Environmental Management Act* (British Columbia), shall be strictly liable to the Tla'amin Government for any damages, including clean-up costs, resulting from such deposit. *[Amended April 25, 2016]*
- (2) For greater certainty, an occupant of Tla'amin Lands shall be strictly liable to the Tla'amin Government for any damages, including clean-up costs, resulting from such deposit.
- (3) Any person who has contaminated or contributed to the contamination of Tla'amin Lands, including past or present occupants of Tla'amin Lands and producers or transporters of the contaminants, shall be strictly liable to the Tla'amin Nation for all costs of inspection and remediation.

Roads and pathways

52. (1) Subject only to the duty of care set out in section 46, no proceeding shall be brought against Tla'amin Nation, including the Tla'amin Government, in relation to damages or injuries incurred by any person as a result of the use of any road or pathway on Tla'amin Lands. *[Amended April 25, 2016]*⁴⁹
- (2) For purposes of subsection (1), "road" shall be defined to include a local road, private roads on a local road, a local boundary road, a Tla'amin road, and a road allowance, as these terms are defined in the Final Agreement. *[Amended April 25, 2016]*

Tla'amin Works

53. (1) Subject only to the duty of care set out in section 46, no proceeding shall be brought against the Tla'amin Nation, including the Tla'amin Government, for damages or injuries arising from the management or operation of Tla'amin works on Tla'amin Lands. *[Amended April 25, 2016]*⁵⁰

⁴⁹ The reference to section "52" was changed to section "46".

⁵⁰ The reference to section "52" was changed to section "46".

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- (2) For purposes of subsection (1), “Tla’amin works” includes bridges, dams, breakwaters, wharves, dikes, levees, drainage facilities, flood control and irrigation systems and any sewer and water utilities that are owned by the Tla’amin Nation.

Floods

54. (1) Any person who makes an alteration to Tla’amin Lands that causes or could reasonably be expected to cause flooding that could result in harm or injury to others shall be strictly liable to the Tla’amin Nation, including the Tla’amin Government, for any damages that may result.
- (2) Subject only to the duty of care set out in section 46, no proceeding may be brought against the Tla’amin Nation, including the Tla’amin Government, for damages or injuries incurred by any person, including an occupant, arising from flooding on Tla’amin Land. *[Amended April 25, 2016]*⁵¹

Land instability

55. (1) No person shall make an alteration to Tla’amin Lands that causes or could reasonably be expected to cause land slumping, a land shift or a land slide.
- (2) If a person carries on an activity in contravention of subsection (1) that results in harm or injury to others, he or she shall be strictly liable.

PART 7 – EXPROPRIATION OF ESTATES OR INTERESTS IN TLA’AMIN LANDS

Definitions for this Part

56. in this Part:

“**fair compensation**” means compensation as that term is generally applied in respect of a taking by the government of British Columbia, and must be based on

- (a) fair market value of the estate or interest that is expropriated,
- (b) the replacement value of any improvement on the property that comprises the estate or interest that is expropriated, and
- (c) disturbance caused by the expropriation;

“**owner**”, in relation to an estate or interest expropriated or to the property that comprises the estate or interest, means

- (a) a person who has an estate, interest, right or title in or to the property, including a person who holds a subsisting judgment or builder’s lien,
- (b) a committee appointed under the *Patients Property Act* (British Columbia) and a guardian, executor, administrator or trustee in whom the property is vested, or

⁵¹ The reference to section “52” was changed to section “46”.

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- (c) a person who is in legal possession or occupation of the property, other than a person who leases residential premises under an agreement that has a term of less than one year.

Expropriation

57. (1) Except for an estate or interest that under the Final Agreement is exempt from expropriation, the Tla'amin Legislative Assembly may expropriate an estate or interest in Tla'amin Lands.

(2) An expropriation under this Part must be

(a) of the smallest estate or interest necessary,

(b) for the use of

(i) Tla'amin Nation,

(ii) a Tla'amin Public Institution, as defined in Chapter 1 *[Definitions]* of the Final Agreement,

(iii) a Tla'amin Corporation, as defined in Chapter 1 *[Definitions]* of the Final Agreement, or

(iv) a duly authorized agent of Tla'amin Nation,

(c) necessary for public purposes, including community purposes for public works, and

(d) carried out with the prior written consent of the Executive Council.

Public report to justify intended expropriation

58. Before the Tla'amin Government initiates an expropriation under this Part, it must make public a report, including in the report the reasons justifying the expropriation.

Notice of expropriation

59. The Tla'amin Government must ensure that reasonable notice of an intended expropriation under this Part is served on the owner or owners, if more than one, of the estate or interest to be expropriated.

Good faith negotiations

60. The power under this Part to expropriate an estate or interest in Tla'amin Lands may be exercised only after a reasonable effort in good faith to acquire the estate or interest by agreement with the owner.

Fair compensation to be provided

61. (1) For an expropriation under this Part, the Tla'amin Government must provide fair compensation to the owner of the estate or interest expropriated, based on

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- (a) the market value of property that comprises the estate or interest,
 - (b) the replacement value of any improvement on the property,
 - (c) disturbance caused by the expropriation, including moving, legal and survey costs, and
 - (d) other factors, if any, that are prescribed by regulation of the Executive Council.
- (2) The amount of the fair compensation to be provided under subsection (1) to the owner of the estate or interest expropriated must be determined by a Qualified Land Appraiser
- (a) appointed by agreement between the Tla'amin Government and the owner, or
 - (b) appointed by the Executive Council if there is no such agreement within 30 days after the date of the expropriation.
- (3) The Tla'amin Government must pay to the owner the amount determined under subsection (2).

Review by Review and Appeal Panel as to amount of compensation

- 62.** (1) An owner of an estate or interest expropriated under this Part may apply to the Review and Appeal Panel for a review respecting the amount of the compensation determined under section 61. *[Amended April 25, 2016]*⁵²
- (2) As soon as practicable after receipt of the application, the Review and Appeal Panel must conduct the review applied for, and, after considering
- (a) the appraisal made by the Qualified Land Appraiser appointed under section 61 (2) (a) or (b), and *[Amended April 25, 2016]*⁵³
 - (b) any further evidence provided by the parties as to the value of the expropriated estate or interest,
- the Review and Appeal Panel by order may vary or confirm the amount of the compensation determined under section 65.
- (3) As soon as practicable after completion of the review, the Director of Lands and Resources must notify the owner of the estate or interest expropriated of
- (a) the outcome of the review, and
 - (b) the owner's right under the *Judicial Review Procedure Act* (British Columbia) to apply to the Supreme Court of British Columbia for judicial review of the order under subsection (2).

⁵² The reference to section "67" was changed to section "67".

⁵³ The reference to section "65" was changed to section "61".

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PART 8 – CONSULTATION

Consultation with Non-Members on matters affecting them

63. (1) Each of the Tla'amin Government and a Tla'amin Public Institution will consult with Non-Members in respect of any of the government's or institution's decisions relating to Tla'amin Lands, that directly and significantly affects the Non-Members.

PART 9 – OFFENCES

Offences

64. (1) A person who contravenes:

(a) section 8 of this Law, or *[Amended April 25, 2016]*⁵⁴

(b) any other part of this Law or the regulations,

commits an offence and is liable on conviction to penalties specified in this law, the regulations or the *Enforcement and Ticketing Law* or regulations.

- (2) A person who intentionally or recklessly causes damage to Tla'amin Lands or natural resources or structures or improvements on Tla'amin Lands, including by starting or causing or contributing to a fire, commits an offence and is liable on conviction to a fine not exceeding \$1,000,000, or to imprisonment for not more than 3 years, or to both.
- (3) Subsections (1) and (2) do not apply to the Executive Council, the Director or an Enforcement Officer acting in the course of their duties.
- (4) A proceeding, convictions or penalty for an offence under the *Enforcement and Ticketing Law* for a contravention of this Law or the regulations does not relieve a person from any other liability under this Law.

Trespass offences

65. (1) A person who trespasses, contravenes section 39, or without lawful authority, *[Amended April 25, 2016]*⁵⁵

(a) occupies or possesses Tla'amin Lands,

(b) damages Tla'amin Lands or improvements on Tla'amin Lands,

(c) harvests, extracts or damages mineral resources, fish, migratory birds or other wildlife on Tla'amin Lands,

⁵⁴ The reference to section "11" was changed to section "8".

⁵⁵ The reference to section "42" was changed to section "39".

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- (d) interferes with the lawfully authorized use, occupation or possession of Tla'amin Lands,
- (e) constructs a building, structure, enclosure or other works on Tla'amin Lands,
- (f) excavates Tla'amin Lands,
- (g) throws, deposits or in any way causes to be placed on Tla'amin Lands any glass, metal, garbage, soil or other material,
- (h) abandons any vehicle or vessel on Tla'amin Lands,
- (i) interferes with or removes a sign erected by, on behalf of or with the authority of the Tla'amin Government on Tla'amin Lands,
- (j) uses a designated area of Tla'amin Lands contrary to a regulation made under Tla'amin Law,
- (k) fails to comply with a requirement or order issued under section 35, or
- (l) is in trespass according to this Law or a regulation under this law

commits an offence and is liable on conviction to a fine not exceeding \$10,000, or to imprisonment for not more than 6 months, or to both.

- (2) Despite subsection (1), a person who trespasses or contravenes section 39 and meets the criteria set out in section 64(2) is liable for the fines and penalties set out in section 64(2). *[Amended April 25, 2016]*

Civil liability for trespass offences

- 66.** A person who contravenes section 65, or who directs or causes another person to do anything that is a contravention of section 65, is liable to compensate Tla'amin Nation or the person against whom the offence is committed, as the case may be, for loss or damage suffered by Tla'amin Nation or that person because of the contravention. *[Amended April 25, 2016]*

Offence by Director and officers

- 67.** If a corporation commits an offence under section 65, a Director or officer of the corporation who authorizes, permits or acquiesces in the offence also commits the offence. *[Amended April 25, 2016]* ⁵⁶

PART 10 -- REGULATIONS

Regulations

⁵⁶

The reference to section "68" was changed to section "65".

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- 68.** (1) The Executive Council may make regulations it considers necessary or advisable for purposes under this Law.
- (2) Without prejudice to the generality of subsection (1), the Executive 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, and
 - (d) generally for the purpose of giving effect to this Law.
- (3) Without prejudice to the generality of subsection (1), the Executive Council may make regulations,
- (a) in respect of leases and rentals by the holders of Tla'amin Citizen Land Title interests:
 - (i) maximum lease or rental periods;
 - (ii) maximum lease or rental periods beyond which a permit is required;
 - (iii) permit requirements for leases or rentals including: residency or occupancy requirements, forms, fees, criminal record checks, payment of utilities and services and other related matters.
 - (b) for the purpose of section 19 *[Amended April 25, 2016]*⁵⁷
 - (i) making Tla'amin Citizen Land Titles available for conveyance as described in subsection (1) of that section, and
 - (ii) respecting the form and content of a conveyance referred to in subsection (4) of that section,
 - (c) for the purpose of section 25, *[Amended April 25, 2016]*⁵⁸
 - (i) making interests in Tla'amin Public Lands or in Other Tla'amin Lands available for Disposition as described in subsection (1) of that section, and
 - (ii) prescribing the form and content of a Disposition referred to in subsection (4) of that section, by regulations that may differ for different types of interests in such lands,
 - (d) respecting the form and content of,

⁵⁷ The reference to section "22" was changed to section "19".

⁵⁸ The reference to section "28" was changed to section "25".

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- (i) a certificate of transfer for the purpose of section 14, *[Amended April 25, 2016]*⁵⁹
 - (ii) a public notice of application for the purpose of section 28, and *[Amended April 25, 2016]*⁶⁰
 - (iii) any other applications, notices, reports and other documents that are required or permitted under this Law,
- (e) prescribing what constitutes trespass on Tla'amin Lands including prescribing situations where activities constitute trespass or where individuals or types of individuals are trespassing;
 - (f) prescribing fines, penalties, or administrative penalties;
 - (g) for the purpose of Part 7, governing expropriation of estates or interests in Tla'amin Lands,
 - (h) except in relation to taxes, prescribing requirements and conditions applicable to fees, rents, royalties or charges respecting,
 - (i) (the exploration, development, extraction or production of subsurface resources on Tla'amin Lands or Other Tla'amin Lands, or
 - (ii) leases, licenses or other Dispositions made by Tla'amin First Nation under this Law,
 - (i) respecting geographic names, and
 - (j) respecting surveys of Tla'amin Lands or interests in Tla'amin Lands.

Land exchange regulations and requirement for obtaining appraisals

- 69.** (1) Without limiting the generality of section 68 (1) the Executive Council may make regulations for the purposes of PART 3, Division 7 governing an exchange of Tla'amin Public Lands for a Tla'amin Citizen Land Title.
- (2) Without prejudice to the generality of section 68 (1), the Executive Council may make regulations for the protection of the public interest in relation to an exchange referred to in subsection (1) of this section, including but not limited to regulations,
- (a) establishing criteria for the exchange, including but not limited to principles requiring that
 - (i) the lands to be received by Tla'amin First Nation in the exchange, or
 - (ii) the lands, together with any other consideration, to be received by the Tla'amin Nation in the exchange, as the case may be, are of a

⁵⁹ The reference to section "17" was changed to section "14".

⁶⁰ The reference to section "31" was changed to section "28".

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value that the Executive Council considers to be at least equal to the value of the land to be received by the other party to the exchange, and

(iii) defining “value” for the purposes of the exchange.

Included powers for regulations

70. A power conferred under this Law to make regulations includes a power exercisable in the same manner, and subject to the same consent and conditions, if any, to repeal or amend the regulations and make others.

Repeal of Land Code

71. The Tla’amin First Nation Land Code, adopted in accordance with the Framework Agreement on First Nation Land Management, dated September 20, 2003 is repealed.

PART 11 – GENERAL

Interpretation

72. (1) In addition to the terms defined in this Law, terms used in this Law may be defined in the Interpretation Law.

(2) Only those defined terms that are capitalized in section 2 or in the Interpretation Law are presented capitalized in the text of the Law, and all other defined terms are presented in lower case.

[Section 72 added April 25, 2016]

Severability

73. 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. *[Added April 25, 2016]*

Validity

74. Nothing under this Law must 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 Tla’amin Nation, a Tla’amin Official, or an Enforcement Officer to do something within the required time.

[Section 74 added April 25, 2016]

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PART 12 -- COMMENCEMENT

Commencement

- 75.** (1) This Law comes into force on the date of its enactment by the Tla'amin Legislature.
- (2) For greater certainty, this Law is in effect as of April 5th, 2016 and the corrections dated April 25th, 2016 apply as of April 5th, 2016. *[Added April 25, 2016]*

THIS LAW WAS DULY ENACTED by the Tla'amin Legislative Assembly on the 5th day of April, 2016 and IS HEREBY DULY AMENDED WITH CORRECTIONS on the 25th day of April, 2016 on Tla'amin Lands, in the Province of British Columbia.

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LEGISLATIVE HISTORY

(Note: The Legislative History is for administrative purposes only and is not part of the Law.)

Land Law [TNL 12 /2016] enacted April 5, 2016.

Amendments and Corrections

Table of Legislative Changes

Name of Law or Order	Law or Order Number	Date Amended or Corrected	Section(s) Amended
Order correcting the <i>Land Law</i>	TNO- LA 31/2016	April 25, 2016 (corrections in effect April 5, 2016)	Various clerical corrections.

Regulations enacted under this Law:

List any regulations made under the Law, in the following format:

Land Disposition Forms Regulation [TNReg17/2016]

Certificate Regulation [TNReg18/2016]