



RECALL LAW

TNL 05/2016

Enacted on April 5, 2016.

Hegus [SIGNATURE]

Clint Williams

Hegus [NAME]

DEPOSITED IN THE TLA'AMIN
REGISTRY

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

Judith King
Signature of Law Clerk

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PREAMBLE

WHEREAS:

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

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- J.** Under section 31 of the *Constitution*, the Tla'amin Government may exercise any right, power, privilege or authority, and may carry out any duty, function or obligation, of the Tla'amin Nation or Tla'amin Government in accordance with Tla'amin law, the *Constitution* and the Final Agreement including making any law within the authority of the Tla'amin Government;
- K.** Under paragraph 1 of Chapter 15 [*Governance*] of the Final Agreement, the Tla'amin Nation has the right to self-government, and the authority to make laws, as set out in the Final Agreement;
- L.** Under paragraph 47 of Chapter 15 [*Governance*] of the Final Agreement, the Tla'amin Nation has the authority to make laws in relation to the administration, management and operation of the Tla'amin Government; and
- M.** Under paragraph 3 of Chapter 15 [*Governance*] of the Final Agreement, the authority of the Tla'amin Nation to make laws in relation to a subject matter under the Final Agreement includes the authority to make laws and do other things as may be necessarily incidental to exercising its authority.

NOW THEREFORE the Legislative Assembly enacts as follows:

PART 1 - INTRODUCTORY PROVISIONS

Citation

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

Application

2. This Law applies to the processes by which Tla'amin Citizens establish a fair, efficient, accessible and transparent system for conduct of a petition to recall an elected official.

Oversight

3. The Speaker of the Legislative Assembly is responsible for the oversight of this Law.

Definitions

4. In this Law,

“Complaints and Whistleblower Policy” has the meaning given to that term in the *Administration and Finance Law*; and

“eligible voter” has the meaning given to that term in the *Election Law*.

Interpretation

5. (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 4 or in the *Interpretation Law* are presented capitalized in the text of this Law, and all other defined terms are presented in lower case.
- (3) References to “this Law” include any regulations made under this Law.

Severability

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

Validity

7. Nothing in this Law must be rendered void of invalid by
 - (a) an error or omission in a notice, form or other document given or authorized under this Law; or

- (b) a failure of the Tla'amin Nation or a Tla'amin official to do something within the required time.

PART 2 - RECALLING AN ELECTED OFFICIAL

Recall limitations

- 8. (1) The Executive Council may make regulations prescribing the requirements and process to recall an elected official.
- (2) An elected official may only be recalled under this Law.
- (3) An application for a recall petition will not be permitted more than 42 months after the start of a term of the sitting Legislative Assembly.

Designation by chief administrative officer

- 9. (1) The chief administrative officer may designate another individual in writing to carry out their responsibilities under this Law.
- (2) If the chief administrative officer makes a designation under subsection (1), they must provide notice of that designation to the Executive Council.

Recall petition application process

- 10. (1) An eligible voter may apply to the chief administrative officer for the issuance of a petition for recall of an elected official.
- (2) The application for a recall petition process must begin with a written submission addressed to the chief administrative officer in accordance with this Law and other Tla'amin laws and policies.
- (3) The application form as prescribed in regulations under this Law will include the following at minimum:
 - (a) the full name of the elected official to be recalled;
 - (b) the full name, residential address and other contact information of each applicant;
 - (c) a statement not exceeding 200 words, signed by each applicant, setting out the reason(s) for the proposed recall of the elected official;
 - (d) a solemn declaration, witnessed or signed in the presence of the chief administrative officer which confirms that the applicant is a Tla'amin Citizen and an eligible voter;
 - (e) a confirmation from the individual that they are not disqualified under Tla'amin law from making the application; and
 - (f) any other information prescribed by Executive Council.

11. The application for the issuance of a recall petition must be accompanied by a written statement identifying steps taken to address complaints and inquiries as set out in the *Administration and Finance Law* and the Complaints and Whistleblower Policy.

12. The chief administrative officer must be satisfied that

- (a) all available processes for addressing complaints as set out in the *Administration and Finance Law* and the Complaints and Whistleblower Policy have been exhausted, and
- (b) the Legislative Assembly or the Review and Appeal Panel, as the case may be, has determined that the elected official has committed a wrongdoing

before making a determination on whether to issue a petition to recall an elected official.

Issuing recall petition

13. (1) Within 10 business days of receiving an application for the issuance of a recall petition, the chief administrative officer must decide whether the application meets the requirements of this Law.

(2) If the chief administrative officer determines that the requirements of this Law have been met, the chief administrative officer must

- (a) notify each applicant that the application has been approved in principle;
- (b) inform the Executive Council that the application has been approved in principle;
- (c) file a certified true copy of their decision in the Tla'amin Registry and any written reasons on the same day that they provide notice under paragraph (a);
- (d) issue the recall petition in the prescribed form within seven business days of providing the notification under paragraph (a); and
- (e) subject to the requirements in this Law and other Tla'amin enactments, direct the Citizenship Registrar to provide the applicants with a copy of the most recent voters list.

(3) Before receiving a copy or having access to the voters list for public review, each applicant must make a solemn declaration in the prescribed form that the individual will only use the list for the purpose of contacting eligible voters to canvass for signatures on the recall petition.

(4) If the chief administrative officer determines that the requirements of this Law have not been met, the chief administrative officer must provide each applicant with written reasons for their decision.

- (5) A recall petition must be in the form prescribed in the regulations.
- (6) The applicants will have 90 days from the date on which the recall petition is issued by the chief administrative officer to gather signatures for the petition.
- (7) Only Tla'amin Citizens identified as applicants on the original application form and satisfying all requirements under this Law are permitted to canvass for signatures for the recall petition.

Recall petition process requirements

14. (1) Only eligible voters may sign a recall petition.
- (2) An eligible voter may only sign any one recall petition once.
 - (3) An eligible voter who signs a recall petition must provide their full name, residential address and other contact information.
 - (4) An applicant, a canvasser and anyone who has access to a recall petition must maintain the confidentiality of that part of the petition showing the name and contact information of any eligible voter who requests that their contact information be kept confidential for privacy or safety reasons.
 - (5) An individual must not, directly or indirectly, accept any inducement for canvassing for signatures on a recall petition.
 - (6) An individual must not, directly or indirectly, pay, give or lend any inducement to an individual who canvasses for signatures on a recall petition.

Completion of recall petition process

15. (1) The applicants must complete the canvassing process and submit a recall petition and signature sheets to the Review and Appeal Panel no later than 90 days after the petition was issued by the chief administrative officer.
- (2) After receiving a recall petition and signature sheets under subsection (1), the Review and Appeal Panel must determine if the following requirements have been met:
- (a) the petition must be supported by the signatures of at least 50% plus one of all Tla'amin Citizens who are eligible voters;
 - (b) the petition must include the residential address of each individual who signed the petition and must be witnessed by the individual who canvassed for the signature; and
 - (c) the process set out in section 14 must have been followed.

Petition triggers a by-election

16. (1) If the Review and Appeal Panel determines that the requirements set out in section 15(2) have been met, it shall issue an order setting out their determination and provide a copy of the order to the chief administrative officer.
- (2) When an office becomes vacant as the result of a successful recall petition, a by-election must be held to fill the vacancy in accordance with the *Election Law*.

Recall of all elected officials

17. (1) A Tla'amin Citizen may submit a resolution at a General Assembly calling for a referendum on holding a full general election for all elected officials.
- (2) If a resolution referred to in subsection (1) is passed by the General Assembly, a referendum vote will be carried out to determine if a full general election will be held.
- (3) If two-thirds of the Tla'amin Citizens who are eligible voters vote in favour of holding a full general election in a referendum vote, the Executive Council will direct an elections officer to call an election.
- (4) An election called in accordance with subsection (3) will be held on a date set by the Executive Council that is at least 90 days after the date on which the Executive Council gives direction to the elections officer.
- (5) If a full general election is held following a successful referendum vote, the term of office of the new elected officials shall conclude four years after the date upon which they were elected in accordance with the *Election Law*.

PART 3 - COMING INTO FORCE

Coming into force

18. This Law comes into force on the date of its enactment by the Legislative Assembly.

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



ORDER OF THE LEGISLATIVE ASSEMBLY OF THE TLA'AMIN NATION

Legislative Assembly Order No.: TNO-LA 07 /2016

Approved and Ordered: April 5, 2016

Order

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

Authority

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

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

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

Authority under which the Order is made:

Law: *Constitution*

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

DEPOSITED IN THE TLA'AMIN
REGISTRY

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


Signature of Law Clerk