



scəw'athən məsteyəx<sup>w</sup>

TSAWWASSEN FIRST NATION

2009

# LAND ACT

**Date Enacted: 3 April 2009**

*Last Consolidation: 15 March 2024*

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Table of Legislative Changes

Name of Act	Bill Number	Date Enacted	Section(s) Amended	Comes Into Force Date
Land Amendment Act	005-2010	16/11/2010	s.2 amended s.6(3) added s.8(1) repealed and replaced s.12(4) added s.13(2) repealed and replaced s.17(1) amended s.17(3) added s.28 repealed and replaced s.31 and 32 repealed	16/11/2010
Land Management Amendment Act	005-2012	21/11/2012	Part 5A (s.42.1 – 42.10) added	21/11/2012
Building Prosperity By Facilitating Land Development Act	003-2013	27/06/2013	s.2 amended s.6.1 added s.13(5) and 13(6) added s.16(1)(d) amended s.51(3), 51(4) and 51(5) added	27/06/2013
2024 Land Amendment Act	002-2024	14/03/2024	s.16(1) repealed and replaced s.16(2) repealed and replaced s. 17(4) added	14/03/2024

# Tsawwassen First Nation

2009

## LAND ACT

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The Tsawwassen Legislature enacts as follows:

## PART 1 – PRELIMINARY MATTERS

### Citation

- 1 This Act may be cited as the *Land Act*.

### Definitions

- 2 In this Act:

“**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;

“**certificate of transfer**” means a certificate that

- (a) is issued by
  - (i) the chief administrative officer appointed under the *Government Organization Act*,
  - (ii) the director, or
  - (iii) another person employed by the Tsawwassen Government and designated by name or position by the director,
- (b) certifies that
  - (i) the certificate is issued in accordance with the *Land Act* (Tsawwassen First Nation),
  - (ii) a person named in the certificate as transferee of the Tsawwassen Fee Simple Interest is a permitted transferee of that interest under that Act, and
- (c) 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);

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

“**director**” means the Director of Lands appointed by the Executive Council under the *Government Employees Act*;

“**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;

“**disposition**” means the act of disposal or an instrument by which the act of disposal is effected or evidenced, or by which an interest in Tsawwassen Lands or Other Tsawwassen Lands is disposed of or effected, or by which Tsawwassen First Nation divests itself of or creates an interest in Tsawwassen Lands or Other Tsawwassen Lands;

“**effective date**” means the date upon which the final agreement takes effect;

“**enactment**” means an Act or regulation or a portion of an Act or regulation;

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

- “Executive Council”** means the Executive Council of Tsawwassen First Nation established under the *Government Organization Act*;
- “final agreement”** means the Tsawwassen First Nation Final Agreement among Tsawwassen First 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;
- “Judicial Council”** means the Judicial Council established under the *Administrative Review and Judicial Proceeding Act*;
- “land title office”** means the New Westminster land title office under the *Land Title Act* (British Columbia);
- “Non-Member”** has the same meaning as in Chapter 1 [*Definitions*] of the final agreement;
- “Other Tsawwassen Lands”** means the lands referred to in clause 18 of Chapter 4 [*Lands*] 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
  - (b) has 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*;
- “regulation”** means a regulation, as defined in the *Interpretation Act* (British Columbia), made under a power in an Act where the word “regulation”, “regulations”, “prescribe”, “prescribes” or “prescribed” is used in conferring the power;
- “Rights of Refusal Lands”** means the lands set out in Appendix H-2 of the final agreement;
- “Tsawwassen Corporation”** has the same meaning as in Chapter 1 [*Definitions*] of the final agreement;

[Amended by Bill 003-2013; Enacted on June 27, 2013]

- “Tsawwassen Government”** means the government of Tsawwassen First Nation as referred to in clause 2 of Chapter 16 [*Governance*] of the final agreement;
- “Tsawwassen Fee Simple Interest”** means a fee simple interest in Tsawwassen Lands that is subject to any condition, proviso, restriction, exception, or reservation that may be set out in this Act, but does not include a fee simple interest in Tsawwassen Lands held by the Tsawwassen Government;

[Amended by Bill 005-2010; Enacted on November 16, 2010]

- “Tsawwassen Individual”** means an individual who is eligible to be enrolled as a member of Tsawwassen First Nation in accordance with Chapter 21 [*Eligibility and Enrolment*] of the final agreement;
- “Tsawwassen Lands”** means the lands set out in Appendix C-4 of the final agreement as Tsawwassen lands, as amended from time to time under that agreement, and includes all subsurface resources on or beneath the surface of those lands;

**“Tsawwassen Member”** means a Tsawwassen Individual who is enrolled as a member of Tsawwassen First Nation in accordance with Chapter 21 [*Eligibility and Enrolment*] of the final agreement;

**“Tsawwassen Partnership”** means a British Columbia partnership (including a limited partnership) formed and maintained in existence in accordance with the *Partnership Act* (British Columbia), as amended from time to time, all of the partners of which are Tsawwassen First Nation or a Tsawwassen Corporation and all of the partnership interests in which are held by Tsawwassen First Nation or a Tsawwassen Corporation and in which no person other than Tsawwassen First Nation or a Tsawwassen Corporation, directly or indirectly, legally or beneficially, owns, or has any direct or indirect interest (including, without limitation, by way of mortgage, charge, pledge or security interest) in, the partnership or has any direct or indirect ability to exercise any control or direction over the partnership or any partnership interest in the partnership or any direct or indirect right or power to direct the management of the partnership.

[Amended by Bill 003-2013; Enacted on June 27, 2013]

**“Tsawwassen Public Lands”** means any Tsawwassen Lands held in fee simple by the Tsawwassen Government for which no Tsawwassen Fee Simple Interest has been created by Tsawwassen Government under this Act, but does not include lands held by the Tsawwassen Government as a nominee, agent or trustee for any other person.

[Amended by Bill 005-2010; Enacted on November 16, 2010]

[Amended by Bill 003-2013; Enacted on June 27, 2013]

#### **Time of commencement**

- 3** A provision of this Act must be read as commencing at the beginning of the day on which it comes into force.

## **PART 2 – ADMINISTRATION**

### **Administration of Tsawwassen Lands and Other Tsawwassen Lands**

- 4**
- (1) The Executive Council is responsible on behalf of Tsawwassen Government for the administration of Tsawwassen Lands and Other Tsawwassen Lands and, for that purpose, may exercise the powers assigned under this Act to Tsawwassen 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 (1) to any person who is employed under the *Government Employees Act* and has responsibilities under this Act.
  - (3) Despite subsection (2), the Executive Council must not delegate a power referred to in section 8 (1) (a) to (e).
  - (4) A person to whom the Executive Council, under subsection (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 subsection (2).



#### Land title office

- 5 All Tsawwassen Fee Simple Interests are to be registered
- (a) in the land title office, and
  - (b) in accordance with the *Land Title Act* (British Columbia).

### PART 3 – LAND DISPOSITIONS AND ACQUISITIONS

#### Division 1 – Non-alienation, Rights of Refusal Lands and Permitted Dispositions

##### Prohibition against alienation of Tsawwassen Lands

- 6 (1) In this section:
- “**limitation**” means a condition, proviso, restriction, exception or reservation;
- “**Tsawwassen Lands owned in fee simple**” means Tsawwassen Lands that Tsawwassen First Nation owns in fee simple, being
- (a) the largest estate known in law, and
  - (b) not subject to any limitation set out in the *Land Act* (British Columbia) or any comparable limitation under federal or provincial law.
- (2) Despite clause 3 of Chapter 4 [*Lands*] of the final agreement, Tsawwassen First Nation must not transfer
- (a) to another government or to any government entity the administration and control of any of its Tsawwassen Lands owned in fee simple, or
  - (b) any of its Tsawwassen Lands owned in fee simple.
- (3) Despite clause 3 of Chapter 4 [*Lands*] of the final agreement, Tsawwassen First Nation must not mortgage its fee simple interest in any of its Tsawwassen Lands owned in fee simple.

[Amended by Bill 005-2010; Enacted on November 16, 2010]

##### Highway dedication

- 6.1 (1) For the purpose of this section:
- “**provincial highway**” means a highway designated on a plan as a highway that, on deposit of the plan in the Land Title Office, will vest in the Crown in right of the Province or in the BC Transportation Financing Authority.
- (2) Notwithstanding section 6, Tsawwassen First Nation may dedicate a portion of its land owned in fee simple to British Columbia for a provincial highway pursuant to section 107 (1) of the *Land Title Act* (British Columbia), as amended from time to time, and a community approval under section 51 will not be required for any such dedication.

[Amended by Bill 003-2013; Enacted on June 27, 2013]

##### Purchase by Tsawwassen First Nation of Rights of Refusal Lands

- 7 The acquisition by Tsawwassen First Nation of Rights of Refusal Lands is subject to the applicable terms and conditions, as determined by the Executive Council, in accordance with Appendix H-3 of the final agreement.

### **Permitted dispositions of Tsawwassen Lands and Other Tsawwassen Lands**

- 8** (1) Subject to section 6, the Executive Council on behalf of Tsawwassen First Nation may dispose of any interests in Tsawwassen Lands or Other Tsawwassen Lands including but not limited to the following:
- (a) subject to section 16, a Tsawwassen Fee Simple Interest in Tsawwassen Lands;
  - (b) a lease;
  - (c) a right of way;
  - (d) a statutory right of way;
  - (e) an easement;
  - (f) a licence of occupation;
  - (g) a permit of occupation.

[Amended by Bill 005-2010; Enacted on November 16, 2010]

- (2) A disposition under this section may be made only on application for it under section 19 (1) or 20 and only in the applicant's own name, not in the name of any nominee or assignee of the applicant.
- (3) There may be included in a disposition under this section any terms, conditions, covenants, stipulations, reservations, restrictions, exemptions or other material that the Executive Council considers advisable.
- (4) Nothing in this section affects the responsibility of Tsawwassen First Nation under the final agreement to make a transfer described in section 10 (1) of a Tsawwassen Fee Simple Interest to an individual identified in Appendix D-1 of the final agreement.

### **Division 2 – Tsawwassen Fee Simple Interest**

#### **Certificate of transfer requirements for Tsawwassen Fee Simple Interest**

- 9** (1) A person referred to in section 10 or 16 (1) may not
- (a) acquire a Tsawwassen Fee Simple Interest, whether from Tsawwassen First Nation or in a private transaction between that person and another person referred to in section 10 or 16 (1), or
  - (b) register a transfer of a Tsawwassen Fee Simple Interest in the land title office,
- unless named in a certificate of transfer as a permitted transferee of that interest.
- (2) At the request of a person referred to in section 10 or 16 (1),
- (a) the chief administrative officer appointed under the *Government Organization Act*,
  - (b) the director, or
  - (c) another person employed by the Tsawwassen Government and designated by name or position by the director
- must issue a certificate of transfer.
- (3) On the director's own initiative and without the need for a request under subsection (2),

- (a) the chief administrative officer appointed under the *Government Organization Act*,
  - (b) the director, or
  - (c) another person employed by the Tsawwassen Government and designated by name or position by the director
- may issue a certificate of transfer.

**Transitional Tsawwassen Fee Simple Interest dispositions**

- 10** (1) On the effective date, Tsawwassen First Nation will transfer, to each individual identified in Appendix D-1 of the final agreement, a Tsawwassen Fee Simple Interest, free and clear of all interests except applicable interests, if any, referred to in Appendices D-2 and D-3 of the final agreement.
- (2) On the transfer of a Tsawwassen Fee Simple Interest described in subsection (1) to an individual identified in Appendix D-1 of the final agreement, that individual
- (a) acquires that Tsawwassen Fee Simple Interest despite not having applied for it under section 19 (1) of this Act, and
  - (b) may hold that Tsawwassen Fee Simple Interest lawfully under this Act.
- (3) Section 12 (2) does not apply in respect of a Tsawwassen Fee Simple Interest that is the subject of a transfer described in subsection (1) of this section.

**Signatory on effective day for Tsawwassen First Nation in relation to Chapters 4 and 5 of final agreement**

- 11** The Chief of Tsawwassen Government, another member of the Executive Council or the Chief Administrative Officer of the Tsawwassen Government is hereby authorized on behalf of Tsawwassen First Nation
- (a) to carry out on the effective day all the duties, functions and obligations of Tsawwassen First Nation that
    - (i) are set out in Chapter 4 [*Lands*] and Chapter 5 [*Land Title*] of the final agreement, and
    - (ii) pertain to the subject matter set out in Appendices D-1 through D-7 of the final agreement,
  - (b) without prejudice to the generality of paragraph (a), to execute the instruments and other documents pertaining to the subject matter set out in Appendices D-1 through D-7 of the final agreement, and
  - (c) to appoint an approving officer for Tsawwassen Lands to act in that capacity under
    - (i) the *Land Title Act* (British Columbia), or
    - (ii) another enactment, whether of British Columbia or of Tsawwassen First Nation, under which an approving officer has powers, duties or obligations.

**Process when ineligible person holds Tsawwassen Fee Simple Interest**

- 12** (1) If, by court order or operation of law, a person other than one who may hold a Tsawwassen Fee Simple Interest lawfully under this Act becomes the holder of a Tsawwassen Fee Simple Interest, that holder, nevertheless,
- (a) may continue to hold that Tsawwassen Fee Simple Interest, but for no longer than

- (i) a period of 2 years after the date on which that person becomes the holder, or
    - (ii) 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 further period, if any, specified under paragraph (a) (ii), must dispose of that interest to a person referred to in section 16 (1).
- (2) If a Tsawwassen Member who holds a Tsawwassen Fee Simple Interest relinquishes his or her membership in Tsawwassen First Nation, he or she, nevertheless,
- (a) may continue to hold that interest, but for no longer than
    - (i) a period of 2 years after the date on which he or she relinquishes the membership, or
    - (ii) 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 further period, if any, specified under paragraph (a) (ii), must dispose of that interest to a person referred to in section 16 (1).
- (3) A Tsawwassen Fee Simple Interest, referred to in subsection (2), held by a Tsawwassen member reverts to Tsawwassen First Nation immediately after the end of that 2 year period or further period, as the case may be, if that member has not complied with subsection (2) (b) during that period.
- (4) Any reversion of a Tsawwassen Fee Simple Interest of Tsawwassen Lands pursuant to subsection (3) will be subject to any right, title or interest in or to such Tsawwassen Lands existing at the time of such reversion.

[Amended by Bill 005-2010; Enacted on November 16, 2010]

### **Restrictions on lease length**

- 13**
- (1) A holder of a Tsawwassen Fee Simple Interest must not lease that interest to any lessee for a period longer than 99 years, including in that period the term of the lease and the term or terms of any renewal or renewals of the lease.
  - (2) A lease for a period longer than as described in subsection (1) is void.
  - (3) Tsawwassen First Nation must not lease a parcel of Tsawwassen 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, 49 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.

[Amended by Bill 005-2010; Enacted on November 16, 2010]

- (5) For the purposes of this section 13, the potential mandatory five year renewal term set out in section 210 (4) of the *Strata Property Act* (British Columbia), as

amended from time to time, will not be counted in the determination of the term of a lease.

- (6) For the purposes of this section 13, at the time of the renewal of any subsisting lease, the term and subsequent renewal rights will be determined as of the time of such renewal, without regard to the previous part of the term of such lease.

[Amended by Bill 003-2013; Enacted on June 27, 2013]

### **Division 3 – Exceptions and Reservations Applicable to Tsawwassen Lands**

#### **Exceptions and reservations for Tsawwassen Lands dispositions**

- 14** (1) A disposition of Tsawwassen Lands
- (a) excepts and reserves the following interests, rights, privileges and titles:
    - (i) a right in the Tsawwassen Government, or any person acting for it to resume any part of the land that is deemed to be necessary by the Tsawwassen 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) a right in the Tsawwassen 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
      - (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, paying reasonable compensation for the raising, getting and use;
    - (iii) a right in any person authorized by the Tsawwassen 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, paying a reasonable compensation to the grantee and the grantee's successors and assigns;
    - (iv) a right in any person authorized by the Tsawwassen 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,
  - (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**

- 15**
- (1) Section 14 applies whether or not express words are used in the instrument of disposition.
  - (2) However, a disposition of Tsawwassen Lands, by express words, may except or reserve to the Tsawwassen Government rights and privileges more extensive than those referred to in section 14.
  - (3) For all purposes, including section 23 of the *Land Title Act* (British Columbia), every disposition of Tsawwassen Land is conclusively deemed to contain express words making the exceptions and reservations referred to in section 14 of this Act.
  - (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 Tsawwassen 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 Tsawwassen Government’s undertaking, and
    - (c) section 218 of the *Land Title Act* (British Columbia) applies.
  - (5) A disposition of Tsawwassen Lands conveys no right or title to, or interest in, riparian rights, as defined in common law.

**Division 4 – Who May Apply for and Hold Tsawwassen Public Land Interests**

**Persons eligible to apply for and hold Tsawwassen Fee Simple Interest**

- 16**
- (1) Only the following persons are eligible to apply under section 19 (1) for a Tsawwassen Fee Simple Interest in Tsawwassen Public Lands:
    - (a) a Tsawwassen Member of the age of 19 years or over;
    - (b) a person acting as trustee or in another official capacity for a Tsawwassen Member
    - (c) a Tsawwassen Public Institution, as defined in Chapter 1 [*Definitions*] of the final agreement;
    - (d) a Tsawwassen Corporation, as defined in Chapter 1 [*Definitions*] of the final agreement, or a Tsawwassen Partnership;
- [Amended by Bill 003-2013; Enacted on June 27, 2013]
- (e) any
    - (i) person, or
    - (ii) 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 Tsawwassen Public Lands that was the subject of the application until such time as the person ceases to be eligible under subsection (1).

*[Amended by Bill 002-2024; Enacted on March 14, 2024]*

#### **Prohibition against disposition of Tsawwassen Fee Simple Interest to ineligible persons**

- 17** (1) A person who holds a Tsawwassen Fee Simple Interest must not transfer of that interest to a person other than
- (a) a person who under section 16 may hold such an interest, or
  - (b) Tsawwassen First Nation.

*[Amended by Bill 005-2010; Enacted on November 16, 2010]*

- (2) A disposition of a Tsawwassen Fee Simple Interest is void if made to a person other than one referred to in subsection (1) (a) or to Tsawwassen First Nation.
- (3) Nothing contained in subsection (1) or (2) will prevent any person who holds a Tsawwassen Fee Simple Interest in any Tsawwassen Lands in accordance with this Act from disposing of any interests in such Tsawwassen Lands, including but not limited to the following:
  - (a) a mortgage;
  - (b) a lease;
  - (c) a right of way;
  - (d) a statutory right of way;
  - (e) an easement;
  - (f) a licence of occupation;
  - (g) a permit of occupation.

*[Amended by Bill 005-2010; Enacted on November 16, 2010]*

- (4) A person who holds a Tsawwassen Fee Simple Interest in any Tsawwassen Lands in accordance with this Act may, when disposing of an interest in such Tsawwassen Lands pursuant to subsections 17(3) (b), (e), (f) or (g), grant that interest to itself or themselves in the same manner as to another person.

*[Amended by Bill 002-2024; Enacted on March 14, 2024]*

#### **Persons eligible to apply for Tsawwassen Public Lands or Other Tsawwassen Lands**

- 18** (1) Only the following persons are eligible to apply under section 20 for an interest in Tsawwassen Public Lands or Other Tsawwassen Lands:
- (a) a person of the age of 19 or over;
  - (b) a person acting as trustee or in another official capacity for a person
    - (i) under the age of 19 years, or
    - (ii) incapable of managing his or her own affairs;
  - (c) a corporation;
  - (d) a Tsawwassen Public Institution, as defined in Chapter 1 *[Definitions]* of the final agreement;
  - (e) a Tsawwassen Corporation, as defined in Chapter 1 *[Definitions]* of the final agreement;

- (f) British Columbia;
  - (g) Canada;
  - (h) any
    - (i) person, or
    - (ii) 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 Tsawwassen Public Lands or Other Tsawwassen Lands that was the subject of the application.

## **Division 5 – Applications for Land**

### **Application for Tsawwassen Fee Simple Interest**

- 19** (1) A person eligible under section 16 may apply to the Executive Council for a Tsawwassen Fee Simple Interest in Tsawwassen Public Lands if Tsawwassen Fee Simple Interests in those lands, by regulation prescribed by the Executive Council, are made available for conveyance to persons eligible under that section.
- (2) An application referred to in subsection (1) must be
- (a) made in the form and have the content specified by resolution of the Executive Council, and
  - (b) accompanied by the application fee prescribed by regulation of the Executive Council.
- (3) The Executive Council
- (a) must approve an application referred to in subsection (1) if the application
    - (i) requires community approval under section 51, and
    - (ii) receives that approval, and
  - (b) may approve an application referred to in subsection (1) that does not require community approval under section 51.
- (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 Tsawwassen Fee Simple Interest that is the subject of the application.

### **Application for Tsawwassen Public Lands or Other Tsawwassen Lands**

- 20** (1) A person eligible under section 18 may apply to the Executive Council for an interest in
- (a) Tsawwassen Public Lands, or
  - (b) Other Tsawwassen Lands
- if interests in those lands, by regulation of the Executive Council, are made available for disposition to persons eligible under that section.
- (2) An application referred to in subsection (1) must be
- (a) made in the form and have the content specified by resolution of the Executive Council, and
  - (b) accompanied by the application fee prescribed by regulation of the Executive Council.



- (3) The Executive Council
  - (a) must approve an application referred to in subsection (1) if the application
    - (i) requires community approval under section 51, and
    - (ii) receives that approval, and
  - (b) may approve an application referred to in subsection (1) that does not require community approval under section 51.
- (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 of the Executive Council, it must grant to the applicant the interest in Tsawwassen Public Lands, or in Other Tsawwassen Lands, that is the subject of the application.

**Discretion to refuse application if incomplete or land reserved or withdrawn**

- 21** Despite sections 19 and 20, the Executive Council may refuse to receive an application under this Division if
- (a) the application is incomplete, or
  - (b) the land concerned is reserved or withdrawn from disposition.

**Public notice of application for interest in Tsawwassen Public Lands or Other Tsawwassen Lands**

- 22**
- (1) An applicant for an interest in Tsawwassen Public Lands or Other Tsawwassen 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 “Tsawwassen Land Act: Notice of Intention to Apply for an Interest in Tsawwassen Public Lands or Other Tsawwassen Lands” 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
    - (e) be signed by the applicant or an agent of the applicant.
  - (3) The applicant must
    - (a) publish the notice in Tsawwassen First Nation’s newsletter (the “TFN Community Notice”),
    - (b) post the notice at the administration offices of Tsawwassen First Nation, and
    - (c) provide to the director proof of both the publication and the posting.

**Feasibility studies, etc., and costs**

- 23**
- (1) The director may require an applicant under section 19 or 20 to obtain and file with the director at the applicant’s expense one or more of the following:
    - (a) feasibility studies;
    - (b) environmental assessments;
    - (c) land valuation appraisals;

- (d) other information about the application required by the director or the Executive Council.
- (2) If an application for an interest in Tsawwassen Public Lands or Other Tsawwassen Lands is made, the director may
  - (a) estimate the cost to the Tsawwassen Government of either or both of the following if the application is approved:
    - (i) assessing the potential impact of disposing of the interest;
    - (ii) monitoring compliance with the requirements of the instrument of disposition, and
  - (b) require the applicant to pay to the Tsawwassen Government all or part of that estimated cost before the application is considered or the disposition made.
- (3) The director, 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 considers that the refund is warranted in that case due to special circumstances.

**Security may be required**

- 24** (1) The director may require an applicant under section 19 or 20 to deposit with the Tsawwassen Government a bond or other form of security for the performance and completion by the applicant of one or more of the requirements under section 23.
- (2) The bond or other form of security required under subsection (1) must be payable to the Tsawwassen Government for the amount, and on the terms, as may be reasonably required by the director.

**Interest on outstanding balance of costs**

- 25** Unless otherwise expressly stated by the Executive Council, interest is to be charged on the outstanding balance of the costs referred to in section 23 (2) at the rate prescribed by the Executive Council on any deferred or past due payment for any
  - (a) disposition of Tsawwassen Public Lands or Other Tsawwassen Lands,
  - (b) lease, right of way, easement, licence of occupation or royalty, or
  - (c) survey carried out for a disposition of Tsawwassen Public Lands or Other Tsawwassen Lands.

**Affidavit may be required**

- 26** The director may require an applicant under section 19 or 20 to provide proof, by affidavit, or other means approved by the director, of any matter connected with the application, including the applicant's financial capacity.

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

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

- 27** (1) If an application for an interest in Tsawwassen 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, or
  - (b) the Executive Council considers the disposition not to be in the interest of Tsawwassen First Nation, on the basis of information
    - (i) disclosed by the completed survey,
    - (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 subsection (1) (b) disallows an application, the Tsawwassen 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**

- 28 The Executive Council by order may
- (a) amend or correct
    - (i) a disposition made by Tsawwassen First Nation under this Act, or
    - (ii) an approval by Tsawwassen First Nation of a disposition given under this Act,
  - (b) disallow an application for a Tsawwassen Fee Simple Interest made under Division 5 of Part 3, or
  - (c) cancel a disposition by Tsawwassen First Nation of a Tsawwassen Fee Simple Interest made under that Division
- if the Executive Council determines that
- (d) 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,
  - (e) the land is not available for disposition pursuant to section 19 or 20 of this Act, or
  - (f) the survey of the land is incorrect.

*[Amended by Bill 005-2010; Enacted on November 16, 2010]*

**Consequences of amendments, disallowances and cancellations of land dispositions**

- 29
- (1) If under section 28 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.
  - (2) If under section 28 the Executive Council disallows an application made under Division 5 of Part 3, the Executive Council may
    - (a) reimburse the applicant for all or part of the money paid on the application,
    - (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 28 the Executive Council cancels a disposition,
    - (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 Tsawwassen First Nation, and

- (c) the Executive Council may do one or more of the following:
  - (i) reimburse the disposition holder for all or part of the money paid for or under the disposition;
  - (ii) reimburse the disposition holder for the disposition holder's survey costs;
  - (iii) pay to the disposition holder fair compensation as may be determined by the Executive Council.
- (4) If a disposition that is amended, corrected or cancelled under section 28 is a disposition that is registered in the land title office,
  - (a) the Executive Council must deposit a copy of the relevant order under section 28 in the land title office, and
  - (b) the registrar must amend or cancel the registration on receipt of the order.

**Judicial Council may review order under section 28**

- 30** (1) A person who is affected by an order of the Executive Council under section 28 may apply to the Judicial Council for a review of that order, including a review of whether any compensation paid under section 29 (2) (c) is fair.
- (2) As soon as practicable after receipt of the application, the Judicial Council must conduct the review applied for, and by order may
- (a) reverse or modify the order, with or without conditions, or
  - (b) confirm the order.
- (3) As soon as practicable after completion of the review, the director 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.

**Repealed**

**31** *[Repealed by Bill 005-2010; Enacted on November 16, 2010]*

**Repealed**

**32** *[Repealed by Bill 005-2010; Enacted on November 16, 2010]*

**Abandonment of disposition**

- 33** (1) A person holding a disposition under this Act may abandon and terminate the disposition by giving written notice to the director.
- (2) On abandonment and termination of a disposition under subsection (1)
- (a) all improvements to the land become the property of Tsawwassen First Nation, and
  - (b) all money paid for or under the terms of the disposition is forfeited to Tsawwassen First 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 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 must keep a record of the written notice under subsection (1).

**Debts payable on cancelled disposition**

- 34** (1) Unless the Executive Council otherwise directs, the former holder of a disposition that is cancelled or abandoned and terminated under this Act must
- (a) pay all money remaining due under the disposition, and
  - (b) perform all terms, covenants and stipulations of the disposition.
- (2) Money remaining due to Tsawwassen First Nation on a cancelled or abandoned and terminated disposition is recoverable by Tsawwassen First Nation as a debt due to it.

**PART 5 – TRESPASS ON TSAWWASSEN LANDS**

**Trespass – certain actions by Executive Council**

- 35** (1) If a person trespasses on Tsawwassen Public Land, the Executive Council on written notice to the person 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;
  - (c) require the person to pay to Tsawwassen First 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 land
 that was comprised in or associated with the trespass;
  - (d) require the person to pay to Tsawwassen First Nation a sum of money considered by the Executive Council as being the reasonable costs or estimated costs incurred or to be incurred by Tsawwassen First Nation to restore the land to a condition satisfactory to the director;
  - (e) require the person to remove, to the satisfaction of the director and within a period specified by the director, any improvements made by or on behalf of the person on the Tsawwassen Public Lands;
  - (f) instruct and authorize the director to seize, on behalf of Tsawwassen First Nation, any goods or other materials left by the person on the Tsawwassen Public Lands;
  - (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 to remove the improvements at the person’s cost.
- (2) Money required to be paid to Tsawwassen First Nation by a person under this section is recoverable by Tsawwassen First Nation as a debt due to it.

### **Requirements for written notice under section 35**

- 36** A written notice under section 35
- (a) must state
    - (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 section 35 (1), and
    - (iii) if applicable, the date by which the person must comply with a requirement of the Executive Council under section 35,
  - (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 Tsawwassen 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**

- 37**
- (1) Any improvements removed or goods or other materials seized under section 35 become the property of Tsawwassen First Nation.
  - (2) The Executive Council may authorize the improvements, goods or other materials to be sold, rented, removed or destroyed by the director.

### **Review of actions taken by Executive Council under section 35**

- 38**
- (1) A person who is adversely affected by an action taken by the Executive Council under section 35 may apply to the Judicial Council for a review of the order.
  - (2) As soon as practicable after receipt of the application, the Judicial Council must conduct the review applied for, and by order may
    - (a) reverse or modify the action taken, with or without conditions, or
    - (b) confirm the action taken.
  - (3) As soon as practicable after completion of the review, the director 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.

### **Trespass offences**

- 39** A person who without lawful authority
- (a) occupies or possesses Tsawwassen Public Lands,
  - (b) damages Tsawwassen Lands or improvements on Tsawwassen Public Lands,
  - (c) harvests, extracts or damages forest resources, mineral resources, fish, migratory birds or other wildlife on Tsawwassen Public Lands,

- (d) interferes with the lawfully authorized use, occupation or possession of Tsawwassen Public Lands,
- (e) constructs a building, structure, enclosure or other works on Tsawwassen Public Lands,
- (f) excavates Tsawwassen Public Lands,
- (g) throws, deposits or in any way causes to be placed on Tsawwassen Public Lands any glass, metal, garbage, soil or other material,
- (h) abandons any vehicle or vessel on Tsawwassen Public Lands,
- (i) interferes with or removes a sign erected by, on behalf of or with the authority of the Tsawwassen Government on Tsawwassen Public Lands,
- (j) uses a designated area of Tsawwassen Public Lands contrary to a regulation made under this Act, or
- (k) fails to comply with a requirement set out in any of paragraphs (a) to (e) of section 35 (1)

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.

#### **Offence by directors and officers**

- 40** If a corporation commits an offence under section 39, a director or officer of the corporation who authorizes, permits or acquiesces in the offence also commits the offence.

#### **Civil liability for trespass offences**

- 41** A person who contravenes section 39, or who directs or causes another person to do anything that is a contravention of section 39, is liable to compensate Tsawwassen First Nation or the person against whom the offence is committed, as the case may be, for loss or damage suffered by Tsawwassen First Nation or that person because of the contravention.

#### **Powers ancillary to those given under section 35**

- 42** The powers under section 35 given to the Executive Council or the director 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, as the case may be.

## **PART 5A – OWNER, MANAGEMENT AND USE OF TFN LANDS**

### **Definitions**

- 42.1** In this Part:

“**occupant**” includes a user or holder of a Tsawwassen Fee Simple Interest; 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.

[Amended by Bill 005-2012; Enacted on November 21, 2012]

### **Limitations on proceedings and liabilities**

- 42.2** (1) Subject to subsection (2), no proceeding may be brought against the Tsawwassen First Nation, including the Tsawwassen Government, in relation to the discharge or purported discharge of its responsibilities of either a legislative or executive 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 Tsawwassen Lands.
- (2) To the extent of any inconsistency with this Act, the *Occupiers' Liability Act*, RSBC 1996, c. 337, as amended from time to time, shall not apply to the Tsawwassen Government or in relation to the ownership, management and use of Tsawwassen Lands.
- (3) For greater certainty, no person
- (a) who has acquired a right to occupancy or use from the Tsawwassen Government;
  - (b) who exercises or purports to exercise an interest in Tsawwassen Lands, including a holder of a Tsawwassen Fee Simple Interest; or
  - (c) who is present on Tsawwassen Lands for any reason
- may bring any proceeding against the Tsawwassen First Nation or the Tsawwassen Government arising from its exercise or purported exercise of powers, duties and responsibilities in relation to the ownership, management and use of Tsawwassen Lands, except as may be otherwise provided in a lease agreement.

[Amended by Bill 005-2012; Enacted on November 21, 2012]

### **Duty of Care**

- 42.3** The Tsawwassen 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.

### **Trespass**

- 42.4** A person who is trespassing on premises owned or leased by the Tsawwassen Government is deemed to have willingly assumed all risks and the Tsawwassen Government is subject only to the duty of care set out in section 42.3.

[Amended by Bill 005-2012; Enacted on November 21, 2012]

### **Recreational Users of Tsawwassen Lands**

- 42.5** (1) A person who has entered lands owned or leased by the Tsawwassen Government 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 Tsawwassen Government is subject only to the duty of care set out in section 42.3, unless the Tsawwassen Government receives payment or other consideration for allowing that recreational activity.



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

[Amended by Bill 005-2012; Enacted on November 21, 2012]

#### **Contamination of Tsawwassen Lands**

- 42.6**
- (1) Any person who knowingly or otherwise deposits on Tsawwassen Lands hazardous waste, as defined pursuant to the British Columbia *Environmental Management Act*, shall be strictly liable to the Tsawwassen Government for any damages, including clean-up costs, resulting from such deposit.
  - (2) For greater certainty, an occupant of Tsawwassen Lands shall be strictly liable to the Tsawwassen Government for any damages, including clean-up costs, resulting from such deposit.
  - (3) Any person who has contaminated or contributed to the contamination of Tsawwassen Lands, including past or present occupants of Tsawwassen Lands and producers or transporters of the contaminants, shall be strictly liable to the Tsawwassen Government for all costs of inspection and remediation.

[Amended by Bill 005-2012; Enacted on November 21, 2012]

#### **Roads and pathways**

- 42.7**
- (1) Subject only to the duty of care set out in section 42.3, no proceeding shall be brought against Tsawwassen First Nation, including the Tsawwassen Government, in relation to damages or injuries incurred by any person as a result of the use of any road or pathway on Tsawwassen Lands.
  - (2) For purposes of subsection (1), “road” shall be defined to include a local road, a private roads on a local road, a local boundary road, a Tsawwassen road, a road allowance and a Crown corridor, as these terms are defined in the Final Agreement.

[Amended by Bill 005-2012; Enacted on November 21, 2012]

#### **Tsawwassen Works**

- 42.8**
- (1) Subject only to the duty of care set out in section 42.3, no proceeding shall be brought against the Tsawwassen First Nation, including the Tsawwassen Government, for damages or injuries arising from the management or operation of Tsawwassen works on Tsawwassen Lands.
  - (2) For purposes of subsection (1), “Tsawwassen 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 Tsawwassen Government.

[Amended by Bill 005-2012; Enacted on November 21, 2012]

#### **Floods**

- 42.9**
- (1) Any person who makes an alteration to Tsawwassen 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 Tsawwassen First Nation, including the Tsawwassen Government, for any damages that may result.

- (2) Subject only to the duty of care set out in section 42.3, no proceeding may be brought against the Tsawwassen First Nation, including the Tsawwassen Government, for damages or injuries incurred by any person, including an occupant, arising from flooding on Tsawwassen Land.

[Amended by Bill 005-2012; Enacted on November 21, 2012]

#### **Land instability**

- 42.10** (1) No person shall make an alteration to Tsawwassen 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.

[Amended by Bill 005-2012; Enacted on November 21, 2012]

## **PART 6 – EXPROPRIATION OF ESTATES OR INTERESTS IN TSAWWASSEN LANDS**

#### **Definitions for this Part**

**43** 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
- (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**

- 44** (1) Except for an estate or interest that under the final agreement is exempt from expropriation, the Tsawwassen Government may expropriate an estate or interest in Tsawwassen Lands.
- (2) An expropriation under this Part must be
- (a) of the smallest estate or interest necessary,
  - (b) for the use of

- (i) Tsawwassen First Nation,
  - (ii) a Tsawwassen Public Institution, as defined in Chapter 1 *[Definitions]* of the final agreement,
  - (iii) a Tsawwassen Corporation, as defined in Chapter 1 *[Definitions]* of the final agreement, or
  - (iv) an agent of Tsawwassen First Nation,
- (c) necessary for public purposes, including community purposes for public works, and
- (d) carried out with the prior consent of the Executive Council.

**Public report to justify intended expropriation**

- 45** Before the Tsawwassen 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**

- 46** The Tsawwassen 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**

- 47** The power under this Part to expropriate an estate or interest in Tsawwassen 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**

- 48** (1) For an expropriation under this Part, the Tsawwassen Government must provide fair compensation to the owner of the estate or interest expropriated, based on
- (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 Tsawwassen 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 Tsawwassen Government must pay to the owner the amount determined under subsection (2).

**Review by Judicial Council as to amount of compensation**

- 49** (1) An owner of an estate or interest expropriated under this Part may apply to the Judicial Council for a review respecting the amount of the compensation determined under section 48.

- (2) As soon as practicable after receipt of the application, the Judicial Council must conduct the review applied for, and, after considering
  - (a) the appraisal made by the qualified land appraiser appointed under section 48 (2) (a) or (b), and
  - (b) any further evidence provided by the parties as to the value of the expropriated estate or interest,
 the Judicial Council by order may vary or confirm the amount of the compensation determined under section 48.
- (3) As soon as practicable after completion of the review, the director 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).

## **PART 7 – COMMUNITY APPROVAL**

### **Eligible Voter defined**

- 50** In this Part, Part 8 and section 64, “**Eligible Voter**” means a Tsawwassen Member of age 18 years or over.

### **Requirement for Tsawwassen community meetings to consider land measures**

- 51** (1) The Executive Council must hold a community meeting of Tsawwassen Members for the purpose of seeking the approval of Eligible Voters to any of the following measures proposed by the Executive Council:
- (a) a disposition of a leasehold interest in, or a licence of occupation of Tsawwassen Public Lands or of Other Tsawwassen Lands for a term of more than 25 years;
  - (b) a renewal of a leasehold interest in, or a licence of occupation of, Tsawwassen Public Lands or of Other Tsawwassen Lands that extends the original term beyond 25 years;
  - (c) subject to subsection (2), a disposition of a Tsawwassen Fee Simple Interest in Tsawwassen Public Lands;
  - (d) a disposition by Tsawwassen First Nation of Other Tsawwassen Lands other than a disposition of such lands in fee simple that is carried out as part of, or to facilitate, a transaction for the acquisition by Tsawwassen First Nation of Rights of Refusal Lands;
  - (e) a disposition of an interest in natural resources in, on or under
    - (i) Tsawwassen Lands, or
    - (ii) Other Tsawwassen Lands
 for a term of more than 5 years;
  - (f) an acquisition of new lands other than Rights of Refusal Lands.
- (2) Community approval is not required for a disposition of a Tsawwassen Fee Simple Interest in a parcel of Tsawwassen Public Lands to a Tsawwassen Member, if the disposition is subject to all of the following conditions:

- (a) that a single family residence be constructed on the parcel for occupation by that member and his or her family, if any;
  - (b) 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 of the Executive Council;
  - (c) that the member 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 of the Executive Council;
  - (d) that the Tsawwassen Fee Simple Interest reverts to Tsawwassen First Nation if the parcel ceases to be used for the purpose of a single family residence by a Tsawwassen Member and his or her family, if any.
- (3) Community approval is not required for a disposition of a Tsawwassen Fee Simple Interest in a parcel of Tsawwassen Public Lands to a Tsawwassen Corporation or a Tsawwassen Partnership if the community has previously approved of the disposition of a leasehold interest in such parcel of Tsawwassen Public Lands to an applicant pursuant to subsection (1) (a) or (1) (b), as the case may be, and the disposition is made on the condition that the land use of the Tsawwassen Fee Simple Interest must be consistent with that identified in such community approval.
- (4) A Tsawwassen Fee Simple Interest granted to a Tsawwassen Corporation or Tsawwassen Partnership pursuant to subsection (3) reverts to Tsawwassen First Nation at the end of the term of the leasehold interest granted by the Tsawwassen Corporation or Tsawwassen Partnership referred to in subsection (3), including any renewals thereof.
- (5) Any reversion of a Tsawwassen Fee Simple Interest of Tsawwassen Lands pursuant to subsection (4) will be subject to any right, title or interest in or to such Tsawwassen Lands existing at the time of such reversion.

*[Amended by Bill 003-2013; Enacted on June 27, 2013]*

**Proposed measure requires majority vote**

- 52** A measure referred to in section 51 (1) is carried at a community meeting of Tsawwassen Members held to consider the measure if it is approved by a majority of Eligible Voters present in person at the meeting.

**Notice of Tsawwassen community meetings**

- 53** (1) The Executive Council must provide written notice of a community meeting under section 51 by
- (a) posting the notice at the administration offices of Tsawwassen First Nation at least 21 days before the meeting,
  - (b) mailing the notice to Eligible Voters, and
  - (c) publishing the notice in the Tsawwassen First Nation’s newsletter (the “TFN Community Notice”) at least 10 business days before the meeting.
- (2) Without prejudice to subsection (1), the Executive Council may additionally give notice of a community meeting under section 51 in any other manner it considers to be appropriate.

- (3) A notice under this section must
  - (a) specify the date, time and place of the meeting, and
  - (b) include a brief description of the measure to be discussed and decided at the meeting.

**Permission for Non-Members to attend Tsawwassen community meetings**

- 54** The Executive Council, by resolution, may allow
- (a) Non-Members, and
  - (b) others identified in the resolution
- to attend at community meetings under section 51.

**Quorum**

- 55** The quorum for a Tsawwassen community meeting under section 51 is 10% of all Eligible Voters.

**Executive right to extend meeting period**

- 56** The Executive Council may schedule one or more additional meetings to discuss and decide a proposal under section 51 and the notice provisions of this Part apply in respect of the additional meeting or meetings, as the case may be.

**Consultation with Non-Members on matters affecting them**

- 57** (1) In this section:
- “**consult**” has the same meaning as “Consult” in Chapter 1 [*Definitions*] of the final agreement;
  - “**Tsawwassen Public Institution**” means a body, board, commission or any other similar entity, including a school board or health board, established by the Tsawwassen Government under clause 43.a of Chapter 16 [*Governance*] of the final agreement;
- (2) Each of the Tsawwassen Government and a Tsawwassen Public Institution will consult with Non-Members in respect of any of the government’s or institution’s decisions, as the case may be, that directly and significantly affects the Non-Members.

**Approval by mail-in balloting as alternative to approval at meeting**

- 58** Despite section 51, instead of holding a community meeting of Tsawwassen Members to seek the approval of Eligible Voters to one or more of the measures referred to in that section, the Executive Council may seek that approval by means of a mail-in balloting system established by regulation of the Executive Council.

**PART 8 – MANNER AND FORM OF AMENDING THIS ACT**

**Application**

- 59** This Part establishes the manner and form by which amendments to this Act are to be proposed.

### **Preparation of proposed amendments**

- 60** (1) The Executive Council must first prepare any proposals to amend this Act for approval by resolution of the Tsawwassen Legislature.
- (2) If the Tsawwassen Legislature approves the Executive Council's proposals for amendments to this Act, the Legislature must, if the amendments are not otherwise required to be the subject of a referendum, decide in its resolution whether to hold a vote of Eligible Voters on the proposed amendments.

### **Notice of and meeting about amendments**

- 61** If the Tsawwassen Legislature, by resolution, approves the amendments proposed by the Executive Council,
- (a) notice of the proposed amendments must be given in accordance with the regulations, and
  - (b) the proposed amendments must be discussed at a meeting of Tsawwassen members.

### **Procedure after meeting**

- 62** (1) After the meeting of Tsawwassen members to discuss proposed amendments to this Act, the Executive Council may decide whether to proceed with the amendment or not.
- (2) If The Executive Council decides to proceed with the proposed amendments, or any modifications to the amendments made with the approval of the Tsawwassen Legislature, then
- (a) if the amendments are required to be the subject of a referendum, the referendum must be conducted,
  - (b) if no referendum is required and the Tsawwassen Legislature requires a vote of the proposed amendments to be conducted, that vote must be conducted in accordance with the regulations, and
  - (c) if neither paragraph (a) nor (b) applies, the Executive Council may decide whether to introduce a Bill into the Tsawwassen Legislature respecting the proposed amendments.
- (3) If a vote of Eligible Voters, by referendum or otherwise,
- (a) approves the proposed amendments, a Bill may be introduced and passed in the Tsawwassen Legislature making the amendments, with minor technical or editorial modifications not affecting the substance of the amendments as may be required, or
  - (b) does not approve the proposed amendments, no Bill containing the amendments proposed may be tabled in the Tsawwassen Legislature in the current session of the Legislature.

### **Regulations for a vote**

- 63** (1) The Executive Council may make regulations
- (a) respecting the notice to be provided to Tsawwassen members about proposed changes to the identified provisions and where the notice must be posted,

- (b) respecting the distribution of and explanation of the proposed changes, and the collection and distribution of comments in favour of and opposed to the changes proposed,
  - (c) governing the location and date of meetings, how they are to be conducted, and who is to present information at them, and
  - (d) respecting the notice, calling, conduct and count of votes at a vote of Eligible Voters called to vote on proposed amendments.
- (2) As an alternative to a vote conducted under regulations made under subsection (1) (d), the Executive Council may conduct the vote in accordance with the *Government Organization Act*.

## **PART 9 – REGULATIONS**

### **Regulations**

- 64**
- (1) The Executive Council may make regulations it considers necessary or advisable for purposes under this Act.
  - (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 Act,
    - (b) prescribing any matter or thing referred to in this Act as prescribed or to be prescribed,
    - (c) defining words and expressions that are used but not defined in this Act, and
    - (d) generally for the purpose of giving effect to this Act.
  - (3) Without prejudice to the generality of subsection (1), the Executive Council may make regulations
    - (a) for the purpose of section 19,
      - (i) making Tsawwassen Fee Simple Interests 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,
    - (b) for the purpose of section 20,
      - (i) making interests in Tsawwassen Public Lands or in Other Tsawwassen 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,
    - (c) respecting the form and content of a certificate of transfer or of applications, notices, reports and other documents that are required or permitted under this Act,
    - (d) governing expropriation of estates or interests in Tsawwassen Lands,
    - (e) 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 Tsawwassen Lands or Other Tsawwassen Lands, or



- (ii) leases, licenses or other dispositions made by Tsawwassen First Nation under this Act,
- (f) respecting geographic names,
- (g) for the purposes on Tsawwassen Lands of the management, protection, preservation and conservation of the Environment, including but not limited to regulations respecting
  - (i) the prevention, mitigation and remediation of pollution and the degradation of the Environment,
  - (ii) waste management, including solid wastes and wastewater,
  - (iii) protection of local air quality, by means of standards that meet or exceed those set by the Greater Vancouver Regional District in bylaws in respect of the protection of local air quality, and
  - (iv) response to an environmental emergency,
- (h) for the purposes of section 58,
  - (i) establishing the system of mail in balloting,
  - (ii) prescribing the form and contents of the ballot,
  - (iii) respecting information to be included together with the ballot in mailing it to each Eligible Voter,
  - (iii) prescribing the time within which the ballots sent to Eligible Voters must be returned to the Executive Council in order to be counted, and
  - (iv) respecting notification of Eligible Voters as to the result of the ballot, and
- (i) respecting surveys of Tsawwassen Lands.

**Land exchange regulations and requirement for obtaining appraisals**

- 65** (1) Without prejudice to the generality of section 64 (1), the Executive Council may make regulations governing an exchange of Tsawwassen Public Lands for a Tsawwassen Fee Simple Interest.
- (2) Without prejudice to the generality of section 64 (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 Tsawwassen First Nation in the exchange, or
    - (ii) the lands, together with any other consideration, to be received by Tsawwassen First Nation in the exchange,
 as the case may be, are of a 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
  - (b) defining “value” for the purposes of the exchange.
- (3) Before completion of an exchange referred to in subsection (1), the Executive Council must obtain a current appraisal of the value of the lands involved in the exchange, prepared by a qualified land appraiser appointed

- (a) by agreement between the Executive Council and the owner of the Tsawwassen Fee Simple Interest exchanged, or
- (b) the Judicial Council if the Executive Council and that owner are unable to agree on an appraiser within 60 days.

**Included powers for regulations**

- 66** A power conferred under this Act 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**

- 67** The Tsawwassen First Nation Land Code, adopted in accordance with The Framework Agreement on First Nation Land Management, dated September 20, 2003 is repealed.

**Interpretation**

- 68** The *Interpretation Act* (British Columbia) applies to this Act and the regulations, unless the context or another Tsawwassen enactment otherwise requires.

**Commencement**

- 69** This Act comes into force on the date of its enactment by the Tsawwassen Legislature.