



TSAWWASSEN FIRST NATION
s'cəwaθən məsteyəx^w

Land Act

PROPOSED LAND MEASURES REGULATION (2015)

Date Enacted: 29 April 2015

Order Number: O.023-2015

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Citation

- 1 This regulation may be cited as the *Proposed Land Measures Regulation (2015)*.

Definitions

- 2 (1) In this regulation:
 - “**Act**” means the *Land Act* (Tsawwassen);
 - “**appointee**” means an election clerk appointed by the electoral officer;
 - “**ballot question**” means a question asking eligible voters to approve or reject a proposed land measure;
 - “**electoral officer**” means the individual designated by Executive Council as responsible for administering the vote;
 - “**eligible voter**” means a Tsawwassen Member of age 18 years or over;
 - “**identification envelope**” means the envelope that is referred to in section 11 (d);
 - “**list of eligible voters**” means a list of all individuals who are eligible to vote as of the voting day;
 - “**peace officer**” means persons employed or engaged for the preservation and maintenance of the public peace at the election; and
 - “**proposed land measure**” means a land measure proposed by the Executive Council that is listed in section 51 (1) of the Act.
- (2) Unless specifically provided otherwise in this regulation, other terms used have the same meanings as in the Act.

Application

- 3 This regulation applies where the Executive Council seeks the approval of a proposed land measure by vote that provides eligible voters the opportunity to vote by mail-in ballot, as set out under section 58 of the Act.

Voting stations

- 4 Where Executive Council decides to seek the approval of a proposed land measure by mail-in ballot, Executive Council may, in addition to the opportunity to vote by mail-in ballot, provide the opportunity for eligible voters to vote in person at a designated voting station.

Notice of vote

- 5 (1) The Executive Council must provide written notice of the vote on a proposed land measure at least 30 days before the vote by
 - (a) posting the notice at the administration offices of Tsawwassen First Nation;
 - (b) mailing the notice to eligible voters; and
 - (c) publishing the notice in the Tsawwassen First Nation Community Newsletter.
- (2) A notice under this section must
 - (a) specify the voting date and the location of any voting stations; and
 - (b) include a brief description of the measure to be decided by the vote.

Quorum and majority vote for proposed land measure

- 6 (1) A proposed land measure is carried at a vote of Tsawwassen Members if it is approved by a majority of eligible voters having voted by mail-in ballot or in person at a voting station.
- (2) The quorum for a vote held to consider a proposed land measure is 10% of all eligible voters.

Electoral officer's power to delegate

- 7 The electoral officer may delegate any of his or her responsibilities under this regulation to an appointee.

Procedure if a name is erroneously omitted from the list of eligible voters

- 8 A person whose name does not appear on the list of eligible voters will not be entitled to vote unless he or she can satisfy the electoral officer that their name has erroneously been omitted from the list by providing confirmation in writing from the enrolment registrar.

Eligible voters to provide identification

- 9 In order for an eligible voter to cast a ballot on the voting day, he or she must provide the electoral officer with satisfactory identification consisting of 1 or 2 pieces of information that separately or together, provides the name, signature, and address of the eligible voter, confirming the identity of the eligible voter.

Procedure if an eligible voter does not have identification

- 10 (1) Notwithstanding section 9, an eligible voter who is unable to produce the identification required by section 9 may be permitted to cast a ballot on voting day if both the identity and place of residence of the eligible voter are confirmed in accordance with subsection (2) by a voucher, who may be any of the following:
 - (a) a spouse, a parent, a grandparent, or an adult child, grandchild or sibling of the eligible voter;
 - (b) a person having legal management of the affairs of the eligible voter; or,
 - (c) another eligible voter who has produced the identification required by section 9.
- (2) The eligible voter and the voucher referred to in subsection (1) must each make a solemn declaration, in writing, in the form attached hereto as Schedule A [*Declaration of eligible voter's identity*], as to the eligible voter's identity and residence and the voucher's relationship to the eligible voter.

Contents of a mail-in ballot package

- 11 Mail-in ballot packages must include,
 - (a) a pre-folded ballot, initialled by the electoral officer,
 - (b) Schedule B [*Instructions for Mail-in Voting*] of this regulation,
 - (c) a secrecy envelope into which the ballot is placed,

- (d) an identification envelope into which the secrecy envelope will be placed and on which the information outlined in Schedule C [*Identification Envelope*] of this regulation is printed,
- (e) supporting information and documentation pertaining to the ballot question,
- (f) notice of the time, date and location of the vote, and
- (g) a prepaid return envelope.

Mail-in ballot package to be sent to eligible voters

- 12 The mail-in ballot package must be sent to all eligible voters at least 21 days in advance of a vote on a proposed land measure.

Lost mail-in ballot

- 13 If an eligible voter loses his or her mail-in ballot, he or she may request a replacement ballot from the electoral officer provided that the request is received by the electoral officer no later than 10 days before the vote.

Electoral officer's responsibilities for handling mail-in ballots

- 14 The electoral officer is responsible for the safe-guarding and safe-keeping of the mail-in ballots until such time as they are opened and processed in accordance with section 38 [*Ballot counting procedure*] and 39 [*Observing of ballot counting*] of this regulation.

Handling of mail-in ballots prior to the vote

- 15 Mail-in ballots may only be handled by the electoral officer and the electoral officer must, upon receipt of a mail-in ballot package, deposit its contents into a locked and sealed ballot box until the vote.

Handling of mail-in ballots received after the vote

- 16 If a mail-in ballot is received by the electoral officer after the close of the vote, the ballot is rejected and destroyed at the same time that all other ballots are destroyed.

Electoral officer's responsibilities at the voting station

- 17 At the voting station on the voting day the electoral officer must
- (a) verify the identification of an individual requesting to vote in accordance with section 9 [*Eligible voters to provide identification*] or section 10 [*Process if an eligible voter does not have identification*] and confirm that the name of that individual appears on the list of eligible voters,
 - (b) verify that the individual requesting to vote has not already voted in person, and
- provided that the requirements outlined in paragraph (a) and (b) are satisfied, the electoral officer must
- (c) provide the individual with a ballot, which is initialled by the electoral officer on the back of the ballot so that the initials can be seen when the ballot is folded,
 - (d) place a line through the name of every eligible voter who has a received ballot on the list of eligible voters, and

- (e) except in the case of an eligible voter requiring assistance, provide to each eligible voter Schedule D [*In-person voting instructions*] of this regulation and instruct the eligible voter to proceed immediately to the voting area.

Procedure upon receipt of a ballot

- 18 Upon receiving a marked ballot from an eligible voter on the voting day, the electoral officer must
 - (a) verify his or her initials on the ballot,
 - (b) hand the ballot back to the eligible voter, and
 - (c) witness the eligible voter depositing the ballot in a ballot box.

Procedure if ballot is spoiled in error

- 19 An eligible voter may exchange his or her ballot if that ballot has been spoiled due to an error.

Cancellation of erroneously spoiled ballots

- 20 If an eligible voter requests to exchange their ballot under section 19 [*Procedure if ballot is spoiled in error*], the electoral officer must keep the spoiled ballot, write the word “Cancelled” on that ballot, store it separately from all other ballots and issue a new ballot to the eligible voter.

Procedure if eligible voter refuses to vote

- 21 If an eligible voter who received a ballot refuses to vote, he or she will have been deemed to have forfeited his or her right to vote and the electoral officer must mark the word “Declined” on the list of eligible voters beside that person’s name.

Procedure if eligible voter leaves the voting station without returning their ballot

- 22 If an eligible voter leaves the voting station without returning his or her ballot, the electoral officer must
 - (a) mark beside the name of the person on the list of eligible voters that he or she left the voting station prior to returning the ballot, and
 - (b) in the event that he or she later returns the ballot, mark it “Declined” and deposit the ballot or allow the ballot to be deposited in the ballot box.

Process if eligible voter has a disability

- 23 An eligible voter with a disability may request special assistance from the electoral officer to mark his or her ballot.

Process if eligible voter’s affairs are under the legal management authority of another individual

- 24 An eligible voter whose affairs are under the legal management authority of another individual may be assisted in marking his or her ballot by the electoral officer.

Process if eligible voter is unable to attend the voting station on voting day

- 25 (1) The electoral officer may, upon request, retrieve a vote from an eligible voter who has a disability or is incapacitated and is therefore unable to attend the voting station on the voting day, provided that
 - (a) the eligible voter requesting assistance resides on Tsawwassen Lands, or

(b) within a reasonable distance from Tsawwassen Lands, as determined by the electoral officer.

(2) A person whose vote is cast in accordance with subsection (1) is deemed to have voted in person at the voting station.

Ballot boxes

26 The electoral officer must provide ballot boxes that are capable of being sealed to prevent tampering.

Voting booths

27 The electoral officer must

- (a) place voting booths in areas that are easily accessible and where the eligible voters can mark their ballots in secrecy without interference,
- (b) provide pencils or pens for eligible voters to mark their ballots, and
- (c) provide instructions for marking the ballots in the voting booth.

Appointment of peace officer

28 The electoral officer may appoint a peace officer to maintain order at the voting station.

Examination of mail-in ballot box

29 As soon as practicable after mail-in ballot packages are mailed to eligible voters in accordance with section 12, the electoral officer must ensure that the mail-in ballot box is examined by two witnesses, who shall

- (a) ensure that the box is empty;
- (b) view the sealing of the ballot box; and,
- (c) sign the document attached in Schedule E [*Certificate re: Sealing of Mail-in Ballot Box*] of this regulation confirming that the box was empty and sealed.

Examination of voting station ballot boxes

30 Prior to the opening of the in-person vote on voting day, the electoral officer must ensure that the voting station ballot boxes are examined by two witnesses, who shall

- (a) ensure that the boxes are empty;
- (b) view the sealing of the ballot boxes; and,
- (c) sign the document attached in Schedule F [*Certificate re: Sealing of Voting Station Ballot Boxes*] of this regulation confirming that the boxes were empty and sealed.

Ballot boxes to be sealed

31 The electoral office must ensure that all ballot boxes remain sealed in such a manner that they cannot be opened without breaking the seal for the duration of the vote.

Procedure at the close of the vote

32 Prior to the closing of the vote on the voting day, the electoral officer must appoint two witnesses to

- (a) verify that only eligible voters that were in the voting station at its closure were permitted to vote,
- (b) inspect the ballot boxes, including the mail-in ballot box, prior to their opening, and
- (c) certify that the seals of the ballot boxes are intact and that there is no evidence of tampering by signing Schedule G [*Certificate – Confirming Ballot Boxes Are Sealed And Not Tampered Prior To Opening The Boxes*] of this regulation.

Transfer of ballot boxes at the close of the vote

- 33 Immediately after the two witnesses have verified the ballot boxes and signed the certificate in Schedule G [*Certificate – Confirming Ballot Boxes Are Sealed And Not Tampered Prior To Opening The Boxes*] the electoral officer must
- (a) seal the ballot boxes such that no further ballots may be deposited in the ballot boxes,
 - (b) initial the respective seals, and
 - (c) transfer the sealed ballot boxes, including the mail-in ballot box, to the place identified for the counting of the ballots.

Declining mail-in ballots

- 34 Prior to the closing of the vote, the electoral officer may open the mail-in ballot box in the presence of two witnesses to verify that the information on the identification envelope has been duly completed and must mark any identification envelope that is either incomplete or incorrectly completed as “Declined”.

Reconciling of mail-in ballots with in-person ballots

- 35 Upon transferring the ballot boxes to the place identified for the counting of the ballots, if the list of eligible voters shows that a voter has voted in person the electoral officer must mark the mail-in ballot package of that eligible voter with the word “Cancelled” and store it separately from all other ballots .

Deposit of mail-in ballots into the ballot box

- 36 If a mail-in ballot is not cancelled under section 35 [*Reconciling of mail-in ballots with in-person ballots*] of this regulation, the electoral officer must place a mark on the list of eligible voters opposite the name of the voter set out on the ballot envelope, and after the seals referred to in section 33 (a) [*Transfer of ballot boxes at the close of the vote*] of this regulation have been removed, deposit the ballots in the ballot boxes.

Commencement of the ballot counting procedure

- 37 Once all of the mail-in ballots have either been cancelled or inserted into the ballot boxes, the electoral officer must commence the ballot counting procedure.

Ballot counting procedure

- 38 The electoral officer must open the ballot box and examine each ballot and reject those that
- (a) have not been initialed by the electoral officer,
 - (b) have been marked with “Declined”, or

- (c) contain a mark that may identify an eligible voter.

Observing of ballot counting

- 39 Persons residing on Tsawwassen Lands and the family members of a Tsawwassen Member not residing on Tsawwassen Lands may watch the counting of ballots.

Documentation and communication of results

- 40 The electoral officer must document the results of counting the ballots on Schedule H [*Official Statement of Results*] of this regulation and must communicate the results to the Membership as soon as is practicable after the vote.

Electoral officer's responsibilities after the vote

- 41 After completing Schedule H [*Official Statement of Results*], the electoral officer must
 - (a) post the results in the administration office,
 - (b) post the results on the Tsawwassen First Nation website,
 - (c) send a copy of the results to the chief administrative officer, and
 - (d) post the results in the Tsawwassen First Nation community newsletter.

Appeal of vote to Judicial Council

- 42 (1) Within 30 days after voting day, an eligible voter may appeal to Judicial Council the results of the vote on the grounds that:
 - (a) a Tsawwassen law or regulation was contravened and the contravention did or may have affected the outcome of the election, or
 - (b) a provincial or federal offence was committed, whether or not the offence is or was the subject of a prosecution, and the offence did or may have affected the outcome of the vote.
- (2) The appeal must be in writing, containing particulars and information supporting the appeal verified by a statutory declaration and filed with Judicial Council, with a deposit of \$150.
- (3) The appellant has the sole responsibility to provide relevant evidence in support of the appeal.
- (4) The grounds for the appeal must be stated clearly and precisely and include references to any relevant section of the Act or this regulation that is alleged to have been contravened or in respect of which an offence is alleged to have been committed.

Notice of appeal

- 43 (1) Judicial Council must as soon as possible after receiving an appeal of a vote, send a copy of the appeal and supporting documents to:
 - (a) the election officer; and
 - (b) Executive Council.
- (2) The election officer may, within 14 days of receipt of the appeal of the election, send to Judicial Council a written response, verified by statutory declaration, together with any supporting documents.

- (3) As soon as practicable after an appeal is received and after such consideration as it considers necessary, Judicial Council must make a decision on the appeal.
- (4) In its decision Judicial Council may
 - (a) dismiss the appeal; or
 - (b) declare the vote invalid and order a new vote on the proposed land measure.
- (5) If Judicial Council finds that the appeal was filed without just cause, or if the appeal is denied, the deposit paid to make the appeal is forfeited to Tsawwassen First Nation.
- (6) If Judicial Council finds that the appeal was filed with just cause, or if the appeal is upheld under subsection (4) (b), the deposit paid to make the appeal under section 42 (2) of this regulation must be returned to the appellant.
- (7) Judicial Council must provide a copy of its decision to the chief, Executive Council, the election officer and the appellant.
- (8) The decision of Judicial Council is final.

Inadvertent errors

- 44 No vote is to be declared invalid by reason of mistake or non-compliance with the Act or this regulation if, in the opinion of Judicial Council,
- (a) the non-compliance or mistake did not reasonably affect the final result of the election, and
 - (b) the election was otherwise conducted in accordance with the Act and this regulation.

Disposal of ballots and other voting materials

- 45
- (1) Following a vote, the electoral officer must retain all ballots and documents related to the vote in a secure location until they are disposed of.
 - (2) The disposal must not take place earlier than 45 days after the voting day, or if there is an appeal, 45 days after the appeal is conclusively resolved.
 - (3) The electoral officer may dispose of the ballots and documents related to the vote after a vote is conclusively resolved, but must ensure that the destruction of the ballots is conducted in the presence of two witnesses who must certify that they witnessed the destruction of the ballots by signing the certificate set out in Schedule I [*Disposal of Voting Materials*].

**SCHEDULE A
DECLARATION OF ELIGIBLE VOTER'S IDENTITY**

Declaration of Eligible Voter

I, _____ solemnly declare that:

1. I am a Tsawwassen Member;
2. My residential address is _____;
3. I am at least eighteen years of age; and,
4. I have not previously voted in this vote in person.

I make this solemn declaration conscientiously believing it to be true and knowing that it has the same force and effect as if made under oath. I understand that it is an offense to make a false statement in this declaration.

DECLARED BEFORE ME at the town/city)
of _____, Province of British)
Columbia, this ___ day of)
_____, 20___.) _____
) Signature of Eligible Voter
)
)
)
_____)
A Commissioner for taking Affidavits within)
British Columbia.)

Declaration of Voucher

I, _____ solemnly declare that:

1. The individual who made the above solemn declaration is _____ (the "eligible voter").
2. The eligible voter's residential address is _____;
3. The eligible voter is a Tsawwassen Member who is at least eighteen years of age; and,
4. I am entitled to vouch for the eligible voter because I am _____
(state relationship to eligible voter per section 10 (1) (a))

I make this solemn declaration conscientiously believing it to be true and knowing that it has the same force and effect as if made under oath. I understand that it is an offense to make a false statement in this declaration.

DECLARED BEFORE ME at the town/city)
of _____, Province of British)
Columbia, this ___ day of)
_____, 20___.) _____
) Signature of Voucher
)
)

_____))
A Commissioner for taking Affidavits within))
British Columbia.))

SCHEDULE B INSTRUCTIONS FOR MAIL-IN VOTING

Dear Member:

As per section 58 of the *Land Act*, the Executive Council has decided to hold a vote on a Proposed Land Measure that includes the opportunity to vote by mail-in ballot.

As a Tsawwassen Member, you are entitled to vote, provided you will be at least 18 years of age on the date of the vote.

To assist you in casting a vote, please find enclosed a mail-in voting package consisting of:

- a pre-folded ballot, initialled by the electoral officer,
- these instructions for mail-in voting,
- a secrecy envelope into which the ballot is placed,
- an identification envelope into which the secrecy envelope will be placed,
- supporting information and documentation pertaining to the ballot question,
- notice of the time, date and location of the vote, and
- a prepaid return envelope.

CAREFULLY FOLLOW THE STEPS BELOW TO ENSURE THAT YOUR BALLOT IS VALID AND WILL NOT BE REJECTED.

For each ballot question you will be asked to vote:

- **“yes”** if you approve of the proposed land measure, and
- **“no”** if you do not approve of the proposed land measure.

1. **Using an “x” mark only in the box beside “yes” or “no”**
2. Do not put any other mark on the ballot.
3. After marking the ballot, fold the ballot in the same way as you received it, so that the Electoral Officer’s initials on the back are visible.
4. Place the ballot into the “secrecy envelope”. Seal the envelope.
5. Place the secrecy envelope into the “identification envelope”. Seal the envelope.
6. Complete the information form printed on the front of the identification envelope. **Ensure you have completed it correctly, or your ballot will be rejected.**
7. Place the completed and signed identification envelope in the larger, postage-paid pre-addressed return envelope and seal the envelope.
8. You may return the envelope to the Electoral Officer by any one of following three ways:

- (a) return by mail or hand delivery as soon as possible to 1926 Tsawwassen Drive, Tsawwassen, BC, V4M 4G2;
- (b) hand deliver to the voting station on voting day yourself, or by an individual in a sealed mail-in package; or,
- (c) deliver by courier.

Your ballot must be received by TFN no later than 8 p.m. on voting day in order to be counted.

Note that any ballot received after the close of the vote on _____, 20____ **will not be opened or processed.**

In order for your ballot to be counted, you must have SIGNED and CORRECTLY COMPLETED the information on the identification envelope.

Although you have received this mail-in voting package, you may choose to vote on the voting day in person at the voting station whose locations are/is indicated in the accompanying package and on the TFN website. If you submit a mail-in ballot and vote in person at the voting station, then your mail-in ballot will not be opened or processed.

If you have any questions, please do not hesitate to contact me at _____

Yours truly,

Electoral Officer

**SCHEDULE C
IDENTIFICATION ENVELOPE**

VOTER DECLARATION FOR THE MAIL-IN BALLOT

I, _____ DECLARE THAT:
(Print name of eligible voter)

1. I am a Tsawwassen Member;
2. I am at least eighteen years of age; and,
3. I have not previously voted in this vote.

Signature of Eligible Voter

Date

SCHEDULE D
IN-PERSON VOTING INSTRUCTIONS

For each ballot question you will be asked to vote:

- **“yes”** if you approve of the proposed land measure, and
- **“no”** if you do not approve of the proposed land measure.

1. Using an “X” mark only in the box beside “yes” or “no”
2. If you make a mistake with your ballot, return it to the electoral officer who will give you another ballot.
3. **Do not** make any other mark on the ballot.
4. When you are done, fold each ballot so that the initials of the electoral officer can be seen, and hand the ballots to the electoral officer **without showing how you voted**.
5. Please wait for the electoral officer to examine the ballot. The electoral officer will then return the folded ballot to you.
6. Deposit the ballot into the appropriate ballot box.

SCHEDULE E
CERTIFICATE RE: SEALING OF MAIL-IN BALLOT BOX

This is to certify that after the mail-in ballot packages were mailed to eligible voters, we examined the ballot box to be used for mail-in ballots for the vote on proposed land measures and found the ballot boxes to be empty.

The ballot boxes were locked and sealed in our presence by the electoral officer.

Signed by Witnesses:

Signature of Witness	Name of Witness	Date
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Signature of Witness	Name of Witness	Date
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Signature of Electoral Officer	Name of Electoral Officer	Date
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SCHEDULE F
CERTIFICATE RE: SEALING OF VOTING STATION BALLOT BOXES

This is to certify that prior to the opening of the vote on voting day, we examined the voting station ballot boxes to be used for the vote on proposed land measures and found the ballot boxes to be empty.

The ballot boxes were locked and sealed in our presence by the electoral officer.

Signed by Witnesses:

Signature of Witness	Name of Witness	Date
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Signature of Witness	Name of Witness	Date
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Signature of Electoral Officer	Name of Electoral Officer	Date
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**SCHEDULE G
 CERTIFICATE – CONFIRMING BALLOT BOXES ARE SEALED AND NOT TAMPERED PRIOR
 TO OPENING THE BOXES**

VOTE TO CONSIDER PROPOSED LAND MEASURES ON: _____, 20____

This is to certify that we were present at 8:00 P.M. on _____, 20____ at the closing of the voting stations. We certify that no one was permitted to vote after the closure except those persons who were in the voting station at closure. We further certify that we examined the ballot boxes prior to their opening. The ballot boxes were sealed and there was no evidence of tampering of any kind. The ballot boxes were opened in our presence and all ballots within the boxes were removed and counted.

Signed by Witnesses:

Signature of Witness	Name of Witness	Date	Time
Signature of Witness	Name of Witness	Date	Time
Signature of Electoral Officer	Name of Electoral Officer	Date	Time

**SCHEDULE H
OFFICIAL STATEMENT OF RESULTS**

Votes In Favour	Votes Opposed	Declined Votes

Total # of eligible voters	
Total votes cast	
% voter turnout	
% valid votes in favour	
% valid votes opposed	

Statement of the Electoral Officer

I hereby certify that quorum was [met / not met] with _____% of eligible voters having voted.

I hereby declare the proposed land measure to be [carried / not carried] with _____% of votes being cast in favour of the proposed land measure.

[Name/Signature of Electoral Officer]

Date

**SCHEDULE I
DISPOSAL OF VOTING MATERIALS**

This is to confirm that we, the undersigned, were present and hereby certify that we witnessed the destruction of all voting materials for the proposed land measures vote that took place on _____, 20____, on a date being at least 45 days after the [vote / appeal was conclusively resolved], and that such destruction was in accordance with section 45 of this regulation.

Signed by Witnesses:

Signature of Witness	Name of Witness	Date
----------------------	-----------------	------

Signature of Witness	Name of Witness	Date
----------------------	-----------------	------

Signature of Electoral Officer	Name of Electoral Officer	Date
--------------------------------	---------------------------	------