

TA'AN KWÄCH'ÄN COUNCIL

Chapter 1

Lands and Resources Act

Land Use Application and Authorization Regulation

24 November 2010

TO THE BOARD OF DIRECTORS FOR THE FIRST READING

Ta'an Kwäch'än Council
LANDS AND RESOURCES ACT
LAND USE APPLICATION AND AUTHORIZATION REGULATION

Enacted on this _____ day of _____ 2010

Chief Brenda Sam

The Board of Directors of the Ta'an Kwäch'än Council hereby enacts as follows:

Short title

1. This regulation may be cited as the *Land Use Application and Authorization Regulation*.

Definitions

2. (1) In this regulation

“Act” means the *Land and Resources Act* (Ta'an Kwäch'än Council), 2010, c.1.

- (2) in this regulation, the land use

“agricultural” means the farming of plants or animals, including aquaculture and hay and food production;

“commercial” mean commercial activity, including gas stations, restaurants, retail stores, hotels and automobile dealerships;

“easement” means a right of way, affording a person limited access to infrastructure, including residential areas, power lines, waterlines, seismic lines and trails;

“grazing” means the grazing of livestock;

“industrial” means industrial activity, including manufacturing, warehousing and storage, vehicle or machinery repair, and industrial service and rock or sand quarries;

“institutional” means activity to serve the day to day needs of residents, including offices, schools, medical facilities, airports, social services and administration buildings, and parking lots and access roads;

“mining operations” means mining or mineral exploration activity;

“oil and gas operations” means the production of oil and, or, natural gas, including all substances produced in association with oil and natural gas, including petroleum and other hydrocarbons or exploration activity for these things;

“prescribed development cost” means monies collected from land developers by a the Ta’an Kwäch’än Council to offset some of the infrastructure expenditures incurred in servicing new developments, including roads, drainage, sewers, water mains and parks if applicable;

“recreational” means an organized recreational activity for which people pay a fee to enter;

“residential” means the occupation of primarily private residences by people;

“scientific research” means the investigation, discovering, interpreting and revising of human knowledge on different aspects on settlement land, including historic and pre-historic research of human culture and the natural environment; and

“tourism operations” means an outdoor recreational activity provided on a fee-for-service basis with a focus on experiences associated with the natural environment, the provision of services of a guide for purposes of tourism, including hiking, horseback riding, canoeing, wildlife photography and traditional land use instruction.

(3) In addition to subsections (1) and (2), the definitions of the Act shall also apply to this regulation.

Land use application guidebook

3. Applicants for a land use authorization on settlement land shall request and use the land use application guidebook published by the Ta’an Kwäch’än Council.

Land use application form

4. (1) Land use application forms shall be submitted to the lands branch of the Ta’an Kwäch’än Council.

(2) Land use application forms shall include a plan of survey of the parcel or sub-parcel of settlement land if for a land use lease or if for a land use permit or license a sketch map and Global Positioning System coordinates.

Land use authorization

5. (1) Upon completion of the conditions set out in the land use authorization, the land management commission shall issue a notification in favour of the procurer or to his or her assignee.

(2) Before issuing a land use authorization, the land steward shall declare the type of land use, as defined in subsection 2(2), to which the land use application pertains.

(3) Land use authorizations shall not be issued until the fee, where applicable and as established in the schedule, for a permit, lease or license has been paid in full.

(4) Applicants for a land use authorization shall be at least 18 years of age.

Residential land use

6. (1) Residential lots shall be authorized through a residential lease.

(2) Residential lots shall be priced at full market value.

(3) For greater certainty, only settlement land parcel C-23B, as prescribed in Appendix A, Settlement Land Descriptions, of the final agreement, shall be leased to both citizens and non-citizens, subject to subsection (7).

(4) Subject to subsection (3), residential lots may be leased to citizens and non-citizens upon the determination of the land management commission and made available by public offer or by lottery.

(5) A citizen and non-citizen who may apply for a residential lease is one who

- (a) does not hold a lease, an agreement to lease in the area or community where the lot he or she applies for is located; and
- (b) is applying to acquire a lease for the purpose of providing accommodation for himself or herself as a primary residence.

(6) Upon their application, residential leases shall be granted to citizens who occupy settlement land at the time of the Act coming into force, subject to section 27 of the Act.

(7) Lottery award of residential lots, as referred to in subsection (4) shall be based on the following:

- (a) notice of the commencement of the lottery award shall be given not less than three days in advance;
- (b) after the notice of commencement, applicants shall register at a designated location, listing the order of lots preferred;
- (c) applicants shall pay to the Ta'an Kwäch'än Council an application fee;
- (d) lots awarded for lease on the day of the lottery shall be awarded to applicants drawn at random; and
- (e) if an applicant is chosen in the lottery and does not choose a lot within 48 hours of being notified, the applicant loses the right to choose a lot.

(8) Applicants shall pay to the Ta'an Kwäch'än Council a deposit towards the prescribed development cost in an amount no less than 20 per cent of the lease price at the time of the lottery award for the residential lease.

(9) Residential leases shall be issued to the applicants when the lease price has been paid in full within six months from the date of the lottery award.

(10) Residential leases shall not exceed 40 years and shall be renewed unless a term and condition of the lease have not been adhered to or the lease payment has not been received by the Ta'an Kwäch'än Council.

(11) Subject to subsection (10), lessees shall have the automatic right to renew their lease for a further term of 40 years.

(12) Residential leases shall be transferable in accordance with the terms of the lease. Should the lessee seek to sell or transfer his or her property on the land before the expiration of the lease, the subsequent lessee shall have the option to renew the lease for a further term of up to a maximum of 40 years.

(13) The lessee shall, at the expiration or termination of the lease, peaceably yield possession of the land to the Ta'an Kwäch'än Council. If the lessee does not elect to remove any improvements, structures or infrastructure located on the land on or after the expiry or termination of the lease, the improvements, structures, or infrastructure shall become, unless otherwise agreed to by the parties in writing and without anything further required, the property of the Ta'an Kwäch'än Council.

Traditional land use

7. (1) The use and occupancy of land by a citizen for traditional purposes shall be authorized through the issuance of a certificate of possession.

(2) A certification of possession shall only be issued to a citizen for the use and occupancy of a portion of settlement land if the land

- (a) is not used for commercial purposes;
- (b) is not altered, subject to section 22 of the Act; or
- (c) does not contain a permanent structure other than a cabin, tent frame, cache, fish, rack or other like improvement that is used primarily for trapping and other traditional purposes.

(3) A certificate of possession shall be issued only for land located outside the City of Whitehorse.

(4) The term of the certificate of possession shall not exceed 40 years.

(5) A certificate of possession shall be transferable to another citizen in accordance with the terms of the certificate.

Commercial land use

8. (1) Commercial land use shall be authorized through a commercial lease.

(2) Land for commercial leases shall be priced at full market value plus the value of saleable timber.

- (3) Commercial land shall be leased in preferential order to
- (a) citizens;
 - (b) citizens of other Yukon First Nations;
 - (c) Yukon residents who are non-citizens;
 - (d) Canadian residents who are non-citizens; and

- (e) other non-citizens.
- (4) Applicants shall pay a fee upon their application for a commercial lease.
- (5) Commercial leases may be awarded by public offer or lottery and in the latter case in the same manner as prescribed in subsection 6(7).
- (6) The term of a commercial lease shall not exceed 40 years.
- (7) The rights under a commercial lease are subject to section 27 of the Act and includes the right to
 - (a) alter the land, subject to section 22 of the Act; and
 - (b) install permanent structures and other infrastructure.
- (8) With regard to any activities described in paragraphs (7)(a) and (b), the lessee may be required to report annually to the land steward.
- (9) Applicants shall pay to the Ta'an Kwäch'än Council a deposit towards the prescribed development cost in an amount no less than 20 per cent of the lease price at the time of the lottery award for the commercial lease.
- (10) Commercial leases shall be transferable in accordance with the terms of the lease. Should the lessee seek to sell or transfer his or her property on the land before the expiration of the lease, the subsequent lessee shall have the option to renew the lease for a further term of up to a maximum of 40 years.
- (11) The lessee shall, at the expiration or termination of the lease, peaceably yield possession of the land to the Ta'an Kwäch'än Council. If the lessee does not elect to remove any improvements, structures or infrastructure located on the land on or after the expiry or termination of the lease, the improvements, structures, or infrastructure located on the land shall become, unless otherwise agreed to by the parties in writing and without anything further required, the property of the Ta'an Kwäch'än Council.

Industrial land use

- 9. (1) Industrial land use shall be authorized through an industrial lease.
- (2) Land for industrial leases shall be priced at full market value plus the value of saleable timber.
- (3) Industrial lots shall be leased in preferential order to
 - (a) citizens
 - (b) citizens of other Yukon First Nations;
 - (c) Yukon residents who are non-citizens;
 - (d) Canadian residents who are non-citizens; and
 - (e) other non-citizens.
- (4) Applicants shall pay a fee upon their application for an industrial lease.

(5) Industrial leases may be awarded by public offer or lottery and in the latter case in the same manner as prescribed in subsection 6(7).

(6) The term of a industrial lease shall not exceed 30 years.

(7) The rights under an industrial lease are subject to section 27 of the Act and include the right to

- (a) alter the land, subject to section 22 of the Act; and
- (b) install permanent buildings and other infrastructure.

(8) With regard to any activities described in paragraphs (7)(a) and (b), the leesee may be required to report annually to the land steward.

(9) The applicant shall pay to the Ta'an Kwäch'än Council a deposit towards the prescribed development cost in an amount no less than 20 per cent of the lease price at the time of the lottery award for the industrial lease to.

(10) Industrial leases shall be transferable in accordance with the terms of the lease. Should the lessee seek to sell or transfer his or her property on the land before the expiration of the lease, the subsequent lessee shall have the option to renew the lease for a further term of up to a maximum of 30 years.

(11) The lessee shall, at the expiration or termination of the lease, peaceably yield possession of the land to the Ta'an Kwäch'än Council. If the lessee does not elect to remove any improvements, structures or infrastructure located on the land on or after the expiry or termination of the lease, the improvements, structures, or infrastructure located on the land shall become, unless otherwise agreed to by the parties in writing and without anything further required, the property of the Ta'an Kwäch'än Council.

Institutional land use

10. (1) Institutional land use shall be authorized through an institutional lease.

(2) Land for institutional leases shall be priced at full market value.

(3) Institutional land shall be leased in preferential order to

- (a) citizens
- (b) citizens of other Yukon First Nations;
- (c) Yukon residents who are non-citizens;
- (d) Canadian residents who are non-citizens; and
- (e) other non-citizens.

(4) Applicants shall pay a fee upon their application for an institutional lease.

(5) The term of an institutional lease shall not exceed 40 years.

(6) The rights under an institutional lease are subject to section 27 of the Act and include the right to

- (a) alter the land, subject to section 22 of the Act; and
- (b) install permanent buildings and other infrastructure.

(7) With regard to any activities described in paragraphs (6)(a) and (b), the lessee may be required to report annually to the land steward.

(8) The applicant shall pay to the Ta'an Kwäch'än Council a deposit towards the prescribed development cost in an amount no less than 20 per cent of the lease price at the time of the lottery award for the industrial lease.

(9) Institutional leases shall be transferable in accordance with to the terms of the lease. Should the lessee seek to sell or transfer his or her property on the land before the expiration of the lease, the subsequent lessee shall have the option to renew the lease for a further term of up to a maximum of 40 years.

(10) The lessee shall, at the expiration or termination of the lease, peaceably yield possession of the land to the Ta'an Kwäch'än Council. If the lessee does not elect to remove any improvements, structures or infrastructure located on the land on or after the expiry or termination of the lease, the improvements, structures, or infrastructure located on the land shall become, unless otherwise agreed to by the parties in writing and without anything further required, the property of the Ta'an Kwäch'än Council.

Agricultural land use

11. (1) Agricultural land use shall be authorized through an agricultural lease.

(2) Land for agricultural use leases shall be priced at full market plus the value of saleable timber.

(3) Agricultural land shall be leased to citizens only.

(4) Applicants shall pay a fee upon application for an agricultural lease.

(5) The term of an agricultural lease shall not exceed 30 years.

(6) The rights under an agricultural lease are subject to section 27 of the Act and include the right to

- (a) alter the land, subject to section 22 of the Act; and
- (b) install permanent structures and other infrastructure.

(7) With regard to any activities described in paragraphs (6)(a) and (b), the lessee may be required to report annually to the land steward.

(8) Agricultural leases may be awarded by public offer or lottery and in the latter case in the same manner as prescribed in subsection 6(7).

(9) The applicant shall pay to the Ta'an Kwäch'än Council a deposit towards the prescribed development cost in an amount no less than 20 per cent of the lease price at the time of the lottery award for the industrial lease.

(10) Agricultural leases shall be transferable in accordance with the terms of the lease. Should the lessee seek to sell or transfer his or her property on the land before the expiration of the

lease, the subsequent lessee shall have the option to renew the lease for a further term of up to a maximum of 30 years.

(11) The lessee shall, at the expiration or termination of the lease, peaceably yield possession of the land to the Ta'an Kwäch'än Council. If the lessee does not elect to remove any improvements, structures or infrastructure located on the land on or after the expiry or termination of the lease, the improvements, structures, or infrastructure located on the land shall become, unless otherwise agreed to by the parties in writing and without anything further required, the property of the Ta'an Kwäch'än Council.

Timber harvesting

12. (1) Timber harvesting permits shall be issued to citizens only.

(2) Timber harvesting shall be restricted to dead standing trees or harvesting for personal fuel wood use to a maximum of ten cords.

(3) Applicants shall pay a fee upon their application for a timber harvesting permit.

(4) The term of a timber harvesting permit shall not exceed one year.

(5) Timber harvesting permit holders shall be solely responsible for the liability and first aid requirements associated with their operations.

Grazing

13. (1) Grazing land use shall be authorized through a grazing permit.

(2) Grazing permits shall be issued in preferential order to

- (a) citizens
- (b) citizens of other Yukon First Nations;
- (c) Yukon residents who are non-citizens;
- (d) Canadian residents who are non-citizens; and
- (e) other non-citizens.

(3) Applicants shall pay a fee upon their application for a grazing permit.

(4) The term of a grazing permit shall not exceed five years.

(5) Grazing permit holders shall not

- (a) till or make other alteration to the land;
- (b) plant non-native plant species, and
- (c) any structures installed on the land shall be temporary only.

(6) Authorization for the instalment of structures shall be made by the land steward in the grazing permit application.

(7) The instalment of any structures on the land shall be reported annually by the lessee to the land steward.

(8) Grazing leases shall not be transferable. Should the lessee seek to sell or transfer his or her property on the land before the expiration or termination of the lease, he or she shall not have the option to renew the lease for a further term.

(9) The lessee shall, at the expiration or termination of the lease, peaceably yield possession of the land to the Ta'an Kwäch'än Council. If the lessee does not elect to remove any structures or infrastructure located on the land on or after the expiry or termination of the lease, the improvements, structures, or infrastructure located on the land shall become, unless otherwise agreed to by the parties in writing and without anything further required, the property of the Ta'an Kwäch'än Council.

Recreational land use

14. (1) Recreational land use shall be authorized through a recreational activity permit.

(2) The annual rent for recreational activity permits shall be \$5 per client day.

(3) Applicants shall pay a fee upon their application for a recreational activity permit.

(4) The term of a recreational activity permit shall not exceed six months.

(5) Recreational activity permit holders shall be solely responsible for the liability and first aid requirements associated with their activity.

(6) The rights under a recreational activity permit are subject to section 27 in the Act.

(7) Recreational activity permit holders shall not

- (a) make any unauthorized alteration to the land; and
- (b) built any unauthorized structures on the land.

(8) Authorization for any activities described in paragraphs (7)(a) and (b) shall be made by the land steward in the permit application.

(9) For greater certainty, recreational land use does not include commercial land use activities.

Tourism operations

15. (1) Tourism operations land use shall be authorized through a tourism operation license or a tourism operation lease.

(2) The annual rent for a tourism licenses shall be \$5 per client day.

(3) Tourism leases shall be priced at

- (a) appraised market value, full market value or fair market value of the land as estimated by the Ta'an Kwäch'än Council;
- (b) \$500 per primary site; and
- (c) \$100 per secondary satellite site.

- (4) Tourism licenses or operations shall be provided or leased in preferential order to
- (a) citizens
 - (b) other Yukon First Nations;
 - (c) Yukon residents who are non-citizens;
 - (d) Canadian residents who are non-citizens; and
 - (e) other non-citizens.
- (5) Applicants shall pay a fee upon their application for a tourism operation license or a tourism operation lease.
- (6) The term of a tourism operation licence shall not exceed 12 months.
- (7) The term of a tourism operation lease shall not exceed ten years.
- (8) Tourism operation license holders and tourism operation lessees shall be solely responsible for the liability and first aid requirements associated with their operations.
- (9) Tourism operation license holders shall not
- (a) alter the land, subject to section 22 of the Act; and
 - (b) built any unauthorized structures on the land.
- (10) Authorization for any activities described in paragraphs (9)(a) and (b) shall be made by the land management commission in the license application.
- (11) The rights under a tourism operation lease are subject to section 27 in the Act and include the right to
- (a) make minor alterations to the land;
 - (b) install permanent structures and other infrastructure in an area not to exceed three hectares and designated as the base camp or main staging area of tourism operations.
- (12) Authorization for any activities described in paragraphs (11)(a) and (b) shall be made by the land management commission in the lease application.
- (13) Tourism operation licenses may be renewed after 12 months upon consideration by the land steward. If the license is not renewed, notification shall be given to the applicant in writing.
- (14) Tourism operation leases shall be transferable in accordance with the terms of the lease. Should the lessee seek to sell or transfer his or her property on the land before the expiration of the lease, the subsequent lessee shall have the option to renew the lease for a further term of up to a maximum of ten years.
- (15) The lessee shall, at the expiration or termination of the lease, peaceably yield possession of the land to the Ta'an Kwäch'än Council. If the lessee does not elect to remove any improvements, structures or infrastructure located on the land on or after the expiry or termination of the lease, the improvements, structures, or infrastructure located on the land shall become, unless otherwise agreed to by the parties in writing and without anything further required, the property of the Ta'an Kwäch'än Council.

Mining operations

16. (1) Mining operations land use shall be authorized through a mining permit.
- (2) The annual rent for mining permits shall be 7.5 per cent of the land value.
- (3) Land for mining operations shall be authorized in preferential order to
 - (a) citizens
 - (b) other Yukon First Nations;
 - (c) Yukon residents who are non-citizens;
 - (d) Canadian residents who are non-citizens; and
 - (e) other non-citizens.
- (4) Applicants shall pay a fee upon their application for a mining permit.
- (5) The term of a mining permit shall not exceed ten years.
- (6) Mining operations permit holders shall be solely responsible for the liability and first aid requirements associated with their operations.
- (7) Mining operations permit holders shall have the right to
 - (a) alter the surface and subsurface of the land, subject to section 22 of the Act; and
 - (b) install temporary structures and other infrastructure.
- (8) With regard to any activities described in paragraphs (7)(a) and (b), the leasee may be required to report annually to the land steward.
- (9) Applicants shall, pursuant to paragraph 22(2)(b) of the Act, deposit a security with the Ta'an Kwäch'än Council before the issuance of a mining permit.
- (10) The holder of a mining permit shall, pursuant to paragraph 22(2)(d) of the Act, enter a benefit agreement with the Ta'an Kwäch'än Council.
- (11) Mining permits shall not be transferable.
- (12) The holder of a mining permit shall, at the expiration or termination of the permit, peaceably yield possession of the land to the Ta'an Kwäch'än Council. If the permit holder does not elect to remove any improvements, structures or infrastructure located on the land on or after the expiry or termination of the permit, the improvements, structures, or infrastructure located on the land shall become, unless otherwise agreed to by the parties in writing and without anything further required, the property of the Ta'an Kwäch'än Council.

Oil and gas operations

17. (1) Oil and gas operations land use shall be authorized through an oil and gas permit.
- (2) The annual rent for oil and gas permits shall be 8 per cent of the land value.
- (2) Land for oil and gas operations shall be authorized in preferential order to

- (a) citizens
 - (b) other Yukon First Nations;
 - (c) Yukon residents who are non-citizens;
 - (d) Canadian residents who are non-citizens; and
 - (e) other non-citizens.
- (3) Applicants shall pay a fee upon their application for an oil and gas permit.
- (4) The term of an oil and gas permit shall not exceed ten years.
- (5) Oil and gas operations permit holders shall be solely responsible for the liability and first aid requirements associated with their operations.
- (6) Oil and gas operations permit holders shall have the right to
- (a) alter the surface and subsurface of the land, subject to section 22 of the Act; and
 - (b) install temporary structures and other infrastructure.
- (7) With regard to any activities described in paragraphs (6)(a) and (b), the leasee may be required to report annually to the land steward.
- (8) Applicants shall, pursuant to paragraph 22(2)(b) of the Act, deposit a security with the Ta'an Kwäch'än Council before the issuance of an oil and gas permit.
- (9) The holder of an oil and gas permit shall, pursuant to paragraph 22(2)(d) of the Act, enter a benefit agreement with the Ta'an Kwäch'än Council.
- (10) Oil and gas permits shall not be transferable.
- (11) The holder of an oil and gas permit shall, at the expiration or termination of the permit, peaceably yield possession of the land to the Ta'an Kwäch'än Council. If the permit holder does not elect to remove any improvements, structures or infrastructure located on the land on or after the expiry or termination of the permit, the improvements, structures, or infrastructure located on the land shall become, unless otherwise agreed to by the parties in writing and without anything further required, the property of the Ta'an Kwäch'än Council.

Scientific Research

18. (1) Scientific research land use shall be authorized through a scientific research permit.
- (2) Applicants shall pay a fee upon their application for a scientific research permit.
- (3) The term of a scientific research permit shall not exceed six months.
- (4) Scientific research permit holders shall be solely responsible for the liability and first aid requirements associated with their research.
- (5) The rights under the scientific research permit are subject to section 27 in the Act.
- (6) Scientific research permit holders shall not
- (a) alter the land; and

(b) install permanent structures and other infrastructure.

(7) Authorization for any activities described in paragraphs (6)(a) and (b) shall be made by the land steward in the permit application.

(8) Upon the completion of the scientific research, the permit holder shall submit a report to the Ta'an Kwäch'än Council detailing the findings of his or her research.

(9) Scientific research permits may be renewed upon an application to the land steward.

(10) For greater certainty, permit holders shall not remove any thing or any resources from settlement land.

Easements

19. (1) Easement land use shall be authorized through an easement lease.

(2) Land for easements shall be leased in preferential order to

- (a) citizens
- (b) other Yukon First Nations;
- (c) Yukon residents who are non-citizens;
- (d) Canadian residents who are non-citizens; and
- (e) other non-citizens.

(3) Applicants shall pay a fee upon their application for an easement lease.

(4) The term of an easement lease shall not exceed ten years.

(5) The rights under an easement lease are subject to section 27 in the Act and include the right to

- (a) alter the land, subject to section 22 of the Act.

(6) Authorization for any activities described in paragraph (5)(a) shall be made by the land management commission in the easement application.

(7) Easement leases may be renewed every two years for a period of ten years upon consideration of the land steward and the land management commission.

(8) If an easement lease is not renewed, the land steward shall give notice in writing to the applicant.

THE SCHEDULE

(Subsection 5(3))

SCHEDULE OF FEES

Fees levied in respect to the issuance of land use authorizations

1. The following fees are prescribed:

a) a fee shall be due and payable at the time of an application for

| | |
|--|--------|
| i) a residential, commercial and industrial land use activity..... | \$ 100 |
| ii) an agricultural, institutional and grazing land use activity | 265 |
| iii) a mining and oil and gas land use activity | 1,000 |
| iv) a non-motorized recreational and tourism land use activity | 265 |
| v) a motorized recreational and tourism land use activity | 3,500 |
| vi) a timber harvesting land use activity | 25 |
| vii) a scientific research land use activity | 50 |
| viii) an easement land use activity | 1,060 |