
Ta'an Kwäch'än Council

Highlights of the Proposed Land Use Application and Authorization Regulation

Lands, Resources and Heritage
April 2010



Introduction

The Ta'an Kwäch'än Council as a self-governing First Nation holds powers to make laws governing the use of its settlement lands throughout its traditional territory. For generations it has relied on the customary laws of its people to care for its lands and resources. Now, with a Self-Government Agreement and a Constitution, the Ta'an Kwäch'än Council is making laws that will respect its traditions and the contemporary needs and desires of the Ta'an Kwäch'än citizens. The Ta'an Kwäch'än Council has developed a *Lands and Resource Act* that recognizes the importance of

- protecting and enhancing cultural identity, traditional values and lifestyle; and
- balancing the protection of natural resources and the rights and interests of Ta'an Kwäch'än citizens to use settlement lands.

In association with its *Lands and Resources Act*, the Ta'an Kwäch'än Council has developed a regulation for administering and managing land use on all settlement lands. The proposed regulation is a tool for achieving two important objectives that are established in the Act

- responsible management and sustainable development of settlement land; and
- holding settlement land in trust for the use and benefit of present and future generations of Ta'an Kwäch'än citizens.

The Act establishes the legal basis for the proposed regulation. Key protections are described below.

Key Protections

To achieve the objectives referred to above, the following key protections are established in the Act that binds the proposed regulation for land use authorization:

- All Ta'an Kwäch'än settlement lands and resources on these lands fall under the proposed Act.
- The rights of Ta'an Kwäch'än citizens in the Final Agreement are fully protected.

- Ta'an Kwäch'än citizens shall continue to have the right to exercise traditional activities on settlement land, including harvesting, subsistence, cultural and ceremonial activities as established under the Final Agreement.
- No settlement land shall be sold or used as collateral for investments, loans or other means to obtain financial credit.
- No person shall own settlement land.
- Individuals and the Ta'an Kwäch'än Council are responsible for their actions that may result in loss or damage to settlement land that can be proved and that is unlawful.

These protections are important because they govern what the proposed regulation can and cannot allow with regard to how settlement land is held and how is it used for the benefit of Ta'an Kwäch'än citizens.

Land Use Authorizations – General Conditions

The *Lands and Resources Act* requires that all persons who use or occupy a portion of settlement land secure an authorization. However, a person is not required to obtain a land use authorization if

- the person is a Ta'an Kwäch'än citizen exercising a traditional activity;
- the person is delivering emergency services or actions to protect public health and safety or acting to prevent lasting harm to settlement land;
- the land use or occupancy is permitted by another Ta'an Kwäch'än law; and
- the person is using or occupying the settlement land as permitted under the Final Agreement.

Land use authorizations are instruments to ensure that no person shall damage settlement land, interfere with the use and enjoyment of settlement land by others, disturb cultural and burial sites, and leave garbage and waste materials on settlement lands.



To accomplish this, land use authorizations may contain terms and conditions that require the holder to act in a certain manner, such as

- take steps to protect the environment, fish and wildlife;
- take steps to reduce conflicts with traditional and cultural use of settlement land by the Ta'an Kwäch'än Council and citizens and to protect their use and peaceful enjoyment of settlement land;
- make a deposit for financial security if required;
- enter into a compensation with the Ta'an Kwäch'än Council or any affected persons, including Ta'an Kwäch'än citizens and trap line holders, for any potential loss or damage resulting from the holder's actions;
- enter into a benefit agreement with the Ta'an Kwäch'än Council to provide training and employment and other economic opportunities for Ta'an Kwäch'än citizens, businesses and the Ta'an Kwäch'än Council that are arising from the holder's actions.

The obligations associated with these terms and conditions shall continue – even after an authorization has expired, is not renewed or is discontinued – until a land steward is satisfied that they have been met. A person who wishes to obtain a land use authorization makes an application with the required information to the land steward. The land steward in reviewing the application shall

- accept, reject or vary the application;
- provide recommendations to the land management commission on how to manage the impacts on settlement land, including developments; and
- consider the comments of Ta'an Kwäch'än citizens, other affected people, any regulations, policies, and land use and resource plans established under the Act.

The land management commission shall make a final decision regarding the applications.

Lease of Settlement Land – General Conditions

Ta'an Kwäch'än citizens currently occupying any parcel of settlement land when the Act comes into effect may continue their occupation and use of it in the same manner if they

- take necessary steps to comply with any applicable land and resources plans; and
- make application for a land use authorization within six months from the date the Act comes into effect.

Ta'an Kwäch'än citizens holding a lease to settlement land shall have the

- exclusive right to the use and occupation of the land for the purposes stated in the lease;
- right of access across adjacent undeveloped settlement land; and
- right to transfer or assign the lease in accordance with applicable regulations.

Ta'an Kwäch'än citizens wishing to acquire a portion of settlement land may notify a land steward of their interest. Expressions of interest shall be treated and assigned priority according to the order in which they are received provided that the interest is consistent with the laws, policies and planning initiatives of the Ta'an Kwäch'än Council and a balance between the citizen's interests and those of preserving the environment.

Land Use Authorization – Type of Uses

The proposed regulation requires an authorization for the following classes of land uses:

- Residential
- Commercial
- Industrial
- Institutional
- Agricultural
- Timber harvesting
- Grazing
- Recreational activities



- Tourism operations
- Mining operations
- Oil and gas operations
- Scientific research
- Easements

Land Use Authorization – Application and Approval

The proposed regulation requires that all applicants be at least 18 years of age. The Ta'an Kwäch'än Council shall make available a land use application guide book. The guide will provide information on the application process to be followed and the information to be provided by applicants. This information shall include a full description of the land that is applied for. The land steward shall establish the type of land use and the appropriate authorization that the land use application applies to. The land steward shall issue an authorization that establishes the necessary terms and conditions that the applicant must meet to carry out the intended land use. It shall be issued only when all applicable fees are paid in full according to the following:

Land Use	Fee
Residential, commercial and industrial	\$100
Agricultural, institutional and grazing	\$265
Mining and oil and gas	\$1,000
Non-motorized recreational and tourism (permit)	\$265
Motorized recreational and tourism (license)	\$3,500
Timber harvesting	\$25
Scientific research	\$50
Easement	\$1,060

Land Use Authorization – Terms and Condition of Land Use

For each type or class of land use the proposed regulation establishes basic terms and conditions. In addition to these, each authorization establishes terms and conditions specific to each applicant on a site-specific basis, following the review of the land use application by the land steward.

The basic terms and conditions in the proposed regulation for each type of land use are described below and address

- The type of authorization

- Who is eligible to apply
- The process of application
- The price of the occupancy or activity
- The period of time for which the authorization is effective
- Renewal of the authorization
- Termination of the authorization and abandonment of land

Residential Land Use

- Residential lots shall be authorized and held through a residential lease for the purpose of providing accommodation as a primary private residence.
- Ta'an Kwäch'än citizens and non-citizens may apply for a residential lease if they don't hold a lease or an agreement to lease in the area or vicinity of the application.
- Residential lots may be made available by general sale or by lottery.
- Residential leases shall be granted to citizens who occupy settlement land at the time the Act comes into effect.
- Residential lots shall be priced at full market value.
- Successful applicants are required to pay the Ta'an Kwäch'än Council a deposit towards the costs of developing and making the land available for lease through lottery. This amount will be 20 per cent of the lease price and payable at the time of the lottery award. Full title to the residential lease will be issued when the lease price has been paid in full within six months of the lottery award.
- Residential leases are valid for a period of 40 years. They are renewable for another 40 year term, and if all terms and conditions of the lease have been met and all required payments have been made.
- Residential leases are transferable subject to their terms and conditions. If the lease is sold or transferred, it can be renewed for another 40



years.

- When the lease expires or terminates, the lease holder is required to return the land to the Ta'an Kwäch'än Council in a peaceful manner. Any improvements to the land (such as buildings or infrastructure) that are not removed by the lease holder shall become the property of the Ta'an Kwäch'än Council unless otherwise agreed.

Commercial Land Use

- Commercial lots shall be authorized and held through a commercial lease for the purpose of conducting commercial activity. This includes gas stations, restaurants, retail stores, hotels and automobile dealerships.
- Commercial land shall be leased on the basis of a preferential order to
 1. Ta'an Kwäch'än citizens
 2. Citizens of other Yukon First Nations
 3. Yukon residents who are non-citizens
 4. Canadian residents who are non-citizens
 5. Other non-citizens
- Commercial lots may be made available by general sale or by lottery.
- Commercial lots shall be priced at full market value plus the value of saleable timber (if the land is cleared).
- Successful applicants are required to pay the Ta'an Kwäch'än Council a deposit towards the costs of developing and making the land available for lease through lottery. This amount will be 20 per cent of the lease price and payable at the time of the lottery award.
- A commercial lease is for an exclusive right to use and occupy the land for the purpose stated in the lease and is subject to any laws made by the Ta'an Kwäch'än Council. It includes the right to alter the land and install permanent facilities and infrastructure subject to the terms and conditions of the lease, which includes protection for the environment, fish and wildlife, and the traditional and cultural uses of

the Ta'an Kwäch'än Council and citizens. All activities that alter the land and install permanent facilities must be reported annually by the lease holder to the land steward.

- Commercial leases are valid for a period of no longer than 40 years.
- Residential leases are transferable subject to their terms and conditions. If the lease is sold or transferred, it can be renewed for another 40 years.
- When the lease expires or terminates, the lease holder is required to return the land to the Ta'an Kwäch'än Council in a peaceful manner. Any improvements to the land (such as buildings or infrastructure) that are not removed by the lease holder shall become the property of the Ta'an Kwäch'än Council unless otherwise agreed.

Industrial Land Use

- Industrial lots shall be authorized and held through an industrial lease for the purpose of conducting industrial activity. This includes manufacturing, warehousing and storage, vehicle or machinery repair, industrial service and rock or sand quarries.
- Industrial land shall be leased on the basis of a preferential order to
 1. Ta'an Kwäch'än citizens
 2. Citizens of other Yukon First Nations
 3. Yukon residents who are non-citizens
 4. Canadian residents who are non-citizens
 5. Other non-citizens
- Industrial lots may be made available by general sale or by lottery.
- Industrial lots shall be priced at full market value plus the value of saleable timber (if the land is cleared).
- Successful applicants are required to pay the Ta'an Kwäch'än Council a deposit towards the costs of developing and making the land available for lease through lottery. This amount



will be 20 per cent of the lease price and payable at the time of the lottery award.

- An industrial lease is for an exclusive right to use and occupy the land for the purpose stated in the lease and is subject to any laws made by the Ta'an Kwäch'än Council. It includes the right to alter the land and install permanent facilities and infrastructure subject to the terms and conditions of the lease, which includes protection for the environment, fish and wildlife, and the traditional and cultural uses of the Ta'an Kwäch'än Council and citizens. All activities which alter the land and install permanent facilities must be reported annually by the lease holder to the land steward.
- Industrial leases are valid for a period of no longer than 30 years.
- Industrial leases are transferable subject to their terms and conditions. If the lease is sold or transferred, it can be renewed for another 30 years.
- When the lease expires or terminates, the lease holder is required to return the land to the Ta'an Kwäch'än Council in a peaceful manner. Any improvements to the land (such as buildings or infrastructure) that are not removed by the lease holder shall become the property of Ta'an Kwäch'än Council unless otherwise agreed.

Institutional Land Use

- Lots for institutional use shall be authorized and held through an institutional lease. Institutional use includes activity that serves the day to day needs of residents, such as offices, schools, medical facilities, airports, social services and administrative buildings, and parking lots.
- Institutional land shall be leased on the basis of a preferential order to
 1. Ta'an Kwäch'än citizens
 2. Citizens of other Yukon First Nations
 3. Yukon residents who are non-citizens
 4. Canadian residents who are non-citizens

5. Other non-citizens

- Institutional lots may be made available by general sale.
- Institutional lots shall be priced at full market value.
- Successful applicants are required to pay the Ta'an Kwäch'än Council a deposit towards the costs of developing and making the land available for lease through lottery. This amount will be 20 per cent of the lease price and payable at the time of the lottery award.
- An institutional lease is for an exclusive right to use and occupy the land for the purpose stated in the lease and is subject to any laws made by the Ta'an Kwäch'än Council. It includes the right to alter the land and install permanent facilities and infrastructure subject to the terms and conditions of the lease, which includes protection for the environment, fish and wildlife, and the traditional and cultural uses of the Ta'an Kwäch'än Council and citizens. All activities which alter the land and install permanent facilities must be reported annually by the lease holder to the land steward.
- Institutional leases are valid for a period of no longer than 40 years.
- Institutional leases are transferable subject to their terms and conditions. If the lease is sold or transferred, it can be renewed for another 40 years.
- When the lease expires or terminates, the lease holder is required to return the land to the Ta'an Kwäch'än Council in a peaceful manner. Any improvements to the land (such as buildings or infrastructure) that are not removed by the lease holder shall become the property of the Ta'an Kwäch'än Council unless otherwise agreed.

Agricultural Land Use

- Lots for agricultural use shall be authorized and held through an agricultural lease. Agricultural use includes the farming of plants or animals as



well as aquaculture and food production.

- Agricultural land shall be leased to Ta'an Kwäch'än citizens only.
- Agricultural lots may be made available by general sale.
- Agricultural lots shall be priced at full market value plus the value of saleable timber (if the land is cleared).
- Successful applicants are required to pay the Ta'an Kwäch'än Council a deposit towards the costs of developing and making the land available for lease through lottery. This amount will be 20 per cent of the lease price and payable at the time of the lottery award.
- An agricultural lease is for an exclusive right to use and occupy the land for the purpose stated in the lease and is subject to any laws made by the Ta'an Kwäch'än Council. It includes the right to alter the land and install permanent facilities and infrastructure subject to the terms and conditions of the lease, which includes protection for the environment, fish and wildlife, and the traditional and cultural uses of the Ta'an Kwäch'än Council and citizens. All activities which alter the land and install permanent facilities must be reported annually by the lease holder to the land steward.
- Agricultural leases are valid for a period of no longer than 30 years.
- Agricultural leases are transferable subject to their terms and conditions. If the lease is sold or transferred, it can be renewed for another 30 years.
- When the lease expires or terminates, the lease holder is required to return the land to the Ta'an Kwäch'än Council in a peaceful manner. Any improvements to the land (such as buildings or infrastructure) that are not removed by the lease holder shall become the property of the Ta'an Kwäch'än Council unless otherwise agreed.

Timber Harvesting

- Timber harvesting permits authorize activities that are restricted to the harvesting of dead trees for personal fuel wood. They do not establish an interest in land, but a right to use land strictly for the purpose of timber harvesting.
- Timber harvesting permits shall be issued to Ta'an Kwäch'än citizens only.
- Timber harvesting permits are valid for a period of one year.

Grazing

- Grazing permits authorize the grazing of livestock. They do not establish an interest in land, but a right to use land strictly for the purpose of grazing.
- Grazing permits shall be issued on the basis of a preferential order to
 1. Ta'an Kwäch'än citizens
 2. Citizens of other Yukon First Nations
 3. Yukon residents who are non-citizens
 4. Canadian residents who are non-citizens
 5. Other non-citizens
- Grazing permits are valid for a period of no longer than five years.
- Grazing permit holders shall not alter the land, introduce non-native plant species or install permanent structures. The installment of any temporary structures requires authorization from the land steward and submission of annual report by the permit holder.
- Grazing permits may be renewable but are not transferable.
- When the permit expires or terminates, the permit holder is required to return the land the Ta'an Kwäch'än Council in a peaceful manner. Any temporary structures that are not removed by the permit holder shall become the property



of the Ta'an Kwäch'än Council unless otherwise agreed.

Recreational Land Use

- Recreational land use permits includes recreational activity for which people pay a fee to participate. They do not establish an interest in land, but a right to use land strictly for the purpose of organized recreation activities.
- The annual fee for recreational land use permits is \$5 per client day.
- Recreational land use permits are valid for a period of no longer than six months.
- Recreational land use permit holders shall not make unauthorized alteration of land or build any unauthorized structures.

Tourism Operations

- A tourism operations license or a tourism operations lease authorizes an outdoor recreation activity provided on a fee-for-service basis with a focus on experiences associated with the natural environment and associated guiding services, and includes hiking, horseback riding, canoeing, wildlife photography and traditional land use instruction.
- Tourism operations licenses or tourism operations leases shall be issued on the basis of a preferential order to
 1. Ta'an Kwäch'än citizens
 2. Citizens of other Yukon First Nations
 3. Yukon residents who are non-citizens
 4. Canadian residents who are non-citizens
 5. Other non-citizens

Tourism Operations License

- A tourism operations license does not establish an interest in land, but a right to use land strictly for the purpose of conducting tourism activities.

- The annual fee for a tourism operations license is \$5 per client day.
- Tourism operations licenses are valid for a period of no longer than 12 months.
- Tourism operations licenses may be renewed subject to the approval of the land steward.

Tourism Operations Lease

- A tourism operations lease establishes a right to use land for the purpose of conducting tourism activities.
- Tourism operations leases are priced at the market value as estimated by the Ta'an Kwäch'än Council, or \$500 per primary site and \$100 per secondary site.
- Tourism operations lease holders shall not make unauthorized alteration of land or build any unauthorized structures.
- A tourism operations lease is for an exclusive right to use and occupy the land for the purpose stated in the lease and is subject to any laws made by the Ta'an Kwäch'än Council. It includes the right to make minor alterations to the land and install permanent facilities and infrastructure in an area that does not exceed three hectares and which is used as the base camp or main staging area of operations. The right to make these alterations to the land is subject to the terms and conditions of the lease, which includes protection for the environment, fish and wildlife, and the traditional and cultural uses of the Ta'an Kwäch'än Council and citizens.
- Tourism operations leases are valid for a period of no longer than 10 years.
- Tourism operation leases are transferable subject to the terms of the lease.
- When the lease expires or terminates, the lease holder is required to return the land to the Ta'an Kwäch'än Council in a peaceful manner. Any improvements to the land (such as buildings or infrastructure) that are not



removed by the lease holder shall become the property of the Ta'an Kwäch'än Council unless otherwise agreed.

removed by the permit holder shall become the property of the Ta'an Kwäch'än Council unless otherwise agreed.

Mining Operations

- Land for mining operations, including mineral exploration activity, shall be authorized and held through a mining permit.
- Land for mining operations shall be leased on the basis of a preferential order to
 1. Ta'an Kwäch'än citizens
 2. Citizens of other Yukon First Nations
 3. Yukon residents who are non-citizens
 4. Canadian residents who are non-citizens
 5. Other non-citizens
- The annual fee for mining permits shall be at 7.5 per cent of the land value.
- A mining permit is for an exclusive right to alter the land and install permanent facilities and infrastructure subject to the terms and conditions of the lease, which includes protection for the environment, fish and wildlife, and the traditional and cultural uses of the Ta'an Kwäch'än Council and citizens. All activities which alter the land and install semi-permanent facilities must be reported annually by the permit holder to the land steward.
- Before a mining permit is issued a financial security must be deposited by the applicant with the Ta'an Kwäch'än Council.
- Mining permit holders are required to enter a benefit agreement with the Ta'an Kwäch'än Council.
- Mining permits are valid for a period of no longer than 10 years.
- Mining permits are not transferable.
- When the permit expires or terminates, the permit holder is required to return the land to the Ta'an Kwäch'än Council in a peaceful manner. Any improvements to the land (such as buildings or infrastructure) that are not

Oil and Gas Operations

- Oil and gas operations shall be authorized and held through an oil and gas permit. The permit applies to the exploration and production of oil and natural gas and other hydrocarbons.
- Oil and gas operations shall be permitted on the basis of a preferential order to
 1. Ta'an Kwäch'än citizens
 2. Citizens of other Yukon First Nations
 3. Yukon residents who are non-citizens
 4. Canadian residents who are non-citizens
 5. Other non-citizens
- The annual fee for oil and gas permits shall be at 8 per cent of the land value.
- An oil and gas permit is for an exclusive right to alter the land and install semi-permanent facilities and infrastructure subject to the terms and conditions of the lease, which includes protection for the environment, fish and wildlife, and the traditional and cultural uses of the Ta'an Kwäch'än Council and citizens. All activities which alter the land and install semi-permanent facilities must be reported annually by the permit holder to the land steward.
- Before an oil and gas permit is issued a financial security must be deposited by the applicant with the Ta'an Kwäch'än Council.
- Oil and gas permit holders are required to enter a benefit agreement with the Ta'an Kwäch'än Council.
- Oil and gas permits are valid for a period of no longer than 10 years.
- Oil and gas permits are not transferable.
- When the permit expires or terminates, the permit holder is required to return the land to the Ta'an Kwäch'än Council in a peaceful manner. Any improvements to the land (such



as buildings or infrastructure) that are not removed by the permit holder shall become the property of the Ta'an Kwäch'än Council unless otherwise agreed.

the Ta'an Kwäch'än Council and citizens. All activities which alter the land must be reported annually by the lease holder to the land steward.

Scientific Research

- Scientific research permits authorize research on settlement land that involves investigations into human culture and the natural environment.
- Scientific research permits are valid for a period of no longer than six months.
- Scientific research permit holders shall not make unauthorized alteration of land or build any unauthorized structures.
- Upon the completion of the scientific research, scientific research permit holders shall provide to the Ta'an Kwäch'än Council a report describing the research findings.
- Scientific research permits may be renewable.

- Easement leases may be renewable every two years for a period of 10 years.

For More Information

If you would like more information regarding the proposed *Lands and Resources Act*, please contact:

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Easements

- Easement leases authorize the use of an easement on land that provides a right of way with access to infrastructure, including residential areas, power lines, waterlines, seismic lines and trails.
- Leases for easements shall be issued on the basis of a preferential order to
 1. Ta'an Kwäch'än citizens
 2. Citizens of other Yukon First Nations
 3. Yukon residents who are non-citizens
 4. Canadian residents who are non-citizens
 5. Other non-citizens
- Easement leases are valid for a period of no longer than 10 years.
- An easement lease is for an exclusive right to alter the land subject to the terms and conditions of the lease, which includes protection for the environment, fish and wildlife, and the traditional and cultural uses of

