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## SETTLEMENT LAND AND RESOURCE USE REGULATIONS

### Short Title

1. These regulations may be cited as the *Land and Resource Use Regulations*

### PROHIBITIONS ON UNAUTHORIZED USE OR OCCUPATION

#### Notice

2. (1) If an inspector reasonably believes a person is in contravention of section 10 of the Act, the inspector may issue a notice to the person directing that they
  - (a) cease the unauthorized occupation of the Settlement Land;
  - (b) give up possession of the Settlement Land and remove any improvements made by the person to the Settlement Land; and
  - (c) restore the Settlement Land to a condition satisfactory to the inspector.
- (2) A notice given under subsection (1) must state:
  - (a) the time and place of the unauthorized occupation;
  - (b) a description of the activities occurring as a part of the unauthorized occupation;
  - (c) the action required to be taken by the person; and
  - (d) the time period within which the person must take the action referred to in paragraph (c).
- (3) A person who fails to comply with a notice issued to them under subsection (1) commits an offence.

### PERMITS

#### Application for a Permit

3. (1) Applications for a permit shall be made using a form provided by the General Council and shall include the following information:
  - (a) the name and mailing address of the applicant;
  - (b) a description of the development to be undertaken;
  - (c) identification of any existing lines, trails, rights-of-way or cleared areas proposed to be used in the development;
  - (d) identification of any new lines, trails, rights-of-way or cleared areas proposed to be used in the development;
  - (e) identification of any existing land uses including, buildings, camps, air strips, waste disposal sites and fuel supply areas;
  - (f) a description of the potential impacts of the development on the environment and traditional activities and land uses of citizens;
  - (g) the area and location of Settlement Land and resources to be affected by the development;
  - (h) any rehabilitation or restoration program proposed to mitigate the potential impacts;
  - (i) any alternatives to the development which may lessen potential impacts to land and resources;
  - (j) the proposed dates for the development to begin and end; and,
  - (k) any other information as determined by the General Council.

(2) Notwithstanding subsection (1), the Director may waive some information requirements if they consider it appropriate in the circumstances.

(3) An application for a permit shall be accompanied by the fee specified in Schedule 1 for the issuance or renewal of a permit.

(4) A fee is not refundable on account of the Director not issuing or renewing a permit.

(5) The Director may waive fees if he or she consider it appropriate in the circumstances.

### **Inspections and Information**

4. (1) The Director, before a permit is issued, may

- (a) order an inspection of the Settlement Land proposed to be used; and
- (b) require an applicant for a permit to provide to the Director such information and data concerning the proposed use of land and resources and impacts on the affected environment as will, in the opinion of the Director, enable the them to evaluate any quantitative and qualitative effects of the proposed activity.

(2) The Director may, where deemed necessary in their opinion or where requested to do so by the applicant, inform the applicant of the results of an inspection conducted in accordance with subsection (1).

### **Inadequate Applications**

5. Where the Director receives an application for a permit that is not in accordance with these regulations, the General Council shall, within 10 working days, notify the applicant, in writing and with reasons, that the application cannot be accepted as submitted.

### **Review of Applications**

6. The Director shall, within 15 working days after receipt of an application made in accordance with these regulations,

- (a) issue a permit in accordance with section 20 of the Act;
- (b) notify the applicant, in writing and with reasons, that further time is required to review the permit application;
- (c) notify the applicant, in writing, that additional studies or investigations must be made by the applicant before the application can be considered; or
- (d) refuse to issue a permit and notify the applicant, in writing and with reasons, of the refusal.

### **Time Extensions**

7. Where the Director takes action under either paragraph 6(b) or (c), they shall issue a permit, in accordance with paragraph 6(a), or refuse to issue a permit, in accordance with paragraph 6(d), within 100 days after the receipt of the application.

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## Environmental or Development Assessment

8. The time lines described in sections 6 and 7 do not commence until after:
- (a) a Decision Document has been issued by a Decision Body, in accordance with development assessment legislation established pursuant to Chapter 12 of the final agreement, if the development is considered to be a project under that legislation; or
  - (b) environmental assessment of the activity has occurred in accordance with the laws of the Teslin Tlingit Council, if such an assessment is required by those laws.

## Security

9. (1) Where the Director requires financial security from a person to whom a permit is to be issued, the security shall be in the form of
- (a) a promissory note guaranteed by a chartered bank in Canada and payable to the Teslin Tlingit Council;
  - (b) a certified cheque drawn on a chartered bank in Canada and payable to the Teslin Tlingit Council;
  - (c) bearer bonds issued or guaranteed by the Government of Canada; or
  - (d) a combination of the securities described in paragraphs (a) to (c).

(2) Where in the opinion of the Director a permittee has not complied with all the terms and conditions of their permit or the Act, the Director may retain such part of the financial security as, in the Director's opinion, the circumstances justify.

(3) Where the Director retains all or part of the financial security, the Director may use all or part of the security to repair or restore the Settlement Land that has been damaged as a result of the development.

(4) Where the Director is satisfied that all or part of the financial security is no longer required, the Director may return or release all or part of the security.

## Reports

10 (1). Every permittee shall maintain accurate and detailed reports and records, consistent with the terms and conditions of their permit, and shall on the anniversary date of the issuance or renewal of a permit, submit to the Director a report describing:

- (a) the area of Settlement Land actually used in the development;
- (b) the quantity of resources removed or otherwise used or affected by the development;
- (c) the location of any roads, trails or cleared areas that were used by the permittee during the development, noting those that existed before the development and those cleared by the permittee;
- (d) buildings, campsites, fuel storage sites, waste disposal sites and other works or places that were constructed or used by the permittee during the development;
- (e) the impact the development had on the environment and the traditional activities and land uses of citizens; and,
- (f) describing any restorative or rehabilitative work done in relation to the development.

(2) Notwithstanding subsection (1), the Director may waive the reporting requirement if they consider it appropriate in the circumstances.

## **Display of Permits**

11 .Every permittee engaged in a development shall display an exact copy of the permit, including the terms and conditions thereof, at the site where the development is occurring such that it is visible to an inspector.

## **Assignment of Permits**

12. (1) A permit may not be assigned except as authorized by the Director.

(2) An application for authorization for assignment shall be made using a form provided by the Director and shall be accompanied by the fee specified in Schedule 1.

## **LAND WITHDRAWAL AND DESIGNATION**

### **Withdrawal of Land**

13. Settlement Land shall be withdrawn or set apart from use or occupation by resolution of the General Council.

### **Designation of Land**

14. (1) Settlement Land shall be designated for certain uses or purposes by resolution of the General Council.

(2) Where a land use plan, prepared in accordance with Chapter 11 of the final agreement and approved by the General Council or where a resource management plan or a land allocation and occupation plan has been prepared under the Act, designations made under subsection (1) shall be in accordance with these plans, to the greatest extent practicable.

## **ALLOCATIONS**

### **Application for an Allocation**

15. (1) Applications for allocations and for the transfer of an allocation must be made using a form provided by the General Council and include the following information:

- (a) the name, date of birth and mailing address of the applicant;
- (b) a site description of the location of the Settlement Land requested for allocation;
- (c) a description of whether the Settlement Land will be used for residential, commercial, industrial, institutional or agricultural;
- (d) information indicating any personal, family or clan use of the Settlement Land requested for allocation;
- (e) whether the applicant is a citizen;
- (f) whether the applicant has clan support for the application; and
- (g) any other information as determined by the General Council.

(2) The Director may waive any of the information requirements described in subsection (1).

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## Certificate of Allocation

16. A Certificate of Allocation shall contain:

- (a) the name and mailing address of the citizen to whom the Settlement Land was allocated;
- (b) a site description of the location of the allocated land;
- (c) the rights and obligations of the allocation as provided in the Act; and
- (d) any other terms and conditions of the allocation as may be determined by the General Council.

## Revocation of Certificate

17. (1) Before the General Council may revoke an allocation, they shall give the holder of the Certificate of Allocation and the clan leader of the holder of the Certificate reasonable notice and an opportunity to make representations to the General Council.

(2) A notice given under subsection (1) must state:

- (a) the name of the holder of the Certificate of Allocation and the address of the Settlement Land allocated to that person;
- (b) an explanation why the revocation is being considered;
- (c) the time period within which the person must take action to correct the situation; and
- (d) that if action is not taken within the time specified in paragraph (c), the Certificate of Allocation will be revoked and the person will be required to remove their possessions from the Settlement Land.

(3) Where the General Council is satisfied that adequate steps have been taken by either the clan or the holder of the Certificate of Allocation to whom a notice under subsection (1) was given to remedy the situation, the General Council shall take no further action respecting revocation of the Certificate of Allocation.

(4) Where the General Council is not satisfied that adequate steps have been taken by either the clan or the holder of the Certificate of Allocation to whom a notice under subsection (1) was given to remedy the situation, the General Council may revoke the allocation by filing a notice of revocation in the register and delivering a copy of the notice to the person and the person's clan leader by personal service or by registered mail at their last known address.

## Execution

18. Dispositions may be executed on behalf of the Teslin Tlingit Council by two members of the Executive Council.

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**Schedule 2: Fees****PERMIT**

Issuance \$ 20.00

Assignment \$ 20.00

**DISPOSITION**

Allocation no charge

lease, licence of occupation, similar interests \$ 20.00

These Regulations are made pursuant to section 67 of the *Settlement Land and Resources Act*.

**1. Subsection 1.1 is added.**

**Definitions**

1. In these regulations,

'document' means a lease, certificate of allocation or other document approving, transferring, revoking or changing a disposition;

'file' means a file established as set out in subsection 23(1); and

'instrument' means an instrument purporting to charge, deal with or affect

- (a) a disposition;
- (b) the land subject to the disposition; or
- (c) the disposition and the land subject to the disposition.

**2. The following sections are added following section 18.**

**Conversion of Allocation to Lease**

19. (1) A citizen who has been granted an allocation may apply to General Council to convert the allocation into a lease for the same parcel of Settlement Land.

(2) Applications for conversion of an allocation to a lease shall be made using a form provided by General Council and shall include the following information:

- (a) the name and mailing address of the person holding the allocation;
- (b) a copy of the Certificate of Allocation for the Settlement Land;
- (c) the reasons for the transfer from an allocation to a lease;
- (d) the length of lease sought; and
- (e) any other information as determined by the General Council.

(3) The General Council may, subject to any terms and conditions that they consider appropriate, agree to enter into a lease for the parcel of Settlement Land or may refuse to enter into a lease for the parcel.

**REGISTRATION OF INTERESTS IN SETTLEMENT LAND**

**Registration of Dispositions and Interests Required**

20. (1) No disposition or revocation, transfer or change to a disposition shall be considered valid unless and until the document describing the disposition or the revocation, transfer or change to the disposition is filed in the register as set out in this regulation.

(2) No instrument shall be considered to create an interest, either at law or in equity, in a parcel of Settlement Land unless and until the instrument is filed in the register as set out in this regulation.

Note: See last page for amendment/addition 20(3) Page 1 of 1.

**Registration**

21. A person applying to register a document or instrument shall provide the clerk of the register with the following information:

- (a) a copy of the document or instrument, with original signatures by duly authorized officials and persons;
- (b) a description of the parcel of Settlement Land sufficient to enable the clerk to determine the location of the parcel;
- (c) a survey of the parcel, if a survey has been completed in relation to the disposition or interest to be created;
- (d) payment of the fees described in Schedule 2, unless waived by the Executive Council; and
- (e) any other information that may be requested by the clerk.

**Daybook**

22. The clerk of the register shall keep a book, to be called the daybook, in which shall be entered a short description of every document or instrument given in for registration, and the day, hour and minute that the document or instrument was submitted for registration.

**Files and Records**

23. (1) The clerk of the register shall establish and maintain a file for each parcel of Settlement Land for which a disposition has been made and shall assign a unique file number to each file and shall deposit all documents and instruments relating to that parcel in the file.

(2) The clerk shall, for each file, maintain a record detailing the nature of any instruments or documents received for registration relating to the parcel and the day, hour and minute of the registration and the names of the parties involved. The clerk shall authorize each entry in the record with their signature.

(3) If a parcel is subdivided, as set out in section 28, the clerk shall close the original file for that parcel and assign new numbers to the subdivided parcel

(4) The clerk shall keep every document and instrument applying to the parcel in the register

**What constitutes registration**

24. (1) Every disposition shall be deemed and taken to be registered for the purposes of the Act as soon as a file has been created and a file number assigned by the clerk of the register.

(2) Every instrument or document shall be deemed to be registered as soon as the information set out in subsection 23(2) is entered into the record in the file.

**Time of Registration**

25. (1) The time entered in the daybook shall be taken as the time of registration for all purposes including determining priority between mortgagees, transferees and others.

(2) Instruments registered in respect of or affecting the same parcel of Settlement Land are entitled to priority the one over the other according to the time of registration and not according to the date of execution.



**Restriction on registration of instruments**

26. If the clerk of the register believes that an instrument submitted for registration
- (a) granting a lease of only part of a parcel of Settlement Land to which a disposition applies;
  - (b) charging, mortgaging or otherwise encumbering only part of a parcel of Settlement Land to which a disposition other than an allocation applies;
  - (c) providing for the transfer of part of a parcel of Settlement Land to which a disposition applies; or
  - (d) has the effect of subdividing the parcel, the clerk must refuse to register the instrument until the subdivision has been approved of as set out in subsection 29(2).

**MORTGAGES AND LEASES****Mortgages and other forms of security**

27. (1) When any lease is intended to be used to warranty, guarantee or otherwise act as security or collateral for any investment, loan, advance, mortgage or other means of obtaining credit, the document describing the warranty, guarantee or other form of security or collateral shall

- (a) for the description of the parcel intended to be dealt with, refer to the disposition in which the interest is to be held or give such other description as is necessary to identify the parcel in question; and
- (b) identify all other interests pertaining to the parcel that are registered in the register, if any.

(2) A mortgage or any other means of obtaining credit has the effect of security, but does not operate as a transfer of the ownership or control of a parcel of Settlement Land or a disposition thereby charged.

**SUBDIVISION OF SETTLEMENT LAND****Subdivision of Land**

28. Subject to the approval of General Council, a parcel of Settlement Land for which a disposition has been made may be subdivided, unless the original disposition was granted on the basis that the parcel would not be subdivided.

**Application for Subdivision**

29. (1) A holder of a disposition who proposes to subdivide the parcel of Settlement Land to which the disposition applies may apply to General Council by submitting an application on a form provided by General Council and shall include the following:

- (a) the name and mailing address of the holder of the disposition;
- (b) a plan of survey for the subdivision that is capable of being registered in the register;
- (c) the reasons for the subdivision;
- (d) the names of any other persons who may benefit from or be affected by the subdivision; and
- (e) any other information as may be determined by the General Council.

(2) The General Council may approve, in writing and subject to any terms and conditions it considers appropriate, or may refuse to approve the proposal to subdivide.

(3) There shall be no right of appeal to a decision made under subsection (2) by the General Council.

**Time limits**

30. If the General Council approves a proposal to subdivide a parcel of Settlement Land, the General Council shall specify the period of time, not to exceed twelve months, within which the holder of the disposition must take all necessary steps to enable the clerk of the register to register the subdivision.

**Public Use Lands**

31. The General Council may require the holder of a disposition who proposes to subdivide to provide from the parcel of Settlement Land, without compensation,

- (a) highways and lands for public utilities, for the purpose of providing suitable access and services to the subdivided land; and
- (b) areas for public use of the land.

**MISCELLANEOUS**

**Surveys**

32. Any surveys conducted for the purposes of the Act must be undertaken in accordance with the standards of accuracy, techniques and specifications for such surveys as specified in the *Manual of Instructions for the Survey of Canada Lands*, as amended from time to time.

**SCHEDULE 2 - FEES**

(section 21)

Registration of documents and instruments	\$ 50.00
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These Regulations are made pursuant to section 67 of the *Settlement Land and Resources Act*.

**1. Subsection 20 (3) is added immediately following subsection 20 2).**

**20(3) The unregistered claim, right or interest, howsoever arising, of any person to a disposition, the land subject to a disposition, or any interest therein shall be ineffective as against any person claiming for valuable consideration and without notice under an instrument that affects the same disposition or land subject to a disposition and is registered in accordance with these regulations.**

*(Passed by the Executive Council of the Teslin Tlingit Council at a meeting held on September 24, 2001)*