

**SETTLEMENT LAND DEVELOPMENT PROCEDURES REGULATION**

Table of Contents

<b>PART ONE: PRELIMINARY MATTERS</b>	<b>3</b>
Short Title .....	3
Definitions .....	3
Delegation .....	3
Application of this Regulation .....	3
<b>PART TWO: DEVELOPMENT PERMITS</b>	<b>4</b>
Development Permit Required .....	4
Exemptions .....	4
Requirement for Other Approvals Continues .....	4
Application for a Development Permit .....	5
Contents of an Application for a Development Permit .....	5
<b>PART THREE: REVIEW AND APPROVAL OF APPLICATIONS</b>	<b>6</b>
Compliance with Land Use Plan and Zoning Regulations .....	6
Land Use Plan and Zoning Regulations may exempt certain developments from referral procedure .....	6
Referring an Application for a Development Permit .....	6
Director of Lands May Decide Certain Applications .....	6
Committee Recommendation .....	7
Referring Recommendation to Executive Council or its Delegate .....	7
Executive Council Decision .....	7
Director to issue Development Permit .....	8
Conditions of a Development Permit .....	8
<b>PART FOUR: GENERAL</b>	<b>8</b>
Assignment of Permits .....	8
Forms .....	9
Repeal .....	9
Schedule 1 – Fees	
Schedule 2 – Development Permit Application	
Schedule 3 – Development Permit	

The following regulation is made by the Executive Council pursuant to section 170 of the *Teslin Tlingit Land and Resources Act 2016*:

## **PART ONE: PRELIMINARY MATTERS**

### **Short Title**

1. This regulation may be cited as the *Settlement Land Development Procedures Regulation*.

### **Definitions**

2. Unless otherwise defined in this Regulation, terms have the same meaning as in the *Teslin Tlingit Land and Resources Act 2016*.

3. In this regulation,

“Act” means the *Teslin Tlingit Land and Resources Act 2016*;

“application” means an application for a development permit made under Part Two, and includes all supporting information;

“application fee” means the fee to apply for a development permit set out in Schedule 1;

“building permit” means a permit issued under the *Building Standards Act* (Yukon);

“Regulation” means this regulation, and includes all requirements set out in schedules to this Regulation;

“retained reserve” means a reserve described in section 4.1.1.1 of the Final Agreement, and for greater certainty, “settlement land” includes retained reserves unless the context otherwise requires;

“Village Boundary” means the boundary of the Village of Teslin, as established and altered from time to time under Part Two Division 1 of the *Municipal Act* (Yukon);

“Village of Teslin Zoning Bylaw” means the *Village of Teslin Zoning Bylaw 10-178*, as modified, replaced or amended from time to time.

### **Delegation**

4. The Director of Lands may, with the consent of the Executive Council, assign the performance of any duties of Director of Lands under this regulation to any officer, employee, contractor or agent of TTC.

### **Application of this Regulation**

5. (1) Subject to subsections (2) and (3), this Regulation applies to settlement land.

(2) This Regulation does not apply to settlement land within the Village Boundary, except retained reserves.

(3) Except as may be incidentally required for the purpose for which a development permit is required, this Regulation does not apply to regulate the taking or use of natural resources located on settlement land including retained reserves within the meaning of section 50 of the Act.

## **Application of the Village of Teslin Zoning Bylaw**

6. (1) Subject to subsection (2), the Village of Teslin Zoning Bylaw applies on settlement land within the Village Boundary.

(2) Until displaced by a TTC enactment, the following provisions of the Village of Teslin Zoning Bylaw apply on retained reserves within the Village Boundary to the extent that these provisions are applicable and not inconsistent with the Act or this Regulation:

- (a) section 1.4 [zoning map and boundaries];
- (b) section 1.5 [compliance with other legislation];
- (c) section 6 [zone classification specific provisions]; and
- (d) Schedule "A" [zoning map].

(3) The Village of Teslin is authorized to administer the applicable provisions of the Village of Teslin Zoning Bylaw in accordance with subsection (1).

(4) For certainty, applications for re-zoning of, and development permits in respect of, retained reserves within the Village Boundary must be submitted to and approved by TTC.

## **PART TWO: DEVELOPMENT PERMITS**

### **Development Permit Required**

7. Except as provided in section 8, no person shall commence a development on settlement land to which this regulation applies unless a development permit has been issued in accordance with this regulation.

### **Exemptions**

8. Unless a development is a project to which YESAA applies, the following activities do not require a development permit:

- (a) activities which are non-ground altering and which do not disturb settlement land;
- (b) the construction of a single storey accessory building or structure not greater than 10m<sup>2</sup> in floor area;
- (c) demolition of a building under 10m<sup>2</sup> except a designated heritage structure;
- (d) the erection, repair and replacement of fences and minor communication-related structures;
- (e) construction or finishing of trails, driveways, or internal roads completely within a single parcel of land, where the existing grade and surface drainage pattern is not materially altered and will not create off-site impacts;
- (f) landscaping and gardens which do not:
  - (i) involve an excavation deeper than 1 metre;
  - (ii) require the removal or deposit of more than 10 cubic metres of soil, gravel or other material;
  - (iii) materially alter the existing grade and surface drainage pattern; and
  - (iv) create off-site impacts.
- (g) the completion and use of any development which was lawfully under construction on the date this Regulation is made;
- (h) emergency repairs or action needed on an urgent basis to prevent or respond to emergencies; or
- (i) responses to accidents or threats to public health.

### **Requirement for Other Approvals Continues**

9. An exemption from the requirement for a development permit under section 8 does not relieve the proponent from the requirement to obtain any other approvals lawfully required under any applicable law including, for certainty:

- (a) land use planning and zoning laws;

- (b) the *Building Standards Act* (Yukon); and
- (c) a permit to construct, maintain or alter a means of access to or from a controlled highway under the *Highways Act* (Yukon).

### **Application for a Development Permit**

10. (1) A person who seeks to obtain a development permit must submit an application containing the information in Schedule 2 to the Director of Lands in person during regular business hours, by electronic mail, or by regular mail.

(2) The Director of Lands shall date-stamp the application upon receipt.

(3) If the Director of Lands determines the application is not complete, the Director of Lands will so advise the applicant within 10 working days of the application having been submitted to the Director of Lands or such other reasonable period as the Director of Lands may decide.

(4) The applicant shall supply such further information that is requested by the Director of Lands as necessary to meet the requirements of section 11 within 30 days of the request or within an otherwise agreed-upon period of time.

### **Contents of an Application for a Development Permit**

11. (1) The Director of Lands shall not determine that an application for development permit is complete until the applicant has provided the following:

- (a) a complete application containing the information set out at Schedule 2;
- (b) the application fee;
- (c) any of the following:
  - (i) a copy of the applicant's interest or licence in settlement land,
  - (ii) a copy of the applicant's application for an interest or licence in settlement land further to subsection (3), or
  - (iii) other proof satisfactory to the Director of Lands of the applicant's entitlement to undertake the development, which may include the applicable interest-holder or licensee's authorization for the applicant to undertake the proposed development;
- (d) a scale plan satisfactory to the Director of Lands showing the property lines, any building or other structure to scale and correctly located on the site, the yards, sewage and water services, fuel tanks, point(s) of vehicle access to the site, landscaping and grading for drainage and the size and location of buildings on adjoining lots, if applicable;
- (e) a scale plan and elevation of any proposed building or other structure satisfactory to the Director of Lands showing all dimensions with specifications and notes of materials to be used, if applicable;
- (f) a decision document, if required under YESAA;
- (g) proof of corporate status, if applicable;
- (h) for a development with a value exceeding \$25,000, the projected financial costs for the proposed development and reasonable proof that the applicant can obtain financing to complete the proposed development; and
- (i) any additional information reasonably required by the Director of Lands including, without limitation, a geotechnical evaluation, a reclamation plan, environmental impact study or heritage assessment.

(2) The applicant is responsible for all costs involved with completing and submitting an application, including commissioning all information, securing services, and providing information as necessary to meet the requirements of subsection (1).

(3) An applicant may apply for a development permit under this Regulation concurrently with an application for an interest, licence or authorization under another enactment.

- (4) In the case of concurrent applications:
  - (a) all fees payable under both regulations are due at the time of application; and
  - (b) the applicant is required to provide completed applications under both regulations.

### **PART THREE: REVIEW AND APPROVAL OF APPLICATIONS**

#### **Compliance with Land Use Plan and Zoning Regulations**

12. (1) If an applicant proposes a development that does not comply with any applicable land use plan or zoning regulation, the Director of Lands shall reject the application.

(2) If the Director of Lands rejects an application under subsection (1), the Director of Lands shall notify the applicant and advise whether the applicant may apply to amend the land use plan or zoning regulation, as applicable.

#### **Land Use Plan and Zoning Regulations may exempt certain developments from referral procedure**

13. If a land use plan, zoning regulation or natural resource regulation provides an exemption from the referral process set out in this Part, or provides for an alternate referral process, then the referral process set out in this Part does not apply.

#### **Referring an Application for a Development Permit**

14. (1) The Director of Lands shall provide notice of a development permit application to any person who has an interest or licence in settlement land, or to any property owner off settlement land that, in the opinion of the Director of Lands, may reasonably be affected by the proposed development.

- (2) Notice under subsection (2) must include:
  - (a) a legal description or parcel identifier of the settlement land affected by the proposed development;
  - (b) the purpose of the proposed development;
  - (c) the location where the application for a development permit may be reviewed;
  - (d) an invitation to provide written comments on the application for a development permit within 30 days of notice being issued under subsection (2) to the TTC administration office by email, mail or in-person;
  - (e) the manner in which comments may be submitted to TTC; and
  - (f) the name and contact information of a TTC employee that will be available to answer questions about the application for a development permit.

(3) The Director of Lands may also, as necessary or appropriate, refer a development permit application to:

- (a) internal TTC departments; and
- (b) the Village of Teslin or other local government authority.

(4) The Director of Lands may extend the comment period provided under subsection (2)(2)(d) if he or she considers it necessary to ensure a comprehensive review of the application for a development permit.

#### **Director of Lands May Decide Certain Applications**

15. (1) The Executive Council may, by resolution or regulation, designate a development permit application or class of applications which may be decided by the Director of Lands.

(2) The Director of Lands shall, as soon as possible after the referral process is complete, decide whether to reject or approve an application designated under subsection (1).

### **Committee Recommendation**

16. Unless section 15 applies, if the Director of Lands determines that the application should be submitted for approval, the Director of Lands shall forward the application and any comments received to the Committee as soon as possible after the referral process is complete.

17. (1) Upon receipt of an application, the Committee shall prepare a recommendation that provides
- (a) whether the Executive Council, or its delegate, should approve or refuse to approve the application; and
  - (b) suggested modifications or terms or conditions that should apply to the development permit, if appropriate.

(2) The Committee's recommendation at subsection (1) shall be in writing and shall take into account the following:

- (a) the application for a development permit, supporting information and comments provided under section 14;
- (b) the promotion of health, safety, convenience and welfare of TTC citizens and of residents and occupants and other persons who have a lawful interest in settlement land;
- (c) well-planned and orderly development of settlement land and the preservation of amenities and special features of settlement land;
- (d) compliance with any applicable land use plans, zoning regulations, land use law, and any other applicable laws;
- (e) environmental protection and enhancement;
- (f) adherence to TTC housing policies;
- (g) provision of community benefits including land and/or funds to TTC for the development of community amenities;
- (h) protection and enhancement of cultural and heritage resources and sites;
- (i) compatibility with Teslin Tlingit culture;
- (j) viewscales and aesthetics;
- (k) ensuring adequate parking, access and emergency access;
- (l) potential impacts on adjacent uses, owners and occupants;
- (m) the development of the neighbourhood and settlement land in a manner that contributes to the economic, environmental, cultural and community health of TTC and its citizens and the occupants of settlement land;
- (n) any information provided and any approvals already granted by Executive Council, including any terms or conditions, in relation to the same development or the same parcels of land; and
- (o) any other factors which may have an impact on the community or settlement land.

### **Referring Recommendation to Executive Council or its Delegate**

18. Upon receipt of the Committee's recommendation, the Director of Lands shall provide to the Executive Council:

- (a) the application and supporting documents;
- (b) any comments under section 14; and
- (c) the Committee's recommendation under section 17; and
- (d) all relevant documents, maps, plans, reports and other information.

### **Executive Council Decision**

19. (1) As soon as practicable after receiving the application package, the Executive Council may:
- (a) approve the application with any reasonable terms or conditions; or
  - (b) reject the application, with reasons, and direct the Director of Lands to advise the applicant.

(2) The Executive Council's decision to reject an application for a development permit is final.

**Director to issue Development Permit**

20. If an application is approved by the Executive Council, the Director of Lands shall issue a development permit containing the information set out in Schedule 3.

**Conditions of a Development Permit**

21. Without limiting the discretion of the Executive Council to impose discretionary conditions on a development permit, every development permit is subject to the following applicable conditions:

- (a) the permittee shall allow the Director of Lands, a Yukon Public Health Officer, a Yukon Building Enforcement Officer, a Yukon Fire Marshal or other appointed public official authorized by applicable Yukon territorial legislation, or authorized by TTC to enter and inspect the development at any reasonable time for the purpose of monitoring compliance with this Regulation;
- (b) if a building permit is required, the permittee shall provide proof of the building permit to the Director of Lands
  - (i) before undertaking the development, and
  - (ii) within 12 months from the date the development permit was issued; and
- (c) if a building permit is not required for any or all aspects of the development, but construction is required to carry out the development,
  - (i) the permittee shall
    - A. start construction within 12 months of the date the development permit was issued,
    - B. not discontinue or suspend construction for a period of more than one year,
    - C. notify the Director of Lands when
      - 1. the development has reached a stage of completeness if specified in the development permit, and
      - 2. the development is ready for use,
    - D. visibly post a copy of the development permit at the site during construction,
  - (ii) the development permit will be deemed expired and no longer valid if a permittee fails to start construction within 12 months of the date the Development Permit was issued, and
- (d) the permittee shall not create
  - (i) excessive traffic, noise, vibration, smoke, dust, odour, toxic or noxious fumes, fire or explosive hazards, or
  - (ii) the unsightly storage of goods, wares, merchandise, salvage, junk, waste that, in the opinion of an inspector or another person appointed under section 124 of the Act, adversely affects settlement land or users of settlement land;
- (e) subject to paragraph (f), the permittee shall at all times bear full responsibility for any accident which may occur, or damage which may be done to any person or property whatsoever, caused directly or indirectly by the work authorized by the development permit, and shall save harmless and keep indemnified TTC from all claims and demands whatsoever in respect of the work.
- (f) Where Yukon Government is the applicant for a development permit under this regulation:
  - (i) the application must include a statement regarding any statutory constraints on the applicant's ability to provide the indemnity at paragraph (e); and
  - (ii) Executive Council may waive the requirement that paragraph (e) form a term and condition of the licence where Executive Council is satisfied that waiving the requirement is reasonable in the circumstances, and it is in TTC's best interest to do so.

**PART FOUR: GENERAL****Assignment of Permits**

22. A development permit may not be assigned except as authorized by the Director of Lands.



### **Forms**

23. (1) The Executive Council may, on the recommendation of the Director of Lands, amend the schedules to this regulation by resolution.

(2) For greater certainty, section 56 of the *Administration and Interpretation Act* does not apply to amendments to the schedules.

### **Repeal**

24. The *Settlement Land and Resource Use Regulations* TTCR 98/02 are repealed on the day this Regulation comes into force.