

SETTLEMENT LAND TENURE REGULATION

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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 Tenure 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 fee” means the applicable fee to apply for an allocation, interest (other than an allocation), or a licence of occupation set out in Schedule 1;

“Certificate of Allocation” means a certificate containing the information set out in Schedule 6;

“heritage assessment” means a heritage assessment that meets requirements established by the TTC Heritage Department or under a TTC enactment.

“instrument” means a document purporting to create, grant, convey, transfer, charge, dispose of, or otherwise affect an interest or licence in settlement land, that is registered in the Register of Lands;

“Land Inspection Form” means a form containing the information set out in Schedule 4;

“Land Status Report” means a report containing the information set out in Schedule 5;

“licence of occupation” means a licence of occupation granted under section 50(1)(a) of the Act to occupy and use settlement land which, for certainty, does not confer rights to take or use natural resources except as may be incidentally required for the purpose for which the licence of occupation was granted;

“Notice of Revocation” means a notice containing the information set out in Schedule 7.

“Register of Lands” means the Register of Lands established pursuant to section 61 of the Act.

Delegation

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

Application of this Regulation

5. (1) This Regulation applies to regulate tenure for the occupation of settlement land.
- (2) For certainty, this Regulation does not apply to regulate the taking or use of natural resources located on settlement land.

PART TWO: CRITERIA INFORMING REVIEW OF APPLICATIONS

Criteria Informing Review of Applications for Interests and Licences of Occupation

6. (1) The following principles and factors must be taken into account by
- (a) the Committee when making a recommendation; and
 - (b) the Executive Council when making a decision

on an application for an interest or licence of occupation:

- (c) compliance with any applicable land use plans, zoning regulations, land use law, and any other applicable laws;
 - (d) environmental protection;
 - (e) well-planned and orderly development of settlement land;
 - (f) whether the applicant currently occupies or has improvements on the land subject to the application;
 - (g) whether the applicant owes any outstanding taxes or other debt to TTC;
 - (h) whether the applicant holds an interest or licence of occupation similar to that being applied for;
 - (i) potential impacts on existing uses of adjacent land and surrounding land by citizens and others, including potential or actual conflicts with existing legal interests;
 - (j) whether the proposed interest or licence upholds a balance between the interests of the applicant, the community, and TTC;
 - (k) compatibility with Teslin Tlingit customary landholdings, and whether the interest or licence would create a conflict with customary interests;
 - (l) the equitable distribution of settlement land among citizens, families, and clans; and
 - (m) any other factors the Executive Council consider relevant to the application.
- (2) In addition to the principles and factors provided at subsection (1), the Committee and the Executive Council shall consider whether there is clan support for an application for an allocation.

PART THREE: APPLICATION FOR AN INTEREST OR LICENCE OF OCCUPATION

Application for an Interest or Licence of Occupation

7. (1) A person who seeks to:
- (a) obtain an interest in settlement land, or a licence of occupation in relation to settlement land, or
 - (b) subdivide or otherwise alter the boundaries of a lot over which he or she holds an interest or licence of occupation

must submit an application that complies with section 9 to the Director of Lands in person during regular business hours, by electronic mail, or by regular mail.

(2) The Director of Lands will date-stamp the application upon receipt and will provide a copy of the stamped application to the applicant by delivery in person, by mail or email as soon as practicable.

(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 9 within 30 days of the request or within an otherwise agreed-upon period of time.

Concurrent Applications

8. (1) An applicant may apply for an interest or licence of occupation under this Regulation concurrently with an application for a development permit or other authorization under the Act or another enactment.
- (2) In the case of concurrent applications:
- (a) all fees payable in relation to both applications are due at the time of application; and
 - (b) the applicant is required to meet the requirements for each application.

Contents of an Application

9. (1) The Director of Lands shall not determine that an application is complete until the following requirements have been met:
- (a) for an application for an allocation, a complete application that contains the information set out in Schedule 2;
 - (b) for an application for an interest other than an allocation, or for a licence of occupation, a complete application that contains the information set out in Schedule 3; and
 - (c) the application fee.
- (2) Despite subsection (1)(c), the Director of Lands may waive the requirement for payment of the application fee if the Director of Lands is satisfied that payment of the fee would result in hardship to the applicant.
- (3) An applicant requesting a waiver of the application fee under subsection (2) shall provide to the Director of Lands any information requested and reasonably required by the Director of Lands to assess the entitlement of the applicant to the fee waiver.

Compliance with Land Use Plan and Zoning Regulations

10. If the use for which the applicant seeks the interest or licence does not comply with applicable land use plans and zoning regulations, the Director of Lands shall reject the application and notify the applicant.

Additional Information

11. (1) If the Director of Lands determines that the application is complete, the applicant must submit to the Director:
- (a) if the application is for an interest within 30 km of the Village of Teslin or within 1 km of the Alaska Highway Corridor, or if the Director of Lands otherwise requires, a survey plan of the parcel of settlement land prepared by a qualified land surveyor registered in the Canada Lands Survey System;
 - (b) a decision document, if required under YESAA;
 - (c) where the proposed rent or fees payable is intended to represent market value, an appraisal by an accredited appraiser under terms of reference acceptable to TTC.
- (2) The Director of Lands may require the applicant to submit:
- (a) an environmental site assessment to determine the environmental condition of the lands and the presence of any contaminants;
 - (b) a heritage assessment; or
 - (c) any additional information that, in the Director of Lands' opinion, is required in order to assess the application.
- (3) The applicant is responsible for all costs involved with completing and submitting the information required under subsections (1) and (2).

Land Inspection Form and Land Status Report

12. Upon receipt of all information required under section 11, the Director shall conduct a site inspection, prepare a Land Inspection Form and a Land Status Report.

Referring an Application for an Interest or Licence of Occupation to the Committee

13. The Director of Lands shall refer an application and supporting information under this Part to the Committee as soon as possible after completing the Land Inspection Form and Land Status Report.

PART FOUR: REVIEW AND APPROVAL OF ALLOCATIONS

Committee Review of Application for an Allocation

14. (1) When the Director of Lands refers an allocation application to the Committee, the Committee must consider the factors set out in section 6, and recommend either that the Executive Council:

- (a) approve the application with or without conditions, and identify any measures that may be necessary or desirable to protect the interests of TTC; or
- (b) reject the application.

Executive Council Decision

15. (1) Upon receipt of the Committee's recommendation under section 14, the Executive Council shall, upon consideration of the factors provided at section 6, make a decision on whether to approve or reject the application for an allocation.

(2) If the Executive Council rejects an application for an allocation, the Executive Council will provide reasons to the Director of Lands for delivery to the applicant.

Certificate of Allocation

16. (1) When an allocation application is approved, the Executive Council shall issue a Certificate of Allocation.

(2) The Certificate of Allocation shall be signed on behalf of the Teslin Tlingit Council by two (2) members of the Executive Council.

Revocation of Allocation

17. (1) Before the Executive Council may revoke an allocation pursuant to section 47 of the Act, Director of Lands shall deliver to the allocation holder and his or her clan leader a Notice of Revocation.

(2) The Executive Council shall provide the allocation holder and his or her clan leader a reasonable opportunity to make representations on the grounds of revocation to the Executive Council.

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

(4) If the Executive Council is not satisfied that adequate steps have been taken by either the clan or the allocation holder to whom a notice under subsection (1) was given to remedy the situation, the Executive Council may, after providing 30 days' notice to the allocation holder and his or her clan leader, revoke the allocation by filing the Notice of Revocation in the Register of Lands and delivering a copy of the notice to the former allocation holder and his or other clan leader by personal service or by registered mail at their last known address.

(5) Upon revocation of an allocation, the former allocation holder is required to remove any possessions or improvements from the allocated land.

(6) Any possessions or improvements not removed by the former allocation holder under subsection (5) may be retained or disposed of by TTC at the former allocation holder's expense.

Notice

18. (1) Subject to subsection (2), notice under section 17 must be provided by personal service or registered mail at each recipient's last known address.

(2) If an attempt to provide notice to a person under subsection (1) is unsuccessful, the following steps will constitute effective notice under section 17:

- (a) leaving the notice document during or after the unsuccessful attempt, in a sealed envelope addressed to that person, at the last known address of that person, with anyone who appears to be an adult member of the same household; and
- (b) subsequently mailing the document addressed to the person to the last known address.

Restrictions on an Allocation

19. (1) TTC shall not grant to any one citizen

- (a) more than one allocation for a residential purpose, and
- (b) more than one allocation for a recreational or traditional use purpose unless the Executive Council determines there is a compelling reason why this restriction should not apply.

(2) The maximum size of an allocation is one hectare.

Application by Holder for a Leasehold Interest in Allocated Land

20. An application by an allocation holder for a lease under section 42 of the Act must be made in the form set out at Schedule 3.

Transfer of Allocation

21. (1) A transfer of an allocation from one citizen during his or her lifetime to another may be made in the form set out as Schedule 8.

(2) For certainty, Executive Council consent is not required for a transfer under subsection (1), unless the transfer will require subdivision or alteration of parcel boundaries.

PART FIVE: REVIEW AND APPROVAL OF INTERESTS AND LICENCES OF OCCUPATION

22. This Part does not apply to Allocations.

Committee Review of Application for an Interest or Licence of Occupation

23. (1) Subject to subsection (2), when the Director of Lands refers an application for an interest (other than an allocation) or a licence of occupation to the Committee, the Committee must consider the factors provided at section 6, and recommend either that the Executive Council:

- (a) approve the application with or without conditions; or
- (b) reject the application.

- (2) Where the General Council has not established an applicable plan under section 93 of the Act, the Committee shall, upon referral of an application for a long term interest under section 27 of the Act, consider the factors provided at section 6, and recommend either that the General Council:
- (a) approve the application with or without conditions, or
 - (b) reject the application.

Referring an Application to the Final Decision-Maker

24. (1) Where the Committee makes a recommendation under section 23, the Director of Lands shall prepare a briefing note containing or attaching the following:
- (a) A description of the proposed transaction;
 - (b) The application and supporting information;
 - (c) The Committee's recommendation;
 - (d) A copy of the draft instrument.
- (2) The Director of Lands shall forward the briefing note:
- (a) In the case of a recommendation under subsection 23(1)(a), to the Executive Council; and
 - (b) In the case of a recommendation under subsection 23(2)(a), to the General Council.

Executive Council or General Council Decision

25. (1) Executive Council or General Council, as the case may be, shall, upon consideration of the factors provided at section 6, decide whether to approve, with or without conditions, or refuse to approve the application.
- (2) If Executive Council or General Council, as the case may be, rejects the application under subsection 1, they will provide reasons to the Director of Lands for delivery to the applicant.
- (3) If Executive Council or General Council, as the case may be, approves the application under subsection 1, the disposition instrument may be signed on behalf of the Teslin Tlingit Council by two (2) members of the Executive Council.

Term of Interest or Licence of Occupation

26. (1) The term of an interest or licence of occupation must:
- (a) be commensurate with the purposes of the interest or licence of occupation; and
 - (b) balance the interests of the holder of the interest or licence of occupation with the long-term interests of TTC and its citizens.
- (2) The term of a lease must not exceed 99 years.
- (3) For the purposes of section 51 of the Act, a licence of occupation that is granted to a citizen in relation to market housing may be granted for a sufficient term to coincide with the amortization period of a mortgage guaranteed by TTC.
- (4) The term of an easement, right of way or covenant
- (a) subject to paragraph (b), may not exceed 99 years; or
 - (b) may be stated to be so long as required for the permitted purpose, provided that the end date is determinable.

PART SIX: EXECUTIVE COUNCIL CONSENT TO TRANSFERS AND ASSIGNMENTS

Criteria for Consent to a Transfer or Assignment of an Interest or Licence

27. (1) If the Executive Council has made a resolution under section 66 of the Act requiring Executive Council consent prior to the transfer or assignment of an interest or licence or class of interests and licences, the Executive Council may provide its consent by way of an assignment consent agreement or by an endorsement on the assignment agreement between assignor and assignee.

(2) The Executive Council shall not consent to a transfer or assignment of an interest or licence under subsection (1) until the following requirements have been satisfied at the applicant's expense:

- (a) proof of corporate status, if applicable;
- (b) a satisfactory credit investigation;
- (c) proof that the assignee has assumed all of the transferor's or assignor's obligations, responsibilities and covenants;
- (d) reasonable proof that the applicant has not been charged or sued for harming the environment in any jurisdiction in Canada, and has not been involved in a lawsuit or dispute regarding an interest in land in any jurisdiction in Canada, within the last two (2) years;
- (e) any other requirements that Executive Council may impose.

PART SEVEN: GENERAL

Instruments

28. Instruments may be executed on behalf of the Teslin Tlingit Council by two members of the Executive Council.

Forms

29. (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* shall not apply to amendments to the schedules.

Repeal

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