

**Government of the  
Carcross/Tagish First Nation**



**Land Development and Planning Act**

*"OUR FAMILIES ARE THE BEGINNING AND FUTURE OF OUR  
COMMUNITY... THEY ARE OUR FIRST NATION... WHEN THEY  
ARE STRONG WE ARE ALL STRONG."*

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**CARCROSS/TAGISH FIRST NATION**  
**DEVELOPMENT AND PLANNING ACT, 2015**

**PREABLE:**

- A. Under the *Constitution of the Carcross/Tagish First Nation* (the “Constitution”), the General Council is comprised of representatives of the traditional Clans of C/TFN, consisting of the Deisheetaan, Daklaweidi, Ishkahittaan, Ganaxtedi, Yenyedi, and Xooxataan Clans, who have been entrusted by the Dikée Aankáawu (Creator) with the responsibility of looking after and protecting C/TFN Lands for the welfare of future generations;
- B. The oral history and traditional practices of C/TFN provide the source of the virtues and values that are the foundation for all C/TFN law, and provide guidance for interpreting and grounding C/TFN law in C/TFN virtues and values;
- C. Through this Act and through other C/TFN Enactments, the General Council exercises the inherent right of self-determination of C/TFN;
- D. C/TFN has governed and exercised stewardship over C/TFN Lands, including waters and resources, since the beginning of time;
- E. Under the Final Agreement, C/TFN owns and has jurisdiction over Settlement Land;
- F. Under the Constitution, the General Council has the jurisdiction to enact laws in relation to C/TFN Lands and in accordance with the Self-Government Agreement;
- G. Under 13.1.2 of the Self-Government Agreement, C/TFN has the exclusive power to enact laws in relation to the management and administration of rights or benefits which are realized pursuant to the Final Agreement by persons enrolled under the Final Agreement;
- H. Under 13.2.14 of the Self-Government Agreement, C/TFN has the exclusive power to enact laws on matters necessary to fulfill C/TFN’s responsibilities under the Final Agreement or the Self-Government Agreement;
- I. Under 13.3.1 of the Self-Government Agreement, C/TFN has the power to enact laws in relation to the use, management, administration, control and protection of Settlement Land;
- J. Under 13.3.2 of the Self-Government Agreement, C/TFN has the power to enact laws in relation to the allocation or disposition of rights and interests in and to Settlement Land, including expropriation by C/TFN for C/TFN purposes;

*The General Council of the Carcross/Tagish First Nation enacts as follows:*

## PART 1 : PRELIMINARY MATTERS

### Citation

1. This Act may be cited as the *Development and Planning Act, 2015*.

### Purpose

2. The purpose of this Act is to establish a comprehensive regime for the management of Settlement Land in a manner that implements provisions of the Final Agreement and protects Carcross/Tagish First Nation's Settlement Land and Traditional Territory outside of our Settlement Land by regulating use and development activities carried out on our lands by Citizens and non-Citizens.

### Definitions

3. (1) For the purposes of this Act, and unless they are otherwise defined in this Act, capitalized terms have the same definitions as in the Final Agreement and the Self-Government Agreement.

(a.i.1.2) In this Act:

"Act" means this Act;

"Citizen" has the same meaning as in the Constitution;

"Clan" has the same meaning as in the Constitution;

"Constitution" means the *Constitution of the Carcross/Tagish First Nation* in effect on October 5, 1997, as amended from time to time;

"C/TFN" means the Carcross/Tagish First Nation;

"C/TFN Government" has the same meaning as in the Constitution;

"C/TFN Lands" has the same meaning as in the Constitution;

"C/TFN Land Interests Act" means the *Land Interests Act* of the Carcross/Tagish First Nation;

"C/TFN Land Titles Act" means the *Land Titles Act* of the Carcross/Tagish First Nation;

"Decision Document" has the same meaning as in the Final Agreement.

"Department" means the department of Heritage, Lands and Natural Resources of the Carcross/Tagish First Nation or any successor department as the case may be;

**“Development”** means any human project, industry, undertaking, enterprise or operation, or any alteration or expansion of any human project, industry, undertaking, enterprise or operation.

**“Development Officer”** means the Director of Heritage Lands and Natural Resources or a person authorized to act for the Director of Heritage, Lands and Natural Resources.

**“Directly Affected Person”** means any who holds an interest in property within one kilometer of a C/TFN proposal, or proposal on Settlement Land or can otherwise demonstrate that their interest will be affected by such a proposal;

**“Director”** means the director of the Department;

**“Easement”** means a non-exclusive interest in Settlement Land granted under this Act, giving one person (the grantee) the right to use or control the land of another (the grantor) for a specific limited purpose, and for greater certainty does not need to have a dominant and servient tenement;

**“Enactment”** means a general reference to an Act or Regulation, or a portion of an Act or Regulation, adopted by C/TFN, Canada or Yukon;

**“Executive Council”** has the same meaning as the Council within the meaning of the Constitution;

**“Final Agreement”** means the Carcross/Tagish First Nation Final Agreement between the Carcross/Tagish First Nation, the Government of Canada and the Government of Yukon, dated October 22, 2005, and as amended from time to time;

**“Finance Act”** means the Carcross/Tagish First Nation *Finance Act*.

**“General Council”** means the main governing body of C/TFN established under the Constitution and has the same meaning as the Assembly within the meaning of the Constitution;

**“Government”** means XXX

**“Interest”** means an interest in Settlement Land less than the entire interest and includes a Leasehold, Mortgage and Easement but for greater certainty does not include the fee simple title or the rights, obligations and liabilities equivalent to fee simple to that land;

**“Interest Holder”** means a person who has been granted the right to use and possess a parcel of Settlement Land, upon agreed conditions, for a specified time and who has registered their interest with C/TFN..

**“Justice Council”** has the same meaning as in the Constitution;



**“Land Management Board”** means the Land Management Board established under the Land Interests Act.

**“Leasehold”** means an Interest granted under this Act giving a person the exclusive right of use and possession of the lands, upon agreed conditions, for a specified time, calculated by including any renewal or extension period, and includes a Sub-lease;

**“Major Project”** means a major project described at section A Development Officer must deem a Project to be a Major Project if, in the opinion of the Development Officer;

**“Person”** means XXX

**“Plans”** means one of the following plans formally approved by C/TFN Government:

- (a) A Regional Land Use Plan pursuant to Final Agreement Chapter 11;
- (b) A Local Area Plan pursuant to section 31 of the Self-Government Agreement;
- (c) A sub-regional or district land use plan developed pursuant to Chapter 11.8 of the Final Agreement; or
- (d) A land use plan developed pursuant to section 13.3.11 of the Self Government Agreement.

**“Project”** has the same meaning as the *Yukon Environmental Socio-Economic Assessment Act* SC 2003 c7.

**“Registry”** means:

- (a) for Fee Simple Settlement Land, the register of titles to land kept in accordance with *Yukon Land Titles Act* RSY 2002, c.130; or
- (b) for Category A Settlement Land and Category B Settlement Land, a register established pursuant to the *C/TFN Land Titles Act*.

**“Registered Interest”** means an Interest in Settlement Land registered in a Registry;

**“Regulation”** includes an order, regulation, rule, form, tariff of costs or fees, commission, warrant, or other instrument issued, made or enacted in execution of a power conferred by or under the authority of an Act, and includes any regulation made under the power of an Act in which the word “regulation”, “regulations”, “prescribe,” “prescribes” or “prescribed” is used to confer that power;

**“Self-Government Agreement”** means the Carcross/Tagish First Nation Self-Government Agreement between the Carcross/Tagish First Nation, the Government of Canada and the Government of Yukon, dated October 22, 2005, as amended from time to time;

**“Settlement Land”** means the Carcross/Tagish First Nation Lands with the same definition as the Final Agreement;

**“Settlement Land Use Plan”** means a Plan developed and passed by the CTFN Government outlining proposed uses of C/TFN Settlement Land not covered under any other Plan.

**“Yukon Land Titles Office”** means a land titles office established under the *Land Titles Act*, RSY 2002, c.130, or its successor.

### **Application of Act**

4. This Act applies to all Settlement Land.

### **Interpretation**

5. (1) In this Act:

- (a) a reference to an Act includes every amendment to it, every Regulation made under it and any Act enacted in substitution for it or in replacement of it;
- (b) the use of the word “including” means “including, but not limited to”, and the use of the word “includes” means “includes, but is not limited to”;
- (c) the use of the singular includes the plural, and the use of the plural includes the singular;
- (d) headings and subheadings are for convenience only and do not form part of this Act; and
- (e) the preamble to this Act may be used as an aid to interpretation of this Act.
- (f) All references to socio-economic impacts are in relation to impacts on the C/TFN.

### **Paramountcy**

- 6. If there is any inconsistency or conflict between this Act and the Constitution, the Constitution will prevail to the extent of the inconsistency or conflict.
- 7. Subject to section If there is any inconsistency or conflict between this Act and the Constitution, the Constitution will prevail to the extent of the inconsistency or conflict., if there is any inconsistency or conflict between this Act and any other C/TFN law, this Act will prevail to the extent of the inconsistency or conflict.
- 8. If there is any inconsistency or conflict between this Act and the Final Agreement or Self-Government Agreement, the Final Agreement or Self-Government Agreement will prevail to the extent of the inconsistency or conflict.

## PART TWO: DEVELOPMENT OF SETTLEMENT LAND

### Preamble

*We will be the bosses of our land. We will watch over our land as we have agreed upon, and as we ourselves manage things according to our traditions. We will bequeath it to those coming after us into perpetuity. We will work with people to strengthen our heritage, to give a firm foundation to our peoples lives, and to manage our land well. We will work with all peoples to take good care of our land, and all the resources of this land, as we have agreed on. We will be our own masters. We who are the Tagish, and we who are the Tlingit, will protect our land, so that the things will be according to what has been agreed on, so that they will live by it.* Elders Statement, CTFN Final Agreement.

### Development restricted to registered interest holders.

9. No person will undertake development on Settlement Land unless they have a registered interest pursuant to the *Land Interests Act*.

### Development Permit required.

10. No Person will proceed with a Development on Settlement Land unless:

- (a) A Development Permit has been approved.
- (b) The Development is exempt in the designated zone of the parcel, or

### Development to conform to Plans

11. Except as otherwise provided in this Act, Development on Settlement Land will not be permitted unless it conforms to applicable Plans and zoning.

### Development to conform to YESAA

12. For any Development Project to which the *Yukon Socio-Economic and Environmental Assessment Act* applies:
- (a) C/TFN will not issue any approvals for the Project under this Act or any other Enactment until C/TFN has first issued a Decision Document; and
  - (b) any approval of the Project will include conditions as required to implement the Decision Document, in accordance with YESAA.
13. The Land Management Board may waive any exemption under YESAA and require a YESAA Assessment, if they are of the opinion that the Project may cause significantly adverse affects on C/TFN Settlement Land.

**Final Agreement Rights preserved**

14. Nothing in this Act will be construed to prevent any person from exercising a right to pursuant to the Final Agreement.

**PART THREE: ADMINISTRATION****Preamble**

*[insert traditional stories, our beliefs and Elders statement excerpts].*

**Development Officers**

15. The Director will appoint a person to be a Development Officer.

16. The Development Officer will:

- (a) receive and examine all applications for Development Permits;
- (b) issue all Development Permits subject to this Act;
- (c) keep and maintain for inspection by CTFN Citizens a register of all applications; and
- (d) receive and examine all applications for rezoning.
- (e) Considering Development Permits for discretionary uses.

**Role of the Land Management Board**

17. The Land Management Board will be responsible for:

- (a) developing and recommending zoning regulations;
- (b) developing and recommending zoning regulation amendments;
- (c)

**Role of the Executive Council**

18. The Executive Council will be responsible for:

- (a) approving zoning regulations recommended by the Land Management Board;
- (b) adopting policies;
- (c) Appoint Development Officers; and,
- (d) Appoint Enforcement Officers.
- (e) .

**Role of the General Council**

19. The General Council will be responsible for:

- (a) developing and approving Plans; and
- (b) delegating its authority to Executive Council pursuant to section XX of the Constitution.

20. The General Council, pursuant to section XX of the Constitution, delegates their authority to [address land issues ... insert language from Constitution] to the Executive Council. this Act

**Notice**

21. Notice of any proposed action provided under this Act must be in written form and posted on the C/TFN website, at the site of the proposed action and in the C/TFN Newsletter. *[name applicable locations on Settlement Land, including on the C/TFN website],*

22. C/TFN's final decision on any proposed action under this Act will be posted *[name applicable locations on Settlement Land, including on the C/TFN website].*

**Notice for Public Hearings**

23. Notice of no less than 30 days must be provided for any public hearing prescribed by this Act, and must include:

- (a) the time and date of the hearing;
- (b) the location of the hearing;
- (c) a legal description of the Settlement Land(s) affected by the proposal;
- (d) the purpose of the proposal;
- (e) instructions on how to access the proposal for the purpose of review prior to the public hearing;
- (f) the name and contact information of a C/TFN Government employee that will be available to answer questions about the proposal.

**Notice for Comment Period**

24. Notice of no less than 30 days must be provided for a comment period prescribed in this Act, and, subject to section 24, must include:

- (a) a description of the Settlement Land(s) affected by the proposal;
- (b) the purpose of the proposal;
- (c) the location of the proposal for the purpose of review prior to the close of the comment period;
- (d) an invitation to provide written comments on the proposal;
- (e) instructions regarding the submission of comments, which must include:
  - (e.i) the name, address and signature of the Citizen or Directly Affected Person;
  - (e.ii) the specific paragraph number of the proposed amendment on which the Citizen or Directly Affected Person is commenting;

(e.iii) specific comments about the proposed amendment, any reasons why the Citizen or Directly Affected Person feels it is a problem, and any proposal to change the wording to improve it; and

(f) the name and contact information of a C/TFN Government employee that will be available to answer questions about the proposal;

25. In addition to the requirements at section Notice of no less than 30 days must be provided for a comment period prescribed in this Act, and, subject to section 24, must include: notice of a proposal under sections Unless urgent, a proposed amendments to a Plan will not be considered outside the review period for each Plan. [amending plans], Error: Reference source not found, [amending zoning], and An application for a Development Permit for a Major Project will not be considered by the [Executive Council?] without providing [major projects] must also include

(a) an invitation to request a public hearing; and

(b) an instruction that comments must include a statement of whether or not the Citizen or Directly Affected Person believes the issue is so important that it should be referred to a public hearing.

26. (1) Any written comments under section Notice of no less than 30 days must be provided for a comment period prescribed in this Act, and, subject to section 24, must include: must be received by the Development Officer within the 30 day period.

(a.i.1.2) Comments received

a.i.1.2.i. after 30 days even if the comments have been mailed and post-marked during the 30 day period;

a.i.1.2.ii. that fail to comply with section instructions regarding the submission of comments, which must include:

will not be considered,

### Procedure at Public Hearings

27. A public hearing under this Part must be held no less than 30 days from the date notice of the hearing was posted

28. At the public hearing, any Citizen or Directly Affected Person must be afforded a reasonable opportunity to be heard or to present written submissions respecting matters that are the subject of the hearing.
29. The chair of a public hearing will be appointed by the Land Management Board (or Director?) prior to any public meeting.
30. Subject to section At the public hearing, any Citizen or Directly Affected Person must be afforded a reasonable opportunity to be heard or to present written submissions respecting matters that are the subject of the hearing., the chair of the public hearing may establish procedural rules for the conduct of the hearing.
31. More than one matter may be considered at a public hearing.
32. A written report of each public hearing, containing a summary of the nature of the representations respecting the matter under consideration that were made at the hearing, must be prepared and maintained as a public record.
33. A public hearing may be adjourned and no further notice of the hearing is necessary if the time and place for the resumption of the hearing is stated to those present at the time the hearing is adjourned.

#### **PART FOUR: SETTLEMENT LAND PLANNING**

Things to consider in this section of the Act:

- RLUPs
- LAPs
- S. 25 Compatible Use.
- S. 28 13 power limitations
- Jointly managed parks Agay Mene and Kusawa.



## **Preamble**

*[insert traditional stories, our beliefs and Elders statement excerpts].*

## **Power to develop Land Use Plans.**

34. The General Council direct the Land Management Board or any other delegate to develop a Plan designating the use of Settlement Land.

- (a) For greater certainty, the C/TFN Government may, in the absence of a Regional Land Use plan pursuant to Chapter 11 of the Final Agreement, develop a Settlement Land Use Plan for part or all Settlement Land.
- (b) A Settlement Land Use Plan will be binding on C/TFN once approved by the General Council.
- (c) The C/TFN Government will endeavour to incorporate any adopted Settlement Land Use Plan into a collaborative land use planning process that has yet to conclude.

35. Two public hearings in accordance with section 25 will be held during the development of a Plan.

36. Prior to approval by the General Council, a Plan must be recommended by the Land Management Board and approved by the Executive Council.

37. Notice of a Final Draft Plan must be given to Citizens before the Plan is submitted to the General Assembly for approval.

## **Power to adopt Plans**

38. The General Council may adopt a Plan designating the use of Settlement Land.

39. Any Plan adopted by the General Council pursuant to section The General Council may adopt a Plan designating the use of Settlement Land. will be binding on the power to zone and develop Settlement Lands.

### **Public Hearings for Adopting Plans**

40. A Plan will not be adopted without

- (a) providing notice of the draft plan; and
- (b) holding a public hearing for the purpose of allowing Citizens and any Directly Affected Person to make representations.

in accordance with section Notice of no less than 30 days must be provided for any public hearing prescribed by this Act, and must include:.

41. A hearing required pursuant to section must be held after the recommended draft and before any Plan is brought to the General Council for final approval.

42. Following a public hearing held pursuant to section , the General Council, in considering the Plan will

(a) take into account:

- (a.i) all submissions made at the public hearing;
- (a.ii) the benefit of the Plan to all Citizens and CTFN;
- (a.iii) the Plan's predicted effects on the use of Settlement Land by future generations;
- (a.iv) impacts on CTFN heritage, and
- (a.v) socio-economic impacts; and

(b) either

- (b.i) accept or reject a draft Plan or zoning regulation, or
- (b.ii) suggest revisions and hold a further public hearing pursuant to section.

### **Amendments to Plans**

43. Unless urgent, a proposed amendments to a Plan will not be considered outside the review period for each Plan.

44. A Plan will not be amended without providing

- (a) The amendments are in accordance with the SGA and Final Agreement;
- (b) notice of the proposed amendments; and
- (c) an opportunity to any Citizen or Directly Affected Person to comment on the proposed amendments, including the opportunity to request a public hearing

in accordance with section Notice of no less than 30 days must be provided for a comment period prescribed in this Act, and, subject to section 24, must include:.

45. In response to one or more requests for a public hearing pursuant to the comments received at section , the Development Officer will

- (a) consider whether a public hearing is necessary to
  - (a.i) ensure a complete understanding of the issues underlying the proposal, and
  - (a.ii) meet standards of procedural fairness; and
- (b) either
  - (b.i) refer the proposal to a public hearing,
  - (b.ii) extend the comment period for an additional 45 days governed by the procedure at section Notice of no less than 30 days must be provided for a comment period prescribed in this Act, and, subject to section 24, must include:, or
  - (b.iii) refer the amendments to the General Council for a decision pursuant to section Following the comment period and a public hearing, if a public hearing was held, the General Council, in considering the application/proposal for rezoning will:.

46. Notwithstanding comments received by Citizens or any Directly Affected Person pursuant to section , the Development Officer may, if he or she deems the proposed amendments to be of sufficient public interest, determine that a public hearing is required before the amendments are referred to the General Council.

47. Following the comment period and a public hearing, if a public hearing was held, the General Council, in considering the application/proposal for rezoning will:

(a) take into account:

- (a.i) all comments received during the comment period;
- (a.ii) all submissions made at the public hearing, if a public hearing was held;
- (a.iii) the benefit of the amendments to all Citizens and CTFN;
- (a.iv) the amendment's predicted effects on the use of Settlement Land by future generations;
- (a.v) impacts on CTFN heritage, and
- (a.vi) socio-economic impacts; and

(b) either

- (b.i) accept or reject the amendments, or
- (b.ii) suggest revisions and initiate a new comment period pursuant to section .

#### **Review Period of Plans**

48. All Plans are required to have a review period.

#### **Cooperative management**

49. The General Council may enter into agreements with other governments and non-government organizations for the purposes of managing settlement land or any other matter relating to conservation of the natural environment of the traditional territory.

#### **Withdrawing undeveloped Settlement Land**

50. Subject to any Interest granted pursuant to the *C/TFN Land Interests Act* and any Plan adopted by the CTFN Government, General Council may:

- (a) withdraw undeveloped settlement land from use and occupation for a set period of time; and
- (b) in the absence of a zoning regulation pursuant to Section XX, designate settlement land for certain purposes and uses.

### **Absence of a Plan on Settlement Land**

51. Subject to any Interest granted pursuant to the *C/TFN Land Interests Act* and any Plan adopted by the CTFN Government, General Council may approve planning priorities which will guide zoning and disposition of Settlement Land.

## **PART FIVE: SETTLEMENT LAND ZONING**

### **Preamble**

*[insert traditional stories, our beliefs and Elders statement excerpts].*

### **Power to zone and determine use**

52. The Executive Council may:

- (a) divide Settlement Lands into land use zones;
- (b) limit the vertical extent of a zone and provide other zones above or below it;
- (c) establish Regulations to prescribe and regulate uses in each zone; and
- (d) regulate the size and dimension of any parcels created from the division of a Settlement Land block.

53. Two public hearings in accordance with section 25 will be held during the development of a zoning regulations.

54. Prior to approval by the Executive Council, a Zoning Regulation must be recommended by the Land Management Board.

55. Notice of a Final Draft Plan must be given to Citizens before the Zoning Regulation is submitted to the Executive Council for approval.

### **Public Hearings for Adopting Zoning**

56. A zoning designation [regulation?] will not be adopted without

- (a) providing notice of the draft plan; and

- (b) holding a public hearing for the purpose of allowing Citizens and any Directly Affected Person to make representations.

in accordance with section Notice of no less than 30 days must be provided for any public hearing prescribed by this Act, and must include:.

57. A hearing required pursuant to section A zoning designation [regulation?] will not be adopted without must be held after the recommended draft and before any zoning designation [regulation?] is brought to the General Council for final approval.

**Amendments to a Zoning Designation [regulation?]**

58. A Settlement Land Interest holder may apply in writing to a Development Officer for Executive Council rezoning of a zoned parcel.

59. [include option for EC to initiate a rezoning application through a proposal]

60. A zoning designation [regulation?] will not be amended without providing

(a) notice of the proposed amendments; and

(b) an opportunity to any Citizen or Directly Affected Person to comment on the proposed amendments, including the opportunity to request a public hearing

in accordance with section Notice of no less than 30 days must be provided for a comment period prescribed in this Act, and, subject to section 24, must include:.

61. In response to one or more requests for a public hearing pursuant to the comments received at section , the Development Officer will

(a) consider whether a public hearing is necessary to

(a.i) ensure a complete understanding of the issues underlying the proposal,  
and

(a.ii) meet standards of procedural fairness; and

(b) either

(b.i) refer the proposal to a public hearing,

- (b.ii) extend the comment period for an additional 45 days governed by the procedure at section Notice of no less than 30 days must be provided for a comment period prescribed in this Act, and, subject to section 24, must include; or
- (b.iii) refer the amendments to the Executive Council for a decision pursuant to section Following the comment period and a public hearing, if a public hearing was held, the Executive Council, in considering the application/proposal for rezoning will:.

62. Notwithstanding comments received by Citizens or Directly Affected Person, the Development Officer may, if they deem the proposed amendments to be of sufficient public interest, determine that a public hearing is required before the amendments are proposed to the Executive Council.

63. Following the comment period and a public hearing, if a public hearing was held, the Executive Council, in considering the application/proposal for rezoning will:

(a) take into account:

- (a.i) all comments received during the comment period;
- (a.ii) all submissions made at the public hearing, if a public hearing was held;
- (a.iii) the benefit of the amendments to all Citizens and CTFN;
- (a.iv) the amendment's predicted effects on the use of Settlement Land by future generations;
- (a.v) impacts on CTFN heritage, and
- (a.vi) socio-economic impacts; and

(b) either

- (b.i) accept or reject the amendments, or
- (b.ii) suggest revisions and initiate a new comment period pursuant to section .

64. There will be no appeal of an Executive Council decision regarding rezoning.

### **Non-Conforming Use**

65. If, at the time this Act or a zoning regulation is enacted:

- (a) land, a Project, a building or other structure is lawfully used; and
- (b) the use does not conform to this Act,

the use may be continued as a non-conforming use.

66. Buildings or structures which do not conform to this Act will not be structurally altered, except:

- (a) as may be required by this Act or Regulation;
- (b) as may be necessary to become conforming; or,
- (c) as a Development Officer may deem necessary for the routine maintenance of the building.

67. If the legal non-conforming use of land or a structure is discontinued for one year or more, any future use must conform to this Act and Regulations.

## **PART SIX: DEVELOPMENT PERMITS**

### **Preamble**

*[insert traditional stories, our beliefs and Elders statement excerpts].*

### **Requirement for Permit**

68. No Person will engage in Development on Settlement Land unless authorized to do so under a permit issued in accordance with this Act.

### **Applying for a Development Permit**

69. (1) Applications for a Development Permit will be submitted to a Development Officer and are not considered complete until the Development Officer is satisfied that the application contains all the information about the proposed Development for a decision to be made and the prescribed fee has been paid.



(2) A Development Officer will provide a written confirmation when an application has been completed.

(3) Where an application for a Development Permit is received, a Development Officer must ensure that written notice of the matter is mailed or given to:

- (a) each lot within a one kilometer radius of the proposed use to at least one person named on an assessment role;
- (b) a First Nation whose traditional territory overlap includes the parcel of Settlement Land;
- (c) an adjacent interest holder whose land is subject to compatible land use under section 25 of the Self Government Agreement; and,
- (d) any other entity or person a Development Officer thinks should receive the notice.

#### **Decision on an application for a Development Permit**

70. (1) Subject to section XX, a Development Officer will approve an application for a Development Permit where the proposed use conforms with [all applicable Enactments?]:

- (a) this Act;
- (b) Regulations pursuant to this Act;
- (c) other Acts of C/TFN;
- (d) applicable Acts and Regulations of Yukon; and,
- (e) Acts and Regulations of Canada.

(2) A written response to an application for a Development Permit, which may include the notification that more time is required, will be given to the applicant within XXX days of a completed application being received.

#### **Requirement for building permit continues**

71. (1) The issuance of a Development Permit under this Act does not relieve the permittee from any requirements:

- (a) to obtain a building permit under any Laws of General Application;
- (b) under a lease granted pursuant to the C/TFN Land interests Act; or
- (c) any permit required under any C/TFN legislation.

(2) To the extent of any inconsistency between a Development Permit issued under this Act and a requirement of, or authorization under, the *Building Standards Act* (Yukon) or its regulations as amended or replaced from time to time, the *Building Standards Act* requirement or authorization prevails.

#### **Responsibility for taxation due to Development**

72. A Lholder will be responsible for any property tax associated with Development which may result in the land being deemed Improved Rural Settlement Land.

#### **Public Hearings for Discretionary Uses**

73. A Development Officer must deem a Project to be a Major Project if, in the opinion of the Development Officer

- (a) A discretionary use which may impact C/TFN citizens or future use of Settlement Land;
- (b) A Project which may have Significant Adverse Effects on Settlement Lands.

74. An application for a Development Permit for a Major Project will not be considered by the [Executive Council?] without providing

- (a) notice of the proposed Major Project; and
- (b) an opportunity to any Citizen or Directly Affected Person to comment on the proposed Major Project, including the opportunity to request a public hearing

in accordance with section Notice of no less than 30 days must be provided for a comment period prescribed in this Act, and, subject to section 24, must include:.

75. In response to one or more requests for a public hearing pursuant to the comments received at section , the Development Officer will

- (a) consider whether a public hearing is necessary to

(a.i) ensure a complete understanding of the issues underlying the proposal,  
and

(a.ii) meet standards of procedural fairness; and

(b) either

(b.i) refer the proposal to a public hearing,

(b.ii) extend the comment period for an additional 45 days governed by the procedure at section Notice of no less than 30 days must be provided for a comment period prescribed in this Act, and, subject to section 24, must include:, or

(b.iii) refer the amendments to the Executive Council for a decision pursuant to section Following the comment period and a public hearing, if a public hearing was held, the Executive Council, in considering the application for a Development Permit for Major Project will.

76. Notwithstanding comments received by Citizens or Directly Affected Person, the Development Officer may, if he or she deems the Major Project to be of sufficient public interest, determine that a public hearing is required before the application for the Development Permit is proposed to the Executive Council.

77. Following the comment period and a public hearing, if a public hearing was held, the Executive Council, in considering the application for a Development Permit for Major Project will

(a) take into account

(a.i) all comments received during the comment period;

(a.ii) all submissions made at the public hearing, if a public hearing was held;

(a.iii) the benefit of the Major Project to Citizens and CTFN;

(a.iv) the Major Project's predicted effects on the use of Settlement Land by future generations;

(a.v) impacts on CTFN heritage, and

(a.vi) socio-economic impacts; and

(b) either

- (b.i) accept or reject the amendments, or
- (b.ii) suggest revisions and initiate a new comment period pursuant to section .

## **PART SEVEN: SUBDIVISION REQUIREMENTS**

### **Preamble**

*[insert traditional stories, our beliefs and Elders statement excerpts].*

### **Approval of application for Subdivision**

78. Only the CTFN Government has the power to subdivide a parcel of Settlement Land.
79. Residential, country residential, commercial or industrial use will not occur on R-block lands unless in a registered plan of subdivision.
80. A decision to subdivide must be accompanied by an application for an interest in Settlement Land under the *Land interests Act*.
81. An application for subdivision must comply with all requirements of zoning or planning set out in this Act.
82. An application to subdivide may be approved, denied or approved with conditions.
83. If an application is approved or approved with conditions, an approved sketch will be provided for the parcel.
84. An approved sketch of the application to subdivide will specify:
- (a) The size of the parcel;
  - (b) The dimensions of the parcel;

- (c) any easements attached to the parcel;
- (d) Road access; and,
- (e) Any conditions on the subdivision.

85. The approved sketch is not deemed official unless it has been signed by the Development Officer and the LMB.

86. An approved sketch will be used by surveyors to register the subdivision with the C/TFN Registry.

87. Public notification must be given prior to the approval of a decision by Executive Council to subdivide.

88. A decision to subdivide will not be considered by the Executive Council without providing

- (a) notice of the proposed subdivision; and
- (b) an opportunity to any Citizen or Directly Affected Person to comment on the proposed subdivision,

in accordance with section Notice of no less than 30 days must be provided for a comment period prescribed in this Act, and, subject to section 24, must include:.

89. cost of any subdivision shall be included in any lease.

90. A leaseholder wishing to subdivide must register a new interest through the Land Interests Act.

## PART EIGHT: DISPUTE RESOLUTION

### Preamble

*[insert traditional stories, our beliefs and Elders statement excerpts].*

### Dispute Resolution

91. This Part applies to:

- (a) appealing the use of discretion of any Officer under this Act;
- (b) trespass;
- (c) confiscation or removal of a structure or property which violates this Act;
- (d) the suspension or revocation of a Development Permit; and
- (e) complaints regarding the conduct of an enforcement officer appointed under this Act.

### Notice of Dispute

92. (1) A Person wishing to dispute a matter provided for under section may deliver a notice of dispute to the Director setting out:
- (a) the nature of the dispute;
  - (b) the facts and arguments upon which the person initiating the dispute relies; and,
  - (c) the relief that is sought.

### Delivery

93. (1) A notice of dispute must be delivered within 30 days of the General Council's decision.
- (2) Delivery will be effected by:
- (a) hand delivery;
  - (b) registered mail; or
  - (c) email.

### Disputes to be heard by Justice Council

94. Subject to section , a dispute initiated under this Part will be heard and decided by the Justice Council.
95. To the extent that the dispute resolution rules and procedures set out in sections Error: Reference source not found and Error: Reference source not found are inconsistent with rules and procedures established by the Justice Council, the rules and procedures established by the Justice Council prevail.

### **Decisions of Justice Council Final and Binding**

96. Decisions of the Justice Council are final and binding.

### **Disputes in absence of Justice Council**

97. (1) The Executive Council may, in the absence of an operational Justice Council, refer a dispute initiated under this part to be heard and decided by an independent evaluator appointed by the Department.

(2) Nothing in subsection (1) precludes the parties from accessing the services of a mediator or engaging another dispute resolution procedure, provided that all parties to the dispute consent.

98. Where a dispute is referred to an independent evaluator under section (1) The Executive Council may, in the absence of an operational Justice Council, refer a dispute initiated under this part (1) the independent evaluator will, where appropriate,

- (a) identify the issues in the dispute;
- (b) assess the strengths of each party's case;
- (c) encourage the settlement of the dispute; and
- (d) provide the parties with a non-binding opinion or recommendation to resolve the dispute.

99. In the absence of an operational Justice Council, any dispute not referred to an independent evaluator under section (1) The Executive Council may, in the absence of an operational Justice Council, refer a dispute initiated under this part may be heard by the Yukon Supreme Court.

### **Costs**

**The costs of evaluation and dispute resolution under this Part will be shared between the parties to the dispute, provided that the Justice Council's jurisdiction to award costs will be determined in accordance with applicable laws or procedures of the Justice Council.**

### **PART NINE: TRESPASS**

#### **Preamble**

*[insert traditional stories, our beliefs and Elders statement excerpts].*

#### **Trespass**

100.

101. (1) A person will be deemed to be trespassing on Settlement Land unless their access, occupancy or use is in accordance with:

- (a) a right of access, as described in the Final Agreement;
- (b) A permit or other form of authorization approving access and use of Settlement Land issued under this Act, another enactment, or applicable law; or
- (c) a lease, allocation of interest or other similar instrument of tenure issued in accordance with the *C/TFN Land Interests Act*.

(2) Subsection (1) does not apply to Citizen exercising aboriginal rights or other rights pursuant to the Final Agreement in a manner that is not incompatible with other uses.

(3) Subsection (1) does not apply to persons employed or contracted by Government while they are involved in the delivery of emergency services or actions undertaken to protect public health welfare, or safety or to prevent irreparable harm to the environment.

102. All civil remedies for trespass and nuisance are preserved.

#### **Warrant or Order to Vacate**

103. An enforcement officer designated pursuant to section Error: Reference source not found may order any person to leave CTFN Settlement Land who is trespassing.

104. Where a person who has been ordered to leave Settlement Land fails or refuses to do so, the enforcement officer may take such measures as necessary to remove that person from Settlement Land.

105. A person who fails or refuses to comply with an order made under section 56(1) to leave Settlement Land, or will resist or interfere with an officer acting under section 58 commits an offence.

106. A notice or order to vacate Settlement Land revokes any consent implied or express.

#### **Environmental Trespass**

107. A person whether or not they have a registered Interest in Settlement Land who causes unauthorized damage which affects the future use of Settlement Land is guilty of an offence.

108. For greater certainty, an offence under section (ABOVE) does not displace the continued application of the *Environment Act*, Yukon on Settlement Lands.

## **PART TEN: ENFORCEMENT**

### **Preamble**

*[insert traditional stories, our beliefs and Elders statement excerpts].*



In this Part,

- (a) **“Named Person”** means a person to whom a compliance notice or ticket is issued;
- (b) **“Surcharge”** means the amount prescribed by regulation that is payable if payment for a penalty is received after the 29th day after the date a ticket was served.

### Designation of Enforcement Officers

109. The Executive will, by order, appoint enforcement officers to enforce this Act.

#### Authority of Enforcement officers

110. Without limiting an enforcement officer’s powers at law, an enforcement officer is authorized to do the following for the purpose of performing his or her duties or exercising his or her powers in relation to this Act:

- (a) issue Compliance Notices;
- (b) issue Tickets;
- (c) order a person to comply with the *Land Interests Act* if the person is found to be developing land for which they do not have an Interest as prescribed by that Act;
- (d) order a Citizen to apply for an Interest in land pursuant to the *Land Interests Act, 2014* if the Citizen has committed an offence related to developing on Settlement Land without an Interest;
- (e) at any reasonable time, enter
  - a.i. land or unoccupied premises, or
  - a.ii. a dwelling with the consent of the occupier or if authorized by a C/TFN Law;
- (f) inspect land, property or records;
- (g) take or make copies of any property or records;
- (h) make any reasonable inspection, investigation or inquiry necessary to determine if a C/TFN Law, or a Compliance Notice, Ticket, or other instrument issued under this or any other C/TFN Law, has been complied with or contravened, or an offence is being committed or has been committed;
- (i) provide the **chief administrative officer** with information sufficient for the chief administrative officer to initiate the prosecution of an offence;
- (j) remove trespassers from Settlement Land;
- (k) remove any authorized building or structures from Settlement Land;
- (l) perform any other duties and exercise any other powers assigned or delegated to the enforcement officer

- (i) under this or any other C/TFN Law, or
- (ii) by the Executive, including pursuant to an Enforcement Agreement.

**Enforcement officer must show identification**

111. An enforcement officer must, upon request, show appropriate identification confirming his or her credentials as an Enforcement officer.

**Conduct of Enforcement officers**

112. All enforcement officers appointed pursuant to section Error: Reference source not found will abide by the Code of Conduct attached to this Act as Schedule "X" at all times while on duty or otherwise representing C/TFN.

113. Upon the Executive Council's appointment of enforcement officers pursuant to section Error: Reference source not found, the Executive Council must adopt a regulation respecting the training, certification and periodic re-certification or re-training or new training required of enforcement officers.

114. Without limiting section Upon the Executive Council's appointment of enforcement officers pursuant to section Error: Reference source not found, the Executive Council must adopt a regulation , the Executive Council may make regulations

- (a) respecting or adopting protocols for the manner in which enforcement officers are to carry out their duties and responsibilities and the manner in which they are to conduct themselves as enforcement officers;
- (b) respecting uniforms to be worn or a dress code to be observed by enforcement officers when they are on duty;
- (c) prescribing conditions for appointing an enforcement officer and the terms and conditions of retaining the appointment of enforcement officer;
- (d) respecting reports and record-keeping by enforcement officers, and the privacy of and access to records;
- (e) respecting the issue, use, production, revocation, and periodic renewal of items that identify a person as an enforcement officer and the restrictions or prohibition on use of those items;
- (f) respecting the weapons, other than the carriage or use of firearms, that an Enforcement officer may carry and rules respecting the use and reporting of use of weapons; and
- (g) respecting the use and marking of vehicles and equipment and the use, identification and restrictions on use of vehicles and equipment.

**Cross-Appointment with other Jurisdictions**

115. Fill in

### **Complaints and Discipline of Enforcement officers**

116. A person may complain about the conduct of an enforcement officer designated pursuant to section Error: Reference source not found in accordance with Part 8 [Dispute Resolution].

### **Offences Generally**

117. A proceeding for an offence under this Act may be commenced by way of a compliance notice, a ticket or by way of a prosecution.

118. Subject to section pursuant to section Subject to section pursuant to section Subject to section pursuant to section Subject to section pursuant to section Subject to section pursuant to section Subject to section pursuant to section 105 may alternatively be the subject of a prosecution. , the Executive must, by regulation, designate may alternatively be the subject of a prosecution. , the Executive must, by regulation, designate may alternatively be the subject of a prosecution. , the Executive must, by regulation, designate may alternatively be the subject of a prosecution. , the Executive must, by regulation, designate may alternatively be the subject of a prosecution. , the Executive must, by regulation, designate may alternatively be the subject of a prosecution. , the Executive must, by regulation, designate may alternatively be the subject of a prosecution. , the Executive must, by regulation, designate

(a) offences for which a compliance notice may be issued;

(b) offences for which a ticket may be issued; and

(c) the penalty and Surcharge for each offence.

119. Any offence that is designated pursuant to section Subject to section pursuant to section Subject to section pursuant to section Subject to section pursuant to section Subject to section pursuant to section Subject to section pursuant to section Subject to section pursuant to section 106, the Executive must, by regulation, designate may alternatively be the subject of a prosecution. , the Executive must, by regulation, designate may alternatively be the subject of a prosecution. , the Executive must, by regulation, designate may alternatively be the subject of a prosecution. , the Executive must, by regulation, designate may alternatively be the subject of a prosecution. , the Executive must, by regulation, designate may alternatively be the subject of a prosecution. , the Executive must, by regulation, designate may alternatively be the subject of a prosecution. , the Executive must, by regulation, designate may alternatively be the subject of a prosecution.

120. A proceeding for an offence must not be initiated more than six month after the act underlying the offence is alleged to have been committed.

## **Compliance Notices and Tickets**

121. If an enforcement officer has reasonable grounds to believe that a person is committing an offence, or has committed an offence under this Act, the enforcement office may issue a compliance notice or a ticket in the prescribed form to that person.

### **Contents of a Compliance Notice and a Ticket**

122. A Compliance Notice and a Ticket must be in the form prescribed by the Executive, and must contain the information prescribed following information:

(a) the particulars of the alleged offence in sufficient detail to permit the Named Person to identify it;

(b) in the case of a compliance notice,

sufficient information to notify the Named Person to do whatever is necessary to stop or rectify the offence, and

the date or time period within which the Named Person must comply with the requirements provided under subparagraph Error: Reference source not found;

(c) the penalty, and Surcharge;

(d) the methods of paying the penalty;

(e) the date the penalty is due

(f) how to dispute the alleged offence;

(g) the date the compliance notice or ticket is issued;

(h) the name and signature of the enforcement officer who issued the compliance notice or ticket;

(i) a provision that if the penalty associated with the alleged offence is not disputed within the time provided, the offence will be treated as undisputed and the amount of the penalty will be immediately payable; and

(j) any other prescribed information.

### **Serving a Compliance Notice or a Ticket**

123. A compliance notice or ticket must be delivered in accordance with C/TFN Law.

124. Despite section A compliance notice or ticket must be delivered in accordance with C/TFN Law., a compliance notice or ticket may be delivered verbally by the enforcement officer reading the C/TFN Law which regulates, controls or prohibits actions or activities on Settlement Land

to the Named Person if the offence is, or may be, a nuisance, trespass, danger to public health or threat to public order, peace or safety that requires immediate compliance.

### **Orders to Stop**

125. Fill in

### **Compliance with *Land Interests Act***

126. An Enforcement Offer may order a person to comply with the *Land Interests Act* if the person is found to be developing land which they do not have an Interest as prescribed by that Act.

### **Removing Buildings or Structures.**

127. The Executive Council at the request of the Land Management Board may authorize an Enforcement Officer or any other person to pull down and remove any building or structure constructed or placed in contravention of this Act

128. The owner of any building or structure pulled down or removed under sec XX will pay to the C/TFN Government the cost of all work done to remove or take down the building or structure

### **Continuing Offences**

129. All Environmental Trespass offences pursuant to section (XX) are deemed continuing offences. Each day the offence is continued constitutes a new offence for subject to penalties under section 69.

### **Penalties**

130. Every Person who contravenes this Act, or any Regulation enacted pursuant to this Act, is guilty of an offence punishable on summary conviction and liable to a fine not exceeding three hundred thousand dollars (\$300,000.00) or to imprisonment for a term not exceeding six (6) months, or both.

131. Every person guilty of an offence under section 64 of this Act is only liable only for financial penalties..

132. An offence by a Citizen involving Settlement Land for which they do not have a registered Interest may lead to a requirement to apply for the Interest pursuant to the Land Interests Act.

## Orders of Court

133. Where a person has been convicted of an offence under this Act, in addition to any other punishment that may be imposed under this Act, the Court may make an order with one or more of the following terms:
- (a) prohibiting the person from doing any act or engaging in any activity that may result in the continuation or repetition of the offence;
  - (b) directing the person to take any action at the person's expense that the Court considers appropriate to remedy any harm to Settlement Lands that results or may result from the act or omission that constituted the offence;
  - (c) directing the person to take any action that the Court considers appropriate to avoid any harm to Settlement Lands that may result from the act or omission that constituted the offence;
  - (d) directing the person to publish, in the manner determined by the Court, the facts relating to the offence;
  - (e) directing the person to notify, at his or her own cost and in a specified manner, any person aggrieved or affected by the person's conduct of the facts relating to the offence;
  - (f) directing the person to post a bond or pay an amount of money into Court that will ensure compliance with any order made under this section;
  - (g) cancelling or suspending any authorization issued under this Act;
  - (h) any further terms the Court considers appropriate in the circumstances, including requiring the offender to comply with any other reasonable conditions that the Court considers appropriate and just in the circumstances for securing the offender's good conduct and for preventing the offender from repeating the offence or committing other offences under this Act.

### Further prosecutions

134. The conviction of a person for an offence under this Act does not prohibit further prosecution of that person for the continued neglect or failure on his or her part to comply with this Act or any order or notice made or given under this Act.

135. An offence by a Citizen involving Settlement Land for which they do not have a registered Interest may lead to a requirement to apply for the Interest pursuant to the Land Interests Act.

## PART ELEVEN: REGULATIONS

### Preamble

*[insert traditional stories, our beliefs and Elders statement excerpts].*

## Regulations

136. (1) The Executive Council may make Regulations it considers necessary or advisable for purposes under this Act.

(2) Without limiting to the generality of sub-section (1), the Executive Council may make Regulations respecting:

[generally]

- (a) the form of a Compliance Notice, a Ticket, an Application, and any other forms or documents necessary or advisable for the purposes of this Act;
- (b) defining the scope of an enforcement officer's powers related to the enforcement of this Act;
- (c) prescribing protocols or policies related to the code of conduct of enforcement officers related to the enforcement of this Act;

...

All other compulsory or optional regulation-making powers addressed in the Act.

For Development permits

(d)

For zoning:

- (e) Governing the size, location and shape of lots
- (f) Specifying locations where subdivisions of land intended for specific development or use are permitted.
- (g) Prescribing geotechnical requirements for a subdivision.
- (h) Prescribing conditions for the subdivision of lands subject to natural hazards
- (i) Governing procedure to be followed by applicants for subdivision approval and the person who may apply.
- (j) Prescribing the fees to be paid by persons applying

- (k) Providing for the imposition of development cost charges.

## **PART TWELVE: GENERAL PROVISIONS**

### **Preamble**

*[insert traditional stories, our beliefs and Elders statement excerpts].*

### **Severability**

137. In the event that all or any part of any part, section or paragraph of this Act are found by a court of competent jurisdiction to be invalid, such sections will be severable, and the remaining portions or sections will remain in full force and effect.
138. The invalidity of any section, clause, sentence or provision of this Act will not affect the validity of any other part of this Act that will be given effect without such invalid part or parts.

### **Limitation of Liability**

139. No action for damages lies or may be instituted against C/TFN, or a manager, employees, servant, official or agent of C/TFN, including for greater certainty, members of the Land Management Board;
- (a) for anything said or done or omitted to be said or done by that Person in the performance or intended performance of the Person's duty, or the exercise of the Person's authority under this Act, or any Regulation enacted pursuant to this Act; or
  - (b) for any alleged neglect or default in the performance or intended performance of the Person's duty or the exercise of the Person's authority under this Act, or any Regulation enacted pursuant to this Act.
140. Section No action for damages lies or may be instituted against C/TFN, or a manager, employees, servant, official or agent of C/TFN, including for greater certainty, members of the Land Management Board; does not provide a defence if:
- (a) C/TFN, or a manager, employee, servant, official or agent of C/TFN, has, in relation to the conduct that is the subject matter of the action, been guilty of dishonesty, gross negligence or malicious or wilful misconduct; or
  - (b) the cause of action is libel or slander.
141. C/TFN, or a manager, employee, servant, official or agent of C/TFN, is not liable for any damages or other loss, including economic loss, sustained by any Person, or to the property of any Person, as a result of their neglect or failure, for any reason, to discover or detect any contraventions of this Act or any Regulations enacted pursuant to this Act.



142. (1) All actions against C/TFN for the unlawful doing of anything that:

(a) is purported to have been done by C/TFN under the powers conferred by this Act or any Regulation enacted pursuant to this Act, and

(b) might have been lawfully done by C/TFN if acting in the manner established by law,

must be commenced within six (6) months after the cause of action first arose.

**Coming into Force**

143. This Act will be reviewed within 1 year of approval by the C/TFN Government of an Administration of Justice Agreement.

**Coming into Force**

144. This Act will come into force and effect on the day after it is enacted by the General Council.

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