

CHAPTER 11 - LAND USE PLANNING

11.1.0 Objectives

11.1.1 The objectives of this chapter are as follows:

- 11.1.1.1 to encourage the development of a common Yukon land use planning process outside community boundaries;
- 11.1.1.2 to minimize actual or potential land use conflicts both within Settlement Land and Non-Settlement Land and between Settlement Land and Non-Settlement Land;
- 11.1.1.3 to recognize and promote the cultural values of Yukon Indian People;
- 11.1.1.4 to utilize the knowledge and experience of Yukon Indian People in order to achieve effective land use planning;
- 11.1.1.5 to recognize Yukon First Nations' responsibilities pursuant to Settlement Agreements for the use and management of Settlement Land; and
- 11.1.1.6 to ensure that social, cultural, economic and environmental policies are applied to the management, protection and use of land, water and resources in an integrated and coordinated manner so as to ensure Sustainable Development.

11.2.0 Land Use Planning Process

11.2.1 Any regional land use planning process in the Yukon shall:

- 11.2.1.1 subject to 11.2.2, apply to both Settlement and Non-Settlement Land throughout the Yukon;
- 11.2.1.2 be linked to all other land and water planning and management processes established by Government and Yukon First Nations minimizing where practicable any overlap or redundancy between the land use planning process and those other processes;

- 11.2.1.3 provide for monitoring of compliance with approved regional land use plans;
 - 11.2.1.4 provide for periodic review of regional land use plans;
 - 11.2.1.5 provide for procedures to amend regional land use plans;
 - 11.2.1.6 provide for non-conforming uses and variance from approved regional land use plans in accordance with 12.17.0;
 - 11.2.1.7 establish time limits for the carrying out of each stage of the process;
 - 11.2.1.8 provide for public participation in the development of land use plans;
 - 11.2.1.9 allow for the development of sub-regional and district land use plans;
 - 11.2.1.10 provide for planning regions which, to the extent practicable, shall conform to the boundaries of Traditional Territories;
 - 11.2.1.11 provide, to the extent practicable, for decisions of the Yukon Land Use Planning Council and the Regional Land Use Planning Commissions to be made by consensus; and
 - 11.2.1.12 apply to the process of establishing or extending National Parks and national historic parks and commemorating new national historic sites.
- 11.2.2 This chapter shall not apply to:
- 11.2.2.1 national park reserves established or national historic sites commemorated prior to Settlement Legislation, National Parks or national historic parks once established, or national historic sites once commemorated;
 - 11.2.2.2 subdivision planning or local area planning outside of a Community Boundary; or
 - 11.2.2.3 subject to 11.2.3, land within a Community Boundary.

11.2.3 In the event a Community Boundary is altered so as to include within a Community Boundary any land subject to an approved regional land use plan, the regional land use plan shall continue to apply to such land until such time as a community plan is approved for such land.

11.3.0 Yukon Land Use Planning Council

11.3.1 The Land Use Planning Policy Advisory Committee established by the "Agreement on Land Use Planning in Yukon", dated October 22, 1987, shall be terminated as of the effective date of Settlement Legislation and replaced by the Yukon Land Use Planning Council on the same date.

11.3.2 The Yukon Land Use Planning Council shall be made up of one nominee of the Council for Yukon Indians and two nominees of Government. The Minister shall appoint the nominees.

11.3.3 The Yukon Land Use Planning Council shall make recommendations to Government and each affected Yukon First Nation on the following:

11.3.3.1 land use planning, including policies, goals and priorities, in the Yukon;

11.3.3.2 the identification of planning regions and priorities for the preparation of regional land use plans;

11.3.3.3 the general terms of reference, including time frames, for each Regional Land Use Planning Commission;

11.3.3.4 the boundary of each planning region; and

11.3.3.5 such other matters as Government and each affected Yukon First Nation may agree.

11.3.4 The Yukon Land Use Planning Council may establish a secretariat to assist the Yukon Land Use Planning Council and Regional Land Use Planning Commissions in carrying out their functions under this chapter.

11.3.5 The Yukon Land Use Planning Council shall convene an annual meeting with the chairpersons of all Regional Land Use Planning Commissions to discuss land use planning in the Yukon.

11.4.0 Regional Land Use Planning Commissions

11.4.1 Government and any affected Yukon First Nation may agree to establish a Regional Land Use Planning Commission to develop a regional land use plan.

11.4.2 Settlement Agreements shall provide for regionally based Regional Land Use Planning Commissions with one third representation by nominees of Yukon First Nations, one third representation by nominees of Government, and one third representation based on the demographic ratio of Yukon Indian People to the total population in a planning region.

Specific Provision

11.4.2.1 Any Regional Land Use Planning Commission established for a planning region which includes any part of the Traditional Territory of the Tr'ondëk Hwëch'in shall be composed of one-third nominees of the Tr'ondëk Hwëch'in and the other Yukon First Nations whose Traditional Territories are included in the planning region, one-third nominees of Government, and one-third nominees appointed in accordance with 11.4.2.2.

11.4.2.2 Government, the Tr'ondëk Hwëch'in and the other Yukon First Nations whose Traditional Territories are included in the planning region shall agree on who may nominate each of the last one-third of the nominees to the Regional Land Use Planning Commission referred to in 11.4.2.1 based upon the demographic ratio of Yukon Indian People in the planning region to the total population in the planning region.

11.4.2.3 The Tr'ondëk Hwëch'in and the other Yukon First Nations whose Traditional Territories are included in the planning region shall determine the proposed Yukon First Nation nominees to the Regional Land Use Planning Commission, prior to entering the process in 11.4.2.5 and 11.4.2.6.

11.4.2.4 Failing agreement under 11.4.2.2 or determination under 11.4.2.3, Government, the Tr'ondëk Hwëch'in or any Yukon First Nation whose Traditional

Territory is included in the planning region may refer the matter to the dispute resolution process under 26.3.0.

- 11.4.2.5 Prior to any appointments being made to a Regional Land Use Planning Commission, Government, and the Tr'ondëk Hwëch'in and the other Yukon First Nations whose Traditional Territories are included in a planning region, shall make reasonable attempts to reach a consensus as to the individuals which each nominates to the Regional Land Use Planning Commission.
- 11.4.2.6 In attempting to reach consensus under 11.4.2.5, Government, and the Tr'ondëk Hwëch'in and the other Yukon First Nations whose Traditional Territories are included in a planning region, shall consider:
- (a) any prospective nominee's familiarity with and sensitivity to the culture and aspirations of the Tr'ondëk Hwëch'in and the other Yukon First Nations whose Traditional Territories are included in a planning region;
 - (b) any prospective nominee's familiarity with land use planning issues;
 - (c) the compatibility of proposed nominees; and
 - (d) any other matters to which Government, and the Tr'ondëk Hwëch'in and the other Yukon First Nations whose Traditional Territories are included in the planning region, agree.

11.4.2.7 If, after having made the reasonable attempts required by 11.4.2.5, Government, and the Tr'ondëk Hwëch'in and the other Yukon First Nations whose Traditional Territories are included in the planning region, are unable to reach a consensus, either may give written notice to the others setting out the names of the individuals which it intends to nominate to the Regional Land Use Planning Commission and 14 days thereafter may so nominate those individuals.

11.4.2.8 Any Regional Land Use Planning Commission established for a planning region which includes any part of the Primary Use Area shall include one nominee of the Tetlit Gwich'in in the place of one nominee of the Tr'ondëk Hwëch'in and the other Yukon First Nations whose Traditional Territories are included in the planning region.

11.4.3 The majority of nominees of Yukon First Nations and the majority of nominees of Government on a Regional Land Use Planning Commission shall be Yukon residents with a long term familiarity with the region or regions being planned.

11.4.4 Each Regional Land Use Planning Commission shall prepare and recommend to Government and the affected Yukon First Nation a regional land use plan within a timeframe established by Government and each affected Yukon First Nation.

11.4.5 In developing a regional land use plan, a Regional Land Use Planning Commission:

11.4.5.1 within its approved budget, may engage and contract technical or special experts for assistance and may establish a secretariat to assist it in carrying out its functions under this chapter;

11.4.5.2 may provide precise terms of reference and detailed instructions necessary for identifying regional land use planning issues, for conducting data collection, for performing analyses, for the production of maps and other materials, and for preparing the draft and final land use plan documents;

- 11.4.5.3 shall ensure adequate opportunity for public participation;
- 11.4.5.4 shall recommend measures to minimize actual and potential land use conflicts throughout the planning region;
- 11.4.5.5 shall use the knowledge and traditional experience of Yukon Indian People, and the knowledge and experience of other residents of the planning region;
- 11.4.5.6 shall take into account oral forms of communication and traditional land management practices of Yukon Indian People;
- 11.4.5.7 shall promote the well-being of Yukon Indian People, other residents of the planning region, the communities, and the Yukon as a whole, while having regard to the interests of other Canadians;
- 11.4.5.8 shall take into account that the management of land, water and resources, including Fish, Wildlife and their habitats, is to be integrated;
- 11.4.5.9 shall promote Sustainable Development; and
- 11.4.5.10 may monitor the implementation of the approved regional land use plan, in order to monitor compliance with the plan and to assess the need for amendment of the plan.

11.5.0 Regional Land Use Plans

- 11.5.1 Regional land use plans shall include recommendations for the use of land, water and other renewable and non-renewable resources in the planning region in a manner determined by the Regional Land Use Planning Commission.

11.6.0 Approval Process for Land Use Plans

- 11.6.1 A Regional Land Use Planning Commission shall forward its recommended regional land use plan to Government and each affected Yukon First Nation.

- 11.6.2 Government, after Consultation with any affected Yukon First Nation and any affected Yukon community, shall approve, reject or propose modifications to that part of the recommended regional land use plan applying on Non-Settlement Land.
- 11.6.3 If Government rejects or proposes modifications to the recommended plan, it shall forward either the proposed modifications with written reasons, or written reasons for rejecting the recommended plan to the Regional Land Use Planning Commission, and thereupon:
- 11.6.3.1 the Regional Land Use Planning Commission shall reconsider the plan and make a final recommendation for a regional land use plan to Government, with written reasons; and
- 11.6.3.2 Government shall then approve, reject or modify that part of the plan recommended under 11.6.3.1 applying on Non-Settlement Land, after Consultation with any affected Yukon First Nation and any affected Yukon community.
- 11.6.4 Each affected Yukon First Nation, after Consultation with Government, shall approve, reject or propose modifications to that part of the recommended regional land use plan applying to the Settlement Land of that Yukon First Nation.
- 11.6.5 If an affected Yukon First Nation rejects or proposes modifications to the recommended plan, it shall forward either the proposed modifications with written reasons or written reasons for rejecting the recommended plan to the Regional Land Use Planning Commission, and thereupon:
- 11.6.5.1 the Regional Land Use Planning Commission shall reconsider the plan and make a final recommendation for a regional land use plan to that affected Yukon First Nation, with written reasons; and
- 11.6.5.2 the affected Yukon First Nation shall then approve, reject or modify the plan recommended under 11.6.5.1, after Consultation with Government.

11.7.0 Implementation

- 11.7.1 Subject to 12.17.0, Government shall exercise any discretion it has in granting an interest in, or authorizing the use of, land, water or other resources in conformity with the part of a regional land use plan approved by Government under 11.6.2 or 11.6.3.
- 11.7.2 Subject to 12.17.0, a Yukon First Nation shall exercise any discretion it has in granting an interest in, or authorizing the use of, land, water or other resources in conformity with the part of a regional land use plan approved by that Yukon First Nation under 11.6.4 or 11.6.5.
- 11.7.3 Nothing in 11.7.1 shall be construed to require Government to enact or amend Legislation to implement a land use plan or to grant an interest in, or authorize the use of, land, water or other resources.
- 11.7.4 Nothing in 11.7.2 shall be construed to require a Yukon First Nation to enact or amend laws passed pursuant to self-government Legislation to implement a land use plan or to grant an interest in, or authorize the use of, land, water or other resources.

11.8.0 Sub-Regional and District Land Use Plans

- 11.8.1 Sub-regional and district land use plans developed in a region which has an approved regional land use plan shall conform to the approved regional land use plan.
- 11.8.2 The provisions of an approved regional land use plan shall prevail over any existing sub-regional or district land use plan to the extent of any inconsistency.
- 11.8.3 Subject to 11.8.4 and 11.8.5, a Yukon First Nation may develop a sub-regional or district land use plan for Settlement Land and Government may develop a sub-regional or district land use plan for Non-Settlement Land.
- 11.8.4 If Government and a Yukon First Nation agree to develop a sub-regional or district land use plan jointly, the plan shall be developed in accordance with the provisions of this chapter.

11.8.5 If Government and a Yukon First Nation do not agree to develop a sub-regional or district land use plan jointly, only 11.8.1 and 11.8.2 of this chapter shall apply to the development of the plan.

11.9.0 Funding

11.9.1 Each Regional Land Use Planning Commission, after Consultation with each affected Yukon First Nation, shall prepare a budget for the preparation of the regional land use plan and for carrying out its functions under this chapter and shall submit that budget to the Yukon Land Use Planning Council.

11.9.2 The Yukon Land Use Planning Council shall, on an annual basis, review all budgets submitted under 11.9.1 and, after Consultation with each affected Regional Land Use Planning Commission, propose a budget to Government for the development of regional land use plans in the Yukon and for its own administrative expenses.

11.9.3 Government shall review the budget submitted under 11.9.2 and shall pay those expenses which it approves.

11.9.4 If Government initiates the development of a sub-regional or district land use plan by a planning body, the planning body established to prepare that plan shall prepare a budget for the preparation of the plan which shall be subject to review by Government, and Government shall pay those expenses which it approves.