



LANDS ACT OVERVIEW

Preamble

A message from Council explaining its vision for this *Act*.

Part 1: Interpretation

Part 1 defines certain terms and explains how to understand the *Act*.

Part 2: Purpose and application

Part 2 guides how the *Act* is used.

The Final Agreement and Self-government Agreements and Constitution have authority over the *Lands Act*. If there is a conflict between two laws, the law with the higher authority is used.

A regulation passed by Council has authority over a rule made by the director of Heritage, Lands and Resources. If there's a conflict between the *Act's* regulations and rules, the regulations are used.

KDFN Final and
Self-government Agreements

KDFN Constitution

KDFN *Lands Act*

KDFN Lands Regulations

KDFN Lands Rules and Council Approved Policies

Part 3: Planning, zoning and assessment

Part 3 defines how KDFN may create and change land use plans and zoning, and describes how decisions are made on Yukon Environmental and Socio-economic Assessment Act (YESAA) assessments of projects on settlement land.

Division 1: Land use plans

Division 1 allows KDFN to develop, review, approve, amend, and adopt land use plans.

It requires that:

- a process be established by the director and approved by Council to develop, review, amend and approve land use plans;
- a plan be reviewed by the director and Council but only Council has the authority to approve or amend a plan;
- a plan cannot be approved or adopted if the process was not followed; and
- an adopted plan be added to Schedule 2.

Division 2: Zoning

Division 2 allows KDFN to zone settlement land through regulations. Zoning regulations determine which activities are allowed in an area, including the type of buildings allowed on settlement land.

KDFN zoning must comply with relevant land use plans. Once a land use plan is adopted, zoning must be enacted within one year.

Division 3: Environmental and socio-economic assessment

Division 3 appoints the director of Heritage, Lands and Resources department as the "decision body" on YESAA assessments of projects on settlement land. If a YESAA assessment is required, no development can be authorized on settlement land without a decision document.

Part 4: Grants of interests in settlement land

Part 4 explains how interests in settlement land are granted.

Division 1: Prohibition, withdrawal, exceptions and reservations to grants

Division 1 identifies prohibitions, withdrawals, exceptions and reservations to interests in settlement land.

A person cannot:

- occupy settlement land, unless they hold a settlement land interest or are authorized by the Final Agreement;
- gain or claim a right to settlement land simply by living on settlement land;
- be granted rights, interests and uses of mines, minerals, timber, oil and gas and water on settlement land, unless specified through another section of the *Act*.

An interest must:

- comply with this *Act* or with the Yukon Land Titles Act before it can be created, granted, assigned or transferred;
- be recorded in the KDFN Land Register and at the Yukon Land Titles Office if necessary; and
- be granted, disposed of, assigned or transferred by KDFN through a written process created or produced under this *Act*.

KDFN may:

- withdraw lands for public use, like a park or habitat protection, or KDFN government purposes; and
- cancel or correct an interest if an error was made issuing the parcel, or if the parcel was issued based on fraudulent information.

Division 2: Fee simple interests, allocations, leases and easements

KDFN may only issue settlement land allocations to KDFN Beneficiaries and Citizens.

Allocation interests are:

- available to all KDFN Beneficiaries and Citizens 19 years of age or older; and
- restricted to residential and traditional uses.

Allocation holders:

- have exclusive rights to their parcel of land;
- may transfer their allocation to other KDFN Beneficiaries and Citizens with approval from KDFN; and
- may change a residential allocation to a residential lease or a residential lease to an allocation with approval from KDFN.

The following terms and conditions of use apply to allocation interests:

- only Beneficiaries and Citizens may hold an allocation interest;
- each individual KDFN Beneficiary or Citizen may hold two allocations: one residential and one traditional use; and
- traditional use allocations must be at least 0.4 ha (one acre) in size.

A non-Beneficiary or non-Citizen will be able to inherit an allocation from an immediate family member as a life estate interest. Once this immediate family member passes away, the land will be returned to KDFN.

If an allocation holder passes away without a will, the allocation will be returned to KDFN. If an allocation has multiple holders and one person passes away, the other allocation holders will be offered that person's interest.

Leases and Easements

KDFN may issue leases and easements to KDFN Beneficiaries and Citizens, as well as to non-Beneficiaries and non-Citizens.

KDFN may also limit the number, area and type of lands to be leased. For example, KDFN may set aside land for traditional use, or limit the number of residential leases issued to non-Beneficiaries or non-Citizens.

General

KDFN may require an applicant to enter a benefits agreement, which will apply to the land interest once issued.

An allocation or lease holder is required to:

- register that interest in the KDFN lands register; and
- pay property tax to the city or the territorial government on the land, or on any buildings and improvements to the land.

KDFN may terminate an interest, but must give allocation or lease holders notice of the termination and time to submit an objection.

Part 5: Access to and use of settlement land

Part 5 allows KDFN to control access to and use of settlement land.

Division 1: Prohibitions

Division 1 prohibits certain activities on settlement land, unless authorized by KDFN, including:

- accessing or using settlement land (subject to the Final Agreement);
- quarrying;
- littering on or polluting settlement land; and
- using settlement land for activities that have negative environmental impacts.

Exceptions to prohibitions, include:

- exercising Aboriginal right or other rights protected under the Final Agreement, to access or use settlement land that is not compatible with the *Act*; and
- delivering emergency response or activities to protect public health or safety.

Division 2: Authorizations

Division 2 allows KDFN to issue anyone an authorization to access, use or develop settlement land.

KDFN Beneficiaries and Citizens don't require an authorization for traditional uses on unoccupied settlement land.

Non-Beneficiaries and non-Citizens are required to have an authorization from KDFN to access and use settlement land for commercial purposes.

An authorization holder:

- doesn't have a right or interest until it's approved by KDFN;
- may be required to have a benefits agreement;
- must register their authorization with the registrar;
- will be notified if KDFN intends to suspend or cancel the authorization; and
- may appeal a suspension or cancellation of the authorization.

Part 6: Development and subdivision

Part 6 explains how a development authorization or subdivision approval on settlement land is granted.

A person cannot develop on settlement land without a registered interest (a lease or allocation) or an authorization (a land use permit or licence).

KDFN may issue development authorizations and subdivision approval, as well as revoke an approved development authorization or subdivision approval.

All development on settlement land must comply with planning and zoning, unless otherwise authorized by KDFN.

A survey of settlement land must be done under the authority of this *Act*.

Part 7: Security

Part 7 allows KDFN to collect financial security from an authorization holder.

Money held by KDFN may be used to complete work associated with the project. Once an authorization holder completes the terms of the project, KDFN must return any money held against those actions.

KDFN can amend the amount of money held during the term of the interest or authorization.

Part 8: Expropriation of interests in settlement land

Expropriation is when KDFN takes an individual's interest for a public purpose, like a utility.

Part 8 identifies the steps KDFN must take to expropriate a land interest for public use and determine compensation.

Part 9: Lands and resources register

Part 9 establishes a land and resources register and states the duties and responsibilities of the registrar and deputy registrar.

The duties of the registrar include:

- keeping records of the documents listed;
- assigning numbers to documents and recording that number on the document; and
- registering any documents or instruments (leases, allocations or authorizations) in the register.

The register is a public registry, open to the public requests. The *Act* ensures that private and personal information is protected.

KDFN has the authority to raise a settlement land title in the Yukon Land Titles Office.

Part 10: Administration

Part 10 formally establishes the Heritage, Lands and Resources department and outlines its authorities.

The Heritage, Lands and Resources director has the authority to:

- delegate some or all of their authority to a manager in the department, another KDFN director, or the head of a KDFN development corporation;
- create administrative rules under the *Act*, which must be signed, dated and published on the website for the public;
- waive a regulated fee or rent;
- enter agreements with other governments on issues related to planning, zoning, development, subdivision and local government services; and
- enter into land development agreements with another person.

Any agreement the director enters must be approved by Council.

Part 11: Enforcement and compliance

Part 11 states how the *Act* is enforced and the responsibility of inspectors.

Division 1: Compliance

Division 1 states the roles and responsibilities of inspectors under the *Act*, as well as the responsibilities of landholders.

An inspector may:

- enter and inspect a location to ensure compliance with the *Act*;
- enter a location without a warrant in cases that endanger human life, the environment or the loss or destruction of evidence; and
- post signs and notices on settlement land.

An inspector must:

- receive permission from an occupant before entering a location, unless they have a warrant from a justice of the peace; and
- not use force when entering a location.

A person may not:

- remove, alter or destroy a sign or notice posted by an inspector;
- hinder or obstruct an inspector while they are carrying out their duties;
- make false statements to an inspector;
- transfer a land authorization without approval from KDFN; or
- alter, imitate or duplicate a land authorization.

A person may be required to produce proof of their interest or authorization if requested by an inspector.

Division 2: Enforcement

Division 2 identifies actions an inspector may take against an interest holder not in compliance with the *Act*.

An inspector may:

- issue a notice of non-compliance;
- enter a location if non-compliance continues;
- issue orders beyond fines and penalties, including a pollution abatement order; and
- amend or cancel an order.

A person cannot ignore, disobey or disregard a notice of non-compliance.

Part 12: Offences and penalties

Part 12 defines an offence under the *Act* and identifies penalties for an offence.

Division 1: Offences

Division 1 lists offences under the *Act*, including trespassing, littering, pollution, unauthorized use, etc.

Under the *Act*:

- a person can be charged for each day the offence is committed;
- an officer, director or agent of a corporation committing an offence is liable; and
- if a person tried to prevent the offence, they are protected against conviction.

Division 2: Penalties

Division 2 states the penalties available to KDFN, including:

- issuing a maximum fine of up to \$300,000.00 and maximum term of imprisonment of up to six months for an offence under the *Act*;
- adding conditions to a fine;
- issuing tickets for an offense rather than prosecuting in court; and
- prosecuting an offense in court.

An offence under this *Act* must be prosecuted following the Summary Conviction Act (Yukon).

Part 13: Reconsideration and review

Part 13 states a person may request that the director reconsider their decision, within 30 days of the decision date. A person may request that the director reconsider the following decisions:

- grant, amendment or renewal of an interest;
- termination of an interest
- issuance of an authorization;
- approval of an amendment, assignment, renewal or cancellation of an authorization;
- suspension or cancellation of an authorization;
- issuance of a development authorization;
- approval or refusal of a subdivision application; and
- revocation of a development authorization or subdivision approval.

A person may also apply for a judicial review of an action made by KDFN.

Part 14: Miscellaneous

Part 14 covers items that aren't addressed in other parts of the *Act*, but are important including:

- protecting KDFN and its employees against legal action for enforcing the *Act*;
- ensuring action against KDFN is taken within six months of an incident; and
- directing KDFN to serve notices under the *Act* in person, by mail, or by posting in an easily seen location.

Part 15: Regulations

Part 15 allows KDFN to enact regulations and identifies which regulations may be passed.

Part 16: Transitional provisions

Part 16 identifies all items that need to be transitioned under the new *Act* including: existing land use plans and interests.

Part 17: Coming into force and repeal

Part 17 repeals the previous Lands Act (2014) and allows the new *Act* to come into force.

Schedule 1: Interpretive rules

Schedule 1 provides the general rules around understanding the *Act*.

Schedule 1: Interpretive rules

Schedule 1 defines words and terms used in the *Act*.

Schedule 2: Land use plans

Schedule 2 identifies the existing land use plans that will be adopted immediately under the *Act*:

- KDFN Traditional Territory Land Vision;
- Community Lands Plan; and
- Marsh Lake Community Land Use Plan.

Key Definitions

Allocation: an allocation is a right to an interest in settlement land for residential or traditional activities. Allocations are only available to KDFN Beneficiaries and Citizens.

Authorization: an authorization is permission to use or access settlement land for a specific reason. Authorizations can include a licence, land use or development permit. Authorizations do not provide an interest in the land.

Development authorization: development authorization is permission from KDFN to complete work on a settlement land lot.

Development cost: development cost is the cost to develop a lot of settlement land. Costs could include: land surveys, road construction, power line installation, etc.

Easement: an easement is an authorization in settlement land for a specific reason. Easements are generally used for power or utility lines, or underground telecommunications lines.

Expropriation: expropriation is when KDFN takes an individual's interest in land for a public purpose, like a power line or a road.

Interest: an interest in land is a right to access or use a lot of settlement land (i.e. a lease, an allocation or an easement).

Land use planning: land use planning determines how land will be used. A land use plan guides how land will be developed and identifies land to be set aside for residential, recreational and commercial uses.

Lease: a lease is an interest in settlement land for commercial, industry, quarry, residential, and recreational use. Leases are available to any qualified applicant. A lease creates a landlord/tenant relationship between KDFN and the leaseholder.

Lottery: a lottery is a way to acquire an interest in settlement land through a random selection of qualified applicants.

Planned Development Parcel: a planned development parcel is a parcel of settlement land where money has been spent on development costs to define parcel boundaries and provide road and utilities access.

Subdivide: subdivide is the creation, adjustment, or realignment of a parcel of settlement land that needs to be registered under the Lands Titles Act.

Tender: tender is a way to acquire an interest in settlement land for commercial, industrial or quarry use. Qualified applicants are invited to bid on settlement land lots based on market value.

Zoning Regulation: zoning regulations determine the details of how land will be developed. Zoning must be consistent with the relevant land use plan.