

YUKON
CANADA

Whitehorse, Yukon

ORDER-IN-COUNCIL 2009/

AREA DEVELOPMENT ACT

Pursuant to section 3 of the *Area Development Act*, the Commissioner in Executive Council orders as follows

1 The attached *Little Teslin Lake Recreational Area Development Regulation* is made.

Dated at Whitehorse, Yukon, this 2009.

YUKON
CANADA

Whitehorse, Yukon

DÉCRET 2009/

LOI SUR L'AMÉNAGEMENT RÉGIONAL

Le commissaire en conseil exécutif, conformément à l'article 3 de la *Loi sur l'aménagement régional*, décrète :

1

Fait à Whitehorse, au Yukon, le 2009.

Commissioner of Yukon/Commissaire du Yukon

Little Teslin Lake Recreational Area Development Regulation

1 The *Little Teslin Lake Recreational Area Development Regulation* is made. 1

Preamble

2 The intent of this *Regulation* is to provide opportunity for recreational cottage lot development while maintaining the ecological integrity of Little Teslin Lake for the enjoyment of Yukon people today and in the future.

Purpose

3 The purpose of this *Regulation* is to regulate and control development of lands within the Little Teslin Lake Recreational Development Area by

- (a) dividing the area into land use zones;
- (b) prescribing and regulating uses in each zone;
- (c) providing for the issuance of development permits;
- (d) describing the officers responsible for administering this *Regulation*;
- (e) providing a procedure whereby appeals respecting the issuance of a development permit may be heard;
- (f) providing a procedure for requesting amendments to this *Regulation*; and
- (g) providing a procedure for the public to be consulted in matters relating to this *Regulation*.

Interpretation

4 In this *Regulation*,

“accessory building” means a building or structure that is located on the same lot as another building (referred to in this section as the “main building”) and is separate from and subordinate to the main

building;

“accessory use” means a use, of a lot or building, which is subordinate to the principal use of the lot or building or to the main building on the lot;

“building” includes any structure that may be used for housing or sheltering persons, animals, or goods and includes any such structure whether it is constructed or placed on, over, or under land or a body of water;

“building permit” means a building permit under the *Building Standards Act*;

“cottage unit” means a recreational accommodation building, containing habitable rooms, cooking facilities and sanitary conveniences, other than a building that is used for year-round or permanent habitation;

“cottage unit area” means the habitable area contained within the inside walls of a cottage unit, but it does not include the area of a porch, veranda, or sunroom that is not habitable in all seasons, nor does it include the area of an unfinished attic or basement, nor of any garage or carport;

“development area” means the development area established by this regulation;

“development officer” means a person appointed under section 3 of the *Area Development Act*;

“development permit” means a development permit issued under this regulation;

“home occupation” means any occupation, trade, profession, or craft carried out within a dwelling as a use incidental and subordinate to the principal residential use;

“lot” means

(a) a single parcel of land described in a certificate of title and registered at the Land Titles Office, or

(b) a parcel of crown or First Nation land subject to a lease or agreement for sale;

“lot line” means a line that forms part of the

boundary of a lot;

“Minister” means the Minister responsible for administering the *Area Development Act*;

“owner” means a person named on an assessment roll under the *Assessment and Taxation Act* as the owner or leaseholder of a lot;

“principal use” means a use listed as a principal use in Schedule A;

“public utility” means the use of land for a sewerage, water, telecommunications, electricity, or transportation system;

“recreational pursuits” means non-commercial activities, including but not limited to hiking, skiing, snowshoeing and wildlife viewing.

“setback” means the minimum distance required between a lot line and any building or structure located on the lot;

“site coverage” means that portion of the lot covered by all buildings, including the area covered by porches, balconies, sheds, garages, greenhouses, outhouses and any other type of building;

“use” means the construction, maintenance, or operation of any facility involving the use of land or a building or structure on land and, for greater certainty, includes

(a) any use of land or a water surface whether or not any building or structure is also used;

(b) any use of land, a water surface, a building, or a structure for a commercial or business purpose whether or not the use may be aptly described as a “facility”; and

(c) a change to any such use or in the intensity of any such use;

“yard” means a part of a lot upon which, because of the setbacks required by this *Regulation*, no building or structure other than a fence may be erected; and

“zone” means an area delineated as a zone in Schedule B.

PART 1

ADMINISTRATION

Role of development officer

5(1) The role of a development officer is

(a) to receive, to review and to respond to applications for development permits;

(b) to receive, to review and to respond to written complaints relating to this *Regulation*;

(c) to make decisions on completed applications for development permits;

(d) to perform public consultation functions required by this *Regulation*;

(e) to make decisions on requests for minor variances under section 8

(f) to receive and to review requests for amendment of this *Regulation*;

(g) to advise applicants for development permits of the appeal process;

(h) where, in the opinion of a development officer, there has been a contravention of this regulation, to take steps to remedy the situation pursuant to the *Area Development Act*.

(2) A development officer's designation of a lot line as the front, rear and/or side lot line of a lot may not, despite the Zoning Appeal Board Regulations, be appealed to the Zoning Appeal Board.

PART 2

DEVELOPMENT PERMITS

Development permit application requirements

6(1) A development permit is required for the following

(a) the construction of a building;

(b) the reconstruction or structural repair of a building that, on the coming into force of this

regulation, does not comply with this *Regulation*;

(c) the construction of an addition to a building or any alteration that affects the exterior size or shape of the building;

(d) any use that requires the approval of a development officer under section 8; or

(e) any use for which a building permit is required.

(2) A development permit is not required for

(a) the commencement of a principal or accessory use permitted for the zone under Schedule A if a building permit is not required prior to the commencement of the use;

(b) the repair or maintenance of buildings that comply with this *Regulation*; or

(c) the construction of the following

(i) single story accessory buildings no larger than 10 square metres that are not intended for human habitation,

(ii) public utility structures, poles, antennas,

(iii) fences, gates, pens, or similar structures, or

(iv) roads or driveways.

Application forms for development permits

7 An application for a development permit may be made on the same form as an application for a building permit.

Completion of application for development permit

8 An application for a development permit is not complete until a development officer is satisfied that the application contains all the information about the proposed development required for a decision to be made under this *Regulation*.

Decision on permitted uses

9 A development officer shall approve an application for a development permit where the proposed use conforms with

- (a) this regulation including, for greater certainty
 - (i) the list of permitted principal uses for which the building or lot may be used under Schedule A for the zone in which the building or lot is located, and
 - (ii) the list of permitted accessory uses under Schedule A where a permitted principal use already exists;
- (b) other Acts and Regulations of the Yukon; and
- (c) Acts and Regulations of Canada.

Minor variances

10 Despite the provisions of Schedule A, a development officer may issue a development permit authorizing a use that comes within 10% of meeting the setback and cottage unit size requirements for the zone.

Legally non-conforming uses, buildings, and lots

11(1) All uses, buildings and lots existing when this *Regulation* comes into force that do not conform to the requirements of a particular zone in Schedule A are considered legally non-conforming, and are not required to comply with the requirements of that zone.

(2) For the purposes of subsection (1), a building or structure that is not complete when this *Regulation* comes into force shall be considered to be an existing building or structure at that time if

- (a) the building or structure is lawfully under construction when this regulation comes into force; or
- (b) all required permits for the construction of the building or structure are issued before this regulation comes into force and the building or structure is completed within 12 months after the last permit was issued.

(3) A building or structure to which this section applies may be rebuilt in the same location and with the same footprint but

- (a) the setback provisions for the zone under Schedule A apply to any addition or enlargement

to the design of the original building; and

(b) a development permit is required for any such addition or enlargement.

(4) Repairs, maintenance or installations that do not alter the size of the building or structure or involve the rearrangement or replacement of structural elements shall not be considered to be structural alterations.

(5) Subject to subsection (4), a use that is exempt from the need to conform to requirements of a zone may be extended throughout the rest of the building, structure, or lot.

PART 3

MISCELLANEOUS

Prohibited uses

12(1) The following uses are prohibited

(a) any use that has unreasonable adverse effects on the use of adjacent lots;

(b) any use that creates an unreasonable increase in conditions such as traffic, noise, vibration, smoke, dust, odour, toxic or noxious fumes, fire, heat, light, or explosive hazards;

(c) any use involving unsightly storage of goods, merchandise, or equipment that adversely affects the neighbourhood;

(d) any use that is hazardous to public safety;

(e) the construction of a floating dock;

(f) permanent residential occupancy;

(g) commercial harvesting of timber;

(h) mineral staking or other mining activity; and

(i) any commercial use.

Change of ownership or occupancy

13 The use of a lot, building, or structure is not affected by a change in the ownership or tenancy of

the lot, building or structure.

Compliance

14(1) No person shall, without obtaining a development permit, do any act for which a development permit is required under this *Regulation*.

(2) No land, building, or structure shall be occupied or used, and no building or structure or part of a building or structure, shall be erected, moved, altered or enlarged, except in conformity with this *Regulation*.

(3) No lot shall be subdivided or enlarged.

(4) Where a development permit has been issued for a use, a person must not undertake or continue the development use except in accordance with the development permit.

(5) This *Regulation* does not diminish the need to obtain

(a) a building permit;

(b) a permit to construct, maintain, or alter a means of access to or from a controlled highway under the *Highways Act*; or

(c) a permit or other approval under any other Act.

Appeals

15 Appeals from decisions of a development officer shall be forwarded in writing to the Zoning Appeal Board under the *Zoning Appeal Board Regulations*.

Requests for amendment of this regulation

16 No zone that has been established under these regulations may be altered.

Designation of development area

17 The area delineated in Schedule B is designated as a development area to be known as the "Little Teslin Lake Recreational Development Area."

Zones

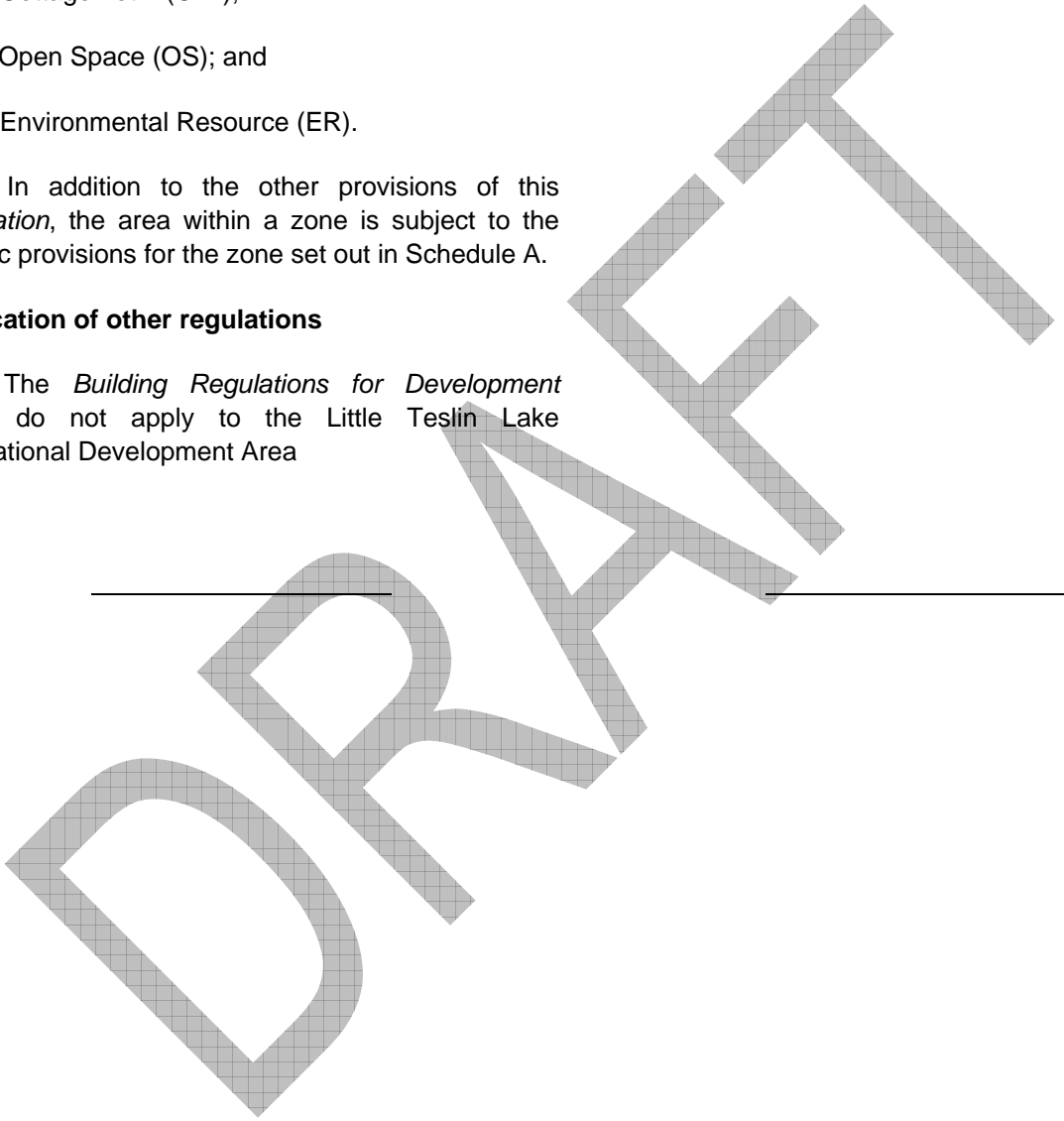
18(1) The area within the development area is divided into the following zones as delineated in Schedule B

- (a) Cottage Lot 1 (CL1);
- (b) Cottage Lot 2 (CL2);
- (c) Open Space (OS); and
- (d) Environmental Resource (ER).

(2) In addition to the other provisions of this *Regulation*, the area within a zone is subject to the specific provisions for the zone set out in Schedule A.

Application of other regulations

19 The *Building Regulations for Development Areas* do not apply to the Little Teslin Lake Recreational Development Area



SCHEDULE A

OPEN SPACE – OS

Purposes

1 The purposes of the Open Space zone are to protect wildlife habitat, to protect environmentally-sensitive areas, to serve as a buffer between development areas, and to preserve the largely natural state of the development area.

Permitted uses

2 Only the following principal uses are permitted

- (a) recreational pursuits; and
- (b) public utilities.

Accessory uses

3 Fire risk reduction activities.

Special provisions

4 Fire risk reduction activities are permitted in the Open Space zone only if they are part of a community- or government-approved program.

- (a)

ENVIRONMENTAL RESOURCE – ER

Purposes

5 The purposes of the Environmental Resource zone are to provide the highest level of protection for wildlife habitat and environmentally-sensitive areas, to serve as a buffer between development areas, prevent degradation of the habitat and to preserve the largely natural state of the development area

Permitted Uses

6 Only the following principal uses are permitted

- (a) low impact recreational pursuits such as wildlife viewing; and
- (b) public utilities.

Special Provisions

7 No development shall be permitted without the preparation and approval of a development assessment and a site master plan.

COTTAGE LOT 1 – CL-1

Purpose

8 The purpose of the Cottage Lot 1 zone is to provide a zone for recreational development existing prior to these regulations coming in to force. Development that is not consistent with the requirements of the Cottage Lot 1 zone is legally non-conforming in accordance with Section 9 of Part 2 of this *Regulation*.

Principal use

9 The only principal use permitted is one cottage unit for each lot.

Accessory use

10 The only accessory use permitted is accessory buildings, subject to the following conditions

- (a) the total site coverage of all accessory buildings may not exceed 50square metres; and
- (b) no accessory building shall be used as a dwelling.

Minimum lot size

11 The minimum permitted lot size is 0.4 hectares.

Setbacks

12 Cottage units and all accessory buildings must be at least 15 metres from the boundary of the lot.

Maximum cottage unit size

13 The maximum permitted cottage unit area is 100 square metres.

Tree Removal

14 Tree removal shall be limited to that required to construct a cottage unit and to use the lot for recreational purposes

Special provision

12 Despite paragraph 12(1)(f), any property that is, at the time this Regulation comes into force, being used for permanent residential occupancy may continue to be used in that way, and its use as such is deemed for the purposes of this Regulation to be a legally non-conforming use.

COTTAGE LOT 2– CL-2

Purpose

13 The purpose of the Cottage Lot 2 zone is to provide a zone for recreational development

Principal uses

14 The only principal use permitted is one cottage unit for each lot.

Accessory uses

15 The only accessory use permitted is accessory buildings, subject to the following conditions

(a) the total site coverage of all accessory buildings may not exceed 50square metres;
and

(b) no accessory building shall be used as a dwelling.

Minimum lot size

16 The minimum permitted lot size is 0.4 hectares.

Setbacks

17 Cottage units and all accessory buildings must be at least 15 metres from the boundary of the lot.

Maximum cottage unit size

18 The maximum permitted cottage unit area is 100 square metres.

Tree removal

19 Tree removal shall be limited to that required to construct a cottage unit and to use the lot for recreational purposes.

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SCHEDULE B

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