

UNDERSTANDING

the *Lands and Resources Act*



A Citizen's guide to the draft law



Vuntut Gwitchin Government

UNDERSTANDING THE DRAFT LANDS AND RESOURCES ACT

INTRODUCTION

March 9, 2020

Dear Vuntut Gwitchin First Nation citizens,

In May 1993, Vuntut Gwitchin First Nation and the governments of Yukon and Canada signed the Final and Self-Government Agreements. These agreements settled the Vuntut Gwitchin First Nation land claim and recognized the authority of the Vuntut Gwitchin Government to protect and manage VGFN Settlement Land for living and future generations.

The signing of the agreements was a historic step towards Vuntut Gwitchin First Nation independence, but the agreements actually say very little about *how* the Vuntut Gwitchin Government will manage its lands. Instead, they simply leave room for the Vuntut Gwitchin Government to develop its own goals, priorities and governance tools.

VGFN has not yet adopted any laws for Settlement Land, which means that land managers have limited tools and no instructions on how to use the tools they have. People on the land, including those who are not VGFN citizens, have no official statement of their rights and obligations.

The draft *Lands and Resources Act* was designed to fill these gaps and provide a blueprint for the management of VGFN Settlement Land. It deals with everything from land use applications and decision-making processes, to dispute resolution and enforcement. Adoption of the *Lands and Resources Act* will be a further step to achieving the provisions of our Agreements and fulfilling the vision of our Elders.

The *Lands and Resources Act* is draft legislation, which means it is still a work in progress. This guide is intended to help VGFN citizens understand the law so they can participate in improving it. The Vuntut Gwitchin Government will only adopt the *Lands and Resources Act* after careful engagement with the people it will affect the most – VGFN citizens.

The Vuntut Gwitchin Government needs a land management law that reflects your values and priorities, and respects your relationship with our Settlement Land. I encourage all VGFN citizens to get involved in reviewing the draft Act, and to share your views with the Natural Resources Committee and your elected officials.



Cheryl J. Charlie, Councilor and Chair of the Natural Resources Committee



Date

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ADOPTING NEW LEGISLATION, STEP BY STEP

Under Article IX of the Vuntut Gwitchin Constitution, the Council makes laws for the Vuntut Gwitchin First Nation with the advice of the General Assembly and the Elders Council.¹

The 2006 *Governance Act* explains how the Council adopts legislation. Under that law, the Council appoints a standing committee to oversee every department of the government. A standing committee's main job is to review and improve proposed laws before sending them to the Council for approval.

STEP 1: The Natural Resources Committee reviews the draft *Lands and Resources Act* and ensures members of the public have an adequate opportunity to review and provide their comments on it. The Committee completed their review.

STEP 2 (FIRST READING): The *draft Lands and Resources Act* is proposed to the Chief, who presents the draft to the Council. Council members can then propose, debate and vote on any amendments. First reading ends once the Council votes to approve or reject the draft as a whole. If the councilors believe more input from VGFN citizens is needed, they can also send the draft law back for more citizen engagement. The Council has completed first reading of the *draft Lands and Resources Act*.

Vuntut Gwitchin Government will be conducting engagement with citizens and completing additional review in advance of a second reading. Feedback and proposed amendments to the draft will be consolidated and available for citizen review before being presented to Council.

STEP 3 (SECOND READING): Except in emergencies, the Council must wait 15 days after a first reading to do the second reading of a draft law. Council will consider the feedback and proposed amendments in advance of second reading. On second reading, councilors again get the chance to propose, debate and vote on amendments. Second reading ends once the Council votes to approve or reject the draft as a whole. An approved draft immediately becomes law unless it is written to take effect on some other date.

¹ Constitution, Article IX, section 1.

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LANDS AND RESOURCES ACT WILL APPLY ONLY ON VGFN SETTLEMENT LAND

When reviewing the draft *Lands and Resources Act*, it's important to understand the difference between **Traditional Territory** and **Settlement Land**.

Each Yukon First Nation defined its own Traditional Territory during the land claim negotiations that led to Final Agreements. The Vuntut Gwitchin Traditional Territory covers nearly 130,000 km² (50,000 sq. mi.) and is outlined in dark blue on the map on the next page.

As part of the Final Agreement, the Vuntut Gwich'in gave up Aboriginal rights and title to most of the lands in the Traditional Territory. In return, the Canadian and Yukon governments recognized the Vuntut Gwitchin First Nation's legal title to 7,744 km² (2,990 sq. mi.) of Settlement Land within the Traditional Territory.

VGFN ownership of Settlement Land also comes with the authority to govern it. The Self-Government Agreement recognizes VGFN power to make laws for Settlement Land "use, management, administration, control and protection." This includes the power to regulate everything from residential leases to land development.

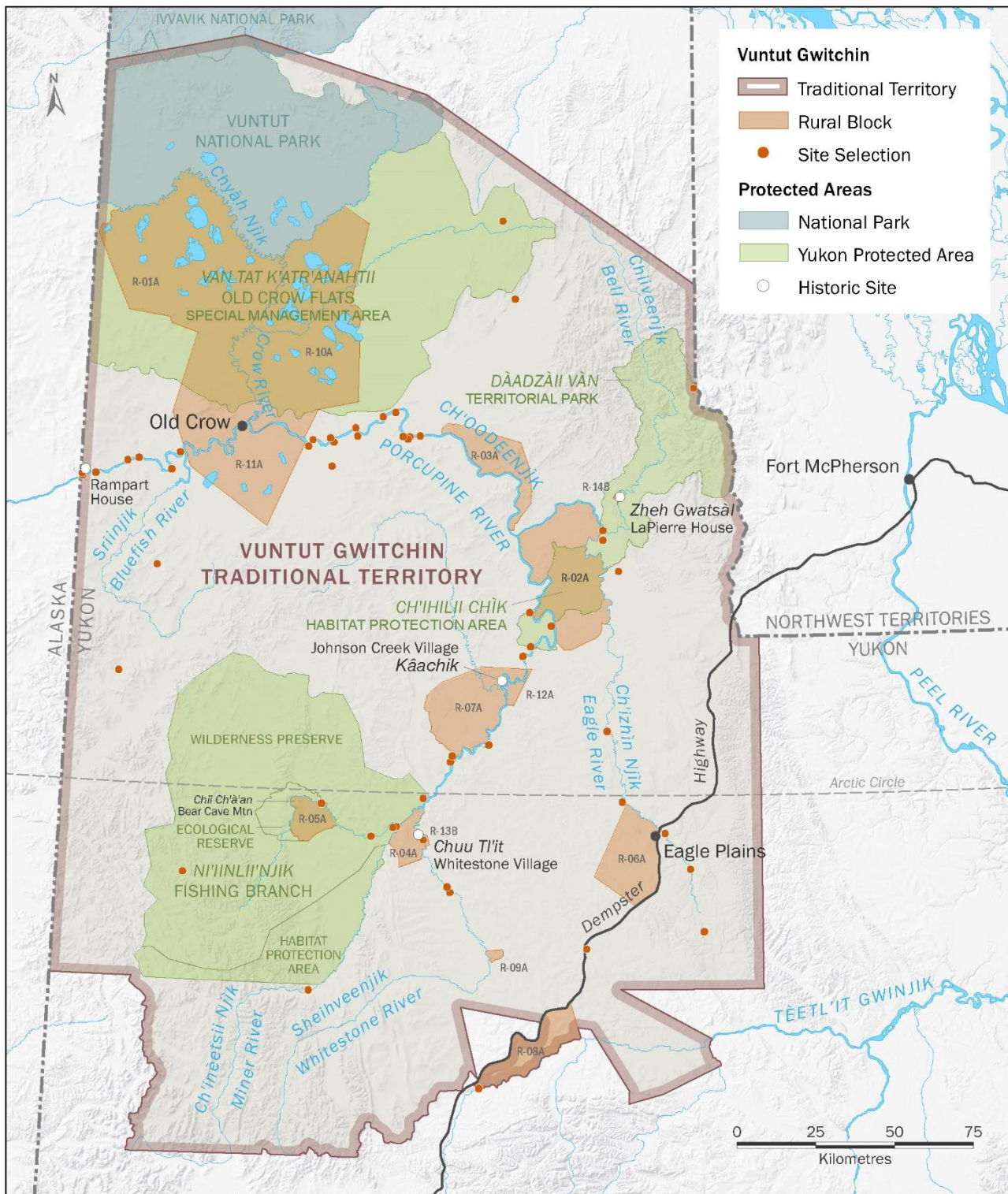
The Vuntut Gwich'in have a special relationship with their entire Traditional Territory, but VGFN's authority generally stops at the boundaries of Settlement Land. Beyond those boundaries, the Vuntut Gwitchin Government has co-management responsibilities, but Yukon Government usually gets the final say on land use decisions. For this reason, **the *Lands and Resources Act* will apply only to Settlement Land — not to other land in the Traditional Territory.**

See Figure 1 on the next page, which shows the Vuntut Gwitchin First Nation Traditional Territory and VGFN Settlement Land.



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Figure 1: Vuntut Gwitchin Traditional Territory (brown outline) with major Settlement Land parcels (orange)



UNDERSTANDING THE DRAFT LANDS AND RESOURCES ACT

READING NOTES

Understanding the Draft Lands and Resources Act is a summary of the draft *Lands and Resources Act* (“Act”). It uses everyday language to explain each section of the Act, in order.

Important defined terms are capitalized in the draft *Lands and Resources Act* and in this document.

Key definitions are included in *Lands and Resources Act* section summaries and appear in a grey box like this. Some other direct quotations from the *Lands and Resources Act* also use this format.

This document can help VGFN citizens understand how the Act works, but it is **not a legal document or a substitute for the Act itself**. For complete information, readers should refer to the draft *Lands and Resources Act*. Readers can compare this summary to the *Lands and Resources Act* text by matching section numbers in this document to the same section numbers in the Act.

For example:

15: GUARDIANS

corresponds to section 15 in the *Lands and Resources Act*.

KEY TERMS

These common words and phrases appear throughout this Guide:

Term	Meaning
access	Entering, using or occupying Settlement Land
Act	The <i>Lands and Resources Act</i> and regulations
Activity	Any occupation or use of Settlement Land
authorization	Written consent or approval for an Activity, in the form of a Grant or Permit
consent	Permission or approval (for an Activity) VGFN gives consent by issuing an authorization
law	Principles and rules
legislation	The act of enacting or making law; written laws
terms and conditions	Rules that an authorization holder must follow, and that limit what the person can do under an authorization

UNDERSTANDING THE DRAFT LANDS AND RESOURCES ACT

INTERPRETATION

1: INTERPRETATION

- The law can be cited as the *Lands and Resources Act*.
- This section defines all the key words used in the law. These words are always capitalized so readers will know when they are dealing with words that have a specific meaning.
- If any part of the law disagrees with the Constitution and/or the Final Agreement, the Constitution and/or the Final Agreement must be followed.

2: PURPOSES

- Section 2 describes *how* and *why* the Vuntut Gwitchin Government wants to manage Settlement Land. The *Lands and Resources Act* was designed:

- to ensure Settlement Land and Resources are managed for the benefit of Vuntut Gwitchin First Nation and its Citizens;
- to protect Traditional Activities and the special relationship between Citizens and the natural environment;
- to protect and promote the culture, traditions, health and lifestyles of Citizens;
- to provide decision-making processes that integrate and reflect the values and perspectives of Citizens;
- to protect environmental quality for present and future generations; and
- to address and reduce land use conflicts.

3: APPLICATION

- The Act applies to any Activity on Settlement Land.

“Activity” means any access, use or occupation of Settlement Land

- The Act is binding on (must be followed by) the Vuntut Gwitchin Government, VGFN citizens and non-citizens.

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ACCESS

Sections 4-10 set out the basic rules for accessing Settlement Land. They describe the responsibilities of people on the land, when advance permission or notice is needed for an Activity.

4: CONDITIONS OF ACCESS TO SETTLEMENT LAND

- Everybody must follow VGFN law when using Settlement Land, and no one is allowed to carry on an Activity without an access right or consent. When a person needs consent to use Settlement Land, the Vuntut Gwitchin Government can give it by issuing a Grant or Permit.
- The Act controls and monitors access by requiring people using Settlement Land to notify the Vuntut Gwitchin Government and/or get permission for Activities that can damage Settlement Land or interfere with use by citizens. **Schedule 1 of the *Lands and Resources Regulations*** lists the Activities that normally require notice or consent. They include commercial timber harvest, road construction, and use of heavy equipment.
- **VGFN citizens will not normally need permission to carry on Traditional Activities.** Other exemptions also apply to people in an emergency, emergency responders, and law enforcement.
- When someone has an access right under the Final Agreement (**“Third-Party Access Right”**), consent isn’t required because VGFN already agreed to the access when it adopted the Final Agreement. Examples of Third-Party Access Rights for non-VGFN citizens include camping on the waterfront right-of-way along the river. The Vuntut Gwitchin Government can use the Act to require people with Third-Party Access Rights to notify VGFN before carrying out any of the activities in Schedule 1 of the regulations. The Natural Resources Department will issue Access Notice Certificates for any Activities that a person has a Final Agreement right to do.

“Access Notice Certificate” means a document issued by the Director:

- to a Person exercising a Third-Party Access Right that does not require consent or an order of the Surface Rights Board; and
 - certifying that the Person has provided written notice to Vuntut Gwitchin Government of any planned Activity for which an Access Notice Certificate is required under this Act
- Council powers under this section include:
 - making regulations to control Activities, or exempting Activities (like Traditional Activities) from the consent requirements
 - applying to the Yukon Surface Rights Board to resolve arguments about access
 - setting terms and conditions for the exercise of access rights
 - setting royalty rates, user fees and other administrative fees

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5: TERMS OF GRANTS AND PERMITS

- When the Vuntut Gwitchin Government issues an authorization, it can attach any terms and conditions within its authority. Terms and conditions automatically include following the Act and respecting the rights of others. Authorization holders have a duty to respect the land and VGFN citizens' relationship with it, pay all taxes, fees and security when due, and follow VGFN laws and authorization terms.
- Vuntut Gwitchin Government can require an applicant for a Grant or Permit to sign an Impact-Benefit Agreement before the authorization takes effect.
- People are responsible for any damage they cause to VGFN Settlement Land, even if their authorizations are no longer active.
- Authorization holders must reclaim or restore Settlement Land to repair any damage they cause.
- When it issues a Grant or Permit, VGFN does not guarantee that the Settlement Land is suitable for a type of use. VGFN is not responsible for any damage or injury to the holder of the Grant or the Permit.

6: GRANTS GENERALLY

“Grant” means a legal interest in Settlement Land, and includes any renewal or replacement of a Grant

- The Vuntut Gwitchin Government will never sell its full interest in Settlement Land or use that full interest as collateral for a loan.
- The Council can issue a Grant to any eligible person. It can also renew, replace, subdivide or terminate an existing Grant. Grants under the Act include **Allocations (sections 7 and 8)** and **Leases (section 9)**.
- Grants are not binding until recorded in the land registry (**see section 11**).
- The Vuntut Gwitchin Government can terminate a Grant without compensation when the application contained incorrect information, when the Grant contains a serious error, or when the land was not available for a Grant. When VGFN terminates a Grant, it must notify the holder and give that person a chance to respond to the notice and correct any problems.
- The Vuntut Gwitchin Government can force a Grant owner to sell it back to VGFN if VGFN needs the land for a community purpose. This is called *expropriation*. VGFN will first try to negotiate a fair price. If the Grant owner won't agree to sell, VGFN can force the sale and pay compensation under **section 28**.
- When the Vuntut Gwitchin Government issues a Grant, it automatically keeps certain rights and powers for itself. Unless a Grant specifically says otherwise, the owner has no right to any mines and minerals, timber or water on Settlement Land.

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7: PERSONAL ALLOCATIONS

- Personal Allocations are a type of Grant issued for use in Traditional Activities, and are designed to recognize citizen interests in camps and cabins, etc. With Council approval, they can also be used for wilderness tourism. An Allocation gives the owner rights to occupy the Settlement Land, to transfer the Allocation to family members or other VGFN citizens, and to remove any buildings or other improvements when it expires.

“Traditional Activity” means

- a non-commercial Activity undertaken by a Citizen for subsistence or a ceremonial, spiritual, social or cultural purpose; or
 - commercial trapping
- Only VGFN citizens can own Personal Allocations. They can be passed down and inherited by other citizens. A citizen applying for an Allocation must name an heir or heirs. Personal Allocations cannot be passed down in a will.
 - In spite of its name, more than one person can own a Personal Allocation. Most Personal Allocations owned by more than one person will be owned as “tenancies in common,” which means that every person on the Allocation owns a defined share.
 - A special kind of group Allocation called a Family Allocation is dealt with in **section 8**.

8: FAMILY ALLOCATIONS

- Family Allocations are issued for the same purposes as Personal Allocations, but they are owned communally by members of a Family and cannot be transferred.

“Family” means a class of Citizens who are the lineal descendants of a common ancestor or ancestors

- Applicants will define the “Family” for the purpose of Family Allocations by deciding which ancestor or ancestors will define the class of citizens who are included.
- Families will choose a person to act as the Family’s representative in any dealings with the Vuntut Gwitchin Government.
- If the Family consents through their chosen representative, Personal Allocations can be issued within a Family Allocation by subdividing the Family Allocation.

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9: LEASES

- A Lease is a type of Grant that can be issued to any person. Leases can only be issued for legally surveyed lots.

“Lease” means an Instrument creating a Grant described in section 9.0 of this Act;

- Most Settlement Land Grants will be Leases. A Lease gives an exclusive right to access and use the leased land, to transfer the Lease, to remove any buildings or other improvements when the Lease ends, and to use the Lease as collateral for a mortgage or other loan.

10: PERMITS

- Unlike Grants, **Permits are not legal interests in Settlement Land**. Instead, they are permission to use Settlement Land for a specific purpose and a limited period of time. They cannot be transferred or used as collateral for loans and will expire automatically if the holder dies.

“Permit” means an Instrument that

- transfers no property interest to the holder; and
 - gives consent to Activities on Settlement Land for a fixed period; and
 - where provided in the instrument, authorizes the use or extraction of specified Resources.
- The Director can issue, renew, amend or cancel a Permit on application. If the Permit holder violates the Act or Permit terms, the Director may issue an order to suspend, amend or cancel the Permit.
 - Permit holders must report their Activities to the Director annually, either 60 days after the Permit ends, or by the end of the calendar year when the Permit expires in a future year.

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SETTLEMENT LAND REGISTRY

A registry can be a useful land management tool because it holds a record of land use over time. A well-maintained registry helps land managers track changing land use patterns or identify people who don't use the land respectfully.

11: LAND REGISTER

- The land register is where the Vuntut Gwitchin Government will store originals of every land-related document it issues. The register will be located in the VGFN offices and open to the public during normal business hours.
- The register contains all Grants, Permits and other consent documents, and includes enforcement documents (like warnings or orders), surveys, land use Plans and agreements that affect land use.
- The Council will appoint a clerk to run the register. The clerk is responsible for recording documents that belong in the register and tracking when documents were submitted for recording. The clerk must also set up and maintain a parcel file for every piece of Settlement Land.
- Grant documents are considered recorded when the clerk enters a document in the file for that parcel of Settlement Land. A recorded Grant has priority over any other Grant recorded later.
- Leaseholders will not be eligible for ordinary bank mortgages until VGFN gains access to a land titles system like the one run by Yukon's Land Titles Office (LTO). Yukon's LTO does one thing that the *Lands and Resources Act* register cannot: guarantee the accuracy of title documents. The LTO is insured against mistakes but the register isn't. The LTO provides better financial protection to Grant owners.
- If VGFN gains access to a land titles system like the Yukon Land Titles Office, Grants that can be registered in that system must be registered in the land titles system and the *Lands and Resources Act* land register. When Grant owners have the option of registering their interests in a land titles system the clerk can help to re-register existing Grants in the land titles system.
- If the land register and a land titles registry disagree, the land titles registry will be treated as correct.
- The Vuntut Gwitchin Government is not liable for damages if a person relies on the *Lands and Resources Act* register and suffers a loss because of that reliance.

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LAND AND RESOURCE PLANNING

Sections 12-13 describe the Act's land use planning powers and tools.

12: PLANNING

"Plan" means a land management plan or resource management plan adopted under this Act

- The Council has authority to:
 - adopt, amend or revoke Plans for the management of Settlement Land, including Resources;
 - subdivide Settlement Land
- The Council can also adopt regulations to:
 - define management objectives for any part of Settlement Land;
 - prescribe rules and procedures for the development of Plans;
 - prescribe rules and procedures for the subdivision of Settlement Land;
 - withdraw any Settlement Land from use and occupation;
 - reserve any Settlement Land for any particular use or type of use;
 - require the adoption of a Plan before allowing access to a defined area of Settlement Land; and
 - adopt zoning or other regulations to implement a Plan
- Plans will not be legally enforceable on their own. To implement a Plan, Council must enact zoning regulations. If there is a conflict between a Plan and its zoning regulations, the regulations must be followed.
- Plans must be consistent with the North Yukon Regional Land Use Plan.
- Existing land users can continue activities that don't conform to a zoning regulation but cannot expand after the date the regulation was adopted. If a structure used in a non-conforming Activity is destroyed, any replacement structure must follow the zoning regulation.

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13: COMMUNITY ADVISORY PANEL

- The Act does not set up a permanent land management board or committee. Formal boards can be expensive to run and require a lot of administrative support. Because board members are usually appointed to multi-year terms, many citizens cannot afford the time commitment. This can limit the number of citizens who participate in day-to-day decisions about land use.
- Community Advisory Panels are designed to involve more VGFN citizens in land management decisions. Unlike a board or committee, a Community Advisory Panel is not permanent. The Director creates them as needed, for a specific purpose. Ordinarily, a panel will review and make recommendations on a single land application, Plan or proposed regulation before dissolving.
- Community Advisory Panels can also be created to study specific lands issues and help the Natural Resources Department develop better policies.
- The Director sets the membership and mandate of a Community Advisory Panel. He or she can invite any person to participate in a panel and will normally choose people who have some knowledge about the issue that the panel was created to address. There is no limit on the number of panel members.
- To avoid conflicts of interest or biased decision-making, members of a Community Advisory Panel are not allowed to review applications or Plans that would affect them or Immediate Family members.

“Immediate Family” means

- a spouse;
- a parent and any spouse of a parent;
- a grandparent;
- a Child, including the Child of a spouse;
- a sibling;
- any relative who resides permanently in the same residence

“Child” in this definition includes children born in or out of wedlock and children adopted under Yukon law or Vuntut Gwich’in customary law.

- A Community Advisory Panel member in a conflict of interest must notify the Director and withdraw from the review. This rule also applies to businesses owned by a member or someone in the member’s Immediate Family.

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ENFORCEMENT

14: APPOINTMENT OF DIRECTOR AND GUARDIANS

- The Council will appoint a Director and Guardians (lands officers) to enforce the *Lands and Resources Act*. The Council can limit the powers that an individual Guardian may use. Members of the Council cannot be appointed as Guardians.
- Guardians must be given official identification. Because the Council may limit the powers of individual Guardians, the identification must identify any restrictions on the Guardian's powers. Guardians must present the identification on request when performing their duties.
- The Council can make agreements with other governments to allow Natural Resources Department Guardians to enforce the other government's law, or to allow employees of the other government to act as Guardians under VGFN law.

15: GUARDIANS

- The Director of Natural Resources has all the powers of a Guardian. The Director can delegate a power or duty in writing or revoke a delegation.
- Guardians are responsible for monitoring Activities to make sure people are following the Final Agreement, the Act, and any access conditions that apply to them.
- Guardians have a standard toolkit for dealing with land use problems or non-compliance with VGFN law. When the Council has given a Guardian the authority, the Guardian may:
 - enter Settlement Land, including Settlement Land designated as developed or improved, without being liable for trespass;
 - post signs or notices;
 - be assisted by a Peace Officer or an Officer appointed under the *Wildlife Act*, RSY 2002, c.229 or the *Territorial Lands (Yukon) Act*, RSY 2003, c.17;
 - take remedial actions under section 16.3;
 - issue warnings under section 17.0;
 - issue orders under section 18.0;
 - issue tickets under section 19.0;
 - carry out inspections under section 20.0
 - carry out investigations under section 21.0
 - carry out seizures under section 22.0

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- arrest without warrant a Person the Guardian believes on reasonable grounds has committed, is committing, or is preparing to commit an offence under this Act

- Guardians have several ways to deal with non-compliance and Settlement Land damage without involving the Yukon criminal justice system. However, the Vuntut Gwitchin Government may sometimes need to take formal legal steps against lawbreakers. Most Guardians will not be trained in police procedure. To protect the rights of land users, the investigation, seizure and arrest powers should only be used under the supervision of a peace officer.

16: REMEDIAL ACTIONS

- If an Activity violates the Act or damages Settlement Land without permission, the person carrying on the Activity has a duty to report to a Guardian.
- The person carrying on the Activity also has a duty to prevent or repair any damaging effects from the Activity.
- With Director approval, Guardians can prevent or repair damage from an Activity by ordering the people responsible to act, or by taking action themselves.
- If taking remedial action costs VGFN money, material or staff time, VGFN can recover those costs from any person who caused or contributed to the problem.

17: WARNINGS

- A Guardian can issue a written warning when he or she reasonably believes that an Activity is violating the Act or an access condition.
- A warning must include the reasons for its issue, how the warned person can fix the violation, and a deadline for compliance. Unless the warning gives extra time, compliance should be immediate.

18: ORDERS

- A Guardian can issue a written order when he or she reasonably believes that an Activity is violating the Act or an access condition or causing damage to Settlement Land.
- Guardian orders can require a person to suspend an Activity, remove structures and equipment, fix damage, or deal with any conditions that threaten health, safety or the environment. The Director can also issue orders to suspend, amend or cancel a Permit.
- An order must include the reasons for its issue, what the person must do to comply, and a deadline for compliance. Unless the warning gives extra time, compliance should be immediate.

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- Orders can be appealed to the Review Council (**see section 26**) but the person appealing must comply with the order until the Review Council makes a decision.
- An order is treated as resolved once the Guardian decides that the person has complied with the order.

19: TICKETS

- A Guardian can issue a written ticket when he or she reasonably believes that a person has committed an offence.
- For first offences, tickets carry a maximum fine of \$500. Each day that an offence continues is considered a separate offence. For a person convicted of a prior offence, the maximum fine goes up to \$1,000 per day.
- A prior conviction on a ticket is treated like any other prior conviction for a violation of the Act.
- This power will probably not be used very often because a ticket is just another way to bring charges for violations.

20: INSPECTIONS

- A Guardian's main job is to promote respect for the law by encouraging people to follow it – and by checking up on them to make sure they do. Inspections under this section are not criminal investigations and should not be used to collect evidence of wrongdoing. If the Vuntut Gwitchin Government wants to gather proof to prosecute an offender, it must use the procedures for investigations in **section 21**.
- Because inspections are not criminal investigations, land users have a duty to cooperate with Guardians, answer their questions, and allow them access to places, materials or documents that relate to the Act.
- Guardians can never enter a private home during an inspection unless they have the permission of the occupant or a warrant.

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21: INVESTIGATIONS

- **Mistakes in investigations can violate the rights of suspected violators and leave the Vuntut Gwitchin Government open to lawsuits. Guardians will almost always be able to deal with violations without using these powers, which should only be used under the direction and supervision of trained peace officers**
- When a Guardian suspects wrongdoing and wants to enter a place to search for and seize evidence, the Guardian must apply for a search warrant. Warrants are also required for any inspection of a private home, unless the occupant gives the Guardian permission to enter.
- A warrant application must be made to a Yukon court, using Yukon court standards and procedures. Applications may be made electronically or in person. The Yukon judge issuing the warrant can set terms and conditions.
- A Guardian can carry out a search without a warrant if a warrant could be obtained but taking the time to apply would risk public health, safety or the environment, or the loss of evidence. This rule does not apply to private homes, where a warrant is always needed.
- A Guardian can use necessary force to execute a warrant, except that no force can be used to execute a warrant on a private home unless the warrant specifically allows it.

22: SEIZURES

- A Guardian can seize any evidence that he or she believes is related to an offence against the Act. No warrant is required if the Guardian sees the evidence as part of an inspection.
- When a Guardian has a warrant to search a place, he or she can seize any item believed to be connected to the offence, even if the warrant doesn't list that item.
- The Guardian can remove seized items but must give the owner of the item a receipt and tell the person why an item was seized. Seized items must be brought before or reported to a Yukon judge. They cannot be held for more than 120 days unless they are still required as evidence. Items can be released back to their owners once they are no longer needed for this purpose.
- If a seized item is perishable or VGFN does not have the facilities to store it properly, the Guardian can destroy or sell it. If the item is sold, the proceeds of that sale must be given to the owner if no charges are filed within 90 days of the seizure. If the Vuntut Gwitchin Government does file charges, the Guardian will hold the money until the case is resolved.
- VGFN is not liable for any damage to a seized item while it is in its custody, unless it was negligent in caring for the item.

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23: FORFEITURES

- A seized item is forfeited to the Vuntut Gwitchin Government if the Natural Resources Department can't identify the owner within 30 days of the seizure, or if the owner abandons the item.
- A seized item is also forfeited if the use or possession of the item is an offence. This rule applies even if no charge is ever filed or the person is never convicted.
- The Council has the authority to deal with all forfeited property.
- The owner of a forfeited item is responsible for costs of inspection, seizure, forfeiture or sale if those costs exceed the amount received from selling the item.

24: OFFENCES AND PENALTIES

- This section lists offences against the Act and sets penalties for those offences. In addition to other violations of the Act (like violations of authorization terms), the Act also punishes:
 - Mischief
 - Forgery of authorizations
 - Impersonating the holder of an authorization
 - Removing or destroying posted signs, warnings or orders
 - Obstructing a Guardian
 - Making false statements to a Guardian
- A person convicted of violating a Permit, Grant or access right faces a maximum \$300,000 fine and/or six months in jail. For all other offences, the maximum penalty is a \$5,000 fine and/or six months in jail. Each day that an offence continues is considered a separate offence.
- Any fines paid as part of a conviction must be paid to the Vuntut Gwitchin Government.
- Employers are legally responsible for the actions of their employees. When a corporation commits an offence, any agent of the corporation who participated can be prosecuted, even if the corporation is not charged.
- Prosecution for an offence does not prevent the Vuntut Gwitchin Government from suing an offender for damages in civil court.

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25: PROCEEDINGS

- Only the Vuntut Gwitchin Government can charge a person for an offence against the Act.
- Until VGFN develops alternatives, all *Lands and Resources Act* offences will be prosecuted in Yukon Territorial Court using the procedures in the *Yukon Summary Convictions Act*. As an alternative to prosecution, the Council can adopt regulations to try offenders in a VG Court, or to use community-based or traditional justice procedures.
- Prosecutions cannot begin more than two years after the date of the offence, or two years after a Guardian learned of the offence, whichever is later.
- This section also sets out some basic evidence rules for prosecutions and other court cases.

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ADMINISTRATIVE APPEALS AND DISPUTE RESOLUTION

Sections 26-27 create tools for reviewing Director decisions and dealing with disputes about Settlement Land use.

26: ADMINISTRATIVE APPEALS

- A Permit applicant can appeal the Director’s rejection of an application, or Permit terms and conditions that the applicant believes are unfair. Any person can appeal another person’s Permit approval or terms and conditions where that person believes the decision negatively affects his or her rights. A person can also appeal an order by a Guardian or the Director.
- Appeals must be made within 30 days of the decision. A person can start an appeal by filing a notice with the Council.
- The Council can adopt regulations that assign appeals to a VG Court or set up alternative procedures. If the Council does not adopt regulations, the Review Council set up in the 2019 Constitution will have jurisdiction over appeals.
- The Review Council can hear and decide an appeal itself or appoint an independent adjudicator at its own expense.
- Appeals can be dismissed without a hearing if
 - the appeal is outside the jurisdiction of the Act;
 - the notice of appeal was not filed within 30 days of the decision;
 - the notice of appeal does not contain required information;
 - the appeal is frivolous, vexatious, trivial, or made in bad faith; or
 - there is no reasonable chance the appeal will succeed.
- The Director or Guardian who made the decision or issued the order will always get a chance to be heard in an appeal. The Review Council or VG Court can consider relevant evidence, reverse or modify the original decision, and order the Director to carry out the ruling.
- Decisions on an appeal must follow VGFN law and be in writing, with copies to the Director and the person making the appeal. Rulings are final.

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27: DISPUTE RESOLUTION

- People can seek help with land use disputes by filing a notice of dispute with the Council.
- The Council can adopt regulations that assign disputes to the VG Court or set up alternative procedures. If the Council does not adopt regulations, the Council will have jurisdiction over disputes.
- The Council cannot hear and resolve a dispute without the consent of all the people involved. If the parties agree to put their dispute before the Council, the Council can hear and decide the matter itself, appoint an independent mediator to help the participants negotiate a solution, or hire an independent arbitrator to make the decision.
- Because dispute resolution is voluntary, participants will share the costs of hiring a mediator or arbitrator. Mediation or arbitration under the Act must take place under a written agreement signed by the parties.
- If people in a dispute settle their disagreement in mediation, that settlement must be in a written agreement. An agreement that follows VGFN law and is copied to the Vuntut Gwitchin Government will be final and binding.
- Arbitrator decisions must follow law and be recorded in written reasons that are given to the parties. Arbitrator decisions are final and binding.

OTHER PROVISIONS

28: COMPENSATION BY VUNTUT GWITCHIN GOVERNMENT

- If the Vuntut Gwitchin Government expropriates a Grant (takes a person's interest in Settlement Land for a community purpose), it has an obligation to pay compensation to the Grant's owner. Compensation must be "reasonable and appropriate," and can include a replacement Grant.
- Compensation must cover:
 - the Fair Market Value of the interest in Settlement Land being expropriated;
 - the replacement value of any improvements;
 - any damages directly attributable to the disturbance; and
 - any damages directly attributable to a reduction in the value of the Grantee's remaining interest
- The Council can order inspections and independent appraisal of Settlement Land as part of compensation negotiations.

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- In case of a dispute between the Vuntut Gwitchin Government and the Grant owner, the parties can take the dispute to the Supreme Court of Yukon or hire an independent mediator or arbitrator.

29: COOPERATIVE AGREEMENTS; DELEGATION; REGULATIONS

- The Council can **make agreements with other governments and organizations** to achieve the goals of the *Lands and Resources Act*.
- The Council can **delegate its powers in writing, except the power to make regulations**. Delegations can also be terminated in writing. In an emergency, the Chief can terminate any active delegations and replace them with new ones, which will stay in effect until the Council meets.
- The Director can also **delegate his or her powers in writing** and terminate those delegations.
- The Council can **adopt any regulation it believes necessary to make the Act achieve its purposes**. Specific Council regulatory powers appear in other sections of the law, but the version here is designed as a catch-all for any type of regulation not mentioned elsewhere.
- The Director has the **authority to create, amend or replace forms for administering the Act**.

30: GENERAL PROVISIONS

- In general, the Vuntut Gwitchin Government and its employees and officials are not responsible for any injury or loss that a person suffers because of the good faith performance of duties under the Act.
- Any official document in the Act can be delivered in person or by registered mail. If the intended recipient of a document is unknown, the document can be posted where that person is likely to see it (i.e. at the site of the person's Activity).
- If a court declares any part of the Act invalid, this will not affect the rest of the law.
- The Act will take effect on a date set by the Council. The Council can phase in different parts of the Act over time.

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REGULATIONS AND FORMS

The existing *Old Crow Zoning Bylaw* will be moved under the Act as a regulation.

The regulations summarized below are part of the *Lands and Resources Act* and provide more detailed information about *how* the Director and other Natural Resources officials will use their Act powers.

LANDS AND RESOURCES REGULATIONS

- This regulation is a roadmap to the land application process, from first submission to final approval. It describes what the Director should consider when reviewing applications, how the community can get involved, and who makes final decisions for different application types. The Director makes the final decision on Permit applications, but only the Council can approve a Grant.
- The regulation also includes details on what kinds of application decisions can be appealed.
- **Schedule 1** sets out a **complete list of regulated Activities that require notice or consent**.
- **Schedule 2** describes the minimum standards for land descriptions for different types of land applications and authorizations.
- **Schedule 3** is the land application form for Grants, Permits and Access Notice Certificates. **Schedule 3A** is used to designate heirs for Personal Allocations.
- **Schedule 4** sets fees for different application types, and for the recording of documents in Register.
- **Schedule 5** contains enforcement forms: **Warnings (Form A)**, **Orders (Form B)**, and **Tickets (Form C)**.

SECURITY REGULATIONS

- The Director can require a person to deposit security before allowing Activities that may cause major damage to Settlement Land or existing access routes. Vuntut Gwitchin Government will only accept security in cash equivalents.
- The regulation describes how the Director determines security is needed, how the amount is decided and justified by evidence, and how security can be used.
- A person is financially responsible for damage that exceeds the amount of security he or she has deposited.

PARCEL MANAGEMENT REGULATIONS

- These regulations list management objectives for Ni'iinlii Njik and Van Tat K'atr'anahtii. Other areas can be added by amending the regulation.