

## Chapter 10: Land Use Planning

### Part 10.1 Definitions

#### 10.1.1 In this chapter:

"Appeal Board" means the board established under section 10.11.2;

"Government" does not include Canada;

"Planner" means the individual or individuals appointed by the Minister under section 10.4.1; and

"Regional Planning Authority" means the planning authority established under section 10.3.1 or 10.3.2.

### Part 10.2 General

10.2.1 The provisions of this chapter apply to all lands, waters and resources in the Labrador Inuit Settlement Area other than lands under the control and administration of Canada and Tidal Waters within the jurisdiction of Canada.

10.2.2 The Labrador Inuit Settlement Area is a single regional planning area for all purposes related to land use planning.

10.2.3 Land use policies and development regulations established under Provincial Laws do not apply in or to Labrador Inuit Lands but, subject to this chapter, do apply in accordance with their terms to Water Use in Labrador Inuit Lands.

10.2.4 The Province shall Consult the Nunatsiavut Government before establishing any land use policy or development regulation under any Provincial Law that applies in or to the Labrador Inuit Settlement Area outside Labrador Inuit Lands or to Water Use in Labrador Inuit Lands.

10.2.5 The Nunatsiavut Government shall Consult the Province before establishing any land use policy or development regulation under an Inuit Law that applies in or to Labrador Inuit Lands.

10.2.6 A Person is not entitled to compensation for a reduction in the value of that Person's interest in land or for any loss or damage to that Person's interest in land that may result from the application of this chapter or the Land Use Plan.

10.2.7 Notwithstanding the jurisdiction of the Nunatsiavut Government under section 10.12.1 and the provisions of section 10.12.4, a Land Use Plan must be prepared in accordance with this chapter and in accordance with the procedures set out for the preparation of a regional plan under the *Urban and Rural Planning Act, 2000*. A draft of the Land Use Plan shall be submitted to the Province and the

Nunatsiavut Government under section 10.5.5 within three years from the Effective Date or within any other time period agreed to by the Province and the Nunatsiavut Government.

- 10.2.8 A plan under the *Urban and Rural Planning Act, 2000* which is in effect in the Labrador Inuit Settlement Area at the time the Land Use Plan comes into effect shall be amended to conform to the Land Use Plan.
- 10.2.9 A plan under the *Urban and Rural Planning Act, 2000* within the Labrador Inuit Settlement Area or under an Inuit Law within Labrador Inuit Lands prepared subsequent to the time the Land Use Plan comes into effect must conform to the Land Use Plan.
- 10.2.10 The Province and the Nunatsiavut Government, through the planning process referred to in this chapter and thereafter, may collaborate with the federal Minister for purposes of achieving the objectives of Canada's oceans management strategy under part II of the *Oceans Act*.

### **Part 10.3 Regional Planning Authority**

- 10.3.1 There shall be a Regional Planning Authority for the Labrador Inuit Settlement Area composed of four members having knowledge and experience in land use planning who shall be appointed jointly by the Province and the Nunatsiavut Government as soon as practicable after the Effective Date.
- 10.3.2 If the Province and the Nunatsiavut Government fail to agree on joint appointments to the Regional Planning Authority for the Labrador Inuit Settlement Area within 60 clear days from the commencement of discussions for that purpose, each of the Province and the Nunatsiavut Government may appoint two members.
- 10.3.3 The members of the Regional Planning Authority shall select a chairperson from among their number.
- 10.3.4 The Regional Planning Authority shall direct the preparation of the draft of the Land Use Plan.
- 10.3.5 The Regional Planning Authority may adopt rules for the performance of its functions, including rules for the calling of meetings, the conduct of business and the carrying on of the work of the Regional Planning Authority.
- 10.3.6 The members of the Regional Planning Authority shall receive remuneration for their services as members and shall be paid the expenses necessarily incurred in the discharge of their duties. A public servant appointed to the Regional Planning Authority shall not receive remuneration in excess of that received as a public servant.
- 10.3.7 The Regional Planning Authority shall disband and cease its operations when it has completed its functions under part 10.5.

- 10.3.8 The Regional Planning Authority shall prepare a single, comprehensive Land Use Plan for the Labrador Inuit Settlement Area following the procedures set out for preparation of a regional plan by a regional authority under the *Urban and Rural Planning Act, 2000*, as modified by this chapter, and for that purpose has the powers and shall carry out the functions of a regional authority under the *Urban and Rural Planning Act, 2000*, subject to this chapter.
- 10.3.9 The Regional Planning Authority shall, after Consultation with the Planner:
- (a) establish principles to guide land use planning in the Labrador Inuit Settlement Area;
  - (b) establish the objectives of the land use plan; and
  - (c) perform any other functions that may be agreed upon by the Regional Planning Authority, the Nunatsiavut Government and the Province.

**Part 10.4 Preparation of the Land Use Plan**

- 10.4.1 The Minister shall appoint a planner or planners to prepare a draft of the Land Use Plan.
- 10.4.2 The Planner, who shall be a fellow or full member of the Canadian Institute of Planners, shall be appointed from a list of nominees prepared by the Regional Planning Authority and the terms of the appointment shall be established by the Minister in Consultation with the Regional Planning Authority.
- 10.4.3 The draft of the Land Use Plan must provide for the management of land, water and resource use in the Labrador Inuit Settlement Area and shall take into consideration and account for:
- (a) the natural resources of the Labrador Inuit Settlement Area, including Water, and existing patterns of natural resource use;
  - (b) the health and quality of life of the residents of the Labrador Inuit Settlement Area;
  - (c) the economic needs of, and the economic opportunities that are and may be available to, the residents of the Labrador Inuit Settlement Area;
  - (d) Environmental considerations, including Fish, Fish Habitat, Aquatic Plants, Wildlife, Plants and Habitat;
  - (e) Protected Areas, National Parks, National Parks Reserves, National Marine Conservation Areas and National Marine Conservation Area Reserves;

- (f) cultural factors and priorities, including the protection and preservation of Archaeological Sites, sites of religious or spiritual significance to Inuit, Inuit burial sites and Aullâsimavet;
- (g) particular local and regional considerations;
- (h) considerations respecting the management of estuarine, coastal and marine ecosystems;
- (i) the rights of Inuit as set out in the Agreement;
- (j) the mandatory and discretionary requirements for plans and regulations under the *Urban and Rural Planning Act, 2000*; and
- (k) any other factors that, in the opinion of the Regional Planning Authority and the Planner, are necessary or desirable.

10.4.4 Once the Regional Planning Authority is satisfied with the draft of the Land Use Plan, it shall forward the draft to the Nunatsiavut Government and the Minister.

10.4.5 Within 60 clear days from the date when the draft of the Land Use Plan is forwarded to the Nunatsiavut Government and the Minister under section 10.4.4, the Nunatsiavut Government and the Minister shall provide their recommendations and comments regarding the draft of the Land Use Plan to the Regional Planning Authority. The Regional Planning Authority may direct the Planner to revise the draft of the Land Use Plan.

10.4.6 Upon completion of the process under section 10.4.5, the Regional Planning Authority shall forward the draft of the Land Use Plan or revised draft of the Land Use Plan to the Nunatsiavut Government and the Minister.

10.4.7 The draft of the Land Use Plan referred to in section 10.4.6 shall be adopted in principle by the Minister and the Nunatsiavut Government.

## **Part 10.5 Public Hearings**

10.5.1 Once the steps required under part 10.4 have been completed and the draft of the Land Use Plan has been adopted in principle by the Minister and the Nunatsiavut Government pursuant to section 10.4.7, it shall be the subject of public hearings to be held within the Labrador Inuit Settlement Area and other locations as determined by the Nunatsiavut Government and the Minister.

10.5.2 The Regional Planning Authority shall appoint a commissioner who shall:

- (a) hold public hearings and consider representations regarding the draft of the Land Use Plan from any Person;

- (b) have, for purposes of public hearings under this chapter, the same powers as a commissioner under the *Public Inquiries Act*; and
- (c) not simultaneously be a member or an employee of a municipal or city council, a regional authority, the Provincial Government or an Inuit Government.

10.5.3 Within six months from the date of the appointment under section 10.5.2, the commissioner shall submit a written report to the Regional Planning Authority with respect to the draft of the Land Use Plan. The report must set out in detail the commissioner's recommendations respecting all matters and representations considered by the commissioner at the public hearings together with the reasons for the recommendations and a statement showing objections and representations that came to the attention of the commissioner but were not considered and the reasons why they were not considered.

10.5.4 The Regional Planning Authority shall Consult the Nunatsiavut Government and the Minister on the report referred to in section 10.5.3 and following such Consultation may revise the draft of the Land Use Plan.

10.5.5 After the Consultation referred to in section 10.5.4 and after making any revisions, the Regional Planning Authority shall submit the draft of the Land Use Plan to the Minister and the Nunatsiavut Government.

## **Part 10.6 Approval of the Land Use Plan**

10.6.1 Within 90 clear days from the date of receipt of the draft of the Land Use Plan referred to in section 10.5.5, the Minister shall, with respect to the Labrador Inuit Settlement Area outside Labrador Inuit Lands and with respect to Water Use in Labrador Inuit Lands, review the draft of the Land Use Plan under the *Urban and Rural Planning Act, 2000*. Upon completion of the review, the Minister shall, after Consulting the Nunatsiavut Government pursuant to section 10.6.3:

- (a) approve the draft of the Land Use Plan with or without conditions;
- (b) modify the draft of the Land Use Plan; or
- (c) reject the draft of the Land Use Plan and substitute a Land Use Plan for the Labrador Inuit Settlement Area outside Labrador Inuit Lands and for the Use of Water in Labrador Inuit Lands; and
- (d) forthwith notify the Nunatsiavut Government of the decision.

10.6.2 Within 90 clear days from the date of receipt of the draft of the Land Use Plan referred to in section 10.5.5, the Nunatsiavut Government shall, with respect to Labrador Inuit Lands and subject to section 10.6.3:

- (a) approve the draft of the Land Use Plan with or without conditions;

- (b) modify the draft of the Land Use Plan; or
- (c) reject the draft of the Land Use Plan and substitute a Land Use Plan for a matter within the jurisdiction of the Nunatsiavut Government; and
- (d) forthwith notify the Minister of the decision.

10.6.3 The discretion of the Nunatsiavut Government under section 10.6.2 shall not apply to Water Use in Labrador Inuit Lands, but the Minister shall Consult the Nunatsiavut Government prior to taking any action under section 10.6.1 with respect to Water Use in Labrador Inuit Lands.

10.6.4 Once the draft of the Land Use Plan referred to in section 10.5.5 has been approved, with or without conditions, modified or rejected and substituted under sections 10.6.1 and 10.6.2 it shall be brought into effect as the Land Use Plan in accordance with the procedures set out in part 10.7.

#### **Part 10.7 Coming into Effect and Implementation of the Plan**

10.7.1 For matters within Provincial jurisdiction in the Labrador Inuit Settlement Area outside Labrador Inuit Lands, including the Inuit Communities, and with respect to Water Use in Labrador Inuit Lands, the Land Use Plan shall come into effect upon compliance by the Minister with the requirements of the *Urban and Rural Planning Act, 2000* for bringing a plan into force after which the Land Use Plan, as it applies in such lands, shall be binding for purposes of Provincial Law on all Persons other than Canada.

10.7.2 The Land Use Plan shall come into effect in Labrador Inuit Lands when it has been proclaimed and published as an Inuit Law in accordance with the procedures established pursuant to subsection 17.5.1(d), after which the Land Use Plan, as it applies in Labrador Inuit Lands, shall be binding for purposes of Inuit Laws, on all Persons other than Canada.

10.7.3 The Land Use Plan shall be implemented:

- (a) in Labrador Inuit Lands by the Nunatsiavut Government, subject to section 10.12.2;
- (b) in the Inuit Communities, except with respect to Labrador Inuit Lands, by the Inuit Community Governments; and
- (c) elsewhere within the Labrador Inuit Settlement Area by the Minister.

**Part 10.8 Non-Conforming Uses**

- 10.8.1 Any use of land, Water, Tidal Waters, or buildings legally existing within the Labrador Inuit Settlement Area when the Land Use Plan comes into effect which does not conform to the Land Use Plan or which becomes non-conforming as a result of an amendment to the Land Use Plan may continue without conforming to the Land Use Plan.
- 10.8.2 Unless otherwise provided in the Agreement, any non-conforming use permitted under section 10.8.1 which ceases for a continuous period of 12 months loses its status as a permitted non-conforming use.

**Part 10.9 Transitional**

- 10.9.1 No new use of land, Water, Tidal Waters, or buildings within the Labrador Inuit Settlement Area outside Labrador Inuit Lands, other than one which conforms to a municipal plan, may be permitted between the Effective Date and the date when the Land Use Plan comes into effect without Consultation with the Nunatsiavut Government.
- 10.9.2 Paragraphs F to L inclusive of Schedule A to the *Mineral Regulations* (CNR 1143/96) shall not be revised, replaced or amended:
- (a) in Labrador Inuit Lands prior to the date when the Land Use Plan comes into effect without the written consent of the Nunatsiavut Government; and
  - (b) in the Labrador Inuit Settlement Area outside Labrador Inuit Lands, until at least six months after the Effective Date.

**Part 10.10 Amendments to the Plan**

- 10.10.1 The Nunatsiavut Government and the Minister shall jointly review the Land Use Plan, including the principles and objectives for the Land Use Plan that are established under section 10.3.9, every five years from the date when the Land Use Plan comes into effect everywhere in the Labrador Inuit Settlement Area.
- 10.10.2 Recommendations for amendments to the Land Use Plan may be made by any Person to the Nunatsiavut Government or the Minister at any time after the Land Use Plan comes into effect.
- 10.10.3 An amendment to the Land Use Plan that is proposed as a consequence of a review under section 10.10.1 or that is recommended under section 10.10.2 shall be dealt with in accordance with this part.
- 10.10.4 The Government having jurisdiction over the land or matter that is the subject of a proposed amendment shall either reject the proposed amendment or, subject to section 10.10.5, prepare a draft amendment to the Land Use Plan.

- 10.10.5 In preparing a draft amendment to the Land Use Plan the Minister or the Nunatsiavut Government, as the case may be, shall:
- (a) apply the principles and objectives for the Land Use Plan that are established under section 10.3.9 unless, as part of the draft amendment, the principles and objectives that have been established under section 10.3.9 are being revised as a result of a review referred to in section 10.10.1;
  - (b) take into consideration, and account for, where appropriate, the matters set out in section 10.4.3; and
  - (c) Consult the other.
- 10.10.6 Following the Consultation referred to in subsection 10.10.5(c), the Government having jurisdiction over the land or matter that is the subject of the proposed amendment shall submit the draft amendment to the other Government and both shall, no later than 30 clear days from the date of submission, adopt in principle the draft amendment to the Land Use Plan.
- 10.10.7 Upon compliance with section 10.10.6, the Minister and the Nunatsiavut Government shall forthwith give public notice:
- (a) that they have adopted the draft amendment in principle;
  - (b) of the contents of the draft amendment;
  - (c) that objections and representations may be made with respect to the draft amendment; and
  - (d) setting out the time limit and method for providing objections and representations with respect to the draft amendment.
- 10.10.8 The time limit referred to in subsection 10.10.7(d) shall be no less than 14 clear days from the date of first publication of the notice.
- 10.10.9 Within 10 clear days from the date of expiry of the time limit set out in the notice referred to in subsection 10.10.7(d), the Minister and the Nunatsiavut Government shall Consult each other concerning:
- (a) any objections and representations with respect to the draft amendment that may have been received under subsection 10.10.7(c); and
  - (b) subject to this part, the process that will be followed for the disposition of such objections and representations.
- 10.10.10 Within seven clear days from the completion of the Consultation referred to in section 10.10.9:



- (a) either the Minister or the Nunatsiavut Government within their respective jurisdictions may conclude that a public hearing is necessary or desirable, in which case the Government with jurisdiction over the land or matter which is the subject of the draft amendment shall hold a public hearing;
- (b) the Minister and the Nunatsiavut Government may agree to a joint public hearing where appropriate, having regard to the subject of the draft amendment and the objections and representations that have been received with respect to it; or
- (c) the Minister and the Nunatsiavut Government may agree that a public hearing can be dispensed with.

10.10.11 If a public hearing is held pursuant to subsection 10.10.10(a), the Government with jurisdiction over the land or matter which is the subject of the draft amendment shall appoint a commissioner who shall:

- (a) hold public hearings at locations to be determined by the Government with jurisdiction and consider representations from any Person regarding the draft amendment;
- (b) have the powers of a commissioner under the *Public Inquiries Act* for purposes of a public hearing under this part;
- (c) not simultaneously be a member or an employee of a municipal or city council, a regional authority, the Province or an Inuit Government;
- (d) within six months from the date of appointment or such shorter period as the Government with jurisdiction over the land or matter which is the subject of the draft amendment determines, submit a written report to that Government with respect to the draft amendment that meets the requirements of section 10.5.3; and
- (e) provide a copy of the report submitted under subsection (d) to the other Government.

10.10.12 If a joint public hearing is held pursuant to subsection 10.10.10(b), the Nunatsiavut Government and the Minister shall jointly appoint a commissioner who shall:

- (a) hold public hearings in the Labrador Inuit Settlement Area and other locations as jointly determined by the Minister and the Nunatsiavut Government and consider representations from any Person regarding the draft amendment;
- (b) have the powers of a commissioner under the *Public Inquiries Act* for purposes of a public hearing under this part;
- (c) not simultaneously be a member or an employee of a municipal or city council, a regional authority, the Province or an Inuit Government; and

- (d) within six months from the date of appointment or such shorter period as the Nunatsiavut Government and the Minister may agree, submit a written report to the Minister and the Nunatsiavut Government with respect to the draft amendment that meets the requirements of section 10.5.3.

10.10.13 Following receipt of the commissioner's report referred to in subsection 10.10.11(d) or 10.10.12(d), the Government with jurisdiction over the land or matter that is the subject of the draft amendment may, in accordance with the procedures set out in the applicable Legislation or Inuit Laws, subject to this part:

- (a) approve the draft amendment with or without conditions;
- (b) modify the draft amendment; or
- (c) reject the draft amendment,

and shall forthwith notify the other Government of the decision.

10.10.14 The Minister shall Consult the Nunatsiavut Government prior to taking any action under section 10.10.13 with respect to Water Use in Labrador Inuit Lands.

10.10.15 If, pursuant to subsection 10.10.10(c), the Minister and the Nunatsiavut Government agree that a public hearing is neither necessary nor desirable, the Land Use Plan shall be amended:

- (a) with respect to the Labrador Inuit Settlement Area outside Labrador Inuit Lands and Water Use in Labrador Inuit Lands, in accordance with the procedures set out in the *Urban and Rural Planning Act, 2000*, subject to this part; and
- (b) with respect to Labrador Inuit Lands, in accordance with Inuit Laws.

10.10.16 After complying with the relevant procedure referred to in section 10.10.15, the Government with jurisdiction over the land or matter that is the subject of the draft amendment may:

- (a) approve the draft amendment with or without conditions;
- (b) modify the draft amendment; or
- (c) reject the draft amendment,

and shall forthwith notify the other Government of the decision.

10.10.17 The Minister shall Consult the Nunatsiavut Government prior to taking any action under section 10.10.16 with respect to Water Use in Labrador Inuit Lands.

10.10.18 If a draft amendment is approved under section 10.10.13 or 10.10.16 it shall be brought into effect in accordance with the procedures set out in part 10.7, making all necessary changes in points of detail.

### **Part 10.11 Appeals**

10.11.1 A decision of the Nunatsiavut Government, the Minister or an Inuit Community Government regarding the implementation of the Land Use Plan may be appealed by a Person directly affected by the decision pursuant to the appeal provisions of the *Urban and Rural Planning Act, 2000*, and this part.

10.11.2 The Minister shall establish a board to hear appeals made under section 10.11.1 and shall appoint to the board two members from nominations provided by the Nunatsiavut Government.

10.11.3 Appeals regarding the implementation of the Land Use Plan within Labrador Inuit Lands shall be heard by a panel of three members of the Appeal Board, a majority of whom shall be members nominated by the Nunatsiavut Government.

10.11.4 For appeals regarding the implementation of the Land Use Plan in the Labrador Inuit Settlement Area outside Labrador Inuit Lands and regarding Water Use in Labrador Inuit Lands, the quorum of the Appeal Board shall include a majority of members who are residents of the Labrador Inuit Settlement Area.

10.11.5 A decision of the Appeal Board shall be final and binding, subject only to judicial review in accordance with section 10.11.6.

10.11.6 Judicial review of a decision of the Appeal Board by the Supreme Court shall be available at the motion of the appellant, the Nunatsiavut Government or the Minister.

### **Part 10.12 Nunatsiavut Government Jurisdiction**

10.12.1 Subject to section 10.12.2, the Nunatsiavut Government may make laws in relation to:

- (a) land use and the regulation of development in Labrador Inuit Lands;
- (b) the acceptance, modification or rejection of the draft of the Land Use Plan referred to in section 10.5.5 as it applies to Labrador Inuit Lands;
- (c) the substitution and approval of a Land Use Plan for Labrador Inuit Lands;
- (d) the implementation of the Land Use Plan in Labrador Inuit Lands;
- (e) the permitting of land uses in Labrador Inuit Lands which conform to the Land Use Plan;

- (f) the review and amendment of the Land Use Plan as it applies to Labrador Inuit Lands; and
- (g) the nomination of members of the Appeal Board.

10.12.2 The jurisdiction of the Nunatsiavut Government under section 10.12.1 does not include the jurisdiction to make laws with respect to Water Use in Labrador Inuit Lands under or in connection with the Land Use Plan. Nothing in this section derogates from the authority of the Nunatsiavut Government under part 5.4.

10.12.3 The authority of the Nunatsiavut Government to make laws in relation to the matters referred to in section 10.12.1 must be exercised in a manner consistent with this chapter and shall not amend any of the procedures set out in this chapter.

10.12.4 Subject to section 10.12.3, if there is a Conflict between an Inuit Law under section 10.12.1 and a Provincial Law, the Inuit Law prevails to the extent of the Conflict.

**Part 10.13 Municipal Plans**

10.13.1 Subject to section 10.13.2, Inuit Community Governments may establish and amend municipal plans in accordance with the *Urban and Rural Planning Act, 2000*.

10.13.2 Inuit Community Governments shall Consult the Minister and Nunatsiavut Government in the preparation and amendment of municipal plans.