

NISGA'A LISIMS GOVERNMENT
NISGA'A LISIMS GOVERNMENT EXECUTIVE
NISGA'A OWNER APPLICATION
PROCEDURES REGULATION

made under the

NISGA'A COMMUNITY PLANNING AND ZONING
ENABLING ACT

REGISTRY OF NISGA'A LAWS

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Nisga'a Owner Application
Procedures Regulation

the original of which is deposited in the
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Date October 4, 2010 Signed [Signature]

The Nisga'a Lisims Government Executive enacted this regulation on

Sept. 30, 2010

Signed [Signature]
Kevin McKay, Chairperson

TABLE OF CONTENTS

1. Definitions 3
2. Owner application for official community plan or zoning amendment..... 3
3. Owner application for development permit or development variance permit..... 3
4. Application documents and reports 4
5. Report of land clerk 5
6. Village Government consideration of report 6
7. Further review..... 7
8. Further report..... 7
9. Village Government consideration of further report..... 8
10. Restriction on reapplication..... 9
11. Authority to enter on or into property..... 9
12. Responsibilities of applicant..... 10
13. Amendments at initiative of Village Government..... 10

NISGA'A OWNER APPLICATION PROCEDURES REGULATION

Definitions

1. In this Regulation:

“applicant” means an owner of a parcel within a Nisga’a Village who applies under this Regulation to a Nisga’a Village Government for

- (a) an amendment to an official community plan or a Nisga’a Village Zoning Act, or
- (b) a development permit or a development variance permit;

“application” means an application under section 2 or 3;

“enabling Act” means the *Nisga’a Community Planning and Zoning Enabling Act*;

“land clerk” means the person appointed by a Nisga’a Village Government to receive applications from applicants.

Owner application for official community plan or zoning amendment

2. Subject to section 10,

- (a) an owner of a parcel subject to an official community plan within a Nisga’a Village may apply to the responsible Nisga’a Village Government for an amendment to the plan in respect of its application to the parcel, and
- (b) an owner of a parcel subject to a Nisga’a Village Zoning Act within a Nisga’a Village may apply to the responsible Nisga’a Village Government for an amendment to the Act in respect of its application to the parcel.

Owner application for development permit or development variance permit

3. Subject to section 10,

- (a) an owner of a parcel designated as a development permit area in an official community plan within a Nisga’a Village may apply to the responsible Nisga’a Village Government for the issuance of a development permit in respect of the parcel, and
- (b) an owner of a parcel subject to

- (i) a Nisga'a Village Act made under Part 5 or 7 of the enabling Act, or
- (ii) the prohibition on structural alteration or addition set out in section 19(6) of the enabling Act

within a Nisga'a Village may apply to the responsible Nisga'a Village Government for the issuance of a development variance permit in respect of the parcel.

Application documents and reports

- 4. (1) An application under section 2 or 3 must be made in writing and
 - (a) include a form that
 - (i) has been approved by the responsible Nisga'a Village Government,
 - (ii) is completed to the satisfaction of the land clerk for the Nisga'a Village Government, and
 - (iii) has been signed by the applicant,
 - (b) if an agent is to act for the applicant, identify and authorize the agent to act for the applicant,
 - (c) in detail acceptable to the land clerk,
 - (i) describe the present and intended use of the applicant's parcel, including all buildings and other structures on the parcel,
 - (ii) describe the anticipated impacts of the intended use on the applicant's parcel and on immediately adjacent parcels,
 - (iii) if required by the official community plan, provide development approval information,
 - (iv) if the application is for an amendment to an official community plan or a Nisga'a Village Zoning Act, describe the proposed amendment and the reasons why it is being requested,
 - (v) if the application is for a development permit, describe the

NISGA'A OWNER APPLICATION PROCEDURES REGULATION

proposed development, the reasons why the permit is being requested, and how it is proposed to satisfy the guidelines in the official community plan or Nisga'a Village Zoning Act respecting the manner by which applicable special conditions or objectives are to be addressed, and

- (vi) if the application is for a development variance permit, describe the proposed development, the variance being requested and the reasons why it is being requested,
 - (d) include
 - (i) a title search from the Nisga'a land title office evidencing that the applicant is a current owner of the parcel,
 - (ii) a copy of any covenant registered under the *Nisga'a Land Title Act* that affects the applicant's parcel,
 - (iii) a plan or plans showing
 - (A) the parcel, and the location of all buildings and other structures on the parcel,
 - (B) immediately adjacent parcels, and
 - (C) roads adjacent to the parcel, and
 - (e) be submitted to the land clerk together with all fees payable to the Nisga'a Village in respect of the application.
- (2) Without limiting any other requirement of this Regulation, if an application is for a development permit, and if the applicant's parcel has been designated under section 22(1)(b) of the enabling Act, the responsible Nisga'a Village Government may require the applicant to provide a report, certified by a professional engineer with experience relevant to the applicable matter, to assist the Nisga'a Village Government in determining what conditions or requirements under section 23(7) of the enabling Act the Nisga'a Village Government will impose in the permit.

Report of land clerk

5. As soon as practicable after receiving an application under section 2 or 3 that complies with section 4, the land clerk must

- (a) review servicing and land use issues in relation to the application,
- (b) request such additional information from the applicant as the land clerk considers necessary to better assess the potential impacts of the proposed amendment or permit,
- (c) prepare a report
 - (i) addressing the potential impacts of the proposed amendment or permit, taking into account existing official community plans, Nisga'a Village Zoning Acts, development permits and development variance permits and any other applicable existing enactments, plans or policies of the responsible Nisga'a Village Government, and
 - (ii) including a recommendation as to whether the application should proceed for further consideration, and
- (d) provide the report to the Nisga'a Village Government.

Village Government consideration of report

6. (1) After receiving a report on a proposed amendment or permit under section 5, a Nisga'a Village Government must, at a meeting of the Nisga'a Village Government, consider the proposed amendment or permit and decide whether
- (a) to enact the proposed amendment or issue the proposed permit, or a variation of the proposed amendment or permit, under the enabling Act,
 - (b) to reject the proposed amendment or permit, or
 - (c) to require a further review of the proposed amendment or permit under section 7.
- (2) At least 10 days before a meeting of a Nisga'a Village Government referred to in subsection (1), a notice of the meeting must be mailed or otherwise delivered to the applicant whose proposed amendment or permit is to be considered at the meeting, together with a copy of the report respecting the proposed amendment or permit prepared by the land clerk under section 5.

NISGA'A OWNER APPLICATION PROCEDURES REGULATION

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- (3) The obligation to deliver a notice and report under subsection (2) must be considered satisfied if a reasonable effort was made to mail or otherwise deliver the notice and report.
 - (4) At a meeting of a Nisga'a Village Government referred to in subsection (1), the applicant whose proposed amendment or permit is to be considered at the meeting must, if the applicant is in attendance, be provided with an opportunity to address the Nisga'a Village Government respecting the proposed amendment or permit.
 - (5) A Nisga'a Village Government must provide an applicant with a notice of the decision respecting the applicant's application made by the Nisga'a Village Government under subsection (1).
 - (6) For certainty, Part 4 of the enabling Act applies to the enactment of an amendment referred to in this section.

Further review

7. If a Nisga'a Village Government decides under section 6(1)(c) that a further review of a proposed amendment or permit is required under this section, the land clerk for the Nisga'a Village Government
 - (a) may request such additional information from the applicant as the land clerk considers necessary to complete the further review,
 - (b) may request review and comment from the approving officer,
 - (c) may deliver a notice to the owners or occupiers of parcels immediately adjacent to the applicant's parcel, advising those owners or occupiers that further consideration will be given to the applicant's application and inviting the owners or occupants to provide comment on the application, and
 - (d) may request review and comment from any other person or body that the Nisga'a Village Government approves.

Further report

8. As soon as practicable after a Nisga'a Village Government decides under section 6(1)(c) that a further review of a proposed amendment or permit is required under section 7, the land clerk for the Nisga'a Village Government must

- (a) prepare a further report on the potential impacts of the proposed amendment or permit, taking into account
 - (i) the report respecting the proposed amendment or permit prepared by the land clerk under section 5,
 - (ii) any comments or additional information respecting the proposed amendment or permit received by the land clerk in response to requests or invitations made under section 7,
 - (iii) existing official community plans, Nisga'a Village Zoning Acts, development permits and development variance permits and any other applicable existing enactments, plans or policies of the responsible Nisga'a Village Government, and
 - (iv) any other matters that in the opinion of the land clerk are relevant to the proposed amendment or permit, and
- (b) provide a copy of the further report to the Nisga'a Village Government.

Village Government consideration of further report

- 9. (1) After receiving a further report on the potential impacts of a proposed amendment or permit under section 8, a Nisga'a Village Government must, at a meeting of the Nisga'a Village Government, further consider the proposed amendment or permit and decide whether
 - (a) to enact the proposed amendment or issue the proposed permit, or a variation of the proposed amendment or permit, under the enabling Act, or
 - (b) to reject the proposed amendment or permit.
- (2) At least 10 days before a meeting of a Nisga'a Village Government referred to in subsection (1), a notice of the meeting must be mailed or otherwise delivered to the applicant whose proposed amendment or permit is to be considered at the meeting, together with a copy of the further report respecting the proposed amendment or permit prepared by the land clerk under section 8.
- (3) The obligation to deliver a notice and report under subsection (2) must be considered satisfied if a reasonable effort was made to mail or otherwise deliver the notice and report.

NISGA'A OWNER APPLICATION PROCEDURES REGULATION

- (4) At a meeting of a Nisga'a Village Government referred to in subsection (1), the applicant whose proposed amendment or permit is to be considered at the meeting must, if the applicant is in attendance, be provided with an opportunity to address the Nisga'a Village Government respecting the proposed amendment or permit.
- (5) A Nisga'a Village Government must provide an applicant with a notice of the decision respecting the applicant's application made by the Nisga'a Village Government under subsection (1).
- (6) For certainty, Part 4 of the enabling Act applies to the enactment of an amendment referred to in this section.

Restriction on reapplication

10. (1) Subject to subsection (2), if a Nisga'a Village Government decides to reject a proposed amendment or permit under section 6(1) or 9(1), no owner of a parcel to which the amendment or permit would have applied may make an application to the Nisga'a Village Government for the same or a similar amendment or permit until 18 months after the date of the decision.
- (2) The time limit under subsection (1) may be varied in relation to a specific reapplication by an affirmative vote of at least 2/3 of the members of the Nisga'a Village Government.

Authority to enter on or into property

11. The land clerk for a Nisga'a Village Government and any other person that the Nisga'a Village Government designates by enactment or resolution is authorized to enter on a parcel in respect of which an owner has made an application to the Nisga'a Village Government under this Regulation, to
 - (a) inspect the parcel and determine whether information in the application is accurate and complete, and
 - (b) make any other determination respecting the parcel that the land clerk considers relevant to the application.

Responsibilities of applicant

12. All information and documents required of an applicant under this Regulation, including reports referred to in section 4(2), must be prepared and provided at the applicant's expense.

Amendments at initiative of Village Government

13. For certainty, this Regulation does not affect the ability of a Nisga'a Village Government to amend an official community plan or Nisga'a Village Zoning Act of its own initiative.