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Nunavunmi Parnaiyiit
Nunavut Planning Commission
Commission d'Aménagement du Nunavut

Nunavut Planning Commission Internal Procedure

Amendments to Land Use Plans

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CONTENTS

CONTENTS.....	2
PURPOSE.....	2
AUTHORITY.....	2
APPLICATION.....	2
DEFINITIONS.....	2
PROCEDURE.....	2
1 Flow Chart.....	2
2 Communications In Advance of a Proposed Amendment.....	3
3 Submitting a Proposed Amendment.....	3
4 Initial Consideration of Proposed Amendment.....	3
5 Public Review of Proposed Amendment Considered Appropriate.....	4
6 Commission Recommendation.....	4
7 Final Decision.....	4
8 Publication.....	4
Appendix A: Relevant NUPPAA Sections.....	5
Appendix B: Flow Chart of Amendment Process.....	6

PURPOSE

The purpose of this procedure is to identify the approach the Nunavut Planning Commission (referred to herein as either the NPC or the Commission) will use for assessing an application for a Plan Amendment.

AUTHORITY

This procedure is made in accordance with the *Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in right of Canada* (NLCA), which pursuant to section 3(1) of the *Nunavut Planning and Project Assessment Act* (NUPPAA) prevails over NUPPAA to the extent of any inconsistency or conflict between those documents.

Relevant NLCA Sections:

Section 11.6.1 Government, a DIO, or any person affected by a plan, may propose amendments to the plan to the NPC.

Section 11.6.2 The NPC shall consider a proposed amendment and, if it deems a review appropriate, review the proposal publically.

Section 11.6.3 Upon completion of the process outlined in Section 11.6.2, the NPC shall recommend to the Minister of Indian and Northern Affairs and Northern Development and the Territorial Government Minister responsible for Renewable Resources that;

- The proposed amendment be rejected in whole or in part; or
- The proposed amendment be accepted, in whole or in part.

Relevant NUPPAA Sections (Reproduced from the version current to February 4, 2015¹ for ease of reference in Appendix A):

58, 59, 60, 61, 62, 201(1)(a), 201(1)(i), 201(1)(j)

APPLICATION

This procedure applies when NPC staff receive a proposed amendment to a land use plan. Plan amendments are unique to each situation, and no standard amendment application form has been created. Because of this, pre-application meetings between the potential applicant and the NPC are encouraged.

The NPC retains the right to initiate Land Use Plan Amendments on its own prerogative.

DEFINITIONS

Unless the context requires otherwise, words and phrases in this procedure have the same meaning as in the NLCA or NUPPAA.

In this procedure:

Proposed Amendment means a proposal to amend an approved land use plan submitted to the Commission by Government, a DIO, or any person, including a corporation or other organization, affected by a plan, as well as any documentation and representations relevant to the proposal submitted to the Commission by the Amendment Applicant.

Applicant means a person who submits a proposed amendment to the Commission;

Public Registry means the Nunavut Planning Commission's online public registry at www.nunavut.ca

PROCEDURE

1 Flow Chart

A flow chart illustrating the Plan Amendment process is contained in Appendix B.

¹ Department of Justice Canada, Justice Laws Website, online: laws-lois.justice.gc.ca (accessed February 19, 2015)

2 Communications In Advance of a Proposed Amendment

- 2.1 Before submitting a proposed amendment, potential applicants are encouraged to contact the Executive Director to schedule an informal meeting, where the intent of the policies, objectives, goals, and land use plan will be discussed as they regard the applicant's conceptual proposal.
- 2.2 Fifteen days prior to the meeting, applicants are requested to provide information they may have, describing or explaining the proposed amendment, and the reasons of the proposed amendment to the plan to the NPC.
- 2.3 During this meeting the NPC staff will further advise the applicant on:
 - (a) the information required by the applicable land use plan;
 - (b) any other information or materials deemed necessary or appropriate by the NPC; and
 - (c) the need to provide translated versions of the proposed amendment materials. Submission of a proposal for amendment may be required in English, Inuktitut, Inuinnaqtun and/or French.

3 Submitting a Proposed Amendment

- 3.1 Following the initial informal meeting, the applicant may submit an amendment application. Fifteen (15) hardcopies with required translations, and one complete digital package of the application, must be submitted to the NPC for review by either:
 - (a) submitting the application in person at one of the NPC's regional offices; or
 - (b) submitting the application by mail to one of the NPC's regional offices.
- 3.2 Following receipt of a formal plan amendment application, within 7 days NPC staff shall review the application and determine if it is complete.
- 3.3 If the amendment proposal appears incomplete, the applicant may be asked to provide additional information, and the NPC will reserve the right to request further information.

4 Initial Consideration of Proposed Amendment

- 4.1 If the application is deemed to be complete by NPC staff, the materials will be uploaded to the NPC's Public Registry.
- 4.2 A letter from the Executive Director will notify the applicant that the proposed amendment has been received and is being assessed by NPC staff.
- 4.3 NPC staff may, at any time during the assessment of a proposed amendment make a written request to the applicant for additional information.
- 4.4 Proposed plan amendment applications must be received at least 60 days in advance of an in-person Commission meeting for it to be considered. If it is not received within that timeframe, the application will be considered at a subsequent Commission meeting.
- 4.5 The Executive Director will prepare a written report for the Commission that will include:
 - (a) the proposed amendment;
 - (b) an initial analysis of the proposed amendment based on the intent of the land use plan and any guidelines contained in the plan and the NLCA.
- 4.6 The Commission may invite the applicant to be present at the meeting where the proposed amendment is being considered.
- 4.7 As soon as practicable after the Commission meeting where the proposed amendment is considered, the applicant will be advised in writing of the decision by the Commissioners that:
 - (a) The proposed amendment is not consistent with approved planning policies and objectives, or the purpose of the land use plan, and the Commission has recommended that it be rejected in whole or in part;
 - (b) The proposed amendment is appropriate, no public review is required, and the Commission has recommended that it be accepted; or
 - (c) The proposed amendment requires a public review before a recommendation can be made.

5 Public Review of Proposed Amendment Considered Appropriate

- 5.1 If the Commission determines under 4.7(c) that a public review is required, it will be undertaken in accordance with the NPC's approved workplan. The public review will be conducted in accordance with the *Rules of Procedure for Public Hearings and Public Reviews* in a manner considered appropriate by NPC to derive the most meaningful insights and input from the public.
- 5.2 A Public Review provides an opportunity for public input; it does not necessarily imply a public meeting or hearing. The need for a public meeting will depend on the significance of the amendment and the degree of public concern / interest the Commission anticipates the proposal may generate. If the Commission believes the level of public concern/ interest is not significant, the public review may be conducted by providing the opportunity for written submissions or presentation at a regular Commission meeting.

6 Commission Recommendation

- 6.1 If the Commissioners determines that a public review is not required under 4.6(a) or 4.6(b), at that time the Commission will recommend to the federal Minister, the territorial Minister and the designated Inuit organization, that the proposed amendment be accepted or rejected, in whole or in part.
- 6.2 Upon completion of a public review under 4.6(c), the Commissioners will recommend to the federal Minister, the territorial Minister and the designated Inuit organization, that the proposed amendment be accepted or rejected, in whole or in part.
- 6.3 The NPC will provide written reasons for its recommendation. The written reasons will also be provided to the applicant and posted on the NPC Public Registry.

7 Final Decision

- 7.1 The final decision shall be governed by the process described in Section 62 of NUPPAA (see Appendix A).

8 Publication

- 8.1 Any approved amendment to a land use plan will be made public by including it on the NPC's Public Registry, and posting notice of the amendment in a newspaper with territorial distribution.

Appendix A: Relevant NUPPAA Sections

"17. Inuit traditions

(2) A by-law or rule made... must give due regard and weight to the Inuit traditions regarding oral communication and decision-making.

"58. Factors to Consider

In exercising their powers and performing their duties and functions under sections 49 and 52 and subsections 54(1) to (3), the Commission, the federal Minister, the territorial Minister and the designated Inuit organization must take into account all relevant factors, including the purposes set out in section 47, the requirements set out in section 48 and existing rights and interests.

"59. Proposal for amendment

(1) The federal Minister, the territorial Minister, the designated Inuit organization or any person, including a corporation or other organization, affected by a land use plan may propose to the Commission an amendment to that plan.

Consideration by Commission

(2) The Commission must consider the proposed amendment and, if it considers it appropriate to do so, conduct a public review in accordance with the by-laws and rules made under section 17.

Amendment proposed by Commission

(3) The Commission may, on its own initiative, propose an amendment to a land use plan and must subsequently conduct a public review in accordance with the by-laws and rules made under section 17.

Proposed amendment to be made public

(4) If the Commission conducts a public review in respect of a proposed amendment, the Commission must make the proposal public in a manner that is designed to promote public participation in its examination.

"60. Revision of amendment

The Commission must consider the submissions made during a public review in respect of a proposed amendment and may make any revisions to the proposed amendment that it considers appropriate.

"61. Submission of Proposed Amendment

(1) The Commission must submit the original or revised proposed amendment to the federal Minister, the territorial Minister and the designated Inuit organization with a written report of any public review and its recommendation as to whether the amendment should be accepted or rejected, in whole or in part.

Exception

(2) Despite subsection (1), the Commission may, following public review, withdraw a proposed amendment that it initiated.

"62. Decision — proposed amendment

(1) As soon as practicable after receiving the proposed amendment, the federal Minister, territorial Minister and designated Inuit organization must accept the Commission's recommendation jointly or reject it, in whole or in part, with written reasons.

Revised proposal

(2) If the Commission's recommendation is rejected, in whole or in part, by the federal Minister, the territorial Minister or the designated Inuit organization, the Commission must, after considering the reasons, which it may make public, undertake once again any measures in relation to the holding of a public review under subsections 59(2) and (4) and section 60 that it considers necessary, make any changes it considers appropriate and submit a revised proposed amendment to the federal Minister, territorial Minister and designated Inuit organization.

Decision — revised proposal

(3) As soon as practicable after receiving a revised proposed amendment, the federal Minister, territorial Minister and designated Inuit organization must accept it jointly or reject it with written reasons.

Coming into force

(4) Any amendment to a land use plan based on an original or revised proposal for amendment comes into force when it is approved under subsection (1) or (3).

Publication

(5) The Commission must make any amendment to a land use plan public."

"201. Public registry — Commission

(1) The Commission must maintain a public registry that is made accessible to the public via the Internet, and the Commission must include, as soon as practicable, the following in that registry:

(a) reports referred to in paragraph 14(b), section 53 and subsections 61(1), 152(2) and (3) and 227(2);

...

(i) proposals for amendment of a land use plan made under subsections 59(1) and (3);

(j) amendments to a land use plan approved under subsections 62(1) and (3);"

Appendix B: Flow Chart of Amendment Process

