

YUULU?IL?ATH FIRST NATION GOVERNMENT

**APPLICATION OF LAWS TO
FORESHORE ACT**

YFNS 39/2014



This law enacted on August 27, 2014

Signed

A handwritten signature in black ink, appearing to read 'Charles McCarthy', written over a horizontal line.

Charles McCarthy, President of the
Yuulu?il?ath First Nation

DEPOSITED IN THE
REGISTRY OF LAWS

ON 15 Sept / 2014

Signature of Law Clerk

YUULU?IL?ATH FIRST NATION GOVERNMENT
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PREAMBLE

The Yuulu?i?ath First Nation and British Columbia entered into an amended Yuulu?i?ath First Nation Foreshore Agreement. The Amended Foreshore Agreement expands the law making authority of the Yuulu?i?ath First Nation over Yuulu?i?ath foreshore and alters the enactment and enforcement process required by the former Foreshore Agreement to enact and enforce Yuulu?i?ath law applicable to Yuulu?i?ath foreshore.

It is the desire of the Yuulu?i?ath First Nation that there be certainty as to the applicability of existing Yuulu?i?ath law to Yuulu?i?ath foreshore. Certainty concerning the applicability of Yuulu?i?ath law to Yuulu?i?ath foreshore is desirable for transparent and accountable government processes and for the better governance of the Yuulu?i?ath First Nation.

The Yuulu?i?ath First Nation adopt this Act based on these values.

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PART 1 - INTRODUCTORY PROVISIONS

Short title

1.1 This Act may be cited as the Application of Laws to Foreshore Act.

Executive oversight

1.2 The chairperson of Legislature is responsible for the executive oversight of this Act.

Authority and application

- 1.3 (a) This Act is enacted as contemplated in 14.5.0 of Chapter 14 Regional Government of the Maa-nulth Treaty and under the Amended Foreshore Agreement.
- (b) Unless otherwise provided in this Act or another Yuulu?il?ath enactment, this Act applies to all Yuulu?il?ath foreshore.

Definitions

1.4 In this Act,

“Amended Foreshore Agreement” means the agreement entered into between the Yuulu?il?ath First Nation and British Columbia in accordance with 14.5.1 of Chapter 14 Regional Government of the Maa-nulth Treaty and dated for reference December 3, 2013;

“Foreshore Agreement” means the agreement entered into between the Yuulu?il?ath First Nation and British Columbia in accordance with 14.5.1 of Chapter 14 Regional Government of the Maa-nulth Treaty and dated for reference April 1, 2011.

PART 2 - APPLICATION OF LAWS TO FORESHORE

Applicability of certain enactments

- 2.1 (a) The following Yuulu?il?ath enactments apply to Yuulu?il?ath foreshore with the necessary changes required and so far as applicable:
- (i) the Planning and Land Use Management Act;
 - (ii) the provisions of the Environmental Protection Act applicable to those matters referred to section 3.8(b) of the Amended Foreshore Agreement;
 - (iii) the Environmental Protection Act other than the provisions referred to in paragraph (ii);
 - (iv) the Enforcement Act;
 - (v) the Building and Development Authorization Act; and
 - (vi) the Official Community Plan Act.
- (b) A reference to Yuulu?il?ath lands in the enactments listed in subsection (a) is deemed to include a reference to Yuulu?il?ath foreshore unless the context requires otherwise or it is otherwise indicated.

Applicability of other enactments

- 2.2 Nothing in this Act restricts the application of a Yuulu?il?ath enactment to a person or activity on Yuulu?il?ath foreshore to which that enactment would otherwise apply.

Penalties

- 2.3 A penalty under the enactments listed in section 2.1(a) must not exceed the limits referred to in section 3.11 of the Amended Foreshore Agreement.

Interpretation of enactments

- 2.4 For certainty, except in this Act, where the context requires otherwise or is otherwise indicated, a reference in a Yuulu?il?ath enactment to the Foreshore Agreement is a reference to the Amended Foreshore Agreement.

PART 3 - GENERAL PROVISIONS

Regulations

- 3.1 The Executive may make regulations which it considers necessary or advisable for the purposes of this Act, including regulations setting out necessary amendments to an enactment listed in section 2.1(a) for that enactment to apply to Yuulu?il?ath foreshore in accordance with this Act.

Enactment or amendment of laws applicable to foreshore

- 3.2 (a) In accordance with the Amended Foreshore Agreement, before an amendment is made to this Act or an enactment listed in section 2.1(a), the Yuulu?il?ath government must first
- (i) discuss that amendment with any person, including local governments and other authorities and organizations, and
 - (ii) consult with individuals ordinarily resident in the Yuulu?il?ath foreshore concerning the amendment,
- if they may be directly and significantly affected by that amendment.
- (b) In accordance with the Amended Foreshore Agreement, before enacting a Yuulu?il?ath enactment in relation to Yuulu?il?ath foreshore or any subsequent amendment to that enactment, the Yuulu?il?ath government must first
- (i) discuss that enactment or amendment with any person, including local governments and other authorities and organizations, and
 - (ii) consult with individuals ordinarily resident on Yuulu?il?ath foreshore concerning that enactment or amendment,
- if they may be directly and significantly affected by that enactment or amendment.
- (c) For certainty, despite subsections (a) and (b) and in accordance with the Amended Foreshore Agreement, the law-making authority of the Yuulu?il?ath government under the Amended Foreshore Agreement in relation to Yuulu?il?ath foreshore is subject to the same conditions, requirements and restrictions as a municipality in exercising law-making authority under provincial law including
- (i) providing notice and an opportunity to make representations to persons affected by a proposed Yuulu?il?ath enactment or a decision made under a Yuulu?il?ath enactment in relation to Yuulu?il?ath foreshore, and

- (ii) when applicable, seeking the approval of Yuulu?il?ath citizens and non-members ordinarily resident on Yuulu?il?ath foreshore to a proposed Yuulu?il?ath enactment or a decision made under a Yuulu?il?ath enactment in relation to Yuulu?il?ath foreshore.

Commencement

- 3.3**
- (a) Subject to subsections (b) to (e), this Act comes into force by Order of the Executive.
 - (b) An Order of the Executive under subsection (a) must not be made until
 - (i) notice of that Order and a copy of this Act has been posted in accordance with Yuulu?il?ath law for at least 30 days,
 - (ii) notice of that Order has been published in accordance with Yuulu?il?ath law, and
 - (iii) notice of that Order and a copy of this Act has been delivered in accordance with Yuulu?il?ath law to British Columbia and the Alberni-Clayoquot Regional District.
 - (c) A notice under subsection (b) must provide an opportunity for at least 30 days to persons affected by this Act to make representations to the Executive concerning this Act.
 - (d) The Executive must give full and fair consideration to any representations received in accordance with subsection (c) and may, by regulation, make necessary amendments to an enactment listed in section 2.1(a) in relation to Yuulu?il?ath foreshore to address any concern raised by a representation received in accordance with subsection (c).
 - (e) Section 2.1(a)(iii) comes into force on the date the responsible minister referred to in section 3.8(a) of the Amended Foreshore Agreement gives approval to the application of those provisions of the Environmental Protection Act to Yuulu?il?ath foreshore.