

Draft DGG Quarries Act **Executive Summary**

This is a draft law. The *DGG Quarries Act* sets out the rules for the DGG owned Quarries.

Except for DGG employees or DGG hired contractors, no one can take material from the DGG Quarries unless they have a Quarry Permit and no one can enter the DGG Quarries without a permit.

Anyone who takes material from the DGG's Quarries will have to pay for the material, unless the DGG waives the fees. The DGG will either measure material removed or you will have to self-report how much was taken to the DGG.

A Quarry Permit does not give any right to the material or any right to the land. Also, a Quarry Permit does not guarantee that there is enough material. The DGG can take away a permit if the DGG decides that there is not enough material in the quarry.

The Quarry Permit holder is responsible for providing their own equipment. They use the DGG Quarries at their own risk. The DGG does not owe a duty of care to anyone using the DGG's Quarries.

Quarry Permit holders are required to recontour the land once they have taken the materials and leave the Quarry as they found it as much as possible. Some of the Quarry fees collected will be used to fund future rehabilitation of DGG Quarries.

DÉLİNEĞ GOT'İNEĞ GOVERNMENT

QUARRIES ACT

WHEREAS section 9.1.1(g) of the Délıneğ Final Self-Government Agreement empowers the Délıneğ Got'ineğ Government to enact laws with respect to programs, services, and facilities provided by or on behalf of the DGG and the use of DGG real property in the Community of Délıneğ,

the Délıneğ Got'ineğ Government enacts as follows:

Short Title

1. This *Act* may be cited as the “*DGG Quarries Act*”.

Definitions

2. In this *Act*:

“**Application**” means the form of application established by the DGG to apply for a Quarry permit;

“**DFSGA**” means the Délıneğ Final Self Government Agreement;

“**DGG**” means the Délıneğ Got'ineğ Government, described in the DFSGA and Part 1, Division 2 of the *DGG Government Organization Act*;

“**DKK**” means the Délıneğ K'aowədó Kə, the body described in section 3.4.1(b) of the DFSGA and established by Part 1, Division 2 of the *DGG Government Organization Act*;

“**DGG Quarries**” means the lands owned by the DGG that have been designated for extracting materials;

“**Foreman**” means the DGG employee who oversees the DGG Quarries;

“**Interpretation Act (NWT)**” means *Interpretation Act* SNWT 2017, c 19, as may be amended from time to time;

“**Materials**” means quarry materials, shale, clay, sand, black dirt or esker material within the DGG Quarries;

“**Officer**” means DGG Enforcement Officer appointed by the DKK to enforce this *Act* and any member of the RCMP;

“**Quarry Permit**” means a permit issued by the DGG authorizing the removal of materials from the DGG Quarries;

“**Resident**” means a person who lives in the Community of Délı̄ne permanently or on a long-term basis;

“**SDMCLCA**” means the Sahtu Dene and Metis Comprehensive Land Claim Agreement; and

“**Summary Convictions Procedures Act**” means *Summary Convictions Procedures Act* RSNWT 1988,c S-15, as may be amended from time to time.

Quarry Permits

3. Except for authorized DGG employees and DGG hired contractors, no one shall remove material from the DGG Quarries unless:
 - (a) they have obtained a Quarry Permit authorizing the removal from the DGG; or
 - (b) they are purchasing processed materials directly from the DGG.
4. A Quarry Permit does not guarantee the supply of materials in DGG Quarries and the DGG may limit the quantities of materials anyone may remove from the DGG Quarries.
5. Every Quarry Permit issued pursuant to this *Act* shall be subject to the terms and conditions specified in the Quarry Permit and the provisions of this *Act*.
6. The DKK may prescribe, by regulation, an application fee for a Quarry Permit.
7. Every Application to extract material shall be in writing and in the form established by the DGG and include any required application fee.
8. The DGG may, in its sole discretion:
 - (a) approve or reject a Quarry Permit application; and
 - (b) set any terms and conditions for a Quarry Permit.
9. The DGG shall record the following information for each Quarry Permit:
 - (a) the name and contact information of the Quarry Permit holder;

- (b) the date of issuance of the Quarry Permit and expiry date;
 - (c) the location where materials will be removed from the DGG Quarries; and
 - (d) the estimated amount of materials to be removed.
10. Quarry Permits shall expire:
- (a) on the date set out in the Quarry Permit; or
 - (b) when the Quarry Permit holder has finished removing the materials under the Quarry Permit,
- whichever occurs first.
11. The DGG may revoke a Quarry Permit issued under this *Act* where it is satisfied that:
- (a) the Quarry Permit was issued in error, whether due to misrepresentation or otherwise;
 - (b) the applicant has breached the conditions of the Quarry Permit;
 - (c) there are no longer sufficient materials available for the Quarry Permit holder to extract; or
 - (d) the applicant has violated any provisions of this *Act*.
12. Quarry Permits are non-transferable.

Processed Materials

13. The DGG may sell processed materials from the DGG Quarries at rates it may set from time to time.
14. The DGG has the sole discretion to decide who to sell its processed materials to from the DGG Quarries.

Fees for Raw Materials

15. The DKK may prescribe by regulation the fees the DGG will charge for raw materials removed from the DGG Quarries.
16. Except for authorized DGG employees and DGG hired contractors, everyone who takes material from the DGG Quarries shall pay to the DGG fees for the materials removed in accordance with the fees prescribed by the DKK.
17. The DGG may waive fees for materials that are extracted for residents' personal use.
18. The DGG may require customers to:

- (a) allow DGG staff to measure by volume the materials removed from the DGG Quarries; or
 - (b) report how much material by volume was removed from the DGG Quarries to the DGG promptly after it is removed.
19. The DGG may use a portion of the fees collected from the sale of materials for the rehabilitation of the DGG Quarries.

Use and Access

20. Access to the DGG Quarries shall be permitted only at such times as may be established from time to time by the DGG.
21. All Quarry Permit holders shall follow the directions of the Foreman and on any signs erected by the DGG at the DGG Quarries.
22. No one shall enter the DGG Quarries except:
- (a) holders of Quarry Permits and their employees;
 - (b) authorized DGG contractors and their employees;
 - (c) DGG staff; and
 - (d) Officers.
23. A Quarry Permit shall not grant the permit holder any exclusion right or lease hold interest in the land covered by the Quarry Permit.
24. Where a Quarry Permit limits where the permit holder may remove materials, the permit holder shall only remove materials from that location.
25. The Quarry Permit holder is responsible for providing all equipment and labour required to remove materials from the DGG Quarries.
26. Quarry Permit holders shall only stockpile materials at locations designated by the DGG.
27. Upon the expiry of the Quarry Permit:
- (a) the Quarry Permit holder shall recontour the land and return it back to the way it was as much as possible; and
 - (b) any unused materials stockpiled by the Quarry Permit holder shall revert to the DGG.

Offences

28. Any person who contravenes this *Act*, permits any act or thing to be done in contravention of this *Act*, or who neglects or refrains from doing anything required to be done pursuant to this *Act* commits an offence and shall be liable:
 - (a) to the penalty prescribed by the DKK by regulation; or
 - (b) if no penalty is set out for the offence in the regulations, then to a fine of not more than \$2,000.
29. The DKK may prescribe, by regulation, fines for offences under this *Act*, including different amounts for subsequent offences, early payment discounts, and late payment penalties.
30. Where a person has committed an offence under this *Act*, an Enforcement Officer may warn the person that they have committed an offence and educate the person on the rules in this *Act* instead of issuing a ticket.
31. Where a person aged 17 years or younger has committed an offence, an Enforcement Officer may warn that youth's parent or guardian that the youth has committed an offence in addition to warning and educating the youth.
32. An Enforcement Officer may issue a ticket in the prescribed form to any person who contravenes the provisions of this *Act* and such person may:
 - (a) pay to the DGG the prescribed voluntary penalty for the offence prior to the payment date specified on the ticket; or
 - (b) dispute the ticket by following the procedure set out in the ticket.
33. The DGG may hire a Screening Officer to review ticket disputes and, after reviewing the ticket, the Screening Officer may:
 - (a) cancel the ticket;
 - (b) with the consent of the accused, refer the ticket to any alternative processes established by the DGG which may include alternative sanctions; or
 - (c) issue a notice to the accused with a court date for hearing the dispute.
34. In making a decision under section 33 the Screening Officer may consider factors such as:
 - (a) the seriousness of the offence; and
 - (b) if the accused has previously committed an offence under the *Act*.

35. If a person who has been issued a ticket does not dispute the ticket within the required time, then the ticket will be treated as undisputed and the prescribed penalty amount will be due and owing.
36. Tickets issued under this *Act* shall set out:
- (a) the particulars of the alleged offence;
 - (b) the amount of the penalty (including any early and late payment options);
 - (c) how to pay the ticket;
 - (d) how to dispute the ticket;
 - (e) the timeframe for disputing the ticket;
 - (f) the option to participate in an alternative process established by the DGG and how to consent to that option;
 - (g) the date the ticket is issued;
 - (h) the name and number of the Enforcement Officer who issued the ticket; and
 - (i) any other information the DKK prescribes by regulation.
37. A ticket shall be deemed to be sufficiently served:
- (a) if served personally on the accused; or
 - (b) if mailed to or left in a conspicuous place at the address for the person in the DGG's Quarry Permit records.
38. If a person aged 17 years or younger is found to be guilty of an offence under this *Act*, then their parent or guardian shall be responsible for any penalties imposed.
39. In the case of an offence that is of a continuing nature, a contravention constitutes a separate offence in respect of each day, or part of a day, on which the offence continues and any person guilty of such an offence is liable to a fine in an amount not less than established by this *Act* for each such day or part of a day.
40. For the purposes of this *Act*, the DGG adopts the procedures of the *Summary Convictions Procedures Act* (NWT) when prosecuting offences of this *Act* in NWT Territorial Court.
41. The DKK may, by law, specify that any contravention of this *Act* shall be enforced in a manner other than a prosecution in NWT Territorial Court or as set out in this *Act*.

Assumption of Risk

42. Every person who uses or accesses that DGG Quarries does so at their own risk.

43. It is the responsibility of the Quarry Permit holder to advise all persons that the permit holder uses to complete the removal of materials that they enter upon the DGG Quarries at their own risk.
44. The DGG owes no duty of care to a person in respect of risks willingly assumed by that person, other than a duty not to
 - (a) create a danger with intent to do harm to the person or damage to the person's property, or
 - (b) act with reckless disregard to the safety of the person or the integrity of the person's property.

Severability

45. Should any provision of this *Act* be found to be invalid by a court of competent jurisdiction, whether in whole or in part, or in particular circumstances, the invalid provision shall be severed and the balance of the *Act* shall be maintained in force, or maintained in force for application in other circumstances.

Interpretation

46. The *Interpretation Act* (NWT) applies to this *Act* and the regulations, unless the context or another DGG enactment otherwise requires.
47. Words and expressions used in this *Act* have the same meaning as they have in the DFSGA, unless the context requires otherwise.

Repeal

48. This *Act* hereby repeals and replaces all Charter Community of Délı̄ne Bylaw on the same matter.

Amendment

49. This *Act* may be amended in accordance with DGG Law.

Commencement

50. This *Act* comes into force on the date of its enactment.

Conflict

51. In the event that two or more provisions within the *Act* conflict with one another, the most restrictive provision shall prevail.
52. In the event that the provisions of this *Act* conflict with the provisions of the DFSGA, the provisions of the DFSGA prevail.

53. In the event that the provisions of this *Act* conflict with the provisions of the *Déligne Got'ine Zezadó*, the provisions of the *Déligne Got'ine Zezadó* prevail.
54. In the event that the provisions of the DFSGA conflict with the provisions of the *Déligne Got'ine Zezadó*, the provisions of the DFSGA prevail.
55. In the event that the provisions of the DFSGA conflict with the provisions of the SDMCLCA, the provisions of the SDMCLCA prevail.

Draft Quarry Permit Fee Regulation

<i>Quarries Act</i>		
Section	Fee	Fee Amount
6	Quarry Permit application fee	\$20
13	Fee for raw material per cubic metre	
	Not-screened gravel (any size)	\$40/m ³
	Screened gravel	\$75/m ³
	Sand or black dirt	\$15/m ³