

Local Services/Dehcho Community Government Comparison Chart

GNWT Local Services Chapter	DFN Community Government Chapter	Comments
<p>LS 1.1 DCG has jurisdiction of a municipal nature within community boundaries</p>	<p>CG.4.1 In addition to other powers provided for in the Dehcho Agreement, the Agreement will provide that Dehcho Community Governments have the power to enact laws relating to:...</p> <p>FN#14 DFN proposes “laws of a local nature” or “laws of a community nature”</p>	<p>What additional powers are DFN contemplating? Are they by delegation via an agreement with another govt? Eg: Dehcho Government clause 3.3.1 says the DG may delegate any of its powers except the powers to enact laws.</p> <p>Laws of a local nature are usually a power of a provincial (s.92) or territorial (s.16) govt. laws of a municipal nature would be viewed through a narrower lens by a court, looking at other legislation establishing municipal govts. EG: the scope of the law making authority for health, safety and welfare and protection of people and property may be interpreted very differently using municipal vs local nature.</p> <p>Laws of a community nature may not provide a court with any lens for determining the scope of this jurisdiction.</p>
<p>a) health, safety and welfare of people and protection of people and property</p>	<p>4.1.d.iv public order, peace and safety</p>	<p>Not the same. Tliche 8.4.1.d.ii) says: public order, peace and safety. However, the chapter was implemented through detailed GNWT legislation which makes it very clear that Tliche CG have the powers and capacity of municipal govts.</p>

Local Services/Dehcho Community Government Comparison Chart

b) people, activities and things in, on, or near a public place, or place that is open to the public, including the imposition of curfews		Nothing on DFN list that matches GNWT list
c) public nuisances, including unsightly property;	4.1.d.vi public nuisances, including unsightly property	Same
d) licensing of businesses, business activities, and persons engaged in business;	4.1.d.xi business licensing and regulation	Similar GNWT is specific that it means “licensing”. DFN adds “regulation”. What does this mean?
e) local transportation systems including, but not limited to, buses and taxis;	4.1.d.x local transportation	DFN deletes the word “systems”.
f) domestic animals and activities in relation to them;	4.1 .d.xii domestic animals and activities in relation to them	Same
g) programs, services, and facilities provided by or on behalf of the DCG including, but not limited to, sewers, drainage systems, water distribution and supply, garbage and waste, ambulance services, and recreation;	4.1 d) v programs, services and facilities provided by or on behalf of the DCG including, but not limited to: sewers, drainage, water distribution and supply, garbage and waste, ambulance services, and recreation	Same except DFN deleted “systems” after drainage.
h) community flag, crest and coat of arms;	4.1d) xvii community flag, crest and coat of arms	Same
i) community roads, except primary highways under the <i>Public Highways Act</i> (NWT);	4.1.d.ix community roads	DFN does not exclude primary highways
j) the operation of All Terrain Vehicles, except on primary highways as defined under the <i>Public Highways Act</i> (NWT);		Not addressed specifically by DFN.
k) the purchase and acquisition of real property by the Dehcho Community DCG the sale, lease, disposition, use,	4.1.d.ii) the purchase and acquisition of real property by the DCG and the sale, lease, disposition, use, holding or	Same

Local Services/Dehcho Community Government Comparison Chart

holding or development of DCG real property;	development of DCG real property Also 4.1.c the administration of and the granting of interests in Community lands	Is this clause redundant?
l) land use planning, zoning and subdivision control;	4.1.d.i) management, use and protection of lands and renewable resources, including land use planning, local protected areas, zoning and subdivision control	DFN added the “use, management and protection of land and renewable resources”. Also added “local protected areas” Relates to issue of jurisdiction of municipal nature
m) granting utility franchises.		Not addressed specifically by DFN.
	4.1.a the operation and internal management of the DCG	Needs to be addressed
	4.1.b the borrowing of money by the DCG	Needs to be addressed
	4.1.vii by-law enforcement	Needs to be addressed
	4.1.d.viii intoxicants	Needs to be addressed
	4.1.d.xiii gaming and recreational contests	Needs to be addressed
LS.1.2 Regulation of land under Part 3 of the <i>Mackenzie Valley Resource Management Act</i> (Canada) applies to lands within a Dehcho Community except where the DCG exercises Jurisdiction under LS.1.1 in respect of those lands.	4.1.d.i) management, use and protection of lands and renewable resources, including land use planning, local protected areas, zoning and subdivision control	**** see Fred on Monday *** Would it fit under 1.1. (l)???

Local Services/Dehcho Community Government Comparison Chart

<p>LS 1.3 A DCG has jurisdiction and Authority within the Community Boundaries that are the same as the Jurisdiction and Authority of municipalities under NWT Law in relation to:</p>	<p>CG.4.1 In addition to other powers provided for in the Dehcho Agreement, the Agreement will provide that Dehcho Community Governments have the power to enact laws relating to:...</p>	<p>Under LS the authority of DCG in the following areas are established through NWT Law from time to time:</p>
<p>LS.1.3.a fire protection and prevention</p>	<p>4.1.d.xiv fire protection and prevention</p>	<p>Same</p>
<p>LS 1.3 b) emergency preparedness and emergency measures</p>	<p>4.1.d.xvi emergency preparedness and emergency measures</p>	<p>Same</p>
<p>LS.1.3.c motor vehicles</p>	<p>4.1.d.xv motor vehicles</p>	<p>Same</p>
<p>LS.1.3.d expropriation of interests in lands</p>	<p>4.1.d.xiii expropriation of interests in land</p>	<p>Same</p>
<p>LS 1.3.e property taxation</p>	<p>4.1.d.xix other matters of a local or private nature, including property assessment and taxation</p>	<p>What is meant by “other matters of a local or private nature”?</p>
<p>LS.1.3.f property assessment</p>	<p>4.1.d.xix other matters of a local or private nature, including property assessment and taxation</p>	<p>What is meant by “other matters of a local or private nature”?</p>
<p>LS 1.3.g any other matter that may be provided for in NWT Law not addressed by the Jurisdiction in LS.1.1</p> <p>LS.1.4 In exercising its Jurisdiction and Authority pursuant to LS.1.3, the DCG shall perform those duties that are the same as with the duties of municipalities under NWT Law.</p>	<p>4.2 For greater certainty, the authority of a Dehcho Community Government to make laws in respect of a subject matter as set out in the Dehcho Agreement includes the authority to make laws and do other things as may be necessarily incidental to exercising that authority.</p>	

Local Services/Dehcho Community Government Comparison Chart

LS.1.5 The Jurisdiction of the DCG set out in LS.1.1 and LS.1.3 does not include:		
(a) establishing a land titles system;		
(b) consumer protection;		
(c) regulation of utilities;		
(d) occupational health and safety; and		
(e) any matters that may be set out in the General Provisions chapter.		
LS.1.6 A DCG shall have standing to make representations to the Public Utilities Board, or any other administrative decision-maker established pursuant to NWT Law, when the Board or decision-maker considers any matter which:	4.5 A DCG shall have standing to make representations to the Public Utilities Board, or any other administrative decision-maker established pursuant to NWT Law, when the Board or decision-maker considers any matter which:	Same
(a) is within the jurisdiction of the Board or decision maker affecting the provision of a public utility service within the Dehcho Settlement Area	(a) is within the jurisdiction of the Board or decision maker affecting the provision of a public utility service within the Dehcho Settlement Area; and	Same

Local Services/Dehcho Community Government Comparison Chart

(b) may impact upon the DCG.	(b) may impact upon the DCG	Same
<p>LS.1.7 Notwithstanding the geographic limit in LS.1.1 and LS.1.3, DCG Laws made pursuant to LS.1.1 and LS.1.3 may apply, by agreement between the DCG and the GNWT, outside the community boundaries in order to facilitate the delivery of services.</p>	<p>4.6 Notwithstanding the geographic limits applicable to DCG Laws, such Laws may apply outside the community boundaries in order to facilitate the delivery of services.</p>	<p>LS requires an agreement between the GNWT and DCG to extend jurisdiction outside community boundaries.</p>
<p>LS.2.1 DCG Laws made pursuant to LS.1.1 and LS.1.3 shall provide for health and safety standards and technical codes regarding public works, community infrastructure and local services that are at least equivalent to federal and NWT health and safety standards and technical codes.</p>	<p>4.3 Where DCG laws made pursuant to CG.4.1 provide for health and safety standards, housing construction codes and technical codes regarding public works, community infrastructure and local services, they will be at least equivalent to federal and NWT health and safety standards and technical codes.</p>	<p>Technical differences?</p>
<p>LS.2.2 The GNWT shall confer with the DCG prior to amending or establishing standards and technical codes referred to in LS.2.1.</p>	<p>4.4 The GNWT will Consult with the DCG prior to amending or establishing standards and technical codes referred to CG.4.3.</p>	<p>Confer vs consult.</p>
<p>LS.3.1 In the event of a conflict between a DCG Law made pursuant to LS.1.1 and a</p>	<p>5.1 Except where otherwise provided in the Dehcho Agreement, in the case of any inconsistency or conflict between</p>	<p>LS distinguishes between core powers under LS.1.1 and secondary core municipal powers under LS.1.3.</p>

Local Services/Dehcho Community Government Comparison Chart

<p>Federal Law or NWT Law, the DGC Law prevails to the extent of the conflict.</p> <p>LS.3.2 In the event of a conflict between a DCG Law made pursuant to LS.1.3 and a Federal Law or NWT Law, the Federal Law or NWT Law prevails to the extent of the conflict.</p>	<p>federal legislation and laws enacted by a DCG, the law of the DCG prevails to the extent of the inconsistency or conflict.¹</p> <p>5.2 Except where otherwise provided in the Dehcho Agreement, in the case of any inconsistency or conflict between laws enacted by a DCG and territorial legislation, the law of the DCG prevails to the extent of the inconsistency or conflict.</p> <p>5.3 In the case of conflict between a Dehcho law and a law enacted by a DCG, the Dehcho law will prevail to the extent of the conflict.²</p>	<p>LS makes no reference to a conflict between DCG Laws and Dehcho Govt Laws because there is no overlap in jurisdiction.</p>
	<p>6.1 A DCG may enter into agreements with government, other community governments or the Dehcho Government to deliver, administer and manage programs and services for residents of a Dehcho Community.</p>	
	<p>6.2 Programs and services delivered and managed by a DCG will be funded at levels at least³ comparable to funding levels for similar programs and services</p>	

¹ Canada prepared to consider community laws prevailing on ‘case-by-case’ basis, but not as general rule.

² If Dehcho Gov’t is not public gov’t, but community gov’ts are, this could be a problem for Cda.

³ GNWT wants “least” deleted.

Local Services/Dehcho Community Government Comparison Chart

	<p>in other communities in the NWT. Where the DCG and the Government of the NWT do not agree on funding levels⁴, the Dehcho Government may refer the dispute for resolution under chapter DR.</p>	
<p>PROCESS FOR EXPANSION OF THE BOUNDARY OF A TLICHO COMMUNITY (8.7.1)</p> <p>1. The territorial minister may not expand the boundary of a Tlicho community except at the written request of the Tlicho community government.</p> <p>2. The consent of the Tlicho Government is required where the expansion of the boundary would be into an area containing Tlicho lands.</p>	<p>PROCESS FOR EXPANSION OF THE BOUNDARY OF A COMMUNITY (CG.7.1)</p> <p>1. Canada and the Dehcho Government, when Dehcho Ndehe is involved, or the GNWT and the Dehcho Government when Commissioner’s Land is involved, will⁵ negotiate an agreement to expand the boundary of a Dehcho Community at the written request of the Dehcho Community Government.⁶</p> <p>2. The consent of the Dehcho Government is required where the expansion of the boundary would be into an area containing part of Dehcho Ndehe.</p>	

⁴ Tlicho only allows funding methods to be arbitrated, not actual amounts of funding.

⁵ Canada questions why negotiations would be mandatory.

⁶ Tlicho Agmt says Minister of NWT will decide whether to expand community lands.

Local Services/Dehcho Community Government Comparison Chart

<p>3. Before requesting the territorial Minister to expand the boundary of a Tlicho community into an area containing Tlicho lands, the Tlicho community government shall discuss with the Tlicho Government the need for the expansion and shall attempt to negotiate an agreement with the Tlicho Government for the conveyance of the Tlicho lands required for the expansion.</p> <p>4. Where the territorial Minister receives a request from a Tlicho community government but decides not to expand the boundary of the community, the Minister shall provide written reasons to the community government for that decision.</p>	<p>3. Before requesting to expand the boundary of a Dehcho Community into an area containing part of Dehcho Ndehe, the Dehcho Community Government will discuss with the Dehcho Government the need for the expansion and will attempt to negotiate an agreement with the Dehcho Government for the conveyance of the portions of Dehcho Ndehe required for the expansion.</p> <p>4. Where part of Dehcho Ndehe becomes part of Dehcho Community lands under an agreement to expand a Dehcho Community boundary, Crown land of equivalent size and value will be added to Dehcho Ndehe.⁷</p> <p>5. Where the parties to negotiations under section 1 of this Appendix decide not to expand the boundary of the community, they will provide written reasons for their decision.</p>	
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⁷ Canada questions why Crown land would be added.

Local Services/Dehcho Community Government Comparison Chart

	<p>6. Before deciding not to expand the boundary of a community, the parties to the negotiations under section 1 of this Appendix will engage in mediation with the affected Dehcho Community Government.</p>	
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