



Energy, Mines and Resources  
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# UNAUTHORIZED OCCUPANCY OF YUKON LANDS

## Management Guidelines

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### INTRODUCTION

This paper is intended to promote understanding of the Yukon government's management of unauthorized occupancy of crown land. The Yukon government is responsible for managing Yukon land to ensure fairness and consistency for the benefit of all Yukoners. The Lands Branch of the Department of Energy, Mines and Resources is the lead in managing unauthorized occupancy of Yukon land. Other Yukon government departments also have responsibilities and support roles.

The management objective is to use established processes to respond to unauthorized occupancy and to explore opportunities to achieve voluntary compliance outside of formal court procedures.

### BACKGROUND

Activities on Yukon crown land must be supported by some form of authorization or tenure. For example, short term activities can be authorized through a land use permit issued by the Lands Branch or a mining land use approval from Minerals branch. More permanent infrastructure can only be authorized under a specific land tenure policy with tenure secured through a lease or license.

Tenure applications that include certain activities such as land clearing, new construction, modification or expansion must also be submitted for a review under the *Yukon Environmental and Socio-economic Assessment Act* (YESAA), which came into force November 2005.

Consistent and longstanding procedures have been followed by the Yukon Lands Branch in addressing unauthorized occupancy of Yukon lands. The branch is committed to applying these procedures to all land under Yukon government control in the same proactive, transparent and integrated approach.

### YUKON GOVERNMENT PROGRAM LINKAGES

The Yukon government aims for a coordinated approach to managing unauthorized occupancy.

While the Lands Branch may assume the lead role in managing and processing cases of unauthorized occupancy, in conjunction with the Client Services & Inspections Branch (CS&I), coordination with other departments is required in order to ensure an integrated approach.

*Appendix A – YG Land Programs* lists government departments that could be called upon for assistance or involvement, along with their areas of responsibility.

## **EMR LINKAGES**

The Land Use Section of the Lands Branch has the legislative authority under the *Lands Act* and the *Territorial Lands (Yukon) Act* to manage unauthorized occupancy of Yukon Land.

Resolution of all situations on vacant crown land, which may include cleanup or removal, is under the authority of the Manager of Land Use or the Director of Lands Branch.

Incorporated municipalities are responsible for land use infractions of their zoning bylaws.

The EMR Client Services & Inspections Branch (CS&I) provides education, compliance and inspection services to the Lands Branch.

## **GUIDELINES**

### ***A. Unauthorized Occupancy - Standard Operational Procedures***

- ✓ All reported instances of unauthorized occupancy of Yukon Lands are documented.
- ✓ Copies of CS&I inspection reports are provided to the Manager, Land Use for immediate review and recommendations on next steps.
- ✓ Inspection reports must include all relevant information including occupant's name, photos, maps, GPS co-ordinates, and site conditions.
- ✓ A timely review of each situation will be completed upon acceptance of the inspection reports.
- ✓ The Manager of Land Use will promptly contact unauthorized occupants in writing to enquire about their legal status and will request any information that would support an interest in the land in question.
- ✓ Follow-up inspections may be carried out by CS&I, or as directed by the Manager of Land Use.
- ✓ In all cases, every effort is made to resolve trespass situations outside of court procedures while maintaining a fair and consistent approach.
- ✓ In cases that may result in the need for removal or relocation, the file must demonstrate that every effort has been made to achieve an out-of-court resolution and the initiation of legal filings must be approved in advance by the Director of Lands Branch.

### ***B. Big Game Outfitting Industry***

- ✓ New structures built by Big Game Outfitters after devolution (April 2003) must be documented, investigated and managed as an unauthorized activity consistent with all other unauthorized occupancies.
- ✓ Sites established before 2003 are to be documented but are considered inactive files with no immediate action to be taken. The Big Game Outfitting Land Application Policy provides an opportunity for outfitters to submit licence/lease applications for these pre-2003 sites.

- ✓ CS&I will inspect on a regular basis or as directed by Manager, Land Use.
- ✓ Outfitting Concessions are issued pursuant to the *Wildlife Act* managed by the Department of Environment.

### **C. Commercial Wilderness Industry**

- ✓ All new commercial wilderness occupations must be documented, reported and managed as an unauthorized activity.
- ✓ If it is determined that the improvements were established prior to devolution, research will be conducted to determine whether there is a documented interest in the land, which will include a search of federal files inherited at devolution.

### **D. Trapline Concessions**

- ✓ All new cabins built after devolution (2003) must be approved through a public application review process.
- ✓ Cabins built after 2003 without a public application review process or an approved lease are considered unauthorized occupancies and will be managed consistent with other unauthorized occupancies.
- ✓ Trappers must obtain a lease before constructing new cabins.
- ✓ Cabins built prior to 2003 and not under lease can be considered for application if they are being used in support of the trapping concession. Applications for tenure should be submitted to the Manager of Client Services, Lands Branch.
- ✓ If a cabin was constructed before 1980 and is owned by the pre-1980 concession holder, the Lands Branch does not consider it an unauthorized occupancy. However, Lands Branch encourages that concession-holder to apply for a lease.
- ✓ If the ownership of a trapline concession is transferred to a new owner, tenure is required at transfer for all structures; otherwise, the sites will be considered unauthorized occupancies.
- ✓ C S&I will inspect on a regular basis or as deemed necessary by the Manager of Land Use.
- ✓ Trapline concessions are issued pursuant to the *Wildlife Act* managed by the Department of Environment.

### **E. Mineral Claims**

- ✓ Any reports of unauthorized occupancy of mineral claims are forwarded to the Minerals Management Branch, Manager of Mining Lands.
- ✓ If it is determined that occupancy of the mineral claim is not authorized under the *Yukon Placer Mining Act* and *Placer Mining Land Use Regulation*, *Yukon Quartz Mining Act* and *Quartz Mining Land Use Regulations*, Lands Branch may be requested to assist in managing the issue.

- ✓ Sites brought to Lands Branch's attention will be managed as an unauthorized occupancy and standard procedures will be followed.

**GOVERNMENT AUTHORITIES**

**Acts / Regulations**

*Area Development Act / Regulations*

*Building Standards Act / Regulations*

*Fisheries Act / Regulations*

*Municipal Act / Regulations*

*Navigable Waters Protection Act / Regulations*

*Lands Act / Regulations*

*Placer Mining Act/Regulation*

*Public Health and Safety Act*

*Public Health Regulations*

*Quartz Mining Act/Regulation*

*Subdivision Act / Regulations*

*Territorial Lands (Yukon) Act / Regulation*

*Wildlife Act / Regulations*

*Waters Act / Regulations*

*YESAA / Regulations*

## Appendix A

# YG LAND PROGRAMS

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Programs and responsibilities are listed for agencies as they currently exist. Yukon government surface land programs are located in Energy, Mines and Resources, Community Services, Environment, Highways & Public Works and Justice.

### ENERGY, MINES AND RESOURCES

#### a) Agriculture Branch

- Reviews agriculture/grazing applications and makes final decision on dispositions
- Carries out all work relating to agricultural land and grazing lease disposition and development (e.g. develops policy and legislation development, inspects and enforces, assesses soil and vegetation, reviews farm development plans, makes land development recommendations)
- Provides advice to clients on land use, water and irrigation development, range improvement and grazing management plans
- Provide program outreach, including farm visits, seminars, conferences, newsletters, research and workshops

#### b) Lands Branch (*Territorial Lands (Yukon) Act* and *Yukon Lands Act*)

- Responsible for management, orderly disposition and use of land under administration of the Yukon government

##### Client Services

- Acts as agent for YG departments on land requirements (purchases/reserves, legal surveys, etc.)
- Maintains a comprehensive inventory of government land holdings
- Facilitates municipal land transfers and supports municipal land administration  
Sells developed lots of various classes to the general public (lotteries and ongoing sales)
- Coordinates spot land applications for commercial, industrial and enlargements to titled properties. Also responds to other applications associated with the varying land needs of the public
- Implements a “Land Development Protocol” between the Yukon government and the City of Whitehorse that address the review of spot applications within the city of Whitehorse

##### Land Use

- Provides land use permits for a variety of uses of public land (site clearing/earth work, new roads/trails, geo-technical studies, Northwestel/YECL work)
- Manages unauthorized land use (trespass, unauthorized occupants, etc.)
- Issues quarry permits for the removal of granular material from quarry sites
- Manages and facilitates the development of new private quarry sites

## Program and Policy Support

- Maintains registry of non-titled land and a mapped data base of rights administered (private leases, licenses and mortgage registrations)
- Implements land-related land claim matters (land exchanges, map reviews, Settlement Land Committee, land withdrawals for Special Management Areas and Heritage Sites, administration of encumbering rights)
- Develops policy for land-related matters

### c) **Community Land Planning** (*Area Development Act and Subdivision Act*)

- Facilitates community planning and zoning outside of municipalities
- Reviews zoning applications
- Reviews subdivision applications (YG, private land and all municipalities except Dawson and Whitehorse)
- Maintains YG community land tenure mapping
- Implements the “Land Development Protocol” signed by Government of Yukon and the City of Whitehorse.

### d) **Forest Management** (*Timber Regulation*)

- Issues land use rights within designated cutting areas e.g. roads

### e) **Mineral Resources** (*Placer Mining Act and Placer Mining Land Use Regulation and Quartz Mining Act and Quartz Mining Land Use Regulation*)

- Issues mineral rights and approvals for land use activities on mineral claims
- Linked to the *Territorial Land Use Regulations* permitting process

### f) **Oil & Gas Management** (*Oil and Gas Act*)

- Responsible for the sale of oil and gas rights
- Linked to the *Territorial Land Use Regulations* permitting process

### g) **Land Use Planning/ Corporate Policy and Planning**

- Coordinates Yukon government involvement in regional planning

### h) **Client Services and Inspections**

- Provides operational field services to various branches within EMR by providing information, receiving applications and collecting fees
- Issues various types of permits on behalf of the departments (e.g. Energy, Mines & Resources –timber permits, Community Services –burning permits)
- Conducts inspections on various applications and recommends approvals, mitigations and terms/conditions for permits
- Conducts inspections on land and mining dispositions
- Monitors and enforces compliance for departments of mining, land and water use
- Provides community link for departments
- Inspects and manages unauthorized occupancies
- Conducts water quality research programs, often in cooperation with other departments and governments



## DEPARTMENT OF COMMUNITY SERVICES

### a) **Property Assessment and Taxation** (*Assessment and Taxation Act*)

- Assesses property for Yukon government
- Taxes property outside of municipal boundaries
- Provides property assessment services for 9 taxing authorities
- Operates the Home Owner Grant Program, Senior Property Tax Deferral Program, and Rural Electrification and Telecommunication Program
- Maintains mapped inventory of titled lots
- Maintains a registry of all titles and agreements/leases

### b) **Community Infrastructure**

- Plans & develops municipal infrastructure in unincorporated communities
- Develops policies, standards, guidelines, and operational programs
- Assists incorporated communities and First Nations with municipal infrastructure issues
- Manages 19 solid waste dumps in unincorporated communities and unorganized areas
- Manages 4 water supply facilities and water delivery services in Old Crow, Carcross, Ross River and Keno
- Manages 3 water supply facilities at Tagish, the Marsh Lake fire hall, the Klondike Valley fire hall
- Monitors drinking water quality at all 7 water supply locations
- Manages 9 sewage treatment facilities in unincorporated communities
- Manages annual mosquito control program including training of local applicators

### c) **Yukon Housing Corporation**

- Administers the 'agreement for sale' financing program for surveyed lots

### d) **Consumer and Protective Services/Building Safety** (*Area Development Act & Regulations and Building Standards Act & Regulations*)

- Enforces zoning regulations through the Development Officers
- Issue Development & Building Permits
- Conducts Development & Building Inspections

### e) **Land Development**

- Plans, designs and develops planned lots
- Implements the "Land Development Protocol" signed by Government of Yukon and the City of Whitehorse.
- Develops and restores quarries

## DEPARTMENT OF HIGHWAYS AND PUBLIC WORKS

### a) **Transportation Engineering & Maintenance** (*Highways Act*)

- Oversees permits for work within for maintained and non-maintained rights-of-way



- b) **Property Management** (Asset Control Management Board Directive)
  - a) Manages tender or resale of building improvements located on lease and agreement for sale turnbacks
- c) **Aviation Branches** (*Lands Act*)
  - Manages land tenure and airport administration, which includes permitting, lease agreements, and collection of fees
- d) **Supply Services** (Management of Capital Assets and Disposal of Surplus Public Property Management Board Directive)
  - Arranges for the disposal of properties acquired by YG from time to time in the course of other program activities

## DEPARTMENT OF JUSTICE

- a) **Land Titles Office** (*Land Titles Act*)
  - Legal responsibility to register all titled land and any interests or encumbrances against it within the Yukon
  - Legal responsibility to file/register all survey plans within the Yukon
  - Legal responsibility for the safekeeping of all registered land-related instruments including survey plans
  - Provides information to the public regarding titled property

## DEPARTMENT OF ENVIRONMENT

- a) **Parks Branch** (*Parks and Land Certainty Act*)
  - Prepares and implements park management plans and issues park development and use permits in designated territorial parks
- b) **Environmental Programs (Environment Act)**
  - Identifies impacts and mitigation for project proposals and coordinates departmental responses to development project proposals
  - Regulates, permits, monitors and inspects land based activities: contaminated sites, special waste, spills of hazardous substances, solid waste, used tires, beverage container recycling, pesticides, littering, and other land based activities that may have a impact on air quality or the ozone layer
- c) **Information Management and Technology**
  - Provides GIS mapping support to department programs, Renewable Resources Councils and First Nations