



The Section 98 Determination for the City of Yellowknife

Mackenzie Valley Resource Management Act

Frequently Asked Questions

On August 18, 2011 the Minister of Municipal and Community Affairs (MACA), Government of the Northwest Territories (GNWT), and the Mackenzie Valley Land and Water Board (Board) made a joint determination on the extent to which the City of Yellowknife (City) regulates land use within its local government boundaries. MACA and the Board determined that the City regulates land use to the extent that its by-laws allow, and that the Board regulates land use activities where the triggers outlined in subsections 4(b) and 5(b) of the Mackenzie Valley Land Use Regulations (MVLUR) are met or exceeded in the City. Now that a determination has been made, the permitting authority is clear and it ensures that anyone undertaking work that requires a permit knows who is responsible for issuing that permit.

What does this determination mean for the City?

The City continues to issue development permits in accordance with its General Plan By-law No. 4315 and its Zoning By-law No. 4404, as amended from time-to-time.

What does this determination mean for the public?

The public still needs to apply for a development permit from the City for activities regulated by its by-laws. The public should also contact the Board to see if they need to apply for a land use permit. Land use permits are required for the specific activities listed under subsections 4(b) and 5(b) of the (see attached sheet). In some cases members of the public will need a development permit from the City and a land use permit from the Board.

In the City a land use permit is not required for activities such as:

- Using non-stationary machinery such as a backhoe, cat, excavator, or snowplow;
- Building houses, warehouses, or office buildings;
- Constructing fuel storage facilities that store less than 80,000 L; or
- Drilling holes for building piles, utility poles, or for setting explosives when using a drill that is less than 500 kg (excluding the weight of drill rods, stems, bits, pumps, or other ancillary equipment).



When is this determination in effect?

The determination came into effect on August 18, 2011.

How was the determination made?

The City of Yellowknife's by-laws were reviewed and compared with the MVLUR (in particular subsections 4(b) and 5(b) and section 26). Although the City can issue development permits for those activities that require land use permits from the MVLWB, MACA and the Board determined that the City's General Plan By-Law No. 4315 and Zoning By-Law No. 4404 do not adequately cover the types of environmental conditions that could be covered by a land use permit issued by the Board. Should the City decide to amend its by-laws, the determination can be re-visited. Staff from MACA and the Board also met with the City to discuss the determination process.

Why was this determination made?

Section 98 of the *Mackenzie Valley Resource Management Act* requires that the Board and MACA make a joint determination of the extent to which a local government regulates land use within its local government boundaries.

This is the first determination that has been made by MACA and the Board.

Does this determination change the water licensing process?

The determination is for land use permitting only. The Boards retain regulatory authority for issuing water licences within and outside of local government boundaries. Please refer to the Northwest Territories Waters Regulations for water licence triggers.

For more information about the determination and land use permit application process, please contact the:

Mackenzie Valley Land and Water Board

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Land Use Triggers:

Subsections 4(b) and 5(b) of the MVLUR (<http://laws-lois.justice.gc.ca/PDF/SOR-98-429.pdf>) are as follows:

4. No person shall, without a Type A permit, carry on any activity that involves (b) on land within or outside the boundaries of a local government,
 - i) the use of power-driven earth drilling machinery the operating weight of which, excluding the weight of drill rods, stems, bits, pumps and other ancillary equipment, equals or exceeds 2.5 t, for a purpose other than the drilling of holes for building piles or utility poles or the setting of explosives within the boundaries of the local government,
 - ii) the use of a campsite outside a territorial park for a duration of or exceeding 400 person-days,
 - iii) the establishment of a petroleum fuel storage facility with a capacity equal to or exceeding 80,000 L, or
 - iv) the use of a stationary power-driven machine, other than a power saw for hydraulic prospecting, moving earth or clearing land.

5. No person shall, without a Type B permit, carry on any activity that involves (b) on land within or outside the boundaries of a local government,
 - i) the use of power-driven earth drilling machinery the operating weight of which, excluding the weight of drill rods, stems, bits, pumps and other ancillary equipment, equals or exceeds 500 kg but is less than 2.5 t, for a purpose other than the drilling of holes for building piles or utility poles or the setting of explosives within the boundaries of a local government, or
 - ii) the use of a campsite outside a territorial park for a duration of or exceeding 200 person-days but less than 400 person-days.