

# **THE CITY OF YELLOWKNIFE**

## **NORTHWEST TERRITORIES**



### **CONSOLIDATION OF ORDERLY USE OF HIGHWAYS BY-LAW NO. 1276**

**Adopted February 12, 1973**

**AS AMENDED BY**

**By-law No. 2221 - October 24, 1977**

**(This Consolidation is prepared for convenience only.  
For accurate reference, please consult the City  
Clerk's Office, City of Yellowknife)**

**CITY OF YELLOWKNIFE  
BY-LAW NO. 1276**

A BY-LAW of the Municipal Corporation of the City of Yellowknife in the Northwest Territories, to provide for the safe and orderly use of highways and public places in the City of Yellowknife;

WHEREAS Section 141 of the Municipal Ordinance, being Chapter 73 of the Revised Ordinances of the Northwest Territories, 1956, as amended, provides that municipalities have jurisdiction, management and control respecting highways within the municipal limits;

AND WHEREAS Section 156 of the Municipal Ordinance, provides that the Council of every municipality may pass by-laws regulating the construction and maintenance of buildings and structures incidental thereto within the municipality;

NOW, THEREFORE, THE COUNCIL OF THE MUNICIPAL CORPORATION OF THE CITY OF YELLOWKNIFE, in regular session duly assembled, enacts as follows:

**SHORT TITLE**

1. That this By-law may be cited as the **"Orderly Use of Highways By-law"**.

**INTERPRETATION**

2. (1) In this By-law:

"Building Inspector"	shall mean the Building Inspector of the City;
"City"	shall mean the City of Yellowknife;
"Light"	shall mean an amber-colored light powered by electricity;
"Officer"	shall include a peace officer, City Constable, the Superintendent of Works or the Building Inspector.
"Public Place"	shall include any publicly owned park, parkway or square to which the public is

permitted access;

"Secretary-Treasurer" shall mean the Secretary-Treasurer of the City;

"Superintendent of Works" means the Superintendent of Works of the City.

- (2) Save as herein otherwise provided, the terms and expressions used in this By-law shall have the same meaning as in the Interpretation Act, the Cities, Towns and Villages Act and the Motor Vehicles Act respectively.

#### **INTERFERENCE WITH UTILITY WORKS**

3. (1) No person shall climb, cut, break, tear down, open or interfere with any of the poles, towers, lamp posts, wires, lamps, alarms, covers, pipes or sewers connected with any electric light works, water works, sewer works, or any other work connected with the lighting, telephone, transit, signal service, water and sewage service, or fire protection systems of the City.
- (2) Subsection (1) shall not apply to duly authorized officials actually engaged in the discharge of their official duties.

#### **AUTHORIZATION**

4. (1) No person, except the duly authorized employees of the City, shall break, tear or remove any pavement, sidewalk or other road surface, nor make any excavation on or under any highway or public place in the City without first:
- (a) obtaining a permit in the form of Schedule A hereto from the Superintendent of Works to do so;
- (b) executing an Agreement in the form of Schedule B hereto, accepting responsibility for accidents, agreeing to obtain public liability insurance coverage, indemnifying the City against all damages, and agreeing to post a financial guarantee.
- (2) Subject to Subsection (3) and (4), where:

- (a) an application has been made;
- (b) an Agreement in the form of Schedule B has been executed; and
- (c) the proposed work set out in the application conforms with this By-law and all other applicable By-laws,

the Superintendent of Works shall issue the permit for which the application is made.

- (3) The application referred to in Subsection (2) above shall:

- (a) be made in the form of Schedule A hereto;
- (b) be signed by the applicant;
- (c) be accompanied by
  - (i) a permit fee of \$5.00 which the City shall retain as partial reimbursement of the costs of administering this By-law;
  - (ii) a financial guarantee as required by paragraph numbered 1 of Schedule B; and
- (d) contain any and all other information necessary to establish compliance with this By-law or as required by the Superintendent of Works.

- (4) The Superintendent of Works may revoke a permit where there is an apparent violation of:

- (a) any condition under which the permit was issued; or
- (b) any provision of this By-law.

- (5) Any person who:

- (a) has applied under the provisions of this By-law for a permit which has not been granted;
- (b) has had a permit revoked; or
- (c) feels himself adversely affected by a decision of the Superintendent of Works,

may appeal against the ruling or direction of the Superintendent of Works to the Council of the City, by serving the Senior Administrative Officer with notice in writing within fourteen (14) days of any such ruling or decision.

5. Upon a permit being granted pursuant to Section 4, the permit holder shall perform the work in strict compliance with the terms of both the permit and this By-law, under the direction of the Superintendent of Works, and shall under the same direction replace, relay and make good the pavement, sidewalk or road surface in question.

#### **SAFETY REGULATIONS - LIABILITY FOR OFFENCES**

6. The permit holder shall incur the penalties provided for any contravention of the safety regulations that are hereinafter contained.

#### **SAFETY REGULATIONS - GENERAL**

7. The following safety regulations shall apply to all works for which permits have been granted:
  - (a) provision shall be made at all times for the safe passage of both pedestrian and vehicle traffic past the project site;
  - (b) subject to paragraphs (c) and (d) of this section, existing sidewalks located adjacent to the project shall be kept clear of obstructions at all times;
  - (c) excavations or openings in highways or public places shall be provided with protective fencing or barricades around such excavations or openings;
  - (d) where in the opinion of the Superintendent of Works, construction operations necessitate the obstruction of a sidewalk, a temporary sidewalk shall be provided, as approved by the Building Inspector of the City pursuant to the Building By-law;

#### **Section 7(e) as amended by By-law 2221 Oct 24/77**

- (e) warning lights shall be placed and maintained at all excavations, openings or obstructions on highways or public places and shall be kept illuminated during the

hours of darkness and at any other time when visibility is restricted. At least one light shall be placed at each end of each opening, excavation or obstruction, and further lights along each side of each opening, excavation or obstruction, a maximum distance of six (6) metres apart.

- (f) excavations shall be kept reasonably clear of water so as not to endanger the safety of the public or to create conditions hazardous to health.
- (g) where a hazard to vehicular traffic is created by work on the project, one or more of the following shall be provided, as may, in the opinion of the Superintendent of Works, be necessary to provide adequate control of traffic:
  - (i) one or more flagmen;
  - (ii) warning signs;
  - (iii) barriers and/or fences;
  - (iv) lane control devices;
  - (v) flashing lights located at a suitable distance from the hazard;
  - (vi) directional and detour signs;
  - (vii) public announcements.
- (h) before excavation begins, all existing electrical, water, telephone and other services shall be located and secured. In each case the service company involved shall be notified in advance. If it is necessary to maintain any such service, it shall be relocated as necessary and shall be protected from damage and in such way to afford safety to the workmen on the project and to the public.
- (i) if the stability of adjoining structures, walks, walls or services may be endangered by the work of excavating, adequate underpinning, shoring and bracing shall be provided to prevent damage to, or movement of, any part of the adjoining property, or the creation of a hazard to the workmen on the project or to the public.
- (j) workmen shall wear or use protective clothing or

equipment to provide protection from the hazards to which they are likely to be exposed.

- (k) approved safety hats shall be worn by workmen or other persons in all work areas, especially in excavations, where there is a potential hazard due to falling, flying or thrown objects or other harmful contacts.
- (l) the project site shall be kept in a tidy condition and no hazard allowed to develop from the storage of material or equipment, the accumulation of debris or from any other cause.
- (m) construction safety regulations issued by the appropriate Municipal, Territorial or Federal authorities shall apply in addition to the specific requirements of this By-law.
- (n) the permit holder shall as far as practicable carry out the permitted work so as to cause the least possible obstruction to streets and public places, adjacent to or alongside of the said works. He shall not break up or otherwise obstruct any street or public place except as necessary for the work. Special provisions shall be made for maintaining the public transportation system such as buses, school buses and taxis.
- (o) the permit holder shall carefully observe any directions given by the Fire Chief with respect to easy access to hydrants and fire routes that may in any way be affected by carrying out the works.
- (p) in addition to the specifications set out in paragraphs (a) to (o) above, the Superintendent of Works may specify, as conditions to a permit, any other safety regulations that he deems reasonable and necessary for any particular project.

#### **SAFETY REGULATIONS - EXCAVATION**

8. The following safety regulations shall apply to all excavations carried out at works for which permits have been granted:
- (a) Except as provided in paragraph (b), the sides of every excavation shall be securely shored and timbered.
  - (b) Shoring and timbering need not be provided:

**Section 8(b) (i), (iii), (v)**  
**as amended by By-law No. 2221 Oct 24/77**

- (i) where the excavation is 1.2 metres or less in depth;
  - (ii) where the excavation is in solid rock or solid ground;
  - (iii) where the excavation is in hard firm soil and does not exceed 1.8 metres in depth;
  - (iv) in that portion of an excavation with sides sloped at an angle of not more than 45 degrees to the horizontal; or
  - (v) where the depth or excavation below the sloped sides in (iv) does not exceed 1.2 metres.
- (c) Shoring and timbering shall be installed as excavation proceeds or before excavation begins.

**Section 8(d), (f)**  
**as amended by By-law No. 2221 Oct 24/77**

- (d) Excavated material shall be placed at least 600 millimetres away from the edge of an excavation and piled so that the material cannot fall into the excavation.
- (e) No person shall work alone in a trench unless another person is on duty immediately outside the trench.
- (f) In trench excavations deeper than 1.5 metres, ladders or other means of access as may be approved by the Superintendent of Works, shall be installed.

**SAFETY REGULATIONS - EXCAVATING AND  
BACKFILLING OF UTILITIES TRENCHES**

9. The following safety regulations shall apply to all projects including excavating of utilities trenches, for which permits have been granted:

- (a) Excavations shall be made in open trenches. Tunneling shall not be permitted except by written permission of the Superintendent of Works and shall be subject to such special requirements as may be reasonably set by the Superintendent of Works, having regard for the



project in question.

**Section 9(b), (f), (g)**  
**as amended by By-law No. 2221 Oct 24/77**

- (b) Rock or boulders shall be removed to provide a clearance of at least 150 millimetres below all pipes or pipe boxes. Excavation thus formed shall be refilled with unfrozen compacted granular soil.
- (c) The permit holder shall obtain written approval from the Superintendent of Works before any blasting operations are commenced to assure that all necessary precautions have been taken for the protection of life, limb and property.
- (d) All water accumulated in the trench shall be disposed of in a manner suitable to the Superintendent of Works.
- (e) All waste material arising from the construction of the work shall be removed therefrom and neatly piled, evenly spread or deposited where and as directed by the Superintendent of Works. No excavated material shall be hauled over the streets in trucks or other means which allow the material to be dropped or spilled.
- (f) Following the bedding of the pipes or pipe boxes, the remainder of same shall be entirely surrounded to a height of at least 300 millimetres above the top of same with selected material which is free of stones, lumps, organic or other foreign material. This material shall be thoroughly tamped with a heavy iron hand tamper or other approved device under and on each side of the pipe or pipe boxes, in layers not exceeding 150 millimetres in thickness, to assure that all spaces under and adjacent to same are completely filled and well tamped. Above this zone, backfilling may be done by machines, however, each shall be rolled, not dropped into trenches.
- (g) No rocks shall be placed in the trench, above the pipe or pipe boxes, within a space of at least 600 millimetres of width.
- (h) The permit holder shall leave the streets or public places in as nearly as possible the same condition as they were prior to construction.

**OFFENCES**

10. (1) Every person who violates the provisions of this By-law is guilty of an offence and is liable, upon summary conviction:
- (a) for the first offence, to a fine not exceeding Fifty (\$50.00) dollars;
  - (b) for each subsequent offence, to a fine not exceeding Five hundred (\$500.00) dollars, or to a term of imprisonment not exceeding six (6) months or both such fine and imprisonment.
- (2) An officer who finds a person violating or who has reasonable grounds to believe that a person has violated the provisions of this By-law, may give that person written notice of intention to prosecute, setting forth the date, time and place of the offence, briefly indicating the nature of the offence, and stating that payment may be made under Subsection (3).
- (3) A person who has received notice under Subsection (3) in respect of an offence which is alleged against him under this By-law may within seven (7) days after receipt of such notice pay to the Senior Administrative Officer a sum calculated as follows:

<b>Offence</b>	<b>Section</b>	<b>First Offence</b>	<b>Subsequent Offence</b>
Interference with utility work	3	\$ 20.00	\$ 100.00
Unauthorized Work	4-5	\$ 20.00	\$ 100.00
Breach of Safety Regulations inclusive	6-9	\$ 20.00	\$ 100.00

**REPEAL**

11. (1) Sections 1 9.5.10, 8.2.4.A, 8.2.4.A, 8.2.4.3.(A), 8.2.4.4.(2) and 8.2.5. of the Building By-law are hereby repealed.
- (2) Section 8.2.4.6 of the Building By-law is hereby repealed, and the following substituted therefor:
- "8.2.4.6 Where the excavation for the foundation of

a building being constructed or altered is adjacent or within seven (7') feet of the boundary and it is necessary to allow space for construction machinery and material between the boundary of the site and the fence or barricade erected in connection with the operation, the fence shall be constructed so that together with the covered sidewalk required to be provided by paragraph 8.2.4.1 above, it extends over such portion of the traffic lane adjacent to the sidewalk or boundary of the street as, in the opinion of the Building Inspector, is necessary to allow adequate space for the operation of the work and to ensure the safety of pedestrians using the covered walkway, but in no case shall it extend beyond the said lane.

**EFFECT**

12. THAT this By-law shall come into effect upon receiving Third Reading and otherwise meets the requirements of Section 57 of the *Cities, Towns and Villages Act*.

CITY OF YELLOWKNIFE  
BY-LAW No. 1276  
Schedule "A"

APPLICATION FOR PERMIT

PERMIT AFTER APPROVAL BY THE SUPERINTENDENT OF WORKS

To: Superintendent of Works                      Date: \_\_\_\_\_  
    City of Yellowknife

I/We \_\_\_\_\_ of \_\_\_\_\_

Address: \_\_\_\_\_ Telephone: \_\_\_\_\_  
\_\_\_\_\_

Business Licence No.: \_\_\_\_\_  
\_\_\_\_\_

Hereby apply for a Permit in accordance with the provisions of  
the

Orderly Use of Highways By-law.

Permission is asked (List in full detail nature of work):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Within The City of Yellowknife for the purpose of:  
\_\_\_\_\_  
\_\_\_\_\_

Location: \_\_\_\_\_  
\_\_\_\_\_

Street: \_\_\_\_\_ Block: \_\_\_\_\_ Lot: \_\_\_\_\_  
\_\_\_\_\_

The Street/Lane will be blocked                      Yes/No

Details: \_\_\_\_\_  
\_\_\_\_\_

The proposed Commencement date of the work is:

\_\_\_\_\_

Time: \_\_\_\_\_ Estimated value of Work:

\_\_\_\_\_

I/We agree that in event of a Permit being granted in respect of these works, I/We will comply in all respects with the conditions subject to which it is granted and with the requirements of the said By-law applicable thereto.

Fee: \$ 5.00 payable with this application

Financial guarantee as required by paragraph numbered 1 of Schedule B to be deposited with the Senior Administrative Officer of the City with this application by certified cheque drawn on a chartered bank, in a sum equal to ten (10%) per cent of the value of the said works, a guarantee against the expense of closing and restoring the highway or public place as nearly as possible to its former condition, which sum subject always to paragraph 2 below, shall be repaid to the Contractor by the City within seven (7) days after the duration of the maintenance period, as provided in paragraph hereunder.

Alternatively, and with the consent of the City, the Contractor shall provide the City with the maintenance bond of a surety company approved by the City and licenced to carry on the business of providing surety bonds in the Northwest Territories, in a penal sum equal to the total cost of said works.

Receipt No. \_\_\_\_\_

\_\_\_\_\_  
Signature of Applicant

NOTE: Any person who contravenes any provision of the Orderly Use of Highways By-law is guilty of an offence and liable to a fine.

Special Conditions of this Permit:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Date Permit Issued:

\_\_\_\_\_  
Superintendent of Works

CITY OF YELLOWKNIFE  
TO BY-LAW No. 1276  
Schedule B

THIS AGREEMENT MADE THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, A.D.  
199\_

BETWEEN:

THE CITY OF YELLOWKNIFE, a Municipal Corporation incorporated under the laws of the Northwest Territories (hereinafter referred to as "The City")

OF THE FIRST PART

- and -

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
(hereinafter referred to as "the Contractor")

OF THE SECOND PART

WHEREAS the Contractor has applied to the City for permission to carry on certain works (hereinafter called the "said works") on or under certain highways or public places within the City of Yellowknife;

AND WHEREAS in consideration of obtaining the approval of the City to carry on said works, subject to above terms and provisions of the Orderly Use of Highways By-law, the Contractor has agreed to accept certain responsibility for accidents, to obtain public liability insurance coverage, to indemnify the City against all damages, and to post a financial guarantee as security, in accordance with the terms of this Agreement;

AND PURSUANT to Section 4, Subsection (1), paragraph (b) of the Orderly Use of Highways By-law:

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of these premises, it is hereby agreed as follows:

1. Seven (7) days prior to the commencement of the said work, the Contractor shall deposit with the Senior Administrative Officer of the City by certified cheque drawn on a chartered bank, in a sum equal to ten (10%) percent of the value of said works, a guarantee against the expense of closing and restoring the highway or public place as nearly

as possible to its former condition, which sum, subject always to paragraph 2 below, shall be repaid to the Contractor by the City within seven (7) days after the duration of the maintenance period, as provided in paragraph 5 hereunder. Alternatively, and with the consent of the City the Contractor shall provide the City with the maintenance bond of a surety company, approved by the City, and licenced to carry on the business of providing surety bonds, in the Northwest Territories, in a penal sum equal to the total cost of said works.

2. Should any such highway or public place not be restored or maintained within a reasonable time by the Contractor to a condition satisfactory to the City, then the City may give written notice to the Contractor to restore such location within a reasonable time, after which reasonable time any such work may be done under or by direction of the City at the expense of the Contractor.
3. The Contractor covenants and agrees to indemnify and save harmless the City from and against all claims and/or actions for loss, injury, damages and/or compensation whether to real or personal property or to any person whomsoever caused by or arising out of, or in any way attributable to the said works, whether same arises from any negligence of the Contractor or not, and without limiting the generality thereof to include where same is attributable to any action done, or any omission of the Contractor, his agents or servants, in constructing and maintaining and/or operating said works, including all costs and expenses which the City may incur or be put to in connection with all such claims or actions.
4. The Contractor covenants and agrees to maintain such public liability insurance as will protect him from claims for damages for personal injury including death, and from claims in property damage which may arise from the Contractor's operations with respect to said works. The policy evidencing such insurance shall be filed with the Senior Administrative Officer of the City forthwith.
5. The Contractor shall maintain and repair the said works for a period of one (1) year from the date of completion of construction.

In this Agreement the singular shall include the plural, and the masculine gender the feminine or neuter, as the context requires.



IN WITNESS WHEREOF the parties hereto have executed this Agreement the day and year first above written.

THE CITY OF YELLOWKNIFE

Per: \_\_\_\_\_  
Mayor

Per: \_\_\_\_\_  
Senior Administrative  
Officer

If Contractor is a Corporation:

\_\_\_\_\_  
(Full Corporate Name of  
Contractor)

Per: \_\_\_\_\_

Per: \_\_\_\_\_

Or if non corporate  
Contractor(s):

SIGNED, SEALED & DELIVERED ) \_\_\_\_\_  
by the said Contractor in ) Full Name  
the presence of: )  
 )  
 )  
 )  
 )  
\_\_\_\_\_) \_\_\_\_\_  
Witness -