

THE CORPORATION OF THE TOWN OF FROBISHER BAY

BY-LAW NO. 138

BEING A BY-LAW to preserve, maintain and improve common and public highways within the Town of Frobisher Bay; and

BEING A BY-LAW to regulate or prohibit the obstruction, encumbering, injuring or fouling of common and public highways within the Town of Frobisher Bay.

WHEREAS Section 161 of the Municipal Ordinance, being Chapter M-15 of the Revised Ordinances of the Northwest Territories, 1974, as amended, provides that Municipalities have jurisdiction, management and control respecting common and public highways and;

WHEREAS the powers of a Municipality to preserve, maintain and improve common and public highways and for preventing or removing any obstruction upon such highways are provided for by Section 169 of the Municipal Ordinance, being Chapter M-15 of the Revised Ordinances of the Northwest Territories, 1974, as amended;

NOWHEREFORE PURSUANT to the provisions of the Municipal Ordinance and notwithstanding any By-Laws, sections thereof, resolutions or prior enactments,

THE COUNCIL OF THE TOWN OF FROBISHER BAY, in session duly assembled, enacts as follows:

SHORT TITLE

- A. This By-Law may be cited as the Highway Occupancy By-Law.

PART I

INTERPRETATION

- B. 1. In this By-Law:
- (a) "Applicant" means the person(s), firm or agency by, or on whose behalf, work is performed on a highway;
  - (b) "Director" means the Director of Engineering, Transportation and Public Works of the Town of Frobisher Bay or any person lawfully acting as his designee;
  - (c) "Highway" means any place or way including any structure forming part thereof which the public is ordinarily entitled or permitted to use for the passage of vehicles with or without fee or charge thereof, and includes any common and public highway, road, street, avenue, driveway, laneway, bridge, square or place within the Town of Frobisher Bay;
  - (d) "Municipality" means the Municipality of Frobisher Bay;
  - (e) "Permit" means an official permit or other forms of written approval issued by the Director;
  - (f) "Person" means any person or individual and includes any government, corporation, unincorporated association, partnership, firms, organization or utility company;
  - (g) "Sidewalk" includes all such part of a highway as are set aside or improved for the use of pedestrians.
2. Save as herein otherwise provided, the terms and expressions in this By-Law have the same meaning as in the Interpretation Ordinance and the Municipal Ordinance.

PART II

GENERAL PROVISIONS

- C. 1. No unauthorized person shall,

- (a) pull down, destroy, deface or in any way interfere with any post, surveyor's mark, bench mark, traffic sign, street sign, sign board, or any other traffic control device, affixed, or placed within a road, or
  - (b) interfere with or remove any barricade, sign or warning device placed around an excavation on a highway.
2. No person shall move or cause to be moved, any vehicle equipped with cleats, flanges, or tracks on its wheels or rollers, on, across or along the travelled portion of a highway or sidewalk thereon, except by means of a float, trailer or other similar device; provided that, with the written permission of the Director, a vehicle so equipped may be moved directly across the travelled portion of a highway or sidewalk thereon, if a protective mat is first laid across the surface of such highway or sidewalk.
3. (a) No person shall commence the construction or repair of any work over, on, or under any highway unless and until a permit therefor has been issued by the Director pursuant to this By-Law.
- (b) A utility application as provided under Form One (1) of Schedule "A" of this by-Law for a utility permit as provided under Form Two (2) of Schedule "A" of this By-Law shall be submitted to the Director at least forty-eight (48) hours before construction is intended to commence. The application form shall show the location and nature of the proposed work, together with the methods to be used, and must show that satisfactory provision has been made for traffic control, public safety and restoration of any damage to the highway. The Director may require the applicant to provide such other relevant information, plans or drawings as may be necessary to describe fully the work.
- (c) Upon receipt of the application, together with such additional information, plans or drawings as may be required, the Director may issue a permit for such work.
- (d) Upon receiving a permit and before commencing the work, the applicant shall provide, and during the course of the work shall maintain, the following:
- (1) where full closure of the highway is not permitted, such signs, barricades, warning devices, flagmen, and/or suitable bypass roadway as may be required by the Director.
  - (2) where full closure of the highway is permitted a reasonable alternate route for through traffic together with direction signs and suitable access for all owners, lessees, or occupants who cannot obtain access to their property by any other public road.
4. All barricades, signs and warning devices in accordance with the specifications, standards, and requirements indicated by the Municipality are to be at the applicant's cost.
5. If the barricades, signs and warning devices provided for herein, are not installed and maintained, the Director may install them at the cost and expense of the person responsible for the work. If a permit has not been acquired, the Director may order the work to be suspended until a permit is obtained. In such case, the Municipality shall not be liable for any costs or damages incurred as a result of suspension of the work.
6. (a) The applicant shall be responsible for repairing any and all damage within the highway allowance caused by his work and such repair shall be in accordance with the standards, specifications and requirements laid down by the Municipality pursuant to Schedule "B".
- (b) Schedule "B" of this By-Law, hereto attached and forming part of this By-Law respecting reinstatement of highway allowance is hereby authorized.

7. In the event of failure on the part of the applicant or person(s) acting on his behalf to comply with the conditions of the permit or any provisions of this By-Law then such permit shall be null and void and the Director may, at the applicant's expense, take such action as may be required to repair any damages to the highway resulting from the applicants actions.

PART III

PENALTIES

- D. 1. Every person who violates or fails to comply with the provisions of this By-Law is guilty of an offence and is liable, upon summary conviction, for each offence, to a fine of not less than \$500.00 and not more than \$1,000.00, exclusive of costs.
2. Payments as provided for in Section D.(1) above do not constitute a specified penalty, and a Magistrate or Justice of the Peace upon conviction for an offence under this By-Law may impose a fine, costs and imprisonment as he may deem appropriate.
3. Nothing in this section shall:
- (a) prevent any person concerned from exercising his or her right to defend any charge of committing a breach of this By-Law; or
  - (b) prevent any person entitled to do so from laying an information and complaint against any person for committing a breach of this By-Law; or
  - (c) prevent any person from exercising any legal rights that such person may have to lay an information and complaint against any other person (whether such other person has made a payment under the provision of this By-Law).

THIS BY-LAW READ A FIRST TIME this 21 day of May, A.D. 1985 by the Council of the Town of Frobisher Bay, N.W.T.

THIS BY-LAW READ A SECOND TIME this 18 day of June, A.D. 1985 by the Council of the Town of Frobisher Bay, N.W.T.

THIS BY-LAW READ A THIRD AND FINAL TIME this 18 day of June, A.D. 1985 by the council of the Town of Frobisher bay, N.W.T.

[Signature]  
MAYOR

[Signature]  
SECRETARY-MANAGER

APPLICATION NO. \_\_\_\_\_



MUNICIPALITY OF FROBISHER BAY

ROAD OCCUPANCY BY-LAW

SCHEDULE "A"

FORM 1

APPLICATION FOR A UTILITY PERMIT

I/We hereby make application to do work within the highway allowance of a highway in the Municipality of Frobisher Bay. The work will be completed according to Town specifications as per the Highway Occupancy By-Law.

Applicant \_\_\_\_\_

Address \_\_\_\_\_ Tel. No. \_\_\_\_\_

\_\_\_\_\_

Location of work \_\_\_\_\_

Lot/Building No. \_\_\_\_\_ Street \_\_\_\_\_

Estimated Commencement Date \_\_\_\_\_ Estimated Completion Date \_\_\_\_\_

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

Fee: \$15.00 Receipt No. \_\_\_\_\_

NOTE:

A PLAN OR SKETCH MUST ACCOMPANY THIS APPLICATION, SHOWING THE DETAILS AND THE LOCATION OF THE PROPOSED WORKS.

MUNICIPALITY OF FROBISHER BAY

ROAD OCCUPANCY BY-LAW

SCHEDULE "A"

FORM 2

UTILITY PERMIT



Permit No. \_\_\_\_\_

Issued to: \_\_\_\_\_

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

Telephone No.: \_\_\_\_\_

Location of Work: \_\_\_\_\_

Lot/Building No.: \_\_\_\_\_ Street \_\_\_\_\_

Nature of Work: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Conditions of Approval: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Approved by: \_\_\_\_\_ Date: \_\_\_\_\_ 19 \_\_\_\_\_  
Director of Public Works

NOTE: THE APPLICANT IS RESPONSIBLE FOR ALL HIGHWAY REINSTATEMENT ALLOWANCE FOR TWELVE MONTHS FROM THE COMPLETION OF WORK AS DESCRIBED IN THE SPECIFICATIONS INCLUDED IN "THE HIGHWAY OCCUPANCY BY-LAW."

MUNICIPALITY OF FROBISHER BAYROAD OCCUPANCY BY-LAWSCHEDULE "B"HIGHWAY REINSTATEMENT ALLOWANCESPECIFICATIONSROAD EXCAVATIONS:

- 1/ The trench will be excavated in accordance with the Government of the Northwest Territories Safety Regulations.
- 2/ The applicant will supply and erect safety barriers at the site of the excavation to protect the public. If it is necessary to close the highway, barricades and "Road Closed" signs will be installed at the closest intersecting streets.
- 3/ If the excavation and back-filling of the trench is not completed in one working day, one traffic lane must be opened until the next day with the remainder of the trench barricaded to protect the public.
- 4/ A trench excavated in a gravel roadway is to be refilled with granular material, or back-fill not containing silt or rocks larger than 10cm in diameter to within 45cm of the surface grade. The top 45cm of trench is to be filled with clean screened gravel with particles no larger than 3cm in diameter.
- 5/ Back-filling of the trench is to be undertaken by filling in layers of no more than 30cm and compacting, each layer before filling the next 30cm layer. Compaction is to be minimum 90% Proctor Density.
- 6/ When a trench is excavated in a roadway paved with hot mix asphalt or concrete, the trench shall be back-filled in a minimum of 30cm deep layers as for a gravel road. The top 45cm shall consist of firstly 30cm of compacted screened gravel (with particles less than 3cm diameter) and finally 15cm of concrete at 20,000 kPa. (KiLopascals) The concrete is to be finished with a broom finish
- 7/ The applicant is responsible for notifying the various utilities prior to excavating the trench. (Bell Canada, Water and Sewer Services, N.C.P.C.).

RESPONSIBILITY OF APPLICANT:

- 8/ The applicant shall be wholly responsible for any damage to underground utilities and for the replacement of any survey markers disturbed by the applicant's work. It shall be the responsibility of the applicant to ensure that there are no traffic or safety hazards or drainage problems created as a result of the applicant's work.

The applicant shall also be responsible for the maintenance of all trench excavations for period of twelve (12) months from the date of the initial temporary reinstatement. If Municipal forces are required to take corrective action, the applicant will be charged for labour, materials, and equipment rental costs plus overhead. Prior to taking such action, the Municipality will make a reasonable attempt to contact the applicant; however, the Municipality reserves the right to proceed without notification in cases of emergency. (Emergencies shall be considered to be such things as improper signing, washouts, drainage impediment and ponding, soft spots, settlement greater than 50mm in depth, or any condition considered to present a direct hazard to the public).

If the highway is damaged outside of the excavation area by the applicant or related contractor, the damaged surface shall be restored in accordance with the abovementioned specifications.

The applicant shall be notified prior to restoration and a field review shall be undertaken with the Director.

RESTORATION BY THE MUNICIPALITY:

- 9/ The applicant may request the Municipality in writing to undertake final restoration of the trench area on his behalf. If the Municipality agrees to undertake the work, the applicant will be billed according to the actual cost of restoration, plus any additional maintenance works required on the work site. In such cases, the applicant will continue to be responsible for the maintenance of the temporary restoration, until such time as the permanent restoration is carried out, and any arrangement made under this clause does not relieve the applicant of any other responsibility or liability provided for in this document.

LIABILITY:

- 10/ Where the applicant is not a utility company or government agency, the applicant agrees for himself/herself, his/her heirs, executors and administrators, to obtain and keep in force a policy of insurance to indemnify and save harmless the Municipality from any action, claim, damage, or loss whatsoever, arising from his operations, and for a twelve month period following the initial temporary restoration. A certificate of insurance naming the Municipality as a co-insured shall be deposited with the Municipality prior to the issuance of any permit for works covered under this document.

Where the work is being undertaken for a utility by a contractor, the utility assumes this responsibility according to their franchise or operating legislation and no proof of insurance is necessary in these instances.