



CITY OF EDMONTON

BYLAW 12846

REGULATION OF WORK AND EQUIPMENT INSTALLATION ON CITY LANDS BYLAW

(CONSOLIDATED ON NOVEMBER 12, 2002)

BYLAW 12846

REGULATION OF WORK AND EQUIPMENT INSTALLATION ON CITY LANDS BYLAW

Whereas, pursuant to Sections 7, 8, 16(2), 18(1), 60(1) and 61 of the *Municipal Government Act*, Council may pass bylaws dealing with the use and management of its property, permits required, fees and enforcement provisions;

Whereas, Section 43(3) of the *Telecommunications Act* S.C. 1993 c. 38 prohibits telecommunication carriers from constructing transmission lines on, over, under or along a highway or other public place within a municipality without the municipality's consent.

Edmonton City Council enacts:

PART I - PURPOSE, DEFINITIONS AND INTERPRETATION

PURPOSE

- 1 The purpose of this bylaw is:
- (a) to require every Person proposing to carry out Work for the purpose of installation, maintenance, repair, replacement, extension or operation of Equipment in, on or above Municipal Rights of Way to obtain the City's consent to any such Work and to apply to the City for the required Permits;
 - (b) to provide the City with information on the type and location of Equipment situated in, on or above Municipal Rights of Way so that the City can manage its rights of way effectively and efficiently;
 - (c) to establish Permit and other fees to compensate the City for the installation, maintenance, repair, replacement, extension or operation of Equipment as well as the ongoing presence of Equipment in, on or above Municipal Rights of Way; and
 - (d) to protect the City from costs, damages or liability associated with the installation, maintenance, repair, replacement, extension or operation of Equipment in, on or above Municipal Rights of Way by any Person.

DEFINITIONS

- 2 In this bylaw, unless the context otherwise requires:
- (a) **“Alignment”** means a location specified or approved by the City Manager for the location of Equipment in, on or

above Municipal Rights of Way;

- (b) **“Applicant”** means a Person applying for a Permit;
- (c) **“City”** means the municipal corporation of The City of Edmonton;
- (d) **“City Manager”** means the Chief Administrative Officer of the City or his delegate;
- (e) **“Committee”** means the Transportation and Public Works Committee or its successor;
- (f) **“Consent Agreement”** means an agreement that contains one or more provisions for the granting of consent by the City to a Person to do Work in, on or above Municipal Rights of Way upon compliance by such Person with all other applicable City requirements;
- (g) **“Construction Price Index Variation”** means the percentage change in the Edmonton Non-Residential Construction Price Index, published from time to time by Statistics Canada, from the third quarter of the previous year to the third quarter of the year for which the rate is calculated. If Statistics Canada shall cease or fail to calculate or publish the Edmonton Non-Residential Construction Price Index then the Construction Price Index Variation shall be determined by reference to the Edmonton Consumer Price Index published by Statistics Canada. If the change in the applicable price index hereunder for any calculated twelve month period is a negative sum then the Construction Price Index Variation in the base rate for such period shall be zero;
- (h) **“Consumer Price Index Variation”** means the percentage change in the Edmonton Consumer Price Index, published from time to time by Statistics Canada, from the third quarter of the previous year to the third quarter of the year for which the rate is calculated provided that if the change in the Consumer Price Index for any calculated twelve month period is a negative sum then the Consumer Price Index Variation in the base rate for such period shall be zero;
- (i) **“Council”** means the council of The City of Edmonton;
- (j) **“Downtown Business Revitalization Zone”** means the lands outlined in Schedule “F”;

- (k) **“Emergency Work”** means Work that must be completed immediately because health, safety or the provision of essential services is endangered;
- (l) **“Equipment”** means any poles, cables, pipes, conduits, pedestals, antennas, vaults, support structures or other similar facilities or structures;
- (m) **“Municipal Rights of Way”** means the surface of, as well as the spaces above and below, the highways, roads, road allowances, streets, lanes, boulevards, bridges, public utility lots, public water or other public places within the jurisdiction of the City, excluding:
 - (i) land for which a certificate of title is registered in the name of the City in the Land Titles Office, and
 - (ii) LRT Tunnels, LRT Stations, Dudley B. Menzies LRT Bridge, LRT rights-of-way, including attached pedways, stairwells, platform levels, and concourse levels.

(S.2, Bylaw 13230, November 12, 2002)

- (n) **“Permit”** means any one of the permits and any corresponding applications, in a form set out in Schedule A and in other bylaws of the City, as further modified by the City Manager in any specific case;
- (o) **“Permitting Fees”** means the fees set out in Schedule B and other bylaws of the City or the corresponding fees set out in a Consent Agreement, other than Use and Occupation Fees;
- (p) **“Person”** includes one or more individuals, partnerships, bodies corporate, unincorporated organizations, governments, government agencies, trustees, executors, administrators or other legal representatives, other than the City or its legal representatives;
- (q) **“Resolution”** means a resolution passed by Council granting consent for a Person to do Work in, on or above Municipal Rights of Way upon compliance by such Person with all terms and conditions that Council may determine;
- (r) **“Use and Occupation Fees”** means the fees set out in Schedule C and other bylaws of the City or the corresponding fees and other consideration for the privilege of occupying Municipal Rights of Way set out by the

mutual agreement of the parties to a Consent Agreement;

- (s) **“Violation Ticket”** means a violation ticket as defined in the *Provincial Offences Procedure Act*;
- (t) **“Work”** means the installation, maintenance, repair, replacement, extension or operation of any Equipment in, on or above Municipal Rights of Way.

RULES FOR INTERPRETATION

- 3 The marginal notes and headings in this bylaw are for reference purposes only.

PART II - REQUIREMENT FOR THE CONSENT OF THE CITY

CONSENT

- 4 (1) No Person shall do any Work in, on or above Municipal Rights of Way unless the Person has:
 - (a) obtained the consent of the City or is acting on behalf of a Person who has obtained consent of the City by way of a Resolution or a Consent Agreement;
 - (b) obtained all applicable Permits required by the City, and
 - (c) paid all applicable Permitting Fees required by the City.
- (2) The City may consent to a Person doing work in, on or above Municipal Rights of Way, subject to such terms and conditions as are deemed appropriate, as follows:
 - (a) Council may pass a Resolution, or
 - (b) Council or the City Manager may approve a Consent Agreement.
- (3) A Person whose Equipment is situated in, on or above Municipal Rights of Way:
 - (a) shall do whatever Emergency Work is necessary to end a situation in which the health, safety or the provision of essential services is endangered; and
 - (b) may do Emergency Work without the prior consent of the City, if it is not practicable to obtain such consent prior to the commencement of the Emergency Work, provided that the Person, without delay, notifies the City Manager of the occurrence of the Emergency Work and provides such additional information concerning the Emergency Work

and its consequences as the City Manager requests, acting reasonably.

EXCEPTIONS

5 The provisions of this bylaw do not apply to:

- (a) wireless telecommunication towers;
- (b) attachments to City infrastructure including streetlights, traffic control structures and bridges.

PART III - APPLICATION FOR PERMIT**PERMIT
APPLICATION
PROCEDURE**

6 (1) Every Applicant for a Permit must:

- (a) provide evidence of the City's consent in accordance with Section 4,
- (b) provide all information required for a Permit, and
- (c) pay the applicable Permitting Fees

at the time that the application for the Permit is made or as specified in the Consent Agreement.

- (2) Subject to Subsection (4), upon receipt of an application for a Permit, the City Manager will issue the required Permit subject to such terms and conditions, as the City Manager deems appropriate.
- (3) The terms and conditions contained in Schedule D are deemed to be included in every Permit for Work in, on or above Municipal Rights of Way, unless otherwise specifically excluded.
- (4) The City Manager may reject an application for a Permit where,
 - (a) the application for the Permit is incomplete,
 - (b) the full payment of all applicable Permitting Fees has not been made,
 - (c) the consent of the City has not been obtained in accordance with Section 4, or
 - (d) any conditions precedent to granting the Permit have not been met.
- (5) The City Manager will provide an Applicant whose application for a Permit is refused with written reasons for the refusal at the time

that the Applicant is advised of the refusal.

PART IV - APPEALS TO THE COMMITTEE

APPEAL PROCESS

- 7 (1) Any Applicant whose application for a Permit has been refused, except where the Permit application was refused subject to Section 6 Subsection (4.b), may appeal the decision of the City Manager to the Committee by filing with the City Manager, within thirty (30) days of the City Manager's decision, a notice of appeal containing the Applicant's contact information, grounds of appeal and any related submissions.
- (2) Within thirty (30) days of the filing of an appeal notice as set out in Subsection (1), the City Manager will prepare and deliver a report to the Committee that will include:
- (a) the Permit application,
 - (b) the City Manager's decision and reasons for any refusal to issue the Permit, and
 - (c) the notice of appeal.
- (3) Following receipt of the report prepared by the City Manager, the Committee will, at its earliest available Committee meeting, review the report described in Subsection (2) and will
- (a) confirm the original decision made by the City Manager,
 - (b) refer the matter back to the City Manager and direct the City Manager to reconsider the matter having regard to such considerations or directions as the Committee may provide, or
 - (c) direct the City Manager to issue a Permit on such terms and conditions as the Committee may determine.

PART V - COMPLIANCE WITH CITY CONSENT AND PERMITS

- 8 (1) Every Person who obtains the consent of the City to do Work in, on or above Municipal Rights of Way shall comply with the terms and conditions of that consent.
- (2) Every Person who obtains a Permit shall comply with the terms and conditions of that Permit, including, without limitation, terms and conditions restricting Work in, on or above Municipal Rights

of Way to the alignments or other portion of the Municipal Rights of Way for which authorization is granted in the Permit.

PART VI - USE AND OCCUPATION FEES

- 9 (1) Upon request by the City, every Person whose Equipment is situated in, on or above Municipal Rights of Way shall pay the applicable Use and Occupation Fees in accordance with Schedule C in respect of the period of time during which the Equipment is situated in, on or above the Municipal Rights of Way, unless specified otherwise in a Consent Agreement.
- (2) Payment of the Use and Occupation Fees does not constitute a condition precedent for the granting of the City's consent to Work in, on or above Municipal Rights of Way or for the granting of a Permit.

PART VII - PENALTIES

- 10 (1) A Person who contravenes a provision of this bylaw is guilty of an offense.
- (2) A Person who is found guilty of an offence is liable to a fine in an amount not less than that established by this bylaw, and not exceeding \$10,000.00, and to imprisonment for not more than one year for non-payment of the fine.
- (3) A Person who commits an offence may:
 - (a) if a Violation Ticket is issued in respect to the offence; and
 - (b) if the Violation Ticket specifies the fine amount established by this bylaw for the offence;

make a voluntary payment equal to the specified fine.
- (4) In the case of an offence that is of a continuing nature, a contravention constitutes a separate offence in respect of each day or part of a day on which it continues.

PART VIII - GENERAL

CHARGES FOR ADDITIONAL SERVICES REQUESTED

- 11 A Person who requests City services including, but not limited to, meter hooding, traffic barricading and surface restoration must pay for those additional City services at the charge out rate schedules current at the time the service is requested.

SEVERABILITY

- 12 (1) If any portion of the bylaw is, for any reason, declared invalid, in whole or in part, by any court of competent jurisdiction, such portion will be deemed a separate, distinct and independent portion.
- (2) A declaration of invalidity will not affect the validity of the remaining portions, which will remain in full force and effect.

INSPECTIONS AND DELEGATION

- 13 (1) The City Manager may carry out whatever inspections are reasonably required to determine compliance with this bylaw.
- (2) The City Manager may delegate any of his powers, duties or functions under this bylaw to an employee of the municipality, who may delegate and authorize further delegations to any other City employee upon the approval of the City Manager.

SCHEDULE A – FORMS OF PERMITS AND PERMIT APPLICATION**UTILITY LINE ASSIGNMENT PERMIT**

Permit No.

Utility Company

Issue Date:

Utility Company Address

Date Submitted:

File No.:

Contact:

Contact Address:

Location of Work:

Installation Type:

Conditions of Approval:

Line Assignments are valid for twelve (12) months from the date of issue.

Staking of proposed utility installation to be coordinated with ALBERTA FIRST CALL (1-800-242-3447) prior to construction.

An O.S.C.A.M. Permit is required from the Transportation Department (496-2680) prior to commencement of any construction. Road restoration shall be in accordance with the Utility Cut Restoration Specification.

Maintain 0.5m vertical clearance when crossing water mains, 1m clearance for valves and hydrants.

Inquiries call 944-7694, or Fax 496-1071, 13th Floor, Century Place, 9803 – 102A Avenue, Edmonton, Alberta T5J 3A3

UTILITY LINE ASSIGNMENT PERMIT APPLICATION

Project File Number _____ Date _____

Utility Company _____ Contact Name _____

Address _____ Phone _____

1. Location of Proposed Work: _____

Infrastructure Affected ☐ Road ☐ Walk ☐ Curb and Gutter☐ Lane ☐ Blvd ☐ Other _____

2. Installation: _____

Alignment / Offset _____ Length _____ Depth _____

Pipe Size _____ Joint Use? _____

Type of installation: ☐ Aerial ☐ Direct Buried ☐ Push ☐ Other _____

3. Backfill method (if applicable) _____

4. Utility installation / backfill by: ☐ Contractor ☐ City5. Surface restoration by: ☐ Contractor ☐ City

6. Anticipated construction start date: _____

Duration: _____

7. 3-Year No-Cut location? ☐ Yes ☐ No8. Part of City-initiated Project? ☐ Yes ☐ No

Program / project _____ City Contact _____

Comments and/or other information:

SCHEDULE B – PERMITTING FEES

A. Permitting and Inspection Costs

1. These fees are charged to recover the costs of reviewing and circulating applications, issuing Permits and inspecting restoration of the right-of-way.
 - 1.1 The short permit/limited circulation charge of \$200.00 per Utility Line Assignment Permit will apply to all applications for a Utility Line Assignment Permit where the length of the Equipment or Work is less than twenty (20) meters and the proposed Work only requires a limited circulation or no circulation.
 - 1.2 The short permit/full circulation charge of \$320.00 per Utility Line Assignment Permit will apply to all applications for a Utility Line Assignment Permit where the length of the Equipment or Work is less than twenty (20) meters and the proposed Work requires full circulation.
 - 1.3 Applications for a Utility Line Assignment Permit where the length of the Equipment or Work is greater than twenty (20) meters require a full circulation and the long permit charge of \$875.00 per Utility Line Assignment Permit will apply. In addition to this base fee a long permit linear charge of \$1.50 per meter of length for each Utility Line Assignment Permit assigned which has Equipment or Work that is greater than twenty (20) meters will apply.
2. The fees outlined above in sections 1.1, 1.2 and 1.3 are 2001 rates and will be adjusted annually based on a percentage increase equal to the Consumer Price Index Variation, expressed as a percentage rate per annum, calculated and compounded annually for each and every year of the Agreement. If the change in the Consumer Price Index is a negative sum for any given year then the change in the base rate for that year shall be zero.

B. Agreement Preparation and Administration Fees

1. These fees are charged to recover the costs associated with preparing and negotiating agreements between the City and all other relevant Parties as well as to cover the costs of administering these agreements.
 - 1.1 Within thirty (30) days of execution of an Agreement, the Company covenants and agrees to pay to the City an Agreement Preparation and Administration Fee of up to \$2,000.00 to recover the approval and administration costs associated with the negotiation of the Agreement. The City Manager acting reasonably reserves the right to set this fee commensurate with time required to negotiate, prepare and administer any such Agreement.

C. Goods and Services Tax (GST)

1. All fees pursuant to this Schedule B shall be payable at the rates stated plus the Goods and Services Tax (GST), if applicable.

SCHEDULE C –USE AND OCCUPATION FEES**A. Linear Rates**

1. These costs are charged to cover the cost of a license of Municipal Rights of Way for the placement of linear utilities similar to the rent charged for linear utilities on private land.
 - 1.1 The charge of \$22.65 per lineal meter per year for Equipment constructed inside the Downtown Business Revitalization Zone.
 - 1.2 The charge of \$22.65 per lineal meter per year for Equipment constructed on, in or attached to bridges and tunnels including LRT tunnels.
 - 1.3 The charge of \$2.83 per lineal meter per year for Equipment constructed outside the Downtown Business Revitalization Zone.
 - 1.4 The charge of \$11.32 per lineal meter per year for Equipment constructed outside the Downtown Business Revitalization Zone where the utility crosses Municipal Rights of Way only.

(S.3, A1.1-A1.4, Bylaw 13230, November 12, 2002)
 - 1.5 The linear rates outlined above in sections 1.1, 1.2, 1.3 and 1.4 are 2001 rates and are the base rates established at the time of the enactment of this by-law.
 - 1.6 The linear rates outlined above will be adjusted annually based on a percentage increase equal to the Construction Price Index Variation, expressed as a percentage rate per annum, calculated and compounded annually for each and every year of the Agreement. If the change in the Construction Price Index is a negative sum for any given year then the change in the base rate for that year shall be zero.
 - 1.7 Any agreement entered into between the City of Edmonton and any Person will be subject to the appropriate rate charges at the time that an agreement is signed. The current linear rates at the time of the signing of an agreement will be used for the first term of an agreement. For any subsequent terms the linear rates will be adjusted pursuant to section 1.6 of this Schedule C.
2. The linear rates are subject to the following adjustment factors:
 - 2.1 A reduction for a sharing factor is applied based on the number of Persons using a given alignment.
 - 2.2 An additional charge for exclusive rights factor is applied to a Person who is an exclusive franchise holder within the City.

- 2.3 A reduction charge for a depth and disruption factor is applied to Equipment located at a depth greater than 1.5m.
- 2.4 An additional charge at twice the base rate for Persons whose operations present a loss of life risk.

B. Lost Productivity Costs

- 1. These costs are charged to recover the extra costs incurred by the City as a result of extra Work required by the City over and above the costs that would be anticipated if the non City Equipment did not exist. These costs are charged out based on actual costs incurred by the City.
- 2. The Lost Productivity Costs are payable to the City within thirty (30) days of receipt of an invoice thereof, provided that the City has provided reasonable written documentation describing these costs including:
 - (a) the location of the Equipment;
 - (b) a description of the City work;
 - (c) an explanation of the nature of the interference caused by the Company's Equipment;
 - (d) an itemized breakdown of the City's costs including labour, supplies, equipment and applicable loading factors.

C. Goods and Services Tax (GST)

- 1. All charges and fees applicable as per this bylaw and pursuant to this Schedule C shall be payable at the rates stated plus the Goods and Services Tax (GST), if applicable.

D. Pipeline Act

- 1. Pipelines that are subject to the *Pipeline Act* are exempt from Use and Occupation Fees.

SCHEDULE D – STANDARD TERMS AND CONDITIONS

1. These standard terms and conditions apply to all Work conducted by or on behalf of the Applicant.
2. All Work shall conform to applicable federal, provincial and municipal statutes, laws and by-laws and other applicable legal requirements.
3. All Work shall be conducted and completed to the satisfaction of the City Manager.
4. All Work shall be performed in a manner that safeguards and protects all other support structures, transmission lines, equipment, facilities and improvements of any kind present in the Municipal Rights of Way.
5. After completion of any Work, the Applicant shall leave the Municipal Rights of Way in substantially the same condition in which they were before such Work was undertaken by the Applicant, free from nuisance and to the satisfaction of the City Manager. If the Applicant fails to repair and restore any Municipal Rights of Way to the satisfaction of the City Manager within two (2) days of being notified by the City, the City may effect such repairs and charge all costs related thereto to the Applicant.
6. If the City requires that any Work be stopped, the Applicant shall cease such Work upon delivery of a written notice to the Applicant to that effect by the City Manager.
7. The Applicant shall be at all times responsible for all Work, including the cost of such Work.
8. The Applicant's Work shall not unduly interfere with the public use and enjoyment of the Municipal Rights of Way.
9. The Applicant shall notify the City promptly of any damage caused by the Applicant in connection with its Work.
10. The City has made no representations or warranties as to the state of repair of the Municipal Rights of Way or the suitability of the Municipal Rights of Way for any business, activity or purpose whatsoever and the Applicant hereby agrees to take the Municipal Rights of Way on an "as is" basis for the purpose of the carrying out of the Applicant's Work and the City is not responsible, either directly or indirectly, for any damage to property or injury to a person, including death, arising from the escape, discharge or release of any hazardous substance from its Municipal Rights of Way.
11. The Applicant may be required to post security with the City from time-to-time in an amount and form acceptable to the City Manager to guarantee the performance by the Applicant of its obligations in connection with Work performed under this Permit. This security document shall specify with precision the Work that is guaranteed by the security and the circumstances under which the City may have recourse to the security. Security posted in respect of certain

Work shall be released promptly by the City if and to the extent that the Work is completed to the satisfaction of the City Manager.

12. The Applicant shall conform and be responsible for the conformance by its officers, employees, agents, contractors and invitees to all health and safety laws and regulations including any requirement for the installation of safety devices or appliances and any applicable traffic laws or regulations, (collectively referred to as safety rules). The City may, on twenty-four (24) hours written notice to the Applicant, or sooner if in the opinion of the City the likelihood of harm to persons is imminent, suspend Work performed by or on behalf of the Applicant where there appears to be a lack of compliance with the safety rules or where conditions of danger exist that would likely result in injury to any person. Such suspension will continue until the lack of compliance or danger is eliminated.
13. For the purpose of this provision, “hazardous substance” means any hazardous substance and includes, but is not limited to, radiation, petroleum products and byproducts, industrial wastes, contaminants, pollutants, dangerous substances, and toxic substances, as defined in or pursuant to all applicable federal, provincial or municipal laws or bylaws. The Applicant agrees to assume all environmental liability relating to its Work in the Municipal Rights of Way, including but not limited to any liability for clean-up of any hazardous substance in, on, above or near Municipal Rights of Way which result from:
 - (a) the operations of the Applicant in, on, over or above the Municipal Rights of Way; or
 - (b) any products or goods brought in, on, over, or above the Municipal Rights of Way by the Applicant, or by any other person with the express or implied consent of the Applicant.
14. The City shall not, in connection with the Applicant’s Work, be liable for any damage to the Equipment or other property of the Applicant, or for the injury or death of any officer, employee, agent, contractor, licensee or invitee of the Applicant except where caused by the wilful misconduct or gross negligence of the City or its employees.
15. The Applicant hereby indemnifies the City from and against all losses, liabilities, costs, damages, and expenses, including reasonable legal fees and disbursements, incurred by the City in connection with the Applicant’s claim as a result of any claim, action, suit or proceeding based on a claim of injury to the person or property of any third party caused by the wilful misconduct or negligence of the Applicant, its officers, employees, agents, contractors, licensees or invitees.
16. The City shall not be liable in any way for indirect or consequential losses or damages, or damages for pure economic loss, howsoever caused or contributed to, in connection with the Applicant’s work.

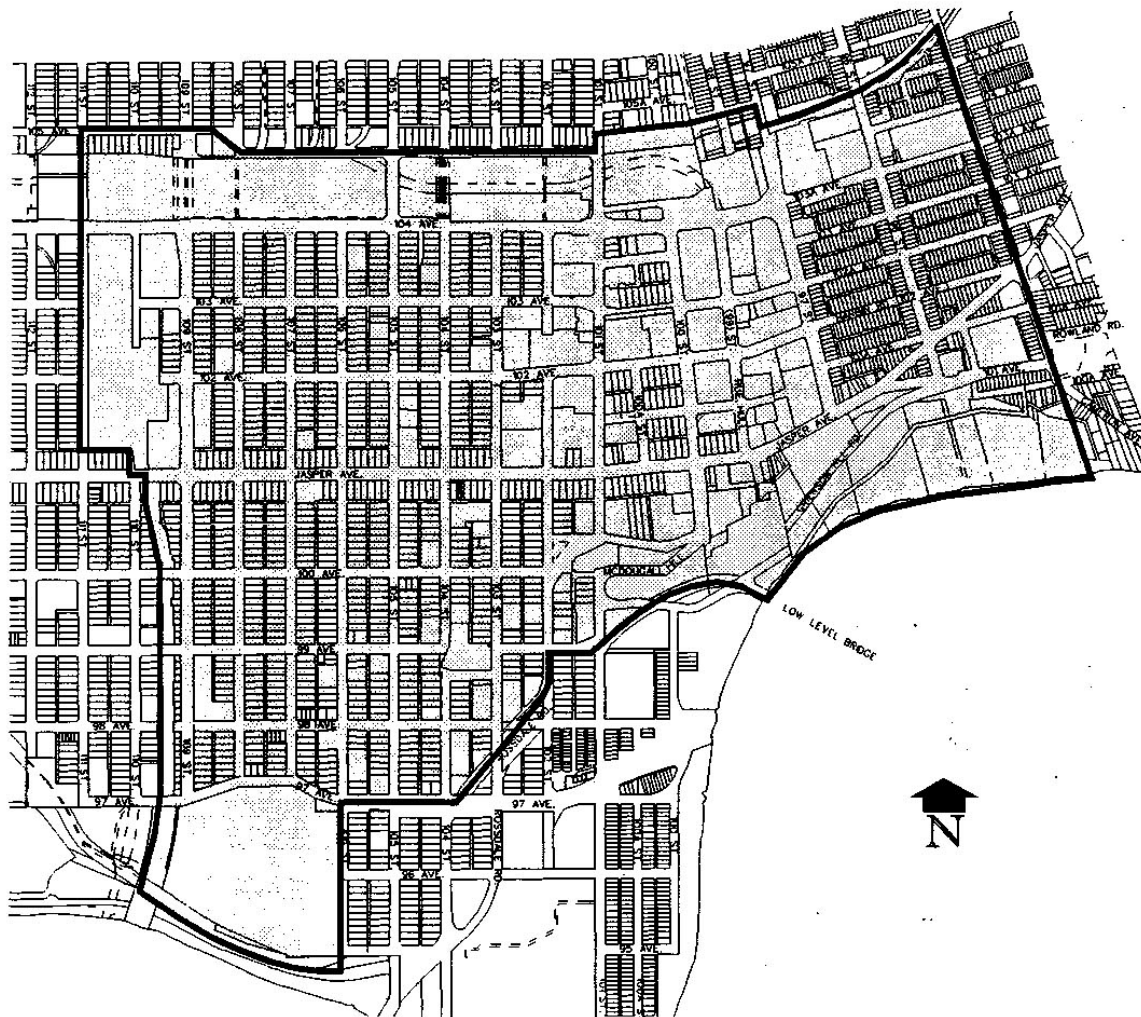
17. The Applicant shall, at its own expense, procure and carry, or cause to be procured and carried and paid for, full workers' compensation coverage for itself and all workers, employees, and others engaged in any Work.
18. The Applicant shall maintain insurance coverage, sufficient in amount and coverage to meet the requirements of the City, as notified by the City Manager from time-to-time. All such insurance policies shall provide that they cannot be cancelled, lapsed or materially changed without at least thirty (30) days notice to the City by registered mail.

SCHEDULE E - FINES

SECTION	DESCRIPTION OF OFFENCE	FINE
4(1)	Unauthorized Work on Municipal Rights of Way	\$2,000.00
4(3)(a)	Failure to do Emergency Work	\$10,000.00
4(3)(b)	Failure to notify of Emergency Work	\$1,000.00
8(1)	Failure to comply with terms and conditions of consent	\$10,000.00
8(2)	Failure to comply with terms and conditions of Permit	\$5,000.00
9(1)	Failure to pay Use and Occupation Fees	\$10,000.00

SCHEDULE F – THE DOWNTOWN BUSINESS REVITALIZATION ZONE

**DOWNTOWN
Business Revitalization Zone**



Established November 26, 1985
Amended December 8, 1992

(NOTE: Consolidation made under Section 69 of the Municipal Government Act, S.A. 1994, c. M-26.1 and Bylaw No. 12005, and printed under the City Manager's authority.)

Changes to Bylaw 12846, passed by Council December 18, 2001, per:

Bylaw 13230, November 12, 2002