

Found the perfect photo for your project? Careful! It might be protected under copyright.



Yukon Archives, E.J. Hamacher fonds (Margaret and Rolf Hougen collection), 2002/118, #565

What is copyright?

Copyright is a legal concept that gives creators exclusive control over the use of their works. In Canada, copyright applies automatically to any original work that is physically fixed (e.g., written on paper or saved on a computer hard drive). The copyright holder is typically the creator of a work or, if created in the course of employment, their employer.

Works are protected until they enter the public domain. As of December 30, 2022, the copyright term in Canada is generally 70 years following the death of the creator.

How does it apply to material in Yukon Archives' collection?

You might assume that archival material is in the public domain. Unfortunately, it's not that simple! A lot of the Archives' material is protected by copyright. To use it, you may need permission from the copyright holder.

In some cases, Yukon Archives has been assigned copyright and can grant permission for your intended use. In other cases, copyright has stayed with the creator. Sometimes, the creator or the copyright holder is unknown.

When do you need permission to reproduce material in Yukon Archives' collection?

It is safest to assume that any material you come across is or was protected by copyright. To confirm if you need permission to use it, consider the following:

- Is your intended use exempted from copyright under **fair dealing**?
- Does your intended use affect the **moral rights** of the copyright holder?
- Is the copyright term still active?
- Are there any other restrictions on use?

Our Reference team may be able to help you find out who the copyright holder is, if the copyright term is active, and if there are any donor, institutional, or legal restrictions on use.

FOR MORE INFORMATION, PLEASE CONTACT THE REFERENCE TEAM:

Yukon.Archives@yukon.ca

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Fair Dealing

Under Canadian copyright law, protected works may be used without permission of the copyright holder if the use or dealing is 'fair'. Reproducing works for the purposes of research, private study, criticism or review, parody or satire, and news reporting may be considered fair dealing, depending on the amount of a work being used, the purpose or character of the use, the potential effect of the use on the work, and if there are alternative works available.

Moral Rights

Moral rights protect against the modification of a work and against the use of a work in a way that may harm the creator's reputation. They also protect the creator's right to be associated or credited with a work.



Copyright terms and the public domain

Copyright does not last forever. After a creator's death, copyright continues until the end of the copyright term. At the end of the term the work enters the public domain and can be reproduced freely. Canada's copyright term was previously life plus 50 years. As of December 30, 2022, it is 70 years from the last day of the calendar year of the creator's date of death. Works that entered the public domain before this change remained in the public domain.

Moral rights are not transferrable and do not expire. The creator's estate may take action if a work is used in a way that harms their reputation.

Copyright terms vary between types of work. Here are some general rules for materials in Yukon Archives' collection:

Photographs

- Any photographs created before January 1, 1949, are in the public domain.
- If the creator of a photograph died before January 1, 1972, it is in the public domain.
- If the creator of a photograph died after December 31, 1971, the photograph will enter the public domain 70 years after their date of death.

Government works

- Copyright in works created by the Governments of Canada and Yukon are held by the Crown.
- Published government records enter the public domain 50 years after their publication.
- Unpublished government records never enter the public domain.

Sound recordings and non-dramatic, unpublished cinematographic works

- Term varies by date physically fixed and date published.

Unpublished Literary, Dramatic, or Musical Works

- If the creator of an unpublished work died before January 1, 1949, the work is in the public domain.
- If the creator died between January 1, 1949, and December 31, 1978, the work will enter the public domain on January 1, 2049.
- If the creator died after December 31, 1978, the work will enter the public domain 70 years after their date of death.

Artistic Works

- If the creator died before January 1, 1972, the work is in the public domain.
- If the creator died after December 31, 1971, the work will enter the public domain 70 years after their date of death.

Watch out for:

- Works by joint creators; the copyright term is calculated from the end of the year in which the last joint creator dies.
- Works published posthumously or never published.
- Works published anonymously or under a pseudonym.
- If using material outside of Canada, follow the copyright act in the country of use.

