

THE CORPORATION OF THE DISTRICT OF SUMMERLAND

BYLAW NUMBER 2386

**A BYLAW OF THE CORPORATION OF THE DISTRICT OF SUMERLAND TO
REGULATE TRAFFIC AND THE USE OF HIGHWAYS WITHIN THE DISTRICT OF
SUMMERLAND**

**CONSOLIDATED FOR CONVENIENCE TO INCLUDE BYLAWS 92-044,
94-022 and 2013-006.**

WHEREAS pursuant to the Motor Vehicle Act and the Municipal Act, Sections 581 to 584 inclusive, the Council of the Corporation of the District of Summerland is authorized to regulate traffic and the sue of highways within the Municipality.

NOW THEREFORE, the Municipal Council of the Corporation of the District of Summerland in open meeting assembled, ENACTS AS FOLLOWS:

1. **SHORT TITLE**

This Bylaw may be cited for all purposes as the "District of Summerland Traffic Bylaw Number 2386, 1988".

2. **DEFINITIONS**

In this Bylaw unless the context otherwise requires:

"ACCESS", means a driveway intended for ingress and/or egress to abutting property from a highway.

"ANGLE PARKING", means the parking of a vehicle other than parallel to a curb or lateral lines of the roadway.

"ARTERIAL HIGHWAY", means highways classified as such pursuant to the Highway Act.

"BYLAW ENFORCEMENT OFFICER", means the person appointed by the Council and any person delegated to assist him in enforcing Municipal Bylaws and Regulations as set out in this Bylaw.

"CLERK", means the Municipal Clerk of the District of Summerland.

"COLLECTOR STREET", means a highway classified as a collector by the Official Community Plan of the Municipality.

"COUNCIL", means the Council of the Corporation of the District of Summerland.

"CROSSWALK", means:

- a) Any portion of the roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by signs or by lines or any other markings on the surface, or
- b) The portion of the roadway at an intersection that is included within the connection of

the lateral lines of the sidewalks on the opposite sides of the highway, or within the extension of the lateral lines of the sidewalk on one side of the highway, measured from the curbs or in the absence of curbs, from the edges of the roadway.

“CYCLE”, means a device having any number of wheels that is propelled by human power and on which a person may ride, including bicycles, tricycles, roller skates, sleighs, skis, etc., but excluding wheelchairs.

Bylaw 2013-006 added the following definition: ‘DIRECTOR’ (April 15th, 2013)

“DIRECTOR”, means the Director of Works and Utilities as appointed by Council and any other person delegated to assist him in carrying out his duties under this Bylaw.

“DOUBLE PARKING”, means the standing of a vehicle in the traveled portion of the highway, adjacent to a parked vehicle or parking space.

“HANDICAPPED ZONE”, means that portion of a highway designated by a traffic controlled device for the exclusive use of vehicles displaying an authorized handicapped identification label, either Provincial or Municipal.

“HIGHWAY”, included every highway within the meaning of the Highway Act and every road, street, lane or right-of-way designed or intended for or used by the general public for the passage of vehicles and every place or passageway owned or operated by the District of Summerland for the purpose of providing off-street parking or for the use of pedestrian or cycle traffic.

“LAND”, means land owned by the District of Summerland.

“LANE”, means land owned by the District of Summerland.

“MOTOR VEHICLE”, means a vehicle, not run upon rails, that is designed to be self propelled.

“MUNICIPALITY”, means the Corporation of the District of Summerland.

“OPERATOR”, means any person who drives, operates, propels, or is in physical control of a vehicle, and shall be deemed to include the person in whose name the vehicle is registered.

“OVER PARKED”, means the standing of a vehicle, whether occupied or not, contrary to a traffic control device.

“OWNER”, means as applied to a vehicle:

- a) The person who holds the legal title to the vehicle; or
- b) The person who is entitled to be and is in possession of the vehicle, or
- c) The person in whose name the vehicle is registered.

“PARADE”, means a procession or a group of pedestrians, (except member of the Armed Forces) numbering more than twenty, standing, marching, or walking on any street or sidewalk or any group of vehicles numbering ten or more (except funeral processions) standing or moving on any street.

“PARK”, when prohibited, means the stopping or standing of a vehicle, whether occupied or not, except when standing temporarily for the purpose of and while actually engaged in

loading or unloading.

“PARKING STALL”, means a portion of a highway or municipal parking lot indicated by a traffic control device as a parking place for one vehicle.

“PEACE OFFICER”, means any member fo the Royal Canadian Mounted Police and an person delegated to assist him in carrying out his duties under this Bylaw.

“PEDESTRIAN”, means a person, afoot, or an invalid or child in a wheelchair or carriage.

“PERMIT”, means a document in writing issued pursuant to this Bylaw.

“PERSON”, shall include any corporation partnership, form or association and for the purpose of the Bylaw shall include the registered owner of a motor vehicle.

“RESERVED PARKING”, means a parking stall reserved for a special use as indicated by a traffic control device.

“RESIDENTIAL AREA”, means any area zoned or currently used for residential land use in the Zoning Bylaw.

“RESIDENTIAL PARKING PERMIT”, means a permit which authorized the parking of a vehicle on a highway contrary to a traffic control device pursuant to the Bylaw.

“ROAD CLOSURE PERMIT”, means a permit which authorizes the closure of a highway or portion of a highway.

“SHOULDER”, means the portion of a highway between the traveled portion of an uncurbed highway and the ditch; or if there is no ditch, the area between the traveled portion of a highway and the boulevard.

“SIDEWALK”, means the portion of a highway intended exclusively for use by pedestrians.

“SIDEWALK CROSSING”, means the alteration portion of a sidewalk curb for passage of vehicular traffic.

“SKATEBOARD”, means a device having wheels that is propelled by human power and on which a person may ride.

“TRAFFIC NOTICE”, means a notice of traffic or parking violation.

“TRAFFIC CONTROL DEVICE”, means a sign, signal, line, meter, marking, space, barrier, or device, placed or erected by authority of the Council or person duly authorized by the Council to exercise such authority.

“WALKWAY – PEDESTRIAN”, means a public way designed and intended for use by pedestrians.

“WALKWAY – HIGHWAY”, means the portion of a highway between the traveled portion of the highway and the outside edge of the asphalt pavement, separated by a painted white solid line marking.

Bylaw 2013-006 deleted the definition: ‘Director’ in its entirety (April 15th, 2013)

3. **AUTHORITIES**

Bylaw 2013-006 replaced the following Section 3(A). (April 15th, 2013)

- (A) (1) The Director by himself or anyone under his direction is hereby authorized and empowered by order to:
 - (a) place, replace, or alter traffic control devices at any location he may determine to give effect to the provisions of the *Motor Vehicle Act* and this Bylaw;
 - (b) issue permits to perform work within a highway or on other property owned by the Municipality in the form attached as Schedule "B"; and
 - (c) issue permits to construct, use and maintain works within a highway or on other property owned by the Municipality in the form attached as Schedule "C".
- (B) (1) Peace Officers, or any person duly authorized, may:
 - (a) issue traffic notices for violations of this Bylaw;
 - (b) direct and regulate traffic in any manner deemed necessary and in doing so, may disregard any traffic control device.
 - (c) impound any vehicle, trailer, bicycle, skateboard, or cycle that is in violation of this Bylaw.
- (C) (1) The Fire Chief, or any person duly authorized, may:
 - (a) direct and regulate traffic in any manner deemed necessary and in doing so, may disregard any traffic control device;
 - (b) impound if necessary for the purpose of carrying out required duties, any vehicle or trailer;
 - (c) designate in any manner, a line or lines near the location of a fire or other emergency, beyond which the public shall not pass.
- (D) (1) The Bylaw Enforcement Officer, or any person duly authorized, may:
 - (a) issue traffic notices for violations of this Bylaw;
 - (b) place temporary "No Parking" signs and barricades or other applicable traffic control devices;
 - (c) issue parking permits for residential parking, special vehicle use, or other purposes which may be approved, from time to time;
 - (d) impound any vehicle, trailer, bicycle, skateboard, or cycle in violation of this Bylaw.

PART III – GENERAL TRAFFIC REGULATIONS

TRAFFIC CONTROL DEVICES

- 3.01 Notwithstanding any other provisions of this Bylaw, all traffic control devices installed in the Municipality shall be deemed to be duly authorized traffic control devices under this Bylaw.

CONFORMANCE

- 3.02 No person shall park, drive or operate a vehicle, bicycle or cycle in contravention of a traffic control device.

DAMAGE TO DEVICES

- 3.03 No person shall drive on or over a painted line or marking, nor remove or alter any traffic control device.

OBEY COMMANDS

3.04 Every person shall at all times comply with any lawful order, direction, signal or command made or given by a police officer, bylaw enforcement officer, fireman, flagman, ambulance attendant, or school patrol.

SPEED LIMITS HIGHWAY

3.05 No person shall operate a vehicle on a highway at a greater rate of speed than 50 km/h unless otherwise posted.

SPEED LIMITS LANEWAY

3.06 No person shall operate a vehicle on a laneway at a greater rate of speed than 20 km/h.

SPEED LIMITS CONSTRUCTION

3.07 No person shall operate a vehicle within a construction zone at a speed greater than 30 km/h unless otherwise posted.

DAMAGE TO SIDEWALKS

3.08 (1) No person operating a vehicle shall park, drive in, over or upon any walkway, sidewalk, curb or boulevard so as to encumber, obstruct or damage the same.

(2) When a sidewalk crossing is not available, crossing by a vehicle will be permitted upon adequate provision being made to protect the sidewalk or boulevard from damage by the use of suitable planking or other material, having due consideration for the size and weight of the vehicle and load.

BLOCKING INTERSECTION

3.09 No person operating a vehicle shall block an intersection or a marked crosswalk, notwithstanding a traffic control signal.

VEHICLE WHEELS

3.10 (1) No person shall, without a permit, operate on highway a vehicle having wheels, tires, or tracks constructed or equipped with projecting spikes, cleats, ribs, clamps, flanges, lugs, or other attachments or projections which extend beyond the tread or traction surfaces of the wheel.

(2) Nothing in this section is intended to prohibit the use of snow chains or studded tires during a period from October 1st in any calendar year to April 30th of the following year.

LOAD LIMITS

3.11 No person shall, without a permit issued under authority of this Bylaw and subject to the provisions of this Bylaw, operate on a highway a vehicle or combination of vehicles and trailers having a weight not conforming to the requirements of the Commercial Transport Act and Regulations thereto.

VEHICLE SIZE

- 3.12 No person shall, without a permit and subject to the provisions of the Bylaw, operate on a highway a vehicle or combination of vehicles and trailers having a size not conforming to the requirements of the Motor Vehicle Act and Commercial Transport Act and Regulations thereto.

TRAFFIC AND LOAD RESTRICTIONS

- 3.13 Where in the opinion of the Director, any highway is liable to damage through extra ordinary traffic thereon, he may regulate, limit or prohibit the use of the highway by any person operating or in charge of the extra ordinary traffic or owning the goods carried therein or the vehicles used therein.

OVERLOAD/OVERSIZE PERMITS

- 3.14 (1) Overload and/or oversize permits may be issued to persons transporting extra ordinary commodities.
- (2) Applications are processed through the Public Works Department.
- (3) Permit Cost – No Charge, except for any direct costs incurred due to utility relocation.

HIGHWAY CLOSURE

- 3.15 (1) Temporary Highway Closure Permit may be issued to persons requiring partial or complete closure of the highway for the purpose of construction on or adjacent to a highway.
- (2) Applications are processed through the Public Works Department.
- (3) Permit Cost – No Charge, except for any direct cost incurred due to Traffic Control.

CYCLES

- 3.16 (1) No person shall ride a cycle on a sidewalk.
- (2) Any person riding a cycle on a “Highway-Walkway” where designated as such be a Traffic Control device, shall yield right of way to all pedestrians.
- (3) No person shall leave a cycle on a highway or public place in a position which obstructs the free movement of pedestrian or vehicle traffic and where a cycle is found as stated herein, said cycle may be impounded forthwith.
- (4) Cycles impounded will be sold at Public Auction after ninety days unless claimed by the owner.

SKATEBOARDS

- 3.17 (1) No person shall ride a skateboard on a sidewalk.
- (2) No person shall ride a skateboard on the following highways: Victoria Road North and South; Giants Head Road; Prairie Valley Road; Solly Road; Main Street; Henry Avenue and Kelly Avenue.

- (3) Skateboards may be impounded forthwith if found contravening this Bylaw.
- (4) Skateboards impounded will be sold at Public Auction after ninety days unless the penalty imposed under Section VII or the Bylaw is paid.

PROOF

3.18 Proof of Payment for any parking or traffic notice shall be an official receipt obtainable at the Municipal Office.

RESERVED PARKING PERMIT

- 3.19 (1) Official "Reserved Parking Permits" may be issued by the Municipal Clerk to any person prepaying to the Municipality the respective monthly or annual parking fee.
- (2) The parking fee shall be the amount designated by Council as the applicable parking fee for the particular parking area for which the permit is issued.
- (3) The printed permit shall be displayed by the Permittee on the dashboard on the inside of the windshield of his vehicle. Shall the permit not be so displayed or should the permit have expired the vehicle shall be deemed to be parked without a permit.
- (4) The permit shall specify the parking area for which the permit is issued and shall be valid only for the parking area so designated and only for the period of time as provided for in the permit.

RESIDENTIAL PARKING PERMITS

- 3.20 (1) Residential parking permits may be issued annually on request to homeowners in the areas of the municipality where limited parking restrictions are in force.
- (2) One permit may be issued for every eight metres of highway frontage available to each residence or lot.
- (3) Permit Cost – No Charge

COURTESY PARKING PERMIT

- 3.21 (1) Courtesy Parking Permits may be issued to persons from out of town attending conventions, seminars, or other activities where large numbers of people are staying temporarily in the Municipality.
- (2) Application will be in writing and must be received at least one month before an event is to take place.
- (3) Permit Cost – No Charge.

EXEMPTIONS

- 3.22 (1) The operator of any of the following vehicles shall be exempt from the provision of Section 5.07 of this Bylaw:
 - (a) Vehicles identified by sign or insignia as belonging to the Municipality;

(b) Vehicles having attached to the windshield a permit issued under Section 3.19.

- (2) It shall be unlawful for any person to display on any vehicle any card, sticker or certificate purporting to provide for any exemption from the provisions of this Bylaw, unless such card, sticker or certificate has been duly authorized as set out in this part.

REMOVAL OF TRAFFIC NOTICES

3.23 No person, other than the owner or operator of a vehicle, shall remove from a vehicle any traffic notice issued under the authority of this Bylaw.

IMPOUNDMENT

3.24 (1) A Peace Officer finding a vehicle unlawfully occupying any portion of a highway or public place, may detain, remove, or impound such vehicles, and thereupon shall cause it to be taken to a place of storage.

- (2) All costs and charges for the removal, care or storage of a motor vehicle removed under the Bylaw shall be paid by the owner of the motor vehicle, and shall be a lien thereon in favour of the keeper of any repair shop, garage or storage place in which that motor vehicle is stored, and the same may be enforced by him in the manner provided by the Repairers Lien Act or the Warehouse Lien Act.

REGULATED

3.25 All highways and municipal parking lots, where parking is permitted or restricted are hereby designated as regular parking zones and traffic control devices may be placed from time to time to indicate such regulations or restrictions.

PART IV: PEDESTRIAN REGULATIONS

CROSSING

4.01 No pedestrian shall stand on a traveled portion of a highway while waiting to cross a highway.

ENTERING ROADWAY

4.02 No pedestrian shall leave the curb, or other place of safety and walk or run into the path of a vehicle that is so close that it is impractical for the driver to stop.

WALKING ON

4.03 No pedestrian shall walk on the traveled portion of a highway if a sidewalk, shoulder, traffic control device is available as a walking area.

CROSS WALKS

4.04 No pedestrian, crossing a highway where marked crosswalks exist, shall cross outside the limits of the markings.

WALKING ON

4.05 Every pedestrian crossing a highway at a point other than within a marked crosswalk or within

an unmarked crosswalk at an intersection shall give the right-of-way to all vehicles on the highway.

Bylaw 92-044, adopted July 27, 1992 added the following section:

OPEN LIQUOR

4.06 No pedestrian shall be in possession of open liquor on a highway including sidewalks or boulevards.

PART V: PARKING REGULATIONS

UNLAWFUL PARKING

- 5.01 (1) No person shall park a vehicle in any public place unless such person shall comply with all conditions of this Bylaw and other regulations posted by traffic control devices.
- (2) (a) Where a motor vehicle or trailer is left, without the consent of the occupier of private property on such private property in the District, the owner of a motor vehicle or trailer shall be deemed to have authorized and empowered the occupier to be his agent for the purpose of towing the motor vehicle or trailer to a place of storage and of storing it.
- (b) The agent has a lien against the motor vehicle or trailer for all reasonable advances made or charges incurred in connection with the towing and storing of the motor vehicle or trailer in the course of the agency.
- (c) The procedure respecting enforcement of the lien shall be governed by the "Warehouse Lien Act".

TIME LIMITS

5.02 Notwithstanding any other provisions of this part, no person shall park a vehicle on any highway for more than forty eight (48) hours continuously.

PARKING GAP

5.03 No person, where vehicles are parked parallel to the edge of the roadway, shall park a vehicle closer than one meter from any other parked vehicle.

LANE PARKING

- 5.04 (1) Whenever access can be had to any laneway, all deliveries or collection of goods to or from any commercial building shall be made therefrom.
- (2) No person shall park a vehicle in a laneway unless he is actively engaged in the loading or unloading of goods from a vehicle in which case parking will be permitted for a period of up to fifteen minutes.
- (3) No person shall park a vehicle in a laneway for the purpose of loading or unloading where a loading zone is provided on site.

PROHIBITED PARKING

- 5.05 (1) Except when necessary to avoid conflict with traffic or to comply with the law or the directions of a Peace Officer or traffic control device, no person shall stop, stand or park a vehicle:
- (a) on a sidewalk or boulevard;
 - (b) (i) in front of a public or private driveway in a residential district;
(ii) in front of nor within two metres of a public or private driveway in a commercial or industrial zone.
 - (c) within an intersection;
 - (d) within five metres of a fire hydrant measured from a point in the curb or edge of the highway which is closest to fire hydrant;
 - (e) on a crosswalk;
 - (f) within six metres of the approach side of a crosswalk;
 - (g) within six metres of the approach to any flashing beacon, stop sign, or traffic control signal located at the side of a highway;
 - (h) within six metres of an intersection;
 - (i) within fifteen metres of the nearest rail of a railway crossing;
 - (j) upon any highway for the purpose of:
 - (i) displaying a vehicle for sale;
 - (ii) advertising, greasing, painting, wrecking, storing, or repairing any vehicle, except where repairs are necessitated by an emergency;
 - (iii) displaying signs;
 - (iv) selling any product.
 - (k) alongside or opposite a highway excavation or obstruction when stopping, standing or parking obstructs traffic;
 - (l) upon a bridge or other elevated structure on a highway, except as permitted by a traffic control device;
 - (m) (i) on a highway in such a manner as to obstruct or impeded the normal flow of traffic;
(ii) or on a marked lane of a laned highway.
 - (n) in a place in contravention of a traffic control device that gives notice that stopping, standing, or parking is there prohibited or restricted;
 - (o) in such a manner as to obstruct the visibility of any standard traffic sign.
- (2) No person shall move a vehicle that is not lawfully under his control into any of the places mentioned in Subsection (1).

LIMITED PARKING AREAS

- 5.06 No person shall stop, stand, park or overpark a vehicle on a highway, for any length of time, in excess of the maximum period of parking time posted.

PARKING DISTANCE FROM CURB

- 5.07 (1) No person shall park a vehicle on a highway except on the right-hand side thereof, and the right-hand wheels shall not be further than 30cm from the face of the curb.
- (2) On any one-way highway, a person may park on the left-hand side of the highway, in the same direction s the normal flow of traffic, however the left wheels shall be not further than 30cm from the face of the curb.

DOUBLE PARKING

5.08 No person shall double park a vehicle on a highway.

TRAILER PARKING

5.09 No person shall park any trailer upon any highway unless in emergency situations or the trailer is attached to a vehicle by which it may be propelled or drawn.

LOADING ZONES

5.10 No person shall park a vehicle in a loading zone unless he is actively engaged in the loading or unloading of goods or passengers from a vehicle, and then the maximum duration of parking shall be ten (10) minutes.

HANDICAPPED

5.11 No person shall park a vehicle in a parking space designated for use by handicapped persons unless such vehicle displays a valid handicapped numbered parking permit.

RESIDENTIAL PARKING PERMIT

5.12 No person shall park a vehicle on the highway in the residential area contrary to a traffic control device unless such person has acquired an authorized residential parking permit, and such permit is displayed on the vehicle, and the vehicle is parked in accordance with the conditions of the permit.

WEIGHT RESTRICTIONS

5.13 Notwithstanding any other provisions of this Bylaw, no person shall park any vehicle having a gross vehicle weight exceeding 5,600 kg, or a length in excess of 7.5 metres on a local residential street within a residential area for a consecutive period longer than two hours.

PART VI: USE OF HIGHWAYS REGULATIONS

DRAINAGE

6.01 No person shall alter or stop the flow of water through any drain, sewer, ditch or culvert on any highway.

LITTERING

- 6.02 (1) No person shall operate on a highway, a vehicle or combination of vehicle and trailer unless it is so constructed, loaded or covered as to prevent any of its load from dropping, shifting, leaking or otherwise escaping therefrom.
- (2) Should any material, due to any cause whatsoever, fall from the vehicle, the operator shall forthwith take all reasonable precautions to safeguard traffic from the consequences thereof and shall remove such material from the spillage area.
- (3) No person shall place, throw, deposit or discard on any highway and rubbish, litter or waste material of any description

Bylaw 2013-006 replaced the following Sections 6.03 and 6.04 (April 15th, 2013)

CONSTRUCTION

- 6.03 No person shall undertake any work within a highway or other property owned by the Municipality:
- (a) unless authorized to do so by a permit issued by the Director pursuant to Section 3(A) of this Bylaw; or
 - (b) contrary to the provisions of a permit issued by the Director pursuant to 3(A) of this Bylaw.
- 6.04 Any person doing work on, in, over, or under any highway or other property owned by the Municipality shall provide and place appropriate barricades, flag persons, lights and other safety devices as required to protect the public, to the satisfaction of the Director.

IMPEDING TRAFFIC

- 6.05 No person shall cut, saw, break, split, place or pile firewood, lumber, blocks, stone, debris or other material or mix mortar or do any act upon any highway which impedes traffic or causes damage to same.

NOISE AND ADVERTISING

- 6.06 No person shall operate upon a vehicle any calliope, loudspeaker or other noise-making device upon the streets of the municipality for advertising or other purposes unless a permit has been applied for and granted by the Council.

TREES OVER HIGHWAYS

- 6.07 Every person being the owner or occupier of real property shall cause all trees, shrubs or other vegetation to be properly trimmed and cut back, so as to prevent physical obstruction and visibility impairment to pedestrian and vehicle traffic on the sidewalk or highway.

Bylaw 94-022, adopted June 27, 1994 rescinded Section 6.08, and replaced it with the following section:

STRUCTURES OVER HIGHWAY

- 6.08 (1) Except as otherwise provided by the Bylaw or by any other bylaw of the Municipality, no person shall excavate in, cause a nuisance on, encumber, encroach upon, obstruct, injure, foul or damage any portion of a highway or public place.
- (2) No person shall erect or place any sign, structure or other device overhanging a highway or public place unless the structure has a minimum clearance of 2.5 metres above any sidewalk or pedestrian walkway and 5.0 metres above any roadway traveled by motor vehicles.
- (3) No person shall erect, place, remove or alter any awning, eave or similar overhanging

over a highway or public place unless the person first enters into an agreement with the Municipality in the form of the agreement attached to this Bylaw as Schedule "A".

- (4) The Mayor and Clerk are authorized to execute and affix the corporate seal to every agreement authorized by the Bylaw.

PARADES

6.09 (1) Any person desiring to hold a parade shall at least twenty-one days prior to the event, unless authorized by the mayor or acting mayor, make application in writing to the Public Director, and in such application, furnish the following information:

- (a) the name and address of the applicant;
- (b) the nature and object of such parade;
- (c) the month, day and hours during which the parade will be held;
- (d) a description of the intended route of the parade and assembly areas;
- (e) a description of the composition of the parade.

FUNERAL PROCESSION

6.10 (1) The operator of a vehicle in the lead of a funeral procession approaching an intersection where a traffic control device exists, shall comply with the instruction of such device, and shall not enter the intersection until it is safe to do so.

- (2) Every person operating a vehicle in a funeral procession shall have the headlamps of such vehicle on for the duration of the procession.

PROPERTY ACCESS

6.11 No person shall alter an existing access to a property or construct a new access to a property without obtaining an access permit from the Public Director.

PART VII: PENALTIES

GENERAL PENALTIES

7.01 Every person who violates any of the provisions of this Bylaw for which a specific penalty has not otherwise been designated, shall be deemed to have committed an offence against this Bylaw and shall be liable to a fine not more than Two Thousand Dollars (\$2,000.00) for each offence.

PENALTY

7.02 (1) Any person guilty of an infraction of any section contained in Part V of this Bylaw shall be liable to a fine of not less than Ten Dollars (\$10.00).

- (2) Any person guilty of an infraction of Part III, Part IV, or Part VI of this Bylaw shall be liable to a fine of not less than Twenty Dollars (\$20.00).

7.03 In addition to any other penalty which may be incurred, anyone failing to comply with the provisions of Part VI, of this Bylaw within the time limited therefore, or within a reasonable time upon notice to that effect by the District, shall be subject to the District carrying out any

such work at the expense of this offender, and any charges or costs incurred by the District in this regard, shall be recoverable by it in any Court of competent jurisdiction.

DEFAULT

- 7.04 (1) The owner of a vehicle shall incur the penalties provided for any violation of this Bylaw with respect to any vehicle owned by him unless at the time of such violation the vehicle was in the possession of some person other than the owner without the owner's consent; but nothing in this section shall relieve the operator of a vehicle not being the owner, from incurring the penalties provided for such violation.
- (2) The onus of establishing that the vehicle was in the possession of some person other than the owner rests with the owner

SECTION VIII – REPEAL

8.01 District of Summerland Traffic Bylaw Number 2165 is hereby repealed.

READ A FIRST AND SECOND TIME, by the Municipal Council of the Corporation of Summerland this 13th day of February, 1989.

READ A THIRD TIME by the Municipal Council of the Corporation of the District of Summerland this 28th day of March, 1989.

RECEIVED THE APPROVAL of the Minister of Transportation and Highways this 19th day of May, 1989.

RECONSIDERED FINALLY PASSED AND ADOPTED by the Municipal Council of The Corporation of the District of Summerland this 12th day of June 1989.

'R. SHEWFELT'

'G. REDLICH'

CORPORATION OF THE DISTRICT OF SUMMERLAND

TRAFFIC NOTICE

YOU ARE HEREBY NOTIFIED THAT YOU ARE ALLEGED TO HAVE COMMITTEE A VIOLATION OF THE FOLLOWING PROVISIONS OF THE DISTRICT OF SUMMERLAND TRAFFIC BYLAW NO. 2165.

VEHICLE LICENCE NO. _____ B.C. OTHER _____

MAKE: _____

LOCATION _____

DATE OF ISSUE: _____, 20 _____ TIME _____ A.M. P.M.

NAME: _____ D.L. NO. _____

ADDRESS: _____ D.O.B. _____

- OVERTIME PARKING
- PARKED OVER 30 CM. FROM CURB
- PARKED IN 'NO PARKING ZONE'
- PARKED IN 'LOADING ZONE'
- PARKED LEFT WHEELS TO CURB
- PARKED ON, OR WITHIN 6 M OF CROSSWALK
- PARKED WITHIN 5 M. OF FIRE HYDRANT
- PARKED WITHIN 6 M. OF STOP SIGN
- FAIL TO DISPLAY VALID PARKING PERMIT
- PARK OUTSIDE MARKED AREA
- OCCUPYING MORE THAN ONE PARKING SPACE
- PARKED IN LANE
- PARKED IN FRONT OF PUBLIC OR PRIVATE DRIVEWAY

AMOUNT OF FINE - \$10.00

Note: If fine paid within 10 days hereof, penalty reduced to \$3.00

ISSUING OFFICER: _____

INSTRUCTIONS

PAYMENT OF THE FINE IN THIS MATTER MAY BE MADE IN PERSON, BY CHEQUE OR MONEY ORDER TO:
DISTRICT OF SUMMERLAND
BOX 159
SUMMERLAND, BC V0H 1Z0

VEHICLES FOUND IN VIOLATION OF ANY OF THE PROVISIONS OF THE DISTRICT OF SUMMERLAND TRAFFIC BYLAW NUMBER 2165 MAY BE REMOVED AND STORED AT THE OWNER'S EXPENSE.

INQUIRIES REGARDING THIS OFFENCE SHOULD BE MADE AT THE SUMMERLAND R.C.M.P. OFFICE ON ANY WEEKDAY (EXCEPT HOLIDAYS) BETWEEN HOURS OF 9:00 A.M. AND 4:30 P.M.

DO NOT DETACH

A CASH REGISTER IMPRESSION CONSTITUTES AN OFFICIAL RECEIPT FOR THE AMOUNT SHOWN. A DISHONOURED CHEQUE INVALIDATES THIS RECEIPT.

SCHEDULE "A"

BYLAW NUMBER 2386

ENCROACHMENT AGREEMENT

THIS AGREEMENT dated the _____ day of _____, 20__ .

BETWEEN:

DISTRICT OF SUMMERLAND
Municipal Office
13211 Henry Avenue
Box 159
Summerland, BC V0H 1Z0

(the "Municipality")

AND:

(NAME, INCLUDING INCORPORATION NUMBER IF COMPANY)

(ADDRESS)

(the "Owner")

WHEREAS:

A. The Owner is the registered owner of lands and a building having a municipal address of _____, Summerland, British Columbia and legally described as:

(the "Owner's Land")

B. The Owner has requested that the Municipality grant it permission to encroach upon certain land (the "Land") owned or in the possession of the Municipality, adjacent to the Land for the construction and maintenance of _____; (the "Works"), and

C. The Municipality agrees to grant the Owner's request subject to the terms and conditions of this Agreement.

NOW THEREFORE THIS AGREEMENT WITNESSETH, that in consideration of the premises and the covenants herein contained and other good and valuable consideration (the receipt and sufficiency of which are acknowledged by the parties), the parties hereby agree as follows:

Permission to Encroach

1. The Municipality grants to the Owner permission to encroach upon that portion of the Land shown outlined on the drawing attached as Schedule "A" (the "Encroachment Area") for the sole purpose of construction and maintenance of the Works to be constructed strictly in accordance with the plan attached as Schedule "B".

Payment

cc:

Bylaw Officer
Development Services
Original to Civic Address or Master District File

2. The Owner shall pay to the Municipality, yearly, the sum of _____ Dollars (Canadian Currency) (\$) _____ (the "Annual Payment"), to be paid on the date of execution of this Agreement by the Owner and on the same day of each succeeding year of this Agreement.

Deposit

3. As security for the due and proper performance by the Owner of all its promises in this Agreement and as security for the removal of the Works, the Owner has deposited with the Municipality the sum of \$ _____ (the "Deposit"), receipt and sufficiency of which is acknowledged by the Municipality.

Term

4. This Agreement is in effect on a year to year basis from the date of its execution and may be terminated at any time under Clause 9 of this Agreement.

Construction

5. The Owner shall at his own expense, construct the Works in a safe and workmanlike manner and the Owner shall promptly discharge any builders liens which may be filed against the title to the Lane and prior to commencing any construction, the Owner shall post at least two conspicuous notices, in compliance with Section 13 of the Builders Lien Act, the Municipality will not be responsible for any work or material supplied.
6. The Owner shall construct, install and maintain the Works in accordance with all applicable national, provincial legislation and regulations or municipal bylaws governing the construction or maintenance of the Works.

Maintenance

7. The Owner shall at all times and at its own expense keep and maintain the Works in good and sufficient repair to the reasonable satisfaction of the Municipality, and the Owner may make no structural alteration to the Works except in accordance with any prior written consent which may be given by the Municipality from time to time.
8. The Owner shall maintain the Works by removing snow and ice from the Works to ensure that it is safe. The Owner shall also be responsible for the clearing of any snow and ice which may accumulate on public access walkways or sidewalks as a result of the Works being situated on the Encroachment Area.

Termination

9. The Municipality may terminate the Owner's rights accruing under this Agreement, including the Owner's right to have the Works encroach upon the land, without cause upon giving 30 days' written notice to the Owner. If this notice is given by the Municipality, then the Municipality shall retain the right to proceed with the enforcement of any security or indemnity provided under this Agreement by the Owner to the Municipality.

Default

10. If the Owner violates any provision of this Agreement, the Municipality may deliver a notice to the Owner requiring the default be remedied within the time specified in the notice, and if the Owner should fail to remedy the default, the Municipality may terminate this Agreement, for cause, without any further notice to the Owner.

Removal and Restoration

11. Upon the Municipality having given notice withdrawing the rights granted to the Owner under this Agreement, the Owner shall within 30 days following receipt of such notice, remove the Works and restore the Lands to its original condition to the satisfaction of the Municipality.

Right to Repair

12. In the event the Owner fails to keep the Works in good repair to the reasonable satisfaction of the Municipality or in the

event the Owner fails to remove the Works or restore the Land to the satisfaction of the Municipality as may be required by this Agreement, the Municipality may in its sole discretion cause such repairs to be made as it deems reasonable and necessary, or may remove the Works and restore the Land and the Municipality may use the Deposit for this purpose and if the Deposit is not sufficient, the Owner shall pay the deficiency to the Municipality within 10 days. Nothing in this Agreement places the Municipality under any duty or obligation to undertake any repair, removal or restoration.

Compensation

13. The Owner shall not be entitled to any compensation for any consequences of the termination of this Agreement, howsoever terminated, and without limitation, he shall not be entitled to business losses, loss of profit, relocation costs or any other consequential losses.

Indemnity

14. The Owner releases and discharges the Municipality, its employees, officers, servants, agents and elected officials from all claims and demands which the Owner may have and the Owner indemnifies and saves harmless the Municipality, its employees, officers, servants, agents and elected officials from and against all manner of actions, causes of action, claims, debts, suits, losses, costs (including actual legal fees), demands and harm of whatsoever kind which the Municipality, its employees, officers, servants, agents and elected officials may at any time suffer, including that arising from or in any way related to death, bodily injury, property loss, property damage or any other loss or damage, by reason of:
- (a) the permission to encroach granted by this agreement; or
 - (b) the construction, maintenance, existence, use or removal of the Works; or
 - (c) any act, omission, default or negligence of the Owner.

Insurance

15. The Owner shall maintain a policy of comprehensive general liability insurance providing coverage for all potential liability under this Agreement in the amount of not less than \$1,000,000.00 per occurrence and the Municipality shall at all times be named as a co-insured in the insurance policy, and a copy of the current insurance policy shall be provided annually to the Municipality by the Owner.

Inspection

16. The Municipality's officers, employees, agents and contractors shall have the right at any time to enter upon the Encroachment area of the Owner's Land for the purpose of inspecting or testing the Works and ascertaining whether the Owner is complying with his obligations under this Agreement.

Emergency

17. The Owner grants to the Municipality the right at any time, in the case of an emergency or apprehended emergency, without compensation to the Owner, and without notice, to remove or destroy or alter the Works.

Public Access

18. The Municipality may determine the rights and entitlement of members of the public to enter onto and use the Encroachment Area.

Public Works

19. The Municipality may undertake any public work on the Encroachment Area and on the Lands, notwithstanding that the work may have undesirable consequences to the Owner.

Taxes

20. The Owner shall be responsible for the payment of all charges, taxes, rates, assessments and other costs arising out of this Agreement and the Works.

Compliance With Laws

21. The granting of this Agreement by the Municipality does not relieve the Owner from the obligation to comply with all laws, bylaws, rules, regulations and orders which apply to the Encroachment Area, the Works or his operations.

Waiver

22. Waiver of any default by either party shall not be deemed to be a waiver of any subsequent default.

Notice

23. Whenever it is required or desired that either party shall deliver a notice to the other, delivery shall be deemed to have occurred when mailed by prepaid registered mail, on the date received or on the 6th day after receipt of mailing by any Canada Post Office, whichever is the earlier, so long as the notice mailed to the other party at the address shown in this Agreement or to whatever address the parties from time to time advise and provided that notice to the Municipality is directed to the attention of the Clerk.

References

24. Every reference to the Owner is deemed to include his heirs, executors, successors, and permitted assigns and every reference to the Municipality is deemed to include its elected officials, officers, employees, agents or any other person authorized to act on behalf of the Municipality, notwithstanding any rule or law or equity to the contrary.

Assignment

25. This Agreement may not be assigned by the Owner without the prior written consent of the Municipality and prior to transferring the Owner's Land, the Owner shall, as a condition of the transfer, cause the purchaser to take an assignment of the Owner's rights and obligations under this Agreement.

Governing Law

26. This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia.

Time of Essence

27. Time is of the essence of this Agreement.

Interpretation

28. Wherever the singular or masculine or neuter is used in this Agreement, the same shall be construed as meaning the plural, the feminine or body corporate where the context or the parties thereto so require.

Severance

29. If any portion of this Agreement is held invalid by a court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder of the Agreement.

Further Assurances

30. The parties shall execute and do all such further deeds, acts, things, and assurances as may be reasonably required to carry out the intent of this Agreement.

Joint and Several Liability

31. In the case of more than one Owner, the said grants, covenants, conditions, provisos, agreements, rights, powers, privileges and liabilities of the Owner shall be construed and held to be several as well as joint.

The Corporate Seal of the DISTRICT OF SUMMERLAND was hereunto affixed in the Presence of:

Mayor

Clerk

The Corporate Seal of the Owner was Hereunto affixed in the presence of:

Authorized Signatory

Authorized Signatory

SIGNED, SEALED AND DELIVERED In the presence of:

Witness

Address

Occupation

Owner's Signature

SCHEDULE "B" – PERMIT TO PERFORM WORK WITHIN A HIGHWAY OR MUNICIPAL PROPERTY

Summerland Policy Manual

Policy No. 400.13
Schedule B to Bylaw 2386

Permit No. _____

**PERMIT TO PERFORM WORK
WITHIN A HIGHWAY OR MUNICIPAL PROPERTY**

I / We, (the 'Permittee') _____
of _____

hereby make application to the Corporation of the District of Summerland (the 'District') to perform work within a Highway or Municipal property.

The address and legal description of the land to which this permit pertains to (the 'Lands') is:

Street Address: _____

or Legal Description: Lot(s) _____ Block _____ DL _____ Plan _____

Description of Work to be performed within a Highway or Municipal Property: _____
_____ (the "Permitted Work")

Reason For Work: _____

The following documentation has been submitted to the District in support of this application for a Permit to Perform Work Within a Highway or Municipal Property, or a current copy of the documentation is on file at the office of Engineering and Public Works, or the Director has deemed the documentation is not applicable to this application:

- 1. File Number _____
- 2. Construction Security \$ _____ yes not applicable, Director's Initials _____
- 3. Letter of Authorization by Owner yes on file not applicable
- 4. Engineered Drawings yes on file not applicable
- 5. Photos of Site Location yes on file not applicable
- 6. Construction Schedule yes on file not applicable
- 7. Traffic Management Plan yes on file not applicable
- 8. Liability Insurance yes on file
- 9. Business Licence yes on file
- 10. Company Safety Program yes on file
or Summerland's Contractor Safety Requirements yes on file
- 11. WorkSafe BC Account No. _____ yes on file
- 12. Contractor's Notice of Project No. _____
- 13. Commencement date: _____
- 14. Completion date: _____

Schedule 'A'
**Conditions of a Permit to Perform Work
within a Highway or Municipal Property**

The permission and approval granted herein is subject, at all times, to the following conditions:

1) **Construction Requirements**

The Permitted Works must be carried out to the satisfaction of the Director and performed in accordance with the provisions, specifications, and requirements of:

- the approved engineered drawings submitted in support of an application for the subdivision or the development of Lands,
- the Municipality's Subdivision and Development Servicing Bylaw No. 99 – 004,
- the Master Municipal Construction Documents,
- the Ministry of Transportation "*Traffic Control Manual for Work on Roadways*", and
- WorkSafe BC.

Where there is a conflict between the provisions, specifications, and requirements of these documents, the most stringent provision, specification, and requirement shall apply.

2) **Security**

Prior to the issuance of a Permit To Perform Works Within a Highway or Municipal Property, the Permittee shall deposit with the Director an irrevocable letter of credit or bank draft equal to 50% of the cost of completing the Permitted Works, as estimated by the Permittee's engineer and as approved by the Director. The letter of credit shall be drawn on a chartered bank in Canada, be for a term of not less than eighteen months, and be in a format approved by the Director.

The Director may waive or reduce the amount of the security if, in his sole discretion, he deems that the Permitted Works are so limited in scope that waiving or reducing the security will not compromise the Municipality's ability to ensure the Permitted Works are completed by the Completion Date and in accordance with the conditions set out in this permit.

Upon completion of the Permitted Works, to the satisfaction of the Director, the balance of the security, if any, will be returned to the Permittee minus any costs incurred by the Municipality. If the security is insufficient to cover the Municipality's costs, the Permittee agrees that they will pay such deficiency in funds to the Municipality immediately upon receipt of an invoice.

3) **Completion Date**

The Permittee shall not commence the Permitted Works before the Commencement Date, shall proceed with due diligence, and shall complete the Permitted Works on or before the Completion Date.

The Commencement Date and the Completion Date shall be established based on the construction schedule submitted by the Permittee and as approved by the Director. The Director reserves the right to require a construction schedule requiring that the Permitted Works be completed in identifiable stages.

The Permittee may request an extension to the Completion Date if, within ten days of an incident, the Permittee brings the incident to the attention of the Director and provides the Director with supporting information as to why the incident would justify an extension to the Completion Date. The Director will review the information and, in his sole discretion, determine if the extension is justified.

4) **Default**

Failure by the permit holder to repair damage and/or fulfill such obligations as are set out in the permit within the specified time shall enable the Municipality to carry out such repairs or fulfill such obligations that have not been met under the terms and conditions of the permit, and to deduct the cost thereof from the security provided under Section 2, and should there be an insufficiency of security, then the Permittee shall pay the balance forthwith,

upon delivery of an invoice, of that amount required by the Municipality to carry out the Permitted Works or fulfill the obligation.

5) **Cancel Permit**

The Director may, upon five days written notice to the Permittee, cancel this permit if the Director deems that the Permittee is failing to comply with the conditions of this permit.

6) **Permittee**

The Permittee:

- a) must give the Director **at least five days advance notice before commencing any work;**
- b) is responsible for
 - a. obtaining and paying for any and all permits that may be required in association with the Permitted Works,
 - b. all costs related, either directly or indirectly, to the Permitted Works or the cost of restoring any areas that may have been damaged or disturbed by the Permittee's performing the Permitted Works,
 - c. all costs related, either directly or indirectly, to the repair of any damage caused to the Municipality's road, water, drainage, or sewer infrastructure by the performance of the Permitted Works;
- c) must locate all above and below ground utilities prior to commencing the Permitted Works and must notify all agencies who may have infrastructure that may be affected by the Permitted Works;
- d) agrees to indemnify and save harmless the Municipality, its Council, officers, agents, and employees from and against all actions, proceedings, costs, damages, expenses, claims and demands whatsoever and by whomever brought or made against the Municipality or its Council, officers, agents and employees any incident that may occur or damage that may be done to any person or property whatsoever caused directly or indirectly by the Permittee's performing the Permitted Works.

7) **General Requirement**

- a) This Permit is valid only for the specific Permitted Works stated herein. Any alterations, additions, or amendments to the Permitted Works must be covered by a separate Permit to Construct, Use, and Maintain Work within a Highway or Municipal Property.
- b) This Permit may be cancelled at the discretion of the Director if the Highway or Municipality Property is required for use by the Municipality.
- c) The Director shall, at all times, have free and uninterrupted access to inspect all or parts of the Permitted Works to ascertain the Permittee's compliance with the conditions of this permit.
- d) The Director may require the Permittee to provide a detailed Traffic Management Plan that will outline how the contractor will manage work zones and traffic control to ensure safety and convenience to the travelling public. This Traffic Management Plan shall be prepared by a Professional Engineer and shall be reviewed and approved by the Director prior to the commencement of the works.
- e) Any damage to the Municipality's infrastructure must be repaired in an expedient manner to the satisfaction of the Director. Damage to the Municipality's water, sewer, drainage, or electrical infrastructure shall be repaired by the Municipality and the Municipality may recover all costs from the security.
- f) At least one lane of alternating traffic must be kept open to traffic at all times unless the Permittee has been issued an approved Temporary Road Closure Permit from the Municipality.

- g) All pipeline and ducting road crossing installations are to be by drilling or by jacking in such a manner as to afford minimum grade settlement. Water jetting is not permitted. Open excavations will only be permitted where the Director deems that the excavation will not have a detrimental effect to the Municipality road or public use.
 - h) The maximum amount of open excavation that may be kept open at any time is fifty metres.
 - i) All excavations, materials, or other obstructions are to be fenced, lit, or otherwise marked and every possible precaution must be made to ensure the safety of the public.
 - j) Dust, mud, soil, debris, or other foreign material tracked onto existing municipal roads must be controlled and removed at least once a day, or as otherwise directed by the Director. If the Permittee fails or refuses to control or remove the dust, mud, soil, debris, or other foreign material within 4 hours of notification by the Director, the Municipality may perform the task and may recover all costs from the security.
 - k) Survey pins or survey monuments that are removed, damaged, or disrupted during the course of constructing or installing the Permitted Works, shall be replaced by a certified BC Land Surveyor at the expense of the Permittee.
 - l) Upon completion of the Permitted Works, all areas that may have been damaged or disturbed must be restored to their original condition.
 - m) The Director may require the Permittee to install and maintain cold mix asphalt in areas where the Permittee has removed asphalt and inclement weather is preventing the Permittee from installing hot mix asphalt. If the Permittee fails or refuses to install or maintain the cold mix asphalt within 48 hours of notification by the Director, the Municipality may install and maintain cold mix asphalt and may recover all costs from the security. The cold mix shall be replaced with hot mix as soon as possible, weather permitting.
 - n) All surplus material must be removed from the Highway or Municipal Property.
- 8) **Warranty**
- The Permittee warrants the Permitted Works for a period of eighteen (18) months after substantial performance.

Adopted: April 15th, 2013

SCHEDULE "C" – PERMIT TO CONSTRUCT, USE, AND MAINTAIN WORK WITHIN A HIGHWAY OR MUNICIPAL PROPERTY

Summerland Policy Manual

Policy No. 400.2
(Schedule C to Bylaw 2386)

Permit No. _____ **PERMIT TO CONSTRUCT, USE, AND MAINTAIN WORK WITHIN A HIGHWAY OR MUNICIPAL PROPERTY**

I / We, (the 'Permittee') _____
of _____

hereby make application to the Corporation of the District of Summerland (the 'District') to construct, use, and maintain work within a Highway or Municipal Property. Complete a. or b. below:

a. The address and legal description of the land to which this permit pertains to (the 'Lands') is:

Street Address: _____

Legal Description: Lot _____ Block _____ DL _____ Plan _____

Description of Work to be constructed, used, or maintained within a Highway or Municipal Property: _____
_____ (the "Permitted Work")

b. If the work is being constructed by the Ministry of Transportation and Infrastructure, Telus, Shaw, Fortis, or some other public utility provider, provide a general description of where the work is located: (i.e. a range of addresses or geodetic coordinates)

Reason for and description of the Work: _____

The following documentation has been submitted to the District in support of this application for a Permit to Construct, Use, and Maintain Work within a Highway or Municipal Property, or a current copy of the documentation is on file at the office of Engineering and Public Works, or the Director has deemed the documentation is not applicable to this application:

1. DOS File Number _____
2. Construction Security \$ _____ yes not applicable, Director's Initials _____
3. Letter of Authorization by Owner yes on file not applicable
4. Engineered Drawings No..... yes on file not applicable
5. Photos of Site Location yes on file not applicable
6. Construction Schedule yes on file not applicable
7. Traffic Management Plan yes on file not applicable
8. Liability Insurance yes on file
9. Business Licence yes on file
10. Company Safety Program yes on file
or Summerland's Contractor Safety Requirements yes on file

By signing below, the Permittee acknowledges and agrees that they have read, understand, and will comply with the conditions set out in the attached Schedule 'A' – Conditions of a Permit to Construct, Use, and Maintain Work within a Highway or Municipal Property.

Permittee's Name (print): _____ Tel: _____

Permittee's Signature: _____ Date: _____

Director's Approval: _____ Date: _____

Schedule 'A'
**Conditions of a Permit to Construct, Use, and Maintain Work
within a Highway or Municipal Property**

The permission and approval granted herein is subject, at all times, to the following conditions:

9) **Construction Requirements**

The Permitted Works must be carried out to the satisfaction of the Director and performed in accordance with the provisions, specifications, and requirements of:

- the approved engineered drawings submitted in support of the application to construct, use, and maintain works within a District right of way or District land,
- the Municipality's Subdivision and Development Servicing Bylaw No. 99 – 004,
- the Master Municipal Construction Documents,
- the Ministry of Transportation "*Traffic Control Manual for Work on Roadways*", and
- WorkSafe BC.

Where there is a conflict between the provisions, specifications, and requirements of these documents, the most stringent provision, specification, and requirement shall apply.

10) **Security**

This section does not apply to applications made by the Ministry of Transportation and Infrastructure, Telus, Shaw, Fortis, or any other public utility provider.

Prior to the issuance of a Permit To Construct, Use, and Maintain Works within a Highway or Municipal Property, the Permittee shall deposit with the Director an irrevocable letter of credit or bank draft, equal to 50% of the cost of completing the Permitted Works, as estimated by the Permittee's engineer or qualified agent and as approved by the Director. The letter of credit shall be drawn on a chartered bank in Canada, be for a term of not less than eighteen months, and be in a format approved by the Director.

The Director may waive or reduce the amount of the security if, in his sole discretion, he deems that the Permitted Works are so limited in scope that waiving or reducing the security will not compromise the Municipality's ability to ensure the Permitted Works are completed by the Completion Date and in accordance with the conditions set out in this permit.

Upon completion of the Permitted Works, to the satisfaction of the Director, the balance of the security, if any, will be returned to the Permittee minus any costs incurred by the Municipality. If the security is insufficient to cover the Municipality's costs, the Permittee agrees that they will pay such deficiency in funds to the Municipality immediately upon receipt of an invoice.

11) **Completion Date**

The Permittee shall not commence the Permitted Works before the Commencement Date, shall proceed with due diligence, and shall complete the Permitted Works on or before the Completion Date.

The Commencement Date and the Completion Date shall be established based on the construction schedule submitted by the Permittee and as approved by the Director. The Director reserves the right to require a construction schedule requiring that the Permitted Works be completed in identifiable stages.

The Permittee may request an extension to the Completion Date if, within ten days of an incident, the Permittee brings the incident to the attention of the Director and provides the Director with supporting information as to why the incident would justify an extension to the Completion Date. The Director will review the information and, in his sole discretion, determine if the extension is justified.

12) **Default**

Failure by the permit holder to repair damage and/or fulfill such obligations as are set out in the permit within the specified time shall enable the Municipality to carry out such repairs or fulfill such obligations that have not been met under the terms and conditions of the permit, and to deduct the cost thereof from the security provided under Section 2, and should there be an insufficiency of security, then the Permittee shall pay the balance forthwith, upon delivery of an invoice, of that amount required by the Municipality to carry out the Permitted Works or fulfill the obligation.

13) **Cancel Permit**

The Director may, upon five days written notice to the Permittee, cancel this permit if the Director deems that the Permittee is failing to comply with the conditions of this permit.

14) **Permittee**

The Permittee:

- e) must give the Director **at least five days advance notice before commencing any work;**
- f) is responsible for
 - a. obtaining and paying for any and all permits that may be required in association with the Permitted Works,
 - b. all costs related, either directly or indirectly, to the Permitted Works or the cost of restoring any areas that may have been damaged or disturbed by the Permittee's performing the Permitted Works,
 - c. all costs related, either directly or indirectly, to the repair of any damage caused to the Municipality's road, water, drainage, sewer, electrical, or other infrastructure by the performance of the Permitted Works.
- g) must locate all above and below ground utilities prior to commencing the Permitted Works and must notify all agencies who may have infrastructure that may be affected by the Permitted Works.
- h) agrees to indemnify and save harmless the Municipality, its Council, officers, agents, and employees from and against all actions, proceedings, costs, damages, expenses, claims and demands whatsoever and by whomever brought or made against the Municipality or its Council, officers, agents and employees any incident that may occur or damage that may be done to any person or property whatsoever caused directly or indirectly by the Permittee's performing the Permitted Works.

15) **General Requirement**

- o) This Permit is valid only for the specific Permitted Works stated herein. Any alterations, additions, or amendments to the Permitted Works must be covered by a separate Permit to Construct, Use, and Maintain Work within a Highway or Municipal Property.
- p) The permission granted herein is:
 - a. only granted for such times as the Highway or Municipal Property, within which the Work is located, is under the jurisdiction of the Municipality. This permission is not to be construed as being granted for all time, and shall not be deemed to vest in the Permittee any right, title, or interest whatsoever in or to the Highway or Municipal Property within which the Permitted Work is located. Should the Highway or Municipal Property at any time be included within a highway duly classified as an arterial or primary highway pursuant to Section 45 of the Transportation Act, this Permit shall become null and void.
 - b. granted without prejudice to the provisions of the Community Charter or other Acts governing municipal lands and public infrastructure or their use by the public.

- c. in force only during such time as the Permitted Work is used and maintained by the Permittee, to the entire satisfaction of the Director.
- q) Upon receipt of written notice by the Municipality of its intention to construct, extend, alter, or improve any public infrastructure that will affect the Permitted Work installed under this Permit, the Permittee, or his successor in law, shall within ninety days remove, move, or alter the Permitted Work at his own expense to accommodate the infrastructure proposed to be constructed, extended, altered, or improved by the Municipality. The Municipality is not responsible to replace the Permitted Work constructed by the Permittee under this Permit.

If the Permittee fails or refuses to remove, move, or alter the Permitted Work within ninety days of notification by the Director, the Municipality may remove, move, or alter the Permitted Work and shall recover all costs by deducting their costs from the security or by invoicing the owner of the Permitted Work.
- r) This Permit may be cancelled at the discretion of the Director if the Highway or Municipality Property is required for use by the Municipality.
- s) The Director shall, at all times, have free and uninterrupted access to inspect all or parts of the Permitted Works to ascertain the Permittee's compliance with the conditions of this permit.
- t) The Director may require the Permittee to provide a detailed Traffic Management Plan that will outline how the contractor will manage work zones and traffic control to ensure safety and convenience to the travelling public. This Traffic Management Plan shall be prepared by a Professional Engineer and shall be reviewed and approved by the Director prior to the commencement of the works.
- u) Any damage to the Municipality's infrastructure must be repaired in an expedient manner to the satisfaction of the Director. Damage to the Municipality's water, sewer, drainage, or electrical infrastructure shall be repaired by the Municipality and the Municipality may recover all costs from the security.
- v) At least one lane of alternating traffic must be kept open to traffic at all times unless the Permittee has been issued an approved Temporary Road Closure Permit from the Municipality.
- w) All pipeline and ducting road crossing installations are to be by drilling or by jacking in such a manner as to afford minimum grade settlement. Water jetting is not permitted. Open excavations will only be permitted where the Director deems that the excavation will not have a detrimental effect to the Municipality road or public use.
- x) The maximum amount of open excavation that may be kept open at any time is fifty metres.
- y) All excavations, materials, or other obstructions are to be fenced, lit, or otherwise marked and every possible precaution must be made to ensure the safety of the public.
- z) Dust, mud, soil, debris, or other foreign material tracked onto existing municipal roads must be controlled and removed at least once a day, or as otherwise directed by the Director. If the Permittee fails or refuses to control or remove the dust, mud, soil, debris, or other foreign material within 4 hours of notification by the Director, the Municipality may perform the task and may recover all costs from the security.
- aa) Survey pins or survey monuments that are removed, damaged, or disrupted during the course of constructing or installing the Permitted Works, shall be replaced by a certified BC Land Surveyor at the expense of the Permittee.
- bb) Upon completion of the Permitted Works, all areas that may have been damaged or disturbed must be restored to their original condition.
- cc) The Director may require the Permittee to install and maintain cold mix asphalt in areas where the Permittee has removed asphalt and inclement weather is preventing the Permittee from installing hot mix asphalt. If the Permittee fails or refuses to install or maintain the cold mix asphalt within 48 hours of notification by the

Director, the Municipality may install and maintain cold mix asphalt and may recover all costs from the security. The cold mix shall be replaced with hot mix as soon as possible, weather permitting.

dd) All surplus material must be removed from the Highway or Municipal Property.

16) **Warranty**

The Permittee warrants the Permitted Works for a period of eighteen (18) months after substantial performance.

Adopted: April 15th, 2013

LIST OF SCHEDULES

Schedule "A"	Encroachment Agreement
Schedule "B"	Permit to Perform Work Within a Highway or Municipal Property (Policy 400.13)
Schedule "C"	Permit to Construct, Use and Maintain Work Within a Highway or Municipal Property (Policy 400.2)