

**DISTRICT OF BARRIERE
BY-LAW NO. 0022**

**A BY-LAW RESPECTING CLOSURE OF AND CONSTRUCTION ON ROAD
RIGHTS-OF-WAY WITHIN THE DISTRICT OF BARRIERE**

WHEREAS under the provision of the Community Charter S.B.C. 2003, Chapter 26, Sections 36, 39 and 46, the Council may by by-law regulate all uses of, or involving a highway or portion of it or public place, and, except under the terms and conditions imposed by the Council, a person shall not excavate in, cause a nuisance on, encumber, obstruct, injure, foul or damage any portion of a highway or other public place.

AND WHEREAS under the provisions of the Community Charter S.B.C. 2003, Chapter 26, Section 39, the Council may regulate the construction and maintenance of boulevards by or on behalf of the owners of land fronting on them; planting of trees, shrubs, bushes or hedges adjacent to a highway; access to and from a highway for adjacent lands, including the location and extent of access; and to require the owner of real property to remove snow, ice and rubbish from sidewalks or footpaths bordering his/her real property, or from the roof or other part of a structure adjacent to a highway.

NOW THEREFORE, the Municipal Council of the District of Barriere in open meeting assembled enacts as follows:

DIVISION ONE – PREAMBLE

100 This by-law may be cited as the “District of Barriere Road Right-of-Way Usage By-law No. 0022, 2008.”

101 Metric Units

Metric units are used for all measurements in this by-law. The approximate equivalent of those units in commonly used units of Canada measure (feet, inches, etc.) are shown in brackets for convenience only and do not form part of this by-law.

102 Severability

If any provision of this by-law is found invalid, such provision is severable and shall not affect the validity of the by-law as a whole.

DIVISION TWO - PURPOSES

200 The purpose of this by-law is to regulate the use of any highway within the municipal boundaries of the District of Barriere. Without limiting the generality of the following, each section of this by-law shall be interpreted as to:

- a) Regulate construction by any person or company within the highway right-of-way.

- b) Control by permit the scheduling, application and nature of all temporary closures of highway or portion thereof.
- c) Impose rents, rates or tolls on temporary closure or authorized use of District road right-of-way or portions thereof.
- d) Regulate location and extent of highway access.
- e) Regulate, require or prohibit erection of temporary or permanent signs within the road right-of-way.
- f) Regulate the placement or stockpiling of any excavated material, equipment or structure whether temporary or permanent within a road right-of-way or public place.
- g) Prohibit damage to and to regulate the cutting down or removal of trees, shrubs, plants, bushes, hedges, fences, signs or any other thing erected, placed, planted or maintained within the road right-of-way.
- h) Require the owner of real property to remove ice, snow and rubbish from sidewalks or footpaths bordering said property, or from the roof or other part of a structure adjacent to a highway.

DIVISION THREE - DEFINITIONS

All words or phrases shall have their normal or common meaning except where this is changed, modified or expanded, as set forth in this division.

- 300 “Applicant” means a person who is applying for a permit under the provisions of this by-law, as the owner or certified agent of the owner.
- 301 “Arterial Street” means a highway classified as arterial by the Official Street Classification Map of the District, as amended from time to time.
- 302 “Boulevard” means that portion of a highway between the curb line or the lateral line of a roadway and the adjoining property or roadway, and includes curbs, sidewalks, ditches and cycle paths.
- 303 “By-law Enforcement Officer” means that person, whether officially titled as such or not, appointed by the District or any person delegated to assist him in enforcing the municipal laws and regulation set out in this by-law.
- 304 “Chattel” means a piece of personal property except real estate, freehold, and the things which are parcel of it.
- 305 “Chief Administrative Officer” means that person appointed from time to time by Council of the District of Barriere in accordance with the provision of the duties and responsibilities by-law as amended from time to time and includes a person appointed to assist him.

- 306 “Collector Street” means a highway classified as collector by the Official Street Classification Map of the District as amended from time to time.
- 307 “Construction Inspector” means that person appointed by the Chief Administrative Officer of the District to inspect all works or portions thereof, authorized by permit in accordance with the provisions of this by-law.
- 308 “Council” means the Council of the District.
- 309 “Curb” means the raised structural element which may be installed at the outside edge of a highway, primarily for a gutter.
- 310 “Cycle Path” means the area between the curb and adjacent property improved for the use of cyclists or any other improved area set aside for cycle use.
- 311 “Director of Parks” means the person appointed, from time to time, by the Council of the District of Barriere in accordance with the provisions of the Duties and Responsibilities By-law as amended from time to time.
- 312 “District” means the District of Barriere
- 313 “Dwelling, Single Family” means a detached building used from residential purposes and consisting of one (1) dwelling.
- 314 “Dwelling, Two Family” means a detached building divided into two (2) dwellings each of which is used for residential purposes.
- 315 “Footpath” means the area between the curb and the adjacent property line or any other area set aside for pedestrian use only.
- 316 “Highway” means all public streets, roads, ways, trails, lanes, bridge trestles, ferry landings, and approaches and any other public way or right-of-way designated or intended for or used by the general public for the passage of vehicles.
- 317 “Lane” means a service road along the back of residential or commercial property not exceeding 8m (26.25 feet) in width.
- 318 “Local Street” means a highway classified as local by the Official Street Classification map of the District as amended from time to time.
- 319 “Official Street Classification Map” means the Street Classification Map adopted by Council and any amendments thereto.
- 320 “Owner” means the person registered in the books of the Land Title Office as being the owner of the land or of any charge on the land.
- 321 “Parking Lane” means the portion of a roadway designated as available for vehicle parking.

- 322 “Permit” means a document in writing issued pursuant to this by-law.
- 323 “Person” means any individual, firm, company, association, society, corporation, group or municipality.
- 324 “Road Right-of-Way” means that portion legally dedicated as highway between adjacent property boundaries, and shall include the boulevard, roadway, sidewalk and cycle path.
- 325 “Roadway” means the portion of a highway that is improved, designed or ordinarily used for vehicular traffic but does not include the boulevard.
- 326 “Sidewalk” means the area between the curb and the adjacent property line improved for the use of pedestrians or any other improved area set aside for pedestrian use only.
- 327 “Sidewalk Crossing” means the altered portion of a sidewalk or the curb for the passage of vehicular traffic.
- 328 “Sign” means a lettered board or other display used to identify or advertise a place of business, event, product, sale and/or hazard.
- 329 “Utilities” means water, sanitary sewers, storm sewers, hydro, telephone, natural gas, cablevision lines and any other buried conduit or overhead cable.

DIVISION FOUR – PROHIBITIONS

- 400 No person shall construct, excavate, place material or objects, erect a sign, impede or divert traffic on or cause damage to any highway in the District without first obtaining written approval for said work from the Chief Administrative Officer.
- 401 No person shall gain access to any highway and cause damage to, cut down, remove or erect any trees, shrubs, plants, bushes, hedges, fences or any other things erected on any highway in the District without first obtaining written approval for said work from the District Chief Administrative Officer.
- 402 No owner of real estate shall allow the accumulation of snow, ice or rubbish on sidewalks or footpaths adjacent to said real estate, or on the roof or other structure adjacent to the highway.
- 403 No person shall amend any approved plan or plans without first having obtained approval in writing from the Chief Administrative Officer.
- 404 Every person shall comply with any order or notice issued pursuant to this by-law.

DIVISION FIVE – PERMIT APPLICATION FOR HIGHWAY EXCAVATION

500 Permit Application

Application for a Road Right-of-Way Usage Permit shall be made in writing on the form provided for that purpose giving a legal description and municipal address of the property fronting the road right-of-way and all other information as may be required in Section 501.

501 Plans

The applicant shall provide, in triplicate, plans and/or specifications, site plans, construction details and any other information, deemed necessary by the Chief Administrative Officer, of the proposed work and upon approval shall complete all works in accordance with the information submitted.

502 Permit Fee

Any permit issued under the provisions of this Division shall be subject to the payment of a permit processing fee of \$25.00 and the applicable usage toll as outlined in Schedule "A" attached to and forming part of this by-law.

503 As-Built Drawings

The applicant shall, upon request, provide a plan, drawn to suitable scale, showing all works installed and shall indicate the location, size, description and date of installation.

DIVISION SIX – ISSUANCE OF PERMIT

600 Standard Conditions

Where a permit has been issued in accordance with the provision of this by-law, the following standard conditions shall apply:

- a) All construction and maintenance of said works shall be carried out to the satisfaction of the Chief Administrative Officer.
- b) Prior to commencing work on any highway the Construction Inspector must be notified in writing of the intention to do so at least three working days in advance.
- c) The applicant shall, at all times, accept full responsibility for any liability to any person or property whatsoever caused directly or indirectly by their work or duties, and shall save harmless and keep indemnified the District from all claims and demands whatsoever in respect of the works and duties.
- d) Permission herein granted is not to be construed as being granted for all time, and shall not be deemed to vest in perpetuity any rights, title or interest whatsoever in or two the land upon which the works are being performed.

- e) All works approved under the provisions of this by-law, carried out in, on or through any District land, with the exception of a sign or the works of a private utility company, shall upon completion to the satisfaction of the Chief Administrative Officer, become the property of the District and shall not be modified further without obtaining a further permit to do so.
- f) Any permit issued under the provisions of this by-law will be valid only for the work specified and any variations or additions thereto must be covered by a separate permit.
- g) This permit may be cancelled at the discretion of the Chief Administrative Officer without recourse, should the Applicant fail to comply with any or all of the conditions and regulations that may be imposed.
- h) In granting any permit, the Chief Administrative Officer may attach such other conditions thereto as may be necessary to prevent damage to public or private property, or to prevent the operation from being conducted in a manner which may be hazardous to any person or in a manner likely to create a nuisance.

DIVISION SEVEN – GENERAL REGULATIONS FOR HIGHWAY EXCAVATION

700 Excavations

Unless otherwise approved:

- a) No excavations in any street shall extend beyond the road centre line before being backfilled and the surface temporarily restored.
- b) No more than 60 m measured longitudinally shall be opened at any one time.
- c) All trench and tunnel excavations shall conform to the safety requirements of the Workers' Compensation Board of British Columbia.
- d) Saw cutting of bituminous pavement surface ahead of excavation shall be required in order to confine pavement damage to the limits of the trench. All edges shall be trimmed to a vertical face and aligned parallel to the centre line of the trench.
- e) Unstable pavement shall be removed over cave outs and over breaks, and the sub-grade shall be treated as a portion of the main trench.
- f) Sections of sidewalk requiring removal shall be removed to the nearest contraction joint.

- g) All material excavated from trenches or tunnels and stored adjacent to the excavation shall be piled and maintained in such a manner as to not endanger those working in the trench, pedestrians or users of the street. In order to expedite the flow of traffic or to abate a dust or dirt nuisance, the applicant may be required to provide toe boards or bins for material storage, and where limited space is available, shall haul the excavated material away to a storage or disposal site.

701 Accommodation of Traffic

- a) Where any excavation is made across any public street, alley or sidewalk, the Chief Administrative Officer may require that one safe crossing shall be maintained at all times for vehicles and/or pedestrians.
- b) The applicant shall take appropriate measure to ensure that during the performance of any work, traffic conditions as near normal as practical are maintained so as to cause as little inconvenience as possible to the occupants of adjacent lands and to the general public. The applicant may be required to give notification to various public agencies and to the general public.
- c) Warning signs or other means of traffic control shall be suitably placed in advance of the construction zone to alert traffic of any detour, channelization or closure. Where deemed necessary by the Chief Administrative Officer, the applicant shall provide flagmen to assist traffic through the construction area.
- d) Where the normal traffic flow cannot be maintained from sunset to sunrise on any day, barricades or barriers displaying electric markers or flashers shall be placed to indicate a hazard to traffic. Such markers or flashers shall emit light of a sufficient intensity and frequency to be visible at a clear distance of 200 m.
- e) Access to private driveways, lanes and loading areas shall be provided at all times, except when actual construction is in conflict with such areas. A minimum 24 hours prior to closure of any private driveway or loading area, the person so affected shall be notified by the applicant in order that vehicles may be removed if necessary.

702 Protection of Existing Facilities

- a) The applicant shall in no way interfere with existing utilities without the written consent of the Chief Administrative Officer and the owner of the utility. Any relocation work shall be done by the owner of the utility at the applicant's expense.
- b) Existing utilities should be exposed sufficiently prior to construction in order to minimize damage and permit their relocation, if required.

- c) The applicant shall, at all times, support and protect all pipes, conduits, poles, wires or other apparatus which may be in any way affected by excavation work. Should any existing utilities be damaged in any manner, they shall be repaired by the owner and the cost of such repairs shall be borne by the applicant.
- d) Where work performed by the applicant interferes with the established drainage system of any street, provision shall be made by the applicant to install alternate drainage protection during the construction period.
- e) Monuments set for the purpose of locating or preserving the lines of any street or property subdivision, or precise survey reference point, or a permanent survey benchmark shall not be removed without the written consent of the Chief Administrative Officer. Removal of such monuments shall be upon the condition that the applicant shall pay all costs incurred to properly replace the monuments.
- f) Wherever it is necessary to trench through any boulevard, planted median or other landscaped area, all construction work shall be done in a manner so as to leave the area in its original condition. Under no circumstances shall the applicant remove, even temporarily, any trees, shrubs or other plant material without first obtaining the written consent of the Chief Administrative Officer.

703 Cleanup and Restoration

- a) The Applicant is responsible for concrete works at the applicant's expense.
- b) As work progresses, all streets shall be cleaned thoroughly of all rubbish, excess earth, rock and other debris, and immediately upon completion of said work, the applicant shall, at his own expense, remove all unused materials from the area.
- c) Where weather conditions prohibit permanent restoration of excavations, the applicant shall provide temporary resurfacing of approximately 50 mm (2 inches) of bituminous material, compacted to the level of the adjoining paved surface, and shall maintain such temporary works in a safe condition for pedestrian and vehicular traffic until permanent restoration is completed.
- d) The applicant shall ensure that permanent restoration of all sub-base, base, concrete and asphalt materials meet the District of Barriere specifications and standards for new construction, as outlined in the District of Barriere Design manual and shall provide compaction test results and other related information to document same.

- e) The applicant must notify the Construction Inspector a minimum 48 hours prior to the commencement of any and all phases of permanent restoration work. The Construction Inspector is authorized to carry out all necessary inspections of the work and the Chief Administrative Officer is authorized to issue a Certificate of Completion, provided the said work has been completed in accordance with District specifications.

DIVISION EIGHT – SIGNS IN ROAD RIGHT-OF-WAY

800 Signs

All signs erected within any road right-of-way shall be subject to the terms and conditions of the District of Barriere Sign By-law and amendments thereto, in effect from time to time. A separate permit must be obtained as required in the Sign By-law.

801 Approval

Where Council has authorized the right to install or remove a sign within the road right-of-way, a permit approved by the Chief Administrative Officer must be obtained prior to commencing work on said sign.

802 Requirements for Permit

Any application to permit the construction, erection or removal of a sign within the road right-of-way must be accompanied by a site plan, construction details and any other information deemed relevant by the Chief Administrative Officer.

803 Permit Fee

Any permit issued under the provision of the Division shall be subject to the payment by the permittee of a permit processing fee of \$10.00.

804 Special Conditions

Any sign erected subsequent to the enactment of this by-law whether approved by permit or not, may be removed by the District without obligation to replace said sign in the following cases:

- a) In the event of the installation of any utilities, sidewalk and any other service facilities deemed necessary by the Chief Administrative Officer.
- b) In the event that the area occupied by the sign is required for the implementation of any current or future construction plans.
- c) In the event that the sign is located in a manner which impedes proper traffic sight distance or jeopardizes the safety of vehicle and pedestrian traffic.
- d) In the event that a sign has been installed without a valid permit.

- e) In the event that a sign has been installed subsequent to the expiration of the permit approval period.

DIVISION NINE – HIGHWAY ACCESS

900 Approval

Where an access request for any highway within the municipal boundaries has been made, a permit approved by the Chief Administrative Officer must be first obtained prior to the construction of said access.

901 Requirements for Permit

A permit application must be completed and submitted along with a site plan outlining the extent and location of the proposed access, and any other information deemed necessary by the Chief Administrative Officer.

DIVISION TEN – BOULEVARDS AND DISTRICT OWNED TREES

- 1000 The owner of property contiguous to any boulevard shall improve said boulevard to a standard consistent with the improvements made on the owner's property.
- 1001 The owner of property contiguous to any improved boulevard is required to water the shrubs, shade or ornamental trees and water, cut and maintain the grass in a manner consistent with Section 1000 herein.
- 1002 Every owner of land contiguous to a boulevard shall maintain and keep the said boulevard in a tidy and sightly condition.
- 1003 Whenever any person is in default of doing any matter or thing required to be done under the provisions of this by-law, the District, through its officers, employees or agents may do that which is required to be done, at the expense of a person in default and may recover the expense of the work done, with interest at the rate applicable thereto, including all costs, in the same manner as it may recover municipal taxes.
- 1004 No person shall damage any grass, shrub, tree, asphalt, concrete, gravel or curb in or upon any boulevard.
- 1005 No person shall throw, place or deposit, or allow any accumulation of dirt, debris, mess, materials or rubbish on any boulevard.
- 1006 No person shall place any materials on any boulevard or right of way that could harm or cause damage to motor vehicles, bicycles or pedestrians.
- 1007 The District, by or through its officers, employees or agents, may give notice to the owner or occupier of land, real property or premises on which there is an accumulation of dirt, debris, rocks, rubbish or other material that cause a hazard to the safety of motor vehicles, bicycles or pedestrians on the boulevard requiring

that the accumulation be removed forthwith or within a specified period of time and in default of such removal, the District by its workman or authorized agent may carry out such removal at the expense of the owner or occupier and may recover the expense of said removal, with interest at the rate applicable thereto, and costs in the same manner as municipal taxes.

- 1008 All pruning and pesticide application to District-owned trees on boulevards may be completed by District crews upon the approval of the Chief Administrative Officer. In general, this work will take place on a first come first served basis, unless a safety hazard exists or the life of the tree is determined to be in jeopardy.

DIVISION ELEVEN – REMOVAL OF SNOW, ICE OR RUBBISH FROM SIDEWALKS WITHIN THE ROAD RIGHT-OF-WAY

- 1100 Every owner or occupier of real property, excluding single family dwellings, shall remove any accumulation of snow or ice upon any sidewalk abutting the land or premises so owned or occupied, not later than 10:00 hours of any day, except Sunday.
- 1101 Every owner or occupier of real property shall remove any dirt, debris, or rubbish from any sidewalk abutting land or the premises so owned or occupied.
- 1102 Every owner or occupier of real property, excluding single family dwellings, shall remove any accumulation of snow, ice or rubbish from the roof or other part of a structure adjacent to a highway within the time limit set forth in Section 1100 of this by-law.
- 1103 No owner or occupier of any single family dwelling shall permit any accumulation of snow, ice or rubbish on a sidewalk adjacent to any property owned or occupied by the person to such an extent that the snow, ice or rubbish impedes pedestrian traffic.
- 1104 The District, by or through its officers, employees or agents, may give notice to the owner or occupier of land, real property or premises, requiring that the accumulation be removed forthwith or within a specified period of time and in default of such removal, the District by its workmen or authorized agent may carry out such removal at the expense of the owner or occupier and may recover the expense of said removal, with interest at the rate applicable thereto, and costs in the same manner as municipal taxes.

DIVISION TWELVE – COMMERCIAL USES WITHIN THE ROAD RIGHT-OF-WAY

- 1200 Approval

A permit approved by the Chief Administrative Officer for the right to provide, install or place chairs, tables, benches or any other objects within the road right-of-way for the purpose of extending a business outdoors must first be obtained prior to the placement of said objects.

1201 Requirements for Permit

The permit application required for placement of any objects cited in Section 1200 must be completed and submitted for approval along with a site plan, clearly indicating the extent and location of proposed work, construction details and any other information deemed relevant by the Chief Administrative Officer.

Tables and chairs to be used by customers for food or beverage consumption. The plans must indicate a barricade enclosed on all three sides with an entrance on the street side of the barricade. The plan must also provide the height of the barricade to be no less than 0.75 m and no greater than 1.0 m. No barricade is to be attached to the sidewalk or have any sharp or pointed pickets that could cause injury.

1202 Permit Fee

Any permit issued under the provisions of this Division will be valid from January 1 through December 31 upon the payment of a permit fee as follows:

- | | | |
|----|--------------------------------------|------|
| a) | sandwich board | \$20 |
| b) | tables and chairs, or display tables | \$40 |
| c) | both a) and b) above | \$50 |

The permittee may only have a sandwich board or tables and chairs or display tables on the road allowance at any one time. No permit will be issued for tables and chairs unless approved barricades are in place as per Section 1201.

1203 Special Conditions

Whether approved by permit or not, if, in the opinion of the Chief Administrative Officer, placement of any objects described in this Division obstructs, hinders or restricts pedestrian use of the sidewalk or walkway, removal of said objects by the owner shall be required upon receiving written notification from the Chief Administrative Officer to do so.

DIVISION THIRTEEN – PENALTIES

1300 Removal or Chattel or Obstruction

Any chattel or obstruction unlawfully occupying any portion of a highway under the provisions of this by-law may be removed, detained or impounded by any person authorized to do so by the Chief Administrative Officer.

1301 Recovery of Chattel or Obstruction

Any chattel or obstruction removed, detained or impounded may be recovered by the owner upon representing proof of ownership and upon payment of all cost incurred to remove, detain or impound any such chattel or obstruction, and any penalty which may be imposed under the provision of this by-law.

1302 Public Auction

- a) Any chattel or obstruction not claimed by its owner within thirty (30) days of it's impounding or detention may be sold at a public auction, and such auction shall be advertised at least once in a daily newspaper circulated in the District.
- b) The proceeds of such auction sale shall be applied firstly to the costs of the sale, secondly to the fees, costs or expenses of the District, and thirdly, the balance, if any, shall be held by the District for six (6) months from the date of sale for the owner. If unclaimed during that period of time, such sum shall be placed into the General Revenue of the District.
- c) Should any chattel or obstruction not be purchased at the public auction, such chattel or obstruction shall be disposed of in any manner the District sees fit.

1303 Penalties

- a) Every person who violates any provision of this by-law or who suffers or permits any act or thing to be done in contravention or in violation of any of the provisions of this by-law, who neglects to do or refrains from doing anything required to be done by any of the provisions of this by-law, or who does any act which violates any of the provisions of this by-law is guilty of an offence against this by-law and liable to the penalties hereby imposed. Each day that the violation continues to exist shall constitute a separate offence.
- b) Every person who commits an offence against this by-law is liable to a fine and penalty of not more than Two Thousand Dollars (\$2,000) and not less than Twenty Five Dollars (\$25) for each offence, and in default of payment thereof, forthwith or within such time as a presiding Provincial Court Judge or Justice of the Peace shall direct, the fine imposed shall be recoverable under the provisions of the Offence Act, R.S.B.C. 1979, Chapter 305 and all amendments thereto.

SCHEDULE "A"

Road Usage Fees

Approval and inspection of Private Utility Company Installations \$125

Temporary Road Closure Permits \$25

Temporary Lane Closures

Road Classification	Unit of Measurement	Duration	Charge
1.1 Arterial Road	travel or parking lane	Per day	\$15
1.2 Collector Road	travel lane	Per day	\$10
1.3 Collector Road	parking lane	Per day	\$5
1.4 Local Road	travel or parking lane	Per day	\$5
1.5 Easement	full width	Per day	\$5
1.6 Lane	full width	Per day	\$5

READ A FIRST TIME the 20th day of October, 2008

READ A SECOND TIME the 20th day of October, 2008

READ A THIRD TIME the 20th day of October, 2008

ADOPTED this 3rd day of November, 2008

Original Signed by Mike Fennell
Mike Fennell, Mayor

Original Signed by Wayne Vollrath
Wayne Vollrath, CAO