

“TOWN OF SMITHERS
HIGHWAY BYLAW NO. 846, 1988”
AND CONSOLIDATED AMENDMENTS

LIST OF AMENDMENTS TO BYLAW NO. 846, 1988	
<u>AMENDING BYLAWS</u>	<u>DATE ADOPTED</u>
BYLAW NO. 849	October, 1988
BYLAW NO. 862	January, 1989
BYLAW NO. 960	September, 1990

Amending
bylaw

**Being a Bylaw to Regulate Highways in the Town of
Smithers**

The Municipal Council of the Town of Smithers in open meeting assembled, enacts as follows:

1. TITLE

1.1 This Bylaw may be cited as the “Town of Smithers Highway Bylaw, No. 846, 1988”

2. DEFINITIONS

2.1 In this Bylaw:

“boulevard” means the area between the curb lines or the lateral lines of a roadway and the adjacent property line, and on a highway with a central median or divider strip, includes the central portion thereof;

“Council” means the Municipal Council of the Town of Smithers;

TOWN OF SMITHERS HIGHWAY BYLAW NO. 846, 1988
AND CONSOLIDATED AMENDMENTS

‘2’

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“construction” means the original construction of a new highway and re-construction;

“crosswalk” means a portion of a roadway indicated for pedestrian crossing by signs or by lines or other markings on the surface;

“Engineer” means the Director of Engineering and Works of the Town of Smithers;

“highway” includes a public street, road, trail, lane, bridge, trestle, ferry landing or approach, viaduct and any other way open to public use, but does not include a private right-of-way on private property;

“highway use permit” means the permit provided for in Section 5 of this bylaw, in the form set out in Schedule “B” to this bylaw;

“maintenance” means the work, subsequent to the construction of a highway, of preserving and keeping it in repair, including making, cleaning and keeping open ditches, gutters, drains, and watercourses, and repair of retaining walls, cribs, river protection works and other works necessary to the use of the highway by the traffic for which it is required;

“occupier” means a person in physical possession of land;

“roadway” means the portion of a highway that is improved, designed or ordinarily used for vehicular traffic;

“sidewalk” means the area of a highway improved for the use of pedestrians between the curb lines or lateral lines of a roadway and the adjacent property lines.

3. GENERAL CONDITIONS

3.1 A permit for the use of any highway by an organization shall not be issued unless an application has first been approved by resolution of Council.

862

3.2 Applications for use of a highway shall be made on the

TOWN OF SMITHERS HIGHWAY BYLAW NO. 846, 1988
AND CONSOLIDATED AMENDMENTS

'3'

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~~application form attached hereto as schedule A and shall be accompanied by the required fee of \$5.00. This fee may be waived by Council resolution from time to time.~~

- 3.3 Upon approval by resolution of Council where required, the Engineer shall issue a highway use permit attached hereto as schedule B to this bylaw.
- 3.4 This Bylaw applies to all highways in the Town of Smithers except that Section 4, 5, 6 and 7 do not apply to highways designated arterial highways pursuant to the *Highway Act*.
- 3.5 The Town, its officers, employees, contractors and agents may carry out the works and matters set out in Section 4 of this bylaw for public purposes without a permit.

4. USES REQUIRING A HIGHWAY USE PERMIT

- 4.1 Except as authorized by a highway use permit issued by the Engineer, no person shall:
 1. place, replace, install or remove poles, towers, structures, wires, pipes, rails, pipelines, conduits or tunnels on, in, over, under or along a highway;
 2. dig up, break up or remove any part of a highway or cut down or remove trees or timber growing on a highway, or excavate in or under a highway;
 3. change the level of a highway in any manner whatsoever, or stop or impede the flow of water through any ditch, drain, sewer or culvert on or through a highway;
 4. place, construct or maintain mechanical devices, buildings, signs or any other structure or thing on a highway;
 5. construct or maintain a ditch, sewer or drain, the effluent from which causes damage, fouling, nuisance or injury to any portion of a highway;

TOWN OF SMITHERS HIGHWAY BYLAW NO. 846, 1988
AND CONSOLIDATED AMENDMENTS

‘4’

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6. ride, drive, lead, move or propel any animal or vehicle over or across a boulevard, including any curb, sidewalk or ditch unless such has been constructed or improved to form a suitable crossing;
 7. construct a boulevard crossing, including a curb, ditch or sidewalk crossing;
 8. construct or maintain a boulevard on any highway;
 9. plant any trees, shrubs, or bushes upon a highway; and
 10. no organization shall use any highway for any parade, gathering, or special event.

5. CONDIITONS OF ENGINEER’S PERMISSION

- 5.1 The Engineer may issue a highway use permit to allow any of those things otherwise prohibited by Section 4 of this Bylaw subject to this Bylaw and any restrictions set out in the permit.
- 5.2 As a prerequisite to the issuance of a highway use permit the Engineer may require the applicant to provide satisfactory plans of the work to be undertaken and when such are supplied and approved by the Engineer and the necessary permit issued, the work shall conform in every way to the approved plans and this Bylaw.
- 5.3 As a condition of issuance of a highway use permit each applicant for a permit shall release, indemnify and save harmless the Town from and against all claims, demands, losses, damages and lien claims of every kind arising out of or in any way connected with the work or the issuance of the permit, except to the extend that such claims, demands, losses, damages or lien claims result from the fault or negligence of the Town or its employees.

6. TEMPORARY CLOSURE OF HIGHWAY

TOWN OF SMITHERS HIGHWAY BYLAW NO. 846, 1988
AND CONSOLIDATED AMENDMENTS

‘5’

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6.1 The Engineer is hereby authorized and empowered, at his discretion, to temporarily close a highway or any part thereof to traffic, and to control traffic thereon, during the time work is in progress.

7. BOULEVARD CROSSINGS

7.1 The means of access to and from every highway for every parcel of land abutting thereon, shall be provided by means of a boulevard crossing constructed in accordance with the specifications contained in Schedule “C” attached hereto.

8. OFFENCES

8.1 The following acts and omissions in respect of a highway are unlawful and constitute offenses against this bylaw:

1. throwing, depositing or causing to be deposited or to flow upon a highway any noxious or offensive substance, or any bottle, glass container, discarded material or refuse;
2. failure on the part of a person who has removed a wrecked or damaged vehicle to remove any glass or other debris left at the scene of an accident;
3. failure to mark an excavation or obstruction on or adjacent to a highway with warning signs and lights and to sufficiently fence or barricade the excavation or obstruction;
4. placement or permitting the placement of any goods or chattels of any nature on a highway without a valid permit under this bylaw;
5. failure of an owner or occupier of property adjacent to a highway to remove such parts of trees, shrubs, or landscape screens on the property which extend over the highway at a height of less than two point seventy-five (2.75) metres above the highway;

TOWN OF SMITHERS HIGHWAY BYLAW NO. 846, 1988
AND CONSOLIDATED AMENDMENTS

'6'

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6. failure of an owner or occupier of property to display in such a manner so as to be visible from the street and in figures not less than seven (7) centimeters in height, the street number assigned to such building or structure under the Town's street numbering system;
 7. causing or permitting any earth, rocks, stones, logs, stumps, or other things to fall, crumble, slide or accumulate from any property on to a highway;
 8. except for other than authorized maintenance purposes, causing or permitting any vehicle to deposit, throw, spill or track any earth, soil, gravel, silt, clay, peat or any other substance upon a highway;
 9. causing willful damage to:
 - a) a boulevard;
 - b) trees, shrubs, plants, bushes and hedges on or adjacent to any highway;
 - c) a fence on or adjacent to any highway;
 - d) anything erected or maintained on or adjacent to a highway for the purpose of lighting the highway;
 - e) any street marker or traffic control sign, signal or other device placed on any highway for the guidance or control of traffic;
 10. placing signs of any nature in any manner on a highway or upon any erected highway signs, Town street signs or Town information signs, including traffic control devices and signals, without a permit under this bylaw;
 11. marking or defacing in any manner a highway or structure thereon;

TOWN OF SMITHERS HIGHWAY BYLAW NO. 846, 1988
AND CONSOLIDATED AMENDMENTS

'7'

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12. causing or permitting any trees, shrubs, bushes or hedges to grow taller than one point two (1.2) metres adjacent to any highway which obstruct visibility within a triangle measured along the property lines for a distance of six (6) metres in each direction from the intersection of every highway;
 13. constructing or maintaining any fence, wall or other structure taller than one point two (1.2) metres adjacent to any highway which obstructs visibility within a triangle measured along the property lines for a distance of six (6) metres in each direction from the intersection of every highway.

9. PENALTY

- 9.1 Every person who violates any of the provisions of this bylaw or who permits any act or thing to be done in contravention or in violation of any of the provisions of this Bylaw, or who neglects or fails to do anything required to be done by any of the provisions of this Bylaw is guilty of an offense punishable on summary conviction and shall be liable to a fine of not more than Two Thousand Dollars (\$2,000.00) or to imprisonment for not more than six (6) months, or to both, the penalties being enforced and the fines and costs being recoverable upon summary conviction in the manner provided by the *Offense Act*.

10 SEVERABILITY

- 10.1 If any section, subsection, sentence, clause or phrase of this Bylaw is for any reason held to be invalid by the decision of any 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.

11 REPEAL

- 11.1 "Town of Smithers Highway Bylaw No. 765, 1986" is hereby repealed.

TOWN OF SMITHERS HIGHWAY BYLAW NO. 846, 1988
AND CONSOLIDATED AMENDMENTS
'8'

READ A FIRST TIME THIS 9TH DAY OF AUGUST, 1988.

READ A SECOND TIME THIS 9TH DAY OF AUGUST, 1988.

READ A THIRD TIME THIS 9TH DAY OF AUGUST, 1988.

RECONSIDERED AND FINALLY PASSED AND ADOPTED BY THE
MUNICIPAL COUNCIL OF THE TOWN OF SMITHERS THIS 13TH DAY
OF SEPTEMBER, 1988.

S E A L

Brian J. Northup, Mayor

Geoff Pearce, Clerk

GFP/sgm 88.07.03

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TOWN OF SMITHERS HIGHWAY BYLAW NO. 846, 1988
AND CONSOLIDATED AMENDMENTS
'9'

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SCHEDULE "A"
APPLICATION FOR USE OF A HIGHWAY

I/We _____ hereby apply for (check one):

() Use of a highway to undertake the following works:

() Use of a highway or highways for the purpose of (parade, etc.):

862 ~~Attached with this application form is the required fee of \$5.00.~~

Date Applicant's signature

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Reviewed by administration:

Date Signature

Reviewed by Council required: _____
Yes No

Reviewed by Council: _____
Date

Resolution: To approve: _____ To not approve: _____

Permit Issued: _____
Date By

TOWN OF SMITHERS HIGHWAY BYLAW NO. 846, 1988
AND CONSOLIDATED AMENDMENTS
'10'

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SCHEDULE "B"
HIGHWAY USE PERMIT

PERMIT NO. _____ FOLIO NO. _____

APPLICANT'S NAME: _____

APPLICANT'S ADDRESS: _____

Permission pursuant to Section 4 of "Town of Smithers Highway Bylaw, No. 846, 1988" is hereby granted to the above named to undertake: _____

(the "Works")

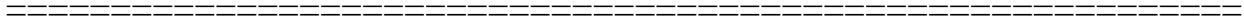
and such works are hereby approved insofar as they relate to the use of a secondary highway or part thereof requiring the permission of the Engineer in accordance with the "Town of Smithers Highway Bylaw, No. 846, 1988".

The said approval and permission to construct, use and maintain the said works, is, however, at all times subject to the provisions of the Bylaw and to the conditions that:

1. any required plans and specifications have been approved by and deposited with the Engineer;
2. the construction and maintenance of the said works shall be carried out to the satisfaction of the Engineer;
3. before closing up any highway or interfering with any public works, notice in writing of intention to do so shall be given to the Engineer not less than seven (7) clear days before any work is begun;

TOWN OF SMITHERS HIGHWAY BYLAW NO. 846, 1988
AND CONSOLIDATED AMENDMENTS

‘11’



4. the Engineer and any person appointed by him for the purpose of inspecting the said works, shall have free and uninterrupted access to all parts of the works at all time;
5. the construction of the said works shall be commenced on or before _____ and shall be proceeded with due diligence, to the satisfaction of the Engineer, and shall be completed on or before _____;
6. the permission hereby granted to construct, use and maintain the said works is subject to all provisions of and without prejudice to “Town of Smithers Highway Bylaw, No. 846, 1988”;
7. this permission shall be effective only during such time as the said works are used and maintained by the applicant to the entire satisfaction of the Engineer and shall be subject to cancellation without notice if the applicant shall fail to observe and comply with all terms and conditions thereof;
8. this permit shall be valid only for the specific works and for that period of time stated herein;
9. the Town will not be responsible for grade changes affecting boulevard crossings and accesses caused by the construction, reconstruction or repair of any Town Highway;
10. while reasonable care will be taken by the Town not to damage any private works while carrying out the construction or maintenance of any public works in any highway, the Town will not be responsible for any damage to such private works, except to the extent that such damage results from the willful act or neglect of the Town or its employees.

This permit shall be effective on _____ and shall expire on _____.

I hereby agree to all the terms of “Town of Smithers Highway Bylaw, No. 846, 1988” and this permit. I agree to release, indemnify and save harmless the Town of Smithers from and against all claims, demands, losses, damages and lien claims of every kind arising out of or in any way connected with the work or the issuance of

TOWN OF SMITHERS HIGHWAY BYLAW NO. 846, 1988
AND CONSOLIDATED AMENDMENTS
'12'

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this permit, except to the extent that such claims, demands, losses, damages or lien claims result from the fault or negligence of the Town or its employees.

(Applicant's Signature)

Witness:

c/s

Where a deposit has been made in accordance with this section, upon satisfactory compliance with the permit within the time specified therein, the deposit and any interest earned thereon will be refunded to the applicant.

ISSUED BY THE ENGINEER THIS _____ DAY OF _____, 19_____.

Engineer

862 ~~Application fee (5.00) Paid, Receipt No. _____~~

Security Deposit (\$ _____) Received, Receipt No. _____

TOWN OF SMITHERS HIGHWAY BYLAW NO. 846, 1988
AND CONSOLIDATED AMENDMENTS
'13'

SCHEDULE "C"

REGULATIONS FOR THE
LOCATION OF BOULEVARD CROSSINGS

A. CONVENIENT MOVEMENT OF VEHICLES

A.1 Crossings shall be laid out such that vehicles which will be using the crossing will be able to do so without crossing over the adjacent sidewalk and that movement is not only possible, but sufficiently convenient that drivers can be expected to stay within the crossing.

B. CLEARANCE FROM ABOVE GROUND UTILITIES, STREET FURNITURE ETC.

B.1 Crossings must be one (1) metre clear of poles, hydrants, boulevard trees, traffic signs, street furniture, and other fixtures.

B.2 Clearances are measured to the edge of the crossing and to the nearest point of the utility, tree or other fixture.

B.3 If required, fixtures may be moved or removed to give clearance, subject to approval of the Engineer and at the expense of the applicant.

C. SURFACE UTILITIES

C.1 Valve covers, meter boxes and manholes, etc. may remain within crossings but must be flush with the surface.

C.2 Monuments may be lowered by a B.C.L.S., at the applicant's expense.

C.3 Bench marks may be lowered or moved by Town surveyors, at the applicant's expense.

C.4 In the event that surface utilities remain in the crossing, any adjustment or strengthening which is required by the Engineer will be at the applicant's expense.

D. CATCH BASINS

D.1 Gutter type catch basins may remain in crossings where there is a curb or where there will be an asphalt swale.

TOWN OF SMITHERS HIGHWAY BYLAW NO. 846, 1988
AND CONSOLIDATED AMENDMENTS
'14'

D.2 Curb type catch basins must be moved or rebuilt.

D.3 Any changes made to catch basins are at the applicant's expense.

D.4 Where a catch basin remains in a crossing it may be temporarily interrupted by cleaning operations.

E. CLEARANCE FROM CURB RETURNS

E.1 Drop curbs (including ramps) shall be at least four point five (4.5) metres clear of curb returns or future curb returns.

E.2 In the case of jog eliminations and other special curb layouts the Engineer shall decide what point is to be taken as the end of the return.

F. CLEARANCE FROM INTERSECTION

849 F.1 In the Town of Smithers Zoning Bylaw No. 740, boulevard crossings must be 7.6 (seven point six) metres clear of intersections measured from a line perpendicular to the property line at the property corner.

849 ~~F.2~~

G. CLEARANCE AT T-INTERSECTIONS

G.1 In areas zoned commercial and industrial in the Town of Smithers Zoning Bylaw No. 740, at a T-intersection, crossings opposite the T in or within fifteen (15) metres of the intersection shall be prohibited.

G.2 In all other areas except those referred to in Subsection G.1 above, at a T-intersection crossings opposite the T within one (1) metre of the intersection are permitted if they are one (1) metre clear of crosswalks.

G.3 Crosswalks, if not marked, shall be taken at right angles to the roadway and two point five (2.5) metres wide.

H. CLEARANCE BETWEEN CROSSINGS

H.1 Where there is more than one crossing serving one property from the street there must be at least seven point six (7.6) metres between crossings, measured on a line parallel to the curb within the ultimate sidewalk.

TOWN OF SMITHERS HIGHWAY BYLAW NO. 846, 1988
AND CONSOLIDATED AMENDMENTS
‘15’

H.2 Single family residential properties will not normally be allowed more than one crossing on a street.

I. CLEARANCE FROM LOT BOUNDARIES

I.1 No clearance is required between crossings serving adjoining properties.

I.2 Crossings serving one property shall not normally extend in front of adjoining properties.

I.3 The frontage of a lot is taken as bounded by lines perpendicular to the property line.

J. MERGE TO CROSSING

J.1 Where adjoining properties each have a crossing at the lot line the two crossings may, if the owners wish, be merged, provided the total width of the crossing is not more than fifteen point zero (15.0) meters and neither part is more than nine point zero (9.0) metres.

J.2 Each owner is responsible for maintenance of the part of the crossing fronting his property.

K. SHARED CROSSINGS

K.1 Shared crossings straddling the lot line and serving a driveway and used by both properties may be permitted where the owners would be put to excessive trouble or expense to obtain suitable access otherwise.

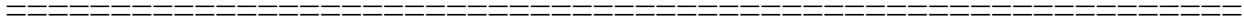
K.2 A form of agreement satisfactory to the Town solicitor and made pursuant to Section 215 of the *Land Title Act* R.S.B.C. 1979, c. 219 in favour of the Town may be required to be registered against both properties shall include provisions that the shared driveway will be maintained for the use of both properties as long as the crossing remains.

L. WIDTH OF CROSSING

L.1 Width is measured along the property line.

L.2 Subject to the requirements of Sections “A” and “J” of this Schedule, minimum and maximum driveway widths shall conform to the following table:

**TOWN OF SMITHERS HIGHWAY BYLAW NO. 846, 1988
AND CONSOLIDATED AMENDMENTS
'16'**



<u>Use of Property</u>	<u>Minimum Width</u>	<u>Maximum Width</u>
1 and 2 Family Residential	3.5 m	7.0 m
Apartment Residential	6.0 m	9.0 m
Commercial, Public Parking, Service Stations	6.0 m	9.0 m
Industrial	6.0 m	15.0 m

960 L.3 Except for accesses from lanes, boulevard crossings shall be limited in number and width as provided in this bylaw by means of curbs or other positive barriers to prevent access at other than approved locations.

M. NUMBER OF DRIVEWAYS

Each property shall be limited to the following number of driveways.

M.1 Up to the first thirty (30) metres of frontage - not more than two (2).

M.2 For each additional thirty (30) metres - not more than two (2).

Where special circumstances warrant, three (3) driveways may be permitted in a frontage of fifty-four (54) metres.

Where a property has sufficient frontage to be entitled to five (5) or more driveways, under M.1 and M.2 above, and where the owners agree to the use of a single driveway, a street intersection type of driveway approach may be permitted, and the dimensions in Section L above need not apply.