



THE MUNICIPALITY OF THE VILLAGE OF LIONS BAY

Lions Bay Encroachment Policy

The following Encroachment Policy was approved by Council on May 17, 2004 and applies to all properties in Lions Bay.

RATIONALE:

The policy was enacted to address the following Village concerns:

Liability – As the Village has a right of possession over municipal lands, there is a concern that accidents could lead to claims against the Village.

Private Use of Public Lands – Municipal lands are important public amenities in the Village and Council wishes to protect the public's right to use and enjoy them.

The policy also addresses the following issues:

- creates a long term solution,
- creates certainty for residents, and
- does not put property owners or the Village to significant expense.

DEFINITIONS:

Encroachments for the purpose of this policy includes:

Encroachments of Buildings – a structure wholly or partly enclosed by a roof and supported by walls, columns, or posts. Buildings include, but are not limited to residences, sheds, carports and boathouses.

Encroachments of Accessory Structures – Anything constructed or erected, excluding a building, the use of which requires its permanent or semi-permanent location on or under the ground, or its attachment to something having a permanent or semi-permanent location on or under the ground. Accessory structures include, but are not limited to, retaining walls, decks, fences, boat launch pads, stairs, hot tubs and planters.

Encroachments will not include soft landscaping.

Municipal land for the purpose of this policy includes: roads and municipal rights of way that are owned, legally occupied or under the jurisdiction of the Municipality, and includes all highways, boulevards and esplanades.

PROCESS:

All property owners of Lions Bay are requested to arrange with the Village to have all encroachments registered against title with a covenant by September 30, 2004. The cost of the covenant (\$55 approx) will be paid by the property owner. A survey will not be required to register a covenant.

All encroachments that are registered by September 30, 2004 will be grandfathered. The encroachment agreement will provide that residents will be allowed to maintain existing encroachments on the following terms:

- a covenant will be granted to the Village accepting all risk and liability,
- an agreement to remove all encroachments of buildings within 1 year after a sale of lands or upon application, or as a condition for a building permit, and
- an agreement to not re-build, extend or replace buildings or accessory structures, or further encroach, onto municipal property.

Encroachments will be allowed until such time as the Village required the lands at which time the Village will give reasonable notice (6 months) except in the case of an emergency.

Any encroachments that are not registered by September 30, 2004 for any reason, and that come to light in the future will:

- in the case of a building – be removed immediately,
- in the case of accessory structures – be considered on an individual basis. If the Village, at its sole discretion, allows the encroachment to stay, a covenant will be registered with the property owner paying all costs plus a \$100 administrative fee to the Village.

EXEMPTIONS:

No encroachment agreement is required for the placement of the following types of encroachments on boulevards:

1. In any location:
 - a) access sidewalk a maximum of 2 metres in width,
 - b) access driveway a maximum of 6 metres in width,
 - c) lawns, flowers, ground covers and shrubs under 0.6 metres in mature height, provided they are not placed in areas created and required by the Village for public on-street parking,

2. Located a minimum of 2 metres from the paved or travelled roadway:
 - a) access steps which are part of an access sidewalk,
 - b) heating coils in driveways,
 - c) rocks or similar obstructions where under 0.6 metres in height,
 - d) low-level pedestrian scale lighting fixtures of less than 3 metres in height and located at a property entrance.