



THE MUNICIPALITY OF THE VILLAGE OF LIONS BAY



## **Driveway Crossings Bylaw**

### **Bylaw No. 521, 2017**

**Adopted: April 18, 2017**

PO Box 141, 400 Centre Road, Lions Bay, BC V0N 2E0

Phone: 604-921-9333 Fax: 604-921-6643

Email: [office@lionsbay.ca](mailto:office@lionsbay.ca) Web: [www.lionsbay.ca](http://www.lionsbay.ca)

# **Bylaw No. 521, 2017**

## **Driveway Crossings Bylaw**

**WHEREAS** The *Community Charter* provides for the regulation, construction, and maintenance of Highways;

**AND WHEREAS** the *Community Charter* provides for the recovery of expenses incurred by the Municipality in the same manner as Municipal taxes;

**NOW THEREFORE** the Council of the Village of Lions Bay, in open meeting assembled enacts as follows:

### **1. CITATION**

- 1.1. This bylaw may be cited for all purposes as “Driveway Crossings Bylaw No. 521, 2017.”

### **2. DEFINITIONS**

2.1. In this Bylaw:

- 2.1.1. “Boulevard” means that portion of a Highway lying between the constructed roadway and the adjacent property line;
- 2.1.2. "Public Works Manager" means the Municipality’s Public Works Manager or a person designated by Council to act in the place of the Public Works Manager;
- 2.1.3. “CFO” means the Municipality’s Chief Financial Officer or their designate;
- 2.1.4. “Corner Parcel” means any Parcel which abuts at least two Highways that intersect each other;
- 2.1.5. "Council" means the Council of the Village of Lions Bay;
- 2.1.6. “Driveway Crossing” means part of a Boulevard which is improved to afford vehicular access from the constructed roadway to a Parcel adjacent to the Highway;

- 2.1.7. "Driveway Crossing Permit" means a permit issued under this bylaw to allow for a Driveway Crossing;
- 2.1.8. "Highway" means a highway as defined in the *Community Charter*;
- 2.1.9. "Municipality" means The Village of Lions Bay.
- 2.1.10. "Owner" means an owner as defined in the *Community Charter*; without limiting the foregoing, for the purposes of this bylaw an Owner is the owner of a Parcel benefiting from a Driveway Crossing.
- 2.1.11. "Parcel" means a parcel as defined in the *Community Charter*;
- 2.1.12. "Urgent Repair" means repair of a condition requiring immediate remedial action in order to avoid a substantive risk of harm to persons, property or infrastructure.

### **3. PERMITTED INSTALLATIONS**

- 3.1. An Owner of a Parcel has a right of access to that Parcel from a municipal Highway provided that such access:
  - 3.1.1. shall be maintained by the Owner and
  - 3.1.2. may be altered or revoked by the Municipalityin accordance with this bylaw.
- 3.2. Subject to a higher standard imposed by another bylaw or by an encroachment agreement with the Municipality, an Owner shall maintain their existing or new Driveway Crossing in accordance with this bylaw.
- 3.3. An Owner may, on the Boulevard immediately adjacent to their Parcel, repair and replace an existing Driveway Crossing provided that:
  - 3.3.1. the Driveway Crossing is the subject of a previous permit or other valid and subsisting approval issued by the Municipality;
  - 3.3.2. the repair or replacement does not increase the width or height of the Driveway Crossing;

- 3.3.3. the repair or replacement of that Driveway Crossing complies with all requirements for a Driveway Crossing set out in this bylaw;
    - 3.3.4. the Owner applies for and receives a Driveway Crossing Permit in accordance with this bylaw;
    - 3.3.5. despite section 3.3.4, a Driveway Crossing Permit is not required in the event that an Urgent Repair is required and the Public Works Manager has been notified.
  - 3.4. No person shall excavate, construct, reconstruct, replace, or improve any Driveway Crossing until such person has received a Driveway Crossing Permit from the Municipality under this bylaw, which Driveway Crossing Permit may be revoked in accordance with this bylaw.
  - 3.5. Any person wanting to excavate, construct, reconstruct, repair, replace, or improve a Driveway Crossing shall apply in writing to the Public Works Manager for a Driveway Crossing Permit. The application shall include:
    - 3.5.1. a description of the nature, extent and purpose of the excavation, construction, reconstruction, repair, replacement or improvement, as the case may be;
    - 3.5.2. a plan satisfactory to the Public Works Manager showing the details of the proposed excavation, construction, reconstruction, repair, replacement or improvement;
    - 3.5.3. details respecting the manner in which the proposed excavation, construction, reconstruction, repair, replacement or improvement will be undertaken, including any ongoing maintenance required to ensure the preservation and safe use of the Highway;
    - 3.5.4. the applicable permit fee of \$100.00;
    - 3.5.5. such further information and material as may be required by the Public Works Manager to ensure compliance with the terms and conditions of this bylaw including, but not limited to, engineered plans and letters of assurance from a registered professional.
  - 3.6. The Public Works Manager is authorized to issue, amend and revoke Driveway Crossing Permits in accordance with this bylaw.

- 3.7. The Public Works Manager shall consider all applications for Driveway Crossings and, subject to compliance with the terms and conditions of this bylaw, may:
  - 3.7.1. issue a Driveway Crossing Permit,
  - 3.7.2. impose conditions and restrictions on the issuance of a Driveway Crossing Permit, and
  - 3.7.3. make orders respecting the application for and issuance of Driveway Crossing Permits, including the form of application, the form of permits and the terms and conditions of such permits, all in accordance with this bylaw.
- 3.8. The issuance of a Driveway Crossing Permit, in addition to any terms and conditions imposed by the Public Works Manager, will be subject to the standards set out in section 4 of this bylaw.

#### **4. STANDARDS**

- 4.1. The following standards shall apply to all Driveway Crossings:
  - 4.1.1. No more than one Driveway Crossing shall be provided to each residential Parcel.
  - 4.1.2. Driveway Crossings shall have a maximum gradient of 2% within 2 metres of curb or edge of pavement.
  - 4.1.3. Driveway Crossings constructed of materials other than asphalt, gravel or crushed stone shall have construction joints at the property line and 2 metres behind the curb or edge of pavement. If reinforcing steel is used it shall not be continuous through the construction joint.
  - 4.1.4. Surface drainage shall be controlled and directed into an approved drainage system and shall not be permitted to flow onto the road pavement.
  - 4.1.5. Where a Driveway Crossing bisects an open or enclosed drainage channel or ditch a culvert is required. Culverts shall be no less than 300 mm in diameter and be composed of reinforced concrete, polyvinyl chloride, or high-density polyethylene pipe. The inlet and outlet of a culvert must have a structural headwall. Culverts shall be maintained, and repaired or replaced as necessary, by and at the expense of the Owner.

- 4.1.6. Where retaining walls or other supporting structures over 1.2 metres in height are required to retain land or provide stability to existing or altered slopes, or to control potential erosion, engineered plans and letters of assurance from a registered professional shall be required. All retaining walls or other supporting structures shall be maintained, and repaired or replaced as necessary, by and at the expense of the Owner.
- 4.1.7. No raised curbing or retaining walls shall be constructed within 2 metres of the curb or edge of pavement.
- 4.1.8. No Driveway Crossing heating coils shall be constructed within 2 metres of the curb or edge of pavement.
- 4.1.9. The Driveway Crossing for every Corner Parcel at a Highway intersection shall be located at least 8.0 metres from the nearest point of intersection of those Highways.
- 4.1.10. All Driveway Crossings shall be maintained, and repaired or replaced as necessary, by and at the expense of the Owner in accordance with this bylaw and protected from geohazards, slope erosion, slope instability, and settlement or deterioration of supporting structures or materials, as may be required by the topography of the applicable portion of Boulevard.
- 4.1.11. Despite the requirements in section 4 of this bylaw, the Public Works Manager may allow for a variation of these standards due to the topography of a Parcel or its adjoining portion of Boulevard.

## **5. DRIVEWAY CROSSING AGREEMENTS**

- 5.1. Notwithstanding the provisions and standards set out in this bylaw, the Public Works Manager may require a Driveway Crossing to be the subject of an encroachment agreement between the Owner of a Parcel and the Municipality where compliance with the requirements of this bylaw would:
  - 5.1.1. be impractical due to the Parcel configuration or other existing condition or hardship precluding compliance with this bylaw;
  - 5.1.2. result in an unsafe Driveway Crossing or unsafe traffic pattern on the adjacent constructed roadway;

- 5.1.3. interfere with, hinder or block the installation or functioning of existing or future municipal works.
- 5.1.4. interfere with, hinder or block the flow of roadside drainage.

## **6. INSPECTION**

- 6.1. In accordance with the Community Charter and this bylaw, the Municipality may enter upon and inspect a Driveway Crossing to ensure it is in compliance with this bylaw.
- 6.2. For the purposes of this bylaw, considerations that the Public Works Manager may take into account in determining the safety, suitability or practicality of any particular Driveway Crossing, compliance with this bylaw, or its continued use, may include stability of a slope or supporting structures, protection of trees and other natural features, protection of persons, real property and chattels, and impacts on municipal and other infrastructure. The Public Works Manager may, in his or her discretion, obtain and rely upon the advice of appropriate professionals in making such determinations.

## **7. REVOCATION, REMEDIAL WORKS AND COSTS**

- 7.1. Upon a finding that a Driveway Crossing is not compliant with this bylaw or otherwise not safe for its intended use, the Public Works Manager shall issue a demand letter to the Owner of the benefitting Parcel for immediate compliance with this bylaw.
- 7.2. A Driveway Crossing Permit which has not been complied with may be suspended or revoked by the Public Works Manager, subject to a right of appeal to Council.
- 7.3. Prior to revoking a Driveway Crossing Permit or the right to use a Driveway Crossing, the Public Works Manager shall issue a demand letter to the Owner of the benefitting Parcel for immediate compliance with this bylaw.
- 7.4. The right to a Driveway Crossing may be revoked by Council upon being satisfied that:
  - 7.4.1. the Driveway Crossing does not comply with this bylaw; and
  - 7.4.2. the Council considers that real property may be injuriously affected by the continued exercise of the right to use the Driveway Crossing;

and the municipality may enter onto the Driveway Crossing and undertake works of construction, maintenance or repair in mitigation of injury done or anticipated, or in reduction of compensation.

- 7.5. If an Owner fails to comply with a demand from the Public Works Manager or, if applicable the Council, within 30 days of the order, the Municipality may proceed to carry out any remedial work required at the Owner's expense.
- 7.6. The Municipality may, at any time, enter onto a Driveway Crossing and undertake works of excavation, construction, repair, or replacement at the Owner's expense if the Municipality determines that an Urgent Repair is required.
- 7.7. The right of any person to construct, maintain or use any crossing shall be subject at all times to the right of the Municipality to construct, maintain, repair or remove any public works or utilities that have been or may be installed above or below the Driveway Crossing.
- 7.8. In the exercise of its rights, the Municipality shall only replace or repair a disturbed Driveway Crossing with gravel, crushed stone or asphalt. Replacement of brick pavers, concrete, heat coils, light fixtures, gates, posts, landscaping, or other improvements shall be the responsibility of the benefitting property Owner.
- 7.9. The Owner of real property for which authorization for a Driveway Crossing is granted shall be liable for all costs of surveying, construction, maintenance, repair and ultimate removal of the Driveway Crossing and all costs incurred by the Municipality resulting from failure of the Owner to carry out work ordered by the Municipality.
- 7.10. Costs of construction, maintenance, repair or removal of a crossing payable by the Owner under the provisions of this bylaw shall be collected in the same manner and with like remedies as ordinary taxes on land and improvements in accordance with the Community Charter. Such costs, if not paid by the 31st day of December in the year for which such costs were imposed, shall be deemed to be taxes in arrears and be so entered on the tax roll by the CFO.
- 7.11. Authorization for a Driveway Crossing may be revoked upon 3 months' notice if the Municipality needs the Driveway Crossing, or a portion thereof, for its own purposes. This notice may be shortened by the Municipality where Council considers it necessary.

## **8. OFFENCE AND PENALTY**

- 8.1. Every person who violates a provision of this bylaw, or who consents, allows or permits an act or thing to be done in violation of a provision of this bylaw, or who neglects or



refrains from doing anything required by a provision of this bylaw, is guilty of an offence and is liable, upon summary conviction, to a fine not exceeding \$10,000 and not less than \$2,500, and is guilty of a separate offence each day that a violation continues or exists.

8.2. In addition to the foregoing, the Municipality may elect enforcement under Bylaw Notice Enforcement Bylaw No. 385, 2006, as amended and in that event, any bylaw contraventions under this bylaw shall not constitute the creation of an offence.

8.3. This bylaw shall not be applicable to any encroachment that is specifically regulated by an agreement or another bylaw of the Municipality.

## **9. SEVERABILITY**

9.1. If a portion of this bylaw is held invalid by a Court of competent jurisdiction, then the invalid portion must be severed and the remainder of this Bylaw is deemed to have been adopted without the severed section, subsection, paragraph, subparagraph, clause or phrase.

**READ A FIRST TIME THIS 21<sup>ST</sup> DAY OF MARCH, 2017**

**READ A SECOND TIME THIS 21<sup>ST</sup> DAY OF MARCH, 2017**

**READ A THIRD TIME THIS 21<sup>ST</sup> DAY OF MARCH, 2017**

**THIRD READING RESCINDED THIS 4<sup>TH</sup> DAY OF APRIL, 2017**

**AMENDED AND RE-READ A 3<sup>RD</sup> TIME THIS 4<sup>TH</sup> DAY OF APRIL, 2017**

**ADOPTED THIS 18<sup>TH</sup> DAY OF APRIL, 2017**

---

Mayor

---

Corporate Officer

Certified a true copy of Driveway Crossings Bylaw No. 521, 2017 as adopted.

---

Corporate Officer