

DISTRICT OF LAKE COUNTRY

BYLAW 624, 2007

CONSOLIDATED VERSION

(Includes amendment as of July 18, 2017)

This is a consolidated copy to be used for convenience only. Users are asked to refer to the Encroachment Bylaw as amended from time to time to verify accuracy and completeness.

Amending Bylaw	Summary of Amendments	Adoption
988	<ul style="list-style-type: none">• Delete and replace Section 7.(4)• Delete Schedule A	January 17, 2017
1014	<ul style="list-style-type: none">• Delete and replace Section 7.(4)• Delete Schedule A <p><i>*See Report to Council of July 4, 2017</i></p>	July 18, 2017

DISTRICT OF LAKE COUNTRY

BYLAW 624

**A BYLAW TO REGULATE THE GRANTING OF ENCROACHMENT PERMITS ON HIGHWAYS
AND PUBLIC PLACES WITHIN THE DISTRICT OF LAKE COUNTRY**

WHEREAS the right of ownership in every highway in a municipality is vested in the municipality;

AND WHEREAS a Council may authorize the seizure of things unlawfully occupying a portion of a highway or public place;

AND WHEREAS the District of Lake Country ("District") wishes to govern the use of and the granting of encroachment permits on highways and public places;

NOW THEREFORE, the Council of the District of Lake Country, in open meeting assembled, enacts as follows:

INTERPRETATION

1. In this bylaw:

"Applicant" means the owner who makes application for an Encroachment Permit;

"Council" means the Council of the District of Lake Country;

"Encroachment" means a building, structure, or physical object occupying a part of the surface, subsurface or airspace about a Highway or public place including without limitation, natural materials such as plants, soil and rocks;

"Encroachment Agreement" means an agreement required under this Bylaw;

"Encroachment Permit" means a permit for an Encroachment issued under the authority of this Bylaw;

"Director" means the Director of Engineering or his designate;

"Highway" includes every highway, the soil and freehold of which are deemed to belong to the District;

"Long-Term Encroachment" means an Encroachment that will be in place one year or longer;

"Owner" means any person who is the registered owner, or owner under agreement, of real property, and includes any person in actual or apparent possession of real property under a lease, license or agreement with another owner;

“Permit Holder” means the Owner who has been issued an Encroachment Permit; and

“Public Place” means lands owned or leased by the District.

“Temporary Encroachment” means an Encroachment that will be in place for less than one year.

GENERAL REQUIREMENTS

2. No person shall excavate for, construct, place or maintain any Encroachment in, on, over or under a Highway or public place unless the person holds a valid Encroachment Permit for that Encroachment.
3. Where an Encroachment would restrict public access over or across the encroachment area, the Director shall mail or otherwise deliver notification of the proposed Encroachment to the owners directly affected by the Encroachment whose properties are within 30 metres of the proposed Encroachment.
4. Where an existing Encroachment is deemed to affect the District’s ability to carry out its work within the Highway or public place or where the safety of the public may be affected by the Encroachment, the Permit Holder may be required to modify the Encroachment and such modification shall be at the Permit Holder’s expense.
5. Where a Permit Holder requests an amendment to an Encroachment Permit of an Encroachment Agreement, the amendment must be in compliance with this bylaw and approved by the District, and any modification to the Encroachment shall be at the Permit Holder’s expense.

APPLICATION REQUIREMENTS AND APPROVAL PROCESS

6. An Owner who wishes to construct or place an Encroachment on a Highway or public place shall make application on the form provided by the District.
7. Every application shall include:
 - (1) a description of the location, extent, nature and purpose of the Encroachment
 - (2) such other information, as required by the Director
 - (3) a plan, sketch or drawing prepared by a Professional Engineer or BCLS licensed to practice in the Province of BC, satisfactory to the Director, showing the details of the Encroachment
 - (4) payment of applicable fees as set out in the District Fees Bylaw, or under any other bylaw of the District, as amended from time to time.
8. Prior to an Encroachment Permit being issued for a Long-Term Encroachment, the Applicant must enter into an Encroachment Agreement in the form provided by the District.
9. Long-Term Encroachments shall be for a minimum of one year and a maximum of five years, and the Long-Term Encroachment fee and Rental shall be paid in advance.

Amended by
Bylaws 988 & 1014

CONDITIONS

10. All Encroachment Permits are subject to the conditions set out in this Bylaw, and all holders of an Encroachment Permit shall conform strictly to these conditions and to any special conditions set out in the applicable Encroachment Permit.
11. A Permit Holder shall, before commencing the construction, repair or removal of any Encroachment, obtain all permits and approvals required under any other District Bylaw.
12. A Permit Holder shall, at all times, comply with the terms of the Encroachment Permit or Encroachment Agreement and any breach thereof may result in a revocation or termination of the applicable Encroachment Permit or Encroachment Agreement.
13. An appeal of the revocation or termination of the applicable Encroachment Permit or Encroachment Agreement may be made to Council and the decision of Council shall be final.
14. A Permit Holder shall keep an Encroachment in good repair. In the event that the Permit Holder fails or neglects to keep an Encroachment in good repair, the Director may provide notice to the Permit Holder of any deficiency on the Encroachment and request that such deficiency be rectified. Upon fifteen (15) days notice to the Permit Holder, or as otherwise specified in an Encroachment Agreement, the Encroachment Permit may be revoked, the Encroachment Agreement terminated and the Encroachment removed. Notwithstanding the preceding, the District may immediately remove any item on public property deemed to constitute a safety hazard. Any costs incurred by the District to remove the Encroachment shall be recovered from the Permit Holder.

ADMINISTRATION OF BYLAW

15. The Director of Engineering or his designate shall administer this Bylaw, having regard to input from affected District departments and the public where access is proposed to be restricted.

SEVERABILITY

16. 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 the Bylaw is deemed to have been adopted without the severed portion.

OFFENCE AND PENALTY

17. Every person who, contrary to the provisions of this Bylaw, suffers or permits any act or thing to be done or who neglects to do or refrains from doing anything required to be done by this bylaw commits an offence and is liable on summary conviction to a fine of not less than One Hundred Dollars (\$100.00) and not more than Two Thousand Dollars (\$2000.00) plus the costs of prosecution for each offence.

- 18. Each day during which any violation of a provision of this Bylaw is continued shall constitute a new and separate offence.
- 19. The District may remove any item unlawfully occupying a portion of a Highway or public place and charge the Owner for the costs of the removal plus administration costs.
- 20. Costs incurred under Section 19 may be recovered from the Owner or by the sale of the item if the Owner cannot be identified after reasonable efforts.

COST RECOVERY

- 21. Any amount billed to the Owner pursuant to Section 14 or Section 20 of this Bylaw remaining unpaid on December 31 of the year in which it is billed may be recovered, with interest at the rate prescribed for unpaid taxes, and in the same manner as taxes in arrears.
- 22. This bylaw may be cited as "Encroachment Bylaw 624, 2007"

READ A FIRST TIME this 3rd day of July, 2007
 READ A SECOND TIME this 3rd day of July, 2007
 READ A THIRD TIME this 3rd day of July, 2007

ADOPTED this 17th day of July, 2007

"original signed by James Baker"
 Mayor

"Original signed by Hazel Christy"
 Clerk

I hereby certify the foregoing to be a true and correct copy of the bylaw cited as the "Encroachment Bylaw 624, 2007" adopted by the Municipal Council on this 17th day of July, 2007.

 Dated at Lake Country, BC

 Clerk

Schedule A deleted by Bylaws 988 & 1014