



District of West Vancouver

Interim Tree Bylaw No. 4892, 2016

Effective Date: April 20, 2016

Consolidated for Convenience Only

This is a consolidation of the bylaws below. The amendment bylaws have been combined with the original bylaw for convenience only. This consolidation is not a legal document. Certified copies of the original bylaws should be consulted for all interpretations and applications of the bylaw on this subject.

Amendment Bylaw	Effective Date
Bylaw No. 4913, 2016	July 25, 2016

The bylaw numbers in the margin of this consolidation refer to the bylaws that amended the principal bylaw (Interim Tree Bylaw No. 4892, 2016). The number of any amending bylaw that has been repealed is not referred to in this consolidation.

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Interim Tree Bylaw No. 4892, 2016

A bylaw to regulate, prohibit and impose requirements in relation to trees

Previous amendments: Amendment bylaw 4913.

WHEREAS the Council of The Corporation of the District of West Vancouver deems it expedient to provide for the management of tree cutting and tree damaging activities;

NOW THEREFORE, the Council of The Corporation of the District of West Vancouver enacts as follows:

Part 1 Citation

- 1.1 This bylaw may be cited as Interim Tree Bylaw No. 4892, 2016.

Part 2 Severability

- 2.1 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.

Part 3 Application of Bylaw

- 3.1 This bylaw does not apply to the cutting of any tree:
 - 3.1.1 by the District or its contractors in a Municipal Park, highway or statutory right of way or lot used for utility purposes;
 - 3.1.2 on land owned by School District No. 45 (West Vancouver);
 - 3.1.3 in a Greater Vancouver Regional District park;

by a utility, on land owned or held by the utility including a statutory right of way, undertaken for the purpose of safety,

- 3.1.4 maintenance or operation of the utility's infrastructure;
- 3.1.5 on land that is within the scope of a development permit;
- 3.1.6 on land within a heritage conservation area designated in the District's official community plan;
- 3.1.7 on land in the CD24 Zone established by the Zoning Bylaw; or
- 3.1.8 on any lot subject to a building permit in respect of which a complete building permit application was made prior to April 18, 2016, until the earlier of the date of issuance of a Certificate of Occupancy in respect of the building authorized by the permit and the date that is 18 months after the date on which the application was made.

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Part 4 Interpretation

- 4.1 References in this bylaw to the cutting of trees must be interpreted to include:
 - 4.1.1 The removal of a tree by any means from the land on which it is growing;
 - 4.1.2 The topping of trees, including the re-topping of trees that have previously been topped; and
 - 4.1.3 The removal of the limbs of trees, other than such removal of limbs as is reasonably required in the course of ordinary landscape maintenance practices to maintain the health of the tree.
- 4.2 For the purposes of this bylaw, a tree is located on a lot or in an area, if any portion of the trunk of the tree above the natural ground level adjacent to the tree is on the lot or in the area.
- 4.3 In this bylaw:
 - “Arborist” means a person certified by the International Society of Arboriculture.
 - “Building Permit” means a permit issued pursuant to the Building Bylaw to authorize the construction of a building.
 - “Building Site” means a parcel of land in respect of which a building permit application has been made to the District pursuant to the Building Bylaw.

“Certificate of Occupancy” means a certificate issued pursuant to the Building Bylaw to authorize the occupancy of a building.

“DBH” means diameter measured 1.4 m above the highest immediately adjacent natural ground level.

“Director” means the Director of Planning and Development Services of the District and any other person designated by the Director to perform duties under this bylaw.

"District" means the District of West Vancouver.

“Environmental Protection Officer” means the person appointed by the District to that position.

“Municipal Park” means any land dedicated as such by bylaw of the District or by designation on a plan deposited in the Land Title Office, and any other land held or used by the District for park, public recreation or environmental protection or conservation purposes.

“Permitted Building Envelope” means that portion of a lot on which the Zoning Bylaw permits the construction of a principal building or structure.

“Protected Wildlife Species” means a wildlife species listed in a Schedule to the *Species at Risk Act* (Canada), or a threatened or endangered wildlife species listed, respectively, in Schedule D or E to the Designation and Exemption Regulation under the *Wildlife Act*,

“Security” means cash or an unconditional, irrevocable letter of credit issued by a bank or credit union with a business office in the District

“Tree” means a woody perennial plant having one or more stems, with at least one stem having DBH of 10 centimetres or more;

“Tree Protection Barrier” means a barrier constructed in accordance with specifications issued by the Environmental Protection Officer, erected and maintained so as to protect trees from tree cutting, excavation, demolition or construction activities on adjacent land.

“Tree Survey” means a drawing or plan of a building site prepared by a B.C. Land Surveyor or a person having other qualifications approved in advance by the Director, showing the location, DBH and species of each tree with a DBH of 75cm or greater on the site or a portion of the site specified in advance by the Director, and indicating the location of the Permitted Building Envelope and the trees that are proposed to be cut in order to permit the construction of a driveway or accessory building outside the Permitted Building Envelope.

Part 5 Protection of Trees from Damage

- 5.1 No person shall damage a tree by doing any of the following:
- 5.1.1 Except to the extent that such work is reasonably required to construct a driveway or accessory building described in Section 6.4, cutting or damaging the roots of the tree or blasting, compacting the soil or placing concrete or other hard surfacing within the drip line of a tree;
 - 5.1.2 Depositing within the drip line of a tree any substance that is toxic to the tree;
 - 5.1.3 Girdling or ringing the trunk of the tree or burning any part of the tree; or
 - 5.1.4 Pruning the tree so excessively as to cause the tree to decline or die.
- 5.2 No person shall carry out or authorize or permit any other person to carry out any tree cutting, site preparation, demolition, excavation or construction work on a building site unless a tree protection barrier has been installed to protect:
- 5.2.1 Trees that have a DBH of 75 cm or greater outside the Permitted Building Envelope on the building site, other than trees that are being cut to permit the construction of a driveway or accessory building;
 - 5.2.2 Trees on any boulevard that abuts the building site; and
 - 5.2.3 Trees on any portion of a municipal park that is within 3 metres of the building site.
- 5.3 A person who has installed a tree protection barrier shall:
- 5.3.1 Arrange for inspection by the Environmental Protection Officer prior to carrying out or authorizing any work described in Section 5.2;
 - 5.3.2 Keep the area within the tree protection barrier free of all construction materials, litter and debris throughout the course of the work;
 - 5.3.3 Maintain the tree protection barrier in good condition until the work has been completed and the Environmental Protection Officer has authorized the removal of the barrier; and

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- 5.3.4 Remove any tree protection barrier from a boulevard or municipal park within 14 days of being authorized to do so, and leave the boulevard or park in a clean and tidy condition.

Part 6 Tree Cutting Permits

- 6.1 No person shall cut any tree that has a DBH of 75 cm or more, or in the case of a tree with multiple stems a combined stem DBH of 75 cm or more, unless a tree cutting permit has been issued in respect of the tree.
- 6.2 Section 6.1 does not apply to any tree that presents an imminent danger to persons or property, but any person who, under the authority of this section, cuts a tree without obtaining a permit must report the cutting of the tree to the Director within one business day of cutting the tree and must not remove the tree from the location at which it was cut until the Director has authorized such removal.
- 6.3 The Director may issue a permit under this Part to authorize the cutting of:
- 6.3.1 a tree that an Arborist has certified has been damaged by natural causes to the extent that it is unusually vulnerable to disease or premature death;
 - 6.3.2 a tree that an Arborist has certified to be hazardous;
 - 6.3.3 a tree that an Arborist has certified is causing damage to property, including roofs, retaining walls or paved areas, which cannot be addressed by pruning, but for these purposes the accumulation of leaves or needles does not constitute damage;
or
 - 6.3.4 a tree that an Arborist has certified, is interfering, in a manner than cannot be addressed by pruning, with utility wires or other utility infrastructure or with access to such wires or infrastructure.
- 6.4 The Director must issue a tree cutting permit under this Part in respect of a tree that does not come within the scope of Section 6.3 and that is located:
- 6.4.1 within a Permitted Building Envelope and indicated in a building permit;

- 6.4.2 within an area outside a Permitted Building Envelope with a maximum width of 4.5 m and indicated in a building permit or specified by the Director as the location of a driveway;
 - 6.4.3 located within an area outside a Permitted Building Envelope but indicated in a building permit or specified by the Director as the location of an accessory building used for motor vehicle parking accessed from a lane; or
 - 6.4.4 within 2 m of an area described in Section 6.4.2 or 6.4.3.
- 6.5 The Director may, after review of a building permit application and the applicant's tree survey, require the relocation of a driveway or accessory building indicated in a building permit to minimize the number of trees that will have to be cut to accommodate it.
- 6.6 The Director may, but is under no obligation to, issue a tree cutting permit under this Part in respect of a tree that does not come within the scope of Section 6.3 or 6.4, provided that all of the following apply:
- 6.6.1 The tree does not contain the nest of an eagle or heron, or constitute the habitat of a protected wildlife species;
 - 6.6.2 The cutting of the tree does not contravene a covenant granted to the District under s. 219 of the *Land Title Act* or predecessor legislation;
 - 6.6.3 The cutting of the tree does not, in the written opinion of a geotechnical engineer provided to the Director in circumstances where the Director requires such an opinion to be provided, detrimentally affect the stability of a natural slope; and
 - 6.6.4 The tree is not a specimen of the protected tree species listed in Schedule A to this bylaw with a DBH of 20 cm or more.

Part 7 Replacement Trees

- 7.1 The Director may order any person who cuts a tree in contravention of this bylaw to:
- 7.1.1 plant a replacement tree of a species and DBH specified in the order for each tree that has been cut, at the location indicated in the order;
 - 7.1.2 maintain the replacement tree in accordance with generally accepted landscape maintenance practices to ensure that it

survives transplantation, and replace the replacement tree if it should fail to survive transplantation; and

- 7.1.3 provide security to the District in the amount of \$5000 per replacement tree, which security shall forfeit to the District if the replacement tree in respect of which the security is provided is not planted or fails to survive transplantation, and shall otherwise be returned to the owner not later than two years after the planting of the replacement tree.
- 7.2 The issuance of an order under this Part does not preclude the District from enforcing this bylaw in any manner set out in Part 10.

Part 8 Tree Cutting Permit Procedures

- 8.1 The Director may prescribe the form of tree cutting permits and tree cutting permit applications under this bylaw.
- 8.2 A permit application made under this bylaw must be accompanied by the application fee specified in the Fees and Charges Bylaw.
- 8.3 In the case of an application in respect of a tree on a strata lot, the Director may require the applicant to provide confirmation from the strata corporation that the applicant has the right to apply for a tree cutting permit in respect of the tree.
- 8.4 In the case of an application from a person who is not the owner of the land described in the application, the Director may require the applicant to provide confirmation that the owner has authorized the person to make the application.
- 8.5 No person shall engage another person to cut a tree to which this bylaw applies, other than a tree that presents an imminent danger to persons or property, without providing to that person a copy of the tree cutting permit issued pursuant to this bylaw that authorizes the cutting of the tree.
- 8.6 The permit holder must, before cutting the tree, post a tree cutting permit issued under Part 6 in a location on the lot to which the permit pertains that is visible from the abutting street, and keep the permit posted until all cutting authorized by the permit has been completed.
- 8.7 The Director may revoke a tree cutting permit if it appears to the Director that the permit was issued in error or on the basis of incorrect, false or misleading information, or the permit holder has failed to comply with the permit.

- 8.8 A tree cutting permit expires and is of no further force or effect if the tree to which it pertains has not been cut within 6 months of the date of issuance of the permit.

Part 9 Reconsideration by Council

- 9.1 A person who is dissatisfied with a decision of the Director under Part 6 or Part 7 of this bylaw may apply to the Council for reconsideration of the decision.
- 9.2 An application for reconsideration shall be made in writing to the Municipal Clerk within 10 days of the decision being communicated to the applicant, and shall include the information that the person provided to the District with respect to their application, a copy of the decision, a statement of the decision that the applicant wishes the Council to substitute for the original decision, the applicant's reasons for requesting reconsideration, and the application fee specified in the Fees and Charges Bylaw.
- 9.3 A person who applies for reconsideration under this Part shall be provided a reasonable opportunity to make written or oral representations to the Council with respect to their application at a regular meeting of Council within 3 calendar months of the application for reconsideration being made, and the Council may require the Director to provide information with respect to the decision.
- 9.4 On reconsideration, the Council may confirm the decision of the Director, or substitute for that decision any other decision that the Director could have made under this bylaw.

Part 10 Offence and Penalties

- 10.1 The Director, the Environmental Protection Officer, a Land Development Technician, a Bylaw Enforcement Officer and a member of the West Vancouver Police Department may at all reasonable times enter on any real property to inspect and determine whether this bylaw is being complied with.
- 10.2 The Director may order or direct any person to discontinue or refrain from proceeding with any work that contravenes this bylaw, and to carry out any work that is required by a tree cutting permit, in each case within the time specified in the order or direction.

10.3 Every person who:

10.3.1 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 to or refrains from doing anything required to be done by a provision of this bylaw,

10.3.2 Fails to comply with any condition of a permit issued pursuant to this bylaw,

10.3.3 Prevents or obstructs an entry on real property authorized by Section 10.1; or

10.3.4 Fails to comply with an order or direction of the Director under Section 10.2

is guilty of an offence and is liable to the penalties imposed under this bylaw, and is guilty of a separate offence each day that a violation continues to exist.

10.4 For certainty, in the case of offences involving the cutting or damaging of more than one tree, an offence is committed in respect of each individual tree and the maximum penalties imposed under this bylaw apply to each such offence.

10.5 For certainty, in the case of offences of a continuing nature, an offence is committed on each day during which the offence continues, and the maximum penalties imposed under this bylaw apply to each such offence.

10.6 Every person who commits an offence is liable:

10.6.1 On summary conviction to a fine of up to \$10,000;

10.6.2 To pay the applicable fine established in Bylaw Notice Enforcement Bylaw No. 4368, 2004; or

10.6.3 To pay the applicable fine established in Municipal Ticket Information Bylaw No. 4383, 2004.

Schedules

Schedule A to Bylaw No. 4892, 2016 – Schedule of Protected Tree Species

READ A FIRST TIME on April 18, 2016

READ A SECOND TIME on April 18, 2016

READ A THIRD TIME on April 18, 2016

ADOPTED by the Council on April 20, 2016.

Mayor

Municipal Clerk

Schedule A – Protected Tree Species

1. Arbutus (Arbutus Menziesii)
2. Garry Oak (Quercus Garryana)