COUNCIL REPORT

Date: June 16, 2014
From: Tony Tse, Manager of Development Engineering
Subject: Soil Removal and Deposit Regulation Bylaw and Blasting Bylaw - Bylaw Amendments

RECOMMENDED THAT:

1. Proposed Soil Removal and Deposit Regulation Bylaw No. 3786, 1992, Amendment Bylaw No. 4801, 2014 be read a first, second, and third time; and


Purpose

These bylaws have been around for many years, and they are in need of updating. The purpose of these amendments are primarily to clarify and address some operational issues that have accumulated over the years, and to address issues that are regularly raised by home owners, builders and blasting contractors. A Fees & Charges Bylaw amendment addressing this topic will be the subject of a separate Council Report.

1.0 Background

1.1 Prior Resolutions

January 25, 1993-Council adopted Soil Removal and Deposit Bylaw No. 3786. It has been amended several times since its adoption.

November 18, 1996 - Council adopted Blasting Bylaw No. 4024. It has never been amended since its adoption.

1.2 History

The Bylaws were introduced as a result of the 1992 SAFE (soil and foundation excavation) report on blasting and soil construction. The SAFE report was produced by a Council appointed Task Force of concerned neighbourhood representatives, building industry representatives and blasting experts working with staff.
2.0 Policy

2.1 Bylaw

2.1.1 Soil Removal and Deposit Bylaw No. 3786, 1992 provides for the safety, protection of property, and allowance of soil displacement related to terrain alteration for construction of building(s) or landscaping.

2.1.2 Blasting Bylaw No. 4024, 1996 regulates the use of explosive agents for blasting, or the use of heavy machinery for rock breaking, and require persons engaged in blasting or other rock breaking methods to give security for damage.

3.0 Analysis

3.1 Discussion

These amendments to the Soil Removal and Deposit Bylaw and the Blasting Bylaw are primarily intended to provide greater clarity in the bylaws and to harmonize the various provisions in the bylaws, rather than substantively changing those provisions. More substantive changes are proposed related to the following:

3.1.1 Soil Removal and Deposit Regulation Bylaw:

The current bylaw has no limitation on the volume of soil to be imported to a single-family or duplex lot. For the past few years, local residents raised their concerns to the District regarding grade alteration of adjacent properties that involved the import of large volumes of soil. The grade alteration did not conform to the natural contour of the site and the terrain of the neighbourhood. A soil deposit limitation of 100 cubic meters is proposed to manage the quantity of soil to be deposited on single or duplex lots in order to minimize the impact on the surrounding neighbourhood. A condition is also imposed to control import of any soil that contains invasive plant species or seeds of any invasive plant species.

Contractors will sometimes seek to avoid the provisions of the blasting bylaw by rock breaking by other means. A new limitation on rock breaking by methods other than blasting is proposed to no more than 100 cubic meters. The existing Bylaw does not regulate the types of method used by contractors for rock removal. The removal of rock by percussion breaking or splitting usually takes much longer than blasting. As a result, the noise generated by the lengthy rock breaking will negatively impacts adjacent neighbours. This amendment will allow only smaller projects or sites with safety issues to remove rock by methods other than blasting.
In the event where work is proceeding or has proceeded in contravention of this Bylaw, this amendment will provide clear authority for the Director of Planning, Land Development and Permits to issue a stop work notice in order to assess the situation.

3.1.2 Blasting Bylaw:

For the past few years, claims of damage to neighbouring properties caused by blasting were difficult to resolve due to the uncertainty of responsible parties. The security deposit, insurance and indemnity requirements are now to be satisfied by the blasting company rather than the property owner. This is in keeping with the practice of other municipalities, and reflects the actual responsibility of the blaster.

An increase in the security deposit in connection with blasting permits is proposed, from $2,500 to $10,000. An increase in the security deposit in connection with percussive breaking and splitting permits is proposed, from $2,500 to $5,000. On-going security to avoid the need to provide a separate security deposit for each permit is accepted. The increase is to keep current with the costs of settling damage claims.

A revision is proposed to expressly set out the method of calculating deductions from allowable rock breaking volumes under Section 6 of Schedule A of the Blasting Bylaw. This new methodology provides greater certainty regarding the method of calculation.

Authority to issue a stop work notice as previously stated.

3.1 Financial Implications

No additional staff will be needed at this time as a result of these amendments. The workload will be monitored and analyzed and any further staffing requirements will be brought forward for Council consideration.

The associated Fees and Charges Bylaw amendment which is the subject of a separate report will increase the fees for percussive breaking and splitting from $250 to $500.

3.2 Consultation

Draft amending Bylaws were previously sent to blasting companies, architects and building contractors (over 50 companies were contacted). Three companies wrote back with their comments and one contacted the District by phone. Some of the comments are addressed in the proposed Bylaws, however other comments related the increasing the imported soil allowance, reduction of
security deposits and the forgiveness of rock volume previously removed from the existing dwelling were left unchanged from the draft.

3.3 Communications Process

Information on these changes will be provided on the District website.

4.0 Options

4.1 Council may:


- Proposed to revise the Bylaw Amendments as required and then give them first reading; or

- Proposed to not give the Bylaw Amendments first, second and third readings and refer the matter back to staff with further direction.

Author:

Tony Tse
Manager of Development Engineering

Appendices:

A. Proposed Soil Removal and Deposit Bylaw No. 3786, 1992, Amendment Bylaw No. 4801, 2014

B. Proposed Blasting Bylaw No. 4024, 1996, Amendment Bylaw No. 4802, 2014
APPENDIX A

District of West Vancouver

Soil Removal and Deposit Regulation Bylaw
Bylaw No. 3786, 1992, Amendment Bylaw No. 4801, 2014

Effective Date:

Doc #735191
District of West Vancouver

Soil Removal and Deposit Regulation
Bylaw No. 3786, 1992,
Amendment Bylaw No. 4801, 2014

Table of Contents

Part 1  Citation........................................................................................................................................ 1
Part 2  Severability.................................................................................................................................. 1
Part 3  Amendments.............................................................................................................................. 1
Part 4  Offence and Penalty.................................................................................................................... 8
Schedule B – Schedule of Technical Requirements for Removal or Deposit of
Soil by Permit or Otherwise.................................................................................................................... 1
District of West Vancouver

Soil Removal and Deposit Regulation
Bylaw No. 3786, 1992,
Amendment Bylaw No. 4801, 2014

A bylaw to amend the Soil Removal and Deposit Regulation Bylaw to regulate the removal from and deposit of soil on lands within the municipality, to require the holding of a permit for such purpose, and to fix a fee for such permit.

Previous amendments: Amendment Bylaws 3854, 3981, 4025, 4148, 4521, and 4703.

WHEREAS the Council of The Corporation of the District of West Vancouver deems it expedient to amend the Soil Removal and Deposit Regulation Bylaw No. 3786, 1992;

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 Soil Removal and Deposit Regulation Bylaw No. 3786, 1992, Amendment Bylaw No. 4801, 2014.

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. Amends Interpretation

3.1 Soil Removal and Deposit Regulation Bylaw No. 3786, 1992, Section 1 Interpretation is amended:

3.1.1 By inserting the following interpretations in alphabetical order as follows:
(a) "Approving Officer" means the approving officer for the District under the British Columbia Land Title Act;

(b) "Director" means the District's Director of Planning, Land Development and Permits and his or her designate.

(c) "Invasive Species" means any plant species defined as an invasive species in any bylaw of the District;

(d) "Lot" means real property registered as a parcel in the records of the applicable land title office; and

(e) "Percussive Breaking or Splitting" means rock breaking by any method other than blasting.

3.1.2 By deleting the interpretation of "building footprint", "deposit", "other material", "removal" and "rock-breaking" in their entireties and replacing them with the following in alphabetical order:

(a) "building footprint" means the area enclosed by the exterior walls of a principal building and garage where they rise from the finished ground level as shown on the building permit plans, but does not include the footprint of any crawl space or other portion of a house that is not used or intended to be used for human habitation;

(b) "deposit" means the act of moving soil and placing it on land or into a stockpile or other storage facility, but excludes the moving or placing of soil on a Lot excavated from that Lot for the construction of buildings on the Lot pursuant to a valid permit issued by the District under this Bylaw or under the Blasting Bylaw No. 4024, 1996; and

(c) "other material" means non-degradable construction or demolition waste, such as masonry rubble, concrete rubble and, asphalt;

(d) "removal" means the act of removing soil from any location; and

(e) "rock-breaking" means the removal of rock boulders or bedrock from land by drilling, blasting or percussive breaking or splitting.

3.1.3 By deleting the interpretation "rock-breaking permit" in its entirety.
3.1.4 By replacing the word “Engineer” with “Director” in the interpretation of “Permit” and in Section 3(c), Section 4, Sections 6(4), 6(5), Section 7, Section 13, Section 19(c), Section 20 and 21(a), and in Sections 2 and 11(b) of Schedule B

Part 4. Amends Permits Not Required

4.1 Soil Removal and Deposit Regulation Bylaw No. 3786, 1992, Section 3 Permits Not Required is amended:

4.1.1 By deleting the first sentence in Section 3 in its entirety and replacing it with the following:

“A permit under this Bylaw shall not be required in the following circumstances:”

4.1.2 By replacing the word “Engineer” with “District’s Director of Engineering and Transportation or his or her designate” at the end of Section 3(a).

4.1.3 By deleting the phrase “except the removal of rock by percussive breaking or splitting” from Section 3(b) and Section 3(d);

4.1.4 By deleting section 3(c) in its entirety and replacing it with the following:

“The removal or deposit of soil related to the construction of roads or the installation of utilities and services required by the Approving Officer as a condition of approval of the subdivision of land, provided that the said roads, utilities and services are constructed in accordance with engineering drawings approved by the District’s Director of Engineering and Transportation or his or her designate;”

4.1.5 By deleting section 3(e) in its entirety including the heading Rock Blasting, and replacing it with the following:

“Rock Blasting
the removal of soil by rock breaking pursuant to a permit issued under the Blasting Bylaw. For greater certainty, nothing in this Bylaw affects or precludes the need for a permit for rock breaking under the Blasting Bylaw.”

4.1.6 By inserting the following sentence at the end of Section 3:

“Sub-sections 3(b), 3(d) do not apply to the deposit of soil that exceeds the volume limitations set out in section 7(1).”
Part 5. Amends Permit Applications to Engineer

5.1 Soil Removal and Deposit Regulation Bylaw No. 3786, 1992, Section 4 Permit Applications to Engineer is amended by inserting the following text at the end of section:

“and every application shall include the information set out in section 1 of Schedule B herein and shall meet the technical requirements imposed by the Director in accordance with section 2 of Schedule B herein.”

Part 6. Amends Limitation of Rock Breaking

6.1 Soil Removal and Deposit Regulation Bylaw No. 3786, 1992, Section 6 Limitation of Rock Breaking is amended by:

6.1.1 In the first line of Section 6(1) the phrase “land in a Single Family or Two Family Zone and” is deleted in its entirety and replaced with the phrase “Lots that are zoned for single or duplex uses and on Lots.”

6.1.2 In the fifth line of section 6(1)(a) the phrase “footprint formed by the exterior walls of the principle building and garage as shown on the building permit plans,” is deleted in its entirety and replaced with the phrase “building footprint, subject to deductions under Section 6(2),”

6.1.3 The following clause is inserted at the end of section 6(1)(b):
“provided that Director is satisfied that installation of the utilities and utility connections in a manner or location that would avoid the need for rock breaking would be impractical or unworkable from an engineering perspective;”

6.1.4 Inserting new Section 6(2) as follows:

“On lots that are being redeveloped, deductions from the allowable volume calculated under section 6(1)(a) will be made by the Director in accordance with section 12 and 13 of Schedule B to account for previous rock breaking.”

6.1.5 Inserting new Section 6(3) as follows:

“Unless rock breaking by blasting is unsafe, rock breaking by percussive breaking or splitting shall be limited to a maximum volume of 100 cubic metres (subject to permit requirements under the Blasting Bylaw). Blasting shall be deemed to be unsafe only if a qualified geotechnical engineer retained by the
applicant provides a report satisfactory to the Director stating that safety risks associated with blasting cannot be mitigated."

6.1.6 Section 6(2) is renumbered as section 6(4), the reference "Subsection 6(1)" in the renumbered subsection 6(4) is deleted and replaced with "Subsections 6(1) and 6(2)", and the words "under the Blasting Bylaw" are inserted after the words "rock breaking permit" in the second line.

6.1.7 The sections formerly numbered as subsections 6(3) and 6(6) are deleted.

6.1.8 Section 6(4) is renumbered as section 6(5), at the beginning of subsection the phrase "A person seeking a rock breaking permit shall apply to the Engineer and shall," is deleted in its entirety and replaced with the phrase "Without limiting the application of the permit requirements under the Blasting Bylaw, a person seeking a Council approval under subsection 6(4) shall."

6.1.9 Section 6(5) is renumbered as section 6(6), at the beginning of the subsection the phrase "The Engineer, upon receipt of a complete application, shall" is deleted and replaced with the phrase "The Director shall, upon receipt of a complete application from a person seeking Council approval under subsection 6(4)."

6.1.10 In subsection 6(7) the words "Excluding subdivision" are deleted and replaced with the words "Unless approved in writing by the Director."

Part 7. Amends Notice of Rock Breaking

7.1 Soil Removal and Deposit Regulation Bylaw No. 3786, 1992, Section 7 Notice of Rock Breaking is amended by deleting the entire "Notice of Rock Breaking" section and replaced with a new section titled "Limitations on Soil Deposit" as follows:

7.1.1 "For all Lots that are designated for single family residential uses or residential duplex uses under the Zoning Bylaw the total cumulative quantity of soil that may be deposited must not exceed 100 cubic meters."

7.1.2 "No person shall deposit on a Lot any soil that contains any Invasive Plant Species or any seeds of an Invasive Plant Species."
7.1.3 "Despite the provisions of Subsection 7(1) the owner of a Lot may apply to the Director for a permit to deposit soil in excess of the amounts set out in subsection 7(1), and the Director may issue such permit if he or she is satisfied that the deposit of the soil will not:

a) foul, pollute, obstruct, divert, impede, damage or destroy any watercourse, ditch, drain, sewer or other utility whether privately or publicly owned;
b) contravene any District by-law, or provincial or federal law;
c) threaten the health, safety or welfare of the public or be otherwise contrary to the public interest;
d) adversely affect the future development of another Lot;
e) result in excessive costs for any government to provide public utilities, works or services to the Lot or adjacent Lots;
f) result in the Lot or another Lot becoming susceptible to erosion, slippage, landslides, slumping or settling; or
g) be inconsistent or incompatible with the criteria set out at section 6(4) (b) herein."

Part 8. Amends Sections 9, 10, 11, 12 and 19

8.1 Soil Removal and Deposit Regulation Bylaw No. 3786, 1992 is amended by:

8.1.1 Section 9 is renumbered as Section 10 and the words “in Schedule B” are deleted and replaced with the words “in sections 3 to 11 of Schedule B”.

8.1.2 Inserting a new Section 9 as follow: “As a precondition to issuance of a Permit, the Director may require submission of any or all of the information and documentation set out in sections 1 and 2 of Schedule B.”

8.1.3 Section 10 is renumbered as Section 11.

8.1.4 Section 12 entitled “Special Wasted” is deleted in its entirety.

8.1.5 A new section 12 entitled “Other Material” is added as follows:

"No person shall deposit, cause the deposit or permit the deposit of Other Material on any land."

8.1.6 At the end of Subsection 19(a) the following words are inserted: “under this Bylaw or a rock breaking permit under the Blasting
Bylaw.”

8.1.7 At the end of Subsection 19(b) the word “and” is inserted.

Part 9. Amend Stop Work Order

9.1 Soil Removal and Deposit Regulation Bylaw No. 3786, 1992 is amended by:

9.1.1 The following new Section 21 is inserted: “The Director may issue a stop work notice where work is proceeding or has proceeded in contravention of this Bylaw by posting said notice on the Lot in a visible location.”

9.1.2 The following new Section 22 is inserted: “The owner of a Lot on which a stop work notice has been posted, and every other person, shall cease all construction activities on that Lot immediately. No work shall be done on the Lot except that which the Director agrees, in writing, is necessary to remove hazards or to mitigate damage arising from exposure to the elements. Work on the site, in general, may not resume unless and until full compliance with this Bylaw has been achieved, or if full compliance is not possible, then unless and until alternative measures approved or required by the Director have been completed or secured to the sole satisfaction of the Director and the Director has rescinded, in writing, the stop work notice on the Lot.”

Part 10. Amends Sections 21, 22 and Schedule B

10.1.1 Section 21(a) is renumbered as Section 23(a), and in the fifth line of the section the words “Such permit” are deleted and replaced with the words “a permit under this Bylaw or under the Blasting Bylaw”.

10.1.2 Section 21(b) is renumbered as Section 23(b) and in the first line of the section after the word “Bylaw” the following words are inserted “or the Blasting Bylaw”.

735191
10.1.3 The text in old Section 22 (now Section 24) is deleted and replaced with the words "Intentionally Deleted"; and all subsequent sections are re-numbered accordingly.

10.1.4 Delete Schedule B and replace with new Schedule B attached hereto.

Part 11. Offence and Penalty

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

11.2 Every person who commits an offence is liable on summary conviction to a fine or to imprisonment, or to both a fine and imprisonment, not exceeding the maximum allowed by the Offence Act.

Schedules

Schedule B - Schedule of Technical Requirements for Removal or Deposit of Soil by Permit or Otherwise

READ A FIRST TIME on [Date]

READ A SECOND TIME on [Date]

READ A THIRD TIME on [Date]

ADOPTED by the Council on [Date].

________________________________________
Mayor

________________________________________
Municipal Clerk
Schedule B – Schedule of Technical Requirements for Removal or Deposit of Soil by Permit or Otherwise

Soil Removal and Deposit Regulation Bylaw 3786, 1992

1. In addition to the requirements set out in the text of this Bylaw, every applicant for a soil removal or deposit permit shall submit with his application:

   a) A description of the soil and the purpose for which the soil is to be removed or deposited.

   b) The consent in writing of the owner.

   c) A current title search of the lands.

   d) The dates of commencement of the work and of completion including clean-up.

   e) Such further and other information as may be necessary to adequately describe the proposed soil removal or deposit operation for which the permit is applied for.

2. The Director may require from the applicant a permit plan of the lands from or upon which the applicant proposes to remove or deposit the soil, prepared by a BC Land Surveyor, which may include:

   a) A statement from a BC Land Surveyor of the volume of soil to be removed or deposited together with a copy of the calculations, cross-sections, and other engineering data and pertinent information used in calculating such estimated total volume.

   b) Contour plans of the said lands, to a scale of not less than 1:250, showing contours at a vertical interval suitable to describe the existing terrain of the said lands, and the relation thereof to those of the adjoining lands, and highways, and showing at one (1) metre intervals the proposed geodetic elevations of the lands after the soil has been removed therefrom or deposited thereon. Cross-sections may be required as necessary to clearly show the existing and proposed ground surfaces.
c) Full particulars of the present use, occupancy and conditions of the lands from or upon which the removal or deposit of soil is proposed and of those portions of adjacent lands which may be affected by the proposed soil removal or deposit operation, including all pertinent topographic features, buildings, structures and tree cover existing thereon, highways and highway allowances, foot paths, watercourses, water table, drainage facilities, wells, private sewage disposal systems, fence lines, facilities existing for pedestrian and vehicular traffic (indicating the suitability of same for carrying the type and volume of traffic to be generated in the removal or deposit of the soil), and all utilities, services and other existing facilities.

d) The proposed slopes which will be maintained during and upon completion of the removal or deposit of the soil.

e) The proposed methods of erosion control for the banks of the excavation or of the soil deposit, during and upon completion of the removal or deposit of the soil.

f) The proposed methods of drainage control for the excavation or the soil deposit, during and upon completion of the removal or deposit of the soil.

g) The proposed methods of access to the lands during and upon completion of the removal or deposit of the soil.

h) The proposed methods of fencing, enclosing, and clearing the lands affected to ensure that no hazard to human or animal life shall exist.

e) The location of stockpiles indicating their extent and nature and duration.

j) The location of buildings, and other proposed structures and improvements.

k) Such further and other information as may be necessary to adequately describe the proposed soil removal or deposit operation for which the permit is applied for.
SLOPES
3. The slope of any part of an exposed face of any excavated or deposited soil, except bedrock, shall not be greater than two (2) horizontal to one (1) vertical, except that a steeper slope may be allowed where a Professional Engineer certifies that the face of the excavation would be stable at a steeper slope.

WORK NEAR UTILITIES
4. No removal or deposit of soil greater than 0.5 metres in depth shall be undertaken within 2.5 metres of any utility pole, pipeline or structure or public roadway or lane, without providing the authority having jurisdiction one week’s notice in writing.

WORK ON HIGHWAYS AND RIGHTS OF WAY
5. No removal or deposit shall be undertaken on a road, street, lane, footpath, highway or on a statutory right-of-way without first obtaining the permission in writing of the authority having jurisdiction over such highway or right-of-way.

UNDERMINING EXCAVATION
6. No excavation shall extend beyond the limiting excavation face delineated by the boundaries and the maximum slopes permitted above. There shall be no excavation into the toe of such limiting excavation face. Such limiting excavation face shall comprise undisturbed natural soil and it shall not be extended by backfilling.

DRAINAGE
7. Removal and deposit operations shall, at all times, be graded in such a manner that positive-gravity drainage is assured throughout, and a drainage system shall be installed which is of sufficient capacity and extent to ensure that groundwater and surface run-off will not drain into adjoining lands at greater rates after commencement than prior to the commencement of the soil removal or deposit operations. Surface water shall not be allowed to pool anywhere within the work, provided however, that where necessary to remove sediment from surface run-off, a settling pool may be established for the duration of the operation.

IDENTIFY BOUNDARIES
8. It shall be the responsibility of the person removing or depositing soil to establish the boundary of any rights-of-way or highways.
9. All structures, fills or excavations erected or made in connection with a soil removal or deposit operation under this schedule shall be temporary in nature and shall be removed forthwith upon completion of the soil removal or deposit operations.

10. All hazards or potential hazards arising from soil removal or deposit operations shall be adequately fenced or otherwise protected for the safety of the public.

11. During and upon completion of every soil removal or deposit operation:

   a) the boundaries of all adjacent lands, highways, rights-of-way and easements shall be protected from erosion or collapse and from run off of water or mud;

   b) all works required by this Bylaw and any permit issued pursuant thereto shall be completed in accordance with accepted sound engineering principles and to the satisfaction of the Director;

   c) all surfaces of the fill or excavation other than bedrock or rock used in construction of walls shall be covered with grass or other suitable cover and the same shall be maintained so that it becomes reasonably established;

   d) all surfaces of the excavation or the soil deposit shall be left with a slope not greater than that permitted by this bylaw or as specified in the permit;

   e) any and all loose rock material created by construction on any Lot, whether by excavation, drilling, blasting or other means, and having a dimension greater than 150mm, must be removed entirely from the Lot, used and placed for the creation of retaining walls, or be covered by at least 300mm of soil in a stable location on the Lot with such soil being capable of normal plant growth with reasonable consideration for soil settlement.
Calculation of Blasting Volumes

12. If the District has records of the actual volume of rock that was previously blasted on a Lot then the actual volume of said previously blasted rock will be deducted from the allowable volume calculated under section 6(1)(a).

13. If the District has no records of the actual volume of rock that was previously blasted on a Lot then:

   (a) no deduction from the allowable volume calculated under section 6(1)(a) will be made if the existing house on the Lot predates 1996 or if the existing house on the Lot has no basement; or

   (b) a deduction from the allowable volume calculated under section 6(1)(a) will be made in an amount equal to 50% of the basement area of all houses built on the Lot since 1996 or of any basement area added to a house on the Lot since 1996.
District of West Vancouver

Blasting Bylaw
Bylaw No. 4024, 1996, Amendment Bylaw No. 4802, 2014

Effective Date:

Doc # 735192
<table>
<thead>
<tr>
<th>Part</th>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Part 1</td>
<td>Citation</td>
<td>1</td>
</tr>
<tr>
<td>Part 2</td>
<td>Severability</td>
<td>1</td>
</tr>
<tr>
<td>Part 3</td>
<td>Amendments</td>
<td>1</td>
</tr>
<tr>
<td>Part 4</td>
<td>Offence and Penalty</td>
<td>10</td>
</tr>
</tbody>
</table>
District of West Vancouver

Blasting Bylaw No. 4024, 1994, Amendment Bylaw No. 4802, 2014

A bylaw to amend the Blasting Bylaw to regulate and prohibit the use of explosive agents for blasting, or the use of heavy machinery for splitting or breaking of rock, and require persons engaged in blasting or breaking of rock to give security for damage.

WHEREAS the Council of The Corporation of the District of West Vancouver deems it expedient to regulate the removal of rock from or on lands within the municipality;

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 Blasting Bylaw No. 4024, 1994, Amendment Bylaw No 4802, 2014.

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 Amends the Recitals

3.1 Blasting Bylaw No. 4024, 1994 is amended as follows:

3.1.1 The recitals at the beginning of the Bylaw are deleted and replaced with the following new recitals:

"A bylaw to regulate and prohibit the use of explosive agents for blasting, or the use of heavy machinery for splitting or breaking of rock, and require persons engaged in blasting or breaking of rock to give security for damage."
Part 4 Amends Definitions

4.1 Blasting Bylaw No. 4024, 1994, Definitions, is amended as follows:

4.1.1 The following new definitions are inserted in section 1 in alphabetical order, and the subsection lettering is revised accordingly:

a) “Business Days” means every day other than Saturday and Sunday and statutory holidays;

b) “Lot” means real property registered as a parcel in the records of the applicable land title office;

c) “Percussive Breaking or Splitting” means rock breaking by any method other than blasting;

d) “Rock Breaking” means the removal of rock from land by blasting or Percussive Breaking or Splitting.

4.1.2 In the definition of Affected Owners the section reference is changed from 5(k) to 5(l).

4.1.3 In the definition of Control Measures/Blasting Plan the section reference is changed from 5(h) to 5(l).

4.1.4 The definition of “Director” is revised by deleting the words “Director of Operations of the District” and replacing with the words “District’s Director of Planning, Land Development and Permits”.

4.1.5 In the definition of Letters of Assurance the section reference is changed from 5(g) to 5(h).

4.1.6 In the 4th line of the definition of Owner the words “the person proposes to Blast” are deleted and replaced with the words “rock breaking is proposed”, and the word “parcel” and the words “parcel of land” and the plural use of these terms are deleted throughout the Bylaw and replaced with the word “Lot” or “Lots” as applicable.

4.1.7 In the definition of Permit the words “Schedule B” are deleted and replaced with the words Schedules B1 or B2 as applicable”, and the word “Blasting” is deleted and replaced with the words “Rock Breaking”.

4.1.8 In the 2nd line of the definition of Public Lands Application after the word “Blast” the following words are inserted “or do Percussive Breaking or Splitting”.

**Part 5 Amends Sections 2, 3 and 5**

5.1 Blasting Bylaw No. 4024, 1994 is amended as follows:

5.1.1 In section 2 the word “Blasting” is replaced with the word “Rock Breaking”;

5.1.2 Section 3 is deleted and replaced with the following new section:

Without limiting the generality of Section 2, no person shall blast or undertake Percussive Breaking or Splitting unless he or she holds a valid Permit with regard to such Blasting or Percussive Breaking or Splitting.

5.1.3 The heading for Section 5 is revised as follows: “Application for Permit – Blasting”;

5.1.4 In the first line of Section 5 the words “shall first” are deleted and replaced with the words “and the Owner’s Blaster shall first jointly”;

5.1.5 At the end of Subsection 5(a) the following words are inserted “signed by the Owner and the Blaster”;

5.1.6 In Subsection 5(c) the word “Owner” is replaced with the word “Blaster”;

5.1.7 In Subsection 5(d) the words “a certificate of insurance” are deleted and replaced with the words “proof satisfactory to the Director that the Blaster has insurance”, and the words “while a Permit is valid” are deleted and replaced with the words “for the duration of the work carried out pursuant to the Permit”;

5.1.8 A new subsection 5(f) is inserted as follows:

a security deposit in the amount of $10,000.00 which security deposit will not be released until the later of: (a) 3 months after the notice required under section 11(a) has been delivered in accordance with that section; or (b) all damage caused by the rock breaking, if any, has been remediated or repaired to the satisfaction of the Director. The security deposit may be used by the District to remediate or repair any damage caused by the rock breaking;
5.1.9 All subsections after new Subsection 5(f) are re-lettered accordingly; and

5.1.10 In Subsection 5(f) the words “or professional engineer” are deleted.

5.1.11 A new subsection 5(n) is inserted as follows:

   if required by the Director, any or all of the information and documentation set out in Sections 1 and 2 of Schedule B to the Soil Removal and Deposit Bylaw; and

5.1.12 A new subsection 5(n) is inserted as follows:

   such other information and documentation as the Director may require to satisfy himself or herself of compliance with the provisions of this Bylaw and with the applicable provisions of the Soil Removal and Deposit Bylaw.”

Part 6 Adds new Sections

6.1 Blasting Bylaw No. 4024, 1994 is amended as follows:

6.1.1 New Section 5.1 titled “Application for Permit – Percussive Breaking or Splitting” is inserted as follows:

6.1.2 When an Owner proposes to break rock by Percussive Breaking or Splitting, the Owner and the Owner’s contractor, if the Owner has a contractor, shall first jointly apply to the Director for a Permit by providing each of the following:

(a) an indemnity from the Owner’s contractor, or if the Owner does not have a contractor, from the Owner in the form and with the content of that attached as Schedule C;

(b) if required by the Director, proof satisfactory to the Director that the Owner’s contractor, or if the Owner does not have a contractor, that the Owner has insurance providing coverage for the contractor (if any), the Owner and the other parties as specified in Schedule D against liability for loss or damage to persons or property as a result of Percussive Breaking or Splitting, which insurance shall remain in force for the duration of the work carried out pursuant to the Permit;

(c) a security deposit in the amount of $5,000.00, which security deposit will not be released until the later of: (a) 3 months after the notice required under section 11(a)
has been delivered in accordance with that section; or (b) all damage caused by the Percussive Breaking or Splitting, if any, has been remediated or repaired to the satisfaction of the Director. The security deposit may be used by the District to remediate or repair any damage caused by the Percussive Breaking or Splitting;

(d) a topographic survey of the Lot (or the portion thereof) where the Percussive Breaking or Splitting is to be carried out, prepared by a B.C.L.S. or a professional engineer;

(e) a report detailing how drill rigs and compressors are to be muffled and the Director may require use of equipment to reduce or control noise levels;

(f) if required by the Director, any or all of the information and documentation set out in sections 1 and 2 of Schedule B to the Soil Removal and Deposit Bylaw;

(g) such other information and documentation as the Director may require to satisfy himself or herself of compliance with the provisions of this Bylaw and with the applicable provisions of the Soil Removal and Deposit Bylaw.”

Part 7 Amends Sections 6, 7, 8, 9 and 10

7.1 Blasting Bylaw No. 4024, 1994 is amended as follows:

7.1.1 The heading for Section 6 is revised as follows: “Permit and Authority of Director”

7.1.2 In Section 6(a), the words “Section 5” are deleted and replaced with the words “Section 5 or 5.1, as applicable” and the word “Blasting” is deleted and replaced with the word “Rock Blasting”;

7.1.3 Section 6(b) is deleted and replaced with the following new Subsection:

Authority for rock breaking under a Permit expires ten (10) business days after, but not including, the date of issuance of the Permit.
7.1.4 In Section 6(c) the words “to blast” are deleted and replaced with the words “for Rock Breaking”, and the section references are changed to Sections 5(d) and 5.1(b), and the words “or security provided” in the third line are deleted.

7.1.5 In Section 6(d): the words “to blast” in the first line are deleted and replaced with the words “for Rock Breaking”; and the word “or” in the second line is deleted; and the words “or Owner’s contractor, as the case may be,” are inserted after the word “Blaster” in the third line; and the words “or 5.1(a) or (b) or in violation of the Control Measures/Blasting Plan” are inserted at the end of the sentence in the 5th line; and the word “blasting” in the eighth line is deleted and replaced with the words “Rock Breaking”.

7.1.6 A new subsection 6(e) is inserted as follows:

The Director may issue a stop work notice where work is proceeding or has proceeded in contravention of this Bylaw by posting said notice on the Lot in a visible location.

7.1.7 A new subsection 6(f) is inserted as follows:

The owner of a Lot on which a stop work notice has been posted, and every other person, shall cease all construction activities on that Lot immediately. No work shall be done on the Lot except that which the Director agrees, in writing, is necessary to remove hazards or to mitigate damage arising from exposure to the elements. Work on the site, in general, may not resume unless and until full compliance with this Bylaw has been achieved, or if full compliance is not possible, then unless and until alternative measures approved or required by the Director have been completed or secured to the sole satisfaction of the Director and the Director has rescinded, in writing, the stop work notice on the Lot.

7.1.8 A new subsection 6(g) is inserted as follows:

The Director may permit a Blaster or contractor to provide on-going security in the place and stead of the security requirements in section 5(f) or section 5.1(c). The amount of the on-going security and the terms and conditions upon which it would be held by the District will be determined by the Director.

7.1.9 In the fourth line of Section 7(a) the words “Control Measures/” are inserted before the words “Blasting Plan”;
7.1.10 At the end of Section 8(a) the following words are inserted: 
"as amended or replaced from time to time;"

7.1.11 The first two sentences in Section 9(a) are deleted and replaced with the following new sentence:

Blasting is not to be undertaken until written notice has been delivered by All Affected Owners shall be notified by the Blaster to the Director and to the occupants of all dwellings and other buildings within 120 metres of the site of the Blasting.

7.1.12 In the last full line of section 9(a) the words “or Owner” are deleted.

7.1.13 Sections 9(b) is deleted and replaced with the following:

Percussive Breaking or Splitting of more than 20 cubic meters of rock is not to be undertaken until written notice has been given to the Director and to occupants of all dwellings or other buildings within 50 metres of the site of the Percussive Breaking or Splitting. The notice shall describe the work to be done, the location, the approximate quantity of rock to be broken, the expected date of commencement and the estimated duration of the project.

7.1.14 Sections 9(c) is deleted and replaced with the following:

Where Rock Breaking is expected to continue for more than two days, the notice required under sections 9(a) and 9(b) shall be given at least one week before of the commencement of any Rock Breaking, and in all other cases at least 48 hours’ notice shall be given.

7.1.15 Sections 9(d) is deleted and replaced with the following:

No blasting shall be done within 300 metres of a school or hospital until notice as required in 9(a) and 9(b) has also been given to the senior administrator of the School or Hospital, as the case may be, and has been provided to the Director. Further notice must be given to the senior administrator, or his or her designate, at least two hours prior to each actual blast, stating the approximate time of the blast.”
7.1.16 In the second line of Section 10(a) the word “signalling” is corrected to “signaling”.

7.1.17 New section 10(d) is inserted as follows:

Blasting shall be carried out only under the immediate supervision of a competent person possessing a valid Blasting Certificate issued by the Workers Compensation Board.

Part 8 Amends Sections 11, and 15

8.1 Blasting Bylaw No. 4024, 1994 is amended as follows

8.1.1 The heading for Section 11 is revised as follows: “Post Rock Breaking Requirements”;

8.1.2 Section 11(a) is deleted and replaced as follows:

Without delay after all blasting to be carried out under a Permit has been completed the Blaster shall deliver written notice of said completion to the Director and to the occupants of all dwellings or other buildings within 120 metres of the site. Without delay after all Percussive Breaking and Splitting to be carried out under a Permit has been completed written notice advising of said completion shall be delivered to the Director and to the occupants of all dwellings or other buildings within 50 metres of the site of the Percussive Breaking or Splitting."

8.1.3 Section 11(c) is deleted.

8.1.4 The word “Blasting” wherever it is used in section 12 is deleted and replaced with the words “Rock Breaking”.

8.1.5 Section 12(a) is deleted and replaced with the following:

Rock Breaking may be exempted by the Director from the provision of Sections 5(h) - (j), 5(l), 5.1, 7, 9 and 11 of this Bylaw where:
(i) less than 20 cubic metres of rock or other material is to be broken by means of detonating not more than 0.3 kilograms of explosive per delay and the Director is satisfied that the work will be completed within in 2 days; or

(ii) the rock to be broken consists entirely of boulders separate from bedrock;"

8.1.6 In the second line of section 15 the words “the blasting of rock” are deleted and replaced with the words “Rock Breaking”.

**Part 9 Amends Schedule A**

9.1 Blasting Bylaw No. 4024, 1994, Schedule A is amended as follows:

9.1.1 The word “blasting”, wherever used in Schedule A is deleted and replaced with the words “Rock Breaking”.

9.1.2 Section 5 in Schedule A is deleted and replaced with the following new section:

Building footprint of house and garage shown on plan for which building permit applied for: __________m² less gross floor area of any basement in any pre-existing house on the Lot constructed since 1996 or of any basement added to a pre-existing house on the Lot since 1996: __________m² (see sections 6(1)(a) and 6(2) and Schedule B in the District’s Soil Removal and Deposit Regulation Bylaw).

9.1.3 Section 7 in Schedule A is deleted in its entirety and replaced with the following new section:

Estimated total volume of rock to be removed for the house and garage (include in the estimate any amount necessary for over-blast below floor slab surface and outside of foundation walls) and driveways and above finished floor slabs elevation as certified by BCLS __________m³.

9.1.4 In Section 8 of Schedule A is deleted.

9.1.5 In Section 11(e) of Schedule A the words “or engineer (if required)” are deleted.
9.1.6 In Schedule A delete the word “agent” in the Owner’s signature line and insert a second signature line as follows:

“

Blaster’s or Contractor’s Signature (if required)”

Part 10 Deletes Schedule B and Schedule C

10.1 Blasting Bylaw No. 4024, 1994, Schedule B and Schedule C are deleted and replaced with new Schedules B1, B2, C and D attached hereto.

Part 11 Offence and Penalty

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

11.2 Every person who commits an offence is liable on summary conviction to a fine or to imprisonment, or to both a fine and imprisonment, not exceeding the maximum allowed by the Offence Act.
Schedules

Schedule B-1: Blasting Permit
Schedule B-2: Percussive Breaking and Splitting Permit
Schedule C: Rock Breaking Permit Indemnity
Schedule D: Insurance Requirements

READ A FIRST TIME on
READ A SECOND TIME on
READ A THIRD TIME on
ADOPTED by the Council on

__________________________  Mayor

__________________________  Municipal Clerk
SCHEDULE “B-1” TO BLASTING BYLAW NO. 4024, 1996

THE CORPORATION OF THE DISTRICT OF WEST VANCOUVER

Blasting Permit

[insert address]

This permit authorizes the Blaster, referred to in the Blasting Certificate, provided in relation to the above application, to blast at the above address for a period of _____ business days from the date of issue in accordance with: the provisions of the West Vancouver Blasting Bylaw No. 4024, 1996, Control Measures / Blasting Plan submitted and the recommendations in the Letter of Assurance filed with the Application.

This Permit is issued subject to all of the specifications referred to in the application, the Blasting Bylaw, the Soil Removal and Deposit Bylaw, the Control Measures/Blasting Plan, and the following:

1. All relevant site safety regulations shall be complied with.
2. District noise and traffic bylaws shall be complied with.
3. Dust and sediment control shall be in place
4. The maximum allowable volume of rock to be removed in cubic meters.
5. The proposed volume of rock to be removed in cubic meters.
6. This permit is issued to [insert name of blaster].
7. At least one week notice shall be given to adjacent homeowners prior to the commencement of any rock breaking.
8. Provide post-blasted topographic survey(s) to verify rock quantities, if required by the Director.

Permit Approved: ___________________ Date of Permit: ___________________
Manager of Development Engineering

Extension Approved: ______________ Date of Extension ______________

Blasting Permit Fee = $1000.00
Security Deposit = $10,000.00
SCHEDULE "B-2" TO BLASTING BYLAW NO. 4024, 1996

THE CORPORATION OF THE DISTRICT OF WEST VANCOURVER

Percussive Breaking and Splitting Permit

[Address]

This permit authorizes [name of contractor] to remove rock by using a hydraulic rock breaking equipment at the above address, for a period of _____ business days from the date of issue in accordance with: the provisions of the West Vancouver Blasting Bylaw No. 4024, 1996.

This Permit is issued subject to all of the specifications referred to in the application, the Blasting Bylaw, the Soil Removal and Deposit Bylaw, and the following:

1. All relevant site safety regulations shall be complied with.
2. District noise and traffic bylaws shall be complied with.
3. Dust and sediment control shall be in place.
4. The maximum allowable volume of rock to be removed in cubic meters.
5. The proposed volume of rock to be removed in cubic meters.
6. Notification to all affected owners shall be provided in accordance with the Blasting Bylaw.

Permit Approved: __________________ Date of Permit: __________________
Manager of Development Engineering

Date of Extension: __________________

Permit Fee= $500.00
Damage Deposit: $5000.00
SCHEDULE "C" TO BLASTING BYLAW NO. 4024, 1996

THE CORPORATION OF THE DISTRICT OF WEST VANCOUVER
ROCK BREAKING PERMIT INDEMNITY

Date: ______________________

To: The Director of Planning, Land Development and Permits
THE CORPORATION OF THE DISTRICT
OF WEST VANCOUVER
750 - 17th Street
West Vancouver, B.C.
V7V 3T3

Re: ______________________
Address of Project (print)

__________________________
Legal Description of Project (print)

The undersigned hereby indemnifies The Corporation of the District of West Vancouver and its officers, employees and agents from and against actions, causes of actions, claims, demands, costs, damages, liabilities, losses or expenses (including legal fees) for injury to or death of any persons or for damage to any property arising from or in any way connected directly or indirectly with any rock breaking by any method including blasting undertaken pursuant to any permit issued by the District of West Vancouver or with my acts or omissions or the acts or omissions of those for whom I am at law responsible directly or indirectly associated with said rock breaking.

__________________________
Name of Blaster or Contractor

__________________________
Signature of Blaster or Contractor

In the case of Percussive Breaking or Splitting, the above indemnity shall be provided by the Owner's contractor if the owner has a contractor, or by the Owner if the Owner has no contractor.
SCHEDULE "D" TO BLASTING BYLAW NO. 4024, 1996

INSURANCE REQUIREMENTS

Insurance

The Blaster shall provide to the Director of Planning, Land Development and Permits a certificate of insurance in a form satisfactory to the Director of Planning, Land Development and Permits evidencing a valid and subsisting policy of commercial general liability insurance showing the Blaster, Owner’s Contractor or Owner (as applicable) as named insured with Five Million Dollars ($5,000,000) coverage inclusive for loss or damage in respect of injury or death of any person or person and/or damage to property from any one accident or occurrence. There shall be no third party deductible for bodily injury or property damage loss and no space warranty clause. The District, the Director Planning, Land Development and Permits, any engineer hired as a consultant by the District in relation to a particular application shall be named as additional insureds. Notification will be given by the insurer to the Director of Planning, Land Development and Permits by registered mail not less than 30 days prior to material change, cancellation or termination of the insurance.

In the case of Percussive Breaking or Splitting, the insurance shall be provided by the Owner’s contractor if the owner has a contractor, or by the Owner if the Owner has no contractor.