

VILLAGE OF LIONS BAY

BYLAW No. 393, 2007

TREE BYLAW

**A Bylaw to manage the preservation and replacement of,
and to regulate the pruning and removal of, trees on municipally owned lands.**

WHEREAS the Council wishes to manage trees on municipal lands in order to protect the natural environment of Lions Bay for the future of the Village, while at the same time taking into account the need to protect public safety, as well as wherever feasible the preservation of scenic views;

AND WHEREAS, given the conflict that may at times arise between individual interest and the public good on issues concerning the management of trees on municipal lands, it is desirable that a consistent approach be articulated;

AND WHEREAS the Community Charter gives Council the authority, by Bylaw, to preserve trees, regulate the pruning and removal of trees, charge a fee for a permit to allow the cutting and removal of trees and require the replacement of trees cut down;

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

CITATION

1. This Bylaw may be cited for all purposes as "Village of Lions Bay Tree Bylaw No. 393, 2007".

PART I DEFINITIONS

2. In this Bylaw:

"Village" means the Municipality of the Village of Lions Bay.

"Council" means the elected Council of the Village.

"Administrator" means the person appointed by Council as the Administrator for the Village.

"Works Manager" means the Manager of Public Works and Services for the Village.

"Bylaw Enforcement Officer" means an individual appointed from time to time by Council to enforce Village Bylaws.

"Certified Arborist" means a person certified by the International Society of Arboriculture or the National Arborist Association as an arborist.

"Municipal Lands" means all lands within the boundaries of the Village of Lions Bay that are owned by the Village, including all Village parks.

"Lot" is defined as a parcel of land registered in the Land Title Office.

"Owner" means in respect of real property (a) the registered holder of the last registered agreement for sale; or (c) an agent authorized in writing by the owner to act on his/her behalf.

"Tree" means any woody plant of any species where the diameter of the trunk when measured 1.4 metres above natural grade is greater than 20 centimetres, or in the case of *Arbutus menziesii*, Pacific Dogwood (*Cornus nuttallii*), and Western Yew (*Taxus brevifolia*) trees, where the diameter of the trunk when measured 1.4 metres above level grade is greater than 10 centimetres. The diameter of a tree shall be determined by dividing the circumference of the trunk measured 1.4 metres above the ground by 3.142. The diameter of a tree having multiple trunks 1.4 metres above the ground shall be the sum of 100 per cent of the diameter of the largest trunk and 60 per cent of the diameters of each additional trunk.

“Significant Tree“ means any tree that is of particular significance to the Village, due to size, age, landmark value, cultural, ecological or social import, trees planted by the Village on boulevards, and any tree that is protected as wildlife habitat for an egg or a nest under Section 35 of the Wildlife Act. (See Schedule C.)

“Hazardous Tree” means any tree which, due to its location, condition or any other circumstance, has been determined, by a Certified Arborist or the Administrator on advice from the Works Manager and/or the Tree Committee, to present a hazard to the safety of persons, private property or any other tree(s).

“Replacement Tree” means any tree, regardless of size, that is shown on a Tree Cutting and Replacement Plan as a replacement for a tree which has been cut down.

“Cut” means to cut down or remove a tree by any means and includes the cutting of a tree trunk, the topping of a tree, or the removal of a tree branch where the branch has a diameter of 7 centimetres or greater.

“Tree removal” means the cutting down of the entire tree.

“Pruning” means the trimming of living or dead parts from a tree in order to reduce size or to maintain the shape and health of the tree.

“Tree Topping” means the removal of the top of a tree to leave the trunk level with lateral branches.

“Drip Line” means the outermost perimeter of the canopy of a tree, seen as a line on the ground around the trunk of a tree directly beneath the ends of the outermost twigs and branches.

“Tree Survey” means a plan of a subject site showing the location, species and trunk diameter of all existing trees as defined by this Bylaw.

“Tree Cutting Permit” means a permit issued by the Administrator in accordance with this Bylaw, which will allow cutting of trees under conditions stipulated in the Bylaw. An example of the permit is contained in Schedule B. A permit is only a permission pursuant to this Bylaw, and does not relieve the permit holder from complying with all other laws, regulations and requirements of any public authority having jurisdiction, nor relieve the holder from complying with civil, common law or contractual obligations.

“Tree Cutting and Replacement Plan” means a plan which shows the trees proposed to be cut and the location, size (height and diameter) and species of replacement trees to be planted upon a subject site.

“Tree Committee” means a Select Committee appointed from time to time by the Council to provide advice on the application of this Bylaw and to make recommendations to Council on applications that are made for permission to cut or prune trees. The Terms of Reference and General Guidelines for this Committee are contained in Schedule D.

PART II

APPLICATION OF BYLAW

- 3.1. This Bylaw applies to all municipal lands within the Village.
- 3.2. No person shall obstruct or attempt to obstruct any Bylaw Enforcement Officer, official, employee or agent of the Village in the exercise of any of that person’s duties under this Bylaw.

TREE CUTTING PERMIT

- 3.3. No person may cut, prune or remove a tree on municipal land without first having applied for and having obtained a Tree Cutting Permit, an example of which is appended as Schedule A.
- 3.4. An application in writing for a Tree Cutting Permit, appended as Schedule B, shall be made to the Village Office.
 - 3.4.1 The application will include the following:
 - 3.4.1.1 A detailed description of the proposed work including a statement of purpose and rationale.
 - 3.4.1.2 A description of the species of tree to be cut, including location and height of tree, and amount to be cut. A clearly labelled photograph must be provided, and if pruning is required, a line must be drawn on the photograph indicating the extent of the proposed pruning; the subject tree must also bear a ribbon marker.
 - 3.4.1.3 If relevant, a proposed replanting plan indicating: location, species and size of tree, bush and shrub that is to be planted to replace the removed tree. The tree, bush or shrub may be planted in the same location or in another area agreed upon by the Village on the advice of the Tree Committee.
 - 3.4.1.4 A non-refundable permit application fee of \$20, paid prior to the issuance of a permit.
 - 3.4.1.5. The name of the tree cutting contractor, if applicable, together with the date and time of the planned work.
 - 3.4.1.6. A plan for tree planting if applicable. The Village will not allow to be planted on municipal land trees that will grow to a height that could impede utilities and signage visibility, safety and the enjoyment of views.
 - 3.4.2. All applications for a Tree Cutting Permit, including applications for cutting or pruning for view, as well as pruning for aesthetic reasons, will be considered by Council on an application-by-application basis. They will be referred in the first instance to the Tree Committee. The Tree Committee, acting in light of the Terms of Reference and General Guidelines in Schedule D, will make recommendations to Council, which will make a final decision, and may approve or deny any application.
 - 3.4.3. Notice of all applications for tree pruning or cutting will be published by the Village, and all residents will have 30 days to comment in writing. Adjacent property owners in the area of the proposed tree pruning or cutting will be specifically consulted, and all expressed opinions will be considered prior to Council making a final decision. (In the event that the Village needs to prune or cut a tree for any reason covered by clauses 3.6.4 and 3.6.5, notice is not required.)
 - 3.4.4. As a general practice requests by residents for the removal or cutting of any Significant Tree shall only be allowed by special exemption, and when no other compromise can be found. The Council will review each request on its merit. Exceptions can also be made in cases where such cutting or pruning is unavoidably required for reasons of safety or through exceptional circumstances such as the installation of roads or services. However, all trees on municipal property, including Significant Trees listed in Schedule C, shall be included in the Village's routine of tree maintenance.
 - 3.4.5. A final decision on an application for a Tree Cutting Permit will be provided in a timely manner, and in any case within 60 days of the date of application.
 - 3.4.6. The Tree Cutting Permit applicant will be responsible for all costs associated with cutting and clean up of the tree for which the Permit was taken out. Clean up will be done to the satisfaction of the Village.
 - 3.4.7. Any expense of an inspection by a Certified Arborist for tree evaluation will be borne by the Tree Cutting Permit applicant, unless the tree is found to be diseased or hazardous.

TREE DAMAGING ACTIVITIES

- 3.5. No person shall carry out any of the following tree damaging activities in respect to any tree to which this Bylaw applies unless a permit is first obtained and the activity is carried out strictly in accordance with the permit:
- 3.5.1 Cutting, damaging or undermining the roots growing inside the drip line of a tree;
 - 3.5.2. Placing fill, building materials or structure upon land inside the drip line of a tree;
 - 3.5.3. Operating trucks, backhoes, excavators or other heavy equipment over the roots of a tree inside the drip line;
 - 3.5.4. Denting, gouging or damaging the trunk of a tree;
 - 3.5.5. Removing bark from a tree;
 - 3.5.6. Sabotaging a tree with intent to kill it, including but not limited to using chemical or mechanical means;

EXEMPTIONS

- 3.6. The following are general exemptions from this Bylaw:
- 3.6.1. Removal or pruning by acceptable arboriculture practices of dead, diseased or damaged trees as identified by a Certified Arborist or the Works Manager in consultation with the Tree Committee;
 - 3.6.2. Emergency removal by acceptable arboriculture practices of hazardous trees and branches, as identified by a Certified Arborist or the Works Manager in consultation with the Tree Committee;
 - 3.6.3. Cutting or pruning of brush and trees under 20 centimetres in diameter (excepting the species mentioned under the definition "Tree") on Village property by owners between their residential property line and the road. Removal of cuttings and clean up is the responsibility of the individual or individuals who undertake(s) the work;
 - 3.6.4. Cutting of trees by the Village, through its employees, agents or contractors for safety or any other reasons, including but not limited to visibility of hydrants and signs, traffic sight lines, accessibility for emergency vehicles and to facilitate parking;
 - 3.6.5. Regular maintenance to manage tree growth on a schedule created and executed by the Works Manager in consultation with the Tree Committee and other expert advice as from time to time deemed advisable and approved by Council.
- 3.7. Pruning for utility wire clearance is the responsibility of the utility company concerned, in concert with a representative of the Tree Committee, utilizing standard arboriculture practices.

CONTRAVENTION OF BYLAW

- 3.8. Where a tree is cut in contravention of this Bylaw or conditions of a permit are breached:
- 3.8.1. An offence is committed under this Bylaw, and
 - 3.8.2. The cutting of each tree shall constitute a separate offence.
- 3.9. Any person who contravenes any provision of this Bylaw, or who wilfully damages or cuts a tree on municipal property, contrary to or without a Tree Cutting Permit,
- 3.9.1 Is guilty of an offence and is liable to the penalties imposed by this Bylaw and the Offence Act R.S.B.C. 1996, C.338, as follows:
 - 3.9.1.1 The minimum penalty for each tree: a fine of not less than
 - (a) \$1,500 for a first offence, and
 - (b) \$3,000 for a second or subsequent offence;

3.9.2 And will be required to undertake the following remedial measures:

- 3.9.2.1 Present a replacement plan for any trees that were cut in contravention of this bylaw;
- 3.9.2.2 Replace trees that were cut with replacement trees in accordance with good arboriculture practice as determined by a qualified person approved by Council;
- 3.9.2.3 Ensure that replacement trees are of a minimum size approved by Council.

REGULATIONS AND ENFORCEMENT

3.10. Any Bylaw Enforcement Officer, or authorized agent appointed by the Village, may enforce this Bylaw. By issuing a municipal ticket for any offence against this Bylaw pursuant to the Village's Municipal Ticket Information Bylaw in force and amended from time to time.

DELEGATION


3.11. Council hereby delegates to the Administrator authority to administer this Bylaw and to make any orders necessary under it, always provided that any applicant for a Tree Permit, or other individual affected by the issuance of a permit, is entitled present his or her case in person or in writing to the Council at its next reasonably convenient meeting, where Council will provide a final ruling on the matter.


READ A FIRST TIME this 17th day of September, 2007

READ A SECOND TIME this 17th day of September, 2007.

READ A THIRD TIME this 17th day of September, 2007.

ADOPTED this 20th day of September, 2007.


Mayor


Administrator

Certified a true copy of
Bylaw No. 393 as adopted.

Administrator

SCHEDULE "A"
Tree Cutting Permit Application Form

Full Name: _____

Address: _____

Telephone: _____ **E-mail:** _____

Name of Contractor: _____ **Telephone:** _____

Location: _____

Description of trees:

Rationale for Application:

Replanting Plan:

FOR OFFICE USE ONLY:

Neighbours contacted: _____ **Responses Received:** _____

Permit Fee: \$20.00 _____ **Tree fees:** _____

Authorized: _____

Tree Committee comments:

Recommendation: _____

SCHEDULE "B"

Permit for Tree Cutting

TREE CUTTING PERMIT NO. _____

This Permit is hereby issued to:

(name of owner - individual or company - the Permittee)

for tree cutting on

(insert legal description)

(insert municipal address)

pursuant to the provisions of the Municipality of the Village of Lions Bay, Tree By - Law No... , 2007,
subject to tree cutting being undertaken strictly in accordance with all plans and specifications being
attached hereto as part of this permit.

THIS PERMIT EXPIRES ON:

(Date)

Administrator

Dated this _____ day of _____, 20__.

SCHEDULE "C"

Tree Categories

The following trees are designated Significant Trees in the meaning and spirit of this Bylaw:

NATIVE TREE SPECIES

Pseudotsuga menziesii Douglas Fir, exceeding 70 cm diameter
Picea sitchensis Sitka Spruce, exceeding 70 cm diameter
Abies grandis Grand Fir, exceeding 60 cm diameter
Thuja plicata Western Red Cedar, exceeding 70 cm diameter
Tsuga heterophylla Western Hemlock, exceeding 70 cm diameter
Arbutus menziesii Arbutus, exceeding 10 cm diameter
Taxus brevifolia Western Yew, exceeding 10 cm diameter
Cornus nuttallii Pacific Dogwood, exceeding 10 cm diameter

MEMORIAL TREES

The memorial dogwood tree planted at the centre of Wade Park;
The memorial oak tree planted at Marjorie Meadows;
Any other tree designated by the Tree Committee as a memorial tree, or of other social or cultural significance.

ORNAMENTAL TREES

Any trees that have been or will be planted to ornament Municipal lands, including boulevards.

SPECIMEN TREES

Any unusual specimen tree as designated and registered by a Certified Arborist upon inspection.

ANCIENT GROWTH TREES

Trees greater than 90 centimetres in diameter are considered ancient growth and should be protected under any circumstances unless they become a hazard to life, homes or services.

SCHEDULE "D":

Tree Committee

Terms of Reference

The purpose of the Tree Committee is to act in an advisory capacity to Council on matters related to the development, interpretation, enforcement and future direction of tree management in the Village of Lions Bay. It is the first point of reference for Tree-Cutting Permit applications under the Tree Bylaw, and is expected to provide balanced and objective advice to Council on these applications.

The Tree Committee is a select committee of Council. It consists of four residents of Lions Bay, appointed by Council, one of whom is Chair, plus one member of Council. Quorum consists of two resident members and one Councillor. Appointed members will preferably have special knowledge or expertise in tree management, and be willing and able to take an impartial and objective view of applications that come before them. The recommendation recorded and forwarded to Council will be that of the majority of the members of the Committee. The appointments are for a three-year term, and are renewable.

General Guidelines

While it is understood that the specifics of each application for pruning or tree removal under the Bylaw will be different, the following general considerations should apply:

1. *The natural character in the area of the Village in which an application is made.* Differentiation among the various distinct neighbourhoods should be allowed for. The nature of Village parkland and the need to protect it for future generations should also be a factor. Environmental arguments, such as the value of the contribution made by trees to air quality and the "greenness" of the planet, deserve consideration, but, given the immediate proximity of dense forest wilderness, should not carry undue weight.
2. *The effect on neighbours.* Lions Bay residents are consistently divided between those for whom a distant view is most important, and those for whom the trees and forest take precedence. Both have viable, legitimate claims, which should be respected. The resident who bought his or her home for the view and has seen that view slowly disappear because of maturing trees on municipal property has reasonable cause to seek a remedy. However, the simple fact that, over time, trees grow should not be ignored. It is also important to give appropriate weight to expressed concerns. For instance, persons who enjoy the sight of a stand of trees as they pass on their daily commute might be thought to have less say in the matter than those whose home overlooks the same trees, and whose enjoyment of a view is impacted by them. However, while a view of Howe Sound will be given serious consideration in the decision-making process, this consideration will be in the context of other factors such as the overall Village environment and appearance, the number of trees in the vicinity, and the value of the trees themselves as part of our environmental heritage.
3. In contentious situations it is important to consider options other than wholesale removal, providing always that retention of large trees does not endanger property, create a fire hazard or compromise the safety of utility lines. A number of compromise alternatives exist for opening up our woodland to light, air and views. Such opportunities include:
 - thinning out smaller trees to open the view and enhance the aesthetic value of the remaining trees,
 - selectively limbing up trees by removing lower branches to improve both light and view, always providing that views enjoyed by residents at higher elevations or to the rear of the subject lot are not compromised,
 - spiralling – that is, thinning out branches, with approximately alternate ones removed, circling the tree
 - windowing – removing several branches from a given area along the trunk, providing a window through which to see a distant view
 - topping – while this is not considered a preferred treatment of tall trees, it should remain an option, where appropriate, for consideration by the Tree Committee. Previously topped trees may be re-topped, if on the advice of a Certified Arborist or the Tree Committee the re-topping is considered a suitable prescription.
4. In cases involving unresolved conflict, all parties will have the opportunity to present their views directly to Council, which may request additional information and meetings, including the advice of a Certified Arborist, in the process of reaching common ground and making its final decision.

SCHEDULE "E"

Tree Care and Maintenance Policy

TRIMMING PROGRAM

The Public Works Department follows a flexible Tree Maintenance Program. Based on current budget and labor allocations, all of the municipal trees in the Village will be inspected annually and receive routine care and attention, including trimming, as appropriate.

EMERGENCY WORK

In the event of an emergency situation, the Public Works Department personnel will perform emergency trimming and removals of downed trees providing it is safe to do so. Brush pickup, trimming, and removals are conducted on a rotational basis following the end of the emergency.

TREE REPLACEMENT

The Department of Public Works replaces municipal trees that are lost through accident, disease, or other causes. Every effort is made to replace each tree; however, a variety of factors - standards of spacing with regard to existing trees, driveways, fire hydrants, proximity to street intersections, underground utilities, etc. - can prohibit replacement.

TREE PRUNING

Trees will be pruned, if it is found to be necessary, by the Department of Public Works, in conformity with standard arborist practice. Pruning may occur for purposes of public safety, road access, sign visibility or other concerns as defined by the manager of Public Works. Residents are asked to inform the Village if a tree dies or appears to be in poor health so that corrective action can be taken.

TREE TRIMMING BY PRIVATE PARTY

The maintenance of trees on private property is the responsibility of the land owner. Municipal trees will be maintained by the Department of Public Works.

If you have any further questions, please feel free to contact the Department of Public Works at 604-921-9833.