



THE DISTRICT OF NORTH VANCOUVER

Tree Protection Bylaw Bylaw 7671

Effective Date – July 23, 2012

CONSOLIDATED FOR CONVENIENCE ONLY

This is a consolidation of the bylaws below. The amending 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.

Original Bylaw	Date of Adoption
Bylaw 7671	July 23, 2012
Amending Bylaws	Date of Adoption
Bylaw 7960	December 12, 2012
Bylaw 8271	December 11, 2017

The bylaw numbers in the margin of this consolidation refer to the bylaws that amended the principal bylaw (Tree Protection Bylaw – Bylaw 7671). The number of any amending bylaw that has been repealed is not referred to in this consolidation.

The Corporation of the District of North Vancouver

Bylaw 7671

The Council for The Corporation of the District of North Vancouver enacts as follows:

A bylaw to protect, preserve and conserve trees and their physical, societal, economic and environmental characteristics as associated with the forested character of the District of North Vancouver.

WHEREAS the Council for the Corporation of the District of North Vancouver wishes to protect and preserve certain trees within the *District*, including those trees defined in this bylaw as “protected trees” and “large-diameter trees” and to implement a permit system in connection with such trees,

The Council for The Corporation of the District of North Vancouver enacts as follows:

PART 1 INTRODUCTION

1. Citation

This Bylaw may be cited as the “Tree Protection Bylaw 7671, 2012”.

2. Administration of Bylaw

The *Environmental Protection Officer* and others designated by the General Manager, Planning, Properties & Permits are authorized to administer this Bylaw.

3. Definitions

In this Bylaw,

ancillary structures means man-made structures such as sheds, platforms, decks, stairs, steps, retaining walls, driveways, paths, sidewalks, fences, play houses, tree houses, gazebos, hot tubs and swimming pools, but excludes *permanent structures*.

arborist means a practitioner of arboriculture, which is the management and maintenance of ornamental or shade *trees*.

certified arborist means an arborist who is certified and in good standing with the International Society of Arboriculture.

canopy means the extent of the outer layers of leaves or needles of an individual or group of *trees*

20% canopy cover means the area of *canopy* within a subject property boundary such that the area of *canopy*, when viewed from above in plan view, is equal to 20% of the subject property area as determined by the Environmental Protection Officer, Community Forester or Manager or the designates of each.

certified tree risk assessor means a *certified arborist* who has also completed the “Tree Risk Assessment Course” and passed the Tree Risk Assessment exam under the authority of the International Society of Arboriculture.

Community Forester means the person appointed to that position by the *District Council* or its designate, and his or her designates.

critical root zone means the minimum portion or minimum spatial extent of a *tree(s)* root system that is required to maintain the health and stability of the *tree(s)*.

crown means the entire system of branches, leaves and reproductive structures of a *tree* extending away from the trunk or main stem(s).

cut means to limb, trim, top, prune any parts of a *tree*, or by any mechanical means remove any branch, foliage, root, stem, or other part of a *tree*, and “cutting” shall have a corresponding meaning.

damage means to take any action that may cause a *tree* to die or decline, including but not limited to girdling, ringing, poisoning, burning, excessive *crown* lifting, soil compaction, *depositing* or removing soil, *depositing* toxins on any part of a *tree* or into groundwater taken up by a *tree*, placing concrete or any other hard surface within the *drip line* of a *tree*, blasting within 5 metres of the *drip line*, excessive pruning of the *crown*, branches, limbs and or roots, and pruning in a manner not in accordance with "American National Standards Institute Publication A300-1995" and the companion publication "Best Management Practices – Tree Pruning, 2002".

DBH means diameter of the stem of a *tree* at breast height, except where the *tree* has multiple stems at such a point, in which case the DBH of such *tree* shall be the sum of 100% of the diameter of the largest stem and 60% of the diameter of each additional stem, all measured at breast height, and breast height for the purposes of such measurements shall be deemed to be 1.3 metres above the natural grade on the uphill side of the *tree*.

deposit means place, move, discharge, spray, spill, leak, seep, pour, emit, store, stockpile, or release directly or indirectly into or onto the land, air, soil and groundwater such that damage to a *tree* results, and *depositing* has a corresponding meaning.

development means the act, process or result of *landscaping* or the placement and/or construction of *permanent structures*, *ancillary structures* or utility services on land.

District or **DNV** means The Corporation of the District of North Vancouver.

District Council means the municipal council of the *District*.

drip line is the area located directly under the outer circumference of the unaltered *tree* canopy, and where *tree(s)* have been *cut* or pruned the *drip line* shall be located at the outside edge of the *tree(s)* natural *crown* spread, given the species and age of the *tree* and taking into account pre-existing site conditions.

Environmental Protection Officer means the person appointed to that position by the *District Council* or its designate, and his or her designates.

Fees and Charges Bylaw means the *District's* Fees and Charges Bylaw, Bylaw 6481, as amended or replaced from time to time.

hazardous means assessed to be in a condition dangerous to people or property as reported by a *certified tree risk assessor* adhering to the “Tree Risk Assessment in Urban Areas and the Urban/Rural Interface Manual” or an industry-recognized equivalent acceptable to the *District*.

heritage tree means a designated *tree* that has been determined to be of significant value to the community because of special characteristics such as size, age, uniqueness of species, uniqueness of ecosystem, or heritage or landmark value.

in-stream work means any *work* that is capable of altering or controlling the flow of water in a stream, or damaging, weakening or reducing the ability of the bank, bed or channel of a *stream* to carry storm or flood waters, or interfering with or eliminating vegetation from the riparian area, and includes, without limitation, a wall, crib, weir, dam, rip-rap and other forms of erosion protection.

landscaping means the disturbance, alteration or modification of land.

large-diameter tree means any *tree* having a *DBH* of 75 centimetres or more that is not also a *protected tree*.

Manager means the *District's* General Manager, Planning, Properties & Permits or the Manager of Development Services and the designates of each.

natural boundary means the visible high water mark of any *stream*, or of the ocean where the presence and action of the water are so common and usual, and so long continued in all ordinary years, as to mark the soil of the bed of the body of water with a character distinct from that of its banks, in vegetation or in the nature of the soil itself.

permanent structure means any long lasting foundation, building or structure placed or erected on a secure pad or footing that was lawfully constructed, placed or erected in accordance with any DNV bylaw or approval condition in effect at the time of construction, placement or erection.

potential streamside vegetation is considered to exist if there is a reasonable ability for regeneration or growth of *vegetation* either with assistance through enhancement or naturally, but an area covered by a *permanent structure* or *ancillary structure* is considered incapable of supporting *potential streamside vegetation*.

protected area means an area adjacent to a *stream* that links aquatic to terrestrial ecosystems and includes both existing streamside *vegetation* and *potential streamside vegetation*, and both existing and potential upland *vegetation* that exerts an influence on the *stream*, and the width of the *protected area* shall be measured as follows:

- a) subject to subsections (b) and (c) of this definition, from the centreline of the *stream* to a point 15 metres distant from the *top of bank* of the *stream*, measured horizontally from the *top of bank* of the *stream*;
- b) if the stream is located in a *ravine* that is greater than 60 metres in width, from the centreline of the *stream* to a point 10 metres distant from the *top of bank* of the *ravine*, measured horizontally from the *top of bank* of the *ravine*; and
- c) for parcels greater than 0.5 hectares in size located on or adjacent to the Capilano River, Lynn Creek or Seymour River, or located on or adjacent to Mackay Creek at any point

south of Marine Drive, the area from the centreline of the *stream* to a point 30 metres distant from the *top of bank* of the *stream* measured horizontally from the *top of bank* of the *stream*.

protected tree means:

- a) any *tree* on land owned by or in the possession of the *District*, including, without limitation, a *tree* in a park or on a boulevard, road or lane allowance;
- b) any *tree* within a *protected area*;
- c) any *tree* on *sloping terrain*;
- d) any *replacement tree*;
- e) any *retained tree*;
- f) any *heritage tree*;
- g) any *wildlife tree*;
- h) any *tree* located on *wetland* or *waterfront*;
- i) any *tree* of the following species:
 - i. *Arbutus (Arbutus menziesii)*;
 - ii. *Garry Oak (Quercus garryana)*;
 - iii. *Oregon Ash (Fraxinus spp)*;
 - iv. *Pacific Yew (Taxus brevifolia)*;
 - v. *Western White Pine (Pinus monticola)*; or
 - vi. *Yellow-cedar (Chamaecyparis nootkatensis)*.

ravine means a narrow, steep-sided valley that is commonly eroded by running water and has a slope grade greater than 3:1.

replacement tree means a *tree* required in accordance with this Bylaw to be planted, either on the subject site or at another location, to replace a *tree* that has been cut, removed or damaged, or a *tree* planted as a condition of subdivision or other municipal approval.

retained tree means a *tree* that must be permanently protected pursuant to a registered covenant or otherwise.

remove means to entirely sever the main stem of or fell a *tree*, and "removed", "removal" and "removing" shall have corresponding meanings.

slope angle means the percent gradient of a slope over a horizontal distance of six metres, calculated as follows:

$$\text{slope angle (\%)} = 100 \text{ tangent}(\text{angle})$$

where "angle" is the angle, measured in degrees, between the sloping land and the horizontal axis, and where the angle is in degrees.

sloping terrain means land with a *slope angle* greater than 30% over a vertical distance of 3 metres or more.

stream includes any of the following:

- a) A pond, lake, river creek or brook whether it usually contains water or not; and
- b) A ditch, spring or wetland that is connected by surface flow to something referred to in paragraph (a);

top means to entirely sever the stem of a *tree* such that the upper stem and branches of the *tree* are completely removed, resulting in an abruptly truncated stem, and *topping* and *topped* shall have corresponding meanings.

top of bank means the first significant break in a slope where the break occurs such that the grade beyond the break is flatter than 3:1 for a minimum distance of 15 metres measured horizontally from the break, and the break does not include a bench within a *ravine* that could be developed.

tree means a woody perennial plant having one or more stems, with at least one stem having a diameter of 10 centimetres or more, measured at 1.3 metres above the natural grade on the uphill side of the tree.

tree permit means a permit issued pursuant to this Bylaw by the *Environmental Protection Officer* or the *District's* General Manager, Planning, Properties & Permits or the designate of either, authorizing the pruning, *cutting* or *removal* of one or more *protected trees* or *large-diameter trees*.

tree protection barrier means a sturdy temporary or permanent fence or barrier at least 1.2 metres in height, with wood-framed top and side rails or equivalent.

vegetation means, collectively, native and/or naturalized plant life occupying terrestrial or aquatic habitat.

waterfront means the land lying between a line measured horizontally 30 metres inland from the *natural boundary*.

wetland means land that is inundated or saturated by surface or groundwater with such frequency and for such duration as is sufficient to support, and under normal conditions does support, obligate hydrophytes or other vegetation typically adapted for life in saturated soil conditions, and includes, without limitation, swamps, marshes, bogs and similar sites, and all land above and within 30 metres measured horizontally from the boundaries of such sites, and without limiting the generality of the foregoing, includes those areas designated and delineated on attachments A.2 - Mackay Creek Marsh, A.3 - Hogan's Pools, and A.4 - Park Street Marsh of Bylaw 6515.

wildlife tree means any standing dead or live tree having special characteristics that provide valuable habitat for the conservation or enhancement of wildlife, as determined and classified in accordance with criteria contained in the "Wildlife/Danger Tree Assessor's Course Workbook – Parks and Recreation Sites" or such amended, successor or replacement criteria or guidelines that may from time to time be commonly applied by certified tree assessors in identifying wildlife trees

work means any activities connected with *landscaping*, the pruning or *removal* of a *tree*, the pruning or *removal* of *vegetation*, the removal of soil, the *deposit* of soil or other material, the construction of *permanent structures* or *ancillary structures*, *in-stream work* and the installation of drainage works, but does not include the regular maintenance of planted gardens and/or lawns.

Zoning Bylaw means the *District's* Zoning Bylaw, Bylaw 1965, as amended from time to time.

PART 2 PROHIBITIONS

Failure to Comply with Tree Permit

4. No person shall fail to comply with the terms and conditions of a *tree permit* issued pursuant to this Bylaw.

Cutting, Damaging and Removal Prohibited

5. No person shall *cut*, *damage* or *remove*, or permit or cause to be *cut*, *damaged* or *removed*, a *protected tree*:
 - a) without a *tree permit* issued pursuant to Part 5 of this Bylaw; or
 - b) contrary to a *tree permit* issued pursuant to Part 5 of this Bylaw.

Notwithstanding this section 5, if a *tree* is a *protected tree* only because it is owned by the *District*, then if the branches of such *tree* encroach upon a person's land, that person may prune such *tree* back to his or her property line without a permit, provided that such pruning does not result in *damage* to a *protected tree*.

6. No person shall *cut*, *damage* or *remove*, or permit or cause to be *cut*, *damaged* or *removed*, a *large-diameter tree*:
 - a) without a *tree permit* issued pursuant to Part 5 of this Bylaw; or
 - b) contrary to a *tree permit* issued pursuant to Part 5 of this Bylaw.

PART 3 TREE PROTECTION DURING DEVELOPMENT

Application

7. This part applies to *retained trees* during *development* of the lands on which they are located.

Requirement for Tree Protection Barrier

8. A person performing *work* on lands containing one or more *retained trees* shall:

- a) install a *tree protection barrier* around any *retained tree* or group of *retained trees* at the *drip line* of the outermost *tree*, the outside boundary of the *critical root zone* of the outermost *tree*, or 5 metres from the stem of the outermost *tree*, whichever is greatest;
 - b) ensure that such *tree protection barrier* is constructed of chain link or plywood fastened to solid wood or equivalent framing with railings along the tops, sides and bottom, or is constructed of materials otherwise satisfactory to the *Environmental Protection Officer*;
 - c) display signage indicating that the area within the *tree protection barrier* is a “protection zone,” and stating that no encroachment, storage of materials or *damage to trees* is permitted within the “protection zone;”
 - d) arrange for inspection by the *Environmental Protection Officer* before any *work* commences, and refrain from commencing *work* until the *Environmental Protection Officer* has approved the *tree protection barrier*; and
 - e) ensure that the *tree protection barrier* remains in place until written approval of its removal is received from the *Environmental Protection Officer*.
9. No *work* is permitted within the “protection zone” referred to in section 11(c) except in accordance with plans and procedures authorized by a *tree permit*.

PART 4 HERITAGE TREES

Currently Designated Heritage Trees.

10. The *trees* identified in Schedule A are hereby designated as *heritage trees* for the purpose of this Bylaw.

Procedure to Nominate Additional Heritage Trees

11. A person may nominate a *tree* not identified in Schedule A as a *heritage tree* if such *tree* meets the *District's* criteria for a *heritage tree*, and the *District Council* shall determine, in its sole discretion, whether such *tree* shall be designated as a *heritage tree*.

PART 5 APPLICATION FOR TREE PERMIT

Information Required to Accompany a Tree Permit Application

12. An application for a *tree permit* in connection with any of the following shall be accompanied by the information described in this section:
- a) for *work* involving a *tree* on *District* property, the application must include a statement of purpose and rationale for the proposed *tree work* on *District* property, including the number and locations of *trees* involved and the *work* to be performed, and must describe the *cutting* and/or *removal* methods to be used;

- b) for *work* involving a *protected tree* on private property, the application must include a report from a *certified arborist* and/or a *certified tree risk assessor*, if applicable, stating the purpose and rationale for the proposed *tree work*; the report should include the following:
 - i. consent from the owner of the *tree*, in writing;
 - ii. where the stem of the *tree* straddles one or more property lines, written consent from the owners of each property on which any part of the stem of the *tree* is located
 - iii. a description of the proposed *work*;
 - iv. a site plan indicating the location of *tree* or *trees* to be *cut* or *removed*;
 - v. an inventory of all *protected trees* and *large-diameter trees* and a description of all topographic and hydrographic features, *ancillary structures*, *permanent structures*, roads and other pertinent features on the subject property;
 - vi. a description of the *cutting* and/or *removal* methods to be used and the *tree* protection measures that shall be used to protect any *retained trees*;
 - vii. where *tree(s)* are on *sloping terrain*, a report signed by a registered professional engineer, geoscientist or forester that any proposed pruning or *removal* shall not result in an increased risk or danger of flooding, erosion or slope instability;
 - viii. a proposed replanting plan indicating the location, species, size, and class of *tree(s)* or *vegetation* to be planted; and
 - ix. a copy of any applicable federal or provincial approval if required;
- c) for *work* involving a *large-diameter tree* on private property, the application must include:
 - i. a report from a *certified tree risk assessor*, if the *tree* is to be declared hazardous;
 - ii. a description of the proposed *work*;
 - iii. a site plan indicating the location of *tree* or *trees* to be *cut* or *removed*;
 - iv. an inventory of all *protected trees* and *large-diameter trees* and a description of all topographic and hydrographic features, *ancillary structures*, *permanent structures*, roads and other pertinent features on the subject property;
 - v. a description of the *cutting* and/or *removal* methods to be used and the *tree* protection measures that shall be used to protect any *retained trees*;
 - vi. a proposed replanting plan indicating the location, species, size, and class of *tree(s)* or *vegetation* to be planted; and
 - vii. a copy of any applicable federal or provincial approval if required; and
- d) a proposed replanting plan indicating the location, species, size, and class of *tree(s)* or *vegetation* to be planted;
- e) notwithstanding the above if a *tree* exhibits obvious signs of significant damage or disease or is obviously dead the Environmental Protection Officer upon notification from the *tree(s)* owner shall determine which, if any, of the above requirements apply

Refusal to Issue Tree Permit

13. The *Environmental Protection Officer*, *Community Forester* or *Manager* may refuse to issue a *tree permit* if:

- a) the *tree* or *trees* do not meet any of the criteria set forth in subsections 14 (a) and (b) of this Bylaw;
- b) the *tree* is on land owned or in the control of the District of North Vancouver;

- c) the subject tree is a *protected tree* and the proposed *work* would adversely affect the health and survival of the *tree*, materially alter the character of the *tree*, affect slope stability or the ecology of the area, is not required to maintain the health or stability of the *tree*, or is contrary to a permit issued pursuant to this Bylaw;
- d) the proposed *work* would involve *topping* the *tree*, and such *tree* has not previously been *topped* in accordance with a valid *tree permit*;
- e) the subject tree is a *heritage tree* and the proposed *work* would *damage* such *heritage tree* or result in its *removal*; or
- f) the subject *tree* is a *heritage tree* and the proposed *pruning* of such *heritage tree*:
 - i. would alter the character of the *tree*;
 - ii. is not required to maintain the health or stability of the *heritage tree*; or
 - iii. is contrary to any other permit issued pursuant to Part 5.

However, a permit for minor *work* on a *tree* for the purpose of wind firming, improving the aesthetics or shape of a tree, access to natural light, reasonable view access or similar purpose shall not be unreasonably withheld.

Tree Permits Required to be Issued

14. Notwithstanding section 13 of this Bylaw, unless 13(b) and 13(c) apply, if:

- a) a *certified arborist* provides a report to the satisfaction of the *Environmental Protection Officer, Community Forester or Manager* that a *tree* is an unreasonable hazard to the safety of persons or property, or where the applicant has otherwise demonstrated to the satisfaction of the *Environmental Protection Officer, Community Forester or Manager* that the *tree* is *hazardous*, dead, damaged, diseased or in decline beyond expectation of recovery as per the "Tree Risk Assessment in Urban Areas and the Urban/Rural Interface Manual;" or
- b) the *Environmental Protection Officer, Community Forester or Manager* or other duly authorized *District* representative, or an engineer, geoscientist or forester employed by any public utility, or a *certified arborist*, provides clear evidence satisfactory to the relevant *District* representative that a *tree* is impairing, interfering or damaging the normal operation of sewers, drains, water lines, septic fields, electrical lines, *permanent structures*, poles or other similar equipment and appurtenances and that the impairment, interference or risk cannot be reduced or removed in any way other than the removal of the *tree*; or

then the *Environmental Protection Officer, Community Forester or Manager* shall issue a *tree permit* for the *removal* of such *tree*.

Permit for large-diameter tree

15. Subject to receipt of an application in the proper form and payment of the application fee, the *Environmental Protection Officer, Community Forester or Manager* shall issue to an owner or the owner's agent a *tree permit* for the *removal* of or *damage* to a *large-diameter tree* on the following conditions:

- a) If the subject lot will have less than *20% canopy cover* remaining after the *removal* of or *damage* to the relevant *large-diameter tree* or *trees*, then:
 - i. if the subject lot is less than **420** square metres in area, the applicant must plant one *replacement tree* for every *large-diameter tree removed* or *damaged*;
 - ii. if the subject lot is **420** square metres or more in area, the applicant must plant three *replacement trees* for every *large-diameter tree removed* or *damaged*;
 - b) If one or more *replacement trees* are required under this section as a condition of permit issuance, the applicant may, instead of providing such *replacement tree* or *replacement trees*, pay the additional environmental compensation permit fee specified in Schedule B to the *Fees and Charges Bylaw*, which environmental compensation permit fee shall be used by the District for planting trees and upgrading, improving or maintaining forested areas elsewhere within the District; and
- (7960)**
- c) If the subject lot will have more than *20% canopy cover* after the *removal* of or *damage* to the relevant *large-diameter tree* or *trees*, no *replacement trees* or additional environmental compensation fee will be required.

Revocation of Tree Permit

16. The *Environmental Protection Officer, Community Forester* or *Manager* may revoke a *tree permit* if the terms and conditions of the *tree permit* have been breached or the information supplied by the applicant in support of the *tree permit* is determined by the *Environmental Protection Officer, Community Forester* or *Manager* to have been inaccurate, incomplete, misleading or erroneous.

Conditions

- 17.** In connection with the issuance of a *tree permit*, the *Environmental Protection Officer, Community Forester* or *Manager* may impose conditions, including, without limitation, any or all of the following:
- a) that the *cutting* and/or *removal* of a *tree* or *trees* be carried out under the direct supervision of a *certified arborist*;
 - b) that a specific *tree* or *trees* be *cut* or *removed*;
 - c) that *replacement trees* and/or other *vegetation* be planted, and specifying the required species, size, location and other characteristics of such *replacement trees* and/or *vegetation* and the length of time for which such *replacement trees* and/or *vegetation* must be maintained;
 - d) that a *certified arborist* be employed to supervise, monitor or report on any *work*;
 - e) that a report by a qualified professional be provided, confirming that the *tree permit* and the *work* is consistent with provincial or federal laws; and
 - f) that specific forms of *tree* protection be used or provided.

Replacement Trees

18. Except where a *tree permit* is issued as a remediation measure for the unlawful pruning or removal of a *tree*, if a person *cuts a protected tree* without, or contrary to, a *tree permit*, the *Environmental Protection Officer, Community Forester or Manager* may require the planting and maintenance of *replacement trees*, specify the required number, species, size and other characteristics of such *replacement trees*, specify the required period for which such *replacement trees* shall be maintained, and specify the time by which such *replacement trees* shall be provided.

PART 6 PERMIT FEES and SECURITIES

Prior to the issuance of a tree permit

19. The *Environmental Protection Officer, Community Forester or Manager* may require an applicant for a *tree permit* to provide security in the form of cash, certified cheque, or an unconditional, irrevocable letter of credit drawn on a Canadian chartered bank in a form acceptable to the Director of Financial Services in an amount equal to 125% of either the estimated cost of the *work* to be performed under the *tree permit*, including the cost of obtaining and planting any *replacement tree(s)*, with such costs to be estimated by the *District*, or the appraised value of the *tree(s)* according to methods as established by the International Society of Arboriculture and amended from time to time, to a maximum of \$10,000, in order to ensure compliance with provisions of this Bylaw and the terms and conditions of the *tree permit*.

The security taken pursuant to this section may also be used by the District in accordance with section 5.7 of the Construction Bylaw 8271, 2017 and the security deposit taken pursuant to section 5.7 of the Construction Bylaw 8271, 2017 may be used by the District for this section 19.

(8271)

Liability and Security Deposit

20. Prior to issuance of a *tree permit* for *work* on land owned by the *District*, an applicant or his/her designated contractor, as applicable, is required be in good standing with WorkSafe B.C. and to obtain and maintain at all times during the period of validity of the *tree permit* public liability insurance in the amount of \$5,000,000 in connection with the obligations under this Bylaw, which insurance policies shall include deductibles and terms satisfactory to the *District*, shall name the *District* as an "Additional Named Insured", and shall provide that the insurer shall notify the *District* in writing at least 30 days prior to cancellation of the policy. The applicant shall deliver a certified copy of such policy to the *Environmental Protection Officer, Community Forester or Manager* or other authorized person upon demand and evidence of coverage shall be provided in the form of an insurance certificate prior to the commencement of any *work*.

Drawing on Security Deposit

21. If the applicant has not complied with the terms and conditions of a *tree permit* or the provisions of this Bylaw one month prior to the expiry date of the letter of credit, the *District* may use all or a portion of the security deposit or call for and receive the funds secured by the letter of credit and use the funds to ensure that the *work* under the *tree permit* is

completed and the inspection fees prescribed in Schedule B of the *Fees and Charges Bylaw* are paid. The *District's* authorized representative may also call for and receive the funds secured by the letter of credit and retain the funds until the applicant delivers a replacement letter of credit to the *District* in the same form and amount; and at the discretion of the *District*, all or part of this security may be held for up to three years of issuance of the *tree permit* to ensure the survival of *replacement tree(s)*.

(7960)

Fees

22. The *Environmental Protection Officer, Community Forester or Manager* shall charge the fees set out in Schedule B to the *Fees and Charges Bylaw* in connection with:

- a) tree permits; and
- b) inspections and re-inspections that the *Environmental Protection Officer* or others are required or permitted to perform pursuant to this Bylaw.

(7960)

Inspection Procedure

23. The *Environmental Protection Officer, Community Forester or Manager* shall:

- a) record all inspection records on an Environmental Inspection Report or Order to Comply, a copy of which shall be left at the site and another copy of which shall be filed with the Building Department; and
- b) determine if an inspection fee is to be charged in accordance with Schedule B of the *Fees and Charges Bylaw*.

(7960)

Any request for a third or subsequent additional inspection shall be made through the Building Department. Fees for the third and subsequent inspections shall be invoiced by the Building Department and paid in full prior to inspection taking place.

Works Conducted Without a Permit

24. If a person commences any *work or development* for which a *tree permit* is required pursuant to this Bylaw is commenced without a *tree permit*, such person shall pay double the fee prescribed in Schedule B of the *Fees and Charges Bylaw*.

(7960)

Maintaining Validity of a Permit

25. All *tree permits* shall be valid:

- a) for no more than one year following issuance; and
- b) only if and for so long as:
 - i. *work or development* done under the *tree permit* conforms with the provisions of this Bylaw, including the terms and conditions of the *tree permit*;
 - ii. all federal and provincial approvals remain in effect;
 - iii. all information provided in support of the application for the *tree permit* is correct; and
 - iv. any person providing services required under this Bylaw has adequately met the requirements of this Bylaw.

26. A tree permit shall automatically expire one year after issuance, at which time a new *tree permit* application shall be required and the applicant shall again be required to pay any applicable fees.

PART 7 AUTHORITY

27. The *Environmental Protection Officer, Community Forester or Manager* may:

- a) issue, revoke, place conditions upon, and refuse to issue *tree permits* in accordance with this Bylaw;
- b) retain the services of an independent *certified arborist* to review the report of another *certified arborist* that has submitted a report pursuant to this Bylaw in connection with an application for a *tree permit*, in order to verify or reassess any information contained in the original report, and the *Environmental Protection Officer, Community Forester or Manager* may, in his or her sole discretion, rely on either report in determining whether to issue, revoke or place conditions on a *tree permit*;
- c) require security under Part 6 of this Bylaw prior to issuing a *tree permit*;
- d) exempt an application for a *tree permit* from the requirements of Part 5 if the information to be submitted has been otherwise provided to the *District*;
- e) establish which of the terms and conditions set out in Part 5 necessarily apply to the issuance and use of a *tree permit* to achieve the purposes of that Part;
- f) without limiting any of the *Environmental Protection Officer, Community Forester or Manager's* other enforcement powers, require a person to provide and maintain a *replacement tree* or *trees* in the event that a *protected tree* is *damaged, cut* or *removed* without a *tree permit* or contrary to an issued *tree permit*;
- g) require the provision of *replacement trees* as set forth in section 18 of this Bylaw;
- h) charge and collect those fees prescribed in Schedule B of the *Fees and Charges Bylaw* or this Bylaw;
- i) serve on any person who has not complied with a *tree permit* or a provision of this Bylaw an order to comply; and
- j) enforce this Bylaw and issue tickets in accordance with Part 8 of this Bylaw.

PART 8 ENFORCEMENT

Inspection and Orders to Comply

28. The *Environmental Protection Officer, Community Forester* or an Environmental Control Technician, Bylaw Enforcement Officer, Building Inspector, Engineering Design Coordinator,

Engineering Administration Technician, Construction Inspector or Field Arborist may at any reasonable time or times enter upon any property for the purposes of inspection to determine compliance with the provisions of this Bylaw or a *tree permit* issued pursuant to this Bylaw, and may serve on a person who has not complied with the provisions of this Bylaw or a *tree permit* an Order to Comply with such provisions, requiring the person to remedy the non-compliance within 14 days or by such other date as is deemed reasonable in the circumstances by the General Manager, Planning, Properties & Permits or his or her delegate, and may charge the fees set forth in Schedule B of the *Fees and Charges Bylaw* in connection with such inspection(s).

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Service of an Order to Comply

29. An Order to Comply given pursuant to section 28 of this Bylaw may be served by leaving the Order to Comply and a copy of any related inspection report at any dwelling on the subject site, or by personal service on the holder of or applicant for the *tree permit* or on the owner of the subject site, or by return registered mail to the address of the holder of or applicant for the *tree permit* as it appears on the application for such *tree permit*. An Order to Comply served by registered mail shall be deemed to have been delivered on the third day after mailing. An Order to Comply served personally or by leaving a copy at the site shall be deemed to have been delivered on the day on which it was personally served or left at the site.

Application for Reconsideration

30. An application for reconsideration by Council shall be made in writing to *District Council*, care of the Municipal Clerk, and shall include:

- a) all information provided along with the original *tree permit* application;
- b) the Order to Comply, if applicable;
- c) all correspondence between the applicant and the *Environmental Protection Officer*; and
- d) the reasons for the application for reconsideration.

Obstruction

31. A person shall not interfere with, delay, obstruct or impede the *Environmental Protection Officer*, the *Community Forester*, a Bylaw Enforcement Officer, a designate of either or any other person lawfully authorized to enforce this Bylaw in the performance of his or her duties or exercise of his or her powers under this Bylaw.

Offence and Penalties

32. Every person:

- a) who violates or causes or allows to be violated any of the provisions of this Bylaw is guilty of an offence, and of a separate offence on each day on which the violation is caused or allowed to continue; and
- b) who commits an offence contrary to the provisions of this Bylaw is liable on summary conviction to a penalty of not more than \$10,000 in addition to the costs of prosecution.

Designation of Bylaw

33. This Bylaw is designated pursuant to section 264 of the *Community Charter* as a Bylaw that may be enforced by means of a ticket in the form prescribed.

Enforcement Authority

34. The *Environmental Protection Officer*, the *Community Forester* and the *District's Environmental Control Technician*, Field Arborist, Bylaw Enforcement Officers and Building Inspectors are designated to enforce this Bylaw by means of a ticket pursuant to sections 264 of the *Community Charter*.

Ticketing

35. The words or expressions listed below in the designated expression column are authorized to be used on a ticket issued under section 264 of the *Community Charter* to designate an offence against the respective section of this Bylaw appearing opposite in the section column. The amounts appearing in the fine column are the fines set pursuant to section 264 of the *Community Charter* for contravention of the respective section of the Bylaw appearing opposite in the section column:

Designated Expression	Section	Fine
cut tree without permit	5a, 6a	\$500.00
cut tree contrary to permit	5b, 6b	\$500.00
remove tree without permit	5a, 6a	\$1,000.00
remove tree contrary to permit	5b, 6b	\$1,000.00
damage tree without permit	5a, 6a	\$500.00
damage tree contrary to permit	5b, 6b	\$500.00
damage or remove heritage tree	5a	\$1,000.00
failure to install/maintain tree protection barrier	8a or e	\$250.00
damage retained tree	5a or b	\$500
failure to provide replacement tree	15a, 17c or 18	\$500.00

Severability

36. If any section, subsection or clause of this Bylaw is for any reason held to be invalid by the decision of a court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this Bylaw

Effective Date

37. The effective date of this Bylaw is the 23rd day of July, 2012.

SCHEDULE A

DESIGNATED HERITAGE TREES

<u>NAME</u>	<u>LOCATION</u>
1. Copper Beech (<i>Fagus sylvatica</i> 'Cuprea')	355 W Queens Rd
Comments: This mature specimen, approximately 70 feet high, remains from the landscaping of the boy's school which was formerly on this site. The tree is in very good condition, and is typical of English style landscaping.	
2. Damson Plum (<i>Prunus inipitia</i> 'Damson')	355 W Queens Rd
Comments: Also remaining from the landscaping of the boy's school, its ornamental fruit tree is in very good condition. The billowy shape results from the weight of the fruit, and provides good shade.	
3. Horse Chestnut (<i>Aesculus hippocastum</i>) trees	100 – 300 Block E Kings Rd
Comments: These street trees were planted by the North Lonsdale Ratepayers Association as a local area improvement. They are unusual for having been planted on the south side of the street only.	
4. Black Locust (<i>Robina pseudoacacia</i>) tree	299 E Kings Rd
Comments: This very large and old specimen exists in conjunction with a primary heritage building, the Davidson House. It provides dappled shade, and the leaves turn bright yellow in the fall.	
5. Tulip (<i>Liriodendron tulipifera</i>) tree	461 E Kings Rd
Comments: Planted in conjunction with a primary heritage building, the Jacobs House, the flowers of this ornamental tree are small and yellow, and resemble tulips, hence its name.	
6. Spanish Chestnut (<i>Castanea sativa</i>) tree	382 E St James Rd
Comments: An unusual specimen, also known as a Sweet Chestnut, this ornamental tree is part of the landscaping of a secondary building, the Brown House.	
7. Black Walnut (<i>Juglans nigra</i>) tree	390 E Kings Rd
Comments: This large, mature and healthy specimen is part of the landscaping of the Ward House, a secondary heritage building.	
8. Giant Sequoia (<i>Sequoiadendron giganteum</i>)	Carisbrooke Park
Coast Redwood (<i>Sequoia sempervirens</i>) Native Larch (<i>Larix occidentalis</i>) Blue Cedar (<i>Cedrus atlantica</i> Glauca)	

NAME

LOCATION

9. Sitka Spruce (*Picea sitchensis*)

1458 E 29th St

Comments: The historic Allen House, built circa 1905, boasts many features of its early landscaping, including this large specimen Sitka Spruce.

10. Walnut (*Juglans Regia*)

1045 Cortell St

Comments: The tree straddles the property line between 1045 Cortell St and the Cortell Street road allowance on the north western area of the 1045 Cortell St property.