

CORPORATION OF THE CITY OF NEW WESTMINSTER



RIPARIAN AREAS PROTECTION BYLAW NO. 7033, 2005

(Adopted June 27, 2005)

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

<u>AMENDMENT BYLAW</u>	<u>EFFECTIVE DATE</u>
Bylaw No. 8413, 2024	May 6, 2024
Bylaw No. 8468, 2024	August 26, 2024

The bylaw numbers highlighted in this consolidation refer to the bylaws that amended the principal Bylaw No. 7033, 2005. The number of any amending bylaw that has been repealed is not referred to in this consolidation.

Obtainable from the Legislative Services Department

CONSOLIDATED FOR CONVENIENCE ONLY
(September 6, 2024)

CITY OF NEW WESTMINSTER

Bylaw No. 7033, 2005

RIPARIAN AREAS PROTECTION BYLAW

WHEREAS the City may preserve, protect, restore and enhance the natural environment near streams that support fish habitat from harmful conditions associated with commercial, industrial and residential development,

The Council of the City of New Westminster, in open meeting assembled, ENACTS AS FOLLOWS:

1. CITATION

Bylaw No. 7033, 2005, may be cited as “Riparian Areas Protection Bylaw, 2005”.

2. DEFINITIONS

For the purposes of this Bylaw:

“*active floodplain*” means an area of land that is capable of supporting floodplain plant species and is:

- (a) adjacent to a stream, and
- (b) inundated by a 1 in 5 year flood event;
- (c) capable of supporting plant species that are typical of inundated or saturated soil conditions and distinct from plant species on freely drained upland sites adjacent to the land;

“*assessment methods*” mean the methods set out in section 13 of Riparian Areas Protection Regulation and the technical manuals;

“*assessment report*” means a report:

- (a) prepared by or under the direction of a primary qualified environmental professional,
- (b) prepared in accordance with sections 15 to 19 of the Riparian Areas Protection Regulation and the technical manuals, and
- (c) filed electronically to the Riparian Areas Regulation Notification System (RARNS);

“*City*” means the City of New Westminster;

“development” means any of the following associated with or resulting from the City’s regulation or approval of residential, commercial, industrial, institutional, building or plumbing permits, activities or ancillary activities to the extent that they are subject to the City’s powers under Part 14 of the Local Government Act:

- (a) addition, removal, alteration, disruption or destruction of vegetation or soil;
- (b) construction, erection or removal of a building or structure;
- (c) creation of nonstructural impervious or semi-impervious surfaces;
- (d) flood protection works;
- (e) construction of roads, trails, docks, wharves and bridges;
- (f) provision and maintenance of sewer and water services;
- (g) development of drainage systems;
- (h) development of utility corridors;
- (i) subdivision as defined in section 455 of the Local Government Act;

“development proposal” means any development that is proposed in a riparian assessment area that is within or partly within the boundaries of the City;

“Director of Engineering” means the Director of Engineering for the City, or his or her authorized representative;

“fish” means all life stages of salmonids, game fish, and regionally significant fish;

“fish habitat” means the areas in and about a stream, such as spawning grounds and nursery, rearing, food supply and migration areas, on which fish depend on directly or indirectly on in order to carry out their life processes;

“high water mark” means the visible high water mark of a stream where the presence and action of the water are so common and usual, and so long continued in all ordinary years, as to mark on the soil of the bed of the stream a character distinct from that of its banks, in vegetation, as well as in the nature of the soil itself, and includes the active floodplain;

“Minister” means the Minister of Water, Land and Resource Stewardship.

“natural features, functions and conditions” include, but are but not limited to, the following:

- (a) large organic debris that falls into the stream or streamside area, including logs, snags and root wads;
- (b) areas for channel migration, including active floodplains;

- (c) side channels, intermittent streams, seasonally wetted contiguous areas and floodplains;
- (d) the multi-canopied forest and ground cover adjacent to streams that
 - (i) moderates water temperatures,
 - (ii) provides a source of food, nutrients and organic matter to streams,
 - (iii) establishes root matrices that stabilize soils and streambanks thereby minimizing erosion, and
 - (iv) buffers streams from sedimentation and pollution in surface runoff;
- (e) a natural source of stream bed substrates;
- (f) permeable surfaces that permit infiltration to moderate water volume, timing and velocity and maintain sustained water flows in streams, especially during low flow periods.

“permanent structure” means any building or structure that was lawfully constructed, placed or erected on a secure and long lasting foundation on land in accordance with any of the City’s bylaws or approval conditions in effect at the time of construction, placement or erection;

“primary qualified environmental professional” means an individual who:

- (a) is a qualified environmental professional, and
- (b) has completed and passed a course relating to assessments and assessment reports that is approved by the Minister;

“qualified environmental professional” means:

- (a) the individual is registered under the Professional Governance Act as one of the following professionals:
 - (i) agrologist;
 - (ii) applied science technologist or certified technician;
 - (iii) registered professional biologist or registered biology technologist;
 - (iv) professional engineer or professional engineering licensee;
 - (v) professional forester or registered forest technologist;
 - (vi) professional geoscientist or professional geoscience licensee,
- (b) the individual is in good standing with the regulatory body under the Act for the individual’s profession, and is acting under that association’s code of ethics and not subject to disciplinary action by that association,
- (c) the individual is acting within that individual’s area of expertise and scope of the professional practice;

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

“Riparian Areas Regulation” means BC Reg. 178/2019 and any amendments or successive regulation made under the Riparian Areas Protection Act, S.B.C. 1997, c. 21;

“riparian assessment area” means

- (a) for a stream, the 30 metre strip on both sides of the stream, measured from the stream boundary,
- (b) for a ravine less than 60 metres wide, a strip on both sides of the stream measured from the stream boundary to a point that is 30 metres beyond the top of the ravine bank, and
- (c) for a ravine 60 metres wide or greater, a strip on both sides of the stream measured from the stream boundary to a point that is 10 metres beyond the top of the ravine bank;

“stream” includes any of the following that provides fish habitat:

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

“stream boundary” means whichever is farther from the centre of the stream:

- (a) the high water mark, or
- (b) the boundary of the active floodplain;

“streamside protection and enhancement area” means an area:

- (a) adjacent to a stream that links aquatic to terrestrial ecosystems and includes both existing and potential riparian vegetation and existing and potential adjacent upland vegetation that exerts an influence on the stream, and
- (b) the size of which is determined according to the *Riparian Areas Protection Regulation* on the basis of an assessment report provided by a qualified environmental professional in respect of a development proposal;

“technical manual” means a manual published under section 13.1 (1) of the Riparian Areas Protection Act;

“top of the ravine bank” means the first significant break in a ravine slope where

- a) the break occurs such that the grade beyond the break is flatter than 3:1 for a minimum distance of 15 metres measured perpendicularly from the break, and
- b) the break does not include a bench within the ravine that could be developed;

“*wetland*” means land that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, fens, estuaries and similar areas that are not part of the active floodplain of a stream.

3. DEVELOPMENT

3.1 *Development* is prohibited in a *streamside protection and enhancement area*, except as follows:

(a) for a development permit, development variance permit, building or plumbing permit that would permit the reconstruction or repair of a *permanent structure* if:

- (i) the structure remains on its existing foundation,
- (ii) the structure remains within its existing footprint, and
- (iii) the extent of damage or destruction is less than 75% or more of its value above its foundations, as described in section 532 (1) of the Local Government Act; or

(b) the City receives from the property owner a copy of an authorization from the Department of Fisheries and Oceans (Canada), issued under section 35 (2) (b), (c) or (f) of the Fisheries Act, that authorizes the harmful alteration, disruption and destruction of fish habitat.

4. DEVELOPMENT PROPOSALS

4.1 In respect of *development proposals* related wholly or partially to *riparian assessment areas*, the City may approve or allow *development* to proceed in those *riparian assessment areas* if the following conditions are met:

(a) The *development* will not occur in the *streamside protection and enhancement area*;

(b) The *development proposal* is in accordance with an *assessment report* prepared by or under the direction of a primary *qualified environmental professional* in accordance with the *Riparian Areas Protection Regulation*, and who has certified that they are qualified to carry out the assessment; that the *assessment methods* have been followed; and has provided their professional opinion that:

- (i) if the *development* is implemented as proposed there will be no harmful alteration, disruption or destruction of *natural features, functions and conditions* in the *streamside protection and enhancement area* that support fish life processes;
 - (ii) if the *development* proceeds as proposed and complies with all measures recommended in the *assessment report*, the integrity of *streamside protection and enhancement area* will be protected; or
- (c) the City has received notice from the Ministry that the Department of Fisheries and Oceans (Canada) and the Ministry have been notified of the *development proposal* and provided with a copy of the *assessment report* described in paragraph (b).

5. ENFORCEMENT

- 5.1 A City Official is hereby authorized at all reasonable hours to enter and inspect any property, premises, building or structure in the City of New Westminster in order to ascertain that the requirements of this Bylaw are being observed, and no person shall obstruct entry to the property.
- 5.2 If any person is carrying on any work or any activity in contravention of this Bylaw that is, in the opinion of the Director of Engineering, causing or is likely to result in contravention of this Bylaw, then the Director of Engineering may order the immediate suspension of all or any portion of such development work or other activity by posting a Stop Work Order to that effect at the place where the development work or other activity is ongoing, and all work must cease and no further work may be conducted.
- 5.3 No person other than a person authorized by the Director of Engineering shall alter, remove, or suffer the removal of a Stop Work Order issued under section 5.1.
- 5.4 In addition to the authority of the Director of Engineering under section 5.1, the Director of Engineering may direct that steps be taken to prevent further contravention of this Bylaw. The Director of Engineering shall send a written notice by registered mail to the owner of the land where the development or activity is occurring at the owner's address as it appears on the records of the Land Title Office, or other last known address.
- 5.5 If, in the opinion of the Director of Engineering, immediate steps should be taken to prevent the likely or ongoing contravention of this Bylaw, or

if the Director of Engineering is not satisfied that the responsible person has taken appropriate steps to mitigate the damages, then the City may enter onto the property and take such steps as are necessary in the circumstances, including collection, as a debt as per Section 7, Division 14 (258 a,b), and of taking such steps in accordance with section 17 of the Community Charter. The cost of any work performed in accordance with section 5.4 shall be due and payable by the property owner in default of performing the work and if such charge remains unpaid on December 31 in any year, the charge shall be added to form part of the taxes payable on the property as taxes in arrears. The Director of Engineering must provide written notice of the actions taken or proposed.

6. OFFENCES AND PENALTIES

- 6.1 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 by a provision of this Bylaw, commits an offence and is liable, on summary conviction, to a fine of not more than \$10,000.00.
- 6.2 Each day that an offence continues shall constitute a separate offence.

7. CONFLICTS

If a *development* permitted under this Bylaw is inconsistent with the provisions of other bylaws of the City, the more restrictive provision applies to that *development* to the extent of the inconsistency.

Adopted June 27, 2005