

PROPOSED

SALT SPRING ISLAND LOCAL TRUST COMMITTEE BYLAW NO 480

A BYLAW TO AMEND THE SALT SPRING ISLAND OFFICIAL COMMUNITY PLAN BYLAW NO. 434, 2008

The Salt Spring Island Local Trust Committee being the Local Trust Committee having jurisdiction in respect of the Salt Spring Island Local Trust Area pursuant to the *Islands Trust Act*, enacts as follows;

1. Salt Spring Island Official Community Plan Bylaw No. 434, 2008 is amended by adding Section E.7 Development Permit Area 7- Riparian Areas as shown on Schedule 1, and Map 28 Development Permit Area 7 - Riparian Areas as shown on Schedule 2, attached to and forming part of this bylaw.

2. SEVERABILITY

If any provision of this Bylaw is for any reason held to be invalid by a decision of any Court of competent jurisdiction, the invalid provision must be severed from the Bylaw and the decision that such provision is invalid must not affect the validity of the remaining provisions of the Bylaw.

3. CITATION

This Bylaw may be cited for all purposes as "Salt Spring Island Official Community Plan Bylaw No. 434, 2008, Amendment No. 2, 2014."

READ A FIRST TIME this 24th day of July, 2014.

READ A SECOND TIME this 16th day of October, 2014.

PUBLIC HEARING HELD this day of, 2014.

READ A THIRD TIME this day of, 2014.

APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST this day of, 2014.

APPROVED BY THE MINISTER OF COMMUNITY, SPORT AND CULTURAL DEVELOPMENT this day of, 2014.

ADOPTED this day of, 2014

DEPUTY SECRETARY

CHAIR

**SALT SPRING ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 480
SCHEDULE 1**

1. Volume 2 of Official Community Plan Bylaw No. 434 (Development Permit Areas) is amended by adding the following after Section E.6:

“E.7 DEVELOPMENT PERMIT AREA 7 - RIPARIAN AREAS

Development Permit Area 7 is designated according to the *Local Government Act* to protect the natural environment, its ecosystems and biological diversity.

Terms used in Section E.7 that are defined in the provincial *Riparian Areas Regulation* are intended to be interpreted in accordance with the definitions given in the Regulation, as it may be amended from time to time.

E.7.1 Description of Development Permit Area 7

- E.7.1.1 Development Permit Area 7 includes all land designated on Map 28 of this plan as being within the Riparian Areas development permit area. Development Permit Area 7 includes the following:

E.7.1.1.1 Riparian areas related to the watercourses, wetlands and water bodies identified on Map 28 as streams which include 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);

and:

- d) for a ravine the development permit area is measured from the top of the ravine bank.

and Map 28 shall be so interpreted.

The designation and delineation of Development Permit Area 7 consists of a digital record stored and maintained in a Geographic Information System (GIS) at the offices of the Islands Trust.

E.7.2 Reasons for this Development Permit Area

- E.7.2.1 This development permit area contains streams, lakes and wetlands and their associated riparian areas, which have been identified as potential fish habitat. Riparian areas are necessary for stream and watershed health.

It is a policy of the Islands Trust Council that Local Trust Committees shall in their Official Community Plans and regulatory bylaws, address means to prevent further loss or degradation of freshwater bodies or water courses, wetlands or riparian zones and to protect aquatic wildlife.

Furthermore, the province of British Columbia's *Fish Protection Act*, requires that local governments establish regulations to protect riparian areas. This designation is intended to protect riparian areas from development so that the areas can provide natural features, functions and conditions that support fish life processes.

E.7.3 Objectives of this Development Permit Area

E.7.3.1 To protect the biological diversity and habitat values of riparian and aquatic ecosystems.

E.7.3.2 To protect the natural environment necessary to conserve productive fish habitat, including both streams and the adjacent land and vegetation.

E.7.3.3 To minimize adverse impacts of land use practices on fish habitat, which includes plant habitats in riparian areas.

E.7.4 Applicability

E.7.4.1 The following residential, commercial, and/or industrial activities shall require a development permit whenever they occur within Development Permit Area 7, unless specifically exempted under Section E.7.5:

- a. Construction of, addition to, or alteration of a building or other structure.
- b. Removal, alteration, or destruction of vegetation.
- c. Soil removal, soil deposit or soil disturbance.
- d. Development of drainage systems.
- e. Creation of non-structural impervious or semi-impervious surfaces.
- f. Subdivision, as defined in the *Local Government Act*,
- g. Development, as that term is defined under the provincial *Riparian Areas Regulation*.

E.7.4.2 The property owner shall be required, in addition to any other application requirements enacted or imposed by the Local Trust Committee, to provide at their expense an assessment report from a Qualified Environmental Professional which has been submitted per the *Riparian Areas Regulation*.

E.7.4.3 In the event that a parcel of land is subject to more than one development permit area, all relevant development permit area guidelines shall apply and only one development permit, containing conditions based on guidelines in all applicable development permit areas, shall be required.

E.7.5 Exemptions

E.7.5.1 The following activities are exempt from any requirement for a development permit:

- a. Interior or structural exterior alterations, renovations, maintenance, re-construction or repair to a pre-existing permanent building or structure on an existing foundation or footprint to an extent that does not alter, extend or increase the footprint. For clarity, this includes pre-existing septic and water systems.
- b. The removal of trees that have been examined by an arborist and certified to pose an immediate threat to life or property.
- c. Emergency procedures to prevent, control or reduce immediate threats to life or property including: emergency actions for flood-protection and erosion protection, clearing of an obstruction from a bridge or culvert or an obstruction to drainage flow, and repairs to bridges and safety fences carried out in accordance with the *Water Act*.
- d. Gardening and yard maintenance activities within an existing landscaped area, including mowing, pruning, planting and minor soil disturbance that does not alter the general contours of the land, or does not involve the cosmetic application of artificial fertilizers, pesticides, or herbicides.
- e. Restoration and enhancement activities by persons undertaking to only restore and enhance the natural features, functions and conditions of riparian areas as approved by a Qualified Environmental Professional.
- f. Development in accordance with a registered covenant or approved Development Permit that pertains directly and explicitly to riparian habitat protection which: i) is registered in favour of the Local Trust Committee and/or Provincial or Federal interests and ii) establishes a riparian buffer.
- g. Proposals for the subject property which have an existing development permit and demonstrate that the proposed development shall not in any way compromise the permit and continue to demonstrate meeting or exceeding all protective measures and recommendations in accordance with a Riparian Assessment Report from a Qualified Environmental Professional submitted to the *Riparian Areas Regulation* Notification System.
- h. Farm Operations as defined in the *Farm Practices Protection (Right to Farm) Act* and farm uses as defined in the *Agricultural Land Reserve Use, Subdivision, and Procedure Regulation*. For clarity, a farm operation or farm use means agricultural activities conducted by a farm business.
- i. Development proposals for the subject property which demonstrate meeting or exceeding all protective measures and recommendations in accordance with a Riparian Assessment Report from a Qualified Environmental Professional submitted per the *Riparian Areas Regulation* before adoption of Bylaw No. 480.

Information Note:

Despite these exemption provisions, property owners must meet all applicable local, provincial or federal requirements. Some activities not

listed in this section, that are regulated under other provincial or federal legislation may not require a development permit. While many activities are exempt from the Permit Process, voluntary compliance with the guidelines of this section is encouraged for all activities.

E.7.6 Guidelines for New Development

Prior to undertaking any applicable development activities within Development Permit Area 7, the property owner shall apply to the Local Trust Committee for a development permit, and the following guidelines apply:

- E.7.6.1 The property owner shall be required, in addition to any other application requirements enacted or imposed by the Local Trust Committee, to provide at their expense an assessment report from a Qualified Environmental Professional which has been submitted per the *Riparian Areas Regulation*.
- E.7.6.2 The Local Trust Committee may impose permit conditions based on the assessment report including:
 - a. Require specified natural features or areas to be preserved, protected, restored or enhanced in accordance with the permit.
 - b. Require natural water courses to be dedicated.
 - c. Require works to be constructed to preserve, protect, restore or enhance natural water courses or other specified natural features of the environment.
 - d. Require protection measures, including that vegetation or trees be planted or retained in order to:
 - i. preserve, protect, restore or enhance fish habitat or riparian areas;
 - ii. control drainage, or;
 - iii. control erosion or protect banks.
- E.7.6.3 The Local Trust Committee shall require a security for developments clearing greater than 280m² (3,012 ft²) of land within the Development Permit Area. Security shall be returned upon confirmation by a Qualified Environmental Professional that assessment report conditions have been satisfactorily addressed.
- E.7.6.4 Security shall be provided to secure satisfactory completion of habitat protection works, restoration measures, or other works for the streams and streamside habitat (the “required works”). The security shall be 150% of the estimated value of the required works as determined by the Local Trust Committee.
- E.7.6.5 The development permit should not allow any development activities to take place within any Streamside Protection and Enhancement Area identified by the Qualified Environmental Professional and the property owner should be required to follow any measures identified by the Qualified Environmental Professional for protecting the Streamside Protection and Enhancement Area over the long term and these measures should be included as conditions of the development permit. The width of the Streamside Protection and Enhancement Area may be less than the width of the Development Permit Area.

- E.7.6.6 Where a Qualified Environmental Professional or other professional's report describes an area within the Development Permit Area as suitable for development, that is, where the Streamside Protection and Enhancement Area is less than the width of the Development Permit Area, the development permit should only allow the development to occur in compliance with the measures described in the report. Monitoring and regular reporting by a Qualified Environmental Professional or other professional at the property owner's expense may be required during construction and development phases, as specified in a development permit.
- E.7.6.7 If the nature of the proposed project within the Development Permit Area changes after the professional report has been prepared such that it is reasonable to assume that the professional's assessment of the impact of the development may be affected, the Local Trust Committee may require the property owner to have the professional update the assessment at the property owner's expense and development permit conditions may be amended accordingly.

E.7.7 Guidelines for Subdivision

- E.7.7.1 The Local Trust Committee may consider variances to the subdivision, siting or size regulations of this Bylaw where the variance may result in enhanced protection of a Streamside Protection Enhancement Area, riparian buffer or riparian ecosystem in compliance with recommendations of a professional's report."
- E.7.7.2 If a proposed land subdivision is to create additional new lots within this Development Permit Area, then any new lots, roads, building sites, septic fields and driveways should be located and constructed in a way that meets the objectives of this Area.

**SALT SPRING ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 480
SCHEDULE 2**

1. Volume 2 of Official Community Plan Bylaw No. 434 (Development Permit Areas) is amended by adding the following Map 28 – Development Permit Area 7 – Riparian Areas.

