

Attachment 10

REGIONAL DISTRICT OF NANAIMO BYLAW NO. 1335.07

A BYLAW TO AMEND REGIONAL DISTRICT OF NANAIMO ELECTORAL AREA H OFFICIAL COMMUNITY PLAN BYLAW NO. 1335, 2017

The Board of the Regional District of Nanaimo, in open meeting assembled, enacts as follows:

- A. This Bylaw may be cited as “Regional District of Nanaimo Electoral Area H Official Community Plan Amendment Bylaw No. 1335.07, 2018”
- B. The “Regional District of Nanaimo Electoral Area H Official Community Plan Bylaw No. 1335, 2017” is hereby amended as set out in Schedules A, B and C of this Bylaw.

Introduced and read two times this 18th day of September 2018.

Considered in conjunction with the Regional District of Nanaimo Financial Plan and any applicable Waste Management Plans this 18th day of September 2018.

Public Hearing held pursuant to Section 464 of the *Local Government Act* this 23rd day of October 2018.

Read a third time this ____ day of _____ 20XX.

Adopted this ____ day of _____ 20XX.

CHAIR

CORPORATE OFFICER

Schedule A to accompany "Regional District of Nanaimo Electoral Area H Official Community Plan Amendment Bylaw No. 1335.07, 2018".

Chair

Corporate Officer

**REGIONAL DISTRICT OF NANAIMO
BYLAW NO. 1335.07**

Schedule A

1. "Regional District of Nanaimo Electoral Area 'H' Official Community Plan Bylaw No. 1335, 2017" is hereby amended as follows:
 - a) By amending Schedule A as follows:
 - i. to **CONTENTS**, Section 5 – The Development Strategy, by deleting "5.11 – Temporary Use Permits".
 - ii. to **CONTENTS**, Section 8 – Development Permit Areas by deleting "Coastal Steep Slope Hazard" and replacing with "Hazard Lands".
 - iii. to **CONTENTS**, **Maps forming part of this Plan**, delete "6. Environmentally Sensitive Areas Development Permit Areas" and replace with "6. Environmentally Sensitive Development Permit Areas"; and delete "8. Coastal Steep Slopes Development Permit Area" and replace with "8. Hazard Lands Development Permit Area".
 - iv. to **SECTION 2 – THE NATURAL ENVIRONMENT**, subsection **2.4 Marine Environment**:
 - a. to Policy 9, by adding "in the zoning bylaw" after the word "guidelines" and before the period.
 - b. to Policy 10, by adding "in the zoning bylaw" after the word "guidelines" and before the period.
 - v. to **SECTION 2 – THE NATURAL ENVIRONMENT**, subsection **2.5 Climate Change and Energy**, Policy 5, by deleting "development permit area guidelines" and replacing with "designation of development permit areas".
 - vi. to **SECTION 4 – COMMUNITY RESOURCES**, subsection **4.6 Marine Transportation**, Policy 3, by adding "in the zoning bylaw" after the word "guidelines" and before the period.
 - vii. to **SECTION 5 – THE DEVELOPMENT STRATEGY**, subsection **5.6 Tourist Commercial**, Policy 1, by adding "in the zoning bylaw" after the word "guidelines" and before the period.

- viii. to **SECTION 5 – THE DEVELOPMENT STRATEGY**, subsection **5.8 Deep Bay**, Policy 4, by adding “in the zoning bylaw” after the word “guidelines” and before the period.
- ix. by deleting in **SECTION 5 – THE DEVELOPMENT STRATEGY**, subsection **5.11 Temporary Use Permits**.
- x. to **SECTION 10.0 – DEVELOPMENT PERMIT AREAS**:
 - a. to the list of development permit areas at the beginning of the section, delete “Steep Slope Hazard” and replace with “Hazard Lands”.
 - b. to **General Policies and Exemptions, INTRODUCTION**, delete “and exemptions”; and delete “follows” and replace with “are found in the zoning bylaw”.
 - c. to **General Policies and Exemptions**, delete the “GENERAL EXEMPTIONS” section.
 - d. delete **DPA 1 – Freshwater and Fish Habitat Protection** and **DPA 2 – Eagle and Heron Nesting Trees**, and replace with Schedule ‘B’ attached to and forming part of this bylaw.
 - e. To **DPA 3 – Aquifers**, delete the “**APPLICABILITY**”, “**EXEMPTIONS**”, and “**GUIDELINES**” sections.
 - f. To **DPA 4 – Marine Coast**, delete the “**APPLICABILITY**”, “**EXEMPTIONS**”, and “**GUIDELINES**” sections.
 - g. To **DPA 5 – Coastal Steep Slope Hazard**, change the name of the development permit area to “Hazard Lands” throughout; and to the **AUTHORITY** section, add “for the protection of the natural environment and” after “area” and before “for the protection of development”; and delete “Section 488(1)(b)” and replace with “Section 488(1)(a) and (b)”.
 - h. Delete **DPA 6 – Farmland Protection**, and replace with Schedule C attached to and forming part of this bylaw.
 - i. To **DPA 7 – Rural Commercial** and **DPA 8 – Qualicum Bay and Dunsmuir Village Centres**, delete the “**APPLICABILITY**”, “**EXEMPTIONS**”, and “**GUIDELINES**” sections.
- b) To **MAP NO. 6: ENVIRONMENTALLY SENSITIVE DEVELOPMENT PERMIT AREAS**:
 - i. To the legend, under “Blue Heron Nesting Site”, add the following:
“60 metres from base of tree for lots < 1.0 hectares
100 metres from base of tree for lots > 1.0 hectares”
 - ii. To the legend, under “Bald Eagle Nesting Tree”, add the following:
“60 metre radius from base of tree”
- c) To **MAP NO. 8. COASTAL STEEP SLOPES DEVELOPMENT PERMIT AREA**:
 - i. To the title, delete “COASTAL STEEP SLOPE HAZARD” and replace with “HAZARD LANDS”.
 - ii. To the legend, delete “STEEP SLOPES” and replace with “HAZARD LANDS”.

Schedule B to accompany "Regional District of Nanaimo Electoral Area H Official Community Plan Amendment Bylaw No. 1335.07, 2018".

Chair

Corporate Officer

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Schedule B

DPA 1 – Freshwater and Fish Habitat

DESIGNATION

The Freshwater and Fish Habitat Development Permit Area is shown on Map No. 6, and applies to the riparian assessment areas of mapped and unmapped streams subject to the *Riparian Areas Regulation* (RAR) of the *Riparian Areas Protection Act*, as well as all other mapped lakes, wetlands, ponds and watercourses not subject to the RAR. Specifically, the Development Permit Area is defined as follows:

1. All mapped and unmapped riparian assessment areas as defined in the RAR as follows:
 - a) for a stream, a 30 metre strip on both sides of the stream measured from the high water mark;
 - b) for a ravine less than 60 metres wide, a strip on both sides of the stream measured from the high water mark 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 high water mark to a point that is 10 metres beyond the top of the ravine bank.
2. All mapped watercourses, lakes, wetlands, and ponds that are not subject to the RAR; 15 metres as measured from the natural boundary or top of ravine bank, whichever is greater. This includes estuarine areas (areas of tidal influence) of all watercourses and streams. For clarity, in estuarine areas the Marine Coast Development Permit Area also applies.

The following definitions are used for the purpose of defining the development permit area as above:

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

‘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; and
- (c) a ditch, spring or wetland that is connected by surface flow to something referred to in paragraph (a) or (b).

‘top of the ravine bank’ means the first significant break in a ravine 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 perpendicularly from the break, and the break does not include a bench within the ravine that could be developed.

‘watercourse’ means a permanent or non permanent (containing water at least six months of the year) source of water supply that is natural or man made, including a pond, lake, river, creek, brook, ditch, spring or wetland that is integral to a stream, with well defined banks and a bed of 0.6 metres or more below the surrounding land serving to give direction to or containing a current of water but does not apply to a man made pond that does not connect to a stream.

AUTHORITY

The Freshwater and Fish Habitat Development Permit Area is designated a development permit area for the protection of the natural environment, its ecosystems and biological diversity, and protection of development from hazardous conditions pursuant to Section 488(1)(a) and (b) of the *Local Government Act*.

JUSTIFICATION

Freshwater and riparian ecosystems perform a number of valuable services to humans, plants and animals alike. They support a diversity of plants and animals, provide important refuges and migration routes for birds and wildlife, and support fish life processes. Vegetation in riparian areas moderates the volume and rate of water flowing through the watershed contributing to effective rainwater management and stabilizes stream banks by holding soil in place. Plant root systems enhance the soil’s ability to absorb water by making it more porous. This allows water to be stored and released slowly into the watercourse, reducing erosion and flooding. Soils also filter impurities and sediment from runoff water, improving water quality in the stream channel.

Riparian vegetation provides food and shelter for fish. Shade from trees within the riparian area regulates water temperatures within the stream, which is critical for salmon, trout and other fish species that need cool water to survive. Logs and other woody debris fall into streams from the riparian area, influencing stream channel morphology, dissipating the stream’s natural erosive energy and providing habitat for a diverse range of species. Erosion of banks and steep slopes can also pose a hazard to development, and maintaining and enhancing natural features and vegetation and siting buildings and structure appropriately, can reduce this hazard.

Land use practices including land clearing, road building, construction of buildings and structures, and location of wastewater disposal systems in or near riparian areas can jeopardize these habitats and water quality. Protection of riparian vegetation and watercourses is therefore

necessary to protect the natural environment, ecosystems and biological diversity of the Plan Area. Land use practices can also change the hydraulic flow of a stream and create or exacerbate a flooding hazard.

Furthermore, the Province of British Columbia's *Riparian Areas Protection Act*, requires that local governments establish regulations to protect riparian areas, and not allow development to proceed until the requirements of the *RAR* are met.

The objectives of this development permit area are:

1. To protect freshwater ecosystems to maintain their natural habitat and environmental quality.
2. To restore freshwater ecosystems to improve their natural habitat and environmental and hazard mitigation quality if they have been previously degraded.
3. To protect riparian areas from development so that the areas can provide natural features, functions and conditions that support fish life processes.
4. To protect development from flood and slope hazard.

DPA 2 – Eagle and Heron Nesting Trees

DESIGNATION

The Eagle and Heron Nesting Trees Development Permit Area is shown on Map No. 6. The development permit area is defined as follows:

- a) For **Bald Eagle Nesting Trees** – the development permit area applies to all mapped and unmapped trees containing bald eagle nests and is a 60 metre radius measured from the base of the nesting tree.
- b) For **Great Blue Heron Nesting Trees** – the development permit area applies to all mapped and unmapped trees containing great blue heron nests, and shall be
 - i. a 60 metre radius from the base of the nesting tree on lots 1.0 hectare or smaller; and
 - ii. a 100 metre radius from the base of the nesting tree on lots larger than 1.0 hectare.

Where the colony consists of more than one tree, the radius is measured from a line drawn around the outer perimeter of the base of all nest trees.

The locations of the eagle and heron nesting trees identified on Map No. 6 of this plan are intended to provide an approximate location only. Ground-truthing may be required by Regional District staff, a Registered Professional Biologist, or British Columbia Land Surveyor, to accurately determine the location of the tree or trees.

AUTHORITY

The Eagle and Heron Nesting Trees Development Permit Area is designated a development permit area for protection of the natural environment, its ecosystems and biological diversity, pursuant to Section 488(1)(a) of the *Local Government Act*.

JUSTIFICATION

Nesting birds such as the Great Blue Heron and Bald Eagle are sensitive to impact from development and disturbance by human activity and require special treatment in order to protect their ecological value, now and for the future.

Pacific Great Blue Herons are a Species of Special Concern in Canada and are Blue-listed in British Columbia. There are only about 500 nests on Vancouver Island and the Gulf Islands. Bald Eagles are territorial and generally require 1000 meters between nesting sites. Both species nest near lakes, rivers and shorelines throughout BC where they are close to their food source. The loss of available nesting habitat near their food source, as well as disturbance from human presence, reduces the birds' ability to thrive and successfully raise their young. While Section 34 of the *Wildlife Act* provides for the protection of Bald Eagles and Pacific Great Blue Herons and several other at risk bird species, this development permit area protects the nesting habitat essential to ensuring breeding populations are maintained.

The objectives of this development permit area are:

1. To implement Regional Growth Strategy Policy 2.14 to protect environmentally sensitive areas from the impacts of development.
2. To protect eagle and heron nesting sites from the impacts of development.

Schedule C to accompany "Regional District of Nanaimo Electoral Area H Official Community Plan Amendment Bylaw No. 1335.07, 2018".

Chair

Corporate Officer

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Schedule C

DPA 6 – Farmland Protection

DESIGNATION

The Farmland Protection Development Permit Area is shown on Map No. 7 and applies to all properties adjacent to the Provincial Agricultural Land Reserve (ALR) boundary.

AUTHORITY

The Farmland Protection Development Permit Area is designated a development permit area for the protection of farming, pursuant to Section 488(1)(c) of the *Local Government Act*.

JUSTIFICATION

The BC Agricultural Land Commission has acknowledged that the development of lands adjoining farmlands may compromise the agricultural use of the ALR lands. Agricultural lands therefore require protection for long-term agricultural use.

In addition, as a result of inappropriately designed developments, land use conflicts may develop between the land uses. The incorporation of a 15 metre wide buffer between developed lands and agricultural lands is expected to promote greater compatibility between the uses while protecting the agricultural uses from urban impacts.

The objective of this DPA is to protect the agricultural land resource of the Plan Area for present and future production of food and other agricultural products.