



Islands Trust

THE REGULATION OF LAND USE ON DENMAN ISLAND

Information for Newcomers and Residents

Denman Island is part of the Islands Trust, a unique form of government created in 1974 to preserve and protect the character and environment of the islands in the Strait of Georgia. As a result, community planning and land use regulation are functions of the Islands Trust, whereas local services are the function of the Regional District of Comox Strathcona (RDCS).

This sheet explains land use regulation in general and summarizes the issues of frequent interest. Most regulations governing this island are in the Denman Island Land Use Bylaw (Bylaw No. 148). Further regulations are found in provincial legislation (e.g., Part 26 of the *Local Government Act*, the *Agricultural Land Commission Act* and the *Farm Practices Protection Act*). As a landowner, it's your responsibility to find out what regulations apply to your particular situation.

Most land use decisions for this island are made by the Denman Island Local Trust Committee, following consultation with the community. Occasionally, however, decisions are made by other agencies (e.g., the Ministry of Transportation for the approval of subdivisions). For more information, contact one of the local trustees or call the Islands Trust at 1-250-405-5151 (for a toll-free call, use 1-800-663-7867). If you prefer, you can ask for information through info@islandstrust.bc.ca or visit the Islands Trust website at www.islandstrust.bc.ca.

March 2006

Land Use Regulations

Land Use Zones: Denman Island is divided into 15 zones, 10 of which apply to land and 5 to water. Maps showing these zones are part of the Land Use Bylaw. The zones that apply to land are:

- 2 Residential zones
- 3 Resource zones
- 1 Light Industrial zone
- 1 Commercial zone
- 3 Community zones

Before planning any land changes, it's wise to check the zoning and see which regulations apply.

General Regulations: Many regulations apply to all of the zones. Called "General Regulations", these are found in Section 2 of the Land Use Bylaw. Examples of the subjects covered are:

- setbacks from the sea and watercourses
- the use of travel trailers
- parking
- signs
- screening
- home occupations

Don't miss this section if you're looking up the regulations for your land.

Zone Regulations: Regulations that are specific for the individual zones are found in Section 3 of the Land Use Bylaw, which provides a series of tables covering the following:

- permitted land uses
- permitted buildings and structures
- density of uses and buildings
- height (of buildings and structures)
- setbacks from lot lines
- maximum gross floor area
- subdivision requirements

It's important to realize that land uses not listed for a particular zone are not permitted.

Site Specific Zoning: A few zones include parcels with “site specific zoning”, which is described with the zoning tables. Site specific zoning imposes additional regulations for the particular parcels with that zoning. For example, for parcels zoned “A(1)”, the minimum lot area is 64 hectares, instead of the 15 hectares applicable elsewhere in “A”.

Definitions: Definitions are provided in Section 1 at the start of the Land Use Bylaw. In certain cases they are critical to understanding the regulations (e.g. “dwelling unit”, “boathouse”, “gross floor area”, “covered walkway”). Remember to check this section for the meanings of key words in the regulations for your land.

ALR Land: All parcels zoned “A” are in the Agricultural Land Reserve (ALR). As a result these parcels are also subject to regulation by the Agricultural Land Commission. For information, call 1-604-660-7000 or see www.alc.gov.bc.ca.

Permits

Siting and Use Permits: All new construction on Denman Island requires a “Siting and Use Permit” before construction begins. The exception is buildings less than 9.3 square metres in gross floor area (allowing residents to build small structures such as a woodshed or pump house without a permit). Additions or alterations to existing buildings and structures also require a Siting and Use Permit (or an amendment to an existing permit), if they change the building footprint or add to the building. Application forms are available by phoning the Islands Trust or downloading the form from the website (for contact information, see p.1).

B.C. Building Code: There is no building inspection service on Denman Island, and new buildings do not require a building permit. Nevertheless, as elsewhere in B.C., the Building Code applies to all new buildings and renovations, except for accessory buildings under 10 square metres. A copy of the Code may be viewed at the Courtenay Public Library or ordered through www.crownpub.bc.ca.

Development Variance Permits: If the land use regulations impose an unexpected or difficult constraint, you can apply for a development variance permit (DVP) to allow you to vary a particular regulation. A DVP can vary any land use regulation except one affecting “use” or “density of use”. For example, a DVP could allow you to site your home within the setback from the property line or build higher than the allowed height. However, it could not permit you to conduct a commercial use (e.g., operate a hardware store) on residential property or to build more dwelling units than allowed. DVPs are granted on an individual basis at the discretion of the local trust committee. For most information or to apply, contact the Islands Trust (see p.1).

Variance Permits: If you believe that the constraining regulation also creates a hardship for you, you may choose instead to apply to the local Board of Variance for permission to vary the regulation. If the Board considers the regulation minor and agrees that it imposes an undue hardship, it can issue an order to vary the regulation but, again, only if it varies something other than “use” and “density of use”. For information, contact the Islands Trust (see p.1).

Development Permits: Certain areas of the Island have been designated as Development Permit Areas. The purpose may be:

- to protect the natural environment
- to protect future land development from hazardous conditions (such as unstable slopes), or
- to guide the form and character of commercial , industrial or multi-family residential development.

A development permit must be obtained before any land alteration can be initiated in one of these areas.

Maps showing the development permit areas are part of the Denman Island Official Community Plan, which sets out the justification for the various development permit areas and the process for applying for a permit.

For more information, contact the Islands Trust (see p.1).

FREQUENTLY ASKED QUESTIONS

? ***Why should I get a Siting and Use Permit?***

The purpose of this permit is to ensure that your intended land uses and buildings conform to the regulations for this Island. The permit is a simple, inexpensive way of avoiding future pitfalls. Under normal circumstances, your application will be processed and a permit issued within a month. If you start work without a permit, or have your permit but make changes beyond those allowed, you are violating the bylaw and could be subject to enforcement procedures.

? ***What are the other major considerations for building or other land alterations?***

A number of further steps are necessary before you start to build. Some of these are:

- For properties with residential use only, no permit is needed for a driveway access, but it is your responsibility to ensure that the access conforms to provincial regulations. For information, call the Ministry of Transportation at 334-6951 or see www.th.gov.bc.ca/Development_approvals/driveways.htm. For properties with commercial, industrial or institutional uses, road access requires a permit from the Ministry of Transportation.
- A permit from the local health authority is required to construct a sewage disposal system (e.g., a septic system). Also, if you plan a change of use or an addition/renovation to your home that will increase the estimated sewage flows, you may need to upgrade your sewage disposal system. For more information call the Environmental Health Office in Cumberland at 336-3202 or see www.hlth.gov.bc.ca.
- Ground water is scarce in many areas of the island. Be sure your well is properly sited, and consider rainwater catchment and storage to reduce your reliance on ground water. It is advisable to have the quality and quantity of your water supply tested prior to initiating construction.
- The Homeowner Protection Program, established in 1998, requires that BC home builders hold home warranty insurance and have a builder license from the Home Protection Office. Specialized requirements exist for an “owner-builder”. Call 1-800-407-7757 for more information or see www.hpo.bc.ca.

? ***How many houses can I build on my property?***

For parcels in the residential zones, one “principle single family dwelling unit” is allowed when the lot is near or under the “minimum lot area”, but more are allowed if the lot is more than twice this area. If you have a large lot, you should consult Islands Trust staff to find out how many dwellings are allowed on your particular lot. When a second dwelling is allowed, the landowner must provide proof of an adequate water supply before starting that building. For parcels in the resource and commercial zones, the regulations allow one “principle single family dwelling unit” per lot. Regardless of zoning, it is illegal to use an accessory building (e.g., studio, workshop) for residential purposes, unless it is considered a dwelling and is permitted as such.

? ***What are home occupations and what are the restrictions?***

Home occupations are small businesses conducted within, or accessory to, the home. They are permitted in all zones where residential use is permitted. The Land Use Bylaw restricts home occupations to eleven specified uses (e.g., artisan studios, professional offices, sale of agricultural products produced on site) and requires that they not alter the residential appearance of the premises. The regulations are intended to keep the scale and impact appropriate for the neighbourhood. For example, the number of employees and the combined floor area for home occupations is smaller for lots under one hectare than for larger lots. Also, with certain exceptions, home occupations on lots under one hectare must be conducted within the dwelling, whereas those on larger lots may use an accessory building. If you’re planning a home occupation, check the Land Use Bylaw to make sure that you meet the requirements for retail sales, parking, signs, screening, hazardous materials, etc. Contact one of the trustees if you have questions about a particular home occupation.

? *What are the rules for B & Bs?*

In the Denman Land Use Bylaw, B & Bs are referred to as “home-based guest accommodation”. The bylaw limits the length of time that guests may stay with the intent of preventing the use of B & Bs as long-term accommodation. The following regulations apply:

- guest accommodation must be located within the principal dwelling unit,
- guest accommodation is limited to three bedrooms with a maximum of two beds each, and
- meals may be served to transient paying guests.

Residents planning to serve meals other than breakfast should be aware that Health regulations apply. For information call the Environmental Health Office in Cumberland at 336-3202 or see www.hlth.gov.bc.ca.

? *Are there any regulations about renting out my house?*

Yes. Like anywhere else, you can rent out a house on a long-term basis. However, you are not permitted to rent it for a period of less than one month, whether occasionally or on a repeated basis. The regulations disallow this kind of such short-term rental by limiting the use of principle dwelling units for paying guests to the home-based guest accommodation described immediately above.

? *What does “legal non-conforming” mean?*

Some buildings constructed years ago do not conform to today’s regulations, for example, for setbacks or for a certain use (e.g. if a second dwelling). Many of these buildings are classified as “legal non-conforming” for that use. However, if the building hasn’t been used for the original use for 6 months or more, in most cases that use, if resumed, becomes illegal. This regulation comes from provincial legislation, not the Denman Land Use Bylaw, and is not well understood. As a result, some people mistakenly believe that a particular building is “grandfathered” for a certain use. If you are unsure of the status of a building, you should consult Island Trust staff. It may be helpful to know that the Board of Variance, if it so chooses, can issue orders permitting the expansion or alteration of buildings that are “legal non-conforming”, a step not otherwise allowed.

? *What signs can I put up on my property?*

The signs allowed on any given lot are regulated, in an attempt to preserve the beauty and rural character of the Island. The regulations cover the number, size and nature of signs and vary somewhat with different zones. You are advised to consult the Land Use Bylaw before posting a sign on your property.

? *What is “screening” and where is it required?*

The Land Use Bylaw requires that “landscape screening” (e.g., a hedge) be provided:

- to shield commercial, industrial and institutional uses from being viewed from nearby residential lots,
- to shield from view outdoor storage related to a home occupation, and
- to shield from view works yards, commercial or industrial outdoor storage, or derelict vehicles.

A landscape screen must be in the form of vegetation and must be at least 2 metres in height and 1.5 metres in depth and provide a continuous, permanent visual screen. A fence is not a landscape screen.

? *How is the Land Use Bylaw enforced?*

On Denman Island, like many rural areas, the enforcement process is initiated on a complaint basis. This means that someone must contact the Bylaw Enforcement Officer for a possible violation to be investigated. To register a complaint, write to the northern office of the Islands Trust 700 North Road, Gabriola Island, BC V0R 1X3 or to pPhillips@islandstrust.bc.ca. The local trustees are not engaged in the investigation process.

Copies of the Official Community Plan and Land Use Bylaw may be purchased from the Islands Trust or downloaded from the website. Display copies are available in the Dora Drinkwater Library at the Denman Community Hall.