

# PROPOSED

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## Gabriola Island Local Trust Committee

### BYLAW NO. 266

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#### A BYLAW TO AMEND THE GABRIOLA ISLAND LAND USE BYLAW, NO. 177

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The Gabriola Island Local Trust Committee, being the Trust Committee having jurisdiction in respect of the Gabriola Island Local Trust Area under *the Islands Trust Act*, enacts as follows:

1. Bylaw No. 177, cited as “Gabriola Island Land Use Bylaw No. 177, 1999” is amended as shown on Schedule 1, attached to and forming part of this bylaw.

2. This bylaw may be cited as “Gabriola Island Land Use Bylaw 177, 1999, Amendment No. 1, 2012”

READ A FIRST TIME THIS	14	DAY OF	March	, 2013
READ A SECOND TIME THIS	16	DAY OF	January	, 2014
PUBLIC HEARING HELD THIS	12	DAY OF	March	, 2014
READ A THIRD TIME THIS	17	DAY OF	April	, 2014
APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST				
THIS		DAY OF		, 2014
ADOPTED THIS		DAY OF		, 2014

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**SECRETARY**

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**CHAIRPERSON**

## **Gabriola Island Local Trust Committee**

### **Bylaw No. 266**

#### **Schedule 1**

Schedule “A” of Gabriola Island Land Use Bylaw No. 177 cited as “Gabriola Island Land Use Bylaw No. 177, 1999”, is amended by:

1. Adding a new part, immediately following “Part E – Subdivision”, as follows:

### **Part F – DEVELOPMENT PERMIT AREA GUIDELINES**

*Information Note: Development Permit Areas are designated and described in Section 9 of the Gabriola Island Official Community Plan and their locations are shown in Schedules C and D of that Plan.*

#### **F.1 DP-1 The Tunnel**

##### **F.1.1 Applicability**

- F.1.1.1 The following activities shall require a development permit whenever they occur within the DPA:
- a. subdivision of land
  - b. construction of, addition to, or alteration of a building or other structure
  - c. alteration of land
- F.1.1.2 In the event that a parcel of land is subject to more than one development permit area, all development permit area guidelines shall apply and only one development permit, containing conditions based on guidelines in all applicable development permit areas, is required.

##### **F.1.2 Guidelines**

Prior to undertaking any applicable development activities within DP-1, an owner of property shall apply to the Local Trust Committee for a development permit, and the following guidelines apply:

- F.1.2.1 A 183 metre (600 foot) wide tree canopy and shrub buffer shall be retained along North Road, measured 90.8 metres (300 feet) on either side of the centre line of the existing right-of-way, except in the case of land in the ALR, in which case the canopy buffer shall not be less than 30 metres.
- F.1.2.2 Construction within the buffer area shall be limited to:
- a. roads
  - b. trails, and
  - c. public utility works (within a road right-of-way)
- F.1.2.3 Where a utility corridor crosses the buffer area, the alignment shall be perpendicular to North Road so as to minimize the removal or disturbance of natural vegetation.
- F.1.2.4 Roads shall alter the natural vegetation as little as possible and the number of accesses to North Road shall be limited to two on each side of North Road.
- F.1.2.5 Water supply storage, utility buildings and wells shall be located outside of the tree canopy area.
- F.1.2.6 Trees greater than 30.4cm (12”) calliper, measured 5 feet from the ground, shall not be cut or damaged.
- F.1.2.7 Where this area includes trees that bear the nests of eagles or other species of birds, a buffer area around each nest tree should be left undisturbed. The size of the buffer should be determined prior to development by a qualified professional, with advice from the Ministry of Environment or the Canadian Wildlife Service.

## **F.2 DP-2 Lock Bay Area**

### **F.2.1 Applicability**

- F.2.1.1 The following activities shall require a development permit whenever they occur within the DPA:
- a. subdivision of land
  - b. construction of, addition to, or alteration of a building or other structure
  - c. alteration of land
- F.2.1.2 In the event that a parcel of land is subject to more than one development permit area, all development permit area guidelines shall apply and only one development permit, containing conditions based on guidelines in all applicable development permit areas, is required.

### **F.2.2 Guidelines**

Prior to undertaking any applicable development activities within DP-2, an owner of property shall apply to the Local Trust Committee for a development permit, and the following guidelines apply:

- F.2.2.1 There shall be no disturbance of the vegetation or use of chemicals within 30 metres of the natural boundary of the sea except in accordance with any conditions specified in the permit.
- F.2.2.2 Garry oak meadows and similar indigenous species shall be identified and their habitats protected from disturbance.
- F.2.2.3 There shall be no alteration or disturbance causing a negative impact to the foreshore habitat.
- F.2.2.4 Buildings shall be integrated with the surrounding landscape and sited to minimize removal of vegetation.
- F.2.2.5 An assessment of the environmental impact, including mitigation measures required, prepared by a qualified professional, shall be required prior to any new developments or the expansion of an existing development.
- F.2.2.6 Existing trees and vegetation shall be retained along the upland area and adjacent to the foreshore in order to maintain the habitat and prevent erosion.
- F.2.2.7 Septic systems shall not be constructed within 30 metres of the natural boundary of a watercourse (including a body of water or the sea).
- F.2.2.8 Areas subject to flooding shall be subject to a 30 metre setback from the natural boundary of the sea, unless waived by the Ministry of Environment.
- F.2.2.9 Where this area includes trees that bear the nests of eagles or other species of birds, a buffer area around each nest tree should be left undisturbed. The size of the buffer should be determined prior to development by a qualified professional, with advice from the Ministry of Environment or the Canadian Wildlife Service.

## **F.3 DP-3 Riparian Areas**

### **F.3.1 Definitions**

- F.3.1.1 Terms used in Section F.3 that are defined in the provincial *Riparian Areas Regulation* have the same meaning as the definition given in the Regulation, as it may be amended from time to time.

### **F.3.2 Applicability**

- F.3.2.1 The following activities shall require a development permit whenever they occur within the DPA, unless specifically exempted under Policy F.3.3.1:
- a. subdivision of land

- b. construction of, addition to, or alteration of a building or other structure
- c. removal, alteration or destruction of vegetation
- d. disturbance of soils
- e. creation of non-structural, impervious or semi-impervious surfaces
- f. application of artificial fertilizer, pesticides or herbicides
- g. any other development, as that term is defined under the provincial *Riparian Areas Regulation*

F.3.2.2 In the event that a parcel of land is subject to more than one development permit area, all development permit area guidelines shall apply and only one development permit, containing conditions based on guidelines in all applicable development permit areas, is required.

### F.3.3 Exemptions

F.3.3.1 The following activities are exempt from any requirement for a development permit. Despite these exemption provisions, owners must satisfy themselves that they meet any other applicable local, provincial or federal requirements.

- a. for certainty, all uses that are not residential, commercial or industrial or accessory to such a use
- b. interior or exterior alterations, renovations, maintenance, reconstruction or repair to a pre-existing permanent building or structure to an extent that does not alter, extend or otherwise increase the footprint
- c. repair or replacement of a septic field on the same spot
- d. the removal of trees that have been examined by an arborist and certified to pose an immediate threat to life or property
- e. With the exception of nesting trees protected under Section 34 of the *Wildlife Act*, cutting of vegetation and trees more than 15 meters from the stream's high water mark or the top of the ravine bank, provided the cutting is not a precursor to development, the roots/stumps are left in the ground, and the cutting does not result in land alteration
- f. gardening and yard maintenance activities, not involving the application of artificial fertilizer, pesticides or herbicides, within a pre-existing *landscaped area*, including mowing, pruning, planting, and minor soil disturbance that does not alter the general contours of the land
- g. manual removal of invasive species and manual planting of native vegetation conducted in accordance with best management practices
- h. pruning of not more than two trees in one growing season and that is conducted in accordance with the standards and recommendations of the International Society of Arboriculture, and that does not involve: the lift pruning of lower limbs to the extent that the live crown ratio is less than 50%, the removal of more than 25% of the crown in one growing season, topping, or the pruning or removal of a structural root within the critical root zone
- i. ecological restoration or enhancement projects undertaken or authorized by a public body
- j. work that is authorized by Fisheries and Oceans Canada by permit under Section 35 of the *Fisheries Act*
- k. emergency procedures to prevent, control or reduce immediate threats to life or property including:
  - i. emergency actions for flood-protection and erosion protection,
  - ii. clearing of an obstruction from a bridge or culvert or an obstruction to drainage flow, and
  - iii. repairs to bridges and safety fences carried out in accordance with the *Water Act*

- l. farm operations as defined in the *Farm Practices Protection (Right to Farm) Act* and farm uses as defined in Section 2(2) of the *Agricultural Land Reserve Use, Subdivision, and Procedure Regulation* and horticulture as defined in the Gabriola Island Land Use Bylaw 177
- m. The construction of a fence if no native trees are removed and the disturbance of native vegetation is restricted to 0.5 meters on either side of the fence, or 1.5 meters on either side of the fence in agricultural areas
- n. The construction of a private trail if all of the following apply;
  - i. The trail is 1 meter wide or less;
  - ii. No native trees are removed;
  - iii. The surface of the trail is pervious (for example, soil, gravel or wood chips)
  - iv. The trail is designed to prevent soil erosion where slopes occur; and
  - v. Where the trail parallels the stream, the trail is more than 5 meters away from the high water mark of a stream.
- o. Disturbance of soils more than 15 meters from the stream's high water mark or the top of the ravine bank if the total area of soil disturbance is less than 5 meters squared
- p. The constructing of a small accessory building such as a pump house, gazebo, garden shed or playhouse more than 15 meters from the stream's high watermark or the top of the ravine bank if the building is located within an existing landscaped area and the total area of small accessory building is less than 10 meters squared

*Information Note: For best management practices on manual removal of invasive species and planting of native vegetation, property owners should contact organizations such as the Invasive Species Council of British Columbia and the Coastal Invasive Species Committee.*

*Information Note: Some activities not listed here that are regulated under other provincial or federal legislation may not require a development permit.*

### **F.3.4 Guidelines**

Prior to undertaking any applicable development activities within DP-3, an owner of property shall apply to the Local Trust Committee for a development permit, and the following guidelines apply:

- F.3.4.1 In general, all development in this DPA should be undertaken in a manner that restores or maintains the proper function and condition of the riparian area, water bodies and ecosystems. Where a Qualified Environmental Professional (QEP) or other professional has made recommendations for mitigation measures, enhancement or restoration in order to lessen impacts on the riparian area and ecosystems, the Local Trust Committee may impose permit conditions, including a requirement for security in the form of an irrevocable letter of credit, to ensure the restoration and/or protection of riparian areas and ecosystems is consistent with the measures and recommendations described in the report.
- F.3.4.2 The development permit should not allow any development activities to take place within any Streamside Protection and Enhancement Area (SPEA) identified by the QEP and the owner should be required to follow any measures identified by the QEP for protecting the SPEA over the long term and these measures should be included as conditions of the development permit. The width of the SPEA may be less than the width of the DPA.
- F.3.4.3 Where a QEP or other professional's report describes an area within the DPA as suitable for development, that is, where the SPEA is less than the width of the DPA, 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 QEP or other professional at the applicant's expense may be required during construction and

development phases, as specified in a development permit.

- F.3.4.4 If the nature of the proposed project within the DPA 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 applicant to have the professional update the assessment at the applicant's expense and development permit conditions may be amended accordingly.
- F.3.4.5 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 SPEA, riparian buffer or riparian ecosystem in compliance with recommendations of a professional's report.

## **F.4 DP-4 Flat Tops Islands Area**

### **F.4.1 Applicability**

- F.4.1.1 The following activities shall require a development permit whenever they occur within the DPA:
  - a. subdivision of land
  - b. construction of, addition to, or alteration of a building or other structure
  - c. alteration of land
- F.4.1.2 In the event that a parcel of land is subject to more than one development permit area, all development permit area guidelines shall apply and only one development permit, containing conditions based on guidelines in all applicable development permit areas, is required.

### **F.4.2 Guidelines**

Prior to undertaking any applicable development activities within DP-4, an owner of property shall apply to the Local Trust Committee for a development permit, and the following guidelines apply:

- F.4.2.1 There shall be no disturbance of the vegetation or use of chemicals within 30 metres of the natural boundary of the sea except in accordance with any conditions specified in the permit.
- F.4.2.2 Garry oak meadows and similar indigenous species shall be identified and their habitats protected from disturbance.
- F.4.2.3 There shall be no alteration or disturbance which would cause a negative impact to the foreshore habitat.
- F.4.2.4 Buildings shall be integrated with the surrounding landscape and sited to minimize removal of vegetation.
- F.4.2.5 Other than within existing marine lease areas, applicant shall provide an assessment of environmental impacts and mitigation measures, prepared by a qualified professional, prior to any expansions or new developments.
- F.4.2.6 Existing trees and vegetation shall be retained along the upland area and adjacent to the foreshore in order to maintain the habitat and prevent erosion.
- F.4.2.7 Septic systems shall not be constructed within 30 metres of the natural boundary of any watercourse (including a body of water or the sea).
- F.4.2.8 Areas subject to flooding shall be subject to a 15 metre setback unless waived by the Ministry of Environment.
- F.4.2.9 Where this area includes trees that bear the nests of eagles or other species of birds, a buffer area around each nest tree should be left undisturbed. The size of the buffer should be determined prior to development by a qualified professional, with advice from the Ministry of Environment or the Canadian Wildlife Service.

## **F.5 DP-5 Gabriola Pass Area**

### **F.5.1 Applicability**

- F.5.1.1 The following activities shall require a development permit whenever they occur within the DPA:
- a. subdivision of land
  - b. construction of, addition to, or alteration of a building or other structure
  - c. alteration of land
- F.5.1.2 In the event that a parcel of land is subject to more than one development permit area, all development permit area guidelines shall apply and only one development permit, containing conditions based on guidelines in all applicable development permit areas, is required.

### **F.5.2 Guidelines**

Prior to undertaking any applicable development activities within DP-5, an owner of property shall apply to the Local Trust Committee for a development permit, and the following guidelines apply:

- F.5.2.1 Other than within existing marine lease areas, applicants shall provide an assessment of environmental impacts and mitigation measures, prepared by a qualified professional, prior to any expansions or new developments.
- F.5.2.2 There shall be no alteration or disturbance which would cause a negative impact to the foreshore habitat.

## **F.6 DP-6 Escarpment Areas**

### **F.6.1 Applicability**

- F.6.1.1 The following activities shall require a development permit whenever they occur within the DPA, unless specifically exempted under Policy F.6.2.1:
- a. subdivision of land
  - b. construction of, addition to, or alteration of a building or other structure
  - c. alteration of land.
- F.6.1.2 In the event that a parcel of land is subject to more than one development permit area, all development permit area guidelines shall apply and only one development permit, containing conditions based on guidelines in all applicable development permit areas, is required.

### **F.6.2 Exemptions**

- F.6.2.1 In cases where the Regional District building inspector requires a report from a geotechnical engineer, which outlines precautionary measures to be taken in avoiding a hazardous situation, a development permit under this section shall not be required.

### **F.6.3 Guidelines**

Prior to undertaking any development activities within DP-6, an owner of property shall apply to the Local Trust Committee for a development permit, and the following guidelines apply:

- F.6.3.1 There shall be no construction of buildings, septic tanks, drainage and deposit fields, irrigation or water systems unless a geotechnical engineer recommends that such construction may occur without subjecting land in the escarpment area to increased slope instability.
- F.6.3.2 There shall be no removal of trees or vegetation unless a geotechnical engineer recommends that such removal may occur without subjecting land in the escarpment area to increased slope instability.

## **F.7 DP-7 The Village Centre**

### **F.7.1 Applicability**

- F.7.1.1 The following activities shall require a development permit whenever they occur within the DPA, unless specifically exempted under Policy F.7.2.1:
- a. subdivision of land
  - b. construction of, addition to, or alteration of a building or other structure
  - c. alteration of land
- F.7.1.2 In the event that a parcel of land is subject to more than one development permit area, all development permit area guidelines shall apply and only one development permit, containing conditions based on guidelines in all applicable development permit areas, is required.

### **F.7.2 Exemptions**

- F.7.2.1 The following activities are exempt from any requirement for a development permit. Despite these exemption provisions, owners must satisfy themselves that they meet any other application local, provincial or federal requirements.
- a. building painting, structural alterations and repairs of a minor nature that do not require a building permit
  - b. building repairs and maintenance where the materials to be used are of the same type and form as the existing materials
  - c. the installation of carved wood signs on parcels where there are existing buildings, provided the signs do not exceed the maximum sizes permitted in this Bylaw

### **F.7.3 Guidelines**

Prior to undertaking any development activities within DP-7, an owner of property shall apply to the Local Trust Committee for a development permit, and the following guidelines apply:

- F.7.3.1 The character of each development shall be in keeping with the island environment and be capable of blending in with the aesthetic qualities of the natural surroundings.
- F.7.3.2 The development shall incorporate small scale building designs with such amenities as public walkways and outdoor open spaces for use by the public.
- F.7.3.3 Natural vegetation and trees shall be retained or planted and maintained for screening of parking and storage areas and to enhance the atmosphere of public open spaces. Safety and visibility shall be considered in landscape design.
- F.7.3.4 Lighting should be kept to the minimum necessary for pedestrian safety and visibility, in order to maintain a low level of light in the night-time atmosphere.
- F.7.3.5 Signs made from natural materials or incorporating material produced by local artisans and crafts people are encouraged.
- F.7.3.6 Pedestrian requirements (i.e. walkways), shall be incorporated into the development.
- F.7.3.7 Off-street parking shall be designed to be as unobtrusive as possible and where possible, located to the rear of the parcel away from public open spaces and eating areas.
- F.7.3.8 Landscaping shall facilitate water retention
- F.7.3.9 Exterior surfaces of local and/or natural materials such as wood, stone or brick shall be encouraged.
- F.7.3.10 Facilities for recycling shall be provided in garbage collection areas.



## **F.8 DP-8 Multi-dwelling Affordable Housing**

### **F.8.1 Applicability**

- F.8.1.1 The following activities shall require a development permit whenever they occur within the DPA, unless specifically exempted under Policy F.8.2.1:
- a. subdivision of land
  - b. construction of, addition to, or alteration of a building or other structure
  - c. alteration of land
- F.8.1.2 In the event that a parcel of land is subject to more than one development permit area, all development permit area guidelines shall apply and only one development permit, containing conditions based on guidelines in all applicable development permit areas, is required.

### **F.8.2 Exemptions**

- F.8.2.1 The following activities are exempt from any requirement for a development permit. Despite these exemption provisions, owners must satisfy themselves that they meet any other applicable local, provincial or federal requirements.
- a. building painting, structural alterations and repairs of a minor nature that do not require a building permit
  - b. building repairs and maintenance where the materials to be used are of the same type and form as the existing materials
  - c. the installation of carved wood signs on parcels where there are existing buildings, provided the signs do not exceed the maximum sizes permitted in this Bylaw

### **F.8.3 Guidelines**

Prior to undertaking any development activities within DP-8, an owner of property shall apply to the Local Trust Committee for a development permit, and the following guidelines apply:

- F.8.3.1 The character of the development shall be in keeping with the island environment and be capable of blending in with the aesthetic qualities of the natural surroundings.
- F.8.3.2 Natural vegetation and trees shall be retained or native vegetation planted and maintained for screening of parking and storage areas. Safety and visibility shall be considered in landscape design.
- F.8.3.3 Landscaping shall facilitate water retention.
- F.8.3.4 Facilities for recycling shall be provided in garbage collection areas.
- F.8.3.5 Lighting is to be kept to a minimum necessary for pedestrian safety and visibility. Lighting in off-street parking areas shall be adequate for security purposes.
- F.8.3.6 Signs made from natural materials or incorporating materials produced by local artisans and craft people are encouraged.
- F.8.3.7 Off-street parking shall be designed to be as unobtrusive as possible and, where possible, located to the rear of the parcel.
- F.8.3.8 Exterior surfaces of buildings and structure shall reflect a locally crafted character and be comprised of natural local materials such as wood or stone.
- F.8.3.9 Common area amenities shall be provided prior to alteration and/or occupancy.
- F.8.3.10 A vegetation screen shall be provided within the required setback area which provides and adequate visual screen of the intended use from an adjoining residential parcel.
- F.8.3.11 Bicycle storage areas and structures, bicycle and pedestrian paths and areas for community garden space shall be provided as a means of decreasing greenhouse gas emissions.

- F.8.3.12 Where possible, water conservation measures and energy efficient building siting and design shall be provided.

## **F.9 DP-9 Light Industrial Use**

### **F.9.1 Applicability**

- F.9.1.1 The following activities shall require a development permit whenever they occur within the DPA:
- a. subdivision of land
  - b. construction of, addition to, or alteration of a building or other structure
  - c. alteration of land
- F.9.1.2 In the event that a parcel of land is subject to more than one development permit area, all development permit area guidelines shall apply and only one development permit, containing conditions based on guidelines in all applicable development permit areas, is required.

### **F.9.2 Guidelines**

Prior to undertaking any development activities within DP-9, an owner of property shall apply to the Local Trust Committee for a development permit, and the following guidelines apply:

- F.9.2.1 The character of the development shall be in keeping with the island environment and, with the exception of points of access to the property, adequate natural vegetation screening shall be maintained along the perimeter of the property.
- F.9.2.2 No buildings shall be located closer than 30m from a watercourse of the high water mark of the sea.
- F.9.2.3 A site plan shall be provided to illustrate where on site the off-street parking and equipment storage is to be accommodated and in no case shall any equipment, materials or vehicles used in association with the industrial use be located on an adjoining parcel or a public road right-of-way.

2. Re-numbering "Part F – Definitions" and all sub-sections under that part accordingly.

3. To current "Part F – Definitions" insert the following new definition in alphabetical order:

*"landscaped area"* means an area significantly altered by human activity where there is the continuous maintenance of no vegetation, cultivated vegetation and/or landscape materials, including but not limited to stones, boulders, cobbles, pavers and decorative concrete;"