

# PROPOSED

## GAMBIER ISLAND LOCAL TRUST COMMITTEE BYLAW NO. 132

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### A BYLAW TO AMEND GAMBIER ASSOCIATED ISLANDS LAND USE BYLAW, 2013

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

1. Citation

This bylaw may be cited for all purposes as “Gambier Associated Islands Land Use Bylaw, 2013, Amendment No. 1, 2015”.

2. Gambier Island Local Trust Committee Bylaw No. 120, cited as “Gambier Associated Island Land Use Bylaw, 2013,” is amended as follows:

2.1 PART 1 – INTERPRETATION, Section 1.1 – Definitions, is amended by inserting 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.”

2.2 SCHEDULE A – LAND USE BYLAW TEXT is amended by adding a new PART 9, immediately following PART 8 SUBDIVISION REGULATIONS, as follows:

**“PART 9 DEVELOPMENT PERMIT AREA GUIDELINES**

*Information Note: Development Permit Areas are designated and described in Section 6 of the Gambier Associated Islands Official Community Plan and their locations are shown on Schedule E of that Plan.*

**9.1 DP-1 RIPARIAN AREAS**

**Definitions**

- (1) Terms used in Section 9.1 that are defined in the Provincial *Riparian Areas Regulation* have the same meaning as the definition given in the *Regulation*.

**Applicability**

- (2) The following activities shall require a development permit whenever they occur within the Development Permit Area (DPA), unless specifically exempted under Subsection 9.1(3):
- (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*

### Exemptions

- (3) The following activities are exempt from any requirement for a DP-1 development permit:
  - (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 in situ;
  - (d) the removal of trees that have been examined by an arborist and certified in writing to pose a threat to life or property;
  - (e) With the exception of trees and vegetation containing nests protected under Section 34 of the *Wildlife Act*, cutting of vegetation and trees more than 10 metres (32.8 feet) from the stream's high water mark or the top of the ravine bank, provided the cutting is not a precursor to development, roots and 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 in accordance with the standards and recommendations of the International Society of Arboriculture, which 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 authorized by Fisheries and Oceans Canada 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*;
- iv. creation of a fire break in accordance with the *Wildfire Act*.
- (l) The construction of a fence if no native trees are removed and the disturbance of native vegetation is restricted to 0.5 metres (16.4 feet) on either side of the fence, or 1.5 metres (4.9 feet) on either side of the fence in agricultural areas;
- (m) The construction of a private trail if all of the following apply;
  - i. The trail is 1 metre (1.6 feet) wide or less;
  - ii. No trees are removed;
  - iii. The surface of the trail is pervious;
  - 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 metres (16.4 feet) away from the high water mark of a stream.
- (n) Disturbance of soils more than 10 metres (32.8 feet) 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 metres (16.4 feet) squared;
- (o) The constructing of a small accessory building more than 10 metres (32.8 feet) 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 metres (32.8 feet) squared.

*Information Note: Despite these exemption provisions, owners are required to satisfy any other applicable local, provincial or federal requirements.*

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

*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.*

**Guidelines**

- (4) 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:
- (a) In general, all development in this Development Permit Area (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) has, as part of the assessment report defined in the RAR, 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 assessment report submitted to the provincial RAR Notification System (RARNS).
  - (b) The development permit should not allow any development activities to take place within any Streamside Protection and Enhancement Area (SPEA) identified in the assessment report 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.
  - (c) Where a QEP's RAR assessment 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 RAR assessment report. Monitoring and regular reporting by a QEP at the applicant's expense may be required during construction and development phases, as specified in a development permit.
  - (d) If the nature of the proposed project within the DPA changes after the RAR assessment 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.
  - (e) 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."

READ A FIRST TIME THIS 19<sup>TH</sup> DAY OF NOVEMBER , 2015

PUBLIC HEARING HELD THIS 13<sup>TH</sup> DAY OF OCTOBER , 2016

READ A SECOND TIME THIS 17<sup>TH</sup> DAY OF NOVEMBER , 2016

READ A THIRD TIME THIS 17<sup>TH</sup> DAY OF NOVEMBER , 201X

APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS

6<sup>TH</sup> DAY OF DECEMBER , 2016

ADOPTED THIS <sup>TH</sup> DAY OF \_\_\_\_\_ , 201X

\_\_\_\_\_  
**Chair**

\_\_\_\_\_  
**Secretary**