

PROPOSED

GAMBIER ISLAND LOCAL TRUST COMMITTEE BYLAW NO. 147

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

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, 2017”.

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

2.1 PART 1 – INTERPRETATION, Section 1.1 DEFINITIONS is amended by deleting the following definition:

““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 Regulations **PART 9 – DEVELOPMENT PERMIT AREA GUIDELINES 9.1 DP-1 RIPARIAN AREAS Definitions** (1) is amended by replacing the reference “*Riparian Areas Regulation*” with “*Riparian Areas Protection Regulation*”.

2.3 SCHEDULE A – Land Use Bylaw Regulations **PART 9 – DEVELOPMENT PERMIT AREA GUIDELINES 9.1 DP- 1 RIPARIAN AREAS Applicability** (2) is amended by removing the following text:

“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”

And replacing it with:

“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) The addition, removal or alteration of soil, vegetation or building or other structure;
- (b) Creation of non-structural, impervious or semi-impervious surfaces;

- (c) Without limiting paragraph (a), the addition, removal or alteration of works and services described in section 506 (1) [subdivision servicing requirements] of the *Local Government Act*;
- (d) Subdivision of land;
- (e) Application of artificial fertilizer, pesticides or herbicides;
- (f) Any other development, as that term is defined under the *Riparian Areas Protection Regulation*.”

2.4 SCHEDULE A – Land Use Bylaw Regulations **PART 9 – DEVELOPMENT PERMIT AREA GUIDELINES 9.1 DP-1 RIPARIAN AREAS Exemptions** (3) is amended by removing the following text:

“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."

And replacing with:

"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) repairs or other non-structural alterations or additions to a pre-existing building or other structure to the extent that it remains on its existing foundation and does not alter, extend or otherwise increase the footprint, and that it is not damaged or destroyed to the extent described in section 532 of the *Local Government Act*;
- c) repair or replacement of a septic field within the same area of land as the existing septic field;
- d) the removal of trees that have been examined by an International Society of Arboriculture Certified 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 boundary, 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) the maintenance of an area of human disturbance, other than a building or other structure, if the area is not extended and the type of disturbance is not changed;

- g) manual removal of invasive species and manual planting of native vegetation conducted on the basis of advice from a Qualified Environmental Professional;
- 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) work authorized by Fisheries and Oceans Canada under Section 35 of the *Fisheries Act*;
- j) 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*.
- k) The construction of a fence more than 10 metres (32.8 feet) from the stream boundary, if no native trees are removed and the disturbance of native vegetation is restricted to 0.5 metres (1.6 feet) on either side of the fence, or 1.5 metres (4.9 feet) on either side of the fence in agricultural areas;
- l) The construction of a private trail if all of the following apply:
 - i. The trail is 1 metre (3.28 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.
- m) Disturbance of soils more than 10 metres (32.8 feet) from the stream boundary if the total area of soil disturbance is less than 5 metres (16.4 feet) squared;
- n) The constructing of a small accessory building more than 10 metres (32.8 feet) from the stream boundary, if the building is located within an existing area of human disturbance and the total area of small accessory building is less than 10 metres (32.8 feet) squared.”

2.5 SCHEDULE A – Land Use Bylaw Regulations **PART 9 – DEVELOPMENT PERMIT AREA GUIDELINES 9.1 DP-1 RIPARIAN AREAS Guidelines** (4) is amended by removing the following text:

“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."

And replacing with:

"Prior to undertaking any non-exempt 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) Applications for development permits must include an assessment report prepared by a Qualified Environmental Professional (QEP) in accordance with the assessment methods described in the *Riparian Areas Protection Regulation* (RAPR) and submitted to the responsible BC ministry. The report must include the QEP's recommendations regarding development approval conditions including the monitoring of development activities and subsequent reporting by the QEP to the applicant and the Local Trust Committee.
- b) In general, all development 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 QEP has, as part of the assessment report, made recommendations for mitigation measures, enhancement or restoration in order to lessen impacts on the riparian area and ecosystems,

or monitoring and reporting, 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.

- c) 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, which measures should be included as conditions of the development permit.
- d) If the nature of the proposed project within the DPA changes after the assessment report has been prepared such that it is reasonable to assume that the QEP'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) Where an assessment report describes an area within the DPA as suitable for development, the development permit should only allow the development to occur in that area.
- f) 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 accordance with the recommendations in a QEP's assessment report.
- g) Applications for development permits received after site works are complete should include a condition and impact assessment report prepared by a QEP in accordance with *Professional Practice Guidelines – Legislated Riparian Assessments in BC* and the *Riparian Areas Regulation Assessment Methods*, as they may be amended from time to time.
- h) Land should not be subdivided so as to create new parcel boundaries intersecting or within 30 m of the stream boundary, unless the boundary is being created for an ecological reserve under the *Ecological Reserve Act* for dedication to the Crown, or the subdivision complies with the recommendations of a QEP.
- i) A development permit may designate areas of land within a subdivision that must remain free of development in accordance with recommendations of a QEP.
- j) No subdivision plan should indicate the dedication or construction of a highway, driveway, access route or utility corridor of any kind within 30 metres of a stream, except in accordance with the recommendations of a QEP.
- k) No subdivision plan should be designed in such a way that activities described in 9.1(2) would be likely to occur within 30 metres of the stream boundary, unless the development will comply with the recommendations of the QEP who assessed the impact of the subdivision on the riparian area. In such situations, the development permit may stipulate the extent of the area in which development may occur, in accordance with the QEP's assessment report."

2.6 SCHEDULE A – Land Use Bylaw Regulations **PART 9 – DEVELOPMENT PERMIT AREA GUIDELINES** is amended by inserting the following after subsection 9.1:

“9.2 DP-2 STREAMSIDE PROTECTION

Applicability

(1) The following activities shall require a development permit whenever they occur within the Development Permit Area (DPA), unless specifically exempted under Subsection 9.2(2):

- subdivision of land;
- construction of, addition to, or alteration of a building or other structure;
- removal, alteration or destruction of vegetation;
- disturbance of soils;
- creation of non-structural, impervious or semi-impervious surfaces.

Exemptions

(2) The following activities are exempt from any requirement for a DP-2 development permit:

- a) 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;
- b) repair or replacement of a septic field in situ;
- c) the removal of trees that have been examined by an arborist and certified in writing to pose a threat to life or property;
- d) 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;
- e) gardening and yard maintenance activities within a pre-existing landscaped area, including mowing, pruning, planting, and minor soil disturbance that does not alter the general contours of the land;
- f) manual removal of invasive species and manual planting of native vegetation conducted in accordance with best management practices;
- g) 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;
- h) ecological restoration or enhancement projects undertaken or authorized by a public body;

- i) work authorized by Fisheries and Oceans Canada under Section 35 of the *Fisheries Act*;
- j) 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*.
- k) The construction of a fence if no native trees are removed and the disturbance of native vegetation is restricted to 0.5 metres (1.6 feet) on either side of the fence, or 1.5 metres (4.9 feet) on either side of the fence in agricultural areas;
- l) The construction of a private trail if all of the following apply:
 - i. The trail is 1 metre (3.28 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.
- m) 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;
- n) 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

- (3) 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:
 - a) Applicants are to provide a report, prepared by a Qualified Environmental Professional (QEP) or Registered Professional Biologist (R.P. Bio) with expertise in aquatic biology. The report should indicate the type of conditions that should be incorporated into the development

permit to achieve the objectives and comply with the guidelines of this DPA.

- b) In general, all development should be undertaken in a manner that restores or maintains the proper function and condition of the riparian area, water bodies and ecosystems.
- c) Native vegetation and trees are to be retained or replaced to control erosion, protect banks and protect fish and wildlife habitat.
- d) Where this DPA includes unique native species dependent on streamside habitat identified in the professional report as worthy of particular protection, their habitat areas should be left undisturbed. The owner should be required to follow any measures identified by the professional for protecting the streamside habitat over the long term and these measures should be included as conditions of the development permit.
- e) 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) Where a QEP or R.P. Bio. 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 assessment report.
- g) The development permit should only allow activities identified in the professional's report, and the owner should be required to follow any protective or mitigative measures identified by the professional, and these measures should be included as conditions of the development permit.
- h) Monitoring and regular reporting by a QEP or R.P. Bio. at the applicant's expense may be required during construction and development phases, as specified in a development permit.
- i) 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 the DPA in compliance with recommendations of a professional's report."

READ A FIRST TIME THIS 19TH DAY OF NOVEMBER , 2020

PUBLIC HEARING HELD THIS DAY OF , 20XX

READ A SECOND TIME THIS DAY OF , 20XX

READ A THIRD TIME THIS DAY OF , 20XX

APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS
DAY OF , 20XX

ADOPTED THIS DAY OF , 20XX

Chair

Secretary