DENMAN ISLAND

DEVELOPMENT PROCEDURE BYLAW NO. 71

AS AMENDED BY DENMAN ISLAND LOCAL TRUST COMMITTEE BYLAW NO. 114

NOTE: This Bylaw is consolidated for convenience only and is not to be construed as a legal document.

Certified copies of the Official Community Plan are available from the Islands Trust Office, #200 - 1627 Fort Street, Victoria, B.C. V8R 1H8

Consolidated: April, 2004

BYLAW AMENDMENTS

This copy is consolidated for convenience only and includes the following **text** amendments:

Bylaw Number	Amendment Number	Adoption Date
Bylaw No. 114	Amendment No. 1, 1998	May 13, 1999

Denman Island Trust Committee

Bylaw No. 71

****

A Bylaw to define procedures under which an owner of land may apply for amendment to a plan or bylaw or the issue of a permit under Part 29 of the Municipal Act

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The Denman Island Trust Committee ("Trust Committee"), being the Trust Committee having jurisdiction in respect of the Denman local trust area in the province of British Columbia pursuant to the *Islands Trust Act* (the "Act") enacts as follows:

Title

1. This bylaw may be cited for all purposes as the "Denman Island Trust Committee Development Procedure Bylaw No. 71, 1992".

Applications

DE-114

2. Sections 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 4 and 5 of this bylaw unless otherwise specified, apply in respect of:

   (1) applications for amendments to the Denman Official Community Plan, the Denman Land Use Bylaw, and the Comox-Strathcona Regional District Zoning Bylaw;

   (2) applications for:

      a) development permits and amendments thereto;

      b) development variance permits;

      c) temporary commercial use permits;

      d) temporary industrial use permits;

      e) amendments to land use contracts;

      f) siting and use permits;

   (3) applications under section 9 of the *Condominium Act* for conversion of existing buildings into strata lots.

3. An application by an owner of land for amendment to an official community plan or zoning bylaw, for a permit, or for conversion of a building into strata lots, shall:

   (1) be made by the owner of the land or by a person authorized in writing by the owner;

   (2) be submitted to the Islands Trust office in the appropriate form established by the Islands Trust, as may be varied from time to time.

   (3) contain all the information required by the applicable form.

3.1 Development Permit Area No. 1: Komas Bluff

In addition to the provisions of Section 3, an application for any development permit within Development Permit Area No. 1: Komas Bluff shall contain:

A. A statement outlining the reason for the proposed alteration of, subdivision of, or building on land within the Development Permit Area.

B. A geotechnical report from a professional engineer with experience in geotechnical engineering indicating what activities or forms of land alteration may be undertaken on the portion of land the subject of the development permit application.

C. A scaled map of the affected parcel showing:

i. the location of the proposed building and/or structures;

ii. the location of the property lines;

iii. the location of areas subject to sloughing or damage from sloughing;

iv the location of planting, retention, or removal of vegetation to control erosion; and

v. the layout of the proposed subdivision, including roads, lot lines, building sites, and natural areas left free of development.

3.2 Development Permit Area No. 2: Steep Terrain

In addition to the provisions of Section 3, an application for any development permit within Development Permit Area No. 2: Steep Terrain shall contain:

A. A statement outlining the reason for the proposed alteration of, subdivision of or building on land within the Development Permit Area.

B. A scaled map of the affected parcel showing:

i. the location of the proposed building and/or structures;

ii. the location of the property lines; and

iii. the location of environmentally sensitive areas.

3.3 Development Permit Area No. 3: Lacon Road Coast

In addition to the provisions of Section 3, an application for any development permit within Development Permit Area No. 3: Lacon Road Coast shall contain:

A. A statement outlining the reason for the proposed alteration of, subdivision of or building on land within the Development Permit Area.

B. A scaled map of the affected parcel showing:

i. the location of the proposed building and/or structures;

ii. the location of the property lines;

iii. the location of areas subject to sloughing or damage from sloughing;

iv the location of planting, removal or retention of vegetation to control erosion; and

v. the location of environmentally sensitive areas.

3.4 Development Permit Area No. 4: Streams, Lakes and Wetlands

In addition to the provisions of Section 3, an application for any development permit, except a permit for "Clearing for a Farm Operation", within Development Permit Area No. 4: Streams, Lakes and Wetlands shall contain:

A. A statement outlining the reason for the proposed alteration of, subdivision of or building on land within the development permit area.

B. A scaled map of the affected parcel showing:

i. the location of streams, lakes wetlands, sensitive sites and special features;

ii. the location and extent of any proposed tree cutting;

iii. the location of the property lines;

iv. the location of any proposed building and/or structures; and

v. the layout of any proposed subdivision, including roads, lot lines, building sites, and natural areas left free of development.

3.5 Development Permit Area No. 7: Forest Cover

In addition to the provisions of Section 3, an application for any development permit, except a permit for "Clearing for Farm Operation", within Development Permit Area No. 7: Forest Cover shall contain:

A. A statement outlining the reason for the proposed alteration of land within the Development Permit Area.

B. a map of affected parcel(s) at 1:2,000 scale and table of areas (in hectares to the nearest 0.1 ha) showing existing:

i. areas of non-forest use;

ii. areas of forest in initial, young, middle, and advanced stage forest, as defined in Appendix A of the Denman Island Official Community Plan Bylaw No. 60;

iii. roads and landings; and

iv. streams, lakes, wetlands, sensitive sites, and special features.

C. a plan, including maps, of proposed activity including:

i. proposed new roads and landings, including details on design and surfacing;

ii. areas to be logged;

iii. silviculture systems;

iv. approximate volume of timber to be removed;

v. areas where no logging will occur;

vi. distribution of forest stages, as defined in Appendix A of the Denman Island Official Community Plan Bylaw No. 60, to be left on completion of logging;

vii. areas designated for maintenance of young, middle, and advanced stage forest, as defined in Appendix A of the Denman Island Official Community Plan Bylaw No. 60;

viii. areas designated for restoration of young, middle, and advanced stage forest, as defined in Appendix A of the Denman Island Official Community Plan Bylaw No. 60;

ix. location and type of stream crossings; and

x. riparian areas where no logging will occur.

3.6 Methods for Verification

Surveys and inventories used in preparing the verification reports for permits for Development Permit Area No. 7: Forest Cover should be in accordance with the following procedures:

A. General

i. Methods used must be consistent with accepted standards of professional forestry practice.

ii. Ground surveys may be done with hip chain and hand-held compass, provided the required level of precision can be attained.

iii. Maps, surveys, inventories and other information that were provided with a development permit application may be re-submitted with the proof of compliance report, provided the information they contain remains true and accurate.

iv. In cases where a Registered Professional Forester has certified on the basis of a visual inspection of a polygon that the polygon belongs beyond doubt to a certain forest stage, measurements of basal area or stocking density are not required.

B. Mapping of Forest Stages and Major Access Structures

i. Areas that are excluded from the net forest area must be mapped, regardless of size.

ii. All land within the net forest area must be assigned to a polygon shown on the map. All map polygons within the net forest area must be labelled as one of the following:

- a road or major skid trail,
- a landing,
- a gravel pit or borrow pit,
- an area of initial stage forest
- an area of young stage forest,
- an area of middle stage forest,
- an area of advanced stage forest, or
- a complex of two stages of forest.

iii. The boundaries of map polygons may be determined by air photo interpretation provided that the boundaries of the polygon can be clearly recognised on the air photo, and accurately mapped; otherwise reconnaissance and surveys on the ground must be used.

iv. Forest polygons should be delineated primarily on the basis of forest stages. Each polygon should contain only one stage of forest or a mosaic of small patches of two stages.

v. Wherever possible, polygons should also be delineated by further division of the net forest area on the basis of environmental or management considerations, so that each polygon contains one forest type, in terms of its site factors, species composition, density, treatment history, etc.

vi. Polygons may contain minor skid trails, but all roads and major skid trails should be mapped separately. If a forest polygon spans across a road or skid trail, the portions of the polygon should be shown on the map joined by a hook.

vii. Within the net forest area:
- all major access structures must be mapped,
- the width of roads and major skid trails need not be drawn to scale,
- any patch with an area equal to or greater than 1 ha must be mapped as a distinct polygon,
- any large opening must be mapped as a distinct polygon, and
- any wetland with an area equal to or greater than 1 ha must be mapped.

viii. A polygon identified as advanced stage forest may include small openings of middle, young, or initial stage forest, provided that the polygon, including the small openings, meets the definition of advanced stage forest.

ix. A polygon identified as middle stage forest may include areas of advanced stage forest of any dimension as well as small openings of young or initial stage forest, provided that the polygon, including the small openings, meets the definition of middle stage forest.

x. A polygon identified as young stage forest may include areas of middle or advanced stage forest of any dimension as well as small openings of initial stage forest, provided that the polygon, including the small openings, meet the definition of young stage forest.

xi. A polygon identified as initial stage forest may include areas of young, middle, or advanced stage forest of any dimension.

C. Determination of Site Index

If a polygon is assigned to a stage of forest using the definition for lower productivity sites, the site index and method used to determine site index must be noted. If a polygon is assigned to a stage of forest using the definition for higher productivity sites, determination and documentation of site index is not required. In cases where a Registered Professional Forester has certified on the basis of a visual inspection of a polygon that the polygon belongs beyond doubt to a lower productivity site, tree ring counts and measurements of tree height are not required.

For Site Index, see Appendix D in the Denman Island Official Community Plan Bylaw No. 60.

D. Table of Areas for Simple and Complex Polygons

i. In cases where an area of forest consists of a mosaic of small patches, the area may be considered as a complex polygon. This polygon may contain two different stages of forest, except advanced stage forest, provided that it has, for the polygon as a whole, not less than 70 percent of the basal area of trees above a specified minimum dbh needed to meet the definition of the older stage of the two stages of forest.

ii. The entire area of a simple polygon should be assigned to the forest stage contained in the polygon.

iii. The area of a complex polygon should be assigned to the two forest stages it contains according to the following pro-rating formula:
- the percentage of the polygon that is assigned to the older forest stage of the complex is equal to the percentage of all the sample plots in the polygon that taken individually provide an estimate of basal area sufficient to meet the definition of that forest stage, and
- the remaining area of the polygon is assigned to the younger forest stage of the complex.

E. Measurement of Areas

i. Area measurements must be provided for:
- all major access structures,
- all forest polygons,
- wetlands over 1 ha, and
- areas of non-forest use.

ii. The area occupied by a road should be determined by:
- a closed traverse survey with error of closure less than 3 percent, or
- direct measurement of the length of the road, combined with sufficient sample measurements of the width of the road at intervals along its length to provide an estimate of the true width of the road with confidence limits of plus or minus 10 percent or less at the 90 percent probability level.

iii. The area occupied by a landing, gravel pit, or borrow pit should be determined by a closed traverse boundary survey with error of closure less than 3 percent.

iv. The area occupied by a polygon other than a road or major skid trail should be measured by interpretation and measurement of air photos, or a closed traverse boundary survey with error of closure less than 3 percent. Interpretation and measurement of air photos may be used where:
- the boundaries of the polygon can be clearly recognised on the air photo, and
- the polygon is initial stage forest and larger than 0.5 ha, or young, middle, or advanced stage forest and larger than 1 ha, and
- the above method can provide reasonable assurance of determining the true area of the polygon to within plus or minus 5 percent error or less;
- otherwise, a closed traverse boundary survey with error of closure less than 3 percent must be used.

F. Measurement of Basal Area

Measurements of basal area, used to determine forest stage classification, may be made by any method that is part of standard accepted professional forestry practice, that is statistically sound and un-biased, and that conforms to the definitions in the OCP. For convenience, the following method is recommended:

i. Angle Count Sampling

- Use angle count sampling (i.e., a cruising prism or Relaskop) to measure the basal area at each plot centre. The sampling angle chosen should include a minimum of 4 “in” trees per plot, on average for the polygon as a whole. Use the same sampling angle for all plots within a polygon.

- The horizontal limiting distance to borderline trees must be measured to within 2 percent of the error.

- For the purpose of tallying the number of “in” trees above a certain dbh limit, the dbh of a tree may be estimated visually by a person who is qualified by experience to do so, provided the tree is unmistakably above the required limit. Where there is any doubt, or where the dbh is within 20 percent of the limit, the dbh of the tree should be measured.

ii. Complete and Unbiased Sampling

- Use a sampling method with a systematic grid of sample points (plots) and a random starting point. The grid should be approximately square (i.e., the distance between plots along the line should be close or equal to the spacing between lines.) The sampling method must provide an equal probability of sampling all points within the polygon, including areas near the edge of the polygon and atypical areas within the polygon.

- If a plot falls sufficiently close to a polygon boundary that the sampling area extends over the boundary, half plots should be used. Where half plots are used, the plot is split by a line through the plot centre parallel to the polygon boundary, and the semi-circle that lies within the polygon is sampled. If it is not possible to sample a semi-circle without sampling outside the polygon, the plot should be rejected. Note that the Basal Area Factor of the prism or Relaskop must be doubled if half plots are used.

- Rejection of plots that happen to include small openings, small wetlands, minor skid trails, or other atypical areas that are included in the polygon is not acceptable. Plots that fall in areas that are not part of the polygon should be rejected, provided that the excluded area was mapped as a separate polygon, or a major access structure, or an area that is not part of the net forest area.

- Relocation of plot centres is not acceptable. Location of plot centres must be measured to within 3 percent of error, and the

last 5 metres before a plot centre should be measured to within 10 cm.

- In cases where the area to be sampled has a variation that follows a regular geometric pattern (e.g., a forest treated by row thinning or patch cutting on a regular spacing or grid) a systematic grid of sample points should not be used.

iii. Number of Plots and Confidence Limits

- Estimates of basal area used to determine the forest stage of a polygon must be made with not less than 10 plots per polygon, and not less than 1 plot per ha, and a sufficient number of plots to ensure that:
  - the lower confidence limit, at the 90 percent confidence level, for the estimate of basal area of trees above a given dbh limit is equal to or greater than the minimum required for the given forest stage, or
  - the estimate of basal area of trees above a given dbh limit is equal to or greater than the minimum required for the given forest stage, and the confidence interval, at the 90 percent level, is less than or equal to 25 percent of the estimate.

- If additional plots are required to achieve the required confidence limits, the location of the additional plots must be unbiased.

G. Measurement of Stocking Density

Measurements of the number of trees/ha above a specified minimum height, used to determine forest stage classification, may be made by any method that is part of standard accepted professional forestry practice, and that is statistically sound and un-biased, and that conforms to the definitions in Appendix A of the Denman Island Official Community Plan Bylaw No. 60. For convenience, the following method is recommended.

i. Circular Sample Plots

- Use a sampling with a systematic grid of sample points (plots), and a random starting point.
- Use circular sample plots with a radius of 3.99m.
- Count the number of well-spaced trees (as defined in Appendix A of the Denman Island Official Community Plan Bylaw No. 60) in the plot that are above the specified minimum height. Any tree that is counted must be at least the minimum distance specified from any other counted tree.
- The maximum number of trees that may be counted in a plot is given by the equation

  m = 1.5 x minimum stocking density (trees/ha) x Plot Area (m^2) / 10,000 (m^2),

  where m is the maximum number of trees that may be counted in a plot; minimum stocking density is the minimum number of trees per ha, above the specified minimum height, required to meet the definition of a given stage of forest as defined in the Denman Island Official Community Plan Bylaw No. 60; and Plot Area is the area in square metres of the sample plot (equal to 50 m^2 if the plot radius is 3.99 m).

ii. Complete and Unbiased Sampling

- Use a sampling method with a systematic grid of sample points (plots) and a random starting point. The grid should be approximately square (i.e., the distance between plots along the line should be close or equal to the spacing between lines). The sampling method must provide an equal probability of sampling all points within the polygon, including areas near the edge of the polygon and atypical areas within the polygon.

- If a plot falls sufficiently close to a polygon boundary that the sampling area extends over the boundary, half plots should be used. Where half plots are used, the plot is split by a line through plot centre parallel to the polygon boundary, and the semi-circle that lies within the polygon is sampled. If it is not possible to sample a semi-circle without sampling outside the polygon, the plot should be rejected. Note that the plot multiplier must be doubled if half plots are used.

- Rejection of plots that happen to include small openings, small wetlands, minor skid trails, or other atypical areas that are included in the polygon is not acceptable. Plots that fall in areas that are not part of the polygon should be rejected, provided that the excluded area was mapped as a separate polygon, or a major access structure, or an area that is not part of the net forest area.

- Relocation of plot centres is not acceptable. Location of plot centres must be measured to within 3 percent of error, and the last 5 metres before a plot centre should be measured to within 10 cm.

- In cases where the area to be sampled has a variation that follows a regular geometric pattern (e.g., a forest treated by row thinning or patch cutting on a regular spacing or grid), a systematic grid of sample points should not be used.

iii. Number of Plots and Confidence Limits

- Estimates of stocking density used to determine the forest stage of a polygon, must be made with not less than 10 plots per polygon, not less than 1 plot per ha, and a sufficient number of plots to ensure that:
  - the lower confidence limit, at the 90 percent confidence level, for the estimate of the number of trees/ha above a specified minimum height is equal to or greater than the minimum required for the given forest stage, or
  - the estimate of the number of trees/ha above a specified minimum height is equal to or greater than the minimum required for the given forest stage, and the confidence interval, at the 90 percent level, is less than or equal to 25 percent of the estimate.

If additional plots are required to achieve the required confidence limits, the location of the additional plots must be unbiased.

4. An application or substantially similar application may not be submitted in respect of the same development less than one year from the date of refusal of a previous application or in the case of an application for conversion of a building into strata lots less than one year from the date of refusal of a previous application, unless the Trust Committee has agreed to such reconsideration.

5. The Trust Committee may, on receipt of an application to amend a plan or bylaw, resolve to proceed with an amendment bylaw or resolve not to proceed with the application. The Trust Committee may, on receipt of a permit application, resolve to proceed with or resolve not to proceed with the permit.

6. The Trust Committee may initiate an amendment to a plan or bylaw without first receiving an application to amend.

Fees

7. Where an application is submitted for amendment to a plan or bylaw or for a permit, the applicant shall pay to the Islands Trust the fee set out in the Fees and Charges Bylaw that applies to the type of amendment or permit for which application is made.

Notification

8. Where an application is made for a development variance permit, temporary commercial use permit or temporary industrial use permit, notice shall be mailed or otherwise delivered by the Trust Committee at least 10 days before adoption of a resolution to issue the permit. Such notification shall be sent to owners and tenants in occupation of that part of the area of the land that is the subject of the application and to the owner and tenants in occupation of all parcels, any part of which is within 100 metres of that part of the area of the land that is the subject of the application.

9. Where a public hearing is to be held under section 956(1) of the *Municipal Act*, and the proposed bylaw alters the permitted use or density of any area, and where less than 10 parcels owned by less than 10 persons are the subject of the bylaw alteration, a notice shall be mailed or otherwise delivered by the Trust Committee. Such notification shall be sent to owners and tenants in occupation of that part of the area of the land that is the subject of the bylaw alteration and to the owners and tenants in occupation of all parcels, any part of which is within 100 metres of that part of the area of the land that is subject to the bylaw alteration.

10. Where the Trust Committee waives the holding of a public hearing in respect of a proposed bylaw that does not alter the permitted use or density of any area, and where less than 10 parcels owned by less than 10 persons are the subject of the bylaw alteration, a notice shall be mailed or otherwise delivered by the Trust Committee to the owners and tenants in occupation of that part of the area of the land that is subject to the bylaw alteration and to the owners and tenants in occupation of all parcels, any part of which is within 100 metres of that part of the area of the land that is subject to the bylaw alteration.

11. Where an application is made for the conversion of an existing building into strata lots, notice shall be given to all occupants of the building by the application.

Repeal

12. Section 2(1) to 2(3) and Section 4(1) to 4(5) of Denman Island Trust Committee Bylaw No. 49, being the "Denman Island Trust Committee Procedure Bylaw No. 49, 1990" are repealed.

Severability

13. If any section of lesser portion of this bylaw is held invalid by a Court of competent jurisdiction, the invalid portion shall be severed form the bylaw without affecting the validity of the remainder.

READ A FIRST TIME this 23rd day of March , 1993

READ A SECOND TIME this 23rd day of March , 1993

READ A THIRD TIME this 23rd day of March , 1993

APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST this 6th day of April , 1993

RECONSIDERED AND FINALLY ADOPTED this 8th day of April , 1993

_____ _____

Secretary Chairperson

Schedules

Schedules "A" to "G" are not part of this bylaw and may be inserted for convenience only, e.g.

A. Bylaw Amendment Application
B. Development Permit Application
C. Development Permit Amendment Application
D. Temporary Use Application - Commercial or Industrial
E. Development Variance Permit Application
F. Siting and Use Permit Application
G. *Condominium Act* Conversion Application

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