



BYLAW NO. 90

A BYLAW TO AMEND BYLAW NO. 2256, BEING "FAIR HARBOUR ZONING BYLAW, 2000"

WHEREAS the former Comox Strathcona Regional District has, by Bylaw No. 2256, being "Fair Harbour Zoning Bylaw, 2000" adopted a zoning bylaw for part of Electoral Area A (Fair Harbour) pursuant to Part 26 of the *Local Government Act*;

AND WHEREAS a bylaw of the former Comox Strathcona Regional District that regulates the use or development of land within the area comprising the Strathcona Regional District remains in force until amended or repealed;

AND WHEREAS the provisions of B.C.Reg.376/2004 enacted pursuant to the *Fish Protection Act* require the Regional District to regulate certain types of development within riparian areas;

NOW THEREFORE the Board of Directors of the Strathcona Regional District, in open meeting assembled, enacts as follows:

Amendment

1. Bylaw No. 2256, being "Fair Harbour Zoning Bylaw, 2000" is hereby amended as set out in Schedule "A" attached to and forming part of this bylaw.

Citation

2. This bylaw may be cited for all purposes as Bylaw No. 90, being "Fair Harbour Zoning Bylaw, 2000", Amendment No. 1".

READ A FIRST TIME ON THE 23RD DAY OF SEPTEMBER, 2010

READ A SECOND TIME ON THE 23RD DAY OF SEPTEMBER, 2010

PUBLIC HEARING HELD ON THE 10TH DAY OF NOVEMBER, 2010

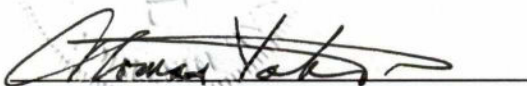
READ A THIRD TIME ON THE 25TH DAY OF NOVEMBER, 2010

**APPROVED BY THE MINISTER OF COMMUNITY, SPORT AND CULTURAL DEVELOPMENT
ON THE 13TH DAY OF MARCH, 2012**

RECONSIDERED, FINALLY PASSED AND ADOPTED ON THE 26TH DAY OF APRIL, 2012.



Chair



Corporate Officer

SCHEDULE 'A'**SECTION ONE TEXT AMENDMENT**

1. Part 200 'INTERPRETATION' is hereby amended by inserting the following terms:

DEVELOPMENT means any of the following associated with or resulting from the local government regulation or approval of residential, commercial or industrial activities or ancillary activities to the extent that they are subject to local government powers under Part 26 of the Local Government Act:

- (a) removal, alteration, disruption or destruction of vegetation;*
- (b) disturbance of soils;*
- (c) construction or erection of buildings and structures;*
- (d) creation of non-structural impervious or semi-impervious surfaces;*
- (e) flood protection works;*
- (f) construction of roads, trails, docks, wharves and bridges;*
- (g) provision and maintenance of sewer and water services;*
- (h) development of drainage systems;*
- (i) development of utility corridors;*
- (j) subdivision as defined in section 872 of the Local Government Act.*

QUALIFIED ENVIRONMENTAL PROFESSIONAL means an applied scientist or technologist, acting alone or together with another qualified environmental professional, if:

- (a) the individual is registered and in good standing in British Columbia with an appropriate professional organization constituted under an Act, acting under that association's code of ethics and subject to disciplinary action by that association,*
- (b) the individual's area of expertise is recognized in the assessment methods as one that is acceptable for the purpose of providing all or part of an assessment report in respect of that development proposal, and*
- (c) the individual is acting within that individual's area of expertise.*

RIPARIAN AREA means a Streamside Protection and Enhancement Area (SPEA).

RIPARIAN ASSESSMENT AREA means:

- (a) for a stream, the 30.0 metre strip on both sides of the stream, measured from the high water mark,*
- (b) for a ravine less than 60.0 metres wide, a strip on both sides of the stream measured from the high water mark to a point that is 30.0 metres beyond the top of the ravine bank, and*
- (c) for a ravine 60.0 metres wide or greater, a strip on both sides of the stream measured from the high water mark to a point that is 10.0 metres beyond the top of the ravine bank.*

STREAM includes any of the following that provides fish habitat:

- (a) a watercourse, whether it usually contains water or not;*
- (b) a pond, lake, river, creek or brook;*
- (c) a ditch, spring or wetland that is connected by surface flow to something referred to in paragraph (a) or (b).*

STREAMSIDE PROTECTION AND ENHANCEMENT AREA (SPEA) means an area:
(a) adjacent to a stream that links aquatic to terrestrial ecosystems and includes both existing and potential riparian vegetation and existing and potential adjacent upland vegetation that exerts an influence on the stream, and
(b) the size of which is determined according to this regulation on the basis of an assessment report provided by a qualified environmental professional in respect of a development proposal.

WETLAND includes land that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, fens, estuaries and similar areas that are not part of the active floodplain of a stream.

2. Part 400 'Siting Specifications' is hereby amended by modifying Section 401 'General Considerations' to include a new Section 401.4 'Development Adjacent to Streams' as follows:

401.4 Development Adjacent to Streams

Riparian Area Regulation (RAR) Requirements

In accordance with the provincial RAR, where development, as defined by RAR, is proposed to take place within 30.0 metres of a stream connected to fish habitat, an assessment report, prepared by a qualified environmental professional (QEP) in accordance with the Riparian Areas Regulation (RAR) is required. The QEP report must be prepared by the QEP who has carried out the assessment and that:

- i. certifies that the qualified environmental professional is qualified to carry out the assessment,*
- ii. certifies that the assessment methods have been followed, and*
- iii. provides the professional opinion of the qualified environmental professional that:*
 - (a) if the development is implemented as proposed there will be no harmful alteration, disruption or destruction of natural features, functions and conditions that support fish life processes in the riparian assessment area, or*
 - (b) if the streamside protection and enhancement areas identified in the report are protected from the development, and the measures identified in the report as necessary to protect the integrity of those areas from the effects of the development are implemented by the developer, there will be no harmful alteration, disruption or destruction of natural features, functions and conditions that support fish life processes in the riparian assessment area.*

3. Part 400 'Siting Specifications' is hereby amended to include a new Section 402 titled 'Siting of Buildings and Structures Adjacent to Streams', inserting the corresponding text as follows and renumbering the existing and subsequent items and all references to accordingly:

402 Siting of Buildings and Structures Adjacent to Streams

1. *Where the siting of buildings and structures is proposed adjacent to streams and where the Riparian Areas Regulation (RAR) applies, the siting of buildings and structures adjacent to streams shall be determined by the Qualified Environmental Professional's Riparian Area Assessment Report that is filed with and acknowledged by MOE. However, notwithstanding the QEP's assessment report, this bylaw further requires that no building or structure shall be sited closer than 7.5 metres of a stream.*
2. *Where RAR is not applicable and where the definition of stream pursuant to RAR does not apply, no building or structure shall be sited within 7.5 metres of a water feature.*
3. *Notwithstanding the above, the regional district floodplain management bylaw also specifies floodplain setback requirements that may further regulate siting of buildings and structures adjacent to streams.*



No. _____

Statutory Approval

Under the provisions of section 913

of the Local Government Act

I hereby approve Bylaw No. 90

Strathcona Regional District

a copy of which is attached hereto.

Dated this 13th ***day***
of March ***, 2012***

A handwritten signature in cursive script that reads "Ida Chong".

Ida Chong
**Minister of Community, Sport and Cultural
Development**