SECTION 8 - DEVELOPMENT PERMIT AREAS

In addition to the objectives and policies stated in the Plan, the Regional District may, pursuant to the Municipal Act designate an area or areas as a Development Permit Area where it considers that special conditions or priorities exist in accordance with one or more of the following categories:

A. Protection of the natural environment.

B. Protection of development from hazardous conditions.

C. Protection of farmland.

D. Revitalization of an area where commercial use is permitted.

E. Establishment of objectives and guidelines for the form or character of commercial, industrial or multi-family residential development.

F. Protection of provincial heritage sites, pursuant to the Heritage Conservation Act.

The Regional District must also describe the special conditions or objectives that justify such a designation and specify guidelines respecting the manner by which the conditions will be alleviated or the objectives will be achieved. It should be noted that a development permit might not be the only requirement for development approval; senior government approval may also be required for some types of development.

In recognition of existing conditions and future expectations, the community has stated both its preference and concern regarding the protection of the natural environment, especially water resources, and person and property from natural hazards. Attainment of these broad community objectives is aided through the application of development permits. These offer the flexibility to customize development proposals and to make limited alterations or variations to development standards (as prescribed in the Land Use and Subdivision Bylaw) to reflect site-specific conditions.

A development proposal is assessed and, if necessary, modified in consideration of stated guidelines which have been designed to specifically address either the protection of environmentally sensitive areas or the minimization of the impact potential of natural hazards. By definition, a certain degree of flexibility is evident in the interpretation and implementation of these guidelines, provided that the broader community objectives that they are intended to support are not compromised.

Development permits are only required in areas that are explicitly designated as a development permit area in this Plan. Within these areas there are certain types of development, activities or situations, which are exempt from a development permit requirement, if associated implications or impact potential are anticipated to be negligible. Exemptions are clearly stated within the guidelines.
"As of March 31, 2006, Local Governments are required by the *Fish Protection Act* to protect all 'streams', as defined in the *Riparian Areas Regulation*. Therefore, development permit areas are designated adjacent to all watercourses within this plan area. With respect to natural hazard areas, this Plan specifies the use of development permits only within the floodplain of the Millstone River. This is considered the most significant natural hazard in the Plan Area. The Plan also requires development permits for development on industrial land.

Development Permit Areas are outlined on Maps No. 5 and 6, attached to and following part of this Plan."¹

¹ Bylaw No. 1055.03 adopted January 23, 2007
8.1 FISH HABITAT PROTECTION

Category:

'A' Protection of the natural environment, its ecosystems, and biological diversity

Area:

This Development Permit Area applies to all of the Plan Area including all mapped and unmapped streams as shown on Map No. 6. This development permit area consists of the following Riparian Assessment Areas within and adjacent to all streams, which by definition includes wetlands and lakes:

1. for a stream, a 30 metre strip on both sides of the stream measured from the natural boundary;
2. for a ravine less than 60 metres wide, a strip on both sides of the stream measured from the high water mark to a point that is 30 metres beyond the top of the ravine bank; and,
3. for a ravine 60 metres wide or greater, a strip on both sides of the stream measured from the natural boundary to a point that is 10 metres beyond the top of the ravine bank.

The Riparian Areas Regulation establishes the Riparian Assessment Areas as described above.

This Development Permit Area applies to all development proposed within the Riparian Assessment Area. A development permit is required for the following development activities where such activities involve the subdivision of land, construction of, addition to, or alteration of a building or structure, or the alteration of land, except where such activities are specifically exempt:

(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.

Justification:

The province of British Columbia’s Riparian Areas Regulation (RAR), under the Fish Protection Act, aims to protect riparian areas for the protection of fish habitat. This regulation requires all residential, commercial or industrial development in a Riparian Assessment Area to be subject to an assessment by a Qualified Environmental Professional (QEP).

The purpose of this environmental review is to ensure the protection of the natural environment in accordance with the Fish Protection Act by protecting the features, functions, and conditions critical to support fish processes and ensuring appropriate measures are in place for the protection of the natural environment.

A Local Government must not approve or allow a development to proceed until the local government has been notified by the Ministry of Environment that the Ministry of Environment and Fisheries and Oceans
Canada have been notified of the development proposal, and have been provided with a copy of the assessment report prepared by a QEP, or that the Minister of Fisheries and Oceans has authorized the harmful alteration, disruption, or destruction of the natural features, functions, and conditions that support fish life process (HADD) in a riparian assessment area.

Guidelines:

1. A qualified environmental professional (QEP) must be retained at the expense of the applicant for the purpose of preparing a report pursuant to Section 4(2) of the Riparian Areas Regulation (RAR) and the RAR Assessment Methodology Guidebook. The report must be electronically submitted to the Ministry of Environment (MOE), Fisheries and Oceans Canada (DFO) and a hard copy must be provided to the RDN.

2. A Development Permit shall not be issued without notification from MOE and DFO that they have been notified of the proposed development and provided with an acceptable copy of the QEP assessment report or having received evidence of the Minister of Fisheries and Oceans approval under the authority of Section 4(3) of the RAR.

3. Where the QEP report proposes a Harmful Alteration, Disruption, or Destruction (HADD) to fish habitat pursuant to Section 35(2) of the Canada Fisheries Act, the development permit shall not be issued unless approval under the authority of Section 4(3) of the RAR is received from DFO. The Regional Board may consider providing comments to DFO in regards to a proposed approval under the authority of Section 4(3) of the RAR.

4. The RDN may, when considering comments to DFO on a proposed approval under Section 4(3) of the RAR, require additional information from the QEP and other senior levels of government.

5. The applicant shall be requested to provide an explanatory plan of the SPEA including the registration of a covenant prohibiting development and use in the SPEA.

6. The owner shall implement all measures necessary to maintain the integrity of the SPEA as specified in the QEP's report, and such measures may be included as conditions of the development permit.

7. In addition to implementing the measures contained in the QEP report, to ensure future encroachment into the SPEA is reduced, the RDN in consultation with the land owner may consider the following:

   (a) dedicating back to the Crown Provincial or RDN all or part of the SPEA;
   (b) gifting to a nature preservation organization (tax receipts may be issued) all or part of the SPEA;
   (c) registering restrictive covenant(s) or conservation covenant(s) securing the measures prescribed in the QEP assessment report.

8. In the case of a proposed subdivision within this Development Permit Area, minimum parcel sizes should be met exclusive of the SPEA.

9. In the case of a proposed subdivision within this Development Permit Area, subdivision within the SPEA should be avoided.

10. Developers are encouraged to exceed the minimum standards set out in the RAR.
11. Where a proposed development is subject to a building permit, the QEP shall be required to provide confirmation to the RDN’s Planning Department that the development has been developed in accordance with the QEP’s recommendations prior to final inspection or occupancy as applicable.

12. Development activities should be undertaken in such a manner as to limit soil disturbance, removal, fill erosion, sedimentation or other impacts on the quality or quantity of surface water. Soil disturbed as a result of development activities should be revegetated to a level evident prior to the initiation of such activities. Such activities shall be undertaken in accordance with Develop with Care: Environmental Guidelines for Urban and Rural Land Development in British Columbia.

13. Where a specifically mapped watercourse as shown on Map No. 5 is found not to be subject to the RAR, a report prepared by a QEP, generally following the methodology shall be required to be submitted to the Regional District of Nanaimo.

14. All development within the Development Permit Area adjacent to those watercourses not subject to the RAR as shown on Map No. 6 must be consistent with the recommendations contained in the QEP’s report.

15. All development within the Development Permit Area adjacent to those watercourses not subject to the RAR as shown on Map No. 6 shall be evaluated by a registered professional biologist who shall prepare a report(s) assessing the environmental components of the proposal. The proposal should generally include the following information, in the form of plans and/or written documents:
   i) detailed site plan identifying the environmentally sensitive area within the site, location of existing and proposed buildings and structures, new lot lines, and an assessment of existing natural vegetation;
   ii) criteria used to define the boundaries of the environmentally sensitive area;
   iii) inventory of fisheries species and related habitat;
   iv) impact statement describing affects of proposed development or subdivision on natural conditions or any neighbouring sensitive ecosystem as identified in the province’s Sensitive Ecosystem Inventory (SEI); and guidelines for mitigating habitat degradation including limits of proposed leave areas.

16. A restrictive covenant may be requested to maintain and or enhance the natural environmental features.

Exemptions:

The following activities are exempt from the Fish Habitat Protection Development Permit Area requirements:

a) A development located outside of the Riparian Assessment Area as determined by a British Columbia Land Surveyor or other qualified person, except within the 100 year floodplain of the Millstone River;

b) A development proposed outside of the Streamside Protection and Enhancement Area (SPEA) where notification of an assessment report prepared in accordance with Section 4(2)(a)(i)(ii) of the Riparian
Areas Regulation Assessment Methods has been received by the Regional District of Nanaimo and there are no measures required to protect the SPEA;

c) Renovations, repairs, or maintenance to existing buildings within the same footprint that are protected by Section 911 of the Local Government Act;

d) Removal of trees deemed hazardous by a qualified arbourist that threaten the immediate safety of life and buildings;

e) All development on lands proposed to be used for ‘farm operation’ as defined by the Farm Practices Protection Act;

f) All development on lands subject to the Forest Act or Private Managed Forest Land Act;

g) All park or park land ancillary uses not containing commercial, residential, or industrial activities;

h) Stream Enhancement and Fish and Wildlife habitat restoration works that have obtained the required Provincial and Federal approvals. Any activity within the stream channel that has or may have an impact on a stream requires compliance with Provincial and Federal legislation and notification to the RDN;

i) The removal of invasive plants or noxious weeds on a small scale within the Development Permit Area including, but not limited to, Scotch Broom, Himalayan Blackberry, Morning Glory, and Purple Loostrife provided such works are conducted in accordance with a vegetation management plan prepared by a certified Arbourist or other Qualified person and measures are taken to avoid sediment or debris being discharged into the watercourse or onto the foreshore and the area is replanted immediately in accordance with "h" above.

Definitions:

Assessment Report means a report prepared in accordance with the Riparian Areas Regulation assessment methods to assess the potential impact of a proposed development in a riparian assessment area and which is certified for the purpose of the Riparian Areas Regulation by a qualified environmental professional.

Fish means all stages of:
   a) salmonids;
   b) game fish; and
   c) regionally significant fish.

Fish Habitat means the areas in or about a stream such as, spawning grounds and nursery, rearing, food supply and migration areas, on which fish depend directly or indirectly in order to carry out their life processes.

Qualified Environmental Professional (QEP) 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 as defined in the Riparian Areas Regulation.

Riparian Areas Regulation (RAR) means the Riparian Areas Regulation, and amendments thereto enacted pursuant to Section 12, 13(1), and 37(2) of the Fish Protection Act.

Stream includes all watercourses, whether mapped or unmapped that provide fish habitat or flows to a
waterbody that provides fish habitat and includes any of the following:

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 (a) or (b) above.

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 is determined according to the Riparian Areas Regulation on the basis of a report provided by
a qualified environmental professional in respect of a development proposal.

Top of Ravine Bank means the first significant break in a ravine slope where the break occurs such that
the grade beyond the break is flatter than 3:1 for a minimum distance of 15 metres measured
perpendicularly from the break, and the break does not include a bench within the ravine that could be
developed.
8.2 NATURAL HAZARD AREAS

Category:
‘B’ - Protection of development from hazardous conditions.
‘A’ - Protection of the natural environment.

Area:
This Development Permit Area is applicable to lands that may be susceptible to flood or erosion. These lands may also be environmentally sensitive.

Justification:
Protection of development from hazardous conditions.

Lands susceptible to mass movement or erosion have been identified in the Plan Area. The development of land or removal of vegetation may destabilize such areas and create potential danger to lives and property as well as environmental damage. In order to minimize the hazard potential of these areas and to minimize environmental damage, the construction of buildings or structures or the subdivision or significant alteration of land requires regulation.

Guidelines:
1. A Development Proposal shall be submitted with a Development Permit application. The proposal shall be prepared by qualified professional and should generally include the following information, in the form of plans and/or written documents:
   a) detailed site plan identifying areas susceptible to flooding, mudflows, erosion, or other hazards, location of watercourses, existing natural vegetation and, on-site topography;
   b) assessment of existing natural vegetation, including identification of areas where tree removal or alteration of land may occur as a result of development;
   c) detailed site plan illustrating existing and proposed buildings and structures (including distances from watercourses as measured from the top of a bank and/or natural boundary of the watercourse) and all new lot lines; and
   d) location of all existing and proposed drainage ditches, ponds, culverts, septic tanks and disposal fields.
2. Prior to the approval of any proposal for the construction of buildings or structures, or the subdivision or significant alteration of land within thirty (30) metres of a designated natural hazard area, an assessment of the hazard shall be required.

3. The assessment shall be conducted by a geotechnical engineer, or other qualified professional, and shall include recommendations on mitigation strategies with respect to the hazard, and where applicable, on vegetation protection/retention or the siting and development of septic tanks, drainage or deposit fields, or irrigation or water systems.

4. A Development Permit shall not be issued without confirmation of the engineer's opinion regarding the safety of proposed development and assurances that the development will not have a detrimental impact on the environment.

**Exemptions:**

A development permit shall not be required in the following instances:

1. A geotechnical report would be required as part of the issuance of a building permit pursuant to Section 699 of the *Municipal Act*, provided that implementation of the report’s recommendations will not result in the alteration or disruption of the natural environment. Nonetheless, a development permit relating to environmentally sensitive areas may be required;

2. The Approving Officer requires a geotechnical report as part of a subdivision of land, provided that implementation of the report’s recommendations will not result in the alteration or disruption of the natural environment. Nonetheless, a development permit relating to environmentally sensitive areas may be required;

3. Construction of buildings or structures or the alteration of land to accommodate new principle uses or subdivision proposed beyond a distance of thirty (30) metres from the hazard area;

4. Construction of buildings or structures on the natural grade of land located above the floodplain; or

5. Alterations to an existing building or structure.
8.3 INDUSTRIAL

Category:

‘E’ - Industrial development.

Area:

This Development Permit Area is applicable to all lands designated Industrial in Map No. 3, attached to and forming part of this Plan.

Justification:

Form and character of industrial development.

It is the objective of this designation to minimize the impacts of industrial uses on the surrounding properties and to improve the visual impact of such uses.

Protection of the natural environment.

It is also the objective of this designation to protect water resources from industrial activity.

Guidelines:

1. A Development Proposal shall be submitted with the Development Permit application. The proposal should generally provide the following information, in the form of plans and/or written documents:
   a) detailed site plan illustrating existing and proposed buildings and structures, topographical features and existing natural vegetation;
   b) detailed plans of proposed buildings and structures;
   c) detailed storm water management plans; and
   d) detailed landscaping plan indicating the location, number and type of proposed plantings.

2. Off-street parking should be located to the rear or sides of buildings and structures wherever possible. Off-street parking proposed to be located to the front of buildings and structures should be suitably screened with a landscape screen.

3. Outside storage and manufacturing areas should be located to the rear of the buildings and structures and be suitably landscaped with a landscape screen.

4. Buildings and structures should be sited and shaped in such a manner as to be visually unobtrusive.

5. Signage should be visually unobtrusive and grouped wherever possible. Particular emphasis should be given to signage, which is aesthetically pleasing and has a minimal amount of lighting and specifically excludes neon lighting.

6. Where land use activities involve the handling, storage or manufacture of potential contaminants, provision shall be made that will prevent seepage of such contaminants into the subsurface. All provisions shall be approved by the appropriate provincial agency prior to issuance of a development permit. All parking facilities shall be equipped with oil/water separators.
7. Any new development shall not negatively impact storm water quality or quantity.

8. Facilities for the proposed storage and distribution of propane from tanks or vessels over an aggregate volume of 19,000 litres shall be required to meet the following:
   a) have located on site one approved fire extinguisher having a minimum capacity of 8.0 kilograms of dry chemical with a BC rating;
   b) meet all requirements of the Gas Safety Act and regulations adopted thereto;
   c) additional fire protection measures may be required in compliance with the NFPA Standard for the Storage and Handling of Liquefied Petroleum Gases; and
   d) plans shall be forwarded to the Fire Chief of the local fire protection department for review and comment.