Appendix A1

Watercourse Protection Development Permit Area

1.0 PURPOSE

The Area indicated on Map 3 as the Watercourse Development Permit Area is designated a development permit area according to Section 879(1)(a) of the Municipal Act for the purpose of protecting the natural environment, its ecosystems and biological diversity. The area is also designated a development approval information area according to Section 879.1(c) of the Municipal Act.

The Watercourse Protection Development Permit Area is applicable to specified watercourses and adjacent lands designated on Map No. 3.

2.0 AREA

2.1 To determine whether a proposed development is inside a Watercourse Protection Development Permit Area, the following is required:

2.1.1 Locate the watercourse relative to the property lines.
2.1.2 Locate the natural boundary and where applicable the top of the bank.
2.1.3 For all specified watercourses on Map 3 except for the Little Qualicum River, French Creek (defined as that portion north of Highway 4) and the Englishman River, all lands within the following setback are within a Watercourse Protection Development Permit Area:
   a) 15 metres of the natural boundary; and
   b) Where there is a bank within 15 metres of the natural boundary, 15 metres from the top of a bank.
2.1.4 For the Little Qualicum River, the lower portion of French Creek (defined as that portion north of Highway 4) and the Englishman River, all lands within the following setbacks are within a Watercourse Protection Development Permit Area:
   a) 30 metres of the natural boundary; and
   b) Where there is a bank within 30 metres of the natural boundary, 30 metres from the top of a bank.

2.2 Unless all development activity will be clearly outside the Watercourse Protection Development Permit Area, the proposed location of development relative to the Development Permit Area boundary is required to be determined by a BC Land Surveyor (BCLS) and incorporated into a BCLS certified site plan.

2.3 The natural boundary is defined as the visible high water mark of any lake, river, stream or other body of water where the presence and action of the water are so common and usual, and so long continued in all ordinary years, as to mark on the soil of the bed of the body of

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1 Bylaw No. 1152.03 adopted January 23, 2007
water a character distinct from that of its banks, in vegetation, as well as in the nature of the soil itself.

2.4 A bank is defined as a continuous slope of 3 to 1 or more, with no significant and regular break of 15 metres or more, measured horizontally.

3.0 JUSTIFICATION

Watercourses and their adjacent lands provide essential habitat and corridors for fish, wild birds and other wildlife. These areas also act as natural water storage, drainage, and purifying systems. Leave strips are areas of land and vegetation adjacent to watercourses that need to remain in a largely undisturbed state in order to maintain healthy watercourse environments. Watercourse Protection Development Permit Areas also help to protect private property from flooding and potential loss of land due to stream erosion and instability.

4.0 GUIDELINES

4.1 The following are exempt from the requirement to apply for a Development Permit:

4.1.1 Fencing and other farm operations as defined under the Farm Practices Protection (Right to Farm) Act on lands which Section 2(2) of that Act applies;

4.1.2 Where in the case of a subdivision of land:
   a) All parcels on which development is to occur are located on land outside of the Watercourse Protection Development Permit Area; and
   b) No development activities such as grading, clearing, trenching, installation of utilities in relation to the subdivision or development of the parcels to be created as a result of the subdivision will occur within the Development Permit Area.

4.1.3 Emergency procedures to prevent, control, or reduce flooding, erosion, or other immediate threats to life and property including:
   a) Emergency flood or erosion protection of works, or
   b) Clearing of an obstruction from a bridge, culvert, or drainage flow; or
   c) Repairs to bridges and safety fences where emergency actions by a person other than the Regional District or the Province have been reported to the Regional District and the applicable provincial ministry having jurisdiction for the work.

4.1.4 The cutting down of hazardous trees.

4.2 For a proposed development within the Watercourse Development Permit Area, the following guidelines apply:

4.2.1 Written rationale and assessment of the potential impacts on aquatic habitat and/or neighbouring land uses that may be affected by the proposed development is required.

4.2.2 Criteria in the written rationale shall include the following and be prepared by the applicant’s registered biologist, engineer or professional in another relevant discipline:
a) The impact of the proposed development on soil stability, natural vegetation and ground cover;
b) The impact of the proposed development on the quality and quantity of groundwater and surface water;
c) The impact of the proposed development on wildlife and fisheries sensitive areas; and
d) The impact of the proposed development on environmentally sensitive areas on adjacent lands.

4.2.3 All development proposals are subject to the requirements and procedures of the Fish Protection Act and the Riparian Areas Regulation.²

² Bylaw No. 1152. 03 adopted January 23, 2007
Appendix A2

Fish Habitat Protection Development Permit Area

1.0 PURPOSE:

The area shown on Map No. 7 as the Fish Habitat Protection Development Permit Area is designated for the purpose of protecting the natural environment, its ecosystems, and biological diversity. This area is also designated a development approval information area according to Section 920.01 of the Local Government Act.

This Development Permit Area applies to all of the Plan Area including all mapped and unmapped streams as shown on Map No. 7.

2.0 AREA:

2.1 This development permit area consists of the following Riparian Assessment Areas, which by definition includes wetlands and lakes:

2.1.1 for a stream, a 30 metre strip on both sides of the stream measured from the natural boundary;
2.1.2 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,
2.1.3 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.

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

2.3 A development permit is required for the following development activities except where such activities are specifically exempt:

2.3.1 removal, alteration, disruption, or destruction of vegetation;
2.3.2 disturbance of soils;
2.3.3 construction or erection of buildings and structures;
2.3.4 creation of non-structural impervious or semi-impervious surfaces;
2.3.5 flood protection works;
2.3.6 construction of roads, trails, docks, wharves, and bridges;
2.3.7 provision and maintenance of sewer and water services;
2.3.8 development of drainage systems;
2.3.9 development of utility corridors;
2.3.10 subdivision as defined in section 872 of the Local Government Act.
3.0 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 Canada 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.

4.0 GUIDELINES:

4.1 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.

4.2 A Development Permit shall not be issued without notification from the MOE and the 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 Canada approval under the authority of Section 4(3) of the RAR.

4.3 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 the DFO. The Regional Board may consider providing comments to the DFO in regards to a proposed approval under the authority of Section 4(3) of the RAR.

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

4.5 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.

4.6 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.
4.7 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.

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

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

4.9 Developers are encouraged to exceed the minimum standards set out in the RAR.

4.9 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.

5.0 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;

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 arborist 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 Arborist 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.

6.0 DEFINITIONS:

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, 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, 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.