APPENDIX A – DEVELOPMENT PERMIT AREAS

In addition to the objectives and policies stated in the Plan, the Regional District has, pursuant to the Local Government Act, designate certain lands as development permit areas.

The general purpose of the development permit requirement is to allow a review of a specific development project and to make limited alterations or variations to zoning and subdivision bylaw(s) where the Regional District considers that special conditions exist in accordance with one or more of the following categories:

A. Protection of the natural environment, its ecosystems and biological diversity;
B. Protection of development from hazardous conditions;
C. Protection of farming;
D. Revitalization of an area in which commercial use is permitted;
E. Establishment of objectives for the form and character of intensive residential development;
F. Establishment of objectives and the provision of guidelines for the form and character of commercial, industrial or multi-family residential development.

The Regional District must also describe the special conditions, which justify the designation; the exemption provisions; and guidelines how these special conditions can be achieved.

The Development Permit Areas, designated on Map No. 6, 7, and 8, are the:

- Village Centres Development Permit Area;
- Highway Corridors Development Permit Area;
- Environmentally Sensitive Areas Development Permit Area;
- Hazard Lands Development Permit Area;
- Resort Commercial Development Permit Area;
- Recreational Lands Development Permit Area;
- Fish Habitat Protection; and,
- Bowser Village Centre Development Permit Area."

A.1 DEVELOPMENT PERMIT AREA - GENERAL POLICIES

1. Designated development permit areas are shown on Map No. 6, 7 and 8.

2. Where land is designated within a development permit area, an owner of land is required to obtain a development permit prior to either the subdivision of the land, the construction of, addition to or alteration of a building or structure on the land, or the alteration of the land within a development permit area, except where exemptions provisions apply.

3. Where land is included within more than one development permit area designation, one development permit is required; however, the application will be subject to meeting the guidelines of all applicable development permit areas.

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12 Bylaw No. 1335.02 adopted January 23, 2007
13 Bylaw No. 1335.02 adopted January 23, 2007
A.2 **VILLAGE CENTRES DEVELOPMENT PERMIT AREA**

**Designation:**

That part of Electoral Area ‘H’ shown as Village Centre Development Permit Area on Map No. 6 is designated as a Development Permit Area.

**Purpose of Designation:**

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

B. Establishment of objectives for the form and character of intensive residential development.

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

**Justification:**

The Regional Growth Strategy recognizes these three areas as the Village Centres for Electoral Area ‘H’. The village centres have been included within a development permit area due to the existing commercial activities and in recognition of the opportunity to integrate multi-family residential, tourist and resort oriented commercial, institutional, service commercial development or mixed-use development into one or more of these locations. In establishing these centres, it is important to ensure compatibility of development with adjacent land uses, to recognize the importance of visual appearance and design of development, and to ensure that future development within the villages has a positive impact on the long-term needs of the community. The Village DPA guidelines focus on village commercial, institutional, and residential themes while maintaining the rural and residential characteristics of the surrounding communities.

The **Qualicum Bay Village Centre** with its central location serves as the main commercial area for Qualicum Bay. The focus for this village centre is on tourist and resort commercial services.

The **Dunsmuir Village Centre** with its location along Horne Lake Road serves as a “gateway” to the coastal resorts, scenic and recreational opportunities within the Plan Area. The vision for this village centre is the development of a comprehensive mixed-use community.

**Exemptions:**

1. A development permit shall not be required for the construction, renovation, or addition to single dwelling unit, duplex dwelling unit, or accessory residential buildings and structures.

2. A development permit shall not be required for the subdivision of land.

**Guidelines (see Development Guideline Criteria Section 5.1):**

1. For Bowser Village Centre, development will include commercial and residential uses and shall foster the revitalization and linkage of "main street" commercial uses along the Island Highway No. 19A.
2. For Qualicum Bay Village Centre, tourist and business frontage for the Village shall be encouraged to be oriented toward the central portion of District Lot 20, Newcastle District and shall provide linkage and integration with the existing commercial lands along the Island Highway No. 19A and institutional uses including the Lighthouse Community Hall, seniors housing and park land.

3. For Dunsmuir Village Centre, the tourist and business frontage for the Village shall be encouraged to be oriented toward Horne Lake Road and existing commercial areas along the Island Highway No. 19A and shall provide pedestrian and vehicle linkages with the existing residential areas and vacant lands adjacent to Horne Lake Road.

4. The character of commercial development will generally:
   a) integrate with and enhance the character of the existing development;
   b) be designed with a mix of commercial building styles, and constructed as small scale, low rise structures that are clustered together;
   c) be oriented toward adjacent streets where possible;
   d) be designed to break up the form of the buildings;
   e) incorporate the use of natural materials in the design of the buildings; and
   f) demonstrate compatibility with the Community Values Statement.

5. The character of multi-residential development will generally:
   a) be in keeping with the village character and surrounding residential or rural areas;
   b) provide a range of housing types;
   c) be clustered in small groups;
   d) be ground oriented wherever possible;
   e) incorporate landscaping to separate residential clusters;
   f) incorporate the use of natural building materials in the design of the buildings; and
   g) demonstrate compatibility with the Community Values Statement.

6. Safe pedestrian and cycling routes and linkages connecting residential neighbourhoods, commercial areas, and institutional areas, as well as the waterfront and other open spaces within the Village Centres shall be encouraged.

7. Development shall not be separated or 'gated' with walled or fenced enclaves.

8. Development shall be designed in a manner that protects riparian vegetation or otherwise provides for the enhancement of these areas including storm water management best practices.

9. Site lighting will not use high-intensity lights and will be in scale with the pedestrian environment with added emphasis on various forms of indirect illumination.

10. Signage shall generally be grouped whenever possible, and designed in such a manner as to be complementary to the form and character of existing development.

11. Landscaping shall be comprised primarily of native species and drought tolerant plantings, which enhance the characteristics of the development. Otherwise, landscaping shall generally be in accordance with the current land use bylaw landscape regulations.

12. Off-street parking and off-street loading areas shall be located to the rear of buildings wherever possible, shall be complimentary to the development, and shall be screened with landscaping. Small clustered parking areas are preferable to large paved areas. Off-street parking and off-street loading areas, located adjacent to residential or rural land uses, shall be adequately screened from the residential uses.
13. All outdoor refuse and storage areas shall be screened with a combination of landscape plants and fencing, and wherever possible, located to the rear of the buildings or in unobtrusive locations.

14. Where applicable, provision should be made for buffering and transition of Village Centre development with adjoining lands within the Agricultural Land Reserve.

15. Where land use activities involve the use, handling, storage, or manufacturing of potential contaminants, provision shall be made that will prevent seepage of such contaminants into groundwater sources. All provisions shall be approved by the applicable senior government agencies prior to issuance of the development permit.


17. Written confirmation of sufficient quantity and quality of potable water will be required from the local water utility for new proposals for development within Village Centres.
A.3 **HIGHWAY CORRIDORS DEVELOPMENT PERMIT AREA**

**Designation:**

That part of Electoral Area ‘H’ shown as Highway Corridors Development Permit Area on Map No. 6, which includes all lands within 30 metres of either side of land dedicated as highway and forming part of the Inland Island Highway No. 19 and Highway No. 19A is designated as a Development Permit Area.

**Purpose of Designation:**

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

**Justification:**

The residents of Electoral Area ‘H’ have expressed a desire for improved safety and visual appearance along the highway corridors in addition to being receptive to opportunities for enhanced tourist-related economic activities and redevelopement of historical commercial properties.

**Exemptions:**

1. A development permit shall not be required for the construction, renovation, or addition to single dwelling unit, duplex dwelling unit, or accessory residential buildings.
2. A development permit shall not be required for the subdivision of land.

**Guidelines (see Development Guideline Criteria Section 5.1):**

1. For properties bordering the Inland Island Highway, the guidelines established in the *Vancouver Island Highway Implementation Agreement* shall apply.
2. Landscaping, screening, and the retention of natural vegetation shall be encouraged to enhance the appearance of properties adjacent to the highways in accordance with land use bylaws.
3. Off-street parking areas, off-street loading areas, refuse containers, and outdoor storage/manufacturing areas shall, where achievable, be located to the rear of buildings.
4. Off-street parking areas, off-street loading areas, and refuse containers located adjacent to residentially zoned properties, shall be adequately screened from the residential lands with a combination of landscape plantings and fencing.
5. For properties bordering Highway 19A, signage should be grouped whenever possible. Particular emphasis should be given to signage that is complementary to the scenic qualities of the area and requires a minimal amount of lighting to be effective.
A.4 ENVIRONMENTALLY SENSITIVE FEATURES
DEVELOPMENT PERMIT AREA

**Designation:**

The following areas, shown on Map No. 7 and identified as Environmentally Sensitive Features Development Permit Area are designated as a Development Permit Area.

This Development Permit Area, shown on Map No. 7, is intended to protect coastal areas, lakes, streams, and riparian areas, nesting trees, floodplain areas, and other environmentally sensitive areas.

The development permit area is defined as follows:

1. For all **Coastal Areas** – the development permit area shall be 30 metres upland of the natural boundary and the surface of water within 30 metres of the natural boundary of the ocean.
2. For the **Big Qualicum River, Thames Creek** and **Nile Creek** – the development permit area shall be 30 metres as measured from the top of the bank.
3. For **Lakes, Wetlands, and Ponds** - the development permit area shall be 15 metres as measured from the natural boundary.
4. For all other **Watercourses** and **Streams** - the development permit area shall be 15 metres as measured from the top of the bank.
5. For all known **Aquifers**- the development permit area shall be those lands above the aquifer as designated.
6. For **Eagle Nesting Trees** - the development permit area shall be a 60-metre radius from the nesting tree.
7. For **Heron Nesting Trees** - the development permit area shall be a 100-metre radius from the nesting tree.

**Purpose of Designation:**

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

**Justification:**

Increasing environmental awareness and declining fish stocks in the Strait of Georgia have lead to the need for the protection of the Plan Area's streams and adjacent lands. Streams and their adjacent lands provide essential habitat and corridors for fish, birds, and other wildlife. They also act as natural water storage, drainage, and purifying systems. Riparian areas need to remain in a largely undisturbed state in order to protect habitat, prevent flooding, control erosion and reduce sedimentation, and recharge groundwater. The aquifers themselves are the source of potable water for residents in the area and require a high level of protection.
The nests of eagles, herons, peregrine falcons, osprey, gyrfalcon and burrowing owls, their eggs, and their young are protected pursuant to section 34 of the Provincial *Wildlife Act*, such that it is an offence to destroy, remove or injure any of these features. Great Blue Herons are currently blue-listed (threatened) while Bald eagles are currently yellow listed (regionally significant). Both species are extremely sensitive to disturbance around their nest sites. At this time, only the actual nest site is protected under the *Wildlife Act*. To ensure the viability of the nests and rooting integrity of the nest trees, the Ministry of Water, Land and Air Protection recommends buffer areas surrounding these trees to provide for the establishment and greater protection of nest sites from direct and indirect development.

**Exemptions:**

Where an owner is proposing to alter the land, commence a subdivision, construct or alter a building or structure within this development permit area, the following activities are exempt from requiring a development permit:

1. Development or alteration of land proposed to occur outside the designated development permit area as shown on Map No. 7, as determined by a BC Land Surveyor or by the Regional District.

2. Fence building, growing, rearing, producing, and harvesting of agricultural products in accordance with recognized standards of the *Farm Practices Protection (Right to Farm) Act* on lands upon which Section 2(2) of the Act applies.

3. Emergency procedures to prevent, control, or reduce erosion, or other immediate threats to life and property including:
   a) emergency flood or protection works;
   b) clearing of an obstruction from bridge, culvert, or drainage flow; repairs to bridges and safety fences; and
   c) the removal of hazardous trees.

   Any emergency works are to be undertaken in accordance with the Provincial *Water* and *Wildlife Acts* and the Federal *Fisheries Act*.

4. A property owner may construct a single trail on lands identified on Map No. 7 as within this development permit area, subject to the following:
   a) the trail provides the most direct route of feasible passage through the development permit area;
   b) sensitive habitat will not be impacted by the presence of the trail;
   c) the ground is stable, i.e. erodible stream banks or other erosion prone areas should be avoided;
   d) no vehicles are permitted;
   e) the trail is maximum 1.5 metres in width;
   f) no trees, which are greater than 5 metres in height and 10 centimetres in diameter, are to be removed. Limbing, pruning and topping of trees should be done instead;
   g) the trail’s surface is pervious, and
h) an additional trail shall be permitted in the development permit area for every 50 metres of linear frontage subject to the above noted conditions.

5. The planting of trees, shrubs, or groundcovers for the purpose of enhancing the habitat values and/or soil stability within the development permit area provided the planting is carried out in accordance with the guidelines provided in Stream Stewardship, 1993 and Land Development Guidelines, 1992 published by DFO and MELP and the Environmental Objectives, Best Management Practices and Requirements for Land Developments, February 2000, published by MELP, or any subsequent editions.

6. 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, hogweed, and purple loosestrife, provided that erosion protection measures to avoid sediment or debris being discharged into the watercourse are taken. Replanting of the development permit area to occur immediately and in accordance with Exemption No. 5 above.

7. Works approved by the RDN, DFO, and/or MWLAP with respect to trail construction, stream enhancement, and fish and wildlife habitat restoration.

8. An application for subdivision where the following criteria can be met:
   a) minimum lot sizes can be met exclusive of the development permit area; and
   b) no development activities including grading, clearing, trenching, or installation of pipes, relating to the creation of all parcels will occur within the development permit area.

9. Renovations to existing buildings and structures that are situated within the defined DPA provided the footprint of the building is not expanded;

10. Minor additions to existing buildings and structures to a maximum of 25% of the total floor area of the existing building or structure provided that the proposed addition is not situated closer the environmentally sensitive feature than the existing building or structure.

11. With respect to the lands designated as an Aquifer in an Environmentally Sensitive Development Permit Area, a development permit shall not be required for the construction, renovation, or addition to single dwelling unit, duplex dwelling unit, or accessory residential buildings and structures for lands within the Village Centre, Rural Residential, or Resort Commercial Land Use Designations.

**Guidelines (see Development Guideline Criteria Section 5.1):**

1. The applicant will work with the Regional District to consider possible variances to the land use and subdivision bylaw to minimize encroachment into the development permit area.

2. Where development or the alteration of land is proposed within the development permit area, the site-specific natural features, functions, and conditions that support fish life history processes, wildlife and unique ecosystems shall be considered. These include:
   a) large organic debris that falls into the stream or on the forest floor, such as logs, snags and root wads;
   b) areas for channel migration, including active floodplains;
   c) side channels, intermittent streams, seasonally wetted continuous areas and floodplains;
   d) the multi-canopied and ground forest cover that:
i) moderates air and water temperature;
ii) provides a source of nutrients and organic matter to the stream and forest floors;
iii) establishes root matrices that stabilize soils and stream banks thereby minimizing erosion; or
iv) maintains an effective visual and sound buffer around eagle and heron nesting sites;
e) natural sources of stream bed substrates; and
f) pervious surfaces that permit infiltration and moderate water volume, timing and velocity, and maintain sustained water flows in streams, especially during low flow periods.

3. If development or alteration of land is proposed within the development permit area, it shall be encouraged to be located where it will cause the least impact on the environmental values of the development permit area.

4. Construction, at a time of year and using construction methods that minimize the impacts on the development permit area, shall be encouraged.

5. In order to ensure that no additional encroachment occurs into the development permit area at the time of construction, permanent or temporary fencing measures may be required.

6. The use or disposal of substances or contaminants that may be harmful to area aquifers shall be discouraged and wherever practical, steps shall be taken to ensure the proper disposal of such contaminants.

7. The Regional District may require an applicant to supply a sediment and erosion plan, complete with recommendations for implementation, prepared by a registered professional engineer or person with similar qualifications, to the satisfaction of the Regional District of Nanaimo.

8. The Regional District may require an applicant to supply a stormwater drainage plan complete with recommendations for implementation, prepared by a registered professional engineer or person with similar qualifications, to the satisfaction of the Regional District of Nanaimo.

9. The Regional District may require the applicant to supply an assessment, prepared by a registered professional biologist or person with similar qualifications, which assesses the environmental impact of the proposed development and prescribes appropriate recommendations for mitigation and protection of habitat, to the satisfaction of the Regional District of Nanaimo.

10. The Regional District may require the applicant to supply a re-vegetation plan to the satisfaction of the Regional District of Nanaimo.

11. On parcels where development (including tree and vegetation removal) is proposed for an area with a slope of 30% or greater, the Regional District may require the applicant to supply a report, prepared by a professional geotechnical engineer, indicating that slope stability will not be jeopardized and soil erosion and site mitigation measures can be implemented, to the satisfaction of the Regional District of Nanaimo.


14. If applicable, written confirmation of sufficient quantity and quality of potable water will be required from the local water utility for new proposals for development.

15. All development proposals are subject to the requirements and procedures of the Fish Protection Act and the Riparian Areas Regulation.14

A.5 HAZARD LANDS DEVELOPMENT PERMIT AREA

Designation:

That part of Electoral Area ‘H’ shown as Hazard Lands Development Permit Area on Map No. 7 is designated as a Development Permit Area.

Purpose of Designation:

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

B. Protection of development from hazardous conditions.

Justification:

Hazard lands include steep, unstable slopes along watercourses and along the coastal shoreline. Landslides and slippage have occurred in some locations along the shoreline bluffs in the Plan Area. Residential construction close to the top of these steep slope areas has created risks for the subject properties as well as for adjacent properties and the public. Vegetation removal along steep slopes may destabilize hazardous slopes and contribute to the ongoing slippage and environmental damage. In addition, if best practice interface forest fire mitigation techniques are not used in building and landscaping, then there is potential for loss of life, property and environmental damage. In response to these conditions the OCP establishes guidelines for protecting life, property and the environment from hazardous conditions.

Exemptions:

The following development activities are allowed to occur in this development permit area without a development permit:

1. Emergency procedures to prevent, control, or reduce flooding, erosion or other immediate threats to life and property including:
   a) emergency flood or erosion protection works;
   b) clearing of an obstruction from a bridge, culvert or drainage flow; and
   c) repairs to bridges and safety fences.

Emergency actions for flood protection and clearing of obstructions by anyone other than the Regional District or a Provincial Ministry must be reported to the Regional District and applicable Provincial Ministry immediately to secure exemptions under this provision.

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14 Bylaw No. 1335.02 adopted January 23, 2007
2. Construction, repair and maintenance of works by the Regional District or its authorized agents and contractors.

3. In the case of an application to subdivide, a development permit is not required for the subdivision of lands containing hazard lands where:
   a) minimum lot areas are met exclusive of the hazard land area shown on Map No. 4; and
   b) no development activities (such as grading, clearing, trenching, installation of pipes, etc.) relating to the creation of lots or provision of services for those lots that will occur within the development permit area.

Guidelines (see Development Guideline Criteria Section 5.1):

1. The applicant will work with the RDN to consider possible variances to the land use and subdivision bylaw to minimize encroachment into the development permit area.

2. Prior to approval of a subdivision, construction or alteration of land (including tree removal) in areas designated Natural Hazard Area on Map No. 7, the development permit shall require an assessment by a geotechnical engineer, of the slope conditions on the proposed development site and recommendations on the suitability and stability of the soil for the proposed development. The assessment should include proposals for vegetation protection, enhancement or retention, where applicable.

3. 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 detrimental impact on the environment or adjoining properties. No development or alteration of land shall occur where the geotechnical engineering report indicates that a hazardous condition may result.


5. The Regional District may require an applicant to supply a sediment and erosion plan complete with recommendations for implementation prepared by a professional engineer or a person with similar qualifications, to the satisfaction of the Regional District of Nanaimo.

6. The Regional District may require an applicant to supply a drainage plan, complete with recommendations for implementation, prepared by a professional engineer or a person with similar qualifications, to the satisfaction of the Regional District of Nanaimo.

7. The Regional District may require the applicant to supply a re-vegetation plan to the satisfaction of the Regional District of Nanaimo.


9. If applicable, written confirmation of sufficient quantity and quality of potable water will be required from the local water utility for new proposals for development.
A.6 **RESORT COMMERCIAL AND RECREATIONAL LANDS DEVELOPMENT PERMIT AREA**

**Designation:**

That part of Electoral Area ‘H’ shown as Resort Commercial and Recreational Lands Development Permit Area on Map No. 6 is designated as a Development Permit Area.

**Purpose of Designation:**

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

**Justification:**

Lands within this Development Permit Area may be developed for commercial or multi-residential uses pursuant to the land use designation of the lands. Because commercial and multi-residential uses are often more intensive uses of land than the surrounding uses, it is important to ensure they are compatible with their surroundings.

**Exemptions:**

1. A development permit shall not be required for the construction, renovation, or addition to single dwelling unit, duplex dwelling unit, or accessory residential buildings and structures.
2. A development permit shall not be required for the subdivision of land.

**Guidelines (see Development Guideline Criteria Section 5.1):**

1. For the tourism/resort development lands designated Recreation Lands at Horne Lake only, the conditions and guidelines of RDN Development Permit No. 0120 shall apply.

*For all other lands within this Development Permit Area, the following guidelines apply:*

2. All development shall demonstrate compatibility with the Community Values Statement.
3. Buildings and structures shall be designed and situated to maximize view corridor where possible.
4. Buildings and structures shall be designed and situated to be visually unobtrusive and blend into the surrounding landscape.
5. Development shall be designed in a manner that protects riparian vegetation or otherwise provides for the enhancement of these areas including storm water management best practices.
6. Site lighting will not use high-intensity lights and will be in scale with the pedestrian environment with added emphasis on various forms of indirect illumination.
7. Safe pedestrian and cycling routes and linkages connecting Development Permit lands with the waterfront and other open spaces within the Plan Area shall be encouraged.
8. Signage shall generally be grouped whenever possible, and designed in such a manner as to be complementary to the form and character of existing development.

9. Landscaping shall be comprised primarily of native species and drought tolerant plantings, which enhance the characteristics of the development. Otherwise, landscaping shall generally be in accordance with the current land use bylaw landscape regulations.

10. Off-street parking and off-street loading areas shall be located to the rear of buildings wherever possible, shall be complimentary to the development, and shall be screened with landscaping. Small clustered parking areas are preferable to large paved areas. Off-street parking and off-street loading areas, located adjacent to residential or rural land uses, shall be adequately screened from the residential uses.

11. All outdoor refuse and storage areas shall be screened with a combination of landscape plants and fencing, and wherever possible, located to the rear of the buildings or in unobtrusive locations.

12. Where applicable, provision should be made for buffering and transition of Development Permit lands with adjoining lands within the Agricultural Land Reserve.

13. Where land use activities involve the use, handling, storage, or manufacturing of potential contaminants, provision shall be made that will prevent seepage of such contaminants into groundwater sources. All provisions shall be approved by the applicable senior government agencies prior to issuance of the development permit.


15. Written confirmation of sufficient quantity and quality of potable water will be required from the local water utility for new proposals for development within this Development Permit Area.

16. Where applicable, the developer will be required to submit for the RDN's approval a comprehensive sewage/septic disposal proposal that addresses the needs of the entire development.
A.7 FISH HABITAT PROTECTION DEVELOPMENT PERMIT AREA

DESIGNATION:

That part of Electoral Area 'H' shown as Fish Habitat Protection Development Permit Area on Map No. 8 is designated as a Development Permit Area. 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:

1. removal, alteration, disruption, or destruction of vegetation;
2. disturbance of soils;
3. construction or erection of buildings and structures;
4. creation of non-structural impervious or semi-impervious surfaces;
5. flood protection works;
6. construction of roads, trails, docks, wharves, and bridges;
7. provision and maintenance of sewer and water services;
8. development of drainage systems;
9. development of utility corridors;
10. subdivision as defined in section 872 of the Local Government Act.

PURPOSE OF DESIGNATION:

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

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 that

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15 Bylaw No. 1335.02 adopted January 23, 2007
an assessment by a Qualified Environmental Professional (QEP) be conducted for all proposed residential, commercial, or industrial development in a Riparian Assessment Area.

The purpose of this assessment 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.

**EXEMPTIONS:**

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

1. A development located outside of the Riparian Assessment Area as determined by a British Columbia Land Surveyor or other qualified person;
2. 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;
3. Renovations, repairs, or maintenance to existing buildings within the same footprint that are protected by Section 911 of the Local Government Act;
4. Removal of trees deemed hazardous by a qualified arborist that threaten the immediate safety of life and buildings;
5. All development on lands proposed to be used for ‘farm operation’ as defined by the Farm Practices Protection Act;
6. All development on lands subject to the Forest Act or Private Managed Forest Land Act;
7. All park or park land ancillary uses not containing commercial, residential, or industrial activities;
8. 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;
9. 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 Loosstrife 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 "8" above.
GUIDELINES (SEE DEVELOPMENT GUIDELINE CRITERIA SECTION 5.1):

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 the Ministry of Environment (MOE) and the Ministry of Fisheries and Oceans Canada (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.

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 conservation 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.
A.8 BOWSER VILLAGE CENTRE DEVELOPMENT PERMIT AREA

DESIGNATION:

That part of Electoral Area ‘H’ shown as Bowser Village Centre Development Permit Area on Map No. 6 is designated as a Development Permit Area. Please refer to the Bowser Village Centre Development Permit Area guidelines contained in Section 5 of the Bowser Village Centre Plan:

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16 Bylaw No. 1335.03 adopted June 8, 2010
Definitions: 17

**Alteration of land** includes removal, alteration, or disruption of vegetation, and soil deposit or removal. *(Fish Protection Act)*

**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 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 the area adjacent to a stream that may be subject to temporary, frequent, or seasonal inundation and supports plant species that are typical of an area of inundated or saturated soil conditions that are distinct from plant species on freely drained adjacent upland sites because of the presence of water. *(Fish Protection Act)*

**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**, for the purposes of all development permit areas except for the Fish Habitat Protection Development Permit Area, **means** a permanent or non-permanent watercourse or source of water supply whether usually containing water or not, a pond, lake, river, creek, brook, ditch, spring, or wetland that is integral to a ‘stream’ and may provide fish habitat.

**Stream**, for the purposes of the Fish Habitat Protection Development Permit Area only, 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; and,

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17 Bylaw No. 1335.02 adopted January 27, 2007
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.

**Top of bank** means:

a. the point closest to the natural boundary of the stream where a break in the slope of the land occurs such that the grade beyond the break is flatter than 3:1 at any point from a minimum distance of 15 metres measured perpendicularly from the break; and,

b. for a floodplain, the edge of the active floodplain. *(Fish Protection Act)*

**Wetland** means land that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support and under normal conditions that does support vegetation typically adapted for life in saturated soil conditions including swamps, marshes, bogs, fens, estuaries, and similar areas. *(Fish Protection Act)*