



Bylaw No. 1460

"ELECTORAL AREA 'J' — DESOLATION SOUND RURAL LAND USE BYLAW, 1993"

***Consolidated Copy for
Convenience Purposes Only***

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REGIONAL DISTRICT OF COMOX-STRATHCONA

BYLAW NO. 1460

**A by-law to regulate the location and use of buildings and structures and
the use and subdivision of land, including the surface of water in the
Regional District of Comox-Strathcona.**

The Board of the Regional District of Comox-Strathcona, in open meeting assembled, enacts as follows:

PART A TITLE

1. This by-law may be cited for all purposes as By-Law No. 1460, being the "Electoral Area 'J' — Desolation Sound Rural Land Use Bylaw, 1993".

PART B APPLICATION

1. This rural land use by-law shall be applicable to the Electoral Area 'J' — Desolation Sound Planning Area, (generally including Read, Sonora, Stuart, Maurelle and Rendezvous Islands, Church House and numerous small adjacent islands, the foreshore and surface of the water), as designated by the Minister of Municipal Affairs, Recreation and Culture on August 1, 1990 pursuant to Section 950(3) of the Municipal Act, as shown on Schedule 'B' which is attached to and forms part of the Regional District of Comox-Strathcona "Electoral Area 'J' — Desolation Sound Rural Land Use Bylaw, 1993"
2. For the purpose of this by-law are deemed beyond the jurisdiction of the Board of the Regional District of Comox-Strathcona, such regulations and/or policies shall be considered as broad objectives of the Board pursuant to Section 952(2) of the Municipal Act.
3. For the purpose of this by-law, Schedule "A", being the text, is attached to and forms an integral part of this by-law and bears the words "Schedule "A".
4. For the purpose of this by-law, Schedule "A—0" and Schedules "A—1" to "A—7" inclusive, being the zoning maps, are attached to and form an integral part of this by-law.

PART C TITLE

- 1) This by-law may be cited as the "Electoral Area 'J' — Desolation Sound Rural Land Use Bylaw, 1993".

READ A FIRST AND SECOND TIME THIS 22ND DAY OF FEBRUARY 1993.

PUBLIC HEARING HELD THIS 1ST DAY OF MAY 1993.

READ A THIRD TIME THIS 27TH DAY OF JUNE 1994.

I hereby certify this to be a true and correct copy of Bylaw No. 1460, being the "Electoral Area 'J' — Desolation Sound Rural Land Use Bylaw, 1993", as read a third time by the Board of the Regional District of Comox-Strathcona on the 27th day of June, 1994.

"W.B. d'Easum"
Secretary

**APPROVED BY THE
MINISTRY OF MUNICIPAL AFFAIRS THIS 15TH DAY OF AUGUST 1994.**

**RECONSIDERED,
FINALLY PASSED AND ADOPTED THIS 27TH DAY OF AUGUST 1994.**

"D. Andrews"
Chairperson

"W.B. d'Easum"
Secretary

I hereby certify this to be a true and correct copy of Bylaw No. 1460, being the "Electoral Area 'J' — Desolation Sound Rural Land Use Bylaw, 1993", as adopted by the Board of the Regional District of Comox-Strathcona on the 27th day of August, 1994.

"W.B. d'Easum"
Secretary

BY-LAW NO. 1460

**“Electora Area ‘J’-Desolation Sound
Rural Land Use By-Law, 1993”**

Schedule ‘A’

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

"ELECTORAL AREA 'J' RURAL LAND USE BY-LAW, 1992"
 REGIONAL DISTRICT OF COMOX-STRATHCONA • BY-LAW NO. 1460

LIST OF AMENDMENTS

BY-LAW NO.	AMENDMENT #	ADOPTION DATE	ELECTORAL AREA	TYPE	TEXT REFERENCE
1860	1	September 29, 1997		Map & Text	
2294	2	December 14, 2000		Map	Sawmill Bay, Read Island (Brian & Roberta Stevenson – RLUB 1J00)
2425	3	October 28, 2002		Text & Map	Marine Harvest Canada (RZ 1J03 BCALC 2407932)
2586	4	December 11, 2003		Map	Mowat/Frank RZ 1J 03 (Land and Water BC File #1407661)
2959	6	October 30, 2006		Text	To amend the Rural One zone to allow for a secondary dwelling unit for each additional 4.0 hectares of land in a parcel`
2982	7	March 1, 2007		Text	To amend the Rural One zone to allow for a secondary dwelling unit for each additional 4.0 hectares of land in a parcel
3028	8	May 24, 2007		Map	Go with the Flow Adventures
SRD 88	9	April 26, 2012		Text	To amend the Environmentally Sensitive Areas (Riparian Areas)
SRD 165	10	April 10, 2013		Text	To amend Section 9.2.1.3 Forestry One (F-1)

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1.0 *INTRODUCTION*

1.1 Purpose

The purpose and intent of this by-law is to provide a statement of the objectives, policies and regulations of the Regional District of Comox-Strathcona respecting presents and proposed land use and development within the Electoral Area 'J', Desolation Sound Rural Planning Area. Further refinement of these matters is encouraged and may be accommodated through the future development of more community oriented neighbourhood plans.

The Desolation Sound Rural Land Use By-Law is recognized as being the initial step towards the development of integrated resource management planning for the area. The Regional District is committed to working cooperatively with all governmental agencies, native groups, the community, and others in developing an integrated resource management plan for the Desolation Sound Rural Planning Area.

1.2 Area

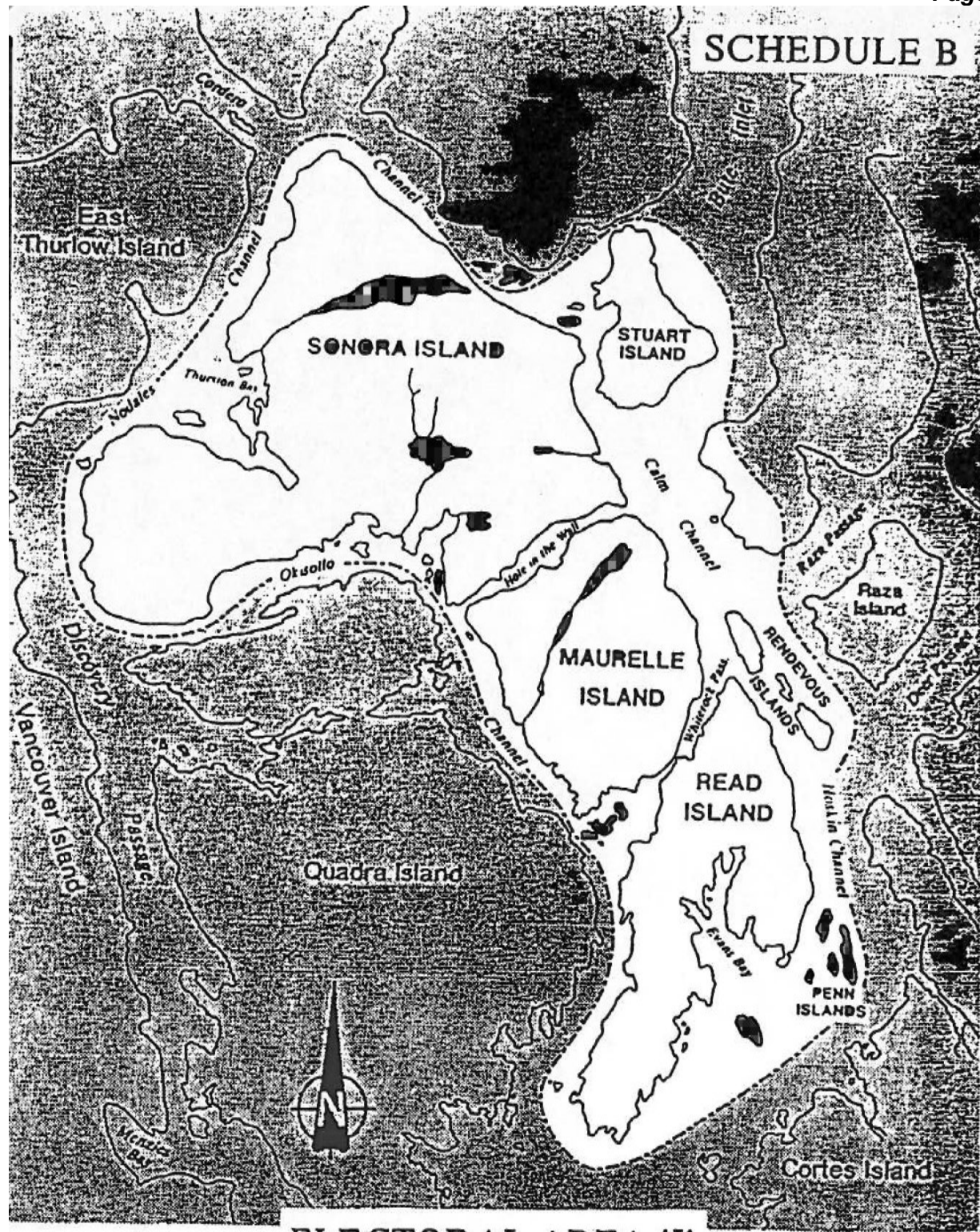
This rural land use by-law applies to the Electoral Area 'J', Desolation Sound Planning Area as designated by the Minister of Municipal Affairs, Recreation and Culture on August 1, 1990 pursuant to Section 950(3) of the Municipal Act, as shown on Schedule 'B' which is attached to and forms part of the Regional District of Comox-Strathcona "Electoral Area 'J'-Desolation Sound Rural Land Use By-Law, 1992".

Where matters in this by-law are deemed beyond the jurisdiction of the Board of the Regional District of Comox-Strathcona, such regulations and/or policies shall be considered as broad objectives of the Board pursuant to Section 952(2) of the Municipal Act.

1.3 Background

This land use by-law has been prepared over a number of years in response to local concerns related to increasing development pressure and conflicts. Although sparsely populated, the previous lack of policy direction made the evaluation of proposals and mediation of conflicts difficult. The interest of the residents themselves in retaining the existing lifestyles while promoting controlled growth has been the major factor behind the completion of this exercise. The goal and objectives for the area are to the largest extent possible derived locally.

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ELECTORAL AREA 'J'

Desolation Sound Planning Area

as approved August 1, 1990, pursuant to *Section 950(3)* of the Municipal Act

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PART I

2.0 GOAL AND DEVELOPMENT OBJECTIVES

The goal for this initiative is to conserve the biophysical and social/economic attributes which are valued by residents and visitors. The following objectives provide the context in which the land use designations and regulations contained in this by-law were drafted.

It is the objective of the Regional District Board to:

- (a) facilitate the participation of the public in local government decisions, including to the extent possible individual notification of any proposed amendments to this rural land use by-law;
- (b) encourage the conservation of all natural resources;
- (c) encourage open communication and referral between all levels of government regarding land and resource planning issues, to resolve issues in a cooperative manner, and to facilitate public understanding of government regulatory and management responsibilities through consultation and referral of information; and
- (d) promote public access and use of Crown Lands including the foreshore and surrounding waters.

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3.0 DESIGNATIONS AND POLICIES

3.1 Designations

The land use designations within the planning area are divided between the upland areas; (those lands above the natural boundary with the ocean); and the foreshore; (those lands lying below the natural boundary with the ocean, including the surface of the ocean's waters).

3.1.1 *Upland Areas*

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Rural One	(RU—1)
Commercial One	(C—1)
Forestry One	(F—1)

3.1.2 *Foreshore Areas*

Aquaculture One	(AQ—1)
Aquaculture Two	(AQ—2)
Aquaculture Three	(AQ—3)
Access One	(AC—1)
Access Two	(AC—2)
Access Three	(AC—3)
Marine Reserve One	(MR—1)
Marine Commercial One	(MC—1)

3.1.3 *New Development*

It is the policy of the Board to consider new developments in concert with those uses presently permitted and designated. A new land use designation and associated standards may be created to accommodate such unforeseen developments.

New developments are those that are not presently permitted within an existing land use designation.

3.1.4 *Parks*

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Existing Regional District parks, Province of British Columbia parks and recreation reserves, and areas of ecological significance held by the Nature Trust of British Columbia have been identified on Map Schedules A-1 through A-7. The land use policies of the Province shall be supported for Provincial Park areas identified within the Rural Land Use Bylaw Area.

3.2 Policies

3.2.1 *Upland Areas*

The character of the planning area is due in no small measure to the physical setting and the abundant natural resources. Permitted land uses contribute to the conservation of these natural resources while providing residential, recreational and economic opportunities consistent with those enjoyed at the present time. In keeping with the development objectives land use in all upland areas shall be in accordance with the following policies:

- a) Development of structures will not be permitted on lands identified by the Province as subject to natural hazards such as flooding, slumping, erosion and wave action associated with the sea;
- b) Riparian lands shall be protected and managed for the conservation of the natural stream habitat;
- c) The retention of lands designated Forestry One (F-1) will be encouraged;
- d) Development must ensure public access to and utilization of the foreshore;
- e) Small lot subdivision, less than 4 hectares (9.88 acres), is not considered rural; and
- f) On all lots used for residential purposes, a minimum lot frontage to depth ratio of one to three shall apply, regardless of zoning.

3.2.1 (1) RURAL ONE • (RU—1)

The 4 hectare (9.88 acre) lot size in this category is designed to maintain the rural character of the area.

3.2.1 (2) COMMERCIAL ONE • (C—1)

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This designation includes tourist resorts and other commercial uses. Private yacht clubs and other private clubs are considered to be tourist-oriented resorts and a commercial use.

3.2.1 (3) FORESTRY ONE • (F—1)

Lands designated as F-1 are Provincial Forest Lands, Crown Lands licensed for forestry purposes under the Forest Act, and private lands classified as managed forest land under the Assessment Act as of the date this by-law comes into effect. Also, private lands that have been used for forestry purposes in recent times may be included as well as vacant Crown Land.

It is the policy of the Board that these lands be retained for forestry purposes where possible. Consideration for conversion to other uses will require a statement from the Ministry of Forests indicating that the subject lands are not

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needed to meet Provincial Forestry Objectives. Proposals and rezoning applications involving vacant Crown Land should include the associated foreshore as part of the package for consideration.

3.2.2 *Foreshore Areas*

The shoreline is recognized as having significant value even when no active economic use is visible. Traditional uses for the most part have been short-term, seasonal, localized or had very limited negative impact on the environment or other users. More recent development however, has created land use conflicts. In keeping with the development objectives land use in all foreshore areas shall be in accordance with the following policies:

- a) Development shall not restrict the public right to broad access to and along the shoreline;
- b) Development on the shoreline that is consistent with the objectives and policies of the plan shall be encouraged;
- c) Historical uses associated with the foreshore shall be accommodated to the extent possible; and
- d) Active shoreline developments will be reviewed on a site-specific basis through open communication and referral between the community and all government agencies whose interests may be affected. Development proposals will be reviewed in light of all referral comments and information received such that effective accountability and monitoring of any proposal can be established at time of review.

3.2.2 (1) AQUACULTURE ONE • (AQ—1)

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This designation permits passive aquaculture, being beach culture activities, under License from the Province of B.C. and having little to no physical or visual impacts on the site and area.

3.2.2 (2) AQUACULTURE TWO • (AQ—2)

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This designation permits passive aquaculture, being long-line and raft culture activities, under License from the Province of B.C. and may include limited development of related facilities that could have some negative visual impacts.

3.2.2 (3) AQUACULTURE THREE • (AQ—3)

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The designation permits active aquaculture and harvesting, under License from the Province of B.C., but does not include the processing of fin fish. Crown Lands is encouraged to adhere to the 3 km spacing guideline between fin fish farms, or the present Provincial standard, whichever is greater. Relocation of existing facilities and leases will not be considered unless the existing area is withdrawn from AQ-3.

3.2.2 (4) ACCESS ONE • (AC—1)

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- This designation is to protect the public interest while providing the opportunity for basic access to the adjacent private lands. Careful consideration to the public's right to access shall be given in all determinations of shoreline use.
- Upon the expiration of private Crown Land tenures, shoreline areas shall be returned to the public trust in original or enhanced condition.
- Traditional anchorage sites shall be preserved for those purposes.
- Temporary Industrial Permits for log dumping, booming and storage will be considered where the site is biophysically suited for such use and subsequent rehabilitation.

3.2.2 (5) ACCESS TWO • (AC—2)

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The policy considerations for this designation are similar to those expressed for Access One (AC—1). The difference being that this designation is adjacent to Crown Lands and other lands zoned Forestry One (F—1). Aquaculture proposals as identified in sections 3.2.2.(1),(2), and (3), shall be considered as conditional uses in the Access Two (AC-2) designation under a Temporary Industrial Use Permit. As part of the preliminary permit application review procedure the Regional District shall consult with the local community most directly affected by the proposal. Permit review criteria for any proposal shall include but will not be limited to the following: demonstration of the environmental suitability of the site for the proposed use(s), impact of the proposal on any existing/competing use(s), and consideration of the visual impact of the proposal on the area.

Should these uses be determined to be of a permanent nature, a rezoning will be necessary for the use to continue beyond the term of the Temporary Industrial Use Permit, as set out by the Municipal Act.

3.2.2 (6) ACCESS THREE • (AC—3)

Applications for marine log handling sites shall be considered on an individual basis and assessed in light of competing uses and environmental impacts. A limited number of strategic multi-user sites shall also be considered subject to other objectives.

3.2.2. (7) MARINE RESERVE ONE • (MR—1)

The MR-1 designation is generally reserved for public marine parks and areas that are being considered for such status by one or more levels of government. Where such areas are adjacent to private lands this designation in itself will not restrict private water access to the upland.

3.2.2. (8) MARINE COMMERCIAL ONE • (MC—1)

Development will be considered in marine shoreline areas in association with the commercial use of the adjacent upland area. Private marina facilities associated with an exclusive upland use and not available to the general public would also be in this designation.

3.2.3 Environmentally Sensitive Areas (Riparian Areas)

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The general policies listed below apply to the water surface and associated conservation setbacks of all lakes, rivers, streams, creeks, and watercourse, including associated marsh, pond, swamp, and other wetland areas. The intent is to recognize the importance of these riparian areas as open spaces serving a number of important functions. These include recreation, habitat conservation, natural resource enhancement, and a measure of community pride.

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- a) In accordance with the provincial RAR, where development is proposed to take place within 30.0 metres of a watercourse connected to fish habitat, an assessment report, prepared by a qualified environmental professional (QEP) in accordance with the Riparian Areas Regulation (RAR) is required. Further, the review of further provincial legislation by the Ministry of Environment (MOE) and Fisheries and Oceans Canada (DFO) such as "Stream Stewardship – A Guide for Planners and Developers", 1994 and "Land Development Guidelines for the Protection of Aquatic Habitat", 1992 shall be strongly encouraged throughout all stages of development. Appendices I, II, III identify recommended minimum leave strip width requirements to ensure that a vegetated strip of land capable for preserving habitat is maintained. In all cases, the permitted setback shall be as determined in accordance with RAR, as identified within an assessment report, and may be further regulated within Sections 8.2 and 8.3 of this bylaw.
- b) The removal, deposition, and reposition of soil on any lands, or from one legally described parcel to another legally described parcel either partially or totally within riparian areas shall not be carried out without the express written permission of the appropriate Federal and Provincial agencies; and
- c) Ministry of Environment, Lands and Parks, Department of Fisheries and Oceans, and Canadian Wildlife Service shall be encouraged to identify, map and inventory environmentally sensitive areas within the Rural Land Use Bylaw area.

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4.0 TEMPORARY INDUSTRIAL USE

4.1 Designated Areas

- 1) The Board designates those areas designated Access One (AC-1) and Access Two (AC-2) as eligible for consideration for the issuance of Temporary Industrial Permits for the purpose of log dumping, booming, and storage.
- 2) The Board designates those areas designated Access Two (AC—2) as eligible for consideration for the issuance of Temporary Industrial Use Permits.
- 3) The Board designates those areas designated Access Two (AC-2) as eligible for consideration for the issuance of Temporary Industrial Use Permits for aquaculture purposes, more specifically described in Sections 3.2.2(1), 3.2.2(2), and 3.2.2(3).

4.2 Conditions Of Permits

1) **Log Dumping, Booming And Storage**

Permits will be considered under the following conditions:

- a) The Temporary Permit is required to facilitate transportation and marketing of timber harvested from adjacent uplands; and
- b) Agreement by the applicant to rehabilitate the area to its original condition within 12 months of the termination of the Temporary Permit and provision by the applicant of security sufficient to guarantee completion of the works.

2) **Aquaculture Use**

Permits will be considered under, but not limited to the following conditions:

- a) Agreement by the applicant that in the event that the site is not designated to an Aquaculture designation upon termination of the Temporary Permit, that the site be rehabilitated to its original condition within 12 months of the date the permit expires, and further that the applicant provide security sufficient to guarantee completion of the works.
- b) That the applicant demonstrates through the development plans that careful consideration respecting siting and design of structures has been undertaken to minimize the visual impact of the proposal on the surrounding area.

- c) That the applicant outlines what mitigating work(s) and/or methods of operations will be undertaken to minimize the potential for adjacent or upland uses to be adversely affected by noise and/or light resulting from the proposed use.

4.3 Permit Procedures

See Bylaw No. 1244, being the "By-Law Amendment, Permit Procedure and Fee By-Law, 1990".

5.0 REVIEW AND AMENDMENT

5.1 Review

It is the intent of the Regional Board to keep this rural land use by-law as current as possible. This will be achieved through ongoing monitoring and evaluation in light of changing attitudes and priorities within the community.

5.2 Amendment

This by-law may be amended to accommodate refinements to land use designations by the Regional District of Comox-Strathcona at its initiative or in response to an application. Individuals seeking amendment shall submit applications in accordance with By-Law No. 1244, being the "By-Law Amendment, Permit Procedure and Fee By-Law, 1990".

- (1) Where an application is denied, re-application within 12 months for a similar proposal is not permitted unless this policy is waived by a vote of 2/3 majority of the Board.
- (2) Applications for amendments will be considered on the basis of Part I, of this by-law.
- (3) Application for amendments that affect lands traversed partly or totally by one or more watercourses shall provide a covenant in accordance with applicable legislation to the satisfaction of the Regional District under Section 215 of the Land Title Act that restricts the use and development of the land in accordance with Section 8.2 of this by-law.

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5.3 Appeal — Board of Variance

The Board of Variance established by the Regional District of Comox-Strathcona shall hear and determine any appeal pursuant to the Municipal Act.

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6.0 ADMINISTRATION AND IMPLEMENTATION

6.1 Administration

6.1.1 The Director of Planning, Administration Officer, Chief Building Inspector, Senior Planner, Planner II, Planner I, Planning Technician, Planning Assistant, Secretary, and the Deputy Secretary are hereby appointed by the Regional Board pursuant to the Municipal Act to administer this by-law.

6.2 Implementation

6.2.1 Subject to the provisions of Section 970 of the Municipal Act, no building or structure shall be erected, constructed, reconstructed, moved, structurally altered or permit issued contrary to the provisions of the by-law.

6.2.2 Subject to the provisions of Section 970 of the Municipal Act, no land, including the surface of water shall be used, occupied or subdivided contrary to the provisions of this by-law.

6.2.3 In accordance with Provincial Legislation, any forestry management activity relating to the production and harvesting of timber on any land that is classified as managed forest land pursuant to the Assessment Act or any land within a license area under the Forest Act shall not be restricted by any terms or conditions of this by-law so long as the land continues only to be used for that purpose.

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6.2.4 Any person who violates the provisions of this by-law is liable on summary conviction to a penalty not exceeding two thousand dollars and costs for each day that the infraction continues.

6.2.5 If any section, subsection, sentence, clause or phrase of this by-law is for any reason held to be invalid by the decision of any Court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder.

6.2.6 Activities relating to the exploration, development and extraction of mineral and aggregate resources are managed by the Ministry of Energy Mines and Petroleum Resources (under the Mines Act and the Mineral Tenure Act).

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7.0 INTERPRETATION

ACCESSORY USE	means customarily incidental to the permitted use of land, buildings, or structures located on the same lot.
APPROVAL	means approval in writing from the authority having jurisdiction.
APPROVING OFFICER	means approving officer designated as such pursuant to the <u>Land Titles Act</u> or the <u>Condominium Act</u> .
AQUACULTURE	means the controlled rearing, cultivation and harvesting of finfish, molluscs, crustaceans, marine plants, or any other marine organism in a specific location and specifically excludes seafood processing and/or aquatic hatcheries.
AQUACULTURE, Active	means an aquaculture activity on the sea or foreshore where any or all of the following are used: <ul style="list-style-type: none">• active feeding including the introduction of natural or man-made feeds;• the administration and introduction of toxicants, hormones, antibiotics, or pigments;• the use of generators, or the use of netpens or flats for pens.
AQUACULTURE, Passive	means the controlled rearing, cultivation and harvesting of molluscs, crustaceans or marine plants in a specific location on the sea or foreshore where there is no administration of feed or chemical products.
BED and BREAKFAST	means the provision of accommodation, including bed and breakfast only, for not more than four non-family persons in the principal dwelling.
BUILDING	means a structure located on the ground, which is designated, erected or intended for the support, enclosure or protection of any use, person or property.
BUILDING, Accessory	means a building or structure, the use of which is ancillary to the principal permitted use of the lands, buildings or structures located on the same parcel, but specifically excludes buildings used for residential use.

CHARACTER, Rural	means sparsely developed with a population density of less than one person per acre on lots of ten acres or more in size.
COMMERCIAL	means any activity usually pursued for economic gain but specifically excluding multiple unit residential development and non-related industrial types of development.
CONSERVATION	means the care and protection of natural resources including their management and use in a sustainable manner.
CONSERVE	means to practice conservation.
CROWN LAND, Vacant	means Crown Land that has not been alienated through an award of tenure to any person or use.
DEVELOPMENT <div data-bbox="201 785 321 863" style="border: 1px solid black; padding: 2px; display: inline-block;">SRD 88</div>	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.
DWELLING, Single Family	means a detached building or mobile home used exclusively for residential use for one family consisting of one dwelling unit, and containing not more than one set of kitchen facilities and cooking equipment.
DWELLING UNIT	means a suite operated as a housekeeping unit, used or intended to be used as a residence and usually containing cooking, eating, living, sleeping and sanitary facilities, but specifically excluding travel trailers and other recreational vehicles.
ECOLOGY	means the relationship between living organisms and their environment.
ENVIRONMENT	means the surrounding area comprised of one or more habitats.
FAMILY	means one or more person related by blood, marriage, adoption, or foster parenthood, sharing a single dwelling unit, or, not more than five unrelated persons sharing a single dwelling unit.

FILL	means, without restricting the generality of this term, concrete, asphalt, wood, trees, tree branches, tree stumps, tree bark, wood, wood chips, sawdust, hog fuel, sand, clay, metal, brick, or any other debris or material either natural or man made.
FLOAT	means a buoy, raft, or other object anchored in water to provide moorage.
FORESTRY	means the conservation and management, including the preservation of forests and forest lands for the continuing use and enjoyment of their forest elements and resources.
FRONTAGE, Land	means that length of a lot line which immediately adjoins a highway, and where two or more lot lines adjoin a highway, only one length being the shortest length of a lot line fronting a highway shall be considered as frontage.
FRONTAGE, Sea	means that length of a lot line which immediately adjoins the Crown foreshore associated with the sea, and where two or more lot lines adjoin the sea, only one length being the shortest length of a lot line fronting the sea shall be considered as frontage.
HABITAT	means the attributes of an area that in combination create the environment.
HIGH WATER MARK	means the elevation of a watercourse or wetland as a result of a 1 in 10 year storm.
LAND	means includes all upland, foreshore and surface of water.
LOT	means any lot, block, or other area in which land is held or into which it is subdivided, but does not include a highway.
LOT LINE	means a line which marks the boundary of a lot.
MOORAGE	means a place where a ship, boat, airplane, barge, scow, or other item is moored.
MOORAGE, Commercial	means moorage associated with a commercial activity including resorts.

NATURAL BOUNDARY	means the visible high watermark 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 upon the soil of the bed of the lake, river, stream, or other body of water a character distinct from that of the banks thereof, in respect to vegetation, as well as in respect to the nature of the soil itself, as defined in Section 1 of the Land Act, and also includes the edge of dormant side channels of any lake, river, stream, or other body of water.
NON-CONFORMING BUILDING OR USE	means any building or use which does not conform with all the regulations of this bylaw or any amendments thereto, for the zoning district in which such building or use is located.
OWNER	means the registered owner of real property.
PANHANDLE	means a strip of land which extends along a side of one or more lots and which provides access to the sea or highway frontage to a parcel, and which forms part of that parcel.
PARCEL	see "LOT".
PARCEL, Severed	means a lot that is separated into more than one distinct area by any means and normally shows on a subdivision plan as being hooked together.
PERMITTED PRINCIPAL USE	means the principal permissible purpose for which land, buildings or structures may be used.
PERSON	means any individual, corporation or partnership, part, agent, owner, occupier, or holder of interest in real property.
PRESERVE	means to protect from harm or damage.
PRINCIPAL BUILDING	means the main building or structure on a parcel of land which reflects the primary use of that land.
PRINCIPAL USE	means the main purpose for which a lot, principal building or structure is ordinarily used.
PRIVATE	means a use, structure, or facility that is available to a particular person or organization and is not available to the general public for public or commercial use.
PRIVATE CLUB	means a group of people associated for a common purpose and not open to, or actually controlled by the public; see "Resort".
PRIVATE YACHT CLUB	see "Resort".

PROCESSING	means seafood processing and the bleeding or gutting of finfish, the shucking of molluscs or crustaceans, the freezing, salting, smoking, or packaging of aquatic organisms, and/or the mechanical or chemical transformation of any aquatic organism after it is harvested.
PROPERTY	means real property and includes any land and improvements on the land.
PROPOSAL	means a plan or scheme.
PROTECT	means to shield from injury or damage.
PUBLIC	means a use, structure, or facility that is available for the use and benefit of all people but is not offered for commercial gain.
PUBLIC UTILITY USE	means the use of land, for the provision of community water or sewer service, public access, and electrical service where regulated by statute, and a private potable water service for a parcel where a permit has been issued by the Provincial Ministry having jurisdiction.
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 the 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.
RAMP	means a sloping passage connecting the sea, foreshore and upland that can be used for access purposes.
RECREATIONAL SHELLFISH GATHERING and HARVESTING	means the digging of clams and the harvesting of oysters and another shellfish for private and personal use of a non-commercial nature.
RECREATION, Public	means recreation available to the general public.
REGIONAL DISTRICT	means the Regional District of Comox-Strathcona.
RESIDENTIAL USE	means the occupancy and use of a dwelling unit.
RESORT	means a facility for transient guests where the primary attraction is generally recreational features or activities and includes private yacht clubs and other private clubs.

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

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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.
(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.

ROAD ALLOWANCE means all highways, roads, streets, squares, thoroughfares, and any other public way, but not lanes or walkways.

SEAFOOD PROCESSING means the storage, drying, cooking, packing or preparation, of any aquatic organism.

SEPARATE means to set apart so as not to conflict with another land use.

SEWAGE DISPOSAL means an on-site waste disposal system.

SOIL means, without restricting the generality of this term, humus, gravel, rock, rubble, or other substance of which land is composed, including any fill material, but excluding potting soil mixtures and fertilizers.

STRATA LOT means a strata lot as defined by the Condominium Act and amendments thereto, of the Province of British Columbia.

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).

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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.

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STRUCTURE means anything that is constructed or erected, but specifically excludes landscaping.

SUBDIVISION	means any change in existing size, shape, number or arrangement of a parcel registered in the Land Title Office so as to require that a new Certificate of Indefeasible Title be issued.
SUITE	means a single room or series of rooms of complementary use, operated under a single tenancy.
TOP OF BANK	means the point at which the upward ground level becomes less than one (1.0) vertical to four (4.0) horizontal, and refers to the crest of the bank or bluff where the slope clearly changes into the natural upland bench.
WATER SUPPLY	means potable water as determined by the Provincial Ministry of Health.
WATERCOURSE	means any natural or man-made depression with well-defined banks and a bed zero point six (0.6) metres (1.97 feet) or more below the surrounding land serving to give direction to a current of water at least six months of the year or having a drainage area of two (2) square kilometres (0.77 square miles) or more upstream of the point of consideration, or as required by a designated official of the Ministry of Environment Lands & Parks of the Province of British Columbia.
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.
WHARF	means a structure attached to a shore at which a ship, boat, airplane, barge, scow, or other item can be moored for loading or unloading.

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8.0 GENERAL PROVISIONS

Except as otherwise specified in this bylaw, Sections 8.1 to 8.10 inclusive are applicable throughout all designations in the Electoral Area 'J'—Desolation Sound Rural Planning Area.

8.1 Foreshore Development

- (1) No structures shall be created along the foreshore which could interrupt the natural shoreline processes without the express written permission of the appropriate Federal and Provincial agencies.

8.2 Development Adjacent to Streams'

Riparian Area Regulation (RAR) Requirements

In accordance with the provincial RAR, where development 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.

8.3 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 Regulations (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.

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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.

8.4 Sea Setbacks

In accordance with Provincial policy no structure used for dwelling purposes, business, or storage of goods which are susceptible to damage by floodwater, shall be constructed or placed within 15 metres (49.2 feet) of the natural boundary of the sea without the written approval of the Ministry of Environment Lands and Parks.

8.5 Elevations

In accordance with Provincial policy, no building shall be constructed with the underside of any floor system or the top of any pad supporting any space or room including a mobile home, that is used for dwelling purposes, business or the storage of goods which are susceptible to damage by floodwater less than 1.5 metres (4.92 feet) measured vertically above the natural boundary of any other watercourse, lake or in the case of the sea above the maximum high tide, without the written approval of the Ministry of Environment Lands and Parks.

8.6 Uses Permitted In All Designations

The following uses are permitted in all designations:

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- a) Institutional uses, public utilities and navigational aids;
- b) Provincial Parks and Regional District recreational areas and associated facilities;
and
- c) Habitat conservation and protection of the natural environment.

8.7 On-Site Sewage Disposal

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Approval in writing, from the Health Unit having jurisdiction, of a private sewage disposal system, including its location, is required prior to the construction or alteration of any building capable of residential use, including resorts. Residential and commercial uses will not be permitted to discharge sewage waste to the sea without public notice and a permit issued by the Provincial Ministry having jurisdiction.

8.8 Accessory Buildings And Structures

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- (1) Buildings and structures accessory to principal uses, are permitted in all designations.

8.9 Subdivision Regulations

- (1) In addition to the contents of this by-law, all subdivisions shall comply with Provincial Legislation as may be applicable.
-

(2) Notwithstanding these Regulations:

- i) The minimum parcel size for subdivision purposes shall be the minimum parcel size in each land use designation in Sections 9.0 to Section 9.2.2.8 inclusive.
- ii) The minimum parcel size for subdivision purposes will only be considered where a private sewage disposal system has been approved, for each lot or strata lot to be created, by the Health Unit having jurisdiction.
- iii) The minimum parcel size for subdivision purposes, Section 8.9(2)(i) shall not apply to a non-sewage generating use such as an unattended public utility or navigational structure.
- iv) For the purposes of subdivision under Section 996(4) of the Municipal Act the minimum parent lot size is twice (2 times) the minimum lot size in any designation.
- v) Lots with narrow frontages for access purposes (panhandle) are not permitted.
- vi) No subdivision shall be permitted which creates new severed parcels except where approved by both the Regional District and the Approving Officer.
- vii) All riparian setback areas, Section 8.2, including those on the parent parcel and any proposed lot(s), are subject to covenants being placed on title in accordance with Section 5.2(3) of this by-law.

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- 3) Strata subdivisions must meet the intent of Section 3.2.1(f) through a minimum average frontage to average depth ratio of one to three for each strata lot excluding any lands held in common. All such strata lots identified must have frontage of not less than 50 metres (164 feet).
- 4) Lots and strata lots with water (sea or lake) access shall be considered as having double frontage and shall meet the frontage requirements on both the water frontage and a dedicated road.
- 5) Subdivisions that have road allowance dedications that ultimately have access to the sea shall be physically suited to such public use and contain access improvements as necessary, at the applicant's expense, to facilitate use by the public.

8.10 Uses Prohibited

- (1) The use of land, buildings, and structures is not permitted for:
 - a) Any use where the use will become or create a nuisance to the surrounding residents, general public, or any person with an interest in property.
 - b) Multiple residential housing in any of its numerous forms unless specifically identified as a permitted use elsewhere in this by-law.
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9.0 LAND USE DESIGNATIONS

9.1 Designations

9.1.1 Upland Areas

RDCS 1860	Rural One	(RU—1)
	Commercial One	(C—1)
	Forestry One	(F—1)

9.1.2 Foreshore Areas

Aquaculture One	(AQ—1)
Aquaculture Two	(AQ—2)
Aquaculture Three	(AQ—3)
Access One	(AC—1)
Access Two	(AC—2)
Access Three	(AC—3)
Marine Reserve One	(MR—1)
Marine Commercial One	(MC—1)

9.2 Regulations

The uses identified in each designation, and no others, shall be permitted. For uses not identified in any designation refer to Section 3.1.3 .

9.2.1 Upland Areas

9.2.1.1

RURAL ONE
(RU—1)

i) PERMITTED USES

The following principal use is permitted:

- | | | |
|-----------------------|----|--|
| RDCS
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2959 | a) | On any lot of 4.0 hectares (9.88 acres) or less, one single family residential dwelling, and one secondary dwelling subject to a maximum floor area of 80.0 square meters (861.14 square feet) shall be permitted; and |
| | b) | For each additional 4.0 hectares (9.88 acres) of land in a parcel, above the minimum parcel size, one additional dwelling and one additional secondary dwelling subject to a maximum floor area of 80.0 square metres (861.14 square feet) shall be permitted. |

ii) SUBDIVISION

- | | | |
|--------------|----|---|
| RDCS
1860 | a) | The minimum lot area for subdivision purposes shall be 4 hectares (9.88 acres). |
|--------------|----|---|

9.2.1.2

**COMMERCIAL ONE
(C—1)**

i) **PERMITTED USES**

The following principal uses are permitted:

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- a) Commercial use including buildings, accessory uses and accessory buildings.
- b) Single family residential use accessory to the principal commercial use.

ii) **SUBDIVISION**

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- a) The minimum lot size for subdivision purposes shall be 0.8 hectares (2.0 acres).

9.2.1.3

**FORESTRY ONE
(F—1)**

(i) **PERMITTED USES**

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- a) Forest management including accessory uses and accessory buildings;
- b) Public recreation uses; and
- c) Single family residential including accessory uses and accessory buildings.

(ii) **CONDITIONAL USES**

A public wharf is permitted for property described as Unsurveyed Crown foreshore or land covered by water being part of the bed of Florence Lake, Sonora Island as defined by Crown Licence issued under Crown File No's. 1413707 and 1413708, subject to the conditions set out in Section 9.2.1.3(iii).

(iii) **CONDITIONS OF USE**

The use as specified under Section 9.2.1.3(ii) is only permitted as approved by appropriate Provincial and/or Federal Agencies.

(iv) **SUBDIVISION**

The minimum lot size for subdivision purposes is 16 hectares (39.54 acres).

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9.2.2

Foreshore Areas

9.2.2.1

**AQUACULTURE ONE
(AQ-1)**

i) PERMITTED USES

The following principal use is permitted:

- a) Passive aquaculture, (beach culture).

9.2.2.2

**AQUACULTURE TWO
(AQ-2)**

i) PERMITTED USES

The following principal use is permitted:

- a) Passive aquaculture (long line and raft culture), including sorting, grading and storage facilities for passive aquaculture that extend not more than 1.0 metres (3.1 feet) above the tidemark at any point in time. Processing is not permitted in association with the permitted use.

9.2.2.3

**AQUACULTURE THREE
(AQ-3)**

i) PERMITTED USES

The following principal use is permitted:

- a) Active aquaculture, including sorting, grading and storage facilities for aquaculture that extend not more than 8.0 metres (26.2 feet) in height above the tidemark at any point in time. Processing other than the stunning and bleeding of fish grown on that site is not permitted in association with the permitted uses.
- b) Staff accommodation use accessory to the principal fin fish aquaculture use provided that such facilities extend not more than 8.0 metres (26.2 feet) in height above the surface of the water at any point in time.

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9.2.2.4

**ACCESS ONE
(AC-1)**

i) PERMITTED USES

The following principal uses are permitted:

- a) Private or public boat moorage associated with the private use of the adjacent upland, excluding any such facilities associated with an adjacent commercial upland use;
- b) Public recreation uses including recreational shellfish gathering and harvesting;

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(NOTE: Temporary Industrial Permit Area—see Section 4.0) .

9.2.2.5

**ACCESS TWO
(AC-2)**

i) **PERMITTED USES**

The following principal use is permitted:

- a) Public recreation use including recreational shellfish gathering and harvesting.

ii) **CONDITIONAL USES**

- a) Aquaculture uses, more specifically described in Sections 3.2.2(1),(2), and (3) and 9.2.2(1),(2), and (3).

iii) **CONDITIONS OF USE**

- a) All uses specified under 9.2.2.5(ii)(a) above are allowed following completion of licensing procedures from appropriate Provincial and Federal agencies, as well as, issuance of a Temporary Industrial Use permit from the Regional District.

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(NOTE: Temporary Industrial Use Permit Area—see Section 4.0)
(Foreshore Areas- Access Two (AC-2)—see Section 3.2.2(5))

9.2.2.6

**ACCESS THREE
(AC-3)**

i) **PERMITTED USES**

The following principal use is permitted:

- a) Log dumping, booming and storage including accessory uses and accessory buildings.

9.2.2.7

***MARINE RESERVE ONE
(MR-1)***

i) PERMITTED USES

The following principal uses are permitted:

- a) Public marine parks including public marine park reserves;
- b) Fisheries enhancement projects and associated facilities;
- c) Habitat conservation and protection of the natural environment; and
- d) Private boat moorage associated with the private non-commercial use of adjacent upland areas zoned Rural One (RU-1).

9.2.2.8

***MARINE COMMERCIAL ONE
(MC-1)***

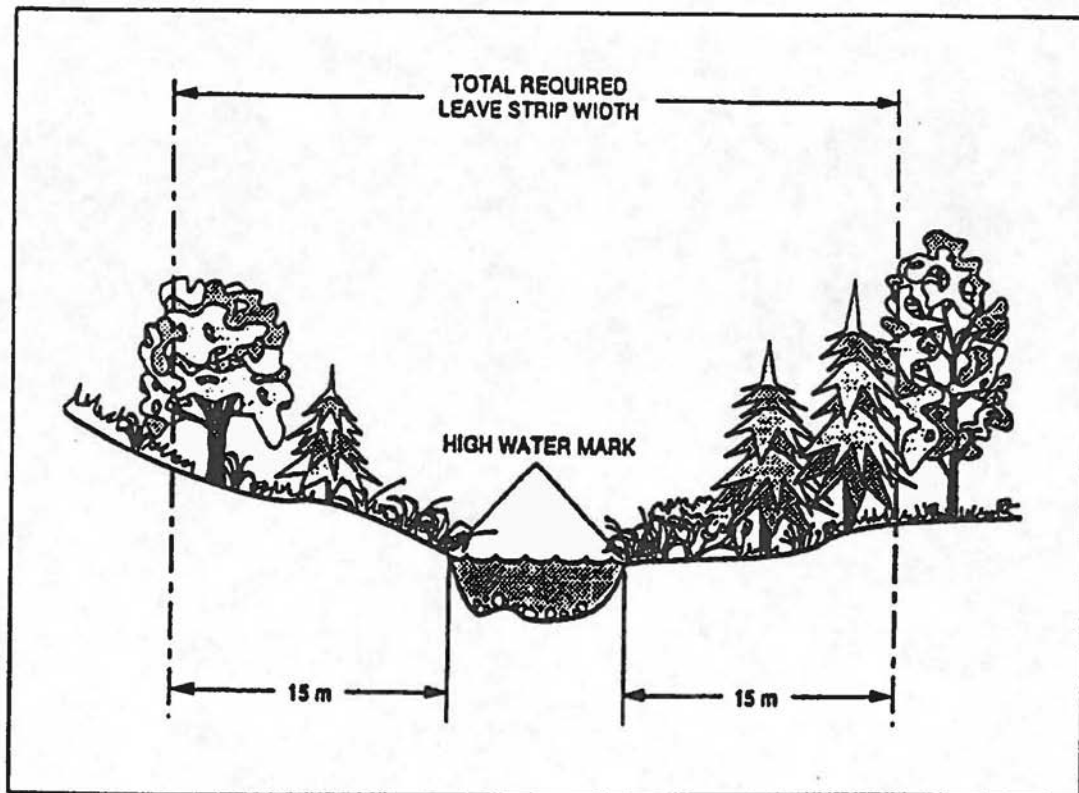
i) PERMITTED USES

The following principal use is permitted:

- a) Public and commercial marine facilities, associated with the use of the adjacent upland area including accessory uses and accessory buildings.
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APPENDIX I • LEAVE STRIPS

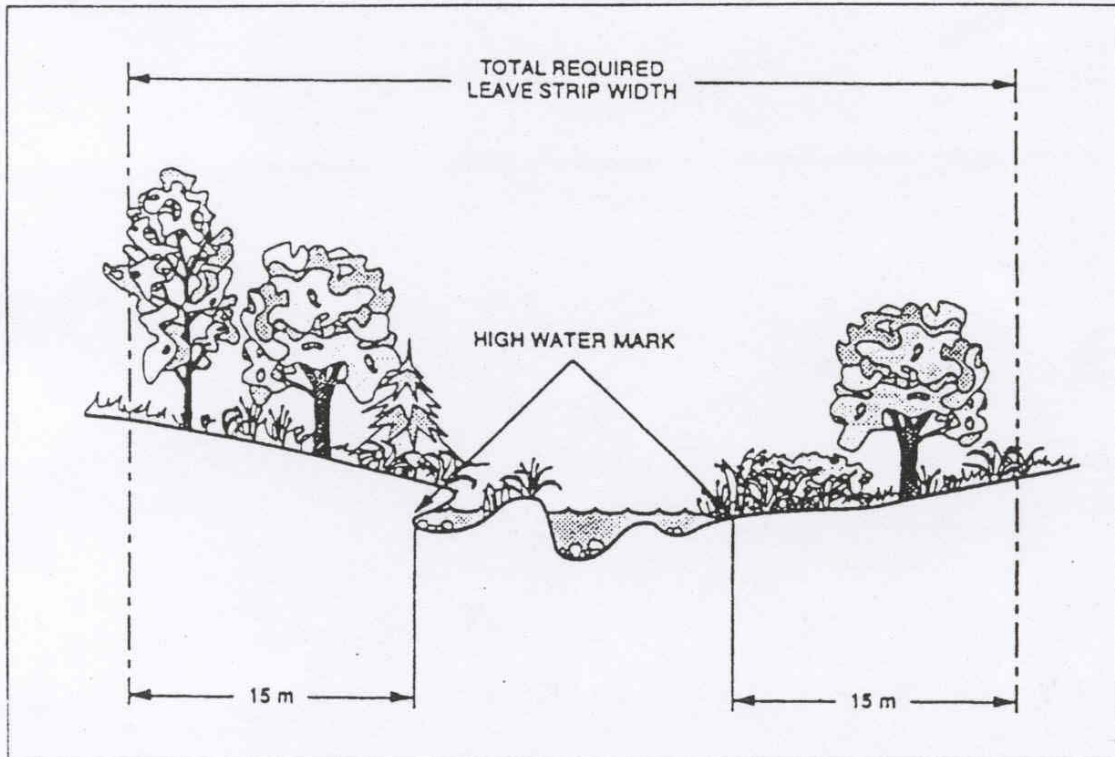
**Watercourse with a well defined high water mark:**

The minimum leave strip width on each side of the watercourse should be 15 metres (49.2 feet) from the high water mark in low density areas. Because of higher utilization of land and development of impervious areas within commercial and industrial areas, the potential for increased impacts can be great. Accordingly, protective leave strips should be widened to provide additional protection. The minimum leave strip width on each side of the watercourse should be 30 metres from the high water mark in commercial and industrial areas.

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APPENDIX II • LEAVE STRIPS



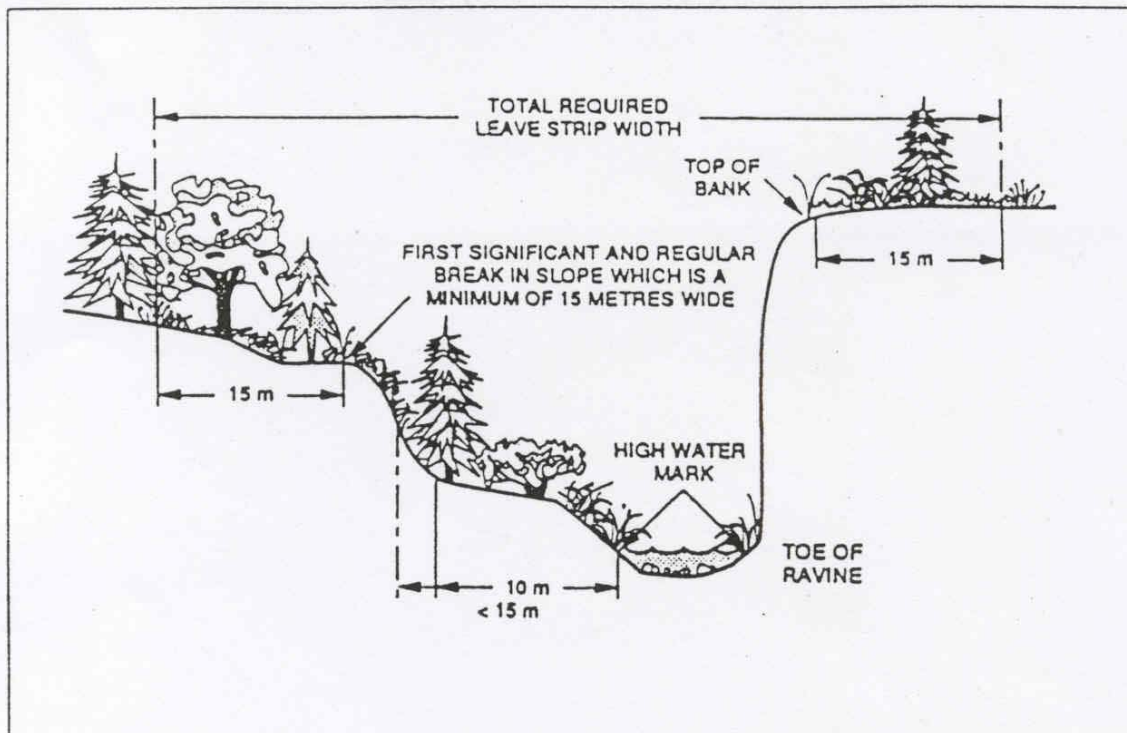
Watercourse with poorly-defined high water mark:

Careful consideration must be given to establishing the existing high water mark in wide flood plain or multi-channel areas, and features such as floating vegetation mats, undercut banks and seasonally dry areas, must be taken into account. These areas usually have high salmonid habitat values and require protection because they are difficult to restore or compensate for if damaged or destroyed. The minimum leave strip width on each side of the watercourse should be 15 metres (49.2 feet) from the high water mark in low density areas and 30.0 metres (98.4 feet) in Commercial and Industrial areas.

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APPENDIX III • LEAVE STRIPS



Watercourse with steeply sloped topography:

Steep slopes adjacent to watercourses have the potential for major adverse effects on aquatic habitat. Major problems are generally due to erosion, gully formation, loss of riparian vegetation and bank instability associated with surface runoff down steep slopes. Additional stream channel instability can cause channel and bank erosion resulting in large-scale mass wasting and sediment inputs to the aquatic habitat. Leave strips at the top of the slopes provide an effective buffer for the entire ravine area and protect the sensitive crest areas. Accordingly, leave strip widths should be maintained at the top of the ravine or steep sloped areas. If the distance from the high water mark to the toe of the slope is less than 15 metres (49.2 feet) then the leave strip should be located at the first significant and regular break in slope which is a minimum of 15 metres wide in Residential areas. In Commercial and Industrial areas, if the distance from the high water mark to the toe of the slope is less than 30 metres (98.4 feet), then the leave strip should be located at the first significant and regular break in slope which is a minimum of 30 metres wide to allow for higher land utilization.

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