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**Public Hearing
Information Package**

October 1, 2018 at 7:00 pm

Sooke Council Chamber
2225 Otter Point Road, Sooke, BC

OCP Text Amendment

Proposed Bylaw:	<i>Official Community Plan Amendment Bylaw No. 724 (400-12), 2018</i>
Zoning Amendment:	The purpose of the <i>Official Community Plan Amendment Bylaw No. 724 (400-12), 2018</i> is to amend Bylaw No. 400, <i>Official Community Plan Bylaw, 2010</i> , to allow for Temporary Commercial Use permits within the Gateway Residential land use designation.

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*Please note that written and verbal submissions will
become part of the public record.*

Printed September 19, 2018

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Notice of Public Hearing

The Council of the District of Sooke will hold a Public Hearing pursuant to the provisions of the *Local Government Act* in the Council Chambers at 2225 Otter Point Road, Sooke, BC on **Monday, October 1, 2018** commencing at **7:00 p.m.**

Application Information:

Bylaw: *Official Community Plan Amendment Bylaw No. 724 (400-12), 2018*

File No: PLN01394

Applicant: **Shawn Driver**

Proposal:

The purpose of the Official Community Plan Amendment Bylaw No. 724 (400-12), 2018 is to amend two parts of the Official Community Plan. Part 5.0 Gateway Residential Land Use Designation and Part 6.0 Temporary Commercial and Industrial Use Permits. The amendment would add text to the above parts of the OCP to allow an application for a temporary use permit for a non-residential use to be applied for in the Gateway Residential areas. This would provide an avenue for existing historic non-conforming non-residential uses that are outside the scope of a home-based business to legally operate on a temporary basis (up to 2 years) if a Temporary Use Permit was approved by Council. The amendment also adds a new Action Item to Part 5 of the OCP stipulating a review is needed for a highway commercial-type land use designation in the area adjacent to Highway 14. This action item acts as direction to staff to consider a new designation along the highway when the OCP is under a full review.

Further Information:

Copies of the bylaw, supporting written reports and any relevant background documentation may be viewed in the "Public Notices" section of the District of Sooke website www.sooke.ca or inspected at the District Municipal Offices at 2205 Otter Point Road, Sooke, BC, between the hours of 8:30 am and 4:30 pm, Monday to Friday (excluding statutory holidays), **commencing September 19 to and including October 1, 2018.**

Public Input:

All persons who believe their interests in property are affected by the proposed bylaw will be afforded an opportunity to be heard at the Public Hearing on the matters contained in the proposed bylaw. Should you have any concerns or comments you wish to convey to Council, please submit in writing by fax to 250-642-0541, email publichearing@sooke.ca or in person to the Corporate Officer at the District Municipal Offices no later than **Monday, October 1, 2018 at 12:00 pm.** Please be advised that submissions to Council will become part of the public record and are subject to disclosure under the *Freedom of Information and Protection of Privacy Act (FOIPPA)*.

NOTE: Council cannot receive further information concerning this application after the Public Hearing has concluded.



DISTRICT OF SOOKE OFFICIAL COMMUNITY PLAN AMENDMENT BYLAW NO. 724

A bylaw to amend the *Official Community Plan Bylaw, 2010*, to allow for Temporary Commercial Use permits within the Gateway Residential land use designation.

The Council of the District of Sooke, in open meeting assembled, enacts as follows:

Citation

1. This bylaw is cited as *Official Community Plan Amendment Bylaw No.724 (400-12), 2018*.

Amendment

2. Bylaw No. 400, *Official Community Plan Bylaw, 2010* is hereby amended as follows:
 - a. Section 5.2.3. *Policies* is amended by inserting a new section (g) as follows and renumbering the subsequent sections.

“g. Permit, by temporary use permit, the continuation of historic non-conforming non-residential uses that are outside the scope of home-based business regulations”.
 - b. Section 5.2.4. *Action Items* is amended by inserting a new section (d) as follows and renumbering the subsequent sections.

“d. Review the need for a highway commercial-type land use designation in the area adjacent to Highway 14 to accommodate historic non-residential land uses and appropriate new non-residential uses”.
 - c. Section 6.0. *Temporary Commercial and Industrial Use Permits* is amended as follows and renumbering the subsequent sections.

“b. Allow a non-residential use in the gateway residential designation in accordance with Policy 5.2.3. (g)”.

READ a FIRST and SECOND time the 17th day of September 2018.

PUBLIC HEARING held the day of , 2018.

READ a THIRD time the day of , 2018.

ADOPTED the day of , 2018.

Maja Tait
Mayor

Carolyn Mushata
Corporate Officer

**Excerpt from the draft Minutes from the Special Council meeting on
September 17, 2018**

12.5. Official Community Plan Amendment Bylaw No. 724 (400-12), 2018 - 5536 Sooke Rd

The Head of Planning provided a PowerPoint presentation and overview of the written staff report, recommending amendments to Part 5.2 Gateway Residential and Part 6 Temporary Commercial and Industrial Use Permits of the *Official Community Plan* (OCP).

The following timeline of events leading to this amendment was provided:

- September 18, 2017 Council issued a Business License to Driver Enterprises.
- October 23, 2017 Business License deemed invalid and revoked.
- Applicant was advised to submit rezoning application to conform with the Zoning bylaw. Upon review of application it was found that the property would not comply with the OCP Gateway Residential designation.

Mayor Tait invited the applicant to present:

- Shawn Driver, applicant, spoke regarding the misdirection he has received from staff and Council over the years and his understanding that the property is lawfully non-conforming. Mr. Driver informed Council that he has taken every avenue directed by Council and staff of the District of Sooke, has approval from the Department of Highways for commercial access and pays industrial/commercial taxes for his business.

Council Discussion:

- Identified that there are many Sooke businesses operating without a Business License and last year a resolution was passed directing the District not work with businesses that do not hold a valid Business License.
- Contradictions with the OCP, which is dated but is still the guiding vision of the community vision.
- Concerns with temporary-use and the longevity it would allow for operations already working outside the parameters set in the OCP and Zoning bylaws.
- This issue affects a number of businesses, it is not an isolated problem and requires an in-depth review, not just singling out one property.

In response to a question from Council, the applicant stated he had not received a cease and desist letter from the District.

The Corporate Officer informed Council a letter from the then Municipal Planner was sent to Mr. Driver advising his welding business was not permitted in the zone and was told to cease and desist.

MOVED by Councillor Berger, seconded by Councillor Kasper:

THAT Council provide a site-specific exemption, with a text amendment to the *Official Community Plan*, for the property located at 5536 Sooke Road. With a clause inserted in Part 5.2.3. Policies that legally describe the site and state all existing uses as named are permitted either by Temporary Use Permit or site-specific zoning amendment, in the Gateway Residential area.

DEFEATED.

Opposed: Mayor Tait, Councillor Berger, Councillor Kasper, Councillor Logins, Councillor Parkinson, and Councillor Pearson **Absent:** Councillor Reay

Further Council discussion:

- Delaying the issue is not solving the problem and a solution needs to be identified.
- Public notification is not required in this instance as the amendment affects more than 10 properties with more than 10 owners.
- Noting that Sooke bylaw enforcement is complaint driven There is a 2-year limit associated with the issuance of a temporary use permit and an option to renew for an additional two years.
- The Public Hearing will be at the October 1, 2018 Regular Council meeting.

MOVED by Councillor Kasper, seconded by Councillor Parkinson:

THAT Council give First reading to *Official Community Plan Amendment Bylaw No. 724 (400-12), 2018*, to amend Part 5.2 Gateway Residential and Part 6 Temporary Commercial and Industrial Use Permits of the *Official Community Plan*.

CARRIED.

In Favour: Councillor Berger, Councillor Kasper, Councillor Parkinson, and Councillor Pearson

Opposed: Mayor Tait and Councillor Logins **Absent:** Councillor Reay

MOVED by Councillor Kasper, seconded by Councillor Parkinson:

THAT Council give Second reading to *Official Community Plan Amendment Bylaw No. 724 (400-12), 2018*, to amend Part 5.2 Gateway Residential and Part 6 Temporary Commercial and Industrial Use Permits of the *Official Community Plan*.

CARRIED.

In Favour: Councillor Berger, Councillor Kasper, Councillor Parkinson, and Councillor Pearson

Opposed: Mayor Tait and Councillor Logins **Absent:** Councillor Reay

MOVED by Councillor Berger, seconded by Councillor Parkinson:

THAT a Public Hearing be scheduled for *Official Community Plan Amendment Bylaw No. 724 (400-12), 2018* in accordance with section 466 of the *Local Government Act*.

CARRIED.

In Favour: Councillor Berger, Councillor Kasper, Councillor Parkinson, and Councillor Pearson

Opposed: Mayor Tait and Councillor Logins **Absent:** Councillor Reay



OCP Amendment Bylaw - 5536 Sooke Rd

RECOMMENDATION:

That Council give first and second reading to *Official Community Plan Amendment Bylaw No. 724 (400-12)*, 2018 to amend Part 5.2 Gateway Residential and Part 6 Temporary Commercial and Industrial Use Permits of the Official Community Plan and;

AND THAT a Public Hearing be scheduled for *Official Community Plan Amendment Bylaw No. 724 (400-12)*, 2018 in accordance with Section 466 of the *Local Government Act*.

Report Summary:

The applicant, Shawn Driver was provided the opportunity, by Council, to enter into the rezoning application process to attempt to legalize his existing business operation at 5536 Sooke Road. A rezoning and Official Community Plan (OCP) amendment application was submitted and early in the review process it was determined the rezoning would not comply with the current OCP. The OCP amendment portion of the application was specific to a map amendment. The map amendment is being addressed through a separate report as a housekeeping item. Additional text amendments are required for the OCP and are being addressed through this report. Staff considered multiple options while reviewing the application and has determined that the best course of action is to recommend an amendment to two separate sections of the OCP.

The Gateway Residential Land Use Designation (Part 5) and the Temporary Use Permit (Part 6) sections of the OCP are being proposed for textual amendments. The OCP amendments alone will not normalize/legalize the existing operations at 5536 Sooke Road but rather provide a legal avenue for the property owner and potentially other property owners in the area to apply to Council for a Temporary Use Permit to legally operate until such time as a new OCP is adopted that accounts for existing non-conforming uses. Currently, the OCP does not allow Temporary Use Permits in residentially zoned areas, thus the need for the amendment. The proposed amendments, if adopted, will allow the applicant to apply to Council for temporary use of the site for up to two years for the existing business. Council will have the ability to apply conditions to the Temporary Use Permit specific to how the business operates which could alleviate concerns around impacts to neighbouring properties.

It is staff's opinion that through a full review of the OCP, the District (Council and the community) would have the opportunity to review the Gateway Residential area and properly consider all existing businesses that may not conform to the District's current bylaw's and policies. The OCP review process is anticipated to take approximately 1

year. The Temporary Use Permit, if granted by Council, allows a business to operate until more strategic decisions can be made about the area as a whole. Should the OCP review not be completed within 2 years, Council has the authority to issue a Temporary Use Permit for an additional 2 years. No further extensions can be provided beyond the additional 2 years.

Previous Council Action:

September 18, 2017 - Council issued a business license to Driver Enterprises for the purposes of fabrication and welding repairs, automotive repairs and sales. See Attachment 2 for Council minutes.

October 23, 2017 - A report for information was received by Council addressing delegated authority for business licenses. As a result the license issued by Council on September 18th, 2017 was deemed invalid and Mr. Drivers was notified that a rezoning application would be required and must be approved by Council before a business license could be issued. The business has continued operating throughout this time. See Attachment 3 for Council report.

Report:

Alternative options considered:

Option 1 - Recommend refusal of the application on the following grounds:

The proposed zone Service Commercial C3 does not comply with the Gateway Residential land use designation in the OCP. Gateway Residential limits commercial development to neighbourhood commercial uses such as gas stations, convenience stores, pub's, restaurants, veterinary clinics to name a few. These are considered uses that support the local neighbourhood and passer by traffic. An example of a more appropriate zone would be the Neighbourhood Commercial (C1) district. The problem with the C1 zone is it does not include the uses the applicant wished to make legal; Welding and fabricating, vehicle sales, machine shop, unenclosed storage and vehicle repair. Those uses are found only in the Service Commercial C3 and some in the General Industrial M2 zones.

A refusal would not address the applicants need to continue to operate legally and obtain the appropriate insurance and also does not encourage Council to have an in depth discussion about the greater vision for the Gateway Residential area. Staff met with the applicant and advised them of the fact that C3 can not be supported. We spoke about the different options and they were in agreement that the recommended option seemed the most logical and supported staff moving forward. Therefore a refund of the rezoning portion of the application has been processed and rezoning is no longer included as part of this application.

Option 2 - Official Community Plan amendment to the Gateway Residential designation with the focus of creating a new Highway Commercial designation:

This option would involve lengthy public engagement with all of the businesses and residents of the Gateway Residential area and would begin prior to Council approval for a review of the entire OCP. It was staff's opinion that this would be premature given the

expectation that early in 2019 staff would be engaging a consultant to undertake the full review of the OCP. The engagement would likely overlap with consultant work.

This option provides no certainty to the applicant that they would have the ability to obtain a business license and the associated insurance in a reasonable period of time.

Option 3 - Site specific exemption in the Official Community Plan

In this iteration, Council would consider a text amendment to the OCP that addresses 5536 Sooke Road specifically. A clause would be inserted in Part 5.2.3 Policies that legally describes the site and states that all existing uses as named are permitted either by Temporary Use Permit or by site specific zoning amendment, in the Gateway Residential area. Then a rezoning application or Temporary Use Permit would later be submitted and considered by Council.

This is a legal option, but, is not considered good governance nor good planning. This option does not address other historic land uses in the same area that may not conform to the Sooke Zoning Bylaw and the OCP. It also has the appearance of Council being partial to a single business owner versus taking into account the interests of the larger community.

Option 4 - Text amendment to Part 5.2 Gateway Residential and Part 6 Temporary Use Permit (Recommended Option)

Amend Part 5.2.3 Policies to: permit, by temporary use permit, the continuation of historic non-conforming non-residential uses;

Amend Part 5.2.4 Action Items, to include the following additional action: review the need for a highway commercial-type land use designation in the area adjacent to Highway 14 to accommodate historic non-residential land uses and appropriate new non-residential uses; and

Amend Part 6 Temporary Commercial and Industrial Use Permits to include: allowing a non-residential use in the gateway residential designation in accordance with Policy 5.2.3.g (that which refers to temporary use permits).

If this option were adopted, the applicant would then apply for a Temporary Use Permit (see Attachment 4) for the existing uses and any other uses they wish to gain approval for on a temporary basis. A Temporary Use Permit would not allow the construction of new permanent structures but could allow construction of new temporary structures. The permit would be reviewed by Council and issued by resolution. Council has the authority to include conditions on the approval of a Temporary Use Permit restricting how the business operates and/or the aesthetic of the site. This provides an opportunity to address neighbourhood concerns or complaints while still allowing the business to obtain a business license and the appropriate insurance. A Temporary Use Permit may only be granted for a term of 2 years and may be renewed only once for another 2 years. Council could also decide to grant a permit for less than 2 years if they see fit.

This option is not specific to 5536 Sooke Road as it takes into account a general recognition of other non-conforming uses in the area and therefore provides an avenue for those businesses to also become legal for a temporary period of time.

This option buys time for a full review of the OCP in 2019. The OCP review will include a vetting of all of the Action Items in our current OCP as a guide for the scope of work to be undertaken. The recommended bylaw includes an added Action Item to Part 5.2.4 directing staff to review the need for highway commercial-type land use designation in the area adjacent to Highway 14 to accommodate existing and appropriate new non-residential uses. When the full review begins it will involve extensive engagement with everyone potentially impacted in the Gateway Residential area.

Legal Impacts:

Legal advice regarding the proposed OCP amendment was provided in support of the recommended option.

Attached Documents:

[Attachment 1 - Bylaw 724 \(400-12\)-2018-OCP Amendment - Gateway Residential and Temporary Use Permits](#)

[Attachement 2 - 18 Sep 2017 - Minutes - Driver BL](#)

[Attachment 3 - Council Report Re - Business Licence for Driver Enterprises - 5536 Sooke Road](#)

[Attachment 4 - Temporary Industrial Commercial Use Permit Form](#)



DISTRICT OF SOOKE OFFICIAL COMMUNITY PLAN AMENDMENT BYLAW NO. 724

A bylaw to amend the *Official Community Plan Bylaw, 2010*, to allow for Temporary Commercial Use permits within the Gateway Residential land use designation.

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1. This bylaw is cited as *Official Community Plan Amendment Bylaw No.724 (400-12), 2018*.

Amendment

3. Bylaw No. 400, *Official Community Plan Bylaw, 2010* is hereby amended as follows:
 - a) Section 5.2.3. *Policies* is amended by inserting a new section (g) as follows and renumbering the subsequent sections.

“g. Permit, by temporary use permit, the continuation of historic non-conforming non-residential uses that are outside the scope of home-based business regulations”.
 - b) Section 5.2.4. *Action Items* is amended by inserting a new section (d) as follows and renumbering the subsequent sections.

“d. Review the need for a highway commercial-type land use designation in the area adjacent to Highway 14 to accommodate historic non-residential land uses and appropriate new non-residential uses”.
 - c) Section 6.0. *Temporary Commercial and Industrial Use Permits* is amended as follows and renumbering the subsequent sections.

“b. Allow a non-residential use in the gateway residential designation in accordance with Policy 5.2.3. (g)”.

READ a FIRST and SECOND time the day of , 2018.

PUBLIC HEARING held the day of , 2018.

READ a THIRD time the day of , 2018.

ADOPTED the day of , 2018.

Maja Tait
Mayor

Carolyn Mushata
Corporate Officer

4.2. **Business Licence Request**

Mr. Driver requested a valid business licence be issued to Driver Enterprises, which is a legal non-conforming business that operates on his residential property, in the District of Sooke. Mr. Driver provided an overview of the differences in taxes he has paid; the change by BC Assessment Authority from light-industrial to commercial business and the requirement of a valid business license by his insurance agency and various suppliers.

2017-378

MOVED by Councillor Pearson, seconded by Councillor Logins:

THAT Council direct staff issue a business licence to Driver Enterprises Limited.

CARRIED.

In Favour: Mayor Tait, Councillor Kasper, Councillor Logins, Councillor Parkinson, Councillor Pearson, and Councillor Reay

Opposed: None

Absent: Councillor Berger

2017-379

MOVED by Councillor Kasper, seconded by Councillor Pearson:

THAT Council direct staff to issue business licences to all legal non-conforming businesses, when such applications for licenses are made.

2017-380

MOVED by Councillor Logins, seconded by Councillor Kasper:

THAT the motion (2017-379) be postponed until the next council meeting to receive a staff report.

CARRIED.

In Favour: Mayor Tait, Councillor Logins, Councillor Parkinson, and Councillor Reay

Opposed: Councillor Kasper, Councillor Pearson

Absent: Councillor Berger



Business Licence for Driver Enterprises - 5536 Sooke Road

RECOMMENDATION:

THAT Council receive the report for information.

Report Summary:

Council issued a business licence to Driver Enterprises on September 18, 2017. As Council has delegated the authority for issuing licences to the Licence Inspector, Council did not have the authority to issue the licence and it is deemed invalid.

Previous Council Action:

Council issued a business license to Driver Enterprises at the September 18, 2017 for the purpose of fabrication and welding repairs, automotive repairs and sales.

Report:

Council has delegated the power to issue a business license to the License Inspector under section 3(a) of Business Licence Bylaw No. 301. As such, Council does not have the authority to issue a business licence. Council's involvement in business licensing is limited to hearing an appeal of a refusal or cancellation decision by the Licence Inspector. This authority is delegated to the Licence Inspector under section 12 of the Business Licence Bylaw. Additionally, section 4(a) of the Bylaw provides that a business owner must comply with all District bylaws, including the zoning bylaw, and provincial enactments.

A history of the permitted land uses has been conducted on the subject property located at 5536 Sooke Road. When the District of Sooke incorporated in 1999, it adopted CRD Sooke Land Use Bylaw 2040 which indicates the subject property was zoned AG - Agricultural Zone and the permitted uses were agricultural in nature but included Home Occupation Categories, One, Two and Three. The definition of Home Occupation in the CRD Sooke Land Use Bylaw 2040 specifically excludes Vehicle and/or Equipment Repair on lots of less than 1 ha, body shops or metal fabricating. An excerpt of the bylaw detailing permitted uses in Bylaw 2040 and the definition of Home Occupation are included as Appendix A .

In 2004, the District adopted Zoning Bylaw 270 with the subject property being zoned RU3 - Agricultural Zone with similar uses. The bylaw did change the definition of Home Based Business to mean an occupation, business, craft or profession conducted for revenue generation, which is carried on as an accessory use in a dwelling unit or accessory building to the dwelling unit and which generates little or no traffic, noise or impact upon the nature of a residential building. Additionally, home based business regulations were included in the bylaw, many of which this land use was or would have

been in direct violation of. An excerpt of the bylaw detailing permitted uses in Bylaw 270 and the Home Based Business regulations specific to Bylaw 270 are included as Appendix B.

In 2013, the current Zoning Bylaw 600 was adopted with the subject property zoned RU3 - Small Scale Agriculture with similar uses as above. The home based business regulations in Bylaw 600 are also similar to those contained in Bylaw 270. Excerpts of these details of Bylaw 600 are included as Appendix C.

The type of business for which the applicant sought a business licence (fabrication and welding repairs, automotive repairs and sales) has never been a permitted use under the zoning bylaw and therefor is not deemed to be lawfully non-conforming. The use has also never been permitted through a Temporary Use Permit. The result is that the business is in violation of section 4(a) of the Business Licence Bylaw and cannot be issued a business licence.

As Council did not have the authority to issue a business licence, the business licence issued to Driver Enterprises on September 18, 2017 is invalid. The business owner has been advised of such and of the appeal process.

Strategic Relevance:

Excellence in Governance and Management - focus on good governance.

Attached Documents:

[5536 Sooke Road - APPENDIX A](#)

[5536 Sooke Road - APPENDIX B](#)

[5536 Sooke Road - APPENDIX C](#)

[Business Licence Bylaw No. 301 - Consolidated](#)

APPENDIX A
EXCERPTS FROM CRD BYLAW 2040

4.0 AGRICULTURAL ZONE - AG

4.01 Permitted Uses

In addition to the uses permitted in Section 4.15 of Part 1 of this Bylaw, the following uses and no others shall be permitted in the Agriculture AG Zone:

- (a) Agriculture
- (b) Intensive Agriculture
- (c) One-family dwellings
- (d) Home Occupation Categories One, Two and Three
- (e) Farm Buildings
- (f) One travel trailer or one camper may be permitted in conjunction with a permitted residential use on a lot, which may be used but not rented for the temporary accommodation of guests or visitors;
- (g) Accessory uses such as on-site logging, and pole- or post- or shake-cutting, from trees grown on the lot
- (h) Two boarders or Lodgers
- (i) One additional one-family dwelling for farm employees subject to section 4.07 below (BYLAW 143)

HOME OCCUPATION means an occupation, craft, or profession conducted for gain, either (a) in or from a dwelling unit by the resident, which is incidental to the residential use of the dwelling unit, or (b) from an accessory building as permitted elsewhere in this Bylaw, or both; specifically excludes Restaurants, (except seasonal tea gardens in Category 3), Retail Stores, Vehicle and/or Equipment Repair on lots of less than 1 ha, Kennels, body shops or metal fabricating, any occupation or use requiring a waste management permit. (BYLAW2603)

APPENDIX B
EXCERPTS FROM BYLAW 270

7.3 *Agricultural Zone – RU-3*

This zone is intended to apply to large tracts of agricultural land within the District of Sooke.

Subject to compliance with the general requirements in Parts 4 and 5, the following regulations shall apply in the RU-3 zone.

7.3.1 *Permitted Uses**

- a. Agriculture;
- b. Agriculture – intensive;
- c. Aquaculture;
- d. Boarding and lodging;
- e. Bed and breakfast;
- f. Home-based business;
- g. One single family dwelling or one duplex per lot;
- h. One small suite or one secondary suite per dwelling unit;
- i. One additional single family dwelling for farm employees as per the provisions of the Agricultural Land Commission Act;
- j. Silviculture;
- k. Vacation accommodation unit.

** May be subject to approval by the Provincial Agricultural Land Commission.*

HOME BASED BUSINESS means an occupation, business, craft, or profession conducted for revenue generation, which is carried on as an *accessory use* in a *dwelling unit* or *accessory building* to the *dwelling unit* and which generates little or no traffic, noise or impact upon the nature of a residential *dwelling*;

5.15 *Home Based Business Regulations*

- a. The *home-based business use* shall only be conducted by a resident on the *lot* and shall not employ more than two additional non-resident persons on a *lot*;
- b. The *home-based business use* shall not involve exterior storage or display of any material or equipment associated with the *home-based business*;
- c. The maximum *floor area* that may be used for *home-based business use*, including *office space*, storage, processing or sale, shall not exceed 50 m² or 40% of the *floor area* of the *dwelling* on the *lot*, whichever is less;
- d. [The *home-based business use* shall not produce any hazard, offensive odour, noise, dust, smoke, glare, toxic or noxious matter, heat, electrical interference, fire hazard, litter, additional waste, floodlighting, vibration, excessive customer or service traffic, or create a nuisance of any kind other than that normally associated with a *dwelling* or *residential use*, and in particular:
 - i. No *home-based business* shall generate sound from machinery that is audible at the *lot line* of the *lot* on which the *home-based business* is located;
 - ii. No *home-based business* shall generate more than ten (10) motor vehicle trips per day;
 - iii. All *parking* associated with the *home-based business use* shall be contained on the *lot*;

- e. The *home-based business use* shall be clearly subservient and incidental to the use of the *dwelling unit* for *residential* purposes and to the *residential* use of the *lot* on which the *dwelling* is located;
- f. The *home-based business use* shall be conducted entirely within a *dwelling unit* or within a permitted *accessory building*;
- g. There shall be no variation of the external *residential* appearance of the land and premises in which the *home-based business* is carried on except that:
 - i. One non-illuminated sign per *lot* shall be permitted and shall not exceed 0.4 m² in sign area;
- h. All articles sold through a *home-based business* shall be produced on the *lot* and no retail activity of any other materials or goods shall occur except that articles manufactured off site may be sold through a *home-based business* in an office setting provided that all distribution of articles is carried out off site by persons employed in the *home-based business*;
- i. The *home based business* shall not be operated in a manner that generates more than two client visits at any one time or more than 10 client visits per day;
- j. No more than one identifiable commercial utility trailer nor one commercial vehicle shall be stored or parked on a lot or the adjacent roadway at one time in connection with the operation of the business;
- k. Any *home based business use* must comply with all municipal, regional, provincial and federal, and all environmental protection regulations;
- l. No off-site *parking* shall be permitted;
- m. The following uses are prohibited as a *home based business*:
 - i. Auto repair on lots 2,000 m² in area or smaller;
 - ii. Auto repair outside of an enclosed *building*;
 - ii. Heavy equipment repair;
 - iii. Autobody work;
 - iii. Welding or steel manufacturing;
- n. Off-site parking is not permitted in relation to the operation of a *home-based business*.

APPENDIX C

EXCERPTS FROM BYLAW 600

Schedule 103 – Small Scale Agriculture (RU3)

Small Scale Agriculture

RU3

103.1 Purpose: This zone is intended to provide for small scale agricultural uses of land within the District of Sooke.

103.2 Permitted Uses: (may be subject to approval by the Provincial ALC)

Principal Uses:

- a) Agriculture
- b) Agriculture – intensive *
- c) Aquaculture
- d) One single family dwelling or duplex per lot

**See conditions of use.*

Accessory Uses:

- e) Bed and breakfast
- f) Boarding and lodging
- g) Home-based business
- h) One additional dwelling unit for farm employees may be permitted per the provisions of the *Agricultural Land Commission Act* or one small suite on a lot with a single family dwelling providing the land is not in the Agricultural Land Reserve
- i) One secondary suite on a lot with a single family dwelling
- j) Vacation accommodation unit

4.3 Home Based Business Regulations

- a) The home-based business use shall only be conducted by a resident on the lot and shall not employ more than two additional non-resident persons on the lot.
- b) The home-based business use shall not involve exterior storage or display of any material or equipment associated with the home-based business.
- c) The maximum floor area that may be used for home-based business use, including office space, storage, processing or sale, shall not exceed 50 m² or 40% of the floor area of the dwelling on the lot, whichever is less.
- d) The home-based business use shall not produce any hazard, offensive odour, noise, dust, smoke, glare, toxic or noxious matter, heat, electrical interference, fire hazard, litter, additional waste, floodlighting, vibration, excessive customer or service traffic, or create a nuisance of any kind other than that normally associated with a dwelling or residential use.
- e) All parking associated with the home-based business use shall be contained on the lot.
- f) The home-based business use shall be clearly subservient to the use of the dwelling unit for residential purposes and to the residential use of the lot on which the dwelling is located.
- g) The home-based business shall be conducted entirely within a dwelling unit or a permitted accessory building, with the exception of a children's daycare which may use an outdoor play area.
- h) There shall be no variation of the external residential appearance of the land and premises in which the home-based business is carried on except that one (1) non-illuminated sign per lot shall be permitted.
- i) All articles sold through a home-based business shall be produced on the lot and no retail activity of any other materials or goods shall occur except that articles manufactured off site may be sold through a home-based business in an office setting provided that all storage and distribution of articles is carried out off site by persons employed in the home-based business. These articles may be available for viewing on the lot.
- j) The home based business shall not be operated in a manner that generates more than two client visits at any one time or more than 10 client visits per day, with the exception of community care facilities.
- k) No more than one commercial utility trailer or commercial vehicle shall be stored or parked on a lot or the adjacent roadway at one time in connection with the operation of the business.
- l) Any home based business use must comply with all municipal, regional, provincial and federal, and all environmental protection regulations.
- m) The following uses are prohibited as a home based business:
 - i. Auto repair on lots 2,000 m² in area or smaller;
 - ii. Auto repair outside of an enclosed building;
 - iii. Heavy equipment storage and repair;
 - iv. Autobody work;
 - v. Welding or steel manufacturing.



DISTRICT OF SOOKE

BYLAW No. 301

CONSOLIDATED FOR REFERENCE

APRIL 3, 2009

BYLAW NO. 301, *BUSINESS LICENCE BYLAW, 2007*

BYLAW NO. 394, *BUSINESS LICENCE AMENDMENT BYLAW, (301-1)*

THIS BYLAW IS PROVIDED FOR REFERENCE PURPOSES ONLY AND IS NOT TO BE RELIED UPON IN MAKING FINANCIAL OR OTHER COMMITMENTS. COPIES OF THE ORIGINAL BYLAW AND AMENDMENTS MAY BE VIEWED AT THE DISTRICT OF SOOKE MUNICIPAL HALL.

A bylaw respecting licences for carrying on business within the District of Sooke and for fixing the fees for such licences.

The Council of the District of Sooke, in open meeting assembled, enacts as follows:

1. This Bylaw is cited as Bylaw No. 301, *Business Licence Bylaw, 2007*.
2. For the purpose of this bylaw, unless the context otherwise requires:

Act means the *Community Charter* as amended from time to time;

Agent means a person or persons who act(s) on behalf of another person or persons by authority from them to do business within the District of Sooke and who charges or receives a commission or other payment for so doing;

Business means the carrying on of a commercial or industrial undertaking of any kind or nature or the providing of professional, personal, or other service for the purpose of gain or profit, but does not include any activity carried on by the government, its agencies or government owned corporations, or by a charitable, non-profit, philanthropic or religious

organization where the whole of the proceeds of the activity are used solely for charitable, philanthropic or religious purposes;

Commercial means any Business other than a Business for which a Home Based, Inter-municipal, Daily, Non-resident, Direct Seller or Peddler Licence is required;

Contractor includes any person who undertakes to do or perform any work or service at a certain price or rate or for a fixed sum, except where such work or service is specifically defined in this bylaw and any person who takes out more than one building permit in any one calendar year for the construction of new residences and/or alterations to existing buildings;

Council means the Council of the District of Sooke;

Daily Licence means a one-day Business Licence required for craft fairs, exhibitions or other itinerant shows, entertainment or special events;

Direct Seller except where otherwise defined means a person personally selling, soliciting or canvassing for the sale of books, magazines, or periodicals, whether of an educational nature or not, or the sale of any goods, wares or merchandise, or contracts for repairs, renovations or other work or like nature, either on his own behalf or as an agent for another, from door to door within the District of Sooke;

Home Based Business means a Business carried on as a home occupation, accommodation rental, business, craft or profession conducted for revenue generation, which is clearly incidental to the use of a dwelling unit for residential purposes, or to the residential use of a lot occupied by a dwelling unit;

Intermunicipal Business Licence Agreement means the agreement attached to and forming part of Bylaw No. 46, *Intermunicipal Business Licence Agreement Bylaw* and amendments;

Intermunicipal Licence means a business licence issued by the Licence Inspector of the District of Sooke or another participating Municipality, to carry on business within the boundaries of any participating municipality, and issued pursuant to the Greater Victoria Intermunicipal Business Licence Agreement;

Licence means a licence to carry on business in the District of Sooke issued pursuant to this bylaw;

Licence Inspector means a person appointed by Council to serve as the Licence Inspector for the District of Sooke and also any duly authorized representative lawfully acting in that capacity;

Participating Municipality means a municipality which is a party to the Intermunicipal Business Licence Agreement and standardization of Business Licence fees;

Peddler means a person who offers for sale along the street or on any predetermined route of regular customers, any fresh produce, dairy food, confections, fish and kitchenwares;

Person shall include a corporation, partnership, proprietorship, firm and the personal or other legal representative of a person to whom the context may apply under this bylaw;

Resident Business means a business carried on, in or from premises within District of Sooke;

Non-Resident Business means a business, other than a resident business, carried on within the District of Sooke or with respect to which any work or service is performed within the District of Sooke.

Street Market means a seasonal market held on property zoned for that purpose as regulated by the Sooke Zoning Bylaw, at which a Business may display and sell wares and services with a valid Business License issued by the District of Sooke.

Trade Qualification means written evidence that a person has completed an apprenticeship or is certified for a specific trade with the Ministry of Advanced Education, Training and Technology

3. (a) Subject to the applicable section of the *Community Charter*, no person shall carry on within the District of Sooke, any business unless he or she is the holder of a valid and subsisting Licence issued to him or her under this bylaw by the Licence Inspector, or a valid and subsisting Intermunicipal Licence, and shall pay in advance therefore to the District of Sooke the Licence fee specified in Schedule A attached hereto and made part of this bylaw and it shall be incumbent upon each person to renew such licence prior to the beginning of each licencing period as long as such business is being carried on. Those categories of Businesses set out in Schedule A to this bylaw are established as categories of Businesses for the purposes of this bylaw.

(b) Notwithstanding Section 3(a), no Licence is required for:

- (i) any performance, concert, exhibition or entertainment; or
- (ii) community events that utilize municipal property or facilities or the Elementary and Secondary Schools.

the entire proceeds of which, above actual expenses, are devoted to any charitable purpose;

c) With written approval from the District of Sooke, a person or business may operate on municipal property, including but not limited to wharf facilities, parks, boulevards, streets and roads. Any person or business seeking a licence to conduct business on municipal property must obtain liability insurance in the amount of Two Million Dollars (\$2,000,000.00) for personal injury, death and property damage; as well as (if applicable) vehicle insurance. The liability insurance must contain a clause indemnifying the District of Sooke from liability in the event of injury or damage being done to any person or property as a result of any activity of the business, and contain a clause that the insurance cannot be terminated without a thirty day notification of such to the District of Sooke. Proof of such insurance must be submitted to the satisfaction of the Director of Finance or Licence Inspector prior to the granting of a License.

4. The Licence Inspector shall have power to grant issue or transfer licences as hereinafter provided and subject to the provisions of the appropriate sections of the *Community Charter* and amendments thereto.
4. (a) The issuance of a Licence shall not be deemed to be a representation or warranty by the District of Sooke that the Business or proposed Business complies with any or all applicable bylaws or enactments. The Business owner remains responsible to ensure compliance with all bylaws and enactments. (amended by Bylaw No. 394 March 16, 2009)
5. The application for a Licence for the first time shall be in the form or forms prescribed from time to time by the Licence Inspector. The application shall be completed by the owner of the business or his duly authorized agent, provided that in the case of partnerships or multiple owners, any one of such owners or partners may apply and such owner or partner applying shall be deemed to be the only authorized agent of all the owners or partners.
- (a) The duly completed application form shall be provided to the Licence Inspector and shall be accompanied by the fee specified in Schedule A to this bylaw.

- (b) The application form may be accompanied by appropriate plans and layouts of the resident business indicating Building Code and bylaw compliance and square footage.
 - (c) The Licence Inspector is hereby authorized to modify the forms prescribed, or any of the administrative procedures prescribed as deemed necessary by him when dealing with any owner applying for licences for more than one business.
- 6. Any person applying for a Business Licence in an occupation that is within the jurisdiction of the *Ministry of Advanced Education, Training and Technology* must present proof of Trade Qualification at the time of application.
- 7. An application for a Licence to carry on a type of business listed in Schedule B shall be treated as an application for an Intermunicipal Business Licence and the Licence Inspector shall only issue an Intermunicipal Business Licence in respect of such business if its principal office is located in the District of Sooke.
- 8. All Intermunicipal Business Licences issued by the participating municipalities are subject to all bylaws within the jurisdiction in which they are working.
- 9.
 - (a) Except as hereinafter provided, licences issued hereunder shall be annual Licences for the period January 1st to December 31st in each and every year, and no proportionate reduction shall be made on account of any person commencing or ceasing to do business at any particular time, PROVIDED HOWEVER that the Licence fee prescribed shall be reduced by one-half in respect of a person who becomes liable to be licenced after the thirty-first day of July in any year.
 - (b) A Business Licence must be prominently displayed in the sales or reception area of a premise to which the public has access. A business that holds an Intermunicipal Business Licence must at all times keep its Business Licence or legible copy thereof.
 - (c) The period for a Licence with respect to a craft fair, exhibition or other itinerant show or entertainment shall be one day when held elsewhere than in a licenced theatre or other licenced place.
 - (d) A Licence for a street market is valid for the year in which the licence is issued and is not subject to a half-year fee if purchased after the thirty-

first day of July in any one year and application shall be for a regular Commercial Licence.

10. (a) No person shall carry on a Resident Business in or from any premises in the District of Sooke other than those specified on a valid and subsisting Business Licence.
- (b) A separate Business Licence shall be obtained in respect of each premise in or from which a Business is carried on.
- (c) No person shall change his place of Business without first obtaining a transfer of his Licence in respect thereto and the particulars of such transfer shall be endorsed on the Licence by the Licence Inspector.
- (d) No person, being the holder of a Non-Resident Business Licence, shall carry on such business in or from premises located within the District of Sooke.
- (e) No person or occupier of a property shall conduct more than three garage sales within one calendar year without first obtaining a Business License. Each such sale shall be not longer than 3 consecutive days.
11. Every Licence shall be considered as a personal licence to the licensee and shall not be transferable to any other person, without approval from the Licence Inspector.
12. The Licence Inspector shall have the power to refuse, suspend or cancel a Licence subject to the provisions of the Act.
13. The Licence Inspector, Building Inspector or Official, Fire Chief, Bylaw Enforcement Officer or any appointed officer of the District of Sooke are hereby authorized to enter at all reasonable times, any house, premise, vehicle or other place in respect of which a licence has been applied for or granted pursuant to this Bylaw, to ascertain whether the regulations and provisions of this, or any other Bylaw or amendments thereto relating to business in the District of Sooke are being observed.
14. The Licence Inspector, Building Inspector or Official, Fire Chief, Bylaw Enforcement Officer or any appointed officer of the District of Sooke are designated to enforce this bylaw pursuant to section 264(1)(b) of the *Community Charter*.
15. Every person who contravenes any provisions of this bylaw commits an offence punishable upon summary conviction and is liable to a fine not exceeding \$10,000.00.

16. If an offence is a continuing offence, each day that the offence is continued constitutes a separate and distinct offence.
17. This Bylaw may be enforced by means of a ticket in the form prescribed for the purpose of section 264 of the *Community Charter*.
18. The words or expressions set forth in Column 1 of Schedule C of this bylaw are authorized pursuant to section 264(1)(c) of the *Community Charter* to designate the offence committed under the bylaw section number appearing in Column 2 opposite the respective words or expressions.
19. The amounts appearing in Column 3 of Schedule C of this bylaw are the fines established by Council pursuant to section 265(1)(a) of the *Community Charter* for the corresponding offence designated in Column 1.
20. If a portion of this Bylaw is for any reason held to be invalid by a decision of a Court of competent jurisdiction, the invalid portion shall be severed and the validity of the remainder shall not be affected.
21. This bylaw shall come into effect on January 1, 2008.
22. Bylaw No. 45, *Intermunicipal Business Licence Bylaw* is hereby repealed on January 1, 2008 except insofar as it repeals any other bylaw.

Introduced and read a first time the 13th day of August, 2007.

Read a second time the 13th day of August, 2007.

Notice pursuant to section 59 of the *Community Charter* given the 5th day of September, 2007.

Public Information Meeting the 10th day of September, 2007

Read a third time the 9th day of October, 2007.

Adopted on the 15th day of October, 2007.

Janet Evans
Mayor

Evan Parliament
Chief Administrative Officer

SCHEDULE A

Business Categories and Fees

Category	Licence Fee
1. Home Based	\$ 50.00
2. Intermunicipal	\$100.00
3. Commercial - <i>Small</i> (464.5 sq.m./5,000 sq.ft.) or less of gross floor area of buildings used for business	\$125.00
4. Commercial - <i>Large</i> (more than 464.5 sq.m./5,000 sq.ft.) of gross floor area of buildings used for business	\$250.00
5. Non-Resident	\$100.00
6. Daily - per day	\$ 50.00
7. Direct Seller	\$ 50.00
8. Peddler	\$ 50.00

SCHEDULE B

Intermunicipal Business Categories *(Includes but not limited to)*

Catering	Handyman Service	Pet Grooming - Mobile
Cleaning Service	Hauling Service	Photographer
Contractor -All Types	Inspection Service	Pickup/Delivery Service
Courier Service	Janitorial Service	Repair Service
Development Company	Limousine Service	Restoration Service
Diver	Locksmith	Security Service
Entertainment Company	Manufacturers Agent	Taxi Service
Fuel Dealer	Mechanic - Mobile	Towing Service
Guide Service	Personal Service	Trucking Service
Hairdresser/Barber - Mobile	Pest Control	
	Pet Sitter	

SCHEDULE C

Municipal Ticket Information Designations

Offence	Bylaw Section No.	Fine
No business licence	3.	Fine equal to double the applicable licence fee
Operating in contravention of Business Licence	10(a)	\$200.00
Failure to notify change of business address	10(c)	\$50.00
Operating under a non-resident Business Licence	10(d)	\$100.00



TEMPORARY COMMERCIAL/INDUSTRIAL USE PERMIT

**** Applicants are advised to consult with Planning Staff before submitting an application.**

This application is submitted for the following:

☐ Temporary Commercial Use Permit

☐ Temporary Industrial Use Permit

DESCRIPTION OF PROPERTY

Street Address: _____

Legal Description: Lot ____ Block ____ Section ____ Plan _____ Except _____

Property Size: _____

APPLICANT'S CONTACT INFORMATION - Please print clearly

<input type="checkbox"/> Check if APPLICANT is the sole OWNER, if not complete <i>Owner's Authorization Form</i> - attached			
Name			
Address	City	Province	Postal Code
Email	Tel	Cell	Fax

DESCRIPTION OF PROPOSED USE: (Attach a separate page if necessary)

PROPERTY DETAILS

Current Zoning: _____ Current OCP Designation: _____

Adjacent Land Uses: N _____ S _____ E _____ W _____

Proposed Timing of Use? _____

Within 800m of an intersection on Sooke Road or West Coast Road? _____

Adjacent to the ALR? _____

Other enactments of the District of Sooke, the Province of British Columbia and the Government of Canada may apply to development affected by this bylaw. Applicants should satisfy themselves that all regulatory requirements affecting their proposal are met.

FREEDOM OF INFORMATION NOTICE: Personal information contained on this form is collected under the *Freedom of Information and Protection of Privacy Act* and will be used for the purpose of processing this application and for municipal statistics. Enquiries about the collection or use of information on this form may be directed to the Deputy Clerk.

FEES

	Application Fee	Fee per Public Hearing
Temporary Use Permit	\$500	+\$1,200
Preparation of covenant or other legal document required under bylaw	+actual cost plus \$100 per document	
Covenant or legal document amendment	\$200 per document	

INFORMATION REQUIREMENTS

Required	May be Required by District Staff
<p>A. STATE OF TITLE CERTIFICATE – Dated within 30 days of the application and include copies of all non-financial charges on title (ie. covenants, easements, right-of-ways, etc.).</p> <p>B. SITE PLAN – Three copies drawn to scale (metric), and one reduced 8.5" x 11" Site Plan, showing:</p> <ul style="list-style-type: none"> • Civic address and legal description • Lot area • Existing roads and access locations & dimensions • Existing and proposed buildings & dimensions • Proposed building elevations (if applicable) • Location of temporary use • Existing and proposed parking, landscaping, signage and lighting • Location of watercourses, steep slopes and statutory right-of-ways • Scale bar and north arrow 	<ul style="list-style-type: none"> <input type="checkbox"/> Archaeology Study <input type="checkbox"/> Traffic Study <input type="checkbox"/> Ecological Study <input type="checkbox"/> Contour Plan <input type="checkbox"/> Stormwater management plan <input type="checkbox"/> QEP report <input type="checkbox"/> Geotechnical Assessment <input type="checkbox"/> Other (description below)

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OWNER'S AUTHORIZATION FORM

All property owners registered on the Certificate of Title must provide written approval to allow the APPLICANT to act on their behalf.

_____, is hereby authorized to act as my agent for the purpose of _____, located at:

Street Address: _____
Legal Description: Lot ____ Block ____ Section ____ Plan _____ Except _____

REGISTERED OWNER 1

Name of Registered Owner: _____
Signature of Registered Owner: _____
Date: _____

REGISTERED OWNER 2

Name of Registered Owner: _____
Signature of Registered Owner: _____
Date: _____

REGISTERED OWNER 3

Name of Registered Owner: _____
Signature of Registered Owner: _____
Date: _____

REGISTERED OWNER 4

Name of Registered Owner: _____
Signature of Registered Owner: _____
Date: _____

Other enactments of the District of Sooke, the Province of British Columbia and the Government of Canada may apply to development affected by this bylaw. Applicants should satisfy themselves that all regulatory requirements affecting their proposal are met.