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**Public Hearing
Information Package**

September 28, 2020 at 7:00 pm
Sooke Council Chambers
2225 Otter Point Road, Sooke, BC

Flood Plain & Steep Slope Development

Proposed Bylaw:	<i>Zoning Amendment Bylaw No. 750 (600-77), 2020</i>
Zoning Amendment:	The purpose of <i>Zoning Amendment Bylaw No. 750 (600-77), 2020</i> is to amend the Part 2 Definitions and Part 3 General sections of the bylaw to provide clarity surrounding the regulations as they pertain to flood plan and steep slope development

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

Printed September 15, 2020



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, September 28, 2020** commencing at 7:00 pm with regard to the following proposed Bylaws.

1) OFFICIAL COMMUNITY PLAN AMENDMENT BYLAW NO. 774 (400-15), 2020
(Official Community Plan Update - Regional Context Statement)

Proposal: The purpose of *Official Community Plan Amendment Bylaw No. 774 (400-15), 2020* is to update the text in Section 4.1 of Official Community Plan Bylaw 400, 2010 relating to the Regional Context Statement.

The Capital Regional District adopted a new Regional Growth Strategy in 2018, which replaced the previous Strategy adopted in 2003. An update to the Regional Context Statement, as per sections 446 and 447 of the *Local Government Act*, is required to ensure it is consistent with the content of the Regional Growth Strategy. The Regional Context Statement identifies how the Official Community Plan addresses the goals of the Regional Growth Strategy, including the two new goals of Climate Action and Food Systems now included in the Strategy.

2) ZONING AMENDMENT BYLAW NO. 750 (600-77), 2020

Proposal: The purpose of *Zoning Amendment Bylaw No. 750 (600-77), 2020* is to amend the Part 2 Definitions and Part 3 General sections of the bylaw to provide clarity surrounding the regulations as they pertain to flood plain and steep slope development.

Further Information:

Copies of the bylaws, 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 a copy can be picked up 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 16, 2020 to and including September 28, 2020.

Public Input:

Due to the current COVID-19 environment, the Province has provided local governments directive in the form of Ministerial Order M192 enabling Councils to hold an electronic Public Hearing. The District is moving forward as per the Provincial directive and will be holding an electronic Public Hearing for these bylaw amendments.

The electronic Public Hearing will follow the same format as an in-person Public Hearing. Public access to Council Chambers is not permitted as physical distancing cannot be achieved for the unknown number of attendees. Meetings may be viewed on the District's live stream webcast at <https://sooke.ca/?p=391>. All persons who believe their interest in property is affected by the proposed bylaw will be given a reasonable opportunity to be heard at the Public Hearing on the matters contained in the proposed bylaw. You may indicate your support or opposition to a Public Hearing item in one of the following ways:

1. Submit written comments to Council

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, September 28, 2020 at 12:00 pm**.

2. Register to Speak Live

You can register to speak live via phone. Once registered, you will be provided with a phone number and instructions to call to join the live meeting. To register to speak live and to receive further instructions, email publichearing@sooke.ca or phone 250-642-1634. The deadline to register to speak live is **Monday, September 28, 2020 at 12:00 pm.**

3. Register to Participate Electronically

If you have a webcam and microphone, you can register to participate via a Microsoft Teams Meeting with a valid email address. Once registered, an invitation to participate will be sent to your email. To register to participate electronically, email publichearing@sooke.ca or phone 250-642-1634. The deadline to register to speak live is **Monday, September 28, 2020 at 12:00 pm.**

Only registered participants will be admitted to the meeting. Please be advised that the opinions you express orally and any 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.

New Floodplain Regulation Bylaw Public Input Opportunity

The Council of the District of Sooke is seeking public input on the District's draft Floodplain Regulation Bylaw No. 773 on **Monday, September 28, 2020** immediately following the Public Hearing. The intent of the bylaw is to address flood hazard management and provide for the Building Official's role with ensuring building safety and hazard mitigation.

A copy of the bylaw may be viewed in the "Public Notices" section of the District of Sooke website www.sooke.ca or a copy can be picked up 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 16, 2020 to and including September 28, 2020.

Due to the current COVID-19 environment, public input will follow the same format as indicated in the above Notice of Public Hearing.

Carolyn Mushata
Corporate Officer



DISTRICT OF SOOKE ZONING AMENDMENT BYLAW NO. 750

A bylaw to amend Bylaw No. 600, *Sooke Zoning Bylaw, 2013* for the purpose of updating the definitions and general regulations related to flood and steep slope.

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

1. This bylaw is cited as *Zoning Amendment Bylaw No. 750 (600-77), 2020*.
2. Bylaw No. 600, *Sooke Zoning Bylaw, 2013*, is amended in “Part 2 DEFINITIONS” by:

- a) amending the following words with new definitions, as provided below:

“AQUACULTURE means the growing and cultivation of aquatic plants, invertebrates such as sea cucumbers, shellfish or fish, for commercial or ecosystem preservation purposes, in any water environment or in man-made containers of water.

HIGH WATER MARK means the Natural Boundary.

SETBACK means the minimum horizontal distance that a use or any part of a building or structure must be setback or separated from a lot line, flood plain, natural boundary or Streamside Protection and Enhancement Area (SPEA).

STRUCTURE means anything which is constructed, erected, or placed, the use of which requires location on the ground or attachment to something having location on the ground, including, but not limited to, satellite dish, antenna, fence, , swimming pools, docks, wharves, canopies, signs and awnings, retaining walls and seawalls, but excluding concrete and asphalt or similar surfacing of a lot, underground utility facilities, landscaping and paving, signs less than 3 meters in height and retaining structures less than 1.2 meters in height.”

- b) adding the following definitions in proper alphabetical order:

“ACTIVE FLOODPLAIN means in relation to a stream the land that is adjacent to the stream, inundated by the 1 in 5 year return period flow of the stream, and capable of supporting plant species that are typical of inundated or saturated soil conditions and distinct from plant species on freely drained upland sites adjacent to the land.

ECOSYSTEM PRESERVATION means to protect or save natural resources or ecosystems for future use and enjoyment.

FORESHORE means the area between the high tide (or natural boundary) and low tide water levels in marine systems, or between seasonal high water and low water levels for lakes.

LOT AREA means the horizontal area within the lot lines of a lot, excluding:

- a) Land covered by a natural body of water;
- b) Land within the powerline right-of-way; and
- c) Land
 - i. on a steep slope where the grade generally exceeds 20%;
 - ii. in a ravine
 - iii. below the top of bank for a river, stream or watercourse.

NATURE CENTRE means a building and/or outdoor space programmed and designed to educate people about nature and the environment.

SEAWALL means a retaining wall or structure, located wholly on private property, which is designed to prevent the erosion of the land located adjacent to the sea, lake, river, watercourse or body of water.

STEEP SLOPE means land, in its natural state, that has a slope angle of 20% or greater.”

3. Bylaw No. 600, *Sooke Zoning Bylaw, 2013*, is further amended in “Part 3 GENERAL REGULATIONS” by:

- a) deleting the sub-heading name and pre-amble to section 3.19 and replacing it with the following:

“3.19 Setback Exemptions

Except where otherwise provided in particular zones, and in section 3.22, the setback requirements of this Bylaw shall not apply with respect to structures listed below; no other features may project into a required setback area.”

- b) adding the words “excluding seawalls.” to the end of 3.19(f).

- c) deleting section 3.22 Setbacks (Water) in its entirety and replacing it with the following:

“3.22 Setbacks (Water)

Notwithstanding any other provision of this Bylaw, no building, recreational vehicle, seawall of any height, any other structure, nor any part thereof shall be constructed, moved, extended or located within:

- a) 15 meters from the natural boundary of the sea; or*
- b) 30 meters from a natural boundary of any lake, river, pond, marsh, stream, watercourse, wetland or source of drinking water. “*

- d) Deleting the sub-heading and pre-amble to section 3.25 and replacing it with the following:

“3.25 Steep Slope Setback

Where the building site is located at the top of a steep slope 20% or greater from horizontal over a run of 15 meters and/or is closer than 15 meters to the natural boundary of the sea or a watercourse, the setback shall be a horizontal distance from the top of bank, or toe of bank if the bank is subject to erosion, equal to 3 times the height of the bank as measured from toe of the bank. “

4. Bylaw No. 600, Sooke Zoning Bylaw, 2013, and amendments thereto, is hereby amended accordingly.

READ a FIRST and SECOND time the 9th day of March, 2020.

PUBLIC HEARING held the day of , 2020.

READ a THIRD time the day of , 2020.

ADOPTED the day of , 2020.

Maja Tait
Mayor

Carolyn Mushata
Corporate Officer

Minutes for the Regular Council Meeting of the District of Sooke - March 9, 2020

10.2. **Flood Plain Regulation Bylaw No. 773 and Zoning Amendment Bylaw No. 750**

The Planner II provided a PowerPoint presentation and overview of the written staff report, identifying several updates and amendments required for the *Flood Regulation Bylaw* and *Sooke Zoning Bylaw*. These include the addition of several definitions and altering existing definitions to ensure consistency, amending the General Regulations within the Zoning Bylaw and removing the site-specific exemption requirement in the *Flood Regulation Bylaw*.

Council Discussion:

- Clarification that seawalls and natural boundary setbacks are for the safety of the waterways and neighboring properties.
- Recreational vehicles parked permanently or for storage, will be assessed individually, as each application will have site specific requirements.
- Desire to hold a public hearing for the *Flood Plain Regulation Bylaw* as this affects the development community and there is concern they were not aware of these changes.
 - The Corporate Officer advised Council that there are no legislative requirements for public input on the *Flood Plain Regulation Bylaw*, suggesting that Council defer third reading and hold additional public comment at a Committee of the Whole meeting.

2020-82

MOVED by Councillor Tony St-Pierre, seconded by Councillor Al Beddows:

THAT Council give First, Second and Third reading to *Flood Plain Regulation Bylaw No. 773, 2020*; TSP - AB

2020-83

MOVED by Councillor Megan McMath, seconded by Councillor Jeff Bateman:

Amendment to Main Motion 2020-82

THAT the motion be amended by removing the word "Third"; and

THAT additional public input be scheduled prior to Third reading.

CARRIED UNANIMOUSLY

In Favour: Mayor Maja Tait, Councillor Jeff Bateman, Councillor Al Beddows, Councillor Dana Lajeunesse, Councillor Megan McMath, and Councillor Tony St-Pierre

Absent: Councillor Ebony Logins

Minutes for the Regular Council Meeting of the District of Sooke - March 9, 2020

The **Main Motion 2020-82**, as amended, was PUT and CARRIED UNANIMOUSLY

In Favour: Mayor Maja Tait, Councillor Jeff Bateman, Councillor Al Beddows, Councillor Dana Lajeunesse, Councillor Megan McMath, and Councillor Tony St-Pierre

Absent: Councillor Ebony Logins

2020-84

MOVED by Councillor Megan McMath, seconded by Councillor Tony St-Pierre:

THAT Council give First and Second reading to *Zoning Amendment Bylaw No. 750 (600-77), 2020*, for the purposes of amending Part 2 Definitions and Part 3 General Regulations.

CARRIED UNANIMOUSLY

In Favour: Mayor Maja Tait, Councillor Jeff Bateman, Councillor Al Beddows, Councillor Dana Lajeunesse, Councillor Megan McMath, and Councillor Tony St-Pierre

Absent: Councillor Ebony Logins

2020-85

MOVED by Councillor Al Beddows, seconded by Councillor Tony St-Pierre:

THAT a Public Hearing be scheduled for *Zoning Amendment Bylaw No. 750 (600-77), 2020*, in accordance with Section 466 of the *Local Government Act*.

CARRIED UNANIMOUSLY

In Favour: Mayor Maja Tait, Councillor Jeff Bateman, Councillor Al Beddows, Councillor Dana Lajeunesse, Councillor Megan McMath, and Councillor Tony St-Pierre

Absent: Councillor Ebony Logins



Zoning Bylaw and Flood Plain Regulation Updates

RECOMMENDATION:

THAT Council repeal *Bylaw No. 561, Flood Plain Regulation Bylaw, 2013*; and

THAT Council give First, Second and Third reading to *Bylaw No. 773, Flood Plain Regulation Bylaw, 2020*; and

THAT Council give First and Second reading to *Zoning Amendment Bylaw No. 750 (600-77), 2020* for the purposes of amending Part 2 Definitions and Part 3 General Regulations; and

THAT a Public Hearing be scheduled for *Zoning Amendment Bylaw No. 750 (600-77), 2020* in accordance with Section 466 of the *Local Government Act*.

Report Summary:

In 2013, both the *Flood Regulation Bylaw* and *Sooke Zoning Bylaw* were adopted. Since that time staff have identified several updates and amendments to both bylaws, and Council has adopted a strategic plan with a focus on leadership in climate action and good governance. The amendments include the addition of several definitions and altering existing definitions in both to ensure consistency, amending the General Regulations within the Zoning Bylaw and removing the site-specific exemption requirements in the Flood Regulation Bylaw due to redundancy with the *Local Government Act*. Since the adoption of these Bylaws the *Local Government Act* has changed section numbering, these updates will also be reflected by removing the references to section numbers. These amendments and updates will eliminate several issues and allow for clearer requirements for development in flood plain areas within the District of Sooke. In addition, these amendments and updates will also act as a basis for which the District can base further flood plain, riparian area, foreshore and climate resilience policies and bylaws on in future.

Previous Council Action:

January 28, 2013:

MOVED and seconded that Bylaw No. 561 *Flood Plain Regulation Bylaw, 2013* be adopted.

MOVED and seconded that Bylaw No. 600 *Sooke Zoning Bylaw, 2013* be adopted.

October 23, 2017:

MOVED that Council direct staff to bring back the Flood Regulation Bylaw for consideration of amendments to best practices for setbacks.

Report:

Background

In 2013 staff brought forward Bylaw No. 561 *Sooke Flood Regulation Bylaw, 2013* (Flood Bylaw) to regulate flood hazard management instead of relying solely on the Zoning Bylaw. The Flood Bylaw incorporated the guidelines prepared by the Province. The Flood Bylaw includes the recommended Flood Construction Level(s) (FCL) and flood setbacks found in the Provincial guidelines. Flood hazard management is outside the scope of the current (and future) Building Bylaw. As such, a section outlining the role of the Building Officials and administering the flood hazards was included in the Flood Bylaw.

The *Local Government Act* under section 524 allows local governments, by bylaw, to designate lands on which flooding may occur as flood plain. If land is designated as flood plain the local government can, by bylaw, specify the flood level for the flood plain and the setback from a watercourse, body of water or dike of any landfill or structural support to elevate a floor system or pad above the flood level. When making bylaws under section 524 the local government must consider Provincial guidelines and comply with the Provincial regulation and a plan or program the local government has developed under those regulations. The setbacks prescribed in both bylaws are based on Provincial regulations and best practices.

The purpose of the flood regulation components of the Zoning Bylaw are environmental as well as development and building safety focused. The Flood Bylaw, in comparison, is strictly about site-specific building safety, hazard mitigation and habitable space. In essence, the Zoning Bylaw is more extensive in scope and does not address site-specific safety or building matters. This delineation is important as the Flood Bylaw is one of many tools the District can use to ensure lands at risk of flooding and other related hazards are not occupied without certain requirements being met. This is why the Building Official's role is so clearly outlined in the Flood Bylaw.

Zoning Bylaw

The Zoning Bylaw contains Definitions and General Regulations which are applicable to all zones.

Definitions

The following definitions in the Zoning Bylaw pertain to the flood regulations and require specific attention:

High Water Mark: means the natural boundary as determined by a Qualified Environmental Professional and/or B.C. Land Surveyor, or the high water mark as identified on the plan subdivision or the plan accompanying in the instrument conveying Crown Land in fee simple, which plan was most recently filed in a Land Title Office; see Natural Boundary definition.

Natural Boundary: means the visible High Water Mark of any lake, river, stream or other body of water where the presence and action of the water are so common and usual and so long continued in all ordinary years as to mark upon the soil of the bed of the lake, river, stream, or other body of water a character distinct that of its banks, in vegetation, as well as in the nature of the soil itself and the edge of the dormant side channels of any lake, river, stream, or other body of water and includes the Active Floodplain. See also the definition of High Water Mark.

Each definition above refers to the other. This is an issue for staff as it allows different interpretations of the Zoning Bylaw and hinders the District's ability to require that the Natural Boundary be defined by a qualified professional within a specified time frame from the development application. To remedy this circular definition issue it is recommended that the definition for High Water Mark be amended to "see Natural Boundary", and the definition for Natural Boundary be altered to remove reference to the High Water Mark definition. This change is consistent with the original intent of Bylaw No. 298, an amendment for riparian area regulations in 2007, where the definition of High Water Mark was proposed for removal and replacement with "High Water Mark - see natural boundary".

All other changes to definitions are for the purposes of consistent wording across bylaws and to match the *Riparian Areas Protection Act* or have been added for enhanced clarity. These amendments, additions and deletions are outlined in the attached zoning amendment bylaw amendment and new flood regulation bylaw.

General Regulations

There are two changes needed to the General Regulations. The first is to insert the statement referencing 3.22 into Section 3.19. This ensures that the special water setbacks are not overlooked. The second is to change Section 3.22 to the following:

Notwithstanding any other provision of this Bylaw, no building, recreational vehicle, seawall of any height, any other structure, nor any part thereof shall be constructed, moved, extended or located within:

- a. *15 meters from the natural boundary of the sea; or*
- b. *30 meters from a natural boundary of any lake, river, pond, marsh, stream, watercourse, wetland or source of drinking water.*

Other Policy and Bylaw Updates

Flood Plain Exemptions under section 524 of the *Local Government Act* will be added to the updated *Development Application Procedure Policy* which will come before Council later this year. An application to amend the flood plain elevation and/or setback requirements must include a report, obtained and paid for by the owner, by a professional engineer or geoscientist experienced in geotechnical engineering, certifying that the land may be used safely for the intended use. The report should include assurance that the assessment was prepared with due consideration of the provincial *Flood Hazard Area Land Use Management Guidelines* and any applicable legislation.

The above process requires that staff review all applicable reports, such as but not limited to, a QEP report, RAR report and geotechnical report, and draft a report to Council for a decision. Due to the staff time that must be allocated to process the Flood Plain Exemption, both with or without an accompanying development application staff is recommending that this process and procedure be formalized in policy. An associated fee of \$500 per Flood Plain Exemption Application is contained in the District's Fees Bylaw.

Referrals

The amendments were sent internally and externally for referral responses to the Agricultural Land Commission, Ministry of Transportation and Infrastructure, Ministry of Forests, Lands and Natural Resource Operations and to Beecher Bay First Nation and T'So-uke First Nation. No concerns or comments were received.

Next Steps and Future Updates

Official Community Plan

Currently, there is no Development Permit Area in place for staff to administer for foreshore or riparian development proposals. Prior to the 2010 OCP there were regulations and guidelines pertaining to foreshore and riparian development.

Seawalls and Green Shores

At present, the District does not have a bylaw or policy for seawalls or soft shores. Given that approximately 1400 properties are considered shoreline or riparian it would be prudent of the District to adopt guidelines for the construction, repair and alteration of seawalls or soft shore development on private property. Developing such a guideline/policy could result in more Development Permits, which the Planning & Development Department supports as this policy would alleviate confusion about development in the foreshore. It could also aid property owner's in understanding Fisheries and Oceans Canada (FOC) regulations for works near fish habitat as required in the *Fisheries Act*.

Legal Impacts:

These changes will impact all flood and steep slope related applications moving forward. Current applications received prior to these changes will not be impacted; Planning staff are in receipt of one application to which this applies.

Strategic Relevance:

- Build a reputable organization - Support Council and staff with the necessary tools to provide excellent governance and customer service
- Demonstrate leadership in climate action - Identify and plan for green infrastructure opportunities
- Manage long-term growth while enhancing community identity, vitality and safety - Develop a regulatory framework to promote more sustainable land use patterns and development practices

Attached Documents:

[750 \(600-77\) - Zoning Bylaw Text Amendment \(Floodplain\)](#)
[773-Floodplain Regulation Bylaw 2020](#)

Approved by
Carolyn Mushata, Corporate Officer

Approved - 28 Feb 2020



DISTRICT OF SOOKE ZONING AMENDMENT BYLAW NO. 750

A bylaw to amend Bylaw No. 600, *Sooke Zoning Bylaw, 2013* for the purpose of updating the definitions and general regulations related to flood and steep slope.

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

1. This bylaw is cited as *Zoning Amendment Bylaw No. 750 (600-77), 2019*.
2. Bylaw No. 600, *Sooke Zoning Bylaw, 2013*, is amended in “Part 2 DEFINITIONS” by:

- a) amending the following words with new definitions, as provided below:

AQUACULTURE means the growing and cultivation of aquatic plants, invertebrates such as sea cucumbers, shellfish or fish, for commercial or ecosystem preservation purposes, in any water environment or in man-made containers of water.

HIGH WATER MARK means the Natural Boundary.

SETBACK means the minimum horizontal distance that a use or any part of a building or structure must be setback or separated from a lot line, flood plain, natural boundary or Streamside Protection and Enhancement Area (SPEA).

STRUCTURE means anything which is constructed, erected, or placed, the use of which requires location on the ground or attachment to something having location on the ground including, but not limited to, satellite dish, antenna, fence, swimming pools, docks, wharves, canopies, signs and awnings, retaining structures, and seawalls but excluding concrete and asphalt or similar surfacing of a lot, underground utility facilities, landscaping and paving, signs less than 3 meters in height and retaining structures less than 1.2 meters in height.

- b) adding the following definitions in proper alphabetical order:

ACTIVE FLOODPLAIN means in relation to a stream the land that is adjacent to the stream, inundated by the 1 in 5 year return period flow of the stream, and capable of supporting plant species that are typical of inundated or

saturated soil conditions and distinct from plant species on freely drained upland sites adjacent to the land.

ECOSYSTEM PRESERVATION means to protect or save natural resources or ecosystems for future use and enjoyment.

FORESHORE means the area between the high tide (or natural boundary) and low tide water levels in marine systems, or between seasonal high water and low water levels for lakes.

LOT AREA means the horizontal area within the lot lines of a lot, excluding:

- a) Land covered by a natural body of water;
- b) Land within the powerline right-of-way; and
- c) Land
 - i. in a ravine;
 - ii. below the top of bank for a river, stream or watercourse.

NATURE CENTRE means a building and/or outdoor space programmed and designed to educate people about nature and the environment.

SEAWALL means a retaining wall or structure, located wholly on private property, which is designed to prevent the erosion of the land located adjacent to the sea, lake, river, watercourse or body of water.

STEEP SLOPE means land, in its natural state, that has a slope angle of 30% or greater.

3. Bylaw No. 600, *Sooke Zoning Bylaw, 2013*, is further amended in “Part 3 GENERAL REGULATIONS” by:

- a) deleting the sub-heading name and pre-amble to section 3.19 and replacing it with the following:

3.19 Setback Exemptions

Except where otherwise provided in particular zones, and in section 3.22, the setback requirements of this Bylaw shall not apply with respect to structures listed below; no other features may project into a required setback area:

- b) adding the words “excluding seawalls.” to the end of 3.19(f).
- c) deleting section 3.22 Setbacks (Water) in its entirety and replacing it with the following:

3.22 Setbacks (Water)

Notwithstanding any other provision of this Bylaw, no building, recreational vehicle, seawall of any height, any other structure, nor any part thereof shall be constructed, moved, extended or located within:

- a) 15 meters from the natural boundary of the sea; or*
- b) 30 meters from a natural boundary of any lake, river, pond, marsh, stream, watercourse, wetland or source of drinking water.*

- d) Deleting the sub-heading and pre-amble to section 3.25 and replacing it with the following:

3.25 Steep Slope Setback

Where the building site is located at the top of a steep slope 30% or greater from horizontal over a run of 15 meters and/or is closer than 15 meters to the natural boundary of the sea or a watercourse, the setback shall be a horizontal distance from the top of bank, or toe of bank if the bank is subject to erosion, equal to 3 times the height of the bank as measured from toe of the bank.

- 4. Bylaw No. 600, Sooke Zoning Bylaw, 2013, and amendments thereto, is hereby amended accordingly.

READ a FIRST and SECOND time the day of , 2019.

PUBLIC HEARING held the day of , 2019.

READ a THIRD time the day of , 2019.

ADOPTED the day of , 2019.

Maja Tait
Mayor

Carolyn Mushata
Corporate Officer



DISTRICT OF SOOKE FLOODPLAIN REGULATION BYLAW No. 773

A bylaw to designate an area as a flood plain, specify development levels and setback requirements in a designated area, and enforce these conditions.

WHEREAS Section 524 of the *Local Government Act*, authorizes Council to adopt a flood bylaw that designates an area as a flood plain, specify development levels and setback requirements in a designated area and enforce these conditions;

AND WHEREAS Council has considered the most current provincial Flood Hazard Area Land Use Management Guidelines;

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

Citation

1. This Bylaw is cited as *Flood Plain Regulation Bylaw No. 773, 2020*.

Purpose

2. The purpose of this bylaw is to designate an area as a flood plain, specify development levels and setback requirements in a designated area and enforce these conditions.
3. This Bylaw applies to all persons who construct, reconstruct, move, extend or locate a **building, manufactured home** or unit, modular home or **structure** or any part of them on land within the District of Sooke designated as '**Floodplain**'.
4. Nothing contained in this Bylaw relieves any person from the responsibility to seek and comply with other legislation applicable to their undertaking.

Definitions

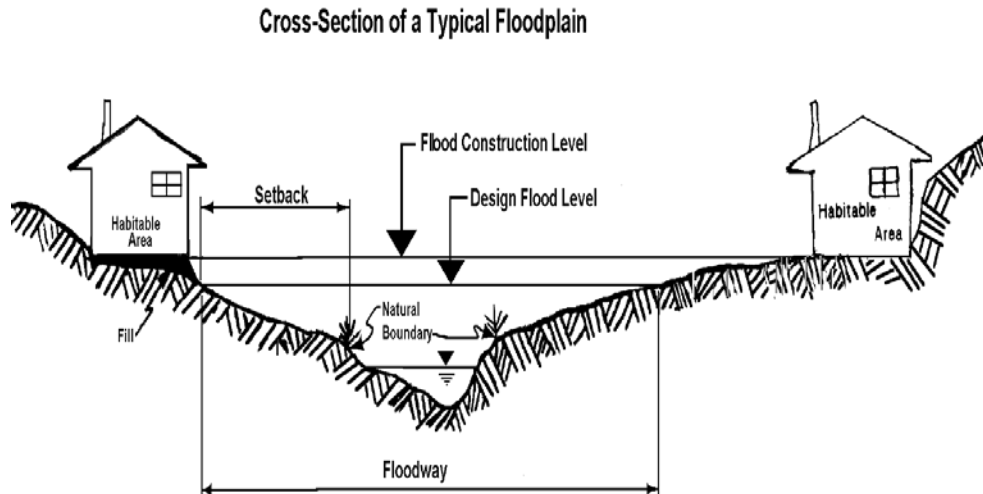
5. In this Bylaw:
 - a) **Alluvial Fan** means an alluvial deposit of a stream where it issues from a steep mountain valley or gorge upon a plain or at the junction of a tributary stream with the main stream.
 - b) **B.C. Land Surveyor** means a person licensed and registered as a land surveyor in the Province of British Columbia.
 - c) **Building** means any structure used or intended for supporting or sheltering any use or occupancy.
 - d) **Building Official** means a Building Official of the **District** of Sooke.

- e) **Bylaw Enforcement Officer** means a Bylaw Enforcement Officer of the District of Sooke.
- f) **Designated Flood** means a flood, which may occur in any given year, of such magnitude as to equal a flood having a 200-year recurrence interval, based on a frequency analysis of unregulated historic flood records or by regional analysis where there is inadequate stream flow data available. Where the flow of a large **watercourse** is controlled by a major dam, the designated flood must be set on a site-specific basis.
- g) **Designated Flood Level** means the observed or calculated elevation for the Designated Flood which is used in the calculation of the **Flood Construction Level**.
- h) **District** means the District of Sooke.
- i) **Flood Construction Level** means the **Designated Flood Level** plus the allowance for **freeboard** and is used to establish the elevation of the underside of a wooden floor system or top of concrete slab for habitable buildings. In the case of a **manufactured home**, the ground level or top of concrete or asphalt pad on which it is located must be no lower than the above-described elevation. It also establishes the minimum crest level of a **Standard Dike**. Where the **Designated Flood Level** cannot be determined or where there are overriding factors, an assessed height above the **natural boundary** of the water body or above the **Natural Ground Elevation** may be used.
- j) **Flood Hazard Assessment** means a report, from a **Professional Engineer** in accordance with **District** bylaws and Provincial legislation. The assessment identifies flood characteristics, determines whether a development is safe for the intended use, and specifies any corresponding flood mitigation measures.
- k) **Floodplain** means a lowland area, whether diked, flood-proofed, or not, which, by reasons of land elevation, is susceptible to flooding from an adjoining **watercourse**, ocean, lake, or other body of water and for administrative purposes is taken to be that area submerged by the **Designated Flood** plus **freeboard**.
- l) **Flood-proofing** means the alteration of land or **structures** physically or in use to reduce or eliminate flood damage and includes the use of elevation and/or building setbacks from water bodies to maintain a **floodway** and to allow for potential erosion. **Flood-proofing** may be achieved by all or a combination of the following:
 - i) Building on fill, provided such fill does not interfere with flood flows of the **watercourse** and is adequately protected against floodwaters erosion;
 - ii) Building raised by structural means such as foundation walls, columns, etc.; and/or
 - iii) A combination of fill and structural means.

- m) **Floodplain Setback** means the minimum required distance from the **natural boundary** of a **watercourse**, lake or other body of water to any landfill or structural support required to elevate a floor system or **Pad** above the **Flood Construction Level**, so as to maintain a **floodway** and allow for potential land erosion.
- n) **Floodway** means the channel of the **watercourse** and those portions of the floodplains which are reasonably required to discharge the flood flow of a **Designated Flood**. A minimum required **floodway** must be equal to the width of the channel within the **natural boundary** plus a minimum setback of thirty metres from the **natural boundary** on each side of the channel or channels unless otherwise approved.
- o) **Freeboard** means a vertical distance added to a **Designated Flood Level** and is used to establish the **Flood Construction Level**.
- p) **Habitable Area** means any room or space within a **building** or **structure** that is or can be used for human occupancy, commercial sales, or storage of goods, possessions or equipment (including furnaces) which would be subject to damage if flooded.
- q) **Hydrostatic Forces** means the additional forces that must be considered in the design and construction of a basement area in a building located in a designated **Floodplain** or Non-Standard Flood and Erosion (NSFEA) area. **Hydrostatic forces** are imposed by the saturation of the ground and overland flow of water to a depth equal to the **Flood Construction Level**.
- r) **Manufactured Home** means a **structure** manufactured as a unit, intended to be occupied in a place other than at its manufacturer, and designed as a dwelling unit, and includes mobile homes, and specifically excludes recreational vehicles.
- s) **Natural Boundary** means the visible high water mark of any lake, river, **watercourse**, 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, **watercourse**, 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. In addition, the **natural boundary** includes the best estimate of the edge of dormant or old side channels and marsh areas.
- t) **Natural Ground Elevation** means the undisturbed ground elevation prior to site preparation,
- u) **Pad** means a graveled or paved surface on which blocks, posts, runners or strip footings are placed for the purpose of supporting a **manufactured home** or mobile unit or a concrete **Pad** for supporting a **habitable area**.
- v) **Professional Engineer** means a person who is registered or licensed under the provisions of the *Engineers and Geoscientists Act*.

- w) **Protective Works** means any landfill, embankment, dike, berm, revetment, wall, barrier, flap gate, drainage infrastructure or other **structure** constructed exclusively or inter alia for the purposes of protecting an area, **structure** or development from the effects of floods, debris flows or debris floods.
 - x) **Scour Protection or Erosion Protection** is defined as **Protective Works** constructed along dike slopes, stream banks, lakes and other water bodies to prevent their erosion by surface runoff, stream flows and/or wave action.
 - y) **Standard Dike** means a dike built to a minimum crest elevation equal to the **Flood Construction Level** and meeting standards of design and construction approved by the Province and maintained by an ongoing authority such as a local government body or a diking authority under the *Dike Maintenance Act* or successor legislation.
 - z) **Structure** means a construction or portion thereof of any kind, whether fixed to, supported by or sunk into the land or water, specifically including retaining and seawall **structures** of any size directly connected to a building or other **structure** but specifically excluding fences, signs, public waterfront accesses, public boardwalks and paving.
 - aa) **Watercourse** means any natural or man-made depression with well- defined banks and a bed 0.6 metres (2.0 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 square kilometres (0.8 square miles) or more upstream of the point of consideration.
6. Unless otherwise provided in this Bylaw, words and phrases used herein have the same meanings as in the *Local Government Act*, *Community Charter*, or *Land Act* as the context and circumstances may require. A reference to a statute in this Bylaw refers to a statute of the Province of British Columbia unless otherwise indicated, and a reference to any statute, regulation, bylaw or other enactment refers to that enactment as it may be amended or replaced from time to time. Headings in this Bylaw are for convenience only and must not be construed as defining or limiting its scope or intent. If any part of this Bylaw is held to be invalid by a court of competent jurisdiction, the invalid part is severed and the remainder continued to be valid.
7. The **District** does not, by this enactment, administration or enforcement of this Bylaw, represent to any person that any **building, structure, manufactured home** or **Habitable Area** located, constructed or used in accordance with the provisions of this Bylaw, or in accordance with conditions, terms, information, advice, direction or guidance provided by the **District** in the course of administering this Bylaw, will not be damaged by flooding or floodwater.

Diagram 1



Note: This diagram is provided for illustrative purposes only
(source: British Columbia Ministry of Environment)

Application and Administration

8. a) No **building** or **structure** may be constructed, reconstructed, altered, moved or extended by the owner, occupier or other person so that it contravenes the requirements of this Bylaw.
- b) A **Building Official** or **Bylaw Enforcement Officer** who observes a contravention of this Bylaw may issue applicable notices and orders to any owner, occupier or other person who appears to have committed or allowed the contravention.

Floodplain Designation

9. Pursuant to section 524(2) of the *Local Government Act*, the following land is designated as **floodplain**:
 - a) The **floodplain** of the Sooke River within the **District** in the areas shown on Map Sheets 1 and 2 attached as Schedule "A"; and
 - b) Until such time as **floodplain** mapping is prepared:
 - i) Land lower than the **Flood Construction Levels**, except where the **Flood Construction Level** has been determined in response to a site-specific situation; and
 - ii) Land within the **Floodplain Setbacks**.

10. Pursuant to section 524(6) of the *Local Government Act*, the following elevations are specified as **Flood Construction Levels**, except where more than one **Flood Construction Level** is applicable, the higher elevation must be the specified **Flood Construction Level**:
- a) Where **Floodplain** Mapping is available, the **Flood Construction Level** (“FCL”) for a specific property must be determined by interpolation from the “200-year frequency Flood Level”. Refer to Schedule “A” of this bylaw.
 - b) Where **Floodplain** Mapping is not available, the following elevations are specified as **Flood Construction Levels**:
 - i) 3.0 metres above **natural boundary** of Ayum Creek, Charters River, DeMamiel Creek, Sooke River, and Veitch Creek;
 - iii) 1.5 metres above **natural boundary** of the sea, any other **watercourse**, lake, pond or adjacent swamp or marsh area.
11. Pursuant to section 524(6) of the *Local Government Act*, the following distances are specified as **Floodplain Setbacks**, except where more than one **Floodplain Setback** is applicable, the greater distance must be applied:
- a) 30.0 metres from the **natural boundary** of Ayum Creek, Charters River, DeMamiel Creek, Sooke River, and Veitch Creek;
 - b) 15.0 metres from the **natural boundary** of the sea and all other **watercourses**;
 - c) 7.5 metres from the **natural boundary** of all lakes, ponds, swamps and marshes; and
 - d) 7.5 metres from any **standard dike** or **structure** used for flood protection or seepage control or any easement or right of way for a **standard dike** or **structure** used for flood protection.

Floodplain Regulations

12. No building, **manufactured home** or unit, modular home or **structure** or any part thereof will be constructed, reconstructed, moved, extended or located with the underside of a wooden floor system or top of concrete slab of any area used for habitation, business, or storage of goods damageable by floodwaters, or in the case of a **manufactured home** or unit the ground level or top of **Pad** on which it is located, lower than the **Flood Construction Level** specified in this Bylaw.
13. No landfill or structural support required to support a floor system or **Pad**, will be constructed, reconstructed, moved, extended or located within any **Floodplain Setback** specified in this Bylaw.

14. Unless specifically provided for elsewhere in this Bylaw, no area below the **Flood Construction Level** will be used for the installation of furnaces, major electrical switchgear, or other fixed equipment susceptible to damage by floodwater.
15. Structural support or compacted fill or a combination of both may be used to elevate the underside of the floor system or the top of the **Pad** above the **Flood Construction Level**. The structural support and/or fill must be protected against scour and erosion from flood flows, wave action, ice and other debris.
16. Unless a building is situated on lands with a natural elevation above that as the specified **Flood Construction Level** or greater, basements are prohibited, and crawl spaces must not exceed 1.2 metres (4 feet) in height to the underside of the floor joists; and
 - a) All entry points for flood or debris flow material, such as windows and doors, must be located above the **Flood Construction Level**;
 - b) The building foundation must be constructed to withstand the **Hydrostatic Forces** during inundation up to the **Flood Construction Level**; and
 - c) For buildings located within NSFEAs that all applicable engineering requirements related to an NSFEA rating are deemed satisfied.
17. When a building permit is applied for on parcels with land abutting the Sooke Harbour, Sooke Basin or the Strait of Juan de Fuca, the **Building Official** shall require a structurally engineered foundation and a geotechnical report if any part of a footing up to and including the level of a slab, or portion of the foundation is intended by its design to be submersible or subject to water fluctuation or wave action.
18. The **Building Official**, or such person appointed by the **District** of Sooke, may require, at the cost of the landowner, a **British Columbia Land Surveyor's** certificate to verify compliance with the **Flood Construction Levels** and **Floodplain Setbacks** as specified in this Bylaw.

General Exemptions

19. The following types of developments are exempted from the **Flood Construction Levels** specified in this bylaw, subject to conditions specified as follows: (Note: these types of developments are not exempted from the **Floodplain Setbacks**):
 - a) A renovation of an existing **building** or **structure** that does not involve an addition thereto.
 - b) An addition to a **building** or **structure** at the original non-conforming floor elevation, that would increase the size of the **building** or **structure** by less than 25 percent of the ground floor area (excluding decks, carports or garages) existing at the date of adoption of this bylaw provided that the degree of non-conformity regarding the setback is not increased (i.e. no closer to the water than existing);
 - c) That portion of a **building** or **structure** to be used as a carport, garage or, decks, porches, domestic greenhouses;
 - d) Storage **buildings** not used for the storage of goods damageable by floodwaters.
 - e) Recreation shelters, stands and other outdoor facilities susceptible to only marginal damage by floodwaters.

- f) Farm **buildings** other than dwelling units and closed-sided livestock housing and **buildings** containing hazardous commodities such as herbicides, pesticides, fuel and products with similar environmental impacts.
 - g) On-loading and off-loading facilities associated with water-oriented industry and portable sawmills. Main electrical switchgear must be placed above the **Flood Construction Level**.
 - h) Farm dwelling units on parcels 8.0 hectares or greater in area, located within the Agricultural Land Reserve, must be located with the underside of a wooden floor system or the top of the **Pad** of any **habitable area** (or in the case of a **manufactured home**, the top of the **Pad** or the ground surface on which it is located) no lower than 1.0 metre above the **Natural Ground Elevation** taken at any point on the perimeter of the **building**, or no lower than the **Flood Construction Levels** specified in this Bylaw, whichever is the greater.
 - i) Closed-sided livestock housing not behind **standard dikes** must be located with the underside of a wooden floor system or the top of the **Pad** (or in the case of a mobile unit, the top of **Pad** or the ground surface on which it is located) no lower than 1.0 metre above the **Natural Ground Elevation** taken at any point on the perimeter of the **building**, or no lower than the **Flood Construction Levels** specified in this Bylaw, whichever is the greater.
 - j) Industrial uses, other than main electrical switchgear, must be located with the underside of a wooden floor system or the top of the **Pad** of any **habitable area** (or in the case of a mobile unit, the top of **Pad** or the ground surface on which it is located) no lower than the **Flood Construction Levels** specified in this Bylaw minus **Freeboard**.
 - k) Heavy industrial development located behind a **standard dike**.
20. The following development is exempted from both the **Floodplain Setbacks** and the **Flood Construction Levels** specified in this bylaw:
- a) A self-supporting deck or boathouse that is not:
 - i. used for **Habitable Area** and the land owner has registered a covenant in favour of the **District** which states that the deck or boathouse will not be used as a **Habitable Area**;
 - ii. structurally attached to a **building**, **manufactured home** or **structure**; and
 - iii. within 7.5 m of any **standard dike**, training works or **structure** used for flood protection or seepage control or any easement or right of way for a **standard dike**, training works or **structure** used for flood protection or seepage control.
 - b) Public Accesses and Public Boardwalks.

Site Specific Exemptions

21. The **District** may under these regulations exempt a person from the application of subsection 6 in relation to a specific parcel of land or a use, **building** or other **structure** on the land, if the **District** considers it advisable and either;
- a) Considers that the exemption is consistent with the Provincial guidelines; or has received a report that the land may be safely used for the use intended, which report is certified by a person who is

- i. A **Professional Engineer** or geoscientist and experienced in geotechnical engineering, or
 - ii. A person in a class prescribed by the environment minister under subsection (9) of Section 524 of the *Local Government Act*.
- b) The granting of an exemption, and the exemption may be made subject to the terms and conditions the **District** considers necessary or advisable, including, without limitation:
- i. Imposing any term or condition contemplated by the Provincial guidelines in relation to an exemption,
 - ii. Requiring that a person submit a report described in this section, and
 - iii. Requiring that a person enter into a covenant under section 219 of the *Land Title Act*.

Penalty

22. Every person who contravenes a provision of this Bylaw, or who consents, allows or permits an act or thing to be done in violation of a provision of this Bylaw, or who neglects or refrains from doing anything required by a provision of this Bylaw, commits an offence punishable upon summary conviction and is liable to a fine not exceeding \$10,000.
23. Each day that an offence exists or continues under this Bylaw constitutes a separate and distinct offence.
24. This Bylaw may be enforced by means of a ticket in the form prescribed for the purpose of section 264 of the *Community Charter*.
25. **Building Officials** and **Bylaw Enforcement Officers** are designated to enforce this Bylaw under section 264(1)(b) of the *Community Charter*.
26. No person may interfere with a **Bylaw Enforcement Officer** in issuing a ticket or Bylaw notice or otherwise carrying out his or her duties in accordance with this Bylaw, and it is an offence for any person to interfere with a **Bylaw Enforcement Officer** in the enforcement of this Bylaw.
27. The words or expressions set forth in Column 1 of Schedule B 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.
28. The amounts appearing in Column 3 of Schedule B of this Bylaw are the fines established by Council pursuant to sections 265(1)(a) and 265(2)(a) of the *Community Charter* for the corresponding offence designated in Column 1.

Severability

29. If any section or subsection of this Bylaw is found to be invalid by a court of competent jurisdiction, the section or subsection may be severed from the Bylaw without affecting the validity of the remainder of the Bylaw.

Repeal

30. District of Sooke Bylaw No. 561, *Flood Regulation Bylaw, 2013*, is hereby repealed.

READ a FIRST and SECOND time the __ day of ____, 2020.

READ a THIRD time the __ day of ____, 2020.

ADOPTED the __ day of ____, 2020.

Maja Tait
Mayor

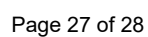
Carolyn Mushata
Corporate Officer

SCHEDULE A:

Map Sheet One



Map Sheet Two



SCHEDULE B

MUNICIPAL TICKET INFORMATION DESIGNATIONS

Offence	Bylaw Section No.	Fine
Habitable space below Flood Construction Level	6.1	\$200
Landfill or support within Floodplain Setback	6.2	\$200
Electrical, furnace below Flood Construction Level	6.3	\$200
Unprotected structural support/fill	6.4	\$200
Entry points below Flood Construction Level	6.5 (a)	\$200
Inadequate building foundation	6.5 (b)	\$200
Failure to produce Engineer Report	6.6	\$200
Failure to provide BC Land Surveyor's certificate	6.7	\$200
Increase size more than 25 percent	7.1 (b)	\$200
Boathouse or dock used as Habitable Area	7.2 (a)(i)	\$200
Failure to register restrictive Covenant	8.1(b)(iii)	\$200