

6.3 Sensitive Ecosystems Development Permit Area

Information Note: the designation of this development permit area and description of the special conditions or objectives that justify the designation are located in the applicable Official Community Plans.

(a) Applicability

A development permit is required for the following activities wherever they occur within this development permit area, unless specifically exempted:

- (i) removal, alteration, disruption or destruction of vegetation, including trees, plants and shrubs;
- (ii) disturbance of soils, including grubbing, scraping and the removal of top soils;
- (iii) construction or erection of buildings and structures;
- (iv) creation of non-structural impervious or semi-pervious surfaces; and
- (v) subdivision of land as defined in the [Land Title Act](#) or [Strata Property Act](#).

(b) Exemptions

The following activities are exempt from any requirement for a development permit:

- (i) Development in an area where the sensitive ecosystem does not exist due to mapping inaccuracy, upon written confirmation from a Registered Professional Biologist. For clarity, if the sensitive ecosystem was previously disturbed without a development permit this exemption does not apply.
- (ii) Minor additions to existing buildings or structures to a cumulative maximum of 25 percent of the original ground floor area, provided that the addition is not situated closer to the environmentally sensitive feature for which the development permit area has been identified, than the existing building or structure.
- (iii) Repair, maintenance, or alteration of existing legal buildings, structures or utilities except for shoreline protection structures, provided the footprint of the building is not expanded (a building permit may still be required).
- (iv) A second-storey addition, excluding cantilevered construction, to a legally sited structure, provided the second-storey addition is within the existing footprint of the existing structure.
- (v) A single trail within this development permit area, subject to the following:
 - (A) the trail provides the most direct route of feasible passage through the development permit area;

- (B) the location is chosen to require a minimum amount of vegetation removal or disturbance, where no rare plants will be disturbed or otherwise impacted, and where there is limited excavation and removal of native soils;
 - (C) the ground is stable, i.e erodible stream banks or other erosion prone areas must be avoided;
 - (D) no motorized vehicles are permitted;
 - (E) the trail is a maximum of 1.5 m in width;
 - (F) no trees, which are greater than 5.0 m in height and no trees with a diameter at breast height of 10.0 cm or more are being removed; limbing, pruning and topping of trees should be done instead; and,
 - (G) the trail's surface is pervious but may be constructed with materials that limit erosion and bank destabilization (certain structures may require a building permit).
- (vi) The planting of trees, shrubs, or groundcovers for the purpose of enhancing the habitat values and/or soil stability within the development permit area provided the planting is carried out in accordance with the guidelines provided in 'Develop with Care: Environmental Guidelines for Urban and Rural Land Development in British Columbia', published by Ministry of Environment, or any subsequent editions.
 - (vii) Gardening and yard maintenance activities within an existing landscaped area, such as lawn mowing, tree and shrub pruning, vegetation planting and minor soil disturbance that do not alter the general contours of the land. For clarity, this exemption does not apply to retaining walls and anything that is considered a structure as defined by the current zoning Bylaw.
 - (viii) The small-scale, manual removal of non-native invasive plants or noxious weeds or planting of non-invasive, native vegetation on a small scale conducted in accordance with best practices such as the Invasive Plant Council of BC's 'Grow Me Instead' publication.
 - (ix) Removal of trees deemed hazardous by a certified Arborist or Registered Professional Forester that pose an imminent threat to buildings or life safety. Removal of hazardous trees that also contain an eagle or heron nest is exempt only if a permit under the *Wildlife Act* has been obtained.
 - (x) The construction of a small accessory building or structure if all the following apply:
 - (A) the building or structure is located within an existing landscaped area;
 - (B) no native trees with a diameter at breast height of 20 cm or greater are removed;

Part 1
Administration

Part 2
Interpretation

Part 3
Land Use Regulations

Part 4
Zones

Part 5
Subdivision Regulations

Part 6
Development Permit Areas

- (C) there is no permanent foundation;
 - (D) the building or structure is located a minimum of 10 m from the natural boundary of the sea or, where the bank has a slope greater than 3:1, 10 m from the top of the bank; and
 - (E) the total area of the small accessory building or structure is less than 10 m².
- (xi) Subdivision where the following criteria is met:
- (A) minimum lot sizes will be met exclusive of the sensitive ecosystem;
 - (B) no development activities including grading, clearing, trenching, or installation of pipes, relating to the creation of all lots will occur within the sensitive ecosystem; and
 - (C) where a covenant is registered to protect the sensitive ecosystem or ecosystems in a manner that is consistent with the applicable development permit area guidelines.
- (xii) Subdivision involving only lot line adjustment. For lot line adjustment to be exempt there must be sufficient developable area outside the development permit area as confirmed by the Regional District, BC Land Surveyor, or Registered Professional Biologist, and there are no works proposed within the development permit area.
- (xiii) The activity is part of a farm operation as defined by the *Farm Practices Protection (Right to Farm) Act*; is a permitted farm use as defined in Section 2(2) of the *Agricultural Land Reserve Use, Subdivision, and Procedures Regulations*; and the lands are assessed as 'farm' under the *BC Assessment Act*. The farm operation of land clearing is only exempt from the requirement of a development permit if conducted in accordance with a current Environmental Farm Plan (less than five years old); otherwise, land clearing as part of a farm operation is not exempt. Not that other provincial legislation such as the *Waste Management Act* and the *Water Sustainability Act* may apply to farm operation activities.
- (xiv) Emergency procedures to prevent, control, or reduce erosion, or other immediate threats to life and property including:
- (A) emergency flood or protection works;
 - (B) clearing of an obstruction from bridge, culvert, or drainage flow; repairs to bridges and safety fences;
 - (C) any emergency works to be undertaken in accordance with the Provincial *Water Sustainability Act* and *Wildlife Act*, and the Federal *Fisheries Act*.

Notwithstanding the above, emergency actions for flood protection and clearing of obstructions by anyone other than the Regional District or Ministry must be reported to the Regional District and applicable Ministry immediately to secure

Part 1
Administration

Part 2
Interpretation

Part 3
Land Use Regulations

Part 4
Zones

Part 5
Subdivision Regulations

Part 6
Development Permit Areas

exemption under this provision. Note that once the emergency has passed, a development permit may be required for remediation or permanent protection works.

- (xv) Works conducted and/or approved by the Department of Fisheries and Oceans and/or Ministry of Environment with respect to trail construction, stream enhancement, fish and wildlife habitat restoration and in-stream works as defined by Section 11 of the *Water Sustainability Act*.
- (xvi) Works conducted by the Regional District or its agents where appropriate measures have been undertaken to satisfy the applicable development permit area guidelines as determined by the Regional District.
- (xvii) All forest management activities on lands subject to the *Forest Act* or *Private Managed Forest Land Act* and classified as ‘forest lands’ on the property assessment.

(c) Guidelines

- (i) If development or alteration of land is proposed within the development permit area, it shall be located where it will cause the least impact on the sensitive ecosystem. It should be demonstrated that locating development entirely outside of the development permit area has been considered, and a description of why that is not being proposed should be provided. It should be demonstrated that variances to minimize development in the development permit area have been obtained or considered.
- (ii) An assessment must be prepared by a Registered Professional Biologist with the objectives of identifying sensitive biophysical features on or near the property and providing recommendations and conditions for development to avoid or mitigate impacts to these features. The assessment should list the guidelines in this development permit area with an explanation of how the proposed development is consistent with them (or an explanation of how a guideline is not applicable) and should indicate on a site plan the areas for yard and driveway and areas to remain free from development.
- (iii) Existing native vegetation should be retained wherever possible to minimize disruption to habitat and maintain ecological processes that support ecosystem function, wildlife ecology, and unique ecosystems. These include, but are not limited to:
 - (A) vegetation, trees, snags and root systems;
 - (B) rare and uncommon species and plant communities;
 - (C) soils and soil conditions (moisture, nutrients and permeability);
 - (D) bird and other wildlife and their habitats, such as nesting and breeding areas;

Part 1 Administration
Part 2 Interpretation
Part 3 Land Use Regulations
Part 4 Zones
Part 5 Subdivision Regulations
Part 6 Development Permit Areas

- (E) wildlife habitat, including but not limited to wildlife breeding areas as well as nesting and perch trees; and
- (F) topography and relative orientation of features on neighbouring properties.
- (iv) Mitigation measures that should be considered in the biological assessment include but are not limited to:
 - (A) maintenance of an effective visual and sound (natural vegetated) buffer around nesting trees;
 - (B) minimization of vegetation removal;
 - (C) maintenance of linkages with adjacent sensitive ecosystems to minimize habitat fragmentation and maintain wildlife corridors; and
 - (D) timing of construction to minimize potential impacts.
- (v) Where the applicant's biologist recommends revegetation and/or enhancement works within the development permit area, the Regional District may require the applicant to submit a landscaping plan and security deposit equal to the total estimated costs of all materials and labour as determined by a Landscape Architect or other Qualified Professional.
- (vi) Where the applicant's biologist recommends specific areas that must remain free from development:
 - (A) the Regional District may require a Section 219 covenant to be prepared at the applicant's expense, to the satisfaction of the Regional District, to ensure that the identified areas remain free from development; and
 - (B) prior to construction commencing, the installation of temporary fencing or flagged stakes marking the protection area is required to avoid encroachment within the areas to be protected through to the completion of the development.
- (vii) The applicant's biologist may be required to provide confirmation to the Regional District that the property has been developed in accordance with the biologist's recommendations.

Guidelines Related to Rainwater Management and Protection of Development from Hazardous Conditions

- (viii) Where there is a slope greater than 30 percent over a minimum horizontal distance of 10 m, an assessment report prepared by a Professional Engineer with experience in geotechnical engineering may be required to assist in determining what conditions or requirements shall be included in the development permit so that proposed development is protected from the hazard and no increase in hazard is posed to existing development. The geotechnical report will form part of the

Part 1
Administration

Part 2
Interpretation

Part 3
Land Use Regulations

Part 4
Zones

Part 5
Subdivision Regulations

Part 6
Development Permit Areas

development permit terms and conditions, and may include registration of a Section 219 covenant, prepared at the applicant's expense and to the satisfaction of the Regional District.

- (ix) Development or subdivision of land should be designed to:
 - (A) replicate the function of a naturally vegetated watershed;
 - (B) maintain the hydraulic regime of surface and groundwater and pre-development flowrates;
 - (C) not interfere with groundwater recharge; and
 - (D) not introduce or remove materials where it would cause erosion of or the filling in of natural watercourses and/or wetlands.
- (x) The use of rain gardens, vegetated swales, a reduction in impervious surfaces, and other methods for managing rainwater on site should be included in all development proposals considered in this DPA.

Part 1 Administration
Part 2 Interpretation
Part 3 Land Use Regulations
Part 4 Zones
Part 5 Subdivision Regulations
Part 6 Development Permit Areas