

TOWN OF COMOX
BYLAW NO. 1474

A bylaw to designate flood plains

WHEREAS under s.910 of the *Local Government Act* the Council may, if it considers that flooding may occur on land, designate the land as a flood plain; and
WHEREAS the Council has considered the *Flood Hazard Area Land Use Management Guidelines* published by the Minister of Water, Land and Air Protection in May 2004 under the authority of the *Environmental Management Act*;

NOW THEREFORE the Council of the Town of Comox, in open meeting assembled, enacts as follows:

- (1) This Bylaw may be cited as “Town of Comox Flood Plain Designation Bylaw No. 1474.
- (2) In this Bylaw,
 - a. “Lake” does not include any man-made lake;
 - b. “Marsh” does not include any man-made marsh;
 - c. “Natural Boundary” means the visible high water mark as established by a British Columbia Land Surveyor 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 body of water a character distinct from that of its banks, in vegetation as well as in the nature of the soil itself;
 - d. “Natural Ground Elevation” means the highest elevation of the undisturbed ground surface prior to site preparation for construction of a proposed building or structure measured at any point on the perimeter of the proposed building or structure;
 - e. “Pad” means a concrete floor structure, or a paved surface on which blocks, posts, runners, or strip footings are placed for the purpose of supporting a manufactured home;
 - f. “Pond” does not include any man-made pond including any storm water retention or detention pond.
- (3) Words appearing in bold italics in this Bylaw do not form part of the Bylaw, but are inserted for reference only.
- (4) This Bylaw applies to all land within the Town of Comox.
- (5) Land lower than a flood level specified in section 6 or located within a setback specified in section 7 is designated as flood plain.
- (6) In respect of the flood plains designated in section 5, the following elevations, are specified as flood levels for the purpose of s.910(4)(a) of the *Local Government Act*, , and where more than one flood level applies to an area of land, the highest shall be the specified flood level. For the purpose of this section natural boundary shall be determined at a right angle to the extreme upstream point of the floor system or top of pad:
 - a. 1.5 metres above the Natural Boundary of Brooklyn Creek along and north of Cedar Avenue;
 - b. 3.0 metres above the Natural Boundary of Brooklyn Creek south of Cedar Avenue;

- c. 1.5 metres above the Natural Boundary of Golf Creek or Indian Creek;
 - d. 1.5 metres above the Natural Boundary of the sea; and
 - e. 1.5 metres above the Natural Boundary of any lake, marsh or pond.
- (7) The following setbacks are specified in respect of the flood plains designated in section 5 for the purpose of s.910(4)(b) of the *Local Government Act*, and where more than one setback applies to an area of land, the greatest shall be the specified setback:
- a. 15.0 metres from the Natural Boundary of Brooklyn Creek along and north of Cedar Avenue;
 - b. 30.0 metres from the Natural Boundary of Brooklyn Creek south of Cedar Avenue;
 - c. 15.0 metres from the Natural Boundary of Golf Creek or Indian Creek;
 - d. 7.5 metres from the Natural Boundary of a lake, marsh or pond; and
 - e. 15.0 metres from the Natural Boundary of the sea..
- (8) The following types of development are exempt from section 910(4)(a) and (b) of the *Local Government Act* in relation to the flood plains designated in this Bylaw:
- a. Renovations to an existing building or structure not involving an addition;
 - b. Loading and unloading facilities associated with water-oriented industry provided that the main electrical switchgear is located above the flood level specified in section 6; and
 - c. Vehicle parking areas which are not located in a building, structure or portion thereof used as a garage or carport.
- (9) The following types of development are exempt from section 910(4)(a) of the *Local Government Act* in relation to the flood plains designated in this bylaw:
- a. That portion of a building or structure used as a carport, garage, porch or entrance foyer;
 - b. greenhouses as accessory buildings to a dwelling;
 - c. Farm buildings, other than dwelling units and closed-sided livestock housing;
 - d. Closed sided livestock housing if the underside of any floor system or the top of any concrete floor slab is not lower than 1.0 metres above the Natural Ground Elevation; and
 - e. Underground vehicle parking areas if unobstructed means of pedestrian ingress and egress are provided above the designated flood level and signs legible to drivers entering the parking area are posted at all points of entry notifying users that the underground parking area is not protected from inundation by floodwaters.
- (10) Bylaw No. 1836. Floodplain Management Bylaw, 1997 is repealed.

READ A FIRST TIME this	7 th	day of	June,	2006.
READ A SECOND TIME this	7 th	day of	June,	2006.
READ A THIRD TIME this	7 th	day of	June,	2006.
ADOPTED this	21 st	day of	June,	2006.

“Dr. Jim Brass”
Mayor

“Richard Kanigan”
Corporate Officer

On the date of adoption of this bylaw, s.910(4) of the Local Government Act read in part as follows:

- (a) the underside of any floor system, or the top of any pad supporting any space or room, including a manufactured home, that is used for
 - i. dwelling purposes,*
 - ii. business, or*
 - iii. the storage of goods which are susceptible to damage by floodwater must be above the applicable flood level specified by the bylaw, and**
- (b) any landfill required to support a floor system or pad must not extend within any applicable setback specified by the bylaw.*

and section 910(5) and (6) read as follows:

A local government may exempt a person from the application of subsection (4), in relation to a specific parcel of land or a use, building or structure on the parcel of land, if the local government considers it advisable and

- (a) considers that the exemption is consistent with the Provincial guidelines, or*
- (b) has received a report that the land may be used safely 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 minister.**

The granting of an exemption, and the exemption, may be made subject to the terms and conditions the local government considers necessary or advisable, including, without limitation,

- (a) imposing any term or condition contemplated by the Provincial guidelines in relation to an exemption;*
- (b) requiring that the person submit a geotechnical engineer's report; and*
- (c) requiring that the person enter into a covenant under section 219 of the Land Title Act.*