

# REGIONAL DISTRICT OF CENTRAL KOOTENAY

## Bylaw No. 3025

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A Bylaw to amend the  
Regional District of Central Kootenay Electoral Area 'G' Land Use Bylaw No. 2452, 2018

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WHEREAS it is deemed expedient to amend the Regional District of Central Kootenay Electoral Area 'G' Land Use Bylaw No. 2452, 2018, and amendments thereto.

NOW THEREFORE the Board of the Regional District of Central Kootenay, in open meeting assembled, HEREBY ENACTS as follows:

**1** That the main body of **Regional District of Central Kootenay Electoral Area 'G' Land Use Bylaw No. 2452, 2018** be amended as follows:

A) That Section 3 under the **ADMINISTRATION AND ENFORCEMENT** heading be amended by deleting "to assist the aforementioned persons" and replacing that with "by the Board", so that this section reads as follows:

3. The Managers of Development Services, Planning Services, Building Services and Bylaw Enforcement Services, respectively, are authorized by the Board to administer this Bylaw and enter property at any reasonable time to determine whether the regulations of the Bylaw are being complied with. The following are also so authorized and listed staff shall consult with and report to their respective Manager(s) on any instances when they exercise this authority:

- a. Bylaw Enforcement Officers
- b. Building Officials
- c. Building Plan Checkers
- d. Development Technicians
- e. Planners
- f. Planning Technicians

B) That Section 4 under the **VIOLATION AND PENALTY** heading be deleted in its entirety and replaced with the following:

4. A person who contravenes, violates or fails to comply with any provision of this bylaw, or who suffers or permits any act or thing to be done in contravention or violation of this bylaw, or who fails or neglects to do anything required by this bylaw, commits an offence and shall be liable upon conviction of a fine of not less than \$5,000 and not more than \$10,000 (Ten Thousand Dollars) and subject to any other penalty or order imposed or remedies available to the RDCK pursuant to the *Local Government Act, Community Charter, Offence Act, and Local*

*Government Bylaw Notice Enforcement Act* and regulations thereunder, all as amended from time to time.

- C) That the following be added under the **VIOLATION AND PENALTY** heading, and subsequent sections re-numbered accordingly:

5. Each day that an offence continues or exists shall be deemed to be a separate and distinct offence.

- 2 That **Schedule A**, being the **Official Community Plan** text, of **Regional District of Central Kootenay Electoral Area 'G' Land Use Bylaw No. 2452, 2018** be amended as follows:

- A) That the following Fire Management Policies Sub-section 10 of Section **10.0 HAZARD LANDS AND FIRE MANAGEMENT** be amended to replace "lakes, and streams" with "watercourses", so that it reads:

10. Supports protection of accesses to water sources such as hydrants, standpipes, and watercourses to remain free of obstructions for fire protection purposes.

- B) That the following subsections be inserted as the first two policies under the sub heading **Natural Environment Policies** of Section **11.0 NATURAL ENVIRONMENT**, and existing policies are re-numbered accordingly:

The Regional Board:

8. Supports, unless otherwise noted below, all land within a riparian assessment area, as defined in section 16.5 of the OCP, being designated as a Watercourse Development Permit Area.

9. Supports that development and subdivision adjacent to a watercourse shall be subject to a Development Permit unless otherwise exempt by the Watercourse Development Permit (WDP) Area.

- C) That sub-section numbering throughout Section **16.0 WATERCOURSE DEVELOPMENT PERMIT (WDP) AREA** be inserted, including in accordance with the following amendments.

- D) That the **Purpose** Sub-section of Section **16.0 WATERCOURSE DEVELOPMENT PERMIT (WDP) AREA** be amended so that it reads as follows:

#### **16.1 Purpose**

The WDP Area is designated under Section 488(1)(a) of the *Local Government Act* and applicable provisions of the *Community Charter* for the protection of the natural environment, its ecosystems, and biological diversity. The WDP Area is designated as a Development Approval Information (DAI) area under Section 485 of the *Local Government Act* in order to ensure that appropriate and sufficient professionally-prepared information guides application of the WDP Guidelines to the applicable property in order to achieve the purposes and objectives of the WDP Area designation;

the justification for the WDP Area designation below also supports the justification for the DAI designation.

- E) That the **Objectives** Sub-section of Section **16.0 WATERCOURSE DEVELOPMENT PERMIT (WDP) AREA** be deleted in its entirety and replaced with the following:

### **16.2 Justification**

This Development Permit Area designation seeks to regulate development activities in watercourses and their riparian areas so as to protect aquatic habitat; and to conserve, enhance and, where necessary, restore watercourses and their riparian areas.

Riparian areas make critical contributions to a healthy aquatic environment. They stabilize slopes, absorb storm water runoff, provide fish and wildlife habitat, and increase landscape connectivity and biodiversity. They are also important natural assets because of their role in buffering adjacent areas and watercourses from pollution, sedimentation, erosion and the impacts of temperature and weather changes, which may continue to have increasing impacts with climate change.

The WDP Area's primary objectives are to:

- protect riparian areas, biodiversity, and water quality by ensuring activities within them are undertaken in a way that is sensitive to the natural environment;
- maintain landscape connectivity between watercourses and upland riparian areas; and,
- prevent pollution and contamination of watercourses through the preservation and enhancement of riparian areas.

The WDP Area is designated as a Development Approval Information Area under Section 485 of the *Local Government Act*. A biophysical assessment report, as described further in the WDP Area Guidelines, is required in order to recognize the important functions of riparian areas and protect them in their natural state, as well as repair and enhance them, in order to preserve their ecological importance as well as the critical role they play in increasing climate change resilience.

The impact of development on watercourses can be minimized by carefully examining the proposed development and taking appropriate measures in relation to the environmentally sensitive riparian area.

- F) That **Area** Sub-section of the Section **16.0 WATERCOURSE DEVELOPMENT PERMIT (WDP) AREA** be amended by
- a replacing the item list 5 with 1,
  - b deleting ", including the natural boundary of a lake and wetland" from clause 1.c.,
  - c moving the definitions to new Sub-section **16.4 Interpretation** as noted below, and
  - d adding the additional language noted below, so that Sub-section **16.3 Area** reads as follows:

### **16.3 Area**

16.3.1. The Watercourse Development Permit Area (WDP Area) includes all lands designated as such on Schedule A.4 and includes the following:

- a. All areas within 30.0 metres of the high water mark of the Pend O'Reille River, Salmo River, Erie Lake, Rosebud Creek and Rosebud Lake.
- b. All areas within 30.0 metres of the high water mark of Erie Creek, Hall Creek, Kelly Creek, Quartz Creek and Ymir Creek.
- c. All areas within 15.0 metres of the high water mark of any other watercourse designated on Schedule A.4.

Where the boundaries of the WDP Area will be verified and determined on the ground at the time of application.

- G) That a new Sub-section **16.4 Interpretation** be inserted after the 16.3 **Area** Sub-section within Section **16.0 WATERCOURSE DEVELOPMENT PERMIT (WDP) AREA**, with present definitions updated and new definitions added so that the section reads as follows:

#### **16.4 Interpretation**

The following definitions apply:

ACTIVE FLOODPLAIN, in relation to a watercourse, means land that is:

- a. adjacent to the watercourse;
- b. inundated by the 1 in 5 year return period flow of the watercourse; and,
- c. 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.

DEVELOPMENT, in the context of interpreting sections of this development permit area, means carrying out construction, redevelopment, building and land alteration and ancillary activities, including engineering or other operations, as well as subdivision of land, in, on, over or under land and land covered by water to the extent that such activities are subject to local government authority under enabling Provincial legislation.

HIGH WATER MARK means the visible high water mark of a watercourse where the presence and action of the water are so common and usual, and so long continued in all ordinary years, as to mark on the soil of the bed of the watercourse a character distinct from that of its banks, in vegetation, as well as in the nature of the soil itself, and includes the active floodplain.

LAKE means any area of year round open water covering a minimum of 1.0 hectares (2.47 acres) of area and possessing a maximum depth of at least 2.0 metres. Smaller and shallower areas of open water may be considered to meet the criteria of a wetland.

QUALIFIED ENVIRONMENTAL PROFESSIONAL (QEP) means an applied scientist or technologist who is registered and in good standing with an appropriate B.C. professional organization constituted under an Act. A qualified environmental professional could be a professional biologist, agrologist, forester, geoscientist, engineer or technologist.

RETAINING WALL means a structure constructed to hold back, stabilize, or support soil.

RIPARIAN ASSESSMENT AREA means the area within 15 m of the high water mark of a watercourse; within 15 m of the top of the ravine bank in the case of a ravine less than 60 m wide; and within 5 m of the top of the ravine bank in the case of a wider ravine that link aquatic to terrestrial ecosystems and includes both existing and potential riparian vegetation and existing and potential upland vegetation that exerts an influence on the watercourse.

STREAMSIDE PROTECTION AND ENHANCEMENT AREA (SPEA) means an area adjacent to a watercourse that links aquatic to terrestrial ecosystems and includes both the riparian area vegetation and the adjacent upland vegetation that exerts an influence on the stream, the width of which is determined by assessment by a Qualified Environmental Practitioner (QEP).

WATERCOURSE means a natural body of water, whether or not it has been modified including, without limitation, a lake, pond, river, creek, spring, gulch, wetland or glacier whether or not usually containing water, including ice, but does not include an aquifer.

WETLAND means land that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, plant species that are typical of inundated or saturated soil conditions, including swamps, marshes, bogs, fens, estuaries and similar areas that are not part of the active floodplain of a watercourse.

- H) That the **Applicability** heading, and paragraph under it ("6. A Development Permit is required..."), be deleted and replaced with a new Sub-section entitled **16.5 Activities that require a Development Permit** so that it reads as follows:

**16.5 Activities that require a Development Permit**

16.5.1 The Owner of land within the WDP Area must obtain a development permit prior to undertaking or permitting or acquiescing in the undertaking of matters identified in section 489 *Local Government Act*, including but not limited to the following activities wherever they occur on land identified as a riparian assessment area within the WDP Area (subject only to exemptions explicitly listed in Section 16.6 or Section 38.1.2 of the Zoning Bylaw):

- a. removal, alteration, disruption or destruction of vegetation, including trees, plants and shrubs;
- b. disturbance of soils;
- c. construction or erection of buildings and structures;
- d. creation of non-structural impervious or semi-impervious surfaces;
- e. flood protection works including shoreline protection works;
- f. construction of roads, trails, retaining walls, docks, wharves and bridges;
- g. provision and maintenance of sewer and water services;
- h. installation, maintenance, repairs and replacement of drainage systems;
- i. installation, maintenance, repairs and replacement of utility corridors;
- j. subdivision as defined in section 455 of the *Local Government Act*;
- k. any other activity that requires a development permit first be issued in accordance with section 489 of the *Local Government Act*.

- l) That the **Exemptions** Sub-section of Section **16.0 WATERCOURSE DEVELOPMENT PERMIT (WDP) AREA** be deleted in its entirety and replaced with the following Sub-section **16.6 Exemptions**:

### **16.6 Exemptions**

A development permit is not required for the following activities:

16.6.1 Subdivisions, including lot consolidations and lot line adjustments, where the newly proposed lot lines do not fall within the WDP Area, or where all of the following criteria are satisfied:

- a. the plan of subdivision demonstrates that all development activities and building platform areas, or minimum site areas where zoning is in place, for each lot can be accommodated entirely outside of the WDP Area;
- b. no disturbance (such as grading, clearing, trenching, and the installation of site infrastructure) to the WDP Area will occur as a result of the creation of lots or provision of services to those lots;
- c. the WDP Area has been identified by a Qualified Environmental Professional (QEP) and clearly delineated on site; and
- d. a Section 219 Covenant, with the RDCK as a Covenant Holder, that contains recommendations to ensure adverse development impacts will be effectively mitigated must be registered over the WDP Area on the titles of all newly created lots.

16.6.2 Addition, alteration, repair, demolition and maintenance of farm buildings and agricultural activities including clearing of land for agricultural purposes.

16.6.3 Farm operations as defined in the *Farm Practices Protection (Right to Farm) Act* and farm use as defined in the *Agricultural Land Commission Act* where a minimum 3 meters from the natural boundary of a watercourse is maintained in native vegetation or agro-forestry crops.

16.6.4 Construction, renovation or repair of a building or other permanent structure if it remains on its existing foundation and is not moved or extended into a riparian assessment area.

16.6.5 Construction of water works authorized under the *Water Sustainability Act* or *Fisheries Act*.

16.6.6 Construction of access authorized under the *Water Sustainability Act* or *Fisheries Act*.

16.6.7 Construction of a small accessory building *not more than* ten (10) square metres, if all of the following apply:

- a. the building is intended as an accessory use and not used for occupancy or habitation;
- b. the building is not located in an identified Streamside Protection and Enhancement Area (SPEA) where these boundaries have been delineated; and
- c. where the removal of native trees or vegetation is minimized to the extent possible.

16.6.8 Land alterations involving emergency measures to prevent or reduce immediate threats to life or property including:

- a. emergency flood or protection works conducted under direction of local or provincial government;

- b. the temporary placement of sandbags and modular spill berms essential to preventing loss of life and existing buildings placed during, and removed following, emergency flooding events;
- c. the removal of trees that have been examined by a qualified arborist and certified to pose an immediate threat to life or property;
- d. the removal of trees, shrubs or landscaping that has been deemed necessary for the purposes of wildfire mitigation measures as identified through a professional wildfire risk assessment, where such trees, shrubs or landscaping is replaced or compensated for elsewhere within the WDP Area;
- e. clearing of an obstruction from a bridge, culvert or an obstruction to drainage flow; and
- f. repairs to bridges and safety fences carried out in accordance with the *Water Sustainability Act* or *Fisheries Act*.

16.6.9 Land alterations a minimum distance of 5.0 metres of the high water mark of any watercourse designated on Schedule A.4, including the natural boundary of a lake and wetland involving gardening and yard maintenance activities, including: mowing, pruning, planting and minor soil disturbance that does not alter the general contours of the land and does not involve the cosmetic application of artificial fertilizers, pesticides or herbicides.

16.6.10 Land alteration activities to restore and enhance the natural features, functions and condition of riparian areas in accordance with provincial best management practices.

16.6.11 A Development Permit or Section 219 Covenant has already been registered to the title of land, with the RDCK as a Covenant Holder, that has addressed all WDP Area guidelines for the proposed activities, the conditions of the Development Permit or covenant have been met, and the development activity will not impact the conditions of the previous approval or covenant.

16.6.12 Where a QEP has inspected the site and has provided written confirmation to the satisfaction of the General Manager of Development and Community Sustainability that the actual location of the riparian area is not on the lands proposed for development.

- J) That the **Guidelines** Sub-section of Section **16.0 WATERCOURSE DEVELOPMENT PERMIT (WDP) AREA** be deleted in its entirety and replaced with the following:

**16.7 Guidelines**

DP Guidelines identified for the WDP Area are identified within the OCP for lands within Electoral Area 'G' that are not subject to zoning.

16.7.1 An owner of land within a riparian assessment area seeking to develop such land under a development permit must seek to implement the requirements of the *Riparian Areas Protection Act* and *Riparian Areas Protection Regulation*.

16.7.2 As part of a development permit application made prior to any of the applicable triggers for a development permit identified in section 489 of the *Local Government Act* and RDCK's bylaws, and prior to undertaking any such activities or development, the owner of the applicable land is solely responsible for:

- a. providing the information identified in the following guidelines;

- b. proposing only activities and development consistent with the following guidelines;
- c. not undertaking any activities or development inconsistent with the following guidelines; and,
- d. not undertaking any activities or development without a development permit.

16.7.3 A development application must include, as Development Approval Information, a Biophysical Assessment Report and *Riparian Areas Protection Regulation* (RAPR) Assessment prepared by a QEP as defined in, and, in accordance with, the *Riparian Areas Protection Regulation* established by the Provincial and/or Federal governments as used elsewhere in the Province. This assessment report must include certification from the QEP that:

- a. the QEP qualified to carry out the assessment;
- b. that the assessment methods have been followed;
- c. in their professional opinion the development will not negatively affect the functioning of a watercourse or riparian area and that the requirements of the *Riparian Areas Protection Regulation* have been fulfilled, and;
- d. not undertaking any activities or development without a development permit.

16.7.4 Development proposals in the WDP Area will be evaluated based on their adherence to the following additional guidelines:

- a. Development activities and the siting of buildings and structures will be carried out in a way that results in the least impact to the riparian area.
- b. Demonstrate that a diligent effort has been made to preserve, protect, restore, and enhance riparian vegetation, woody debris, boulders, and other natural features.
- c. Retain mature vegetation wherever possible and incorporate it into the design of the project.
- d. Proposals involving the creation of new parcels by subdivision must demonstrate on a Site Plan that there is adequate space for a building platform area and associated services outside of the setback recommended in the biophysical assessment, and in areas where zoning applies the minimum parcel size should be accommodated entirely outside of the setback area.
- e. Where fencing is proposed within the WDP Area, or to delineate the WDP Area or a covenant area, wildlife-friendly fencing must be utilized to maintain landscape connectivity between aquatic and upland ecosystems.
- f. Development proposals will be evaluated based on individual site characteristics (such as, but not limited to, sensitive habitat features, parcel size, topography, and access) and must adhere to the following priority sequence of mitigation options, as detailed further in the Kootenay Lake Shoreline Guidance Document, as amended from time to time and which is incorporated into these guidelines:
  - i. Avoidance of environmental impacts and associated components;
  - ii. Minimization of unavoidable impacts on environmental values and associated components;
  - iii. Restoration of on-site environmental values and associated components; and,
  - iv. Offsetting impacts to environmental values for residual impacts that cannot be minimized.
- g. Development should be avoided on slopes greater than 30% (approximately 7 degrees) due to the high risk of erosion, bank slippage, and resulting sedimentation into watercourses.

- h. Storm water will be managed in a way that utilizes natural approaches and onsite water recycling as well as preserves natural drainage patterns on the lands.
- i. Preference will be given to flood and erosion protection works that utilize natural approaches for the protection of both private property and the riparian area.
- j. The conditions of the issuance of a Development Permit for the WDP Area may require any of the following:
  - i. areas of land that must remain free of development except in accordance with conditions in the permit;
  - ii. the preservation, protection, restoration or enhancement of natural features and watercourses;
  - iii. dedication of natural watercourses;
  - iv. construction works to preserve, protect, restore or enhance natural watercourses or other specified natural features of the environment;
  - v. protection measures to preserve, protect, restore or enhance fish habitat or riparian areas, control drainage, or control erosion or protect banks;
  - vi. all works to be in accordance with a QEP's recommendations, as provided in the biophysical assessment report;
  - vii. monitoring of the development activities by a QEP;
  - viii. specific timing or sequence of development activities to minimize impacts to the natural environment;
  - ix. limits of disturbance to be in place for the duration of the development activities; and,
  - x. a security deposit in accordance with the Regional District of Central Kootenay Planning Procedures and Fees Bylaw No. 2457, 2015, as amended from time to time.
- k. Should disturbance to the WDP Area occur outside of the scope of the conditions of an issued Development Permit, the property owner must submit a new WDP application with a new biophysical assessment report that assesses the unauthorized disturbance and proposes full remediation of the areas subject to the unauthorized disturbance.

16.7.5 No development activities should take place within any Streamside Protection and Enhancement Area (SPEA) identified by the QEP if the proposed development results in a harmful alteration, disruption or destruction of natural features, functions and conditions that support fish life processes in the riparian assessment area (HADD). The applicant will be required to follow any measures identified by the QEP for protecting the SPEA over the long term and these measures should be included as conditions of the Development Permit.

16.7.6 A QEP report should identify any invasive species and areas subject to prior degradation and should provide recommendations as to potential restoration or mitigation options.

16.7.7 Construction methods and timing must minimize environmental impacts. Clearing of land, grading, and other activities that expose soil should be completed during the dry months of the year usually between June and September. Timing of construction should follow the recommended timing windows for species based on provincially accepted best management practices.

**16.7.8 Post Development Guidelines:** Unless explicitly excluded in a development permit issued

by the Regional District of Central Kootenay, the owner of the applicable land must provide a post development report prepared by the QEP of an assessment of all permit conditions. The report must assess if the Development is in compliance with the applicable development permit conditions and the land has been developed in accordance with the QEP's recommendations within their biophysical assessment report.

**16.7.9 Other Provincial and Federal Requirements:** *The Riparian Areas Protection Regulation* implemented through the WDP Area does not supersede other Federal, Provincial and or local government requirements, including that of other development permit areas, building permits, flood covenants, Federal or Provincial authorization. Land subject to more than one development permit area designation must ensure consistency with the guidelines of each development permit area, to provide comprehensive stewardship of both fish and wildlife habitat.

**16.7.10 Compliance with WDP Standards, Requirements and Conditions of Development Permit**  
The owner of land within the WDP Area must:

- a. comply with all applicable standards set out within and the requirements and conditions of a development permit;
- b. provide a biophysical assessment report and *Riparian Areas Protection Regulation* (RAPR) Assessment in accordance with section 16.7.3; and
- c. provide a post development guideline report in accordance with section 16.7.8.

- K) That the paragraph under the heading **Development Approval Guidelines** of the Section **16.0 WATERCOURSE DEVELOPMENT PERMIT (WDP) AREA** be re-formatted and re-numbered so it reads as follows:

**16.7.11 Development Approval Guidelines:** The Board may consider variances to the subdivision or siting regulations of this Bylaw or other bylaws where the variance may result in enhanced protection of a SPEA in compliance with the recommendations of an assessment report.

- L) That the two paragraphs under the heading **Restoration Guidelines** of the **16.0 WATERCOURSE DEVELOPMENT PERMIT (WDP) AREA** be amended to read as follows:

**16.7.12 Restoration Guidelines:** Without limiting the above or endorsing or acquiescing in unapproved development, where development has occurred in violation of the WDP Area, the following guidelines shall also apply:

16.7.12.1 A QEP must be retained at the expense of the applicant for the purpose of preparing a report outlining how to mitigate the damage incurred by any clearing and site development activities and how to restore the area to its undisturbed condition.

16.7.12.2 Buildings and structures constructed in violation of this WDP Area may be subject to removal at the applicant's expense in order to restore the integrity of the riparian area.

- 4** That **Schedule 'B' Zoning Bylaw** of the **Regional District of Central Kootenay Electoral Area 'G' Land Use Bylaw No. 2452, 2018** be amended as follows:

- A) That the following definitions be inserted into **Section 17.0 Interpretation** in the appropriate alphabetical locations:

ACTIVE FLOODPLAIN, in relation to a watercourse, means land that is:

- a. adjacent to the watercourse;
- b. inundated by the 1 in 5 year return period flow of the watercourse; and,
- c. 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.

DEVELOPMENT or DEVELOP, unless otherwise defined elsewhere in this Bylaw, means any activity carried out in the process of clearing or preparing a site or erecting structures;

DEVELOPMENT, in the context of interpretation of section 38 of Development Permit Area #1: Watercourse Development Permit (WDP) Area, means carrying out construction, redevelopment, building and land alteration and ancillary activities, including engineering or other operations, as well as subdivision of land, in, on, over or under land and land covered by water to the extent that such activities are subject to local government authority under enabling Provincial legislation;

HIGH WATER MARK means the visible high water mark of a watercourse where the presence and action of the water are so common and usual, and so long continued in all ordinary years, as to mark on the soil of the bed of the watercourse a character distinct from that of its banks, in vegetation, as well as in the nature of the soil itself, and includes the active floodplain.

LAKE means any area of year round open water covering a minimum of 1.0 hectares (2.47 acres) of area and possessing a maximum depth of at least 2.0 metres. Smaller and shallower areas of open water may be considered to meet the criteria of a wetland.

QUALIFIED ENVIRONMENTAL PROFESSIONAL (QEP) means an applied scientist or technologist who is registered and in good standing with an appropriate B.C. professional organization constituted under an Act. A qualified environmental professional could be a professional biologist, agrologist, forester, geoscientist, engineer or technologist.

RETAINING WALL means a structure constructed to hold back, stabilize, or support soil.

RIPARIAN ASSESSMENT AREA means the area within 15 m of the high water mark of a watercourse; within 15 m of the top of the ravine bank in the case of a ravine less than 60 m wide; and within 5 m of the top of the ravine bank in the case of a wider ravine that link aquatic to terrestrial ecosystems and includes both existing and potential riparian vegetation and existing and potential upland vegetation that exerts an influence on the watercourse.

STREAMSIDE PROTECTION AND ENHANCEMENT AREA (SPEA) means an area adjacent to a watercourse that links aquatic to terrestrial ecosystems and includes both the riparian area vegetation and the adjacent upland vegetation that exerts an influence on the

stream, the width of which is determined by assessment by a Qualified Environmental Practitioner (QEP).

TOP OF RAVINE BANK means the first significant break in a ravine slope where the break occurs such that the grade beyond the break is greater than 3:1 for a minimum distance of 15 m measured perpendicularly from the break, and the break does not include a bench within the ravine that could be developed.

WATERCOURSE means a natural body of water, whether or not it has been modified including, without limitation, a lake, pond, river, creek, spring, gulch, wetland or glacier whether or not usually containing water, including ice, but does not include an aquifer.

WETLAND means land that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, plant species that are typical of inundated or saturated soil conditions, including swamps, marshes, bogs, fens, estuaries and similar areas that are not part of the active floodplain of a watercourse other than Kootenay Lake.

- B) That a new **Section 38.0 DEVELOPMENT PERMIT AREAS** be inserted so that it reads as follows:

**38.0 DEVELOPMENT PERMIT AREAS:**

**38.1 Development Permit Area #1: Watercourse Development Permit (WDP) Area**

38.1.1 For the area covered by this Zoning Bylaw, being Schedule 'B' to the Regional District of Central Kootenay Electoral Area 'G' Land Use Bylaw No. 2452, 2018, the Official Community Plan in Schedule 'A' to the Regional District of Central Kootenay Electoral Area 'G' Land Use Bylaw No. 2452, 2018 designates the Watercourse Development Permit Area ("WDP Area") and describes the special conditions or objectives that justify the designation. The exemptions and guidelines for the WDP Area are contained within this Zoning Bylaw. The "Post Development Guidelines" identified in WDP Area are incorporated as conditions into all Development Permits for the WDP Area issued by the Regional District of Central Kootenay.

**38.1.2 Exemptions**

A development permit is not required for the following activities:

38.1.2.1 alteration, addition, repair, demolition and maintenance of farm buildings and agricultural activities including clearing of land for agricultural purposes.

38.1.2.2 Subdivisions, including lot consolidations and lot line adjustments, where the newly proposed lot lines do not fall within the WDP Area, or where all of the following criteria are satisfied:

- a. the plan of subdivision demonstrates that all development activities and building platform areas, or minimum site areas where zoning is in place, for each lot can be accommodated entirely outside of the WDP Area;

- b. no disturbance (such as grading, clearing, trenching, and the installation of site infrastructure) to the WDP Area will occur as a result of the creation of lots or provision of services to those lots;
- c. the WDP Area has been identified by a Qualified Environmental Professional (QEP) and clearly delineated on site; and
- d. a Section 219 Covenant, with the RDCK as a Covenant Holder, that contains recommendations to ensure adverse development impacts will be effectively mitigated must be registered over the WDP Area against the titles of all newly created lots.

38.1.2.3 Construction, renovation, or repair of a building or other permanent structure if it remains on its existing foundation and is not moved or extended into a riparian assessment area.

38.1.2.4 A Development Permit or Section 219 Covenant has already been registered against the title of land, with the RDCK as a Covenant Holder, that has addressed that all WDP Area guidelines for the proposed activities, the conditions of the Development Permit or covenant have been met, and the development activity will not impact the conditions of the previous approval or covenant.

38.1.2.5 Where a QEP has inspected the site and has provided written confirmation to the satisfaction of the General Manager of Development and Community Sustainability that the actual location of the riparian area is not on the lands proposed for development.

### **38.1.3 Guidelines**

38.1.3.1 The owner of land within the WDP Area must obtain a development permit prior to undertaking or permitting or acquiescing in the undertaking of the following activities wherever they occur on land identified as a riparian assessment area within the WDP Area:

- a. removal, alteration, disruption or destruction of vegetation, including trees, plants and shrubs;
- b. disturbance of soils;
- c. construction or erection of buildings and structures;
- d. creation of non-structural impervious or semi-impervious surfaces;
- e. flood protection works including shoreline protection works;
- f. construction of roads, trails, retaining walls, docks, wharves and bridges;
- g. provision and maintenance of sewer and water services;
- h. development of drainage systems;
- i. development of utility corridors;
- j. subdivision as defined in section 455 of the *Local Government Act*; and
- k. any other activity that requires a development permit first be issued in accordance with section 489 of the *Local Government Act*.

38.1.3.2 An owner of land within a riparian assessment area seeking to develop such land under a development permit must seek to implement the requirements of the *Riparian Areas Protection Act* and *Riparian Areas Protection Regulation*.

38.1.3.3 As part of a development permit application made prior to any of the applicable triggers for a development permit identified in section 489 of the *Local Government Act* and RDCK's bylaws, and prior to undertaking any such activities or development, the owner of the applicable land is solely responsible for:

- a. providing the information identified in the following guidelines;
- b. proposing only activities and development consistent with the following guidelines;
- c. not undertaking any activities or development inconsistent with the following guidelines; and,
- d. not undertaking any activities or development without a development permit.

38.1.3.4 A development application must include, as Development Approval Information, a Biophysical Assessment Report and *Riparian Areas Protection Regulation (RAPR)* Assessment prepared by a QEP as defined in, and in accordance with, the *Riparian Areas Protection Regulation* established by the Provincial and/or Federal governments as used elsewhere in the Province. The assessment report must include certification from the QEP that:

- a. the QEP is qualified to carry out the assessment;
- b. the assessment methods have been followed; and
- c. in their professional opinion the development will not negatively affect the functioning of a watercourse or riparian area and that the requirements of the Riparian Areas Protection Regulation have been fulfilled.

38.1.3.5 Development proposals in the WDP Area will be evaluated based on their adherence to the following additional guidelines:

- a. Development activities and the siting of buildings and structures will be carried out in a way that results in the least impact to the riparian area.
- b. Demonstrate that a diligent effort has been made to preserve existing riparian vegetation, woody debris, boulders, and other natural features.
- c. Retain mature vegetation wherever possible and incorporate it into the design of the project.
- d. Proposals involving the creation of new parcels by subdivision must demonstrate on a Site Plan that there is adequate space for a building platform area and associated services outside of the setback recommended in the biophysical assessment, and in areas where zoning applies the minimum parcel size should be accommodated entirely outside of the setback area.
- e. Where fencing is proposed within the WDP Area, or to delineate the WDP Area or a covenant area, wildlife-friendly fencing must be utilized to maintain landscape connectivity between aquatic and upland ecosystems.
- f. Development proposals will be evaluated based on individual site characteristics (such as, but not limited to, sensitive habitat features, parcel size, topography, and access) and must adhere to the following priority sequence of mitigation options, as detailed further in the Kootenay Lake Shoreline Guidance Document, as amended from time to time and which is incorporated into these guidelines:
  - i. Avoidance of environmental impacts and associated components;
  - ii. Minimization of unavoidable impacts on environmental values and associated components;

- iii. Restoration of on-site environmental values and associated components; and, iv. Offsetting impacts to environmental values for residual impacts that cannot be minimized.
- g. Development should be avoided on slopes greater than 30% (approximately 7 degrees) due to the high risk of erosion, bank slippage, and resulting sedimentation into watercourses.
- h. Storm water will be managed in a way that utilizes natural approaches and on-site water recycling as well as preserves natural drainage patterns on the lands.
- i. Preference will be given to flood and erosion protection works that utilize natural approaches for the protection of both private property and the riparian area.
- j. The conditions of the issuance of a Development Permit for the WDP Area may require any of the following:
  - i. areas of land that must remain free of development except in accordance with conditions in the permit;
  - ii. the preservation, protection, restoration or enhancement of natural features and watercourses;
  - iii. dedication of natural watercourses;
  - iv. construction works to preserve, protect, restore or enhance natural watercourses or other specified natural features of the environment;
  - v. protection measures to preserve, protect, restore or enhance fish habitat or riparian areas, control drainage, or control erosion or protect banks;
  - vi. all works to be in accordance with a QEP's recommendations, as provided in the biophysical assessment report;
  - vii. monitoring of the development activities by a QEP;
  - viii. specific timing or sequence of development activities to minimize impacts to the natural environment;
  - ix. limits of disturbance to be in place for the duration of the development activities; and,
  - x. a security deposit in accordance with the Regional District of Central Kootenay Planning Procedures and Fees Bylaw No. 2457, 2015, as amended from time to time.
- k. Should disturbance to the WDP Area occur outside of the scope of the conditions of an issued Development Permit, the property owner must submit a new WDP application with a new biophysical assessment report that assesses the unauthorized disturbance and proposes full remediation of the areas subject to the unauthorized disturbance.

38.1.3.6 No development activities should take place within any Streamside Protection and Enhancement Area (SPEA) identified by the QEP if the proposed development results in a harmful alteration, disruption or destruction of natural features, functions and conditions that support fish life processes in the riparian assessment area (HADD). The applicant will be required to follow any measures identified by the QEP for protecting the SPEA over the long term and these measures should be included as conditions of the Development Permit.

38.1.3.7 A QEP report should identify any invasive species and areas subject to prior degradation and should provide recommendations as to potential restoration or mitigation options.

38.1.3.8 Construction methods and timing must minimize environmental impacts. Clearing of land, grading, and other activities that expose soil should be completed during the dry months of the year usually between June and September. Timing of construction should follow the recommended timing windows for species based on provincially accepted best management practices.

38.1.3.9 **Post Development Guidelines Report:** Unless explicitly excluded in a development permit issued by the Regional District of Central Kootenay, the owner of the applicable land must provide a post development report prepared by the QEP of an assessment of all permit conditions. The report must assess if the development is in compliance with the applicable development permit conditions and the land has been developed in accordance with the QEP's recommendations within their biophysical assessment report.

38.1.3.10 **Other Provincial and Federal Requirements:** The *Riparian Areas Protection Regulation* implemented through the WDP Area does not supersede other Federal, Provincial and or local government requirements, including that of other development permit areas, building permits, flood covenants, Federal or Provincial authorization. Land subject to more than one development permit area designation must ensure consistency with the guidelines of each development permit area, to provide comprehensive stewardship of both fish and wildlife habitat.

38.1.3.11 **Compliance with WDP Standards, Requirements and Conditions of Development Permit:** The owner of land within the WDP Area must:

- a. comply with all applicable standards set out within and the requirements and conditions of a development permit;
- b. provide a biophysical assessment report and *Riparian Areas Protection Regulation (RAPR)*;
- c. Assessment in accordance with section 38.1.3.4; and
- d. provide a post development guideline report in accordance with section 38.1.3.9.

38.1.3.12 **Development Approval Guidelines:** The Board may consider variances to the subdivision or siting regulations of this Bylaw or other bylaws where the variance may result in enhanced protection of a SPEA in compliance with the recommendations of an assessment report.

38.1.3.13 **Restoration Guidelines:** Without limiting the above or endorsing or acquiescing in unapproved development, where development has occurred in violation of the WDP Area, the following guidelines shall also apply:

- a. A QEP must be retained at the expense of the applicant for the purpose of preparing a report outlining how to mitigate the damage incurred by any clearing

and site development activities and how to restore the area to its undisturbed condition.

b. Buildings and structures constructed in violation of this WDP Area may be subject to removal at the applicant's expense in order to restore the integrity of the riparian area.

5 By making such consequential changes as are required to reflect the foregoing amendments, including without limitation changes in the numbering and Table of Contents of the bylaw.

6 This Bylaw shall come into force and effect upon its adoption.

**CITATION**

7 This Bylaw may be cited as **“Regional District of Central Kootenay Electoral Area ‘G’ Land Use Bylaw No. 2452, 2018, Amendment No. 3025, 2026”**.

READ A FIRST TIME this                    xx<sup>th</sup>                    day of                    xxxx, 2026.

READ A SECOND TIME this                    xx<sup>th</sup>                    day of                    xxxx, 2026.

READ A THIRD TIME this                    xx<sup>th</sup>                    day of                    xxxx, 2026.

ADOPTED this                    xx<sup>th</sup>                    day of                    xxxx, 2026.

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Aimee Watson, Board Chair

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Mike Morrison, Corporate Officer