

REGIONAL DISTRICT OKANAGAN-SIMILKAMEEN

BYLAW NO. 2337

Application to amend the Riparian Area Policy for Electoral Areas 'A', 'C', 'D-1', 'D-2', 'E', 'F' and 'H' in the Regional District Okanagan-Similkameen

WHEREAS the protection of fish and fish habitat is mandatory under the Federal *Fisheries Act*, and the Province's *Riparian Areas Regulation* is enabled under Section 12 of the *Fish Protection Act*, requiring all affected local governments to adopt bylaws that protect the features, functions and conditions of riparian vegetation that supports fish life processes through the regulation or approval of all residential, commercial and or industrial activities, for lands that are located immediately adjacent to watercourses;

AND WHEREAS the *Riparian Areas Regulation* directs the REGIONAL BOARD to not authorize development and or land alteration unless an assessment is completed by a Qualified Environmental Professional;

NOW THEREFORE the REGIONAL BOARD of the Regional District Okanagan-Similkameen in open meeting assembled, HEREBY ENACTS AS FOLLOWS:

1. This Bylaw may be cited for all purposes as the "**Riparian Areas Policy AMENDMENT BYLAW NO. 2337, 2005**" for Electoral Areas 'A', 'C', 'D-1', 'D-2', 'E', 'F' and 'H'.
 - A) The Riparian Area Policy for the Regional District Okanagan-Similkameen's Official Community Plan and Rural Land Use Bylaws are amended by:

Electoral Area 'A'

- 1) Removing "...and leave areas for fish habitat, which include watercourses and adjacent land (streams, lakes, wetlands and

adjacent land including plant communities and riparian habitat important for fish identified by Ministry of Water, Land and Air Protection).” from sub-section 12.1 under “Background” in the Osoyoos Rural Official Community Plan Bylaw No. 2260, 2004, and replacing it with the following:

12.1 “...’Electoral Area ‘A’ Sensitive Ecosystem Inventory’. Ministry of Water, Land and Air Protection, 2003) including plant communities. Significant...”

2) Removing “...leave areas...” from sub-section 12.5.6 c) under “Natural Environment Policies” in the Osoyoos Rural Official Community Plan Bylaw No. 2260, 2004, and replacing it “...**riparian areas...**” to read as follows:

6. c) “...riparian areas, as determined...”

3) Adding to sub-section 12.5 11. “Natural Environment Policies” to the Osoyoos Rural Official Community Plan Bylaw No. 2260, 2004, to read as follows:

The Regional Board:

11. Will co-operate with senior governments to provide a coordinated strategy for the stewardship of “riparian assessment areas”, in keeping with the general intent of the *Riparian Areas Regulation*, to ensure that no harmful alteration, disruption and or destruction of fish habitat occurs.

4) Re-numbering the sub-sections that immediately follow sub-section 12.5 11. under “Natural Environment Policies” in the Osoyoos Rural Official Community Plan Bylaw No. 2260, 2004.

5) Removing sub-section 15.2.2 2. a. i), ii) and b. i), ii) “**leave areas...**,”including ‘**natural boundary**, ‘**top of bank**,’ and ‘**watercourse**’ under “Area” from the Osoyoos Rural Official Community Plan Bylaw No. 2260, 2004.

6) Removing sub-section 15.2.4 b. under “Determining whether development falls within the ESDP Area” from the Osoyoos Rural Official Community Plan Bylaw No. 2260, 2004.

7) Removing “...**or fish...**” from sub-section 15.2.5 b. (iv) under “Guidelines” in the Osoyoos Rural Official Community Plan Bylaw No. 2260, 2004, to read as follows:

- b. **“...important to wildlife habitat as determined by a professional...”**
- 8) Removing sub-section 15.2.5 2. under “Guidelines” in the Osoyoos Rural Official Community Plan Bylaw No. 2260, 2004, and replacing it with the following:
 - 2. **Incorporation of park, trail and wildlife corridors to provide continuity between important habitats will be encouraged by the Regional Board.**
- 9) Removing sub-section 15.2.5 5. **“Leave areas...”** under “Guidelines” in the Osoyoos Rural Official Community Plan Bylaw No. 2260, 2004.
- 10) Removing sub-section 15.2.5 6. **“Where a variance...”** under “Guidelines” in the Osoyoos Rural Official Community Plan Bylaw No. 2260, 2004.
- 11) Removing **“...or leave areas, and...”** from sub-section 15.2.5 7. under “Guidelines” in the Osoyoos Rural Official Community Plan Bylaw No. 2260, 2004, to read as follows:
 - 7. **“...important habitat areas, in addition to...”**
- 12) Removing **“...outside of leave areas...”** from sub-section 15.2.6 1. under “Exemptions” in the Osoyoos Rural Official Community Plan Bylaw No. 2260, 2004, to read as follows:
 - 1. **“...accessory buildings related to that dwelling, and any related grading, removal, deposit or moving of soil;”**
- 13) Removing **“...outside of leave areas;”** sub-section 15.2.6 2. under “Exemptions” in the Osoyoos Rural Official Community Plan Bylaw No. 2260, 2004, to read as follows:
 - 2. **the construction, alteration, addition, repair, demolition and maintenance of farm buildings;**
- 14) Removing **“...outside of leave areas...”** from sub-section 15.2.6. 3 under “Exemptions” in the Osoyoos Rural Official Community Plan Bylaw No. 2260, 2004, to read as follows:
 - 3. **the construction of a driveway and utilities affecting an area less than 500 sq. m. (5,382 sq. ft.);**

15) Removing “**FIGURE 2 LEAVE AREAS for Rural or Low Density Residential Designations**” immediately following sub-section 15.2.6 9, in the Osoyoos Rural Official Community Plan Bylaw No. 2260, 2004.

16) Changing section 15.0 “DEVELOPMENT PERMIT AREA” heading in the Osoyoos Rural Official Community Plan Bylaw No. 2260, 2004, to read as follows:

DEVELOPMENT PERMIT AREAS

17) Adding “...**Due to their significance and sensitivity, all watercourses...**” to section 15.1 Background in the Osoyoos Rural Official Community Plan Bylaw No. 2260, 2004, to read as follows:

15.1 “...restoration and preservation of the natural environment. **Due to their significance and sensitivity, all watercourses and riparian areas in the Regional District have been designated as Development Permit Areas.**”

18) Adding sub-section 15.3 titled “**Watercourse Development Permit (WDP) Area**” to the Osoyoos Rural Official Community Plan Bylaw No. 2260, 2004, to read as follows:

15.3 Watercourse Development Permit (WDP) Area

15.3.1 Category

The Watercourse Development Permit Area is designated under Section 919.1(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.

15.3.2 Area

The Watercourse Development Permit (WDP) Area is comprised of:

- 1. Riparian assessment areas for fish habitat, which include all watercourses and adjacent land:**
 - a. within 30 metres of the high water mark of a watercourse;**

- b. within 30 metres of the top of the ravine bank in the case of a ravine less than 60 metres wide, and;
- c. within 10 metres 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;

and identified in Schedule 'E'.

Where land is subject to more than one Development Permit Area designation, a single development permit is required. The application will be subject to the requirements of all applicable Development Permit Areas, and any development permit issued will be in accordance with the guidelines of all such Areas.

“high water mark” means the visible high water mark of a watercourse where the presence and action of the water are so common and unusual, 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;

“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 latter than 3:1 for a minimum distance of 15 metres measured perpendicularly from the break, and the break does not include a bench within the ravine that could be developed;

“watercourse” includes any of the following that provides fish habitat: a watercourse, whether it usually contains water or not; a pond, lake, river, creek or brook, and; a ditch, spring or wetland that is connected by surface flow to a watercourse.”

15.3.3 Justification

The primary objective of this development permit area designation is 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.

There is a general decline in fish populations in the South Okanagan that is directly attributable to habitat loss. In order to protect the declining fish stocks increased protection of riparian corridors creeks, rivers, lakes, ponds and wetlands, collectively called watercourses is necessary. Development within these areas requires assessment to ensure protection of fisheries values from potentially harmful development activities to ensure that the natural features, functions and conditions that support fish habitat are not lost.

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 areas land.

15.3.4 Determining whether development falls within the WDP Area

To confirm whether a proposed development is within land identified as a riparian assessment area in the WDP Area for which a development permit application is required, the following applies:

- a. Any area located within 30 metres of the high water mark of a watercourse; within 30 metres of the top of the ravine bank in the case of a ravine less than 60 metres wide; and within 10 metres 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;**

Unless the proposed development or alteration of land is clearly outside the riparian assessment area the location of the development shall be determined accurately by survey in relation to the WDP Area to determine whether a development permit application is required.

15.3.5 Guidelines

A development permit is required, except where specified under Exemptions Section 15.3.6, for development or land alteration on land identified as a riparian assessment area within the Watercourse Development Permit (WDP) Area. Where not exempt, development requiring a development permit includes any of the following associated with or

resulting from residential, commercial or industrial activities or ancillary activities to the extent that they are subject to local government powers under Part 26 of the *Local Government Act* the:

- a. removal, alteration, disruption or destruction of vegetation;
- b. disturbance of soils;
- c. construction or erection of buildings and structures;
- d. creation of nonstructural impervious or semi-impervious surfaces;
- e. flood protection works;
- f. construction of roads, trails, 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 872 of the *Local Government Act*;

Development shall be in accordance with the following guidelines:

1. All development proposals subject to this permit will be assessed by a Qualified Environmental Professional in accordance with the Riparian Areas Regulation established by the Ministry of Water, Land and Air Protection and the Department of Fisheries and Oceans;
2. A Watercourse Development Permit shall not be issued prior to the Province notifying the Regional District that a Qualified Environmental Professional (QEP) has submitted a report certifying that he or she is qualified to carry out the assessment, that the assessment methods have been followed, and provides in their professional opinion that a lesser setback will not negatively affect the functioning of a watercourse or riparian area and that the criteria listed in the Riparian Areas Regulation has been fulfilled, and;
3. The Riparian Areas Regulation implemented through the Watercourse Development Permit (WDP) 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.

15.3.5 Exemptions

The Watercourse Development Permit (WDP) Area does not apply to the following:

1. the construction, alteration, addition, repair, demolition and maintenance of farm buildings;
2. institutional development containing no residential, commercial or industrial aspect;
3. agricultural development containing no residential, commercial or industrial aspect;
4. reconstruction, renovation or repair of a permanent structure if the structure remains on its existing foundation. *Only if the existing foundation is moved or extended in to a riparian assessment area would a WDP be required;*
5. an area where the applicant can demonstrate that the conditions of the WDP Area have already been satisfied, or a development permit for the same area has already been issued in the past and the conditions in the development permit have all been met, or the conditions addressed in the previous development permit will not be affected, and;
6. to development and land alteration proposals which have been issued an authorization by DFO for harmful alteration, disruption, or destruction of fish habitat (HADD)."

19) Removing "**Leave Areas for Fish Habitat...**" from the Rural Osoyoos OCP Map Schedule 'D'.

20) Adding **Schedule 'E' "Watercourse Development Permit Area"** showing all watercourses and riparian assessment areas to the Rural Osoyoos OCP mapping provisions.

Electoral Area 'C'

21) Removing "**...and leave areas for fish habitat, which include watercourses and adjacent land (streams, lakes, wetlands and adjacent land including plant communities and riparian habitat**

important for fish identified by Ministry of Water, Land and Air Protection).” from sub-section 12.1 under “Background” in the Oliver Rural Official Community Plan Bylaw No. 2260, 2004, and replacing it with the following:

12.1 “...’Habitat Atlas for Wildlife at Risk, South Okanagan & Lower Similkameen, Ministry of Environment, Lands and Parks, 1999) including plant communities. Significant...”

22) Adding sub-section 12.3.2 12. “Natural Environment Policies” in the Oliver Rural Official Community Plan Bylaw No. 2122, 2002, to read as follows:

The Regional Board:

12. Will co-operate with senior governments to provide coordinated strategy for the stewardship of “riparian assessment areas”, in keeping with the general intent of the *Riparian Areas Regulation*, to ensure that no harmful alteration, disruption and or destruction of fish habitat occurs.

23) Re-numbering the sub-sections that immediately follow sub-section 12.3.2 12. under “Natural Environment Policies” in the Oliver Rural Official Community Plan Bylaw No. 2122, 2002.

24) Removing “...leave areas...” from sub-section 12.3.2 6. c) under “Natural Environment Policies” in the Oliver Rural Official Community Plan Bylaw No. 2122, 2002 and replacing with the following:

6. c) “...riparian areas...”

25) Removing sub-section 17.2.2 2. “leave areas...” including the definitions of ‘**Natural boundary**’, ‘**Top of bank**’ and ‘**Watercourse**’ under “Area” in the Oliver Rural Official Community Plan Bylaw No. 2122, 2002.

26) Remove references to “fish,” and “riparian/wetlands,” from sub-section 17.2.3 under “Justification” in the Oliver Rural Official Community Plan Bylaw No. 2122, 2002, to read as follows:

17.2.3 “...essential habitat and corridors for birds and other wildlife...”

There is a general decline in wildlife populations... The ecosystems in jeopardy are grasslands, lower elevation forests and rugged terrain.”

27) Removing “...and leave areas and their watercourses to...” from sub-section 17.2.3 under “Justification” in the Oliver Rural Official Community Plan Bylaw No. 2122, 2002, to read as follows:

17.2.3 “...’Habitat Atlas for Wildlife at Risk’ which forms the basis for...”

28) Removing sub-section 17.2.4 b. under “Determining whether development falls within the ESDP Area” from the Oliver Rural Official Community Plan Bylaw No. 2122.

29) Removing “...or fish...” from sub-section 17.2.5 b. (iv) under “Guidelines” in the Oliver Rural Official Community Plan Bylaw No. 2122, 2002, to read as follows:

b. “...important to wildlife habitat as determined by a professional...”

30) Removing sub-section 17.2.5 2. under “Guidelines” in the Oliver Rural Official Community Plan Bylaw No. 2122, 2002, and replacing it with the following:

2. Incorporation of park, trail and wildlife corridors to provide continuity between important habitats will be encouraged by the Regional Board.

31) Removing sub-section 17.2.5 5. “**Leave areas...**” under “Guidelines” in the Oliver Rural Official Community Plan Bylaw No. 2122, 2002.

32) Removing sub-section 17.2.5 6. “**Where a variance...**” under “Guidelines” in the Oliver Rural Official Community Plan Bylaw No. 2122, 2002.

33) Removing “...or leave areas, and...” from sub-section 17.2.5 7. under “Guidelines” in the Oliver Rural Official Community Plan Bylaw No. 2122, 2002, to read as follows:

7. “...important habitat areas, in addition to...”

34) Removing “...**outside of leave areas...**” from sub-section 17.2.6 1. under “Exemptions” in the Oliver Rural Official Community Plan Bylaw No. 2122, 2002, to read as follows:

1. **“...accessory buildings related to that dwelling, and any related grading, removal, deposit or moving of soil;”**

35) Removing “...**outside of leave areas;**” sub-section 17.2.6 2. under ”Exemptions” in the Oliver Rural Official Community Plan Bylaw No. 2122, 2002, to read as follows:

2. **the construction, alteration, addition, repair, demolition and maintenance of farm buildings;**

36) Removing “outside of leave areas...” from sub-section 17.2.6 3. under “Exemptions” in the Oliver Rural Official Community Plan Bylaw No. 2122, 2002, to read as follows”

3. **“the construction of a driveway and utilities affecting an area less than 500 sq. m. (5,382 sq. ft.);”**

37) Removing “**FIGURE 2 LEAVE AREAS**” immediately following sub-section 17.2.6 9 in the Oliver Rural Official Community Plan Bylaw No. 2122, 2002.

38) Adding “...**Due to their significance and sensitivity...**” to section 17.1 “Background” in the Oliver Rural Official Community Plan Bylaw No. 2122, 2002, to read as follows:

- 17.1 **“...restoration and preservation of the natural environment. Due to their significance and sensitivity, all watercourses and riparian areas in the Regional District have been designated as Development Permit Areas.”**

39) Adding sub-section 17.3 titled “**Watercourse Development Permit (WDP) Area**” under “DEVELOPMENT PERMIT AREAS” to the Oliver Rural Official Community Plan Bylaw No. 2122, 2002, to read as follows:

17.3 Watercourse Development Permit (WDP) Area

17.3.1 Category

The Watercourse Development Permit Area is designated under Section 919.1(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.

17.3.2 Area

The Watercourse Development Permit (WDP) Area is comprised of:

1. Riparian assessment areas for fish habitat, which include all watercourses and adjacent land:
 - a. within 30 metres of the high water mark of a watercourse;
 - b. within 30 metres of the top of the ravine bank in the case of a ravine less than 60 metres wide, and;
 - c. within 10 metres 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;

and identified in Schedule 'D'.

Where land is subject to more than one Development Permit Area designation, a single development permit is required. The application will be subject to the requirements of all applicable Development Permit Areas, and any development permit issued will be in accordance with the guidelines of all such Areas.

“high water mark” means the visible high water mark of a watercourse where the presence and action of the water are so common and unusual, 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;

“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 latter than 3:1 for a minimum distance of 15 metres measured perpendicularly from the break, and the break does not include a bench within the ravine that could be developed;

“watercourse” includes any of the following that provides fish habitat: a watercourse, whether it usually contains water or not; a pond, lake, river, creek or brook, and; a ditch, spring or wetland that is connected by surface flow to a watercourse.”

17.3.3 Justification

The primary objective of this development permit area designation is 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.

There is a general decline in fish populations in the South Okanagan that is directly attributable to habitat loss. In order to protect the declining fish stocks increased protection of riparian corridors creeks, rivers, lakes, ponds and wetlands, collectively called watercourses is necessary. Development within these areas requires assessment to ensure protection of fisheries values from potentially harmful development activities to ensure that the natural features, functions and conditions that support fish habitat are not lost.

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 areas land.

17.3.4 Determining whether development falls within the WDP Area

To confirm whether a proposed development is within land identified as a riparian assessment area in the WDP Area for which a development permit application is required, the following applies:

- a. Any area located within 30 metres of the high water mark of a watercourse; within 30 metres of the top of the ravine bank in the case of a ravine less than 60 metres wide; and within 10 metres 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;**

Unless the proposed development or alteration of land is clearly outside the riparian assessment area the location of the development shall be determined accurately by survey in relation to the WDP Area to determine whether a development permit application is required.

17.3.5 Guidelines

A development permit is required, except where specified under Exemptions Section 15.3.6, for development or land alteration on land identified as a riparian assessment area within the Watercourse Development Permit (WDP) Area. Where not exempt, development requiring a development permit includes any of the following associated with or resulting from residential, commercial or industrial activities or ancillary activities to the extent that they are subject to local government powers under Part 26 of the *Local Government Act* the:

- a. removal, alteration, disruption or destruction of vegetation;
- b. disturbance of soils;
- c. construction or erection of buildings and structures;
- d. creation of nonstructural impervious or semi-impervious surfaces;
- e. flood protection works;
- f. construction of roads, trails, 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 872 of the *Local Government Act*;

Development shall be in accordance with the following guidelines:

1. All development proposals subject to this permit will be assessed by a Qualified Environmental Professional in accordance with the Riparian Areas Regulation established by the Ministry of Water, Land and Air Protection and the Department of Fisheries and Oceans;
2. A Watercourse Development Permit shall not be issued prior to the Province notifying the Regional District that a Qualified Environmental Professional (QEP) has submitted

a report certifying that he or she is qualified to carry out the assessment, that the assessment methods have been followed, and provides in their professional opinion that a lesser setback will not negatively affect the functioning of a watercourse or riparian area and that the criteria listed in the Riparian Areas Regulation has been fulfilled, and;

3. The Riparian Areas Regulation implemented through the Watercourse Development Permit (WDP) 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.

17.3.6 Exemptions

The Watercourse Development Permit (WDP) Area does not apply to the following:

1. the construction, alteration, addition, repair, demolition and maintenance of farm buildings;
2. institutional development containing no residential, commercial or industrial aspect;
3. agricultural development containing no residential, commercial or industrial aspect;
4. reconstruction, renovation or repair of a permanent structure if the structure remains on its existing foundation. *Only if the existing foundation is moved or extended in to a riparian assessment area would a WDP be required;*
5. an area where the applicant can demonstrate that the conditions of the WDP Area have already been satisfied, or a development permit for the same area has already been issued in the past and the conditions in the development permit have all been met, or the conditions

addressed in the previous development permit will not be affected, and;

- 6. to development and land alteration proposals which have been issued an authorization by DFO for harmful alteration, disruption, or destruction of fish habitat (HADD)."**

40) Removing **"Leave Areas for Fish Habitat..."** from the Rural Oliver OCP Map Schedule 'C'.

41) Adding Schedule 'D' "Watercourse Development Permit Area" mapping showing all watercourses and riparian assessment areas to the Rural Oliver OCP mapping provisions.

Electoral Area 'D-1'

42) Removing **"The following main watercourses are identified for protection from the Ministry of Environment, Lands and Parks, and the public:...by the Ministry to be of fish bearing significance."** from sub-section 4.1 "Watercourse Management" in the Electoral Area 'D' Kaleden-Apex Southwest Sector Official Community Plan Bylaw No. 1882, 1999.

43) Removing sub-section 4.1 2. **"Incorporate the Ministry of Environment, Lands and Parks'..."** under "Watercourse Management Objectives" in the Electoral Area 'D' Kaleden-Apex Southwest Sector Official Community Plan Bylaw No. 1882, 1999.

44) Removing sub-section 4.1 3. **"Utilize stream protection guidelines prepared by the Ministry..."** under "Watercourse Management Objectives" in the Electoral Area 'D' Kaleden-Apex Southwest Sector Official Community Plan Bylaw No. 1882, 1999.

45) Removing sub-section 4.1 1. "Protect those watercourses identified on Map 3..." under "Watercourse Management Policies" in the Electoral Area 'D' Kaleden-Apex Southwest Sector Official Community Plan Bylaw No. 1882, 1999.

46) Removing sub-section 4.1 2. **"Require all new development..."** under "Watercourse Management Policies" in the Electoral Area 'D' Kaleden-Apex Southwest Sector Official Community Plan Bylaw No. 1882, 1999, and replacing with the following:

The Regional District will:

- 2. Co-operate with senior governments to provide a coordinated strategy for the stewardship of “riparian assessment areas”, in keeping with the general intent of the *Riparian Areas Regulation*, to ensure that no harmful alteration, disruption and or destruction of fish habitat occurs.**

47) Removing “...**designated...**” from sub-section 18.1 a under “Designating Development Permit Areas” in the Electoral Area ‘D’ Kaleden-Apex Southwest Sector Official Community Plan Bylaw No. 1882, 1999, to read as follows:

- a) “...by regulating critical habitat and watercourses.”**

48) Removing the heading “**Determining whether a development...**” from sub-section 18.2.4 from Electoral Area ‘D’ Kaleden-Apex Southwest Sector Official Community Plan Bylaw No. 1882, 1999, and replacing it with the following:

- 4. “Determining whether a development is inside or outside designated Critical Habitat Area”**

49) Removing sub-section 18.2.4 a. under “Determining whether development falls within the ESDP Area” from the Electoral Area ‘D’ Kaleden-Apex Southwest Sector Official Community Plan Bylaw No. 1882, 1999, and replacing it with the following:

- a) To determine whether a proposed development is close to a designated critical habitat, the following is required:**
 - locating the habitat area relative to the property lines.**

50) Removing “...**fish and...**” from sub-section 18.2.6 b) under “Guidelines” in the Electoral Area ‘D’ Kaleden-Apex Southwest Sector Official Community Plan Bylaw No. 1882, 1999, to read as follows:

- b) “...regarding the applicability of any wildlife habitat guidelines...”**

51) Removing “**Leave strips be provided...**” sub-section 18.2.6 g) under “Guidelines” in the Electoral Area ‘D’ Kaleden-Apex Southwest Sector Official Community Plan Bylaw No. 1882, 1999.

52) Removing “**Leave strips will be permanently protected...**” sub-section 18.2.6 h) under “Guidelines” in the Electoral Area ‘D’ Kaleden-

Apex Southwest Sector Official Community Plan Bylaw No. 1882, 1999.

53) Removing “...or watercourses” from sub-section 18.2.6 i) under “Guidelines” in the Electoral Area ‘D’ Kaleden-Apex Southwest Sector Official Community Plan Bylaw No. 1882, 1999, to read as follows:

i) “...that are designated critical habitat areas;”

54) Removing “...or watercourses” and “watercourse” from sub-section 18.2.6 k) under “Guidelines” in the Electoral Area ‘D’ Kaleden-Apex Southwest Sector Official Community Plan Bylaw No. 1882, 1999, to read as follows:

k) “...land containing critical habitat...environmentally sensitive area:

- **Dedication of the habitat or hazard area;...”**

55) Removing “**Defining Leave Strip Areas**” Diagrams 18.2a, 18.2b and 18.2c immediately following sub-section 18.2.6 k) from the Electoral Area ‘D’ Kaleden-Apex Southwest Sector Official Community Plan Bylaw No. 1882, 1999.

56) Removing “**Land Development Guidelines Apply**” from the Electoral Area ‘D’ Kaleden-Apex Southwest Sector OCP Map Schedule ‘3’.

57) Adding sub-section 18.3 titled “**Watercourse Development Permit (WDP) Area**” under “DEVELOPMENT PERMIT AREAS” to the Electoral Area ‘D’ Kaleden-Apex Southwest Sector Official Community Plan Bylaw No. 1882, 1999, to read as follows:

18.3 Watercourse Development Permit (WDP) Area

1. Category

The Watercourse Development Permit Area is designated under Section 919.1(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.

2. Area

The Watercourse Development Permit (WDP) Area is comprised of:

1. Riparian assessment areas for fish habitat, which include all watercourses and adjacent land:
 - a. within 30 metres of the high water mark of a watercourse;
 - b. within 30 metres of the top of the ravine bank in the case of a ravine less than 60 metres wide, and;
 - c. within 10 metres 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;

and identified in Map '15'.

Where land is subject to more than one Development Permit Area designation, a single development permit is required. The application will be subject to the requirements of all applicable Development Permit Areas, and any development permit issued will be in accordance with the guidelines of all such Areas.

“high water mark” means the visible high water mark of a watercourse where the presence and action of the water are so common and unusual, 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;

“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 latter than 3:1 for a minimum distance of 15 metres measured perpendicularly from the break, and the break does not include a bench within the ravine that could be developed;

“watercourse” includes any of the following that provides fish habitat: a watercourse, whether it usually contains water or not; a pond, lake, river, creek or brook, and; a ditch, spring or wetland that is connected by surface flow to a watercourse.”

3. Justification

The primary objective of this development permit area designation is 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.

There is a general decline in fish populations in the South Okanagan that is directly attributable to habitat loss. In order to protect the declining fish stocks increased protection of riparian corridors creeks, rivers, lakes, ponds and wetlands, collectively called watercourses is necessary. Development within these areas requires assessment to ensure protection of fisheries values from potentially harmful development activities to ensure that the natural features, functions and conditions that support fish habitat are not lost.

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 areas land.

4. Determining whether development falls within the WDP Area

To confirm whether a proposed development is within land identified as a riparian assessment area in the WDP Area for which a development permit application is required, the following applies:

- a) Any area located within 30 metres of the high water mark of a watercourse; within 30 metres of the top of the ravine bank in the case of a ravine less than 60 metres wide; and within 10 metres 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;**

Unless the proposed development or alteration of land is clearly outside the riparian assessment area the location of the development shall be determined accurately by survey in relation to the WDP Area to determine whether a development permit application is required.

5. Guidelines

A development permit is required, except where specified under Exemptions Section 15.3.6, for development or land alteration on land identified as a riparian assessment area within the Watercourse Development Permit (WDP) Area. Where not exempt, development requiring a development permit includes any of the following associated with or resulting from residential, commercial or industrial activities or ancillary activities to the extent that they are subject to local government powers under Part 26 of the *Local Government Act* the:

- a. removal, alteration, disruption or destruction of vegetation;
- b. disturbance of soils;
- c. construction or erection of buildings and structures;
- d. creation of nonstructural impervious or semi-impervious surfaces;
- e. flood protection works;
- f. construction of roads, trails, 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 872 of the *Local Government Act*;

Development shall be in accordance with the following guidelines:

1. All development proposals subject to this permit will be assessed by a Qualified Environmental Professional in accordance with the Riparian Areas Regulation established by the Ministry of Water, Land and Air Protection and the Department of Fisheries and Oceans;
2. No development or land alteration shall occur prior to the Province notifying the Regional District that a Qualified Environmental Professional (QEP) has submitted a report to the Province by a QEP certifying that he or she is qualified to carry out the assessment, that the assessment methods have been followed, and provides in their professional opinion that a lesser setback will not negatively affect the functioning of a watercourse or

riparian area, that the criteria listed in the Riparian Areas Regulation has been fulfilled.

3. **The Riparian Areas Regulation implemented through the Watercourse Development Permit (WDP) 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.**

6. Exemptions

The Watercourse Development Permit (WDP) Area does not apply to the following:

1. **the construction, alteration, addition, repair, demolition and maintenance of farm buildings;**
2. **institutional development containing no residential, commercial or industrial aspect;**
3. **agricultural development containing no residential, commercial or industrial aspect;**
4. **reconstruction, renovation or repair of a permanent structure if the structure remains on its existing foundation. *Only if the existing foundation is moved or extended in to a riparian assessment area would a WDP be required;***
5. **an area where the applicant can demonstrate that the conditions of the WDP Area have already been satisfied, or a development permit for the same area has already been issued in the past and the conditions in the development permit have all been met, or the conditions addressed in the previous development permit will not be affected, and;**
6. **to development and land alteration proposals which have been issued an authorization by DFO for harmful**

alteration, disruption, or destruction of fish habitat (HADD).”

58) Removing “**Leave Areas for Fish Habitat...**” from the Electoral Area ‘D’ Kaleden-Apex Southwest Sector Official Community Plan Bylaw No. 1882, 1999 - Map ‘14’.

59) Adding Map ‘15’ titled “**Watercourse Development Permit Area**” to showing all watercourses and riparian assessment areas to the Electoral Area ‘D’ Kaleden-Apex Southwest Sector OCP mapping provisions.

Electoral Area ‘D-2’

60) Adding sub-section 5.3 .2 “Natural Environment Policies” in the Electoral Area ‘D’ East Skaha, Vaseux Official Community Plan Bylaw No. 1708, 1996, to read as follows:

The Regional Board’s policies are as follows:

2. To co-operate with senior governments to provide a coordinated strategy for the stewardship of “riparian assessment areas”, in keeping with the general intent of the *Riparian Areas Regulation*, to ensure that no harmful alteration, disruption and or destruction of fish habitat occurs.

61) Re-numbering the sub-sections that immediately follow sub-section 5.3 .2 under “Natural Environment Policies” in the Electoral Area ‘D’ East Skaha, Vaseux Official Community Plan Bylaw No. 1708, 1996.

62) Removing “**...fish and...**” from sub-section 19.5. .4 .1 in the Electoral Area ‘D’ East Skaha, Vaseux Official Community Plan Bylaw No. 1708, 1996, to read as follows:

.1 “...regarding the applicability of any wildlife habitat guidelines...”

63) Adding sub-section 19.6 titled “**Watercourse Development Permit (WDP) Area**” under “DEVELOPMENT PERMIT AREAS” to the Electoral Area ‘D’ East Skaha, Vaseux Official Community Plan Bylaw No. 1708, 1996, to read as follows:

19.6 Watercourse Development Permit (WDP) Area

1. Background

The Official Community Plan may designate development permit areas under the authority of the Local Government Act, and applicable provisions of the Community Charter. Unless otherwise specified, a development permit must be approved by the Regional Board prior to any development or subdivision of land within a designated development permit area. The purpose of acquiring a development permit is to ensure certain requirements are addressed towards the protection, restoration and preservation of the natural environment. Due to their significance and sensitivity, all watercourses and riparian areas in the Regional District have been designated as Development Permit Areas.

2. Category

The Watercourse Development Permit Area is designated under Section 919.1(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.”

3. Area

The Watercourse Development Permit (WDP) Area is comprised of:

- 1. Riparian assessment areas for fish habitat, which include all watercourses and adjacent land:**
 - a. within 30 metres of the high water mark of a watercourse;**
 - b. within 30 metres of the top of the ravine bank in the case of a ravine less than 60 metres wide, and;**
 - c. within 10 metres 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;**

and identified in Map ‘15’.

Where land is subject to more than one Development Permit Area designation, a single development permit is required. The application will be subject to the requirements of all applicable Development Permit Areas, and any development permit issued will be in accordance with the guidelines of all such Areas.

“high water mark” means the visible high water mark of a watercourse where the presence and action of the water are so common and unusual, 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;

“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 latter than 3:1 for a minimum distance of 15 metres measured perpendicularly from the break, and the break does not include a bench within the ravine that could be developed;

“watercourse” includes any of the following that provides fish habitat: a watercourse, whether it usually contains water or not; a pond, lake, river, creek or brook, and; a ditch, spring or wetland that is connected by surface flow to a watercourse.”

4. Justification

The primary objective of this development permit area designation is 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.

There is a general decline in fish populations in the South Okanagan that is directly attributable to habitat loss. In order to protect the declining fish stocks increased protection of riparian corridors creeks, rivers, lakes, ponds and wetlands, collectively called watercourses is necessary. Development within these areas requires assessment to ensure protection of fisheries values from potentially harmful development activities to ensure that the natural features, functions and conditions that support fish habitat are not lost.

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 areas land.

5. **Determining whether development falls within the WDP Area**

To confirm whether a proposed development is within land identified as a riparian assessment area in the WDP Area for which a development permit application is required, the following applies:

- a) Any area located within 30 metres of the high water mark of a watercourse; within 30 metres of the top of the ravine bank in the case of a ravine less than 60 metres wide; and within 10 metres 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;

Unless the proposed development or alteration of land is clearly outside the riparian assessment area the location of the development shall be determined accurately by survey in relation to the WDP Area to determine whether a development permit application is required.

6. **Guidelines**

A development permit is required, except where specified under Exemptions Section 15.3.6, for development or land alteration on land identified as a riparian assessment area within the Watercourse Development Permit (WDP) Area. Where not exempt, development requiring a development permit includes any of the following associated with or resulting from residential, commercial or industrial activities or ancillary activities to the extent that they are subject to local government powers under Part 26 of the *Local Government Act* the:

- a. removal, alteration, disruption or destruction of vegetation;
- b. disturbance of soils;
- c. construction or erection of buildings and structures;

- d. creation of nonstructural impervious or semi-impervious surfaces;
- e. flood protection works;
- f. construction of roads, trails, 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 872 of the *Local Government Act*;

Development shall be in accordance with the following guidelines:

1. All development proposals subject to this permit will be assessed by a Qualified Environmental Professional in accordance with the Riparian Areas Regulation established by the Ministry of Water, Land and Air Protection and the Department of Fisheries and Oceans, and;
2. A Watercourse Development Permit shall not be issued prior to the Province notifying the Regional District that a Qualified Environmental Professional (QEP) has submitted a report certifying that he or she is qualified to carry out the assessment, that the assessment methods have been followed, and provides in their professional opinion that a lesser setback will not negatively affect the functioning of a watercourse or riparian area and that the criteria listed in the Riparian Areas Regulation has been fulfilled, and;
3. The Riparian Areas Regulation implemented through the Watercourse Development Permit (WDP) 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.

7. Exemptions

The Watercourse Development Permit (WDP) Area does not apply to the following:

1. the construction, alteration, addition, repair, demolition and maintenance of farm buildings;
2. institutional development containing no residential, commercial or industrial aspect;
3. agricultural development containing no residential, commercial or industrial aspect;
4. reconstruction, renovation or repair of a permanent structure if the structure remains on its existing foundation. *Only if the existing foundation is moved or extended in to a riparian assessment area would a WDP be required;*
5. an area where the applicant can demonstrate that the conditions of the WDP Area have already been satisfied, or a development permit for the same area has already been issued in the past and the conditions in the development permit have all been met, or the conditions addressed in the previous development permit will not be affected, and;
6. to development and land alteration proposals which have been issued an authorization by DFO for harmful alteration, disruption, or destruction of fish habitat (HADD).”

64) Adding a map titled “**Watercourse Development Permit Area**” showing all watercourses and riparian assessment areas to the mapping provisions to Electoral Area ‘D’ East Skaha, Vaseux Official Community Plan Bylaw No. 1708, 1996.

Electoral Area ‘E’

65) Removing sub-section V. B. 5. under “Natural Environment Policies” in the Electoral Area ‘E’ Official Community Plan Bylaw No. 1406, 1993, and replacing it with the following:

5. The Board will co-operate with senior governments to provide a coordinated strategy for the stewardship of “riparian assessment areas”, in keeping with the general intent of the *Riparian Areas Regulation*, to ensure that no harmful alteration, disruption and or destruction of fish habitat occurs.

66) Removing section VII. A-D, “**Development Permit Area for Protection of the Natural Environment**” in the Electoral Area ‘E’ Official Community Plan Bylaw No. 1406, 1993 and replacing it with “**Watercourse Development Permit Area**” to read as follows:

VII. WATERCOURSE DEVELOPMENT PERMIT AREA

A. Background

The Official Community Plan may designate development permit areas under the authority of the Local Government Act, and applicable provisions of the Community Charter. Unless otherwise specified, a development permit must be approved by the Regional Board prior to any development or subdivision of land within a designated development permit area. The purpose of acquiring a development permit is to ensure certain requirements are addressed towards the protection, restoration and preservation of the natural environment. Due to their significance and sensitivity, all watercourses and riparian areas in the Regional District have been designated as Development Permit Areas.

B. Category

The Watercourse Development Permit Area is designated under Section 919.1(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.

C. Area

The Watercourse Development Permit (WDP) Area is comprised of:

1. Riparian assessment areas for fish habitat, which include all watercourses and adjacent land:

- a. within 30 metres of the high water mark of a watercourse;
- b. within 30 metres of the top of the ravine bank in the case of a ravine less than 60 metres wide, and;
- c. within 10 metres 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;

and identified in Schedule 'B'.

Where land is subject to more than one Development Permit Area designation, a single development permit is required. The application will be subject to the requirements of all applicable Development Permit Areas, and any development permit issued will be in accordance with the guidelines of all such Areas.

“high water mark” means the visible high water mark of a watercourse where the presence and action of the water are so common and unusual, 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;

“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 latter than 3:1 for a minimum distance of 15 metres measured perpendicularly from the break, and the break does not include a bench within the ravine that could be developed;

“watercourse” includes any of the following that provides fish habitat: a watercourse, whether it usually contains water or not; a pond, lake, river, creek or brook, and; a ditch, spring or wetland that is connected by surface flow to a watercourse.”

D. Justification

The primary objective of this development permit area designation is 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.

There is a general decline in fish populations in the South Okanagan that is directly attributable to habitat loss. In order to protect the declining fish stocks increased protection of riparian corridors creeks, rivers, lakes, ponds and wetlands, collectively called watercourses is necessary. Development within these areas requires assessment to ensure protection of fisheries values from potentially harmful development activities to ensure that the natural features, functions and conditions that support fish habitat are not lost.

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 areas land.

E. Determining whether development falls within the WDP Area

To confirm whether a proposed development is within land identified as a riparian assessment area in the WDP Area for which a development permit application is required, the following applies:

- a) Any area located within 30 metres of the high water mark of a watercourse; within 30 metres of the top of the ravine bank in the case of a ravine less than 60 metres wide; and within 10 metres 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;**

Unless the proposed development or alteration of land is clearly outside the riparian assessment area the location of the development shall be determined accurately by survey in relation to the WDP Area to determine whether a development permit application is required.

F. Guidelines

A development permit is required, except where specified under Exemptions Section 15.3.6, for development or land alteration on land identified as a riparian assessment area within the Watercourse Development Permit (WDP) Area. Where not exempt, development requiring a development

permit includes any of the following associated with or resulting from residential, commercial or industrial activities or ancillary activities to the extent that they are subject to local government powers under Part 26 of the *Local Government Act* the:

- a. removal, alteration, disruption or destruction of vegetation;
- b. disturbance of soils;
- c. construction or erection of buildings and structures;
- d. creation of nonstructural impervious or semi-impervious surfaces;
- e. flood protection works;
- f. construction of roads, trails, 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 872 of the *Local Government Act*;

Development shall be in accordance with the following guidelines:

1. All development proposals subject to this permit will be assessed by a Qualified Environmental Professional in accordance with the Riparian Areas Regulation established by the Ministry of Water, Land and Air Protection and the Department of Fisheries and Oceans;
2. A Watercourse Development Permit shall not be issued prior to the Province notifying the Regional District that a Qualified Environmental Professional (QEP) has submitted a report certifying that he or she is qualified to carry out the assessment, that the assessment methods have been followed, and provides in their professional opinion that a lesser setback will not negatively affect the functioning of a watercourse or riparian area and that the criteria listed in the Riparian Areas Regulation has been fulfilled, and;
3. The Riparian Areas Regulation implemented through the Watercourse Development Permit (WDP) 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.

G. Exemptions

The Watercourse Development Permit (WDP) Area does not apply to the following:

1. the construction, alteration, addition, repair, demolition and maintenance of farm buildings;
2. institutional development containing no residential, commercial or industrial aspect;
3. agricultural development containing no residential, commercial or industrial aspect;
4. reconstruction, renovation or repair of a permanent structure if the structure remains on its existing foundation. *Only if the existing foundation is moved or extended in to a riparian assessment area would a WDP be required;*
5. an area where the applicant can demonstrate that the conditions of the WDP Area have already been satisfied, or a development permit for the same area has already been issued in the past and the conditions in the development permit have all been met, or the conditions addressed in the previous development permit will not be affected, and;
6. to development and land alteration proposals which have been issued an authorization by DFO for harmful alteration, disruption, or destruction of fish habitat (HADD).”

67) Removing “**Development Permit Area No. 1**” as shown on **Schedule ‘B’** from the Electoral Area ‘E’ Official Community Plan Bylaw No. 1406, 1993 and replacing it with Schedule ‘B’ titled “**Watercourse Development Permit Area**” showing all watercourses and riparian assessment areas for Electoral Area ‘E’.

Electoral Area 'F'

68) Removing sub-section 3.8 6) “...**Land Development Guidelines for the Protection of Aquatic Habitat.**” in the Electoral Area 'F' Rural Land Use Bylaw No. 1742, 1997, and replacing it with the following:

6. The Regional Board will co-operate with senior governments to provide a coordinated strategy for the stewardship of “riparian assessment areas”, in keeping with the general intent of the *Riparian Areas Regulation*, to ensure that no harmful alteration, disruption and or destruction of fish habitat occurs.

69) Removing “...**In general a minimum of at least 15 metres is required and calculated from the landward edge of the buffer boundary.**” sub-section 3.8 8) under “Hazard Lands and Environmentally Sensitive Areas (ESA's)” in the Electoral Area 'F' Rural Land Use Bylaw No. 1742, 1997.

70) Adding section 3.12 “**Watercourse Development Permit Area**” to the Electoral Area 'F' Rural Land Use Bylaw No. 1742, to read as follows:

3.11 WATERCOURSE DEVELOPMENT PERMIT AREA

1) Background

The Rural Land Use Bylaw may designate development permit areas under the authority of the Local Government Act, and applicable provisions of the Community Charter. Unless otherwise specified, a development permit must be approved by the Regional Board prior to any development or subdivision of land within a designated development permit area. The purpose of acquiring a development permit is to ensure certain requirements are addressed towards the protection, restoration and preservation of the natural environment. Due to their significance and sensitivity, all watercourses and riparian areas in the Regional District have been designated as Development Permit Areas.

2) Category

The Watercourse Development Permit Area is designated under Section 919.1(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.

3) Area

The Watercourse Development Permit (WDP) Area is comprised of:

1. Riparian assessment areas for fish habitat, which include all watercourses and adjacent land:
 - d. within 30 metres of the high water mark of a watercourse;
 - a. within 30 metres of the top of the ravine bank in the case of a ravine less than 60 metres wide, and;
 - b. within 10 metres 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;

and identified in Schedule 'G'.

Where land is subject to more than one Development Permit Area designation, a single development permit is required. The application will be subject to the requirements of all applicable Development Permit Areas, and any development permit issued will be in accordance with the guidelines of all such Areas.

“high water mark” means the visible high water mark of a watercourse where the presence and action of the water are so common and unusual, 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;

“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 latter than 3:1 for a minimum distance of 15 metres measured perpendicularly from the break, and the break does not include a bench within the ravine that could be developed;

“watercourse” includes any of the following that provides fish habitat: a watercourse, whether it usually contains water or

not; a pond, lake, river, creek or brook, and; a ditch, spring or wetland that is connected by surface flow to a watercourse.”

4) Justification

The primary objective of this development permit area designation is 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.

There is a general decline in fish populations in the South Okanagan that is directly attributable to habitat loss. In order to protect the declining fish stocks increased protection of riparian corridors creeks, rivers, lakes, ponds and wetlands, collectively called watercourses is necessary. Development within these areas requires assessment to ensure protection of fisheries values from potentially harmful development activities to ensure that the natural features, functions and conditions that support fish habitat are not lost.

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 areas land.

5) Determining whether development falls within the WDP Area

To confirm whether a proposed development is within land identified as a riparian assessment area in the WDP Area for which a development permit application is required, the following applies:

- a) Any area located within 30 metres of the high water mark of a watercourse; within 30 metres of the top of the ravine bank in the case of a ravine less than 60 metres wide; and within 10 metres 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;

Unless the proposed development or alteration of land is clearly outside the riparian assessment area the location of the development shall be determined accurately by survey in

relation to the WDP Area to determine whether a development permit application is required.

6) Guidelines

A development permit is required, except where specified under Exemptions Section 15.3.6, for development or land alteration on land identified as a riparian assessment area within the Watercourse Development Permit (WDP) Area. Where not exempt, development requiring a development permit includes any of the following associated with or resulting from residential, commercial or industrial activities or ancillary activities to the extent that they are subject to local government powers under Part 26 of the *Local Government Act* the:

- a. removal, alteration, disruption or destruction of vegetation;**
- b. disturbance of soils;**
- c. construction or erection of buildings and structures;**
- d. creation of nonstructural impervious or semi-impervious surfaces;**
- e. flood protection works;**
- f. construction of roads, trails, 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 872 of the *Local Government Act*;**

Development shall be in accordance with the following guidelines:

- 1. All development proposals subject to this permit will be assessed by a Qualified Environmental Professional in accordance with the Riparian Areas Regulation established by the Ministry of Water, Land and Air Protection and the Department of Fisheries and Oceans;**
- 2. A Watercourse Development Permit shall not be issued prior to the Province notifying the Regional District that a Qualified Environmental Professional (QEP) has submitted a report certifying that he or she is qualified to carry out the assessment, that the assessment methods have been followed, and provides in their professional opinion that a**

lesser setback will not negatively affect the functioning of a watercourse or riparian area and that the criteria listed in the Riparian Areas Regulation has been fulfilled, and;

3. The Riparian Areas Regulation implemented through the Watercourse Development Permit (WDP) 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.

7) Exemptions

The Watercourse Development Permit (WDP) Area does not apply to the following:

1. the construction, alteration, addition, repair, demolition and maintenance of farm buildings;
2. institutional development containing no residential, commercial or industrial aspect;
3. agricultural development containing no residential, commercial or industrial aspect;
4. reconstruction, renovation or repair of a permanent structure if the structure remains on its existing foundation. *Only if the existing foundation is moved or extended in to a riparian assessment area would a WDP be required;*
5. an area where the applicant can demonstrate that the conditions of the WDP Area have already been satisfied, or a development permit for the same area has already been issued in the past and the conditions in the development permit have all been met, or the conditions addressed in the previous development permit will not be affected, and;

6. to development and land alteration proposals which have been issued an authorization by DFO for harmful alteration, disruption, or destruction of fish habitat (HADD).”

71) Adding Schedule ‘G’ titled “**Watercourse Development Permit Area**” showing all watercourses and riparian assessment areas to the mapping provisions for Electoral Area ‘F’ Rural Land Use Bylaw No. 1742.

Electoral Area ‘H’

72) Removing sub-section 3.7 8) “...**Land Development Guidelines for the Protection of Aquatic Habitat.**” in the Electoral Area ‘H’ Rural Land Use Bylaw No. 1725, 1997, and replacing it with the following:

8. **The Regional Board will co-operate with senior governments to provide a coordinated strategy for the stewardship of “riparian assessment areas”, in keeping with the general intent of the *Riparian Areas Regulation*, to ensure that no harmful alteration, disruption and or destruction of fish habitat occurs.”**

73) Adding section 3.13 “**Watercourse Development Permit Area**” to the Electoral Area ‘H’ Rural Land Use Bylaw No. 1725, to read as follows:

3.11 **WATERCOURSE DEVELOPMENT PERMIT AREA**

1) **Background**

The Rural Land Use Bylaw may designate development permit areas under the authority of the Local Government Act, and applicable provisions of the Community Charter. Unless otherwise specified, a development permit must be approved by the Regional Board prior to any development or subdivision of land within a designated development permit area. The purpose of acquiring a development permit is to ensure certain requirements are addressed towards the protection, restoration and preservation of the natural environment. Due to their significance and sensitivity, all watercourses and riparian areas in the Regional District have been designated as Development Permit Areas.

2) Category

The Watercourse Development Permit Area is designated under Section 919.1(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.

3) Area

The Watercourse Development Permit (WDP) Area is comprised of:

1. Riparian assessment areas for fish habitat, which include all watercourses and adjacent land:
 - a. within 30 metres of the high water mark of a watercourse;
 - b. within 30 metres of the top of the ravine bank in the case of a ravine less than 60 metres wide, and;
 - c. within 10 metres 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;

and identified in Schedule 'G'.

Where land is subject to more than one Development Permit Area designation, a single development permit is required. The application will be subject to the requirements of all applicable Development Permit Areas, and any development permit issued will be in accordance with the guidelines of all such Areas.

“high water mark” means the visible high water mark of a watercourse where the presence and action of the water are so common and unusual, 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;

“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 latter than 3:1 for a minimum distance of

15 metres measured perpendicularly from the break, and the break does not include a bench within the ravine that could be developed;

“watercourse” includes any of the following that provides fish habitat: a watercourse, whether it usually contains water or not; a pond, lake, river, creek or brook, and; a ditch, spring or wetland that is connected by surface flow to a watercourse.”

4) Justification

The primary objective of this development permit area designation is 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.

There is a general decline in fish populations in the South Okanagan that is directly attributable to habitat loss. In order to protect the declining fish stocks increased protection of riparian corridors creeks, rivers, lakes, ponds and wetlands, collectively called watercourses is necessary. Development within these areas requires assessment to ensure protection of fisheries values from potentially harmful development activities to ensure that the natural features, functions and conditions that support fish habitat are not lost.

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 areas land.

5) Determining whether development falls within the WDP Area

To confirm whether a proposed development is within land identified as a riparian assessment area in the WDP Area for which a development permit application is required, the following applies:

- a) Any area located within 30 metres of the high water mark of a watercourse; within 30 metres of the top of the ravine bank in the case of a ravine less than 60 metres wide; and within 10 metres 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;

Unless the proposed development or alteration of land is clearly outside the riparian assessment area the location of the development shall be determined accurately by survey in relation to the WDP Area to determine whether a development permit application is required.

6) Guidelines

A development permit is required, except where specified under Exemptions Section 15.3.6, for development or land alteration on land identified as a riparian assessment area within the Watercourse Development Permit (WDP) Area. Where not exempt, development requiring a development permit includes any of the following associated with or resulting from residential, commercial or industrial activities or ancillary activities to the extent that they are subject to local government powers under Part 26 of the *Local Government Act* the:

- a. removal, alteration, disruption or destruction of vegetation;**
- b. disturbance of soils;**
- c. construction or erection of buildings and structures;**
- d. creation of nonstructural impervious or semi-impervious surfaces;**
- e. flood protection works;**
- f. construction of roads, trails, 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 872 of the *Local Government Act*;**

Development shall be in accordance with the following guidelines:

- 1. All development proposals subject to this permit will be assessed by a Qualified Environmental Professional in accordance with the Riparian Areas Regulation established by the Ministry of Water, Land and Air Protection and the Department of Fisheries and Oceans;**

2. **A Watercourse Development Permit shall not be issued prior to the Province notifying the Regional District that a Qualified Environmental Professional (QEP) has submitted a report certifying that he or she is qualified to carry out the assessment, that the assessment methods have been followed, and provides in their professional opinion that a lesser setback will not negatively affect the functioning of a watercourse or riparian area and that the criteria listed in the Riparian Areas Regulation has been fulfilled, and;**
3. **The Riparian Areas Regulation implemented through the Watercourse Development Permit (WDP) 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.**

7) Exemptions

The Watercourse Development Permit (WDP) Area does not apply to the following:

1. **the construction, alteration, addition, repair, demolition and maintenance of farm buildings;**
2. **institutional development containing no residential, commercial or industrial aspect;**
3. **agricultural development containing no residential, commercial or industrial aspect;**
4. **reconstruction, renovation or repair of a permanent structure if the structure remains on its existing foundation. *Only if the existing foundation is moved or extended in to a riparian assessment area would a WDP be required;***
5. **an area where the applicant can demonstrate that the conditions of the WDP Area have already been satisfied, or a development permit for the same area has already**

been issued in the past and the conditions in the development permit have all been met, or the conditions addressed in the previous development permit will not be affected, and;

- 6. to development and land alteration proposals which have been issued an authorization by DFO for harmful alteration, disruption, or destruction of fish habitat (HADD)."**

74) Adding Schedule 'G' titled "**Watercourse Development Permit Area**" showing all watercourses and riparian assessment areas to the mapping provisions for Electoral Area 'H' Rural Land Use Bylaw No. 1725.

READ A FIRST AND SECOND TIME this 16th day of June, 2005.

PUBLIC HEARING held on this 21st day of February, 2006.

READ A THIRD TIME this 6th day of April, 2006.

ADOPTED this _____ day of _____, 2006.

Chairman

Director of Administration Services