

Islands Trust

MUDGE ISLAND LAND USE BYLAW NO. 228, 2007

AS AMENDED BY THE GABRIOLA ISLAND LOCAL TRUST COMMITTEE

BYLAWS: 299

NOTE: This Bylaw is consolidated for convenience only and is not to be construed as a legal document.

Consolidated: November, 2018

CONSOLIDATED BYLAW TEXT AMENDMENTS

This copy is consolidated for convenience only and includes the following **text amendments only**:

<u>Bylaw Number</u>	<u>Amendment Number</u>	<u>Adoption Date</u>
Bylaw No. 299	Amendment No. 1, 2018	November 22, 2018

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SCHEDULE A LAND USE BYLAW TEXT

PART 1. INTERPRETATION

1.1. Definitions

ACCESSORY means a subordinate use, building, or structure accessory to the principal use, building or structure situated on the same lot.

BUILDING means any roofed structure used or intended to be used for the shelter, habitation, storage, accommodation, assembly of persons, animals, goods or chattels.

COTTAGE means a building containing sleeping facilities which may contain cooking and sanitary facilities, used or intended to be used exclusively as a residence.

DWELLING means a detached building with one or more habitable rooms used or intended for use as a residence with self contained sleeping, living, cooking, and sanitary facilities and direct access to the open air without passing through any other similar unit; for clarity, cottages, campers, trailers, vessels and other self contained living units are considered dwellings.

EMERGENCY SERVICES means assistance and aid during serious or unexpected situations that demand immediate action in order to protect the health and safety of people and the environment.

FLOOR AREA means the sum of areas of a building measured to exterior faces of walls and if there are no walls, measured to the outer edge of the drip line, including the area of roofed porches and roofed terraces.

HEIGHT means the distance between the average of natural grade levels at the midpoints of all walls of the building or structure in question, to the highest point of the building or structure, and if no wall, then from the natural grade point directly beneath the drip line of that mid-section without a wall.

HOME OCCUPATION means a business, trade, profession, or the production and or sale of goods, where such activities are *accessory* to a *principal* residential use, and where a resident of the lot carries out, operates and is the principal worker.

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Nov/2018 **LOT COVERAGE** means the area of a lot, expressed as a percentage of the total lot area, that is covered by *buildings* and *structures* as measured from the outermost perimeter of all *buildings*, *structures*, and parts thereof, including the outer edge of the drip line of roofs.

LOT LINE means the legally defined boundaries of any *lot* or lease area.

LOT LINE, EXTERIOR means the lot line common to the lot and abutting an highway, or access route, and is not the front lot line.

LOT LINE, FRONT means the *lot line* common to the *lot* and abutting an highway, or access route, and where there is more than one *lot line* common to a highway or access route, the following rules must apply:

1. the shortest *lot line* greater than 20.0 metres (65.6 feet) is the *front lot line*, except where there are no *lot lines* greater than 20 metres (65.6 feet) abutting a highway in which case the longest *lot line* abutting a highway is the *front lot line*;
2. where there are three or more *lot lines*, and one of the lines is a corner-cut, one of the other *lot lines* is the *front lot line* based on Rule 1; and
3. where there are more than two *lot lines* defining a curve, including any tangents making up the curve in a highway or access route under the "Strata Property Act", all such *lot lines* defining the curve must be considered to be one *lot line* for the purpose of using Rule 1.

LOT LINE, INTERIOR means a lot line not being a front, rear or exterior lot line.

LOT LINE, REAR means the lot line opposite to and most distant from the front lot line or where the rear portion of the lot is bounded by intersecting lot lines it shall be the point of such intersection.

MARINA means the moorage, storage, landing and launching of boats and similar vessels.

NATURAL BOUNDARY means the visible high water mark of any wetland, watercourse, the sea or other body of water where the presence and action of the water are so common and usual, and so long continued in all ordinary years, as to mark upon the soil of the bed of the wetland, watercourse, sea or other body of water a character distinct from that of the banks thereof, in respect to vegetation, as well as in respect to the nature of the soil itself.

PRODUCE STAND means a building or structure not exceeding a height of 3 metres (9.8 feet) and floor area of 20 square metres (215.3 square feet) used for the sale of agricultural and home occupation products that is sited on a lot on which the products have been reared, grown or produced.

PUMP/UTILITY HOUSE means a building housing a well head, water pump, electrical or communication service equipment, or a combination thereof, with a floor area no greater than 10 square metres (107.6 square feet) and maximum height of 3 metres (9.8 feet).

RESIDENCE means:

1. the occupancy or use of a dwelling for the permanent domicile or home life of a person or persons; or
2. the occasional or seasonal occupancy of a dwelling by an owner who has a permanent domicile elsewhere or by non-paying guests of such an owner, and for these purposes, owner includes a tenant under a residential tenancy agreement,

and for certainty, residence does not include tourist accommodation use, commercial vacation rental or any occupancy of a dwelling by persons entitled to such occupancy under a time share plan as defined in the Real Estate Act or successor legislation;

STRUCTURE means a construction of any kind, or portion thereof, that is fixed to, supported by, or sunk into land or water, including all pathways, driveways and paved areas, whether pervious or impervious.

UTILITIES means a use providing for pipes and transmission lines for water, sewer, electricity and communication.

WATERCOURSE means any natural or constructed depression with well defined banks and a bed 0.6 metres (1.97 ft.) or more below the surrounding land serving to give direction to a current of water at least six (6) months of the year.

ZONE means a zone as established by this Bylaw.

1.2. Referencing

(1) The reference system used in this bylaw is:

Part: 1
Section: 1.1
Subsection: 1.1(1)
Article: 1.1(1)(a)
Clause: 1.1(1)(a)(i)

1.3. Units of Measure

(1) Metric dimensions are used in this Bylaw. Imperial equivalents, where shown in parentheses (), are approximate and provided for convenience only and do not form part of this Bylaw.

1.4. Information Notes

(1) Where a paragraph or sentence in this Bylaw is preceded by the words "Information Note" or written in *italics*, the contents of the paragraph or sentence are provided only to assist the reader and do not form part of this Bylaw.

PART 2. ADMINISTRATION

2.1. Application

(1) This Bylaw shall apply to that part of the Gabriola Island Local Trust Area as shown on Schedule B. Encompassed in this area of application are the entire land area of all islands, islets, reefs, rocks, the seabed, and all surface waters and air spaces.

2.2. Conformity

- (1) Any person who does any act or thing or permits any act or thing to be done in contravention of the provisions of this Bylaw, or who neglects to do or refrains from doing any act or thing which is required to be done by any of the provisions of this Bylaw is deemed to have committed an offence under this Bylaw.
- (2) No person may construct, reconstruct, place, alter, extend or maintain any building, structure or sign except as permitted by this Bylaw.
- (3) Nothing contained in this Bylaw relieves any person from the responsibility to comply with other legislation.

- (4) Unless otherwise specified in this Bylaw, any existing lot, that is less than the minimum lot area specified in the applicable zone, may be used for any use permitted in that zone.
- (5) No lot or area may be subdivided, no building, structure or land may be used, and no building or structure may be sited in a manner which renders any existing use, building or structure illegal or non-conforming.

2.3. Penalty

- (1) Any person who commits an offence against this Bylaw is liable to a fine and penalty, pursuant to the *Offence Act*, not exceeding \$5,000 and the costs of prosecution. Each day an offence against this Bylaw occurs is deemed to be a new and separate offence.

2.4. Covenants

- (1) Where under this Bylaw an owner of land is required or authorized to grant a covenant, the covenant must be granted to the Gabriola Island Local Trust Committee pursuant to Section 219 of the *Land Title Act* in priority to all financial charges and delivered in registerable form satisfactory to the Local Trust Committee prior to the granting of the approval or authorization in respect of which the covenant is required. The covenant must indemnify the Local Trust Committee in respect of any fees or expenses it may incur as a result of a breach of the covenant.

2.5. Applicant Requirements

- (1) If any provision of this Bylaw requires a report, study, covenant, survey, plan or similar item, unless otherwise stated, the owner shall pay all costs.
- (2) Every application to the Local Trust Committee must include a plan signed by a B.C. Land Surveyor showing the location of all existing and proposed buildings, structures and sewage absorption fields in relation to lot, lease and zone boundaries, watercourses, wells, the sea, and buildings and structures, unless the Local Trust Committee determines that the provision of such a plan is not necessary.

PART 3. GENERAL REGULATIONS

3.1. Permitted in All Zones

- (1) Provided there is no requirement for sewage disposal, the following uses and structures are permitted in any zone of the Plan Area:
 - (a) utilities
 - (b) land, air and marine navigation aids;
 - (c) parks and trails; and,
 - (d) conservation areas and ecological reserves.
- (2) Emergency service uses, buildings and structures are permitted in any zone.

3.2. Prohibited in All Zones

- (1) The following uses are prohibited in any zone in the Plan Area:
 - (a) storage and disposal of domestic, hazardous and toxic waste; and,
 - (b) bridges, causeways, tunnels, and water and sewage utility lines connecting any island to another island.

3.3. Siting and Setback Regulations

- (1) All siting measurements must be made on a horizontal plane from the natural boundary, lot line or other feature specified in this Bylaw to the nearest portion of the building, structure or use in question.
- (2) No buildings or structures may be sited within setback areas established in this Bylaw, except a fence, utilities, navigation aid, driveway, foot path, pump/utility house, fire fighting water tower and signs.
- (3) No drinking trough, feeding trough or manure pile shall be located closer than 7.5 metres (24.6 ft.) to any property line.

- (4) Despite all provisions in this Bylaw other than subsection 3.3(5), buildings and structures must be sited a minimum of 30 metres (98.4 feet) from and 1.5 metres (4.9 feet) above the natural boundary of a wetland, watercourse, the sea or other body of water, except for:
- (a) boat and barge ramps; and
 - (b) stairs and walkways with an average maximum elevated floor height of 0.3 metres (0.9 feet) and a maximum width of 1.5 metres (4.92 feet). Despite Subsection 3.3 (4) above, where the frontage on the sea is adequately protected from erosion by natural bedrock, as certified by a qualified professional, buildings and structures may be sited as close as 7.5 metres (24.6 feet) from the natural boundary of the sea.
- (5) Despite Subsection 3.3 (4) above, where the frontage on the sea is adequately protected from erosion by natural bedrock, as certified by a qualified professional, buildings and structures may be sited as close as 7.5 metres (24.6 feet) from the natural boundary of the sea.

3.4. Height Regulations

- (1) Except as otherwise provided in this Bylaw, the following regulations apply:
- (a) The height of buildings and structures shall not exceed 9.0 metres (29.5 ft.).
 - (b) Within 2.0 metres (6.6 feet) of any lot line, the height of fences shall not exceed 2.0 metres (6.6 feet) and elsewhere, the height of fences shall not exceed 3.5 metres (11.5 feet).
 - (c) The height restrictions for buildings and structures do not apply to chimneys, church steeples, flag and lightning poles, fire fighting water towers, attic vents, solar collectors, wind generators, farm silos, and electrical, radio, or residential communication antennas, poles or towers.

3.5. Accessory Buildings and Structures

- (1) No buildings and structures, except for dwellings and cottages, shall be used as a residence or for overnight accommodation.
- (2) Accessory buildings and structures may be constructed or placed on a lot prior to the construction of a principal building.
- (3) Residential use of any vessel, building or structure located on waters within the Plan Area is prohibited except in the case of licensed commercial fishing boats and transient vessels.

3.6. Home Occupation Regulations

- (1) In zones where home occupations are a permitted use, the following uses and no others are permitted as home occupations:
- (a) personal service including beauty salons, barber shops, shoe repair, photographers, travel agencies, tailors and dressmakers;
 - (b) construction and repair of vehicles, equipment, boats, trailers, electronics, instruments, furniture, cabinets, bicycles, engines, mechanical parts, small appliances and machinery;
 - (c) business and professional offices;
 - (d) child care;
 - (e) catering and food preparation for delivery elsewhere;
 - (f) animal training and grooming, not including boarding kennels;
 - (g) sale of agricultural and horticultural products produced on the lot;
 - (h) non motorized personal water craft and bicycle rentals;
 - (i) instructional classes in personal development skills such as art, music, exercise or sport;
 - (j) production of arts and crafts;
 - (k) sale of goods, art and crafts produced or processed on the lot;
 - (l) sale of goods, art and crafts not produced or processed on the lot is permitted provided that not more than 9.3 square metres (100 square feet) of floor area is used for storage and display; and,
 - (m) bed and breakfasts, where all meals may be served to paying guests.

- (2) Despite the uses permitted in 3.6.(1), or any other provision in this Bylaw, in order for a home occupation to be permitted it must:
- (a) be accessory to an existing residential use on the property;
 - (b) be carried out by a minimum of one permanent resident on the premises in which the home occupation is carried out; the permanent resident must be the sole or principal worker and operator of the home occupation; in addition to residents, a maximum of two people employed or otherwise engaged in the home occupation at any given time is permitted per lot.
 - (c) show no exterior indication of the existence of the home occupation, either by stored materials, displays, lighting or by any other variation from the customary residential character of the lot, dwelling unit, or accessory building, with the exception of parking and one home occupation sign not exceeding 0.3 square metres (3.2 square feet) in area.
 - (d) not produce vibration, smoke, dust, odour, litter, electrical interference, fire hazard, effluent or glare detectable outside the boundaries of the lot to any greater or more frequent extent than that usually experienced in a residential occupancy in the zone where no home occupation exists;
 - (e) not create or permit noise which disturbs persons, or is clearly audible, off the lot on which the home occupation is conducted;
 - (f) not result in contamination of any soil or surface water by solvents, glues, chemicals or other substances deleterious to human and environmental health and safety;
 - (g) have appropriate and maintained drainage and catchment mechanisms, such as oil-water separators for any paved areas used for vehicle, engine, equipment, appliance and vessel construction or repairs must. Any unpaved areas used for vehicle, engine, equipment, appliance and vessel construction or repairs must be protected by an impervious barrier or container to prevent any spill onto or contamination of the unpaved area;
 - (h) Home occupations must be entirely enclosed and wholly within a single family dwelling or non-residential accessory building or both, providing the combined total floor area for the home occupation does not exceed 95 square metres (1,023 square feet);
 - (i) 3.6.(2)(h), the following uses may use outdoor space provided that the maximum combined home occupation use areas do not exceed the provisions in 3.6.(2)(h):
 - (i) horticulture, agriculture, child care play areas, kilns and the sale of agricultural, horticultural, arts and crafts products from a produce stand; and,
 - (ii) outside parking and storage of not more than a combined value of two vehicles, large pieces of equipment, boats or trailers that are waiting, undergoing, or have been constructed or repaired provided that the area is screened by a fence or landscape screen.

3.7. Landscape Screening

(1) Where required in this bylaw:

- (a) a landscape screen is a visual barrier, broken only for access drives and walks, of established or densely planted shrubs, trees or natural vegetation which form a year round dense screen of the required height, or a row of drought tolerant evergreen plants that, at maturity, provides a continuous, permanent visual screen between separated uses; and
- (b) a fence may be temporarily used in place of a landscape screen, until the vegetation reaches an appropriate height to provide a continuous, permanent visual screen.

3.8. Temporary Use of Recreational Vehicles

(1) Recreational vehicles, tents and other campers may be used:

- (a) as residential dwellings provided they are screened from adjacent property, the road and the sea by a landscape screen and connected to an approved sewage disposal system; and,
- (b) for seasonal non-commercial accommodation for a combined period not exceeding 90 days in a calendar year and not exceeding 60 consecutive days.

- (2) Temporary residential use of a building, recreational vehicle, tent and other camper as a dwelling for the purpose of providing a temporary residence during the construction of a dwelling on a lot is permitted provided that such use is ceased upon occupancy of the dwelling.

3.9. Derelict Vehicles

- (1) No parcel shall be used for the wrecking or storage of vehicles, vessels or as a junk yard; and,
- (2) Two unlicensed vehicles or vessels undergoing repair is permitted provided it is screened from a public road, the sea or an adjacent lot by a landscape screen or fence.

PART 4. ESTABLISHMENT OF ZONES

4.1. Division into Zones

The area shown in Schedule B of this Bylaw is divided and classified into the following zones.

<u>Zone Name</u>	<u>Zone Abbreviation</u>
Rural Residential	RR
Park and Institution	PI
Water - General	WG
Water - Marina	WM

4.2. Zone Boundaries

- (1) In the event of uncertainty regarding the location of the boundaries for any zone on Schedule B, the location must be determined by the application of the following rules:
 - (a) Where zone boundaries coincide with lot boundaries, the lot boundaries are the zone boundaries;
 - (b) Where zone boundaries follow a highway or other public way, the zone boundary is the centre line of the high or public way;
 - (c) Where a land based and a water based zone boundary coincide, the boundary is the surveyed natural boundary; and,
 - (d) All other zone boundaries must be determined by scaling from Schedule B.

PART 5. ZONE PROVISIONS

5.1. Rural Residential (RR)

Permitted Uses

- (1) The following principal uses are permitted:
 - (a) Residential;
 - (b) Agriculture;
- (2) The following accessory uses are permitted:
 - (a) Home occupations, subject to Section 3.6.

Permitted Buildings and Structures

- (3) The following buildings and structures are permitted:
 - (a) One single family dwelling per lot;
 - (b) One cottage per lot, on lots 1.9 hectares (4.69 acres) or greater in area;
 - (c) Buildings and structures accessory to residential uses; and,
 - (d) One produce stand per lot.

Lot Coverage

- (4) The maximum lot coverage is 10%.
 - (4.1) For the purpose of Subsection 5.1(4) above, the following *buildings* and *structures* shall not be included when calculating lot coverage:

- (a) cisterns, dugouts, ponds, and similar catchment systems for the collection and storage of water;

- (b) fences;
- (c) fire-fighting water towers;
- (d) garden beds;
- (e) pervious ground-level foot paths, driveways, and parking spaces;
- (f) on lots less than 0.40 hectares (1 acre), up to 100 square metres (1,076 square feet) of outdoor, unenclosed decks;
- (g) *pump/utility houses*;
- (h) retaining walls;
- (i) septic tanks, sewage absorption fields, and related sewage-disposal system appurtenances below ground;
- (j) signs;
- (k) *utilities*;
- (l) one woodshed with a *floor area* no greater than 15 square metres (161.46 square feet);
- (m) wells;
- (n) a maximum of 15 square metres (161.46 square feet) of floor area in accessory buildings, intended to be used for food storage or production, or the keeping of animals.

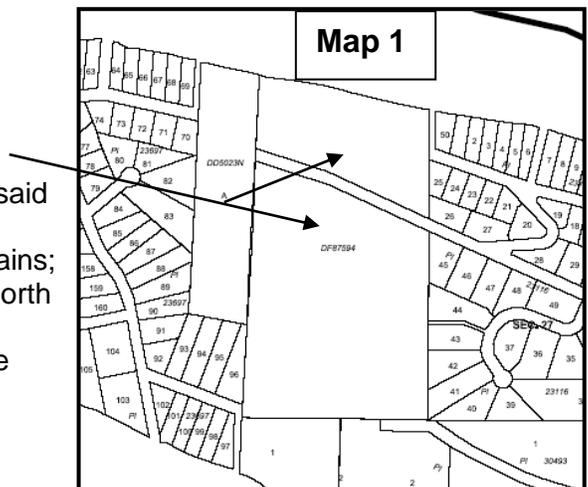
Siting and Size

- (5) Cottages may be no greater than 65 square metres (699.65 square feet) in floor area;
- (6) On lots 0.4 hectares (1 acre) or less the minimum setback of buildings and structures, except for a sign, fence or pump/utility house, is:
 - (a) 6 metres (19.7 feet) from a front or rear lot line;
 - (b) 1.5 metres (4.9 feet) from any interior side lot line;
 - (c) 4.5 metres (14.7 feet) from any exterior side lot line.
- (7) On lots greater than 0.4 hectares (1 acre) the minimum setback of buildings and structures, except a sign, fence or pump/utility house, is 10.0 metres (32.8 feet) from any lot line.

Subdivision Lot Area Requirements

- (8) The minimum average lot area permitted by subdivision is 8 hectares (19.77 acres);
- (9) The minimum lot area permitted by subdivision is 4 hectares (9.88 acres);
- (10) Despite Subsections 5.1 (8) and (9) above, the property noted on Map 1 below has a minimum average lot area of 2 hectares (4.94 acres) and minimum lot area of 1 hectare (2.47 acres).

LEGAL DESCRIPTION: that part of Section 27, Mudge Island, Nanaimo District, described as follows: commencing at the north west corner of said section; thence southerly along the westerly boundary of said section and a distance of 28 chains; thence due east 15 chains 50 links; thence due north to intersect high water mark of False Narrows, thence westerly along said high water mark to the point of commencement except that part in Plan VIP60975; **PARCEL IDENTIFIER:** 009-772-286



5.2. Park and Institutional (PI)

Permitted Uses

- (1) The following uses are permitted:
 - (a) Public park; and,
 - (b) Public assembly and recreation.

Permitted Buildings and Structures

- (2) The following buildings and structures are permitted:
 - (a) Buildings and structures accessory to permitted uses noted in Subsection 5.2(1).

Lot Coverage

- (3) The maximum lot area coverage is 10%.

Siting and Size

- (4) The minimum setback for any building or structure, except a sign, fence or pumphouse, is:
 - (a) 6 metres (19.7 feet) from a front or rear lot line;
 - (b) 1.5 metres (4.9 feet) from any interior side lot line;
 - (c) 4.5 metres (14.7 feet) from any exterior side lot line.

Subdivision Lot Area Requirements

- (5) The minimum and minimum average lot area is 8 hectares (19.77 acres).
-

5.3. Water General (WG)

Permitted Uses and Structures

- (1) The following uses and structures are permitted:
 - (a) Boat, sea plane and water taxi moorage and anchorage;
 - (b) Floats, docks, wharves, walkways, boat and barge ramps; and,
 - (c) Marine navigation aids.

Siting and Size

- (2) No float, dock or wharf may exceed 52 square metres (560 square feet) in area.
- (3) No access ramp, pier or walkway connecting to a float, dock or wharf may exceed 3 metres (9.8 feet) in width.
- (4) Storage structures shall have a maximum height of 1 metre (3.3 feet) and a maximum total floor area of 10 square metres (107 square feet).
- (5) No structure shall be sited within 3 metres (9.8 feet) of any lot line or lease boundary, other than those coinciding with the shoreline where the setback is 0 metres.

Information Note: Approval to use and build below the natural boundary of the sea lies with the Integrated Land Management Bureau of the Provincial Government.

Information Note: The above noted size restrictions on floats, docks and wharves are intended to minimize negative impacts. Where a shared float, dock or wharf is proposed, a variance permit application may be submitted to the Gabriola Island Local Trust Committee requesting that the size limit be increased to suit the needs of a shared facility, on a case by case basis.

5.4. Water Marina (WM)

Permitted Uses

- (1) In addition to Section 5.3, the following principal uses are permitted:
 - (a) Marina;
- (2) In addition to Section 5.3, the following accessory uses are permitted:
 - (a) Parking Lot

Permitted Buildings and Structures

(3) In addition to Section 5.3, the following buildings and structures are permitted:

- (a) Structures accessory to all permitted uses.

Regulations

- (4) There are no area or width restrictions for floats, docks, wharves, access ramps, piers or walkways within the Water Marina zone.
- (5) Storage structures shall have a maximum height of 1 metre (3.3 feet) and a maximum total floor area of 10 square metres (107 square feet).
- (6) No structure shall be sited within 3 metres (9.8 feet) of any lot line or lease boundary, other than those coinciding with the shoreline where the setback is 0 metres.
- (7) Bulletin boards shall have a maximum height of 3 metres (9.8 feet) and a maximum area of 5 square metres (10 square feet),
- (8) All lighting, except marine navigation aids, shall be deflected towards the lot surface with the highest point of the light structure no taller than 4.5 metres (14.8 feet).
- (9) Parking areas shall be unpaved with drainage and pollution prevention measures implemented.

PART 6. SIGN REGULATIONS

6.1. Permitted Signs

- (1) In any zone, one sign per lot, with a maximum combined face area of 1 square metre, used to attract attention for advertising, information or identification purposes and is visible from the sea, highway or a lot, other than the one on which it is located, is permitted.
- (2) In addition to 6.1(1), the following signs are permitted:
- (a) one home occupation sign not exceeding 0.3 square metres (3.2 square feet) of combined face area is permitted, in accordance with section 3.6;
- (b) speed limit, road name, safety and navigation signs; and,
- (c) real estate signs indicating properties for sale may be temporarily displayed subject to the sign not exceeding 1 square metre of combined face area and is located on the property for sale; such signs are to be removed within 2 weeks of sale.

6.2. Prohibited Signs

- (1) No animated, illuminated or flashing sign is permitted in any zone.

6.3. Obsolete Signs

- (1) Obsolete signs must be removed immediately.

PART 7. PARKING REGULATIONS

7.1. Provisions

- (1) Every owner of land shall provide and maintain off road motor vehicle parking spaces in conformity with the minimum standards set forth in this section.
- (2) Each required off road parking space shall be a minimum of 6.25 metres (20.5 feet) in length and 2.75 metres (9.02 feet) in width.
- (3) All required off road parking spaces shall be located on the lot or site containing the use, building or structure being served.

7.2. Number of Off-Street Parking Spaces

Use of Building or Lot	Minimum Number of Parking Spaces Required
<i>Residential</i>	<i>2 per dwelling unit</i>
<i>Home Occupation</i>	<i>1 per employee plus 1 per business</i>
<i>Community Hall</i>	<i>1 per 4 seating places or 1 per 4 person building capacity</i>
<i>Marina</i>	<i>1 per berth</i>

PART 8. SUBDIVISION REGULATIONS

8.1. Lot Area Calculations

- (1) Subdivisions shall comply with the minimum and average lot area regulations set out in Part 5; for the purposes of this bylaw, the average lot area is the sum of the areas of the proposed lots divided by the number of proposed lots.
- (2) If an owner of land being subdivided dedicates as parkland more than 5% of the land being subdivided, the area greater than 5% may, for the purpose of determining compliance with average lot area regulations set out in Part 5, be included in the total area of lots being created, and the park or parks are deemed not to be lots.

8.2. Exemptions from Average and Minimum Lot Area Requirements

- (1) The average and minimum lot sizes specified in Part 5 do not apply if:
 - (a) the lot being created is used solely for: unattended equipment necessary for the operation of facilities referred to in Section 3.1; conservation purposes; or public park, provided the owner grants the Local Trust Committee a Section 219 covenant under the *Land Title Act* restricting the use of the lot to such use;
 - (b) the lots being created are the result of a consolidation of two or more lots, or of a boundary adjustment subdivision, provided the area of the lots could not be subdivided into more lots than would be permitted under this bylaw prior to the consolidation or boundary adjustment; and,
 - (c) a lot that is split by a highway, each of which is 0.5 hectares (1.24 acres) or more in area and each of which was in existence on February 1, 2007, may be subdivided such that the sole effect of the subdivision is to create a single parcel from each of these portions.

8.3. Covenants Prohibiting Further Subdivision and Development

- (1) If a proposed subdivision yields the maximum number of lots permitted by the applicable minimum and average lot areas specified in Part 5, and one or more of the lots being created has an area equal to or greater than twice the applicable average lot size, the applicant shall grant a Section 219 covenant complying with Section 2.4 in respect of every such lot, prohibiting further subdivision of the lot and prohibiting construction, erection, or occupancy on the lot of more than the applicable zone's permitted number of single family dwellings and, if a cottage is a permitted use of the lot, more than that zone's permitted number of such cottages.
- (2) If a subdivision is proposed that yields fewer than the maximum number of lots permitted by the applicable minimum and average lot sizes specified by this bylaw, and one or more of the lots being created has an area equal to or greater than twice the applicable average lot size; and one or more of the lots being created has an area less than the applicable average lot size; the applicant shall grant a Section 219 covenant complying with Section 2.4 in respect of every lot prohibiting the subdivision of the lot such that it could create a greater total number of lots by subdivision and re-subdivision than would have been permitted had the first subdivision created the maximum number of lots permitted by the applicable minimum and average lot sizes specified by this bylaw; and the construction, erection, or occupancy on the lot of single family dwellings and, if permitted by this bylaw, cottages so as to create greater density of such development on the original lot than would have been created had the original lot been developed to the greatest density permitted by this bylaw.
- (3) If the approval of a bare land strata plan would create common property in the same zone as the strata lots, and this bylaw would permit the construction of a dwelling or cottage on the common property if it were a lot, the applicant shall grant a Section 219 covenant complying with Section 2.6 in respect of the common property prohibiting the further subdivision of the common property, the construction of any residential dwelling unit or cottage on the common property, and the disposition of the common property separately from the strata lots.

8.4. Section 946 subdivisions (Residence for a Relative)

- (1) No lot having an area less than 8 hectares (19.7 acres) may be subdivided under Section 946 of the *Local Government Act* to provide a residence for a relative of the owner.

8.5. Lot Frontage and Lot Shape

- (1) Pursuant to Section 944 of the *Local Government Act* the minimum road frontage of a lot must be 10% of the perimeter of the lot; however, the requirement for 10% road frontage may be exempted by resolution of the Local Trust Committee.
- (2) No lot in a proposed subdivision may have a depth greater than three times its width, exclusive of any panhandle access strip.
- (3) If a proposed panhandle lot is not capable of being further subdivided under the provisions of this bylaw, the minimum width of the access strip at any point must be 10 metres (33 feet).
- (4) If a proposed panhandle lot is capable of being further subdivided under the provisions of this bylaw, the minimum width of the access strip at any point must be 20 metres (66 feet).

8.6. Highway Standards

Information Note: For information on road standards see the Letter of Agreement between the Islands Trust and the Ministry of Transportation, dated October 20, 1992 and amended July 18, 1996.

PART 9. TEMPORARY USE PERMIT AREAS

Information Note: A temporary use permit may allow a commercial or industrial use, permit the construction of use of buildings or structures to accommodate persons who work at the enterprise and specify conditions under which a temporary commercial or industrial use may be carried on. A permit may be issued for one day and up to two years and may be renewed only once. The issuance of a temporary use permit is conditional on compliance with the guidelines noted in the *Mudge Island Official Community Plan, 2007*.

SCHEDULE B BYLAW AREA AND ZONING MAP

