



DISTRICT OF SOOKE FLOOD PLAIN REGULATION BYLAW No. 773

CONSOLIDATED FOR REFERENCE Nov 12, 2024

BYLAW No. 773 FLOOD PLAIN REGULATION BYLAW, 2020
FLOOD PLAIN REGULATION AMENDMENT BYLAW No. 855 (773-1), 2022
FLOOD PLAIN REGULATION AMENDMENT BYLAW No. 912 (773-2), 2024

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A bylaw to designate an area as a flood plain, specify development levels and setback requirements in a designated area, and enforce these conditions.

WHEREAS Section 524 of the *Local Government Act*, authorizes Council to adopt a flood bylaw that designates an area as a flood plain, specify development levels and setback requirements in a designated area and enforce these conditions;

AND WHEREAS Council has considered the most current provincial Flood Hazard Area Land Use Management Guidelines;

The Council of the District of Sooke, in open meeting assembled, enacts as follows:

Citation

1. This Bylaw is cited as *Flood Plain Regulation Bylaw No. 773, 2020*.

Purpose

2. The purpose of this bylaw is to designate an area as a flood plain, specify development levels and setback requirements in a designated area and enforce these conditions.
3. This Bylaw applies to all persons who construct, reconstruct, move, extend or locate a **building, manufactured home** or unit, modular home or **structure** or any part of them on land within the District of Sooke designated as '**Floodplain**'.
4. Nothing contained in this Bylaw relieves any person from the responsibility to seek and comply with other legislation applicable to their undertaking.

Definitions

5. In this Bylaw:

- a) **Alluvial Fan** means an alluvial deposit of a stream where it issues from a steep mountain valley or gorge upon a plain or at the junction of a tributary stream with the main stream.
- b) **B.C. Land Surveyor** means a person licensed and registered as a land surveyor in the Province of British Columbia.
- c) **Building** means any structure used or intended for supporting or sheltering any use or occupancy.
- d) **Building Official** means a Building Official of the **District** of Sooke.
- e) **Bylaw Enforcement Officer** means a Bylaw Enforcement Officer of the District of Sooke.
- f) **Designated Flood** means a flood, which may occur in any given year, of such magnitude as to equal a flood having a 200-year recurrence interval, based on a frequency analysis of unregulated historic flood records or by regional analysis where there is inadequate stream flow data available. Where the flow of a large **watercourse** is controlled by a major dam, the designated flood must be set on a site-specific basis.
- g) **Designated Flood Level** means the observed or calculated elevation for the Designated Flood which is used in the calculation of the **Flood Construction Level**.
- h) **District** means the District of Sooke.
- i) **Flood Construction Level** means the **Designated Flood Level** plus the allowance for **freeboard** and is used to establish the elevation of the underside of a wooden floor system or top of concrete slab for habitable buildings. In the case of a **manufactured home**, the ground level or top of concrete or asphalt pad on which it is located must be no lower than the above-described elevation. It also establishes the minimum crest level of a **Standard Dike**. Where the **Designated Flood Level** cannot be determined or where there are overriding factors, an assessed height above the **natural boundary** of the water body or above the **Natural Ground Elevation** may be used.
- j) **Flood Hazard Assessment** means a report, from a **Professional Engineer** in accordance with **District** bylaws and Provincial legislation. The assessment identifies flood characteristics, determines whether a development is safe for the intended use, and specifies any corresponding flood mitigation measures.
- k) **Floodplain** means a lowland area, whether diked, flood-proofed, or not, which, by reasons of land elevation, is susceptible to flooding from an adjoining **watercourse**, ocean, lake, or other body of water and for administrative purposes is taken to be that area submerged by the **Designated Flood** plus **freeboard**.

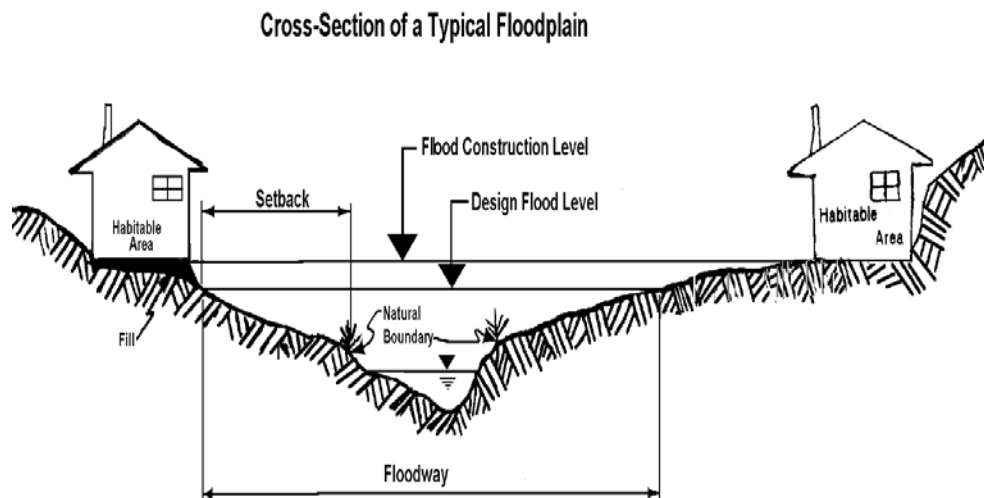
- l) **Flood-proofing** means the alteration of land or **structures** physically or in use to reduce or eliminate flood damage and includes the use of elevation and/or building setbacks from water bodies to maintain a **floodway** and to allow for potential erosion. **Flood-proofing** may be achieved by all or a combination of the following:
 - i) Building on fill, provided such fill does not interfere with flood flows of the **watercourse** and is adequately protected against floodwaters erosion;
 - ii) Building raised by structural means such as foundation walls, columns, etc.; and/or
 - iii) A combination of fill and structural means.
- m) **Floodplain Setback** means the minimum required distance from the **natural boundary** of a **watercourse**, lake or other body of water to any landfill or structural support required to elevate a floor system or **Pad** above the **Flood Construction Level**, so as to maintain a **floodway** and allow for potential land erosion.
- n) **Floodway** means the channel of the **watercourse** and those portions of the floodplains which are reasonably required to discharge the flood flow of a **Designated Flood**. A minimum required **floodway** must be equal to the width of the channel within the **natural boundary** plus a minimum setback of thirty metres from the **natural boundary** on each side of the channel or channels unless otherwise approved.
- o) **Freeboard** means a vertical distance added to a **Designated Flood Level** and is used to establish the **Flood Construction Level**.
- p) **Habitable Area** means any room or space within a **building** or **structure** that is or can be used for human occupancy, commercial sales, or storage of goods, possessions or equipment (including furnaces) which would be subject to damage if flooded.
- q) **Hydrostatic Forces** means the additional forces that must be considered in the design and construction of a basement area in a building located in a designated **Floodplain** or Non-Standard Flood and Erosion (NSFEA) area. **Hydrostatic forces** are imposed by the saturation of the ground and overland flow of water to a depth equal to the **Flood Construction Level**.
- r) **Manufactured Home** means a **structure** manufactured as a unit, intended to be occupied in a place other than at its manufacturer, and designed as a dwelling unit, and includes mobile homes, and specifically excludes recreational vehicles.
- s) **Natural Boundary** means the visible high water mark of any lake, river, **watercourse**, 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 lake, river, **watercourse**, 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. In addition, the **natural boundary** includes the best estimate of the edge of dormant or old side channels and marsh areas.

- t) **Natural Ground Elevation** means the undisturbed ground elevation prior to site preparation,
 - u) **Pad** means a graveled or paved surface on which blocks, posts, runners or strip footings are placed for the purpose of supporting a **manufactured home** or mobile unit or a concrete **Pad** for supporting a **habitable area**.
 - v) **Professional Engineer** means a person who is registered or licensed under the provisions of the *Engineers and Geoscientists Act*.
 - w) **Protective Works** means any landfill, embankment, dike, berm, revetment, wall, barrier, flap gate, drainage infrastructure or other **structure** constructed exclusively or inter alia for the purposes of protecting an area, **structure** or development from the effects of floods, debris flows or debris floods.
 - x) **Scour Protection or Erosion Protection** is defined as **Protective Works** constructed along dike slopes, stream banks, lakes and other water bodies to prevent their erosion by surface runoff, stream flows and/or wave action.
 - y) **Standard Dike** means a dike built to a minimum crest elevation equal to the **Flood Construction Level** and meeting standards of design and construction approved by the Province and maintained by an ongoing authority such as a local government body or a diking authority under the *Dike Maintenance Act* or successor legislation.
 - z) **Structure** means a construction or portion thereof of any kind, whether fixed to, supported by or sunk into the land or water, specifically including retaining and seawall **structures** of any size directly connected to a building or other **structure** but specifically excluding fences, signs, public waterfront accesses, public boardwalks and paving.
 - aa) **Watercourse** means any natural or man-made depression with well-defined banks and a bed 0.6 metres (2.0 feet) or more below the surrounding land serving to give direction to a current of water at least six months of the year or having a drainage area of two square kilometres (0.8 square miles) or more upstream of the point of consideration.
6. Unless otherwise provided in this Bylaw, words and phrases used herein have the same meanings as in the *Local Government Act*, *Community Charter*, or *Land Act* as the context and circumstances may require. A reference to a statute in this Bylaw refers to a statute of the Province of British Columbia unless otherwise indicated, and a reference to any statute, regulation, bylaw or other enactment refers to that enactment as it may be amended or replaced from time to time. Headings in this Bylaw are for convenience only and must not be construed as defining or limiting its scope or intent. If any part of this Bylaw is held to be invalid by a court of competent jurisdiction, the invalid part is severed and the remainder continued to be valid.

7. The **District** does not, by this enactment, administration or enforcement of this Bylaw, represent to any person that any **building, structure, manufactured home or Habitable Area** located, constructed or used in accordance with the provisions of this Bylaw, or in accordance with conditions, terms, information, advice, direction or guidance provided by the **District** in the course of administering this Bylaw, will not be damaged by flooding or floodwater.

Diagram 1



Note: This diagram is provided for illustrative purposes only
(source: British Columbia Ministry of Environment)

Application and Administration

8. a) No **building or structure** may be constructed, reconstructed, altered, moved or extended by the owner, occupier or other person so that it contravenes the requirements of this Bylaw.
- b) A **Building Official** or **Bylaw Enforcement Officer** who observes a contravention of this Bylaw may issue applicable notices and orders to any owner, occupier or other person who appears to have committed or allowed the contravention.

Floodplain Designation

9. Pursuant to section 524(2) of the *Local Government Act*, the following land is designated as **floodplain**:
- a) The **floodplain** of the Sooke River within the **District** in the areas shown on Map Sheets 1 and 2 attached as Schedule "A"; and
- b) Until such time as **floodplain** mapping is prepared:

- i) Land lower than the **Flood Construction Levels**, except where the **Flood Construction Level** has been determined in response to a site-specific situation; and
 - ii) Land within the **Floodplain Setbacks**.
- 10. Pursuant to section 524(6) of the *Local Government Act*, the following elevations are specified as **Flood Construction Levels**, except where more than one **Flood Construction Level** is applicable, the higher elevation must be the specified **Flood Construction Level**:
 - a) Where **Floodplain** Mapping is available, the **Flood Construction Level** (“FCL”) for a specific property must be determined by interpolation from the “200-year frequency Flood Level”. Refer to Schedule “A” of this bylaw.
 - b) Where **Floodplain** Mapping is not available, the following elevations are specified as **Flood Construction Levels**:
 - i) 3.0 metres above **natural boundary** of Ayum Creek, Charters River, DeMamie Creek, Sooke River, and Veitch Creek;
 - iii) 1.5 metres above **natural boundary** of the sea, any other **watercourse**, lake, pond or adjacent swamp or marsh area.
- 11. Pursuant to section 524(6) of the *Local Government Act*, the following distances are specified as **Floodplain Setbacks**, except where more than one **Floodplain Setback** is applicable, the greater distance must be applied:
 - a) 30.0 metres from the **natural boundary** of Ayum Creek, Charters River, DeMamie Creek, Sooke River, and Veitch Creek;
 - b) 15.0 metres from the **natural boundary** of the sea and all other **watercourses**;
 - c) 7.5 metres from the **natural boundary** of all lakes, ponds, swamps and marshes; and
 - d) 7.5 metres from any **standard dike** or **structure** used for flood protection or seepage control or any easement or right of way for a **standard dike** or **structure** used for flood protection.

Floodplain Regulations

- 12. No building, **manufactured home** or unit, modular home or **structure** or any part thereof will be constructed, reconstructed, moved, extended or located with the underside of a wooden floor system or top of concrete slab of any area used for habitation, business, or storage of goods damageable by floodwaters, or in the case of a **manufactured home** or unit the ground level or top of **Pad** on which it is located, lower than the **Flood Construction Level** specified in this Bylaw.

13. No landfill or structural support required to support a floor system or **Pad**, will be constructed, reconstructed, moved, extended or located within any **Floodplain Setback** specified in this Bylaw.
14. Unless specifically provided for elsewhere in this Bylaw, no area below the **Flood Construction Level** will be used for the installation of furnaces, major electrical switchgear, or other fixed equipment susceptible to damage by floodwater.
15. Structural support or compacted fill or a combination of both may be used to elevate the underside of the floor system or the top of the **Pad** above the **Flood Construction Level**. The structural support and/or fill must be protected against scour and erosion from flood flows, wave action, ice and other debris.
16. Unless a building is situated on lands with a natural elevation above that as the specified **Flood Construction Level** or greater, basements are prohibited, and crawl spaces must not exceed 1.2 metres (4 feet) in height to the underside of the floor joists; and
 - a) All entry points for flood or debris flow material, such as windows and doors, must be located above the **Flood Construction Level**;
 - b) The building foundation must be constructed to withstand the **Hydrostatic Forces** during inundation up to the **Flood Construction Level**; and
 - c) For buildings located within NSFEAs that all applicable engineering requirements related to an NSFEA rating are deemed satisfied.
17. When a building permit is applied for on parcels with land abutting the Sooke Harbour, Sooke Basin or the Strait of Juan de Fuca, the **Building Official** shall require a structurally engineered foundation and a geotechnical report if any part of a footing up to and including the level of a slab, or portion of the foundation is intended by its design to be submersible or subject to water fluctuation or wave action.
18. The **Building Official**, or such person appointed by the **District** of Sooke, may require, at the cost of the landowner, a **British Columbia Land Surveyor's** certificate to verify compliance with the **Flood Construction Levels** and **Floodplain Setbacks** as specified in this Bylaw.

General Exemptions

19. The following types of developments are exempted from the **Flood Construction Levels** specified in this bylaw, subject to conditions specified as follows: (Note: these types of developments are not exempted from the **Floodplain Setbacks**):
 - a) A renovation of an existing **building** or **structure** that does not involve an addition thereto.
 - b) An addition to a **building** or **structure** at the original non-conforming floor elevation, that would increase the size of the **building** or **structure** by less than 25 percent of the ground floor area (excluding decks, carports or garages) existing at the date of adoption of this bylaw provided that the degree of non-conformity regarding the setback is not increased (i.e. no closer to the water than existing);

- c) That portion of a **building** or **structure** to be used as a carport, garage or, decks, porches, domestic greenhouses;
 - d) Storage **buildings** not used for the storage of goods damageable by floodwaters.
 - e) Recreation shelters, stands and other outdoor facilities susceptible to only marginal damage by floodwaters.
 - f) Farm **buildings** other than dwelling units and closed-sided livestock housing and **buildings** containing hazardous commodities such as herbicides, pesticides, fuel and products with similar environmental impacts.
 - g) On-loading and off-loading facilities associated with water-oriented industry and portable sawmills. Main electrical switchgear must be placed above the **Flood Construction Level**.
 - h) Farm dwelling units on parcels 8.0 hectares or greater in area, located within the Agricultural Land Reserve, must be located with the underside of a wooden floor system or the top of the **Pad** of any **habitable area** (or in the case of a **manufactured home**, the top of the **Pad** or the ground surface on which it is located) no lower than 1.0 metre above the **Natural Ground Elevation** taken at any point on the perimeter of the **building**, or no lower than the **Flood Construction Levels** specified in this Bylaw, whichever is the greater.
 - i) Closed-sided livestock housing not behind **standard dikes** must be located with the underside of a wooden floor system or the top of the **Pad** (or in the case of a mobile unit, the top of **Pad** or the ground surface on which it is located) no lower than 1.0 metre above the **Natural Ground Elevation** taken at any point on the perimeter of the **building**, or no lower than the **Flood Construction Levels** specified in this Bylaw, whichever is the greater.
 - j) Industrial uses, other than main electrical switchgear, must be located with the underside of a wooden floor system or the top of the **Pad** of any **habitable area** (or in the case of a mobile unit, the top of **Pad** or the ground surface on which it is located) no lower than the **Flood Construction Levels** specified in this Bylaw minus **Freeboard**.
 - k) Heavy industrial development located behind a **standard dike**.
20. The following development is exempted from both the **Floodplain Setbacks** and the **Flood Construction Levels** specified in this bylaw:
- a) A self-supporting deck or boathouse that is not:
 - i. used for **Habitable Area** and the land owner has registered a covenant in favour of the **District** which states that the deck or boathouse will not be used as a **Habitable Area**;
 - ii. structurally attached to a **building**, **manufactured home** or **structure**; and

- iii. within 7.5 m of any **standard dike**, training works or **structure** used for flood protection or seepage control or any easement or right of way for a **standard dike**, training works or **structure** used for flood protection or seepage control.

b) Public Accesses and Public Boardwalks.

Site Specific Exemptions

[Deleted by Bylaw No. 912, (773-02), 2024]

Penalty

- 21. Enforcement Officers, offences, and fines are as designated by the Municipal Ticketing Information Bylaw.
- 22. This bylaw may be enforced by means of a ticket in the form prescribed for the purpose of s. 264 of the *Community Charter*.
- 23. Any person who contravenes this bylaw commits an offence and on summary conviction by a court of competent jurisdiction, is subject to a fine of not more than \$50,000.00, in addition to the costs of prosecution. Each day during which a violation, contravention, or breach of this bylaw continues is deemed to be a separate offence.

Severability

- 25. If any section or subsection of this Bylaw is found to be invalid by a court of competent jurisdiction, the section or subsection may be severed from the Bylaw without affecting the validity of the remainder of the Bylaw.

Repeal

- 26. District of Sooke Bylaw No. 561, *Flood Regulation Bylaw, 2013*, is hereby repealed.

READ a FIRST, SECOND and THIRD time the 9th day of March, 2020.

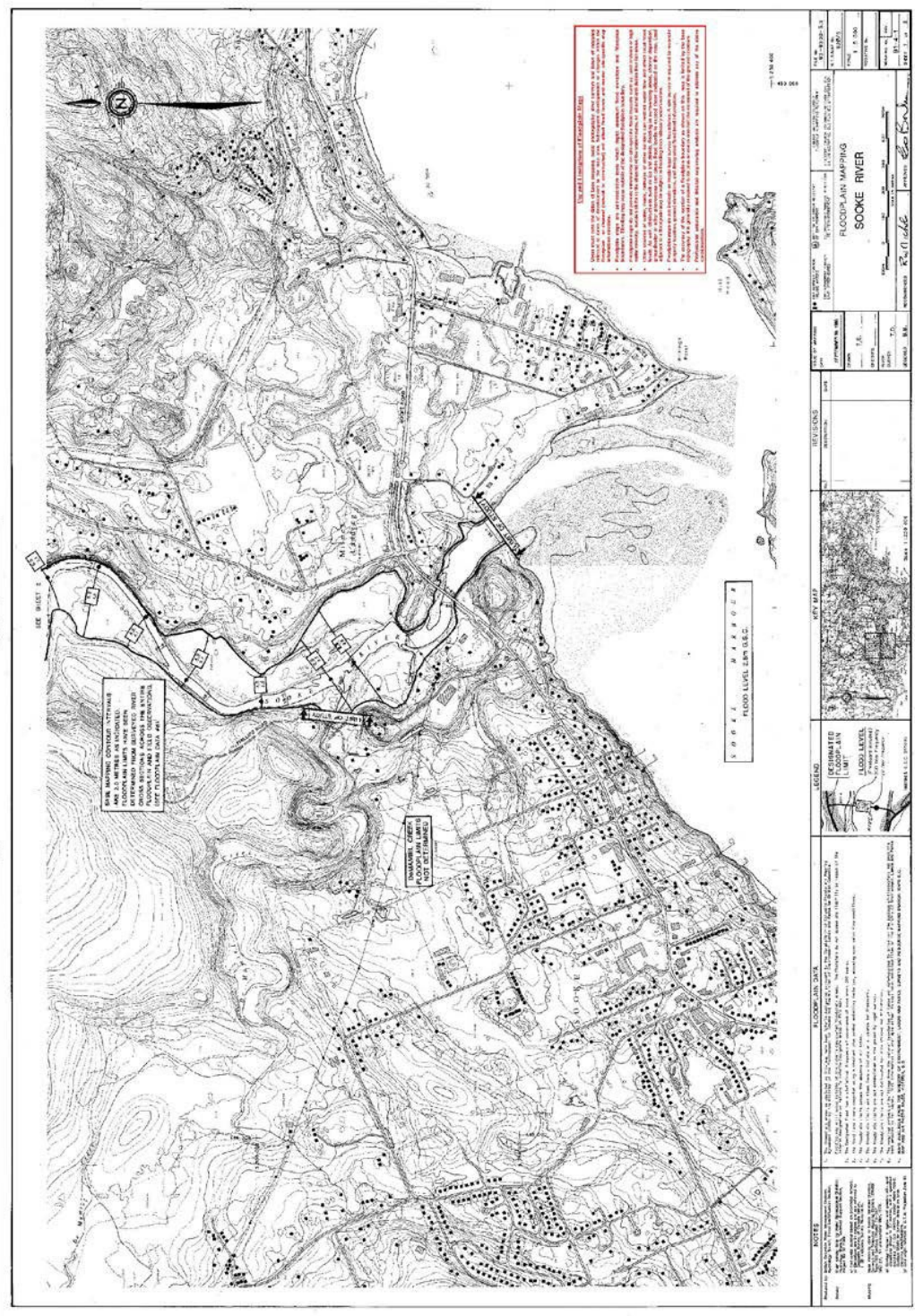
ADOPTED the 28th day of September, 2020.

Maja Tait
Mayor

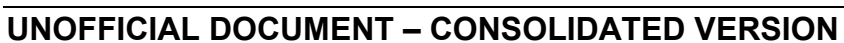
Carolyn Mushata
Corporate Officer

SCHEDULE A:

Map Sheet One



Map Sheet Two



SCHEDULE B

[Deleted by Bylaw No. 855 (773-01), 2022]