

DECOURCY ISLAND

ZONING BYLAW NO. 44

AS AMENDED BY THE GABRIOLA ISLAND LOCAL TRUST COMMITTEE
BYLAWS: 192 and 242

NOTE: Certified copies of the Zoning Bylaw are available from the Islands Trust Office

Consolidated January, 2008

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. 192	Amendment No. 1, 2001	July 18, 2001
Bylaw No. 242	Amendment No. 1, 2007	Sept. 7, 2007

**GABRIOLA ISLAND TRUST COMMITTEE
BYLAW NO. 44**

**
A BYLAW TO DIVIDE DECOURCY ISLAND INTO ZONES AND TO REGULATE THE USE OF
LAND INCLUDING THE SURFACE OF WATER AND THE LOCATION, SIZE AND USE OF
BUILDINGS AND STRUCTURES

**

The Gabriola Island Trust Committee being the Trust having jurisdiction on and in respect to DeCourcy Island in the Province of British Columbia, pursuant to the *Islands Trust Act*, R.S.B.C., 1979, Chapter 208, in open meeting assembled, enacts as follows:

I. **DeCourcy Island Zoning Bylaw**

SECTION 1

ADMINISTRATION

1.1 **General**

- (a) This Bylaw shall be applicable to DeCourcy Island, as shown on Schedule "A", attached to and forming part of this Bylaw.
- (b) This Bylaw may be cited as "DeCourcy Island Zoning Bylaw, 1987".

1.2 **Zones**

- (a) The area covered by this Bylaw has been divided into the following zones, the boundaries of which are shown on Schedule "A":

SR Settlement Residential

R Rural

PR Public Recreation

W-1 Water General

W-2 Mariculture

- (b) The boundary between water and land zones shall be the surveyed high water mark as shown on a plan registered in the Land Title Office, or where there is no registered survey plan, shall be the natural boundary of the sea.

1.3 **Violation**

No building or structure shall be sited, used, constructed, moved, or altered, except in conformity with this Bylaw and no land or surface of water shall be used or occupied, except in conformity with this Bylaw.

1.4 Penalty

- (a) Any person who violates the provisions of this Bylaw is liable on summary conviction to a penalty not exceeding five hundred (500) dollars for each day the violation continues plus prosecution costs.
- (b) The Islands Trust may seek a court order to authorize the demolition, removal or the bringing up to standard of any building, structure or thing, in whole or in part, that is in contravention of this Bylaw.

1.5 Amendment

Any person applying to have this Bylaw amended shall apply in writing to the Manager of Islands Trust.

1.6 Appeal

The Board of Variance, established under a Bylaw of the Islands Trust Committee, shall hear and determine any appeal pursuant to Section 962 of the *Municipal Act*.

1.7 Severability

If any section, subsection, clause, sub-clause or phrase of this Bylaw is for any reason held to be invalid by the decision of any court or competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Bylaw.

SECTION 2

GENERAL REGULATIONS

2.1 Uses and Structures Permitted in any Zone

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Navigational aids and public utility uses and structures shall be permitted in any zone. Distribution stations, transmission towers, pipelines, related storage and repair facilities shall not be permitted. Without limiting the foregoing, fire hall uses are permitted within buildings on lands as shown on Map 1, Section 6.

2.2 Non-compliance with Siting and Size Requirements

A building or structure lawfully existing at the time of adoption of this Bylaw which fails to comply with the requirements relating to siting and size herein shall not be deemed to be nonconforming for such non-compliance, but any subsequent alterations or additions to such buildings or structures shall be permitted only if they are in accordance in all respects with the requirements of the Bylaw.

2.3 Nonconforming Use

A lawful use of premises existing at the time of adoption of this Bylaw, although such use does not conform to the provisions of this Bylaw, may be continued subject to the provisions of Section 970 of the *Municipal Act*, R.S.B.C., 1985, respecting nonconforming uses.

2.4 Siting Exceptions

- (a) Where steps, eaves, canopies, balconies or chimneys project beyond the face of a building, the minimum distance to any lot line as regulated elsewhere in the Bylaw may be reduced by not more than 2 metres (6.56 ft.) providing such reductions shall apply only to the projecting feature.

2.5 Height Exceptions

The heights of permitted buildings and structures may be exceeded for retaining walls, radio and television antennas, chimneys, flag poles, lighting poles, stairways, water storage tanks or cisterns, and silos.

2.6 Guest Cottages

- (a) On parcels in excess of 2 ha (4.94 acres) in size in the Settlement Residential and Rural zones, a guest cottage is permitted provided that:
- (i) The guest cottage has a gross floor area not greater than sixty-five (65) square metres (699.65 ft²).

2.7 Transient Vessels

Notwithstanding any other provisions of this Bylaw, vessels in transit are permitted to moor or anchor in the waters of the W-1, W-2, and PR Zones.

SECTION 3

ZONE SPECIFIC REGULATIONS

3.1 Settlement Residential (S) Zone

The purpose of this zone is to designate land for residential use, both seasonal permanent.

(a) Permitted Uses

In addition to uses permitted in Section 2.1 of the Bylaw, the following uses and no others shall be permitted in the Settlement Residential Zone:

- (i) Single family residential
- (ii) Guest cottages, subject to Section 2.6
- (iii) Boat launching, parking on, and access over Lot 1, Plan 20512, Section 23, DeCourcy Island, Nanaimo District, associated with the use of centralized moorage within Waterlot 364, Pirates Cove, DeCourcy Island, Nanaimo District.

(b) Permitted Buildings and Structures

The following buildings and structures and no others shall be permitted in the Settlement Residential Zone.

- (i) Single family dwellings
- (ii) Guest cottages, subject to Section 2.6
- (iii) Buildings and structures accessory to single family dwellings
- (iv) Structures, excluding buildings, on Lot 1, Plan 20512, Section 23, DeCourcy Island, Nanaimo District, associated with the use of centralized moorage within Waterlot 364, Pirates Cove, DeCourcy Island, Nanaimo District.
- (iv) Buildings and structures accessory to single family dwellings
- (c) Regulations Pertaining to the Settlement Residential Zone
 - (i) Site Density

There shall not be more than one (1) single family dwellings per parcel; except for parcels in excess of 2 hectares (4.94 acres), where a guest cottage is also permitted.
 - (ii) Height of Buildings and Structures

No building or structure shall exceed 9 metres (29.53 ft.) in height.
 - (iii) Siting

No building or structure or part thereof except a fence shall be located within 5 metres (16.40 ft.) of any lot line.
 - (iv) Lot Coverage

Buildings and structures in total shall not cover more than 15 percent of the lot.

3.2 Rural Zone

The purpose of this zone is to designate land for rural use.

(a) Permitted Uses

In addition to uses permitted in Section 2.1 of this Bylaw, the following uses and no others shall be permitted in the Rural Zone.

- (i) Single family residential
- (ii) Guest cottages, subject to Section 2.6
- (iii) Agriculture, including the processing, storage, and sale on an individual farm of agricultural products produced or raised on that farm.
- (iv) Forestry

- (v) A reserve or area of land designated or required for the maintenance or protection of Island flora or fauna and their respective habitat.

(b) Permitted Buildings and Structures

The following buildings or structures and no others shall be permitted in the Rural Zone.

- (i) Single family dwellings,
- (ii) Guest cottages, subject to section 2.6,
- (iii) Buildings or structures accessory to single family dwellings,
- (iv) Non-residential buildings and structures accessory to farm use.

(c) Regulations Pertaining to the Rural Zone

(i) Site Density

There shall not be more than one (1) single family dwelling per parcel, with the following exceptions:

- On parcels in excess of 2 hectares (4.94 acres), a guest cottage is also permitted,
- On parcels in excess of 8 hectares (19.76 acres), one residential building per 4 hectares (9.88 acres) is permitted)

(ii) Height of Buildings and Structures

No building or structure shall exceed 9 metres (29.53 ft.) in height, with the exception of non-residential buildings used exclusively for agricultural purposes which shall not exceed 15 metres (49.21 ft.) in height.

(iii) Siting

No building or structure or part thereof, except a fence shall be located within 7 metres of any lot line. Non-residential buildings used exclusively for agricultural purposes shall not be located within 30 metres (98.43 ft.) of any lot line.

(iv) Lot Coverage

Buildings and structures in total shall not cover more than 10 percent of the lot.

3.3 Public Recreation (PR) Zone

The purpose of this zone is to designate land for public recreation use.

(a) Permitted Uses

The following uses and no others are permitted in the Public Recreation Zone:

- (i) Public parks
 - (ii) Public recreation facilities
- (b) Permitted Buildings and Structures

The following buildings and structures and no others shall be permitted in the Public Recreation Zone

- (i) Buildings and structures necessary to accommodate the needs of uses established in this zone.
- (c) Regulations Pertaining to the Public Recreation Zone
- (i) Height of Buildings and Structures
No building or structure shall exceed 9 metres (29.53 ft.) in height.
 - (ii) Siting
No building or structure except a fence or sign shall be located within 7 metres (22.97 ft.) of any lot line.

3.4 Water General (W-1) Zone

The purpose of this zone is preserve and protect the natural qualities of the foreshore and water areas on and adjacent to DeCourcy Island and to provide for the orderly development of boat moorage facilities associated with single family residential uses on the upland.

(a) Permitted Uses

The following uses and no others shall be permitted in the Water-1 Zone

- (i) Boat and seaplane moorage associated with single family uses located on adjacent upland
 - (ii) Public boat launching facilities
 - (iii) Marine navigational aids
- (b) Permitted Structures

The following structures and no others are permitted in the Water-1 Zone:

- (i) Mooring buoys, floats, docks, and boat shelters necessary to accommodate boat moorage associated with residential uses on the upland. (Floats, docks, and boat shelters are required to have authorized tenure from the Lands Division, Ministry of Forests and Lands.*)

- (ii) Swimming floats, stairways, and walkways
- (iii) Navigational aids
- (c) Regulations Pertaining to the Water-1 Zone
 - (i) Residential Use Prohibited

Use of any vessel as a residence is prohibited. No float houses are permitted.
 - (ii) Buildings Prohibited

No building, except a boat shelter not exceeding 3 metres (9.84 ft.) in height, shall be erected on any structure permitted in this zone.
 - (iii) Siting

No structure shall be sited within 6 metres (19.69 ft.) of the projection of any side lot line.

* For information purposes only.

3.5 Mariculture (W-2) Zone

The purpose of this zone is to designate water areas for mariculture where such use presently exists.

(a) Permitted Uses

The following uses and no others shall be permitted in the W-2 Zone.

- (i) Shellfish culture
- (ii) Marine navigational aids

(b) Permitted Structures

The following structures and no others shall be permitted in the W-2 Zone

- (i) Mooring buoys and shellfish culture stakes
- (ii) Marine navigational aids

(c) Regulations Pertaining to the Mariculture W-2 Zone

(i) Residential Use Prohibited

Use of any vessel as a residence is prohibited. No float houses are permitted.

3.6 CENTRALIZED MOORAGE (W-3) ZONE

The purpose of this zone is to designate water areas for the orderly development of centralized moorage facilities serving only DeCourcy Island residents, lot owners, and their non-paying guests.

(a) Permitted Uses

The following uses and no others shall be permitted in the Centralized Moorage Zone

- (i) Centralized moorage serving only single family uses on any DeCourcy Island upland lot, for which user fees may be charged
- (ii) Boat and seaplane loading and unloading associated with single family uses on any DeCourcy Island upland lot
- (iii) Boat launching facilities
- (iv) Boat tide-grid
- (v) Marine navigation aids.

(b) Permitted Structures

The following structures and no others shall be permitted in the Centralized Moorage Zone

- (i) Pilings, dolphins, floats, ramps, and docks, associated with centralized moorage, boat and seaplane loading and unloading, boat launching, boat tide-grid, and marine navigation aids.

(c) Regulations

The following regulations apply to the use of land (water) and structures in the Centralized Moorage Zone:

- (i) The use of land (water) or structures for purposes of a yacht club or yacht club outstation is prohibited.

SECTION 4

SUBDIVISION PARCEL SIZE REGULATIONS

- 4.1 The land areas of DeCourcy Island and Long Island are designated in the Gabriola Island Trust Committee Bylaw No. 18, cited as DeCourcy Island Subdivision Control Bylaw, 1982", as subdivision districts in accordance with Schedule "A" of that Bylaw.
- 4.2 All land areas shown in the above mentioned Schedule "A" and not designated "A", "B", "C", "D", "E", "F" and "H" are designated "G".
- 4.3 In the designated subdivision districts of Section 4.1 and 4.2 no land shall be subdivided except in accordance with the following requirements:

1	2	3	4
Subdivision District Designation	Minimum Lot Size in ha	Minimum Average Lot Size in ha	Maximum Number * of Lots **
A	0.6	1.19	15
B	0.6	1.22	4
C	0.6	1.11	7
D	0.6	1.39	5
E	0.6	1.32	11
F	0.6	10.82	4
G	30.0	-	1
H	2.0	2.43	2

* This figure indicates the maximum number of lots permitted in each subdivision district if the entire district is subdivided.

** Should a discrepancy occur between the application of the numbers in columns 3 and 4, the numbers in column 4 shall prevail.

SECTION 5

DEFINITIONS

In this Bylaw, unless the context otherwise requires:

“ACCESSORY BUILDING OR USE” means a building or use customarily incidental to the permitted use of land, buildings or structures located on the same lot;

“ACCESSORY TO” means subordinate to and in conjunction with;

“AGRICULTURE” means the growing, harvesting, processing, storage, and selling of crops, livestock, and poultry originating on the site, and includes the storage, repair, and servicing of farm machinery and implements used on that site, and includes accessory buildings and structures, excluding those used for human habitation, necessary for farm operations;

“APPROVAL” means approval in writing from the authority having jurisdiction;

“BUILDING” means any structure used or intended to be used for the shelter, habitation, accommodation, assembly, or storage of persons, animals, plants, goods or chattels;

Bylaw No. 192

“CENTRALIZED MORRAGE” means the provision of boat and seaplane moorage space only to DeCourcy Island residents, lot owners, and their non-paying guests;

“DWELLING, SINGLE FAMILY” means a self-contained room or set of habitable rooms containing not more than one set of cooking facilities which is used or intended to be used by one family;

“ECOLOGICAL RESERVE” means an ecological reserve established under the *Ecological Reserve Act*;

“FAMILY” means an individual, or two or more persons related by blood or marriage, or five or fewer persons not necessarily related by blood or marriage;

“FLOATHOUSE” means a structure on a flotation system that is intended for residential habitation and is neither navigable nor useful for navigational purposes;

“FLOOR AREA” means the sum of the total area of all the floors, including lofts, enclosed porches and enclosed balconies, measured to include exterior walls;

“FORESTRY” means the establishment, tending, and harvesting of forest trees, excluding processing of wood or wood products.

“HEIGHT” means the vertical distance from the average finished ground level at a distance of one metre out from the perimeter of the building or structure to the highest point of the building or structure.

“HIGH WATER MARK” means the high water mark identified on the plan of subdivision or the plan accompanying the instrument conveying Crown land in fee simple, which plan was most recently filed in the Land Title Office, or where no plan exists, means the natural boundary;

“HIGHWAY” means a street, road, lane, bridge, and any other way open to public use, but does not include a private right-of-way on private property;

“LOT OR PARCEL” means the smallest unit in which land is designated as a separate distinct parcel on a legally recorded plan or description filed in the Land Title Office, and includes a strata lot registered under the *Condominium Act*, but does not include a highway;

“LOT LINE, FRONT” means the boundary line between the lot and the street on which the lot abuts. In the case of a corner lot, a lot line abutting a street shall be considered a front lot line if the adjacent lots front on the same street, except that only front lot line need be provided;

“LOT LINE, REAR” means the lot line furthest from the opposite to the front lot line, except that there shall not be more than one rear lot line;

“LOT LINE, SIDE” means the lot line marking the boundary between two lots, or between a lot and a lane, or between a lot and a public street in the case of a corner lot; of which one or both intersect a front lot line;

“MARICULTURE” means the cultivation, raising and harvesting of marine organisms;

“NATURAL BOUNDARY” means the visible high water mark of the sea, or a lake, a river, a stream, or other body of water where the presence and action of water are so common and usual and so long continued in all ordinary years as to mark upon the soil or rock a character distinct from that of the bank(s) thereof;

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“NON-PAYING GUEST” means an invitee accommodated without remuneration;

“PARK” means public park and includes ancillary uses including park office, information centre, community organization offices, community uses, and caretaker’s quarters and other uses associated with park uses;

“PRINCIPAL” with respect to a use or building means primary and chief;

“RESIDENCE” means occupancy or use of a building, structure vessel, or part thereof as a dwelling;

“SHELLFISH CULTURE” means the cultivation, raising, and harvesting of oysters, clams, and other molluscs;

“STRUCTURE” means a construction of any kind, whether fixed to, supported by, or sunk into land or water, such as buildings, display signs, poles and towers, platforms, sheds, bins, tanks, etc. but shall not include gravel, asphalt, or concrete, paving or similar lot surfacing;

“USE” means the purpose for function to which the land, water surface, buildings and structures are put.

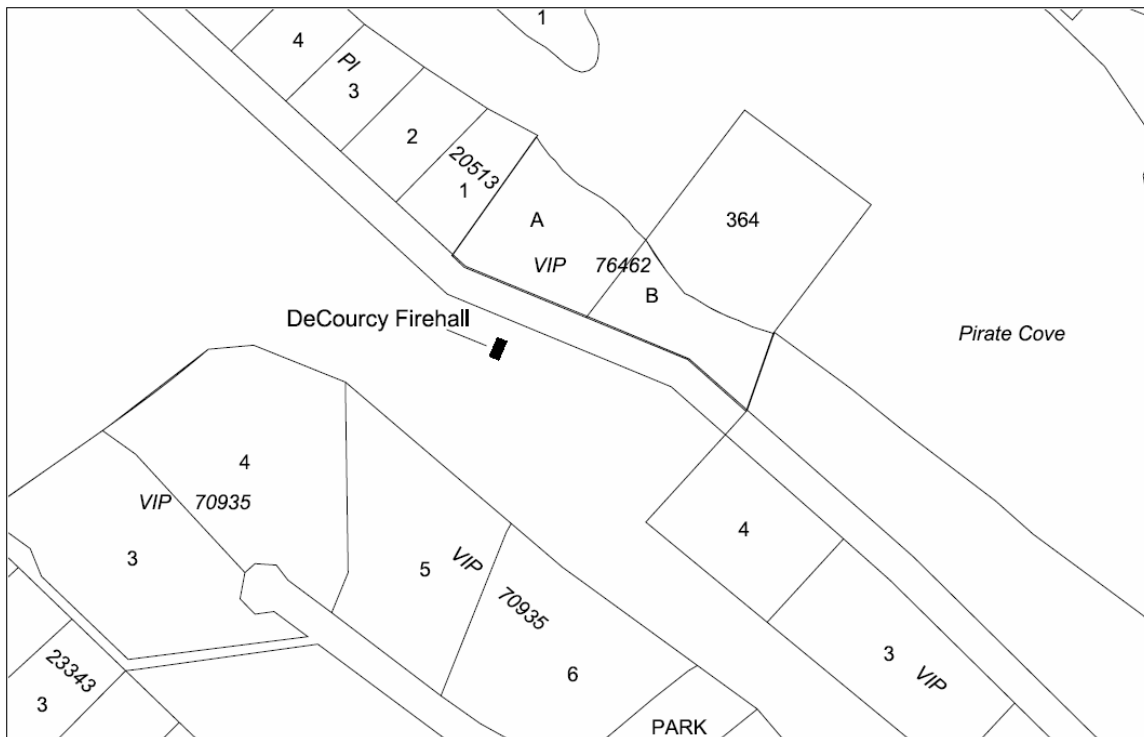
Bylaw No. 242

SECTION 6

6.1 Fire hall uses are permitted on land and in buildings within the area shown on Map 1.

6.2 Residential use within the area shown on Map 1 is prohibited.

MAP 1



- II. Regional District of Nanaimo Bylaw No. 39 cited as “The Regional District of Nanaimo Zoning Bylaw No. 39, 1971” as it applies to DeCourcy Island is repealed upon adoption of this Bylaw.

READ A FIRST TIME THIS 13th day of December 1987

READ A SECOND TIME THIS 13th day of December 1987

READ A THIRD TIME THIS 6th day of May 1988

APPROVED BY THE MINISTER OF MUNICIPAL AFFAIRS THIS
16th day of August 1988

RECONSIDERED AND FINALLY ADOPTED THIS
9th day of September 1988

Cynthia Hawksworth
Manager

Nick Gilbert
Chairman