CITY OF NANAIMO

BYLAW NO. 4500.199

A BYLAW TO AMEND THE "CITY OF NANAIMO ZONING BYLAW 2011 NO. 4500"

WHEREAS the Council may zone land, by bylaw, pursuant to Sections 464, 465, 466, 469, 479, 480, 481, 482, and 548 of the *Local Government Act*;

WHEREAS a zoning bylaw may specify guidelines and exemptions for development permit areas designated in an official community plan, pursuant to Section 488 of the *Local Government Act*;

THEREFORE BE IT RESOLVED the Municipal Council of the City of Nanaimo, in open meeting assembled, ENACTS AS FOLLOWS:

1. This Bylaw may be cited as the "Zoning Bylaw Amendment Bylaw 2022 No. 4500.199".

2. The "City of Nanaimo Zoning Bylaw 2011 No. 4500" is hereby amended as follows:

   (1) By adding the following definition for 'Certified Arborist' after 'Centre Line':

   CERTIFIED ARBORIST – means a person certified under the *International Society of Arboriculture* (IAS) with specific training as a Certified Tree Risk Assessor and/or a Wildlife / Danger Tree Assessor.

   (2) By adding the following definition for 'City Plan' after 'City Park':

   CITY PLAN – means the "City of Nanaimo Official Community Plan Bylaw 2022 No. 6600" and any amendments thereto.

   (3) By adding the following definition for 'Fill' after 'Fence':

   FILL – means soil, sand, gravel, rock, or other material that can be used to alter the contours of the land or used to create land through deposition.

   (4) By deleting the definition of 'Flood Construction Level' and replacing it with the following:

   FLOOD CONSTRUCTION LEVEL – means a Designated Flood Level plus Freeboard, or where a Designated Flood Level cannot be determined, a specified height above the Natural Boundary of a watercourse or the sea, or any obstruction that could cause ponding.

   (5) By deleting the definition of 'Floodplain Setback'.

(6) By adding the following definition for 'Habitable Area' after 'Gross Floor Area, All Other Uses':

HABITABLE AREA – means any room or space within a building or structure that is or can be used for human occupancy or building systems which would be subject to damage if flooded.

(7) By deleting the definition of 'Leave Strip' and replacing it with the following:

LEAVE STRIP – means a buffer of land, soil, and vegetation that is protected next to a watercourse, marine foreshore, or terrestrial environmentally sensitive area which is to be left in an undisturbed state.

(8) By deleting the definition of 'Major Road' and replacing it with the following:

MAJOR ROAD – means a Highway, an Urban Arterial, or a Mobility Arterial as designated by the City Plan "Schedule 4 – Road Classifications".

(9) By deleting the definition of 'Professional Engineer'.

(10) By adding the following definition for 'Qualified Registered Professional' after 'Quadruplex':

QUALIFIED REGISTERED PROFESSIONAL – means an individual who is registered under the *Professional Governance Act* as any of the following professionals:

1) an agrologist;
2) an applied science technologist or certified technician;
3) a registered professional biologist or registered biology technologist;
4) a professional engineer or professional engineering licensee;
5) a professional forester or registered forest technologist;
6) a professional geoscientist or professional geoscience licensee;

And is in good standing with the regulatory body under that Act for the individual's profession, and when carrying out that part of the assessment, the individual is acting:

a) within the individual's area of expertise;
b) within the scope of professional practice for the individual's profession; and
c) under the code of ethics of the applicable regulatory body.

(11) By adding the following definition for 'Soil' after 'Social Services Resource Centre':

SOIL – means the loose surface material at the earth's surface and includes sand, clay, gravel, rock, and other substances of which land is composed.

(12) By adding the following definition for 'Tree Bylaw' after 'Transient Tourist Accommodation':

TREE BYLAW – means the "Management and Protection of Trees Bylaw 2013 No. 7126" of the City of Nanaimo and amendments thereto, and any subsequent bylaw or bylaws which may be enacted in the substitution thereof.

(13) By deleting the definition of 'Watercourse' and replacing it with the following:

WATERCOURSE – means any course or source of water in a channel with defined continuous banks, whether usually containing water or not, and includes any lake, river, creek, spring, wetland, or source of groundwater, and including any portions that may be within a conduit or culvert.

(14) By deleting the title of section 6.3 and first sentence of subsection 6.3.1 and replacing with the following:

6.3 LOCATION AND SITING OF BUILDINGS AND STRUCTURES TO WATERCOURSES AND THE SEA

6.3.1 A leave strip from a watercourse or from the sea shall be required as follows:

(15) By deleting subsections 6.3.1.4 and 6.3.1.5 and replacing with the following:

6.3.1.4 The leave strip on each side of all watercourses identified in Schedule C shall include that area between the centre of the watercourse and a perpendicular line inland from the top of bank to the distance indicated on Schedule C for each watercourse.

(16) By amending subsection 6.3.3 by deleting the text "professional biologist (or a biological expert with equivalent knowledge)" and replacing with "Qualified Registered Professional".

(17) By amending subsection 6.10.4 by deleting the text "professional engineer" from clause b) and replacing with "Qualified Registered Professional".

(18) By adding the following as subsection 17.10.2.1 immediately following 17.10.2:

17.10.2.1 Notwithstanding the above, where landscaping is required under DPA1 – Environmentally Sensitive Areas as described in Part 18 of this Bylaw, the Standby Irrevocable Letter of Credit shall be equal to 100% of the estimated cost of the work for the length of the maintenance period, as recommended by a Qualified Registered Professional.

(19) By adding 'Part 18 – Development Permit Area (DPA) Guidelines' after Part 17 - Landscaping, as shown in Schedule A of this Bylaw.

(20) By re-numbering existing 'Part 18 – Effective Date of Bylaw' as 'Part 19 – Effective Date of Bylaw'.

(21) By deleting 'Schedule C – Watercourses' and replacing it with 'Schedule C – Watercourses and Marine Foreshore', as shown in Schedule B of this Bylaw.

(22) By deleting the row labelled “A” in Category 2: Retention and Restoration of Natural Features in ‘Schedule D – Amenity Requirements for Additional Density’, and replacing it with the following:

A	The subject property includes a Terrestrial Environmentally Sensitive Area (ESA), as designated by the City Plan “Schedule 6 – DPA1 Environmentally Sensitive Areas” and includes at least a 15m natural area buffer around the ESA.	2

(23) By adding ‘Schedule E – Neighbourhood and Area Plan Form and Character Design Guidelines’ immediately following ‘Schedule D – Amenity Requirements for Additional Density’, as shown in Schedule C of this Bylaw.

PASSED FIRST READING: 2022-MAY-30
PASSED SECOND READING: 2022-MAY-30
PUBLIC HEARING HELD: _____
PASSED THIRD READING: _____
MINISTRY OF TRANSPORTATION AND INFRASTRUCTURE: _____
ADOPTED: _____

_____
M A Y O R

_____
CORPORATE OFFICER

PART 18 – DEVELOPMENT PERMIT AREA (DPA) GUIDELINES

18.1 DPA1: ENVIRONMENTALLY SENSITIVE AREA (ESA) GUIDELINES – WATERCOURSE, TERRESTRIAL & MARINE FORESHORE

Application

18.1.1 *Environmentally Sensitive Areas* (*ESA*s) are identified on "Schedule 6 – DPA1: Environmentally Sensitive Areas" of the *City Plan*.

18.1.2 A development permit is required prior to any proposed development in DPA1: Environmentally Sensitive Areas.

18.1.5 DPA1 applies to the following *ESA*s:

a) Watercourse ESA
   i. The width of the *Watercourse ESA leave strip* shall be determined as specified on Schedule 6 of the *City Plan*.
   ii. The width of the *watercourse leave strip* is measured horizontally from, and at right angles to, the *top of bank* or *wetland* boundary of the *watercourse*.

b) Terrestrial ESA
   i. Properties impacted by known Terrestrial *ESA*s are shown on Schedule 6 DPA1: *Environmentally Sensitive Areas* of the *City Plan*, and the width of the terrestrial *ESA leave strip* shall be determined by a *Qualified Registered Professional* through a detailed biophysical assessment and approved by the Director of Development Approvals.

c) Marine Foreshore ESA
   i. Marine Foreshore *ESA*s are shown on Schedule 6 of the *City Plan*.

Guidelines

18.1.6 Where disturbance within an *ESA* or *ESA leave strip* cannot be avoided, the following information must be provided to support the DPA1 development permit application in order to ensure protection, connectivity and increased functional habitat through mitigation, compensation and restoration of the *ESA*:

a) A detailed biophysical assessment of the property, prepared by a *Qualified Registered Professional*.

b) A survey, completed by a registered BC Land Surveyor, of the *ESA* and *ESA leave strip* area.

c) A *Riparian Areas Protection Regulation* (RAPR) assessment report prepared by a *Qualified Registered Professional* where applicable.

d) An assessment of the proposed development's impact to the site hydrology completed by a *Qualified Registered Professional*.

e) An Executive Summary of the required strategy and recommended measures to protect the *ESA* prior to site disturbance, during the construction process and post

construction must be included in the *Qualified Registered Professional* assessment.

f) A restoration and enhancement management plan and detailed cost estimate for any restoration works, prepared by a *Qualified Registered Professional*, for the disturbed portion of the *ESA* and *ESA leave strip*. The plan shall meet the following criteria:
   i. include restoration and enhancement of *ESA*s that were impacted by previous development activities;
   ii. utilize vegetation that is indigenous to Vancouver Island; and
   iii. meet or exceed the landscaping and maintenance requirements in Part 14 of the City of Nanaimo *Manual of Engineering Standards and Specifications* (MoESS), as amended from time to time.

g) The principle of net gain will be followed, and a *Qualified Registered Professional* must demonstrate how an increase in the quality and quantity of functional habitat within the *ESA* and *ESA leave strip* will be achieved once the proposed development is complete, such that any areas restored shall be of better ecological value, and shall be contiguous with the original *ESA* and *ESA leave strip*. The following principles will apply to establishing net gain:
   i. Outcomes through habitat creation, enhancement, and/or restoration;
   ii. Target condition (functional habitat in 20 years); and
   iii. Target metric (twice the area of encroachment into the leave strip).

18.1.7 To protect the *ESA* the following will be required:

a) Prior to site clearing and construction:
   i. permanent fencing shall be installed to sufficiently protect the *ESA* from construction and development activity;
   ii. the fencing must have signage that identifies the area as an environmentally sensitive area;
   iii. runoff, erosion and sediment control must be installed adjacent to the *ESA leave strip*; and
   iv. demarcation of wildlife corridors, wildlife trees, and significant trees as identified in the *Tree Bylaw* may also be required.

b) Provision shall be made, and works undertaken, to provide for the disposal of surface runoff and stormwater flowing over the land, contributed by either the proposed development or past development. Such works shall be required to divert drainage away from areas subject to sloughing. Post development surface flow and groundwater must be maintained in volume and direction.

c) Restricting development activity during sensitive life cycle times, as determined by a *Qualified Registered Professional* and following the Develop With Care – Environmental Guidelines for Urban and Rural Land Development in British Columbia as prepared by the Province and amended from time to time.

d) The property owner or applicant will retain a *Qualified Registered Professional* to monitor and inspect the site during construction and during site restoration, for the duration of the project and the specified maintenance period, which will be the greater of three years from completion of restoration and enhancement, or as recommended by the *Qualified Registered Professional*. Post-completion monitoring and inspection reports will be provided to the City on a regular basis

at a minimum of once every six months, or more frequently if recommended by the *Qualified Registered Professional*.

e) Indigenous trees and vegetation, as well as their root zones, within the *ESA* and *ESA leave strip* should not be cut, pruned, altered, removed or damaged.

f) Development should be located in the least environmentally sensitive areas, such as previously disturbed areas, to minimize impact on the ecology of the *ESA* and the *ESA leave strip*.

g) Maintaining the connectivity of forested corridors is a priority and is strongly encouraged.

h) The 'green shores' principles and guidelines in the Stewardship Centre for British Columbia's Green Shores for Home shall be applied to minimize impacts to the marine foreshore area.

i) Gravel, sand, *soil*s, and peat must not be removed from the *ESA*, or *ESA leave strip*, and *soil* or other *fill* must not be deposited in the *ESA* or *ESA leave strip*.

j) *ESA*s and *ESA leave strips* must not be impacted by blasting or run-off of sediments and construction-related contaminants.

k) To ensure long-term protection of the *ESA* and *ESA leave strip*, the registration of a *Land Title Act* Section 219 covenant on the title of the property may be required.

l) Varying or relaxing other bylaw requirements (e.g., building setbacks, building height, or parking requirements) will be considered to facilitate safeguarding an *ESA* and *ESA leave strip*, particularly where the relaxation can make possible the development of the remainder of the lot, while avoiding disturbance within the *ESA* and *ESA leave strip*.

Exemptions

18.1.8 A development permit is not required for the following activities in DPA1:

a) Construction, alteration, or addition to a building or structure, or alteration of land occurring outside of an *ESA* and *ESA leave strip* on a lot, where the location of the *ESA* and *ESA leave strip* have been confirmed by the City of Nanaimo, or by a *Qualified Registered Professional* and identified on a survey, completed by a registered BC Land Surveyor. In addition, permanent fencing, signage, runoff and erosion and sediment control must installed prior to site clearing and construction to protect the *ESA* and *ESA leave strip*.

b) Internal alterations to an existing building or structure.

c) External alterations to an existing building or structure that do not alter its footprint.

d) The placement of temporary structures used for short-term special events and emergency facilities where no functional habitat is being disturbed.

e) Demolition of a building or structure located within the *ESA* and *ESA leave strip* on a lot provided no further disturbance of the *ESA* or *ESA leave strip* occurs outside of the footprint of the existing building or structure and provided the work is performed in accordance with the guidelines.

f) The erection of a sign or fence provided no native vegetation is removed or disturbed.

g) Routine maintenance of existing landscape conditions, such as lawn mowing, minor pruning of trees and shrubs, planting of vegetation, and minor soil disturbance that does not alter the general contour of the land, provided no removal of vegetation, replacement with non-landscaped surfaces, or removal of trees occurs and provided no further impact to the *ESA* or *ESA leave strip* occurs.

h) Planting and maintenance of native (indigenous) trees, shrubs or groundcover and removal of invasive plants or noxious weeds (such as Scotch broom, Himalayan blackberry, morning glory and purple loosestrife) for the purpose of restoring or enhancing habitat values and/or soil stability within the *ESA* and *ESA leave strip*, provided such planting is carried out in accordance with the guidelines and meeting or exceeding the landscaping and maintenance requirements in Part 14 of the City of Nanaimo *Manual of Engineering Standards and Specifications* (MoESS), as amended from time to time.

i) Tree cutting, pruning or removal, completed by a *Certified Arborist*, and approved through a permit issued by the City under the *Tree Bylaw*.

j) Pedestrian trail construction within a *watercourse leave strip* or *marine foreshore* if:
   i. it is for access to water only;
   ii. only one trail is built;
   iii. the trail is for pedestrian, non-vehicular use;
   iv. the trail is less than 1.5 metres wide;
   v. no native trees are removed;
   vi. the trail's surface is pervious, including *soil*, mulch or gravel;
   vii. the overall slope of the trail is less than 10% and where portions of the trail are greater than 10% the trail is designed to prevent erosion; and
   viii. disturbance of *soil*, *fill,* or aggregates occurs within a corridor less than 2 metres in width.

k) Subdivision of land where:
   i. Minimum lot areas are met exclusive of the *watercourse leave strip*;
   ii. Development activities related to the subdivision or servicing of lots does not occur in the *ESA* or *ESA leave strip*;
   iii. The *ESA* and the *ESA leave strip* has been protected through dedication, *Land Title Act* Section 219 covenant or other provisions acceptable to the Approving Officer; and
   iv. All requirements in accordance with the City of Nanaimo *Subdivision Control Bylaw* for identifying and marking *watercourses*, terrestrial *ESA*, *marine foreshore*, *natural boundary*, *top of bank*, *wetland boundary* and other *ESA* related features are met.

l) Lot consolidation, road dedication, or a boundary adjustment subdivision where: a new building footprint is not proposed, and provided lot area requirements are met exclusive of the *ESA* and the *ESA leave strip*.

m) The removal of culverts for *watercourse* daylighting projects, as approved by a *Qualified Registered Professional* and accepted by the City of Nanaimo.

n) Commercial or industrial activity or marine or transportation facilities occurring on an existing filled marine foreshore on land appropriately zoned for the use.

o) Works undertaken by the City of Nanaimo, Regional District of Nanaimo, Federal or Provincial Government, or their authorized agents where appropriate measures have been undertaken to satisfy the applicable development permit area guidelines.

p) Emergency procedures undertaken by the City of Nanaimo, including:
    i. Emergency flood, erosion or forest fire control protection works;
    ii. Protection, repair or replacement of public utilities;
    iii. Clearing of an obstruction from a bridge, culvert or drainage flow; and,
    iv. Repairs to bridges or safety fences.

q) Actions and activities necessary to prevent immediate threats to life or property provided any disturbance within the *ESA* and the *ESA leave strip* is immediately reported to the City. A development permit may be required for remediation once the emergency has passed.

18.2 DPA2: HAZARDOUS SLOPES GUIDELINES

Application

18.2.1 Hazardous Slopes are identified on Schedule 7 - DPA2: Hazardous Slopes of the *City Plan*.

18.2.2 A development permit is required prior to any proposed development within DPA2: Hazardous Slopes.

18.2.3 If a steep or unstable slope is identified by a *Qualified Registered Professional* during site assessment and investigation the guidelines of DPA 2 may apply to the proposed development.

Guidelines

18.2.4 The following may be required to be provided to support the DPA2 development permit application:

a) A geotechnical report that provides recommendations to protect the development from hazardous conditions, in compliance with the City of Nanaimo *Guidelines for the Completion of Geotechnical Reports,* prepared by a registered professional geotechnical engineer. Development should take into account recommendations from the geotechnical report and a *Land Title Act* Section 219 covenant with the geotechnical report may be required to be registered on title of the property.

b) A construction management plan with mitigation strategies to avoid impacts to steep and unstable slopes during construction. Mitigation strategies may include erosion protection, selective vegetation removal, restricting site access, and removal of debris or other measures as recommended by *Qualified Registered Professional*.

c) A vegetation restoration and management plan, prepared by a *Qualified Registered Professional*, that meets or exceeds the landscaping requirements in Part 14 of the City of Nanaimo *Manual of Engineering Standards and Specifications* (MoESS), as amended from time to time.

18.2.5 To protect the development from hazardous conditions the following will be required:

a) No vegetation removal, no significant excavation or placement of *fill* shall be undertaken, nor shall any building or permanent structure of any kind be constructed or placed in areas subject to bank instability.

b) Buildings and structures shall be sited in accordance with building setbacks as established by a registered professional geotechnical engineer to avoid areas subject to unstable slope and/or ground instability.

Exemptions

18.2.6 A development permit is not required for the following activities in DPA2:

a) The construction, alteration, or addition to a building or structure, or alteration of land occurring outside of the designated development permit area, as determined by the

City of Nanaimo, or by a *Qualified Registered Professional* and identified on a survey prepared by a BC Land Surveyor.

b) Internal alterations to existing building or structure.

c) External alterations to an existing building or structure that do not alter its footprint.

d) The construction of new accessory buildings or structures, not on permanent foundations, less than $10m^2$ in floor area.

e) The construction, alteration, or addition to a building or structure where a geotechnical report has been prepared to the satisfaction of the building inspector following the City of Nanaimo *Guidelines for the Completion of Geotechnical Reports*, satisfies the objectives and guidelines for DPA2 and provides a set of recommendations to address the hazard, concluded in a report that the land can be developed safely if the recommendations are followed and this report, together with a "save harmless" *Land Title Act Section* 219 covenant in favour of the City of Nanaimo requiring compliance with the recommendations, is registered on title.

f) The placement of temporary structures used for short-term special events and emergency facilities.

g) The erection of a sign or fence.

h) Routine maintenance of existing landscape conditions provided no removal of vegetation, replacement with non-landscaped surfaces, or removal of trees occurs unless following the recommendations of and under the supervision of a *Qualified Registered Professional*.

i) Actions and activities performed in accordance with the recommendations of a previously accepted geotechnical report where such report forms a schedule to a *Land Title Act* Section 219 covenant registered on the property title, which effectively mitigates the hazardous conditions and saves harmless the City of Nanaimo.

j) Subdivision where a geotechnical report has been prepared to the satisfaction of the Approving Officer following the City of Nanaimo *Guidelines for the Completion of Geotechnical Reports*, satisfies the objectives and guidelines for DPA2 and provides a set of recommendations to address the hazard, concluded in a report that the land can be developed safely if the recommendations are followed and this report, together with a "save harmless" *Land Title Act* Section 219 covenant in favour of the City of Nanaimo requiring compliance with the recommendations, is registered on title.

k) Lot consolidation, road dedication, or a boundary adjustment subdivision where a new building footprint is not proposed.

l) Actions and activities necessary to prevent immediate threats to life or property provided any disturbance within the *DPA* is immediately reported to the City. A development permit may be required for remediation and permanent protective works once the emergency has passed.

m) Works undertaken by the City of Nanaimo, Regional District of Nanaimo, Federal or Provincial Government, or their authorized agents where appropriate measures have been undertaken to satisfy the applicable development permit area.

18.3 DPA3: SEA LEVEL RISE GUIDELINES

Application

18.3.1 Areas of potential impact from sea level rise and the 2100 Flood Construction Areas are identified on Schedule 8 - DPA3: Sea Level Rise of the *City Plan*.

18.3.2 A development permit is required prior to any proposed development within DPA3: Sea Level Rise.

Guidelines

18.3.3 To protect development from sea level rise proposed buildings in DPA3 (along the shore and in areas at risk of coastal flooding, up to the year 2100) shall establish a required elevation to ensure that all *habitable area* is located above the sea level rise *flood construction level*.

18.3.4 The following must be provided to support the DPA3 development permit application:

a) A report prepared by a *Qualified Registered Professional* with training and experience in sea level rise, such as a Coastal Engineer, that provides recommendations to protect the development from sea level rise, is in compliance with the City of Nanaimo *Guidelines for the Completion of Geotechnical Reports* and is in compliance with the provincial *Flood Hazard Area Land Use Management Guidelines* or any similar, successor or replacement guidelines that may exist from time to time. The report shall model wave and wind effects, and identify setbacks, elevations and other conditions to protect development from sea level rise, as well as detailed calculations of the required *flood construction level* as it applies to the entire property.

b) Should imported *fill* be required for site grading, the *fill* should be clean and free of debris and deleterious substances and adhere to fill specifications outlined by a *Qualified Registered Professional*.

c) If any landfill is proposed, it should be adequately compacted, and the face of the landfill slope should be adequately protected against erosion from flood flows, wave action, ice or other debris. The fill must not adversely impact neighbouring properties by increasing the surface water elevation or directing flows toward those properties.

d) Consider zoning bylaw variances in order to construct a home at the elevation of the calculated FCL or 15m from the future estimated natural boundary of the ocean at Year 2100, whichever is greater. Variances may include, but are not limited to, height and setback variances. Requested variances shall consider proximity to adjacent dwellings, as well as privacy and view impacts for neighbours.

e) Where changes in site grading are proposed to mitigate coastal flooding, landscaping shall address grade differences to adjacent properties to consider privacy including light, view, and overlook and proximity issues between properties. In addition, site grading should consider the topography of a site, reducing the need for major site preparation or earthwork, maintenance or enhancement of desirable site features (natural vegetation, trees, natural shoreline, or rock outcrops/bluffs). The use of exposed retaining walls shall be minimized with specific consideration for exposed retaining walls facing adjacent properties.

SCHEDULE A

Exemptions

18.3.5 A development permit is not required for the following activities in DPA3:

a) The construction, alteration, or addition to a building or structure, or alteration of land occurring outside of the designated development permit area, as determined by the City of Nanaimo, or by a *Qualified Registered Professional* and identified on a survey prepared by a BC Land Surveyor.

b) Internal alterations to an existing building or structure.

c) External alterations to an existing building or structure that do not alter its footprint.

d) The construction of an accessory building or structure for non-habitable area.

e) The addition, or alteration to an existing building or structure for non-habitable area.

f) The construction, or alteration by the City of Nanaimo, or its authorized agents of a recreation shelter, stand, washroom, and other outdoor facility designed to withstand periodic flooding.

g) The construction, alteration, or addition to a building or structure where a geotechnical report has been prepared to the satisfaction of the building inspector following the City of Nanaimo *Guidelines for the Completion of Geotechnical Reports*, satisfies the objectives and guidelines for DPA3 and provides a set of recommendations to address the hazard, concluded in a report that the land can be developed safely if the recommendations are followed and this report, together with a "save harmless" *Land Title Act* Section 219 covenant in favour of the City of Nanaimo requiring compliance with the recommendations, is registered on title.

h) The placement of temporary structures used for short-term special events and emergency facilities.

i) The erection of a sign or fence.

j) Routine maintenance of landscaping and minor soil disturbance that does not alter the general contour of the land.

k) Tree cutting, pruning or removal, completed by a Certified Arborist, and approved through a permit issued by the City under the *Tree Bylaw*.

l) Actions and activities performed in accordance with the recommendations of an accepted geotechnical report where such report forms a schedule to a *Land Title Act* Section 219 covenant registered on the property title, which effectively mitigates the hazardous conditions and saves harmless the City of Nanaimo.

n) Subdivision where a geotechnical report has been prepared to the satisfaction of the Approving Officer following the City of Nanaimo *Guidelines for the Completion of Geotechnical Reports*, satisfies the objectives and guidelines for DPA3 and provides a set of recommendations to address the hazard, concluded in a report that the land can be developed safely if the recommendations are followed and this report, together with a "save harmless" *Land Title Act* Section 219 covenant in favour of the City of Nanaimo requiring compliance with the recommendations, is registered on title.

m) Lot consolidation, road dedication, or a boundary adjustment subdivision: where a new building footprint is not proposed, and provided lot area requirements are met exclusive of the *DPA*.

n) Commercial or industrial activity or marine or transportation facilities occurring on existing filled marine foreshore on land appropriately zoned for the use provided such activities are designed to withstand flooding.

o) Actions and activities necessary to prevent immediate threats to life or property provided such actions and activities within the *DPA* are immediately reported to the City. A development permit may be required for remediation and permanent protective works once the emergency has passed.

p) Works undertaken by the City of Nanaimo, Regional District of Nanaimo, Federal or Provincial Government, or their authorized agents where appropriate measures have been undertaken to satisfy the applicable development permit area guidelines.

18.4 DPA4: ABANDONED MINE WORKINGS HAZARDS GUIDELINES

Application

18.4.1 Abandoned mine workings are identified on Schedule 9 – DPA4: Abandoned Mine Workings Hazards of the City Plan.

18.4.2 A development permit is required for any proposed development within DPA4: Abandoned Mine Workings Hazards.

Guidelines

18.4.3 The following may be required to be provided to support the DPA4 development permit application:

a) A geotechnical report that provides an assessment and recommendations to protect the development from hazardous conditions in relation to the abandoned mine workings. The geotechnical report must be completed by *Qualified Registered Professional* experienced with abandoned mine working hazards in conformance with the City of Nanaimo *Guidelines for Geotechnical Assessments Above Abandoned mine workings* and the City of Nanaimo *Guidelines for the Completion of Geotechnical Reports*. Where the *Qualified Registered Professional* is not able to verify that the land may be used safely for the use intended, the assessment report shall identify the further investigations required to assess the site and/or present recommendations under which the land may be used safely for the use intended.

b) To ensure that geotechnical recommendations are adhered to for the long term, a *Land Title Act* Section 219 covenant with the geotechnical report may be required to be registered on the title of the property.

Exemptions

18.4.4 A development permit is not required for the following activities in DPA4:

a) The construction, alteration, or addition to a building or structure, or alteration of land occurring outside of the designated development permit area, as determined by the City of Nanaimo, or by a *Qualified Registered Professional* experienced with abandoned mine working hazards, and identified on a survey prepared by a BC Land Surveyor.

b) Internal alterations to existing building or structure.

c) External alterations to an existing building or structure that do not alter its footprint.

d) The construction of an accessory building or structure for non-habitable area.

e) The addition, or alteration to an existing building or structure for non-habitable area.

o) The construction, alteration, or addition to a building or structure where a geotechnical report has been prepared to the satisfaction of the building inspector following the City of Nanaimo Guidelines for the Completion of Geotechnical Reports, satisfies the objectives and guidelines for DPA4 and provides a set of recommendations to address the hazard, concluded in a report that the land can be developed safely if the recommendations are followed and this report, together with a

"save harmless" *Land Title Act* Section 219 covenant in favour of the City of Nanaimo requiring compliance with the recommendations, is registered on title.

f) The placement of temporary structures as permitted under 6.7 of this Bylaw.

g) The erection of a sign or fence.

h) Tree cutting, pruning or removal, completed by a Certified Arborist, and approved through a permit issued by the City under the *Tree Bylaw*.

i) Actions and activities performed in accordance with the recommendations of an accepted geotechnical report where such report forms a schedule to a *Land Title Act* Section 219 covenant registered on the property title, which effectively mitigates the hazardous conditions and saves harmless the City of Nanaimo.

p) Subdivision where a geotechnical report has been prepared to the satisfaction of the Approving Officer following the City of Nanaimo Guidelines for the Completion of Geotechnical Reports, satisfies the objectives and guidelines for DPA4 and provides a set of recommendations to address the hazard, concluded in a report that the land can be developed safely if the recommendations are followed and this report, together with a "save harmless" *Land Title Act* Section 219 covenant in favour of the City of Nanaimo requiring compliance with the recommendations, is registered on title.

j) Lot consolidation, road dedication, or a boundary adjustment subdivision where a new building footprint is not proposed.

k) Works undertaken by the City of Nanaimo, Regional District of Nanaimo, Federal or Provincial Government, or their authorized agents where appropriate measures have been undertaken to satisfy the applicable development permit area guidelines.

18.5 DPA5: WILDFIRE HAZARD GUIDELINES

Application

18.5.1 Wildfire Hazard Areas are identified on Schedule 10 – DPA5: Wildfire Hazard Areas of the City Plan.

18.5.2 A Wildfire Hazard development permit is required prior to the construction of any residential building, or *subdivision* of land in the DPA5 wildfire hazard area.

Guidelines

18.5.3 The following may be required to be provided to support the DPA5 development permit application:

a) A report that assesses risk and provides recommendations to protect development from the wildfire interface hazard, prepared by a *Qualified Registered Professional* registered in British Columbia with specific training and experience working with wildfire interface protection.

b) A detailed tree survey, prepared by a *Qualified Registered Professional*, or *Certified Arborist*, showing tree location, size, condition and species.

18.5.4 To protect development from wildfire hazards the following may be required:

a) Create a defensible space between development and the top of ridgelines, cliffs, ravines or slopes to reduce risk from approaching wildfire.

b) Consider the location of proposed new parcels and building footprints in relation to forested lands, and consider roadways or trails to be placed as a buffer between new parcels and forested lands to provide a fire/fuel break.

c) Avoid gullies or draws that accumulate fuel and funnel winds in subdivision design.

d) Utilize fire resistive building materials (cladding, siding, roofing, and decking) and non-combustible fence materials.

e) Design and install landscaping to reduce fuel surrounding buildings, ensure appropriate gaps between tree canopies, and ground coverings, and plants with low amounts of sap or resin.

f) Maintain landscaping to ensure fuel reduction, such as regular pruning, and removing dead trees and shrubs.

g) Locate fire access routes and fire hydrants strategically to allow for evacuation and emergency services.

h) Ensure combustible materials, such as propane tanks and firewood are note located in close proximity to buildings.

i) Restrict construction during times of extreme fire hazard.

j) To ensure that fire hazard risk recommendations are adhered to for the long term, a *Land Title Act* Section 219 covenant may be required to be registered on the title of the property.

Exemptions

18.5.5 A development permit is not required for the following activities in DPA5:

a) Construction of a single residential dwelling, duplex, or related accessory buildings and structures on an existing lot.

b) Addition or alteration to an existing single residential dwelling or duplex.

c) For multi-family residential development:
   i. Construction which is limited to the addition, replacement or alteration of doors, windows, building trim, or roofs and which would have no impact on the form and character of the building and would not impact the existing landscaping or access provisions;
   ii. Interior building alterations;
   iii. Exterior building alterations involving 25% or less of the façade of an existing building;
   iv. A minor addition up to 50m^2 of the building's gross floor area, taken together with all additions to the building made within the previous five years; or
   v. Replacement of a building that has been destroyed by natural causes, in cases where replacement of the building is identical to the original in both form and location.

d) Tree cutting, pruning or removal, completed by a *Certified Arborist*, and approved through a permit issued by the City under the *Tree Bylaw.*

e) Subdivision where a report that assesses risk and provides recommendations to design and protect development from the wildfire interface hazard has been prepared, to the satisfaction of the Approving Officer, by a *Qualified Registered Professional* registered in British Columbia with specific training and experience working with wildfire interface protection. The report may be required to be registered on title together with a "save harmless" *Land Title Act* Section 219 covenant in favour of the City of Nanaimo requiring compliance with the recommendations, at the discretion of the Approving Officer.

f) Lot consolidation, road dedication, or a boundary adjustment subdivision where a new building footprint is not proposed.

g) Any development where, in the opinion of the Fire Chief, the development will mitigate wildfire hazard.

h) Where an existing *Land Title Act* Section 219 covenant is in place which effectively mitigates the hazardous conditions and saves harmless the City of Nanaimo. For the City to determine whether the proposed development qualifies for the exemption, applicants may be required to provide a report on the development and hazardous condition, prepared by a *Qualified Registered Professional*, registered in British Columbia with specific training and experience working with wildfire interface protection.

h) Works undertaken by the City of Nanaimo, Regional District of Nanaimo, Federal or Provincial Government, or their authorized agents where appropriate measures have been undertaken to satisfy the applicable development permit area.

18.6 DPA6: STEEP SLOPES GUIDELINES

Application

18.6.1 Steep Slopes are identified on Schedule 11 – DPA6: Steep Slopes of the City Plan.

18.6.2 A development permit is required prior to any proposed development in DPA6: Steep Slopes.

Guidelines

18.6.3 Development in DPA6: Steep Slopes must follow the City of Nanaimo *Steep Slope Development Permit Area Guidelines*, which form part of the DPA6 guidelines.

Exemptions

18.6.4 A development permit is not required for the following activities in DPA6:

a) Construction of two units or less on a lot.

b) Construction on a property less than 0.5ha in area.

c) Construction on a property which has less than 10% of the site with slopes of 20% or greater.

d) Alteration of a building that is limited to envelope repair, replacement or alteration of doors, windows, building trim, awnings, or roofs.

e) Alteration to site design, building design, and/or landscape design determined by the City to substantially comply with a previously approved Form and Character development permit.

f) A minor addition up to the lesser of 25% of the building's gross floor area or $100m^2$, taken together with all additions to the building made within the previous five years, provided the addition is not undertaken within five years of building occupancy, or final approval being granted, and provided a variance is not required.

g) Temporary buildings and structures as permitted under 6.7 of this Bylaw.

h) The construction of new accessory buildings or structures, not on permanent foundations, less than $10m^2$ in floor area.

i) The construction of an accessory building or structure for non-habitable area.

j) Routine maintenance of landscaping and minor soil disturbance that does not alter the general contour of the land.

k) Tree cutting, pruning or removal, completed by a Certified Arborist, and approved through a permit issued by the City under the *Tree Bylaw*.

l) Lot consolidation, road dedication, or a boundary adjustment subdivision where a new building footprint is not proposed.

m) Actions and activities necessary to prevent immediate threats to life or property provided such actions and activities within the DPA are immediately reported to the

City. A development permit may be required for remediation once the emergency has passed.

n) Works undertaken by the City of Nanaimo or its authorized agents where appropriate measures have been undertaken to satisfy the applicable development permit area guidelines as determined by the City of Nanaimo.

o) Works undertaken by the City of Nanaimo, Regional District of Nanaimo, Federal or Provincial Government, or their authorized agents where appropriate measures have been undertaken to satisfy the applicable development permit area guidelines.

18.7 DPA7: NANAIMO PARKWAY DESIGN GUIDELINES

Application

18.7.1 The Nanaimo Parkway Design development permit area is identified on Schedule 12 – DPA7: Nanaimo Parkway Design of the City Plan.

18.7.2 A development permit is required prior to any proposed development in DPA7: Nanaimo Parkway Design.

Guidelines

18.7.3 Development in DPA7: Nanaimo Parkway Design must respect the specific character zones and guidelines as set out in the *Nanaimo Parkway Design Guidelines,* which form part of the DPA7 guidelines.

Exemptions

18.7.3 A development permit is not required for the following activities in DPA7:

a) The construction of, or an addition to, a single family dwelling or duplex on one lot.

b) Tree cutting, pruning or removal, completed by a *Certified Arborist*, and approved through a permit issued by the City under the *Tree Bylaw* provided the cutting, pruning, or removal are performed in a manner consistent with the applicable development permit area guidelines

c) A boundary adjustment subdivision application that:
   i. does not result in an increase of the allowable density on the property; and,
   ii. has been determined by the Director of Development Approvals to conform to the *Nanaimo Parkway Design Guidelines*.

d) When the subject property or portion of the property being developed lies outside the Character Protection Area and Tree Protection Zone as identified by the *Nanaimo Parkway Design Guidelines*, unless the view corridors identified by the guidelines are impacted.

e) Works undertaken by the City of Nanaimo, Regional District of Nanaimo, Federal or Provincial Government, or their authorized agents where appropriate measures have been undertaken to satisfy the applicable development permit area guidelines.

18.8 DPA8: FORM AND CHARACTER GUIDELINES

Application

18.8.1 The Form and Character development permit area is all the land within the City of Nanaimo boundary, and is identified on Schedule 13 – DPA8: Form and Character of the City Plan.

18.8.2 A development permit is required for any proposed commercial, industrial, or multi-family development in DPA8: Form and Character.

Guidelines

18.8.3 Development in DPA8: Form and Character must respect the following guidelines, which form part of the DPA8 guidelines:

a) *City of Nanaimo General Development Permit Area Design Guidelines* (1992) applicable for all development within the City of Nanaimo; and
b) *Innovative Housing for Neighbourhoods: Triplex and Quadruplex Infill Design Guidelines* (1995) applicable for all development with three or four units on the lot.

18.8.4 In addition to 18.8.3, the design guidelines in the following documents, which form part of the DPA8 guidelines, shall also apply for all development in the corresponding areas shown on Schedule E of this Bylaw:

a) *Nanaimo's Old City Multi-Family Residential Design Guidelines* (1990)
b) *Design Guide: Chase River Town Centre* (2000)
c) *Departure Bay Neighbourhood Plan* (2006)
d) *Downtown Urban Design Plan and Guidelines* (2008)
e) *South End Neighbourhood Plan* (2010)
f) *Newcastle + Brechin Neighbourhood Plan Urban Design Framework and Guidelines* (2011)
g) *Harewood Neighbourhood Plan* (2013)
h) *Hospital Area Plan* (2018)
i) *Port Drive Waterfront Master Plan* (2018)
j) *Bowers District Master Plan* (2022)
k) *Sandstone Master Plan* (2022)

Exemptions

18.8.7 A development permit is not required for the following activities in DPA8:

a) Alteration of a building that is limited to envelope repair, replacement or alteration of doors, windows, building trim, awnings, or roofs.

b) Alteration to site design, building design, and/or landscape design determined by the City to substantially comply with a previously approved Form and Character development permit.

c) A minor addition up to the lesser of 25% of the building's gross floor area or $100m^2$, taken together with all additions to the building made within the previous five years, provided the addition is not undertaken within five years of building occupancy, or final approval being granted, and provided a variance is not required.

d) Construction that is limited to no more than a total of four dwelling units on one lot, provided the development is not located within the Old City Neighbourhood as shown on Schedule 13 of the *City Plan* and provided a variance is not required.

e) Construction, alteration, or addition is for an institutional building, or structure.

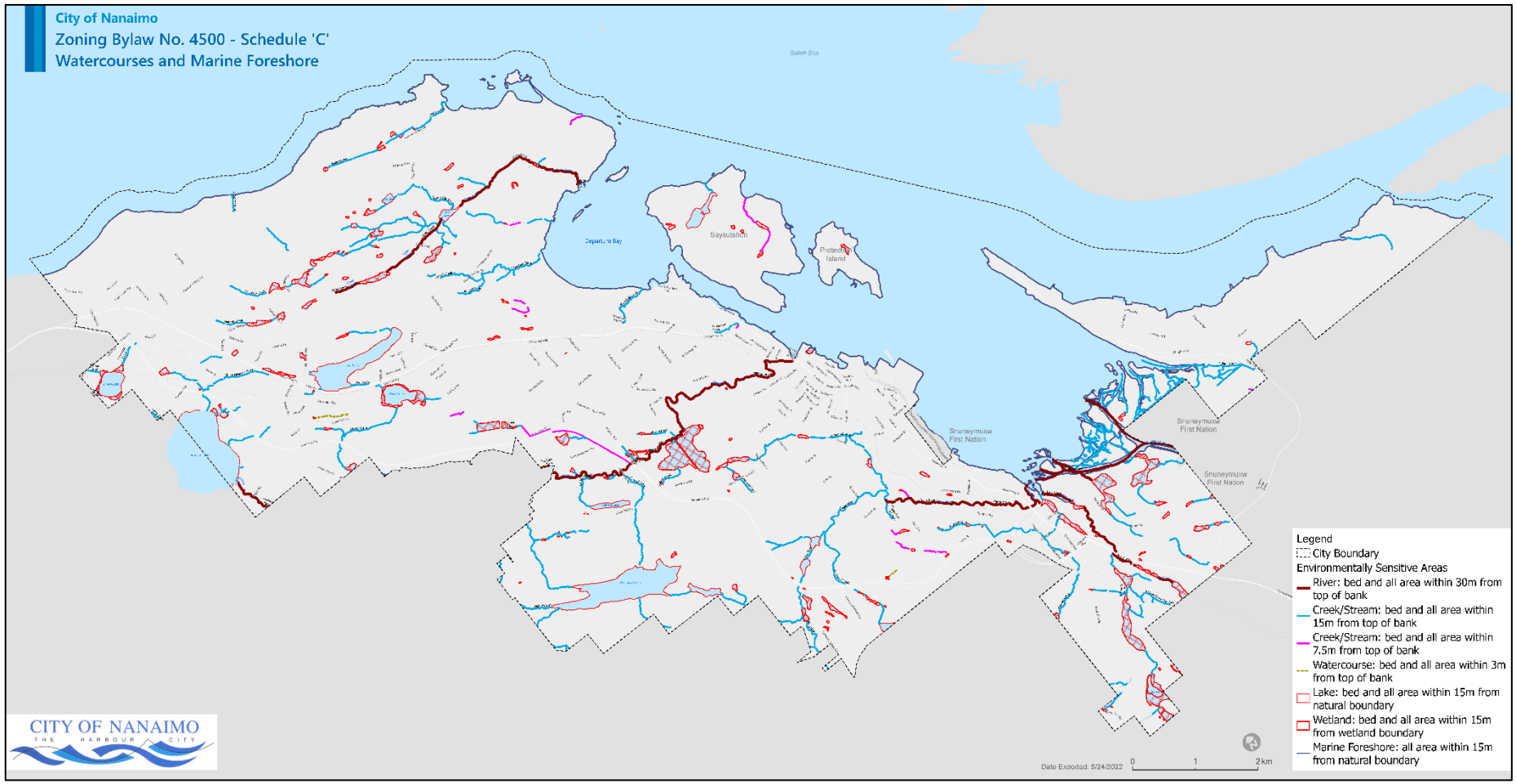
f) Construction of an accessory commercial, or industrial building, or structure with a total gross floor area of less than 100m^2 and not located between the front face of the principal structure and any abutting street and provided a variance is not required.

g) Temporary buildings and structures as permitted under 6.7 of this Bylaw.

h) Subdivision.

SCHEDULE B

Schedule C – Watercourses and Marine Foreshore



SCHEDULE C

Schedule E – Neighbourhood and Area Plan Form and Character Design Guidelines

