



## REGIONAL DISTRICT OF MOUNT WADDINGTON

### BYLAW NO. 725

#### A Bylaw of the Regional District of Mount Waddington to adopt the Malcolm Island Zoning Bylaw

**WHEREAS** an Official Community Plan has been adopted for Malcolm Island settlement area in accordance with the provisions of Division 2, Part 26 of the *Local Government Act*;

**AND WHEREAS** under the provisions of Division 7, Part 26 of the *Local Government Act*, a Zoning Bylaw has been prepared, establishing regulatory controls for development in the Malcolm Island settlement areas consistent with the Malcolm Island Official Community Plan;

**NOW THEREFORE** the Board of the Regional District of Mount Waddington in open meeting assembled enacts as follows:

1. This Bylaw may be cited for all purposes as the "Malcolm Island Zoning Bylaw No. 725, 2006."
2. The Malcolm Island Zoning Bylaw marked Schedules A (Malcolm Island) and B (Sointula) are attached hereto and form part of this Bylaw.
3. The Regional District of Mount Waddington Bylaw No. 501 and amendments thereof are repealed for all land comprising Malcolm Island and the surface of water as shown on the Malcolm Island Zoning Bylaw Schedules A-1 (Malcolm Island) and A-2 (Sointula).

Read a first time this 17<sup>th</sup> day of January, 2006

Read a second time this 21<sup>st</sup> day of, February, 2006

Public Hearing held this 15<sup>th</sup> day of February, 2006

Read a third time this 21<sup>st</sup> day of February, 2006

Reconsidered and finally adopted this 21<sup>st</sup> day of February, 2006

*Original bylaw signed*

\_\_\_\_\_  
SECRETARY

*Original bylaw signed*

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CHAIR

MALCOLM ISLAND ZONING BYLAW

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## **PART 1 – TITLE AND MEANINGS**

### **1.1 Title**

This Bylaw may be cited for all purposes as the “Malcolm Island Zoning Bylaw No. 725, 2006.”

### **1.2 Repeal**

The Regional District of Mount Waddington Bylaw No. 501 cited as the “Malcolm Island Zoning Bylaw No. 501, 1996” and all amendment bylaws thereto are repealed for all the lands comprising Malcolm Island and the surface of water as shown on the Malcolm Island Zone Maps Schedules A-1 (Malcolm Island) and A-2 (Sointula).

### **1.3 Application**

This Bylaw applies to the entire area of land, including the surface of water, as shown on the “Malcolm Island Zone Maps Schedules A (Malcolm Island) and B (Sointula) attached to and forming a part of this Bylaw. No land, buildings or structures, or part thereof, shall be used, occupied, erected, moved, or altered unless in conformity with this Bylaw.

### **1.4 Definitions**

**ACCESSORY BUILDING OR ACCESSORY STRUCTURE:** means a building or structure on the same site that is subordinate or incidental to the principal use or building. Accessory buildings include separate garages and carports.

**ACCESSORY USE:** means a use of a building or land that is commonly associated with but secondary to the purpose and scale to a principal use located on the same lot.

**AGRICULTURAL USE:** includes activities associated with the growing, rearing, and processing of plants, plant extracts (pharmaceuticals), wood or other crops for fuel or fibre, livestock and poultry for human consumption, and aquatic plant or animals raised in land based facilities.

**BED AND BREAKFAST:** means a home occupation consisting of the renting of bedrooms with toilet and washing facilities in a dwelling unit to transient guests. The proprietor shall reside in the dwelling and the dwelling shall not lodge more than three (3) guest rooms, including cottages, and eight (8) guests regardless of how the guests are distributed amongst the bedrooms.

**BOARD OR REGIONAL BOARD:** means the Board of the Regional District of Mount Waddington.

**BUILDING, FRONT OF:** means the extended line of the wall of the building or any projecting portion of the building except balconies, steps, sill, cornices, eaves, fire escapes and unroofed porches, which faces the front line of the lot.

**BUILDING, REAR OF:** means the extended line of the wall of the building or any projecting portion of the building except balconies, steps, sills, cornices, eaves, fire escapes and unroofed porches, which faces the rear line of the lot.

**BUILDING, SIDE OF:** means the extended line of the wall of the building or any projecting portion of the building except balconies, steps, sills, cornices, eaves, fire escapes and unroofed porches, which faces the side line of the lot.

**CABIN:** means a building of not more than 55.75 square metres (600 square feet), built upon a foundation, used to provide temporary accommodation to tourists and/or holiday-makers as a commercial enterprise. Cabins must not be used for year round residency and do not include mobile homes, trailers, or recreational vehicles.

**CAMPGROUND:** means a site operated and occupied for part of the year as temporary accommodation for tourists and holiday-makers in tents, travel trailers, or recreational vehicles.

**CAMPSITE:** means one space within a campground used to provide temporary accommodation for tourists and holiday-makers in tents, travel trailers, or recreational vehicles.

**COMMERCIAL:** means retail, wholesale and service uses that provide goods or services for the general public, commercial or community kitchens for food processing and related packaging, and facilities for food preparation and packaging research. Commercial food processing and research uses are intended to be small in scale, for use by producer members of Malcolm Island based co-operatives. Uses related to recreation, accommodation and tourism services are also defined as commercial in this bylaw.

**COMMUNITY SEWER SYSTEM:** means a common sewer system owned and/or operated, and/or maintained by a private corporation, Strata Corporation, an Improvement District, an agency of the provincial government, the Regional District of Mount Waddington, or a legal corporate entity of one of the above as authorized under the appropriate provincial and federal legislation.

**COMMUNITY WATER SYSTEM:** means a common water distribution system owned and/or operated, and/or maintained by a private corporation, Strata Corporation, an Improvement District, an agency of the provincial government, the Regional District of Mount Waddington, or a legal corporate entity of one of the above as authorized under the appropriate provincial and federal legislation.

**COTTAGE:** means a separate, single-family dwelling, built upon a foundation, accessory to a primary permanent residence. Cottages do not include mobile homes, trailers, or recreational vehicles. Accessory cottage development is to be small in scale and compatible with the residential character of the lot.

**DEVELOPMENT:** means a change in use in any land, building or structure for any purpose and includes the following:

- (a) the carrying out of any construction, erection, excavation, or other operation.
- (b) in a building or on a site used for dwelling purposes, any increase in the number of dwelling units on the site;
- (c) the placing of any waste material, refuse or chattel on any land or water;
- (d) the use of land for the storage and repair of motor vehicles or other machinery;
- (d) the use of land for the storage and repair of motor vehicles or other machinery or equipment;
- (d) the use of land or the surface of water for the parking or mooring of any trailers,

(e) houses, portable dwellings, houseboats or any other type of removable buildings or structures whatsoever, whether or not the same has been placed or affixed in any way.

**DWELLING, DUPLEX:** means any building divided into two dwelling units neither of which is a mobile home or secondary suite and each of which is occupied or intended to be occupied as a permanent home or residence of one family.

**DWELLING, PRIMARY:** means any building consisting of one dwelling unit which is intended to be the permanent residence or home of one family. A single-family dwelling may include a secondary suite in owner occupied dwelling units. A primary dwelling is intended to include patio homes, manufactured homes, mobile homes and modular homes but does not include recreational vehicles or travel trailers.

**DWELLING, TEMPORARY:** means a travel trailer, recreational vehicle, mobile or modular home placed on a lot, for a period not to exceed 12 months, in order to provide temporary accommodation while the permanent residence is under construction.

**DWELLING UNIT:** means one or more habitable rooms, constituting a self-contained unit containing a kitchen with sink and cooking facilities and a bathroom with a toilet, sink and shower and/or bath, with a separate entrance intended to be used together for living and sleeping purposes for not more than one family.

**FARM ANIMALS:** are animals other than household pets that may be kept and maintained for commercial production and sale and/or family food production, education or recreation. Farm animals are identified by these categories: large animals, e.g., horses and cattle; medium animals, e.g., sheep, goats; or small animals, e.g., rabbits, chinchilla, chickens, turkeys, pheasants, geese, ducks and pigeons.

**FORESTRY:** includes all forestry activities such as natural resource harvesting, thinning, silviculture, and related roads and infrastructure, aggregate resource extraction, small-scale primary processing and public recreation and access including trails.

**HEIGHT OF BUILDINGS:** means the vertical distance between the average elevation of the finished grade of the lot, along the front of the development, to the highest point of the roof surface.

**HOME AGRICULTURE:** includes activities associated with the growing, rearing, and processing of plants, plant extracts (pharmaceuticals), wood or other crops for fuel or fibre, medium and small farm animals and poultry for human consumption for human consumption, but does not include compost based mushroom growing or the keeping of swine, poultry, fur bearing animals or other large farm animals for commercial purposes.

**HOME INDUSTRY:** means agricultural use, an occupation or profession incidental or secondary to the primary residential use of the subject property that may include outdoor storage and accessory retail sales carried out by the resident(s) of the dwelling in the dwelling or accessory building. Home industry may include up to 4 full-time employees, two of whom must be occupants in the residence (see Section 4.6). Home industry will be limited to uses which do not cause disturbance to or loss of enjoyment of adjacent properties as a result of noise, dust, odour or lighting and may include:

- (a) arts and crafts;
- (b) processing of food, wood including sawmills, or electronic products;
- (c) repairing of machines, equipment, boats or automobiles;

- (d) breeding of plants and animals;
- (e) storage of construction, marine or fishing related equipment; and
- (f) offices to serve related businesses.

**HOME OCCUPATION:** means an occupation or profession secondary to the primary residential use of the subject property carried out in the dwelling by the resident(s) of the dwelling that may include accessory retail sales with no outside storage (see Section 4.7).

**INSTITUTIONAL:** means the use of land, buildings or structures for a non-profit, community or public use such as places of worship, library, school, hospital, cemetery, public utilities and services, recreational facility, community hall or public works. Institutional use does not include sewage treatment facilities, or commercial group homes or treatment centres.

**INSTITUTIONAL WASTE MANAGEMENT:** means a Recycling Depot for the collection and sorting of garbage, and the packaging of paper, newspapers, clothing, cans, or bottles and similar domestic or commercial garbage, or Waste Disposal Facility used for the treatment, reduction, recycling, incineration or disposal of refuse, garbage, sewage or other waste material, but does not include Animal Products Processing, Junk Yard or Shop.

**KENNEL:** means any structure or premises where more than 4 dogs over six months old are kept, boarded, bred or trained.

**LIGHT INDUSTRIAL:** means manufacturing or light industry, by either manual labour methods or with the assistance of machines or any combination of manual labour or machinery, carried out in an environmentally friendly manner. Light industrial uses and activities shall be limited to those which create minimal odour, dust, smoke, cinders, gas, noise, vibration or refuse and shall not unreasonably impact adjacent properties or neighbours.

**LOT:** means any parcel, block or other area in which is subdivided by a registered plan of subdivision or a certificate of title.

**LOT LINE:** means a legally defined line bounding any lot and:

- (a) front lot line means a lot line common to a lot and an abutting roadway and where there is more than one such line, the shortest of them;
- (b) side lot line means any lot line that is not a front lot line, rear lot line or exterior side lot line;
- (c) rear lot line means the lot line opposite the front lot line and where the rear portion of the lot is bounded by intersecting lines, the point of such intersection farthest from the front lot line; and
- (d) flanking lot line means the lot line or lot lines not being the front, side or rear lot line but being common to a lot and an abutting roadway.

**MARINE COMMERCIAL:** means commercial uses as defined above, and also includes value added processing for fish and shellfish, and marine related commercial uses such as boat ways, marine repairs and remanufacturing and supplies.

**MANUFACTURED HOME:** means a portable structure built on a chassis, designed to be transported or trailered to its place of use, and to be used with a permanent foundation as a dwelling, and excludes recreational vehicles and travel trailers.

**MINI MALL:** means a multi-commercial retail or service use within a single structure.

**NATURAL BOUNDARY:** means the visible high water mark of a sea, a lake or water body where the presence and action of the water are so common and usual, and so long continued in all ordinary years as to mark on the soil of the bed of the watercourse a character distinct from that of its banks, in terms of vegetation and the nature of the soil itself.

**NATURAL RESOURCE PROCESSING:** means the manufacturing of any primary natural resources extracted from the either the earth's surface or water bodies. This may or may not include semi-processing the product extracted.

**NON-CONFORMING USE:** means any building or use which does not conform to any or all of the regulations for the zone in which such a building or use is located.

**PRINCIPAL USE AND PRINCIPAL BUILDING:** means a main permitted purpose or building for which land, buildings, or structures, as listed in the applicable zoning regulations of this Bylaw, are used. No more than one principal building or use is permitted on a lot unless specifically permitted in this Bylaw.

**PUBLIC UTILITY:** means facilities for the storage, transmission, distribution, and recovery of water, sewage, energy, communications and other similar utilities.

**RESIDENCE:** means a self contained dwelling unit that may also include a secondary suite in owner occupied dwelling units. Residence is intended to include patio homes and manufactured homes and mobile homes.

**SECONDARY SUITE:** means a secondary dwelling unit contained within a permitted primary dwelling unit.

**SELECTED FORESTRY:** includes forestry activities such as natural resource harvesting, thinning, silviculture, and related roads, and public recreation and access including trails.

**SETBACK:** means the minimum distance required between a lot line and any building or structure on a lot as specified in the zoning regulations of this Bylaw.

**SHELLFISH AQUACULTURE:** means the raising, growing or rearing of shellfish for commercial purposes in a marine environment or in containment facilities.

**STEEP SLOPE:** areas are defined as land in its natural state that has a slope angle of 30% or greater for a minimum horizontal distance of 10 meters.

**STRUCTURE:** means anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground. Structures do not include fences less than 2.0 metres (6.56 feet) in height.

**SUBDIVISION:** means a change in the size, shape, number or arrangement of a lot registered in the Land Title Office so as to require a new Certificate of Indefeasible Title approved under the provisions of the *Local Government Act or Strata Property Act* (British Columbia)

**UTILITY LOT:** means a lot used, or intended to be used, solely for the purpose of accommodating equipment necessary for the operation of a community or public sewage, water or solid waste system, or for a telecommunication, electrical power, gas, oil, or similar public utility.

## **PART 2 – ADMINISTRATION**

### **2.1 Definition of Zoning Bylaw**

The Zoning Bylaw establishes regulatory controls for the use of land, buildings, and structures; the density of the use of land, buildings, and structures; the uses that are permitted on the land; and the location of uses on the land and within buildings and structures.

The Zoning Bylaw has been prepared to regulate development in a manner that is consistent with the policies and goals stated in the “Malcolm Island Official Community Plan, Bylaw No. 708, 2005.” The Zoning Bylaw contains regulatory controls that protect landowners from detrimental impacts that might otherwise occur as a result of inappropriate development taking place. These regulatory controls have been based on the following objectives:

- (a) the promotion and protection of the rural residential lifestyle choices of the residents
- (b) the protection of the environmental and sensitive features within the Malcolm Island settlement areas
- (c) the protection of property values and the capability of the land and natural resources to support proposed developments
- (d) the protection of the Malcolm Island settlement areas against adverse effects resulting from extreme and unplanned land use changes

### **2.2 Administration**

- (a) The Chief Administrative Officer, and/or other staff and/or agents as designated shall administer this Bylaw.
- (b) A person or persons referred to in Subsection 2.2 (a) may perform such duties as established to enforce this Bylaw in conformance with Section 268 of the *Local Government Act* and any other applicable bylaws or policies of the Regional District of Mount Waddington, including entering at all reasonable times, property to ascertain whether the regulations of the Zoning Bylaw are being complied with.
- (c) A person or persons referred to in Subsection 2.2 (a) may perform such duties as established to enforce this Bylaw in conformance with the *Local Government Act*.

### **2.3 Violations and Penalties**

No land in the Malcolm Island Official Community Plan area shall be subdivided, used or occupied, nor any buildings or structures be constructed, altered, located or erected on that land except as specifically permitted in this Bylaw and until a permit has been issued, where a permit is required.

It is unlawful for any person to contravene or permit any act or thing in contravention of this Bylaw including:

- a) using land, the surface of water, a building or structure other than for a use specified in the zone in which the use, building or structure is located;
- b) constructing or reconstructing, altering, moving or extending a building or structure so that the building or structure contravenes the provisions of this Bylaw;
- c) constructing or placing on a parcel buildings or structures which exceed the density permitted by the zone in which the parcel is located;
- d) causing or permitting any act or thing to be done in contravention of any provision of this Bylaw.

On the recommendation of the person or persons referred to in Subsection 2.2 (a), a note will be registered against the land title where a contravention is observed.

Every person who commits an offence under this Bylaw is liable on summary conviction to a fine not exceeding \$5,000 and the costs of prosecution. Each day's continuance of an offence constitutes a new and distinct offence.

## **2.4 Variance**

An owner of land may apply to the Board of the Regional District of Mount Waddington for a Development Variance Permit or may make application to the Board of Variance to vary the provisions of this Zoning Bylaw. However, as per the provisions of the *Local Government Act* a request to vary the use or density of the land as specified in this Bylaw will not be permitted.

## **2.5 Bylaw Amendment**

- (a) The Board of the Regional District of Mount Waddington may, by bylaw, amend or repeal this Bylaw in accordance with the provisions of the *Local Government Act*.
- (b) An application to change a zone or uses within a zone, as shown on the Malcolm Island Zoning Maps Schedules A (Malcolm Island) and B (Sointula), shall be treated as an application to amend this Bylaw.
- (c) Where an application has been made to rezone a portion of a lot, the Regional District of Mount Waddington shall require that a legal survey identifying the portion of the lot that is subject to the rezoning application be conducted by a registered BC Land Surveyor. This survey shall be submitted to the Regional District of Mount Waddington prior to the bylaw being adopted.

## **2.6 Subdivision Approval**

Applications for the approval of land subdivision shall be made to the Ministry of Transportation. The Regional District of Mount Waddington provides comments from the viewpoint of its regulations and policies. The Malcolm Island Zoning Bylaw No.725, 2006 regulates the subdivision of land as it relates to the proposed use and development of the land. No parcel of land will be created that contravenes this Bylaw.

## **2.7 Non-Conforming Uses**

Changes to buildings, structures or uses that pre-date the adoption of this Bylaw are subject to the provisions of Section 911 of the *Local Government Act*.

In general terms, any building or structure conforming to use and density, but non-conforming as to size, shape, siting, and/or parking requirements at the time of the adoption of this Bylaw, may be altered, repaired or extended as no further contravention of the bylaw is created. If any building or structure the use of which does not conform to the provisions of this bylaw is damaged or destroyed to the extent of 75% or more of its value above the foundations, it must not be repaired or reconstructed except for a use that conforms with this bylaw.

## **2.8 Declaration of Minimum Requirements**

The provisions of this Bylaw are the minimum requirements for the regulation of the use and development of land within the area illustrated on the Malcolm Island Zoning Maps Schedules A (Malcolm Island) and B (Sointula). The requirements of all other Bylaws of the Regional District of Mount Waddington also apply.

Provincial legislation supersedes the regulations of this Bylaw in all matters within provincial jurisdiction. In particular, where the regulations of this Bylaw are not consistent with those of the:

- Land Reserve Commission;
- Ministry of Environment;
- Energy, Mines and Petroleum Resources
- Ministry of Agriculture and Lands; or the
- Ministry of Health;

The approval of such agencies is recognized as being a precondition for development.

## **PART 3 – GENERAL PROVISIONS**

### **3.1 Parking and Loading**

- (a) The minimum number of off-street parking stalls required for each use of a building or development will be as follows or more as determined by the Ministry of Transportation:
- |        |                                |   |                        |
|--------|--------------------------------|---|------------------------|
| (i)    | Single Residence               | - | 2 parking stalls       |
| (ii)   | Secondary Suite                | - | 1 parking stall        |
| (iii)  | Two Family Dwellings           | - | 4 parking stalls       |
| (iv)   | Bed and Breakfasts             | - | 1 per guest bedroom    |
| (v)    | Home Industry, Home Occupation | - | 1 per 2 employees      |
| (vi)   | Tourist Accommodations         | - | 1 per guest unit       |
| (vii)  | Service Stations               | - | 4 plus 1 per employee  |
| (viii) | Places of worship/Halls/Parks  | - | 1 per 5 seating spaces |
| (ix)   | Retail/Small Businesses        | - | 2 plus 1 per employee  |
| (x)    | Industrial                     | - | 1 per 3 employees      |
- (b) In the case of a use not specified in Section 3.1.0(a), the number of stalls provided is the same as for the most similar use prescribed in Section 3.1.0(a).
- (c) Where there is more than one use of a building or development, the required number of stalls is the sum of the requirements for each of the uses prescribed in Section 3.1.0(a), calculated separately.
- (d) All required parking stalls must be located on the lot or site on which the use exists for which they are provided.
- (e) Other than on residential property, a group of owners may pool their required off-street parking stalls within one or more parking facilities thereby fulfilling the requirements of Section 3.1.0(a) provided that the facility is within 100 metres of the uses that they serve.
- (f) Parking stalls must not cover more than 40% of any setback required in Part 5 – Zone Regulations of this Bylaw.
- (g) Where a proposed development will, from time to time, require pick-up or delivery of commodities, adequate off-street space must be provided for the loading and unloading of commodities.

- (h) Off-street parking spaces are not considered as off-street loading or unloading nor are off-street loading or unloading considered being off-street parking spaces.
- (i) For frequently used areas, the parking and travelling area must be of a hard, well-packed, durable surface that does not produce mud or dust.
- (j) Parking stall design must meet Ministry of Transportation's specifications.

### **3.2 Drainage**

No development shall create or increase the risk from flooding and erosion or negatively affect downstream water users, adjacent developments, or have a detrimental affect on the water supply. The following will apply to all developments:

- (a) All sites must be graded in a manner that directs surface and storm water run-off to a ditch or drain in such a way as to prevent flow from one site to the next, except where drainage conforms to the policies and regulations of the provincial or federal agency having jurisdiction.
- (b) On properties containing a cliff, escarpment, or bank, all surface and sewage disposal systems must be directed away from the cliff edge.

### **3.3 Fencing**

- (a) All development or uses under construction or otherwise, which are dangerous and easily accessible must be adequately fenced or otherwise barriered from public access.

### **3.4 Services**

All principal buildings must be serviced by community water and sewer services, or private, on-site sewer and water services constructed to the standards of the provincial agency having jurisdiction and/or the Medical Health Officer.

## **PART 4 – GENERAL ZONE REGULATIONS**

### **4.1 Uses Permitted in All Zones**

The following uses are permitted in all zones. These uses are in addition to those described in each zone contained in Part 5 – Zone Regulations of this Bylaw.

- (a) Public utilities, utility lots;
- (b) Public open space, parks and linear parks or trails;
- (b) Ecological, Environmental or Tree Reserves;
- (d) Selected Forestry as an interim use on undeveloped lots larger than 2 hectares (4.94 acres).

### **4.2 Uses Prohibited in All Zones**

The following uses are prohibited in all zones contained in Part 5 – Zone Regulations of this Bylaw:

- (a) Disposal of toxic waste;
- (b) Finfish farms, unless they are located entirely on dry land;
- (c) The use of a houseboat, float camp, or other vessel located on land as a dwelling unit;
- (d) Any activity that negatively impacts a person's right to enjoyment of their property by reason of the generation of:
  - (i) Noise, vibration or odour
  - (ii) Dust or other particulate matter
  - (iii) Toxic or noxious matter
  - (iv) Radiation, fire, explosion, or electrical hazards
  - (v) Humidity heat or glare
  - (vi) Waterborne or airborne waste
  - (vii) Water or steam
- (e) No person shall use or permit to be used, an accessory building as a residence except as specifically permitted in Part 5 – Zone Regulations of this Bylaw.
- (f) No residential uses or occupancy will be permitted in the Marine Conservation or Marine Estuary zones.

### **4.3 Height Regulations**

The maximum height of any principal residential or accessory building, excluding devices not structurally essential to the building, is 9.0 metres (29.5 feet.), and shall not exceed three storeys. The maximum height for any commercial or industrial building is 10.7 metres (35 feet).

The following shall not be subject to the height requirements of this Bylaw unless otherwise specified: antennas, spires on places of worship, belfries, farm buildings and structures in agricultural zones, flag poles, monuments, transmission towers, utility poles, warning devices, water tanks, chimneys, and ventilation machinery.

### **4.4 Development within Environmentally Sensitive Areas**

A 30 metre buffer strip known as an Environmentally Sensitive Area (ESA) has been designated - as per Bylaw No. 708 cited as the “Malcolm Island Official Community Plan Bylaw, 2005” - from the top of the bank of the Rough Bay Creek. Any proposed development within this area may require approval from the relevant provincial and/or federal agency. Setback distance between the top of the bank and the use, building or structure will be based on the relevant required approval, without amendment to this Bylaw.

### **4.5 Lot Size Exceptions**

The minimum lot sizes specified in this Bylaw do not apply where:

- (a) The lot is to be used for any purpose described in the P1, US or USW zones.
- (b) The purpose of a subdivision is to consolidate two or more lots.
- (c) The subdivision would adjust the boundary between two or more lots, where no additional lots are created and where no lot is increased in area to an extent that it could be further subdivided.

### **4.6 Home Industry**

Where Home Industry is permitted in any zone, the operator must:

- (a) Not employ more than two employees who are not residents of the dwelling unit in which the business is not operated, nor employ more than four employees in total including the owner or resident of the dwelling unit.
- (b) Not undertake any business that uses any equipment or process in the business that would be in contravention of Section 4.2 of this Bylaw or that would otherwise detract from the character of the area.
- (c) Provide parking and loading spaces as per Section 3.1 of this Bylaw.

- (d) Not generate pedestrian or vehicular traffic or parking in excess of that which is characteristic of other uses in the zone in which the business is located.
- (e) The designated work area must be screened from adjacent parcels and public roads by vegetation, fencing, berms, or any combination thereof that creates a solid screen.
- (f) The use shall not create off site parking, or create a nuisance to the surrounding residences or land uses by reason of unsightliness, noise, vibration, smoke, dust, odour, litter, heat, liquid effluent or electrical interference.
- (g) Except for sign not exceeding 1.0 square metres (10.76 square feet) in area, no sign or other advertising matter may be exhibited or displayed on the premises or lot where a home occupation is conducted.

#### **4.7 Home Occupation**

- (a) A Home Occupation is permitted as an accessory use in any dwelling unit;
- (b) Home occupations may not alter the residential character of the properties on which the commercial activity takes place, and more specifically may not:
  - Cause or result in any variation or alteration in the external residential appearance of the land and premises in which it is carried on;
  - Produce noise, vibration, smoke, dust, odour, litter, or heat, other than that normally associated with a residential dwelling;
  - Create or cause any fire hazard, electrical interference; or
  - Cause an increase in traffic congestion or demand for on street parking beyond what would normally be associated with two visitors per hour to a residential premise during daytime hours and one visitor per hour during evening hours.
- (c) The following uses are prohibited:
  - Restaurant;
  - Manufacturing, welding, or any other light industrial use
  - The salvage or repair, or both, of motor vehicles, recreation vehicles, boats, motorized equipment or small engines;
  - Business that requires the marshalling of more than 2 vehicles such as taxi or limousine operation or courier service;
  - Retail or wholesale sale of goods except for goods manufactured or produced as part of a home occupation.
- (d) Home occupations must be conducted entirely within a dwelling or permitted accessory building except as otherwise specifically permitted in this Bylaw.
- (e) Not more than 30% of the total floor area of a dwelling or the combined floor area of a dwelling and accessory building may be used for home occupation purposes.
- (f) No storage of materials, commodities, or finished products is permitted in connection with the operation of a home occupation other than within the dwelling unit or permitted accessory building.

- (g) Except for sign not exceeding 1.0 square metres (10.76 square feet) in area, no sign or other advertising matter may be exhibited or displayed on the premises or lot where a home occupation is conducted.
- (h) A home occupation may not employ more than one employee who is not a resident of the home.

#### **4.8 Secondary Suites**

- (a) One secondary suite is permitted in all owner occupied principal single family dwelling units;
- (b) A secondary suite shall meet all requirements of the BC Building Code;
- (c) A secondary suite shall:
  - have a minimum area of 38 square metres (409.03 square feet) and shall not occupy the lesser of 40% of the total area of the dwelling unit or 90 square metres (968.75 square feet);
  - contain at least one bedroom, and separate kitchen, bathroom, and living area;
  - provide one parking space in addition to the parking requirements for the dwelling unit.

#### **4.9 Kennels**

- (a) A kennel is permitted as an accessory use on a lot with an area of 2 hectares (4.94 acres) or larger.
- (b) A kennel and its operation must comply with any requirements of the Regional District of Mount Waddington relating to Animal Control.

## **PART 5 – ZONE REGULATIONS**

### **5.1 Land Use Zones**

Malcolm Island is hereby divided into the following Zones:

SHORT FORM	ZONE DESCRIPTION	PAGE
(AG1)	AGRICULTURE	18
(R1)	RURAL RESIDENTIAL	20
(R2)	MEDIUM DENSITY RESIDENTIAL	22
(R3)	SMALL LOT RESIDENTIAL	24
(R4)	MULTI FAMILY RESIDENTIAL	26
(C1)	COMMERCIAL	28
(CM)	COMMERCIAL MARINE	30
(CR)	RURAL COMMERCIAL	32
(I)	LIGHT INDUSTRY	34
(MA)	MARINE CONSERVATION A	36
(MB)	MARINE CONSERVATION B	37
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(USW)	INSTITUTIONAL WASTE MANAGEMENT	43
(P1)	PUBLIC PARK, PUBLIC USE AREA	45
(FR)	FOREST RESERVE	46
(FC)	FOREST CROWN	47

**5.2 Malcolm Island Zone Maps Schedules A (Malcolm Island) and B (Sointula) attached**

- 5.2.1 The location and extent of the zones described in 5.1 are shown on the Malcolm Island Zone Maps Schedules A (Malcolm Island) and B (Sointula), which are an integral part of this bylaw.
- 5.2.2 The precise location of the boundary of any zone is deemed to be the surveyed lot boundary or the centreline of a highway, road, creek or stream where there is a surveyed plan or legal description.
- 5.2.3 Where there is no survey plan or legal description the boundary of a zone is deemed to be the natural boundary.
- 5.2.4 Unless otherwise indicated in this bylaw, Marine zone boundaries extend from the natural boundary of the sea 300 metres (984.24 feet) seaward.
- 5.2.5 Where the location of any zone boundary cannot be clearly located according to (5.2.2), (5.2.3) or (5.2.4) above, then it shall be determined by the scale of the map.
- 5.2.6 Where subdivision occurs on the basis of an approximate zone boundary, then the zone boundary shall be the new legal boundary of the plan or description.
- 5.2.7 The ZONE REGULATIONS of this bylaw do not apply to roads, lanes or other public thoroughfares.

## 5.3 AGRICULTURAL ZONES

### 5.3.1 (AG1) AGRICULTURE

(a) General Purpose

There is one small area of agricultural land in the Agricultural Land Reserve. This area will remain in agriculture use as long as it remains in the Agricultural Land Reserve. The intent of this zone is to allow agricultural uses and farming.

(b) Permitted Uses:

- i) Primary Dwelling and accessory buildings;
- ii) Agricultural use;
- iii) Any other use specifically permitted by the Agricultural Land Commission under the Agricultural Land Reserve Act, regulations and orders.
- iv) Accessory uses:
  - Cottage
  - Home Occupation
  - Bed and Breakfast
  - Home Industry
  - Kennels

(c) Subdivision Requirements

- i) The minimum lot area: 8 hectares (19.77 acres).
- ii) Minimum lot frontage: 10% of the perimeter of the lot.

(d) Minimum Setbacks

- i) For principal buildings and structures:
  - 9 metres (29.5 feet) from all front and rear lot lines
  - 2.5 metres (8.2 feet) from all side lot lines
  - 18 metres (59.05 feet) from another principal building or structure
- ii) For accessory buildings and structures:
  - 5 metres (16.4 feet) from all front lot lines
  - 1.5 metres (4.92 feet) from all rear and side lot lines
- iii) No building used for kennels may be located:
  - Within 30 metres (98.4 feet) of a lot line;
  - Within 90 metres (295.28 feet) of a residence existing at the time of construction of the breeding kennel facility unless such residence is occupied by the owner or a full-time employee of the breeding kennel;
  - In front of the front building line of the principal residential building
- iv) Setbacks for development adjacent to any watercourse as required by the provincial or federal government agency having jurisdiction.

- (e) Development Density
  - i) One single residence is permitted for every 8 hectares (19.7 acres) of land, plus additional dwelling units (attached or detached) where the additional dwelling units are required by full time farm employees working on farm operations or are specifically permitted by the Provincial Agricultural Land Reserve Commission under the Agricultural Land Reserve Act.
  - ii) One cottage is permitted on each lot having an area of more than 1 hectare (2.47 acres). The floor area of the cottage must not exceed 79 square metres (850.36 square feet) in total.
  - iii) One temporary dwelling may be approved for occupation while the permanent home is under construction. The temporary dwelling must be removed 30 days after the permanent dwelling is occupied.
  
- (f) Lot Coverage
  - i) The maximum lot coverage of all buildings and structures shall not exceed 15% (excluding greenhouses). Maximum coverage including greenhouses shall not exceed 40%.
  - ii) The buildings and land associated with the breeding kennel use may not occupy more than 15% of the total lot area.
  
- (g) Conditions of Use
  - i) Home Occupation and Home Industry must be in accordance with Section 4 of this Bylaw.
  - ii) Principal buildings must be serviced by an approved on-site wells and separate septic disposal systems for each single-family dwelling, constructed to the standards of the provincial agency having jurisdiction and/or the Medical Health Officer.
  - iii) Any conditions imposed on applications made to the Provincial Land Reserve Commission under the Agricultural Land Reserve Act.

## 5.4 RESIDENTIAL ZONES

### 5.4.1 (R1) RURAL RESIDENTIAL

(a) General Purpose

This zone is intended to provide for rural parcels of 2 hectares (4.94 acres) or more in size, principally for single residences, accessory cottage, and for farm or other home occupation or home industry activities that are secondary uses on the lot, provided that any effect of the non-residential activities will not adversely extend beyond the property boundaries of the lot upon which they are located.

(b) Permitted Uses

The following uses only are permitted in this zone:

- i) Primary Dwelling and accessory buildings;
- ii) Accessory uses:
  - Home agriculture
  - Cottage
  - Home Occupation
  - Bed and Breakfast
  - Home Industry
  - Kennels
  - Secondary Suite

(c) Subdivision Requirements

- i) The minimum area of any lot created by subdivision shall be 2.0 hectares (4.94 acres)
- ii) The minimum frontage required is 30 metres (98.4 feet.)

(d) Minimum Setbacks

- i) For principal buildings and structures:
  - 7.0 metres (22.97 feet) from all front and rear lot lines.
  - 3.0 metres (9.8 feet) from all side lot lines and where a building flanks on a roadway, except that no building or object more than 1.0 metre (3.3 feet) in height shall exist within the triangular area formed by intersecting road rights-of-way and a straight line joining the points on a line 9.0 metres (29.5 feet) from the intersection of the rights-of-way.
- ii) No building used for kennels may be located:
  - Within 30 metres (98.4 feet) of a lot line;
  - Within 90 metres (295.28 feet) of a residence existing at the time of construction of the breeding kennel facility unless such residence is occupied by the owner or a full-time employee of the breeding kennel;
  - In front of the front building line of the principal residential building

- iii) 15.0 metres (48.75 feet) from, and 1.5 metres (4.92 feet) elevation above the natural boundary of any lake, watercourse, and 2.0 metres (6.56 feet) above the natural boundary of the sea, except where the owner submits to the Mount Waddington Regional District designs and certification by a Professional Engineer showing that the structure would be safe as otherwise constructed.
  - ii) For accessory buildings and structures:
    - 5 metres (16.4 feet) from all front lot lines
    - 1.5 metres (4.875 feet) from all rear and side lot lines
    - Setbacks for development adjacent to any watercourse are as required by the provincial or federal government agency having jurisdiction.
- (e) Development Density
- i) One primary dwelling is permitted on each lot.
  - ii) One cottage is permitted on each lot having an area of more than 1 hectare (2.47 acres). The floor area of the cottage must not exceed 79 square metres (850.36 square feet) in total.
  - iii) One temporary dwelling may be approved for occupation while the permanent home is under construction. The temporary dwelling must be removed 30 days after the permanent dwelling is occupied.
- (f) Lot Coverage
- i) The maximum lot coverage of all buildings and structures shall not exceed 15%.
  - ii) The buildings and land associated with the breeding kennel use may not occupy more than 15% of the total lot area.
- (g) Conditions of Use
- i) Home Occupation and Home Industry must be in accordance with Section 4 of this Bylaw.
  - ii) Parking and loading must be in accordance with Section 3.1.0 of this Bylaw.
  - iii) Principal buildings must be serviced by separate on-site wells and separate septic disposal systems for each single-family dwelling, constructed to the standards of the provincial agency having jurisdiction and/or the Medical Health Officer.

**5.4.2 (R2) MEDIUM DENSITY RESIDENTIAL**

(a) General Purpose

This zone is generally intended to provide for unserviced residential lots on Malcolm Island, principally for single residential dwellings, and Home Occupation and Home Agriculture uses that do not adversely affect adjacent land uses. These lots are primarily in the Villen Subdivision and Rough Bay areas and may be subdivided and developed to the minimum permitted size, 1.0 hectares (2.47 acres).

(b) Permitted Uses

The following uses only are permitted in this zone:

- i) Primary Dwelling and accessory buildings;
- ii) Accessory uses:
  - Home Agricultural use (small and medium animals)
  - Cottage
  - Home Occupation
  - Bed and Breakfast
  - Secondary Suite
  - On lots 2 hectares (4.94 acres) or larger: Home Industry

(c) Subdivision Requirements

- i) The minimum area of any lot created by subdivision shall be 1 hectare (2.47 acres)
- ii) The minimum frontage is 24.38 metres (80 feet)

(d) Minimum Setbacks

- i) For principal buildings and structures:
  - 7.0 metres (22.97 feet) from all front and rear lot lines.
  - 3.0 metres (9.8 feet) from all side lot lines and where a building flanks on a roadway, except that no building or object more than 1.0 metre (3.3 feet) in height shall exist within the triangular area formed by intersecting road rights-of-way and a straight line joining the points on a line 9.0 metres (29.5 feet) from the intersection of the rights-of-way.
  - 15.0 metres (48.75 feet) from, and 1.5 metres (4.92 feet) elevation above the natural boundary of any lake, watercourse, and 2.0 metres (6.56 feet) elevation above the natural boundary of the sea, except where the owner submits to the Mount Waddington Regional District designs and certification by a Professional Engineer showing that the structure would be safe as otherwise constructed.
- ii) For accessory buildings and structures:

- 5 metres (16.4 feet) from all front lot lines
  - 1.5 metres (4.875 feet) from all rear and side lot lines
  - Setbacks for development adjacent to any watercourse are as required by the provincial or federal government agency having jurisdiction.
- (e) Development Regulations and Density for Permitted Uses
- i) One primary dwelling is permitted on each lot.
  - ii) One cottage is permitted on each lot having an area of more than 1.0 hectare (2.47 acres). The floor area of the cottage must not exceed 79 square metres (850.36 square feet) in total.
- (f) Lot Coverage
- i) The maximum lot coverage of all buildings and structures shall not exceed 15%.
- (g) Conditions of Use
- i) Home Occupation and Home Industry must be in accordance with Section 4 of this Bylaw.
  - ii) Parking and loading must be in accordance with Section 3.1.0 of this Bylaw.
  - iii) Principal buildings must be serviced by separate on-site wells, or community water supply, and separate septic disposal systems for each single-family dwelling, constructed to the standards of the provincial agency having jurisdiction and/or the Medical Health Officer.

### **5.4.3 (R3) SMALL LOT RESIDENTIAL**

(a) General Purpose

This zone is intended to provide for the smallest allowable residential lots on Malcolm Island, principally for single family residential dwellings and secondary suites contained within the dwelling unit, and Home Occupation uses that do not adversely affect adjacent land uses. These lots are in the Sointula water supply and sewage service area and may be subdivided and developed to the minimum permitted size and dimensions only where serviced by community sewer and water facilities.

(b) Permitted Uses

The following uses only are permitted in this zone:

The following uses only are permitted in this zone:

- i) Primary Dwelling and accessory buildings;
- iii) Accessory uses:
  - Cottage
  - Home Occupation
  - Bed and Breakfast
  - Secondary Suite

(c) Subdivision Requirements

- i) Minimum lot size for areas served by community sewer and water facilities shall be 891.84 square metres (9600 square feet).
- ii) Minimum lot size for areas not served by both community sewer and water facilities shall be no less than 1.0 hectare (2.47 acres) in area.
- iii) The minimum frontage shall be 24.384 metres (80 feet) on its single fronting lot line.

(d) Minimum Setbacks

- i) For principal buildings and structures:
  - 7.0 metres (22.97 feet) from all front and rear lot lines.
  - 3.0 metres (9.8 feet) from all side lot lines and where a building flanks on a roadway, except that no building or object more than 1.0 metre (3.3 feet) in height shall exist within the triangular area formed by intersecting road rights-of-way and a straight line joining the points on a line 9.0 metres (29.5 feet) from the intersection of the rights-of-way.
  - 15.0 metres (48.75 feet) from, and 1.5 metres (4.92 feet) above the natural boundary of any lake, watercourse, and 2.0 metres (6.56 feet) above the natural boundary of the sea, except where the owner submits to the Mount Waddington Regional District designs and

certification by a Professional Engineer showing that the structure would be safe as otherwise constructed.

- ii) For accessory buildings and structures:
  - 5 metres (16.4 feet) from all front lot lines
  - 1.5 metres (4.875 feet) from all rear and side lot lines
  - Setbacks for development adjacent to any watercourse are as required by the provincial or federal government agency having jurisdiction.
  
- (e) Development Regulations and Density for Permitted Uses
  - i) One primary dwelling is permitted on each lot.
  - ii) One cottage is permitted on each lot having an area of more than 1.0 hectare (2.47 acres). The floor area of the cottage must not exceed 79 square metres (850.36 square feet) in total.
  
- (f) Lot Coverage
  - i) The maximum lot coverage of all buildings and structures shall not exceed 35%.
  
- (g) Conditions of Use
  - i) Home Occupation uses must be in accordance with Section 4 of this Bylaw.
  - ii) Parking and loading must be in accordance with Section 3.1.0 of this Bylaw.
  - iii) Principal buildings must be serviced by community sewer and water facilities.

#### **5.4.4 (R4) MULTI FAMILY RESIDENTIAL**

(a) General Purpose

This zone is generally intended to provide for duplexes and multiple family dwellings of limited size and density in a manner that minimizes impacts on the local environment and does not conflict with the use and enjoyment of adjacent properties. These lots will be in the Sointula area and where lots are proposed to be served by community sewer and water facilities.

(b) Permitted Uses

The following uses only are permitted in this zone:

- i) One duplex or multiple unit dwelling for each site
- ii) Accessory uses:
  - Home Occupation
  - Accessory buildings

(c) Subdivision Requirements

- i) The minimum length and width of any lot created by subdivision shall be 36.576 metres (120 feet) and the area of the lot shall be no less than 1337.76 square metres (.33 acres).

(d) Minimum Floor Areas

- i) Bed sitting unit - 50 square metres (538 square feet)
- ii) One bedroom unit - 55 square metres (592 square feet)
- iii) Two bedroom unit - 65 square metres (700 square feet)
- iv) Three bedroom unit - 75 square metres (807 square feet)
- v) Suite in Senior Citizen Project - 45 square metres (484 square feet)
- vi) Duplex unit - 75 square metres (807 square feet)

(e) Minimum Setbacks

- i) For principal buildings and structures:
  - 7.0 metres (22.97 feet) from all front and rear lot lines.
  - one-half the height of the building or 10% of the width of the site, whichever is the greater, to a maximum of 4.5 metres (14.8 feet) from all side and flanking lot lines.
  - 3.0 metres (9.8 feet) from all side lot lines and where a building flanks on a roadway, except that no building or object more than 1.0 metre (3.3 feet) in height shall exist within the triangular area formed by intersecting road rights-of-way and a straight line joining the points on a line 9.0 metres (29.5 feet) from the intersection of the rights-of-way.



## **5.5 COMMERCIAL AND INDUSTRIAL ZONES**

### **5.5.1 (C1) COMMERCIAL**

(a) General Purpose

This zone is intended to provide sites for retail and service outlets in the Sointula Zone Map area (Schedule B), including tourism related businesses, which offer to Malcolm Island residents a variety of goods and services that are not provided for in other zones. Residential dwellings are permitted uses in this zone. These lots are in the Sointula area and may only be subdivided and developed where they will be served by community sewer and water facilities.

(b) Permitted Uses

The following uses only are permitted in this zone:

- i) Retail stores
- ii) Personal and Business Services including Clinics
- iii) Offices and Government Buildings
- iv) Hotels and Bed and Breakfast Establishments
- v) Indoor and Outdoor Eating Establishments and Pubs
- vi) Drive-in and Drive-Through Businesses
- vii) Theatres and Indoor Entertainment Establishments
- viii) Bakeries
- ix) Commercial food processing and research uses for use by producer members of Malcolm Island based co-operatives
- x) Private Schools
- xi) Service Clubs and Lodges
- xii) Dwelling Units
- xiii) Accessory Buildings and Parking facilities including residential uses accessory to commercial uses.

(c) Subdivision Requirements

- i) The minimum area of any lot created by subdivision is 668.88 square metres (7,200 square feet) and shall be not less than 24.384 metres (80 feet) on a single fronting lot line,
- ii) All lots in this zone shall be served by community sewer and water facilities.

(d) Minimum Setbacks

- i) Setbacks as required by the fire and building codes for access, and with regard to existing adjacent developments.
- ii) For principle buildings and structures:
  - 7.0 metres (22.97 feet) from all front and rear lot lines.



## **5.5.2 (CM) COMMERCIAL MARINE**

### (a) General Purpose

This zone is intended to include all uses outlined in C1 Commercial, as well as uses providing services to the marine industry, the commercial and sport fishery and marine related tourism and recreation.

### (b) Permitted Uses

The following uses only are permitted in this zone:

- i) All Commercial (C1) uses
- ii) Marine ways
- iii) Boat repairs, supplies, manufacturing and remanufacturing
- iv) Value added processing and sales for fish and shellfish
- v) Marinas, and boat and related equipment storage

### (c) Subdivision Requirements

- i) The minimum area of any lot created by subdivision is 668.88 square metres (7,200 square feet) and shall be not less than 24.384 metres (80 feet) on a single fronting lot line,
- ii) All lots in this zone shall be served by community sewer and water facilities.

### (d) Minimum Setbacks

- ii) Setbacks as required by the fire and building codes for access, and with regard to existing adjacent developments.
- iii) For principal buildings and structures:
  - 7.0 metres (22.97 feet) from all front and rear lot lines.
  - 3.0 metres (9.8 feet) from all side lot lines and where a building flanks on a roadway, except that no building or object more than 1.0 metre (3.3 feet) in height shall exist within the triangular area formed by intersecting road rights-of-way and a straight line joining the points on a line 9.0 metres (29.5 feet) from the intersection of the rights-of-way.
  - A minimum 15.0 metres (48.75 feet) from, and 1.5 metres (4.92 feet) above the natural boundary of any lake, watercourse, and 2.0 metres (6.56 feet) above the natural boundary of the sea, except where the owner submits designs and certification to the Mount Waddington Regional District by a Professional Engineer showing that the structure would be safe as otherwise constructed.
- iv) The zone regulations for the R3 zone shall apply to residences developed as the principal use in this zone.

- v) The zone regulation for the R4 zone shall apply to Duplexes and Multiple Family Residences developed as the principal use in this zone.
  - vi) Other permitted uses are subject to the applicable requirements of this bylaw.
- (e) Development Regulations and Density for Permitted Uses
- i) Marine commercial uses may include residential uses on the upper floors of multi storey developments.
- (f) Lot Coverage
- i) Coverage by all buildings on community water and sewer services may be 50% of the lot except that there shall be adequate provision of off-street parking, loading and garbage facilities.
- (g) Conditions of Use
- i) Home Occupation uses must be in accordance with Section 4 of this Bylaw.
  - ii) Parking and loading must be in accordance with Section 3.1.0 of this Bylaw, and adequate unrestricted access shall be provided.

### **5.5.3 (CR) RURAL COMMERCIAL**

(a) General Purpose

This zone is intended to provide sites for service commercial and related retail uses, including tourism related businesses, in the rural area shown on Malcolm Island Zone Map area (Schedule A). Residential dwellings are permitted uses in this zone. These lots are primarily in the rural area and may only be subdivided and developed where they will be served by a private water and sewage treatment system constructed to the standards of the provincial agency having jurisdiction and/or the Medical Health Officer.

(b) Permitted Uses

The following uses only are permitted in this zone:

- i) Veterinary Clinics
- ii) Service Clubs and Lodges
- iii) Dwelling Units
- iv) Lodges
- v) Campgrounds and Cabins
- vi) Accessory Buildings and Parking facilities including accessory residential uses.
- vii) Accessory uses:
  - Home Agriculture
  - Cottage
  - Home Occupation
  - Bed and Breakfast

(c) Subdivision Requirements

- i) The minimum area of any lot created by subdivision shall be 2.0 hectare (4.94 acres).

(d) Minimum Setbacks

- i) For principal buildings and structures:
  - 7.0 metres (22.97 feet) from all front and rear lot lines.
  - 3.0 metres (9.8 feet) from all side lot lines and where a building flanks on a roadway, except that no building or object more than 1.0 metre (3.3 feet) in height shall exist within the triangular area formed by intersecting road rights-of-way and a straight line joining the points on a line 9.0 metres (29.5 feet) from the intersection of the rights-of-way.
  - 15.0 metres (48.75 feet) from, and 1.5 metres (4.92 feet) above the natural boundary of any lake, watercourse, and 2.0 metres (6.56 feet) above the natural boundary of the sea, except where the owner submits to the Mount Waddington Regional District designs and

certification by a Professional Engineer showing that the structure would be safe as otherwise constructed.

- ii) For accessory buildings and structures:
  - 5 metres (16.4 feet) from all front lot lines
  - 1.5 metres (4.875 feet) from all rear and side lot lines
  - Setbacks for development adjacent to any watercourse are as required by the provincial or federal government agency having jurisdiction.
  
- (e) Development Density
  - i) One primary dwelling is permitted on each lot.
  - ii) One cottage on each lot having an area of more than 1.0 hectare (2.47 acres). The floor area of the cottage must not exceed 79 square metres (850.36 square feet ) in total.
  - iii) One temporary dwelling may be approved for occupation while the permanent home is under construction. The temporary dwelling must be removed 30 days after the permanent dwelling is occupied.
  
- (f) Lot Coverage
  - i) The maximum lot coverage of all buildings and structures shall not exceed 25%.
  
- (g) Conditions of Use
  - i) Home Occupation must be in accordance with Section 4 of this Bylaw.
  - ii) Parking and loading must be in accordance with Section 3.1.0 of this Bylaw, and adequate unrestricted access shall be provided.
  - iii) Principal buildings must be serviced by an approved on-site wells and separate septic disposal systems for each single-family dwelling, constructed to the standards of the provincial agency having jurisdiction and/or the Medical Health Officer.

#### **5.5.4 (I) LIGHT INDUSTRY**

(a) General Purpose

This zone is intended to provide sites for industrial establishments including forestry and associated businesses.

(b) Permitted Uses

The following uses only are permitted in this zone:

- i) Manufacturing, processing and product assembly
- ii) Log storage, sorting and handling
- iii) Institutional uses as permitted in the US Zone
- iv) Accessory buildings and parking facilities.

(c) Subdivision Requirements

- i) The minimum lot area shall be 1.0 hectare (2.47 acres).
- ii) The minimum lot frontage shall be 36.0 metres (118.11 feet).

(d) Minimum Setbacks

- i) For principal buildings and structures:
  - 7.0 metres (22.97 feet) from all front and rear lot lines.
  - 3.0 metres (9.8 feet) from all side lot lines and where a building flanks on a roadway, except that no building or object more than 1.0 metre (3.3 feet) in height shall exist within the triangular area formed by intersecting road rights-of-way and a straight line joining the points on a line 9.0 metres (29.5 feet) from the intersection of the rights-of-way.
- ii) A minimum 15.0 metres (48.75 feet) from, and 1.5 metres (4.92 feet) above the natural boundary of any lake, watercourse, and 2.0 metres (6.56 feet) above the natural boundary of the sea, except where the owner submits designs and certification to the Mount Waddington Regional District by a Professional Engineer showing that the structure would be safe as otherwise constructed.
- iii) Other permitted uses are subject to the applicable requirements of this bylaw.

(e) Development Regulations and Density for Permitted Uses

- i) One temporary building may be approved for use while the permanent structure or use is under construction. The temporary building must be removed 30 days after the permanent structure is occupied.

(f) Lot Coverage

- i) Coverage by all buildings may be 25% of the lot except that there shall be adequate provision of off-street parking, loading and garbage facilities.

(g) Conditions of Use

- i) Parking and loading must be in accordance with Section 3.1.0 of this Bylaw, and adequate unrestricted access shall be provided.

## **5.6 MARINE CONSERVATION AREAS**

### **5.6.1 (MA) MARINE CONSERVATION A**

(a) General Purpose

This zone is generally intended to conserve and preserve the sensitive natural lands on the northern, western and eastern shores of Malcolm Island and to ensure unrestricted physical access to those areas covered by waters for commercial fishing.

(b) Permitted Uses

The following uses only are permitted in this zone:

- i) Marine Navigational Aids
- ii) Commercial Fishing

(c) Buildings and Structures Prohibited

- i) No buildings or structures of any kind, including docks, floats, piers, wharves, breakwaters, may be anchored or constructed, except for structures as part of a public park.

(d) Moorage Regulations

- i) Boats may be temporarily moored to anchors or moorage buoys only.

## **5.6.2 (MB) MARINE CONSERVATION B**

### (a) General Purpose

This zone is intended to allow marine industrial activities and accessory uses such as docks and moorage associated with log storage, sorting and booming.

### (b) Permitted Uses

The following uses only are permitted in this zone:

- i) Marine navigational aids;
- ii) Private docks and boat anchorage and moorage related to the industrial use;
- iii) Existing foreshore leases established before the adoption of this bylaw.

### (c) Buildings and Structures Prohibited

- i) No commercial buildings or structures of any kind, including docks, floats, piers, wharves or breakwaters not related to the permitted uses;
- ii) No walls and fences may be anchored or constructed.

### **5.6.3 (MC) MARINE CONSERVATION C**

(a) General Purpose

This zone is generally intended to permit marine access to the shore of Malcolm Island only for commercial shellfish aquaculture uses or developments associated with upland lots abutting the foreshore.

(b) Permitted Uses

The following uses only are permitted in this zone:

- i) Marine navigational aids;
- ii) Markers and signs identifying a permitted use;
- iii) Boat launching and anchoring, floats and other equipment uses to access, and that are accessory to commercial aquaculture uses or developments associated with the upland lots abutting the foreshore.
- iv) Shellfish aquaculture associated with upland lots abutting the foreshore.

(c) Buildings and Structures Prohibited

- i) No breakwaters, fill material, groins or changes to the configuration or surface of the foreshore or lands underwater shall be undertaken.
- ii) No fences or any other devices on or embedded into the foreshore that would impede the free and ready access by pedestrians across the foreshore are permitted.

(d) Moorage Regulations

- i) Boats may be temporarily moored to anchors or moorage buoys only.

(e) Development Regulations and Density for Permitted Uses

- i) Shellfish aquaculture leases and associated upland uses shall have a minimum lot width of 36 metres (118.11 feet).

**5.6.4 (MD) MARINE CONSERVATION D**

(a) General Purpose

This zone is intended to recognize existing foreshore leases in the Rough Bay area, and to allow private and public marine activities to be established in association with upland commercial use areas.

(b) Permitted Uses

- i) Seaplane moorage and anchorage
- ii) Government wharves and breakwaters
- iii) Boat rentals, sales and repairs
- iv) Boat launching, anchorage and moorage
- v) Fish buying, processing and packing
- vi) Marine fuel sales
- vii) Marine navigational aids
- viii) Uses accessory to the above
- ix) Recreation Uses
- x) Net lofts

(c) Parking

- i) Motor vehicle parking spaces must be provided for all permitted uses in accordance with Part 3 of this bylaw.

(d) Foreshore Access

- i) Marker and signs identifying the uses permitted in the zone are allowed, but no fences or any other devices on, or embedded into the foreshore area that would impede the free and ready access by pedestrians across the beach are permitted.

### **5.6.5 (ME) MARINE ESTUARY**

(a) General Purpose

This zone has been established to conserve and protect the Rough Bay Creek estuary and crab flats in the Rough Bay area.

(b) Permitted Uses

The following uses only are permitted in this zone:

- i) Marine Navigational Aids;
- ii) Fishery or ecological enhancement or restoration;
- iii) Except for navigational aids, any use in this zone must be assessed as to its potential impact with regard to the General Purpose of the zone, and must be found to have no impact before the use is permitted.

(c) Buildings and Structures Prohibited

- i) No buildings or structures of any kind, including docks, piers, wharves, groins and, breakwaters may be anchored or constructed.
- ii) Walls fences or any other device on, or embedded into the foreshore that would impede the free and ready access by pedestrians across the foreshore.

(d) Moorage Regulations

- i) Boats may be temporarily moored to anchors or moorage buoys only.

## 5.7 COMMUNITY USES

### 5.7.1 (US) INSTITUTIONAL USE

(a) General Purpose

This zone is generally intended to establish an area for the development of public and/or privately owned institution recreation or community services.

(b) Permitted Use

The following uses only are permitted in this zone:

- i) Community halls
- ii) Schools
- iii) Health clinics, hospitals and ambulance services
- iv) Activity Centres
- v) Offices
- vi) Museums
- vii) Libraries
- viii) Police and fire stations
- ix) Recreation buildings and facilities
- x) Places of Worship
- xi) Lighthouses
- xii) Accessory dwelling unit
- xiii) Accessory uses.

(c) Subdivision Requirements

The minimum area of any lot created by subdivision:

- i) serviced by community sewer and water facilities shall be 891.84 square metres (9,600 square feet) and shall be no less than 24.384 metres (80 feet) on its single fronting lot line.
- ii) not served by both community sewer and water facilities shall be no less than 1.0 hectare (2.47 acres) in area.

(d) Minimum Setbacks

The minimum setbacks for buildings and structures shall be:

- i) 8 metres (26.2 feet) from all front, side and rear lot lines.
- ii) A minimum 15.0 metres (48.75 feet) from, and 1.5 metres (4.92 feet) above the natural boundary of any lake, watercourse, and 2.0 metres (6.56 feet) above the natural boundary of the sea, except where the owner submits designs and certification to the Mount Waddington Regional District by a Professional Engineer.

- iii) As required by the fire and building codes for access, and with regard to existing adjacent developments.
- (e) Conditions of Use
- i) Development on a lot is limited to uses able to be undertaken within the lot sizes and dimensions necessary to accommodate requirements of this zone.
  - ii) Parking shall be in accordance with Part 3 of this bylaw, and adequate unrestricted access shall be provided.

## **5.7.2 (USW) INSTITUTIONAL WASTE MANAGEMENT**

(a) General Purpose

This zone is generally intended to establish an area for the development of public and/or privately owned waste management facilities.

(b) Permitted Use

The following uses only are permitted in this zone:

- i) Community sewage treatment and water supply facilities
- ii) Community solid waste collection, storage and transportation facilities

(c) Subdivision Requirements

The minimum area of any lot created by subdivision:

- i) serviced by community sewer and water facilities shall be 891.84 square metres (9,600 square feet) and shall be no less than 24.384 metres (80 feet) on its single fronting lot line.
- ii) not served by both community sewer and water facilities shall be no less than 1.0 hectare (2.47 acres) in area.

(d) Minimum Setbacks

The minimum setbacks for buildings and structures shall be:

- i) 8 metres (26.2 feet) from all front, side and rear lot lines if located in an Industrial Land use designation in the Official Community Plan.
- ii) 30 metres (98.42 feet) from all front, side and rear lot lines if located within a Residential or Commercial land use designation in the Official Community Plan.
- iii) A minimum 15.0 metres (48.75 feet) from, and 1.5 metres (4.92 feet) above the natural boundary of any lake, watercourse, and 2.0 metres (6.56 feet) above the natural boundary of the sea, except where the owner submits designs and certification to the Mount Waddington Regional District by a Professional Engineer.
- iv) As required by the fire and building codes for access, and with regard to existing adjacent developments.

(e) Conditions of Use

- iii) Development on a lot is limited to uses able to be undertaken within the lot sizes and dimensions necessary to accommodate requirements of this zone.

- iv) Parking shall be in accordance with Part 3 of this bylaw, and adequate unrestricted access shall be provided.

### **5.7.3 (P1) PUBLIC PARK, PUBLIC USE AREA**

(a) General Purpose

- i) This zone is generally intended to provide for active park and recreation development and for natural park areas for limited or passive recreational use on lands and water bodies.

(b) Permitted Uses

The following uses only are permitted in this zone:

- i) Public Recreational uses and facilities and public educational uses
- ii) Marine navigational aids
- iii) Accessory use
- iv) Timber harvesting is restricted to removal of trees that present a public hazard, blow down timber, or tree removal to allow for construction/maintenance of trails and other recreational structures and facilities.

(c) Permitted Density

- i) The floor area of any building used for Public Recreation and Educational uses on any lot must not exceed 186 square metres (2,000 square feet).

(d) Minimum Setbacks

- i) The minimum setbacks for buildings and structures shall be:
  - 10 metres (32.8 feet) from all front, rear or side lot lines; and
  - A minimum 15.0 metres (48.75 feet) from, and 1.5 metres (4.92 feet) above the natural boundary of any lake, watercourse, and 2.0 metres (6.56 feet) above the natural boundary of the sea, except where the owner submits designs and certification to the Mount Waddington Regional District by a Professional Engineer.

## **5.8 FORESTRY**

### **5.8.1 (FR) FOREST RESERVE**

(a) General Purpose

Block B, Sections 28 and 29 are subject to a restricted use covenant with the Province of British Columbia. Use is restricted to keeping the land in a natural state except for removal of trees that present a hazard to the public, blown down timber, or tree removal for construction of foot paths, or for construction of up to 6 cabins.

(b) Permitted Uses

The following uses only are permitted in this zone:

- i) Forestry use is restricted to removal of trees that present a public hazard, blown down timber, or tree removal to allow for construction of foot paths or for construction of cabins.
- ii) A maximum of 6 cabins for recreational or tourism use may be constructed.

(c) Subdivision Requirements

- i) No subdivision is permitted in this zone.

(d) Minimum Setbacks

- i) Structures shall be 7.0 metres (22.97 feet) from all lot lines.

### **5.8.2 (FC) FOREST CROWN**

a) General Purpose:

The central and north sections of Malcolm Island are mainly Crown land. These areas have traditionally been used for resource activities, primarily forestry and aggregate extraction for local use. These lands are also used for recreational activities. Maintaining this relationship between the communities on Malcolm Island the use of and access to Crown land is important to Malcolm Island residents. While these lands are shown as a land use zone in this bylaw, it is recognized that these lands are under provincial jurisdiction.

(b) Permitted Uses

The following uses only are permitted in this zone:

- i) Forestry use under license or contract with the crown;
- ii) Wind power investigative permits, wind monitoring licenses, quarry tenure(s), public utility and communication sites.

(c) Subdivision Requirements

- i) No subdivision is permitted in this zone.

(d) Minimum Setbacks

- i) Structures and accessory uses shall be 7.0 metres (22.97 feet) from all lot lines.

## **PART 6 - SUBDIVISION REGULATIONS**

### **6.1 Administration**

#### **6.1.1 APPLICATION FOR SUBDIVISION APPROVAL**

- (a) To obtain approval for subdivision, an applicant shall apply to the Ministry of Transportation.
- (b) The Ministry of Transportation shall forward one copy of the proposed subdivision together with all supporting documentation to the Regional District.
- (c) The Regional District shall advise the Ministry of Transportation, in writing, as to any Regional District requirements for the subdivision.

#### **6.1.2 APPLICABILITY**

The requirements of this bylaw shall be applicable to any subdivision of land, including but not limited to, applications for subdivision pursuant to the Land Title Act, Strata Property Act and the Veterans Land Act.

### **6.2 General Provisions**

#### **6.2.1 SUITABILITY**

The Ministry of Transportation Approving Officer, at the request of the Regional District, may refuse the subdivision or strata subdivision of any parcel of land:

- (a) unless all the requirements of this bylaw and those of improvement districts and other relevant agencies and Acts, have been observed;
- (b) should the subdivision make any existing use or siting of structures on that parcel non-conforming in respect to any bylaw of the Regional District;
- (c) if all lots created by plan of subdivision do not have access to a public road developed to a standard acceptable to the Ministry of Transportation.
- (d) if the anticipated development of the subdivision would injuriously affect the established amenities of adjoining or reasonably adjacent properties;
- (e) if the land is subject, or could reasonably be expected to be subject, to flooding, erosion, land slip, or avalanche;
- (f) if the anticipated development of the subdivision would adversely affect the natural environment;
- (g) if the cost to the Province of British Columbia or the cost to the Regional District of providing public utilities or other works or services would be excessive;
- (h) if it is not suited to the use for which it is intended;

- (i) if it is not suited to the configuration of the land being subdivided;
- (j) if it makes impractical the future subdivision of the land within the proposed subdivision, or of any adjacent land;
- (k) if it is against the public interest;
- (l) if the anticipated development of the subdivision would provide additional storm water runoff sufficient to overload an existing downstream drainage facility, flood adjacent parcels or negatively affect the fish bearing capabilities of downstream locations.

### **6.2.2 INFORMATION REQUIRED**

- a) At the request of the Regional District, the Approving Officer may require that the owner of the property being subdivided submit:
  - i) a sketch plan showing that the lots into which the land is proposed to be subdivided can conveniently be subdivided into further small lots;
  - ii) plans, including the appropriate contour plans, and data on the measures necessary to remedy wet conditions, surface water discharges, or liability to flood;
  - ii) engineering and planning studies, the former bearing the seal of a professional engineer and the latter the signature of a professional planner;
  - iv) a statement in writing of the intended use of any parcel being created or of any remainder of the parent lot;
  - v) a sketch plan outlining the plan of subdivision of any remainder of the parent lot.
- b) Each application for subdivision referred to the Regional District shall be accompanied by a sketch plan or plans drawn to a suitable scale, clearly showing:
  - i) the scale of each plan and the direction of north thereon;
  - ii) the arrangement of all lots (including remainders), roads, easements and rights-of-way to be created;
  - iii) approximate dimensions of all lots (including remainders), roads, easements and rights-of-way to be created, including: the length of all property boundary lines and arcs, the width of all roads, easements and rights-of-way, and the area of all lots (including remainders);
  - iv) all watercourses or water frontage within or adjacent to the land to be subdivided;
  - v) the location of all wells and septic fields;

- vi) all steep banks or slopes within or adjacent to the land to be subdivided;
  - vii) the identity and relationship (distance) of all existing buildings within the land to be subdivided to any existing and proposed property lines;
  - viii) any existing property lines or roads to be extinguished; and
  - ix) the relationship of the proposed subdivision to adjacent roads, and the connections of proposed new roads thereto.
- c) The Regional District shall not process any application for subdivision until all information required in Subsection (b) has been submitted.

### **6.3 Subdivision Standards**

#### **6.3.1. AREA AND FRONTAGE REQUIREMENTS**

- (a) For the purposes of this bylaw, the minimum lot size requirements for subdivision within each zone shall be as noted in Parts 4 and 5 of this bylaw.
- (b) Subdivisions created by bare land strata will be required to meet all lot size, servicing and setback requirements of this Bylaw.
- (c) The minimum frontage, being that portion of the lot that fronts onto a highway, shall be 10% of perimeter of the lot unless specified otherwise elsewhere in this bylaw.
- (d) Lots with water (sea or lake) access shall be considered as having double frontage and shall meet the 10% frontage requirement for the portion of the lot fronting onto the highway and for the portion of the lot fronting on the water as well as a frontage to depth ratio of 1:3 on rectangular lots and an average width to average depth ratio of 1:3 on irregular shaped lots.
- (e) Notwithstanding the above, the Regional Board, pursuant to Section 176(l)(e) of the Local Government Act, delegates to the Administrator the authority to reduce the required minimum frontage requirements in the following situations provided that at the decreased size, all other applicable requirements of this bylaw can be satisfied:
  - i) where a parcel features unusual terrain or configuration;
  - ii) where additional road dedication is required above and beyond the roads necessary to serve the proposed lots;
  - ii) where the required road dedication would prohibit a subdivision otherwise permitted by the specified minimum lot area; or
  - iv) where the provision of a linear parkway is requested by the Regional District.

- (f) The creation of panhandle lots will only be considered and permitted at the discretion of the Administrator in the following situations provided that all other applicable requirements of this bylaw can be satisfied:
  - i) where a parcel features unusual terrain or configuration; or
  - ii) where the proposed lots would allow for more efficient land use.

### **6.3.2. LOT SIZE EXCEPTIONS**

- (a) The minimum lot size requirement shall not apply:
  - i) where lot lines are relocated or removed to facilitate an existing development or improve a subdivision pattern provided:
    - no additional lots are created;
    - any existing lot not meeting minimum requirements is reduced in area;
    - the lots are contiguous;
    - for lots not within the Agricultural Land Reserve, the lot line change is minor in nature and would involve a change in area of no more than 25% of the smaller lot involved prior to subdivision unless otherwise approved by the Administrator.
  - ii) where a Crown lease is granted;
  - iii) where a portion of an existing parcel is physically separated from the remainder of the parcel by a registered right-of-way (such as a public road, logging road, railway, or another legal parcel), but shall not include areas marked "Return to Crown" as indicated on a registered plan. In such cases, each severed portion may become a separate parcel subject to the approval of other agencies as required.
- (b) Lot area requirements may be reduced by a maximum of 5% per lot, provided that at the decreased size, all other applicable requirements of this bylaw can be satisfied.
- (c) No subdivision shall be permitted which creates new severed parcels except where approved by both the Regional District and the Provincial Approving Officer.

### **6.3.3. SUBDIVISION TO PROVIDE RESIDENCE FOR A RELATIVE**

No subdivision shall be permitted pursuant to Section 946 of the Local Government Act, on lands not within the Agricultural Land Reserve, unless the parent parcel is at least two times the minimum lot area required within the applicable zone.

### **6.3.4. DESIGN REQUIREMENTS**

- (a) The design requirements for highways shall be those enforced by the Ministry of Transportation or other appropriate provincial agencies.

- (b) In those cases where dedication of lands for parks is required the Approving Officer may require, at the request of the Regional District, that the following be provided:
  - i) Linear parks or walkways with a the minimum width of 3.0 metres (9.8 feet) wherever a shorter, more convenient route is desired to provide pedestrian access to schools, parks and other neighbourhood facilities than that which is provided by the highway system.
  - ii) Adequate storm water management to minimize additional storm water run-off from one parcel to another.

### **6.3.5 WORKS AND SERVICES**

- (a) Where the proposed subdivision is situated within a Service Area, the Regional District, as a condition of subdivision, shall require the applicant or owner of the proposed subdivision:
  - i) to submit a plan of subdivision to the Regional District and to the Sointula Water Improvement District for approval respecting a sewer system and a waterworks system respectively;
  - ii) to retain at their expense, a Professional Engineer who will design the required services, prepare specifications covering installation of the work, carry out all necessary surveys in connection with design and installation of services and upon completion of the design and specification, shall submit drawings to the Regional District Engineer or such person as designated. All aspects of this work shall be carried out in accordance with good engineering practices and to the sewer standards and water supply standards as set by the Regional District and Sointula Water Improvement District respectively. No work shall commence until all plans and specifications are approved by the Regional District Engineer or such person as designated, and a Certificate of Approval has been received from the Ministry of Health or appropriate government agency;
  - iii) to install at their own expense and at no cost to the Regional District or the Sointula Water Improvement District, upon approval of the Sointula Water Improvement District Engineer or such person as designated and under the supervision of the applicant's consulting Engineer, all water mains, fire hydrants, metres, and other fittings and appurtenances deemed necessary by the Sointula Water Improvement District to provide an adequate supply of water for domestic and commercial use and fire protection for the future growth or expansion of said subdivision and shall pay for all engineering costs, the said water mains, hydrants, metres, fittings and appurtenances shall become the property of the Sointula Water Improvement District;
  - iv) to install at their own expense and at no cost to the Regional District, upon approval of the Regional District Engineer or such person as designated and under the supervision of the applicant's consulting

Engineer, all sewerage mains, lift stations and other fittings and appurtenances deemed necessary by the Regional District to provide an adequate collection and treatment of sewage for domestic and commercial use and for the future growth or expansion of said subdivision and shall pay for all engineering costs, the said sewerage mains, lift stations, fittings and appurtenances shall become the property of the Regional District of Mount Waddington.

- iv) to comply with the requirements of the Service Area in regard to payment of development cost charges as set out by separate bylaw.
- (b) The subdivision plan will not be given final approval until the design of works and services has been approved and the works and services installed and tested.
- (c) A notice of acceptance shall not relieve the applicant or owners of responsibility for faulty materials or defective workmanship. The applicant or owner guarantees to maintain the work against any defects arising from faulty installation, faulty materials supplied or faulty workmanship which may appear within one year of the date of acceptance.