

DEVELOPMENT PERMIT AREA 3 Riparian Area

Description and Exemptions

All lands within the boundaries of the City of Chilliwack are designated as Development Permit Area 3 (DPA 3) for the protection of the natural environment, its ecosystems and biological diversity, and in particular fish and fish habitats and riparian habitats, pursuant to Section 919.1(a), (b) and (i) of the Local Government Act.

Rationale for DPA Establishment

This DPA defines riparian assessment areas for the protection of fish habitats, based on the information of OCP Maps 8A and 8B, the Fish Protection Act and the Riparian Areas Regulation. It enables a site-specific, science-based assessment protocol for Qualified Environmental Professionals to establish consistent and appropriate requirements, conditions and standards regarding development within riparian assessment areas.

Objectives of this Development Permit Area

1. To protect the biological functioning of riparian areas; and
2. To clarify the responsibilities of landowners regarding development of riparian areas.

Definitions:

For the purpose of this Development Permit Area, the following definitions shall apply:

1. “Active floodplain” means an area of land within a boundary that is indicated by visible high water mark or the water level of a stream that is reached during annual flood events.
2. “Development” means any of the following:
 - a. removal, alteration, disruption or destruction of vegetation
 - b. disturbance of soils
 - c. construction or erection of buildings and structures
 - d. creation of nonstructural impervious or semi-pervious surfaces
 - e. flood protection works
 - f. construction of roads, trails, docks, wharves and bridges
 - g. provision and maintenance of sewer and water services

- h. development of drainage systems
 - i. development of utility corridors
 - j. subdivision under the *Land Title Act or the Strata Property Act*
3. “Qualified Environmental Professional” (QEP) means an applied scientist or technologist, acting alone or together with another qualified environmental professional.
- a. The individual is registered and in good standing in British Columbia with an appropriate professional organization constituted under an Act, acting under that association’s code of ethics and subject to disciplinary action by that association;
 - b. The individual’s area of expertise is recognized in the assessment methods set out in the Schedule to the Riparian Areas Regulations as one that is acceptable for the purpose of providing all or part of an assessment report in respect of that development proposal; and
 - c. The individual is acting within that individual’s areas of expertise.
4. “Riparian assessment area” means the riparian area lying within the distance of a watercourse specified below in relation watercourse classes A through E.
5. “Top of bank” means the point closest to the boundary of the active floodplain of a watercourse where a break in the slope of the land occurs such that the grade beyond the break is flatter than 3:1 (3 horizontal / 1 vertical) at any point for a minimum distance of 15 meters measured perpendicularly from the boundary of the active floodplain.
6. “Top of ravine bank” means the first significant break in a ravine slope where the break occurs such that the grade beyond is flatter than 3:1 (3 horizontal / 1 vertical) for a minimum distance of 15 metres measured perpendicularly from the break, and the break does not include a bench within the ravine that could be developed.

Watercourse Classification:

The Watercourse Map (Map 8A) identifies the classification of the inventoried watercourses within the City of Chilliwack as follows:

Development Permit Required

As set out on the OCP Watercourse Map (Map 8A) and Village West Riparian Setbacks Map (Map 8B), the following activities require a Development Permit:

1. Development within 30m of the top of bank of a watercourse classified as Class “A”.

2. Development within 30m of the top of the bank of a watercourse classified as Class “B”, where the existing or potential adjacent vegetation is continuously over 30m wide.
3. Development within 15m of the top of bank of a watercourse classified as Class “B”, where the existing or potential adjacent vegetation is less than 30m wide.
4. Development within 15m of the top of bank of a watercourse classified as Class “C”.
5. Development within 7.5m of the top of bank of a watercourse classified as Class “D”.
6. Development within the setbacks from top of bank as indicated on the Village West Riparian Setbacks Map (OCP Map 8B).
7. Development within 30m of the top of bank of a watercourse classified on the Watercourse Map, as “E” (unclassified) unless it is tributary to Class “C” or “D” watercourse; in which case the distance shall be 15m to 7.5m respectively.
8. Development within 30m of the top of bank of an unmapped watercourse identified at time of development unless it is tributary to Class “C” or “D” watercourse; in which case the distance shall be 15m and 7.5m respectively.

Exemptions

The following activities are exempted from the requirements for a Development Permit:

1. Farming operations as defined in the Farm Practices Protection Act;
2. Reconstruction or repair of a permanent structure remaining on its existing foundation; and
3. Development not associated with or resulting from residential, commercial or industrial activities.

The above exemptions do not remove setbacks requirements from watercourses stipulated by the City of Chilliwack Floodplain Regulation Bylaw that is in force from time to time. In the event of any inconsistency between the guidelines of this DPA and other DPAs, the former shall prevail.

Guidelines

1. In compliance with the Riparian Areas Regulation, development may be permitted if the City is notified by the appropriate federal and provincial ministries that they have been notified of the development proposal, and provided with a copy of an assessment report prepared by a QEP that:
 - a. Certifies that they are qualified to carry out the assessment;
 - b. Certifies that the assessment methods set out in the Schedule to the Riparian Areas Regulation have been followed; and,

- c. Provides a professional opinion, that if the development is implemented as proposed or if the streamside protection and enhancement areas identified in the report are protected from the development and the measures identified in the report as necessary to protect the integrity of those areas from the effects of the development are implemented by the developer, there will be no harmful alteration, disruption or destruction of natural features, functions and conditions that support fish life processes in the riparian assessment area;
2. The City may include:
 - a. development permit requirements or conditions;
 - b. standards in accordance with s.920.(7) of the *Local Government Act*, vary;
 - c. a bylaw under Division 7 or 11 of the *Local Government Act*, and
 - d. conditions respecting the sequence and timing of construction, in order to give effect the protective measures identified in the report of the QEP.
 3. In the event that a harmful alteration, disruption or destruction of fish habitat (HADD) cannot be avoided, development may be permitted if the Minister of Fisheries and Oceans or a regulation under the *Fisheries Act* (Canada) authorizes the harmful alteration, disruption or destruction of the riparian assessment area that would result from the implementation of the development proposal.