

File No.: GB-RZ-2022.1 (Moen)

DATE OF MEETING: May 21, 2026

TO: Gabriola Island Local Trust Committee

FROM: Stephen Baugh, Island Planner
Northern Office

SUBJECT: GB-RZ-2022.1 (Moen)

Applicant: Kent Moen

Location: 750 Tin Can Alley, Gabriola Island
LOT B SECTION 19 GABRIOLA ISLAND NANAIMO DISTRICT
PLAN VIP60373 (PID 023-005-629)

RECOMMENDATION

1. That the Gabriola Island Local Trust Committee authorize discharge of covenant EG124744 and covenant EX009068 registered on Title of LOT B SECTION 19 GABRIOLA ISLAND NANAIMO DISTRICT PLAN VIP60373, PID 023-005-629 (750 Tin Can Alley, Gabriola Island).
2. That the Gabriola Island Local Trust Committee Bylaw No. 318 cited as “Gabriola Official Community Plan (Gabriola) Bylaw No. 166, 1997, Amendment No. 1, 2024”, be adopted.
3. That the Gabriola Island Local Trust Committee Bylaw No. 319 cited as “Gabriola Island Land Use Bylaw, 1999, Amendment No. 1, 2024”, be adopted.

REPORT SUMMARY

The purpose of this staff report is to present Bylaw No. 318 (OCP Amendment) and No. 319 (LUB Amendment) to the Gabriola Island Local Trust Committee (LTC) for consideration of adoption. If adopted, these bylaws will redesignate and rezone 750 Tin Can Alley to allow a range of commercial uses in addition to the existing commercial uses on the property, as well as two dwelling units. The bylaws will also result in the subject property being included in the Village Centre Development Permit Area to establish guidelines for the form and character of commercial development, to promote water conservation, and to promote the reduction of greenhouse gas emissions.

Staff are recommending the LTC discharge covenants EG124744 and EX009068 from title of the subject property and adopt Bylaw Nos. 318 and 319.

BACKGROUND

The LTC held a Public Hearing for Bylaw No. 318 and No. 319 on November 20, 2025, gave the proposed Bylaws Third Reading and forwarded them to Islands Trust Executive Committee, and Bylaw No. 318 to the Minister for approval. The Bylaws have been approved by Executive Committee on December 17, 2025 and Bylaw No. 318 was approved by the Minister of Housing and Municipal Affairs on April 15, 2026.

Summary of Proposed Bylaws

Bylaw No. 318 will amend the Gabriola Island Official Community Plan (OCP) to include the subject property in the Village Commercial Land Use Designation and in the Village Centre Development Permit Area (DPA). The DPA establishes objectives for form and character, water conservation and reduction of greenhouse gas emissions. The OCP amendment will also facilitate the ability for the subject property to have two dwelling units and does not require a housing agreement for either of these dwellings.

Bylaw No. 319 will amend the Gabriola Island Land Use Bylaw (LUB) to include the subject property in a new site-specific zone, Village Commercial 3. The new zone will allow a broader range of commercial uses including retail sales, garden centre, personal services, restaurant and offices. The floor area for additional commercial additions to the property is limited to 100 square metres unless there is one dwelling, 200 square metres unless there are two dwellings and there is no floor area restriction for commercial uses once there are two dwellings constructed. The zone allows a maximum of two dwelling units which are each limited in floor area to 90 square metres, the dwelling units must be located within the building envelope of a commercial building. The zone also requires a freshwater collection system to be connected to buildings that support a principal use.

Covenants

The subject property is encumbered by two restrictive covenants.

Covenant EG124744 requires:

“prior to the construction of buildings or structures on the Land that result in the total combined floor area exceeding 1393.5 m² (15,000 sq. ft.), the Transferor must provide written confirmation to the Gabriola Island Local Trust Committee from the relevant public approval authority that all of the sewage generated on the Land can be disposed of on the Land.”

Covenant EX009068 requires:

“The Lands shall be limited in use to the operation of one retail garden, farm supply and nursery store business”.

Regarding sewage, any redevelopment of the lot at this time would be subject to the provincial Sewerage Systems Regulations and all works undertaken overseen by a registered onsite wastewater professional. The rezoning application process has also included the provision of documentation and evidence by a qualified professional, that the subject property can accommodate a sewerage system to support all of the proposed uses. The proposed uses for the property have also been reviewed through this bylaw amendment application and are proposed to be expanded beyond retail garden, farm supply, and nursery store business. Discharging this covenant at the time of bylaw adoption will ensure the restrictions on title are not inconsistent with the approved zoning.

As a result, staff recommend both of these covenants be discharged from title.

RATIONALE FOR RECOMMENDATIONS

The recommendation to discharge Covenant EG124744 and EX009068 are supported because:

- The covenant requirements of EG124744 have been met through the provision of professional reporting provided to support this application;
- The purpose of the application was to enable additional uses on the subject property which will only be possible if covenant EX009068 is discharged.

The recommendations to adopt the bylaws are supported because:

- The proposed bylaws have been determined to be consistent with the Islands Trust Policy Statement by the LTC;
- A Public Hearing was held in accordance with legislative requirements; and
- Executive Committee and the Minister have approved the bylaw.

ALTERNATIVES:

1. Request more information.

The LTC can defer consideration of bylaw adoption until such a time that the applicant has submitted additional information. If this option is considered it may significantly delay final adoption as new information may be subject to legislative requirements for an additional public hearing.

2. Proceed no further.

The LTC could choose to proceed no further with the proposed bylaws, this option would conclude the application without amending the OCP or LUB.

Next Steps

If the LTC concurs with the staff recommendations, staff will consolidate and update the OCP and LUB to reflect the policy and regulatory changes. The applicant can conclude the covenant discharge process.

Submitted By:	Stephen Baugh, Island Planner	April 29, 2026
Concurrence:	Renée Jamurat, RPP MCIP, Regional Planning Manager	May 11, 2026

ATTACHMENTS

1. Proposed Bylaw No. 318 (OCP)
2. Proposed Bylaw No. 319 (LUB)
3. Covenant EG124744
4. Covenant EX009068

GABRIOLA ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 318
Schedule "1"

1. **Schedule "A"** of Gabriola Island Official Community Plan (Gabriola) Bylaw, 1997 is amended as follows:

- 1.1. **Section 2 – General Land Use and Residential Development**, Subsection **2.0 General Land Use**, Clause 2.0.k) is deleted and replaced with the following text:

"k) This Plan only supports the realization of additional residential density without subdivision when used for Affordable Housing for Special Needs residents, Seniors, multiple-dwelling affordable housing, and two dwellings (with no restrictions on their tenancy or affordability) on the following parcel: LOT B SECTION 19 GABRIOLA ISLAND NANAIMO DISTRICT PLAN VIP60373."

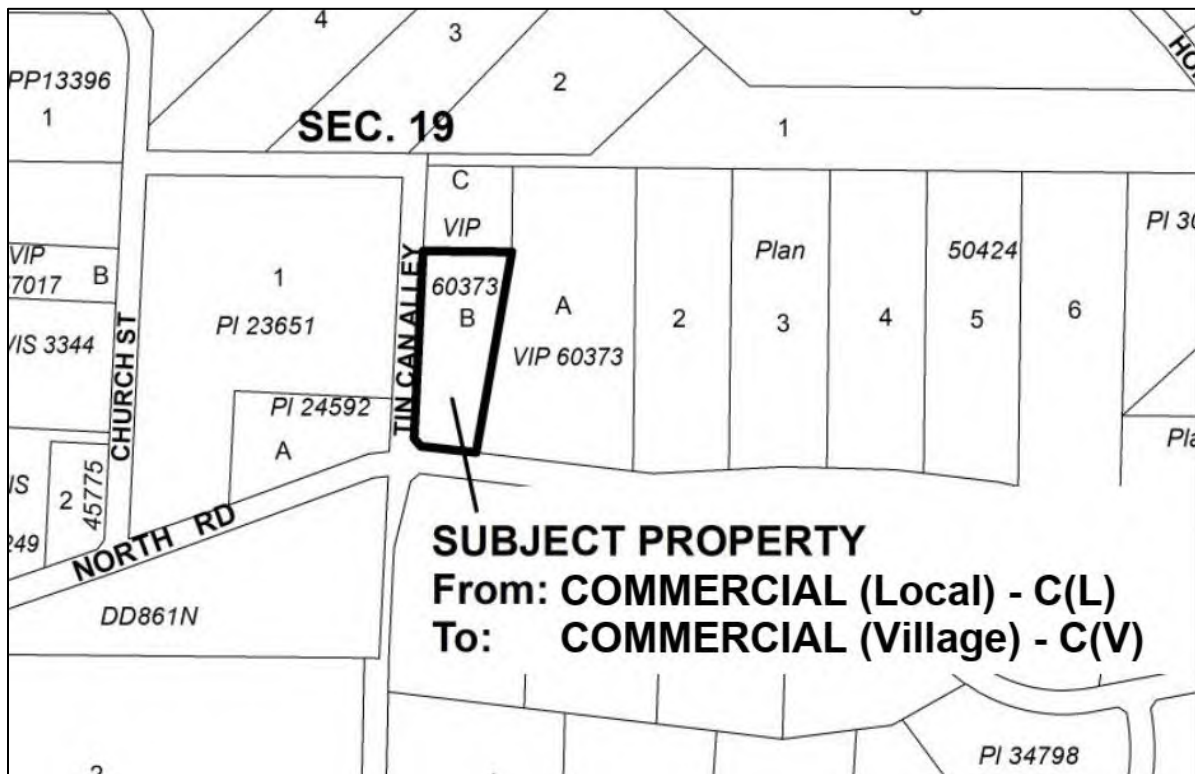
- 1.2. **Section 3 – Economic Activities**, Subsection **3.1 Commercial Activity, General Commercial Objectives** number 1 is amended by deleting the words "(Lockinvar Triangle area)".
- 1.3. **Section 3 – Economic Activities**, Subsection **3.1 Commercial Activity, General Commercial Policies** is amended by adding a new clause after clause d) as follows: "e) Despite clause a) and d) a minimum and average parcel size of 1.0 hectare (2.47 acres) and up to 2 dwelling units per parcel may be permitted on the following parcel: LOT B SECTION 19 GABRIOLA ISLAND NANAIMO DISTRICT PLAN VIP60373."
- 1.4. **Section 3 – Economic Activities**, Subsection **3.2 Village Commercial**, Clause 3.2.a) is amended by deleting the words "(the Lockinvar Triangle area)".
- 1.5. **Section 3 – Economic Activities**, Subsection **3.4 Local Commercial**, Clause 3.4.a), is amended by deleting Item 3.4.a)ii in its entirety and by making such consequential numbering alterations to effect this change.

**GABRIOLA ISLAND LOCAL TRUST COMMITTEE
 BYLAW NO. 318
 Schedule "2"**

1. **Schedule "B"** of Gabriola Island Official Community Plan (Gabriola) Bylaw, 1997 is amended as follows:

1.1. **Schedule "B" – Land Use Designations – North Sheet**, is amended by changing the land use designation on the lands described as LOT B SECTION 19 GABRIOLA ISLAND NANAIMO DISTRICT PLAN VIP60373 (750 Tin Can Alley, Gabriola Island PID 023-005-629) from "Commercial (Local)" to "Village Commercial" as shown on Plan No. 1 attached to and forming part of this bylaw, and by making such alterations to Schedule "B" as are required to effect this change.

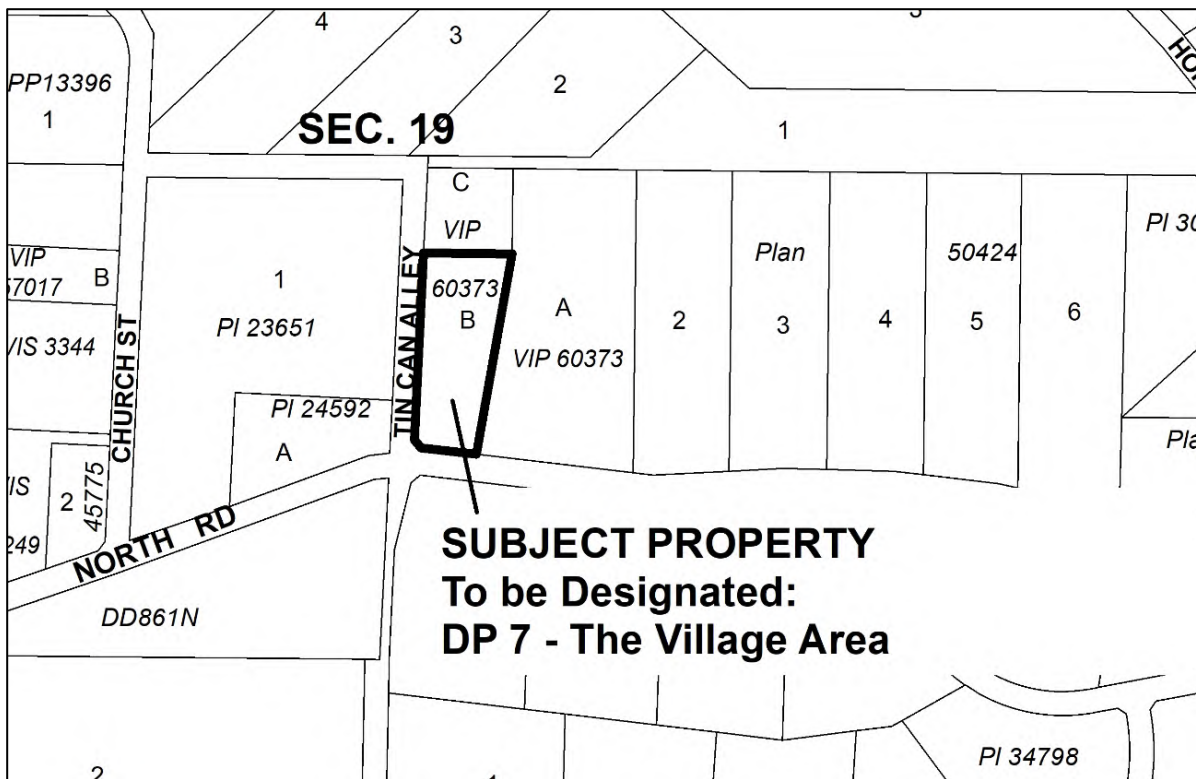
Plan No. 1



GABRIOLA ISLAND LOCAL TRUST COMMITTEE
 BYLAW NO. 318
 Schedule "3"

1. **Schedule "D" – Development Permit Areas - OCP B North Sheet**, is amended by including the lands described as LOT B SECTION 19 GABRIOLA ISLAND NANAIMO DISTRICT PLAN VIP60373 (750 Tin Can Alley, Gabriola Island PID 023-005-629) in the Schedule D map for DP 7 - The Village Centre as shown on Plan No. 2 attached to and forming part of this bylaw, and by making such alterations to Schedule "D" of Bylaw No. 166 as are required to effect this change.

Plan No. 2



PROPOSED

GABRIOLA ISLAND LOCAL TRUST COMMITTEE BYLAW NO. 319

A BYLAW TO AMEND GABRIOLA ISLAND LAND USE BYLAW, 1999

The Gabriola Island Local Trust Committee, being the Trust Committee having jurisdiction in respect of the Gabriola Island Local Trust Area under the *Islands Trust Act*, enacts as follows:

1. Citation

This bylaw may be cited for all purposes as “Gabriola Island Land Use Bylaw, 1999, Amendment No. 1, 2024”.

2. Gabriola Island Local Trust Committee Bylaw No. 177, cited as “Gabriola Island Land Use Bylaw, 1999” is amended as per Schedule “1” attached to and forming part of this bylaw.

READ A FIRST TIME THIS 4TH DAY OF SEPTEMBER , 2025

READ A SECOND TIME THIS 4TH DAY OF SEPTEMBER , 2025

PUBLIC HEARING HELD THIS 20TH DAY OF NOVEMBER , 2025

READ A THIRD TIME THIS 20TH DAY OF NOVEMBER , 2025

APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS

17TH DAY OF DECEMBER , 2025

ADOPTED THIS _____ DAY OF _____ , 202x

Chair

Secretary

GABRIOLA ISLAND LOCAL TRUST COMMITTEE
 BYLAW NO. 319

Schedule “1”

1. **Schedule “A”** of Gabriola Island Land Use Bylaw, 1999 is amended as follows:

1.1 **Part B GENERAL REGULATIONS**, Section B.1 **USES, BUILDINGS AND STRUCTURES**, Subsection **B.1.1 Permitted in Any Zone**, Article **B.1.1.1 Uses**, Clause B.1.1.1.c. is amended by replacing “D.3.7. Ferry Parking, D.3.10” with “D.3.8. Ferry Parking, D.3.11”.

1.2 **Part B GENERAL REGULATIONS**, Section B.4 **SIGNS**, Subsection **B.4.1 Number and Total Sign Area**, Article **B.4.1.1**, Table 1 **Sign Regulations**, Column I is amended by adding “VC3,” after “VC2,”.

1.3 **Part B GENERAL REGULATIONS**, Section B.5 **PARKING**, Subsection **B.5.1 Minimum Number of Parking Spaces for Automobiles and Bicycles**, Article **B.5.1.1**, Table 2: **Parking Requirements**, is amended by adding a new row under the “Residential” heading as follows:

<i>dwelling unit</i> in the Village Commercial 3 zone	1 per <i>dwelling unit</i>	None required	None required
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1.4 **Part C ESTABLISHMENT OF ZONES**, Section C.1 **DIVISION INTO ZONES**, Subsection **C.1.1 Land Based Zones**, insert new zone “VC3 Village Commercial 3” after “Village Commercial 2 – Professional Centre” and before “DC1 District Commercial 1”.

1.5 **Part D ZONES**, Section D.3 **COMMERCIAL AND INDUSTRIAL ZONES**, insert new Subsection **D.3.3 Village Commercial 3 (VC3)** after Subsection **D.3.2 Village Commercial 2 – Professional Centre(VC2)** as shown in **Appendix 1** attached to and forming part of this bylaw; and renumber all subsequent subsections chronologically.

1.6 **Part D ZONES**, Section D.3 **COMMERCIAL AND INDUSTRIAL ZONES**, Subsection **D.3.3 District Commercial 1(DC1)**, Article D.3.3.3 **Regulations**, Clause D.3.3.3.b. **Buildings and Structures Siting Requirements**, Item D.3.3.3.b.iii. is amended by replacing “D.3.3.3.ii” with “D.3.4.3.ii”.

1.7 **Part D ZONES**, Section D.3 **COMMERCIAL AND INDUSTRIAL ZONES**, Subsection **D.3.6 Local Commercial 3 – Garden Centres(LC3)**, Article **D.3.6.1 Permitted Uses**, Clause **D.3.6.1.b. Permitted Accessory Uses**, Item **D.3.6.1.b.iii** is amended by deleting the words “except on lands shown on Schedule C, Map 12”.

1.8 **Part D ZONES**, Section D.3 **COMMERCIAL AND INDUSTRIAL ZONES**, Subsection **D.3.6 Local Commercial 3 – Garden Centres(LC3)**, Article **D.3.6.1 Permitted Uses**, Clause **D.3.6.1.b. Permitted Accessory Uses**, Item **D.3.6.1.b.iv** is deleted in its entirety.

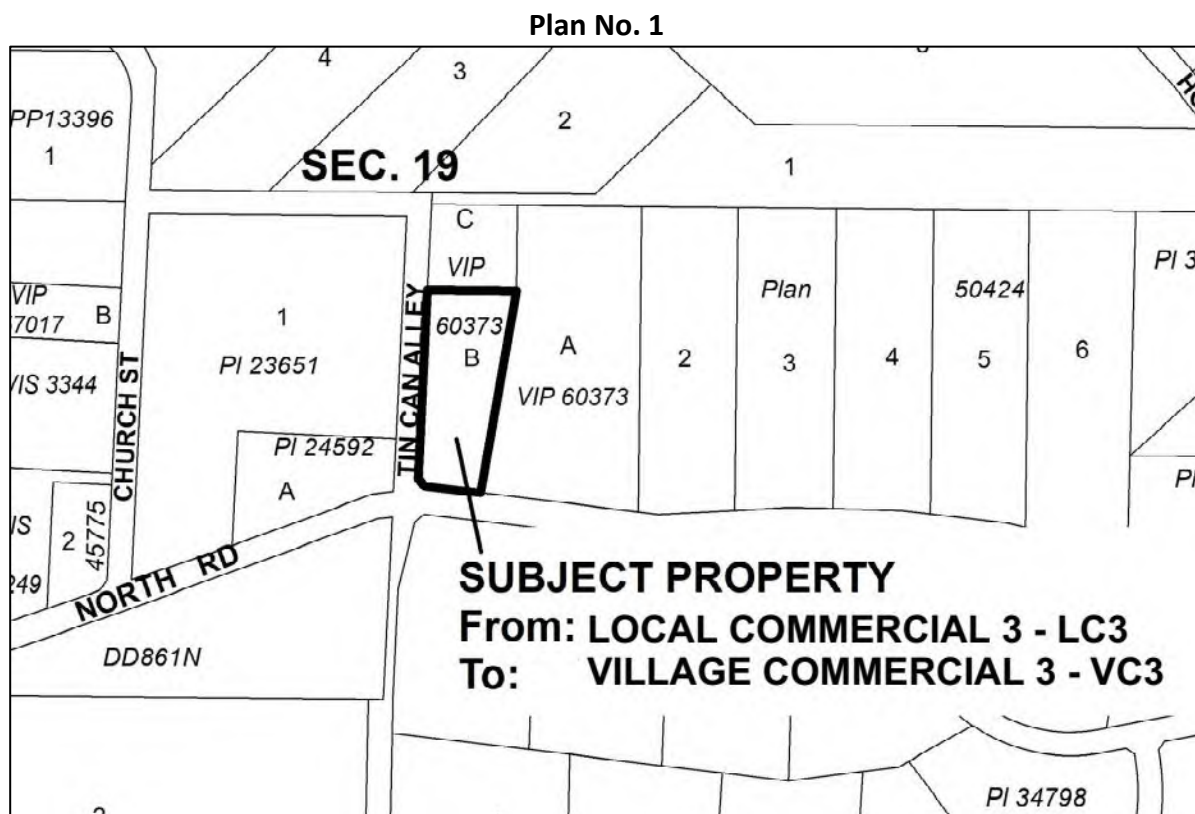
1.9 **Part D ZONES**, Section D.3 **COMMERCIAL AND INDUSTRIAL ZONES**, Subsection **D.3.6 Local Commercial 3 – Garden Centres(LC3)**, Article **D.3.6.2 Buildings and Structures**, Clause **D.3.6.2.a. Permitted Buildings and Structures**, Item **D.3.6.2.a.iv** is deleted in its entirety.

1.10 **Part G**, Section G.1 **DEFINITIONS**, is amended by deleting the following definition:

“farm supply centre a business for the retail sale of farm supplies, but excluding the sale of farm equipment;”

2. **Schedule “B”** of Gabriola Island Land Use Bylaw, 1999 is amended as follows:

2.1. Schedule “B” – North Sheet, is amended by changing the zoning classification of LOT B SECTION 19 GABRIOLA ISLAND NANAIMO DISTRICT PLAN VIP60373 (750 Tin Can Alley, Gabriola Island PID 023-005-629) from “Local Commercial 3” to “Village Commercial 3” as shown on Plan No. 1 attached to and forming part of this bylaw, and by making such alterations to Schedule “B” of Bylaw No. 177 as are required to effect this change.



3. **Schedule “C”** of Gabriola Island Land Use Bylaw, 1999 is amended as follows:

3.1. Schedule “C” – Map 10, is amended by replacing “Item d.3.8.1.a.vii” with “Item d.3.9.1.a.vii”.

3.2. Schedule “C” – Map 12, is deleted in its entirety.

- 3.3. Schedule “C” – Map 17, is amended by replacing “Items D.3.8.1.a.v and D.3.8.1.a.viii” with “Items D.3.9.1.a.v and D.3.9.1.a.viii”.

**GABRIOLA ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 319**

Appendix 1

D.3.3 Village Commercial 3 (VC3)

D.3.3.1 Permitted Uses

The uses permitted in Article B.1.1.1, plus the following uses and no others are permitted in the Village Commercial 3 (VC3) zone:

a. Permitted *Principal* Uses

- i *garden centre*
- ii retail sales and rentals
- iii *personal services*
- iv *restaurant*
- v bakeries
- vi offices
- vii *limited public market*, subject to Subsection B.6.2

b. Permitted *Accessory* Uses

- i *single family residential*
- ii *two family dwelling residential*
- iii mini-storage

D.3.3.2 Buildings and Structures

The *buildings* and *structures* permitted in Article B.1.1.2, plus the following *buildings* and *structures* and no others are permitted in the Village Commercial 3 (VC3) zone:

a. Permitted *Buildings* and *Structures*

- i *Buildings* and *structures* to accommodate *principal* uses set out in this zone which must be connected to a freshwater collection system with a minimum storage capacity of 22,500 litres (5,944 US gallons).
- ii Maximum of:
 - two *dwelling units* per lot; and
 - two *buildings* per lot that exclude a *pump/utility house* and woodshed, and that are *accessory* to a *dwelling unit*.
- iii The maximum permitted floor area of a *dwelling unit* is 90 square metres (968 square feet)
- iv Other *buildings* and *structures* to accommodate the permitted accessory uses set out in this zone.

D.3.3.3 Regulations

The general regulations in Part B, plus the following regulations apply in the Village Commercial 3 (VC3) zone:

a. Buildings and Structures Height Limitations

- i The maximum *height* of *buildings* and *structures* is 9.0 metres (29.5 feet).

b. Buildings and Structures Siting Requirements

- i The minimum *setback* for *buildings* or *structures* except for a sign, *fence*, or *pump/utility house* is:
 - 6.0 metres (19.7 feet) from the *front lot line*;
 - 6.0 metres (9.8 feet) from any *interior lot line*, except where the *interior lot line* abuts a commercial or industrial *zone* in which case there is no *setback* requirement from the *interior lot line*; and
 - 3.0 metres (9.8 feet) from another *building* sited on the same *lot*.
- ii There is no *setback* requirement from any *exterior side lot line*, except for mini-storage units in which case the minimum *setback* is 4.5 metres.
- iii *Dwelling units* must be located within the building envelope of a commercial building.

c. Lot Coverage Limitations

- i The maximum combined *lot coverage* by *buildings* and *structures* is 40 percent of the *lot* area.

d. Lot Area Requirements for Subdivision

- i The minimum average *lot* area and the minimum *lot* area is 1.0 hectare (2.47 acres).

e. Mini-Storage Limitations

- i The maximum *floor area* is 9.3 square metres (100 square feet) per mini-storage unit.
- ii Mini-storage units must be separated from a highway or from land with zoning permitting a *principal* residential use by a landscape screen, subject to subsection B.2.7, not less than 2.0 metres (6.6 feet) in *height*.

f. Conditions of Use

- i The floor area of any commercial use on the lot shall not be expanded, and no building or structure greater than 100 square metres shall be constructed, or increased in floor area, unless:
 - one dwelling unit for residential use has been constructed on the lot; or
 - a dwelling unit is constructed as part of the construction or expansion of commercial use on the lot.
- ii The floor area of any commercial use on the lot shall not be expanded, and no building or structure greater than 200 square metres shall be constructed, or increased in floor area, unless:
 - two dwelling units for residential use have been constructed on the lot; or
 - two dwelling units are constructed as part of the construction or expansion of commercial use on the lot.

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LAND TITLE ACT
FORM C
(Section 233)

Province of British Columbia **GB.25**

EG 124744

GENERAL INSTRUMENT - PART 1 (This area for Land Title Office use) PAGE 1 of 7 pages

1. APPLICATION: (Name, address, phone number and signature of applicant, applicant's solicitor or agent)

DAVID BROWN (247-8234) Submitted by Karen Hughes Corp.
Barrister and Solicitor
#5 - 580 North Road,
P.O. Box 220
Gabriola, B.C. V0R 1X0
File No. G5201-R

2. PARCEL IDENTIFIER(S) AND LEGAL DESCRIPTION(S) OF LAND: *

(PID) (LEGAL DESCRIPTION)
D00-640-913 LOT 4, SECTION 20, GABRIOLA ISLAND, NANAIMO DISTRICT, PLAN 26041

3. NATURE OF INTEREST:

DESCRIPTION	DOCUMENT REFERENCE	PERSON ENTITLED TO INTEREST
STATUTORY COVENANT Section 219	pages 3 to 7	Transferee
PRIORITY AGREEMENT granting Covenant priority over Mortgage EV864676 and Assignment of Rents EV86467	page 7, paragraph 16	Transferee

4. TERMS: Part 2 of this Instrument consists of (select one only)

- (a) Filed Standard Charge Terms
 - (b) Express Charge Terms
 - (c) Release
- D.F. No.
 Annexed as Part 2
 There is no Part 2 of this Instrument

6. TRANSFEROR(S):*
FOLKLIFE VILLAGE INVESTMENTS INC. (INC #408991) (as to Covenant)
ROYAL BANK OF CANADA (as to Priority)

6. TRANSFEREE(S): (Including postal address(es) and postal code(s))*
GABRIOLA ISLAND LOCAL TRUST COMMITTEE, a Corporation pursuant to the Islands Trust Act, R.S.B.C., 1996, c. 239 and having an office at Suite 200, 1627 Fort Street, Victoria, B.C. V8R 1H8

7. ADDITIONAL OR MODIFIED TERMS:*
N/A

8. EXECUTION(S):** This Instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Officer Signature(s)
David Brown
David Brown
Barrister + Solicitor
P.O. Box 220
Gabriola, B.C. V0R 1X0

Execution Date
year mo day
2004 08 17

Party(ies) Signature(s)
Folklife Village Investments Inc.
By its Authorized Signatories
Steven Wohlleben
Director, Steven Wohlleben

OFFICER CERTIFICATION:
Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the Evidence Act, R.S.B.C. 1996, c. 124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the Land Title Act as they pertain to the execution of this instrument.
*If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.
**If space sufficient, continue executions on additional page(s) in Form D.

8. EXECUTION(S):** This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Officer Signature(s)



Execution Date

year month day
2004 07 15

WILLIAM A. SCOTT
Barrister & Solicitor
301 Franklyn Street
Nanaimo, B.C. V9R 2X5

as to both the signatures

Party(ies) Signature(s)

Royal Bank of Canada by its authorized signatories



Officer Signature(s)



Execution Date

year month day
2004 07 29

David Brown
Barrister & Solicitor
P.O. Box 220
#5 - 580 North Road
Gabriola, B.C.
V0R 1X0

as to both the signatures

Folklore Village Investments, Inc.
By its Authorized Signatories



OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the Evidence Act, R.S.B.C. 1996, c. 124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the Land Title Act as they pertain to the execution of this instrument.

*If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.

**If space sufficient, continue executions on additional page(s) in Form D.

PART 2

TERMS OF INSTRUMENT

RESTRICTIVE COVENANT

Subdivision Restriction Covenant

This Agreement dated for reference this 30th day of June, 2004

DEFINITIONS:

- A. The "Transferors" mean the Transferors as set out in Item 5 on Page 1 (Form C) of the attached General Instrument - Part 1.
- B. The "Transferees" mean the Transferees as set out in Item 6 on Page 1 (Form C) of the attached General Instrument - Part 1.
- C. The "Lands" mean the Land(s) as set out in Item 2 on Page 1 (Form C) of the attached General Instrument - Part 1.
- D. "floor area" means the same as floor area in the Gabriola Island Land Use Bylaw, 1999.
- E. "public approval authority" means the Provincial agency responsible for assessing and issuing sewage disposal permits for the amount of sewage expected to be generated on the Land.

WHEREAS:

- 1. The Transferor is the registered owner in fee simple of the lands defined herein (the "Land") and the Island Local Trust Committee is the Transferee.
- 2. As a condition of the adoption of a rezoning bylaw the Transferor is required to grant this Restrictive Covenant to restrict the development of the land as more particularly set out below.

PART 2

NOW THEREFORE in consideration of the sum of One Dollar (\$1.00) and other valuable consideration now paid by the Transferee to the Transferor (the receipt and sufficiency whereof is hereby ecknowledged), the Transferor hereby agree to grant a covenant over the Lands, pursuant to Section 219 of the *Lend Title Act*, to the Transferee on the following terms:

Restrictions

1. Prior to the construction of buildings or structures on the Land that result in the total combined floor area exceeding 1393.5 square meters (15,000 square feet), the Transferor must provide written confirmation to the Gabriola Island Local Trust Committee from the relevant public approval authority that all of the sewage generated on the Land can be disposed of on the Land.

No Waiver

2. No waiver of default shall be effective unless expressed in writing and by the authorized signatory of the Transferee, and no condoning, overlooking or exercising by the Transferee of a previous default shall be taken to operate as a waiver of any subsequent default or continuing default, or to in any way defeat or affect the rights end remedies of the Transferee.

No Exemption for Jurisdiction

3. Nothing in this Restrictive Covenant shall exempt the Transferor or the Land from any statutory requirement or imposition, or from the ordinary jurisdiction of the Island Local Trust Committee or other statutory authority having jurisdiction, their bylaws, permits, regulations and orders.

No Derogation

4. Nothing contained or implied herein shall impair, limited or affect the Transferee's rights and powers in the exercise of its functions pursuant to the *Islands Trust Act* or any other enactment, and all such powers end rights may be fully exercised in relation to the Land as if this Restrictive Covenant had not been granted by the Transferor.

PART 2

Priority

5. The Transferor shall after execution thereof by it do or cause to be done all acts reasonably necessary to grant priority to this Restrictive Covenant over all charges and encumbrances which may have been registered against title to the Land in the Land Title Office save and except those as have been approved by the Transferee or which have been granted to the Transferee.

Further Acts

6. The Transferor shall do and cause to be done all things and shall execute and cause to be executed all plans and documents and other instruments which may be necessary to give proper effect to the intention of this Restrictive Covenant.

Indemnity

7. The Transferor covenants to and does hereby indemnify and save harmless the Transferee, its officers, employees, contractors and agents at all times from all loss, damages, actions, suits, claims, demands, costs, expenses, fines and liabilities of any nature whatsoever by whomsoever brought, made or suffered for which the Transferee shall or may become liable, incur or suffer by reason of any injury to any person (including death) or loss or damage to property or economic loss:
 - a. arising directly or indirectly from any breach or nonperformance of this Restrictive Covenant by the Transferor, its officers, employees, agents, contractors, licensees, invitees and others of the Transferor;
 - b. arising directly or indirectly from the proper exercising by the Transferor of any rights to use and build on the Land pursuant to this Restrictive Covenant or in the fulfilling of its obligations pursuant to this Restrictive Covenant;
 - c. arising directly or indirectly from any intentional act, or any omission, default or negligence of the Transferor, its officers, employees, agents, contractors, or invitees in the use of the Land and buildings on the Land;
 - d. arising out of exercise of any remedy by the Transferee provided at law, by statute or in this Restrictive Covenant.

PART 2

Performance at Cost of Transferor

8. Unless otherwise expressly provided in this Restrictive Covenant, whenever the Transferor requests for something be done or is obliged or required to do or cause to be done any act, matter or thing, such act, matter or thing shall be done by the Transferor at its sole expense.

Entire Agreement

9. This Restrictive Covenant is the entire agreement between the parties and the Transferee has made no representations, warranties, guarantees, promises, covenants or agreements to or with the Transferor other than those expressed in writing in this Restrictive Covenant.

Amendment

10. No amendment to this Restrictive Covenant is valid unless in writing and executed by the parties.

Interpretation

11. In this Restrictive Covenant:
- a. whenever the singular or masculine is used the same shall be construed as meaning the plural or the feminine or the body corporate or politic where the context or the parties hereto so require;
 - b. every reference to party is deemed to include heirs, executors, administrators, successors, assigns, officers and employees of such parties whenever the context so requires or allows; and
 - c. the headings are inserted for reference and convenience only and must not be used to construe or interpret the provisions hereof.

Severance

12. All provisions of this Restrictive Covenant are to be construed as covenants and should any section, or lesser portion of this Restrictive Covenant be held invalid or unenforceable by a

PART 2

court of competent jurisdiction, the said portion shall be severed and invalidity or unenforceability of such section or portion shall not affect the validity of the remainder which shall remain binding on the Transferor and shall charge the Land and be enforceable to the fullest extent of the law.

Time

13. Time is of the essence of this Restrictive Covenant.

Interest in Land

14. This Restrictive Covenant shall charge the Land pursuant to section 219 of the *Land Title Act* and the burden of all the covenants herein shall run with the Land and charge the Land and every part into which the Land may be divided and subdivided.

Enurement

15. This Restrictive Covenant shall enure to the benefit of and be binding upon the parties hereto.

Priority

16. Pursuant to Section 207 of the Land Title Act, and in consideration of the sum of One Dollar (\$1.00) of lawful money of Canada (the receipt and sufficiency of which is hereby acknowledged), the Royal Bank of Canada hereby grants this covenant priority to Mortgage EV86466 and Assignment of Rents EV86467 registered in its favour in the Victoria Land Title Office.

Execution

17. As evidence of their agreement to be bound by the above terms the parties each have executed and delivered this Restrictive Covenants under seal by executing Part 1 of the Land Title Act Form C to which this Restrictive Covenant is attached and which forms part of this Restrictive Covenant.

62-52

EX009069

27 JAN 2005 10 21

EX009068 ✓

EG 124744 ✓

LAND TITLE ACT
FORM C
(Section 233)

Province of
British Columbia

GENERAL INSTRUMENT - PART 1 (This area for Land Title Office use)

PAGE 1 of 8 pages

1. APPLICATION: (Name, address, phone number and signature of applicant, applicant's solicitor or agent)

DAVID BROWN (247-8234)
Barrister and Solicitor
#5 - 580 North Road,
P.O. Box 220
Gabriola, B.C. V0R 1X0
File No. G5201-R

Submitted by Karen Hughes Corp.

K Hughes

2. PARCEL IDENTIFIER(S) AND LEGAL DESCRIPTION(S) OF LAND: *

(PID)

(LEGAL DESCRIPTION)

023-005-629

LOT B, SECTION 19, GABRIOLA ISLAND, NANAIMO DISTRICT, PLAN VIP60373

3. NATURE OF INTEREST:

DESCRIPTION

DOCUMENT REFERENCE

PERSON ENTITLED TO INTEREST

STATUTORY COVENANT
Section 219

pages 3 to 8

Transferee

PRIORITY AGREEMENT granting
Covenant priority over Mortgage
EK143935

page 8,
paragraph 17

Transferee 01 05/01/27 10:21:07 01 VI
CHARGE

614668
\$129.50

4. TERMS: Part 2 of this Instrument consists of (select one only)

- (a) Filed Standard Charge Terms
- (b) Express Charge Terms
- (c) Release

- D.F. No.
- Annexed as Part 2
- There is no Part 2 of this Instrument

5. TRANSFEROR(S):*

MERVYN EDWARD O'DONNELL-SWEENEY and ANNETTE MARIE O'DONNELL-SWEENEY (as to the Covenant)
COASTAL COMMUNITY CREDIT UNION, formerly Nanelmo Credit Union (as to Priority)

6. TRANSFEE(S): (including postal address(es) and postal code(s))*

GABRIOLA ISLAND LOCAL TRUST COMMITTEE, a Corporation pursuant to the Islands Trust Act, R.S.B.C., 1996, c. 239 and having an office at Suite 200, 1627 Fort Street, Victoria, B.C. V8R 1H8

7. ADDITIONAL OR MODIFIED TERMS: *
N/A

8. EXECUTION(S):** This Instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this Instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Officer Signature(s)

Execution Date

David Brown

yr.	mo.	day
2004	12	17

David Brown
Barrister & Solicitor
P.O. Box 220
#5 - 580 North Rd.
Gabriola, B.C. V0R 1X0

Mervyn Edward O'Donnell-Sweeney
Annette Marie O'Donnell-Sweeney

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the Evidence Act R.S.B.C. 1998, c. 124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the Land Title Act as they pertain to the execution of this Instrument.

Land Title Act
Form D

EXECUTIONS CONTINUED

Officer Signature(s)



NICOLAI FABRIS
Barrister & Solicitor
P.O. BOX 778
NANAIMO, B.C.
V9R 5M2

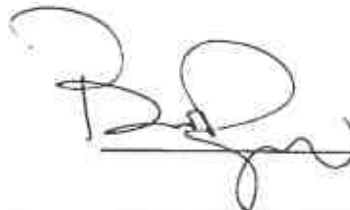
Execution Date

year	mo.	day
2004 05	12 01	14

Transferor/Borrower/Party
Signature(s)

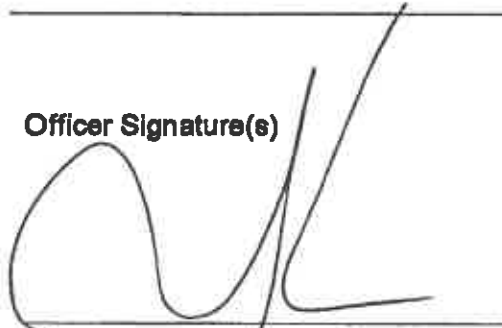
Coastal Community Credit Union (formerly
Nanaimo Credit Union) by its authorized
signatories:

Eileen Brownwalle
Manager, Consumer Lending



Bruno Dragani
Vice President,
Retail Services

Officer Signature(s)



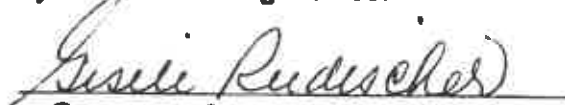
LINDA FROWSE
A COMMISSIONER FOR TAKING
AFFIDAVITS FOR BRITISH COLUMBIA
ISLANDS TRUST
2nd FLOOR, 1627 FORT STREET
VICTORIA, BC V8R 1H3

Execution Date

year	mo.	day
2004	12	20

Transferor/Borrower/Party
Signature(s)

**GABRIOLA ISLAND LOCAL TRUST
COMMITTEE**
by its authorized signatories:


GESELA RUTSCHLER

PART 2**TERMS OF INSTRUMENT****RESTRICTIVE COVENANT****Subdivision Restriction Covenant**

This Agreement dated for reference this 10th day of September, 2004

DEFINITIONS:

- A. The "Transferors" mean the Transferors as set out in Item 5 on Page 1 (Form C) of the attached General Instrument - Part 1.
- B. The "Transferees" mean the Transferees as set out in Item 6 on Page 1 (Form C) of the attached General Instrument - Part 1.
- C. The "Lands" mean the Land(s) as set out in Item 2 on Page 1 (Form C) of the attached General Instrument - Part 1.
- D. "floor area" means the same as floor area in the Gabriole Island Land Use Bylaw, 1999.
- E. "public approval authority" means the Provincial agency responsible for assessing and issuing sewage disposal permits for the amount of sewage expected to be generated on the Land.

WHEREAS:

- 1. The Transferor is the registered owner in fee simple of the lands defined herein (the "Land") and the Island Local Trust Committee is the Transferee.
- 2. As a condition of the adoption of a rezoning bylaw the Transferor is required to grant this Restrictive Covenant to restrict the development of the land as more particularly set out below.

PART 2

NOW THEREFORE in consideration of the sum of One Dollar (\$1.00) and other valuable consideration now paid by the Transferee to the Transferor (the receipt and sufficiency whereof is hereby acknowledged), the Transferor hereby agree to grant a covenant over the Lands, pursuant to Section 219 of the *Land Title Act*, to the Transferee on the following terms:

Restrictions

1. The Lands shall be limited in use to the operation of one retail garden, farm supply and nursery store business.

No Waiver

2. No waiver of default shall be effective unless expressed in writing and by the authorized signatory of the Transferee, and no condoning, overlooking or exercising by the Transferee of a previous default shall be taken to operate as a waiver of any subsequent default or continuing default, or to in any way defeat or effect the rights and remedies of the Transferee.

PART 2**No Exemption for Jurisdiction**

3. Nothing in this Restrictive Covenant shall exempt the Transferor or the Lend from any statutory requirement or imposition or from the ordinary jurisdiction of the Island Local Trust Committee or other statutory authority having jurisdiction, their bylaws, permits, regulations and orders.

No Darogation

4. Nothing contained or implied herein shall impair, limit or effect the Transferee's rights and powers in the exercise of its functions pursuant to the *Islands Trust Act* or any other enactment, and all such powers and rights may be fully exercised in relation to the Lend as if this Restrictive Covenant had not been granted by the Transferor.

Priority

5. The Transferor shall after execution thereof by it do or cause to be done all acts reasonably necessary to grant priority to this Restrictive Covenant over all charges and encumbrances which may have been registered against title to the Lend in the Land Title Office and except those as have been approved by the Transferee or which have been granted to the Transferee.

Further Acts

6. The Transferor shall do and cause to be done all things and shall execute and cause to be executed all plans and documents and other instruments which may be necessary to give proper effect to the intention of this Restrictive Covenant.

Indemnity

7. The Transferor covenants to and does hereby indemnify and save harmless the Transferee, its officers, employees, contractors and agents at all times from all loss, damages, actions, suits, claims, demands, costs, expenses, fines and liabilities of any nature whatsoever by whomsoever brought, made or suffered for which the Transferee shall or may become liable, incur or suffer by reason of any injury to any person (including death) or loss or damage to property or economic loss:

PART 2

- a. arising directly or indirectly from any breach or nonperformance of this Restrictive Covenant by the Transferor, its officers, employees, agents, contractors, licensees, invitees and others of the Transferor;
- b. arising directly or indirectly from the proper exercising by the Transferor of any rights to use and build on the Land pursuant to this Restrictive Covenant or in the fulfilling of its obligations pursuant to this Restrictive Covenant;
- c. arising directly or indirectly from any intentional act, or any omission, default or negligence of the Transferor, its officers, employees, agents, contractors, or invitees in the use of the Land and buildings on the Land;
- d. arising out of exercise of any remedy by the Transferee provided at law, by statute or in this Restrictive Covenant.

Performance at Cost of Transferor

8. Unless otherwise expressly provided in this Restrictive Covenant, whenever the Transferor requests for something be done or is obliged or required to do or cause to be done any act, matter or thing, such act, matter or thing shall be done by the Transferor at its sole expense.

Entire Agreement

9. This Restrictive Covenant is the entire agreement between the parties and the Transferee has made no representations, warranties, guarantees, promises, covenants or agreements to or with the Transferor other than those expressed in writing in this Restrictive Covenant.

Amendment

10. No amendment to this Restrictive Covenant is valid unless in writing and executed by the parties.

Interpretation

11. In this Restrictive Covenant:

PART 2

- a. whenever the singular or masculine is used the same shall be construed as meaning the plural or the feminine or the body corporate or politic where the context or the parties hereto so require;
- b. every reference to party is deemed to include heirs, executors, administrators, successors, assigns, officers and employees of such parties whenever the context so requires or allows; and
- c. the headings are inserted for reference and convenience only and must not be used to construe or interpret the provisions hereof.

Severance

12. All provisions of this Restrictive Covenant are to be construed as covenants and should any section, or lesser portion of this Restrictive Covenant be held invalid or unenforceable by a court of competent jurisdiction, the said portion shall be severed and invalidity or unenforceability of such section or portion shall not affect the validity of the remainder which shall remain binding on the Transferor and shall charge the Land and be enforceable to the fullest extent of the law.

Time

13. Time is of the essence of this Restrictive Covenant.

Interest in Land

14. This Restrictive Covenant shall charge the Land pursuant to section 219 of the *Land Title Act* and the burden of all the covenants herein shall run with the Land and charge the Land and every part into which the Land may be divided and subdivided.

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15. This Restrictive Covenant shall enure to the benefit of and be binding upon the parties hereto.

PART 2**Execution**

16. As evidence of their agreement to be bound by the above terms the parties each have executed and delivered this Restrictive Covenants under seal by executing Part 1 of the Land Title Act Form C to which this Restrictive Covenant is attached and which forms part of this Restrictive Covenant.

Priority

17. Pursuant to Section 207 of the Land Title Act, and in consideration of the sum of One Dollar (\$1.00) of lawful money of Canada (the receipt and sufficiency of which is hereby acknowledged), the Coastal Community Credit Union hereby grants this covenant priority to Mortgage EK143935 registered in its favour in the Victoria Land Title Office.

END OF DOCUMENT

