

File No.: SP Minor LUB Amendments  
Project

DATE OF MEETING: March 27, 2025  
TO: South Pender Island Local Trust Committee  
FROM: Kim Stockdill, Island Planner  
Southern Team  
COPY: Robert Kojima, Regional Planning Manager  
SUBJECT: South Pender Minor LUB Amendments Project – Draft Bylaw No. 129

## RECOMMENDATION

1. That the South Pender Island Local Trust Committee amend draft Bylaw No. 129 for the Minor Land Use Bylaw Amendments Project by:

- ...

## REPORT SUMMARY

This report is to provide the South Pender Island Local Trust Committee (LTC) with an updated draft bylaw for the Minor Land Use Bylaw (LUB) Amendments Project and to seek further amendments.

## BACKGROUND

At the February 14, 2025 regular meeting the South Pender LTC passed the following resolutions:

### SP-2025-003

that South Pender Local Trust Committee request staff amend the definition of floor area in Draft Bylaw No. 129 by increasing 1.5 metres to 1.8 metres.

**CARRIED**

### SP-2025-004

that South Pender Island Local Trust Committee request staff schedule a Special Meeting in March or April 2025 regarding draft Bylaw No. 129 for the Minor Land Use Bylaw Amendments Project.

**CARRIED**

### SP-2025-005

that South Pender Island Local Trust Committee request staff amend the Minor Land Use Bylaw Amendments Project Charter to include a Public Hearing and amend the budget as shown in the Staff Reported dated February 14, 2025.

**CARRIED**

Staff prepared a draft Bylaw No. 129 (attached) incorporating the direction given at the January 17, 2025 LTC meeting. The draft bylaw includes:

- Retaining the setback to the natural boundary of the sea but amending the clause by removing “a certification from an appropriately qualified person as to” and replacing it with “substantive evidence to establish”
- An amendment to the height regulation for dwellings and cottages by removing the words “and at no point may a dwelling or cottage exceed 9.2 metres (30 feet) in height”
- Amendments to the shipping container regulations by changing the lot size requirements
- Amendments to the recreational vehicles regulations to add clarity
- Amendments to revert the setback from the exterior and interior side lot line for dwellings and cottages from 6 metres (20 feet) to 3 metres (10 feet)
- Amendments to the Agriculture zone to remove the floor area requirements for dwellings and cottages and agri-tourism and agri-tourist accommodation conditions of use
- Amendment to Agriculture Subsection 5.5(3) to add clarity to the existing regulation

Staff further amended the draft bylaw to include the following (by direction from the February 14, 2025 meeting):

- Deleting the ‘basement floor area’ definition
- Increasing a storey from 1.5 metres to 1.8 metres
- Moving regulation from Subsection 3.10(1) and making it a new subsection to 3.10 ‘Use of Recreational Vehicles as a Dwelling’ that states:  
“Nothing in this Section prohibits the storage of *recreational vehicles* that are not being used as *dwellings*.”
- Deleting Subsection 3.11(a)
- Retaining the Agriculture subsection that regulates farm retail sales and by moving the Information Note to under the Siting and Size regulations
- Adding the words “from any lot line” to Subsection 5.6(11)

Staff is requesting direction from the LTC on how to proceed with amendments (if any) to the total and maximum floor area regulations.

The updated [Project Charter](#), previous staff reports, draft bylaw, and correspondence received to date can be found on the [South Pender Project webpage](#). A [blackline version of Bylaw No. 114](#), which includes amendments from draft Bylaw No. 129, can be found on the Minor LUB Amendments Project webpage.

## **TOTAL & MAXIMUM FLOOR AREA**

The following are maximum floor area options for new dwellings as discussed at the February 14, 2025 South Pender LTC meeting.

### Option 1 – Increase maximum floor area by 500 ft<sup>2</sup>

The following table reflects a 500 ft<sup>2</sup> increase to the maximum floor area for new dwellings as shown in the current LUB.

**Table 1 – Increase of 500 ft<sup>2</sup> to maximum floor area for new dwellings**

Lot Area	The total floor area of all buildings may not exceed:	The floor area of a dwelling may not exceed:
Less than 0.4 ha (1 acre)	465 m <sup>2</sup> (5000 ft <sup>2</sup> )	<del>232 m<sup>2</sup> (2500 ft<sup>2</sup>)</del> 279 m <sup>2</sup> (3000 ft <sup>2</sup> )
0.4 ha to < 0.8 ha (1 to 2 acres)	557 m <sup>2</sup> (6000 ft <sup>2</sup> )	<del>279 m<sup>2</sup> (3000 ft<sup>2</sup>)</del> 325 m <sup>2</sup> (3500 ft <sup>2</sup> )
0.8 ha to < 1.6 ha (2 to 4 acres)	743 m <sup>2</sup> (8000 ft <sup>2</sup> )	<del>325 m<sup>2</sup> (3500 ft<sup>2</sup>)</del> 372 m <sup>2</sup> (4000 ft <sup>2</sup> )
1.6 ha to < 4 ha (4 to 10 acres)	836 m <sup>2</sup> (9000 ft <sup>2</sup> )	<del>348 m<sup>2</sup> (3750 ft<sup>2</sup>)</del> 395 m <sup>2</sup> (4250 ft <sup>2</sup> )
4.0 ha (10 acres) or greater	1394 m <sup>2</sup> (15000 ft <sup>2</sup> )	372 m <sup>2</sup> (4000 ft <sup>2</sup> ) 418 m <sup>2</sup> (4500 ft <sup>2</sup> )

**Option 2 – Attached Garages not included in Dwelling Floor Area**

With this option, a despite clause would be added below the maximum floor area table which would allow an attached garage to be constructed with a maximum floor area of 500 ft<sup>2</sup>. A definition of ‘attached garage’ would also be included to the draft bylaw.

**Add new definition:**

*“attached garage means an accessory non-habitable space used for storage only and connected to a dwelling by at least one shared internal wall.”*

**“Subsection 5.1(5)****Table 2 – Current maximum floor area regulations in Bylaw No. 122**

Lot Area	The total floor area of all buildings may not exceed:	The floor area of a dwelling may not exceed:
Less than 0.4 ha (1 acre)	465 m <sup>2</sup> (5000 ft <sup>2</sup> )	232 m <sup>2</sup> (2500 ft <sup>2</sup> )
0.4 ha to < 0.8 ha (1 to 2 acres)	557 m <sup>2</sup> (6000 ft <sup>2</sup> )	279 m <sup>2</sup> (3000 ft <sup>2</sup> )
0.8 ha to < 1.6 ha (2 to 4 acres)	743 m <sup>2</sup> (8000 ft <sup>2</sup> )	325 m <sup>2</sup> (3500 ft <sup>2</sup> )
1.6 ha to < 4 ha (4 to 10 acres)	836 m <sup>2</sup> (9000 ft <sup>2</sup> )	348 m <sup>2</sup> (3750 ft <sup>2</sup> )
4.0 ha (10 acres) or greater	1394 m <sup>2</sup> (15000 ft <sup>2</sup> )	372 m <sup>2</sup> (4000 ft <sup>2</sup> )

**Add New Subsection 5.1(6)**

*Despite Subsection 5.1(5), the floor area of an attached garage up to a maximum of 46 m<sup>2</sup> (500 ft<sup>2</sup>) is not included in the floor area of a dwelling.*

Staff recommends proceeding with Option 1 (increasing the maximum floor area by 500 ft<sup>2</sup>) as it provides property owners with greater flexibility in utilizing the additional space and avoids interpretation issues.

Option 2 is not supported for the following reasons:

- Site plans can be easily labeled to indicate the presence of an attached garage
- Attached garages could be converted into livable space, which would not comply with the bylaw
- Ambiguity regarding whether attached garages should be included in the total floor area of all buildings
- Interpretation challenges related to the definition—what qualifies as an attached garage? How does it differ from a carport?
- Potential confusion about existing dwellings and whether this regulation would apply to them
- Additional space for the attached garage limits the use of the space to storage only – does not provide property owners flexibility to use the space

*Note: The LTC has the option to combine option 1 and 2 (table from option 1 with the “incentive” for an attach garage up to a maximum of 500 ft<sup>2</sup>) but staff would not support this option as stated above.*

#### Floor Area for Existing Dwellings on September 15, 2022

The LTC has the option to create two separate tables: one table for a lot where a dwelling existed on the property at the time of Bylaw No. 122 adoption (September 15, 2022), and second table for a lot with no dwelling at the time of Bylaw No. 122 adoption. This option may eliminate the need for the clause regulation.

Option 3 may require legal counsel review, which is currently not included in this phase of the project’s budget.

The following is proposed wording for a new table applicable for legal dwellings located on a lot prior to September 15, 2022:

**Table 3 – Total and Maximum Floor Area for a lot with a legal dwelling prior to September 15, 2022**

On a lot that contained a legal dwelling constructed prior to September 15, 2022, a replacement dwelling may be constructed, or the existing dwelling reconstructed or altered, provided the floor area of the replacement, reconstructed, or altered dwelling does not exceed the floor area of the dwelling on the lot prior to September 15, 2022, or the following maximum floor area:

Lot Area	The total floor area of all buildings may not exceed:	The floor area of a dwelling may not exceed:
Less than 0.4 ha (1 acre)	465 m <sup>2</sup> (5000ft <sup>2</sup> )	353 m <sup>2</sup> (3800ft <sup>2</sup> )
0.4 ha to 0.79 ha (1 to 2 acres)	557 m <sup>2</sup> (6000ft <sup>2</sup> )	418 m <sup>2</sup> (4500ft <sup>2</sup> )
0.8 ha to 1.59 ha (2 to 4 acres)	743 m <sup>2</sup> (8000ft <sup>2</sup> )	520 m <sup>2</sup> (5600ft <sup>2</sup> )
1.6 ha to 3.9 ha (4 to 10 acres)	836 m <sup>2</sup> (9000 ft <sup>2</sup> )	543 m <sup>2</sup> (5845ft <sup>2</sup> )
4.0 ha (10 acres) or greater	1858 m <sup>2</sup> (20000ft <sup>2</sup> )	560 m <sup>2</sup> (6030ft <sup>2</sup> )

If the LTC proceeds with this option, the LTC should consider if the ‘Total Floor Area of all Buildings’ should be reverted to prior to adoption of Bylaw No. 122, or remain as it currently exists in the Land Use Bylaw.

## FURTHER AMENDMENTS – NOT RECOMMENDED BY STAFF

The following amendments were discussed and suggested during the February 14, 2025, LTC meeting and would require a motion from the LTC to be incorporated into the draft bylaw. The following draft motions should be prefaced with the wording outlined in the Recommendation on Page 1 of the staff report:

*“That the South Pender Local Trust Committee amend draft Bylaw No. 129 for the Minor Land Use Bylaw Amendments Project by...”*

1. Subsection 3.3(5) – Natural Boundary of the Sea

At the February 14, 2025, LTC meeting, there was a discussion about whether the regulation allowed a dwelling or cottage to be rebuilt farther from the natural boundary of the sea than it was on September 22, 2025, but still within the 15-metre setback. The clause states:

*“The replacement, reconstructed, or altered dwelling, cottage, or accessory building must not be located closer to the natural boundary of the sea than the dwelling, cottage, or accessory building was on the lot on September 15, 2022.”*

Staff recommend no amendments to this subsection, as it clearly states that a building may be reconstructed as long as it is not closer to the natural boundary of the sea than it was on September 15, 2022. For example, if a dwelling was located 10 metres from the natural boundary of the sea on that date, it may be reconstructed at the same distance or farther away.

2. Subsection 2.3(1) – Inspection

Staff do not recommend amendments to this subsection as the inspection wording is standard for Land Use Bylaws. Amendments to Bylaw No. 122 regarding bylaw enforcement are outside the scope of this project.

## STATUTORY REQUIREMENTS - PUBLIC HEARING

The South Pender LTC agreed to not provide Notice of First Reading for the Minor Land Use Bylaw Project, but to hold a Public Hearing as part of the consultation process. The Project Charter is updated to reflect this request. The following is the proposed timeline for the project:

1. LTC gives direction to staff to draft a LUB amending bylaw – **completed (January 17, 2025)**
2. Staff brings forward the draft LUB for LTC’s review – **draft bylaw on Feb 14, 2025 LTC agenda**
3. Staff to initiate bylaw referrals to agencies and First Nations – **to be completed April 2025**
4. LTC gives direction to staff to hold a Special Meeting for community members to speak to and ask questions about the draft bylaw – **Special Meeting on March 27, 2025**
5. LTC gives First Reading to draft Bylaw No. 129 – **potentially May 2, 2025 LTC meeting**
6. LTC gives direction to staff to schedule a Public Hearing – **motion to be presented at May 2, 2025 LTC meeting**
7. The LTC has the option to request staff to schedule a Community Information Meeting prior to the Public Hearing – **motion to be presented at May 2, 2025 LTC meeting**
8. The LTC holds CIM and Public Hearing and the LTC can give Second and Third Reading, and direction to send to EC – **September 5, 2025 LTC Meeting**
9. Bylaw Adoption – **could be by Resolution Without Meeting in October 2025.**

**Rationale for Recommendation**

Staff recommends the LTC give direction on how to proceed with changes, if any, to the total and maximum floor area for dwellings to finalize the draft bylaw.

**ALTERNATIVES**

**1. Request further information**

The LTC may request further information prior to making a decision. Staff advise that the implications of this alternative are potential delays to commencing and completing the project. If selecting this alternative, the LTC should describe the specific information needed and the rationale for this request. Recommended wording for the resolution is as follows:

*That the South Pender Island Local Trust Committee request that the staff provide further information regarding...*

**2. Receive for information**

The LTC may receive the report for information.

**NEXT STEPS**

Next steps include:

- Send referrals for draft Bylaw No. 129
- Present final draft bylaw to May 2, 2025 LTC meeting
- 

Submitted By:	Kim Stockdill, Island Planner	March 24, 2025
Concurrence:	Robert Kojima, Regional Planning Manager	March 24, 2025

Attachment:

1. Draft Bylaw No. 129

# DRAFT

## SOUTH PENDER ISLAND LOCAL TRUST COMMITTEE BYLAW NO. 129

---

### A BYLAW TO AMEND SOUTH PENDER ISLAND LAND USE BYLAW NO. 114, 2016

---

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

1. Citation

This bylaw may be cited for all purposes as “South Pender Island Land Use Bylaw No. 114, 2016, Amendment No. 1, 2025”.

2. South Pender Island Local Trust Committee Bylaw No. 114, cited as “South Pender Island Land Use Bylaw No. 114, 2016,” is amended as follows:

2.1 Section 1.1 – Definitions, by deleting the definition “basement floor area”.

2.2 Section 1.1 – Definitions, by amending the definition of ‘floor area’ by removing “1.5” and replacing it with “1.8” so it reads:

““floor area” means the sum of the horizontal areas of all storeys in a building, measured to the inner surface of the exterior walls, exclusive of any floor area occupied by a cistern used for the storage of water for domestic use or fire protection, and exclusive of all areas of a storey having a floor and a ceiling less than 1.8 metres apart, and exclusive of a storey that is not fully enclosed by a floor, ceiling, and four walls or glass.

2.3 Section 3.3 – Siting and Setback Regulations, Subsection 3.3(5) is amended by removing “a certification from an appropriately qualified person as to” and replacing it with “substantive evidence to establish” so it reads:

“Despite Subsection 3.3(3), on a lot that contains a legal dwelling, cottage, or accessory building constructed prior to September 15, 2022, a replacement dwelling, cottage, or accessory building may be constructed, or the existing dwelling, cottage, or accessory building re-constructed or altered, provided the distance from the natural boundary of the sea to the replacement, re-constructed or altered dwelling, cottage, or accessory building is not less than the distance from the natural boundary of the sea to the dwelling, cottage, or accessory building on the lot on September 15, 2022 and for this purpose the Local Trust Committee may require an owner to submit substantive evidence to establish the siting of the dwelling, cottage, or accessory building at the time of the adoption of this bylaw.”

2.4 Section 3.4 – Height Regulations, Subsection 3.4(1) is amended by deleting the words “and at no point may a dwelling or cottage exceed 9.2 metres (30 feet) in height.” so it reads:

“A dwelling or cottage shall not exceed 9.2 metres (30 feet) in height.”

- 2.5 Section 3.5 – Accessory Buildings and Structures, Article 3.5(6)(b) by deleting “1.2 ha (3 acres)” and replacing it with “1.6 ha (4 acres)”.
- 2.6 Section 3.5 – Accessory Buildings and Structures, Article 3.5(6)(c) by deleting “with an area greater than 1.2 ha (3 acres)” and replacing it with “1.6 ha (4 acres) or greater in area”.
- 2.7 Section 3.10 – Use of Recreational Vehicles as a Dwelling, by deleting Article 3.10(1)(f).
- 2.8 Section 3.10 – Use of Recreational Vehicles as a Dwelling, by deleting the word “the” after the words “dwelling on the same lot is permitted in” in Subsection 3.10(1).
- 2.9 Section 3.10 – Use of Recreational Vehicles as a Dwelling, Subsection 3.10 (1) by deleting the words “Nothing in this Subsection prohibits the storage on a lot of recreational vehicles that are not being used as dwellings”.
- 2.10 Section 3.10 – Use of Recreating Vehicles as a Dwelling, by creating the following new Subsection 3.10(1)

“Nothing in this Section prohibits the storage of recreational vehicles that are not being used as dwellings.”

and by making such consequential numbering alterations to effect this change.

- 2.11 Section 3.10 – Use of Recreational Vehicles as a Dwelling, by adding the following new Subsection 3.10(2) that reads:

“Where a *recreational vehicle* is used for temporary camping, occupancy of a *recreational vehicle* must not exceed 90 days in a calendar year.”

- 2.12 Section 3.11 – Derelict Vehicles, by deleting Article 3.11(1)(a), and by making such consequential numbering alterations to effect this change.
- 2.13 Section 5.1 – Rural Residential Zones, by deleting Subsections 5.1(9) and 5.1(10) in their entirety and by making such consequential numbering alterations to effect this change.
- 2.14 Section 5.1 – Rural Residential Zones, by amending the newly renumbered Subsection 5.1(11) – Subdivision Lot Size Requirements by deleting the words “Subject to subsection 5.1(10),”.
- 2.15 Section 5.1 – Rural Residential Zones, by amending the newly renumbered Subsection 5.1(12) – Site-Specific Regulations by deleting references to “5.1(10)” and replacing them with “5.1(11)”.
- 2.16 Section 5.5 Agriculture (A), by amending Article 5.5(1)(d) by deleting the words “subject to Subsections 5.5(13) to 5.5(16) and replacing them with “(as permitted by the Agricultural Land Commission)”



2.17 Section 5.5 Agriculture (A), by amending Article 5.5(1)(e) by deleting the words “, subject to Subsections 5.5(15) to 5.5(2), and as permitted by the Agricultural Land commission” and replacing them with “(as permitted by the Agricultural Land Commission)”

2.18 Section 5.5 Agriculture (A), by deleting Subsection 5.5(3) and replacing it with:

“Despite Subsection 5.5(2), one cottage or one dwelling for the housing of persons engaged in on-going agricultural activities on the lot, is permitted on each lot in addition to the dwelling permitted in Subsection 5.5(2).”

2.19 Section 5.5 – Agriculture (A), by deleting Subsections 5.5(9) to 5.5(11) and 5.5(13) to 5.5(22) in their entirety, by making such consequential numbering alterations to effect this change, and by moving the Information Note under the newly renumbered Subsection 5.5(8).

2.20 Section 5.6 – Forestry (F), by adding the words “from any lot line” after the words “20 metres (66 feet)” to Subsection 5.6(11) so it reads:

“Despite 5.6(5) above, the minimum *setback* for a portable sawmill permitted by 5.6(1)(b) above shall be 20 metres (66 feet) from any *lot line*.”

### 3. SEVERABILITY

If any provision of this Bylaw is for any reason held to be invalid by a decision of any Court of competent jurisdiction, the invalid provision must be severed from the Bylaw and the decision that such provision is invalid must not affect the validity of the remaining provisions of the Bylaw.

READ A FIRST TIME THIS	_____	DAY OF	_____	20____
PUBLIC HEARING HELD THIS	_____	DAY OF	_____	20____
READ A SECOND TIME THIS	_____	DAY OF	_____	20____
READ A THIRD TIME THIS	_____	DAY OF	_____	20____
APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS	_____	DAY OF	_____	20____
ADOPTED THIS	_____	DAY OF	_____	20____

\_\_\_\_\_  
CHAIR

\_\_\_\_\_  
SECRETARY