

**SOUTH PENDER ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 122**

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

The South Pender Island Local Trust Committee, being the Trust Committee having jurisdiction in respect of the South Pender Island 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. 2, 2021”.

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 By adding the following new definitions to Section 1.1 ‘Definitions’:

““agri-tourism” means an activity referred to in Section 12 of the *Agricultural Land Reserve Use Regulation*.”

““agri-tourist accommodation” means a use accessory to a *farm use* for the purpose of accommodating commercial guests within specific structures on specific portions of a *lot* as referred to in Section 33 of the *Agricultural Land Reserve Use Regulation*.”

““basement floor area” means any portion of a storey in a dwelling with a lower floor that is located 1.5 metres or more below natural grade.”

““farm retail sales” means the retail sale of tangible farm products grown or raised on a farm or association to which the owner of the farm belongs.”

““Farm Status” means land classified as a farm pursuant to the *(BC) Assessment Act*.”

2.2 By removing the words “floor area of 70m² or less” and replacing it with “limited floor area” in the definition of ‘cottage’.

2.3 By removing the word “outer” and replacing it with “inner” to the definition of ‘floor area’ and by adding the words “and exclusive of a storey that is not fully enclosed by a floor, ceiling, and four walls or glass” at the end of the definition of ‘floor area’.

2.4 By removing the words “7.6 metres (25 feet)” and replace it with “15 metres (50 feet)” and by removing the words “pump/utility house” in Subsection 3.3(3).

- 2.5 By adding the following new subsection after Subsection 3.3(3) and renumbering accordingly:

“Despite Subsection 3.3(3), *buildings or structures*, except a fence, stairway, wharf and dock ramps or their footings, legally constructed prior to [*insert date of Bylaw No. 122 adoption*] shall not be sited within 7.6 metres (25 feet) of the *natural boundary* of the sea and, for this purpose only, paved areas of asphalt, concrete or similar material are “*structures*”.”

- 2.6 By adding the following new subsection after Subsection 3.3(3) and renumbering accordingly:

“Despite Subsection 3.3(3), on a lot that contains a legal dwelling, cottage, or accessory building constructed prior to the adoption of this bylaw, 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 at the time of the adoption of this bylaw and for this purpose the Local Trust Committee may require an owner to submit a certification from an appropriately qualified person as to the siting of the dwelling, cottage, or accessory building at the time of the adoption of this bylaw.”

- 2.7 By deleting Subsection 3.4(1) and replacing it with: “A dwelling or cottage shall not exceed 9.2 metres (30 feet) in height and at no point may a dwelling or cottage exceed 9.2 metres (30 feet) in height.”.

- 2.8 By adding the following new subsections to Section 3.5 ‘Accessory Buildings and Structures’ as follows:

- “(6) Shipping containers are a permitted accessory use on a *lot* subject to the following:
- (a) On a *lot* less than 0.8 ha (2 acre) in area, a maximum of one (1) shipping container is permitted.
 - (b) On a *lot* 0.8 (2 acres) or greater in area, but less than 1.2 ha (3 acres) in area, a maximum of two (2) shipping containers are permitted.
 - (c) On a *lot* with an area greater than 1.2 ha (3 acres), a maximum of three (3) shipping containers are permitted.
- (7) Shipping containers must be screened from neighbouring *lots*, roads, or the sea by use of landscaping screening in compliance with Section 3.9.”

2.9 By adding the words “excluding a *cottage*” after the words ‘used as a dwelling’, by deleting the word ‘rainwater’ and replacing it with “freshwater”, by deleting the word ‘cistern’ after the word ‘minimum’ and replacing it with “storage” and by deleting the words ‘9,000 litres (1980 gallons)’ and replacing it with “18,000 litres (3960 gallons)” for Subsection 3.14(1) so it reads:

‘A building permit shall not be issued for a new *building* to be used as a *dwelling*, excluding a *cottage*, on a *lot* in the RR(1), RR(2) or RR(3) zones unless a *building* on the *lot* is equipped with a freshwater catchment system and cistern(s) for the storage of freshwater with a minimum storage capacity of 18,000 litres (3960 gallons).

2.10 By deleting the words Table from Subsection 5.1(5) and replacing it with

“

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 ² (5000 ft ²)	232 m ² (2500 ft ²)
0.4 ha to < 0.8 ha (1 to 2 acres)	557 m ² (6000 ft ²)	279 m ² (3000 ft ²)
0.8 ha to < 1.6 ha (2 to 4 acres)	743 m ² (8000 ft ²)	325 m ² (3500 ft ²)
1.6 ha to < 4 ha (4 to 10 acres)	836 m ² (9000 ft ²)	348 m ² (3750 ft ²)
4.0 ha (10 acres) or greater	1394 m ² (15000 ft ²)	372 m ² (4000 ft ²)

”

2.11 By add the following new subsection after Subsection 5.1(5):

“Despite Subsection 5.1(5), on a *lot* that contains a legal *dwelling* constructed prior to the adoption of this bylaw, a replacement *dwelling* may be constructed, or the existing *dwelling* re-constructed or altered, provided the *floor area* of the replacement, re-constructed or altered *dwelling* does not exceed the *floor area* of the *dwelling* on the *lot* at the time of the adoption of this bylaw and for this purpose the Local Trust Committee may require an owner to submit a certification from an appropriately qualified person as to the floor area of the dwelling at the time of the adoption of this bylaw.”

2.12 By adding the following new subsection after the newly created Subsection 5.1(6) and renumbering accordingly:

“The maximum *floor area* of a *cottage* must not exceed 70 m² (753 ft²).” ✓ ✓ ✓

2.13 By adding the following new subsection directly after the newly renumbered Subsection 5.1(8) and renumbering accordingly:

“Despite Subsection 5.1(8), the setback for a *dwelling or cottage* shall be 6.0 metres (20 ft.) from any interior or exterior side *lot line*.” ✓ ✓ ✓

2.14 By add the following new subsection after Subsection 5.1(9):

“Despite Subsection 5.1.(9), on a *lot* that contains a legal *dwelling or cottage* constructed prior to the adoption of this bylaw, a replacement *dwelling or cottage* may be constructed, or the existing *dwelling or cottage* re-constructed or altered, provided the distance from the interior or exterior side *lot line* to the replacement, re-constructed or altered *dwelling or cottage* is not less than the distance from the interior or exterior side *lot line* to the *dwelling or cottage* on the *lot* at the time of the adoption of this bylaw and for this purpose the Local Trust Committee may require an owner to submit a certification from an appropriately qualified person as to the floor area of the dwelling at the time of the adoption of this bylaw.”

2.15 By removing the word “Rescinded” from Article 5.5(1)(d) and replacing it with “Accessory *agri-tourism* subject to Subsections 5.5(13) to 5.5(16);”

2.16 By adding the following new article after Article 5.5(1)(d) and renumber accordingly:

“Accessory agri-tourist accommodation, subject to Subsections 5.5(15) to 5.5(22), and as permitted by the Agricultural Land Commission;”

2.17 By adding the words “and *farm retail sales*.” after the words ‘on the same lot’ in Article 5.5(1)(f).

2.18 By deleting Subsection 5.5(9) and replacing it with:

“Maximum *Floor Area* per lot:

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 ² (5000 ft ²)	232 m ² (2500 ft ²)
0.4 ha to < 0.8 ha (1 to 2 acres)	557 m ² (6000 ft ²)	279 m ² (3000 ft ²)
0.8 ha to < 1.6 ha (2 to 4 acres)	743 m ² (8000 ft ²)	325 m ² (3500 ft ²)
1.6 ha to < 4 ha (4 to 10 acres)	836 m ² (9000 ft ²)	348 m ² (3750 ft ²)
4.0 ha (10 acres) or greater	1394 m ² (15000 ft ²)	372 m ² (4000 ft ²)

”

2.19 By adding the following new subsection after Subsection 5.5(9) and renumbering accordingly:

Despite Subsection 5.5(9), on a *lot* that contains a legal *dwelling* constructed prior to the adoption of this bylaw, a replacement *dwelling* may be constructed, or the existing *dwelling* re-constructed or altered, provided the *floor area* of the replacement, re-constructed or altered *dwelling* does not exceed the *floor area* of the *dwelling* on the *lot* at the time of the adoption of this bylaw and for this purpose the Local Trust Committee may require an owner to submit a certification from an appropriately qualified person as to the floor area of the dwelling at the time of the adoption of this bylaw.”

2.20 By adding the following new subsection after the new Subsection 5.5(10) and renumbering accordingly:

“The maximum *floor area* of a *cottage* must not exceed 90 m² (969 ft²).”

2.21 By adding the following ‘Information Note’ after the newly created Subsection 5.5(11):

“Information Note: *The maximum floor area of a dwelling or cottage located within the Agricultural Land Reserve must be compliant with the Agricultural Land Commission Act, Regulation, and any Resolution for the Agricultural Land Commission.*”

2.22 By removing the word “Rescinded” adding the following to the newly renumbered Subsection 5.5(12):

“Farm retail sales are permitted on a lot located within the Agricultural Land Reserve, and the total indoor and outdoor floor area for the farm retail sales shall not exceed 47 m² (500 ft²).

2.23 By adding the following new subsections after Subsection 5.5(12) under ‘Conditions of Use’ and renumber accordingly:

“5.5(13) Agri-tourism buildings or structures are not permitted.

5.5(14) Agri-tourism must be in compliance with the Agricultural Land Reserve Use Regulation.

5.5(15) Agri-tourism and agri-tourist accommodation are only permitted on a lot with Farm Status.

5.5(16) Agri-tourism and agri-tourist accommodation are only permitted on a lot located in the Agricultural Land Reserve.

5.5(17) Agri-tourist accommodation must be accessory to an active agri-tourism activity.

5.5(18) Agri-tourist accommodation must be accessory to a farm use.

5.5(19) Agri-tourist accommodation buildings and structures must not exceed a floor area of 90 m² (969 ft²).

5.5(20) Agri-tourist accommodation must not be in use for more than 180 days in a calendar year.

5.5(21) Agri-tourist accommodation may include associated uses such as meeting rooms and dining facilities for paying registered guests contained wholly within the agri-tourism accommodation unit, but may not include a restaurant or any commercial or retail goods and services other than those permitted by the Agriculture (A) Zone.

5.5(22) The maximum number of guests that may be accommodated in any agri-tourist accommodation at any one time, either alone or in combination with a bed and breakfast, is not to exceed 10 guests or 5 bedrooms.

2.24 By deleting Subsection 5.6(7) and replacing it with:

“Maximum *Floor Area* per lot:

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 ² (5000 ft ²)	232 m ² (2500 ft ²)
0.4 ha to < 0.8 ha (1 to 2 acres)	557 m ² (6000 ft ²)	279 m ² (3000 ft ²)
0.8 ha to < 1.6 ha (2 to 4 acres)	743 m ² (8000 ft ²)	325 m ² (3500 ft ²)
1.6 ha to < 4 ha (4 to 10 acres)	836 m ² (9000 ft ²)	348 m ² (3750 ft ²)
4.0 ha (10 acres) or greater	1394 m ² (15000 ft ²)	372 m ² (4000 ft ²)

”

2.25 By adding the following new subsection after Subsection 5.6(7) and renumbering accordingly:

Despite Subsection 5.6(7), on a *lot* that contains a legal *dwelling* constructed prior to the adoption of this bylaw, a replacement *dwelling* may be constructed, or the existing *dwelling* re-constructed or altered, provided the *floor area* of the replacement, re-constructed or altered *dwelling* does not exceed the *floor area* of the *dwelling* on the *lot* at the time of the adoption of this bylaw and for this purpose the Local Trust Committee may require an owner to submit a certification from an appropriately qualified person as to the floor area of the dwelling at the time of the adoption of this bylaw.”

2.26 By adding the following new subsection after Subsection 5.6(8) and renumbering accordingly:

“The maximum *floor area* of a *cottage* must not exceed 70 m² (753 ft²).”

2.27 By deleting Subsection 5.7(6) and replacing it with:

“Maximum *Floor Area* per lot:

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 ² (5000 ft ²)	232 m ² (2500 ft ²)
0.4 ha to < 0.8 ha (1 to 2 acres)	557 m ² (6000 ft ²)	279 m ² (3000 ft ²)
0.8 ha to < 1.6 ha (2 to 4 acres)	743 m ² (8000 ft ²)	325 m ² (3500 ft ²)
1.6 ha to < 4 ha (4 to 10 acres)	836 m ² (9000 ft ²)	348 m ² (3750 ft ²)
4.0 ha (10 acres) or greater	1394 m ² (15000 ft ²)	372 m ² (4000 ft ²)

”

2.28 By adding the following new subsection after Subsection 5.7(7) and renumbering accordingly:

Despite Subsection 5.7(7), on a *lot* that contains a legal *dwelling* constructed prior to the adoption of this bylaw, a replacement *dwelling* may be constructed, or the existing *dwelling* re-constructed or altered, provided the *floor area* of the replacement, re-constructed or altered *dwelling* does not exceed the *floor area* of the *dwelling* on the *lot* at the time of the adoption of this bylaw and for this purpose the Local Trust Committee may require an owner to submit a certification from an appropriately qualified person as to the floor area of the dwelling at the time of the adoption of this bylaw.”

2.29 By adding the following new subsection after Subsection 5.7(8) and renumbering accordingly:

“The maximum *floor area* of a *cottage* must not exceed 70 m² (753 ft²).”

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	6 TH	DAY OF	MAY	2022.
PUBLIC HEARING HELD THIS	23 RD	DAY OF	JULY	2022.
READ A SECOND TIME THIS	12 TH	DAY OF	AUGUST	2022.
READ A THIRD TIME THIS	12 TH	DAY OF	AUGUST	2022.
APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS	7 TH	DAY OF	SEPTEMBER	2022.
ADOPTED THIS	15 TH	DAY OF	SEPTEMBER	2022.

CHAIR

SECRETARY