



ENVIRONMENTAL PROTECTION  
BYLAW

**BYLAW 3551, 2014**

# BYLAWS



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Cover photo by Toni Falk



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## **Environmental Protection**

### **Bylaw No. 3551, 2014**

**ADOPTED November 4, 2014**

#### **PURPOSE**

This bylaw sets out to regulate, impose requirements and restrict/prohibit activities in order to protect the natural environment and ecological systems related to watercourses, trees, soils, lands and outstanding natural features (visual assets) in the City of Campbell River.

In addition to the requirements set out in this bylaw, provincial and federal environmental regulations also regulate activities that have the potential to negatively affect the environment. Every person is advised to check with the relevant government agencies to ensure all of the environmental requirements by these agencies are fulfilled.

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The Council of the City of Campbell River enacts as follows:

**PART 1: Title**

**1.0** This bylaw may be cited for all purposes as **Environmental Protection Bylaw No. 3551, 2014.**

**PART 2: Definitions**

**2.0** In this bylaw: unless the context otherwise requires:

**Bald Eagle Nest Tree** means any tree with a history of nest building by Bald Eagles including but not limited to:

- a. a tree with an existing nest, a tree with a nest under construction, or a tree with an incomplete nest in it, at any time of the year whether or not the nest is in use, whether Bald Eagles are present, or whether it is a registered tree in any type of City, provincial or federal government inventory;
- b. a registered nest tree without a nest that appears on any City, provincial or federal government inventory.

**Bald Eagle Nest Tree Habitat** means the ground and vegetation within a buffer area of 60 metres measured as a radius from the base of a Bald Eagle Nest Tree or a designated buffer as identified by covenant or as determined by a Qualified Environmental Professional under an approved City Development Permit.

**Channelized Stream** means a structure that forms part of an historic natural drainage pattern with larger intact headwaters or significant sources of Groundwater and in which water flows constantly, intermittently or at any time.

**Deleterious Material** means any of the following that when introduced into a Storm Drainage System or Watercourse would Foul it, including but not limited to:

- a. Pesticides, fertilizers, soaps, detergents, household and commercial grade cleaning compounds, paints, solvents, chemicals, chlorinated water, waste oil, grease or any material or substance which is a Hazardous Material, contaminant, toxic substance, or reportable substance that is identified or described in or defined by any applicable statute, regulation or law, including any substance that violates the *Fisheries Act* or the *Waste Management Act*; and
- b. any sediment, rock, gravel, sand, clay, silt, earth, acid rock drainage, construction or excavation wastes, cement, concrete, exposed aggregate wash water or wood waste including wood chips or shavings.

**Development** means any of the following:

- a. removal, alteration, disruption or destruction of vegetation;
- b. disturbance of soil, including the removal and deposition of soil;
- c. construction, erection or demolition of buildings and structures;
- d. flood protection works;

- e. construction of roads, trails, docks, wharves and bridges;
- f. provision and maintenance of sewer and water services;
- g. development of drainage systems;
- h. development of utility corridors;
- i. subdivision as defined under provincial enactment.

<b>Development Permit</b>	means a permit granted under section 920 of the <i>Local Government Act</i> .
<b>Discharge</b>	means to directly or indirectly introduce a substance by spilling, disposing of, dumping, placing, washing, abandoning, depositing, leaking, seeping, pouring, draining, emptying, or by any other means.
<b>Ditch</b>	means an entirely constructed structure or facility used or intended to be used to convey Stormwater flows, with seasonal flows and no significant headwaters or springs.
<b>Drip Line</b>	means a circle on the ground around the trunk of a tree, the radius of which is the distance between the outermost branches and the centre point of the trunk, or its vertical extension.
<b>Environmental Protection Official</b>	means any person in the position of General Manager, Building Inspector, Bylaw Enforcement Officer, Environmental Coordinator, Planner, Roads and Drainage Supervisor, Transportation Manager, Transportation Specialist and Subdivisions Engineer or Fire Chief, or their deputy or a person designated by Council to act in the place of any of these persons, and includes an RCMP Officer.
<b>Fouling</b>	means to Discharge a Deleterious Material into a Watercourse, Storm Drainage System or Groundwater.
<b>General Manager</b>	means the person in the position of General Manager of Operations for the City and includes the Deputy General Manager and any person designated by Council to act on their behalf for the purpose of this bylaw.
<b>Groundwater</b>	means the mass of gravity water that occupies the subsoil and upper bedrock zone; the water occupying the zone of saturation below the soil-water zone.
<b>Hazard Tree</b>	means a tree identified in writing by a Qualified Environmental Professional as having defect or other condition sufficient to significantly increase the risk that all or part of the tree will fall resulting in injury to persons or damage to property.
<b>Hazardous Material</b>	means PCB wastes, biomedical wastes, wastes containing dioxin, waste oil, waste asbestos, waste pest control product containers and wastes containing pest control products including wastes produced in the production of treated wood products using pest control products, leachable toxic waste, waste containing tetrachloroethylene, wastes listed in Schedule 7 of the <i>Hazardous Waste Regulation</i> (B.C. Reg. 63/88), waste that is corrosive because it has a pH factor of less than 2.0 or greater than 12.5 measured directly when the waste is liquid or measured in a 50% distilled water mixture or solution by mass when the waste is solid, waste containing polycyclic aromatic hydrocarbon or matter defined or prescribed as dangerous goods under the <i>Transport of Dangerous Goods Act (British Columbia)</i> .

<b>High Water Mark</b>	means the boundary of a Watercourse as ascertained and certified in writing by a Qualified Environmental Professional.
<b>Motor Vehicle Parking Area</b>	means an area for the parking of vehicles, other than an area for residential use consisting of less than five (5) vehicle parking stalls.
<b>Official Community Plan</b>	means the Official Community Plan for the City, as amended from time to time.
<b>Owner</b>	means, in regard to real property, <ul style="list-style-type: none"> <li>a. the registered owner of an estate in fee simple;</li> <li>b. the tenant for life under a registered life estate;</li> <li>c. the registered holder of the last registered agreement for sale;</li> <li>d. the holder or occupier of land held in the manner referred to in section 228 or 229 of the Community Charter;</li> </ul> and is deemed to include any person who is in lawful possession or occupancy of any building situated on the land.
<b>Pesticide</b>	means any chemical-based material that is used to control pests, including herbicides, insecticides, rodenticides and fungicides.
<b>Qualified Engineering Professional</b>	means a person who is registered or licensed as a Professional Engineer under the <i>Engineers and Geoscientists Act</i> .
<b>Qualified Environmental Professional</b>	means an applied scientist or technologist, acting alone or together with another qualified professional, if: <ul style="list-style-type: none"> <li>a. the individual is registered and in good standing in British Columbia with an appropriate professional organization constituted under Act, acting under the association's code of ethics and subject to disciplinary action by that association; and</li> <li>b. the individual is acting within that individual's area of expertise.</li> </ul>
<b>Riparian Areas Regulation</b>	means B.C. Reg. 376/2004 enacted on July 27, 2004 under the authority of the <i>Fish Protection Act</i> .
<b>Storm Drainage System</b>	means the system and network of pipes, conduits, waterworks, bioswales, swales, rain gardens, drains, reservoirs, canals, Stormwater Management Facilities or other equipment or facilities in the City for the collection and transmission of Stormwater or uncontaminated water on public property.
<b>Stormwater</b>	means surface runoff in response to rainfall, snowmelt or both that moves over the land to a Watercourse or the Storm Drainage System; also means surface runoff or overland flow from Developed areas.
<b>Stormwater Management Facility</b>	means a Stormwater impoundment and appurtenant structures, connections and controls for containment, detention or retention of Stormwater and its delayed release at a controlled rate to a receiving Storm Drainage System or Watercourse.



<b>Subdivision and Development Servicing Bylaw</b>	means the Subdivision and Development Servicing Bylaw for the City, as amended from time to time.
<b>Watercourse</b>	means a stream, Channelized Stream, Ditch, pond, lake, river, creek, brook, spring or Wetland whether it provides fish habitat or not and in which water flows constantly, intermittently or at any time on private or public property.
<b>Watercourse Buffer Zone</b>	<p>means a streamside protection and enhancement area (SPEA)</p> <ul style="list-style-type: none"> <li>a. as identified by covenant or established by a Qualified Environmental Professional under the <i>Riparian Areas Regulation</i> or other enactment or permit, including any Development Permit setback area required by the City; or</li> <li>b. as designated by a provincial or federal biologist under a provincial or federal enactment;</li> </ul> <p>and also includes a natural area around a Stormwater Management Facility designated under paragraph (a) or (b) in relation to Development.</p>
<b>Wetland</b>	means land that is inundated or saturated by surface or Groundwater at a frequency and duration sufficient to support vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, fens, estuaries and similar areas that are not part of a Watercourse or the active floodplain of a Watercourse.
<b>Yard Waste</b>	means plant debris, grass clippings, tree clippings, leaves, branches, tree and hedge pruning's, plants, flowers, sod, soil and rocks.

## PART 3: Watercourses and the Storm Drainage System

### MODIFYING WATERCOURSES AND STORM DRAINAGE SYSTEMS

- 3.0**
- a. No person shall enclose any portion of a Watercourse within a drain or culvert without the prior written approval of an Environmental Protection Official.
  - b. No person shall alter, repair, remove, fill in, reconstruct, divert or carry out any other Development on any Watercourse or Storm Drainage System without the prior written approval of an Environmental Protection Official.
  - c. Without limiting paragraph (b), no person shall obstruct or impede the flow of any Watercourse or Storm Drainage System without the prior written approval of an Environmental Protection Official.
  - d. No person shall alter the location or the quantity of Stormwater entering any Watercourse or Storm Drainage System from private land without prior written approval of an Environmental Protection Official.



- e. Before granting approval under this section, the Environmental Protection Official shall apply the:
  - i) provisions of this bylaw and other applicable enactments,;
  - ii) development permit requirements,
  - iii) assessment of a Qualified Environmental Professional prepared under applicable enactments.

### DEVELOPMENT ADJACENT TO WATERCOURSES

- 3.1**
- a. No person shall Develop within a Watercourse Buffer Zone without a Development Permit.
  - b. Without limiting paragraph (a), no person shall Develop within thirty (30) metres of the High Water Mark of a Watercourse without a Development Permit.
  - c. No person shall Develop within the area that is between thirty (30) metres and fifty (50) metres from the High Water Mark of a Watercourse unless a Qualified Environmental Professional has determined that the proposed Development is outside the assessment area as defined in the *Riparian Areas Regulation*, (British Columbia).
  - d. The requirement in paragraph (c) does not apply to a Ditch.
  - e. For Development pursuant to Section 3.1(a) or (b), an Environmental Protection Official may require the Owner of real property, in which the Development is to occur, to provide to the City a report prepared by a Qualified Environmental Professional addressing assessments identified in the Official Community Plan, this bylaw and the *Riparian Areas Regulation*.
  - f. The Owner of the real property on which the Development is to occur shall:
    - i) comply with all Development Permit requirements in the manner and within the time frames identified in the Development Permit;
    - ii) upon completion of the requirements, submit to an Environmental Protection Official a certified report prepared by a Qualified Environmental Professional notifying that the Development Permit requirements have been fully implemented; and
    - iii) provide security to the City an amount equal to 125% of the cost estimated by a Qualified Environmental Professional of complying with the Development Permit requirements.

### DUMPING ADJACENT TO WATERCOURSES

- 3.2**
- a. No person shall deliver, deposit, store, abandon, or allow to be delivered, deposited, stored or abandoned, any fill or other material, including Yard Waste, within a designated Watercourse Buffer Zone.
  - b. Without limiting paragraph (a), no person shall deliver, deposit, store, abandon, or allow to be delivered, deposited, stored or abandoned, any fill or other material, including Yard Waste, within thirty (30) metres of a Watercourse if the area within thirty (30) metres is in an Undeveloped naturally vegetated state.

## **FOULING WATERCOURSES AND STORM DRAINAGE SYSTEMS**

- 3.3** No person shall cause or permit any Deleterious Material, or water containing Deleterious Material, to be deposited or released, directly or indirectly, including through Groundwater contamination, into a Watercourse or Storm Drainage System that would Foul the Watercourse or Storm Drainage System.

## **OIL AND GRIT INTERCEPTOR REQUIREMENTS**

- 3.4** The Owner of real property where there is a vehicle or equipment wash area constructed as part of a commercial or industrial business, or where a paved or impervious Motor Vehicle Parking Area is constructed, shall:
- a. construct and install an oil and grit interceptor designed by a Qualified Engineering Professional in accordance with specifications contained in the Subdivision and Development Servicing Bylaw to intercept the Stormwater runoff from the paved or impervious area before it reaches the Storm Drainage System or Stormwater Management Facility;
  - b. ensure that the design of the oil and grit interceptor includes a maintenance schedule according to the manufacturer's specifications or as specified by a Qualified Engineering Professional;
  - c. maintain the oil and grit interceptor according to the maintenance schedule and manufacturer's specifications;
  - d. at the request of an Environmental Protection Official, provide proof of the maintenance required under this section; and
  - e. without limiting paragraphs (c) and (d), an Environmental Protection Official may order the cleaning of the oil and grit interceptor if the facility is full.

## **PART 4: Bald Eagle Nest Trees and Nest Tree Habitat**

### **CUTTING DOWN, REMOVAL OR MODIFICATION OF BALD EAGLE NEST TREES**

- 4.0** No person shall cut down or remove a Bald Eagle Nest Tree or cause any such tree to be cut down, trimmed, root planed, topped, modified or removed unless:
- a. any permit that may be required from the Province has been obtained;
  - b. prior to cutting or removal, a copy of the Provincial permit is provided to an Environmental Protection Official with written notification of the intended date of cutting or removal.
- 4.1** If the Bald Eagle Nest Tree is to be cut down or removed for a reason other than being a Hazard Tree, the Owner of the real property from which the Bald Eagle Nest Tree is to be cut down, trimmed, root planed, topped, modified or removed or their agent authorized in writing shall submit to the City a habitat compensation plan prepared by a Qualified Environmental Professional, prior to the cutting or removal, that:

- a. describes the measures required to ensure how no net loss of Bald Eagle Nest Tree Habitat will be achieved; and
  - b. includes a time frame for implementation and completion of the measures with actions required, monitoring schedule and communications plan.
- 4.2** The Owner of real property from which a Bald Eagle Nest Tree has been cut down, trimmed, root planed, topped, modified or removed subject to Section 4.1 shall:
- a. implement the habitat compensation plan in the manner and within the time frames identified in the plan; and
  - b. upon completion of the plan measures, submit to the City a certified report prepared by the Qualified Environmental Professional notifying that the habitat compensation plan measures have been fully implemented.

### **DAMAGING BALD EAGLE NEST TREES**

- 4.3** Without limiting sections 4.0 through 4.2, no person shall, without prior issuance of a permit required by the Province and compliance with this Bylaw, carry out any of the following damaging activities to any Bald Eagle Nest Tree:
- a. Cutting or damaging of the roots within the Drip Line of the tree;
  - b. Placing fill, building materials, asphalt or a building or structure upon land within the Drip Line of the tree;
  - c. Operating trucks, backhoes, excavators or other heavy equipment over the roots within the Drip Line of the tree;
  - d. Denting, gouging or damaging the trunk or removing bark from the tree;
  - e. Depositing concrete washout, a chemical, or substances harmful to the health of the tree on land within the Drip Line of the tree;
  - f. Removing soil from land within the Drip Line of the tree;
  - g. Blasting inside the Drip Line of the tree or outside the Drip Line so as to disturb the soil within the Drip Line; and
  - h. Undermining the roots of a tree growing inside the Drip Line; or altering the Groundwater or surface water level within the Drip Line of a tree.

### **DEVELOPMENT ADJACENT TO BALD EAGLE NEST TREES**

- 4.4**
- a. No Person shall Develop within sixty (60) metres of a Bald Eagle Nest Tree without a Development Permit.
  - b. The Owner of the real property in which Development is to occur adjacent to a Bald Eagle Nest Tree pursuant to a Development Permit shall:
    - i) implement all Development Permit requirements in the manner and within the time frames identified in the Development Permit; and
    - ii) upon completion of the Development Permit requirements, submit to an Environmental Protection Official a report prepared and certified by a Qualified Environmental Professional notifying that the Development Permit requirements have been fully implemented.

## PART 5: General Exemptions

### 5.0 Emergency Procedures:

- a. for flood and erosion protection, and the clearing of obstructions;
- b. to prevent, repair or replace public utilities by the owner of the utilities;
- c. for clearing an obstruction from a bridge, culvert or drainage flow by a public authority as defined in the Community Charter; or
- d. to repair bridges retaining walls or safety fences;

do not require a Development Permit provided that any person carrying out an emergency procedure action shall report such action to the City immediately prior to the emergency procedure action, or if this is not possible, immediately thereafter. An Environmental Protection Official may require the submission of a report that details the nature of the activity and impacts.

### 5.1 Cutting down, removal, pruning, topping or other modification of a Hazard Tree, situated in an area in which Development is regulated pursuant to this Bylaw, is exempt from the requirement of a Development Permit, provided that:

- a. the Owner of real property from which the Hazard Tree is to be cut down, removed or modified shall provide to the City a certified letter prepared by a Qualified Environmental Professional, prior to the cutting, removal or modification, specifying:
  - i) the tree that presents the hazard; and
  - ii) the condition of the Hazard Tree that give rise to the hazard.
- b. if the Hazard Tree is a Bald Eagle Nest Tree, the cutting down, removal, pruning, topping or other modification is further exempt from the requirement pursuant to Section 5.1 (a) if a permit has been approved by the Province for the cutting, removal, pruning, topping or other modification of the tree.

### 5.2 Removal of invasive non-native vegetation in an area in which Development is regulated under this Bylaw, does not require a Development Permit if the Owner of real property from which invasive non-native vegetation is to be removed provides to the City an environmental management plan prepared by a Qualified Environmental prior to the removal of the vegetation.

### 5.3 New recreational trails on public lands in an area in which Development is regulated under this Bylaw do not require a Development Permit if the developer of the trail provides to the City an environmental report prepared by a Qualified Environmental Professional detailing any environmental protection measures and habitat compensation requirements required prior to trail construction.

### 5.4 Habitat restoration of an area in which Development is regulated under this Bylaw does not require a Development Permit if the Owner of real property on which the restoration is to occur provides to the City a vegetation management plan prepared by a Qualified Environmental Professional prior to vegetation planting.

### 5.5 Construction, repair and maintenance of works by the City or its authorized agents and contractors are exempt from this Bylaw, but the works must be completed in accordance with the assessments and recommendations of a Qualified Environmental Professional and applicable environmental regulations and best management practices.

- 5.6** Agricultural uses on lands within the Agricultural Land Reserve or under the *Farm Practice Protection (Right to Farm) Act* or section 917(1) of the *Local Government Act*, do not require a Development Permit.

## **PART 6: Severability**

- 6.0** If any section, subsection, paragraph, clause, phrase or word within this bylaw is for any reason held to be invalid by the decision of a court or competent jurisdiction, such decision does not affect the validity of the remaining portions of this bylaw.

## **PART 7: Enforcement, Cost Recovery and Penalties**

- 7.0** An Environmental Protection Official and any agent of the may, at all reasonable times, enter upon any property in the City in order to inspect and determine whether the regulations contained within this bylaw are being complied with.
- 7.1** If any Owner of property or other responsible person involved in Development or any other activity is in contravention of this bylaw, an Environmental Protection Official may by written notice delivered to the Owner:
- a. order an immediate suspension of all or any portion of Development or other activity; and
  - b. order the Owner of the property in which Development occurred or other responsible person to mitigate damages to the environment at their expense and under the direction of a Qualified Environmental Professional and under any remedial action requirement provisions of the *Community Charter*.
- 7.2** If the Owner or other responsible person fails to take action outlined in Section 7.1 within 24 hours of the delivery of the notice, Council may make a declaration requiring that the Owner or other responsible person bring the property into compliance with the provisions of this Part within a specified time frame. An Environmental Protection Official may deliver to the Owner a notice in relation to Council's declaration.
- 7.3** If the Owner or other responsible person fails to comply with the notice requirement within the time limit specified in the notice under section 7.2, the City by its workers, or others authorized by Council, may, at all reasonable times and in a reasonable manner, enter the property and affect such compliance at the cost of the defaulting Owner or other responsible person. Such cost shall consist of all costs and expenses incurred by the City in affecting compliance with this Part including, without limitation, administrative costs, costs of attendance at the property by City employees or its contractors and the costs of the work undertaken to mitigate damages to the environment.
- 7.4** If the Owner or other responsible person defaults in paying the cost referred to in Section 7.3 to the City within 30 days of a demand for payment from the City, the City may recover from the Owner or other responsible person, in any court of competent jurisdiction, the cost as a debt due to the City. If an Owner has not paid the debt by December 31 in the year in which the debt was incurred, the City may direct that the amount of the cost be added to the real property tax roll as a charge imposed in respect of work or service provided to the property of the Owner.

## Reconsideration

- 7.5** An Owner or other responsible person who has been issued a notice under Section 7.2 of this Part may make representations to Council to have the decision reconsidered by applying in writing for such reconsideration within 14 days of receipt of the notice, or lesser time if specified in the notice.

## Penalties

- 7.6** Every person who contravenes, violates or fails to comply with any provision of this bylaw, or who suffers or permits any act or thing to be done in contravention of this bylaw, or who fails to do anything required by this bylaw, commits an offence and shall be liable, upon conviction, to a fine of not more than \$10,000 (and not less than the fines prescribed in the City's Ticketing for Bylaw Offences Bylaw), the cost of prosecution and any other penalty or order imposed pursuant to the *Community Charter* (British Columbia) or the *Offence Act* (British Columbia). Each violation against this bylaw shall be deemed to be a separate and distinct offence, and, where the offence is a continuing one, each day that the offence is continued constitutes a separate offence.

READ THE FIRST TIME this 7<sup>th</sup> day of October, 2014

READ THE SECOND TIME this 7<sup>th</sup> day of October, 2014

READ THE THIRD TIME this 21<sup>st</sup> day of October, 2014

ADOPTED this 4<sup>th</sup> day of November, 2014

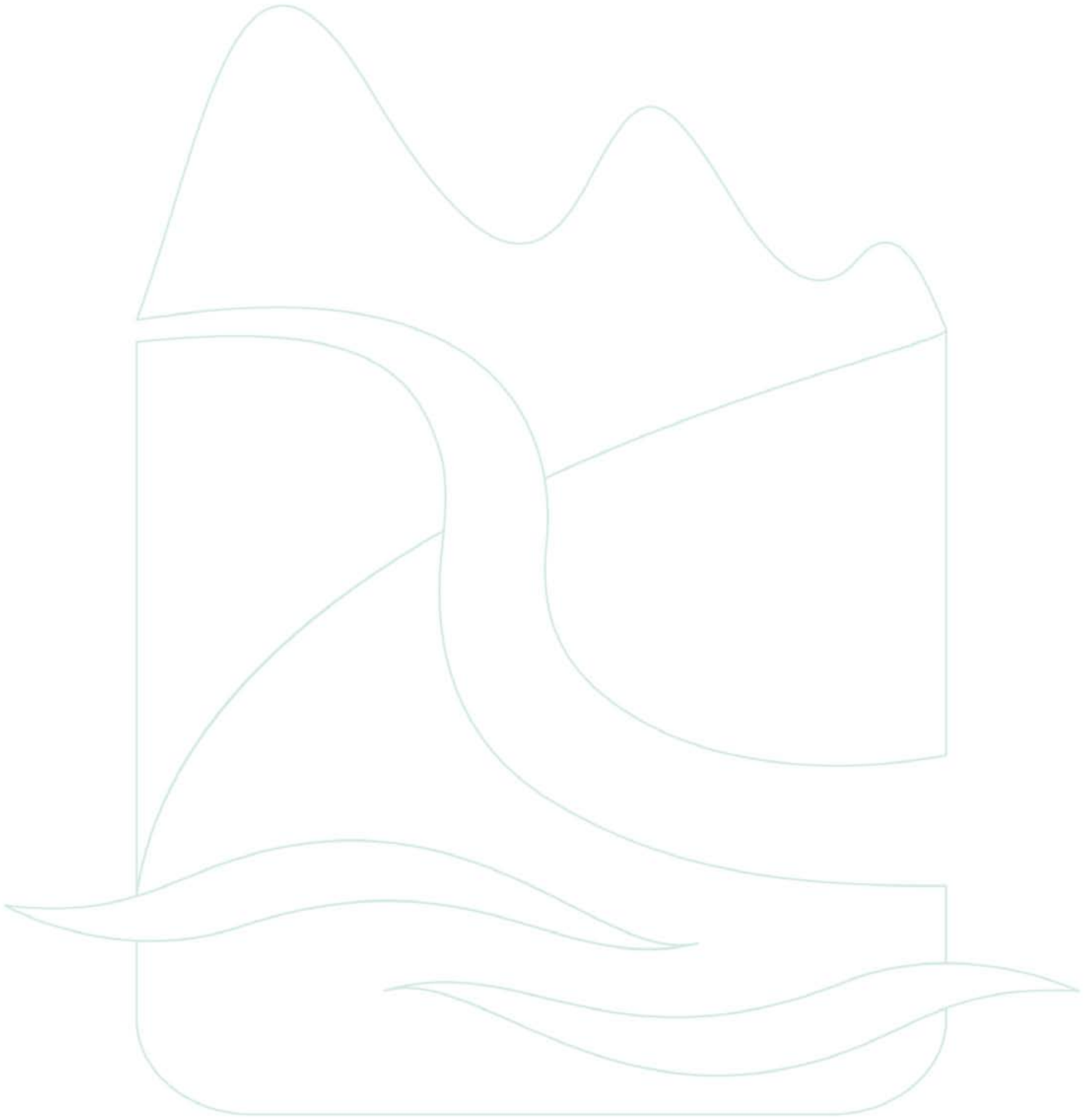
Signed by the Mayor and City Clerk this \_\_\_\_\_ day of \_\_\_\_\_ 2014

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MAYOR

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CITY CLERK



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