
Proposed Bylaws

From Nicole Cook [REDACTED]

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To Alison Nicholson <alison.nicholson@cprd.bc.ca>; legislativeservices <legislativeservices@cprd.bc.ca>; Zoning <zoning@cprd.bc.ca>

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Dear Directors,

I am writing to express my deep concern regarding the proposed bylaw changes outlined below.

These proposed bylaws are an infringement on our rights and a massive over-reach. These do not reflect the realities of living in the Cowichan Valley Regional District and the fine amounts are absolutely disproportionate.

The proposed regulation appears to be designed without sufficient consideration for the rural character of this region.

I respectfully ask that the CVRD reconsider this bylaw and adopt a more practical, flexible approach.

Residents should not be placed in a position where they are required to comply with standards that are ineffective for their environment. A one-size-fits-all policy does not serve a diverse region like the CVRD.

I encourage you to align this bylaw with the lived realities of your constituents and the natural environment we coexist with.

"CVRD Bylaw No. 4710 – Comprehensive Zoning Bylaw (Draft, March 2026)

Document Summary

This is a draft Comprehensive Zoning Bylaw (CZB) cited as Bylaw No. 4710, applying to Electoral Areas A–I, excluding Islands Trust, federal lands, and First Nations territories. It is not yet in force.

The draft consolidates numerous older area-specific bylaws into one unified framework. Bylaws being repealed and replaced include:

Area B Zoning Bylaw No. 985 (1986)

Area D Cowichan Bay Upland Bylaw No. 3705 (2013)

Area E Zoning Bylaw No. 1840 (1998)

Area F Zoning Bylaw No. 2600 (2005)

Area I Zoning Bylaw No. 2465 (2004)

Mobile Home Park Bylaw No. 275 (1978)

Campsite Standards Bylaw No. 1520 (1993)
Off-Street Parking Bylaw No. 1001 (1986)
Sign Bylaw No. 1095 (1987)
Manufactured Home Park Bylaw No. 4435 (2022)

The intent is to modernize and standardize rules across all electoral areas, consistent with the updated Official Community Plan.

Key Changes vs. Current In-Force Bylaws

1. Unified framework — Each electoral area currently has its own bylaw, some dating to 1986. The draft replaces all with a single consistent set of definitions, zones, and regulations.
2. Increased maximum fines — The new bylaw explicitly sets fines up to \$50,000 per offence, with each day of non-compliance as a separate offence. Current bylaws reference the statutory maximum but rarely name the figure explicitly — a significant escalation in penalty exposure.
3. Short-Term Rental (STR) — tighter — STR is prohibited in all zones unless explicitly permitted or covered by a Temporary Use Permit. Section 4.36.4 adds a ban on advertising unpermitted STRs, including by printed or written materials — a meaningful new enforcement tool beyond what current area bylaws contain.
4. Home-Based Business — more prescriptive — Floor area capped at 100 m² (parcels under 1 ha) or 200 m² (larger parcels), non-resident employees limited to two, and external display of business activity prohibited. Current bylaws are less specific.
5. Portable Containers (Shipping Containers) — newly regulated — Current bylaws have minimal container rules. The draft creates zone-specific size tables, prohibits containers on residential parcels within Growth Containment Boundaries, requires screening from highways and neighbours, and bans visibility from the Trans-Canada Highway.
6. Residential Shelters — new location restrictions — Shelters must be 150 m from schools, parks, daycares, and P-1 zones.
7. Backyard Hens — formalized — Hen limits introduced (4 hens for 0.2–0.4 ha; 6 for larger parcels), with fully enclosed structure requirements and an explicit prohibition on on-site slaughter in residential zones. Most current bylaws lack this detail.
8. Fence heights — marginally tighter — Several current bylaws (Areas F, G, H) allow rear fences to 2.0 m in residential zones. The draft caps residential rear/side yards at 1.8 m.

Charter of Rights Considerations

1. Section 4.36.4 — STR Advertising Ban (Charter s. 2(b))
Prohibiting advertising of an unpermitted STR — including private printed materials — targets expression protected under Section 2(b) (freedom of expression). Commercial expression restrictions are sometimes upheld, but the breadth here, covering even personal handbills, may be challengeable. An identical advertising restriction applies to home-based businesses under s. 4.19.8.

2. Section 2.2.4 — Entry onto Property (Charter s. 8)

Enforcement officers may enter "any parcel, building, or premises at all reasonable times" without a stated warrant requirement. Section 8 protects against unreasonable search. Administrative inspection powers have been upheld in regulatory contexts, but residential entries receive greater scrutiny. Owners are not necessarily obligated to allow entry without proper authorization.

3. Section 4.29.3 — Prohibition on Non-Traditional Dwellings (Charter ss. 7 & 15)

Prohibiting the use of tents, trailers, RVs, or buses as residences on one's own rural land — outside narrow construction exceptions — could disproportionately affect economically vulnerable landowners. Section 7 (life, liberty, security) and Section 15 (equality) have been invoked in similar challenges elsewhere in BC, particularly given the housing crisis.

4. Section 4.28 — Residential Shelter Separation (Charter s. 15 / BC Human Rights Code)

Requiring shelters to be 150 m from schools and parks is a form of exclusionary zoning. Blanket distance requirements for group homes have been challenged under Section 15 and the BC Human Rights Code as discriminating on the basis of disability or mental health. The carve-out exempting women's shelters fleeing violence is appropriate, but the broader rule warrants scrutiny.

5. Section 2.3.2 — Daily Offence Accumulation

Each day of non-compliance is a separate offence. At \$50,000 per offence, a continuing minor violation (e.g., a shipping container visible from a highway) could accumulate catastrophic fines. While standard in regulatory law, gross disproportionality in penalties can in extreme cases engage Section 12 (cruel and unusual treatment), and raises basic fairness concerns for rural property owners.

Summary

Bylaw No. 4710 is primarily a consolidation and modernization effort, not a radical shift. Most provisions reflect existing area practices, now standardized. Key new elements are the STR advertising ban, shipping container regulations, formalized backyard hen rules, and the elevated fine structure.

The provisions most worth scrutinizing for rights implications are: the advertising bans (s. 2(b)), inspection entry powers (s. 8), the prohibition on non-traditional rural dwellings (ss. 7 & 15), and residential shelter separation rules (s. 15 / Human Rights Code). None are automatic Charter violations — courts give municipalities broad deference in land use — but affected residents would have legitimate grounds to raise challenges if enforcement is disproportionate.

Additional Rights and Legal Concerns – CVRD Bylaw No. 4710

Beyond the Charter considerations already identified, a closer reading reveals further provisions raising concerns under property rights, civil rights, and fairness principles.

1. House Size Caps on Private Agricultural Land (s. 7.2.4 / 7.4.3)

On A-1 (ALR) parcels of 2 ha or less, the maximum dwelling footprint is 325 m² and gross floor area is 500 m² — regardless of parcel size within that range. On F-1 Forest zone parcels, a similar 325 m² footprint cap applies at all sizes.

The CVRD is layering its own size caps on top of provincial ALR rules. Landowners with 1.9 ha parcels are treated identically to those with 0.2 ha parcels. This blanket cap may conflict with ALC Regulations

and creates disproportionate restrictions on larger ALR parcels where a bigger home would have minimal agricultural impact.

2. Food Grown on Residential Land — "Human Consumption Only" (s. 4.29.10)

The bylaw permits food cultivation on residential parcels but restricts it to "human consumption only." A resident cannot legally share or sell garden vegetables, eggs, or honey to a neighbour or through community food programs without triggering additional requirements. This potentially conflicts with:

The BC Right to Farm Act, which broadly protects farm activities.

Basic private property use principles.

The BC Food Security policy framework, which encourages community food sharing.

It is also internally inconsistent: Section 4.5 permits a roadside stand for backyard hen and beekeeping products, but Section 4.29.10's blanket restriction creates ambiguity about what is lawful without a stand permit.

3. Prohibition on Water and Beverage Bottling (s. 4.42.3(x))

Water and beverage bottling is prohibited in all zones without exception or variance path. This prevents a landowner with a licensed aquifer from operating a bottling business at any scale. This conflicts with the Water Sustainability Act, which explicitly allows licensed commercial water extraction — meaning this bylaw effectively overrides a provincial licence.

4. Drive-Through Facilities — Blanket Prohibition (s. 4.42.3(e))

Drive-throughs are prohibited in all zones with no variance or conditional approval path. A pharmacy or bank in a rural commercial zone cannot include a drive-through even where traffic impact would be minimal. This may unreasonably restrict lawful commercial development on privately owned commercial land.

5. Covenants and Financial Security Deposits as Conditions of Property Use (ss. 4.40.2, 5.4, 15.3)

The CVRD routinely requires owners to register Section 219 covenants — permanent title encumbrances — as a condition of exercising normal property rights. Under Expropriation Act principles, government-imposed restrictions that substantially reduce land value may attract compensation obligations.

More pointedly, Section 4.40.2(b) requires an irrevocable \$5,000 letter of credit from homeowners simply wishing to occupy their existing home while building a new one on the same land. Requiring a financial security deposit as a condition of living in your own dwelling is coercive and of questionable legislative authority.

6. No Explicit Non-Conforming Use Protection

The bylaw contains no explicit section protecting legally existing non-conforming uses — standard in most zoning bylaws. The Local Government Act (s. 528) provides default protections, but their absence

in the bylaw creates a practical enforcement risk. Owners with legally established uses under prior bylaws may not know their protection exists in statute, not this document, and may face incorrect enforcement.

7. Single Unlicensed Vehicle Limit on Rural Land (s. 4.42.3(g))

Owners may only keep one unlicensed but operational vehicle outdoors, with no minimum parcel size threshold. A rural acreage owner faces a violation for two project vehicles outside — even on 10 ha well-screened from any neighbour. Applying this suburban-style restriction equally to large rural parcels is disproportionate.

8. Flag Prohibition — Multiple Charter Freedoms (s. 16.2.1(f))

All flags except national, provincial, or municipal flags are prohibited on any property. An owner cannot fly a flag expressing a cause, religious affiliation, Indigenous nation, or community organization. This implicates:

Charter s. 2(b) — freedom of expression

Charter s. 2(a) — freedom of religion

Charter s. 2(d) — freedom of association

The bylaw exempts election signs (s. 16.1.3(e)), acknowledging expressive rights in one context — making the flag prohibition's inconsistency harder to justify under a s. 1 analysis.

9. Temporary Sign Prohibition (s. 16.2.1(i))

Portable and temporary signs are prohibited in all zones. This prevents homeowners from placing lawn signs and businesses from using temporary advertising — common forms of political and community expression. The blanket prohibition implicates Charter s. 2(b) and is likely overbroad; courts have struck down similar prohibitions in other Canadian municipalities.

10. Impervious Surface Caps — Potential Regulatory Taking (ss. 7.2.5, 7.4.4)

On F-1 Forest parcels over 4 ha, maximum impervious surface coverage is just 10%. Restricting what fraction of your own land you can surface with a driveway or building pad — without compensation — approaches a regulatory taking in Canadian property law. Owners who purchased larger parcels expecting more extensive development have no compensation mechanism.

Summary

Agricultural and forestry zone owners are disproportionately affected. Key concerns: house size caps on ALR land, the food-for-human-consumption-only restriction, the water bottling prohibition overriding provincial licences, coercive s. 219 covenants and the \$5,000 security deposit, absent non-conforming use protections, the rural vehicle storage restriction, the flag prohibition engaging three Charter freedoms, the temporary sign ban, and impervious surface caps approaching regulatory taking. Collectively these represent a meaningful expansion of regulatory control over private rural land beyond the bylaws being replaced.”

Thank you for your time and consideration.

Sincerely,

Nicole Cook

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