



Regional District of  
Kootenay Boundary

## Area C/ Christina Lake Zoning Bylaw Update

### Summary

This info sheet explains the regulatory framework for buildings and structures sited within a setback from the natural boundary of Christina Lake.

Current bylaws are available on the RDKB website:

<https://rdkb.com/Regional-Government/Who-we-are-what-we-do/Policies-and-Bylaws>

Info about the draft Zoning Bylaw is available on the RDKB website:

<https://jointheconversation.rdkb.com/area-c-christina-lake-zoning-bylaw-review-project>

# Building in a setback

## Info Sheet

### What is the setback to Christina Lake?

The setback from Christina Lake is the minimum distance between the present natural boundary and any part of a building or structure with some exceptions (See Table 2 on Page 2 for exceptions details).

There are two RDKB bylaws containing setbacks to Christina Lake. One of these bylaws (Area C Zoning Bylaw) is currently undergoing an update.

Table 1: Minimum setback distances from Christina Lake

| RDKB Bylaw                   | Principal Buildings | Accessory buildings/structures                               |
|------------------------------|---------------------|--------------------------------------------------------------|
| Floodplain Management (1844) | 10m                 | 10m                                                          |
| Area C Zoning (1300)         | 7.5m (most zones)   | 3m in most zones<br>(unless 10sm or less in size, then 0.6m) |
| Draft Area C Zoning          | 10m                 | 10m                                                          |

### What if a building is within 10m of the lake?

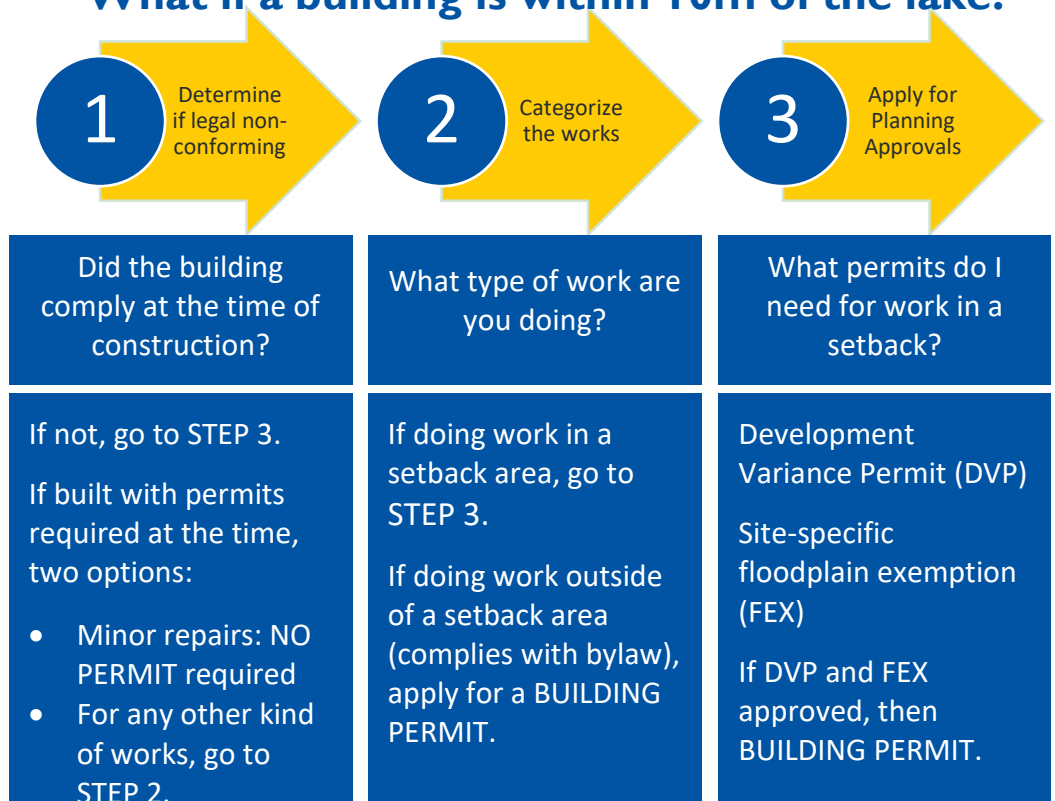
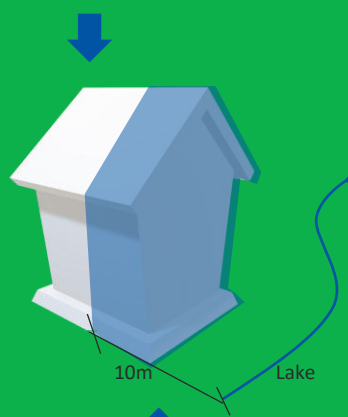


Figure 1: Process for making changes to a building located within 10m of Christina Lake

# Non-conforming siting

Without planning permits, a “legal non-conforming” building in a setback can be kept “as is” but maintenance beyond minor repairs is restricted within the setback area.

Changes outside of the setback simply need a building permit



Changes in the setback, require planning permits (FEX, DVP), and a building permit



To know whether a building or structure complied at the time of construction (“**legal non-conforming**” or “**grandfathered**”), there will be either a record of a building permit, proof it was built before a building permit was required (Dec. 14, 1966), or proof that it was exempt from permits. **Provide your evidence to an RDKB Planner to confirm your status.** There are cases where “legal non-conforming” status is lost due to previous alterations being made.

Without planning permit approvals, building renovations are restricted within a setback, including the replacement of materials “in kind”, like roofing and siding. For a building partially in a setback, the building can be extended, altered or repaired outside of the setback (but not within the setback) with a building permit.

## Are there any exceptions?

While buildings and structures are generally required to meet a setback, there are some exceptions to the rule. The table below lists types of structures that are exempt from the setback to Christina Lake in at least one of the applicable bylaws.

Table 2: List of exemptions where the lake setback does not apply, by bylaw

| Type of structure                           | Floodplain Bylaw | Zoning Bylaw                                                    | Draft Zoning Bylaw                            |
|---------------------------------------------|------------------|-----------------------------------------------------------------|-----------------------------------------------|
| Landscaping                                 | Allowed          | Allowed by bylaw interpretation                                 | Allowed                                       |
| Landscaping walls less than 1.22m in height | Allowed          | Allowed by bylaw interpretation                                 | Allowed                                       |
| Fences                                      | Allowed          | Allowed as landscape screen                                     | Allowed as landscape screen                   |
| Paving                                      | Allowed          | Allowed by bylaw interpretation                                 | Allowed                                       |
| Pavers                                      | Allowed          | Allowed by bylaw interpretation                                 | Allowed                                       |
| Landscape screen                            | Allowed          | Allowed                                                         | Allowed                                       |
| Poles (utility, lighting, flag, masts)      | Not Allowed      | Allowed                                                         | Allowed                                       |
| Signs and sign structures                   | Not Allowed      | Allowed                                                         | Allowed                                       |
| Utility infrastructure                      | Not Allowed      | Underground utilities, utility poles, warning devices and wires | Public/private utility infrastructure allowed |
| Underground structure                       | Not Allowed      | Allowed                                                         | Not Allowed                                   |
| Above-grade stairs                          | Not Allowed      | Not Allowed                                                     | Not Allowed                                   |

## Why all the restrictions?

Such limitations to “grandfathered” buildings are based on eventually gaining compliance with the bylaws of the day, and avoiding hazard areas like the floodplain of Christina Lake. Where it cannot be avoided, the RDKB has a process to address risk and liability, and ensure people and property are safe from future hazard events.



Before a building permit is issued, a floodplain exemption and a variance are needed for work within the setback for Christina Lake

Our Planning application form can be found on the RDKB website:

<https://rdkb.com/Plan-Build/Planning/Application-Forms>

A full list of previous site-specific floodplain exemptions:

<https://rdkb.com/Plan-Build/Planning/Floodplain-Bylaw-1844/FEX-Report-Table>

## What is the process for planning approvals to build or modify a building in a setback?

If you are constructing a new building, or changing, modifying, replacing, or adding to an existing building, and the proposed construction/modifications are in the setback area for Christina Lake, the following permits are required:

- Site-specific floodplain exemption (FEX)
- Development Variance Permit (DVP)
- Building Permit (BP)

Approval of development variance permits and site-specific floodplain exemptions is at the discretion of the RDKB Board of Directors, with consideration of input from the public, staff, and local Advisory Planning Commission (APC); and RDKB bylaws, such as the Area C Official Community Plan (OCP), and provincial policy. Each application is forwarded to the APC (a group of volunteers appointed by the Board), and the Electoral Area Services (EAS) Committee (a sub-committee of the Board), before going to the Board of Directors meeting for consideration (*see flow chart on next page*).



Figure 2: Order of meetings where DVP and FEX applications are reviewed

For both development variance permits and site-specific floodplain exemptions, applicants must:

- Show that a hardship exists (meaning that there are physical characteristics of the lot that keep from building elsewhere on the lot. Hardship is not based on preferences or economic circumstances).

For site-specific floodplain exemptions, applicants must also:

- Provide an engineer's report to assess the risk of building within the floodplain
- Provide an engineer's flood assurance statement to determine the proposal is safe for the use intended
- Consider landscape planning and reclamation adjacent to the lake
- If the exemption is granted, register a covenant on title

The application fee for a combined DVP and FEX application is \$650. Application requirements include the standard application materials (listed on our [application form](#)), development plans, a variance statement, and a flood hazard assessment and flood assurance statement from a qualified professional.



## Timeline of current and past bylaws

|      |                                     |
|------|-------------------------------------|
| 1966 | Building Bylaw Adopted              |
| 1977 | First Area C Zoning Bylaw Adopted   |
| 2007 | Current Area C Zoning Bylaw Adopted |
| 2023 | Current Floodplain Bylaw Adopted    |

## Contact

Planning and Development Department  
202-843 Rossland Ave  
Trail, BC V1R 4S8  
250.368.9148  
1.800.355.7352  
[planner@rdkb.com](mailto:planner@rdkb.com)

## Definitions / Descriptions

### Present natural boundary

Present natural boundary can change over time and is the place where vegetation changes from what lives in water to what lives on land. It is identified by a BC land surveyor. It is defined in our floodplain bylaw as “the visible high watermark of any lake, river, stream or other body of water where the presence and action of the water are so common and usual, and so long continued in all ordinary years, as to mark upon the soil of the bed of the lake, river, stream or other body of water a character distinct from that of the banks thereof, in respect to vegetation, as well as in respect to the nature of the soil itself (Land Act, Section 1)”.

### Legal non-conforming (“grandfathering”)

Legal non-conforming or “grandfathering” is used to describe a building or structure that does not comply with bylaws of the day but complied at the time of construction. These buildings are recognized in the *Local Government Act*, which outlines what modifications can and cannot be made.

### Minor repairs

Minor repairs are allowed on legal non-conforming buildings or structures and are very limited in nature. Examples include painting or patching. Minor repairs must meet all the criteria below:

- Exempt from a building permit
- Non-structural
- No replacement of materials
- No expansion of building footprint

### Development Variance Permit (DVP)

A Development Variance Permit (DVP) authorizes changes to specific zoning bylaw regulations, such as a setback, parcel coverage, or building height. A DVP cannot vary the use, density or rental tenure requirements specified in a zone or a floodplain specification.

### Site-specific floodplain exemption (FEX)

A Site-specific Floodplain Bylaw Exemption (FEX) authorizes construction within a floodplain. It can authorize work within a specified setback or work below the designated flood construction level or both.

### Building Permit (BP)

A building permit authorizes construction after being reviewed for health, fire, structural and general safety requirements. A building permit is required for most construction projects within the RDKB.

### Flood construction level (FCL)

“Flood construction level” is the minimum elevation where “habitable area” can occur (see floodplain bylaw for definitions). The elevation levels are specified in the floodplain map for Christina Lake, and includes wave effect zone surrounding Christina Lake where a higher minimum elevation is required. FCL is shown on our interactive webmap, which can be found on the RDKB website here:

<https://rdkb.com/Plan-Build/Planning/Maps>