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**REPORT TO JUAN DE FUCA LAND USE COMMITTEE  
MEETING OF TUESDAY, OCTOBER 19, 2010**

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**SUBJECT**      **AMENDMENT TO BYLAW NO. 3297 "JUAN DE FUCA ELECTORAL AREA SOIL REMOVAL OR DEPOSIT BYLAW NO. 1, 2006" – AMENDING BYLAW NO. 3681**

**ISSUE**

To consider Bylaw No. 3681 to amend the Soil Removal or Deposit Bylaw No. 3297 to incorporate changes suggested by the community and sand and gravel operators to streamline the permit process and the review permit fees.

**BACKGROUND**

The Soil Bylaw regulates the removal or deposit of soil in the Juan de Fuca Electoral Area. The Bylaw is intended to ensure that clean fill is deposited and that the removal of soil is done safely. Mitigation measures are required to address any negative impacts on the lands, slopes and water systems. The bylaw allows the removal or deposit of soil up to 60 cubic metres per year without a permit.

The community has indicated that 60 cubic metres is too small an amount to allow for the construction of buildings or for general yard work on rural lots in the Electoral Area. Local gravel operators have indicated that the soil permit is a duplication of the License obtained from the Ministry of Energy, Mines and Petroleum Resources and that the fees applied to large commercial operations are excessive.

Staff have worked with the Alternate Electoral Area Director, who has consulted the gravel operators in the area, and made some proposed amendments to the bylaw (Appendix No. 1). Staff are recommending that the proposed amendments be referred to agencies and the community for comment.

**ALTERNATIVES**

1. Refer the proposed Bylaw No. 3681, "Juan de Fuca Electoral Area Soil Removal or Deposit Bylaw No. 1, 2006, Amendment Bylaw No. 1, 2010" to agencies and direct staff to hold a public information meeting.
2. Not refer the proposed amendment and retain the existing bylaw.
3. Refer the bylaw back to staff for further information.

**FINANCIAL IMPLICATIONS**

Staff have evaluated the operation and implications of the proposed bylaw and will be recommending a complementary amendment to the Procedures Bylaw No. 3110 to reduce the application fee for those development applications that include multiple permit requirements such as a development permit and a soil permit.

**LEGISLATIVE IMPLICATIONS**

Opportunities for consultation the Committee considers appropriate for persons, organizations and authorities should be considered. The Juan de Fuca Electoral Area Development Procedures Bylaw No. 3110 requires the consideration of a referral prior to the introduction of a land use bylaw. Notice of public hearing would be advertised in accordance with the *Local Government Act*. The decision on which bodies are consulted in accordance with the *Local Government Act* has been delegated to the Juan de Fuca Land Use Committee in Bylaw No. 3166.

Where an amendment or new land use and subdivision bylaw will apply to land within 800m of a controlled access highway, the bylaw must be referred to the Ministry of Transportation and Infrastructure.

**PUBLIC CONSULTATION IMPLICATIONS**

As this proposed bylaw applies to all lands in the Juan de Fuca Electoral Area, staff recommends that a public information meeting be held together with referrals to agencies to receive comments on the proposal. A public information meeting would be more effective in communicating issues, responding to questions and obtaining an indication of any concerns as opposed to the traditional process of referring the application to Advisory Planning Commissions. All Advisory Planning Commission members would be invited to attend and the information meeting would be advertised locally.

Should the proposal proceed, a public hearing pursuant to Section 890 of the *Local Government Act* will be required subsequent to the amendments passing second reading by the Capital Regional District Board. Staff is proposing holding a public information meeting to allow the community to comment on the proposed amendments.

**REGIONAL GROWTH STRATEGY IMPLICATIONS**

The proposed amendments to the Soil Removal and Deposit Bylaw continue to support the protection and use of sand and gravel resources in the Juan de Fuca Electoral Area which supports the Renewable Resource Lands policies in the Regional Growth Strategy.

**CONCLUSION**

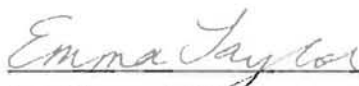
The Soil Bylaw regulates the removal or deposit of soil and is intended to ensure clean fill is deposited safely on lands and that the removal of soil is done safely with mitigation measures required to address any negative impacts on the land, slopes, ground and surface water systems. The community has indicated that permit requirements add additional cost and time to building construction and general property maintenance. In addition, the gravel operators have indicated that the soil permit is a duplication of the License obtained from the Ministry of Energy, Mines and Petroleum Resources and that the fees applied to large commercial operations are excessive. Staff recommend holding a public information meeting and referring the applications to agencies for comment.

**RECOMMENDATION**

That the Land Use Committee direct staff to hold a public information meeting and to refer the October 19, 2010 staff report for proposed Bylaw No. 3681 to appropriate CRD departments and the following agencies for comment:

Ministry of Transportation and Infrastructure  
Ministry of Environment  
Ministry of Energy, Mines & Petroleum Resources  
Ministry of Agriculture and Lands  
Ministry of Forests and Range and Minister  
Responsible for Integrated Land Management  
Bureau  
Agricultural Land Commission  
Archaeology Branch - Ministry of Tourism, Culture  
& the Arts  
Private Managed Forest Land Council  
Pacheedaht First Nations

Ditidaht First Nations  
T'Sou-ke First Nations  
Cowichan First Nations  
Skai-new First Nations  
Malahat First Nations  
School Board (School District #62)  
RCMP  
BC Hydro  
Vancouver Island Health Authority  
Cowichan Valley Regional District  
District of Sooke

for:   
June Klassen, MCIP  
Manager, Local Area Planning

  
Robert Lapham, MCIP  
General Manager, Planning and Protective Services

**Capital Regional District  
Bylaw No. 3681**

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**A BYLAW TO AMEND BYLAW NO. 3297, "JUAN DE FUCA ELECTORAL AREA SOIL REMOVAL AND DEPOSIT BYLAW NO. 1, 2006"**  
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- A. WHEREAS** the Capital Regional Board wishes to amend the "Juan de Fuca Electoral Area Soil Removal or Deposit Bylaw No. 1, 2006";
- B. NOW THEREFORE** the Capital Regional Board in open meeting assembled, hereby enacts as follows:
1. Bylaw No. 3297 being the "Juan de Fuca Electoral Area Soil Removal or Deposit Bylaw No. 1, 2006," is hereby amended as follows:

**DEFINITIONS**

- a) Amend the definition for "**Applicant**" by deleting the word "forms" and replacing with the word "form", and by deleting the word "schedules" and replacing with the word "schedule" and deleting the words "or "C".
- b) Amend the definition for "**Application**" by deleting the word "forms" and replacing with the word "form", and by deleting the word "schedules" and replacing with the word "schedule" and deleting the words "or "C".
- c) Amend the definition of "**Electoral Area**" by deleting the words ", as outlined upon Map 1, attached to and forming a part of this bylaw".
- d) Amend the definition for "**General Manager**" by deleting the words "Environmental Services" and replacing with the words "Planning and Protective Services".
- e) Amend the definition for "**Permit**" by deleting the words "or "D".

**3.0 INCORPORATION OF MAPS, TABLE AND SCHEDULES**

- a) Delete the words "Map 1" and the words ""C" and "D".

**6.0 PERMIT EXEMPTIONS**

- a) Delete section 6.1 in its entirety and replace with the following:  
"6.1 A person may remove or deposit soil from a parcel of land in the Electoral Area without a permit provided at least one of the following conditions is satisfied:  
(a) On parcels less than 4,000 m<sup>2</sup> in size the removal or deposit does not exceed a total of 60 cubic metres in any calendar year; or  
(b) On parcels greater than 4,000 m<sup>2</sup> in size the removal or deposit of soil does not exceed a total of 200 cubic metres in any calendar year; or  
(c) The removal or deposit is required for the construction or repair of works, roads, highways or services by or on behalf of the Capital Regional District, or the Ministry of Transportation and Infrastructure, and is from or to parcels of land owned or leased by one of these authorities; or  
(d) The removal or deposit is from land owned or leased by the federal or provincial government."
- b) Delete section 6.2 in its entirety.
- c) Renumber section 6.3 as section 6.2 and delete the word "sections" and replace with the word "section" and delete the words "and 6.2".

- d) Add a new section 6.3 which states:  
"6.3 Only one removal or deposit permit is required if both actions occur within the same parcel of land."
- e) Add a new section 6.4 which states;  
"6.4 Where the removal or deposit of up to 200 cubic metres of soil is for the construction of basements and foundations or installation of works and services e.g. septic fields and driveways associated with the construction of a building, the soil removal or deposit permit will be issued as part of the building permit process."

#### **7.0 PERMIT APPLICATION REQUIREMENTS**

- a) Amend 7.1 (j) by deleting the word "250m<sup>3</sup>" and replacing it with the word "200m<sup>3</sup>" and adding after the word "plan" the words "may be required,".

#### **10.0 PERMIT CONDITIONS**

- a) Amend section 10.2 by deleting the words "9 a.m." and replacing with the words "8 a.m."
- b) Add a new section 10.8 which states:  
"10.8 A permit issued for the Removal or Deposit of Soil does not authorize:
  - (a) Damage to drainage facilities, roads, or lands, or other property or natural water courses.
  - (b) Obstructions to drainage facilities or natural water courses with silt, clay, sand, gravel, rubble, debris. Or any other matter or thing originating from any deposit or removal of fill.
  - (c) The operations by which fill is deposited or removed to encroach upon, under or physically damage any property.
  - (d) Alteration or diversion of natural water courses, except with the approval of the Ministry of Environment.
  - (e) The size and configuration of the fill depositor removal shall not adversely affect the air, light or view of adjoining or adjacent properties, or to alter the appearance or nature of the surrounding area.
  - (f) Fill to be deposited or permitted to remain within eight metres of any road right of way.
  - (g) Fill to be deposited or permitted to remain or removed from any area within 30 metres from the natural boundary of a stream unless supported by an environmental report prepared by a qualified professional and a development permit is issued."

#### **11.0 ADMINISTRATION**

- a) Amend section 11.1 subsection (b) by deleting the words "The Term for any permit shall not exceed one (1) year."

#### **14.0 FEES AND SECURITY DEPOSITS**

- a) Delete section 14.1 in its entirety.
- b) Renumber section 14.2 as section 14.1.
- c) Renumber section 14.3 as 14.2 and add to the end of the last sentence the words "or upon compliance with the terms of the permit".

#### **MAP 1**

- a) Delete Map 1 from the Bylaw.

**TABLE A**

a) Delete Table A and replace with new "Table A" as follows:

"TABLE A

<b>SOIL QUANTITY<sup>1</sup></b>	<b>PERMIT FEE<sup>2</sup></b>	<b>SECURITY DEPOSIT<sup>3</sup></b>	<b>RENEWAL FEE<sup>4</sup></b>
<b>60 – 500 m<sup>3</sup></b>	\$250	A deposit may be required depending upon site conditions	\$100
<b>501- 5,000 m<sup>3</sup></b>	\$1,000	\$1,000 per hectare or part thereof of the parcel upon which soil is deposited or removed	\$100
<b>Over 5,000 m<sup>3</sup></b>	\$2,500	\$1,000 per hectare or part thereof of the parcel upon which soil is deposited or removed	\$500

1. The applicant is responsible for ensuring that any conditions governing Removal or Deposit of Soil as defined in the *Mines Act* are adhered to.
2. The permit fee must be provided prior to the issuance of a permit.
3. The security deposit is required prior to issuance of a permit and must be renewed and in effect prior to renewal of any permit. The security deposit will continue in effect for six months after the permit has expired.
4. The renewal fee is required prior to an extension to the permit."

**SCHEDULE "A"**

a) Delete Schedule "A" and replace with new Schedule "A".

**SCHEDULE "B"**

a) Delete Schedule "B" and replace with new Schedule "B".

**SCHEDULE "C"**

a) Delete Schedule "C".

**SCHEDULE "D"**

a) Delete Schedule "D".

<b>CRD</b> Schedule A Soil Deposit/Soil Removal Application For Permit					APPLICATION NO. <input type="text"/>
<b>Applicant Name:</b>		<b>Telephone Number:</b>			
<hr/>					
<b>Mailing Address:</b>					
<hr/>					
<hr/>					
<hr/>					
<hr/>					
<b>I/We being the registered owners of:</b>					
<b>Lot:</b>	<b>District Lot:</b>	<b>Section:</b>	<b>Land District:</b>	<b>Plan:</b>	
<hr/>					
<b>Located at:</b>					
<hr/>					
<b>The purpose of the Soil Deposit/Soil removal is as follows:</b>					
<hr/>					
<hr/>					
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<hr/>					
<hr/>					
<b>The area upon which Soil is to be deposited/removed is as shown on the attached plan and consists of</b> _____ hectare(s) and the maximum depth to which the Soil will be deposited/removed is _____ metre(s).					
<b>Upon approval of this Application, I/We hereby guarantee to fulfill the following conditions prior to the issuance of a Permit:</b>					
- Supply a Security Deposit in the amount of \$ _____ (see Table A)					
- Submit the Permit fee in the amount of \$ _____ (see Table A)					
<b>Filed herewith are the plans, data and specifications required by Bylaw Number 3297 .</b>					
<b>I hereby certify that, to my knowledge, the Soil to be deposited/removed is not contaminated under the Contaminated Site Regulation.</b>					
<b>Signature of Applicant:</b>					
<hr/>					
<b>Date:</b>					
<hr/>					



Schedule B Soil Deposit/Removal Permit

FILE NUMBER:

Permit Number: \_\_\_\_\_ Receipt Number: \_\_\_\_\_

Date of Issue: \_\_\_\_\_ Expiry Date: \_\_\_\_\_

Issued to: \_\_\_\_\_ Telephone Number: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Security Deposit: \_\_\_\_\_  Cash  Certified Cheque  Letter of Credit

Permit Fee: \_\_\_\_\_

This Permit authorizes the Deposit/Removal of Soil on:

Lot: \_\_\_\_\_ District Lot: \_\_\_\_\_ Section: \_\_\_\_\_ Land District: \_\_\_\_\_ Plan: \_\_\_\_\_

Located at: \_\_\_\_\_

Maximum depth to which Soil may be deposited or removed: \_\_\_\_\_

Special Conditions: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

The holder of the Permit shall at all times bear full responsibility for any accident which may occur, or damage which may be done to any person or property whatsoever, caused directly or indirectly by the work authorized by the Permit, and shall save harmless and keep indemnified the Capital Regional District from all claims and demands whatsoever in respect of the work.

Approved by: \_\_\_\_\_

Please note: This does not automatically authorize a health permit or building permit.



- 2. This bylaw may be cited as Bylaw No. 3681, "Juan de Fuca Soil Removal or Deposit Bylaw, No. 1, 2006, Amendment No. 1, 2010".

READ A FIRST TIME THIS DAY OF 2010

READ A SECOND TIME THIS DAY OF 2010

READ A THIRD TIME THIS DAY OF 2010

APPROVED by the Minister of Transportation and Infrastructure  
THIS DAY OF 2010

ADOPTED THIS DAY OF 2010

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CHAIR

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CORPORATE OFFICER