



**REPORT TO JUAN DE FUCA LAND USE COMMITTEE  
MEETING OF TUESDAY, MARCH 17, 2015**

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**SUBJECT**      **BYLAW NO. 3941 “JUAN DE FUCA ELECTORAL AREA SOIL REMOVAL OR DEPOSIT BYLAW NO. 2, 2015”**

**ISSUE**

To repeal and replace Soil Removal or Deposit Bylaw No. 3297 with proposed Bylaw No. 3941 which incorporates changes suggested by the community and sand and gravel operators regarding the permit process and 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 soil is deposited and that the removal of soil is done safely. Mitigation measures are required to address any negative impacts on adjacent residents and to 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 and Mines and that the fees applied to large commercial operations are excessive.

An earlier version (proposed Bylaw No. 3681) was referred to agencies and the community and significant comments were received and legal counsel reviewed the proposed bylaw as well. As there are extensive changes to proposed Bylaw No. 3681, staff is proposing a new revised bylaw (Bylaw No. 3941) be considered which would repeal and replace Bylaw No. 3297 (Appendix 1). Proposed Bylaw No. 3941 addresses comments from the community and referral agencies as well as comments from legal counsel. A copy of the tracked changes to Bylaw No. 3297 are shown in Appendix 2. Staff is recommending that the proposed bylaw be referred to agencies and the community.

**ALTERNATIVES**

1. Recommend to the CRD Board that proposed Bylaw No. 3941, “Juan de Fuca Electoral Area Soil Removal or Deposit Bylaw No. 2, 2015”, to repeal and replace Bylaw No. 3297, “Juan de Fuca Electoral Area Soil Removal or Deposit Bylaw No. 1, 2006” be referred to a public information meeting and appropriate CRD departments and agencies for comment.
2. Recommend to the CRD Board to not proceed with the proposed Bylaw No. 3941.
3. Refer the proposed bylaw back to staff for further information.

**LEGISLATIVE IMPLICATIONS**

The Supplementary Letters Patent issued on February 12, 1973 (Division XI), as amended by the Supplementary Letters Patent dated August 25, 1986 gave the Capital Regional District (CRD) authority to undertake the function of regulating the removal and deposit of soil.

Section 723 of the *Local Government Act (LGA)* authorizes a Regional District to regulate or prohibit the Removal of Soil, including sand, gravel, and rock, and the Deposit of Soil and other materials on any land within the electoral areas, to make different regulations and prohibitions for different areas, and to require permits and impose fees.

Section 723 also requires the approval of the Minister of Energy and Mines if the bylaw prohibits the removal or prohibits the deposit of soil or other materials that makes reference to the quality of the soil or material or to contamination or if the bylaw imposes rates or levels of fees for a permit.

### **PUBLIC CONSULTATION IMPLICATIONS**

The APCs were established to make recommendations to the LUC on land use planning matters referred to them relating to Part 26 of the *LGA*; however, as the proposed bylaw does not fall under Part 26 and the bylaw affects all of the communities, staff recommends that a public information meeting be scheduled to obtain community comments.

Should the proposal proceed, a public hearing will be held subsequent to the amendments passing second reading by the CRD Board which will be advertised in the local paper and on the website.

### **REGIONAL GROWTH STRATEGY IMPLICATIONS**

Proposed Bylaw No. 3941, “Juan de Fuca Electoral Area Soil Removal or Deposit Bylaw No. 2, 2015” will continue to support protection and use of sand and gravel resources in the Juan de Fuca Electoral Area which thereby supports Initiative 2.2 Manage Natural Resources and the Environment Sustainably in the Regional Growth Strategy.

### **PLANNING ANALYSIS**

Proposed Bylaw No. 3681 was referred to agencies and considered by the community at three APC meetings. Extensive revisions were suggested through the referral process. Staff prepared a revised bylaw, proposed Bylaw No. 3941, which addresses many of these concerns raised through the referral process as well as comments from legal counsel.

Proposed amendments to the existing soil deposit and removal bylaw include clarifying definitions, clarifying permit exemptions, providing for notification of adjacent owners of a permit renewal and modifying the permit fee structure. All proposed changes are noted as tracked changes in Appendix 2.

Two major amendments include expansion of permit exemptions and the reduction in permit fees. The community has indicated that permit requirements add additional cost and time to building construction and general property maintenance, and the bylaw has been amended to increase the soil amount not requiring a permit and by exempting soil deposit and removal directly related to an active building permit. The major gravel operators have indicated that the soil permit is a duplication of the permit obtained from the Ministry of Energy and Mines and that the fees applied to large commercial operations are excessive. The bylaw continues to require that a soil deposit and removal permit be required but the amendments propose to reduce the permit fees by eliminating the fee per cubic metre which is generally applied to offset road maintenance costs and by waiving the security requirement for CRD permits related to sand and gravel/quarry operations under a *Mines Act* permit.

Staff recommends holding a public information meeting to obtain comments from Juan de Fuca residents and referring the proposed bylaw to agencies for comment.

### **CONCLUSION**

The Soil Bylaw regulates the removal or deposit of soil and is intended to ensure soil is deposited or removed safely with mitigation measures required to address any negative impacts on adjacent residents and to the land, slopes, ground and surface water systems. Amendments are proposed to the existing bylaw to address concerns raised by the community and major aggregate producers. Staff recommends holding a public information meeting and referring the proposed bylaw to agencies for comment.

## **RECOMMENDATION**

That the Juan de Fuca Land Use Committee recommends to the CRD Board:

That proposed Bylaw No. 3941, “Juan de Fuca Electoral Area Soil Removal or Deposit Bylaw No. 2, 2015”, to repeal and replace Bylaw No. 3297, “Juan de Fuca Electoral Area Soil Removal or Deposit Bylaw No. 1, 2006” be referred to a public information meeting and appropriate CRD departments and the following agencies for comment:

Agricultural Land Commission	Malahat First Nation
Archaeology Branch (FLNRO)	Ministry of Agriculture
BC Hydro	Ministry of Energy and Mines
City of Colwood	Ministry of Environment
City of Langford	Ministry of Forests, Land and Natural Resource
Cowichan Tribes	Operations (FLNRO)
Cowichan Valley Regional District	Ministry of Transportation and Infrastructure
District of Central Saanich	Pacheedaht First Nation
District of Highlands	Managed Forest Land Council
District of Metchosin	School District #62, # 63 and #79
District of Saanich	Scia'new First Nation
District of Sooke	T'Sou-ke First Nation
Island Health	

**\*\*ORIGINAL SIGNED\*\***

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June Klassen, MCIP, RPP  
Manager, Local Area Planning

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Kevin Lorette, P.Eng., MBA  
General Manager  
Planning and Protective Services  
Concurrence

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Robert Lapham, MCIP, RPP  
Chief Administrative Officer  
Concurrence

Appendix 1 – Proposed Bylaw No. 3941  
Appendix 2 – Bylaw No. 3297 Tracked Changes

Appendix 1 – Proposed Bylaw No. 3941

CAPITAL REGIONAL DISTRICT  
BYLAW NO. 3941

\*\*\*\*\*  
A BYLAW TO REGULATE THE REMOVAL OR DEPOSIT OF SOIL ON LANDS  
WITHIN THE JUAN DE FUCA ELECTORAL AREA  
\*\*\*\*\*

**WHEREAS:**

- A. Under the Supplementary Letters Patent issued on February 12, 1973 (Division XI), as amended by the Supplementary Letters Patent dated August 25, 1986, the Capital Regional District was given authority to undertake the function of regulating the removal and deposit of soil;
- B. Section 723 of the *Local Government Act* authorizes a Regional District to regulate or prohibit the Removal of Soil, including sand, gravel, and rock, and the Deposit of Soil and other materials on any land within the electoral areas, to make different regulations and prohibitions for different areas, and to require permits and impose fees;
- C. The Board of the Capital Regional District wishes to regulate both the Removal of Soil and the Deposit of Soil and other materials within the Juan de Fuca Electoral Area of the Capital Regional District;

**NOW THEREFORE** the Board of the Capital Regional District, in open meeting assembled, enacts as follows:

**1.0 DEFINITIONS**

In this bylaw, the following definitions apply:

**AGENT** means a person who has been authorized in writing by an owner to apply for a permit on the owner's behalf.

**APPLICANT** means an owner, or their agent, who has completed the permit application and has paid the prescribed fee.

**APPLICATION** means an application for a permit to deposit or remove soil.

**BERM** means an embankment built of soil for the purpose of providing a visual barrier and/or for noise attenuation relevant to a permit area.

**BOARD** means the Capital Regional District Board.

**COMPOST** means a product which is:

- (a) a stabilized earthy matter having the properties and structure of humus;
- (b) beneficial to plant growth when used as a soil amendment;
- (c) produced by composting; and
- (d) only derived from organic matter.



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**DEPOSIT** means the act of moving soil and placing it upon a parcel of land on which such soil and other material did not previously exist or stand.

**ELECTORAL AREA** means the Juan de Fuca Electoral Area of the Capital Regional District.

**ENGINEER'S REPORT** means a report, or reports, prepared by a Qualified Professional in compliance with this bylaw.

**GENERAL MANAGER** means the General Manager, Planning and Protective Services, Capital Regional District, or a person authorized to act on his or her behalf.

**HOLIDAY** means

- (a) Sunday, Christmas Day, Good Friday and Easter Monday,
- (b) Canada Day, Victoria Day, British Columbia Day, Labour Day, Remembrance Day, Family Day and New Year's Day,
- (c) December 26, and
- (d) a day set by the Parliament of Canada or by the Legislature, or appointed by proclamation of the Governor General or the Lieutenant Governor, to be observed as a day of general prayer or mourning, a day of public rejoicing or thanksgiving, a day for celebrating the birthday of the reigning Sovereign, or as a public holiday.

**LAND USE COMMITTEE** means the individuals appointed by the Board, pursuant to Bylaw No. 3166.

**NATURAL BOUNDARY** means

- (a) the visible high water mark 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 body of the lake, river, stream, or other body of water a character distinct from that of the banks, in vegetation, as well as in respect to the nature of the soil itself; and
- (b) the edge of dormant side channels of any lake, river, stream, or other body of water;

**PARCEL** means a lot, block or other area in which real property is held or into which real property is subdivided, and includes a strata lot created under the *Strata Property Act*, with the exception of a strata plan that contains strata lots, all the boundaries of which are coterminous with the walls of a building, with the exception of a balcony or a private exterior space that does not exceed 20% of the total floor area of the strata lot.

**PERMIT** means the written authority in the form attached as Schedule "C" to this bylaw issued by the General Manager for the removal from or deposit of soil to any parcel.

**PERMIT AREA** means the area of land over which the soil removal or soil deposit occurs, or is proposed to occur, within the subject parcel.

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**QUALIFIED PROFESSIONAL (QP)** may include a landscape professional, qualified environmental professional, a registered professional biologist or a registered professional engineer, who is working within their field of expertise and is in good standing with any applicable professional organization.

**REMOVAL** means the act of removing soil from any parcel on which it exists and shall include the removal of soil which has been placed into a stockpile or storage facility.

**SECURITY DEPOSIT** means a cash deposit, certified cheque or irrevocable letter of credit provided by the applicant to ensure all works will be carried out in compliance with the conditions of the bylaw.

**SOIL** means topsoil, sand, gravel, rock and other substances of which land is composed, or any other combination of these substances, but does not include manure from animals, or household or farm compost material.

**UNSUITABLE MATERIAL** means any rubbish, derelict vehicle, metals, demolition wastes, garbage or waste materials, including containers, packages, bottles, cans or parts thereof; or any abandoned or discarded article, product or goods of manufacture.

**WATERCOURSE** means a permanent or non-permanent (containing water at least six months of the year) source of water supply that is natural or man-made, including a pond, lake, river, creek, brook, ditch, spring or wetland that is integral to a stream, with well-defined banks and a bed of 0.6 m or more below the surrounding land serving to give direction to or containing a current of water but does not apply to a man-made pond that does not connect to a stream;

## **2.0 PURPOSE**

This bylaw has been enacted for the purpose of regulating the removal and deposit of soil within the Juan de Fuca Electoral Area of the Capital Regional District in the general public interest. The purpose of this bylaw does not extend:

- (a) to the protection of owners, occupiers or persons involved in the removal or deposit of soil from economic loss;
- (b) to the assumption of the Capital Regional District or any officer or employee of the Capital Regional District of any responsibility for ensuring compliance by a person involved in the removal or deposit of soil on land, his or her representatives, or any employees, contractors, or agents with this bylaw, or any other enactments applicable to the removal or deposit of soil or the development of land;
- (c) to providing any person with a warranty that any deposit or removal of soil will not violate this bylaw, any other enactment or create any nuisance of any type.

## **3.0 APPLICATION**

This bylaw applies within the Juan de Fuca Electoral Area.

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#### **4.0 SEVERABILITY**

If any section, subsection, sentence, paragraph, or schedule forming part of this bylaw is for any reason held to be invalid by the decision of any Court of competent jurisdiction, the section, subsection, paragraph, or schedule may be severed from the bylaw without affecting the validity of the bylaw or any portion of the bylaw or remaining schedules.

#### **5.0 INCORPORATION OF SCHEDULES**

Schedules "A", "B", and "C" attached hereto are hereby made a part of this bylaw.

#### **6.0 REPEAL AND REPLACEMENT OF BYLAWS**

The following bylaw is hereby repealed in its entirety:

- (a) Capital Regional District Bylaw No. 3297, cited as the "Juan de Fuca Electoral Area Soil Removal and Deposit Bylaw No. 1, 2006".

and replaced by this bylaw.

#### **7.0 PROHIBITIONS**

No person shall do any of the following anywhere in the Electoral Area:

- (a) cause or permit the removal of soil from any parcel, unless or until a permit allowing the removal has first been obtained or unless the removal does not require a permit as set out in Section 8.0;
- (b) cause or permit the deposit of soil on any parcel, unless or until a permit allowing the deposit has first been obtained or unless the deposit does not require a permit as set out in Section 8.0;
- (c) cause or permit the deposit of unsuitable material on any parcel; or
- (d) remove or deposit soil in or around a watercourse unless in compliance with the provincial *Riparian Area Regulation*.

#### **8.0 PERMIT EXEMPTIONS**

8.1 A person may remove soil from a parcel or deposit soil onto a parcel without a permit provided that at least one of the following conditions is satisfied:

- (a) On a parcel less than 0.4 ha (1 acre) in area, where the total quantity of soil removed or deposited does not exceed 60 m<sup>3</sup> in any calendar year;
- (b) On a parcel 0.4 ha (1 acre) or greater in area, where the total quantity of soil removed or deposited does not exceed 250 m<sup>3</sup> in any calendar year;
- (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

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Transportation and Infrastructure, and the removal is from or the deposit is onto a parcel owned or leased by one of these authorities;

- (d) the removal is from a parcel owned or leased by the federal or provincial government provided that this exemption does not apply to the removal of soil on a parcel that is leased or licensed by the provincial or federal government to a third party;
  - (e) the deposit is to a parcel owned or leased by the federal or provincial government provided that this exemption does not apply to the deposit on a parcel that is leased or licensed by the provincial or federal government to a third party;
  - (f) the removal or deposit of soil is necessary for the construction of basements and foundations or installation of works and services including septic fields and driveways associated with the construction of a building under a valid building permit;
  - (g) the soil is being relocated within the boundaries of the parcel from which it originates;
  - (h) the removal or deposit of soil is on land used for commercial landscape supply, horticultural use or as a nursery in compliance with the Land Use Bylaw and the *Agricultural Land Commission Act*, and such deposit or removal is necessary as part of the landscape supply, horticultural or nursery operation.
- 8.2 The onus of demonstrating compliance with Section 8.1 shall be at all times on the person undertaking the removal and/or deposit of soil, who shall provide to the Capital Regional District sufficient documentation to confirm that the person meets the conditions for granting an exemption.

## **9.0 PERMIT APPLICATION REQUIREMENTS**

- 9.1 Every applicant for a permit must file with their application the following information about the parcel on which the permit area is located, as follows:
- (a) the street address;
  - (b) the legal description;
  - (c) a title search, and copies of all registered encumbrances, including water licenses obtained within 30 days of application;
  - (d) the name of the registered owner;
  - (e) the signature of the applicant and the owner if the owner is not the applicant;
  - (f) the applicable security deposit and permit fees (see Schedule "A");
  - (g) a plan of the property showing the location of any structures, the area where soil is to be removed or deposited, and the access points to and from the property;
  - (h) the volume of soil to be removed or deposited;

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- (i) the proposed completion dates for stages of soil deposit or removal, if applicable;
- 9.2 Subject to Section 10.3 for soil volumes that are 500 m<sup>3</sup> or more in a calendar year, the application shall provide an Engineer's Report and site remediation plan, which address the following:
- (a) plans, drawn to a scale of not less than 1:1000, showing the existing contours with contour intervals of not more than two (2) metres; and the location of buildings or structures; watercourses, tree cover, wells, known aquifers; sewage disposal fields, public utilities; the proposed permit area; driveways; and ingress and egress points from the proposed permit area to a highway.
  - (b) the applicant is to provide certification by a British Columbia Land Surveyor, if in the opinion of the General Manager, the nature or type of deposit or removal requires accurate topographic information or the determination of the location of natural features, structures, services and property lines;
  - (c) the proposed contours of the parcel in its final state upon completion of the permit activities with contour intervals of not more than two (2) metres;
  - (d) the proposed slopes, which will be maintained upon completion of the removal or deposit;
  - (e) the method proposed to control the erosion of the banks of the soil;
  - (f) the proposed completion dates for stages of deposit or removal, if applicable;
  - (g) the proposed methods to control: dust, noise, odour, smoke, vibration and visual impacts caused by the deposit or removal on adjacent parcels, and the tracking of soil or other material onto highways;
  - (h) plans to ensure that no silt seeps or flows into any watercourse, well or aquifer on, under or flowing through the parcel;
  - (i) the proposed methods of drainage control and protection of connecting or nearby watercourses, wells or aquifers during the proposed deposit or removal; and
  - (j) methods to stabilize the slopes of the soil, including any revegetation upon completion of the removal or deposit.
- 9.3 If the applicant is not the owner of the parcel of land, the applicant must include with his application a signed letter from the owner of the parcel of land authorizing the applicant to carry out the works on behalf of the owner.

#### **10.0 AUTHORITY TO ISSUE THE PERMIT**

- 10.1 The Board hereby delegates to the General Manager, Planning and Protective Services the authority to issue a soil deposit or removal permit.
- 10.2 The General Manager may require the application be referred to the Juan de Fuca Land Use Committee for consideration and recommendation to the Board.

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- 10.3 The General Manager may request that the applicant provide an Engineer's Report, which shall certify at the applicant's expense that:
- (a) the plans, specifications and reports for the proposed soil removal or deposit have been prepared in compliance with good engineering practices; and
  - (b) upon completion of the soil removal or deposit, the works substantially comply with the terms of the permit and the conditions specified in the plans, specifications and the Engineer's Report prepared by the Qualified Professional; and
  - (c) the land within the permit area after the soil removal or deposit is completed is safe for the intended use, and has been suitably stabilized to mitigate impacts of erosion, sloughing and instability.
- 10.4 The General Manager or the Board, where a permit has been referred to the Board, may refuse to issue a permit where the applicant has not provided to the Capital Regional District sufficient evidence that the deposit or removal of soil can be carried out without creating a hazard to persons or property, damage to the environment, or irreparable damage to highways or other public property.

**11.0 COMMUNITY INVOLVEMENT**

- 11.1 Staff will provide notice in writing, by regular mail, to the owner of a parcel that abuts a parcel with a pending soil removal/deposit application a minimum of ten (10) working days prior to a decision on the permit application.
- 11.2 The General Manager may call for or receive public comment upon any permit or renewal application. If the General Manager decides that the community should have an opportunity to comment, then the General Manager may:
- (a) refer the application to the Juan de Fuca Land Use Committee for its consideration and recommendation to the Board; and/or
  - (b) require notice to be placed in two consecutive local newspaper publications, paid for at the applicant's expense.
- 11.3 The CRD will provide notice in writing, by regular mail, to the owner of a parcel that abuts a parcel subject to a soil permit, when the CRD receives a request for a renewal of a soil removal /deposit permit a minimum of ten (10) working days prior to a decision on the permit renewal.
- 11.4 The General Manager may make a decision regarding the renewal of a permit if he or she is satisfied that the CRD made reasonable efforts to provide notice in accordance with Section 11.3.

**12.0 PERMIT CONDITIONS**

- 12.1 The permit may include one or more conditions pertaining to Subsections 9.1(g) to (j) of this bylaw.

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- 12.2 No person shall engage in the removal or deposit of soil:
- (a) on any Sunday or Holiday; or
  - (b) between 6 o'clock p.m. and 8 o'clock a.m. on any day not referred to in Subsection 12.2 (a).
- 12.3 A permit constitutes written authority under this bylaw to conduct only those activities described in the permit.
- 12.4 All plans, specifications and Engineer's Reports forming part of an application in respect of which a permit is issued shall form part of and be incorporated in the permit unless otherwise specified by the General Manager and, without limiting the foregoing, a permit issued shall be limited to the volume of soil that is to be deposited or removed.
- 12.5 A permit for the removal or deposit of soil shall not be issued if the General Manager considers that such deposit or removal would conflict with the policies and guidelines established in the Official Community Plan and/or the permitted uses pertaining to the parcel established by the Land Use Bylaws of the Electoral Area.
- 12.6 The holder of the permit shall post a copy of the permit, or otherwise shall post a clear and legible sign, in English, indicating the duration and extent of the soil removal/deposit at the point of entry to the property from the main road. The sign is to be 1 m x 1 m square and must include the permit number on it.
- 12.7 The holder of the permit shall contact the Ministry of Transportation and Infrastructure and comply with its requirements for road maintenance and cleanup during and after the works.
- 12.8 The General Manager may require a post-construction report prepared by a Qualified Professional to ensure compliance with the permit conditions.

### **13.0 ADMINISTRATION**

- 13.1 Every permit issued under this bylaw expires upon the earlier of:
- (a) the removal or deposit of the total amount of soil authorized to be removed or deposited by the permit has occurred; or
  - (b) the expiry date expressly stated in the permit; or
  - (c) one (1) year after the date of permit issuance.
- 13.2 If the removal or deposit authorized in a permit is not completed before the permit expires under Section 13.1, the General Manager may renew the permit provided that:
- (a) the applicant makes a written request to the General Manager for a renewal or extension a minimum of one (1) month prior to the expiry date;
  - (b) the applicant has paid the required renewal and security fees;

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- (c) the removal or deposit is being carried out in compliance with the original permit, including any conditions of an Engineer's Report which may apply;
  - (d) there is no change in scope from the original application; and
  - (e) adjacent land owners are notified as outlined in Subsection 11.3.
- 13.3 There is no limit on the number of times an applicant may apply for renewals, but no applicant has a vested right to receive any renewals. The terms and conditions that come into being at renewal time of the permit shall be those that are current at that time; there shall be no grandfathering of terms and conditions.
- 13.4 Requests for renewal which include a change in the scope of the original application will require a new removal or deposit application and fees to be submitted.

**14.0 PERMIT SUSPENSION, CANCELLATION AND AMENDMENT**

- 14.1 If there is a contravention of any term or condition of the permit, or the permit was issued on the basis of statements made in an application for a permit, report, declaration or record required under this bylaw that were false or misleading with respect to a material fact, or that omitted to state a material fact, the omission of which made the statement false or misleading, the General Manager may:
  - (a) suspend in whole or in part the rights of the applicant under the permit;
  - (b) expire the permit;
  - (c) amend the permit; or
  - (d) attach new conditions to a permit without the consent of the applicant.
- 14.2 For any proposed material changes to the permit, the General Manager may require:
  - (a) the submission of further, amended, or new information referred to in Section 9.1 or 9.2;
  - (b) further community consultation as outlined in Section 11.0; and
  - (c) the submission of a new application for a permit, along with applicable fees.

**15.0 FEES AND SECURITY DEPOSITS**

- 15.1 A permit is in effect for a period of twelve (12) months from the date of issuance of the permit, or as otherwise established under Section 13.1.
- 15.2 The fee for the permit shall be as set out in Schedule "A", based upon the quantity of material to be deposited or removed, and shall be paid in full before issuance of the permit.
- 15.3 As security deposit for the due and proper compliance with all the requirements and conditions of this bylaw, the applicant shall, before receiving a permit for the removal or deposit of soil, provide a cash deposit, certified cheque, or irrevocable letter of credit drawn upon a chartered bank, in



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the amount as set out in Schedule "A", based upon the permit area within the subject parcel designated for soil deposit or removal. The security provided under this section must remain valid from the date of issuance of a permit to a date that is not less than six (6) months after expiration date of the permit with confirmation of compliance with the permit conditions.

- 15.4 Should an applicant not comply with the Engineer's Report provided in the permit, the Capital Regional District may undertake the necessary remedial actions and the full costs shall be borne by the applicant.
- 15.5 In the case of an application for a permit for a parcel in respect of which a permit issued under the *Mines Act* has also been issued, where a security deposit has been provided to the Ministry of Energy and Mines for the purpose of site reclamation, Section 15.3 shall not apply.

#### **16.0 VIOLATIONS AND PENALTIES**

- 16.1 An offence is committed against this bylaw by a person who:
- (a) contravenes a provision of this bylaw;
  - (b) allows or permits a contravention of this bylaw; or
  - (c) fails to comply with any terms or conditions of a permit.
- 16.2 Every person guilty of an offence is liable, on summary conviction, to a fine of not less than \$2,000.
- 16.3 A separate offence shall be deemed to be committed upon each day during and in which the contravention occurs or continues.
- 16.4 The penalties imposed under Subsection 16.2 hereof shall be in addition to and not in substitution for any other penalty or remedy imposed by this bylaw or any other statute, law or regulation.

#### **17.0 INDEMNIFICATION**

- 17.1 The holder of the permit is at all times responsible for compliance with the provisions of this bylaw and any other applicable enactment and for any claim, demand, damage, loss, costs, expense, fees, or fine that may arise from a removal or deposit of soil.
- 17.2 The holder of a permit shall save harmless, indemnify and keep indemnified the Capital Regional District, its officers, employees, contractors, and elected officials from any and all claims, demands, damages, losses, costs, expenses, fees, fines, actions, proceedings whatsoever brought by any person arising from the issuance of a permit under this bylaw with respect to the removal or deposit of soil authorized under a permit.

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**18.0 TITLE**

This bylaw may be cited for all purposes as the "Juan de Fuca Soil Removal or Deposit Bylaw No. 2, 2015".

READ A FIRST TIME	THIS	DAY OF	2015
READ A SECOND TIME	THIS	DAY OF	2015
APPROVED BY THE MINISTER OF ENVIRONMENT	THIS	DAY OF	2015
APPROVED BY THE MINISTER OF ENERGY AND MINES	THIS	DAY OF	2015
READ A THIRD TIME	THIS	DAY OF	2015
ADOPTED	THIS	DAY OF	2015

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CHAIR

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CORPORATE OFFICER

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**SCHEDULE "A": FEES AND SECURITY DEPOSIT**

PERMIT QUANTITY	PERMIT FEE	SECURITY DEPOSIT	RENEWAL FEE
Greater than 60 m <sup>3</sup> but less than 250 m <sup>3</sup>	\$250	\$2,000 per hectare, or part of, in Permit Area to have soil removed from or deposited to	\$100
250 m <sup>3</sup> or greater but less than 500 m <sup>3</sup>	\$550 Plus advertising costs, if required	\$3,000 per hectare, or part of, in Permit Area to have soil removed from or deposited to	\$200
500 m <sup>3</sup> or greater	\$1,000 plus advertising costs, if required	\$5,000 per hectare, or part of, in Permit Area to have soil removed from or deposited to	\$500

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**SCHEDULE "B": SOIL DEPOSIT AND REMOVAL PERMIT APPLICATION**

Application Number: \_\_\_\_\_

Name: \_\_\_\_\_

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

Telephone Number: (    ) \_\_\_\_\_ Email: \_\_\_\_\_

I/We being the registered owner(s) of \_\_\_\_\_ (address)

Lot \_\_\_\_ District Lot \_\_\_\_ Section \_\_\_\_ Plan \_\_\_\_\_, \_\_\_\_\_ Land District

hereby make application to Deposit/Remove \_\_\_\_\_ cubic metres of Soil onto/from the above mentioned property.

The purpose of the Soil Deposit/Removal is as follows:

\_\_\_\_\_  
\_\_\_\_\_

The source of soil to be deposited from \_\_\_\_\_ (address)

Lot \_\_\_\_ District Lot \_\_\_\_ Section \_\_\_\_ Plan \_\_\_\_\_, \_\_\_\_\_ Land District

The area upon which soil is to be deposited or removed is as shown on the attached plan:

- consists of \_\_\_\_\_ hectares, and
- the maximum depth to which the soil will be deposited or removed is \_\_\_\_\_ metres.

Upon submission of this application, I/We hereby guarantee to fulfill the following conditions prior to the issuance of a Permit:

- Submit the Permit fee in the amount of \$ \_\_\_\_\_ (see Schedule "A")
- Supply a Security Deposit in the amount of \$ \_\_\_\_\_ (see Schedule "A")
- Submit the plans, data and specifications required by Bylaw No. 3941
- Authorize the General Manager, or his or her representative, to enter the premises at all reasonable times.

I hereby certify that, to my knowledge, the soil to be deposited/removed is not contaminated under the *Contaminated Site Regulation*.

I agree to save harmless, indemnify and keep indemnified the Capital Regional District, its officers, employees, contractors, and elected officials from any and all claims, demands, damages, losses, costs, expenses, fees, fines, actions or proceedings whatsoever brought by any person arising from the issuance of a permit under Capital Regional District's Soil Removal and Deposit Bylaw No. 3941.

Signature of Applicant \_\_\_\_\_

Date: \_\_\_\_\_

*Personal information contained on this form is collected under the authority of the Local Government Act and is subject to the Freedom of Information and Protection of Privacy Act. The personal information will be used for purposes associated with the soil removal or deposit permit. Enquiries about the collection or use of information in this form can be directed to the Freedom of Information and Protection of Privacy contact: Manager, Information Services at 250-360-3000.*

CRD Bylaw No. 3941

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**SCHEDULE "C": SOIL DEPOSIT/SOIL REMOVAL PERMIT**

Permit Number: \_\_\_\_\_ Date of Issue: \_\_\_\_\_ Expiry Date: \_\_\_\_\_

Issued to: \_\_\_\_\_

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

Telephone Number: (    ) \_\_\_\_\_ Email: \_\_\_\_\_

Permit Fee: \_\_\_\_\_ Security Deposit: \_\_\_\_\_ Cash/Certified Cheque/Letter of Credit

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

This Permit authorizes the deposit or removal of \_\_\_\_\_ m<sup>3</sup> of Soil on/from:

Legal description: \_\_\_\_\_

Located at: \_\_\_\_\_ (address)

Maximum permit area is \_\_\_\_ (ha) and maximum depth to which soil may be deposited/removed is \_\_\_\_ (cm).

**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:

\_\_\_\_\_

General Manager, Planning and Protective Services

Appendix 2 – Bylaw No. 3297 Tracked Changes

CAPITAL REGIONAL DISTRICT

BYLAW NO. ~~3297~~3941

\*\*\*\*\*  
A BYLAW TO REGULATE THE REMOVAL OR DEPOSIT OF SOIL ON LANDS  
WITHIN THE JUAN DE FUCA ELECTORAL AREA  
\*\*\*\*\*

WHEREAS:

- A. Under the Supplementary Letters Patent issued on February 12, 1973 (Division XI), as amended by the Supplementary Letters Patent dated August 25, 1986, the Capital Regional District was given authority to undertake the function of regulating the removal and deposit of soil;
- B. Section 723 of the *Local Government Act* authorizes a Regional District to regulate or prohibit the Removal of Soil, including sand, gravel, and rock, and the Deposit of Soil and other materials on any land within the electoral areas, to make different regulations and prohibitions for different areas, and to require permits and impose fees;
- C. the Board of the Capital Regional District wishes to regulate both the Removal of Soil and the Deposit of Soil and other materials within the Juan de Fuca ~~portion~~ Electoral Area of the Capital Regional District;

NOW THEREFORE the Board of the Capital Regional District, in open meeting assembled, enacts as follows:

1.0 DEFINITIONS

In this bylaw, ~~unless the context requires otherwise~~, the following definitions apply:

**AGENT** means a person who has been authorized in writing by an owner to apply for a permit on the owner's behalf.

**APPLICANT** means an owner, or their agent, who has ~~filled out the forms attached as schedules "a" or "C"~~ completed the permit application and has paid the prescribed fee.

**APPLICATION** means ~~the forms attached as schedules "A" or "C" completed by the Applicant or Agent and submitted with the prescribed fee to request permission for a Deposit or Removal~~ an application for a permit to deposit or remove soil.

**BERM** means an embankment built of soil for the purpose of providing a visual barrier and/or for noise attenuation relevant to a permit area.

**BOARD** means the Capital Regional District Board.

**COMPOST** means a product which is:

- a) a stabilized earthy matter having the properties and structure of humus;
- b) beneficial to plant growth when used as a soil amendment;
- c) produced by composting; and
- d) only derived from organic matter.

**DEPOSIT** means the act of moving soil and placing it upon a parcel of land on which such soil and other material did not previously exist or stand ~~from one parcel of land and placing it on another parcel of land within the Electoral Area.~~

**ELECTORAL AREA** means the Juan de Fuca Electoral Area of the Capital Regional District, ~~as outlined upon Map 1, attached to and forming part of this bylaw.~~

**ENGINEER'S REPORT** means a report, or reports, prepared by a Registered Qualified Professional in compliance with this bylaw.

**GENERAL MANAGER** means the General Manager ~~of the Environmental Services Department, Planning and Protective Services, Capital Regional District, or his~~ a person authorized ~~agent~~ to act on his or her behalf.

**HOLIDAY** means ~~New Year's Day, Family Day, Good Friday, Easter Monday, Victoria Day, Canada Day, British Columbia Day, Labour Day, Thanksgiving Day, Remembrance Day, Christmas Day and Boxing Day.~~

(a) ~~Sunday, Christmas Day, Good Friday and Easter Monday.~~

(b) ~~Canada Day, Victoria Day, British Columbia Day, Labour Day, Remembrance Day, Family Day and New Year's Day.~~

(c) ~~December 26, and~~

(d) ~~a day set by the Parliament of Canada or by the Legislature, or appointed by proclamation of the Governor General or the Lieutenant Governor, to be observed as a day of general prayer or mourning, a day of public rejoicing or thanksgiving, a day for celebrating the birthday of the reigning Sovereign, or as a public holiday.~~

**LAND USE COMMITTEE** means ~~the individuals appointed by the Board, pursuant to Bylaw No. 3166, a committee established by the Capital Regional District Board for the purpose of making land use recommendations, within the Juan de Fuca Electoral Area, to the Board.~~

**NATURAL BOUNDARY** means

(a) ~~the visible high water mark of any lake, river, stream, or other body of water a watercourse~~ 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 body of ~~the lake, river, stream, or other body of water~~ 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; and

(a)(b) ~~the edge of dormant side channels of any lake, river, stream, or other body of water;~~

**PARCEL of LAND** ~~means a lot, block or other area in which real property is held or into which real property is subdivided, and includes a strata lot created under the Strata Property Act, with the exception of a strata plan that contains strata lots, all the boundaries of which are coterminous with the walls of a building, with the exception of a balcony or a private exterior space that does not exceed 20% of the total floor area of the strata lot. means any unit shown on the records of the Provincial Land Title Registry in which land is held or subdivided and includes a bare land strata lot created pursuant to the Strata Property Act.~~



**PERMIT** means the written authority in the form attached as Schedule "B" or "DC" to this bylaw issued by the General Manager ~~granted by the Board or its delegate~~ for the removal ~~of from~~ or deposit of soil ~~from~~ to any parcel ~~of land within the Electoral Area~~.

**PERMIT AREA** means the area of land over which the soil removal or soil deposit occurs, or is proposed to occur, within the subject parcel ~~of land~~.

~~**REGISTERED PROFESSIONAL** means a person who is registered or licensed as a Registered Professional~~

**QUALIFIED PROFESSIONAL (QP)** may include a landscape professional, qualified environmental professional, a registered professional biologist or a registered professional engineer, who is working within their field of expertise and is in good standing with any applicable professional organization.

**REMOVAL** means the act of removing soil from any parcel on which it exists and shall include the removal of soil which has been placed into ~~of land a stockpile or storage facility in the Electoral Area~~.

**SECURITY DEPOSIT** means a cash deposit, certified cheque or irrevocable letter of credit provided by the applicant to ensure all works will be carried out in compliance with the conditions of the bylaw.

**SOIL** means topsoil, sand, gravel, rock and other substances of which land is composed, or any other combination of these substances, but does not include manure from animals, or household or farm compost material.

**UNSUITABLE MATERIAL** means any rubbish, derelict vehicle, metals, demolition wastes, garbage or waste materials, including containers, packages, bottles, cans or parts thereof; or any abandoned or discarded article, product or goods of manufacture.

**WATERCOURSE** means a permanent or non-permanent (containing water at least six months of the year) source of water supply that is natural or man-made, including a pond, lake, river, creek, brook, ditch, spring or wetland that is integral to a stream, with well-defined banks and a bed of 0.6 m or more below the surrounding land serving to give direction to or containing a current of water but does not apply to a man-made pond that does not connect to a stream; means a natural drainage course or source of water, whether usually containing water or not, including a lake, pond, river, stream, creek, spring, ravine, swamp and gulch, and also includes a man-made depression with well-defined banks and a bed 0.6 m or more below the surrounding land serving to give direction to a current of water at least six (6) months of the year or having a drainage area of 0.32 km<sup>2</sup> any of which may be enclosed in a conduit, but excludes roadside ditches.

## **2.0 PURPOSE**

This bylaw has been enacted for the purpose of regulating the removal and deposit of soil within the Juan de Fuca Electoral Area of the Capital Regional District in the general public interest. The purpose of this bylaw does not extend:

(a) to the protection of owners, occupiers or persons involved in the removal or deposit of soil from economic loss;

(b) to the assumption of the Capital Regional District or any officer or employee of the Capital Regional District of any responsibility for ensuring compliance by a person involved in the



removal or deposit of soil on land, his or her representatives, or any employees, contractors, or agents with this bylaw, or any other enactments applicable to the removal or deposit of soil or the development of land;

(c) to providing any person with a warranty that any deposit or removal of soil will not violate this bylaw, any other enactment or create any nuisance of any type.

### **3.0 APPLICATION**

This bylaw applies within the Juan de Fuca Electoral Area.

### **4.0 SEVERABILITY**

If any section, subsection, sentence, paragraph, or schedule ~~or map~~ forming part of this bylaw is for any reason held to be invalid by the decision of any Court of competent jurisdiction, the section, subsection, paragraph, or schedule ~~or map~~ may be severed from the bylaw without affecting the validity of the bylaw or any portion of the bylaw or remaining schedules ~~or maps~~.

### **5.0 INCORPORATION OF ~~MAPS, TABLE AND~~ SCHEDULES**

~~Map 1, Table A and~~ Schedules "A", "B", and "C" ~~and "D"~~ attached hereto are hereby made a part of this bylaw.

### **6.0 REPEAL AND REPLACEMENT OF BYLAWS**

The following bylaw is hereby repealed in its entirety:

(a) Capital Regional District Bylaw No. 3297, cited as the "Juan de Fuca Electoral Area Soil Removal and Deposit Bylaw No. 1, 2006."

and replaced by this bylaw.

### **7.0 PROHIBITIONS**

No person shall do any of the following anywhere in the Electoral Area:

- (a) cause or permit the removal of soil from any parcel ~~of land~~, unless or until a permit allowing the removal has first been obtained; or unless the removal does not require a permit as set out in Section 8.0;
- (b) cause or permit the deposit of soil on any parcel ~~of land~~, unless or until a permit allowing the deposit has first been obtained; or unless the deposit does not require a permit as set out in Section 8.0;
- (c) cause or permit the deposit of unsuitable material on any parcel ~~of land~~; or
- (d) remove or deposit soil in or around a watercourse unless in compliance with the Provincial *Riparian Area Regulation*.

## 8.0 PERMIT EXEMPTIONS

~~6.1 A person may remove Soil from a Parcel of Land in the Electoral Area without a Permit provided that at least one of the following conditions is satisfied:~~

- ~~(a) the Removal of Soil does not exceed a total of 60 cubic meters in any calendar year;~~
- ~~(b) the Removal 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 is from Parcels of Land owned or leased by one of these authorities; or~~
- ~~(c) the Removal is from land owned or leased by the federal or provincial government.~~

~~6.2 A person may deposit Soil on a Parcel of Land in the Electoral Area without a Permit provided that at least one of the following conditions is satisfied:~~

- ~~(a) the Deposit of Soil does not exceed a total of 60 cubic meters in any calendar year;~~
- ~~(b) the 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 is from Parcels of Land owned or leased by one of these authorities; or~~
- ~~(c) the Deposit is from land owned or leased by the federal or provincial government.~~

8.1 A person may remove soil from a parcel or deposit soil onto a parcel without a permit provided that at least one of the following conditions is satisfied:

- (a) On a parcel less than 0.4 ha (1 acre) in area, where the total quantity of soil removed or deposited does not exceed 60 m<sup>3</sup> in any calendar year;
- (b) On a parcel 0.4 ha (1 acre) or greater in area, where the total quantity of soil removed or deposited does not exceed 250 m<sup>3</sup> in any calendar year;
- (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 the removal is from or the deposit is onto a parcel owned or leased by one of these authorities; ~~or;~~
- (d) the removal is from a parcel owned or leased by the federal or provincial government provided that this exemption does not apply to the removal of soil on a parcel that is leased or licensed by the provincial or federal government to a third party; or
- (e) the deposit is to a parcel owned or leased by the federal or provincial government provided that this exemption does not apply to the deposit on a parcel that is leased or licensed by the provincial or federal government to a third party; or

- (f) the removal or deposit of soil is necessary for the construction of basements and foundations or installation of works and services including septic fields and driveways associated with the construction of a building under a valid building permit; or
- (g) the soil is being relocated within the boundaries of the parcel from which it originates;
- (h) the removal or deposit of soil is on land used for commercial landscape supply, horticultural use or as a nursery in compliance with the Land Use Bylaw and the *Agricultural Land Commission Act*, and such deposit or removal is necessary as part of the landscape supply, horticultural or nursery operation.

- 8.2 The onus of demonstrating compliance with sections ~~6.1 and 6.28.1~~ shall be at all times on the person undertaking the removal and/or deposit of soil, who shall provide to the Capital Regional District sufficient ~~The Board, or the General Manager, may request~~ documentation to confirm that the person meets the conditions for granting an exemption ~~are satisfactorily addressed~~.

#### 9.0 PERMIT APPLICATION REQUIREMENTS

- 9.1 Every applicant for a permit must file with their application the following information about the parcel of land containing on which the permit area is located, as follows:

- (a) the street address;
- (b) the legal description;
- (c) a title search, and copies of all registered encumbrances, including water licenses obtained within 30 days of application;
- (d) the name of the registered owner;
- (e) the signature of the applicant and the owner if the owner is not the applicant;
- (f) the applicable security deposit and permit fees (see Schedule Table A);
- (g) a plan of the property showing the location of any structures, the area where soil is to be removed or deposited, and the access points to and from the property;
- (h) the ~~general description and~~ volume of soil to be removed or deposited, ~~along with a declaration that the Soil to be removed or deposited is not contaminated under the Contaminated Site Regulation of the *Environmental Management Act*;~~
- (i) the proposed completion dates for stages of soil deposit or removal, if applicable;

- 9.2(4) ~~Subject to Section 10.3.8.2~~ for soil volumes that are ~~500250~~ m<sup>3</sup> or more, in a calendar year, the application shall provide an Engineer's Report and site remediation plan, which address the following:

- (a) plans, drawn to a scale of not less than 1:1000, showing the existing contours with contour intervals of not more than two (2) metres; and the location of buildings or structures; watercourses, tree cover, wells, known aquifers; sewage



disposal fields, public utilities; the proposed Permit Area; driveways; and ingress and egress points from the proposed Permit Area to a highway.

- (b) The applicant is to provide certification by a British Columbia Land Surveyor, if in the opinion of the General Manager, the nature or type of deposit or removal requires accurate topographic information or the determination of the location of natural features, structures, services and property lines;
- (c) the proposed contours of the parcel ~~of land~~ in its final state upon completion of the permit activities with contour intervals of not more than two (2) metres;
- (d) the proposed slopes, which will be maintained upon completion of the removal or deposit;
- (e) the method proposed to control the erosion of the banks of the soil;
- (f) the proposed completion dates for stages of ~~fill~~deposit or removal, if applicable;
- (g) the proposed methods to control: dust, noise, odour, smoke, vibration and visual impacts caused by the deposit or removal on adjacent parcels ~~of land~~, and the tracking of soil or other material onto highways;
- (h) plans to ensure that no silt seeps or flows into any watercourse, well or aquifer on, under or flowing through the parcel ~~of land~~;
- (i) the proposed methods of drainage control and protection of connecting or nearby watercourses, wells or aquifers during the proposed deposit or removal; and
- (j) methods to stabilize the slopes of the soil, including any re-vegetation upon completion of the removal or desposit.

- 9.3 If the applicant is not the owner of the parcel of land, the applicant must include with his application a signed letter from the owner of the parcel of land authorizing the applicant to carry out the works on behalf of the owner.

#### 10.0 AUTHORITY TO ISSUE THE PERMIT

- 10.1 The Board hereby delegates to the General Manager, Planning and Protective Services the authority to issue a soil deposit or removal permit, ~~for volumes of soil proposed to be removed or deposited up to and including 5,000 m<sup>3</sup>.~~

10.2 For applications where volumes are greater than 5,000 m<sup>3</sup> The General Manager may require the applications ~~are to~~ be referred to the Juan de Fuca Land Use Committee for consideration and recommendation to the Board.

- 10.3 The ~~Board delegates to the~~ General Manager ~~the authority to may~~ request that the applicant ~~include provide~~ an Engineer's report, which shall certify at the applicant's expense that:

- (a) the plans, specifications and reports for the proposed soil removal or deposit have been prepared in compliance with good engineering practices; and

- (b) upon completion of the soil removal or deposit, the works substantially comply with the terms of the permit and the conditions specified in the plans, specifications and the Engineer's report prepared by the ~~Registered~~Qualified Professional; and
- (c) the land within the permit area after the soil removal or deposit is completed is safe for the intended use, and has been suitably stabilized to mitigate impacts of erosion, sloughing and instability.

10.4 The General Manager or the Board, where a permit has been referred to the Board, may refuse to issue a permit where the applicant has not provided to the Capital Regional District sufficient evidence that the deposit or removal of soil can be carried out without creating a hazard to persons or property, damage to the environment, or irreparable damage to highways or other public property.

#### **11.0 COMMUNITY INVOLVEMENT**

11.1 Staff will ~~advise~~provide notice in writing, by regular mail, ~~to the owner of a parcel that abuts a parcel the adjacent neighbours of a~~with a pending soil removal/deposit application a minimum of ten (10) working days prior to a decision on the permit application.

11.2 The ~~Board, or, if delegated to the General Manager, the~~ General Manager may ~~choose to have the call for or receive have the~~ public comment upon any ~~permit or renewal~~application of 5,000 m<sup>3</sup> or less. If ~~the Board or~~ the General Manager decides that the community should ~~be informed~~have an opportunity to comment, then ~~the Board or~~ the General Manager may:

- (a) refer the application to the Juan de Fuca Land Use Committee for its consideration and recommendation to the Board; and/or
- (b) require notice to be placed in two consecutive local newspaper publications, paid for at the applicant's expense.

11.3 The CRD will provide notice in writing, by regular mail, to the owner of a parcel that abuts a parcel subject to a soil permit, when the CRD receives a request for a renewal of a soil removal /deposit permit a minimum of ten (10) working days prior to a decision on the permit renewal.

11.4 The General Manager may make a decision regarding the renewal of a permit if he or she is satisfied that the CRD made reasonable efforts to provide notice in accordance with section 11.3.

#### **12.0 PERMIT CONDITIONS**

12.1 The permit ~~may be issued with or without any~~ may include one or more ~~of the~~ conditions pertaining to subsections ~~97.1~~(g) to (j) of this bylaw.

12.2 No person shall engage in ~~either~~ the removal or deposit of soil:

- (a) on any Sunday or Holiday; or

- (b) ~~—No deposit or removal of Soil shall occur except between the hours of 9 a.m. and 6 p.m. 6 o'clock p.m. and 8 o'clock a.m. on any day not referred to in subsection (a).—on those days operations are not prohibited.~~

- 12.3 A permit constitutes written authority under this bylaw to conduct only those activities described in the permit.
- 12.4 All plans, specifications and Engineer's reports forming part of an application in respect of which a permit is issued shall form part of and be incorporated in the permit unless otherwise specified by the General Manager and, without limiting the foregoing, a permit issued shall be limited to the ~~type and~~ volume of soil that is to be deposited or removed.
- 12.5 A permit for the removal or deposit of soil shall not be issued if the General Manager considers that such deposit or removal would ~~it is deemed to be in~~ conflict with the policies and guidelines established in the Official Community Plan and/or the permitted uses pertaining to the parcel ~~of land~~ established by the Land Use Bylaws of the Electoral Area.
- 12.6 The holder of the permit shall post a copy of the permit, or otherwise shall post a clear and legible sign, in English, indicating the duration and extent of the soil removal/deposit at the point of entry to the property from the main road. The sign is to be 1 m x 1 m square and must include the permit number on it.
- 12.7 The holder of the permit shall contact the Ministry of Transportation and Infrastructure and comply with its requirements for road maintenance and cleanup during and after the works.
- 12.8 The General Manager may require a post-construction report prepared by a Registered Qualified Professional to ensure compliance with the permit conditions.

### 13.0 ADMINISTRATION

- 13.1 Every permit issued ~~shall cease to authorize the removal or deposit as the case may be under this bylaw expires~~ upon the earlier of:
- (a) the removal or deposit of the total amount of soil authorized to be removed or deposited by the permit has occurred; or
  - (b) the expiry date expressly stated in the permit—; or
  - (c) The term for any permit shall not exceed one (1) year after the date of permit issuance.
- 13.2 If the removal or deposit authorized in a permit is not completed before the permit expires under section 13.1, the ~~Board or the~~ General Manager may renew ~~or extend~~ the permit provided that:
- (a) the applicant makes a written request to the General Manager for ~~requests~~ a renewal or extension ~~in writing~~ a minimum of ~~two (2) weeks~~ one (1) month prior to the expiry date;
  - (b) the applicant has paid the required renewal and security fees;
  - (c) the removal or deposit is being carried out in compliance with the original permit, including any conditions of an Engineer's Report which may apply; and
  - (d) there is no change in scope from the original application; and



(e) adjacent land owners are notified as outlined in subsection 11.3.

13.3 There is no limit on the number of times an applicant may apply for renewals ~~or extensions~~, but no applicant has a vested right to receive any renewals ~~or extensions~~. The terms and conditions that come into being at renewal time of the permit shall be those that are current at that time; there shall be no grandfathering of terms and conditions.

13.4 Requests for renewal which include a change in the scope of the original application will require a new removal or deposit application and fees to be submitted.

#### **14.0 PERMIT SUSPENSION, CANCELLATION AND AMENDMENT**

14.1 If there is a contravention of any term or condition of the permit, or the permit was issued on the basis of statements made in an application for a permit, report, declaration or record required under this bylaw that were false or misleading with respect to a material fact, or that omitted to state a material fact, the omission of which made the statement false or misleading, ~~the Board or~~ the General Manager may:

- (a) suspend in whole or in part the rights of the applicant under the permit;
- (b) ~~cancel-expire~~ the permit;
- (c) amend the permit; or
- (d) attach new conditions to a permit without the consent of the applicant.

14.2 For any proposed material changes to the permit, the General Manager may require ~~the submission of:~~

- (a) the submission of further, amended, or new plans, data and specifications information referred to in section 9.1 and 9.2; and
- (b) further community consultation as outlined in section 11.0, and
- (c) the submission of a new application for a permit, along with ~~associated-applicable~~ fees.

#### **~~13.0~~ OFFENCES**

~~13.1 An offence is committed against this bylaw by every person who:~~

- ~~(a) conducts soil removal or deposit without a permit where a permit is required;~~
- ~~(b) violates any of the provisions of this bylaw;~~
- ~~(c) fails to comply with any of the terms or conditions of a permit;~~
- ~~(d) allows any act or thing to be done in contravention or violation of this bylaw or any part of a permit; or~~
- ~~(e) in the case of the owner of a parcel, fails to prevent any other person from contravening any part of this bylaw or a permit issued under it, or fails to comply with any order or notice given under this bylaw.~~

#### 15.0 FEES AND SECURITY DEPOSITS

- 15.1 A permit ~~is in effect shall allow the applicant to remove or deposit soil from/to the permit area as authorized by the permit~~ for a period of twelve (12) months from the date of issuance of the permit, or as otherwise established under Section 134.1.
- 15.2 The fee for the permit shall be as ~~detailed set out in Table Schedule A~~, based upon the quantity of material to be deposited or removed, and shall be paid in full before issuance of the permit.
- 15.3 As security deposit for the due and proper compliance with all the requirements and conditions of this bylaw, the applicant shall, before receiving a permit for the removal or deposit of soil, provide a cash deposit, certified cheque, or irrevocable letter of credit drawn upon a chartered bank, in the amount as ~~detailed set out in Table Schedule A~~, based upon the permit area within the subject parcel ~~of land~~ designated for soil deposit or removal. The ~~duration for the~~ security ~~provided under this section must remain valid from the date deposit shall be from~~of issuance of a permit to ~~a date that is not less than~~ six (6) months after expiration ~~date of the permit with confirmation of compliance with the permit conditions~~.
- 15.4 ~~Should an applicant not comply with the Engineer's report provided in the permit, the Capital Regional District may undertake the necessary remedial actions and the full costs shall be borne by the applicant.~~
- 15.5 ~~In the case of an application for a permit for a parcel in respect of which a permit issued under the Mines Act has also been issued, where a security deposit has been provided to the Ministry of Energy and Mines for the purpose of site reclamation, section 15.3 shall not apply.~~

#### 16.0 VIOLATIONS AND PENALTIES

- 16.1 ~~No person shall do any act or suffer or permit any act or thing to be done in contravention of this bylaw. An offence is committed against this Bylaw by a person who:~~
- a) ~~contravenes a provision of this Bylaw;~~
- b) ~~allows or permits a contravention of this Bylaw; or~~
- c) ~~fails to comply with any terms or conditions of a permit.~~
- 16.2 Every person ~~who contravenes this bylaw, by doing any act which it forbids, or omits to do any act which it requires to be done, is~~ guilty of an offence ~~and is~~ liable, on summary conviction, to a fine of not less than ~~\$2,000.00, that prescribed in the Offence Act [RSBC, 1996] Chapter 338.~~
- 16.3 A separate offence shall be deemed to be committed upon each day during and in which the contravention occurs or continues.
- 16.4 The penalties imposed under subsection (2) hereof shall be in addition to and not in substitution for any other penalty or remedy imposed by this bylaw or any other statute, law or regulation.



**17.0 INDEMNIFICATION**

~~17.1 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.~~

~~17.1 The holder of the Permit is at all times responsible for compliance with the provisions of this bylaw and any other applicable enactment and for any claim, demand, damage, loss, costs, expense, fees, or fine that may arise from a removal or deposit of soil.~~

~~17.2 The holder of a permit shall save harmless, indemnify and keep indemnified the Capital Regional District, its officers, employees, contractors, and elected officials from any and all claims, demands, damages, losses, costs, expenses, fees, fines, actions, proceedings whatsoever brought by any person arising from the issuance of a permit under this bylaw with respect to the removal or deposit of soil authorized under a permit.~~

**18.0 TITLE**

~~This bylaw may be cited for all purposes as the "Juan de Fuca Soil Removal or Deposit Bylaw No. 2, 2014."~~

**TABLE A**

QUANTITY <sup>(1)</sup>	PERMIT FEE <sup>(2)</sup>	SECURITY DEPOSIT <sup>(3)</sup>	RENEWAL FEE <sup>(4)</sup>
60 — 100 m <sup>3</sup>	\$250 administration plus \$2.50 per m <sup>3</sup> of Soil to be removed or deposited	\$2,000 per hectare, or part of, in Permit Area to have soil removed from or deposited to	\$400
101 — 500 m <sup>3</sup>	\$500 administration plus \$1.00 per m <sup>3</sup> of Soil to be removed or deposited	\$3,000 per hectare, or part of, in Permit Area to have soil removed from or deposited to	\$200
501 — 5,000 m <sup>3</sup>	\$1,000 administration plus \$0.60 per m <sup>3</sup> of Soil to be removed or deposited	\$5,000 per hectare, or part of, in Permit Area to have soil removed from or deposited to	\$500
> 5,000 m <sup>3</sup>	\$2,500 administration plus \$0.30 per m <sup>3</sup> of Soil to be removed or deposited	\$10,000 per hectare, or part of, in Permit Area to have soil removed from or deposited to	\$1,000

(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 (6) months after the Permit has expired.

(4) — The renewal fee is required prior to an extension to the Permit.

**SCHEDULE "A": FEES AND SECURITY DEPOSIT**

PERMIT QUANTITY	PERMIT FEE	SECURITY DEPOSIT	RENEWAL FEE
Greater than 60 m <sup>3</sup> but less than 250 m <sup>3</sup>	\$250	\$2,000 per hectare, or part of, in Permit Area to have soil removed from or deposited to	\$100
250 m <sup>3</sup> or greater but less than 500 m <sup>3</sup>	\$550 Plus advertising costs, if required	\$3,000 per hectare, or part of, in Permit Area to have soil removed from or deposited to	\$200
500 m <sup>3</sup> or greater	\$1,000 plus advertising costs, if required	\$5,000 per hectare, or part of, in Permit Area to have soil removed from or deposited to	\$500

**SCHEDULE "AB": SOIL DEPOSIT AND REMOVAL PERMIT APPLICATION**

Application Number: \_\_\_\_\_

Name: \_\_\_\_\_

Phone: \_\_\_\_\_

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

**Telephone Number:** ( ) \_\_\_\_\_ **Email:** \_\_\_\_\_

I/We being the registered owner(s) of \_\_\_\_\_ (address)

Lot \_\_\_\_\_ District Lot \_\_\_\_\_ Section \_\_\_\_\_ Plan \_\_\_\_\_, \_\_\_\_\_ Land District

hereby make application to Deposit/Remove \_\_\_\_\_ cubic metres of Soil onto/from the above mentioned property.

The purpose of the Soil Deposit/Removal is as follows:

The source of soil to be deposited from \_\_\_\_\_ (address)

Lot \_\_\_\_\_ District Lot \_\_\_\_\_ Section \_\_\_\_\_ Plan \_\_\_\_\_, \_\_\_\_\_ Land District

The area upon which soil is to be deposited or removed is as shown on the attached plan:

- consists of \_\_\_\_\_ hectares, and
- the maximum depth to which the soil will be deposited or removed is \_\_\_\_\_ metres.

Upon submission~~approval~~ of this Application, I/We hereby guarantee to fulfill the following conditions prior to the issuance of a Permit:

- Submit the Permit fee in the amount of \$ \_\_\_\_\_ (see Schedule A)
- Supply a Security Deposit in the amount of \$ \_\_\_\_\_ (see Schedule A)
- Filed herewith are~~Submit~~ the plans, data and specifications required by Bylaw No. 3681
- The applicant authorizes~~Authorize~~ the General Manager, or his or her representative, to enter the premises at all reasonable times.

I hereby certify that, to my knowledge, the soil to be deposited/removed is not contaminated under the *Contaminated Site Regulation*.

I agree to save harmless, indemnify and keep indemnified the Capital Regional District, its officers, employees, contractors, and elected officials from any and all claims, demands, damages, losses, costs, expenses, fees, fines, actions or proceedings whatsoever brought by any person arising from the issuance of a permit under Capital Regional District's Soil Removal and Deposit Bylaw No. 3681, 2014.

Signature of Applicant \_\_\_\_\_ Date: \_\_\_\_\_

Personal information contained on this form is collected under the authority of the Local Government Act and is subject to the Freedom of Information and Protection of Privacy Act. The personal information will be used for purposes associated with the soil removal or deposit permit. Enquiries about the collection or use of information in this form can be directed to the Freedom of Information and Protection of Privacy contact: Manager, Risk, Insurance and EQ Information Services at 250-360-3000.

**SCHEDULE C: SOIL DEPOSIT/SOIL REMOVAL PERMIT**

**File Number:** \_\_\_\_\_  
**PID Number:** \_\_\_\_\_  
**Application Number:** \_\_\_\_\_

**Permit Number:** \_\_\_\_\_ **Date of Issue:** \_\_\_\_\_ **Expiry Date:** \_\_\_\_\_

**Issued to:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Telephone Number:** ( ) \_\_\_\_\_ **Email:** \_\_\_\_\_

**Permit Fee:** \_\_\_\_\_ **Security Deposit:** \_\_\_\_\_ Cash/Certified Cheque/Letter of Credit

**Receipt Number:** \_\_\_\_\_

This Permit authorizes the deposit **or removal** of \_\_\_\_\_ m<sup>3</sup> of Soil on **from**:

**Legal description:** \_\_\_\_\_

**Located at:** \_\_\_\_\_ (address)

Maximum permit area is \_\_\_\_ (ha) and maximum depth to which soil may be deposited/removed is \_\_\_\_ (cm).

**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:

\_\_\_\_\_  
General Manager, Planning and Protective Services