



**REPORT TO JUAN DE FUCA LAND USE COMMITTEE
MEETING OF TUESDAY, JULY 21, 2015**

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, sand and gravel operators and referral agencies regarding the permit process and permit fees.

BACKGROUND

At their meeting on March 17, 2015 the Juan de Fuca Land Use Committee considered a proposed new Soil Bylaw, Bylaw No. 3941. At their meeting on April 8, 2015, the Capital Regional District (CRD) Board approved referring proposed amendment Bylaw No. 3941 to relevant CRD departments, to a public information meeting and to 23 provincial agencies, First Nations, municipalities and school districts.

Referrals were sent on April 9, 2015 and responses have been received from the Agricultural Land Commission (ALC), CRD Regional Planning, Cowichan Tribes, Cowichan Valley Regional District (CVRD), District of Highlands, District of Metchosin, District of Sooke, Island Health, Ministry of Energy and Mines, Ministry of Forests, Lands and Natural Resource Operations (Forests, Biodiversity and Archaeology), Ministry of Transportation and Infrastructure (MoTI), and School District #62 and #79 (Appendix A).

A public information meeting was held on May 11, 2015 and one resident attended, and another resident arrived late due to a road closure of Highway 17. Staff discussed the proposed bylaw with each attendee separately; meeting notes were not taken.

In response to referral comments, staff has revised Bylaw No. 3941 (Appendix B) and provided a version with highlighted changes for clarification (Appendix C).

ALTERNATIVES

That the Land Use Committee recommends to the CRD Board:

- 1 a) That proposed Bylaw No. 3941, "Juan de Fuca Electoral Area Soil Removal or Deposit Bylaw No. 2, 2015", as included in Appendix B, be introduced and read a first time and read a second time; and
- b) That in accordance with the provisions of Section 890 and 891 of the *Local Government Act*, the Director for the Juan de Fuca Electoral Area, or the Alternate Director, be delegated authority to hold a public hearing with respect to Bylaw No. 3941.
- 2) That the CRD Board recommend not proceeding with proposed Bylaw No. 3941.
- 3) That more information be provided by staff.

PLANNING ANALYSIS

Referral Comments/Response

Proposed Bylaw No. 3941 was referred to agencies and revisions were suggested through the referral process. Staff prepared a revised bylaw (Appendix B), which addresses many of these concerns raised through the referral process.

The ALC comments focus on ensuring that the proposed bylaw clearly specifies that where soil fill and deposit is to take place on lands designated as Agricultural Land Reserve, that the CRD has no authority to permit such land use activities without the permission of the ALC. Proposed Bylaw No. 3941 has incorporated suggested changes into the Preamble, and in Section 1.0, Section 2.0 Definitions, Section 2.0 Purpose, Section 3.0 Application, Section 7.0 Prohibitions, and Section 8.0 Permit Exemptions.

However, the ALC suggestion regarding the definition of soil was not incorporated as it requires reference to several acts.

Regional Planning's review of the proposed bylaw does not have any comments pertaining to the Regional Growth Strategy.

Cowichan Tribes suggested additions to Section 7.0 Prohibitions regarding the *Water Act* and to Section 12.0 Permit Conditions relating to archaeological resources and these were incorporated. They also queried if the cumulative effects of the permit exemptions in Section 8.1 were considered. The existing and proposed soil bylaw and other soil bylaws in the region do not address cumulative effects of consecutive soil deposits or removals.

CVRD requested that the permit application denote for soil removal the destination where the soil be deposited. Further, if soil is to be deposited in the CVRD, they request prior notification and a report from a Qualified Professional indicating the soil is not contaminated. Section 9.0 Permit Requirements has been revised to include the submission of a site profile as set out in Schedule 1 of the Contaminated Sites Regulation of the *Environmental Management Act* of British Columbia, of the site from which the soil is or will be relocated.

District of Highlands had no comments on the proposed soil bylaw.

District of Metchosin noted that the proposed expansion of deposit exemptions from 60 m³ to 250 m³ represents a significant increase over the existing permit exemptions as well as the exemptions in the District. They also note that soil delivery in the District is only allowed between May 1 and October 31 of each year to limit the wear and tear on municipal roads. They also request that the CRD direct truck traffic to the Provincial Highway. They also request notification of permit applications that may impact their roads. As the new soil permit application requires an applicant requesting a permit to remove soil to identify where they are proposing to deposit the soil, staff can notify the appropriate municipality that a permit has been issued.

District of Sooke stated that its interests are unaffected by the bylaw.

Island Health indicated under Sections 21 and 22 in the *Organic Matter Recycle Regulation* there is a requirement that the Medical Health Officer be notified when applications are made to apply compost to land, defined as "Managed Organic Matter". The definition of "soil" in the proposed Soil Bylaw does not include manure from animals, or household or farm compost material placed on land as a soil amendment or conditioner. Island Health also suggested that "unsuitable material" should include contaminated or industrial material; however, the issue of soil contamination is addressed through Section 9.0 Permit Requirements to include the submission of a site profile as set out in Schedule 1 of the *Contaminated Sites Regulation* of the *Environmental Management Act*, of the site from which the soil is or will be relocated.

Ministry of Energy and Mines has suggested additions to the definitions of Qualified Professional and soil and these were incorporated into the bylaw. They also suggested a revision to the definition of watercourse but staff recommend retaining the existing definition as it is consistent with other Juan de Fuca bylaws. They also suggested an addition to Section 7.0 Prohibitions to include reference to Part 9 of the *Health Safety and Reclamation Code* and this was incorporated. In discussion with staff, Ministry staff were not opposed to amending Section 13.0 Permit Conditions to have the renewal of soil permits related to a Mines Act Permit aligned, and a new item 13.2 has been incorporated. Ministry staff also noted that as the bylaw does not explicitly prohibit soil removal, the bylaw does not require the approval by the Minister of Energy and Mines prior to CRD Board adoption.

A Ministry of Forests, Lands and Natural Resource Operations ecosystem biologist indicated their interest unaffected by the proposed bylaw. However, a South Island Natural Resources District forester indicated the bylaw did not address invasive species and Section 7.0 Prohibitions item (c) has been revised to include reference to invasive species. The Archaeology Branch indicated that archaeological materials cannot be removed from a site without a permit from the Archaeology Branch. In most cases where archaeological materials is encountered during land operations, provisions are made for keeping any soils/sediments bearing archaeological materials within or as close to the archaeological site boundary as possible. There are circumstances that require archaeological materials to be removed from the site and deposited in a known location, but these events are dealt with on a case-by-case basis and must involve

consultation with First Nations. The movement of archaeological materials without a permit may confuse the historical record.

MoTI requested adding a statement that activities allowed under the bylaw do not relieve the applicants from any liability relating to damaging highways and/or depositing materials on highways. A statement was included under Section 2.0 Purpose to this effect.

School District #62 had no concerns and School District #79 indicated their interests were unaffected.

The Otter Point, Shirley, and Jordan River Residents and Ratepayers Association (OPSRRA) indicted that the reduction of permit fees and security deposits for larger volumes of materials is a disservice to Juan de Fuca residents. Further, they note that there should be some cost recovery for nuisances caused by the noise of operations, dust and traffic. They also note that one of the biggest complaints of residents is that commercial truck traffic degrades the roads. They support the increasing the soil amount not requiring a permit and exempting the soil deposit and removal directly related to an active building permit. They request that if the fee schedules in Table A, Bylaw No. 3297 is to be replaced that CRD Engineering staff report to further justify reducing them prior to considering a new bylaw. In response, staff note that the security was waived only for soil permits related to an active Mines Act Permit (generally aggregate operations), as the Ministry requires security and is responsible for ensuring reclamation is undertaken. The CRD has no role in policing a Mines Act Permit. The CRD has a Soil Deposit and Removal service for the Juan de Fuca Electoral Area which covers the staff cost relating to responding to complaints regarding the operation of a soil permit. Any major issues related to soil deposit or removal activities not related to a Mines Act Permit, requiring remedial action would be funded by the permit holder through their security deposit and not by the residents of Juan de Fuca. The proposed application fees cover the costs for Planning staff to review and process soil permits. A review of fees could be undertaken in three years to ensure fees are in line with costs.

A gravel operator suggested that the documentation provided to the Ministry of Energy and Mines for a Mines Act Permit was extensive and addresses the information requested in Section 9.2. Staff have included a new item 9.4 which indicates that the reports, plans and other documents submitted in support of a Mines Act Permit fulfills the requirements of Section 9.2. They also questioned if the proposed fees were sufficient to cover the necessary advertising costs. Staff recommend retaining the note regarding additional advertising costs as it would only be applied if newspaper advertising was required. Imbedding this cost into the fee would result in every applicant paying for advertising when it may not be required. Another gravel operator requested that the hours of operation be extended to allow for early deliveries, and Section 12.2(b) has extended the hours to 7:00 am to 7:00 pm.

In consideration of the comments received from MoTI and in consideration of potential impacts on archaeological resources and watercourse, staff has included a new item under Section 11.0 Consultation, that has staff referring soil permit applications for amounts greater than 250 m³, except for a pending soil removal/deposit application related to an existing Mines Act Permit, to the Ministry of Transportation and Infrastructure, the provincial Archaeological Branch and the Ministry of Environment for comment. Each agency has 20 working days, after the application has been referred to them, to provide any comments. If after 20 working days the agency has not notified the Regional District in writing about their concerns, the agency will be considered to have no concerns.

In addition, staff have deleted several definitions as there were not used in the bylaw; Section 12.5 as the permit refusal is addressed in 10.4 and Official Community Plans and Land Use Bylaws do not address soil removal or deposit; Section 15.1 as it repeats Sections 13.1 and 13.2; and removed the application form (Schedule B) and permit form (Schedule C) from the bylaw so that the application form and permit can be revised as required without the need to amend the bylaw.

Proposed Bylaw No. 3941 has been considered by the referral agencies and the proposed bylaw has been revised to incorporate suggestions and to address concerns from referral agencies. Therefore, staff recommends that Bylaw No. 3941 be read a first and second time and be directed to a public hearing.

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. A new bylaw is proposed to repeal and replace the existing Soil Bylaw, Bylaw No. 3297. Proposed Bylaw No. 3941 address concerns raised by

the community, major aggregate producers and the comments from referral agencies. Staff recommends Bylaw No. 3941 be read a first and second time and proceed to public hearing.

RECOMMENDATION

That the Land Use Committee recommends to the CRD Board:

- 1 a) That proposed Bylaw No. 3941, “Juan de Fuca Electoral Area Soil Removal or Deposit Bylaw No. 2, 2015”, as included in Appendix B, be introduced and read a first time and read a second time; and
- b) That in accordance with the provisions of Section 890 and 891 of the *Local Government Act*, the Director for the Juan de Fuca Electoral Area, or the Alternate Director, be delegated authority to hold a public hearing with respect to Bylaw No. 3941.

Submitted by:	June Klassen, MCIP, RPP, Manager Local Area Planning
Concurrence:	Kevin Lorette, P.Eng., MBA, General Manager, Planning & Protective Services
Concurrence:	Robert Lapham, MCIP, RPP, Chief Administrative Officer

JK:wm

Appendix A – Referral Comments

Appendix B – Proposed Bylaw No. 3941

Appendix C – Bylaw No. 3941 Highlighted Changes

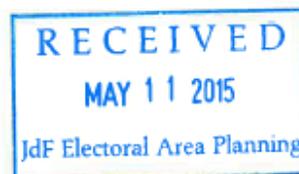


Agricultural Land Commission
133 – 4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604 660-7000
Fax: 604 660-7033
www.alc.gov.bc.ca

May 6, 2015

Reply to the attention of Gordon Bednard
File # 46305

Capital Regional District
Juan de Fuca Electoral Area Planning
3-7450 Butler Road
Sooke BC
V9Z 1N1



Attention June Klassen

Re: proposed Bylaw No. 3941 Juan de Fuca EA Soil Removal or Deposit Bylaw No.2, 2015

Thank you for referring the above proposed bylaw to this office for comment.

Please be advised that the proposed bylaw has been reviewed and the following reflects the Agricultural Land Commission's (the "ALC") comments and advice in this matter.

As you are aware, Section 46 of the *Agricultural Land Commission Act* (the "Act") compels local governments to ensure bylaw consistency with the Act, regulations and orders of the ALC. As presented, the ALC is concerned that the proposed bylaw permits activities throughout the EA which are not permitted within the ALR by the Act or regulations. No-where in the bylaw is there a statement which recognizes that where soil fill and deposition is to take place within the ALR, that the CRD has no authority to permit such land use activities without the permission of the ALC. To assist the CRD in providing clarity to Bylaw readers the following comments are provided:

Whereas:

It is suggested that under the initial "Whereas" a paragraph "D" be added to clarify the effect of this bylaw within the ALR. The ALC suggests the following:

"D. The Capital Regional District recognizes that within areas designated as Agricultural Land Reserve (ALR) under the *Agricultural Land Commission Act* (ALC Act) this bylaw has no force or effect unless the soil deposit or extraction is permitted under the ALC Act or Regulations, or approval from the ALC for soil deposit or extraction has been obtained through an application or notification process."

1.0 Definitions: Please consider adding the following for clarity

- Agricultural Land Commission (ALC) – as defined under Section 4 of the ALC Act
- Agricultural Land Reserve (ALR) – as defined within Section 1 of the ALC Act
- Soil – the Commission recommends use of the definition used in Section 1 of the ALC Act. If there is concern on the part of the District regarding the deposit of compost and/or manure, these can be separately defined as soil amendments which would not form part of the bylaw.
- A Registered Professional Agrologist whose area of practice is soils may be considered to be a qualified professional regarding soils in the ALR and should be added to your definition of Qualified Professional (QP)

2.0 Purpose

For consistency please add a section (d) with the following or similar wording:

“lands within the ALR except where allowed under the ALC Act or regulations or as approved by the ALC through an application/notification process.”

3.0 Application

For consistency please add the following:

“...except when in conflict with the ALC Act or regulations.”

7.0 Prohibitions

As Section 8.0 has been removed from this Bylaw, you may wish to refer to Section 8.1 here, or renumber 8.1 accordingly. This may also be an appropriate place to add subsection (e) “remove or deposit any soil material on land in the ALR unless permitted by the ALC Act, Regulations or an order of the Commission.”

8.1 Permit Exemptions

Please modify the initial sentence by adding “ and the parcel is located outside of the ALR.” to the end of the sentence.

8.2 Permit Exemptions (cont.)

The CRD may wish to add the following to provide it time to review such documentation: “ Such documentation must be received by the CRD at least 60 days prior to the commencement of the deposition/removal.”

As a final note, it is the Commission's experience regarding the administration of soil extraction/deposit that it is easier to enforce non-allowance than a partial approval. If the bylaw proceeds as proposed, CRD staff may be inundated with reports of soil deposit/removal causing the CRD to expend time and resources to require measurement of the extent of the activity to ensure compliance. This may be balanced

by the additional notification and permit application documents that are required to track all extraction/deposits.

The Commission trusts the above is helpful and looks forward to reviewing an updated draft bylaw.

Please contact Gordon Bednard with any questions or comments regarding this referral response.

Yours truly



Gordon Bednard
Regional Planner

gb/

CC: Ministry of Agriculture, Victoria Attn: Rob Kline

From: Jeff Weightman
Sent: Wednesday, May 13, 2015 3:37 PM
To: June Klassen
Cc: Wendy Miller
Subject: RE: Proposed Bylaw No. 3941 - CRD Referral (Soil Removal or Deposit)

Hi Wendy,

Try this:

Regional Planning has reviewed the proposed bylaw as it pertains to the RGS and acknowledge that the RGS does not contain specific references to soil deposition or removal. The RGS policy area that the proposed bylaw applies to is the Renewable Resource Lands Policy Area, soil and gravel extraction are considered renewable resource activities under the zoning bylaw. The RGS only stipulates that the lands be used for long term renewable resource landscapes. Regional Planning's review of the proposed bylaw does not have any comments pertaining to the RGS.

Thanks

Jeff

Wendy Miller

From: Tracy Fleming <Tracy.Fleming@cowichantribes.com>
Sent: Thursday, April 09, 2015 1:14 PM
To: Wendy Miller
Subject: Re: Proposed Bylaw No. 3941 - CRD Referral (Soil Removal or Deposit)

Good afternoon Wendy,

A couple of quick comments:

- 7. (d) not only compliance with RAR, but also the Water Act with for Work in and About a Stream or Approval under the Water Act.
- 8.1 any language or consideration in this bylaw of cumulative effects, even if parcel size is < 0.4 ha and the amount is < 60 cubic meters/yr.
- 12. Include compliance under the Heritage Conservation Act for if/when archaeological evidence is uncovered. I see that you have sent this package also to the Arch Branch which is good.

Thanks,

Tracy Fleming, M.Sc., R.P.Bio.
Referral Coordinator
Cowichan Tribes
5760 Allenby Road
Duncan, BC V9L 5J1

RESPONSE SUMMARY – PROPOSED BYLAW NO. 3941

- Interest Affected by Proposal for Reasons Outlined Below
 Interest Unaffected by Proposal

Comments:

THE C.V.R.D. WOULD LIKE TO REQUEST THAT
THE APPLICATION FORM (FOR SOIL REMOVALS) HAVE
A SPOT FOR THE INTENDED DESTINATION PARCEL.

IF THAT DESTINATION PARCEL IS IN THE CVRD,
WE REQUEST PRIOR NOTIFICATION AND A
REPORT BY A QUALIFIED PROFESSIONAL
INDICATING THE SOIL IS NOT CONTAMINATED.

THE "I HEREBY CERTIFY THAT, TO MY KNOWLEDGE,
THE SOIL TO BE DEPOSITED /REMOVED IS NOT
CONTAMINATED..." CLAUSE IS TOO WEAK AND
OFFERS PLAUSIBLE DENIABILITY.

RESPECTFULLY SUBMITTED



Signed

MANAGER, COMMUNITY/REG. PL.
Title

2015/04/13

Date

COWICHAN VALLEY RD
Agency

Wendy Miller

From: Laura Beckett <lbeckett@highlands.ca>
Sent: Thursday, April 30, 2015 4:00 PM
To: Wendy Miller
Subject: RE: Proposed Bylaw No. 3941 - CRD Referral (Soil Removal or Deposit)

Hi Wendy,

I have no comments on the proposed bylaw.

Thanks,
Laura

Laura Beckett, M.U.R.P, MCIP, RPP
Municipal Planner, Approving Officer
District of Highlands
1980 Millstream Road
Victoria, BC V9B 6H1
PH: 250-474-1773
FX: 250-474-3677
WEB: [Highlands, British Columbia, Canada](#)



Planning Department Comments

To: June Klassen
From: Sherry Hurst
Date: April 28, 2015 File No: 6420-10-55
Subject: **Bylaw No. 3941**

Thank you for your opportunity to comment on proposed Bylaw No. 3941.

The proposed expansion of the deposit permit exemptions from 60 m³ to 250 m³ represents a significant increase over the CRD's current permit exemptions, as well as Metchosin's permit exemptions of 30 m³ (properties of 4 ha or less) or 60 m³ (properties greater than 4 ha) in a calendar year. Furthermore, delivery of soil in Metchosin is only allowed between May 1 and October 31 of each year. Exceptions are made for those works that relate directly to an associated building permit or subdivision approval, septic installation or driveway access permit. The purpose of that restriction was to limit the wear and tear on municipal roads.

It is anticipated that the majority if not all soil deposit and removals to and from the electoral area will make use of the provincial highway (Sooke Road) when or if they pass through the District. Where applications have the potential to impact the District, we request that the CRD be respectful of the District's stated concerns and desire to minimize truck traffic through the District on municipal roads (everything but Sooke Road), direct truck traffic to use the Provincial Highway when travelling through the District, and consider notifying the District of permit applications that have the potential to impact our roads.

Sincerely,
Sherry Hurst, RPP, MCIP
District of Metchosin

Wendy Miller

From: Katherine Lesyshen <klesyshen@sooke.ca>
Sent: Tuesday, May 19, 2015 4:24 PM
To: Wendy Miller; Tara Johnson
Subject: RE: CRD Referral - Rezoning Application RZ000237 (Meteorological Towers)

The District of Sooke's interests are not affected by this application.

Regards,

Katherine Lesyshen, MCIP, RPP
Planner II - District of Sooke
2205 Otter Point Road, Sooke BC V9Z 0X1
Email: klesyshen@sooke.ca
Ph: (250) 642-1627 Fax: (250) 642-0541



May 4, 2015

June Klassen
Manager, Local Area Planning
Capital Regional District
3 – 7450 Butler Road
Sooke, BC V9Z 1N1

Your File No.: proposed Bylaw No. 3941

Dear Ms Klassen:

Re: Referral – Proposed Bylaw No. 3941 Juan de Fuca Electoral Area Soil Removal or Deposit Bylaw No. 2, 2015

Thank you for the opportunity to review and provide comment on **Bylaw No. 3941**. This referral was evaluated to assess any potential public health risks and provide best practice recommendations.

The list below describes possible areas for further development and/or consideration:

1. In Section 1.0 – compost is defined as 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.

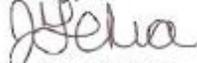
Island Health would like to highlight that under Section 21 and 22 in the *Organic Matter Recycle Regulation (OMRR)* there is a requirement that the Medical Health Officer be notified when applications are made to apply compost to land, defined as “managed organic matter” (i.e. Class A or B biosolids and Class B compost).

2. Additionally, in Section 1.0 – unsuitable material is defined, however contaminated or industrial material is not included in this list. It might be beneficial to further describe or include these materials as they have the potential to pose a risk to drinking and recreational water quality.

In Section 9.2 it is advised that an Engineer’s Report provide plans indicating the location of... wells, aquifers; sewage disposal fields...It may be prudent to also include provisions for best practice recommendations to protect onsite sewage systems by leaving them undisturbed. This would include not authorizing the deposition or temporary storage of soil onto sewage discharge areas or septic and treatment tank access risers.

If you should have any questions or concerns, please do not hesitate to contact me.

Yours truly,



Jade Yehia, CPHI(C)
Regional Built Environment Consultant

JY/cmd

cc: Rory Beise, Environmental Health Officer

Wendy Miller

From: McNevin, Bernadette MEM:EX <Bernadette.McNevin@gov.bc.ca>
Sent: Friday, May 08, 2015 3:29 PM
To: Taje, Eddy MEM:EX; June Klassen
Cc: Wendy Miller
Subject: RE: Soil Bylaw

Good afternoon

Here are my thoughts:

6. Add a new section under 13 which states "A soil permit issued for an operation with a Mines Act permit, will only be renewed in accordance with any amendments to the Mines Act permit.
This would be for the administrative convenience of the operator as it would align the renewal dates for both permits.
7. Section 18 – the bylaw does not require the approval of the Ministry of Energy and Mines
I think based on our discussions, this bylaw does not explicitly prohibit soil removal so does not require approval by our Minister.

And as a bonus, here are my thoughts on your question 5 below:

5. Section 10.4 after the word hazard add the words "or an excessive nuisance"
This is a challenging one but broadens the subjective grounds against which a proponent must prove that their operation won't cause a hazard or an excessive nuisance to persons... this may require your own legal advice as to the enforceability of such a requirements. And I'm sure in the day to day operation of these sites, some level of nuisance may be tolerated by nearby properties if the time of day of nuisance activities (e.g. blasting) is reasonable and adequate notice of these activities is provided to those who may be affected.

I hope this helps.

Best regards

Bernadette McNevin
Director, Policy & Regulatory Reform, Mines and Mineral Resources Division, MEM.
Phone: (250) 952-0317
Cell: (778) 679-5226

From: Taje, Eddy MEM:EX
Sent: Friday, May 8, 2015 2:14 PM
To: 'June Klassen'; McNevin, Bernadette MEM:EX
Cc: Wendy Miller
Subject: RE: Soil Bylaw

Bernadette can you answer 6 and 7

Definition 1, you have correct
Definition 2 you have correct
Definition 3 is correct as it meets the terms of the Water Act
Definition 4 is correct

Definition 6 ??
Definition 7 //

From: June Klassen [mailto:jklassen@crd.bc.ca]
Sent: Friday, May 8, 2015 1:38 PM
To: Taje, Eddy MEM:EX
Cc: Wendy Miller
Subject: Soil Bylaw

Hi – can you advise me if I have got your comments correctly? I need to have a written response for the file. Thanks

Telephone meeting with Ed Taje and ? on Friday April 24, 2015

1. Definition of qualified professional – add prof geologist or hydro-geologist
2. Add to soil definition after does not include “minerals as defined in the Minerals Titles Act or Regulations”
3. Watercourse definition replace the words “non-permanent (containing water at least six months of the year) with the word ephemeral
4. Section 7.0 item (d) add at the end “or Part 9 of the Health Safety and Reclamation Code”
5. Section 10.4 after the word hazard add the words “or an excessive nuisance”
6. Add a new section under 13 which states “A soil permit issued for an operation with a Mines Act permit, will only be renewed in accordance with any amendments to the Mines Act permit.
7. Section 18 – the bylaw does not require the approval of the Ministry of Energy and Mines

June Klassen, Manager Local Area Planning
Planning and Protective Services | JDF Electoral Area | 250.642.8101
Capital Regional District | 3-7540 Butler Road, Sooke BC V9Z 1N1

From: Cooper, Diana FLNR:EX [mailto:Diana.Cooper@gov.bc.ca]
Sent: Sunday, May 17, 2015 12:28 PM
To: June Klassen
Subject: RE: Soil Bylaw

Hi June,

Thanks for sending a message. I'm swamped these days and there is a backlog which I'm trying to reduce but there are only so many hours in a work day (I need clones).

The First Nation referral comment is valid. Archaeological material – and this can include shell midden and any other sediments with archaeological components (fire pits, cache pits, burial cairns, fire-broken rock, charcoal, ash etc. that indicate the presence of human activity prior to 1846 (or after that if the site is formally designated under the Heritage Conservation Act) CANNOT be removed from the site without a permit from the Archaeology Branch.

In most cases where archaeological material is encountered during land alterations, provisions are made for keeping any soils/sediments bearing archaeological materials within or as close to the archaeological site boundary as possible. There are circumstances that require archaeological material to be removed from the site and deposited in a known location, but these events are dealt with on a case-by-case basis and must involve consultation with First Nations.

It is important that archaeological materials not be moved without a permit, because if there is no record of the material being moved, where it's from and where it goes, future "discovery" of the material could result in the presumption that a new unrecorded archaeological site has been identified, when in fact it came from another site.

I hope this covers the situation, but if not, please don't hesitate to call or email me.

Kind regards,

Diana

Diana Cooper | Archaeologist/Archaeological Site Inventory Information and Data Administrator

Archaeology Branch | Ministry of Forests, Lands and Natural Resource Operations
Unit 3 - 1250 Quadra St, Victoria BC V8W 2K7 | PO Box 9816 Stn Prov Govt, Victoria BC V8W 9W3
Phone: 250-953-3343 | Fax: 250-953-3340 | Website: <http://www.for.gov.bc.ca/archaeology/>

Ministry of Forests, Lands and Natural Resource Operations - South Island Natural Resources District
Forester

RESPONSE SUMMARY – PROPOSED BYLAW NO. 3941

Interest Affected by Proposal for Reasons Outlined Below

Interest Unaffected by Proposal

Comments:

There is no mention of control measures to prevent the spread of invasive species during soil removal, transportation and transfer and deposit of soil to another location. Does the CRD have policy or procedures to contain or eliminate the spread of invasive species that will be followed during the soil removal process?

Invasive species are frequently spread through soil contaminated with invasive plant material and seeds when soil is transferred from one site to another. For information about invasive species please refer to the Coastal Invasive Plant Committee webpage. <http://www.coastalisc.com/>

There is also provincial legislation that governs invasive species on Crown land.
<https://www.for.gov.bc.ca/hra/plants/legislation.htm>

Certain invasive species found within the CRD are harmful to humans and pets and the spread of these invasives needs to be controlled.

Digitally signed by
robert.furness@gov.bc.ca
DN:
cn=robert.furness@gov.bc.ca
Date: 2015.05.07 08:56:47
-07'00'

robert.furness@gov.bc.ca

Wendy Miller

From: Sherratt, Grace TRAN:EX <Grace.Sherratt@gov.bc.ca>
Sent: Thursday, May 07, 2015 9:01 AM
To: June Klassen
Cc: Wendy Miller
Subject: Bylaw No. 3941 (Ministry File 2015-01611)

Good Morning,

Please consider this email as an official response to your referral regarding proposed Bylaw No. 3941 which will repeal and replace Soil Removal or Deposit Bylaw No. 3297, **Ministry File 2015-01611**.

The Ministry has no objections to the proposed bylaw. We request that the CRD adds in a statement indicating that the activities allowed under the bylaw do not relieve the applicants from any liability relating to damaging highways and/or depositing materials on highways.

The Ministry is open to discussion and/or wording of the above.

If you have any questions or concerns, please do not hesitate to contact me.

Kind Regards,

GRACE SHERRATT | DISTRICT DEVELOPMENT TECHNICIAN
BC MINISTRY OF TRANSPORTATION AND INFRASTRUCTURE | VANCOUVER ISLAND DISTRICT
240 - 4460 CHATTERTON WAY
VICTORIA BC V8X 5J2
T: 250.952.4511 | F: 250.952.4508

WEBSITE FOR DEVELOPMENT APPROVALS:

www.th.gov.bc.ca/Development_Approvals/home.htm | MINISTRY WEBSITE: <http://tranbc.ca/>

Wendy Miller

From: Pete Godau <pgodau@sd62.bc.ca>
Sent: Friday, May 01, 2015 2:17 PM
To: Wendy Miller
Subject: RE: Proposed Bylaw No. 3941 - CRD Referral (Soil Removal or Deposit)

Wendy,

No concerns.

Thanks,

Pete

Wendy Miller

From: Monroe Grobe <mgrobe@sd79.bc.ca>
Sent: Thursday, April 30, 2015 8:52 AM
To: Wendy Miller
Subject: Re[2]: Proposed Bylaw No. 3941 - CRD Referral (Soil Removal or Deposit)

Thank you Wendy,

Our interests, at this point, appear to be unaffected by the changes to this bylaw.

Regards,
Monroe

Monroe Grobe
Director of Operations
School District No79 (Cowichan Valley)
2557 Beverly Street
Duncan, BC V9L 2X3
250-748-0338



**OTTER POINT, SHIRLEY AND JORDAN RIVER
RESIDENTS AND RATEPAYERS ASSOCIATION**

May 6, 2015

To the members of the CRD Board

Re: Proposed Bylaw No. 3941 Removal or Deposit of Soil in IDF, Report to Juan de Fuca Electoral Area Land Use Committee March 17 2015

The Directors of OPSRRA submit this letter in response to the proposed approval of Bylaw No. 3941. OPSRRA feels the reduction of permit fees and security deposits for larger volumes of material suggested in proposed Bylaw No. 3941 - Juan de Fuca Electoral Area Soil Removal or Deposit Bylaw #2 - is a disservice to the Juan de Fuca residents and ratepayers, including those of Otter Point, Shirley and Jordan River who we represent.

The background to this issue is as follows:

- On March 1, 2006, CRD Engineering gave a staff report to the Electoral Area Services Committee with recommendations for the then proposed Bylaw No.3297 - Juan de Fuca Electoral Area Soil Removal or Deposit Bylaw - to replace Bylaws No.1472 (Soil Removal) and No.1473 (Soil Deposit) which were woefully inadequate. This was after there had been gross misuse of those bylaws with a gravel operation in Shirley in 2004-2005, which adversely affected 30+ neighbouring properties, the effects of which are still causing problems today. The 2006 staff report to the EA Services Committee is attached to this letter, and the findings and conclusions of that report formed the basis for the fees and security deposit schedules in Table A of Bylaw No. 3297.
- The report identified that inadequate fees and security deposits *"do not enable sufficient cost recovery to fund the work associated with the permit application and administration processes"* The report also says that *"Bylaw 3297 will enable the levying of appropriate fees and security deposits thereby ensuring that users of soil and removal function pay for its costs"*

Why should the taxpayers of the JDFEA fund large commercial operations? The taxpayer is constantly being told that JDFEA does not have funds for other services that benefit the public, such as Bylaw Enforcement.

In the staff report to the JDFEA Land Use Committee on March 17, 2015 reference is made to complaints from local gravel operators that a Soil Removal or Deposit Permit is a duplication of the license obtained from the Ministry of Energy and Mines. The action of mining differs significantly from removing or depositing "soil", and the jurisdictions controlling Mines Permits and Soils Permits are different, as is the collection of fees. The

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CRD should collect appropriate fees based on cost recovery for commercial and large-scale soil removal and deposit activities occurring in the JDFA.

There is also mention in the staff report to LUC that local gravel operators complained that the fees applied to large commercial operations are excessive. Those fees reflect the commercial nature of the operations and should be paid by the operators who benefit financially. Proposed Bylaw No. 3941 suggests eliminating the fee per cubic meter, which is generally applied to offset road maintenance costs. There has to be some cost recovery for nuisances caused by the noise of operations, dust, traffic, etc., and although road maintenance falls to the province, one of the biggest complaints of residents is that commercial truck traffic degrades the roads.

Not all large volumes of material are removed or deposited by an operator or individual with a Mines Permit. In Shirley in 2004/2005, under the old Bylaws No. 1472 and No.1473, **53,700** cubic metres of material were removed and **50,000** cubic metres deposited, all **without** a Mines Permit. By decreasing the fees and security deposits for all larger volumes of material, this could happen again potentially resulting in major problems for residents and the CRD.

We agree with the suggestion in the March 17, 2015 staff report to LUC on proposed Bylaw No. 3941 to increase the soil amount not requiring a permit and exempting the soil deposit and removal directly related to an active building permit. This will benefit all residents and recognizes that in this rural area, with its steep and irregular topography, it is very possible to need to move more than 60 cubic metres of material to construct a home.

In the Summary and Conclusions of the March 1, 2006 staff report to the EA Services Committee it is stated that the then proposed Bylaw No. 3297 *“will correct the area to which the function applies and change the cost recovery structure to ensure that the applicant pays the costs associated with the permit application and administration process rather than these costs being levied through requisition on Electoral Area taxpayers”*

If it is proposed to replace the fee schedules in Table A, Bylaw No.3297, OPSRRA requests another CRD Engineering staff report to further justify reducing them prior to considering a new Bylaw.

Sincerely,

Marika Nagasaka

President, OPSRRA

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REPORT TO ELECTORAL AREA SERVICES COMMITTEE
MEETING OF WEDNESDAY, 01 MARCH 2006

SUBJECT DRAFT BYLAW 3297 TO REGULATE THE REMOVAL OR DEPOSIT OF SOIL
ON LANDS WITHIN THE JUAN DE FUCA ELECTORAL AREA

PURPOSE

The purpose of this staff report is to replace the current bylaws regulating soil removal (Bylaw 1472) and deposit (Bylaw 1473) with one soil removal and deposit bylaw that serves the needs of the function in the Juan de Fuca Electoral Area.

BACKGROUND

The Soil Removal (No. 1472) and Soil Deposit (No. 1473) bylaws were adopted in 1987. They were established to cover lands within the electoral areas of Langford, Sooke, View Royal and Salt Spring Island. Since that time, Langford, Sooke and View Royal have become municipalities and assumed responsibility for this function. The Islands Trust looks after the function on Salt Spring Island and the Southern Gulf Islands. However, the soil removal and deposit function in the Juan de Fuca Electoral Area remains a Capital Regional District (CRD) responsibility.

The existing bylaws do not enable sufficient cost recovery to fund the work associated with the permit application and administration processes.

FINANCIAL IMPLICATIONS

The fees and security deposits for the existing bylaws 1472 and 1473 are as follows:

Bylaw	Fees	Security Deposits
CRD Bylaw 1472 (Soil Removal)	\$100 for each half hectare or part thereof contained in the area described in the permit	\$2,000 for each half hectare or part thereof of site from which soil is to be removed
CRD Bylaw 1473 (Soil Deposit)	as above	\$500 for each half hectare or part thereof of site upon which the fill is to be deposited

Electoral Area Services Committee – 01 March 2006
 Re: Draft Bylaw 3297, Soil Removal and Deposit – Juan de Fuca

Page 2

The proposed fees and security deposits contained in Table A of Bylaw 3297 are as follows:

QUANTITY ⁽³⁾	PERMIT FEE ⁽¹⁾	SECURITY DEPOSIT/BOND ⁽²⁾	RENEWAL FEE ⁽⁴⁾
60 – 100 m ³	\$250 administration plus \$2.50 per m ³ 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	\$100
101 – 500 m ³	\$500 administration plus \$1.00 per m ³ 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 – 10,000 m ³	\$1,000 administration plus \$0.40 per m ³ 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
> 10,000 m ³	\$2,500 administration plus \$0.25 per m ³ 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 Permit fee must be provided prior to the issuance of a Permit.
- (2) The Security Deposit/Bond is required prior to issuance of a Permit and must be renewed and in effect prior to renewal of any Permit.
- (3) The Applicant is responsible for ensuring that any conditions governing Removal or Deposit of Soil as defined in the *Mines Act* are adhered to.
- (4) The renewal fee is required prior to an extension to the Permit.

The proposed fees and security deposits listed in this bylaw are similar to those currently levied by Langford (fees) and by Metchosin (security deposits).

Bylaw 3297 will enable the levying of appropriate fees and security deposits, thereby ensuring that users of the soil deposit and removal function pay for its costs.

ALTERNATIVES

1. That Bylaw 3295 be adopted to replace bylaws 1472 and 1473.

 This alternative will ensure that the bylaw applies to an area in which it has jurisdiction and will enable fees and security deposits to be charged which are commensurate with the costs of administering the permit process.
2. That bylaws 1472 and 1473 be amended to reflect the changed function area only.

 This alternative would result in much, if not most, of the cost of administering the permit process being paid through requisition on Electoral Area taxpayers.

Electoral Area Services Committee – 01 March 2006
Re: Draft Bylaw 3297, Soil Removal and Deposit – Juan de Fuca

Page 3

SUMMARY/CONCLUSIONS

The attached draft Bylaw 3297 will update many aspects of the original bylaws and, in particular, will correct the area to which the function applies and change the cost recovery structure to ensure that the applicant pays for the costs associated with the permit application and administration process rather than these costs being levied through requisition on Electoral Area taxpayers.

The fees quoted are based upon the quantity of soil to be deposited to or removed from the subject property. The security deposit could also be based upon this quantity or, as is more often the case, it could relate to the area within the subject property impacted by the deposit or removal process. The impacted area method would better address the security deposit concerns and is the method included in the draft bylaw.

The draft bylaw has been reviewed by the CRD's solicitors.

RECOMMENDATION

That the Electoral Area Services committee recommend to the CRD Board that Bylaw 3297 be given three readings and referred to the Ministry of Environment and the Ministry of Community Services for approval.

S.B. McDonnell, PEng
Manager, Engineering Services

Dwayne Kalynchuk, PEng
General Manager, Environmental Services
Concurrence

Kelly Daniels
CAO Concurrence

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;
- D. The Capital Regional District recognizes that within areas designated as Agricultural Land Reserve (ALR) under the *Agricultural Land Commission Act (ALC Act)* this bylaw has no force or effect unless the soil deposit or extraction is permitted under the *ALC Act or Regulations*, or approval from the Agricultural Land Commission for soil deposit or extraction has been obtained through an application or notification process.

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 and to act on the owner's behalf.

AGRICULTURAL LAND COMMISSION (ALC) means the Provincial Agricultural Land Commission established under Section 4 of the *ALC Act*.

AGRICULTURAL LAND RESERVE (ALR) means agricultural land designated as an agricultural land reserve under the *ALC Act* and includes an agricultural land reserve under a former Act.

APPLICANT means an owner, or their agent, who has submitted an application.

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

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.

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

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

CRD Bylaw No. 3941

2

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 BYLAW means the Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Malahat Land Use Bylaw, 1982, Bylaw No. 980, Rural Resource Lands, Land Use Bylaw No. 3602, Port Renfrew Comprehensive Community Plan, Bylaw No. 3109 and the Willis Point Comprehensive Community Plan, Bylaw No. 3027.

LAND USE COMMITTEE means the individuals from the Juan de Fuca Electoral Area appointed by Board, to advise the Board on matters associated with Part 26 of the *Local Government Act*.

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 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.

PROFESSIONAL REPORT means a report, or reports, prepared by a Qualified Professional in compliance with this bylaw.

QUALIFIED PROFESSIONAL (QP) may include a landscape architect, qualified environmental professional, a registered professional biologist, a professional geologist or hydro-geologist, a registered professional agrologist or a registered professional engineer, who is working within their field of expertise and is in good standing with the 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 minerals as defined in the *Mineral Titles Act or Regulation*; or manure from animals, or household or farm compost material placed on land as a soil amendment or conditioner.

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.

CRD Bylaw No. 3941

3

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;
- (d) to relieving applicants from any liability relating to damaging highways or depositing materials on highways; or
- (e) to lands within the ALR except where allowed under the *ALC Act or Regulations* or as approved by the ALC through an application/notification process.

3.0 BYLAW APPLICATION

This bylaw applies within the Juan de Fuca Electoral Area except when in conflict with the *ALC Act or Regulations*.

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

Schedule "A", attached hereto is 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 or soil contaminated with invasive species on any parcel;
- (d) remove or deposit soil in or around a watercourse unless in compliance with the provincial *Riparian Area Regulation* and the *Water Act*, or Part 9 of the *Health Safety and Reclamation Code*; or
- (e) remove or deposit any soil material on land in the ALR unless permitted by the *ALC Act or Regulations* or as approved by the ALC through an application/notification process.

8.0 PERMIT EXEMPTIONS

8.1 Subject to meeting the requirements set out in Sections 8.2 and 8.3, a person may remove soil from a parcel or deposit soil onto a parcel without a permit provided the parcel is located outside of the ALR, and 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 m³ 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 m³ 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;
- (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 *ALC 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. Such documentation must be received by the CRD at least 10 days prior to the commencement of the deposit or removal.

8.3 A person who intends to deposit soil under Section 8.1 must submit to the CRD, at least 10 days before the proposed deposit, a site profile, as set out in Schedule 1 of the Contaminated Sites Regulation of the *Environmental Management Act* of British Columbia, of the site from which the soil originated.

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;

CRD Bylaw No. 3941

5

- (i) the proposed completion dates for stages of soil deposit or removal, if applicable;
 - (j) for soil deposit, a site profile, as set out in Schedule 1 of the Contaminated Sites Regulation of the *Environmental Management Act* of British Columbia, of the site from which the soil originated; and
 - (k) for soil removal, the location (address and/or legal description) where the soil is to be deposited.
- 9.2 Subject to Section 10.3 for soil volumes that are 500 m³ or more in a calendar year, every applicant shall provide with their application a Professional Report and site remediation plan, which address the following:
- (a) plans, drawn to a scale of not less than 1:1,000, showing the existing contours with contour intervals of not more than 2 m; 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 2 m;
 - (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.
- 9.4 Subject to Section 14.2, an applicant may provide the reports, plans and documents submitted in support of a Mines Act Permit for a parcel in satisfaction of the requirements set out in Section 9.2.
- 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.
- 10.3 The General Manager may request that the applicant provide a Professional 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

CRD Bylaw No. 3941

6

- (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 Professional 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 **CONSULTATION**
- 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 10 working days prior to a decision on the permit application.
- 11.2 Except for a pending soil removal/deposit application related to an existing Mines Act Permit, staff will refer applications for amounts greater than 250 m³ to the Ministry of Transportation and Infrastructure, the provincial Archaeological Branch and the Ministry of Environment for comment. Each agency has 20 working days after the application has been referred to them, to provide any comments. If after 20 working days the agency has not notified the Regional District in writing about their concerns, the agency, will be considered to have no concerns.
- 11.3 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.
- 11.4 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 10 working days prior to a decision on the permit renewal.
- 11.5 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 (k) of this bylaw.
- 12.2 No person shall engage in the removal or deposit of soil:
 - (a) on any Sunday or Holiday; or
 - (b) between 7 o'clock p.m. and 7 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 Professional 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 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.

CRD Bylaw No. 3941

7

- 12.6 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.
- 12.7 The General Manager may require a report prepared by a Qualified Professional indicating compliance with the permit conditions.
- 12.8 The holder will comply with the provisions of the *Heritage Conservation Act*, if and when archeological evidence is uncovered.
- 13.0 ADMINISTRATION**
- 13.1 Every permit issued under this bylaw, with the exception of permits noted in 13.2, 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 year after the date of permit issuance.
- 13.2 In the case of a soil permit for a parcel which has an active Mines Act Permit, the soil permit under this bylaw will only be renewed in accordance with renewals to the Mines Act Permit.
- 13.3 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 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 a Professional 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.
- 13.4 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.
- 13.5 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.

CRD Bylaw No. 3941

8

15.0 FEES AND SECURITY DEPOSITS

- 15.1 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.
- 15.2 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 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 months after expiration date of the permit with confirmation of compliance with the permit conditions.
- 15.3 Should an applicant not comply with the Professional 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.
- 15.4 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.

18.0 TITLE

This bylaw may be cited for all purposes as the "Juan de Fuca Soil Removal or Deposit Bylaw No. 1, 2015".

READ A FIRST TIME	THIS	DAY OF	2015
READ A SECOND TIME	THIS	DAY OF	2015
READ A THIRD TIME	THIS	DAY OF	2015
ADOPTED	THIS	DAY OF	2015

CHAIR

CORPORATE OFFICER

CRD Bylaw No. 3941

9

SCHEDULE "A": FEES AND SECURITY DEPOSIT

PERMIT QUANTITY	PERMIT FEE	SECURITY DEPOSIT	RENEWAL FEE
Greater than 60 m ³ but less than 250 m ³	\$250	\$2,000 per hectare, or part of, in Permit Area to have soil removed from or deposited to	\$100
250 m ³ or greater but less than 500 m ³	\$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 ³ 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

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;
- D. The Capital Regional District recognizes that within areas designated as Agricultural Land Reserve (ALR) under the *Agricultural Land Commission Act (ALC Act)* this bylaw has no force or effect unless the soil deposit or extraction is permitted under the *ALC Act or Regulations*, or approval from the Agricultural Land Commission for soil deposit or extraction has been obtained through an application or notification process.

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 and to act on the owner's behalf.

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

AGRICULTURAL LAND COMMISSION (ALC) means the Provincial Agricultural Land Commission established under Section 4 of the *ALC Act*.

AGRICULTURAL LAND RESERVE (ALR) means agricultural land designated as an agricultural land reserve under the *ALC Act* and includes an agricultural land reserve under a former Act.

APPLICANT means an owner, or their agent, who has submitted an application.

~~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.

CRD Bylaw No. 3941

2

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.

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 BYLAW means the Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Malahat Land Use Bylaw, 1982, Bylaw No. 980, Rural Resource Lands, Land Use Bylaw No. 3602, Port Renfrew Comprehensive Community Plan, Bylaw No. 3109 and the Willis Point Comprehensive Community Plan, Bylaw No. 3027.

LAND USE COMMITTEE means the individuals from the Juan de Fuca Electoral Area appointed by Board, to advise the Board on matters associated with Part 26 of the *Local Government Act*.

~~**LAND USE COMMITTEE** means the individuals appointed by Board, to advise 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.

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

QUALIFIED PROFESSIONAL (QP) may include a landscape architect, qualified environmental professional, a registered professional biologist, a professional geologist or hydro-geologist, a registered professional agrologist or a registered professional engineer, who is working within their field of expertise and is in good standing with the 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.

CRD Bylaw No. 3941

3

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 minerals as defined in the *Mineral Titles Act or Regulation*; or manure from animals, or household or farm compost material placed on land as a soil amendment or conditioner.

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;
- (d) to relieving applicants from any liability relating to damaging highways or depositing materials on highways; or
- (e) to lands within the ALR except where allowed under the *ALC Act or Regulations* or as approved by the ALC through an application/notification process.

3.0 BYLAW APPLICATION

This bylaw applies within the Juan de Fuca Electoral Area except when in conflict with the *ALC Act or Regulations*.

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

Schedule "A", ~~"B" and "C"~~ attached hereto is 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.

CRD Bylaw No. 3941

4

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 or soil contaminated with invasive species on any parcel;
- (d) remove or deposit soil in or around a watercourse unless in compliance with the provincial *Riparian Area Regulation* and the *Water Act*, or Part 9 of the *Health Safety and Reclamation Code*; or
- (e) remove or deposit any soil material on land in the ALR unless permitted by the *ALC Act* or *Regulations* or as approved by the ALC through an application/notification process.

8.0 PERMIT EXEMPTIONS

8.1 Subject to meeting the requirements set out in Sections 8.2 and 8.3, a person may remove soil from a parcel or deposit soil onto a parcel without a permit provided the parcel is located outside of the ALR, and 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 m³ 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 m³ 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;
- (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 *ALC 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. Such documentation must be received by the CRD at least 10 days prior to the commencement of the deposit or removal.

8.3 A person who intends to deposit soil under Section 8.1 must submit to the CRD, at least 10 days before the proposed deposit, a site profile, as set out in Schedule 1 of the Contaminated Sites Regulation of the *Environmental Management Act* of British Columbia, of the site from which the soil originated.

CRD Bylaw No. 3941

5

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;
 - (i) the proposed completion dates for stages of soil deposit or removal, if applicable;
 - (j) for soil deposit, a site profile, as set out in Schedule 1 of the Contaminated Sites Regulation of the *Environmental Management Act* of British Columbia, of the site from which the soil originated; and
 - (k) for soil removal, the location (address and/or legal description) where the soil is to be deposited.
- 9.2 Subject to Section 10.3 for soil volumes that are 500 m³ or more in a calendar year, every applicant shall provide with their application ~~shall provide an Engineer's~~ a Professional Report and site remediation plan, which address the following:
- (a) plans, drawn to a scale of not less than 1:1,000, showing the existing contours with contour intervals of not more than 2 m; 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 2 m;
 - (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.
- 9.4 Subject to Section 14.2, an applicant may provide the reports, plans and documents submitted in support of a Mines Act Permit for a parcel in satisfaction of the requirements set out in Section 9.2.
- 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.
- 10.3 The General Manager may request that the applicant provide ~~an Engineer's~~ a Professional 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~~ Professional 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 CONSULTATION**
- 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 10 working days prior to a decision on the permit application.
- 11.2 Except for a pending soil removal/deposit application related to an existing Mines Act Permit, staff will refer applications for amounts greater than 250 m³ to the Ministry of Transportation and Infrastructure, the provincial Archaeological Branch and the Ministry of Environment for comment. Each agency has 20 working days after the application has been referred to them, to provide any comments. If after 20 working days the agency has not notified the Regional District in writing about their concerns, the agency, will be considered to have no concerns.
- 11.3 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.
- 11.4 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 10 working days prior to a decision on the permit renewal.
- 11.5 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.

CRD Bylaw No. 3941

7

12.0 PERMIT CONDITIONS

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

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

(a) on any Sunday or Holiday; or

(b) between ~~6~~ 7 o'clock p.m. and ~~8~~ 7 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~~ Professional 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.~~

12.5 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.

12.6 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.

12.7 The General Manager may require a ~~post-construction~~ report prepared by a Qualified Professional ~~to ensure~~ indicating compliance with the permit conditions.

12.8 The holder will comply with the provisions of the *Heritage Conservation Act*, if and when archeological evidence is uncovered.

13.0 ADMINISTRATION

13.1 Every permit issued under this bylaw, with the exception of permits noted in 13.2, 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 year after the date of permit issuance.

13.2 In the case of a soil permit for a parcel which has an active Mines Act Permit, the soil permit under this bylaw will only be renewed in accordance with renewals to the Mines Act Permit.

13.3 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 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~~ a Professional 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.

CRD Bylaw No. 3941

8

- 13.4 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.
- 13.5 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.~~
- 15.1 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.
- 15.2 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 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 months after expiration date of the permit with confirmation of compliance with the permit conditions.
- 15.3 Should an applicant not comply with the ~~Engineer's~~ Professional 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.
- 15.4 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.

CRD Bylaw No. 3941

9

- 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.

18.0 TITLE

This bylaw may be cited for all purposes as the "Juan de Fuca Soil Removal or Deposit Bylaw No. 1, 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

CHAIR

CORPORATE OFFICER

CRD Bylaw No. 3941

10

SCHEDULE "A": FEES AND SECURITY DEPOSIT

PERMIT QUANTITY	PERMIT FEE	SECURITY DEPOSIT	RENEWAL FEE
Greater than 60 m ³ but less than 250 m ³	\$250	\$2,000 per hectare, or part of, in Permit Area to have soil removed from or deposited to	\$100
250 m ³ or greater but less than 500 m ³	\$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 ³ 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

CRD Bylaw No. 3941

11

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

12

~~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 _____ m³ 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 leave 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~~