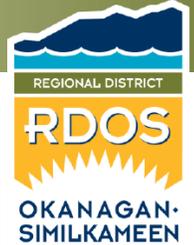


## ADMINISTRATIVE REPORT



**TO:** Planning & Development Committee

**FROM:** B. Newell, Chief Administrative Officer

**DATE:** September 22, 2022

**RE:** Soil Removal and Deposit Regulation Bylaw (Electoral Area “F”) – For Information Only

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### **Purpose:**

To introduce the Soil Removal and Deposit Regulation Bylaw No. 2974 that is to be applied to the Greater West Bench community in Electoral Area “F”.

### **Background:**

At its meeting of October 7, 2021, the Planning and Development (P&D) Committee received the final report of the *Greater West Bench Geotechnical Review* prepared by Ecora Engineering & Resource Group Limited and Clarke Geoscience Limited.

Amongst other things, this Report recommended that the Regional District develop various “Land Use Management Policies for Hazard Lands”, such as the introduction of a “Soil Removal and Deposition Bylaw.” This would allow the Regional District to:

*regulate, monitor, and limit the removal and deposition of soil through permitting. Combined with the hazard mapping, soil removal and deposition activities can be reduced in high hazard areas and documented within the GWB area.*

### **Statutory Requirements:**

Under Section 327 of the *Local Government Act*, a regional district board may, by bylaw, regulate or prohibit the removal of soil and the deposit of soil or other material on any land or in any area of the regional district.

This can include requiring that a property owner hold a permit for the removal of soil, of the deposit of soil or other material on any land in the regional district, as well as requiring the provision of a fee related to the issuance of a permit.

Prior to enacting such a bylaw, however, a regional district must first provide a service in relation to the control of the deposit and removal of soil and the control of the deposit of other materials.

At its meeting of July 21, 2022, the Board adopted the West Bench Soil Removal and Deposition Service Establishment Bylaw No. 2966, 2022, which created a service to control removal or deposition of soil in the Greater West Bench area.

Under Section 9 of the *Community Charter*, provincial approval is required prior to the adoption of a soil bylaw that:

- a) *prohibits the removal of soil, or*
- b) *prohibits the deposit of soil or other material and that makes reference to quality of the soil or material or to contamination.*

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As Bylaw No. 2974 does not make “reference to quality of the soil or material or to contamination” and does not prohibit the removal of soil as a number of exemptions are provided (e.g. such as for a Mines Permit) approval of the Ministry of Environment and Ministry of Mines is not seen to be required.

**Analysis:**

The recommendations contained in the *Greater West Bench Geotechnical Review (2021)*, Administration requires the introduction of a soil removal and deposit bylaw to the Greater West Bench (GWB) community.

This bylaw will reduce the risks associated with the high hazard areas that have been documented in the GWB area by regulating and monitoring soil activities (e.g. removal and deposit).

To this end, the bylaw proposes to restrict the removal or deposition of soil in the GWB area unless an activity qualifies for an exemption (i.e. it constitutes a minor activity) or can be considered for approval through the issuance of a permit.

Proposed exemptions are listed at Section 5.0 of the bylaw and include works related to public utilities, public park land, public trails, publicly dedicated roads, an approved Mines Permit or a volume of soil less than 25.0 m<sup>3</sup>.

The issuance of a permit is limited to those activities listed at Section 6.0 of the bylaw and include the removal or deposit of between 25.0 m<sup>3</sup> to 100.0 m<sup>3</sup> of soil in a calendar year related to development (e.g. construction, installation of a pool or a driveway).

Importantly, the bylaw is structured so that any activities that do not fit within the criteria for an exemption or issuance of a permit would be prohibited. In order for such activities to be undertaken, an amendment to the bylaw, approved by the Board, would be required, thereby allowing for a permit to be issued (NOTE: it is envisioned that required bylaw amendments would take the form of site-specific permit provisions).

Although not required by the Act, it is being proposed that notification of amendment bylaw applications occur in the form of written notice to affected property owners and residents within a 100 metre radius of a property under application.

Public comments received would be considered by the Board at first reading with the option to defer being available to the Board in order to allow for additional public engagement (e.g. public information meeting).

Administratively, the bylaw sets out possible permit conditions, provisions for the suspension or cancellation of a permit, performance securities, maximum permit duration, enforcement and penalties.

**Supporting Amendment Bylaws:**

To support the proposed soil bylaw, a number of other bylaws require amending, including:

- Development Procedures Bylaw: to establish permit application requirements as well as processing procedures for soil permits and amendment bylaws applications;

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- Fees and Charges Bylaw: to establish fees and charges for a soil permit application (\$150), renewal request (\$100), amendment bylaw applications (\$500) and public information meetings (\$250); and
  - Bylaw Notice Enforcement Bylaw: to establish penalties for bylaw infractions, such as failure to obtain a permit (\$300), failure to comply with a permit condition (\$200) or refusal/hindrance of an inspection (\$500).

With regard to the proposed amendment to the Bylaw Notice Enforcement Bylaw, enforcement of the regulations contained in the soil bylaw will be in accordance with existing Regional District policy (e.g. “to rely primarily on written citizen complaints as a means of enforcing regulatory bylaws”).

That the bylaw is only to be applied to a limited geographic area that is in close proximity to the main of the Regional District is seen to aid in its enforcement.

A permit issued under a soil bylaw is akin to a building permit and there is no statutory requirement to formally delegate such issuance to staff. That said, it is being proposed that a right of reconsideration be introduced in order that property owners may appeal any condition of a permit to the Board.

Summary:

While the option to not proceed with a soil bylaw is available, the bylaw reduces the geotechnical hazards that exist in the GWB area.

**Respectfully submitted:**



C. Garrish, Planning Manager



Shannon Duong, Planner II