

REGIONAL DISTRICT OF OKANAGAN-SIMILKAMEEN

BYLAW NO. 2974, 2023

A Bylaw to regulate the removal and deposit of soil on lands within Electoral Area “F”

WHEREAS Section 327 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 Regional District, to make different regulations and prohibitions for different areas, and to require permits and impose fees;

AND WHEREAS the *Greater West Bench Geotechnical Review (2021)* included a recommendation that the Regional District introduce a Soil Removal and Deposit Bylaw to regulate, monitor, and limit the removal and deposit of soil in the West Bench area;

AND WHEREAS the Board of the Regional District of Okanagan-Similkameen wishes to regulate both the removal and deposition of soil within the Greater West Bench of Electoral Area “F” of the Regional District of Okanagan-Similkameen;

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

1.0 Title

This Bylaw shall be cited as the “Regional District of Okanagan-Similkameen Soil Removal and Deposit Bylaw No. 2974, 2023.”

2.0 Definitions

In this bylaw:

“**Board**” means the board of directors for the Regional District of Okanagan-Similkameen;

“**Chief Administrative Officer**” or “**CAO**” means the person appointed by the Regional Board as CAO and any person who, from time to time, is the deputy CAO or is appointed by the Regional Board to act in the capacity of the CAO in the CAO’s absence;

“Enforcement Officer” means a person appointed by the Board as a Bylaw Enforcement Officer;

“Mine” means a mine as defined in the *Mines Act*, as amended;

“Mine Permit” means a permit issued by the chief permitting officer under section 10 of the *Mines Act*, as amended;

“Qualified Professional” means a person who is registered or duly licensed as a Professional Engineer or a Professional Geoscientist under the provisions of the *Engineers and Geoscientists Act*;

“Owner” has the same meaning as in the *Local Government Act*;

“Permit” means a valid Permit for the Removal or Deposit of Soil issued under this bylaw;

“Permit Holder” means the person who is the holder of a valid and subsisting Permit issued under this bylaw;

“Soil” means soil, sand, gravel, rock, silt, clay, peat, or any other substance of which land is composed, or any combination of them, whether or not it is in or put in a stockpile or storage facility, and does not include any compost or biosolids placed on land as a soil amendment or conditioner;

“State of Emergency Declaration” means a declaration of a state of emergency or of a state of local emergency under the *Emergency Program Act*;

“Stockpile” means any accumulation of Soil which has been removed from its natural position; and

“Zoning Bylaw” means the applicable Electoral Area “F” zoning bylaw.

3.0 Bylaw Application

- .1 This bylaw applies to those lands shown on Schedule ‘A’ within Electoral Area “F” of the Regional District of Okanagan-Similkameen.

4.0 Restriction on Soil Removal and Soil Deposit

- .1 Unless an exemption under section 5.0 applies to the removal, or the removal is carried out pursuant to a Permit issued under section 6.0, no person may remove Soil from any land to which this bylaw applies.

- .2 Unless an exemption under section 5.0 applies to the deposit, or the deposit is carried out pursuant to a Permit issued under section 6.0, no person may deposit Soil on any land to which this bylaw applies.

5.0 Exemptions

- .1 This bylaw does not apply to:
 - a) Soil removal or deposit undertaken as part of the construction, repair, maintenance or alteration of any public utility works, public park land, public trails or publicly dedicated road;
 - b) Soil removal or deposit undertaken while a State of Emergency Declaration is in effect where that soil removal or deposit is necessary to protect life or property from imminent injury or damage that is otherwise likely to result from the event or circumstance identified as an emergency in the State of Emergency Declaration;
 - c) Soil that is being relocated within the boundaries of the parcel from which that Soil originates;
 - d) Soil removal or deposit that is authorized by a Mine Permit;
 - e) The removal from a parcel of up to 25.0 cubic meters of Soil in any calendar year; and
 - f) The deposit on a parcel of up to 25.0 cubic meters of Soil in any calendar year.
- .2 A person who removes or deposits Soil under sub-section 1 must provide to the Regional District such information as the CAO, or their delegate requires to demonstrate to the CAO, or the delegate's satisfaction that the removal or deposit will be or was authorized by that paragraph.

6.0 Soil Removal and Deposit Permits

- .1 On application from an Owner of a parcel, the CAO, or their delegate, shall issue, subject to any conditions the CAO, or their delegate, considers necessary, a Permit authorizing the Owner to remove or deposit Soil on that parcel for the following purposes:
 - a) constructing a building or other structure;
 - b) constructing an access driveway; and
 - c) constructing an in-ground swimming pool,provided the amount of Soil proposed to be removed or deposited is no more than is necessary for that purpose, as determined by the CAO, or their delegate.
- .2 Without limiting subsection 6.1, on application from an Owner of a parcel, the CAO, or their delegate, shall issue, subject to any conditions the CAO, or their delegate, considers necessary, a Permit to remove up to 100.0 cubic meters of Soil from that

parcel in a calendar year, not including any Soil removed pursuant to a Permit referred to in subsection 6.1.

- .3 Without limiting subsection 6.1, on application from an Owner of a parcel, the CAO, or their delegate, shall issue, subject to any conditions the CAO, or their delegate, considers necessary, a Permit to deposit up to 100.0 cubic meters of Soil from that parcel in a calendar year, not including any Soil removed pursuant to a Permit referred to in subsection 6.1.
- .4 An Owner of a parcel may combine applications for soil removal and deposit Permits under one of subsections 6.1 through 6.3 into one application for a single Permit.
- .5 The CAO, or their delegate, may refuse to issue a Permit if the proposed removal or deposit of Soil is not authorized by this section or would contravene any other applicable enactment.

7.0 Permit Conditions

- .1 The CAO, or their delegate, may impose conditions in a Permit for any of the following purposes:
 - a) to ensure the Soil removal or deposit authorized by the Permit will not damage any ditch, drain, watercourse, highway or public utility work;
 - b) to ensure the Soil removal or deposit authorized by the Permit will not increase the likelihood of erosion, land slip, rockfall, subsidence or instability;
 - c) to ensure the Soil removal or deposit authorized by the Permit is carried out in a manner and in a location that avoids unnecessary removal of trees or other vegetation;
 - d) to minimize the amount of dirt or debris that will be tracked onto any public highway in connection with the Soil removal or deposit authorized by the Permit;
or
 - e) to limit any disturbance from noise or dust associated with the Soil removal or deposit authorized by the Permit.

8.0 Permit Suspension and Cancellation

- .1 The CAO, or their delegate, may, by order in writing, suspend a Permit for, the period specified in the Order, if the Permit Holder removes or deposits Soil in contravention of this bylaw or in contravention of a condition of the Permit.
- .2 The CAO, or their delegate, may, by order in writing, cancel a Permit if the Permit Holder removes or deposits Soil in contravention of this bylaw or in contravention of a condition of the Permit.

9.0 Permit Security

- .1 Before issuing a Permit, the CAO, or their delegate, may require the Owner to provide security in a form an amount the CAO, or their delegate, considers necessary to ensure that the Permit Holder complies with this bylaw and any conditions imposed by the CAO, or their delegate, in the Permit.
- .2 If the CAO, or their delegate, requires security under this section, the CAO, or their delegate, may use the security for the purpose for which it is taken and, after it is no longer necessary to hold the security for that purpose, the CAO, or their delegate, must return to the person that provided the security any unused amount of the security.

10.0 Application Fee

- .1 At the time of application, the Owner shall pay to the Regional District an application fee in the amount as set out in the Regional District's Fees and Charges Bylaw.

11.0 Application Requirements

- .1 An application for a Permit must include the application requirements set out in the Regional District's Development Procedures Bylaw.
- .2 Without limiting subsection 11.1, the CAO, or their delegate, may require an Owner who has applied for a Permit to provide any report or other information considered necessary to determine:
 - a) whether a Permit may be issued under section 6.0 for the proposed Soil removal or deposit; and
 - b) whether to impose Permit conditions under section 7.0 and if so the nature of those conditions.

12.0 Permit Duration and Renewal

- .1 The term of a permit is one (1) year from the date it is issued.
- .2 A permit may be renewed for one additional term not to exceed six (6) months, provided the renewal is obtained prior to the expiration of the issued permit.

13.0 Enforcement

- .1 The CAO, Enforcement Officer, those persons retained by the Regional District for inspection purposes, and Agents of the Regional District are authorized individually or in any combination to enter at all reasonable times on any parcel and into any building or structure to ascertain whether the provisions of this bylaw are being observed.
- .2 No person shall prevent or obstruct, or attempt to prevent or obstruct, the CAO, Enforcement Officer, those persons retained by the Regional District for inspection

purposes, and Agents of the Regional District from the exercise or performance of their powers, duties or functions under this bylaw.

14.0 Penalty

- .1 Any person who violates any of the provisions of this bylaw or who permits any act or thing to be done in contravention or in violation of any of the provisions of this bylaw, or who neglects to do or refrains from doing anything required to be done by any provision of this bylaw commits an offence against this bylaw and is subject to:
 - a) upon summary conviction, a fine not exceeding \$10,000.00 and the costs of prosecution;
 - b) a penalty in accordance with the *Local Government Bylaw Notice Enforcement Act* and the RDOS Soil Deposit and Removal Bylaw if a bylaw notice is issued respecting the violation;
- .2 Each day a new violation of or failure to comply with any provisions of this bylaw continues to exist shall constitute a separate offence.
- .3 Any penalty imposed pursuant to this bylaw will be in addition to, and not in substitution for, any other penalty or remedy imposed pursuant to any other applicable statute, law or regulation.

15.0 Severability

If any provision of this bylaw is held to be invalid by a court of competent jurisdiction, the provision may be severed from this bylaw and such invalidity shall not affect the validity of this bylaw.

READ A FIRST, SECOND AND THIRD TIME this 16th day of February, 2023.

ADOPTED this 2nd day of March, 2023.

Board Chair

Corporate Officer