



## COWICHAN VALLEY REGIONAL DISTRICT

### BYLAW No. 4236

#### A Bylaw to Regulate the Deposit of Soil on Lands Within CVRD Electoral Areas

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**WHEREAS** the Board of the Cowichan Valley Regional District established the service of Removal and Deposit of Soil under the provisions of Bylaw No. 3947, cited as "CVRD Bylaw No. 3947 – Removal and Deposit of Soil Service Establishment Bylaw, 2015";

**AND 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 electoral areas, to make different regulations and prohibitions for different areas, and to require permits and impose fees;

**AND WHEREAS** the Board of the Cowichan Valley Regional District wishes to regulate the deposit of soil and other materials within its Electoral Areas;

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

#### **1.0 CITATION**

This bylaw may be cited as "**CVRD Bylaw No. 4236 – Soil Deposit Bylaw, 2018**".

#### **2.0 DEFINITIONS**

In this bylaw, the following definitions apply:

**"active floodplain"** means an area of land that supports floodplain plant species and is:

- i. adjacent to a stream that may be subject to temporary, frequent or seasonal inundation;  
or
- ii. within a boundary that is indicated by the visible high-water mark.

**"agent"** means a person who has been authorized in writing by a property owner to apply for a permit on the owner's behalf;

**"aggregate"** means rock, sand, gravel or other similar material, or a combination of one or more of the foregoing, that is extracted from a mine and is not mixed with any other material;

**"applicant"** means a property owner, or their agent, who has completed the permit application and has paid the prescribed fee;

**"application"** means a written request by an applicant for a permit in the form prescribed by the General Manager in accordance with Sections 10, 11 or 12 of this bylaw, as applicable;

**"Authorized Person"** has the same meaning as under the Province of British Columbia *Sewerage System Regulation*, B.C. Reg. 326/2004, as amended or replaced from time to time;

**“Board”** means the Cowichan Valley Regional District Board;

**“Building Official”** means a Registered Building Official employed by the Cowichan Valley Regional District to administer and enforce *CVRD Bylaw No. 3422 – Building Regulation Bylaw, 2011*, as amended or replaced from time to time;

**“Building Permit”** means a permit issued under the authority of *CVRD Bylaw No. 3422 – Building Regulation Bylaw, 2011*, as amended or replaced from time to time;

**“Bylaw Enforcement Officer”** means a person designated by the Board to administer and enforce bylaws within the Cowichan Valley Regional District;

**“compost”** means a product which is:

- i. a stabilized earthy matter having the properties and structure of humus;
- ii. beneficial to plant growth when used as a soil amendment;
- iii. produced by composting; and
- iv. primarily derived from organic matter.

**“Contaminated Sites Regulation”** means the Province of British Columbia’s *Contaminated Sites Regulation*, B.C. Reg. 375/96, as amended or replaced from time to time;

**“contaminated soil”** means any material that has one or more contaminant concentrations above the land use standard applicable to the property where the material is to be deposited, as per the standards specified in the *Contaminated Sites Regulation*;

**“deposit”** means the placement, storage, filling, spilling or releasing, directly or indirectly, of soil or other material on a parcel in an Electoral Area where the soil or other material was not previously located;

**“CVRD”** means the Cowichan Valley Regional District;

**“Electoral Areas”** means Electoral Areas A, B, C, D, E, F, G, H and I of the Cowichan Valley Regional District, either singularly or in any combination, as the context requires;

**“Electoral Area Services Committee”** means the standing committee of the CVRD Board of that name;

**“General Manager”** means the General Manager, Land Use Services Department, Cowichan Valley Regional District, or his or her designate;

**“high water mark”** means the visible high water mark of a stream where the presence and action of the water are so common and usual, and so long continued in all ordinary years, as to mark on the soil of the bed of the stream a character distinct from that of its banks, in vegetation, as well as in the nature of the soil itself, and includes the active floodplain;

**“holiday”** means:

- i. Sunday;
- ii. Christmas Day, Good Friday and Easter Monday;
- iii. Canada Day, Victoria Day, British Columbia Day, Labour Day, Thanksgiving Day, Remembrance Day, Family Day and New Year's Day;
- iv. December 26; and
- v. 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.

**“landscape material”** means gravel, rock, stone, sand, bark mulch, topsoil, compost, and similar materials used for landscaping purposes, which are free from invasive species and obtained from a commercial landscape supplier;

**“mine”** means a mine operating under the authorization of a permit issued under the *Mines Act* (British Columbia);

**“natural boundary”** means the visible high-water mark of a watercourse or ocean 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 water a character distinct from that of the banks thereof, in respect to vegetation, as well as in respect to the nature of the soil itself;

**“other material”** includes, but is not limited to:

- i. construction, reconstruction, renovation, building, demolition and road works wastes of any nature;
- ii. hog fuel, edgings, or other wood waste which results from the manufacturing process of lumber or other wood products;
- iii. land clearing wood waste, consisting of stumps, brush, and logs or any other material derived from land clearing activity;
- iv. waste material derived from any commercial or industrial activity;
- v. yard and garden waste; and
- vi. topsoil, gravel, sand, rock, silt, clay, peat, sediment and other natural substances containing any invasive species.

**“parcel”** means a lot, block or other area in which real property is held or into which real property is subdivided, and without limitation includes a strata lot created under the Province of British Columbia *Bare Land Strata Regulations*, B.C. Reg. 75/78, as amended or replaced from time to time;

**“permit”** means the written authority issued by the General Manager under this Bylaw for the deposit of soil on a parcel in an Electoral Area;

**“permit area”** means the area of land over which the soil deposit occurs, or is proposed to occur, within the subject parcel;

**“Professional Agrologist”** means an agrologist registered and in good standing with the British Columbia Institute of Agrologists;

**“Province”** means the Province of British Columbia;

**“Qualified Environmental Professional”** has the same meaning as under the *Riparian Areas Regulation*, B.C. Reg. 376, 2004, as amended or replaced from time to time;

**“Registered Professional”** means an engineer, geoscientist, agrologist, environmental consultant, soil scientist, biologist or land surveyor who is registered with a professional association that is regulated by a statute, appointed and qualified to act in the capacities described in the sections of this bylaw requiring a report, certification or estimate of a registered professional;

**“riparian assessment area”** means:

- i. for a stream, the 30 metre strip on both sides of the stream, measured from the high water mark;
- ii. for a ravine less than 60 metres wide, a strip on both sides of the stream measured from the high water mark to a point that is 30 metres beyond the top of the ravine bank; and
- iii. for a ravine 60 metres wide or greater, a strip on both sides of the stream measured from the high water mark to a point that is 10 metres beyond the top of the ravine bank.

**“security deposit”** means a cash deposit or irrevocable letter of credit provided by the applicant to ensure all soil deposit will be carried out in compliance with the conditions of this bylaw and a permit issued under this bylaw;

**“soil”** means clay, silt, sand, gravel, rock, peat or other substances of which land is naturally composed, but does not include other material;

**“stockpile”** means an artificial accumulation of soil or other material held in reserve for future use, distribution or removal;

**“stream”** includes any of the following that provides fish habitat:

- i. a watercourse, whether it usually contains water or not;
- ii. a pond, lake, river, creek or brook; and
- iii. a ditch, spring or wetland that is connected by surface flow to something referred to in paragraph (i) or (ii).

**“Type ‘A’ Soil Deposit Permit”** means a permit authorizing the deposit of Soil on a Parcel where the volume of soil is less than 100 m<sup>3</sup> per calendar year;

**“Type ‘B’ Soil Deposit Permit”** means a permit authorizing the deposit of Soil on a Parcel where the volume of soil is between 100 m<sup>3</sup> and 1000 m<sup>3</sup> per calendar year;

**“Type ‘C’ Soil Deposit Permit”** means a permit authorizing the deposit of Soil on a Parcel where the volume of soil exceeds 1000 m<sup>3</sup> per calendar year;

**“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 include a man-made pond that does not connect to a stream; and

**“wood waste”** means wood residue in mechanically shredded form and includes sawdust, hog fuel, bark, chips, slabs, shavings, trimmings, edgings, or other such waste which is the result of any manufacturing process involved in the production of lumber or other wood products.

**3.0 PURPOSE**

- 3.1 This bylaw has been enacted for the purpose of regulating the deposit of soil within all Electoral Areas of the Cowichan Valley Regional District in the general public interest.
- 3.2 The purpose of this bylaw does not extend:
- a) to the protection of owners, occupiers or persons involved in the deposit of soil from economic loss;
  - b) to the assumption of the Cowichan Valley Regional District or any officer or employee of the Cowichan Valley Regional District of any responsibility for ensuring compliance by a person involved in the 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 deposit of soil or the development of land;
  - c) to providing any person with a warranty that any deposit of soil will not violate this bylaw, any other enactment or create any nuisance of any type; and
  - d) to relieve any person of the responsibility for removing any soil that has been deposited contrary to this bylaw or a permit issued under this bylaw.

**4.0 APPLICATION**

This bylaw applies within Electoral Areas A, B, C, D, E, F, G, H and I of the Cowichan Valley Regional District.

**5.0 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.

**6.0 INCORPORATION OF SCHEDULES**

Schedule "A" attached hereto is hereby made a part of this bylaw.

**7.0 PROHIBITIONS**

- 7.1 No person shall deposit soil on any parcel within an Electoral Area until a permit authorizing the soil deposit has been issued, unless the soil deposit activity is exempt from the permit requirement under Section 8 of this Bylaw.
- 7.2 No person shall cause or permit the deposit of unsuitable material on any parcel within an Electoral Area.
- 7.3 No person shall cause or permit the deposit of other material on any parcel within an Electoral Area, except as permitted under a Facility Licence issued in accordance with *CVRD Bylaw No. 2570, Waste Stream Management Licensing Bylaw, 2004*.

- 7.4 No person shall deposit soil within a riparian assessment area, within 15 metres of the natural boundary of the ocean, or within an area designated as an environmentally sensitive area under an Official Community Plan unless the deposit is:
- a) where required under the *Local Government Act*, authorized under a development permit issued by the Cowichan Valley Regional District;
  - b) where required by the laws of British Columbia, authorized under the terms of a permit or approval issued by the Province; and
  - c) authorized under a permit issued pursuant to this bylaw.

## **8.0 PERMIT EXEMPTIONS**

- 8.1 A person may deposit soil onto a parcel without a permit provided that at least one of the following applies:
- a) all of the soil to be deposited is necessary for the construction of basements, footings and foundations, or for the installation of works and services including septic fields and driveways, in conjunction with a construction project for which a building permit has been issued and remains in force;
  - b) all of the soil to be deposited is, in the written opinion of an Authorized Person, required for the maintenance, repair or replacement of a sewerage system and associated works;
  - c) the deposit is required for the construction or repair of works, roads, highways or services by or on behalf of the Cowichan Valley Regional District, its member municipalities or the Ministry of Transportation and Infrastructure, and the deposit is onto a parcel owned or leased by one of those authorities;
  - d) the deposit is to a parcel owned or leased by the Government of Canada or the Province, excluding in all cases the deposit onto a parcel that is leased or licensed by the Province to a third party;
  - e) the soil is being relocated within the boundaries of the parcel from which it originates, provided the requirements of all other applicable statutes and regulations are adhered to;
  - f) the deposit of the soil is designated as a farm use under Section 2 of the *Agricultural Land Reserve Use, Subdivision and Procedure Regulation* and is carried out on land located within the Agricultural Land Reserve;
  - g) the soil is deposited on land used for a commercial landscape supply, horticultural or nursery operation, or a mine producing landscape and construction products, where the use is permitted under the applicable Cowichan Valley District Zoning Bylaw, and for land that is within the Agricultural Land Reserve the use is also designated as a farm use under the *Agricultural Land Reserve Use, Subdivision and Procedure Regulation*, and such deposit is to create a stockpile for re-sale or is otherwise necessary as part of the routine business operations of a landscape supply, horticultural or nursery operation;
  - h) the soil is being deposited as part of the reclamation of a mine, as authorized under the *Mines Act* (British Columbia);

- i) the deposit or importation of aggregate that is sourced from a mine in connection with the operation of a farm, golf course, horse stable, or other agricultural use, and where the land is within the Agricultural Land Reserve the deposit or importation is also designated as a farm use under the *Agricultural Land Reserve Use, Subdivision and Procedure Regulation*;
  - j) the deposit of landscape material, for the sole purpose of landscaping the parcel, where the amount is less than 100 m<sup>3</sup> in any calendar year;
  - k) the deposit of soil for any purpose on the parcel other than those specified in sub-Sections 8.1(a) to (j) where the amount deposited is less than 20 m<sup>3</sup> in any calendar year.
- 8.2 Where the Building Official is of the opinion that soil being deposited, or to be deposited, under Section 8.1(a) of this bylaw is not necessary for the construction of basements, footings and foundations, or for the installation of works and services including septic fields and driveways, the Building Official, Bylaw Enforcement Officer or General Manager may order the immediate cessation of soil deposit until a permit has been applied for and issued under this bylaw.
- 8.3 The person undertaking the deposit of soil in reliance on an exemption under Section 8.1 must provide to the General Manager, on request, sufficient documentation to confirm that the person meets the conditions for the exemption.

## **9.0 PERMIT APPLICATION BY OWNER**

- 9.1 Every application for a Permit must be made by the owner of the parcel on which the soil is to be deposited, or by the agent of the owner.

## **10.0 TYPE "A" SOIL DEPOSIT PERMIT APPLICATION REQUIREMENTS**

- 10.1 Unless exempted by Section 8.1 of this bylaw, any person intending to deposit less than 100 m<sup>3</sup> of soil on a parcel of land in a calendar year must first obtain a Type "A" Soil Deposit Permit.
- 10.2 Every application for a Type "A" Soil Deposit Permit must include the following:
- a) a completed Type "A" Soil Deposit Permit application form, including all required signatures and authorizations;
  - b) a title search obtained no more than thirty calendar days prior to submission of the application, together with copies of all registered covenants, statutory rights of way, and easements;
  - c) a completed Riparian Areas Regulation Property Declaration;
  - d) a scaled and dimensioned site plan of the property where the soil is to be deposited showing:
    - i. property boundaries, driveway accesses, internal roadways, buildings and structures located on the property, the location of wells and septic fields;
    - ii. the location of any stream, lake, ocean, wetland or drainage course on the subject property or within 30 metres of the subject property's boundary;
    - iii. the specific location on the property where the soil is to be deposited.

**11.0 TYPE "B" SOIL DEPOSIT PERMIT APPLICATION REQUIREMENTS**

11.1 Unless exempted by Section 8.1 of this bylaw, any person intending to deposit between 100 m<sup>3</sup> and 1000 m<sup>3</sup> of soil on a parcel of land in a calendar year must first obtain a Type "B" Soil Deposit Permit. Every application for a Type "B" Soil Deposit Permit must include the following:

- a) a completed Type "B" Soil Deposit Permit application form, including all required signatures and authorizations;
- b) a title search obtained no more than thirty calendar days prior to the application, together with copies of all registered covenants, statutory rights of way and easements;
- c) a scaled and dimensioned site plan of the parcel where the soil is to be deposited showing:
  - i. property boundaries, driveway accesses, internal roadways, buildings and structures located on the property, the location of wells and septic fields;
  - ii. the location of any stream, watercourse, lake, ocean, wetland or drainage course on the subject property or within 30 metres of the subject property's boundary; and
  - iii. the specific location on the property where the soil is to be deposited;
- d) a detailed written description of:
  - i. how sediment and erosion from the deposited fill will be controlled and managed;
  - ii. how slopes will be stabilized;
  - iii. measures to control dust and prevent the tracking of soil and other materials onto roads and highways;
  - iv. measures to manage drainage from the site so that watercourses and adjacent properties are not impacted;
- e) a completed Riparian Areas Regulation Property Declaration;
- f) payment of applicable application fees and security.

11.2 In addition to Type "B" Soil Deposit Permit application requirements under subsections 11.1(a) to (f), the General Manager may require the following additional information prior to considering issuance of the permit:

- a) a drainage and sediment and erosion plan prepared by a Registered Professional;
- b) notwithstanding Section 11.1(e), and at the sole discretion of the CVRD, written confirmation from a Qualified Environmental Professional confirming that the proposed soil deposit location is not within a Riparian Assessment Area;
- c) a report prepared by a Registered Professional which certifies that, if carried out in conformance with the application, the proposed soil deposit will not create a danger from flooding, erosion, or landslide;
- d) a Site Profile of the site from which the soil originated, prepared in accordance with Schedule 1 of the *Contaminated Sites Regulation*;

- e) where the General Manager has reason to believe that soil to be deposited is contaminated soil, satisfactory evidence that the deposit will be in accordance with an authorization, order or exemption under the *Environmental Management Act*.

## **12.0 TYPE "C" SOIL DEPOSIT PERMIT APPLICATION REQUIREMENTS:**

12.1 Unless exempted by Section 8.1 of this bylaw, any person intending to deposit more than 1000 m<sup>3</sup> of soil on a parcel of land in a calendar year must first obtain a Type "C" Soil Deposit Permit. Every application for a Type "C" Soil Deposit Permit must include the following:

- a) a completed Type "C" Soil Deposit Permit application form, including all required signatures and authorizations;
- b) a title search obtained no more than thirty calendar days prior to the application, together with copies of all registered covenants, statutory rights of way, and easements;
- c) a survey of the parcel prepared by a British Columbia Land Surveyor, including:
  - i. legal boundaries of the parcel, the proposed soil deposit area boundaries, and any easements, rights of way and covenant areas;
  - ii. location of all structures and private infrastructure on the property;
  - iii. location of all public infrastructure within 20 metres of the property;
  - iv. location of all streams, watercourses, wetlands, drainage courses, septic systems and wells on the parcel and within 30 metres of the proposed fill site;
  - v. topographic survey with 0.5 metre intervals showing the pre-deposit topography of the parcel and within 20 metres of the parcel; and
  - vi. all existing and proposed accesses to the parcel and soil deposit site;
- d) a Soil Assessment and Deposit Plan prepared by a Registered Professional, including:
  - i. proposed location and final contours (0.5 metres) of the soil deposit site;
  - ii. proposed volume of soil to be deposited, including calculations, cross-sections and other pertinent information used in calculating soil deposit volumes;
  - iii. estimated schedule and phasing of the soil deposit activity;
  - iv. description of procedures for controlling access to the site;
  - v. description of procedures for documenting the origins and composition of soil to be deposited, including preliminary fill source assessments, soil source site profiles and declarations, and truck tracking receipts;
  - vi. description of process for monitoring soil placement so that the approximate location of deposited soil can be matched with truck tracking receipts; and
  - vii. certification that the proposed soil deposit will not create a danger from flooding, erosion, or landslide;
- e) an Environmental Protection Plan prepared by a Registered Professional, including:
  - i. measures for controlling erosion and sedimentation and for maintaining erosion and sediment control infrastructure;
  - ii. measures for protecting riparian assessment areas, watercourses and sensitive environmental features;
  - iii. measures for minimizing the tracking of soil onto public road ways and for cleaning roads;

- iv. measures for minimizing dust;
    - v. measures for managing on-site drainage for the duration of the soil deposit activity and for ensuring that watercourses and adjacent properties will not be negatively impacted from storm water run-off from the soil deposit site; and
    - vi. measures for controlling noxious weeds and invasive species; and
  - f) a Site Remediation Plan prepared by a Registered Professional, including:
    - i. reclamation measures to stabilize, landscape and restore the land upon completion of the soil deposit activity;
    - ii. measures for permanent drainage and storm water management; and
    - iii. measures for managing noxious weeds and invasive species on an on-going basis.
- 12.2 In addition to the Type "C" Soil Deposit Permit application requirements of Section 12.1, the General Manager may require the following additional information, as applicable, prior to considering issuance of the permit:
- a) for land that is agriculturally zoned, an Agricultural Capability Report, prepared by a Professional Agrologist, including:
    - i. the soil characteristics and agricultural capability of the proposed soil deposit site;
    - ii. the benefits that the proposed soil deposit will provide for agricultural productivity and use;
    - iii. any limitations, conditions or recommendations to ensure agricultural capability is maintained or improved;
    - iv. recommended measures for protecting the agricultural capability of adjacent agricultural land;
  - b) for land that, in the opinion of the General Manager, may be susceptible to flooding, a Hydrology Report prepared by a Registered Professional certifying that adjacent property and infrastructure will not be subject to increased flooding and hydraulic impacts caused by the reduced absorptive capacity of the Land, reduced flood capacity, or the blockage or re-direction of flood water flows;
  - c) for lands within 100 metres of a provincially designated vulnerable aquifer, a Ground Water Impact Assessment, prepared by a Registered Professional, analyzing the potential impact of proposed soil deposit activity on ground water and recommended ground water protection measures;
  - d) a Site Profile of the site from which the soil originated, prepared in accordance with Schedule 1 of the *Contaminated Sites Regulation*;
  - e) where the General Manager has reason to believe that soil to be deposited is contaminated soil, satisfactory evidence that the deposit will be in accordance with an authorization, order or exemption under the *Environmental Management Act*.

**13.0 SOIL DEPOSIT PERMIT EXPIRY AND RENEWALS**

- 13.1 Every permit issued under this bylaw expires upon the earlier of:
- a) the deposit of the total amount of soil authorized to be deposited by the permit has occurred;
  - b) the expiry date expressly stated in the permit;
  - c) for Type "A" and "B" Soil Deposit Permits, one (1) year after the date of permit issuance; or
  - d) for Type "C" Soil Deposit Permits, five (5) years after date of permit issuance.
- 13.2 If the deposit authorized in a permit is not completed before the permit expires under Section 13.1, the General Manager, in the case of a Type "A" or Type "B" Soil Deposit Permit, or Board, in the case of a Type "C" Soil Deposit Permit, 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 two (2) months prior to the expiry date;
  - b) the applicant has paid the required renewal fee and provided the required security deposit;
  - c) the soil deposit has been carried out in compliance with the terms and conditions of the original permit, including any conditions of a Registered Professional's report which may apply; and
  - d) there is no change in scope from the original application.
- 13.3 No soil deposit permit will be renewed unless:
- a) an application renewal fee is paid in accordance with the renewal fees specified in Schedule "A" of this bylaw;
  - b) reports are submitted from all Registered Professionals involved in the soil deposit, providing an update on site conditions and confirming permit compliance;
  - c) all required soil deposit records are up to date and complete; and
  - d) any violations of this bylaw and associated permit have been remedied to the satisfaction of the General Manager.
- 13.4 There is no limit to the number of times a person may apply for renewal of a permit, but no person has a vested right to the renewal of a permit.
- 13.5 The General Manager may vary, alter or add to the permit terms and conditions that apply during the renewal period of a permit, as are necessary to ensure compliance with this bylaw or to mitigate any harm to the environment or to adjoining properties, and a permit holder is not entitled to the issuance of a renewal permit on the same terms and conditions that applied under the expiring permit.

- 13.6 An application for renewal of a permit which includes a material change in the scope of proposed soil deposit from that under the original application may be refused, and in that case a new permit application, with applicable permit fee and security deposit, must be submitted.

#### **14.0 AUTHORITY TO ISSUE THE PERMIT**

- 14.1 The Board hereby delegates to the General Manager the authority to issue:
- a) Type "A" Soil Deposit Permits; and
  - b) Type "B" Soil Deposit Permits.
- 14.2 At the discretion of the General Manager, an application for a Type "B" Soil Deposit Permit may be referred to the Electoral Area Services Committee and Board for consideration and decision.
- 14.3 Applications for Type "C" Soil Deposit Permits will be considered and issued by the Board.
- 14.4 The General Manager or the Board, as applicable, may refuse to issue a permit where the applicant has not provided to the Cowichan Valley Regional District sufficient evidence that the deposit of soil can be carried out in compliance with this bylaw and without creating a hazard to persons or property, damage to the environment, or irreparable damage to highways or other public property.
- 14.5 A permit shall not be issued if the Board or General Manager, as applicable, considers that such deposit would conflict with the policies and guidelines established in the Official Community Plan or the permitted uses allowed on the parcel as established by the applicable CVRD Zoning Bylaw.
- 14.6 A permit shall not be issued if the Board or General Manager, as applicable, considers that such deposit would conflict with the regulations, policies and guidelines established under CVRD solid waste management bylaws, including but not limited to *CVRD Bylaw No, 2570, Waste Stream Management Licensing Bylaw, 2004*.
- 14.7 A person who has been refused a permit by the General Manager may submit an application for reconsideration by the Board, by giving notice in writing to the CVRD's Corporate Secretary within fifteen (15) business days of the refusal.

#### **15.0 COMMUNITY CONSULTATION**

- 15.1 The Board may call for and receive public comment about any Type "C" Soil Deposit Permit application or application to renew a Type "C" Soil Deposit Permit prior to consideration of the permit or renewal application. If the Board decides that the community should have an opportunity to comment, it may:
- a) require that a public meeting be held with respect to the proposed soil deposit;
  - b) publish notice of the time and place where the public meeting is to be held in two consecutive newspaper publications, paid for at the applicant's expense; and
  - c) notify owners and occupiers of land within 60 metres of the soil deposit parcel.

**16.0 SOIL DEPOSIT REQUIREMENTS**

16.1 Any deposit of soil in an Electoral Area, including deposits exempt from permit requirements, must comply with the following requirements:

- a) the slope of any exposed face of deposited soil must not be greater than the angle of repose necessary for stability of the deposited material. For any slope face within 10 metres of a property boundary or a riparian assessment area boundary, the maximum slope grade will be 4:1 (4 horizontal to 1 vertical);
- b) the deposited soil must be graded so that positive gravity drainage is assured, and a drainage system of sufficient capacity and extent must be installed to ensure that runoff onto adjacent lands will be no greater than prior to commencement of the soil deposit;
- c) soil must not be deposited over any statutory right-of-way area without first obtaining written approval of the authority having jurisdiction over the statutory right of way;
- d) soil must not be deposited over wells or sewage disposal systems;
- e) all streams, watercourses, wetlands and drainage facilities must be kept free of silt, clay, sand, debris and other material attributable to the soil deposit activity, which could obstruct, impair or impede drainage facilities and watercourses;
- f) all dirt, mud or debris tracked onto public roads or deposited into road-side ditches from the soil deposit activity must be removed daily;
- g) deposited soil and related activities must not encroach upon, undermine, damage or endanger any adjacent property; and
- h) no person shall engage in the deposit of soil on a Sunday or Holiday, or before 7:00 a.m. or after 7:00 p.m. on any other day.

**17.0 PERMIT CONDITIONS**

17.1 A permit may include one or more conditions pertaining to the regulations under this bylaw.

17.2 Every permit holder shall keep a daily record Soil Deposit Log Book of all soil deposited on the permit site. The Soil Deposit Log Book record must contain the following information:

- a) the date, time and origin of each delivery of soil;
- b) the contact information (name and phone number) for each project site or property where the soil originated from;
- c) the total quantity of soil deposited;
- d) the company that delivered the soil and the name of the truck driver;
- e) the licence plate numbers of the truck that delivered the soil to the property; and
- f) the name of the person entering the Log Book information.

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- 17.3 Every permit holder shall, no later than forty-eight hours after a request to review the Soil Deposit Log Book, submit it to the General Manager for review and inspection.
- 17.4 Where information in the submitted Soil Deposit Log Book is incomplete or determined to be false, the permit may be suspended and the permit holder or owner shall undertake one or more of the following measures, as determined by the General Manager, to renew work under the permit:
- a) submit a soil quality assessment, including laboratory analysis of contamination for a specified soil deposit footprint, completed by a Registered Professional;
  - b) complete the Soil Deposit Log Book;
  - c) correct any false Soil Deposit Log Book records; and
  - d) agree to submit monthly Soil Deposit Log Book records for all subsequent Soil deposits under the permit.
- 17.5 The issuance of a permit does not relieve the permit holder from compliance with any other statute or regulation, including but not limited to a requirement under the *Local Government Act* for a development permit in a designated CVRD Development Permit Area, CVRD bylaws regulating noise and nuisance, the *Water Sustainability Act*, the *Riparian Areas Regulation*, the *Fisheries Act* (Canada), and the *Environmental Management Act*.
- 17.6 A permit constitutes written authority under this bylaw to conduct only those activities described in the permit.
- 17.7 All plans, specifications and Registered Professional's reports forming part of an application in respect of which a permit is issued shall form part of and be incorporated in the permit unless otherwise specified by the General Manager and, without limiting the foregoing, a permit issued shall specify the maximum volume of soil that is to be deposited.
- 17.8 Prior to the deposit of any soil, the holder of any Type 'C' Soil Deposit Permit shall post a clear and legible sign, in English, indicating the duration and extent of the soil deposit authorized by the permit, at the point of entry to the parcel from the main road, before any soil deposit commences. The sign is to be, at a minimum, 1 metre x 1 metre square and must include the permit number on it, and must be maintained in place until the expiry of the permit.
- 17.9 The holder of the permit shall be responsible to contact the Ministry of Transportation and Infrastructure and to comply with that Ministry's requirements for road maintenance and clean up during and after the period of time when soil deposit occurs.
- 17.10 The holder of the permit shall be responsible to contact the Ministry of Environment, Ministry of Forest, Lands, Natural Resource Operations and Rural Development, Ministry of Mines, the Agricultural Land Commission and the Department of Fisheries and Oceans Canada in order to determine the requirements of those agencies in relation to any soil deposit undertaken under the authority of a permit issued under this bylaw, and the permit holder shall be responsible to comply with those requirements.
- 17.11 The General Manager may require a post-deposit report prepared by a Registered Professional confirming that the soil was deposited in compliance with the permit conditions.
- 17.12 Where the General Manager has reason to believe that soil being deposited under this

bylaw is contaminated soil, the General Manager may order the immediate cessation of soil deposit until the person depositing the soil provides satisfactory evidence that the deposit is subject to and is in accordance with an authorization, order or exemption under the *Environmental Management Act*.

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

18.1 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) revoke the permit;
- c) amend the permit;
- d) attach new conditions to a permit, without the consent of the applicant; or
- e) order that the permit holder carry out remedial work to correct the contravention.

18.2 The General Manager may authorize an amendment to a permit, where requested by the permit holder. 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 Sections 10, 11 or 12;
- b) further community consultation in accordance with Section 15; and
- c) the submission of a new permit application, along with applicable permit fees and security deposit.

#### **19.0 PERMIT CLOSURE**

19.1 For Type "B" Soil Deposit Permits, within 60 calendar days of completion of the soil deposition activity, or expiration of the permit, the permit holder must:

- a) submit a final copy of the Soil Deposit Log Book to the General Manager;
- b) leave all surfaces of the soil deposit area with a slope no greater than the grades specified in the permit;
- c) cover all surfaces of the deposit area with an established growth of grass or other suitable and approved erosion control ground cover, or otherwise complete restoration of the Soil Deposit Site as specified in the permit;
- d) provide the General Manager with confirmation that all required drainage and storm water management infrastructure has been appropriately installed and is functioning.

19.2 For Type "C" Soil Deposit Permits, within 90 calendar days of completion of the soil deposition activity, or expiration of the permit, the permit holder must:

- a) submit a final copy of the Soil Deposit Log Book to the General Manager;
- b) submit a topographical survey prepared by a British Columbia Land Surveyor showing the location of the deposited soil relative to parcel and stream or watercourse boundaries, the finished grades for the soil deposit site and the estimated volume of soil that has been deposited;
- c) submit a report from a Registered Professional confirming that all soil deposit activity has occurred in compliance with the bylaw and permit and that all restoration works specified in the permit have been completed.

19.3 If the General Manager has reason to believe the soil deposit activity on the parcel is not compliant with applicable bylaw and permit conditions, the General Manager may require the permit holder to provide written confirmation from a Registered Professional that the soil deposit had been conducted in accordance with the terms and conditions of this bylaw and the permit.

## **20.0 FEES AND SECURITY DEPOSITS**

- 21.1 The applicant for a permit or permit renewal must pay the permit fee prescribed under Schedule "A" at the time the application is submitted.
- 21.2 For Type "B" Soil Deposit Permit applications the volumetric fee prescribed under Schedule "A" shall be determined based on the volume of soil that is proposed to be deposited, and must be paid at the time the application is submitted. There shall be no refund of any portion of the permit fee where the volume of soil deposited is less than that proposed under the permit application.
- 21.3 For Type "C" Soil Deposit Permit applications, the volumetric fee prescribed under Schedule "A" shall be calculated by a Registered Professional based on the Soil Deposit Log Book record and submitted no less frequently than every 6 months after permit issuance, or as otherwise specified in the permit. The holder of a Type "C" Soil Deposit Permit who remits a volumetric fee more than 30 days past the due date shall pay a late payment levy equivalent to 20% of the volumetric fee. If volumetric fees are not remitted within 120 days of the due date, the General Manager may suspend or cancel the permit.
- 21.4 Without limiting the enforcement steps the CVRD may take to enforce this bylaw, a person who deposits soil without a permit and in breach of this bylaw shall pay a fee in the sum of \$5 for each and every cubic metre of soil deposited, whether or not a permit is subsequently issued. This fee is in addition to all other applicable permit fees.
- 21.5 As security for the due and proper compliance with all requirements and conditions of this bylaw, the applicant for a permit shall, before receiving a permit for the deposit of soil, provide a cash deposit or auto-renewing irrevocable letter of credit drawn upon a chartered bank or credit union, in the amount specified in Schedule "A". If security is provided in the form of a letter of credit, it must be in a form acceptable to the CVRD and fully accessible to the CVRD for no less than twelve (12) months after the expiration date of the permit. If full compliance with the bylaw and permit are not confirmed within 90 calendar days of following expiration of the permit, the CVRD may draw on the letter of credit and hold the proceeds of security until compliance is achieved, or use the proceeds of security to achieve compliance.
- 21.6 Should the holder of a permit not comply with the conditions of a permit, the CVRD may undertake any necessary remedial action within the permit area at the cost of the permit holder, and may utilize the security deposit for that purpose.

**22.0 ADMINISTRATION**

- 22.1 The General Manager may establish the form of application and permit to be used under this bylaw.
- 22.2 The General Manager, Bylaw Enforcement Officer and Building Official have the right at all reasonable hours to enter upon and inspect any parcel to determine if the provisions and requirements of this bylaw are being met.
- 22.3 The General Manager or Bylaw Enforcement Officer may request records of soil deposit volumes maintained by the permit holder in accordance with Section 17 of this bylaw.
- 22.4 Where soil or other material has been deposited on a parcel without a valid permit and is not exempt by Section 8 of this bylaw, or where a permit condition has been contravened, the General Manager or Bylaw Enforcement Officer may place a "stop work" order on the property. Within 14 calendar days of the placement of a stop work order, the owner must:
- a) remove the soil or other material from the parcel to a permitted facility or property; or
  - b) apply for a permit authorizing the soil deposit.

**23.0 VIOLATIONS AND PENALTIES**

- 23.1 Any soil deposited without a permit or contrary to the terms and conditions of a permit shall be removed from the parcel by the owner of the parcel at the owner's cost. Failure to remove the soil within the time period given by the General Manager for the removal shall constitute an offence under this bylaw.
- 23.2 Any person who contravenes any provision in this bylaw, or who suffers or permits any act or thing to be done in contravention of this bylaw, or who refuses, omits or neglects to fulfil, observe, carry out or perform any duty or obligation imposed in this bylaw is guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000 per offence.
- 23.3 A separate offence shall be deemed to be committed upon each day during and in which the contravention occurs or continues.
- 23.4 The penalties imposed under this bylaw 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 including but not limited to an application to the Supreme Court of British Columbia by the CVRD to a court, for a mandatory injunction for the enforcement of this bylaw, including an order for the removal of any soil, contaminated soil, other material or unsuitable material deposited contrary to the provisions of this bylaw.

**24.0 INDEMNIFICATION**

- 24.1 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 deposit of soil.
- 24.2 The holder of a permit shall save harmless, indemnify and keep indemnified the Cowichan Valley 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 deposit of soil authorized under a permit.

**25.0 COMMENCEMENT**

- 25.1 Except as provided in Sections 25.2 and 25.3, this bylaw comes into force on the date of its adoption
- 25.2 Sections 10 and 11 of this bylaw, and the prohibition under Section 7.1 against depositing soil without a Type "A" Soil Deposit Permit or a Type "B" Soil Deposit Permit, where such a permit is required under sections 10 or 11, shall come into force on June 1, 2020.
- 25.3 Section 12 of this bylaw, and the prohibition under Section 7.1 against depositing soil without a Type "C" Soil Deposit Permit, where such a permit is required under Section 12, shall come into force on June 3, 2019.

READ A FIRST TIME this 26<sup>th</sup> day of September, 2018.

READ A SECOND TIME this 26<sup>th</sup> day of September, 2018.

READ A THIRD TIME this 14<sup>th</sup> day of November, 2018.

I hereby certify this to be a true and correct copy of Bylaw No. 4236 as given Third Reading on the 14<sup>th</sup> day of November, 2018.

  
Deputy Corporate Secretary


November 28, 2018  
Date

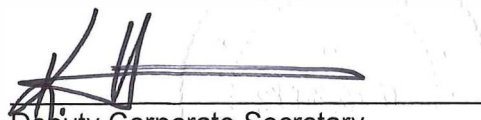
APPROVED BY THE MINISTER OF ENVIRONMENT this \_\_\_\_\_ day  
of \_\_\_\_\_, 2018, in accordance with *Community Charter Section 9(3)(c)*. **N/A**

THIRD READING RESCINDED this 24<sup>th</sup> day of April, 2019.

READ A THIRD TIME AS AMENDED this 24<sup>th</sup> day of April, 2019.

ADOPTED this 24<sup>th</sup> day of April, 2019.

  
Chairperson

  
Deputy Corporate Secretary

**SCHEDULE "A"****Permit Fees and Security Deposits**

<b>SOIL QUANTITY (m<sup>3</sup> per year)</b>	<b>PERMIT TYPE</b>	<b>PERMIT FEE<sup>1</sup></b>	<b>SECURITY DEPOSIT<sup>2</sup></b>	<b>RENEWAL FEE</b>
Less than 100	Type "A" Soil Deposit Permit	N/A	N/A	N/A
100 – 1000	Type "B" Soil Deposit Permit	\$300 application fee plus \$4 per 10 m <sup>3</sup> of deposited soil	\$3,000	\$200
More than 1000	Type "C" Soil Deposit Permit	\$2,000 application fee plus \$6 per 10 m <sup>3</sup> of deposited soil	\$20,000 per hectare	\$2,000

1. Prior to issuance of a Type 'B' Soil Deposit Permit, payment of the application fee, volumetric fee based on the estimated volume of soil to be deposited, and security deposit is required.

Prior to issuance of a Type 'C' Soil Deposit Permit, payment of the application fee and security deposit is required. The amount of the security deposit shall be \$20,000 for the first hectare plus an additional \$20,000 on a pro rated basis for each additional hectare of land to be used as a soil deposit area. The volumetric fee is to be paid bi-annually, based on actual volumes deposited as reported by the Registered Professional.

2. The Security Deposit will be held for a minimum of six (6) months after the permit has expired and will be released after all restoration works and permit conditions have been completed and confirmed.