

**REPORT TO REGIONAL WATER SUPPLY COMMISSION
MEETING OF WEDNESDAY, APRIL 19, 2023**

SUBJECT **Bylaw No. 4541 Water Supply Local Service Area Establishment Bylaw Amendment**

ISSUE SUMMARY

To amend Capital Regional District (CRD) Bylaw No. 2537, “Capital Regional District Water Supply Local Service Area Establishment Bylaw No. 1, 1997”, to specify activities included in the Regional Water Supply Service and update the provincial legislation referenced in the bylaw from the *Municipal Act* to the *Local Government Act*.

BACKGROUND

Bylaw No. 2537 establishes the Regional Water Supply Local Service Area but is not consistent with modern establishing bylaws with respect to the authorized activities of the service and does not provide examples or guidance on what is an acceptable activity of a regional water service. The lack of a listing of authorized service activities creates uncertainty and could be questioned where management activities are indirect to water supply, such as the management of the water supply area lands.

The Strategic Plan for Regional Water Supply provides direction to more actively manage the forested water supply lands to mitigate climate change and reduce wildfire risk. Intended management activities such as ecological restoration thinning, will result in the sale of logs. While the existing service has the power to sell logs resulting from forest fuel reduction activities as a result of *Zimmermann v. Greater Victoria Water District*, 1994 CanLII 2115 BC Supreme Court (BCSC); it is worth clarifying that power, along with others in the service’s establishing bylaw under modern drafting standards.

In the Greater Victoria Water Supply Area (GVWSA), merchantable logs that result from watershed management activities have historically been disposed of to reduce forest fuels and offset costs, and the ongoing ability to do this will reduce the capital funding required to finance these management activities.

ALTERNATIVES

Alternative 1

The Regional Water Supply Commission recommends to the Capital Regional District Board:

1. That Bylaw No. 4541, “Capital Regional District Water Supply Local Service Area Establishment Bylaw No. 1, 1997, Amendment Bylaw No. 3, 2023”, be introduced and read a first, second, and a third time.
2. That Bylaw No. 4541 be referred to the service participants for approval by way of council and electoral area director consent on behalf, and that if successful, Bylaw No. 4541 be referred to the Inspector of Municipalities for approval.

Alternative 2

That the report be referred back to staff for additional information.

IMPLICATIONS

Governance Implications

The proposed amendment promotes good governance by updating the language to refer to the *Local Government Act* and in providing transparency and certainty of the activities that are authorized and contemplated by the water supply service. While the forest/ecological activities planned for the GVWSA could proceed without the amendment, specifically authorizing these activities in the bylaw proactively manages public expectations, uncertainty and risk.

Legal Implications

In 1994, the predecessor corporation to the CRD's operation of the regional water service, the Greater Victoria Water District (GVWD), was directed by the BCSC that commercial logging was not within the scope of activities of a water district, though forest health activities, including the sale of logs, was acceptable. The GVWD from 1949 to 1992 undertook commercial timber harvest on catchment and non-catchment lands and took the position prior to the BCSC decision it could engage in commercial timber harvesting on its own merits.

Though the activities currently being planned to manage the water supply area lands are not for commercial timber (rather for forest health, resilience, management of forest fuels, wildlife habitat and biodiversity), gaining certainty of authority regarding the sale or disposition of any resulting logs is necessary and is an opportunity to modernize the bylaw's example powers in line with other modern establishing bylaws. For clarity, while legislation has changed since 1994 and does permit regional districts to operate enterprises, there is no intention to initiate commercial timber harvesting operations in the GVWSA for the sake of profit-making.

When revising a service establishment bylaw, two-thirds elector approval is required. Elector approval can be obtained by referendum (which is costly), alternative approval process (which is time consuming), and participating area consent on behalf, in this case consent of Councils and the Electoral Area Director for Juan de Fuca. Should the change be approved by two-thirds consent, the bylaw amendment is then reviewed by the Inspector of Municipalities, and if accepted, the amendment can be adopted at a future Board meeting.

CONCLUSION

Bylaw No. 4541 amends "Water Supply Local Service Area Establishment Bylaw No. 1, 1997" to list and authorize activities of the Regional Water Supply Service and updates the bylaw references from the *Municipal Act* to the *Local Government Act*.

RECOMMENDATION

The Regional Water Supply Commission recommends to the Capital Regional District Board:

1. That Bylaw No. 4541, "Capital Regional District Water Supply Local Service Area Establishment Bylaw No. 1, 1997, Amendment Bylaw No. 3, 2023", be introduced and read a first, second, and a third time.

2. That Bylaw No. 4541 be referred to the service participants for approval by way of council and electoral area director consent on behalf, and that if successful, Bylaw No. 4541 be referred to the Inspector of Municipalities for approval.

Submitted by:	Annette Constabel, M.Sc., RPF., Senior Manager, Watershed Protection
Concurrence:	Kristen Morley, J.D., General Manager, Corporate Services & Corporate Officer
Concurrence:	Ian Jesney, P. Eng., Acting General Manager, Integrated Water Services
Concurrence:	Ted Robbins, B. Sc., C. Tech., Chief Administrative Officer

ATTACHMENTS

Appendix A: Bylaw 4541, "Water Supply Local Service Area Establishment Bylaw No. 1, 1997, Amendment Bylaw No. 3, 2023"

Appendix B: Bylaw 2537, "Water Supply Local Service Area Establishment Bylaw No. 1, 1997" (Unofficial Redlined Consolidation)

**CAPITAL REGIONAL DISTRICT
BYLAW NO. 4541**

**A BYLAW TO AMEND
WATER SUPPLY LOCAL SERVICE AREA ESTABLISHMENT (BYLAW NO. 2537)**

WHEREAS:

- A. Under Bylaw No. 2537, Water Supply Local Service Area Establishment Bylaw No. 1, 1997, the Regional Board established a water supply local service in the regional district; as required by the *Capital Region Water Supply and Sooke Hills Protection Act*, S.B.C. Chap. 5.
- B. The Bylaw requires updating to the *Local Government Act* and amendment to provide clear authorization for management of the water supply area; and,
- C. The Board wishes to amend Bylaw No. 2537 to update it for clarity and certainty to the service members.

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

1. Bylaw No. 2537, "Water Supply Local Service Area Establishment Bylaw No. 1, 1997" is hereby amended as follows:

(a) By replacing section 1, Local Service, in its entirety with:

1. A water supply local service is established in the participating areas. The service established and operated includes acquiring, supplying, and distributing drinking water from any source or sources for the use of the inhabitants of the Capital Regional District for all purposes, and without limiting the foregoing, includes:
 - a) providing high-quality water for current and future users of the water supply service;
 - b) conserving the water supply and managing the water supply area's environment in cooperation with local governments, first nations, the government, and the public;
 - c) managing, acquiring and disposing of land, facilities, and equipment including leasing, maintenance, construction, deactivation, and rehabilitation of roads, drainage structures, bridges, facilities, and other real and personal property associated with the service;
 - d) managing plant and animal invasive species and other biosecurity risks to source water quality, and engaging in wildlife management activities for those species posing a risk to water quality;
 - e) erection, construction, operation, and maintenance of monitoring, communication, conveyance, treatment, scientific, wildfire, wildlife, and security infrastructure and works;
 - f) engaging in forest and ecological management activities and treatments that aid in managing forest fuels, maintaining or improving, forest health, forest resilience,

biodiversity, or wildlife habitat, including the disposal of logs or other by-products resulting from these activities;

- g) engaging in surveillance and security including patrolling by ground and air; and,
- h) engaging in wildfire suppression and wildfire management activities.

(b) By replacing section 4, Cost Recovery, in its entirety with:

- 4. The annual costs for the water supply local service, net of grants and other revenues, shall be recovered by one or more of the following:
 - a) by property value taxes imposed in accordance with Division 2 of Part 11 of the *Local Government Act*;
 - b) by the imposition of a parcel tax imposed under sections 386 and 388 of the *Local Government Act*;
 - c) by the imposition of fees and other charges that may be fixed by separate bylaw; and
 - d) by revenues received by way of agreement, enterprise, gift, grant, or otherwise;

(c) By replacing section 5, Maximum Requisition, in its entirety with:

- 5. The maximum amount that may be requisitioned under section 339(1)(e) of the *Local Government Act* for the annual cost of the local service will be **NIL**.

2. This bylaw may be cited for all purposes as "Water Supply Local Service Area Establishment Bylaw No. 1, 1997, Amendment Bylaw No. 5, 2023".

READ A FIRST TIME THIS	th	day of	20__
READ A SECOND TIME THIS	th	day of	20__
READ A THIRD TIME THIS	th	day of	20__
APPROVED BY TWO-THIRDS OF PARTICIPANTS THIS	th	day of	20__
APPROVED BY THE INSPECTOR OF MUNICIPALITIES THIS	th	day of	20__
ADOPTED THIS	th	day of	20__

CHAIR

CORPORATE OFFICER



Making a difference...together

BYLAW NO. 2537

**WATER SUPPLY LOCAL SERVICE AREA
ESTABLISHMENT BYLAW NO. 1, 1997**

**Consolidated for Public Convenience
(This bylaw is for reference purposes only)**

ORIGINALLY ADOPTED NOVEMBER 12, 1997
(Consolidated with Amending Bylaw 3372, [4541](#))

CAPITAL REGIONAL DISTRICT

BYLAW NO. 2537

A BYLAW TO ESTABLISH A WATER SUPPLY LOCAL SERVICE IN THE REGIONAL DISTRICT EXCEPT LANGFORD ELECTORAL AREA, THE GULF ISLANDS AND THE DISTRICT OF HIGHLANDS

WHEREAS

- A. Section 2 of the *Capital Region Water Supply and Sooke Hills Protection Act*, S.B.C. Chap. 5 (the "Act") requires the Capital Regional District, on or before a date specified by Regulation, to adopt for the Water Supply Local Service established under subsection (1) of that Act, a bylaw that meets all the requirements for a bylaw under section 806(1) and (2) of the *Municipal Act*, and includes all or part of each of the initial participating areas;
- B. The approval of the Minister of Municipal Affairs to the bylaw is required under section 2(3) of the Act;
- C. Section 807(1)(b) and (2) of the *Municipal Act* requiring assent of the electors or consent on their behalf, does not apply to this bylaw;
- D. This bylaw is deemed to be a Service Establishment Bylaw under the *Municipal Act*, and Part 24 of the *Municipal Act* applies to the service established under this bylaw, except where the Act and the Regulations under it prevail.

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

Local Service

1. A water supply local service is established in the participating areas. The service established and operated includes acquiring, supplying, and distributing drinking water from any source or sources for the use of the inhabitants of the Capital Regional District for all purposes, and without limiting the foregoing, includes:
- 1.—
- a) providing high-quality water for current and future users of the water supply service;
 - b) conserving the water supply and managing the water supply area's environment in cooperation with local governments, first nations, the government, and the public;
 - c) managing, acquiring and disposing of land, facilities, and equipment including leasing, maintenance, construction, deactivation, and rehabilitation of roads, drainage structures, bridges, facilities, and other real and personal property associated with the service;

- d) managing plant and animal invasive species and other biosecurity risks to source water quality, and engaging in wildlife management activities for those species posing a risk to water quality;
- e) erection, construction, operation, and maintenance of ~~monitoring, communication,~~ conveyance, treatment, scientific, wildfire, wildlife, and security infrastructure and works;
- f) engaging in forest ~~and ecological~~ management activities ~~and treatments~~ that aid in ~~managing forest fuels,~~ maintaining or improving, forest health, forest resilience, biodiversity, or wildlife habitat, including the disposal of logs or other by-products resulting from these activities;
- g) engaging in surveillance and security including patrolling by ground and air; and
- h) engaging in wildfire suppression and wildfire management activities.

(Bylaw 4541)

Boundaries

2. The boundaries of the water supply local service area are contiguous with the boundaries of the participating areas listed in section 3.

Participating Areas

3. The following are the participating areas in the local service established by this bylaw:

City of Victoria
 District of Oak Bay
 District of Saanich
 Township of Esquimalt
 District of Central Saanich
 Town of Sidney
 District of North Saanich
 Town of View Royal
 City of Colwood
 City of Langford
 District of Metchosin
 District of Sooke
 District of Highlands
 Juan de Fuca Electoral Area

(Bylaw 3372)

Cost Recovery

4. The annual costs for the water supply local service, net of grants and other revenues, shall be recovered by one or more of the following:
 - a) by property value taxes imposed in accordance with Division 2 of Part 11 of the Local Government Act~~by the requisition of money under section 823(1) of the *Municipal Act* to~~

~~be collected by a property value tax to be levied and collected under section 825(1) of the Municipal Act, or;~~

~~a) —~~

b) by the imposition of a parcel tax imposed under sections ~~825(2)~~386 and 388 of the ~~Municipal Act~~Local Government Act; and

~~c) —~~ by the imposition of fees and other charges that may be fixed by separate bylaw; and

~~e)d) by revenues received by way of agreement, enterprise, gift, grant, or otherwise;~~

(Bylaw 4541)

Maximum Requisition

5. The maximum amount that may be requisitioned under section ~~846(4)~~339(1)(e) of the ~~Municipal Act~~Local Government Act for the annual cost of the local service will be **NIL**.

Citation

6. This Bylaw may be cited as "Water Supply Local Service Area Establishment Bylaw No. 1, 1997".

READ A FIRST TIME THIS	10th	day of	September	1997
READ A SECOND TIME THIS	10th	day of	September	1997
READ A THIRD TIME THIS	10th	day of	September	1997
APPROVED BY THE MINISTER OF MUNICIPAL AFFAIRS THIS	23rd	day of	October	1997
ADOPTED THIS	12th	day of	November	1997

Geoff Young
Chairperson

Carmen Thiel
Secretary

FILED WITH THE INSPECTOR OF MUNICIPALITIES THIS	14th	DAY OF	November	1997
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