



BOARD REPORT

TO: Chair and Directors

SUBJECT: CSR D Policy P-26, Building Permit Geohazard Information Use and Procedure

DESCRIPTION: Report from Marty Herbert, Manager, Building and Bylaw Services, dated October 3, 2024. Policy amendments for Board consideration.

RECOMMENDATION: THAT: that the Board endorse amendment to Policy P-26 "Building Permit Geohazard Information Use and Procedure" and approve its inclusion into the CSR D Policy manual, this 17th day of October, 2024.
Corporate Vote Unweighted Majority

SUMMARY:

Policy P-26 is a risk-based policy that enshrines staff actions for processing building permits within geohazard areas that utilize a site specific geohazard report from qualified professionals noting "safe for the used intended" along with a save harmless covenant for geohazard areas ranging from moderate to very high. Through adoption of this policy, the CSR D has absorbed risk as the policy provides a lesser requirement for a simple save harmless covenant, without a geohazard report, applicable for broadly acceptable lower hazard areas identified by a geohazard report as low or very low.

Since adoption date of October 2022, this policy experienced substantial usage by staff for a considerable number of developments within numerous geohazard areas, including rebuilding in wildfire areas and geohazards exacerbated by wildfire.

During this period, this policy has been utilized and measured against a considerable number of development projects ranging from small to large, and consequently staff have observed some opportunities for outright policy exclusions aimed at smaller projects, regardless of the hazard level, that doubly aligns with foundational legislation components of the current policy and supports the development process within geohazard areas.

BACKGROUND:

The October 13, 2022, [Board report](#) for CSR D Policy P-26, provides guidance to Building Officials as to when to require a report from a qualified professional and when a voluntary covenant option in lieu of a professional report may be appropriate

On August 15, 2024, staff presented a [report](#) which outlined the recent information from the Bush Creek East, BGC Geohazard Post-Wildfire Report, dated June 11, 2024, and is utilized within Policy P-26, Geohazard Information and Use Procedure implemented to guide development within geohazard areas.

POLICY:

- [BC Community Charter, Chapter 26, Part 3, Div. 8-Building Regulations, s.56 Requirement for Geotechnical Report.](#)
- [Building Act, S.B.C. 2015, c.2, s3. British Columbia Building Code Part 9, s.9.12.2.2.\(6\)\(b\)\(i\)\(ii\)\(iii\)\(iv\).](#)

FINANCIAL:

There are no direct financial implications to the CSRD regarding the implementation of geohazard report information since policy implementation October 2022, as one purpose of the policy attempts to minimize legal liability to both Building Officials and the CSRD regarding the issuance of building permits in hazard areas.

KEY ISSUES/CONCEPTS:

To be clear, any exclusion to Policy P-26, means no professional geohazard report or covenant indemnifying the CSRD is required from an owner regardless of the geohazard rating.

For any development excluded by policy, an owner would still need to obtain a requisite building permit, appropriate development permit while adhering to pertinent CSRD zoning bylaws if applicable.

For further clarity, geohazard policy P-26 is specifically aimed at one single pillar; life safety/potential for casualties, and does not encompass, express, or imply that permit issuance prevents economic loss or damage to residents' homes or structures because of a geohazard event. When a s.219 geohazard covenant is triggered by policy, s. 3. of the CSRD geohazard indemnification covenant, (see below), clearly outlines to an owner that buildings or other structures may still be damaged by a geohazard event.

3. RELEASE AND INDEMNIFICATION

3.1 The Owner acknowledges that the Regional District does not represent to the Owner or any other person that any building or structure constructed or located in accordance with section 2.1 of these Terms will not be damaged by any Designated Event.

Should the Board provide such direction, a much more fulsome discussion in the 2025 workplan may be considered with investigation of incorporating additional geohazard policy protective pillars such as:

- Economic Damage, (Monetary Loss),
- Intangibles, (Personal Suffering),
- Social and Cultural,
- Ecological, (Flora and Fauna).

Legal:

From a legal perspective, given the nominal risk associated with a "Low" or "Very Low" geohazard risk rating it is appropriate that the landowner seeking a building permit in such areas that they be given the option of submitting a report from a qualified professional and registering a covenant with regards to the known geohazard, or, in lieu of the report, register a s.219 save harmless covenant on their title which recognizes the known risk and saves harmless the CSRD from any liability arising from the building permit approval. Either option meets the Building Official's requirements under s.56 of the BC Community Charter.

Building Inspectors' statutory role in reviewing the construction of structures and buildings with regard to their compliance to the BC Building Code also extends to the review of the proposed building site to determine if the site may be used safely for the use intended. Section 56 of the BC Community Charter provides Building Inspectors the authority to require a report from a certified qualified professional for a building permit application if the Building Inspectors considers the land to be prone to natural hazards

such as landslides. The ensuing report must state that the "land may be used safely for the use intended" otherwise the Building Inspector cannot issue the building permit.

The authority granted to Building Inspectors under section 56 is a discretionary authority and not a mandatory responsibility. In other words, the statute confers discretion upon Building Inspectors in determining when to exercise the section 56 authority. Under Canadian law, where a municipal decision-maker has a discretionary authority, the applicable legal standard is that such discretion should be exercised reasonably.

The purpose of the proposed exemptions is to balance the need to protect public safety with the need to optimize administrative burdens upon permit-seekers and CSRD staff. Because the ultimate goal of seeking section 56 geohazard reports is to seek assurance that the lands may be used safely for the use intended, the requirement may be relieved where permits are sought for non-occupancy uses. Because the exemptions would be limited to permits for non-occupancy uses, the risk to personal safety is minimal or non-existent in the event a landslide or similar natural hazard occurs. As such, such exemptions would be a reasonable exercise of discretion allowed under section 56 and therefore may be reasonably deemed as broadly acceptable for inclusion to the existing risk-based policy.

Policy Exemptions:

No geohazard report or covenant required when building permit is triggered within any identified geohazard area.

(4) Exemptions:

1. Detached accessory building;

- i) Not more than 55 sq. m. / 592 sq. ft. in *building area*, defined by BC Building Code (BCBC), with no residential or combined occupancy,
- ii) The entire building must be a single occupancy only utilized for storage (F3). Partial use of the building for all other uses is not applicable to the policy exemption.

2. Outdoor Recreation Structure:

- i) Covered or uncovered structure that is constructed at grade level and has an open view of the surrounding area and is used for relaxation.
- ii) Not more than 14 sq. m. / 150.69 sq. ft. in *building area*, defined by BC Building Code.

3. Uncovered deck;

- i) Any portion of a deck covered by a roof is not applicable to the policy exemption,
- ii) Not more than 18.58m²/200 sq. ft. in *building area*, defined by BC Building Code.

4. Interior or exterior renovation:

- i) Renovation applicable to construction within existing structure or envelope only,
- ii) Does not increase building footprint or additional occupant load.

IMPLEMENTATION:

Policy P-26 provides the necessary language to enable the immediate receipt and implementation of added information obtained from geohazard reports. Subsequently, upon approval of the amendments to the policy, staff will immediately apply these exclusions to new building permits without delay.

COMMUNICATIONS:

If approved, the policy amendment will be provided on the CSRD website, in building permit material, provided to qualified professionals, Shuswap Construction Industry Professionals, Canadian Home Builders Association, and will also be discussed with applicants as required.

DESIRED OUTCOMES:

That the Board endorse the staff recommendation(s).

BOARD'S OPTIONS:

1. *Endorse the Recommendation(s).*
2. *Deny the Recommendation(s).*
3. *Defer.*
4. *Any other action deemed appropriate by the Board.*

Report Approval Details

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| Document Title: | 2024-10-17_Board_DS_Geohazard_Info_Use_Policy_P-26_Amendment .docx |
| Attachments: | - 2024_10_17_P-26_Policy_Amendment_Change_Matrix.pdf |
| Final Approval Date: | Oct 8, 2024 |

This report and all of its attachments were approved and signed as outlined below:

No Signature - Task assigned to Gerald Christie was completed by assistant Jennifer Sham

Gerald Christie



Jennifer Sham



John MacLean