

COLUMBIA SHUSWAP REGIONAL DISTRICT

SOIL REMOVAL AND DEPOSIT BYLAW NO. 646

A bylaw to regulate the application, approval, suspension or denial of permits for the removal and deposit of soil material within the Columbia Shuswap Regional District.

WHEREAS sections 723 and 797.1 of the Local Government Act, authorize the *Board* of the Columbia Shuswap Regional District to regulate or prohibit the *removal* or *deposit* of *soil* in the *Regional District*;

AND WHEREAS the *Board* desires to regulate, and require permits for, both the *removal* and *deposit* of *soil* within the Columbia Shuswap Regional District;

NOW THEREFORE the *Board* of the Columbia Shuswap Regional District, in open meeting assembled, HEREBY ENACTS as follows:

ADMINISTRATION

1. This Bylaw applies to all land within Electoral Areas 'A', 'B', 'C', 'D' 'E' and 'F' of the Columbia Shuswap Regional District.

DEFINITIONS

2. For the purpose of this bylaw:

Administrator means the Chief Administrative Officer (CAO) of the *Regional District* or the officer delegated by the *Board* to act on the CAO's behalf.

Board means the Board of Directors of the *Regional District*.

Deposit includes the placement, storage, spilling or releasing, directly or indirectly, of *soil* on lands in the *Regional District* where the *soil* was not previously located.

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.

Regional District means the Columbia Shuswap Regional District.

Remove includes the act of removing, excavating, or transporting *soil* from any lands where it originally existed, including the movement of soil from one location to another location within the same lot.

Soil includes topsoil, silt, clay, sand, gravel, rock, peat or other substances of which natural land is composed but does not include soil that exceeds provincial contaminated soil guidelines, or sewage sludge.

REGULATIONS

3. Fees

- a. An application for a Soil Removal and Deposit Permit must be submitted with the appropriate fee as prescribed by the Columbia Shuswap Regional District Fees Bylaw No. 638, as amended.

4. Applicability

- a) All lands within the Regional District are designated Soil Removal and Deposit Permit Areas unless exempted under Section 5.b).
- b) No person shall:
 - i. remove soil from; or
 - ii. deposit soil or other material on any land within a designated Soil Removal and Deposit Permit Area without first obtaining a Soil Removal and Deposit Permit, unless otherwise specifically permitted under this Bylaw.

5. Exemptions

- a) Unless exempted by this section, a permit for *soil removal* or *deposit* is required.
- b) A Soil Removal and Deposit Permit is not required for any of the following:
 - i. *Removal* or *deposit* of less than 350m³ of *soil* during a twelve month period;
 - ii. Movement of *soil removed* from and *deposited* entirely within a parcel and an adjacent parcel owned by the same private landowner;
 - iii. *Removal* or *deposit* of *soil* located on Agricultural Land Reserve (ALR) land which is exempted from a permit under the Agricultural Land Commission Act;
 - iv. *Removal* or *deposit* of *soil* undertaken by a florist, nursery worker, horticulturalist or farmer where the *soil* is used on the parcel on which that person carries on that trade;
 - v. *Removal* or *deposit* of *soil* for the purpose of constructing or maintaining provincial roadways, forest service roads, or walkways or trails;
 - vi. *Removal* of *soil* from or *deposit* of *soil* on land owned by the Regional District or its member municipalities;

- vii. *Removal of soil* from or deposit of *soil* on land if a permit for exploration or production of minerals or coal on the land has been obtained pursuant to the Mines Act;
- viii. *Removal of soil* from or *deposit of soil* on land managed under the Forest Act or regulated under the Highways Act and for which a soils permit has been obtained, so long as the land continues to be used as managed forest or highways; or,
- ix. *Removal or deposit of soil* pursuant to a Development Permit approved by the *Board*, the *Administrator*, or Manager of Development Services which specifies conditions recommended in a report from a *Qualified Professional* for *soil removal or deposit*.

6. Application

- a) Application for Soil Removal and Deposit Permits shall be made on a form provided by the *Regional District*. Applications must be submitted with the applicable fee as prescribed in the Columbia Shuswap Regional District Fees Bylaw No. 638, as amended.
- b) The application for a Soil Removal and Deposit Permit must be accompanied by the following information prepared by a *Qualified Professional*:
 - i. Civic address(es) and legal description(s) of the subject parcel or the Crown land, as applicable, where the *soil removal* and/or *deposit* will take place;
 - ii. Current title search of land(s) and written consent of the parcel owner or Crown land lessee to the *soil removal* and/or *deposit* activities, and agent authorization (if applicable);
 - iii. Start and end date of *soil deposit* and *removal* activities, including reclamation;
 - iv. Detailed information on the proposed or completed notification of the proposal to the public and adjacent property owners;
 - v. Site plan(s) illustrating all of the following on and within a minimum of 30 metres of the proposed site(s):
 - 1. Legal boundaries and zoning setback requirements of the subject parcel or leased area including all legal, natural and constructed features such as berms, buildings, fences, wells, sewage systems, rights-of-way, easements, driveways, roadways, watercourses, and vegetation;
 - 2. Land uses and designations, such as agricultural land reserve (ALR), zoning, flood plain area, environmentally sensitive area, and reserve land;

3. Existing and proposed site contours with contour interval of 2 metres or less;
 4. Proposed locations of accesses and haul routes to and from the site; and,
 5. Illustrated plan for reclamation works to be completed prior to permit expiry including proposed use, contours, and landscaping.
- vi. Report(s) detailing all of the following:
1. Primary person/position responsible for *soil removal* and *deposit* operations on site;
 2. Method(s) of *soil removal* and *deposit*;
 3. Equipment and processing proposed for the site;
 4. Phases and dates of *soil removal*, *deposit*, and reclamation;
 5. Proposed construction on the site, including any buildings, roads or servicing;
 6. Hours of operation, noise mitigation, dust control, visual and landscape buffering, erosion and drainage control, noxious weed management, and traffic impact and control;
 7. Site reclamation plan and estimated cost;
 8. Riparian Area Assessment if any proposed disturbance is within 30m of the natural boundary of any watercourse;
 9. Impacts on adjacent riparian areas and proposals for protecting the riparian areas; and,
 10. Identification, assessment and management of impacts of sources of drinking water, e.g. surface water intake or ground water wellhead, within 100m of the proposed soil removal or deposit activities.
- vii. Copies of all other necessary approvals from authorities having jurisdiction over the lands for which the Soil Removal and Deposit Permit application has been submitted;
- viii. Copies of comprehensive liability insurance for the operations to occur on site to a minimum coverage of \$2,000,000 per occurrence; and,
- ix. Any other information the *Regional District* deems necessary to review the Soil Removal and Deposit Permit application.

- c) Upon completion of the *soil removal* or *deposit*, and prior to the release of security taken from the applicant as a condition of the permit, the applicant must provide to the *Regional District* a certificate from a *Qualified Professional* stating that all works have been completed as required by the applicable Soil Removal and Deposit Permit, in accordance with report recommendations and details submitted in support of the application for the permit.
- d) Upon receipt of a Soil Removal and Deposit Permit application the *Regional District* will undertake the following:
 - i. Notify all property owners within 100m of the parcel boundary of the proposed application;
 - ii. Require that the applicant schedule a public information meeting in regard to the application if one has not already been held;
 - iii. Consider the application, submitted information, comments from staff, and the public, and referrals;
 - iv. Notify the public of the *Board* meeting at which the application will be considered; and
 - v. In the sole discretion of the *Board*, issue the permit, issue the permit with conditions or refuse the permit.

7. **Conditions**

- a) A Soil Removal and Deposit Permit must include requirements such as setbacks, landscaping, buffering, temporary (e.g. soil watering) or permanent (e.g. landscaping, paving) dust controls, fencing, hours of operation, permit expiry, phasing and reclamation measures, and covenants further to findings or recommendations in reports prepared by the *Qualified Professional*;
- b) Upon approval by the Administrator or their delegate, minor changes to a Soil Removal and Deposit Permit may be undertaken if the applicant provides a report from a *Qualified Professional* which, in the opinion of the Administrator or their delegate, provides sufficient details of the changes and if the changes do not substantially deviate from the original application or information previously provided;
- c) At the *Board's* discretion, the term of a Soil Removal and Deposit Permit may be from one to ten years;
- d) Prior to expiry of the Soil Removal and Deposit Permit, the Administrator or their delegate may renew the permit for an additional twelve months for completion of reclamation works;

- e) If the works authorized by the Soil Removal and Deposit Permit have not substantially started within twelve months after issuance of the permit, or the activity permitted under the permit is discontinued for longer than twelve months, the permit shall lapse and have no further force or effect and a new Soil Removal and Deposit Permit must be obtained from the *Regional District*; and,
- f) The applicant is required to receive approval from the Ministry of Transportation and Infrastructure for any access to a Ministry road pursuant to Sec. 5 of the Industrial Road Act and/or Sec. 48 of the Transportation Act as a condition of permit issuance.

ENFORCEMENT

8. Enforcement

- a) The *Administrator*, Manager of Development Services, a Bylaw 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* or leased Crown land and into any *building* or structure to ascertain whether the provisions of this *bylaw* are being observed.
 - i. Notwithstanding 8 a), a mine manager may, in the fulfilling of his obligations pursuant to the Mines Act, temporarily withhold authorization to enter the worksite providing that the mine manager describes to *Regional District* staff the reasons why access is unsafe and what is being done to remedy the unsafe situation.
- b) For the purposes of ascertaining compliance with this bylaw the *Administrator* or their delegate or the Manager of Development Services may require a permit holder to provide records of *soil removal* and *deposit* and/or a specified report from a *Qualified Professional*.
- c) The suspension of a Soil Removal and Deposit permit is authorized by this bylaw and may be issued by the *Administrator* or their delegate, acting reasonably, if *soil removal* or *deposit* activities have not been undertaken in accordance with the terms and conditions of the permit.
 - i. The *Regional District* may reinstate a Soil Removal and Deposit Permit if the *Administrator* or their delegate agrees with the recommendations and conclusions contained in a report from a *Qualified Professional* confirming compliance with this bylaw or providing recommendations as to how the bylaw can be complied with within a timely manner; and,

- ii. The *Administrator* or their delegate may revoke a Soil Removal and Deposit Permit if the permit holder contravenes a stop work order on the site, contravenes a *Regional District* bylaw, or if in the opinion of the *Administrator* or their delegate, the permit holder provided false or misleading information as part of the application for the Soil Removal and Deposit Permit.

9. Security

- a) A Soil Removal and Deposit Permit will not be issued prior to the *Regional District* receiving a Security Deposit in the form of an unconditional, irrevocable letter of credit or cash in an amount equal to one hundred and twenty five percent (125%) of a *Qualified Professional's* estimate of the cost of the reclamation (including contingencies and as approved by the *Administrator* or their delegate).
- b) If the *Board* approves a phasing plan for the *soil removal* or *deposit*, the permit holder may provide security specific to each phase of development and such security may be returned to the permit holder upon completion and reclamation of that phase. Security for the first phase of *soil removal* or *deposit* must be received by the *Regional District* prior to issuance of the permit.
- c) Upon written request of the permit holder, the *Regional District* may consider returning a portion of the security amount in acknowledgement of site phasing or reclamation and based upon a report from a *Qualified Professional* detailing completed works and cost estimates.
- d) The *Board* may consider that security has been, or will be, taken by the provincial government respecting reclamation on the permitted lands, and if that security would have the same effect as security taken by the *Regional District*, the Board may reduce or waive the requirement for reclamation security.
- e) If the site has not been reclaimed in accordance with the recommendations from the *Qualified Professional* prior to the expiry of the permit, or if the use has been discontinued longer than twelve months, the *Regional District* will notify the permit holder in writing that the security may be forfeited to the *Regional District* after 60 days from delivery of the notice, and the forfeited security may be used to begin reclamation of the site.
- f) The *Board* may consider an extension to the permit and retention of security to be used for reclamation purposes based upon a *Qualified Professional's* report detailing the site works remaining and the timing required to reclaim the site.

10. Penalties

- a) Every person who violates any provision of this bylaw, or who permits any act or thing to be done in contravention of this bylaw or who fails to do any act or thing required by this bylaw will be deemed to have committed an offence against this bylaw and:
 - i. will be liable to a fine as prescribed in the *Regional District* Ticket Information Utilization Bylaw; and
 - ii. will be liable, upon summary conviction, to penalties prescribed by the Offence Act.
- b) Any person who violates any of the provisions of this Bylaw, or fails to comply with a permit or order, or prevents or obstructs those authorized to enforce this bylaw, commits an offence and on summary conviction may be liable to a penalty of up to \$2000.00 per offence, plus the cost of prosecution, pursuant to the Offence Act.
- c) Each day's continuance of an offence under this bylaw constitutes a new and distinct offence.

SEVERABILITY AND INDEMNIFICATION

11. If any Section or portion of this bylaw is held to be invalid by a Court of competent jurisdiction, such invalid Section or portion shall be severed and such invalidity shall not affect the remainder of this bylaw.
12. The holder of a Soil Removal and Deposit Permit is responsible for the conditions of the permit and is responsible for any damage or harm to person or property caused directly or indirectly by the work authorized by the permit and saves harmless the *Regional District* from all claims whatsoever in respect of the work or permit.

CITATION

13. This bylaw may be cited as "Soil Removal and Deposit Bylaw No. 646."

READ a first time this 18th day of August, 2011.

READ a second time this 19th day of July, 2012.

READ a third time this _____ day of _____, 2012.

RECEIVED THE APPROVAL of the Minister of Energy and Mines this _____ day of _____, 2012

RECEIVED THE APPROVAL of the Minister of Community, Sport and Cultural Development this _____ day of _____, 2012.

ADOPTED this _____ day of _____, 2012.

MANAGER OF CORPORATE
ADMINISTRATION SERVICES (SECRETARY)

CHAIR

CERTIFIED a true copy of Bylaw No. 646
as read a third time.

CERTIFIED a true copy of Bylaw No. 646
as adopted.

Manager of Corporate
Administration Services (Secretary)

Manager of Corporate
Administration Services (Secretary)