

CAPITAL REGIONAL DISTRICT

BY-LAW NO. 1472

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A BY-LAW TO REGULATE OR PROHIBIT THE REMOVAL OF SOIL, SAND, GRAVEL, ROCK, OR OTHER SUBSTANCE OF WHICH LAND IS COMPOSED FROM LAND WITHIN THE ELECTORAL AREAS OF LANGFORD, SOOKE, VIEW ROYAL, AND SALT SPRING ISLAND

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

SECTION - DEFINITION

1. In this By-law:

"AUTHORITY HAVING JURISDICTION" means the Board of the Capital Regional District or the agents thereof that have authority over the subject that is regulated by the By-law.

"BUFFER ZONE" means a natural strip of land to screen view and sound.

"ENGINEER" means the Chief Engineer of the Capital Regional District or his authorized agent.

"FENCING" means a continuous height barrier.

"LANDSCAPE SCREEN" means an opaque visual barrier formed by a row of shrubs or trees, or a wood fence, a masonry wall or other suitable material or combination thereof.

"PERMIT" means the written authority granted by the Engineer for the removal of soil from any land within the Electoral Areas of Langford, Sooke, View Royal and Salt Spring Island.

"PERSON" means an individual, a body corporate, a firm, partnership, association or any other legal entity or an employee or agent thereof.

"PROFESSIONAL ENGINEER" means a person registered as a professional engineer with the Association of Professional Engineers of British Columbia.

"REGIONAL BOARD" means the Board of Directors of the Capital Regional District.

"RESTRICTED AREAS" means the areas of land identified and shown as restricted areas on the maps attached hereto and marked Schedules "A1" and "A2" to this bylaw.

"SOIL" means soil, sand, gravel, rock, peat or other substance of which land is composed.

"TOPSOIL" means a mineral soil with an organic content between 10% and 20% humus by volume.

## SECTION 2 - MEASUREMENTS

2. Where both metric and Imperial units of measurements are specified in this By-law, the metric shall prevail.

## SECTION 3 - PROHIBITION

3. (a) No person shall, within the Electoral Areas of Langford, Sooke, View Royal, or Salt Spring Island.
  - (i) Remove, cause or permit to be removed any soil from any parcel of land lying within the restricted areas identified in the maps hereto and marked on Schedule "A" to this By-law;
  - (ii) Remove, cause or permit to be removed from any lands any soil until a permit for such removal is first had and obtained from the Engineer pursuant to the provisions of this by-law. No permit shall be issued until the plans, data and specifications required by this By-law to be filed with the Engineer have been approved by the Engineer. Application for the said permit shall be in the form of Schedule "B" and the permit shall be in the form of Schedule "C" which are attached hereto and made a part of this By-law.
- (b) No person shall excavate soil, sand, gravel, rock, peat or other substance of which land is composed from below the water table.

## SECTION 4 - APPLICATION

4. (a) Every applicant for a permit shall file with his application detailed plans, data and specifications, and may be required to have them prepared by a professional engineer to a scale of 1 to 2500 and show the contour of the land in its current state with contour intervals of not more than 2 metres (6.5 ft.), or with contours according to reasonable engineering standards, and the application shall contain information with respect to the following matters.
  - (i) All pertinent topographic features, buildings, structures and tree cover.
  - (ii) The proposed methods of drainage control during and after the excavation or fill.
  - (iii) The proposed methods of access to the site during the excavation.
  - (iv) The proposed progressive stages of excavation in terms of development during the permit period showing contours specified above, grades and slopes on separate plans for each stage, including specific completion dates for each stage.
  - (v) The proposed contour of the land in its final state upon completion of the operation with contours as specified above and showing the method of access and positive methods of permanent drainage on a separate plan.
  - (vi) The proposed location of buffer zones and tree cover and location and grade and width of berms.
  - (vii) The proposed landscape plan for the reclamation of the permit area showing all plantings (including ground cover and trees), and the commencement and completion date for each stage of the restoration.

## SECTION 5 - INFORMATION REQUIRED

5. (a) Where necessary the following information shall be provided:
- (i) The proposed slopes which will be maintained upon completion of the operation.
  - (ii) The methods proposed to control the erosion of the banks of the excavation or fill.
  - (iii) The proposed location of machinery, buildings, scales and all other proposed structures and improvements.

## SECTION 6 - FEES

6. A permit shall allow the holder thereof to remove soil from the area described in the permit for a period of twelve (12) months from the date of issuance of the permit. The fee for each permit shall be the sum of \$100.00 per each half (0.5) hectare (1.25 acres), or part thereof contained in the area described in the permit and shall be paid upon the issuance of the permit.

## SECTION 7 - CONDITIONS

7. (a) Permits shall be issued only on application in writing from the owner in fee-simple of the land in respect of which the permit is applied for. Application shall be made to the Engineer for a permit and payment for the permit shall be according to Section six (6) hereof. The Engineer shall refuse to issue a permit if the plans, data and specifications do not meet satisfactory engineering standards and the requirements of this By-law.
- (b) Each and every permit issued pursuant to this By-law does not authorize:
- (i) Stockpiles of soil to be maintained so that they do adversely affect or damage adjacent properties, landscape screens, buffer zones or fences.
  - (ii) The operation by which soil is removed to encroach upon, undermine or physically damage any property or make impracticable the future subdivision or development of the lands for which the permit has been issued or neighbouring lands.
  - (iii) Alteration or diversion of natural water courses, except with the approval of the Comptroller of Water Rights as provided for in the Water Act of the Province of British Columbia.
  - (iv) Soil to be removed or be permitted to be removed within fifteen (15) metres from the natural boundary of a stream.
  - (v) Soil to be removed or be permitted to be removed within eight (8) metres from any road allowance and three (3) metres from property boundaries.
- (c) All excavation shall be such that positive gravity drainage is assured. The elevation of the bottom of any excavation shall be such that the lowest point is being drained by gravity to a natural water course or a public drainage facility adequate for the purpose. This clause shall not be construed to prevent any person from establishing a settling pool.

- (d) Excavations below the benchmarks established in the plans accompanying the permit may be permitted on written approval of the Engineer for a period not exceeding six (6) months where the excavation is to be filled with suitable material to allow for natural drainage within the said period of six (6) months from the date of issuance of the written approval.
- (e) All access roads to and on the lands from which soil is being removed shall be treated with a material or substance which is not harmful to farm crops to lay the dust on the said access roads. The use of a material or substance to settle dust which is injurious to any farm crop or crops shall constitute an infraction of this by-law and any permit or renewals thereof issued hereunder may be cancelled by the engineer.
- (f) Notwithstanding Section 7(c) of this By-law, the Engineer may issue a permit for the removal of soil within fifteen (15) metres of the natural boundary of any stream if the removal of soil is for the construction or support of a bridge over the stream or for flood control purposes.
- (g) No person shall engage in the removal of soil or operation of any kind whatsoever on any Sunday or Statutory Holiday. No removal of soil or operations shall occur except between the hours of 7:00 a.m. and 6:00 p.m. on those days operations are not prohibited.
- (h) The permit holder shall, by no later than thirty (30) days following the expiration of the permit, restore the land from which soil has been removed in accordance with the following standards:
  - (i) The land shall be graded, levelled or filled so that its surface has an elevation no more than 0.30 metres above or below the surface of the land prior to the removal of the soil.
  - (ii) The land shall be covered with not less than 0.30 metres of topsoil.
  - (iii) The land shall be sown with a type of vegetation providing a protective cover for the soil.
  - (iv) No soil or any part thereof shall be deposited or be permitted to remain within eight (8) metres minimum of any road allowance and all vehicles and machinery on lands within the said areas shall be kept within the confines of a buffer area or berm.
- (h) A permit applies only to the removal of soil from the area(s) specifically set out and described in the permit.

#### SECTION 8 - ADMINISTRATION

- 8. (a) The Engineer may give notice to any person of a breach of any of the provisions of this By-law, or a permit issued pursuant thereto, and such person shall forthwith cease and desist from removing any further soil until such breach is remedied.
- (b) Where the Engineer determines that a person has contravened the terms or conditions of a permit, or is removing soil from lands without a permit, he may:
  - (i) Suspend the permit until he is satisfied that the contravention has ceased; or

- (ii) Cancel the permit if he is satisfied that the person has, by reason of the contravention, put it beyond his power to comply with the terms and conditions of the permit; or
- (iii) Order the person to stop the contravention; or
- (iv) Cancel the permit if entry to the site by Engineer or authorized agent is denied.

#### SECTION 9 - EXCLUSIONS

9. (a) Nothing in this By-law shall be construed so as to apply to:

- (i) Any person lawfully engaged in the erection of buildings or the installation or construction of works or services on lands where the removal of soil or topsoil is necessary for the construction of basements and foundations of the said buildings or the installation or construction of the said works or services, provided that the quantity of soil to be removed shall not exceed 765 cubic metres (1000 cubic yards).
- (ii) The removal of soil not exceeding four (4) cubic metres (5.25 cubic yards) in a calendar year other than in the restricted areas.
- (iii) Any florist, nurseryman, or horticulturist requiring soil or topsoil for the purpose of his bona fide business as a florist, nurseryman or horticulturist, as it pertains to his said business on lands owned or occupied by him, provided however, that in such cases no soil or topsoil shall be removed to a depth below the established grade of the street or streets, which abut the property, unless a permit is first had and obtained pursuant to the provisions herein contained.
- (iv) Land for which a permit approving a reclamation program pursuant to the Mines Act has been granted.

#### SECTION 10 - BONDS

10. As security for the due and proper compliance with all the requirements and conditions of this By-law, every person shall before receiving a permit for the removal of soil, provide a cash deposit or irrevocable letter of credit drawn upon a chartered bank, in a form acceptable to the Engineer in the amount of \$2,000.00 for each half (.500) hectare (1.25 acres) or part thereof of site from or upon which soil is to be removed, which security shall be maintained in full force and effect throughout the permit period.

#### SECTION 11 - VIOLATIONS AND PENALTIES

11. (a) No person shall do any act or suffer or permit any act or thing to be done in contravention of this By-law.
- (b) Every person who contravenes this By-law, by doing any act which it forbids, or omits to do any act which it requires to be done, is guilty of an offence and is liable, on summary conviction, to a fine of not less than \$100.00 and not more than \$1,000.00 for a first offence and for each subsequent offence to a fine of not less than \$200.00 and not more than \$1,000.00. A separate offence shall be deemed to be committed upon each day during and in which the contravention occurs or continues.
- (c) The penalties imposed under subsection (b) hereof, shall be in addition to and not in substitution for any other penalty or remedy imposed by this By-law or any other statute, law or regulation.

SECTION 12 - REPEAL

12. By-law No. 151 and By-law No. 178 are hereby repealed except insofar as they repeal any other by-law.

SECTION 13 - TITLE

13. This By-law may be cited as the "Soil Removal, Prohibition By-law No. 2, 1986.

READ A FIRST TIME THIS 27th day of August 1986

READ A SECOND TIME THIS 27th day of August 1986

READ A THIRD TIME THIS 22nd day of October 1986

APPROVED BY THE MINISTER OF MUNICIPAL AFFAIRS THIS 16th day of September 1987

RECONSIDERED AND FINALLY ADOPTED THIS 28th day of October 1987

Certified a true and correct copy of By-law No. 1472

MAR 15 1995

Date

Carmen Thiel

Secretary

[Signature]  
CHAIRMAN

[Signature]  
SECRETARY