

THE CORPORATION OF THE DISTRICT OF SAANICH

BYLAW NO. 9842

A BYLAW TO REGULATE THE DEPOSIT AND REMOVAL OF SOIL ON LANDS IN THE MUNICIPALITY

PART 1: SCOPE

1. Definitions

In this Bylaw, the following definitions apply:

AGRICULTURAL LAND RESERVE means the area within the Municipality designated as protected agricultural land under the *Agricultural Land Commission Act* S.B.C. 2002, c.36, as amended or replaced from time to time;

CONTAMINATED SITE has the same meaning as in the *Environmental Management Act* SBC 2003 c.53, as amended or replaced from time to time;

SOIL DEPOSIT means:

- a) the placing of soil on any lot, excluding any Prohibited Materials, within the Municipality from which the soil did not originate, and
- b) the relocation of soil from one location, excluding any Prohibited Materials, within a lot within the Municipality to another location within the same lot;

DIRECTOR OF ENGINEERING means the Director of Engineering of Saanich, or their duly appointed representative;

FLOODPLAIN means land contained within the boundary of an elevation contour line and lying below the elevation of the said elevation contour lines as shown in Schedule 1 to Appendix N to the Official Community Plan Bylaw, 2008, No. 8940, as amended or replaced from time to time, but does not include a highway or portion of a highway;

HAZARDOUS WASTE has the same meaning as in the *Hazardous Waste Regulation* B.C. Reg. 63/88 as amended or replaced from time to time;

HIGHWAY includes every highway within the meaning of the *Transportation Act* and every road, street, lane or right of way designed or intended for or used by the general public for the passage of vehicles, but does not include a private right of way;

LOT means land designated as a separate and distinct parcel on a legally recorded subdivision plan or description filed in the records of the Land Title Office;

MANAGER OF BYLAW AND LICENSING SERVICES means the Manager of Bylaw and Licensing Services of Saanich, or their duly appointed representative;

MUNICIPALITY means the geographic area of Saanich or any part thereof;

OTHER MATERIAL means construction and demolition waste including masonry rubble, concrete, cement, rebar, drywall and wood waste; asphalt; glass; synthetic polymers; treated wood; unchipped lumber; biological waste; organic waste; and any “household hazardous waste” as defined by the Garbage Collection and Disposal Bylaw, 2013, No. 9233 as amended or replaced from time to time;

OWNER means the registered owner in fee simple of land, or an agent duly authorized by the owner in writing;

PERMIT means the written authority granted by the Director of Engineering for soil deposit and removal activities on lands within the Municipality, upon the terms, conditions, plans and specifications applicable to the application for such deposit or removal;

PERMIT HOLDER means the person to whom the authority to carry out soil deposit and removal activities is granted pursuant to a valid permit;

PERSON means an individual, a body corporate, a firm, partnership, association or any other legal entity, and includes an employee or agent acting on a person’s behalf;

PERSON RESPONSIBLE means a person, applicant, Permit Holder, contractor, occupant, leaseholder, or owner of a lot who causes, transports, allows, permits, supervises or directs the Soil Deposit and Removal from or upon a private or public lot or highway;

PROHIBITED MATERIALS means Hazardous Waste and Other Material;

QUALIFIED PROFESSIONAL means a person who is registered by a professional association that is regulated by statute; who is in good standing with the professional association; who is qualified in that particular area with respect to which services are being provided; and who maintains professional errors and omissions liability insurance;

SOIL REMOVAL means the removal of the existing soil from a lot within the Municipality and its relocation to another lot either within or outside of the boundaries of the Municipality;

SAANICH means The Corporation of the District of Saanich;

SECURITY DEPOSIT shall be in the form of either cash, bank draft, or irrevocable letter of credit drawn upon a chartered bank or credit union, in a form acceptable to the Director of Engineering. A letter of credit must be valid for a minimum of fifteen (15) months from the date of permit issuance.

SOIL means clay, peat, silt, sand, gravel, cobbles, boulders, topsoil or other substance of which land is naturally composed, down to and including bedrock, but does not include Soil Amendments, Soil Conditioners, or Prohibited Materials;

SOIL AMENDMENT means compost, fertilizer, manure, mulch and soil conditioners;

SOIL CONDITIONER means organic or inorganic matter that has beneficial effects on the biological, chemical, or physical properties of soil;

STOCKPILE means to store soil in a pile with the intention of later removing all or part of the pile;

STREAM has the same meaning given to it under the *Riparian Areas Protection Regulation* BC Reg. 178/2019, as amended or replaced from time to time;

STREAMSIDE DEVELOPMENT PERMIT means a development permit issued by Saanich for the protection and restoration of streams as outlined in Appendix “N” to the *Official Community Plan Bylaw*, 2008, No. 8940, as amended or replaced from time to time;

STREAMSIDE DEVELOPMENT PERMIT AREA has the same meaning given to it under Saanich’s *Streamside Development Permit Guidelines*, as may be amended or replaced from time to time, and includes the areas identified in Schedule 2 to Appendix “N” to the *Official Community Plan Bylaw*, 2008, No. 8940, as amended or replaced from time to time;

TOPSOIL means the upper portion of soil, usually dark colored and rich in organic material, measured from the surface to a depth of 0.30 metres;

TREE means any living, erect, woody plant that is 5 metres or more in height, or having a D.B.H. of 10 centimetres or more;

WETLAND has the same meaning given to it under the *Riparian Areas Protection Regulation* BC Reg. 178/2019, as amended or replaced from time to time;

WOOD WASTE includes:

- a) wood residue, as defined within the Code of Practice for Agricultural Environmental Management;
- b) sawdust, hog fuel, bark, and bark mulch;
- c) wood chips, slabs, shavings, mill ends, trimmings, edgings; or
- d) other wood waste which is the result of any manufacturing process involved in the production of lumber or other wood products.

ZONING BYLAW means the Saanich Zoning Bylaw, 2003, No. 8200, as amended or replaced from time to time.

2. Incorporation of Schedules

The following schedules attached hereto are hereby made part of this bylaw:

- a) Schedule “A”: Performance Standards
- b) Schedule “B”: Fees and Security Deposit

3. General Statement

3.1. This Bylaw has been enacted for the purpose of regulating the deposit and removal of soil within the Municipality in the general public interest. The purpose of this Bylaw does not extend:

- a) to the protection of owners, occupiers or persons involved in the soil deposit or removal from economic loss;

- b) to the assumption by Saanich or any officer or employee of Saanich of any responsibility for ensuring compliance by a person responsible for the soil deposit or removal activity on any lot, or any other enactments applicable to the soil deposit or removal or the development of land;
- c) to providing any person with a warranty that any soil deposit or removal will not violate this Bylaw, any other enactment, or create any nuisance of any type; and
- d) to relieve any person of the responsibility of bringing any soil deposit or removal activity into compliance with this Bylaw, if the activity was conducted in contravention of any provision of this Bylaw, or contrary to the permit issued under this Bylaw.

3.2. Nothing in this Bylaw precludes or relieves a person from complying with the requirements of any other applicable local, provincial, or federal enactment or regulation respecting the soil deposit or removal, and the Permit Holder shall be solely responsible to comply with those requirements.

4. Prohibitions

- 4.1. No person shall carry out or cause to be carried out any soil deposit or removal without a permit, unless the activity is exempted from the requirement for a permit under section 7 of this Bylaw.
- 4.2. No person shall carry out, cause or permit the deposit of soil upon or removal of soil from any lands lying within a floodplain, except for the following purposes:
 - a) Constructing a bridge or driveway to provide access to an existing or proposed building, where all of the following conditions are met:
 - i. the bridge or driveway provides the only reasonable means of access to the building, and the building is not within the floodplain;
 - ii. a compensating flood storage area designed by a qualified professional, having a storage volume at least equal to the volume of soil deposited for the bridge and/or driveway, is approved by the Director of Engineering, and is constructed and maintained within the floodplain on the same lot as the lot on which the bridge or driveway is being constructed; and
 - iii. for lands zoned to permit an agricultural use, the owner provides the Director of Engineering with the opinion of a qualified professional that the proposed compensating flood storage area will not adversely affect the agricultural productivity of the remainder of the lot.
 - b) Constructing a dike where all applicable conditions are met:
 - i. the dike structure is designed by and will be constructed under the supervision of a qualified professional;

- ii. a compensating flood storage area designed by a qualified professional, having a storage volume at least equal to the volume of soil deposited for the dike, is approved by the Director of Engineering, and is constructed and maintained within the floodplain on the same lot as the lot on which the dike is being constructed; and
 - iii. for lands zoned to permit an agricultural use, the owner provides the Director of Engineering with the opinion of a qualified professional that the proposed compensating flood storage area will not adversely affect the agricultural productivity of the remainder of the lot.
 - c) Constructing ecological restoration and enhancement projects approved by Saanich; or
 - d) Constructing works authorized by a licence under the Water Sustainability Act S.B.C 2014 c. 15, as may be amended or replaced from time to time.
- 4.3. Nothing in this Bylaw authorizes the issuance of a permit to deposit or remove soil within the Streamside Development Permit Area, unless a Streamside Development Permit permits the soil deposit or removal.
- 4.4. No person shall deposit or remove, or cause or permit to be deposited or removed any soil or Prohibited Material from a Contaminated Site unless such deposit or removal is in accordance with an authorization, order or exemption under the *Environmental Management Act*, SBC 2003, c. 53.
- 4.5. No person shall deposit Prohibited Materials, unless:
- a) the deposit is within a provincially and regionally approved facility authorized to process such material; or
 - b) the deposit is composed of recycled concrete aggregate and recycled asphalt used to maintain existing roads as described in s. 36(2) and s. 36(3) of the ALR Use Regulation.

5. Performance Standards

Any deposit or removal of soil, including a soil deposit or removal that is exempt from the requirement for a permit, must be carried out in accordance with the performance standards set out in Schedule "A" of this Bylaw.

6. ALC Approval for Agricultural Land Reserve

If an owner proposes to deposit soil onto or remove soil from a lot within the Agricultural Land Reserve, the owner must either:

- a) obtain approval from the Agricultural Land Commission for the soil deposit or removal by either:
 - i. submitting a notice of intent to the Agricultural Land Commission in accordance with section 20.3 of the Agricultural Land Commission Act, as may be amended or replaced from time to time; or

- ii. submitting an application to deposit or remove soil to the Agricultural Land Commission in accordance with sections 20.3 and 25 of the Agricultural Land Commission Act, as may be amended or replaced from time to time;
- b) confirm that the soil deposit or removal is a permitted soil use under section 35 of the *Agricultural Land Reserve Use Regulation* B.C. Reg 30/2019, as may be amended or replaced from time to time.

7. Permit Exemptions

- 7.1. Subject to compliance with all applicable performance standards set out in Schedule "A" of this Bylaw, a permit is not required for the following purposes:
- a) Deposit of soil on or removal of soil from a highway in the Municipality carried out by any person who is authorized to carry out such activities by the appropriate authority having jurisdiction over the highway.
 - b) A soil deposit or removal carried out in the course of construction, maintenance or operation of municipal works and services undertaken or authorized by Saanich.
 - c) A soil deposit or removal where:
 - i. the soil is an ingredient or component part of processed or manufactured materials or products,
 - ii. the soil is stockpiled on the lot where such material or products are lawfully being processed or manufactured as a permitted use of the land; and
 - iii. the person conducting the processing or manufacturing holds a valid business licence issued by Saanich.
 - d) Where the total quantity of soil deposited and removed is less than 1.5 cubic metre per 100 square metres of lot area per year.
 - e) Subject to section 7.3, a soil deposit or removal that is authorized by and undertaken in accordance with the approved plans submitted with an application for a valid and issued:
 - i. Building or plumbing permit;
 - ii. Blasting permit;
 - iii. Development permit; or
 - iv. Conditional approval of a subdivision.
 - f) A soil deposit or removal that has received provincial approval through:
 - i. A licence, permit or authorization under the Water Sustainability Act, S.B.C. 2014, c. 15, as amended or replaced from time to time;

- ii. An approval or authorization under the *Environmental Management Act* SBC 2003, c. 53, as amended or replaced from time to time,
 - iii. An authorization for reclamation under the *Mines Act* RSBC 1886, c. 294, as amended or replaced from time to time.
 - iv. Soil deposits or removals that are “permitted soil or fill uses” on land that is in the Agricultural Land Reserve, as referenced in section 6(b) of this Bylaw; and
 - v. Deposits of soil onto and removals of soil from land that is in the Agricultural Land Reserve, which has been approved by the Agricultural Land Commission through the notice of intent process, as referenced in section 6(a) of this Bylaw.
- g) A soil deposit or removal carried out in order to prevent, control or reduce an immediate threat to human life, the natural environment, or public or private property, provided that after the immediate threat has subsided the owner must either:
 - i. Apply for and obtain a permit to authorize the soil deposit or removal; or
 - ii. Restore the land as close as possible to its original condition.
- h) A soil deposit or removal required for the installation, maintenance, repair or replacement of an on-site sewage disposal system under the guidance of a qualified professional.
- i) The placement of soil amendments for agricultural, farming, horticultural, nursery or domestic landscaping and gardening purposes, carried out in accordance with good agricultural practices as defined by the Ministry of Agriculture (British Columbia) and the Agricultural Land Commission.
- j) Depositing soil or Prohibited Materials in accordance with an approved Solid Waste Management Plan at the Hartland Landfill (Lot 1, Sections 54, 55 and 65, Highland District, Plan VIP64898).
- k) Preloading of a lot for the purpose of increasing the soil’s bearing capacity to support the designed loads of a structure, road, or utility construction, for which plans have been reviewed by the Director of Engineering.

- 7.2. The person undertaking the soil deposit or removal activity in reliance on an exemption under this section 7 must provide to the Director of Engineering, on request, sufficient documentation to demonstrate that the person meets the conditions for the exemption.
- 7.3. Where the Building Official is of the opinion that soil being deposited or removed, or to be deposited or removed, purportedly under section 7.1(e) of this Bylaw is not necessary for the purposes stated in section 7.1(e), the Director of Engineering may order the immediate cessation of the activity until a permit has been applied for and issued under this Bylaw.

PART 2: PERMITS, FEES, CONDITIONS

8. Permit Application

- 8.1. Permit applications shall be made by the Owner of the land in respect of which the permit application is made, or by an authorized agent of the owner, and shall be accompanied by the following:
- a) The permit application as available on the municipal website or from the Engineering Department;
 - b) A certified full-size Arch D (24" x 36") paper or digital .pdf drawing to maximum 1:500 scale prepared, signed and sealed by a qualified professional depicting:
 - i. all pertinent topographic features including:
 - (a) legal boundaries, covenant areas, natural grade in 1m intervals, all streams including stream boundaries, buildings, structures, building envelopes, utilities, wells, onsite sewage disposal systems, and access routes;
 - (b) the location, size and species of all trees on the land and of trees on adjacent lands or highways which may be affected by the proposed soil deposit or removal on the land, identifying all significant and protected trees as defined in the Tree Protection Bylaw, 2014, No. 9272 as amended or replaced from time to time;
 - (c) the location of any Streamside Development Permit Area on the land; and
 - (d) the location of all streams, wetlands, and areas that contain plants or animal habitat which are designated as red listed (endangered) or blue listed (vulnerable) by the Conservation Data Centre of the Province of British Columbia;
 - ii. the location of the proposed soil deposit or removal activities including:
 - (a) the proposed contours of the ground in its final state upon completion of the soil deposit or removal operation, in 0.5 meter intervals with proposed slopes, provided in ratios, which will be maintained upon completion of the proposed works;

- (b) perpendicular section views in 1:20 or 1:50 vertical scale of the deposit of soil removal area depicting existing and finished grades with labelled finished grades; including an east-west transect, north-south transect, and any additional profiles necessary to show the proposed placement or extraction of soil;
 - (c) the methods proposed for drainage, erosion and sedimentation control for the site during and after the soil deposit or removal, ensuring positive gravity drainage when the works are completed, and any proposed drainage works and easements;
 - (d) the reclamation measures proposed to stabilize, landscape and restore the land upon completion of the soil deposit or removal;
 - (e) the proposed methods of access to the lot during the activity, including roads to be used to bring soil to or remove soil from the lot;
 - (f) any protection measures for significant trees, protected trees and other trees, wetlands, and any endangered or vulnerable plants or animal habitat; and
 - (g) any other information reasonably considered necessary by the Director of Engineering to adequately review the application; and
- c) a title search for the land on which the soil deposit or removal is to occur, obtained no more than thirty calendar days prior to the application, together with copies of all registered covenants, statutory rights of way and easements;
 - d) a cost estimate of the soil deposit and removal activities prepared by the Qualified Professional;
 - e) any reports prepared by a Qualified Professional as necessary to comply with this bylaw, any other municipal bylaw affecting the works, or as required by any other authorities having jurisdiction; and
 - f) if applicable, a copy of approval by the Agricultural Land Commission for soil deposit and removal activities within the agricultural land reserve.

8.2. Applications that require more information, are unable to be processed, and remain incomplete shall expire 6 months after the original application date. After that time, a new application will be required.

9. Fees

Unless otherwise specified, every permit application shall be accompanied by a non-refundable fee, in the amount as set out in Schedule "B" attached to this Bylaw.

10. Security Deposit

- 10.1. As security for the due and proper compliance with all of the requirements and conditions of this Bylaw and the permit, every person shall, before receiving a permit or a renewal of a permit, provide a Security Deposit in the amount determined under Schedule "B" attached to this Bylaw.
- 10.2. The Security Deposit shall be maintained in full force and effect throughout the permit period and shall not be released until the deposit or soil removal authorized under the permit is complete and all conditions of this Bylaw and the permit are met.

11. Issuance

- 11.1. The Director of Engineering has authority to:
 - a) issue a permit where the requirements of this Bylaw have been met;
 - b) add conditions to a permit when required to ensure compliance with this or any municipal bylaw; and
 - c) refuse to issue a permit if the proposed soil deposit or removal does not comply with any provision of this Bylaw.
- 11.2. In considering whether to grant, refuse, or revoke any permit under this Bylaw, or impose any requirement, term or condition, the Director of Engineering shall have regard for the potential negative impact to the environment, utilities and neighbouring properties, which may include, but are not limited to:
 - a) impacts on watercourses, ditches, drains or groundwater;
 - b) impacts on the amenities on the lot or adjacent lots including, without limitation, utilities, works or services located within rights-of-way, or other structures, buildings or improvements;
 - c) impacts that may threaten the health, safety or welfare of the public or be otherwise contrary to the public interest;
 - d) impacts that result in the use of the lot in a manner inconsistent with the applicable zoning or adversely affect the future development of another lot;
 - e) impacts that result in increased costs for any government to provide public utilities, works or services to the lot or adjacent lots;
 - f) impacts that result in the lot or another lot becoming susceptible to erosion, flooding, slippage, landslides, slumping or settling;
 - g) impacts that create dust, dirt, or noise which may constitute a nuisance to any other public or private lot or the community at large;
 - h) impacts that adversely affect the productivity of an agriculturally zoned lot; or

- i) impacts that result in the contravention of any municipal Bylaw, or provincial or federal law

11.3. A permit issued under this Bylaw shall expire after twelve (12) months from the date the permit is issued, unless renewed in accordance with section 13 of this Bylaw.

11.4. A permit must not be transferred except with the approval of Saanich pursuant to section 13 of this Bylaw.

12. Permit Conditions

The Permit Holder shall visibly display to the public a copy of the permit on the frontage of the lot for the duration of the permitted soil deposit or removal activity.

13. Permit Transfers, Renewals and Amendments

13.1. An application for a transfer of a permit must be accompanied by:

- a) The non-refundable permit transfer fee as set out in Schedule “B”;
- b) Written authorization of the Permit Holder approving the transfer; and
- c) Evidence to the satisfaction of the Director of Engineering that the proposed transferee is or is entitled to become the owner of the land.

13.2. A Permit Holder may apply to amend their permit if they seek to increase the volume of the soil deposit or removal or to expand the area where the soil deposit or removal is contemplated under the existing permit. The permit amendment application must include:

- a) A non-refundable permit amendment fee as set out in Schedule “B”;
- b) any material changes to applicable drawings and specifications submitted as part of the original permit issued;
- c) an additional Security Deposit amount for any additional volume soil deposited or removed, determined in accordance with Schedule “B”; and
- d) any other approval as required from other authorities.

13.3. A Permit Holder may apply to renew their permit for an additional year, by paying the non-refundable permit renewal fee as set out in Schedule “B”, and providing any additional information to the Director of Engineering as the Director may request.

13.4. There is no obligation for Saanich to transfer, renew, or amend a permit.

14. Permit Completion

Upon completion of the soil deposit or removal authorized under a permit, the Permit Holder shall, prior to the return of the Security Deposit:

- a) complete all requirements and conditions of the permit;
- b) at the request of the Director of Engineering, provide a post-construction topographical survey, certified by a Qualified Professional, confirming that the soil deposit or removal has taken place in accordance with the conditions of the permit;
- c) if requested by the Director of Engineering, attend an inspection of the lot with Permit Holder's Qualified Professional and the Director of Engineering.

PART 3: MONITORING, ENFORCEMENT AND PENALTIES

15. Inspections

- 15.1. The Director of Engineering and Manager of Bylaw and Licensing Services are authorized at all reasonable times and in a reasonable manner, to enter upon and inspect any property for the purpose of administering and enforcing this Bylaw.
- 15.2. Except in the case of an emergency, the Director of Engineering and Manager of Bylaw and Licensing Services must take reasonable steps to notify the owner or occupier of the property before entering the property.

16. Enforcement

- 16.1. The Director of Engineering and Manager of Bylaw and Licensing Services may give notice to the owner or occupier of the lot of a breach of any of the provisions of this Bylaw, or of the conditions of a permit issued pursuant to this Bylaw, and the Permit Holder and any Person Responsible shall forthwith cease and desist from depositing or removing any further soil until the breach is remedied to the satisfaction of the Director of Engineering.
- 16.2. Where the Director of Engineering determines that a person has contravened the terms and conditions of a permit, is depositing soil on or removing soil from a lot without a permit when one is required, or is depositing or removing soil in such a manner that contravenes Schedule "A": Performance Standards, then the Director of Engineering may:
 - a) suspend the permit until the contravention has ceased by issuing a Stop Work Order;
 - b) revoke the permit if the person, by reason of the contravention, is no longer able to comply with the terms and conditions of the permit;
 - c) order the person to stop the contravention and, if there is no permit, order the person to obtain a permit;
 - d) order the person who caused the contravention to restore the land to its previous state;
 - e) enter upon a lot where the contravention has occurred and carry out any works required to remedy the contravention, or repair any resultant damage at the expense of the person responsible, with an additional administrative cost of 20% of the expense incurred;

- f) deduct the cost of required remedial works carried out by Saanich from the Security Deposit, where a Security Deposit has been posted in accordance with a permit, or recover the cost of required remedial works as municipal taxes against a lot where the contravention has occurred and where no security has been deposited or where the security is insufficient to cover the cost of remedial works.

16.3. Any person who fails to obey an order under this section thereby commits an offence and shall be liable to the penalties provided under this Bylaw.

16.4. Where soil has been deposited or removed on a lot without a permit required by this Bylaw or otherwise contrary to the provisions of this Bylaw, then, without limiting the discretion of a building official pursuant to section 6.3 of the Building Bylaw 2019, No. 9529, a building official may refuse to issue a permit for the construction of a building or structure upon the lot until:

- a) the soil has been removed or has been replaced;
- b) a permit has been issued to authorize the deposit and removal of soil; or
- c) the deposit and removal of soil has otherwise been brought into compliance with this Bylaw.

17. Penalty

17.1. Every person who violates, contravenes or commits any breach of the provisions of this Bylaw shall be guilty of an offence punishable on summary conviction and shall be liable to forfeit and pay a fine of not more than fifty thousand (\$50,000.00) dollars.

17.2. Each day any violation, contravention or breach of this Bylaw continues shall be a separate and distinct offence.

17.3. The penalties imposed under this section shall be in addition to and not in substitution for any other penalty or remedy imposed by this Bylaw or available at law or in equity.

PART 4: GENERAL PROVISIONS

18. Permit Holder Responsibility

The Permit Holder 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 soil deposit and removal activity.

19. Severability

If any section or provision of this Bylaw is held invalid by a court of competent jurisdiction, it shall be severed and the validity of the remaining provisions of this Bylaw will not be affected.

20. Repeal of Previous Bylaws

- 20.1. Bylaw No. 9204, being the “Deposit of Fill Bylaw, 2012”, together with amendments thereto, is hereby repealed, except insofar as it repeals any other bylaw.
- 20.2. Bylaw No. 5576, being the “Soil Removal Bylaw, 1986”, together with amendments thereto, is hereby repealed, except insofar as it repeals any other bylaw.

21. Citation

This Bylaw may be cited for all purposes as the "**DEPOSIT AND REMOVAL OF SOIL BYLAW, 2022, NO. 9842.**"

Read a first time this day of , 2022.

Read a second time this day of , 2022.

Read a third time this day of , 2022.

Adopted by Council, signed by the Mayor and Clerk and sealed with the Seal of the Corporation on the day of , 2022.

Municipal Clerk

Mayor

SCHEDULE "A": Performance Standards

The standards set out in this Schedule "A" apply to all soil deposit and removal activities (the "activities"), including activities exempt from permit requirements.

Adjacent Land

1. The activities shall not encroach upon, undermine or physically damage any public rights-of-way, public or third party infrastructure, or natural or tree protection covenant areas.
2. Persons who, in the course of the activities, cause, or allowed to be caused, any damage to drainage facilities, watercourses, utilities, natural or tree protection covenant areas, or Highways must repair the damage to the satisfaction of the Director of Engineering at their own cost.

Drainage and Watercourses

3. The activities must not, in any way, interfere with the hydrological function and established above or below ground drainage pattern or capacity of any adjoining or reasonably adjacent properties and must not cause the groundwater table to rise on the subject property, or adjoining or reasonably adjacent properties, so as to cause flooding of those properties or malfunctioning of any private sewage disposal system.
4. All drainage facilities, watercourses, and ground water aquifers must be kept free of silt, clay, sand, rubble, debris, gravel and any other matter or thing originating from any of the activities.
5. No streams shall be altered or diverted, unless such alteration or diversion is in accordance with the *Water Sustainability Act*, S.B.C. 2014, c. 15, as amended or replaced from time to time, and the *Watercourse and Drainage Regulation Bylaw*, 1996, No. 7501, as amended or replaced from time to time.
6. Floodplain capacities and storage volumes must be maintained at all times.

Wells and Sewage Disposal Systems

7. The activities must not occur over wells or sewage disposal systems.

Environmental Protection

8. Damage to areas identified for environmental protection under a bylaw of Saanich that results from the activities must be repaired or restored.

Topsoil

9. Soil must not to be placed on the existing topsoil in the area to be filled, unless the Permit Holder has provided the Director of Engineering with a report from a Qualified Professional that confirms that the topsoil has no agricultural value.

10. Topsoil must not be removed from a lot unless such use is a permitted use of the property, as defined in the Zoning Bylaw, or such removal is required as part of the works authorized under a building permit or development permit issued by Saanich.
11. All topsoil is to be stockpiled and replaced when the permit activities have completed, wherever possible.

Slope

12. The finished slope of the area of the deposit and removal of soil must:
 - a. have a maximum slope of one (1) metre rise in two (2) metres of run; or
 - b. if steeper than the slope set out above, must be designed by a Qualified Professional and approved by the Director of Engineering.
13. The soil shall be graded to ensure positive gravity drainage, 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 activity. This does not extend to sedimentation ponds.
14. Any excavation greater than 0.6m in depth and all other hazards shall have adequate fencing and be provided with suitable buffer zones or landscape screens, and suitable weather proof signs shall be mounted and maintained on the fence at linear distances not to exceed 150 metres with wording to indicate the danger, the nature of the operation, the presence of the excavation and prohibiting the presence of the public.

Maximum Height of Stockpile

15. The maximum height of stockpiled soil is 4 metres above the natural grade, unless otherwise authorized by the Director of Engineering.

Maximum Volume

16. The soil deposit or removal shall not:
 - a. Occur on more than 25% of the lot area;
 - b. Cause the total volume of soil deposited on a lot, from all sources and at any time prior to and including the deposit of soil being undertaken to exceed 3000 cubic metres per hectare of the land area of the lot;
 - c. Change the average grade of the lot by:
 - i. 100mm in any one year,
 - ii. more than a total maximum compacted depth of 300 mm, including compacted depth resulting from the prior deposit of soil from other sources;
17. Section 16(b) shall not apply to any deposit of soil required to restore or partially restore a previous excavation.

Highways, Utilities, Right-of-Ways

18. Soil must not be deposited within three (3) metres of any Highway or over any statutory right-of-way or utility easement without first obtaining written approval from the authority having jurisdiction. A copy of this approval shall be provided to the Director of Engineering.
19. No Person Responsible shall stockpile or permit soil to remain stockpiled within eight (8) metres of any Highway for a period in excess of twelve (12) months.

Debris Control

20. Dust must be controlled such that no dust leaves the site. Each Person Responsible shall ensure that each truck transporting loose or dusty soil has its load covered with a tarp dust cover to prevent the material from falling off the truck and that adequate moisture is provided to prevent dust from arising from the activities.

Invasive Species Control

21. Each Person Responsible shall ensure that all machinery and vehicles used to excavate, load, move, deposit, or remove soil do not transport plant material of invasive species or cause the spread of noxious weeds or invasive plant species.

Road Maintenance

22. Each Person Responsible shall take all necessary measures, including as necessary the construction of a suitable haul road base or tire cleaning facility, to ensure that no mud, dirt or other material is tracked onto a highway as a result of the depositing and removal operations.
23. Any mud, dirt or other material deposited or tracked onto a highway as a result of the depositing and removal operations shall be cleaned up and removed by the Person Responsible on a daily basis.

Equipment

24. All machinery and vehicles used on lots on which soil is being deposited or removed, or that are used to transport soil to and from such lands, shall be in good and proper working order and contain sound reducing and dust elimination equipment wherever reasonably possible.

Hours of Operation

25. No soil deposit or removal activities of any kind whatsoever shall occur on any Sunday or statutory holiday.
26. Soil deposit or removal activities shall only be carried out between the hours of 7:00 a.m. and 9:00 p.m.

Use of Land

27. The activities must not result in the use of the lots in a manner inconsistent with the permitted uses for the lots, as defined by the Zoning Bylaw.

SCHEDULE "B": Permit Fees and Security Deposit

1. Non-Refundable Permit Application Fees

| Activity | Section | Fee |
|---------------------|---------|-----------|
| Permit application* | 9 | \$500.00* |
| Permit transfer | 13.1 | \$150.00 |
| Permit amendment | 13.2 | \$150.00 |
| Permit renewal | 13.3 | \$150.00 |

2. Permit Fees

1. The permit fee shall be paid prior to a Soil Deposit and Removal Permit being issued.
2. Prior to permit issuance, the Permit Holder must pay a permit fee of \$1.00 per cubic meter of the combined volume of soil to be deposited and removed, excluding soil to be relocated within the lot.

3. Security Deposits

1. The Security Deposit shall be lodged with the Director of Engineering prior to a permit being issued.
2. The deposit shall be for \$1,000.00 or 10% of the estimated cost of the total works, whichever is greater, as calculated by the qualified professional's cost estimate.

4. Waiver of Fees and Discretionary Waiver of Security Deposit

1. For a permit under section 4.2(c), for ecological restoration and enhancement projects subject to the Director of Engineer's approval:
 - a. the permit application fee and permit fees are waived; and
 - b. the requirement for a Security Deposit may be waived at the discretion of the Director of Engineering.
2. For a permit granted as part of the ALC approval process for a "soil or fill use" application to the ALC under section 6(a)(ii) of this Bylaw:
 - a. the permit application fee is waived; and
 - b. the Security Deposit may be waived at the discretion of the Director of Engineering.