

CORPORATION OF THE CITY OF NEW WESTMINSTER

Erosion and Sediment Control Bylaw 7754, 2016

A Bylaw to ensure that adequate protection of the City of New Westminister drainage system is taken during any construction, by the implementation of erosion and sediment control measures.

WHEREAS Section 8(3)(j) of the *Community Charter*, S.B.C. 2003, c.26 authorizes Council to regulate, prohibit and impose requirements in relation to the protection of the natural environment;

AND WHEREAS Council deems it in the best interest of the community and necessary for environmental protection that the streams, creeks, waterways, watercourses, ditches, storm sewers and drains that make up the City's drainage system are protected from pollution, obstructions, sediment, and sediment laden water;

NOW THEREFORE the Council of the Corporation of the City of New Westminister, in open meeting assembled, enacts as follows:

Name of Bylaw

1. This Bylaw may be cited for all purposes as "Erosion and Sediment Control Bylaw No. 7754, 2016."

Definitions

2. In this Bylaw, unless the context otherwise requires, the following words have the following meanings:
 - (a) "City" means the Corporation of the City of New Westminister;
 - (b) "Construction" means any activity including but not limited to, erecting or demolishing buildings and structures, clearing, grubbing, grading, excavating, filling, soil deposition or removal, landscaping, installing or repairing services, utilities, and other engineering works or anything done which alters the surface of the land that may cause the discharge of Sediment or Sediment-Laden Water into the Drainage System;
 - (c) "Developer" means an owner, as defined in the *Community Charter*, S.B.C. 2003, c. 26, who subdivides land or applies for a building permit, fill permit, or demolition permit from the City, and includes a duly authorized representative of the owner;
 - (d) "Director of Engineering" means the Director of Engineering for the City, or his or her authorized representative;

- (e) “Drainage System” means any natural, designed, constructed, or installed system or network of streams, creeks, waterways, watercourses, waterworks, ditches, drains, or sewers located in the City, on private or public property, that conveys, or is capable of conveying, drainage or runoff;
- (f) “ESC Facilities” means all erosion and sediment control works, measures, facilities and methods constructed, installed, or employed to reduce the likelihood of Sediment and Sediment-Laden Water reaching the Drainage System during all stages of Construction;
- (g) “ESC Plan” means the specifications, drawings, plans, phased development schedules, and design calculations of a Qualified Professional in accordance with Schedule B of this Bylaw;
- (h) “ESC Submission Form” means the documentation and related submission requirements in the format prescribed by the Director of Engineering from time to time;
- (i) “ESC Supervisor” means a Qualified Professional who is experienced in designing and implementing ESC Plans and who is responsible for inspecting, monitoring and reporting on the ESC Facilities to ensure they are installed and maintained in accordance with the ESC Plan and, if necessary, modified during Construction to ensure compliance with the requirements of this Bylaw;
- (j) “Qualified Professional” means an individual, whether acting alone or together with another Qualified Professional, who:
 - (i) is a registered member in good standing and acting under the code of ethics of a professional organization identified by the Director of Engineering at the Director of Engineer’s discretion as having a membership capable of designing ESC Facilities for the purpose of fulfilling the objects of this Bylaw, and which organization may include, but may not be limited to: Association of Professional Engineers and Geoscientists of BC; Association of BC Forest Professionals; College of Applied Biology; Applied Science Technologists and Technicians of BC; BC Institute of Agrolgists; EnviroCert International (Certified Professional in Erosion and Sediment Control); or BC Society of Landscape Architects;
 - (ii) has an area of expertise that is recognized in the field of erosion and sediment control as one that is acceptable for the purpose of providing all or part of the design, inspection and monitoring of ESC Facilities; and
 - (iii) is acting within their area of expertise;

- (k) "Sediment or Sediment-Laden Water" means any sediment, rock, gravel, sand, soil, silt, clay, earth, Construction or excavation wastes, or other substances whether or not suspended in water; and
- (l) "TSS" means total suspended solids measured in milligrams per litre, determined as non-filterable residue (1.5 micron filter) weighed in dry condition.

Prohibition of Discharge

3. No person shall cause or permit to be released directly or indirectly into the Drainage System any Sediment or Sediment-Laden Water having:
 - (a) a pH value outside the range of 6.5 to 9.0; or
 - (b) a TSS level in excess of 75 milligrams per litre.
4. If during any Construction work, any Sediment or Sediment-Laden Water that exceeds the limits outlined in section 3 is released directly or indirectly into the Drainage System, the Developer performing the work must immediately notify the City, as well as the appropriate federal and provincial agencies.

ESC Requirements

5. Every person who undertakes Construction under a building permit for a single detached or duplex residential dwelling shall first, before carrying out any Construction on the land:
 - (a) submit a completed and signed ESC Submission Form in the format prescribed for that purpose by the Director of Engineering, and fulfill the requirements related to the building permit application, including:
 - (i) payment of the non-refundable Damage Deposit Processing Fee under City of New Westminster Development Services Fees Bylaw No. 7683, 2014 as amended; and
 - (ii) payment of a damage deposit as specified in the City of New Westminster Development Services Fees Bylaw No. 7683, 2014 as amended, for security for damage to municipal facilities and/or obstruction of roads by builders; and
 - (b) install the ESC Facilities listed in Schedule A and ensure the ESC Facilities are maintained in good working order during all phases of Construction.
6. Every person who undertakes Construction other than as described in section 5 shall first, before carrying out any Construction on the land:
 - (a) submit a completed and signed ESC Submission Form in the format prescribed for that purpose by the Director of Engineering, accompanied by:

- (i) an ESC Plan prepared in accordance with the requirements set out in Schedule B;
 - (ii) a confirmation of commitment signed by an ESC Supervisor;
 - (iii) a certified cost estimate for the ESC Facilities design, installation, monitoring, and maintenance;
 - (iv) a non-refundable administration fee in the amount of four percent (4%) of the total cost of the ESC Facilities identified in the ESC Plan; and
 - (v) a security deposit in accordance with section 10;
- (b) post on the land advisory signage in the format prescribed for that purpose by the Director of Engineering from time to time, in a location visible to the public from outside the Construction, and maintain such signage on the land for the duration of the Construction; and
 - (c) install the ESC Facilities identified in the approved ESC Plan and ensure those ESC Facilities are maintained in good working order during all phases of Construction.
7. The Director of Engineering may waive one or more of the requirements of section 6(a) where, in the opinion of the Director of Engineering, the proposed Construction is in response to an emergency or it can be demonstrated to the Director of Engineering's satisfaction that the Construction work will not release, directly or indirectly into the Drainage System, any Sediment or Sediment-Laden Water that exceeds the limits outlined in section 3.

ESC Implementation, Monitoring and Maintenance Requirements

8. Any person who carries out Construction must ensure the site is in compliance with this Bylaw for the duration of Construction, which includes ensuring that all necessary permits are obtained prior to carrying out Construction and all ESC Facilities are constructed, installed, implemented, and maintained for the duration of Construction.
9. Where the requirements of section 6 apply, the Developer must:
- (a) appoint an ESC Supervisor who is a Qualified Professional trained in implementing ESC Plans;
 - (b) ensure the ESC Supervisor implements an ESC Plan that has been prepared in accordance with Schedule B of this Bylaw and approved by the City;
 - (c) ensure the ESC Supervisor conducts the inspection, monitoring, and maintenance of the ESC Facilities in accordance with the approved ESC Plan, including all reporting requirements set out in the approved ESC Plan; and

- (d) immediately notify the City and cease Construction if, for any reason, the ESC Supervisor's services are terminated or withdrawn, until a replacement ESC Supervisor is appointed.

ESC Security Requirements

10. If Construction on land includes work performed pursuant to an agreement between the Developer and the City under subsection 509(2) of the *Local Government Act*, R.S.B.C. 2015. c. 1, the Director of Engineering may require that the Developer provide to the City a security deposit in an amount of 120% of the certified ESC Facilities design, installation, monitoring, and maintenance cost to secure the full and proper compliance with the provisions of this Bylaw.
11. If the Developer does not fully and properly comply with sections 6(c) and 9 of this Bylaw, the City may use some or all of a security deposit provided by the Developer to complete the certified ESC Facilities design, installation, monitoring and maintenance cost required under this bylaw, and if the amount of the security deposit is insufficient to complete such work, the City may recover the shortfall in accordance with section 17 of the Community Charter.
12. Subject to section 11 when the Developer has complied with the provisions of this Bylaw the City will return the security deposit at such a time as the ESC Supervisor provides the City with written notice that all Construction at the site is complete, the site is stable and under control and no longer poses a threat to the Drainage System, and the ESC Facilities have been removed to the satisfaction of the Director of Engineering.

Remedial Action

13. If any person is carrying on any Construction work or any activity in contravention of this Bylaw that is, in the opinion of the Director of Engineering, causing or is likely to result in contravention of this Bylaw, then the Director of Engineering may order the immediate suspension of all or any portion of such Construction work or other activity by posting a stop work order to that effect at the place where the Construction work or other activity is ongoing.
14. No person other than a person authorized by the Director of Engineering shall remove or suffer the removal of a stop work order issued under section 13.
15. In addition to the authority of the Director of Engineering under section 13, the Director of Engineering may direct that steps be taken to prevent further contravention of this Bylaw. The Director of Engineering shall send a written notice by registered mail to the owner of the land where the Construction or activity is occurring at the owner's address as it appears on the records of the Land Title Office, or other last known address.
16. If, in the opinion of the Director of Engineering, immediate steps should be taken to prevent the likely or ongoing contravention of this Bylaw, or if the Director of Engineering

is not satisfied that the Developer or other responsible person has taken

appropriate steps to mitigate the damages, then the City may enter onto the property and take such steps as are necessary in the circumstances, and may recover the cost of taking such steps in accordance with section 17 of the *Community Charter*. The Director of Engineering must provide written notice of the actions taken or proposed.

Offence

17. Every person who contravenes this Bylaw by doing any act which this Bylaw forbids or omitting to do any act which this Bylaw requires to be done commits an offence and is liable, on summary conviction, to a fine of not more than \$10,000.00. A separate offence shall be deemed to be committed each day during which any contravention of this Bylaw occurs or continues.

Severance

18. The provisions of this Bylaw are intended to be severable and, should any part of this Bylaw be found to be invalid by a court of competent jurisdiction, the finding of invalidity will not affect the validity of the remainder of this Bylaw.

SCHEDULE A

BEST MANAGEMENT PRACTICES FOR EROSION AND SOIL CONTROL

The following ESC Facilities and practices must be implemented for all single detached and duplex dwelling developments:

- Gutters and downspouts on all roofs
- Access/Egress sediment controls for vehicles (e.g. gravel access pad)
- Perimeter sediment control measures (e.g. silt fence ditch protection)
- Temporary drainage swale and sump on the site (if required by the Director of Engineering)
- Storm Inlet Protection (e.g. catchbasin silt traps/socks – “Dandy Bags”)
- Disturbed Surfaces Protection Measures
- Regular Sweeping and Maintenance of Paved Surfaces

It is the Developer’s responsibility to include any additional ESC Facilities or practices as necessary to ensure compliance with Erosion and Sediment Control Bylaw No. 7754, 2016.

SCHEDULE B
ESC PLAN
REQUIREMENTS

The ESC Plan must be prepared, signed, and sealed, by a Qualified Professional, and reviewed and signed by the appointed ESC Supervisor. The ESC Plan must conform to the City of New Westminster's drafting standards and must include, at a minimum, the following information:

- (a) A multi-stage plan which shows the measures for erosion and sediment control during clearing and grubbing, soil deposit, excavation, the installation of services, the building construction and the final grading and landscaping;
- (b) The designed sediment discharge limit as specified under section 3, of Erosion and Sediment Control Bylaw No. 7754, 2016;
- (c) Pond deactivation methodology (if required);
- (d) Property line(s) and other legal designations of the subject property or properties;
- (e) Location(s) of any existing underground services and utilities, as well as any proposed connections to existing services from the site;
- (f) Location(s) of any existing drainage infrastructure and the proposed measures to protect it;
- (g) Existing and proposed contours and relevant spot elevations;
- (h) Proposed site access locations;
- (i) Gravel pad and wheel wash facilities (if required);
- (j) Proposed ESC Facilities to be implemented on site, which shall include source controls as the primary method of ESC;
- (k) Proposed methods to restore disturbed areas following the completion of construction; and
- (l) A detailed cost estimate for all proposed ESC Facilities.

All ESC Facilities must be designed in accordance with the 1993 edition or latest addition of the document entitled "*Land Development Guidelines for the Protection of Aquatic Habitat*", co-published by the Ministry of Environment, Lands and Parks and the Department of Fisheries and Oceans Canada, as amended, and best management practices as approved by the Director of Engineering, to limit the amount of Sediment and Sediment-Laden Water discharged into the Drainage System.

ADOPTED March 7, 2016