

## CORPORATION OF THE CITY OF NEW WESTMINSTER

### Soil Deposit and Removal Regulation Bylaw No. 8106, 2019

A Bylaw to regulate the deposit and removal of soil or other material on land in the City

And WHEREAS pursuant to the *Community Charter*, SBC 2003, c.26 as amended, the City is authorized to regulate, prohibit and impose requirements for the removal and deposit of soil or other material;

NOW THEREFORE, the Council of the Corporation of the City of New Westminster in open meeting assembled, ENACTS AS FOLLOWS:

#### **Name of Bylaw**

1. This Bylaw may be cited for all purposes as “Soil Deposit and Removal Regulation Bylaw No. 8106, 2019”.

#### **Definitions**

2. In this Bylaw:
  - a) “Bylaw Officer” means a person appointed as such by the City to enforce City bylaws;
  - b) “City” means the Corporation of the City of New Westminster;
  - c) “Council” means the municipal council of the City of New Westminster;
  - d) “Deposit” or “Deposit operation” means the act of temporarily or permanently placing soil or other material on any lands within the City other than that where it originated, including a stockpile or other storage facility;
  - e) “Development” means the subdivision of land or the construction of a building or structure on land which results in a requirement for the installation of works and services under this Bylaw;
  - f) “Director of Engineering” means the Director of Engineering for the City, or his or her authorized representative;
  - g) “Fees and Rates Bylaw” means the current Engineering Fees and Rates Bylaw No. 7553, 2013 as amended by Council from time to time.
  - h) “Highway” includes a street, road, lane, bridge, viaduct and any other way open to public use, other than a private right-of-way on private property;
  - i) “Invasive Species” are those which occur outside their natural range and can have significant ecological, social and/or economic impacts once

established, and include noxious weeds as defined by the provincial *Weed Control Act*;

- i) "Other Material" means construction or demolition waste but not limited to masonry rubble, concrete rubble, asphalt, unchipped lumber, drywall, glass, plastic debris and tree stumps, and includes wood waste;
- j) "Owner" includes the registered owner of an estate in fee simple of land, and also where the context or circumstances so require:
  - i) a tenant for life under a registered life estate;
  - ii) a registered holder of an agreement for sale;
  - iii) a holder or occupier of land held in the manner mentioned in sections 228 and 229 of the Community Charter;
  - iv) a lessee with authority to build on land;
  - v) the strata corporation in the case of a lot under strata ownership;
  - vi) all persons authorized to act for or on behalf of the registered owner of the lot; and
  - vii) in respect of water lot includes an occupier, tenant or holder of an interest in respect of the surface of the water;
- k) "Parcel" means any lot, block or other area in which land is held or into which land is subdivided but does not include a highway;
- l) "Permit" means the written authority granted by the Engineer under this bylaw for the deposit or removal of soil or other material upon land within the City;
- m) "Project Geotechnical Engineer" means an engineer registered with the Engineers and Geoscientists of B.C. as a geotechnical engineer;
- n) "Registered Professional" means an engineer, geoscientist, agrologist, environmental consultant, soil scientist, biologist, or land surveyor who is registered with a professional association that is regulated by a statute, appointed to act in the capacities described under the sections of this bylaw requiring a registered professional;
- o) "Removal" or "Remove" means the transportation of soil or other material from any lands within New Westminster on which it exists or has been deposited, to another location;
- p) "Soil" means clay, silt, sand, gravel, cobbles, boulders, peat or other substances of which land is naturally composed;

### **Prohibition and Permit Requirement**

3. No person shall cause or permit the deposit or removal of soil from any land

within the City unless that person has first obtained a permit in accordance with this Bylaw.

4. No person shall cause or permit the deposit of other material on any land within the City unless that person has first obtained a permit in accordance with this Bylaw.

### **Exemptions from Permit Requirement**

5. Provided the deposit or removal is carried out in compliance with the relevant provisions in the Bylaw and the previous and current land use in the site is not for industrial or commercial purposes and activities described in Schedule 2 of the Contaminated Site Regulation, a permit is not required where the deposit or removal of soil:
  - a) does not exceed 150 millimetres in depth at any point on the parcel within any 24 month period, and:
    - i) where slopes do not exceed one metre vertical to five metres horizontal (20 percent); and
    - ii) where the deposit or removal is conducted outside 30 metres of the crest or toes of slopes steeper than one metre vertical to five metres horizontal (20 percent); and
  - b) is less than 10 cubic metres if placed on or removed from a land parcel within any 24 month period.
  - c) is required for the construction or maintenance of a private sewage disposal system or septic field for which a Provincial permit or approval has been granted;
  - d) is provided by a bona fide processor of construction aggregates required for the construction or installation of a roadway, utility service, dyke or other service;
  - e) is an ingredient or component part of processed or manufactured materials where such materials are stockpiled on land where they are, under licence from the City, being processed or manufactured;
  - f) is by a florist, grower, nursery or horticulturist on lands owned by that person and in connection with such trade or business;
  - g) is related to the construction of a development where the removal is in accordance with the approved drawings submitted as part of the application for a building permit;
  - h) is required for the construction, maintenance or repair of works and services

within a highway or municipal works by or on behalf of the City.

### **Permit Application**

6. Every application for a permit pursuant to this Bylaw shall be made in writing to the Director of Engineering and shall include:
- a) a non-refundable application fee in the amount specified in the Fees and Rates Bylaw;
  - b) a deposit of security in accordance with the requirements of Section 7;
  - c) proof satisfactory to the City that the owner is in possession of all permits or approvals required under the *Environmental Management Act*;
  - d) plans of the lands upon which the owner proposes to make the deposit or removal, prepared by a B.C. Land Surveyor or Registered Professional of the Province of British Columbia, which shall include:
    - i) a fill plan as prepared by the Project Geotechnical Engineer;
    - ii) a final site grading plan as prepared by the Project Geotechnical Engineer;
    - iii) contour plans of the lands, to a scale of not less than 1:5000 metric, showing contours at a vertical interval suitable to describe the existing terrain of the lands and the relation to that of the adjoining lands and highways and showing the proposed geodetic survey of Canada (G.S.C.) datum elevations of the lands after the deposit or removal has been made. In the case of preload deposits, the plans shall show the proposed elevation of the preload, and the proposed final elevation after preload removal. Where the lands are subject to a "Flood Construction Level" restriction imposed under a flooding covenant, and where the deposit is proposed to achieve that "Flood Construction Level", the final G.S.C. datum elevation of the deposit may not exceed the "Flood Construction Level" plus an allowance for long-term settlement, as approved by the Director of Engineering;
    - iv) full particulars of the present use, occupancy and condition of the lands upon which the deposit or removal is proposed and of those portions of adjacent lands which may be affected by the proposed deposit or removal, including all pertinent topographic features, buildings, structures and tree cover existing on the lands, highways and highway allowances, foot paths, watercourses, water table drainage facilities, wells, private sewage disposal systems, fence lines, facilities existing for pedestrian and vehicular traffic (indicating the suitability of same for carrying the type and volume of traffic to be generated by the deposit or removal), utilities, services and other existing facilities;

- v) the proposed slopes which will be maintained during and upon completion of the deposit or removal operation;
  - vi) the proposed methods to control drainage, sediment and erosion, and soil stability, during and upon completion of the deposit or removal operation;
  - vii) the proposed methods of access to the lands during and upon completion of the deposit or removal operation;
  - viii) the proposed methods of fencing, enclosing, and clearing the lands to ensure that no hazard to human or animal life is created or exists;
  - ix) the proposed location of stockpiles indicating their extent and nature;
  - x) the proposed location of machinery, buildings, scales and other structures and improvements to be located on the lands in connection with the proposed deposit or removal operation;
  - xi) the proposed traffic management plan that includes trucking routes, trip frequency and traffic control provision, and for which a street occupancy permit may be required;
  - xii) detailed calculations, cross-sections and other engineering data and pertinent information used in calculating the volume of soil or other material to be deposited or removed;
  - xiii) invasive species assessment and management plan by a Registered Professional to ensure invasive species are not transferred from the property as a result of any removal operation.
- e) other information as the Director of Engineering determines is necessary to adequately describe the nature and extent of the deposit or removal operation.

### **Security**

7. Every owner must, prior to the issuance of a permit, deposit with the City security in the form of cash or an unconditional, irrevocable letter of credit, in a form acceptable to the Director of Engineering and drawn on a Canadian financial institution, in an amount as specified in the Fees and Rates Bylaw. The security shall be maintained in full force and effect throughout the permit period and thereafter as may be required by the Director of Engineering. That portion of the security deposit not required for the purposes of ensuring compliance with this bylaw and the permit or to repair damage to City property caused by the deposit or removal operation, shall be returned to the owner. The security deposit will be released upon completion of final grading and landscaping to the satisfaction of the City.

### **Insurance**

8. Permit holders for a soil removal or deposit where the volume proposed to be removed or deposited is greater than 15 cubic metres are required to carry commercial general liability coverage in the amount of \$5,000,000 including liability for bodily injury or death and property damage for the duration of the work. The amount of insurance may be reduced to \$1,000,000 if the volume of soil to be removed or deposited is not more than 100 cubic metres. Insurance may be waived by the Director of Engineering when the City is the responsible party completing the removal or deposit activity.

### **Permit Issuance**

9. The Director of Engineering may issue a permit in the form prescribed by Schedule "A" or as amended from time to time and forming part of this bylaw, where:
  - a) an application for a permit complies with the requirements of this bylaw;
  - b) the proposed deposit or removal complies with this bylaw and all other applicable City bylaws and local, provincial or federal enactments and regulations;
  - c) the Director of Engineering, having regard to the documents, plans and information submitted with the application for a permit, is of the opinion that the deposit or removal can be carried out safely, without undue nuisance or interference to adjacent lands or the public, or damage or injury to persons or property.
10. A permit will not be issued where the proposed deposit or removal could reasonably be expected to:
  - a) endanger, damage or otherwise adversely affect any adjacent land, structure, highway, easement, utility works and services or right-of-way;
  - b) foul, obstruct, impede or otherwise adversely affect any stream, creek, waterway, watercourse, natural drainage path, groundwater aquifer, waterworks, ditch, drain, sewer or other established drainage facility;
  - c) contravene any City bylaw, or provincial or federal law; or
  - d) threaten the health, safety or welfare of the public or be otherwise contrary to the public interest.

### **Permit Requirements**

11. Every person who makes a deposit or removal, whether or not a permit is required or issued, shall comply with the following requirements:

- a) Owners responsible shall comply with applicable federal, provincial, and City laws, bylaws, regulations and policies in effect during the deposit or removal;
- b) Owners responsible shall contain or remove dirt, mud, or debris which may be tracked onto public roads on a daily basis or more frequently as deemed necessary by the Director of Engineering;
- c) Confirm the location of all nearby underground utilities including sewers, water mains, electrical and gas lines and telecommunication lines with the utility owner(s) prior to the commencement of deposit or removal, and such utility locations noted on the deposit or removal plan submitted to the City and utility owner.
- d) No deposit or removal shall be made over wells or private sewage disposal systems;
- e) The deposit or removal shall not encroach upon, undermine, damage, spill into or endanger any drainage facility, natural watercourse, waterway, ditch, service main or connection, highway, public or private property, or where a permit is issued, any setback area prescribed in the permit. Any encroachment or damage will be promptly and properly repaired to the satisfaction of the Director of Engineering at the expense of the Owner;
- f) The deposit or removal shall not interfere with the established above ground or sub-surface drainage flow of any adjoining lands and shall not cause the groundwater table to rise on adjoining lands so as to cause flooding, contamination or malfunctioning of any private sewage disposal system or water supply system. Where necessary, measures consistent with good engineering practice will be implemented to ensure that any interference or impact is prevented or mitigated. In no circumstances shall the drainage measures depress the water table below the summer water table elevation (approximately low water level in nearby ditches);
- g) The deposit or removal shall be graded in such a manner that positive gravity drainage is assured throughout, and a drainage system consisting of swales, pipes, ponds or other flow control devices shall be installed which is of sufficient capacity and extent to ensure that groundwater or surface runoff will not drain into adjoining lands at greater rates than those existing prior to the commencement of the operation;
- h) No deposit or removal greater than 0.5 metres in depth shall be undertaken within 2.5 metres of any utility pole, pipeline, structure or highway without giving prior notice to and receiving approval from the City or other authority having jurisdiction;
- i) No deposit or removal shall be undertaken on a highway, statutory right-of-way or easement without first obtaining the permission in writing of the City or

other authority having jurisdiction over such statutory right-of-way or easement;

- j) The slope of any part of an exposed face of any deposit or removal shall not be greater than the angle of repose necessary for stability of the deposit or removal in question and the slope shall be retained in accordance with good engineering practice. Side slopes shall be no steeper than 1.5H:1V.
- k) No person shall use washing, crushing, or screening equipment as part of any deposit or removal unless the person has obtained applicable regional and/or provincial environmental approvals and the land upon which washing, crushing or screening equipment is to be located is zoned to permit washing, crushing or screening use;
- l) All hazards or potential hazards arising from deposit or removal shall be adequately fenced or otherwise protected for the safety of the public, and suitable weather-proof signs shall be mounted and maintained at intervals of not greater than 60 metres around the perimeter of the deposit or removal site with clear, legible wording to indicate the hazard, the nature of the operation, the presence of an excavation and prohibiting the entry of the public and all unauthorized persons;
- m) Stockpiles of soil or other material shall be confined to the locations prescribed in the permit and shall be maintained so that they do not adversely affect or damage adjacent properties or cause a nuisance to any person;
- n) Prior to deposit or removal, a contamination assessment of the proposed deposit or removal material indicating the soil complies with the current requirements of the British Columbia Ministry of Environment and Climate Change Strategy standards for the property. The contamination assessment must be carried out by a Registered Professional acceptable to the Director of Engineering. No soil or other material shall be deposited until the owner has received the City's written acceptance of the adequacy of the contamination assessment data.
- o) The owner shall retain a Project Geotechnical Engineer to investigate the site conditions, design and monitor the removal or deposit operations. The owner shall not restrict the geotechnical work to less than that considered necessary in the professional opinion of the Project Geotechnical Engineer.
- p) Prior to deposit or removal on peat or organic silt, the vegetation shall be cut flush with the ground surface and removed but the tree roots and grass should be left in the ground whenever possible and disturbance to the ground shall be avoided.
- q) The Director of Engineering may issue a permit subject to the observance or fulfilment of additional conditions specified in the permit which in the opinion



of the Director of Engineering are necessary to achieve the purposes of this bylaw.

### **Expiry**

12. Every permit shall expire 12 months from the date of issue or upon such earlier date as may be specified in the permit.

### **Permit Renewal/Modification**

13. If the deposit or removal operation authorized by a permit is not completed before the permit expires, or it becomes necessary to alter or deviate from the particulars of the permit application or drawings submitted for a permit, the Director of Engineering may renew or modify the permit upon written request of the permit holder, subject to the following:
- a) an application to renew a permit shall be made in the same manner and upon payment of the same fees and deposit of the same security as provided in this bylaw for the original permit;
  - b) the Director of Engineering may require that the permit holder provide additional information authorized by this bylaw as a pre-condition to considering an application for a permit renewal or modification; and
  - c) all terms and conditions set out in the original permit shall apply to each renewal or modification of the permit except as expressly amended or modified by the renewal or modification.

### **Permit Transfer**

14. No permit or interest in a permit may be transferred or assigned. Where there is a change of ownership in the land for which a permit has been issued, the permit shall immediately become void and the deposit or removal operation shall immediately cease.

### **Permit Display**

15. Each permit shall be visibly displayed in a protected, accessible and conspicuous position on the lands for which the permit has been issued and shall be made available to the Director of Engineering or a Bylaw Officer upon request.

### **Monitoring**

16. Settlement gauges, piezometers, inclinometers, lateral displacement pins or other devices shall be installed by the Owner's Registered Professional to monitor the stability of the soil and the impact of the deposit or removal on adjacent properties. Regular visual observations must also be carried out as part

of the monitoring process.

17. Proposed instrumentation and monitoring programs shall be submitted by the Project Geotechnical Engineer in writing to the Director of Engineering prior to the commencement of deposit or removal activities. The locations of all proposed monitoring instruments shall be shown on the plans submitted to the Director of Engineering. The Director of Engineering shall be kept apprised of any changes in the instrumentation program by way of timely submission of drawing revisions.
18. If visual observations or the instrumentation monitoring program results indicate incipient failure, preventative measures shall be taken as recommended by the Project Geotechnical Engineer or as required by the City.

### **Record Keeping**

19. Every permit holder shall maintain a daily log of all deposit and removal activity and provide to the Director of Engineering within twenty-four (24) hours upon request the daily log and a complete record of soil deposit or removal activities on the permit site. The record shall contain the following information:
  - a) date and time of the deposit or removal;
  - b) licence plate of trucks delivering soil and whether a pup trailer is used;
  - c) quantity of soil being deposited or removed;
  - d) name of company depositing or removing soil;
  - e) address of soil source or destination.
20. For soil deposit or removal 500 cubic metres or greater, except where the proposed operation will be completed within one month from the date the permit is issued, the Owner shall maintain monthly reports, certified and sealed by a Professional Geotechnical Engineer, regarding the process of the soil deposit or removal. The monthly report shall be submitted upon request to the Director of Engineering and contains the following information:
  - a) the required information as stated in Section 19;
  - b) the quantity of soil deposited or removed for the previous month and the total cumulative quantity for the duration of the permit up to the month in question;  
and
  - c) the actual location of the soil deposit or removal.

### **Completion and Restoration**

21. Upon completion of a soil deposit or removal operation, all deposit or removal surfaces shall be covered with at least 0.20 meters of topsoil and sod or a suitable rooted ground cover.
22. The finished grade of the deposit or removal operation shall conform to the final grading plans submitted with the permit application and approved by the Director of Engineering.

### **Right of Entry for Inspection**

23. The Director of Engineering and Bylaw Enforcement Officers are hereby authorized at all reasonable times to enter upon and inspect any lands to determine whether the requirements, restrictions, regulations, terms, conditions and directions of this bylaw or a permit are being observed.
24. No person shall prevent or obstruct or attempt to prevent or obstruct the Director of Engineering or Bylaw Enforcement Officers from entering upon lands as authorized by Section 23.

### **Stop Work Order**

25. If any person is carrying on a deposit or removal 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 operation by posting a stop work order to that effect at the place where the soil deposit or removal operation is ongoing.
26. It shall be a violation of this bylaw for any person other than the Director of Engineering or a Bylaw Enforcement Officer to remove or cover a posted stop work order or any other notice.
27. In addition to the authority of the Director of Engineering under section 25, 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 of violation by registered mail to the owner of the land where the deposit or removal is occurring.

### **Failure to Remedy Non-compliance**

28. In the event that a person having received notice of violation fails within the time specified in the notice to remedy such violation or otherwise continues to breach any provision of this bylaw or any permit issued under this bylaw:
  - a) the City or its appointed agents and contractors may enter upon the lands or any part thereof and carry out such works as may be required to remedy the breach, and the expense of doing so shall be paid by the person in breach

within 30 days of receipt of the City's invoice;

- b) where the City's invoice remains unpaid after 30 days and security has been deposited with the City under this bylaw, the City may deduct the cost of such works from the security deposit;
- c) where no security has been deposited or the security deposited is insufficient to cover the cost of the City's works, the City may recover the costs, or any part of the costs, with interest at the rate of 6% per year, in the same manner as municipal taxes.

### **Suspension or Cancellation of Permit**

29. If:

- a) there is a contravention of any term, condition, requirement or restriction of this bylaw or a permit issued under this bylaw; or
- b) a permit was issued under this bylaw on the basis of statements made in the permit application or a report, declaration or record required under this bylaw, that was false or misleading with respect to a material fact or that omitted to state a material fact, the omission of which made the statement false or misleading;

the Director of Engineering may:

- a) suspend in whole or in part the rights of the permit holder under the permit;
- b) cancel the permit; or
- c) amend or attach new conditions to a permit with the consent of the permit holder.

### **Indemnification**

30. A release and indemnity in favour of the City, releasing, indemnifying and saving harmless the City, its agents, employees, officers and servants, from and against all claims, demands, losses, costs, damages, actions, suits or proceedings whatsoever by whomsoever brought by reason of, or arising from, the issue by the City of a permit under this bylaw to conduct the proposed deposit or removal.

### **Removal of Surcharge**

31. The owner of the property on which the deposit or removal occurs is required to provide the Professional Geotechnical Engineer's certification that removal of the surcharge is appropriate, and must give the City a copy of such certification with a minimum of 2 business days notification of intention to commence surcharge removal. Surcharge removal shall not proceed without prior City approval.

**Offence**

32. Any person who contravenes or violates any provision of this bylaw or of any permit issued under this bylaw or who suffers or allows any act or thing to be done in contravention or violation of this bylaw or any permit issued under this bylaw, or who fails or neglects to do anything required to be done under this bylaw or any permit issued under this bylaw, commits an offence and upon conviction shall be liable to a fine of not more than \$10,000.00.
33. Every contravention of this Bylaw that continues for more than one day constitutes a separate offence for each day that it continues.

**Severance**

34. If any section, subsection, sentence, clause or phrase of this bylaw is for any reason held to be invalid by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this bylaw.

**Repeal**

35. "Soil Deposit Regulation Bylaw No. 7102, 2006" is hereby repealed.

**Adopted August 31, 2020**

**SOIL DEPOSIT AND REMOVAL REGULATION BYLAW NO. 8106, 2019**  
**SCHEDULE "A"**

SOIL DEPOSIT/REMOVAL PERMIT NO. \_\_\_\_\_

In accordance with Soil Deposit and Removal Regulation Bylaw No. 8106 2019, permission is hereby granted to:

Name: \_\_\_\_\_ of

\_\_\_\_\_  
(address)

\_\_\_\_\_  
(telephone)

A. to deposit \_\_\_\_\_ cubic metres of soil and/or other material upon the lands described as:

\_\_\_\_\_  
(address of property)

\_\_\_\_\_  
(legal description of property)

B. to remove \_\_\_\_\_ cubic metres of soil and/or other material from the lands described as:

\_\_\_\_\_  
(address of property)

\_\_\_\_\_  
(legal description of property)

in accordance with the provisions of Soil Deposit and Removal Regulation Bylaw No. 8106, 2019, the application submitted by the owner and the plans, specifications and other supporting data filed with the application, copies of which are attached to and form part of this permit, and the following additional terms and conditions:

|                           |
|---------------------------|
| Received _____            |
| from _____                |
| _____ (type of security)  |
| _____ No. _____           |
| in the amount of \$ _____ |

as security for full and proper performance of the deposit or removal operation in compliance with Soil Deposit and Removal Regulation Bylaw No. 8106, 2019 and all other terms and conditions of this permit.

This permit is issued on the \_\_\_\_\_ day of \_\_\_\_\_, 20

This permit shall expire on the \_\_\_\_\_ day of \_\_\_\_\_, 20

This permit may not be transferred or assigned.

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Director of Engineering Services  
Corporation of the City of  
New Westminster