

CITY OF PORT ALBERNI
BYLAW NO. 3947

A BYLAW TO REGULATE THE REMOVAL AND DEPOSIT OF SOIL FROM
LANDS WITHIN THE MUNICIPALITY, TO REQUIRE THE HOLDING OF A
PERMIT FOR SUCH PURPOSE AND TO FIX A FEE FOR SUCH PERMIT

WHEREAS under Section 930 of the Municipal Act, the Council may by bylaw regulate or prohibit the removal or deposit of soil, sand, gravel rock or other substance from or upon land, and require the holding of a permit for the purpose and fix a fee for the permit.

AND WHEREAS it is deemed expedient that the removal and deposit of soil from or upon lands within the Municipality be regulated.

NOW THEREFORE the Council of the City of Port Alberni in open meeting assembled, enacts as follows:-

Title

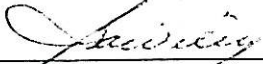
1. This bylaw may be cited for all purposes as the "Soil Removal and Deposit Regulation Bylaw".

Interpretation

2. For the purposes of this Bylaw:

"City"	means the City of Port Alberni.
"Deposit"	means the act of moving soil and placing it within a parcel or upon other land on which such soil did not previously exist or stand.
"Engineer"	means the City Engineer of the City as duly appointed by the City's Council, and includes any person or persons designated by the City Engineer to act on his behalf.
"Other Material"	means non-degradable construction or demolition waste such as masonry rubble, concrete rubble and asphalt. Individual pieces of such waste shall not exceed one (1) metre in length nor three-quarters (0.75) of a cubic metre in volume.
"Permit"	means the written authority granted by the Engineer pursuant to this Bylaw for the removal or deposit of soil from or upon land within the City.

I HEREBY CERTIFY THE FOLLOWING TO BE A TRUE AND CORRECT COPY OF A BYLAW ENTITLED "SOIL REMOVAL AND DEPOSIT REGULATION BYLAW" WHICH WAS RECONSIDERED AND FINALLY ADOPTED BY THE MUNICIPAL COUNCIL OF THE CITY OF PORT ALBERNI ON THE 12TH DAY OF FEBRUARY, 1990.



G.A. Wiley, City Clerk

"Removal" means the act of removing soil from the land on which it exists and shall include soil which has been placed into a stockpile or other storage on any land.

"Soil" means clay, silt, sand, gravel, cobbled, boulders or other substance of which land is naturally composed, down to and including bedrock as well as "other material" as herein defined, but shall not include soil from land which is within any agricultural land reserve pursuant to the Soil Conservation Act.

"Wood Waste" means wood residue in mechanically shredded form and includes sawdust, hogfuel, bark, chips, slabs, shavings, trimmings, edgings or other such waste which is the result of any manufacturing process involved in the production of lumber or other wood products.

Subject to Conditions

3. Subject to compliance with all other provisions and requirements of ^{the} Bylaw, a permit shall not be required pursuant hereto in the following circumstances:

- | | | |
|---------------------------|-----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| NOT TO APPLY TO: | (a) | the removal from or deposit upon, a dedicated public Right-of-Way or registered easement of such soil or other materials as is necessary for the construction or installation of a roadway, utility service, dyke or other service thereon. |
| Public Works | | |
| Less than 10 cubic metres | (b) | the removal or deposit of soil where the total volume of soil removed from or deposited upon a parcel of land does not in any twelve (12) consecutive month period exceed ten (10) cubic metres. |
| Soil trade user | (c) | the removal of soil by any florist, nurseryman, horticulturist or farmer where such soil is required and is used on the lands upon which such trade, purpose or use is carried on. |

Permit Required for Deposit

4. Subject to Section 3 hereof, no person shall deposit or cause to be deposited, or if the owner of land, permit to be deposited, soil upon any parcel of land until a permit has been granted for such deposit pursuant to Section 6 hereof and every such deposit shall conform in all respects to the regulations and requirements hereinafter set forth, and the terms and conditions of the permit.

Permit Required for Removal

5. Subject to Section 3 hereof, no person shall remove or cause to be removed, or if the owner of land, permit to be removed soil from any parcel of land until a permit has been granted for such removal pursuant to Section 6 hereof, and every such removal shall conform in all respects to the regulations and requirements hereinafter set forth and the terms and conditions of the permit.

Permit Applications to Engineer

6. Every application for a permit pursuant to this Bylaw shall be made in writing to the Engineer in a form satisfactory to him and shall be accompanied by a security deposit as required by Schedule "A" in an amount not less than the sum of two thousand (\$2,000.00) dollars for each 10,000 cubic metres of soil deposited or removed or any fraction thereof, up to a maximum of five thousand (\$5,000.00) dollars.

Permit Form

7. Each permit shall be issued by the Engineer and shall be in a form satisfactory to him.

Permits Expire 12 Months after Issue

8. Every permit issued pursuant to this Bylaw shall expire twelve (12) months following the date on which it was issued by the Engineer. Application for renewal of a permit or part thereof shall be made in the same manner and upon payment of the same fees as provided herein for a new permit at the time the said application for renewal is made.

Payment of Fees

9. The fee payable for each permit for removal or deposit of soil shall be \$25.00.

Fees Due Upon Application

10. The above permit fee shall be paid to the City upon application for the permit.

Schedule "A" Requirements

11. Subject to Section 3, any operation involving the removal or deposit of soil shall comply with the requirements set out in Schedule "A" hereto, which said Schedule is hereunto annexed and made part of this Bylaw.

No Wood Waste

12. No person shall deposit or permit the deposit of wood waste upon any parcel of land within the City, save and except that wood waste not exceeding 10 cu. metres may be allowed by the Engineer for landscaping purposes only.

Pollution Control Act Permit Required

13. No person shall deposit or permit the deposit of "other material", as herein defined in the Bylaw, upon any parcel of land within the City (save and except an authorized sanitary landfill), unless he has first been granted a Pollution Control Act Permit or Exemption, and such deposit shall be undertaken in full compliance with the terms of such permit.

All Damages to be Repaired

14. All damage to Municipal or privately-owned drainage facilities, natural watercourses, roads, lanes or other Municipal or privately-owned property or facilities, resulting from a soil removal or deposit operation shall be promptly and properly repaired by the permit holder or an agent or agents of the permit holder, to the complete satisfaction of the Engineer and the City.

No Obstructions

15. All drainage facilities, natural watercourses and groundwater aquifers shall be kept free of silt, clay, sand, rubble, debris, gravel and all other material or things originating from any removal or deposit of soil, from or upon any lands, and every obstruction and all damage caused to such drainage facilities, natural watercourses or groundwater aquifers shall constitute an infraction of this Bylaw and the person responsible shall on summary conviction thereof, be subject to the penalty hereinafter provided.

Stockpiles

16. Stockpiles of soil which are part of any soil removal or deposit operations shall be confined to the locations prescribed in the permit for the period of time authorized by the Permit.

No Encroachment

17. No operation by which soil is removed or deposited shall encroach upon, undermine, damage or endanger any adjacent property or highway or where a permit is required, encroach into any setback area prescribed in the said permit.

Control Dust

18. No operation by which soil is removed or deposited shall contribute to a dust or dirt nuisance affecting any offsite property, highway, or right-of-way.

Comply with Conditions

19. Every person shall undertake, carry out and complete all soil removal and all soil deposit operations and works in accordance with the provisions and requirements of this Bylaw, and in addition, every permit holder shall observe, carry out and complete every term and condition of the permit issued to him.

Stipulations

20. No person shall remove or deposit soil:

- (a) from or upon any land beyond those boundaries set out and described in their permit;
- (b) in greater quantities than the volume shown on their permit;
- (c) from or upon any land other than the land specifically set out and described in the permit;
- (d) where a permit is not required pursuant to Section 3 hereof, from or upon any land owned by and other person.

Completion of Operations

21. Upon completion of every soil removal or deposit operation, the permit holder shall, prior to the expiry of the permit:

- (a) protect the boundaries of all adjacent lands, dedicated rights-of-way and utility easements from erosion or collapse; and
- (b) complete all such works required by this Bylaw and the permit issued pursuant thereto, in accordance with accepted sound engineering principles, and to the satisfaction of the City and the Engineer; and where a permit is not required pursuant to Section 3 hereof, shall protect the boundaries of all adjacent lands, highways and rights-of-way, from erosion or collapse and complete all such works required by this Bylaw in accordance with accepted sound engineering principles and to the satisfaction of the City and the Engineer.

Permit not to be Transferred

22. No permit issued pursuant to this Bylaw or any interest in the said permit shall be transferred or assigned. Where a permit holder sells, transfers or otherwise disposes of the land in respect of which a subsisting permit has been issued, he shall forthwith cease the soil removal or deposit operations thereon, and the permit shall become void and of no effect, and shall be returned to the Engineer.

Permit to be Displayed

23. During the currency thereof, each permit shall be visibly displayed in a protected, accessible, conspicuous position upon the lands referred to therein and shall be made available to the Engineer upon request.

Engineer may Inspect

24. The Engineer is hereby authorized at all reasonable times to enter upon and inspect any lands:

- (a) to determine if the owner of a proposed soil removal or deposit site is required to obtain a soil removal or deposit permit.
- (b) to determine if soil removal or deposit has occurred on a parcel of land for which the owner does not have a valid soil removal or deposit permit and the owner does not qualify for an exemption from the provisions of this Bylaw.
- (c) from which soil is to be, or is being, or has been removed or deposited, in order to ascertain whether the provisions of this Bylaw and the permit issued pursuant thereto, are being obeyed. Every permit holder shall maintain up-to-date records sufficient to allow the progress of the soil removal or deposit operation to be monitored for compliance with the provisions of this Bylaw and the terms and conditions of the permit, and such records shall be made available to the Engineer upon request.

Highway Use Conditions

25. The Engineer is hereby authorized and may specify conditions not inconsistent with the City's "Traffic Regulation Bylaw No. 3022" and amendments thereto, which shall apply to traffic control and utilization of Municipal streets in connection with a soil removal or deposit operation.

Breach of Provisions

26. In the event of a breach of any provision of this Bylaw or condition set out in the permit, the Engineer may issue to:

- (a) the holder of the permit,
- (b) the owner of the lands from or upon which soil is being removed or deposited, or both, a notice of such a breach.

Every permit holder receiving such notice of breach shall forthwith cease and desist from all removal or deposit operations and every owner shall thereupon refuse to permit the further removal or deposit of soil from or upon the said lands until such breach is remedied to the satisfaction of the Engineer.

Failure to Remedy

27. In the event that any person having received such notice of breach, fails within the time set forth therein to remedy such breach or otherwise proceeds to breach any provision of this Bylaw or condition of the permit, the Engineer may at any time thereafter revoke the said permit, and any security deposit or fees paid pursuant to the granting of such permit shall be forfeit, and may be employed by the City to remedy such breach, and for such purpose the City may enter upon the said lands or any part thereof, and carry out the works required to remedy said breach.

Offence

28. Every person who neglects or refuses to carry out the works or any part of them in accordance with the provisions of this Bylaw, or the terms and conditions of any permit issued pursuant hereto, is guilty of an offence against this Bylaw, and is liable to the penalties hereby imposed. Every day that the land or the required works remains in a condition contrary to the provisions of this bylaw, or the terms and conditions of the said permit, shall constitute a separate offence.

Penalties

29. Every person who violates any of the provisions of this Bylaw or who suffers or permits any act or thing to be done in contravention of this Bylaw, or who neglects to do or refrains from doing any act or thing required to be done by this Bylaw, shall upon summary conviction therefor be liable to a fine not exceeding two thousand (\$2,000) dollars or to a term of imprisonment not exceeding three (3) months, or to both fine and imprisonment.

Conflict

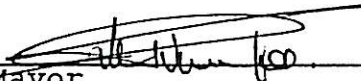
30. In the event a conflict exists between this Bylaw and "Port Alberni Land Fill Prohibition Bylaw" No 3911, the provisions of that Bylaw will prevail.

READ A FIRST TIME THIS 22ND DAY OF JANUARY, 1990.


READ A SECOND TIME THIS 22ND DAY OF JANUARY, 1990.

READ A THIRD TIME THIS 22ND DAY OF JANUARY, 1990.

RECONSIDERED AND FINALLY ADOPTED THIS 12th DAY OF FEBRUARY
1990.



Mayor



Clerk

SCHEDULE "A" TO BYLAW NO. 3947

REQUIREMENTS PURSUANT
TO REMOVAL OR DEPOSIT OF SOIL

Removing or Depositing Operation

In addition to the requirements set out in the text of the Bylaw, every soil removal or deposit operation shall comply with the following requirements:

Information Required

1. Unless the Engineer specifically waives any of the information required under Subsection (b) of this section, every applicant for a permit to remove or deposit soil pursuant to this Bylaw and this Schedule shall submit, with his application, the following information in sufficient detail to adequately describe the proposed operation:
 - (a) A description of the soil and the purpose for which the soil is to be removed or deposited.

Site Plan

- (b) Plans of the lands from or upon which the applicant proposed to remove or deposit the soil, prepared by a B.C. Land Surveyor or Professional Engineer, which shall include:

Contour Plans

- (1) Contour plans of the said lands, to a scale of not less than 1:1000, showing contours at a vertical interval suitable to describe the existing terrain of the said lands, and the relation thereof to those of the adjoining lands, and highways, and showing at one (1) metre intervals the proposed geodetic elevations of the lands after the soil has been removed therefrom or deposited thereon.

Use and Conditions

- (ii) Full particulars of the present use, occupancy and conditions of the lands from or upon which the removal or deposit of soil is proposed and of those portions of adjacent lands which may be affected by the proposed soil removal or deposit operation, including all pertinent topographic features, buildings, structures and tree cover existing thereon, 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 in the removal or deposit of the soil), and all utilities, services and other existing facilities.

Slopes

- (iii) The proposed slopes which will be maintained during and upon completion of the removal or deposit of the soil.

Erosion

- (iv) The proposed methods of erosion control for the banks of the excavation or of the soil deposit, during and upon completion of the removal or deposit of the soil.

Drainage

- (v) The proposed methods of drainage control for the excavation or the soil deposited during and upon completion of the removal or deposit of the soil.

Access

- (vi) The proposed methods of access to the lands during and upon completion of the removal or deposit of the soil.

Fencing

- (vii) The proposed methods of fencing, enclosing, and clearing the lands affected to ensure that no hazard to human or animal life shall exist.

Stockpiles

- (viii) The proposed location of stockpiles indicating their extent and nature and duration.

Structures

- (ix) The proposed location of machinery, buildings, scales and other proposed structures and improvements.

Other

- (x) Such further and other information as may be necessary to adequately describe the proposed soil removal or deposit operation for which the permit application is made.

Volume

- (c) A statement of the volume of soil to be removed or deposited together with a copy of the calculations, cross-sections, and other engineering data and pertinent information used in calculating such estimated total volume.

Consents

- (d) The consent in writing of any mortgagee, unpaid vendor or owner of the lands from or upon which it is intended to remove or deposit the soil together with a current Certificate of Encumbrance attesting to the ownership of the said lands immediately prior to the date of application.

Security

- (e) As security for the full and proper compliance with the provisions of this Bylaw and the performance of all terms and conditions expressed in the permit, the applicant shall provide a cash deposit or irrevocable letter of credit drawn upon an approved financial institution in a form acceptable to the City and in the amount mentioned in Section 6, which security shall be maintained in full force and effect throughout the permit period.

2. Every excavation shall, at all times, be carried out in accordance with the following requirements:

Slopes

- (a) The face of the excavation, except in the immediate area of operations, shall have a slope of not greater than one (1) vertically to two (2) horizontally, except that a steeper slope may be allowed where a Professional Engineer, registered with the Association of Professional Engineers of British Columbia, certifies that the face of the excavation would be stable at a steeper slope.

Set-Back-Right-of-Way

- (b) No excavation shall be undertaken within six (6) metres of any dedicated right-of-way or utility easement without first obtaining the approval in writing of the authority having jurisdiction over such right-of-way or easement, and a copy of such written approval shall be filed with the Engineer.

Set-Back Property Lines

- (c) No excavation shall be undertaken within three (3) metres of any property boundary except that, where adjoining lands have already been excavated, the excavation may (with the written approval of the owner of the said adjoining lands) be continued across the property line with the said adjoining lands to tie in with the said existing excavation, subject to the maximum slopes permitted above. A copy of such written approval shall be filed with the Engineer. The applicant shall be responsible for establishing the legal property line.

Excavation Limits

- (d) The excavation shall not extend beyond the limiting excavation face delineated by the minimum set-backs and the maximum slopes permitted above. There shall be no excavation into the toe of such limiting excavation face. Such limiting excavation face shall comprise undisturbed natural soil and it shall not be permitted to extend beyond such limiting excavation face by backfilling.

Excavation Face not to be more than 90 Metres

- (e) As the excavation progresses, the face of the excavation shall be progressively restored to the conditions called for under Section 6 of this schedule so that the unrestored portion of the finished excavation face is no longer than ninety (90) metres at any one time.

Working Height

- (f) The working faces of the excavation shall be limited to a height of not more than one and one-quarter (1.25) metres above the maximum safe reach of the excavating equipment being used.

Grades

- (g) Excavations shall, at all times, be graded in such a manner that positive gravity drainage is assured throughout, and surface water shall not be allowed to pool anywhere within the excavation, provided however, that where necessary to remove sediment from surface run-off, a settling pool may be established for the duration of a soil removal operation. Surface run-off shall drain by gravity to the lowest point in the excavation and thence to a natural watercourse or a public drainage facility having adequate capacity for the purpose. The excavation shall not lower the effective water table at wells on any other lands without the written consent of the owner of such lands, and a copy of such written consent shall be filed with the Engineer.

3. The deposit of soil shall, at all times, be carried out in accordance with the following requirements:

Slope

- (a) The slope of any part of an exposed face of any deposited soil shall not be greater than the angle of repose necessary for stability of the soil in question.

Drainage of Adjoining Lands

- (b) The deposited soil shall not, in any way, interfere with the established above or below ground drainage pattern of any adjoining lands and shall not cause the groundwater table to rise on adjoining lands so as to cause flooding or malfunctioning of any private sewage disposal system or contaminate any well. Where necessary, a system of interceptor or relief drains shall be installed which is sufficient to compensate for any interference which might otherwise occur to such established drainage pattern as a result of the soil deposit operation.

Drainage of Deposit Site

- (c) The deposited soil shall be graded in such a manner that positive gravity drainage is assured throughout, and a drainage system shall be installed which is of sufficient capacity and extent to ensure that groundwater and surface run-off will not drain into adjoining lands at greater rates after commencement than prior to the commencement of the soil deposit operations.

Right-of-Way

- (d) No soil shall be deposited over any dedicated public right-of-way or registered easement without first obtaining the approval, in writing, of the authority having jurisdiction over such right-of-way easement, and a copy of such written approval shall be filed with the Engineer.

Utilities

- (e) No soil shall be deposited in the immediate vicinity of any utilities or services which may be damaged by any settlement resulting from the deposit of such soil, without first obtaining the approval, in writing, of the authority having jurisdiction over such right-of-way or easement, and a copy of such written approval shall be filed with the Engineer.

Sewage Disposal Systems

- (f) No soil shall be deposited over wells or private sewage disposal systems.

Buildings Temporary

4. All buildings and structures erected in connection with a soil removal or deposit operation under this schedule shall be temporary in nature and shall be removed forthwith upon completion of the soil removal or deposit operations.

Hazards

5. All hazards or potential hazards arising from soil removal or deposit operations 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 sixty (60) metres around the perimeter of the excavation with clear, legible wording to indicate the hazard, the nature of the operation, the presence of the excavation and prohibiting the presence of the public and all unauthorized persons thereon.

Requirements

6. Upon completion of the removal or deposit of soil, every permit holder shall forthwith:
 - (a) Leave all surfaces of the excavation or the soil deposited with a slope not greater than the grade shown on the plans filed pursuant to Section 1(b) of this Schedule and as specified in the permit.
 - (b) Cover all surfaces of the excavation with an established growth of grass or other suitable rooted ground cover.

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