



***THE CORPORATION OF THE
CITY OF PORT COQUITLAM***
BYLAW NO. 3331

A Bylaw to Regulate the Removal and Deposit of Soil from Land in the City

WHEREAS section 723 of the Local Government Act R.S.B.C. 1997, c. 323 authorizes Council to regulate or prohibit the Removal or Deposit of Soil on any land within its jurisdiction and to make different regulations and prohibitions for different areas and to require permits and impose rates or levels of fees;

AND WHEREAS Council desires to regulate both the Removal and Deposit of Soil within the City;

AND WHEREAS Council desires to collect fees for the Removal and Deposit of Soil within the City;

NOW THEREFORE, the Council of the City of Port Coquitlam enacts as follows:

1. CITATION

This Bylaw may be cited for all purposes as the “City of Port Coquitlam Soil Removal and Deposit Bylaw 2002, Bylaw No. 3331”.

2. INTERPRETATION

In this Bylaw:

“*Application*” means a *Soil Removal or Deposit Permit Application* in the form of Schedule A;

“*Council*” means the *Council* of the *Municipality*;

“*Deposit*” means the act of placing *Soil* on any lands in the *Municipality* where the *Soil* did not previously exist or stand, including on a stockpile or in a storage facility;

“*Engineer*” means the Municipal Engineer of the *Municipality* and includes the Engineer’s designate and other persons authorized by *Council* to administer and enforce this Bylaw;

“Municipality” means The Corporation of the City of Port Coquitlam;

“Other Material” means chemical waste products, tree stumps, petroleum products, construction or demolition waste including masonry brick, asphalt and concrete rubble, and unchipped lumber;

“Permit” means a valid *Soil Removal* or *Deposit Permit* issued by the *Municipality* in the form of Schedule B;

“Permittee” means an applicant who has received a *Permit* under this Bylaw;

“Permit Fee” means the fee required to be paid to the *Municipality* pursuant to Section 17(1) of this Bylaw;

“Registered Professional” means an engineer, geoscientist, agronomist 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*;

“Remove” or “Removal” means the act of removing *Soil* from any lands in the *Municipality* from where it existed or stood, including from a stockpile or storage facility;

“Removal or Deposit Fee” means the fee payable to the *Municipality* by the *Permittee* for the *Removal* or *Deposit* of *Soil* pursuant to Section 17(2) of this Bylaw;

“Soil” means earth, sand, gravel, rock, silts, clays, peats or any other substance of which land is composed, but does not include *“Other Material”* and *“Wood Waste”*;

“Soil Removal or Deposit Area” means an area within the *Municipality* in respect of which a *Permit* has been issued;

“Wood Waste” means wood residue in mechanically shredded form and includes sawdust, hog fuel, bark mulch, chips, slabs, shavings, trimmings, edgings or other such waste.

3. DESIGNATION

This Bylaw applies to all land within the *Municipality*.

4. PERMIT EXEMPTIONS

No *Permit* is required pursuant to this Bylaw:

- (1) For the *Removal* or *Deposit* of *Soil* in any part of the *Municipality* where the *Removal* or *Deposit* of *Soil*:
 - (a) totals less than 200 cubic metres on or from a parcel of land in any period of 12 consecutive months;
 - (b) is on land used for farm use, for horticultural use or as a nursery and only where such *Deposit* or *Removal* is necessary as part of the farm, horticultural or nursery operation;
 - (c) is required for construction of a utility service or ditch on behalf of the *Municipality*;
 - (d) is required for landfill operations, soil composting or solid waste transfer stations operated by, or on behalf of, the *Municipality*;
 - (e) is from or on parks and municipally-owned lands and is conducted on behalf of the *Municipality*; or
 - (f) is carried out by the *Municipality*.
- (2) For the deposit or removal of *Wood Waste* on or from land on which it has been lawfully produced .

5. SOIL REMOVAL AND DEPOSIT REQUIREMENTS

No person may:

- (1) *Remove* or *Deposit Soil* from or on land anywhere in the *Municipality* unless:
 - (a) an exemption in Section 4 of this Bylaw applies, or
 - (b) the person has a valid and subsisting *Permit* for that *Removal*.
- (2) *Deposit Wood Waste* on any land anywhere in the *Municipality* unless:
 - (a) the exemption in Section 4(2) of this Bylaw applies, or

- (b) the person has a valid and subsisting *Permit* for that *Deposit*.
- (3) *Deposit Other Material* on any land anywhere in the *Municipality* unless the person has a valid and subsisting *Permit* for that *Deposit*.

6. PERMIT COMPLIANCE

Where a Permit has been issued for the *Removal* or *Deposit of Soil*, the *Permittee* must not *Remove* or *Deposit Soil* from or on the land to which the *Permit* relates, except in compliance with the terms of the *Permit*.

7. PERMIT APPLICATION

- (1) An *Application* for a *Permit* shall comply with Section 8 of this Bylaw, and shall:
 - (a) include a completed and signed application form as set out in Schedule “A” to this Bylaw; and
 - (b) be accompanied by the applicable *Permit Fee* calculated in accordance with Section 21(1) of this Bylaw.
- (2) An *Application* that does not comply with this section and Section 8 of this Bylaw shall be considered incomplete, and the *Engineer* shall be under no obligation to process any incomplete *Application*.

8. PLANS AND SPECIFICATIONS

An *Application* for a *Permit* shall be accompanied by detailed plans (drawn to scale), data and specifications for the proposed site of the removal or deposit and adjacent areas within 25 meters of that site, prepared by a *Registered Professional* and including the following information:

- (a) purpose, scale and volume of the proposed soil *removal* or *deposit*, and the methods to be used;
- (b) a site plan illustrating all significant topographic and hydraulic features, buildings, structures and vegetation;
- (c) proposed methods of drainage control during and after the excavation or filling;
- (d) proposed methods to control dust, noise and visual impacts to adjacent lands;
- (e) proposed methods of providing landscape screening;

- (f) proposed methods of access to the site during the excavation;
- (g) a proposed communications plan to advise and inform residents adjacent to the site as to the operation's activities on a periodic basis;
- (h) certification by a *Registered Professional* that any *Soil* to be *Deposited* meets all Ministry of Water, Land and Air Protection criteria for the permitted land use of the site;
- (i) security pursuant to Section 18; and
- (j) such further and other information as the *Municipality* may require to determine whether the proposed *Soil Removal or Deposit* complies with this Bylaw.

9. PERMIT CONDITIONS

- (1) The applicant shall not be entitled to a permit if the proposed removal or deposit of soil or other material would:
 - (a) foul, pollute the water quality of, obstruct, divert, impede the flow of, damage or destroy any watercourse, ditch, drain, sewer or water utility;
 - (b) damage or destroy amenities on the lands or adjacent lands including, without limitation, any utilities, works or services, structures, buildings or improvements;
 - (c) contravene any bylaw of the *Municipality*;
 - (d) threaten the health, safety or welfare of the public;
 - (e) result in the use of the lands in a manner inconsistent with the zoning for the lands;
 - (f) result in soil on the lands or on adjacent lands becoming susceptible to erosion, slippage, landslides, slumping or settling; or
 - (g) permit dust, dirt or noise to escape so as to constitute a private or public nuisance.
- (2) The *Permittee* shall, prior to undertaking the removal or deposit of any soil that significantly deviates from the plans, data and specifications required for the *Permit* application, retain a *Registered Professional* to determine if these deviations are in substantial compliance with the requirements of the *Permit* and good environmental and engineering practices. If not, the soil shall not be disturbed until a new *Permit* is issued to the *Permittee*.
- (3) Upon completion of the soil removal and deposit works the *Permittee* shall deliver to the *Engineer* a certificate from a *Registered Professional* stating that all works have

substantially complied with the requirements of the *Permit* and good environmental and engineering practices.

10. PERMIT ISSUANCE

- (1) A *Permit* constitutes written authority under this Bylaw to conduct the *Soil Removal* or *Deposit* activity described in the *Application*.
- (2) The issuance of a *Permit* does not constitute authority to conduct processing of *Soil*.
- (3) When all conditions have been met for the issuance of the *Permit* pursuant to this Bylaw, a *Permit* shall be issued, subject to the terms and conditions required by this Bylaw.
- (4) All plans, specifications and other information forming part of an *Application* in respect of which a *Permit* is issued shall form part of and be incorporated in the *Permit* and without limiting the foregoing, a *Permit* shall be limited to the type and volume of *Soil* that is to be Deposited or Removed in accordance with the *Application*.
- (5) Every *Permit* issued shall cease to authorize the *Deposit* or *Removal* of *Soil* as the case may be upon the earlier of:
 - (a) the *Deposit* or *Removal* of the amount of *Soil* authorized to be Removed or Deposited by the *Permit*; and
 - (b) the expiry date expressly stated in the *Permit*.

11. PERMIT SUSPENSION, CANCELLATION AND AMENDMENT

- (1) If:
 - (a) there is a contravention of any term or condition of a *Permit*, including start and completion dates;
 - (b) the *Permit* was issued on the basis of statements made in an *Application*, report, declaration, or record required under this Bylaw that were false or misleading with respect to a material fact or that omitted to state a material fact; or
 - (c) the *Permittee* has not paid a *Removal* or *Deposit* Fee as required by this Bylaw, the *Municipality* may:
 - (i) suspend in whole or in part the rights of the *Permittee* under a *Permit*,

- (ii) cancel the *Permit*, or
- (iii) amend or attach new conditions to a *Permit* with the consent of the *Permittee*.

12. PERMIT TRANSFER

- (1) Upon notice in writing to the *Engineer*, and payment of a fee of \$100.00, a *Permittee* may transfer a valid and subsisting *Permit* to a transferee.
- (2) Upon notice of a transfer provided pursuant to this Section being provided to the *Engineer*, the transferee shall become the *Permittee* for all purposes of this Bylaw, and the *Municipality* may enforce all the provisions of this Bylaw against the transferee notwithstanding that any violation under this Bylaw occurred prior to the transfer.
- (3) Acceptance of a transfer pursuant to this section shall not constitute a representation by the *Municipality* of the validity of the *Permit*, or that any actions authorized by the *Permit* were undertaken in compliance with this Bylaw or the *Permit*.

13. PERMIT RENEWAL

If a *Permittee* applies for a renewal of a *Permit*, the *Engineer* shall issue the renewal if:

- (1) all applicable drawings and specifications for the *Soil Removal or Deposit Area* are updated as necessary to identify any material changes to site conditions and to demonstrate compliance with current bylaws and regulations;
- (2) a security has been *Deposited* with the *Municipality* pursuant to Section 18 of this Bylaw to cover the cost of any reclamation requirements associated with any material changes; and
- (3) a fee of \$100.00 has been paid to the *Municipality* for the renewal of the *Permit* pursuant to Section 17(5) of this Bylaw.

14. RIGHT TO ENTER AND INSPECT

- (1) The *Engineer* and *Bylaw Enforcement Officer*, may for the purposes of determining compliance with this Bylaw:
 - (a) enter on a *Soil Removal or Deposit Area* at all reasonable times and inspect all aspects of *Soil Removal or Deposit* ; and

- (b) request records of *Soil Removal* and *Deposit* volumes maintained by the *Permittee*.

15. OFFENCES

Every person commits an offence against this Bylaw who:

- (1) violates any of the provisions of this Bylaw;
- (2) fails to comply with any of the terms and conditions of a *Permit*;
- (3) fails to comply with any order or notice given under this Bylaw.

16. PENALTIES

Every person who commits an offence under this Bylaw is liable upon summary conviction to a penalty of not more than \$ 10,000.

17. FEES

- (1) A non-refundable *Permit* Fee in the amount of \$150.00 shall accompany each *Application* provided that where an applicant has made an application for and has paid the fee for the same *Soil Removal* or *Deposit* operation pursuant to the *Soil Conservation Act* no *Permit* Fee need be paid.
- (2) The *Permittee* shall pay to the *Municipality* a *Removal* or *Deposit* Fee, in the amount of \$0.20 for each and every cubic metre up to and including 100,000 cubic metres and \$0.10 for each and every cubic metre over 100,000 cubic metres, of *Soil Removed* from or *Deposited* on a *Soil Removal* or *Deposit Area* and shall pay such fee in all cases where a *Permit* is required pursuant to this Bylaw, whether or not a *Permit* has been issued. The *Removal* or *Deposit* Fee shall be paid to the *Municipality* on or before the last day of each month for the amount of the *Soil Removed* or *Deposited* in the preceding month.
- (3) Where a *Removal* or *Deposit* Fee is payable or has been paid pursuant to subsection (2) and the *Soil* for which the fee is payable or has been paid has been moved from one *Soil Removal* or *Deposit Area* to another *Soil Removal* or *Deposit Area*, the *Permittee*:
 - (a) shall not be required to pay an additional *Removal* or *Deposit* Fee for that move;

- (b) shall be required to pay the applicable *Removal* and *Deposit* Fee for each and every subsequent move of such *Soil*, or portion thereof; and,
 - (c) shall be required to pay the applicable *Removal* and *Deposit* Fee for any move of *Soil* occurring subsequent to a move of *Soil* to a temporary location, such as for a “preload” of lands, which shall be considered the initial move.
- (4) Where *Soil* is quantified in terms of tonnes or cubic yards, the conversion table in Schedule E of this Bylaw applies for the purposes of the calculation of *Removal* or *Deposit* Fees.
 - (5) A non-refundable Renewal Fee in the amount of \$100.00 shall accompany each request for a *Permit* renewal pursuant to Section 13 of this Bylaw.

18. SECURITY

- (1) A *Permittee* shall provide the *Municipality* with an irrevocable letter of credit in the form of Schedule D as a security for full compliance with the requirements specified in the *Application* and plans for a *Permit*.
- (2) The amount of the security shall be \$5,000, plus \$5,000 on a prorated basis for each hectare of land to be disturbed on the *Soil Deposit or Removal Area*.
- (3) Every letter of credit required to be provided under this Bylaw shall be drawn in favour of the *Municipality* and shall be a clean, unconditional and irrevocable letter of credit made by a Canadian Chartered Bank and capable of presentation at a branch of the bank situated within the *Municipality*.
- (4) If the *Permittee* fails or omits to renew or replace any letter of credit within 14 days prior to its expiry, the *Municipality* may draw on the current letter of credit and hold the moneys in lieu thereof.
- (5) Subject to subsection (6) the security required pursuant to this section shall be returned to the *Permittee* provided that:
 - (a) the *Soil Removal or Deposit Area* has been reclaimed in accordance with the plans submitted as part of the *Application*; and
 - (b) the *Engineer* has received a report, signed and sealed by the *Registered Professional*, confirming that the *Soil Removal or Deposit Area* has been reclaimed in accordance with the plans, and that the land is safe for the use intended.

- (6) Within 30 days of receiving the report required under subsection (5) the *Engineer* must:
 - (a) return the security to the *Permittee*; or,
 - (b) reject the report and give notice to the *Permittee* of the deficiencies in the report or in the reclamation of the *Soil Removal or Deposit Area*.
- (7) If the *Permittee* has not remedied any deficiencies referred to in subsection (6) within 60 days of receipt of the notice pursuant to subsection (6) the security may at the discretion of the *Engineer* be forfeited to the *Municipality*.
- (8) The security shall be forfeited to the *Municipality* on the last day of the ninth month following the suspension or cancellation of the *Permit*, pursuant to Section 11 of this Bylaw, where the *Engineer* has not received a report, acceptable to the *Engineer*, by a *Registered Professional* pursuant to subsection (5).
- (9) Where a security is forfeited to the *Municipality*, the *Engineer* may direct the funds to be used to commission a *Registered Professional* to prepare a report pursuant to subsection (5). The *Engineer* may use the security to carry out any required reclamation work on highways or other public land, and on private land with the consent of the owner.
- (10) Wherever in this Bylaw security is required, the amount of such security shall be reduced up to the amount of any security held by the City in respect of the same *Deposit or Removal of Soil* pursuant to the *Soil Conservation Act*.

19. **INSURANCE**

The *Permittee* shall maintain at all times during activities authorized by a *Permit* (including reclamation works) comprehensive liability insurance in the amount of \$5,000,000.00 per occurrence and shall name the *Municipality* as an additional insured. The insurance policy shall provide that no expiry, cancellation, or material change in the policy shall become effective until after thirty (30) days of notice of such cancellation or change is given to the *Municipality* by registered mail. The *Permittee* shall deliver to the *Municipality* true copies of the policy of insurance and the receipts of payment.

20. **SEVERABILITY**

If any part of this Bylaw is held to be invalid by a Court it shall be severed without affecting the validity of the remaining provisions of this Bylaw.

21. SCHEDULES

Schedules A, B, C, D, and E are attached to and form part of this Bylaw.

Read a first time by the Municipal Council this 27th day of May, 2002.

Read a second time by the Municipal Council this 27th day of May, 2002.

Read a third time by the Municipal Council this 27th day of May, 2002.

Approved by the Minister of Community, Aboriginal and Women's Services this 30th day of April, 2003.

Adopted by the Municipal Council of The Corporation of the City of Port Coquitlam, this 12th day of May, 2003.

Mayor

City Clerk

THE CORPORATION OF THE CITY OF PORT COQUITLAM

"SOIL REMOVAL AND DEPOSIT BYLAW, 2002, NO. 3331"

SCHEDULE "A"

**CITY OF PORT COQUITLAM
SOIL REMOVAL OR DEPOSIT PERMIT APPLICATION**

Applicant Information
(filled out by applicant)

Name of applicant _____
(if company, insert company name and individual representative applying on behalf of company)

Applicant's address for service _____

Applicant's telephone number _____
Applicant's facsimile number _____

LAND IDENTIFICATION INFORMATION

Legal description _____

Address _____

LAND OWNERSHIP

Registered owner _____

Address of owner _____

Lease holder _____

Address of lease holder _____

SOIL REMOVAL OR DEPOSIT INFORMATION

Prepared by Registered Professional:

Estimated quantity of Soil	Type of Material	Quantity
1) to be <i>Removed</i>	_____	_____ m ³
2) to be <i>Deposited</i>	_____	_____ m ³

Estimate prepared by: _____
(signature and seal)

Date: _____

Schedule “A” (continued)

CONSULTANT’S REPORT AND PLANS

Attached, as part of this *Application*, is the following information as required in the *Soil Removal and Deposit* Bylaw:

- purpose, scale and volume of the proposed soil *Removal* or *Deposit*, and the methods to be used;
- site plan illustrating all significant topographic and hydraulic features, buildings, structures and vegetation;
- methods of drainage control during and after the excavation or filling;
- methods to control dust, noise and visual impacts to adjacent lands;
- methods of providing landscape screening;
- methods of access to the site during the excavation;
- communications plan to advise and inform residents adjacent to the site to the operation’s activities on a periodic basis;
- certification that any *Soil* to be *Deposited* meets the Ministry of Water, Land and Air Protection criteria for the permitted land use; and
- evidence that the person or firm responsible is covered by liability insurance with a minimum coverage of \$5,000,000; and
- the *Permit Fee*, *Removal* or *Deposit* Fee and Reclamation Security.

I, _____, as applicant on my behalf, or as authorized signatory of the applicant _____, make this *Application*.
(print company name)

I confirm that the applicant has the authority to *Remove* or *Deposit* the *Soil* as provided by this *Application*.

Declared the _____ day of _____, _____.

(Signature of Applicant)

(Authorized Signature of Owner)

THE CORPORATION OF THE CITY OF PORT COQUITLAM

"SOIL REMOVAL AND DEPOSIT BYLAW, 2002, NO. 3331"

SCHEDULE "B"

SOIL REMOVAL OR DEPOSIT PERMIT NO.

PERMIT ISSUED ON: _____

PERMIT EXPIRES ON: _____

Pursuant to the City of Port Coquitlam "*Soil Removal and Deposit* Bylaw, 2002, No. 3331", this *Soil Removal or Deposit Permit* No. _____ Is hereby issued to:

_____ (the *Permittee*) of

_____ (Address) _____ (Telephone)

for the: *Removal* of _____ m³ of *Soil* from:

OR *Deposit* of _____ m³ of *Soil* on:

_____ (Address of Property)

_____ (Legal Description of Property)

The *Permittee* is subject to compliance with the Bylaw and the reports, plans and other supporting documents which form part of this *Permit* and constitute the terms and conditions of this *Permit*:

City *Engineer*

Date

THE CORPORATION OF THE CITY OF PORT COQUITLAM

"SOIL REMOVAL AND DEPOSIT BYLAW, 2002, NO. 3331"

SCHEDULE "C"

DECLARATION OF SOIL REMOVAL OR DEPOSIT QUANTITIES

PERMIT INFORMATION

SOIL REMOVAL OR DEPOSIT PERMIT NO. _____ Date of Issue _____

LAND IDENTIFICATION INFORMATION

Legal Description _____

Address _____

I hereby declare that during the period _____ to _____ inclusive, the volume of *Soil Removed* was _____ cubic metres, and that the volume of *Soil Deposited* was _____ cubic metres.

I declare that I have personal knowledge hereinafter disposed and I make solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of the *Canada Evidence Act*.

Signed:
(address)

(position title, owner, lessee or signing officer of limited company)

SWORN BEFORE ME at the City of Port Coquitlam)
in the Province of British Columbia)

this _____ day of _____,)
_____ .)

A Notary Public in the Province)
of British Columbia)
A Commissioner for taking Affidavits)
for British Columbia)

THE CORPORATION OF THE CITY OF PORT COQUITLAM

"SOIL REMOVAL AND DEPOSIT BYLAW, 2002, NO. 3331"

SCHEDULE "D"

LETTER OF CREDIT FORMAT

TO BE ON BANK LETTERHEAD

DAY OF _____, a.d. 20

Municipality
Address
Postal code

Dear Sir/Madam:

IRREVOCABLE COMMERCIAL LETTER OF CREDIT NO.

We hereby authorize you to draw on (NAME OF BANK), (ADDRESS OF BANK), Province of British Columbia, for account of (NAME OF TENDERER), up to an aggregate amount of _____ available by drafts at sight for 10 per cent of tender value;

1. Drawings are to be made in writing to (NAME OF BANK).
2. Partial drawings may be made.
3. The Bank will not inquire as to whether or not the *Municipality* has a right to make a demand on this Letter of Credit.
4. This Letter of Credit is irrevocable up to the expiry date.

DRAFTS MUST BE DRAWN AND NEGOTIATED NOT LATER THAN

The drafts under this Credit are to be endorsed hereon and shall state on their face that they are drawn under (NAME OF BANK), (ADDRESS OF BANK), Vancouver, B.C. Letter of Credit No.

Yours truly,

Manager
On Behalf of (NAME OF BANK)

THE CORPORATION OF THE CITY OF PORT COQUITLAM

"SOIL REMOVAL AND DEPOSIT BYLAW, 2002, NO. 3331"

SCHEDULE "E"

CONVERSION CHART

Sand and Gravel

BANK DEPOSIT

1 Cubic Metre
1 Cubic Metre
1 Cubic Metre

STOCK PILE DEPOSIT

1.18 Cubic Metres
1.54 Cubic Yards
2.17 Metric Tonnes

STOCK PILE DEPOSIT

1 Metric Tonne
1 Cubic Yard
1 Cubic Metre

BANK DEPOSIT

0.462 Cubic Metre
0.650 Cubic Metre
0.850 Cubic Metre