

DISTRICT OF WEST KELOWNA

BYLAW NO. 0127

A Bylaw to Regulate the Removal and Deposit
of Soil, Sand, Gravel, Rock or other Substance of which Land is Composed
From, On and To Lands within the District of West Kelowna

WHEREAS Section 8(3)(m) of the *Community Charter* authorizes Council, by bylaw, to regulate, prohibit and impose requirements in relation to the removal of soil and the deposit of soil or other material;

AND WHEREAS Section 195 of the *Community Charter* provides that Council may, by bylaw, do one or both of the following:

- (a) impose rates or levels of fees for a permit required under a municipal bylaw for:
 - (i) the removal of soil from, or
 - (ii) the deposit of soil or other material on any land in the municipality or in any area of the municipality;
- (b) impose rates or levels of fees for the activities referred to in paragraph (a);

AND WHEREAS Section 12(1) of the *Community Charter* provides that a bylaw under the *Charter* may do one or more of the following:

- (a) make different provisions for different areas, times, conditions or circumstances as described by bylaw;
- (b) establish different classes of persons, places, activities, property or things;
- (c) make different provisions, including exceptions, for different classes established under paragraph (b).

AND WHEREAS Section 195 further provides that without limiting Section 12(1) of the *Community Charter*, fees under Section 195 may vary according to the quantity of soil removed or the quantity of soil or other material deposited and may be different for different areas of the municipality;

AND WHEREAS Section 195 further provides that a bylaw under that section has no effect until it is approved by the Minister;

AND WHEREAS Section 8(3)(j) of the *Community Charter* authorizes Council, by bylaw, to regulate, prohibit and impose requirements in relation to protection of the natural environment, subject to Section 9;

NOW THEREFORE, pursuant to the above recited and other authority, the Council of the District of West Kelowna, in open meeting assembled, enacts as follows:

PART ONE DEFINITIONS, PURPOSE AND APPLICATION

TITLE

1. This Bylaw may be cited as “Soil Removal and Deposit Bylaw 2011 No. 0127”.

DEFINITIONS

2. In this Bylaw, the following terms shall have the following meanings:

“*Council*” means the Municipal Council of the District of West Kelowna;

“*deposit*” includes the act of moving soil and placing it on any parcel, highway or in any water, and includes creating a stockpile or other storage facility or otherwise storing soil;

“*Director*” means:

- (a) the person named, from time to time, to fill the position of Director of Engineering, or their alternate;
- (b) his or her deputy.

“*District*” means the District of West Kelowna;

“*farm activity*” means a business in which one or more farm operations are conducted, and includes a farm education or farm research institution to the extent that the institution conducts one or more farm operations within the limits prescribed by the *ALC Act* and regulation;

“*mine*” means a mine defined in the *Mines Act* R.S.B.C. 1996 and amendments thereto and includes gravel pits and necessary incidental operation thereto;

“*mine permit*” means a permit issued by the Minister pursuant to the *Mines Act* 1996;

“*other material*” means soil (refer to *soil* definition), manure, wood chips, organic material;

“*owner*” means, in respect of real property:

- (a) the registered owner of an estate in fee simple;
- (b) the tenant for life under a registered life estate;
- (c) the registered holder of the last registered agreement for sale;
- (d) the holder or occupier of land held in the manner referred to in Section 228 or Section 229 of the *Community Charter*;
- (e) an Indian who is an owner under the letters patent of a municipality incorporated under Section 12 of the *Community Charter*;

"*parcel*" means any lot, block or other area in which land is held or into which it is subdivided, but does not include a highway; includes a strata lot and strata common property;

"*permit*" means a soil removal or soil deposit permit issued under this Bylaw;

"*registered professional*" means an architect, engineer, geoscientist, agrologist, environmental consultant, 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*" means the act of excavating or removing soil, rock or topsoil from its naturally occurring location on any parcel or land including creek beds, river beds and submerged lands or from a stockpile or other storage facility;

"*soil*" includes sand, gravel, rock and other substances of which land is composed; includes topsoil, silt, clay, peat and any combination of soil materials, but does not include manure, wood chips or other organic material;

"*stockpile*" means any accumulation of soil which has been removed from its natural position;

"*topsoil*" means the surface layer of soil which contains organic material and is capable of supporting plant growth.

PROHIBITIONS

3. Subject to Section 9 of this Bylaw, no person will cause or permit the removal or deposit of soil greater than 1,000 cubic meters on any land within the District of West Kelowna until a permit has been granted pursuant to this Bylaw.
4. No person will cause or permit the placement of contaminated material on any land within the District of West Kelowna without a valid permit or exemption under the *Environmental Management Act*, and amendments thereto, and until a permit has been granted pursuant to this Bylaw.
5. Notwithstanding Section 9, no person will cause or permit the removal or deposit of soil on any land within the Agricultural Land Reserve unless the Provincial Agricultural Land Commission grants written approval or exemption under the *Agricultural Land Commission Act* to the District of West Kelowna.

APPLICATION OF BYLAW

6. This Bylaw applies to the removal of soil from one parcel within the District and its deposit on another parcel within the District.
7. This Bylaw applies to deposit within the District of soil removed from outside the District.
8. This Bylaw applies to the removal of soil from the District, even though the removed soil is deposited or is intended to be deposited outside the District.

PART TWO REQUIREMENT FOR PERMIT AND EXEMPTIONS

EXEMPTIONS TO PERMIT REQUIREMENT

9. A permit is not required under this Bylaw for:
 - (a) Soil removal / deposit less than 1,000 cubic metres;
 - (b) Building Permit - soil deposit or removal required for the construction, alteration, repair or demolition of a building, retaining wall, swimming pool or other structure for which a valid building permit has been issued by the District;
 - (c) Sewage Disposal System - soil deposit or removal required for the installation of a sewage disposal system for which all permits and approvals have been issued;
 - (d) Retaining Wall - soil deposit or removal required for the construction of a retaining wall for which a building permit is not required, namely one which does not exceed 1.5 metres in height from the ground level on one side to the ground level on the opposite side, and which is intended to hold the ground in place against the forces of gravity;
 - (e) Subdivision Servicing Works - soil deposit or removal undertaken in the course of construction of works in connection with a subdivision servicing agreement pursuant to Section 940 of the *Local Government Act* and in accordance with engineering plans that have been approved by the District;
 - (f) Development Servicing Works - soil deposit or removal undertaken in the course of construction of works in connection with a development servicing agreement pursuant to Section 940 of the *Local Government Act* and in accordance with engineering plans that have been approved by the District;
 - (g) Utility Works - soil deposit or removal undertaken in the course of installation and maintenance of water works, sanitary sewerage works, storm water drainage works, electrical lines, gas supply lines, telecommunications lines, and other utility works;
 - (h) Golf Course Maintenance - soil deposit or removal undertaken as part of maintenance of a golf course; and a valid business licence for that use exists;

- (i) Nursery Business - soil deposit or removal undertaken by a florist, nurseryman, or horticulturist where such soil is required for the business or used on the parcel on which that person carries on the business; and a valid business licence for that use exists;
- (j) Public Works - soil deposit or removal in any way connected with public works and activities undertaken by or on behalf of the District, a regional district, or a provincial ministry, including landscaping, parks development and maintenance, landfill and composting operations, and highway, trail and pathway construction and maintenance;
- (k) Farm Activity - soil deposit or removal up to 5,000 cubic metres per calendar year undertaken as part of a farm operation;
- (l) Minor Quantities - soil deposit or removal from any residential parcel in any calendar year, of less than 1,000 cubic metres in total of all soil deposited and removed unless the Director determines after inspecting the parcel, that such soil removal or deposit could reasonably be expected to create a hazard to an occupier of the parcel, an owner or occupier of an adjacent parcel, or persons using an adjacent highway;
- (m) Stockpiles on land where use is permitted, such as gravel pit, concrete and asphalt operations under the District's Zoning Bylaw, a valid business licence for that use exists, and in compliance with Ministry of Mines;
- (n) Contaminated soils – if the remediation of contaminated soils is carried out in accordance with the requirements of the *Environmental Management Act*;
- (o) Properties under the same ownership – soil removal or deposit within the same or adjacent properties under the same ownership;
- (p) Development Permit – for soil removed or deposited under a permit approved by the Municipal Council;
- (q) All single family lots equal to or under 1,500 m³ in size.

PART THREE **APPLICATION FOR PERMIT**

PERMIT APPLICATION

- 10. An application for a permit must be made in the form prepared for that purpose as attached to this Bylaw as Schedule "B".
- 11. A separate application for a separate permit must be made for each parcel from which soil is to be removed or onto which soil is to be deposited as per Section 13.

12. The permit application must be signed by the applicant, and if the applicant is not the owner, by all owners of the parcel, and by any other person the Director considers has an interest in the property and ought to consent to the application, and in the case of strata property, by an authorized representative of the strata corporation, plus the strata lot owner.

PERMIT APPLICATION FEE

13. Where applicable, the applicant must pay a non-refundable application fee to the District as follows:
 - (a) No Permit Fee if the amount of soil proposed to be removed or deposited is more than 1,000 cubic metres and less than 5,000 cubic metres in any one year;
 - (b) \$250.00 if the amount is greater than 5,000 cubic metres and less than 25,000 cubic metres in any one year;
 - (c) \$500.00 if the amount is in excess of 25,000 cubic metres in any one year.

PERMIT REQUIREMENTS

14. Unless directed otherwise by the Director, every application for a permit may be required to include the following information, all to the satisfaction of the Director:
 - (a) An erosion and sediment control plan prepared by a registered professional.
 - (b) An environmental assessment and/or a geotechnical and/or a hydrology report prepared by a registered professional.
 - (c) Environmental or geotechnical monitoring contract to document compliance with the conditions of the soil deposit or removal permit.
 - (d) A performance security deposit in the amount of 125% of the estimated cost to implement monitoring plans and recommendations of the registered professional.
 - (e) An evaluation of soil for contaminants or hazardous wastes under the *Environmental Management Act*.

PROFESSIONAL REPORTS

15. The Director may require the applicant for a permit to engage the services of a registered professional satisfactory to the Director to provide information and certifications related to the application for the permit that also includes the assurances and undertakings of the engineer who prepared the plans, and of the applicant for the permit in the form of Schedule “C” as attached to this Bylaw.

PART FOUR ISSUANCE AND REFUSAL OF PERMITS

PERMIT ISSUANCE

16. 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 of this Bylaw.

PERMIT CONDITIONS

17. The Director shall not issue a permit unless the Director is satisfied that the application information satisfies all of the following conditions:
 - (a) Engineering Principles - soil deposit and removal be undertaken in accordance with sound geotechnical engineering principles;
 - (b) Surface Drainage - positive gravity surface drainage be maintained in all soil deposit and removal areas, and surface drainage of adjacent land not be interrupted;
 - (c) Change of Owner - the District must be immediately notified of any change or prospective change to the ownership of the parcel to which the permit applies;
 - (d) Hours and Days of Operation - soil removal or deposit is permitted within the hours of 7:00 am to 8:00 pm on any day, unless otherwise regulated in the permit application and approved by the Director.
 - (e) No Interference with Watercourse - the permit holder must not foul, pollute the water quality of, obstruct, divert, impede the flow of, damage or destroy any watercourse, ditch, drain, sewer or water utility; or alter natural watercourse, except with the approval of the Ministry of Environment as provided for in the *Water Act* and other applicable legislations;
 - (f) No Interference with Adjoining Lands - the permit holder must not damage or destroy amenities on the parcel or adjacent lands including, without limitation, any utilities, works or services, structures, buildings, improvements or District highways;

- (g) No Bylaw Contravention - the permit holder must not contravene any bylaw of the District, including the Zoning bylaw;
- (h) Public Safety - the permit holder must not do anything that threatens the health, safety or welfare of the public;
- (i) No Erosion - the permit holder must not do anything that could result in soil on the parcel or on adjacent parcels becoming susceptible to erosion, slippage, landslides, slumping or settling;
- (j) No Nuisance - the permit holder must not permit dust, dirt or noise to escape so as to constitute a private or public nuisance;
- (k) Repair of Damage - all damage to municipally or privately-owned drainage facilities, District highways, lands, or other property, or natural watercourses, resulting from the deposit or removal, or any activities related directly to the deposit or removal, shall be, at the option of the Director, repaired by the permit holder at its own cost or the permit holder shall pay the District's costs of repairs and for this purpose, the Director may use the security provided by the holder under Section 28;
- (l) No Encroachments - the deposit operations shall not encroach upon, undermine or physically damage any property;
- (m) No Affect on Views - the size and configuration of the deposit shall not adversely affect the air, light or view of adjoining or adjacent properties, nor shall it substantially alter the appearance and nature of the surrounding area;
- (n) Overall Increase in Site Elevation – to be determined by Registered Professional, no person shall deposit soil so as to raise the elevation of a parcel more than 1.2 metres above the natural grade of an abutting property, except as required by the Ministry of Environment, Lands and Parks for flood protection.

INCORPORATION OF APPLICATION INFORMATION

18. Any permit issued is subject to compliance with all the conditions in Section 17, and in addition, all plans, specifications and other information forming part of an application, as approved by the Director, shall form part of and be incorporated in and be a condition of 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, as approved by the Director.

PERMIT DURATION

19. The term of a permit shall be one (1) year, or a lesser term if required by the Director. The permit expires at the end of the term unless otherwise approved by the Director.

NO SOIL PROCESSING

20. The issuance of a permit does not constitute authority to conduct processing of soil on the property if not appropriately zoned for such use.

REFUSAL OF PERMIT

21. The Director may refuse to issue a permit:
- (a) Non-Compliance with Bylaw - if the applicant has not complied with the requirements of this Bylaw;
 - (b) Unsatisfactory Information - if the information supplied by the applicant is not satisfactory to the Director;
 - (c) Hazardous Conditions - if the Director considers, based on information provided by a registered professional, that the soil deposit or removal would likely create a hazard to persons or property, or damage to the environment, or irreparable damage to highways or other public property;
 - (d) Registered Charges - if the Director considers the soil deposit or removal is contrary to a registered covenant or would unreasonably interfere with a registered easement, right of way or other interest registered against title to the parcel;
 - (e) Breach of Bylaws - if the applicant or owner is in breach of the District's building bylaw, zoning bylaw, business licence bylaw, noise bylaw or unsightly premises bylaw in respect of the subject parcel or other properties;
 - (f) Agricultural Land – if the Director considers the soil removal or deposit would constitute a non-farm use of agricultural land within the Agricultural Land Reserve not permitted by the *Agricultural Land Commission Act* or its regulation;
 - (g) Other Permits - if the applicant has not been issued any other required permit or approval, including a development permit or building permit to be issued by the District.

PART FIVE

DAMAGE DEPOSIT

FEES

22. For each permit issued by the Director under this Bylaw, at the time of issuance of a permit, the applicant must pay a Damage Deposit as per Schedule "E".

REFUND OF PERMIT FEE

23. A refund of 50% of the permit fee will be returned to the permit holder if the permit holder fails to remove or deposit soil. If the permit holder does not remove or deposit the quantity of soil authorized by the permit, a refund of 50% of the reduced amount shall be returned to the permit holder.

MEASUREMENT OF SOIL VOLUMES

24. For each permit which authorizes soil removal or deposit in an amount greater than 1,000 cubic metres, the holder of the permit shall (at the end of each month) (or otherwise requested by the Director) provide the District with a truck manifest or a report, prepared and certified by a registered professional, and to the Director's satisfaction (who may require a survey certificate), as to the total amount of soil deposited and removed from the parcel in the prior month. All volumetric measurements are based on loose material (un-compacted hauled material).

FEE FOR EXCESS SOIL DEPOSIT OR REMOVAL

25. No holder of a permit may remove or deposit soil in excess of the volume authorized by the permit.
26. Notwithstanding, if the reports provided to the District pursuant to Section 24 indicate that excess soil has been removed or deposited, or if the District otherwise learns that excess soil has been removed or deposited, then without limiting the enforcement steps the District may take, the permit holder must pay to the District an additional fee for the excess soil of \$0.50 per cubic metre over and above the basic rate.

FEES FOR SOIL REMOVAL OR DEPOSIT WITHOUT A PERMIT

27. Where a person removes or deposits soil without a permit in breach of this Bylaw, without limiting the enforcement steps the District may take, the person shall pay to the District a fee, in the amount of \$2.20 for each and every cubic metre of soil removed or deposited, whether or not a permit is subsequently issued.

PART SIX SECURITY

SECURITY – DAMAGE TO PUBLIC ROADS

28. Prior to the issuance of a permit for the removal / deposit of soils greater than 5,000 cubic metres, the applicant is required to provide security for the repair or replacement of the municipality's infrastructure, based on a report from a registered professional, an amount required by the Director, in the form of:

- (a) a certified cheque or bank draft; or
 - (b) a clean, unconditional, irrevocable standby letter of credit drawn on a Canadian chartered bank/Credit Union and otherwise in a form acceptable to the Director in an amount equal to 30% of the estimated cost of the repair work to be performed under the permit to a maximum of ten thousand dollars (\$10,000.00), to ensure full and proper compliance with the provisions of this Bylaw and all terms and conditions of the permit.
29. The owner agrees that if the road repair works or any part thereof is not completed in accordance with the provisions of this agreement by the Completion Date, the District, in its authority under this agreement, may, upon reasonable notice, draw upon the aforementioned security and complete the work at the expense of the owner. It is understood and agreed that the District may do such work either by itself, or by contractors employed by the District.
30. The permit holder must meet all conditions of permit prior to release of security.
31. Within thirty (30) days of receiving the report from the registered professional pursuant to Section 30, the District must:
- (a) return the security to the permit holder; or
 - (b) reject the report and give notice to the permit holder of the deficiencies in the report or in the reclamation of the area authorized by the permit.

**PART SEVEN PERMIT TRANSFERS, AMENDMENTS, SUSPENSIONS
AND CANCELLATIONS**

NO PERMIT TRANSFERS

32. If the parcel to which a permit applies is transferred to a new owner, the permit will be deemed to be terminated and the new owner must apply to the Director for a new permit.

PERMIT AMENDMENTS

33. Any deviation from the approved works (as approved in the Soil Removal and Deposit Permit) will require prior approval of the Director. The fee for permit amendment shall be \$100.00.

PERMIT SUSPENSIONS AND CANCELLATIONS

34. If:
- (a) the permit holder fails to comply with this Bylaw; or
 - (b) the permit holder fails to comply with the permit; or
 - (c) 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;

then the Director may:

- (i) suspend in whole or in part the rights of the permit holder under a permit; or
- (ii) cancel the permit; or
- (iii) amend or attach new conditions to a permit consistent with the conditions in Section 17, without the consent of the permit holder.

NOTICE OF PERMIT SUSPENSION OR CANCELLATION

35. If the Director intends to suspend or cancel a permit or amend permit conditions or impose new conditions, the Director must give a permit holder reasonable written notice of the suspension, cancellation or amendment of conditions or additional conditions and the Director's reasons, and if the permit holder does not remedy the matter within the stipulated notice period, the Director may, without any further notice, suspend, modify or cancel the permit, depending on the Director's assessment of all relevant factors.

RECONSIDERATION

36. Where an applicant for a permit or a permit holder subject to a decision made by the Director pursuant to Section 35 of this Bylaw is dissatisfied with the decision, the applicant or permit holder may apply to the Council for reconsideration of the matter within thirty (30) days of the decision being communicated to him or her.
37. An application for reconsideration must be delivered in writing to the Corporate Officer of the District and must set out the grounds upon which the applicant or permit holder considers the decision of the Director is inappropriate and what, if any, decision the applicant considers the Council ought to substitute.
38. The Corporate Officer of the District must place each application for reconsideration on the agenda of a regular meeting of Council and must notify the applicant and any other party who the Corporate Officer reasonably considers may be affected by the reconsideration, of the date of the meeting at which the reconsideration will occur.

39. At the meeting, the Council may hear from the applicant and any other person interested in the matter under reconsideration who wishes to be heard, and may either confirm the decision of the Director or substitute its own decision.

PART EIGHT POST-PERMIT REPORT

COMPLETION OF OPERATIONS

40. Unless a permit is renewed under this Bylaw, then within one (1) month after expiry of a permit, the permit holder shall deliver to the Director if required:
- (a) 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; and
 - (b) a declaration stating the total amount of soil removed and/or deposited.

PART NINE ENFORCEMENT

ORDERS BY DIRECTOR

41. At any time the Director may give notice in writing to the permit holder that the permit holder is in contravention of this Bylaw or in contravention of the permit, and the Director may order the permit holder to take such steps or cease such activities as are outlined in the Director's order.

RECORDS

42. The Director may for the purposes of determining compliance with this Bylaw, request records of soil removal and deposit volumes maintained by the permit holder.

INSPECTION

43. (a) The Director or a District Bylaw Enforcement Officer may enter at any reasonable time upon any parcel to determine whether this Bylaw is being observed or whether the terms of a permit are being observed. Any person who does not comply with this Bylaw or the conditions of a permit shall, in addition to any penalties levied by this Bylaw, be required to compensate for any resultant damage to District or Provincial drainage facilities, highways, or other District or Provincial property or facilities.
- (b) Except where the site is a "MINE" pursuant to the *Mines Act*, for such sites, the Director or a District Bylaw Enforcement Officer shall comply with the site entry provisions of the Health, Safety and Reclamation Code for Mines in British Columbia.

OFFENCES

44. An offence is committed against this Bylaw by every person who:
- (a) conducts any removal or deposit without a permit if a permit is required;
 - (b) fails to comply with any of the terms or conditions of a permit;
 - (c) allows any act or thing to be done in contravention or violation of this Bylaw or any part of a permit;
 - (d) being the owner or occupier of a parcel, fails to prevent any other person from contravening any part of this Bylaw or a permit issued under it;
 - (e) fails to comply with any order or notice given under this Bylaw; or
 - (f) violates any of the provisions of this Bylaw.

PENALTIES

45. Every person who commits an offence under this Bylaw or a permit issued under it is liable upon summary conviction to a fine not exceeding ten thousand dollars (\$10,000.00) and not less than one thousand dollars (\$1,000.00) for each offence.
46. Each day of any violation, contravention or breach of this Bylaw or a permit issued under it shall be deemed to be a separate and distinct offence. Where an offence is a continuous one, each day that the offence is continued shall constitute a separate offence.
47. Nothing in this Bylaw shall limit the District from pursuing any other remedy that would otherwise be available for a contravention of this Bylaw.

SEVERABILITY

48. If any section, subsection, clause or phrase of this Bylaw is for any reason held to be invalid or illegal by a decision of any court of competent jurisdiction, it shall be severable, and such a decision shall not affect the validity of the remaining sections, subsections, clauses or phrases of this Bylaw.

SECTION HEADINGS

49. Section or subsection headings are inserted in this Bylaw for ease of reference and are not to be used in interpreting this Bylaw.

PASSED FIRST READING, JUNE 14, 2011

PASSED SECOND READING, JUNE 14, 2011

PASSED THIRD READING, JUNE 14, 2011

RESCINDED THIRD READING, OCTOBER 23, 2012

PASSED THIRD READING AS AMENDED, OCTOBER 23, 2012

APPROVED BY THE MINISTRY OF COMMUNITY, SPORT AND CULTURAL DEVELOPMENT,
NOVEMBER 14, 2012

ADOPTED, DECEMBER 11, 2012

“DOUG FINDLATER”

MAYOR

“TRACEY BATTEN”

CITY CLERK



District of West Kelowna

Bylaw No. 0127

SCHEDULE "A"

SEDIMENT CONTROL BEST MANAGEMENT PRACTICES

The following Best Management Practices for erosion control are suggested for consideration as they apply to works undertaken under a soil deposit and removal permit:

1. Try to restrict works where possible to dry weather.
2. Sloping Terrain (20% to 30%):
 - interceptor ditches at 5 meter intervals vertically
 - sediment control pond for 1.0% of total disturbed area, or in accordance with a design with a registered professional engineer with all runoff from the disturbed area directed to the pond; and
 - as required for Other Areas
3. Other Areas:
 - poly-covering of exposed areas and stockpiles subject to erosion;
 - seeding to all disturbed areas in the growing season (prior to September 15);
 - diversion swales for all slopes exceeding 30 m. in length;
 - silt fence properly installed around all stockpiles or unvegetated fill areas;
 - gravel site access pad installed prior to fill activity;
 - gravel berm or silt fence installed beside all curb and gutter areas prior to fill activity; and
 - silt trap at all catch basins.



Bylaw No. 0127

SCHEDULE “B”

District of West Kelowna
2760 Cameron Road
West Kelowna, BC V1Z 2T6
Ph: 778-797-8840
Fax: 778-797-1001

SOIL REMOVAL AND DEPOSIT PERMIT APPLICATION NO. _____

APPLICANT

Name: _____
Address: _____
Contact: _____

LAND DESCRIPTION (If your property is located within the Agricultural Land Reserve it may be necessary to first obtain an approval from the BC Agricultural Land Commission)

Legal Description: _____
Address: _____
Land Owner Name: _____
Land Owner Address: _____
Land is within ALR: Yes No

APPLICATION FEE (Reference to Bylaw 0127, Part 3, Section 13) **Paid**

SOIL **Removal** **Deposit**
Soil Origin (Property Address): _____
Cubic metres: _____ Purpose: _____
Date of removal / deposit: _____ Description of soil: _____
Completion Date: _____

REQUIREMENTS Please provide information in accordance with Part 3 of Bylaw 0127 including but not limited to the following:

- A site plan of the property on which the removal/deposit of soil is proposed (clearly identify: adjoining roads, structures, watercourses, tree cover, utilities, well, septic field and exact location and depth of the proposed fill) incl. covenants, ROWs, easements.
- The proposed method of noise and dust control during the removal / deposit of soil and compaction of fill.
- The proposed method of access to the site during the removal / deposit operation, the proposed truck route for moving the soil and the frequency of trucking operation.
- A site grading plan including the existing conditions and the proposed grading and rehabilitation which will be proposed upon project completion.
- A report from a registered professional on the condition of the subject public road(s) prior to commencing hauling of soil.
- A communication plan for notifying owners and occupiers of the properties located along the hauling route, of the following:
 - dates and times that hauling will occur
 - map/description of the route that haulers will use
 - name, telephone number, cellular telephone number and email address of the contractor/owner

Drainage and erosion control plans.

Copies of any permits and approvals of Federal or Provincial authorities required by statute or regulation in connection to soil removal / deposit.

I HEREBY DECLARE that the above information is correct, that it is my intention to remove/deposit fill on the property in accordance with the attached plans and specifications and information, that I am aware of the provisions of the District of West Kelowna Soil Removal and Deposit Bylaw No. 0127 and that I will abide by all applicable provisions of said bylaw and such terms and conditions as may form part of any Soil Removal and Deposit Permit issued pursuant to this Application.

I further agree to indemnify and hold harmless the District of West Kelowna, its agents, employees or officers from and against any claims, demands, losses, costs, damages, actions, suits or proceedings whatsoever by whomsoever brought against the District, its agents, employees or officers by reason of the District granting the owner and contractor named herein the Soil Removal and Deposit Permit to conduct the work in accordance with the plan submitted and described in this application.

Signature: _____

Date: _____

Processing information: (to be filled out by the District of West Kelowna staff)

ALR Approval _____

Development Permit _____

Ministry of Environment, Lands and Parks Approval _____

Title and Legal Description Correct _____

Zoning Correct _____

Authority of Owner Provided _____

Survey site plan as required _____

Geotechnical Certification as required _____

District site visit conducted _____

Other Requirements:

Application Approved by the District of West Kelowna

Date

Director



District of West Kelowna

Bylaw No. 0127

SCHEDULE "C"

**ASSURANCE OF GEOTECHNICAL DESIGN FOR
SOIL REMOVAL/DEPOSIT AND COMMITMENT FOR FIELD REVIEW**

Date:

Director of Engineering
District of West Kelowna
2760 Cameron Road
West Kelowna, BC V1Z 2T6

Dear Sir:

Re: Application for Soil Removal/Deposit Permit at _____
(civic address)

I, the undersigned registered professional engineer/landscape architect hereby give assurance that the design, location, quality, nature, depth, volume and configuration of the fill to be removed/deposited and works to be constructed and undertaken in support of and in relation thereto all as shown on the plans and supporting documents prepared and signed by me and attached to this letter are consistent with sound reasonable engineering fill and soil deposit practice, and when and if carried out in conformance with such plans and specifications will not constitute any reasonably foreseeable risk or hazard to persons or property.

The undersigned undertakes to conduct such supervision, testing and field review to ensure filling complies with the plans, specifications and supporting documents attached hereto.

I assure you that I have been given the authority by the owner of the lands on which the soil is to be removed/deposited and by the applicant for the permit (if different from the owner) to stop, remove or redirect the removal/deposit of fill as required in my judgment and as required to comply with the plans, specifications and supporting documents attached hereto.

I will notify you in writing immediately if my contract for field review, testing or supervision is terminated or limited at any time before the completion of filling described in the plans, specifications and supporting documents attached hereto.

(affix professional seal)

Signature

Name (Please Print)

Address

Address

I, the applicant for the Soil Removal/Deposit Permit for the placement of fill at the above address, acknowledge that I have read this letter and agree with its contents. I have also reviewed the plans, specifications and supporting documents attached to this letter and agree with them. I advise you that I have given

(name of registered professional)

the authority to conduct testing, field review and to supervise filling including the authority to stop the placement of fill, remove fill or redirect it as set out in this letter. I acknowledge and understand that all authority and permission to remove/deposit fill under any permit issued to me pursuant to any application will automatically cease and be suspended if the registered professional's services are terminated or limited and will not be reinstated until such time as another registered professional submits to you a signed and completed letter in this form.

Witness's Signature

Signature of Applicant for Permit

Name (Print)

Name (Print)

Address

Address

or:

The Corporate Seal of _____

was hereto affixed in the presence of:

Director

Director



District of West Kelowna

Bylaw No. 0127

SCHEDULE "D"

SOIL REMOVAL AND DEPOSIT PERMIT NO. _____

Pursuant to the District of West Kelowna Soil Removal and Deposit Bylaw No. 0127, permission is hereby granted to:

_____ (name)

of _____ (address) (phone)

to deposit _____ cubic metres of _____ upon the

_____ (address of property)

_____ (legal description of property)

in accordance with the provisions of the District of West Kelowna Soil Removal and Deposit Bylaw No. 0127, Application No. _____ and the plans, specifications and other supporting documents filed therewith as approved, and initialed as approved by the permit holder, all which form a part of this Permit and constitute the terms and conditions of this Permit.

Conditions: (to be stipulated by the District of West Kelowna)

This permit is issued on the condition that the permit holder fully complies with all provisions of the District of West Kelowna Soil Removal and Deposit Bylaw No. 0127 and all terms and conditions herein of this Permit.

Received from _____, dated _____, the sum of \$ _____ as Soil Removal and Deposit Fee (if applicable).

This Soil Removal and Deposit Permit is issued (date) _____, and shall expire twelve months after the day of issuance.

Director

Bylaw No. 0127

SCHEDULE “E”



District of West Kelowna
2760 Cameron Road
West Kelowna, BC V1Z 2T6
Ph: 778-797-8840
Fax: 778-797-1001

Damage Deposit

Name: _____
(please print)

Current Mailing Address:

Street Address: _____

City: _____ **Postal Code:** _____

Phone _____ **E-mail:** _____

Project Address: _____

I have read the above information sheet and advise that there is no visible damage to Municipal property or services fronting the lot on which I propose to build, other than that which has already been reported.

Signature: _____ **Date:** _____

Each property owner from which soil is proposed to be removed or to be deposited to, shall be responsible for all street cleaning required due to this activity, and will provide a refundable Damage Deposit of \$500.00 which can be used if this work is not carried out to the satisfaction of the Director.

Purpose of Damage Deposits

- “Right of Way Damage” includes damage to any Municipal infrastructure that is sustained as a result of soil removal or deposit operations. It also includes the depositing of mud, gravel, building materials, any other debris on the public right of way, or damage to an Environmentally Sensitive Area (ESA);
- Damage deposits are used for repair of any damage to public property caused by construction activity;
- Funds on deposit do not earn interest;
- To ensure the return of the appropriate deposit, the applicant must make every effort to cause no damage and keep adjacent streets boulevards clear of debris, construction materials, etc.;
- Deposits may be used for repairs or clean-up if owner does not repair or clean-up damage within the time period required by the Municipality.

Responsibility for Damages

Existing Damage:

The applicant(s) will be held responsible for damages unless properly documented in writing and registered with the District **prior** to any construction activities.

Applicant(s) Liable for all Damages:

The applicant(s) is responsible for the cost of all repairs to Municipal property, whether or not the applicant(s) causes damage directly or is caused by sub-trades, etc.

Fencing District Trees and ESA Protected Areas:

Before any demolition, move-off, construction or other work commences:

- All boulevard trees must be fenced and protected according to the diagram;
- Trees may not be pruned or removed;
- The applicant(s) will be held responsible for repair or replacement of any damaged trees regardless of their size;
- All protected ESA areas must be fenced and protected as per the Development Permit.

Boulevard Tree Protection:

- All boulevard trees must be protected regardless of their size;
- Open-mesh "see-through" fencing must be used to provide for clear visibility of fire hydrants, driveways, crosswalks, etc.;
- Trees may not be pruned to meet these standards;
- Applicants should take care to avoid underground utilities when staking fences;
- Except as approved by the Public Works Inspector, barrier fencing must:

- be as wide as practical in a direction perpendicular to the adjacent roadway;
- extend to the drip line/branch extremities of the tree canopy in a direction parallel to the adjacent roadway.

Moving Heavy Equipment:

Applicant(s) must take all necessary precautions to protect District property from equipment damages.

Streets to be Clear of Debris at All Times:

Adjacent streets and lanes are to be kept clear of excavation material, building material, debris, etc. Tracked mud on District streets is very dangerous and will be cleared immediately by District crews at the applicants' expense.

No Storage on District Property during Construction:

Storage of materials on District property is prohibited. Any stored material may be removed at the owner's expense without prior notice.

Prior to Damage Deposit Being Refunded Carry Out The Following

Clean-up:

Ensure that all work on the site is completed (including clean up of debris and reinstatement of grass landscaping on District Property) before requesting an inspection.

Damage by Others:

A prompt request for refund will ensure that you are not held liable for damage incurred by the other contractors, new owners, etc.

Damage to Other Infrastructure:

This damage deposit does not cover any damage that may occur to infrastructures owned by other agencies such as BC Hydro, Telus, etc.