



TOWN OF VIEW ROYAL
SOIL DEPOSIT/REMOVAL BYLAW NO. 869
CONSOLIDATED FOR CONVENIENCE

(Amendment Bylaw No. 915)

**A BYLAW TO REGULATE THE DEPOSIT AND REMOVAL OF SOIL FROM LANDS WITHIN
THE TOWN OF VIEW ROYAL**

The Council of the Town of View Royal, in open meeting assembled, enacts as follows:

Citation

1. This Bylaw may be cited for all purposes as "Soil Deposit/Removal Bylaw, No. 869, 2013".

Repeal and Consequential Amendments

2.
 - (a) Section 62 of the Town of View Royal Land Use Bylaw 1990 No. 35: "Soil Deposit and Removal Requirements" and Schedule 15 to that Bylaw are repealed.
 - (b) Schedule 13 to the Town of View Royal Land Use Bylaw 1990 No. 35 is amended by deleting Section 12.

Definitions

3. In this bylaw,

"Aquifer" means a water-bearing stratum of rock, sand or gravel.

"Buffer Zone" means an area of land between the boundaries of a parcel and a Soil Removal or Deposit Area.

"Town" means the Town of View Royal.

"Town Staff" means the Chief Administrative Officer or any staff designated by him or her to administer this Bylaw.

"Permit" means a permit authorizing the removal or deposit of Soil under this bylaw.

"Permit Holder" means a person to whom a Permit is issued under this Bylaw and includes a person to whom a Permit is transferred with the approval of the Town Staff.

"Holiday" means all civic holidays.

"Removal or Deposit Fee" means the fee payable to the Town by a Permit holder for the removal or deposit of Soil pursuant to this bylaw.

"Security" means cash, a certified cheque or an automatically renewing, irrevocable and unconditional letter of credit issued by a chartered bank or a credit union having a place of business in View Royal.

"Soil" means soil, sand, gravel, rock, silt, clay, peat or any other substance of which land is composed, or any combination of them, whether or not it is in or put in a stockpile or storage facility, and does not include any compost or biosolids placed on land as a soil amendment or conditioner.

"Soil Removal or Deposit Area" means the specific area of a parcel of land on which soil may be deposited or from which soil may be removed, indicated as such in a Permit issued under this bylaw.

Requirement for Soil Removal and Deposit Permit

4. Subject to the other terms of this bylaw, no person shall remove, deposit, or cause to be removed or deposited any Soil from or on any land in the Town unless the person:
 - (a) has applied for and been issued a Permit for such removal or deposit and carries out the removal or deposit in accordance with this bylaw and the terms and conditions set out in the Permit; or
 - (b) meets one or more of the Permit Exemptions listed in Section 5.

Permit Exemptions

5. No Permit is required pursuant to this bylaw for the removal or deposit of Soil in any part of the Town where the removal or deposit of Soil:
 - (a) totals less than 20 cubic metres from or on a parcel of land over a period of 12 consecutive months, provided that any deposit of Soil does not exceed 200mm in depth from the finished grade prior to the deposit;
 - (b) is necessary to construct buildings or structures authorized by a building permit issued by the Town or to undertake maintenance of an existing driveway that does not involve grade alterations;
 - (c) is carried out by or on behalf of the Town;
 - (d) involves only the relocation of Soil within the boundaries of the parcel from which it originates, provided that the removal or deposit meets the conditions in Section 11;
 - (e) is required as part of a Soil remediation process approved under provincial or federal regulation;
 - (f) is required for the construction or repair of works, roads, highways or services by or on behalf of the Town, the Capital Regional District, or provincial or federal government agencies;
 - (g) is the deposit or removal of wood waste on or from land on which it has been lawfully produced; or
 - (h) is on land used for commercial landscape supply, horticultural use or as a nursery and such deposit or removal is undertaken as part of the commercial operation.

Permit Application

6. An application for a Permit shall:

- (a) be made in the form prescribed by the Chief Administrative Officer or his/her delegate;
 - (b) contain all of the information regarding the proposed Soil removal or deposit activity as required within the form, except to the extent that Town Staff have advised the applicant in writing that the information is not required in view of the scale or location of the proposed activity; and
 - (c) be accompanied by a non-refundable Permit application fee specified in Schedule B.
7. An application that does not contain the required information shall be considered incomplete, and the Town Staff or Council shall be under no obligation to consider the application.

Soil Deposit/Removal Activities Requiring Permits

8. Medium Deposit/Removal Activities

Every application for a Permit for between 20 and 500 cubic meters of Soil within a period of 12 consecutive months shall be considered by Staff and shall contain information regarding the proposed Soil Removal or Deposit Area as per the application form described in Section 6, except to the extent that the Town Staff determines that the information is not reasonably necessary in view of the scale or location of the proposed Soil removal or deposit:

9. Large Deposit/Removal Activities

All applications for the deposit or removal of more than 500 cubic meters of Soil within a period of 12 consecutive months shall provide the information required by Section 8, and the application shall be considered by Council.

Permit Issuance Conditions

10. The Town Staff or Council may impose on a Permit any conditions that relate to matters listed in an application form as per Section 6, including any requirement to provide a certification described in Section 15, and the Permit holder shall strictly comply with those conditions.
11. The Town Staff or Council shall not issue a permit to an applicant if the proposed removal or deposit of Soil would:
- (a) obstruct, divert, impede the flow of, damage or destroy any watercourse, ditch, drain, sewer or water utility, or domestic water well;
 - (b) interfere with the operation of any utilities, works or services, structures, buildings or improvements on the lands on which soil is to be deposited or from which soil is to be removed, or adjacent lands;
 - (c) contravene any bylaw of the Town;
 - (d) result in Soil on the lands or on adjacent lands becoming, in the opinion of a Professional Engineer or Geoscientist, susceptible to erosion, slippage, landslides, slumping or settling;
 - (e) occur on a Sunday or a Holiday;

- (f) occur outside the hours between 7am and 6pm;
 - (g) be likely to result in the escape of dust, dirt, or noise from the lands on which the activity is occurring to adjacent parcels or highways, to an extent that can reasonably be considered to interfere with such uses of the parcels as are permitted by the Zoning Bylaw or with the use of the highways for highway purposes; or
 - (h) result in the growth of invasive plant species on the lands that are subject to the Permit as a consequence of the presence of seeds, roots, cuttings or other plant fragments in soil or other material deposited on the lands.
12. Subsections 11(a) through 11(h) constitute offences under this bylaw.
13. The Town Staff may require the applicant for a permit to engage a Professional Engineer or Geoscientist, at the applicant's expense, to prepare an opinion for the purposes of subsections 11(a) and 11(d).

Form of Permit

14. Permits shall be issued in the form prescribed by the Chief Administrative Officer or his/her delegate.
15. If required under the terms of the Permit, upon completion of the Soil removal and deposit authorized by a Permit, the Permit holder shall deliver to the Town Staff a certificate from a Professional Engineer or other consultant or person specified by the Town Staff stating that all Soil removed or deposited was removed or deposited in substantial compliance with the requirements of the Permit and good environmental and Engineering practices.

Security

16. Prior to the issuance of a Permit, the applicant for the Permit shall deposit with the Town Staff Security in the amount of \$2,000.00 for each 0.5 ha, or part thereof, of the area from which soil is to be removed or on which soil is to be deposited. The maximum amount of security to be taken shall be \$10,000.00.

Renewal of Security

17. The holder of the Permit shall renew the Security, in the event it has been provided by certified cheque, by providing a new certified cheque at least two weeks prior to the passage of one year from the date the last certified cheque was deposited. In the event the Security is not so renewed, the Town may, without notice to the Permit holder, cash the certified cheque previously provided and hold the cash as the Security, without any obligation to pay interest.

Compliance and Use of Security

18. If at any time the Permit holder fails or refuses to comply with any condition or obligation under this bylaw or the Permit or any direction given by the Town Staff pursuant to this bylaw then the Town may, at its discretion, enter on the land that is the subject of the Permit, carry out the work at the cost of the owner, and deduct from the Security the cost incurred by the Town as a result of the failure or refusal or recover the cost from the owner as a debt or, where Section 258 of the *Community Charter* applies, in the same manner and with the same remedies as property taxes.

Replenishment of Security

19. In the event that the Town uses all or part of the Security, the Permit holder shall forthwith deposit new Security on the terms set out above, so that the amount of Security held by the Town is the full amount required by this bylaw. The Permit shall be considered to have been revoked unless the Security is maintained in the full amount required by the bylaw.

Return of Security

20. When the Permit holder completes all reclamation and other work and conditions required by the Permit to the satisfaction of the Town Staff and the Permit holder has paid to the Town all fees payable under this bylaw, the Town shall return the Security, or whatever amount of it remains, to the Permit holder who provided the Security.

Quantity Reports

21. The Permit holder shall, in the case of removal or deposit of Soil for which a fee is payable:
 - (a) submit to the Town Staff, in the form described within Section 6, a monthly report prior to the end of each month documenting the volume of Soil removed or deposited during the preceding month;
 - (b) maintain accurate and up-to-date records of all Soil removed and deposited and make these records available for inspection by the Town Staff on request; and
 - (c) submit to the Town Staff an annual declaration, in the form described in Section 6, by December 31 of each year, certified by a Professional Engineer, detailing all quantities of Soil removed and deposited in the preceding calendar year, whether or not reported under clause (a), and signed by the Permit holder indicating compliance with the provisions of this bylaw and the Permit.

Soil Removal or Deposit Fee

22. The Permit holder shall pay to the Town at the time of submitting the monthly report described in Section 21 the Soil Removal or Deposit Fee specified in Schedule B of this bylaw, in respect of each cubic meter of Soil removed or deposited.

Timing of Payment

23. The Town may recover unpaid Soil Removal or Deposit Fees from any Security provided by the Permit holder and Section 18 shall apply.

Conversion Chart

24. Where Soil is quantified in terms of tonnes, cubic yards, or both, the conversion chart contained in Schedule A of this bylaw applies for the purpose of the calculation of Removal or Deposit Fees.

Repair of Damage

25. All damage to Town drainage facilities, roads, lanes, or other Town property resulting from the removal or deposit of Soil shall be repaired immediately by the Permit holder.

26. In the event that the Town Staff determines that the transport of Soil on a Town highway is causing damage to the highway beyond what is reasonable and ordinary in view of the nature or existing condition of the highway, the Town Staff may, by providing written notice to the person transporting Soil and by posting appropriate highway signage, prohibit such traffic on the highway, and the Town may, but is not obliged to, enter into an agreement with any person wishing to transport Soil on the highway despite the prohibition. The Council delegates to the Town Staff the authority to determine the amount of compensation that is reasonable for the damage to the highway and the resulting expense to the Town, for inclusion in an agreement under Section 37 of the *Community Charter*, and to execute such agreements on behalf of the Town. Notice may be provided under this section by serving a copy on the holder of the business licence for the transport business, on the holder of the Permit authorizing the deposit or removal of the Soil, on the owner of the land to or from which Soil is being transported, or on any person operating a vehicle transporting the Soil. Nothing in this section applies to the transport of Soil on an arterial highway.

Cleanliness

27. No person shall deposit or cause or permit to be deposited soil upon a highway.
28. All vehicles used to transport soil over highways shall be cleaned of soil on the wheels, tires and chassis before leaving the Soil Deposit/Removal Area such that soil is not deposited on any highway.
29. Soil deposited on a highway shall be removed immediately.

Buffer Zone

30. A Buffer Zone of the lesser of seven metres and the applicable building setback in the Land Use Bylaw shall be maintained at all times around each Soil Deposit or Removal Area. This provision does not apply with respect to deposits or removals necessary for an approved driveway connection to a road.

Stockpiling

31. The Permit holder shall confine stockpiles of Soil to the Soil Removal or Deposit Area to which the Permit relates and shall maintain them so that:
- (a) erosion and instability are prevented; and
 - (b) they do not adversely affect or damage adjacent properties or Buffer Zones.

No Encroachment

32. The Permit holder shall ensure that the operation by which Soil is removed or deposited does not encroach upon, undermine, or physically damage any adjacent property.

Safety

33. Any ponding which forms within the Soil Deposit and Removal Area shall be covered or appropriately fenced at locations where the public has access.

Reclamation

34. At the expiry or revocation of a Permit, the permit holder shall complete such grading and other reclamation activities as are specified in the Permit.

Revocation of Permit

- 35.
- (a) If the Permit Holder is in breach of any provisions of this Bylaw or the Permit Town Staff may issue and post a Stop Work Order until such time as the breach has been rectified.
 - (b) Where a Stop Work Order has been posted on a property, the Permit holder and every other person shall cease all Soil removal or deposit activities on that property immediately and shall not undertake any Soil removal or deposit activities on that property until all applicable provisions of this Bylaw have been substantially complied with and the Stop Work notice has been rescinded in writing by the Town Staff.
 - (c) Notwithstanding Sections 35(a) and 35(b) the Permit holder shall correct any deficiencies to the satisfaction of the municipality. The municipality may require an updated Quantity Report as per Section 21 as a result of any actions described in Sections 35(a) and 35(b).
36. If the Permit holder fails to comply with any requirement of this bylaw, a Stop Work Order or any requirement or condition of the Permit, the Town Staff may revoke the Permit by written notice to the Permit holder. Notice to the Permit holder is sufficient if a letter is mailed or delivered to the address of the Permit holder as shown on the Permit.

Permit Renewal

37. If a Permit holder applies for a renewal of a Permit, the Town Staff shall issue the renewal if:
- (a) 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 this Bylaw and the conditions of the Permit; and
 - (b) the Permit holder has provided to the Town any additional security required under Section 16 in relation to any such material changes.

Transfer of Permit

38. If the land to which a Permit relates is sold such that the Permit holder is no longer the owner of the land or the Permit holder no longer has the right to use the land for removal or deposit of Soil; the Permit shall remain valid only if it is transferred in accordance with Sections 38 to 42.
39. The Town Staff may approve a transfer of a Permit by the Permit holder to another person who otherwise has the right to remove or deposit the Soil to which the Permit relates.
40. All applications for Permit transfers must be in writing and accompanied by a non-refundable transfer fee as specified in the Town's Fees and Charges Bylaw and evidence

satisfactory to the Town staff that the proposed transferee has the right to remove or deposit the Soil to which the Permit relates.

41. The Town Staff may refuse to approve a Permit transfer if the Permit Holder does not provide evidence satisfactory to the Town Staff that any Soil removal or deposit that has occurred pursuant to the Permit is in compliance with the provisions of this bylaw and the Permit.
42. The person to whom a Permit is being transferred must provide the Security required by Section 16 prior to the approval of the transfer, and upon received such replacement Security the Town shall return the existing Security to the original Permit holder.

Term of Permit

43. A Permit shall remain valid until the earliest of:
 - (a) the date of completion of the Soil removal or deposit authorized by the Permit;
 - (b) the expiry date specified in the Permit, which shall not be more than 12 months from the date of issuance of the Permit; and
 - (c) the date of revocation of the Permit under this bylaw.

Severability

44. If any section, subsection, sentence, clause or phrase of this bylaw is for any reason held to be invalid by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses or phrases of this bylaw.

Appendices

45. The Schedules attached to this bylaw form a part of this bylaw.

Contraventions

46. Every person who violates, contravenes, or commits any breach of a provision of this bylaw, including a contravention of a Permit, shall be guilty of an offence punishable on summary conviction pursuant to the Offence Act, and shall be liable to pay a maximum fine as specified in the Town's Municipal Ticket Information Bylaw and each day of any violation, contravention or breach of this bylaw shall be deemed to be a separate and distinct offence.

Headings

47. The headings to the provisions of this bylaw are inserted for convenience of reference only and shall neither form part of nor affect the interpretation of this bylaw.

List of Schedules

48.
 - (a) Schedule A – Conversion Chart
 - (b) Schedule B – Fees

READ A FIRST TIME THIS 15th DAY OF OCTOBER, 2013

READ A SECOND TIME THIS 15th DAY OF OCTOBER, 2013

READ A THIRD TIME THIS 15th DAY OF OCTOBER, 2013

THIRD READING RESCINDED THIS 4th DAY OF FEBRUARY, 2014

READ A THIRD TIME THIS 18th DAY OF MARCH, 2014

ADOPTED THIS 20th DAY OF MAY, 2014

MAYOR

CORPORATE OFFICER

**SCHEDULE A
CONVERSION CHART**

<p>BANK DEPOSIT</p> <p>1 Cubic Meter 1 Cubic Meter 1 Cubic Meter</p>	<p>STOCK PILE DEPOSIT</p> <p>1.18 Cubic Meters 1.54 Cubic Yards 2.17 Metric Tonnes</p>
<p>STOCK PILE DEPOSIT</p> <p>1 Metric Tonne 1 Cubic Yard 1 Cubic Meter</p>	<p>BANK DEPOSIT</p> <p>0.462 Cubic Meter 0.650 Cubic Meter 0.850 Cubic Meter</p>

**SCHEDULE B
FEES**

<p>Medium Activity (50-500m³) Application</p>	<p>\$50.00</p>
<p>Large Activity (over 500m³) Application</p>	<p>\$500.00</p>
<p>Material Fee</p>	<p>\$0.50/m³ over 500m³</p>