

# THE CORPORATION OF THE CITY OF VERNON

## BYLAW NUMBER 5259

A bylaw to regulate the removal and deposition of soil within the City of Vernon

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The Municipal Council of the City of Vernon hereby enacts as follows:

### 1. ADMINISTRATION

- 1.1 Bylaw Number 5072, cited as “**Soil Removal and Deposition** Bylaw Number 5072, 2007”, and all amendments thereto, are hereby repealed.
- 1.2 This Bylaw may be cited for all purposes as “**Soil Removal and Deposition** Bylaw Number 5259, 2010”.

### 2. APPLICABILITY

- 2.1 This Bylaw applies to all **land** within the City of Vernon.
- 2.2 Nothing in this Bylaw shall preclude anyone from complying with the provisions of any other local, provincial, or federal regulations or enactment.
- 2.3 An enactment referred to in this Bylaw is a reference to an enactment of British Columbia, and the regulations thereto, and any bylaw referred to herein is a reference to an enactment of the Council of the City of Vernon, as amended, revised, consolidated, or replaced from time to time.

### 3. DEFINITIONS

- 3.1 In this Bylaw:

“**Bylaw Enforcement Officer**” means the person appointed by the City as the Manager, Bylaw Enforcement, and includes any person designated by Council to act in his or her place;

“**Deposit**” or “**Deposition**” means to place, store, **stockpile**, spill, or release directly or indirectly, **soil** on any **land** where that **soil** did not previously exist or stand;

“**City Engineer**” means the person appointed by the City as the **City Engineer**, and includes any person designated by Council to act in his or her place;

“**Highway**” means any public street, road, lane, bridge, or walkway but does not include a private right-of-way on private property;

“**Land**” means any land within the boundaries of the City including land covered by lakes, streams, wetlands or other such **watercourses**;

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“**Parcel**” means any lot, block, or other area in which **land** is held or into which **land** is subdivided but does not include a **highway**;

“**Permit**” means a **Permit** issued by the **City Engineer** in accordance with Section 6 of this Bylaw, the form of which is attached to this Bylaw as Schedule “A”;

“**Private Service Corridor**” means **land** accommodating the servicing of a building or facility with a water, sewer, energy, or communications system, which connects directly to or from any **highway**, municipal or other right-of-way, or municipal property;

“**Public Service Corridor**” means **land** accommodating the collection or distribution of any water, sewer, energy, or communication system, but excludes **private service corridors**;

“**Qualified Professional**” means a person registered with the Association of Professional Engineers and Geoscientists of BC or the Corporation of the Province of British Columbia Land Surveyors, or a person who has the knowledge, training and experience to organize, supervise and perform the duties required under this Bylaw;

“**Remove**” or “**Removal**” means the excavation, transfer, movement or extraction of **soil** from any **land** where that **soil** previously existed or stood;

“**Soil**” means topsoil, sand, gravel, rock, silt, clay, peat, or any other substance of which land is naturally composed, or any combination of them;

“**Stockpile**” means a man-made accumulation of **soil** held in reserve for future use, distribution or **removal**;

“**Watercourse**” means a natural channel or source of water supply, including a lake, river, creek, spring, ravine, wetland or gulch, whether or not usually containing water or groundwater.

#### 4. RESTRICTIONS

- 4.1 Except as otherwise permitted in this Bylaw, no person shall **remove soil**, **deposit soil**, or undertake any action which results in the **removal** or **deposition** of **soil**, on any **land** within the City, unless the person seeking to **remove** or **deposit** the **soil** has first applied for and has obtained a **Permit** for such **removal** or **deposition**, approved by the **City Engineer** under the provisions of this Bylaw.

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- 4.2 Every application for a **Permit** shall be in writing on the approved City application form, attached to this Bylaw as Schedule “B”, and shall be signed by the owner of the **parcel** in respect of which the **soil** is to be **removed** or **deposited**, or by the owner’s agent, who the owner has authorized in writing.
- 4.3 Upon filing of a complete application for a **Permit** under section 4.2, including all plans, data and specifications required by this Bylaw, the **City Engineer** shall issue that person a **Permit to remove or deposit soil**.
- 4.4 No person shall **remove** or **deposit soil**, or undertake any action which results in the **removal** or **deposition** of **soil**, on any **land** within the City within 30m of a **watercourse** unless that person has applied for and obtained a **Permit** under this Bylaw and completed a Riparian Areas Regulation assessment to the satisfaction of the Ministry of Environment.
- 4.5 No person shall **deposit**, or cause or permit the **deposition** of any “waste”, as that term is defined in the *Environmental Management Act* (British Columbia), on any **land**, except as permitted under Refuse Collection Bylaw No. 3148, 1982 or Sanitation Bylaw No. 1914, 1970.
- 4.6 No person shall **deposit** or **remove soil**, or undertake any action that results in the **removal** or **deposition** of **soil**, on any **land** in the Agricultural Land Reserve unless approval in writing is first obtained from the Agricultural Land Commission in accordance with the *Agricultural Land Commission Act* (British Columbia), and a **Permit** is issued under the terms and conditions of this Bylaw.

**5. EXEMPTIONS FROM PERMIT REQUIREMENT**

- 5.1 Despite Section 4, a **Permit** is not required where the **removal** or **deposition** of **soil** on **land**:
- (a) is by a florist, grower, nurseryman, or horticulturist on **lands** owned by that person, and is required and used on those **lands** in connection with such trade or business;
  - (b) is required for the erection of a building or structure, provided that a valid Building Permit or Site Preparation Permit has been issued by the City for that building or structure;
  - (c) is in accordance with a valid Development Permit or Site Preparation Permit as issued by the City;
  - (d) is required for the regular operation and maintenance of a golf course;
  - (e) occurs on a **highway** right-of-way, future **highway**, or forest service road and is required for construction, maintenance or repair

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of the **highway** and is in accordance with a valid Road Right-Of-Way Use Permit as issued by the City;

- (f) occurs on a **public service corridor** and is required for its creation, maintenance or repair;
- (g) involves less than 10 cubic metres of **soil** per **parcel** of **land** per calendar year;
- (h) is in accordance with a letter of Preliminary Layout Review, as issued by the City's Subdivision Approving Officer, and a Site Preparation Permit as issued by the City;
- (i) involves **stockpiles** on **land** where such use is permitted under Zoning Bylaw No. 5000, and where a valid business license for that use exists;
- (j) is performed by an employee or agent of the City in the creation or maintenance of a public trail, park or recreation facility, in the reclamation of a disturbed area, or in association with any other public works function;
- (k) is required as part of a solid waste processing and disposal operation, including composting facilities, which has been approved pursuant to federal, provincial or municipal regulations or bylaws;
- (m) is required as part of a concrete and asphalt plant operation where such use is permitted under City Zoning Bylaw No. 5000, and where a valid business license for that use exists;
- (o) is in accordance with a site grading plan approved by the City;
- (p) is required for the construction, maintenance or repair of a private sewage disposal system for which a sewage disposal permit pursuant to the *Health Act* (British Columbia) has been issued; or
- (q) involves the open storage of **soils** which are intended to be processed and **removed** in connection with a present lawful use of the **land** on which they are stored, the storage of which is approved by the **City Engineer**.

## 6. PERMIT REQUIREMENTS

6.1 Every application for a **Permit** shall include detailed plans, data and specifications prepared in a satisfactory form by a registered Professional Engineer or Geoscientist of the Province of British Columbia, or any other **qualified professional**, and the application shall contain information with respect to the following matters:

- (a) the legal description of the property, including the name and address of the registered owner or owners;

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- (b) all pertinent topographic features, including existing buildings, structures, **watercourses** and tree cover;
  - (c) the proposed slopes which will be maintained on completion of the **soil removal** or **deposition**;
  - (d) the methods proposed to control the erosion of the banks formed by the **removal** or **deposition**;
  - (e) the proposed methods of drainage control for the site during and after the **removal** or **deposit** operation;
  - (f) the proposed methods of access to the site during the **removal** or **deposit** operation, including the routing of truck and vehicular traffic necessary for removing or supplying the **soil**;
  - (g) the proposed methods of noise, dust, and silt control during the **removal** or **deposit** operation;
  - (h) the proposed progressive stages of **removal** or **deposition**, depicting contours at no greater than 1 metre intervals, grades and slopes, on separate plans for each stage including specific completion dates for each stage; and
  - (i) the proposed contour of the ground in its final state upon completion of the **removal** or **deposition**, with contours at no greater than 1 metre intervals, showing the methods of access and positive methods of permanent drainage on a separate plan.
- 6.2 A **Permit** shall allow the holder thereof to **remove soil** from or **deposit soil on land** described in the **Permit** for a period of time, subject to the conditions outlined in the **Permit**. Every application for a **Permit** shall be accompanied by a non-refundable application fee in the amount set out in the City's Fees and Charges Bylaw No. 3909, as amended from time to time.
- 6.3 Application for a **Permit** shall be made to the **City Engineer**, and the **City Engineer** shall refuse to issue a **Permit** if the plans, data and specifications do not satisfactorily meet the requirements of this Bylaw.
- 6.4 A **Permit** issued pursuant to this Bylaw shall be subject to the following conditions:
- (a) no person shall **remove** or **deposit soil** or perform any activity directly related to the **removal** of **deposition** of **soil** so as to cause damage to municipally or privately-owned drainage facilities, **highways**, or **lands**, or other municipally or privately-owned property, unless such damage is repaired by the permit holder to the satisfaction of the City;

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- (b) no person shall **remove** or **deposit soil** so as to obstruct any drainage facility or natural **watercourse** with silt, clay, sand, rubble, debris, gravel or any other matter or thing originating from any **removal** or **deposition** and causing obstruction to such drainage facility or natural **watercourse**;
  - (c) no person shall **remove** or **deposit soil** so as to encroach upon, undermine or physically damage any property;
  - (d) no person shall **remove** or **deposit soil** so as to alter or divert any natural **watercourse**, except with the approval of the Ministry of Environment as provided for under Section 9 of the *Water Act* (British Columbia) or as authorized by the federal Department of Fisheries and Oceans under the *Fisheries Act* (Canada);
  - (e) no person shall **remove** or **deposit soil** such that the finished slope of the **removal** or **deposit** exceeds a maximum slope of 3:1, or three (3) metres of run in one (1) metre of rise, unless otherwise authorized by the **City Engineer**; any finished slope greater than 1.5:1 shall require a Building Permit as per the British Columbia Building Code;
  - (f) no person shall **remove** or **deposit soil** such that the size and configuration of the **removal** or **deposit** adversely affects the air, light or view of adjoining or adjacent properties, or substantially alters the appearance and nature of the surrounding area; and
  - (g) no person shall **remove** or **deposit soil** so as to lower or raise the elevation of a legal **parcel** more than 1.2 metres above the natural grade of an abutting property, except as required by the Ministry of Environment for flood protection or as approved by the **City Engineer**.
- 6.5 As a condition of a **Permit** for the **removal** or **deposition of soil**, the **City Engineer** may require as-built drawings and a completion certificate prepared by a Registered Professional Engineer or Geoscientist of the Province of British Columbia.
- 6.6 Unless waived by the City Engineer, prior to the issuance of a **Permit**, the applicant is required to provide security in the form of cash, or an unconditional, irrevocable letter of credit drawn on a Canadian chartered bank at a Vernon branch in a form acceptable to the **City Engineer** in an amount equal to 30% of the estimated cost of the work to be performed under the **Permit** to a maximum of \$10,000, to ensure full and proper compliance with the provisions of this Bylaw and all terms and conditions of the **Permit**.
- 6.7 A **Permit** applies only to the **removal** or **deposition** area(s) as specifically set out and described in the **Permit**.

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- 6.8 No **Permit** or interest in a **Permit** may be transferred or assigned. Where there is a change of ownership in the **land** for which a **Permit** has been issued, the **Permit** shall immediately become void and the **deposit** or **removal** operation shall immediately cease.
- 6.9 If the **deposit** or **removal** operation authorized by a **Permit** is not completed before the **Permit** expires, or it becomes necessary to alter or deviate from the particulars of the original **Permit** application, the **City Engineer** may renew or modify the **Permit** upon written request of the **Permit** holder, subject to the following:
- (a) an application to renew a **Permit** shall be made in the same manner and upon payment of the same fees and deposit of the same security as provided in this Bylaw for the original **Permit**;
  - (b) the **City Engineer** may require that the **Permit** holder provide additional information as a pre-condition to the consideration of an application for **Permit** renewal or modification; and
  - (c) the terms and conditions set out in the original **Permit** shall apply to each renewal or modification of the **Permit** except where the terms and conditions are expressly amended or modified by the renewal or modification.

**7. ENFORCEMENT**

- 7.1 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, pay compensation for any resultant damage to City and Provincial drainage facilities, **highways**, or other City or Provincial property or facility.
- 7.2 The **City Engineer** may at all reasonable times enter upon and inspect any **lands** to determine whether the provisions of this Bylaw or the conditions of a **Permit** are being observed, and no person shall obstruct such entry.
- 7.3 The **City Engineer** may give notice to any person, including but not limited to the holder of a **Permit**, the owner or occupier of **lands** upon which there has been a **deposition** or **removal** of soil, or any person engaged in a **deposit** or **removal** operation, of a breach of, or non-compliance with, the provisions of this Bylaw, or the conditions of a **Permit**.
- 7.4 Any person receiving a notice under Section 7.3 of this Bylaw shall immediately cease all **deposition** or **removal** activities until such breach or non-compliance is remedied to the satisfaction of the **City Engineer**, and every owner of **land** shall refuse to allow the further **removal** of soil

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from or **deposition** of soil upon the **land** until such time as the breach or non-compliance is remedied to the satisfaction of the **City Engineer**.

- 7.5 If a person having received notice under Section 7.3 of this Bylaw does not remedy the breach or non-compliance within the time period specified in the notice, the City, its agents, or its contractors may enter upon the **lands** where the breach or non-compliance has occurred and carry out any works required to remedy such breach or non-compliance, or repair any resultant damage, and the expense of doing so shall be paid by the person in breach or non-compliance within 30 days of receiving the City's invoice.

**8. OFFENCE**

- 8.1 Every person who violates any provision of this Bylaw or fails to comply with the terms and conditions of a **Permit** or an order issued under this Bylaw commits an offence punishable on summary conviction and
- (a) is liable to a fine of not less than \$10,000 and,
  - (b) if the offence is a continuing offence, each day that offence is continued will constitute a separate offence, and the person is liable for an additional fine of not less than \$10,000 in respect of each day.
- 8.2 Every person who violates the provisions of this Bylaw or fails to comply with the terms and conditions of a **Permit** as outlined in "Schedule S" of the Municipal Ticketing Information System Bylaw No. 5050 may be subject to fines as outlined in that Schedule and Bylaw to a maximum of \$500.

**9. TICKETING**

- 9.1 This Bylaw is designated under Section 264 of the *Community Charter*, S.B.C. 2003, c.26 as a bylaw that may be enforced by means of a Municipal Ticket Information.

**10. RECONSIDERATION**

- 10.1 Where an applicant or owner of property subject to a decision made by the **City Engineer** pursuant to Section 4 or Section 6 of this Bylaw is dissatisfied with the decision, the applicant or owner may apply to Council for reconsideration of the matter within 30 days of the decision being communicated to them.

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- 10.2 An application for reconsideration must be delivered in writing to the City Clerk and must set out the grounds upon which the applicant considers the requirement or decision of the **City Engineer** to be inappropriate and what, if any, requirement or decision the applicant considers Council ought to substitute.
- 10.3 The City Clerk must place each application for reconsideration on the agenda of a regular meeting of Council to be held not earlier than two weeks from the date the application for reconsideration was delivered, and must notify the applicant and any other party who the City Clerk reasonably considers may be affected by the reconsideration, of the date of the meeting at which the reconsideration will occur.
- 10.4 At the meeting, 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 requirement or decision of the **City Engineer** or substitute its own requirement or decision.

**11. SEVERABILITY**

- 11.1 If any section or lesser portion of this Bylaw is held invalid, it shall be severed and the validity of the remaining provisions shall not be affected.

READ A FIRST TIME this 9<sup>th</sup> day of August, 2010.

READ A SECOND TIME this 9<sup>th</sup> day of August, 2010.

READ A THIRD TIME this 9<sup>th</sup> day of August, 2010.

ADOPTED this 13<sup>th</sup> day of September, 2010.

*"W. Lippert"*

*"P. Bridal"*

\_\_\_\_\_  
Mayor:

\_\_\_\_\_  
Corporate Officer:

THE CORPORATION OF THE CITY OF VERNON

**SOIL REMOVAL/DEPOSIT PERMIT**

**NO.**

**SRD000###**

TO: NAME  
STREET  
CITY PROV POSTAL

1. This Soil Removal/Deposit Permit is issued subject to compliance with all of the bylaws of the Municipality applicable thereto, except as specifically varied or supplemented by the Permit.
2. This Soil Removal/Deposit Permit applies to and only to those lands within the Municipality described below, and any and all works thereon:  
  
for: [LEGAL]  
  
and having a civic address at [CIVIC ADDRESS].
3. Works shall be conducted strictly in compliance with and according to the plans and specifications set out in the Permit, Schedule "A" attached hereto, and relevant Municipal bylaws.
4. If the Permittee commences the works as permitted by this Permit, then the Permit will remain valid for twenty-four (24) months from the date of works commencement. After twenty-four (24) months from the date of works commencement this Permit shall lapse. If the Permittee commences the works but does not complete them within twenty-four (24) months of the date of this Permit, the Municipality shall use the security to carry out the work by its servants, agents or contractors. If the Permittee does not commence the works within twenty-four (24) months of the [DATE] Soil Removal/Deposit Permit Issuance date the permit shall lapse as of [DATE].
6. This is not a Building Permit, Development or Development Variance Permit.

PURSUANT TO CITY OF VERNON DELEGATION BYLAW #4825, SECTION 3, Soil Removal/Deposit Permit #SRD000### is approved for issuance as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Infrastructure Engineer  
City of Vernon

**SCHEDULE 'A'**  
Attached to and Forming Part of  
Bylaw 5259

or:

\_\_\_\_\_  
Manager, Engineering and Development Services  
City of Vernon

I ACKNOWLEDGE THAT I HAVE READ, UNDERSTAND AND AGREE TO THE  
TERMS AND CONDITIONS UPON WHICH THIS PERMIT IS ISSUED:

\_\_\_\_\_  
Applicant (or Authorized Agent or  
Representative of Applicant)

**SCHEDULE 'B'**  
Attached to and Forming Part of  
Bylaw 5259



**All Development Districts**  
City Centre District, Neighbourhood District, and Hillside Residential and Agricultural District

**Soil Removal / Deposit Permit Application**

<p>Before completing this Application, please refer to the following documents:</p> <ul style="list-style-type: none"> <li>• Building and Plumbing Bylaw No. 4900</li> <li>• Hillside Guidelines 2008</li> <li>• Official Community Plan 2008 Bylaw No. 5151</li> <li>• Site Preparation General Conditions</li> <li>• Soil Removal and Deposition Bylaw No. 5072</li> <li>• Subdivision and Development Servicing Bylaw No. 3843</li> <li>• Tree Protection Bylaw No. 4152</li> </ul> <p>Should the City of Vernon approve a Soil Removal and Deposition Permit for the proposed site preparation, work would be permitted to proceed as detailed in the approved Permit</p>	For Office Use Only	
	File Number	Date Stamp
	Roll Number	
Related Files		

Applicant Information		
Name		Phone
Address		Fax
Postal Code	E-mail	Cell

Property Owner Information		
Name		Phone
Address		Fax
Postal Code	E-mail	Cell

Property Information	
Civic Address	Is the Property in the Agricultural Land Reserve?
Legal Description	

Nature of Work (Also See Application Checklist on Reverse)

**SCHEDULE 'B'**  
Attached to and Forming Part of  
Bylaw 5259

Movement of Fill	
<ul style="list-style-type: none"> <li>If fill is to be used, please provide the location of the source of the fill. <i>Please include civic address(es).</i></li> </ul>	_____
<ul style="list-style-type: none"> <li>Is material from a contaminated site to be used? <i>If Yes, please provide item 9 in the Application Checklist.</i></li> </ul>	Yes <input type="radio"/> No <input type="radio"/>
<ul style="list-style-type: none"> <li>If material is to be removed, please provide the location where the material is to be deposited. <i>Please include civic address(es).</i></li> </ul>	_____

Application Checklist	
1. Photographs (referenced to map or sketch)	<input type="radio"/>
2. East/West and North/South cross-sectional profiles of fill and/or removal areas	<input type="radio"/>
3. Confirmation of slope stability of proposed cross sections by a Professional Geotechnical Engineer for all slopes exceeding 1.5h:1v or the use of retaining structures greater than 1.2m in height, as per the Building and Plumbing Bylaw No. 4900.	<input type="radio"/>
4. Confirmation that any onsite sewage disposal systems have been abandoned to the satisfaction of the Ministry of Health, where applicable	<input type="radio"/>
5. Confirmation that any wells have been abandoned and/or capped to the satisfaction of the Ministry of Health, where applicable	<input type="radio"/>
6. Silt and sediment control plan, including a timeline for proposed works and securities for reinstating the property to a natural vegetated state should the work discontinue	<input type="radio"/>
7. Stormwater management plan addressing runoff associated with onsite works and proposed contours	<input type="radio"/>
8. Commitment to prevent negative impacts on City of Vernon road infrastructure including accumulation of mud on the roads that may require use of a grader and street sweeper for removal	<input type="radio"/>
9. Copy of Schedule 1 of the Environmental Management Act Contaminated Sites Regulation, as submitted to the Ministry of Environment, where applicable.	<input type="radio"/>
10. Application Fee: \$75.00	<input type="radio"/>

**Note: All works must be in accordance with City of Vernon Bylaw standards and all other appropriate government regulations.**

**IMPORTANT:**

**This is NOT a Soil Removal / Deposit Permit. Please see the referenced SRD number if noted below that permit has been issued.**

Applicant's Name: \_\_\_\_\_ Applicant's Signature: \_\_\_\_\_

Send completed application forms and accompanying documentation to:  
Corporation of The City of Vernon: 3400 - 30th Street, Vernon B.C. V1T 5E6  
Phone: 250.545.1361 Fax: 250.545.5309 E-mail: dsbreception@vernon.ca  
www.vernon.ca

For Office Use Only	
<input type="radio"/> Permit Issued (SRD _____)	<input type="radio"/> Further Information Required
Signed: _____ <i>Approving Officer / Municipal Engineer</i>	Date: _____