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The Corporation of the District of Central Saanich

Bylaw No. 1544

A bylaw to regulate the removal and deposit of Soil from lands within the
District of Central Saanich

WHEREAS the *Community Charter* S.B.C. 2003, c. 26 permits the Council of the District of Central Saanich to regulate, prohibit and impose requirements in relation to the removal of Soil and the deposit of Soil or other material, sand, gravel, rock and other substance and to make different regulations and prohibitions for different areas and to require permits and impose rates or levels of fees;

AND WHEREAS the Council of the District of Central Saanich wishes to regulate or prohibit the movement of Soils within the District of Central Saanich;

AND WHEREAS THE Council wishes to collect fees for the movement of Soil within the District of Central Saanich:

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

Citation

1. This Bylaw may be cited for all purposes as "Soil Removal and Deposit Bylaw 2006, No. 1544".

Repeal

2. "Central Saanich Soil Deposit Prohibition Bylaw 968, 1990" as amended, and "Central Saanich Soil Removal Prohibition Bylaw 967, 1990" as amended, are hereby repealed.

Definitions

3. In this bylaw,

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

"District" means the District of Central Saanich;

"Engineer" means the Municipal Engineer for the District as appointed by the Council (as the title of that person may be changed from time to time) and includes his designate;

"Permit" means a valid permit for the removal or deposit of Soil under this bylaw;

"Professional Engineer" means a person registered as a professional engineer with the Association of Professional Engineers and Geoscientists of British Columbia;

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

"Security" means the letter of credit, certified cheque or cash deposit required by section 17 of this bylaw;

"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;

"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, pursuant to a Permit under this bylaw;

"Works" means any structure or building that would require a building permit pursuant to the District of Central Saanich Building Bylaw No. 1470, 2003 as amended.

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 District unless the person:
 - (a) has applied for and been issued a valid and subsisting Permit for such removal or deposit; and
 - (b) carries out the removal or deposit in accordance with this bylaw and the terms and conditions set out in the Permit.

Permit Exemptions

5. (1) Despite section 4, no Permit is required pursuant to this bylaw for the removal or deposit of Soil in any part of the District where the removal or deposit of Soil:
 - (a) totals less than 40 cubic metres from or on a parcel of land up to one hectare in area in any period of 12 consecutive months, provided that any deposit of soil must not exceed 200 mm in depth from the finished grade;
 - (b) totals less than 40 cubic metres per hectare for the first hectare, plus no more than 20 cubic metres for each additional hectare, from or on a parcel of land greater than one hectare in area in any period of 12 consecutive months, provided that any deposit of soil must not exceed 200 mm in depth from the finished grade;
 - (c) is on land used for commercial landscape supply, horticultural use or as a nursery and such deposit or removal is necessary as part of the landscape supply, horticultural or nursery operation;
 - (d) is on land in the Agricultural Land Reserve;
 - (e) is required for the construction of a utility service or ditch on behalf of the District;
 - (f) is required for the landfill operations, Soil composting or solid waste transfer stations operated by, or on behalf of, the District;
 - (g) is necessary to do all Works approved under a building permit or driveway permit issued by the District.
 - (h) directly relates to preparing for or implementing a subdivision by a person who has applied for and received permission to subdivide provided the Soil removed is not subsequently sold;
 - (i) is relocated within the boundaries of the parcel from which it originates;
 - (j) is from or on parks and municipally-owned lands and is conducted on behalf of the District;
 - (k) is approved by a permit issued under the Mines Act;
 - (l) is necessary to install a septic servicing system installed in accordance with the Health Act and its regulations;
 - (m) is required as part of a soil remediation process approved under the Environmental Management Act;
 - (n) is required for the construction or repair of works, roads, highways or services by or on behalf of the District, the Capital Regional District, or the Ministry of Transportation and Highways;

- (o) is carried out in conformity with the composting regulations found in section 25A of the District's Land Use Bylaw, No. 1309 as amended; or
 - (p) is otherwise carried out by the District.
- (2) No Permit is required for the deposit or removal of wood waste on or from land on which it has been lawfully produced.
- (3) If any removal or deposit of Soil is to be done in conjunction with a development permit, development variance permit, or a temporary commercial or industrial use permit, then:
- (a) no Permit application fee shall be payable pursuant to this bylaw;
 - (b) the applicant for the permit shall also apply for a Permit under this bylaw at the same time as the application for the other permit;
 - (c) upon being granted a Permit, the applicant shall otherwise comply with this bylaw.

Permit Application

- 6. All applications for the deposit or removal of more than 1000 cubic meters of Soil per 12 month period shall be considered by Council.
- 7. All applications other than those made under section 6 shall be considered by the Engineer.
- 8. Before Council considers any application under section 6, notice in writing of such an application must be mailed to every registered owner of a parcel that lies within 100 meters of the perimeter of the parcel that is subject to the application. The applicant must also post a sign on the parcel in compliance with Schedule "G".
- 9. An application for a Permit shall comply with Section 11 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 a non-refundable Permit fee of \$250.00 for any application for the removal or deposit of up to or less than 1,000 cubic meters of Soil, or \$500.00 for any application for the removal or deposit of more than 1,000 cubic meters of Soil.
- 10. An application that does not comply with section 9 and section 11 of this bylaw shall be considered incomplete, and the Engineer or Council shall be under no obligation to process an incomplete application.

Permit Application Required Information

- 11. Every application for a Permit shall be accompanied by detailed plans, data, and specifications for the proposed site prepared by a Professional Engineer to a scale of not more than 1:1000, showing the contour of the ground in its current state with vertical contours at such intervals as the Engineer may determine, according to reasonable engineering standards, and shall contain information regarding the proposed Soil Removal or Deposit Area with respect to the following matters:
 - (a) all pertinent features including buildings, structures, tree cover, roads, lanes, bridges, and natural watercourses;
 - (b) the proposed slopes which will be maintained upon completion of the Soil deposit or removal operation;
 - (c) the proposed methods to control the erosion of the banks of the excavation or fill;
 - (d) the proposed methods of drainage control during the excavation or fill;

- (e) the proposed methods and locations of access to the site during the excavation or fill;
- (f) the proposed contour of the ground in its final state upon completion of the operation with vertical contours as specified above and showing the method of access and position methods of permanent drainage on a separate plan;
- (g) the proposed location of machinery, buildings, scales, and all other proposed structures and improvements;
- (h) the proposed location of Buffer Zones and tree cover, and the location and grade width of berms;
- (i) water table elevations;
- (j) the proposed method of extraction and processing, including sorting, washing, crushing, and any other proposed processing activities;
- (k) the proposed schedule for the removal or deposit of soil, indicating the amounts to be either removed or deposited on a weekly basis, and
- (l) the proposed routes over District highways (roads) to and from a Soil Removal or Deposit Area.
- (m) A Traffic Management Plan, which would include but not be limited to a description of the frequency of trucks, signage, placement of safety control devices, and other traffic control that would minimize the disturbance created.

Permit Issuance Conditions

12. The Engineer or Council may impose on a Permit any conditions that relate to matters listed in section 11 or 13, and the Permit holder shall strictly comply with those conditions.

Permit Conditions

13. The Engineer or Council shall not issue a permit to an applicant if the proposed removal or deposit of Soil 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 District;
 - (d) result in the use of the lands in a manner inconsistent with the zoning for the lands;
 - (e) result in Soil on the lands or on adjacent lands becoming susceptible to erosion, slippage, landslides, slumping or settling; or
 - (f) permit dust, dirt or noise to escape so as to constitute a private or public nuisance.

Environmental Management Act

14. The Engineer or Council will not issue a Permit unless potential issues of Soil contamination have been resolved under section 946.2 of the *Local Government Act* or other applicable legislation.

Form of Permit

15. Permits may be issued in the form attached as Schedule B.

16. Upon completion of the Soil removal and deposit authorized by a Permit, the Permit holder shall deliver to the Engineer a certificate from a Professional Engineer 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

17. Prior to the issuance of a Permit, the applicant for the Permit shall deposit with the Engineer either a letter of credit in the form of Schedule "F", a certified cheque, or cash in the amount of \$500.00, plus \$2.00 for each cubic metre of soil to be deposited or removed under the proposed permit, up to a maximum of \$10,000.00, as security for full compliance with all provisions of this bylaw, including payment of all Removal and Deposit Fees.

Renewal of Security

18. The holder of the Permit shall renew such Security, other than cash, before it expires by either allowing for the automatic renewal of the Letter of Credit according to the terms in Schedule "F", depositing a fresh letter of credit at least two weeks before the expiry date of any then subsisting letter of credit, or 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 District may, without notice to the Permit holder, draw upon the then subsisting Security, without any obligation to pay interest.

Use of Security

19. If at any time the Permit holder fails or refuses to pay the Removal or Deposit Fees, or to comply with any obligation under this bylaw or the Permit or any direction given by the Engineer, then the District may, at its discretion, deduct from the Security such Removal or Deposit Fees or cost incurred by the District as a result of the failure or refusal.

Replenishment of Security

20. In the event that the District uses all or part of the Security, the Permit holder shall forthwith deposit new Security on the terms as set out above, so that the amount of Security held by the District is the full amount required by this bylaw.

Return of Security

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

Quantity Reports

22. The Permit holder shall:
 - (a) submit to the Engineer in the form of Schedule C a monthly report prior to the end of each month showing 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 Engineer on request; and
 - (c) submit to the Engineer an annual declaration as per Schedule "E" 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 counted 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

23. Every person who removes or deposits Soil within the District shall pay to the District a Removal or Deposit Fee in the amount of fifty cents (\$0.50) for each and every cubic metre of Soil removed from or deposited pursuant to a Permit. If Soil is removed or deposited without a Permit, and the Soil removal or deposit required a Permit, the person who caused the Soil to be removed or deposited shall pay the District a Removal or Deposit fee in the amount of one dollar (\$1.00) for each and every cubic meter of Soil removed or deposited.

Timing of Payment

24. The Soil Removal or Deposit Fee shall be paid to the District on or before the last day of each month for the amount of Soil removed or deposited in the preceding month.

Conversion Chart

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

Repair of Damage

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

Watercourses

27. All drainage facilities and natural watercourses contiguous to or near a Soil Removal or Deposit Area shall be kept free of silt, clay, sand, rubble, debris, gravel, and any other matter or thing originating from any removal or deposit of Soil or excavation or filling of any lands, which is causing or may cause obstruction to such drainage facilities or natural watercourses. Drainage facilities or natural watercourses shall not be polluted.
28. No natural watercourse shall be altered or diverted except with the written permission of the appropriate provincial and federal authorities and the District.
29. Any soil deposit or removal must comply with section 28(3) and section 28(5) of the Land Use Bylaw No. 1309, as amended.

Buffer Zone

30. A Buffer Zone of at least 7 metres shall be maintained at all times around each Soil Deposit or Removal Area.

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 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.

Reclamation

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

Revocation of Permit

34. If the Permit holder fails to comply with any requirement of this bylaw or any requirement or condition of the Permit, the Engineer may by written notice to the Permit holder immediately revoke the Permit. 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.

35. 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 is automatically revoked unless the Permit is transferred or assigned pursuant to the terms of this bylaw.

Permit Renewal

36. If a Permit holder applies for a renewal of a Permit, the Engineer 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 current bylaws and regulations;
 - (b) Security has been deposited with the District pursuant to section 17 of this bylaw to cover the cost of any reclamation requirements associated with any material changes; and
 - (c) a fee of \$100.00 has been paid to the District for the renewal of the Permit.

Transfer of Permit

37. The Engineer may approve a transfer or assignment of a Permit by the Permit holder to another person who has the right to remove or deposit the Soil to which the Permit relates.
38. All applications for Permit transfers or assignments must be in writing and accompanied by a non-refundable application fee of \$200.
39. The Engineer may refuse to approve a Permit transfer or assignment if the Permit Holder does not provide evidence satisfactory to the Engineer 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.
40. If a Permit is transferred or assigned, the new Permit holder must provide the Security to the District, at which time the existing Security will be returned to the original Permit holder.

Term of Permit

41. A Permit shall remain valid until the earlier of:
- (a) the completion of the Soil removal or deposit authorized by the Permit;
 - (b) the arrival of the expiry date specified in the Permit, which shall not be more than one year from the date of issue; or
 - (c) revocation of the Permit under this bylaw.

Right to Enter and Inspect

42. The Engineer may, subject to the Community Charter:
- (a) enter on and inspect land for which an application for a Permit has been made;
 - (b) enter on and inspect land for which a Permit has been issued to determinate compliance with the Permit and this bylaw; and
 - (c) inspect accounts maintained by the Permit holder in respect of its Soil removal or deposit activities.

Severability

43. 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, such decision shall

not affect the validity of the remaining sections, subsections, sentences, clauses or phrases of this bylaw.

Repeal

- 44. The Central Saanich Soil Deposit Prohibition Bylaw No. 968, 1990, as amended and the Central Saanich Soil Removal Regulation Bylaw No. 967, 1990, as amended are hereby repealed.

Appendices

- 45. The appendices 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 of Ten Thousand Dollars (\$10,000.00) and costs, and in no case shall the fine be for an amount less than One Thousand Dollars (\$1,000.00). 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

- Schedule A – Soil Removal or Deposit Permit Application
- Schedule B – Form of Permit
- Schedule C – Monthly Volume Report
- Schedule D – Conversion Chart
- Schedule E – Declaration of Soil Removal or Deposit Quantities
- Schedule F – Letter of Credit
- Schedule G – Signs

READ A FIRST TIME this 4th day of **July, 2006**.

READ A SECOND TIME this 4th day of **July, 2006**.

AMENDED this 5th day of **February, 2007**.

READ A THIRD TIME AS AMENDED this 5th day of **February, 2007**.

APPROVED BY THE MINISTER OF COMMUNITY SERVICES this 25th day of **October, 2007**.

ADOPTED this 19th day of **November, 2007**.

“JACK MAR”

Jack Mar
Mayor

“SARA C. RIBEIRO”

Sara C. Ribeiro
Municipal Clerk

SCHEDULE A
DISTRICT OF CENTRAL SAANICH
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 _____

Applicant's telephone number _____

Applicant's fax number (if available) _____

Applicant's email address (if available) _____

Land Identification Information

Legal description of Soil removal Location _____

Municipal address _____

Legal description of Soil Deposit Location _____

Municipal address _____

Land Ownership of Soil Removal Location

Registered owner _____

Address of owner _____

Lease holder (if applicable) _____

Address of lease holder (if applicable) _____

Land Ownership of Soil Deposit Location

Registered owner _____

Address of owner _____

Lease holder (if applicable) _____

Address of lease holder (if applicable) _____

Soil Removal or Deposit Information

Prepared by Professional Engineer: _____

Estimated quantity of Soil	Type of Material	Quantity	Location
1) to be removed		m ³	
2) to be deposited		m ³	

Estimate prepared by: _____
(signature and seal required)

Date _____

SCHEDULE C

**DISTRICT OF CENTRAL SAANICH
MONTHLY VOLUME REPORT**

THIS SCHEDULE TO BE FILLED OUT MONTHLY AND SIGNED BY THE PERMIT HOLDER AND RETURNED TO THE DISTRICT OF CENTRAL SAANICH AS PER SECTION 22 OF THIS BYLAW:

Permit Information

Soil Removal or Deposit Permit No. _____ Date of Issue _____

Land Identification Information

Legal description _____

Municipal address _____

Land Ownership

Registered owner _____

Address of owner _____

Lease holder _____

Address of lease holder _____

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.

Signed: _____ Date: _____

(address)

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

SCHEDULE D**DISTRICT OF CENTRAL SAANICH
CONVERSION CHART**

[Note: The bylaw will need to be amended to reflect this conversion from banked deposits to stock piled deposits, assuming the District wishes this conversion.]

Sand and Gravel

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

SCHEDULE E

DISTRICT OF CENTRAL SAANICH
DECLARATION OF SOIL REMOVAL OR DEPOSIT QUANTITIES

Information

Soil Removal or Deposit Permit No. _____ Date of Issue _____

Land Identification Information

Legal description _____

Municipal address _____

Land Ownership

Registered owner _____

Address of owner _____

Lease holder _____

Address of lease holder _____

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 of these matters 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: _____ Date: _____

(address)

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

SWORN BEFORE ME at the City of _____)
_____, in the Province of _____)
British Columbia, this ____ day of _____)
_____, 20____.)

A Commissioner for Taking Affidavits)
in the Province of British Columbia)

Name:

SCHEDULE F

**DISTRICT OF CENTRAL SAANICH
LETTER OF CREDIT**

TO BE ON BANK LETTERHEAD

_____ day of _____, A.D. 20__

District of Central Saanich

Dear Sir:

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% 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 District has a right to make demand on this Letter of Credit.
4. It is a condition of this Letter of Credit that it shall be deemed to be automatically extended without amendment from year to year from the present or any future expiration date, unless at least thirty (30) days prior to the present or any future expiration date we notify the District in writing by courier or registered mail that we elect not to consider this Letter of Credit renewed.

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)

SCHEDULE G

The District will provide the required sign.

The sign remains the property of the District and must be returned to the District.

The sign must be posted for a period of no less than 7 consecutive days.

The sign must be posted in a prominent place no further than 4 meters from the parcel's lot line.