

CITY OF SURREY

BY-LAW NO. 16389

SURREY SOIL CONSERVATION AND PROTECTION BY-LAW, 2007

Amendments: 17324, 01/10/11

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WHEREAS

- (a) Soil is an important resource in the City of Surrey; and
- (b) The City of Surrey official community plan contains policy objectives related to building a sustainable local economy, enhancing image and character, protecting agriculture and agricultural and natural areas, and improving the quality of community; and
- (c) Sustained growth and development in the City of Surrey continues to generate the needs for removal and deposit of soils from and onto sites within the City; and
- (d) Soil removal and deposition must be accommodated to allow the continuing development of the City but should be undertaken in such a manner so that the objectives and policies of the City of Surrey official community plan with respect to environmental protection, community character and image, and protection of agriculture and agricultural areas are not compromised; and
- (e) Section 8(3)(m) of the *Community Charter*, S.B.C. 2003, c. 26, as amended, provides that the City of Surrey Council may, by by-law, regulate, prohibit, and impose requirements in relation to the removal or deposit of soil on any land or area in the City of Surrey; and
- (f) Section 12(1) of the *Community Charter*, S.B.C. 2003, c. 26, as amended, provides that the City of Surrey Council is authorized to establish, by by-law, variations, terms and conditions related to the removal or deposit of soil on any land or area in the City of Surrey; and
- (g) Section 15(1) of the *Community Charter*, S.B.C. 2003, c. 26, as amended, provides that the City of Surrey Council may provide for a permitting system to prohibit, grant, refuse, suspend, and establish terms and conditions to regulate the removal or deposit of soil on any land or area in the City of Surrey; and
- (h) Section 195 of the *Community Charter*, S.B.C. 2003, c. 26, as amended, provides that the City of Surrey Council may, by by-law, impose rates or levels of fees for a permit for the removal or deposit of soil from or on any land or area in the City of Surrey.

THEREFORE

Under statutory powers provided by the *Local Government Act*, R.S.B.C. 1996, c. 323, as amended, and the *Community Charter*, S.B.C. 2003, c. 26, as amended, the Council of the City of Surrey enacts the following provisions:

Title

1. This By-law may be cited as "Surrey Soil Conservation and Protection By-law, 2007, No. 16389".

Definitions

2. In this By-law:

Agriculturally-zoned means a *lot* which is zoned A-1 (General Agriculture) or A-2 (Intensive Agriculture) pursuant to Surrey Zoning By-law, 1993, No. 12000, as amended, or a *lot* listed in Schedule E of Surrey Zoning By-law, 1993, No. 12000, as amended, whose existing zoning is either A-1 (Agricultural Zone One) or A-3 (Agricultural Zone Three) under Surrey Zoning By-law, 1979, No. 5942, as amended, and includes all *lots* which lie within the agricultural land reserve.

By-law Enforcement Officer means a person appointed as such by the *City* from time to time to enforce *City* by-laws.

City means the City of Surrey.

Deposit or *deposition* means the placement of material upon a *lot* which is transported from another location within or outside the *City*.

Engineer means a person registered or licensed as a professional engineer under the *Engineers and Geoscientists Act*, R.S.B.C. 1996, c.116, as amended.

Fraser River Floodplain means the area in the *City* along the Fraser River, which is below 10 metre geodetic elevation.

General Manager means the General Manager of the Engineering Department, as duly appointed by City of Surrey Council, including the General Manager's designated or appointed representatives.

Highway means every highway within the meaning of the *Transportation Act*, S.B.C. 2004, c. 44, as amended, as well as every road, street, lane or right-of-way designed or intended for or used by the general public for the passage of vehicles, every private place or passage way to which the public, for the purpose of parking or serving of vehicles, has access or is invited and shall include disabled zones, the roadway, shoulder, boulevard, ditch and sidewalk and whatever lands lie between the boundaries of the *highway*.

Lot means a real property registered as a parcel in the records of the land title office.

Organic Soil means any *soil* which contains 20 percent or more organic material by weight, including but not limited to, peat, muck and compost.

Owner means a *person* registered in the records of the land title office as the fee simple owner of a *lot*, including the strata corporation in the case of a *lot* under strata ownership.

Permit means the written authority for *soil removal* or *deposit* granted by the *General Manager* pursuant to this By-law.

Permit holder means the *person* to whom the authority to carry out the activities or to supervise the carrying out of the activities for *soil removal* or *deposit* is granted pursuant to a valid *permit*. The *permit holder* may or may not be the *owner*.

Person means an individual, association, corporation, firm, body politic, co-partnership, or similar organization, and their heirs, executors, successors and assigns or other legal representatives, whether acting alone or by a servant, agent or employee.

Person responsible means any *person*, *permit* applicant or *permit holder*, contractor, or occupant, leaseholder, or *owner* of a *lot* who causes, transports, allows, permits, supervises or directs *soil* to be *removed* or *deposited* from or upon a private or public *lot* or *highway*.

Removal means the removal of *soil* from a *lot* on which it exists or has been *deposited*.

Significant extraction operation means the *removal* of *soil* where the total volume of materials removed from a *lot* exceeds 1,000 cubic metres, except where the *removal* is being carried out as part of the construction of a building or structure for which a building permit has been issued by the *City* or works and services pursuant to a servicing agreement entered into with the *City*.

Soil means the entire mantle of natural material above bedrock, including, but not limited to, sand, gravel, rock, silt, clay, peat, or topsoil.

Surveyor means a person registered or licensed as a land surveyor under the *Land Surveyors Act*, R.S.B.C. 1996, c.248, as amended.

Permit Requirements

*By-law &
Permit
Compliance*

3. *Soil removal* or *deposit* in the *City* may be permitted and shall only occur after a *permit* has been issued by the *General Manager*, unless the requirement for a valid *permit* is specifically exempted under Sections 7 or 8 of this By-law.
4. All *soil removal* or *deposit* activities or operations, whether or not a valid *permit* is required under this By-law, shall conform to the standards and requirements prescribed in Schedule A of this By-law, and shall conform with the terms and conditions of the applicable *permit*, if a *permit* is required.

*Additional
Approval in
ALR*

5. Where an application for *soil removal* or *deposit* is proposed within the agricultural land reserve and the application requires approval from the Agricultural Land Commission, pursuant to the *Agricultural Land Commission Act*, S.B.C. 2002, c. 36,

as amended, no *permit* exemption shall apply under Section 7 and neither an approval under Section 10 nor a *permit* shall be issued until:

- (a) the Agricultural Land Commission has granted approval after receiving and considering a resolution regarding the application from the *City Council*; or
- (b) if an agreement between the *City* and the Agricultural Land Commission has been entered into pursuant to Section 26 of the *Agricultural Land Commission Act*, S.B.C. 2002, c.36, as amended, the *General Manager* has granted approval in accordance with the agreement.

*Designation of
Soil Removal
Areas*

6. The *City Council* may, in consideration of an application, or through its initiative, designate by by-law *lots* within the *City* as *soil removal* areas for *significant extraction operations* from which *soil* may be *removed*; provided however that a by-law shall not be adopted until:
- (a) the *City Council* has held a public hearing thereon, and the provisions of Division 4 of Part 26 of the *Local Government Act*, R.S.B.C. 1996, c. 323, as amended, have been applied to the public hearing; and
 - (b) the designating by-law has included restrictions specifying areas within which *soil removal* may be prohibited, the depth and grade of the permitted *removal*, the provisions of drainage, erosion control and other necessary works, and other restrictions and regulations as warranted.

After the *lots* have been designated as *soil removal* areas, a *permit* for the *removal* of *soil* shall be required and shall incorporate all restrictions and regulations included in the applicable designating by-law. The amount of *soil* proposed to be *removed* shall not exceed the limits established by the designation by-law. For greater certainty of this Section, *soil removal* other than from a *significant extraction operation* does not require a *soil removal* area designation.

Permit Exemptions

7. A *permit* pursuant to the provisions of this By-law will not be required in the following circumstances, provided that the *soil removal* or *deposit* activities shall be carried out in accordance with the performance standards and requirements prescribed in Schedule A of this By-law:

City Works

- (a) the *soil removal* or *deposit* is necessary for the construction, maintenance or installation of *City* infrastructure, the work is initiated by the *City* and the *soil removal* or *deposit* occurs at the *City* project site;

*Quantity
Control for
Private lots*

- (b) for a given *lot*, the total quantity of *soil removal* or *deposit* does not exceed 15 cubic metres or 0.5 metres in depth, whichever is less. This exemption does not apply to *deposit* or *removal*:
 - (i) on slopes steeper than one metre vertical to five metres horizontal (20 percent);
 - (ii) within 30 metres of the crest or toe of slopes steeper than one metre vertical to five horizontal (20 percent);

- (iii) within 30 metres of any watercourse, ravine, or shoreline; and
- (iv) within an area rated “high” or “medium” pursuant to the “Environmentally Sensitive Areas Map” of the Official Community Plan By-law, 1996, No. 12900, as amended;

*Building
Construction
and
Subdivision*

- (c) the *soil removal* or *deposit* is conducted in conjunction with the subdivision of a *lot* or is necessary for the construction of a building or structure; provided that:
 - (i) a grading plan and material handling plan satisfactory to the *General Manager* has been submitted with the subdivision application or with the building permit application;
 - (ii) the proposed subdivision plan has obtained final approval from the Approving Officer of the *City* or a valid building permit has been issued by the *City* for the proposed building construction;
 - (iii) sufficient security has been deposited with the *City* in an amount and in a form acceptable to the *General Manager* by way of a servicing agreement or building permit;

Notwithstanding Section 7 (c)(ii) above, an *owner* may apply for a *permit* for *soil removal* or *deposit* prior to final approval of the subdivision plan or issuance of the building permit, if sufficient security has been deposited with the *City* in an amount and in a form acceptable to the *General Manager* to ensure that restoration work will be undertaken if final subdivision approval is not given or building permit is not issued. Any *permit* so issued is subject to all of the provisions of this By-law applicable to a *permit* for *soil removal* or *deposit*; and

Landfill

- (d) the *deposition* of material is upon a landfill site for which valid and subsisting provincial approvals are held.

Notification Requirement

- 8. The *removal* or *deposit* of *soil* in the following circumstances is exempt from the *permit* requirements of this By-law if the requirements in Section 10 are met:
 - (a) for a given *lot*, the total quantity of *soil removal* or *deposit* is greater than 15 cubic metres and does not exceed 100 cubic metres or 0.5 metres in depth, whichever is less, in any consecutive 12 month period.

Exemption

- 9. The exemption in Section 8 does not apply to *soil deposit* or *removal*:
 - (a) on slopes steeper than one metre vertical to five metres horizontal (20 percent);
 - (b) within 30 metres of the crest or toe of slopes steeper than one metre vertical to five horizontal (20 percent);

- (c) within 30 metres of any watercourse, ravine, shoreline, or other body of water; and
- (d) within an area rated “high” or “medium” pursuant to the “Environmentally Sensitive Areas Map” of the Official Community Plan By-law, 1996, No. 12900, as may be amended from time to time,

and in such cases, a *permit* is required for the *soil deposit or removal*.

Requirements

- 10. The following requirements must be met in order for Section 8 to apply:
 - (a) an *owner* must notify the *General Manager* in writing of the proposed *soil removal or deposit* on the form provided from time to time by the *General Manager* for that purpose before engaging in the *soil deposit or removal*;
 - (b) the *General Manager* has granted approval in writing;
 - (c) the *owner* must comply with the terms and conditions, if any, specified in the written approval of the *General Manager*; and
 - (d) the *soil removal or deposit* activities shall be carried out in accordance with the performance standards and requirements prescribed in Schedule A of this By-law.

Terms and Conditions

- 11. The written approval of the *General Manager* in Section 10 may also contain such additional and specific terms and conditions as the *General Manager* considers necessary to address the concerns or issues of any governmental authority having jurisdiction over the *lot*, or the concerns or issues identified by the *General Manager* contained in the notification delivered to the *General Manager*.

Permit Application

Information Requirements

- 12. Applications for *permits* shall be made in writing to the *General Manager* on the form provided from time to time by the *General Manager* for that purpose. Each application shall be accompanied by sufficient information, as deemed necessary by the *General Manager*, to adequately review and assess the proposed *soil removal or deposit* with respect to land ownership, land use, purpose for *removal or deposit*, site conditions, soil characteristics, and proposed *removal or deposit* methodology. Furthermore, details regarding the impacts to any and all private and public property will be required including, but not limited to, the proposed drainage, environmental, geotechnical, and visual impacts of the proposed *removal or deposit*. Each application shall be accompanied with:
 - (a) written consent from any mortgagee and unpaid vendor;
 - (b) if the application for a *permit* is submitted by a *person* other than the *owner* of the *lot* from or upon which *removal or deposit* is applied written consent from the *owner* of the *lot*;
 - (c) a current state of title certificate, dated immediately prior to the date of application, attesting to the ownership of the said *lot*; and

- (d) written consent from the authority having jurisdiction for *soil removal* or *deposit* from or on a *lot* within 5 metres of any dedicated right-of-way or utility easement.

Fees

13. Every application for a *permit* shall be assessed with the following fees and security which shall be payable as set out in this Section:

- (a) The applicant shall pay a fee as specified in Surrey Fee-Setting By-law, 2001, No. 14577, as amended.
- (b) In addition to the fee specified in Section 13 (a) above, the applicant shall also pay a fee of \$0.57 per cubic metre of *soil* proposed to be *removed* in a proposed *significant extraction operation*. All fees are subject to applicable taxes.
- (c) Fees may be waived by the *General Manager* when the *City* is the applicant.

Application Fee

- (d) At the time of submitting an application for *permit*, a non-refundable application fee consisting of the fee prescribed in Section 13 (a) above plus a pro-rated amount of one-twelfth of the fee prescribed in Section 13 (b) above, if applicable, shall accompany each *permit* application; provided however that if the term of the *permit* is less than twelve months, the pro-rated portion of the application fee shall be based on the number of months specified in the term of the *permit*, and if the term of the *permit* is longer than twelve months, the pro-rated portion of the application fee shall be based on twelve months.

Pro-rated Fee for Significant Extraction Operation

- (e) In the case of an *significant extraction operation*, after the issuance of the *permit*, the remaining amount of the pro-rated fee as calculated in Sections 13(b) and (d) above shall be paid on a monthly basis throughout the entire term of the *permit* on or before the 15th day of each month for all *soil removal* that occurred during the preceding month, as determined by the *permit holder's surveyor or engineer* in accordance with the requirements of Section 13(f). In the event a monthly payment is not made in full by the 15th day of any calendar month for the preceding month, a penalty in the amount of 10% of the amount payable shall become due and payable, over and above any outstanding fee. Further, any or all *permits* held by the *permit holder* may be revoked and become void. Upon such revocation, the security deposit posted pursuant to Section 13(g) of this By-law may be used by the *City* to complete any outstanding works or applied against any outstanding fees.
- (f) In the case of an *significant extraction operation*, actual quantities of *soil removed* or *deposited* pursuant to a *permit* shall be determined monthly by a volumetric survey prepared by a *surveyor or engineer* and submitted by the *permit holder* for review and approval by the *General Manager*.

Security

- (g) As security for the full and proper compliance with the provisions of this By-law and the performance of all terms and conditions imposed in a *permit*, a cash deposit or irrevocable letter of credit in a form acceptable to the *City* and in the amount of \$5 per cubic metre of *soil* proposed to be *removed* or *deposited*, or other amount to the satisfaction of the *General Manager*, shall be provided prior to permit issuance and maintained in full

force and effect throughout the *permit* term plus a period of 120 days after *permit* expiry.

- (h) Despite Section 13(g), where *soil* has been *deposited* for preload, security will not be released by the *City* until the construction of the foundations of the structure is completed and the security may be used by the *City* for restoration of the *lot* if construction of the structure does not commence within a reasonable timeframe as determined by the *General Manager*. Where *soil* has been deposited for preload within the *Fraser River Floodplain*, security will be released by the *City* as determined by the *General Manager*.
- (i) Despite Section 13(g), where the *removal* of *soil* is being carried out pursuant to a permit issued under the *Mines Act*, R.S.B.C. 1996, c. 293, as amended, there shall be no obligation to provide a security deposit with the *City*.

Insurance

- 14. Applicants for *soil removal* or *deposit* where the volume proposed to be *removed* or *deposited* is greater than 15 cubic metres are required to carry comprehensive general liability coverage in the amount of \$5,000,000 including liability for bodily injury or death and property damage for the duration of the work. The amount of insurance may be reduced to \$1,000,000 if the volume of *soil* to be *removed* or *deposited* is not more than 100 cubic metres. Insurance may be waived by the *General Manager* when the *City* is the applicant.

Permit Expiration

- 15. Every *permit* shall expire 6 months following the date on which it was issued, unless an expiry date for a different term is specified in the *permit*, after which time all *removal* or *deposit* of *soil* shall cease. Every *permit* shall cease to authorize *soil removal* or *deposit* upon the expiry date or upon the sale or transfer of the subject *lot* without the necessary *permit* renewal in accordance with Section 19 of this By-law. Upon expiry of the *permit* or completion of the works, whichever occurs sooner, the *permit holder* shall within a period of 15 days conduct a survey to determine the actual total quantity of *soil removed* or *deposited*. The survey and volumetric computation shall be certified by an *engineer* or *surveyor*, and shall be submitted to the *City* prior to the release of the security or the issuance of a new *permit*.

Permit Revocation

- 16. Upon inspection of the *lot*, and based on the non-compliance of the *permit holder* or a *person responsible* with the *permit* and by-law requirements, the *General Manager* may revoke the *permit* until compliance is obtained. If the *permit* is revoked by the *General Manager*, the *City* will retain the security until compliance is obtained. No further *permit* for *soil removal* or *deposit* within the *City* shall be issued to any *person* who has had a *permit* revoked, unless and until the *person*, in addition to any other security required pursuant to this By-law, has posted an additional security in accordance with the requirements of Section 13 (g).

Indemnification

- 17. As a condition specified in a *permit* issued, the *person responsible* shall agree to indemnify and hold harmless the *City*, its agents, employees and officers from and against any and all claims, demands, losses, costs, damages, actions, suits or proceedings resulting from works allowed by the *permit*.

Permit Renewal

- 18. Application for renewal or amendment of a *permit* shall be made in the same manner and upon payment of the same fees as imposed in Section 13 for a new

permit. There shall be no obligation upon the *City* to renew any *permit* upon expiry of the *permit* except where the *removal* of *soil* is being carried out pursuant to a permit issued under the *Mines Act*, R.S.B.C. 1996, c. 293, as amended, in which circumstance a *permit* will be renewed, but the *removal* continues to be subject to other terms and conditions of this By-law and other applicable enactments.

- Permit Transfer* 19. In the event of a change in *lot* ownership, the *permit* may be transferred to the new owner provided an application to amend the existing *permit* has been submitted and approved in writing by the *City* and evidence reflecting the new ownership and the security and insurance requirements is acceptable to the *City*. A non-refundable *permit* transfer fee, as specified in Surrey Fee-Setting By-law, 2001, No. 14577, as amended, shall be payable with the transfer application.
- Permit Issuance and Contents of Permit* 20. If the *General Manager* is satisfied that the provisions, conditions, and requirements of this By-law have been met, the *General Manager* may issue the *permit* in duplicate to the owner. The *permit* shall identify and include the owner and the *permit holder* if different from the owner, the term of the *permit*, and the amount of *soil* proposed to be removed or deposited. The *permit* may also contain such additional and specific terms and conditions as the *General Manager* considers necessary to address the concerns or issues of any governmental authority having jurisdiction over the *lot*, or the concerns or issues identified by the *General Manager* contained in any information or reports delivered to the *General Manager* as part of the application. In addition, the *General Manager* may require registration of the *permit* in the land title office as a covenant against the *lot* upon which *soil removal* or *deposit* is proposed to occur.
- Permit Display* 21. During the *permit* term, the *permit* shall be clearly and visibly displayed at the main access point to the *lot*, and a copy of the *permit* shall be made available to the *General Manager* or a *By-law Enforcement Officer* upon request.
- Permit Refusal* 22. A *permit* or approval under Section 8 will not be issued if in the opinion of the *General Manager* the proposed *soil removal* or *deposit* may:
- (a) foul, pollute, obstruct, divert, impede, damage or destroy any watercourse, ditch, drain, sewer or other utility whether privately or publicly owned;
 - (b) damage the amenities on the *lot* or adjacent *lots* including, without limitation, utilities, works or services located within right-of-ways, or other structures, buildings or improvements;
 - (c) contravene any *City* by-law, or provincial or federal law;
 - (d) threaten the health, safety or welfare of the public or be otherwise contrary to the public interest;
 - (e) result in the use of the *lot* in a manner inconsistent with the applicable zoning;
 - (f) adversely affect the future development of another *lot*;
 - (g) result in excessive costs for any government to provide public utilities, works or services to the *lot* or adjacent *lots*;

- (h) result in the *lot* or another *lot* becoming susceptible to erosion, slippage, landslides, slumping or settling;
- (i) create dust, dirt, or noise which may constitute a nuisance to any other public or private *lot* or the community at large;
- (j) create a visual impact which may unreasonable interfere with the use or enjoyment of any other public or private *lot* or the community at large; or
- (k) adversely affect the productivity of an agriculturally zoned *lot*.

*Permit
Compliance
Reports*

23. Every *permit holder*, except for the application for which the amount of *soil* proposed to be *removed* or *deposited* is not more than 500 cubic metres or for which the proposed operation will be completed within one month from the date the *permit* is issued, shall maintain monthly reports, certified and sealed by an *engineer*, regarding the progress of the *soil removal* or *deposit*. The monthly report shall include all of the following information:
- (a) the quantity of *soil removal* or *deposit* for the previous month and the total cumulative quantity for the duration of the permit up to the month in question; and
 - (b) the actual location of the *soil removal* or *deposit*.

Monthly reports shall be submitted to the *City* at the request of the *General Manager* except in the case of an *significant extraction operation* where reports shall be submitted to the *General Manager* with the monthly fee payment required pursuant to Section 13(d) of this By-law.

Enforcement

Inspections

24. The *General Manager* and *By-law Enforcement Officers* are authorized at all reasonable times to enter upon and inspect any *lot* to determine if:
- (a) a *permit* is required to be obtained;
 - (b) *soil removal* or *deposit* has occurred contrary to the provisions and conditions of a *permit*, this By-law or both; or
 - (c) works occurring are in compliance with provisions and conditions of a *permit* and this By-law.

Where the *lot* contains a mine pursuant to the *Mines Act*, R.S.B.C. 1996, c. 293, as amended, any person entering upon the *lot* on behalf of the *City* shall comply with the site entry provisions of the Health, Safety and Reclamation Code for Mines in British Columbia.

Identification

25. When requested by a *By-law Enforcement Officer*:
- (a) the driver or operator of a vehicle or any equipment being used to *deposit* or *remove soil*, or the person in charge of the vehicle or equipment, shall correctly state his or her name and address, the name and address of the

owner of the vehicle or equipment, the name and address of the person at whose direction the *soil* is being *deposited* or *removed* and the addresses of the *lots* to and from which the *soil* is being transported; and

- (b) any *person*, including an *owner*, who has apparently committed an offence under this By-law, shall correctly state his or her name and address.

*By-law
Contraventions*

26. If *soil removal* or *deposit* has occurred contrary to the provisions of this By-law or the provisions and conditions of a *permit*, the *General Manager* or a *By-law Enforcement Officer* may take any, all or any combination of the following actions:
- (a) Issue a notice of violation of the By-law or *permit* to any or all *persons responsible* for the *soil removal* or *deposit*;
 - (b) Place notices on a *lot* where the contravention has occurred, or a *lot* to or from which *soil* is being transported, stating that the *soil removal* or *deposit* at that location is contrary to this By-law or the *permit*;
 - (c) Order the *person responsible* to immediately stop the contravention and to immediately cease and desist from further *soil removal* or *deposit* until the contravention is remedied within the timeframe specified by and to the satisfaction of the *General Manager*;
 - (d) Order the *person responsible* to either apply for a *permit* to replace the removed *soil* or remove the *soil* deposited, or to undertake remedial or rehabilitative works necessary to return a *lot* to its original condition to the satisfaction of and within the timeframe specified by the *General Manager*;
 - (e) Suspend in whole or in part the authority of the *permit holder* under a *permit*;
 - (f) Revoke the *permit*;
 - (g) Enter upon a *lot* where the contravention has occurred and carry out any works required to remedy the contravention at the expense of the *person responsible*;
 - (h) Deduct the cost of required remedial works carried out by the *City* from the security deposit, where a security deposit has been posted in accordance with a *permit*, or recover the cost of required remedial works as municipal taxes against a *lot* where the contravention has occurred and where no security has been deposited or where the security is insufficient to cover the cost of remedial works.

*Obedience to
Orders*

27. Every *person* shall at all times comply with any lawful order, direction, signal or command made or given by the *By-law Enforcement Officer* in the performance of his or her duties enforcing the provisions of this By-law.

*Failure to
Remedy*

28. In the event that any *person*, having received a notice of By-law or *permit* violation, fails within the timeframe set forth by the *General Manager* to remedy the violation or otherwise continues to violate any provision of this By-law or any provision and conditions of a *permit*, the *permit* issued in the first instance shall

become void and all monies collected by the *City* under the *permit* shall be forfeited to the *City*.

- Offences* 29. Any *person* who violates any of the provisions of this By-law or who allows any act or thing to be done in contravention of this By-law, or who neglects to do or refrains from doing any act or thing which prevents a violation of any of the provisions of this By-law, shall commit an offence and be liable to the penalties and fines hereby imposed, and each day that the violation is permitted to exist shall constitute a separate offence.
- Penalties* 30. Any *person* who violates the provisions of this By-law shall, upon summary conviction, be liable to a penalty of not less than \$100.00 and not more than \$10,000.00 plus the cost of the prosecution, or to a term of imprisonment not exceeding 6 months, or both. Without limiting the generality of the foregoing, the penalty imposed may vary according to the quantity of *soil removal* or *deposit* that has taken place in violation of the provisions of this By-law.
- False Information* 31. No *person* shall make a false statement in relation to an application for a *permit* or monthly compliance report submitted pursuant to this By-law. Any *permit* issued or work conducted on the basis of false or misleading information shall be subject to immediate revocation of the *permit* by the *General Manager*.
- Liability* 32. Neither the issuance of a *permit* nor compliance with the provisions of this By-law shall relieve *persons responsible* from responsibility for damage to any *person*, *highway* or *lot* or impose any liability upon the *City* for damage to any *person*, *highway* or *lot*.
- Commencement* 33. This By-law shall come into force on the date of final adoption.

34. Surrey Soil Removal and Deposition Regulation By-law, 1979, No. 5880, and all amendments thereto, are hereby repealed except in the case of applications for permits which have been submitted to the City and the applicable fees have been paid as of the date of adoption of this By-law, in which case Surrey Soil Removal and Soil Depositing Regulation By-law, 1979, No. 5880, as amended, shall apply to such applications for a period of twelve (12) months after the date of adoption of this Bylaw. After the expiration of twelve (12) months, this Bylaw shall apply to all soil permits in the City of Surrey and Surrey Soil Removal and Soil Depositing Regulation By-law, 1979, No. 5880 and all amendments thereto, shall be wholly repealed.

READ A FIRST TIME on the 14th day of May, 2007.

READ A SECOND TIME on the 14th day of May, 2007.

READ A THIRD TIME, AS AMENDED, on the 31st day of March, 2008.

APPROVED BY THE INSPECTOR OF MUNICIPALITIES on the 4th day of July, 2008.

APPROVED BY THE MINISTER OF ENERGY, MINES and PETROLEUM RESOURCES on the 4th day of July, 2008.

RECONSIDERED AND ADOPTED on the 28th day of July, 2008.

Mayor

City Clerk

SCHEDULE A: PERFORMANCE STANDARDS

A Schedule forming part of the Surrey Soil Conservation and Protection By-law, 2007, No. 16389.

The standards set out in this Schedule A shall apply to all *soil removal and deposit* within the *City* whether or not a *permit* is required or issued.

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|---|----|---|
| <i>Best Management Practices</i> | 1. | <i>Soil removal or deposit</i> shall be conducted by <i>persons responsible</i> to ensure that no hazard to human or animal life shall exist within the <i>lot</i> and to or from the <i>lot</i> upon which the <i>removal or deposit</i> is occurring. |
| <i>Other By-laws</i> | 2. | <i>Persons responsible</i> and all activity associated with <i>soil removal or deposit</i> shall comply with applicable federal, provincial and <i>City</i> laws, by-laws, regulations and policies in effect during the <i>removal or deposit</i> including, but not limited to, Surrey Highway and Traffic By-law, 1997, No. 13007, as amended, Surrey Building By-law, 1987, No. 9011, as amended, Surrey Tree Preservation By-law, 2006, No. 16100, as amended, Surrey Noise Control By-law, 1982, No. 7044, as amended and Erosion and Sediment Control By-law, 2007, No. 16138. |
| <i>Damage Control</i> | 3. | <i>Soil removal or deposit</i> shall not encroach upon, undermine, damage or endanger any drainage facility, natural watercourse, aquifer, <i>highway</i> or other public or private <i>lot</i> , or where a <i>permit</i> has been issued, encroach into any non-encroachment area so prescribed in the <i>permit</i> . <i>Persons responsible</i> who, in the course of <i>soil removal or deposit</i> , cause, or allow to be caused, any such damage shall promptly repair the damage to the satisfaction of the <i>General Manager</i> . |
| <i>Debris Control</i> | 4. | <i>Persons responsible</i> shall take all necessary measures to contain dust, dirt, mud or other debris generated by the <i>soil removal or deposit</i> on the <i>lot</i> . |
| <i>Road Maintenance</i> | 5. | Dirt, mud, or debris deposited on public roads or in roadside ditches from the transfer of <i>soil</i> to or from a <i>lot</i> shall be removed on a daily basis or as deemed necessary by the <i>General Manager</i> or a <i>By-law Enforcement Officer</i> . |
| <i>Waterways</i> | 6. | All drainage facilities, natural watercourses, or ground water aquifers shall be kept free of silt, clay, sand, rubble, debris, gravel, and all other matter or thing originating from any <i>soil removal or deposit</i> which might cause fouling or obstruction to the facilities, watercourses or aquifers. |
| <i>Operating Times</i> | 7. | <i>Soil removal or deposit</i> shall be undertaken in accordance with the "Construction Hours" provision of the Surrey Noise Control By-law, 1982, No. 7044, as amended. |
| <i>Washing
Crushing
Screening</i> | 8. | No <i>person</i> shall use washing, crushing or screening equipment as part of <i>soil removal or deposit</i> unless the <i>person</i> has obtained applicable regional and/or provincial environmental approvals and the <i>lot</i> upon which the washing, crushing or screening equipment is to be located is zoned to permit washing, crushing or screening uses. |
| <i>Fencing</i> | 9. | All hazards or potential hazards arising from <i>soil removal or deposit</i> shall be adequately fenced or otherwise made inaccessible to the public or other unauthorized persons or animals, and suitable weather-proof signs shall be |

mounted and maintained at intervals of not greater than 75 metres around the perimeter of the *removal* or *deposit* site with clear, legible wording to indicate any hazard, the nature of the operation, the presence of the excavation and prohibiting the presence of the public or other unauthorized persons.

10. No *soil removal* or *deposit* shall be undertaken within 7.5 metres of any *highway*, right-of-way or utility easement without first obtaining written consent from the *City* or the authority having jurisdiction over the right-of-way or easement. The *General Manager* may, at any time, require evidence of such consent.

Organic Soil

11. Unless prior written approval to do otherwise has been granted by the *General Manager*, organic soil shall:
 - (a) not be *removed*, *deposited* or stockpiled when the organic soil is saturated or powdery dry;
 - (b) be stockpiled at heights not greater than 4.0 metres and bermed with slopes no steeper than 2:1 (Horiz : Vert);
 - (c) be stockpiled so that vegetation cover is established on the stockpile as soon as possible but no later than 30 days after handling and be fertilized and irrigated as required to maintain the vegetation cover;
 - (d) be stockpiled in such way that allows weed control at all times, which control can be by mechanical or chemical means;
 - (e) be stockpiled in such way that prohibits travel upon by any vehicles or heavy machinery;
 - (f) be stockpiled without any mixing of foreign matters, such as hog fuel, gravel or other organic matters;
 - (g) for highly organic soils such as peat, be monitored during dry periods to correct accelerated decomposition and excessive heat build-up; and
 - (h) be stockpiled to allow runoff from the stockpile to be diverted into catchment ponds or silt traps prior to discharge into natural watercourses or ditches or alternatively, a three metre wide buffer zone may be provided, if approved by the *General Manager*, along the perimeter of the downslope sides of the stockpile.

Remediation and Restoration

12. Unless otherwise specified in a permit or approval under Section 8, upon completion of *soil removal* or *deposit*, every *person responsible* shall at a minimum cover all *removal* or *deposit* surfaces with at least 0.20 meters of topsoil and sod and/or plant a suitable rooted ground cover.

Adjacent Structures

13. *Deposit* shall not occur adjacent to a building or structure unless the building or structure is capable of withstanding the additional loads caused by the *deposit*, as determined by an *engineer*. Footings or other improvements which may be affected by any *removal* shall be underpinned or otherwise protected against

settlement and shall be protected against *soil* movement in accordance with a plan prepared and supervised by an *engineer*.

- Slope* 14. The slope of any part of an exposed face, during *soil removal* or after the *soil removal* is completed, shall not be greater than the angle of repose necessary for maintaining stability of the *soil* in question and the slope shall be retained in accordance with good engineering practice.
- Water Table* 15. The *removal* or *deposit* shall not result in lowering the effective water table at wells on any other *lot* without the written consent of the *owner* of that *lot*. The *General Manager* may, at any time, require evidence of consent. Furthermore, *soil removal* or *deposit* shall not cause the groundwater table to rise on an adjoining *lot* or other public or private property so as to cause flooding or malfunctioning of a septic disposal system or contamination of a well.
- Drainage* 16. The *removal* or *deposit* shall not interfere with, or impact the established above or below ground drainage pattern of any adjoining *lot* or any other public or private property. Where necessary, measures consistent with good engineering practice will be implemented to ensure that any interference or impact is prevented. The *General Manager* must approve *soil removal* or *deposition* that has the potential to create standing water.
- Settlement* 17. Where the natural subsoil is compressible, there shall be no *deposit* in the immediate vicinity of any utility or service which might be damaged by any settlement resulting from the *deposit* without first obtaining written consent from the authority having jurisdiction over the utility or service. The *General Manager* may, at any time, require evidence of consent.