

CITY OF CASTLEGAR

BYLAW 881

A bylaw to provide for the application, approval, suspension or denial of Soil Removal and Deposit Permits in the City of Castlegar, pursuant to Section 723 of the *Municipal Act*.

The City of Castlegar, having observed the relevant provisions of the *Municipal Act*, enacts the following:

PART 1

Citation

1.1.1 This Bylaw may be cited as the City of Castlegar Soil Removal and Deposit Permit Bylaw.

PART 2

Definitions

2.0.1 In this Bylaw:

- City** means the Municipal area comprised within the boundaries of the City of Castlegar or the City of Castlegar as the context may require.
- Deposit** means the dumping or placement of soil or any other material, such as land clearing waste, construction or other waste, on any land in the City of Castlegar.
- Director** means the Director of Development Services or such other person appointed by the Council for the purpose of administering this Bylaw.
- Qualified Professional** means a professional engineer with experience in geotechnical or mining engineering as appropriate.
- Remove** means to take, move, excavate, or transport soil from the place or location at which it was or stood, including an act which allows or causes the movement of soil from one lot to another portion of the same lot.
- Soil** means sand, gravel, rock and other substances of which land is composed.

PART 3

Applicability

3.1.1 All lands within the City of Castlegar are designated Soil Removal and Deposit Permit Areas.

3.1.2 No person shall:

- i) remove soil from; or
- ii) deposit soil or other material on

any land within a designated Soil Removal and Deposit Permit Area without first obtaining a Soil Removal and Deposit Permit, unless otherwise specifically permitted under this Bylaw.

3.1.3 The requirements of this Bylaw are exclusive of all Mines Act requirements and applicants are advised to contact the Regional Office of the Ministry of Energy, Mines and Petroleum Resources.

Enforcement

3.2.1 The Director of Development Services, Building Official, a Bylaw Enforcement Officer, or other persons so designated by resolution, being hereby designated to act for the purposes of this section, are authorized at all reasonable times to enter on property that is subject to regulation under this bylaw to ascertain whether the regulations or directions under this bylaw are being observed.

3.2.2 The Director of Development Services, Building Official, or Bylaw Enforcement Officer may order the suspension of work carried out under any Soil Removal or Deposit Permit if the soil removal or deposit is not being undertaken in accordance with the terms and conditions of the Permit.

Application

3.3.1 All applications for Soil Removal and Deposit Permits shall be made to the City of Castlegar by the owner of the lands in writing on the form prescribed in Schedule A, attached hereto and forming part of this Bylaw.

3.3.2 An application for a Permit shall be accompanied by detailed plans, date and specifications for the proposed site and adjacent areas and shall include the following information:

- i) purpose, scale and volume of the proposed soil removal or deposit, and the methods to be used;
 - ii) a site plan illustrating all pertinent topographic and hydraulic features, buildings, structures, vegetation cover;
 - iii) a topographic plan with slope profiles showing the existing and proposed elevations of the property and their relations to those of the adjoining lands;
 - iv) the proposed methods of drainage control during and after the excavation or fill;
 - v) proposed methods to control dust, noise and visual impacts to adjacent lands;
 - vi) the proposed methods of access to the site during the excavation;
 - vii) the proposed methods of providing landscape screening if applicable;
 - viii) evidence to the City's satisfaction that the person or firm responsible and the owner of the land are covered by comprehensive general liability insurance with a minimum coverage of \$2,000,000; and
 - ix) such further and other information as the City may require to determine whether the proposed soil removal or deposit complies with this bylaw.
- 3.3.3 Where the amount of soil to be removed and/or deposited exceeds 200 cubic metres the application for a Permit shall include a report certified by a Qualified Professional that the proposed soil removal and/or deposit will not create a danger from flooding, erosion, landslip or avalanche, or will foul, obstruct, or impede the flow of any stream, creek, spring or other domestic water source, waterway, watercourse, waterworks, ditch, drain or sewer, or disturb ground water, whether or not these are situated on private property.
- 3.3.4 No person shall deposit or remove soil except in conformity with the Permit authorizing that deposit or removal and in conformity with the plans, specifications, methods of deposit or removal, and other information submitted with the application for that Permit.

A person may apply to make material changes to the plans, specifications, methods of deposit or removal, or the information submitted with an application for a Permit, by submitting to the City an application to make such changes together with a certificate from a Qualified Professional stating that such changes are in conformity with the requirements of this bylaw and in accordance with good engineering practices. The Director may approve a change

referred to in this section if he is satisfied that the proposed change complies with this bylaw.

- 3.3.5 Upon completion of the soil removal or deposit works the owner of the lands shall deliver to the Director of Development Services or persons appointed to perform his or her duties a certificate from the Qualified Professional stating that all works have substantially complied with the requirements of the Permit and good engineering practices.
- 3.3.6 The Director may, upon receipt of an application pursuant to this Section, in respect of an application for a permit;
- i) notify all adjacent property owners of the proposed soil removal to solicit comments, concerns and recommendations and, if deemed necessary, call for a public information meeting;
 - ii) issue the permit, including any terms and conditions from the report referred to in Sub-Section 3.3.3, in the form prescribed in Schedule B, attached hereto and forming part of this bylaw; or
 - iii) refuse to issue the permit if the report concludes that the soil removal and/or deposit cannot be safely undertaken, or will foul, obstruct or impede the flow of any stream, creek, spring or other domestic water source, waterway, watercourse, potentially active flood channel, waterworks, ditch, drain, or sewer, or disturb ground water, or will cause significant land use conflict on adjacent or nearby properties;
 - iv) refuse to issue the permit if the proposed deposit or removal of soil would contravene this bylaw.

Conditions

- 3.4.1 No person shall remove or deposit soil in a manner that
- (a) increases the risk of flooding, erosion, landslip or avalanche,
 - (b) fouls, obstructs or impedes the flow of any stream, creek, spring or other domestic watercourse, waterway, watercourse, ditch, drain or sewer,
 - (c) causes a danger on or to adjacent land, structures or rights of way, or
 - (d) adversely affects the use of adjacent land.

- 3.4.2 No excavation shall be undertaken within six (6) metres of any dedicated right-of-way or utility easement without first obtaining the approval in writing of the authority having jurisdiction over such right-of-way or easement, and a copy of such written approval shall be submitted to the Director.
- 3.4.3 No excavation shall be undertaken within three (3) metres of any property line, except that, where an adjoining property has already been excavated, the excavation may (with the written approval of the owner of the said adjoining property) be continued across the property line with the said adjoining property to tie in with the said existing excavation, subject to the maximum slopes permitted. A copy of such written approval shall be submitted to the Director.

Refusal

- 3.5.1 Where an application for soil removal and deposit permit has been considered by the City, the owner shall be notified in writing of the issuance of the permit or refusal, and in the case of refusal, the grounds of such refusal, following the consideration by the City.

Fees

- 3.6.1 Except as otherwise provided in the Bylaw, applications for a Permit shall be accompanied by the prescribed fee as follows:
- i) Soil Removal and Deposit Permit Fee of 100.00
 - ii) \$50.00 partial refund shall be made if the permit application is refused.

Exception

- 3.7.1 No permit shall be required where the soil removal or deposit involves:
- i) removal of less than 80 m³ of soil within any 12 month period;
 - ii) removal of less than 200 m³ of soil to provide for a foundation of a structure authorized by a valid and subsisting building permit;
 - iii) deposit of soil or other material for the purpose of backfilling or landscaping during or after the construction of a structure in respect of which a building permit has been issued;

- iv) the removal or deposit of soil that may be necessary for a mineral exploration or development project which has a permit pursuant to Section 10 of the Mines Act;
- v) removal or deposit of soil or other material on any land that is:
 - a) classified as managed forest land under the Assessment Act,
 - b) located within a license area under the Forest Act, or
 - c) regulated under the Highways Act;so long as the land continues to only be used for that purpose;
- vi) the removal or deposit of soil or other material undertaken under conditions specified in a geotechnical report accepted by the City and authorized by a development permit, building permit or subdivision approval;
- vii) removal or deposit of soil pursuant to a permit under the Soil Conservation Act;
- viii) removal or deposit of soil authorized under the Waste Management Act.

Expiration of Permit

3.8.1 A permit issued under this bylaw shall be valid for a period of one year and may not be assigned. Every person wishing to continue with the removal or deposit of soil after the expiry date of the Permit must submit a new Soil Removal & Deposit Permit application along with applicable fees.

Penalty

3.9.1 Every person who violates any provision of this bylaw or who suffers or permits any act or thing to be done in violation of any provision of this bylaw, or who neglects to do or refrains from doing anything required to be done by any provision of this bylaw shall be deemed to have committed an offence and upon summary conviction therefore, shall be liable for the penalties provided by the Offence Act.

Severability

3.10.1 If any section or portion of this bylaw is held to be invalid by a Court of competent jurisdiction, such invalid Section or portion shall be severed and such invalidity shall not affect

the remainder of this bylaw.

PART 4

Adoption

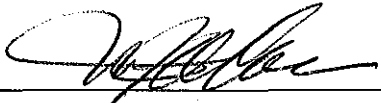
READ A FIRST TIME this 14th day of June, 1999.

READ A SECOND TIME this 14th day of June, 1999.

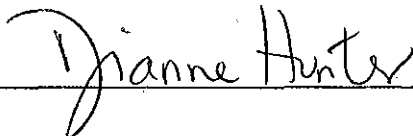
READ A THIRD TIME this 14th day of June, 1999.

APPROVED BY THE MINISTER OF MUNICIPAL AFFAIRS this 5th day of August, 1999.

READ A FOURTH AND FINAL TIME this 7th day of September, 1999.



Mayor



Clerk

Province of British Columbia



No. 990230

Statutory Approval

Under the provisions of section 723(7)
of the Municipal Act
I hereby approve Bylaw No. 881
of City of Castlegar, a copy
of which is attached hereto.

Dated this 5th day
of August, 1999

Minister of Municipal Affairs

A handwritten signature in black ink, appearing to be "D. E. ...", written over a dotted line.

SCHEDULE "A" TO BYLAW 881

APPLICATION FOR SOIL REMOVAL AND DEPOSIT PERMIT

THE INFORMATION REQUESTED IN THIS FORM IS REQUIRED TO EXPEDITE THE APPLICATION AND ASSIST THE STAFF IN PREPARING A RECOMMENDATION

*This form is to be completed in full and submitted with all requested information to:
The City of Castlegar, 460 Columbia Avenue, Castlegar, B.C. V1N 1G7
Phone: (250) 365-7227 Fax: (250) 365-5074*

Applicant and Registered Owners

I/We, Applicants Name: _____

Address: _____

Telephone: Business: _____ Home: _____ Fax: _____

Registered Owner's Name(s): _____

Address: _____

Telephone: Business: _____ Home: _____ Fax: _____

1. hereby apply for a permit to: Remove soil from: Deposit soil or other material on:

(legal description of property)

2. It is my intention to remove from, or deposit soil or other material on, the said property for the following purposes:

3. Area from which soil or other material is to be removed or deposited: _____ hectares.

4. The amount of soil or other materials to be removed or placed: _____ cubic metres.

5. Characteristics of the soil to be removed or soil or other material to be placed:

6. I/We enclose:

- a) The following information as required under Section 3.3 of Bylaw 881:
- site plan illustrating all pertinent topographic and hydraulic features, buildings, structures, vegetation cover;
 - a topographic plan with slope profiles showing the existing and proposed elevations of the property and their relations to those of the adjoining lands;
 - the proposed methods of drainage control during and after the excavation or fill;
 - the proposed methods of access to the site during the excavation;
 - the proposed methods of providing landscape screening if applicable;
 - evidence that the person or firm responsible is covered by liability insurance with a minimum third party coverage of \$2,000,000; and
- b) the required application fee in the amount of \$100.00

I/We hereby declare that all of the above statement and the information contained in the material submitted in support of this application are to the best of my/our knowledge true and correct.

Date

Signature of Applicant

Where the applicant is not the property owner, the following must be signed by the registered owner:

As owner(s) of the land described in this application, I/We, hereby authorize _____
_____ to act as the applicant in regard to this Soil Removal and Deposit
Permit.

Date

(signature of owner(s))

(office use only)

Complete application received _____

Fee Receipt Number: _____

SCHEDULE "B" TO BYLAW 881

PERMIT FOR SOIL REMOVAL AND DEPOSIT OF SOIL AND
OR OTHER MATERIALS WITHIN DESIGNATED SOIL REMOVAL
AND DEPOSIT PERMIT AREAS

SOIL REMOVAL AND DEPOSIT PERMIT No. _____

This Soil Removal and Deposit Permit is hereby issued by the City of Castlegar to:

for the (1) removal of _____ cubic metres of soil from;
OR (2) deposit of _____ cubic metres of soil or other material on:

(legal description)

pursuant to the provisions of the City of Castlegar Soil Removal and Deposit Permit Bylaw No. 881, 1999, subject to:

- (1) the conditions set by the City of Castlegar and as attached hereto;
- (2) when the soil removal or deposit is completed, the Development Services Department (365-7227) is to be advised; and
- (3) this Permit expires on _____
(date)

Dated this _____ day of _____, 19____.

Director of Development Services