

Discussion Paper
Soil Deposit and Removal Bylaw
July 2010

Background

The District of Mission currently has separate Soil Removal (3088-1997) and Soil Deposit (3550-2003) Bylaws that were enacted in 1997 and 2003, respectively. Given the increased amount of soil deposit and removal occurrences within the District and their impact on residents, infrastructure and the environment, Council has requested that a review of the bylaws be completed and for revisions to occur.

Section 26 of the Community Charter, S.B.C 2003 authorizes Council to regulate, prohibit and impose requirements for the deposit and removal of soil or other material and also authorizes Council to make provisions regarding fees and permits, as well as different provisions for different areas, times, conditions or circumstances for the deposit or removal of soil.

The District recognizes that soil is an important resource and that soil deposits and removals are an important component to sustaining growth within the community. While soil removal and deposition must be accommodated, this accommodation must ensure that other community objectives and policies such as protection of agricultural land, environmental protection and community character are met. This document sets out recommendations regarding revisions to improve overall soil management within Mission.

The District has created this document to generate discussion by affected stakeholders and to request feedback that will be shared with Council prior to considering bylaw revisions. The document lists the current and proposed requirements:

Questions and feedback can be submitted as follows:

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1. Form of New Bylaw

Current: 2 separate bylaws

Proposed: 1 new consolidated bylaw dealing with soil removal and deposit

2. Application

Current:

- The current bylaws define soil as: top soil, gravel, sand, silt, clay, peat and other natural substances of which land is composed, but excludes construction and demolition wastes, wood waste, land clearing waste and any waste derived from commercial or industrial activities.
- The current bylaws do not apply to soil deposited or removed on land zoned industrial, institutional or commercial or land within the Agricultural Land Reserve (ALR).

Proposed:

- The new bylaw would require a permit for soil deposition or removal from all lands within Mission unless exempted as per the following section 3.
- No change in the definition of soil is being considered. This means that deposits of waste materials (asphalt, concrete, woodwaste) would continue to be regulated by the Ministry of Environment or Agricultural Land Commission (ALC).
- A soil deposit permit would be required for pre-loading but no soil removal permit would be required for removing the same soil. CHECK WITH ABBY
- A linkage would be included in the bylaw when proposing soil removal or deposit from land within the ALR. The new bylaw will reference the situations where fill will be considered for farm use and non farm use and link directly to established ALC regulatory processes.

3. Exemptions

Current:

Soil Deposit:

- for deposits < 200m³ in a calendar year
- For deposits made on behalf of District of Mission, provincial government or federal government
- Where it is required for construction of a building authorized by a building permit
- On land pursuant to conditions on a preliminary subdivision approval granted by Mission
- On land designated as agricultural land reserve
- On land which is zoned commercial, institutional or industrial under Mission's Zoning Bylaw or land within the Agricultural Land Reserve

Soil Removal:

- For removals < 100m³ in any one year
- For removals incidental to works carried out by the District of Mission
- For removals required for or incidental to the installation of utility works within a dedicated road or statutory road right of way
- Where it is required for construction of a single family or duplex dwelling authorized by a building permit

Proposed:

The following exemptions from requiring a permit would exist:

- For soil deposits or removals < 100m³ in any calendar year
- For soil deposits or removals required for works completed by or on behalf of the federal or provincial governments, Crown Corporations or the District of Mission
- For soil deposits or removals required as part of preliminary subdivision approval granted by Mission or for construction of a building that is authorized by a building permit and where a lot grading plan has been completed Soil removals from the development or building site is exempt from requiring a permit but the receiving land will require a soil deposit permit should the site be located in Mission and not exempt from requiring a

permit. Source sites, within Mission, of materials deposited at development or building permit sites will require a soil removal permit unless exempt from requiring a permit.

4. Prohibitions and Conditions

Current:

The existing bylaws contain some conditions regarding requirements for permits, requirements to adhere to permit conditions, drainage, slope stability, watercourse protection, buffer zones, access for inspections by the Engineer, condition of roads etc.

- Currently, no more than 5,000 m³ per ha can be deposited and the maximum depth across the property is 0.6m while allowing for some variability throughout the property.
- Operations are limited from 8AM to 5PM Monday to Friday, statutory holidays excepted.

Proposed:

The following general prohibitions and conditions are recommended:

- A valid permit is required unless an exemption applies
- All conditions of permit and Engineer's Notices must be complied with
- Allow the Engineer access to assess compliance with bylaw
- Exposed slopes from soil removal or deposit must be less than angle of repose for the material
- The removal or deposit of soil 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.
- No soil deposit or removal shall occur from within 7.5 metres of any dedicated highway, registered right of way, sidewalk, utility or road without first obtaining approval from the jurisdiction over such highway or statutory right of way and providing the Engineer with said approval. The Engineer may require a report completed by a Professional Engineer certifying that the removal or deposit of soil will not cause damage.
- No soil shall be deposited over wells, private sewage disposal systems or within three (3) metres of a property line
- No soil shall be removed or deposited from within a Streamside Protection and Enhancement Area as defined by the District's Zoning Bylaw, Flood Protection Bylaw or as authorized by the Ministry of Mines, Energy and Petroleum Resources, Ministry of Environment or Fisheries and Oceans Canada
- Repairs of any damage to District of Mission infrastructure will be the responsibility of the permittee and security can be accessed by Mission to repair damage within 60 days after permit expiration
- Dirt, mud or debris deposited on public roads or in roadside ditches from the removal or deposition of soil shall be removed on a daily basis or as deemed necessary by the Engineer or Bylaw Enforcement Officer. Failure to keep the road clean is cause for Mission to use the security for the purpose of keeping roads free of mud, dirt and debris.
- No maximum soil depth is being proposed. Maximum soil depth will be specified in the permit as a condition and will be set considering elevations of adjacent roads, properties and planned land use
- No transfer of permits will be permitted to subsequent land owners
- Permits must be visibly displayed at the site of soil deposit or removal
- No change to the hours of operation is being considered.

5. Administration

Current:

- The Engineer has the authority to enter upon any land for the purpose of administering the existing bylaws.
- There is currently inconsistency in the way the soil removal bylaw and soil deposit bylaws allow the Engineer to specify additional conditions in permits.

Proposed:

- The Engineer will have the authority to delegate his authority to other District positions (Environmental staff, Bylaw Enforcement staff etc) for the purpose of administering the new bylaw
- The Engineer will continue to have the right to enter upon land for the purpose of administering the new bylaw
- The Engineer will be able to include special conditions within a soil removal or soil deposit permit
- The Engineer will have the authority to revoke a permit if there is non-compliance with the new bylaw
- The Engineer will have the authority to refuse a permit application, if in the Engineer's opinion, there is the potential for environmental damage, damage to utilities, buildings, contravention of other bylaws, provincial or federal laws, impacts to public health and safety, contrary to the public interest, adversely affects the future development of adjacent lots

6. Permit Application:

Current:

The current bylaws specify the form an application must take as well as the supporting information. In the case of a large gravel removal operation, the application form is all that is required provided the applicant holds a valid Mines permit with the Ministry of Mines, Energy and Petroleum Resources. In the case of soil removal operations not covered by a valid Mines permit with the Ministry of Mines, Energy and Petroleum Resources, the following information is required to be submitted:

- Detailed drawings prepared by an Engineer that show:
 - o Buildings, roads, natural watercourses
 - o Erosion control methods
 - o Access routes
 - o Progressive stages of excavation, depth of deposition, volumes of deposition and excavation
 - o Final grading that demonstrates neighbouring properties will not be adversely impacted by drainage
 - o Location of buffer zones
 - o Site profile information for fill source sites that demonstrate soil is not contaminated

Proposed:

- Permit applications will remain in the same format with some additional information requirements.
- Applications that are made under a new (existing operations grandparented) Mines permit will be required to complete a noise and dust mitigation plan which must be submitted with the application. No other changes are being considered from how aggregate operations, permitted by a valid Mines permit with the Ministry of Mines, Energy and Petroleum Resources, are currently managed.
- The maximum rate of application and the maximum depth is proposed to be removed to allow the Engineer discretion and flexibility when considering specific circumstances.

- Under certain circumstances within the ALR, the District will work closely with the ALC to determine whether a District and an ALC permit is required and will attempt to collaborate as much as possible.
- A description of the haul route and schedule of trucking of soil

7. Permit Issuance & Refusal

Current:

- All conditions of the bylaws must be met prior to a permit being issued
- Soil removal permits are valid for the calendar year in which they are issued while a soil deposit permit is valid for twelve months from the date of issue.
- The Engineer currently has minimal reason to refuse a permit application, typically only when the application does not meet the bylaws

Proposed:

- The Engineer will have the authority to revoke a permit should non-compliance occur. Notification will be required to be sent by the Engineer
- The Engineer shall have the right to refuse issuance of a permit should the soil deposit or removal:
 - o have the potential of impacting a watercourse, utility, road, sidewalk, well, sewer, ditch that is on the receiving land or a neighbouring property
 - o impact adjacent lots including development thereof
 - o contravene any other laws
 - o threaten the safety of the public
 - o result in the use of a lot that is inconsistent with applicable zoning
 - o result in excessive costs for a government to provide public utilities and works on an adjacent lot
 - o create dust, dirt or noise that may constitute a nuisance to any other public or private lot or the public at large
 - o result in the lot or another lot becoming unstable
 - o result in damage to roadways that exceeds the value of the soil deposit/removal fee
 - o The Engineer shall have the authority to specify conditions that are consistent with the District's Traffic Bylaw which shall apply to traffic control, haul routes, load ratings, street cleanliness etc

8. Fees and Security

Current:

- A permit application fee of \$170 is charged in 2010 and set to increase to \$175 in 2011
- A refundable security deposit of \$4,000 per hectare is charged for soil removals and a refundable security deposit of \$5,000 for the first hectare or portion thereof plus an additional \$5,000 per hectare for each additional hectare or portion thereof.
- Security is not required when the soil removal is being carried out under a Mines Permit where security has been deposited with the Ministry of Mines, Energy and Petroleum Resources.
- Soil removal and deposit fees of \$0.44 and \$0.45 per cubic metre are charged in 2010 and 2011, respectively. This equates to \$0.236 and \$0.241 per tonne.
- Soil removal and deposit fees are payable by the 15th day of the month following the month in which the soil deposit or removal occurred.
- The permit holder will keep and maintain daily logs of the quantity of soil removed
- The District may conduct aerial or field surveys of the lands to confirm the permit holder's logs.

Proposed:

- The permit application fee shall be set at \$170 for 2010 and \$175 for 2011.
- A refundable security deposit of \$5,000 for the first hectare or portion thereof plus an additional \$5,000 per hectare for each additional hectare or portion thereof will be required for soil deposits and removals.
- Security will not be required when the soil removal is being carried out under a Mines Permit
- Permittee's reporting and payment requirements and verification by the District will not be changed.
- Soil deposit and removal fees shall be set at \$0.50 per cubic metre or \$0.268 per tonne. Future rates will be tied to the Vancouver Consumer Price Index for the construction sector. The following table provides soil removal and deposit fees in neighbouring jurisdictions:

Jurisdiction	2010 Fee (\$/m³)
Abbotsford	0.67
Township of Langley	0.50
Surrey	0.57
Maple Ridge	0.15/0.30/0.50
Chilliwack	0.50
Mission	0.44

9. Enforcement & Offenses

Current:

- Various District staff currently have the right at reasonable times to enter upon any land to determine whether the requirements of the bylaw are being met.
- Any person who contravenes or violates and provision of the existing bylaws commits an offense and each day that a violation is caused or allowed to continue shall constitute a separate offense.
- Offenses are liable on summary conviction to the penalty prescribed in the Offense Act
- Removal or deposit of soil without a permit are both currently considered ticketable offenses subject to \$350 ticket.

Proposed:

- District staff will remain authorized to enter upon land for the purposes of enforcing the new bylaw.
- The Engineer shall have the authority to issue a notice to a permit holder or property owner detailing any breach of the new bylaw. The notice may include deadlines to remedy any breach.
- Any contravention will remain an offense and subject to the Offense Act, however, the ticketable offenses of the new bylaw will be expanded to include contravening direction under an Engineer's Notice.