



**SOIL REMOVAL BYLAW**

**3088-1997**

**THE FOLLOWING DOCUMENT HAS BEEN REPRODUCED FOR CONVENIENCE ONLY** and is a consolidation of "District of Mission Soil Removal Bylaw 3088-1997" with the following amending bylaws:

<b>Bylaw Number</b>	<b>Date Adopted</b>	<b>Section Amended</b>
3954-2006 (a general fees & charges amending bylaw)	December 18, 2006	Section 6(b), 6(c)
5002-2008-4030(1) (general fees & charges amending bylaw)	December 15, 2008	Section 6(c)
5070-2009 (general fees & charges amending bylaw)	December 14, 2009	Section 6(b) and 6(c)
5257-2011 (general fees and charges amending)	December 12, 2011	Section 6(b) and 6(c)
5487-2015-4029(11) (general fees and charges amending)	March 16, 2015	Section 6(b) and 6(c)
5531-2015 (a general fees and charges amending bylaw)	December 7, 2015	Section 6(b) and 6(c)
5683-2017 (a general fees and charges amending bylaw)	December 20, 2017	Section 6(b) and 6(c)
5800-2018 (a general fees and charges amending bylaw)	December 17, 2018	Section 6(b) and 6(c)
5889-2019 (a general fees and charges amending bylaw)	December 16, 2019	Section 6(b) and 6(c)
5869-2019-3088(2)	January 6, 2020	Section 12
5988-2020 (a general fees and charges amending bylaw)	December 7, 2020	Section 6(b) and 6(c)

Individual copies of any of the above bylaws are available from the Administration Department of the District of Mission. For legal purposes, copies of the original bylaws should be obtained.

## **DISTRICT OF MISSION**

### **BYLAW 3088-1997**

A bylaw to regulate the removal of soil  
from land within the Municipality

The Council of the District of Mission in open meeting assembled, ENACTS AS FOLLOWS:

#### 1. TITLE

This bylaw may be cited as "District of Mission Soil Removal Bylaw 3088-1997".

#### 2. INTERPRETATION

In this bylaw, unless the context otherwise requires:

"Applicant" means the person applying for a Soil Removal Permit and could include the Owner or a person authorized in writing by the Owner(s) to act on their behalf.

"Buffer Zone" means a strip of undisturbed land to screen the view and sound and protect adjacent land, both public and private, from undermining.

"Lands" means the land from which it is proposed or permitted to remove Soil.

"Municipal Engineer" means the Director of Engineering and Public Works of the Municipality as appointed by Council and includes any person duly authorized to act on his or her behalf or his or her authorized representatives.

"Municipality" means the District of Mission, the Council and its appointed representatives.

"Owner" means the registered owner or owners of an estate in fee simple of the Lands.

"Permit" means the written authority granted by the Municipal Engineer for the Removal of Soil from specified Lands within the Municipality upon the terms, conditions, and drawings and specifications applicable to the application for such Removal.

"Permit Holder" means the Applicant to whom a Permit has been granted.

"Removal" means the act of removing Soil from the land on which it exists, whether in the ground or in a stockpile or other storage, and 'remove' and 'removed' shall have a corresponding meaning.

"Restoration Works" means those works required to comply with the drawings, data and specifications referred to in paragraph 4.1(b) (vii) herein and approved by the Municipal Engineer.

"Soil" means gravel, sand, rock, silt, clay, peat and all other material of which land is composed, including topsoil, down to and including bedrock.

#### 3. APPLICATION

- (a) No person shall remove or cause to be removed any Soil from any parcel of land, unless he or she is the holder of a valid and subsisting Permit for such Removal, in the form set out in Schedule "B" which is annexed hereto and made part of this bylaw, provided that no Permit shall

be required for:

- (i) the Removal of Soil required for or incidental to the construction, installation, or maintenance of works by or on behalf of the Municipality;
- (ii) the Removal of Soil required for or incidental to the construction, installation or maintenance of utility works within a dedicated road or road statutory right-of-way;
- (iii) the Removal of Soil for other than commercial or industrial purposes where the amount of Soil removed from any one parcel of land in any one year does not exceed one hundred (100) cubic metres; or
- (iv) the Removal of Soil required for or incidental to the construction of a single family or duplex dwelling for which a building permit has been issued by the Municipality.

#### 4. PERMIT APPLICATIONS

(a) Applications for Permits shall be submitted using the form set out in Schedule "A" which is annexed hereto and made part of this bylaw, and shall be submitted to the Municipal Engineer, together with a duly completed Municipal Site Information Form.

(b) Applications shall be accompanied by either:

- a copy of the valid sand and gravel or quarry permit issued by the Province of British Columbia Ministry of Employment and Investment, together with copies of all drawings and other data submitted to the Ministry for that permit.

or

- detailed drawings, data and specifications prepared and sealed by a registered Professional Engineer of the Province of British Columbia, or prepared and certified by a British Columbia Land Surveyor, to a scale of one to one thousand (1:1000) or larger, showing the contour of the ground in its current state with contour intervals of not more than two (2) metres using Geodetic Datum, and shall contain complete information with respect to the following matters:

- (i) all buildings, structures, tree cover, roads, lanes, bridges, and natural watercourses;
- (ii) the proposed method to control erosion of the banks of the excavation;
- (iii) the proposed method of siltation and drainage control for the Lands during excavation;
- (iv) the proposed method of access to the site during the excavation;
- (v) the proposed method of fencing, enclosing and clearing to assure that no hazard to human or animal life exists;
- (vi) the proposed progressive stages of excavation in terms of annual development showing contours as specified above, grades and slopes on separate plans for each stage;
- (vii) the proposed final grading of the Lands upon completion of the operation with contours as specified above, and showing the method of access and methods of permanent positive

gravity drainage and permanent siltation control on a separate plan;

(viii) the proposed location of machinery, buildings, scales and all other proposed structures and improvements;

(ix) the proposed location of Buffer Zones and tree cover, and location, grade and width of berms.

## 5. SECURITY DEPOSIT

(a) Before receiving a Permit, every Applicant shall either:

- have posted a bond with the Province of British Columbia, Ministry of Employment and Investment, as security for completion of the restoration works required by the Ministry following termination of the Soil Removal operation,

or

- deposit an irrevocable letter of credit in a form acceptable to the Municipality (the security deposit) in the amount of Four Thousand Dollars (\$4,000.00) for each hectare of the Lands from which Soil is to be removed. The said security deposit shall remain in full force and effect for thirteen (13) months after the expiration of the period for which the Permit was issued. The security deposit may be held by the Municipality as a guarantee that the Restoration Works specified in the application will be carried out upon completion of the Removal in accordance with the drawings herein referred to and deposited with the Municipality.

## 6. PERMIT REQUIREMENTS

(a) Permits shall expire on the 31<sup>st</sup> day of December in the year in which the Permit was issued.

(b) For each Permit there shall be payable by the Applicant to the Municipality a Permit fee as set out below, which Permit fee shall be paid in full prior to the issuance of a Permit.

\$369.00 (effective January 1, 2021)

(c) There shall be payable by the Permit Holder to the Municipality a Soil Removal fee as follows:

Effective January 1, 2021

\$0.72 per cubic meter

\$0.38 per metric tonne

of Soil removed from Lands within the District of Mission during the term of the Permit.

(d) The Permit Holder shall keep and maintain daily logs of the quantity of Soil Removed from the Lands.

(e) The Permit Holder shall submit to the Municipality on or before the 15<sup>th</sup> day of each month during the term of the Permit and on the 15<sup>th</sup> day of the month following the expiration of the Permit a report showing the quantity of Soil removed from the Lands during the previous month along with a copy of the daily logs of Soil Removed.

(f) The Municipality may conduct aerial or field surveys of the Lands to aid in the calculation of the

quantity of Soil Removed. In the event of a discrepancy of the Soil Removal figure submitted by the Permit Holder, the Municipal Soil Removal figure will be used for the calculation of the Soil Removal Fees.

- (g) All Soil Removal fees payable pursuant to this bylaw shall be paid by the Permit Holder on or before the 15<sup>th</sup> day of the month following the month in which the Soil was removed.

## 7. ISSUANCE OF A PERMIT

- (a) The Municipal Engineer shall issue a Permit where:
  - (i) an application has been made for a Permit;
  - (ii) the Applicant has submitted all required information and plans;
  - (iii) the proposed Removal as shown in the application and plan conforms with this bylaw and all other bylaws of the District of Mission;
  - (iv) the Applicant has paid the prescribed Permit fee as set out herein; and,
  - (v) the Applicant has fulfilled the security deposit requirements detailed in Section 5.
- (b) If the Municipal Engineer refuses to grant a Permit, the Applicant may appeal this decision to the District of Mission's Council

## 8. CONDITIONS

- (a) All Removal of Soil within the District of Mission for which a Permit is required shall be subject to the following conditions:
  - (i) the excavation of the Lands shall be such that positive gravity drainage is assured. The elevation of the bottom of any excavation shall be such that the lowest point is being drained by gravity to a natural watercourse or a public drainage facility adequate for the purpose. This subsection shall not be construed to prevent the Permit Holder from establishing a settling pool which has been approved and constructed as per the siltation control plan submitted with the Soil Removal application;
  - (ii) all damage to adjacent Municipal or privately owned drainage facilities, roads, or lanes, or other municipally or privately owned property, or natural watercourses, resulting from the excavation or Removal of Soil, shall be repaired by the Permit Holder at his or her expense. No Permit Holder shall cause or allow any Soil or other matter or thing originating from the Lands to obstruct or pollute any drainage facility or water course;
  - (iii) stockpiles of Soil shall be confined to the Lands and shall not encroach on any Buffer Zone;
  - (iv) no natural watercourse shall be altered or diverted, except with the written permission of the Ministry of Environment Lands and Parks;
  - (v) a Buffer Zone of not less than ten (10) metres shall be provided and maintained along the entire perimeter of the Lands;
  - (vi) no Buffer Zone will be required along the property line with property adjacent to the Lands for which a Permit has been granted if the owner of the adjacent property has agreed, in writing, to eliminate the buffer zone requirement because of existing or proposed Soil Removal on that adjacent property;

- (vii) no Soil Removal shall occur within any Buffer Zone;
- (viii) no stockpiles of Soil shall be deposited or vehicles or machinery kept within any Buffer Zone;
- (ix) the Permit Holder shall effectively warn the public of the nature of the operation and the presence of the excavation;
- (x) the Permit Holder shall complete all Restoration Works within one (1) year of the expiration date of the Permit if a new Permit for the Same Lands is not granted by the Municipality. If the Restoration Works are not duly and properly completed within one year of the expiration date of the Permit, the Municipality may, but shall not be obligated to, in addition to the penalties hereinafter prescribed, draw upon the security deposit and complete all or part of the Restoration Works at the cost of the Permit Holder and deduct from the security deposit the cost of such completion, and the balance of the security deposit, if any, shall be returned to the Permit Holder, less any administration costs incurred by the Municipality. If the security deposit is insufficient to cover the actual cost of completing the Restoration Works, the Permit Holder shall pay such deficiency to the Municipality immediately upon receipt of the Municipality's bill for same. It is understood that the Municipality may do such work either by itself or by contractors employed by the Municipality. If the Restoration Works are completed by the Permit Holder as herein provided, then the security deposit shall be returned to him or her on receipt of the Municipal Engineer's Certificate of Completion.

#### 9. DUTIES OF THE PERMIT HOLDER

- (a) The Permit Holder shall carry out the Removal in accordance with the proposed progressive stages of excavation shown on the drawings accompanying the Permit application and approved by the Municipal Engineer.
- (b) The Permit Holder shall appoint a designated representative to act on his or her behalf and shall supply to the Municipal Engineer a telephone number(s) where he or she or his or her designated representative may be reached at any time. The Permit Holder shall update the Municipal Engineer of any telephone number changes or changes of his or her designated representative.

#### 10. VARIATION FROM THE APPLICATION

- (a) If at any time it is desired to alter in any manner, or deviate from the particulars of the application or drawings previously submitted for which a Permit has already been issued, a new Permit shall be applied for.

#### 11. POWERS OF THE MUNICIPAL ENGINEER

- (a) The Municipal Engineer and the Deputy Director of Engineering, Environmental Technician, Rodman 1, Instrument Person, Works Inspector I, Works Inspector II, and Bylaw Enforcement Officer shall have the right at all reasonable times to enter upon and inspect any property to ascertain whether the requirements of this bylaw are being met and may give notice of a breach of any of the provisions of this bylaw or a Permit issued pursuant thereto, and upon receipt of such a notice the recipient shall forthwith cease and desist from removing any further Soil from the property until such breach has been remedied.

#### 12. PENALTY

- (a) Subject to the offence and penalties as provided under *the Community Charter* or *Local*

*Government Act*, the following will apply:

- a. Any person designated as a Bylaw Enforcement Officer pursuant to the “Bylaw Notice Enforcement Bylaw 5700-2018” is hereby authorized and empowered to enforce the provisions of this Bylaw by Bylaw Notice or as otherwise provided by this Bylaw.
- b. a violation of any of the provisions identified in this Bylaw will be subject to the procedures, restrictions, limits, obligations and rights established in the Bylaw Notice Enforcement Bylaw 5700-2018, in accordance with the *Local Government Bylaw Notice Enforcement Act, SBC 2003, c. 60*;
- c. a person who:
  - i. contravenes, violates or fails to comply with any provision of this Bylaw;
  - ii. permits or allows any act or thing to be done in contravention or violation of this Bylaw; or
  - iii. fails or neglects to do anything required to be done under this Bylaw, has committed an infraction of, or an offence against, this Bylaw; and is liable on summary conviction to a fine of not more than Ten Thousand Dollars (\$10,000.00); and
- d. each day such infraction is caused, or allowed to continue, constitutes a separate offence.

### 13. SEVERABILITY

If any section, subsection, sentence, clause, or phrase of this bylaw is for any reason held to be invalid by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this bylaw.

### 14. REPEAL

District of Mission Soil Removal Bylaw No. 475-1976, and all amendments thereto, are hereby repealed.

READ A FIRST TIME this 5<sup>th</sup> day of August, 1997

READ A SECOND TIME this 5<sup>th</sup> day of August, 1997

READ A THIRD TIME this 5<sup>th</sup> day of August, 1997

APPROVED by the Minister of Municipal Affairs and Housing with the concurrence of the Minister of Energy, Mines and Petroleum Resources this 17<sup>th</sup> day of December, 1997 (Approval No. 970430)

ADOPTED this 19<sup>th</sup> day of January, 1998

(original signed by Mayor Hawes)  
MAYOR

(original signed by Jacqueline Fennellow)  
CLERK

SCHEDULE "A"

**APPLICATION FOR SOIL REMOVAL PERMIT**

1. Address of the Lands: \_\_\_\_\_

Legal Description: \_\_\_\_\_

2. Applicant's Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Contact #: \_\_\_\_\_

(home)

(work)

(fax)

Owners Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Contact #: \_\_\_\_\_

(home)

(work)

(fax)

Designated Representative: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Contact #: \_\_\_\_\_

(home)

(work)

(fax)

3. The soil is being removed for the purpose of \_\_\_\_\_.

The area from which the soil is to be removed is \_\_\_\_\_ hectares.

The estimated amount of soil to be removed is \_\_\_\_\_ cubic metres in the period ending \_\_\_\_\_.

4. The property is presently zoned \_\_\_\_\_

5. Upon approval of this application I/we hereby guarantee to fulfill the following conditions prior to the issuance of a permit:

a) supply letter of credit in the amount of \$\_\_\_\_\_.

b) submit the Soil Removal fee on a monthly basis.

NOTE: All parties signing page 2 must initial below.

Applicant's Initials \_\_\_\_\_ Owners' Initials \_\_\_\_\_

6. Filed herewith are the drawings, data and specifications as prepared, numbered and entitled:

\_\_\_\_\_  
\_\_\_\_\_





SCHEDULE "B"

**DISTRICT OF MISSION SOIL REMOVAL PERMIT**

The Receipt of \$178.50 paid as a Permit Fee and a Security Deposit (if necessary) in the amount of \$ \_\_\_\_\_ in compliance with the provisions of "District of Mission Soil Removal Bylaw 3088-1997" is hereby acknowledged.

PERMISSION is hereby granted to

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

Address: \_\_\_\_\_

Contact # : \_\_\_\_\_  
(home) (work) (fax)

to remove up to a maximum quantity of \_\_\_\_\_ cubic metres of Soil from the area(s) described as:

Legal Description: \_\_\_\_\_

Civic Address: \_\_\_\_\_

Building Permit No. (if applicable): \_\_\_\_\_

In accordance with application dated \_\_\_\_\_ and the terms and conditions of "District of Mission Soil Removal Bylaw 3088-1997" and amendments thereto.

DATE PERMIT GRANTED \_\_\_\_\_

DATE PERMIT EXPIRES \_\_\_\_\_

\_\_\_\_\_  
Tracy Kyle  
DIRECTOR OF ENGINEERING AND PUBLIC WORKS