

District of Metchosin

# Soil Removal & Deposit Bylaw

No. 402 (2001)

This bylaw has been consolidated **for convenience only**. Please contact staff to verify that the information contained in this document reflects the most current bylaw provisions.

The following amendment bylaws are incorporated:

465, 516, 529, 538, 544, 616, 648, 655 & 687

Unofficially Consolidated March 2025

**DISTRICT OF METCHOSIN**  
**SOIL REMOVAL & DEPOSIT BYLAW**  
**(For convenience, this document is**  
**an unofficial consolidation**  
**of Bylaws 402, 465, 516, 529, 538, 544, 616, 648, 655 & 687**

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WHEREAS section 8(3)(m) of the Community Charter authorizes a municipal council to regulate, prohibit and impose requirements, by bylaw, in relation to the Removal of Soil and the Deposit of Soil or other materials on any land within the Municipality;

AND WHEREAS section 8(3)(h) of the Community Charter authorizes a municipal council to regulate, prohibit and impose requirements, by bylaw, in relation to nuisances, disturbances and other objectional situations, including noise;

AND WHEREAS section 8(3)(l) of the Community Charter authorizes a council to “seek community opinion on a question that the council believes affects the municipality, by voting or any other process the council considers appropriate”;

*(Bylaw 648)*

AND WHEREAS the Processing of Soil is a regulated land use under the Metchosin Land Use Regulations Bylaw No. 259;

AND WHEREAS the Metchosin Land Use Regulations Bylaw No. 259 specifies that no development activities may take place without a development permit within the Bilston Watershed Development Permit Area or within 60 meters of the top of the bank of the Shoreland Slopes Development Permit Area.

AND WHEREAS Council wishes to regulate both the Removal of Soil and the Deposit of Soil and other materials within the District of Metchosin;

AND WHEREAS the protection of fish and fish habitat is mandatory under the *Federal Fisheries Act*, and the Province’s Riparian Areas Regulation is enabled under Section 12 of the *Fish Protection Act*, requiring all local governments within the Capital Regional District to adopt bylaws that protect the features, functions and conditions of riparian areas through the regulation or approval of all residential, commercial and/or industrial activities, for lands that are located immediately adjacent to creeks, rivers, sloughs, wetlands or other fish-bearing habitats;

*(Bylaw 516)*

NOW THEREFORE the Council of the District of Metchosin, in open meeting assembled, enacts as follows:

Citation

1. This Bylaw may be cited as the “Metchosin Soil Removal and Deposit Bylaw, No. 402”.
- 1.1 The purpose of this bylaw is to regulate soil removal and deposit within the municipality in the general public interest and it is not contemplated nor intended, nor does the purpose of this Bylaw extend
  - (a) to the protection of any person from injury or damage to property or economic loss as a result of the removal or deposit of soil;
  - (b) to the assumption by the municipality or any employee of any responsibility or duty of care for insuring that the removal or deposit of soil will not result in injury to any person or danger to any property from erosion, flooding, landslip or other damage, or adverse effects on human health or pollution of the environment;
  - (c) to providing any person with a warranty with respect to the removal or deposit of soil for which a permit is issued under this Bylaw that the removal or deposit of soil will not cause or increase the danger of erosion, flooding, landslip or other damage, or adverse effects on human health or pollution of the environment;
  - (d) to assuming liability of a property owner for any damage arising from nuisance or negligence arising from removal or deposit of soil carried out on the owner’s property.

*(Bylaw No. 538)*

Repeal

2. This Bylaw repeals “Soil Removal Prohibition Bylaw No. 70” and “Deposit of Soil Prohibition Bylaw No. 71”.

Application

3. This Bylaw applies to all Lots within the Municipality with the exception of any Lot or portion of Lot listed in Schedule A.
4. The listing of a Lot or portion of a Lot in Schedule A does not create any vested rights and Council may amend Schedule A at any time.

Metric Dimensions

5. This Bylaw uses metric dimensions. Any Imperial equivalents provided in brackets are approximate references for convenience only and do not form part of this Bylaw.

Interpretation

6. In this Bylaw:

“Aquifer” means a water-bearing stratum of permeable rock, sand or gravel;

“Berm” means an embankment built of Soil for the purpose of providing a visual barrier and reducing the transmission of noise from a Permit Area;

“Buffer Zone” means a strip of land on a Lot, adjoining the Permit Area and having the minimum width specified in this Bylaw, which strip is either left in a natural state or bermed or landscaped in accordance with the terms of a Permit to provide a visual and sound barrier between the Permit Area and adjacent and nearby lots, parks, trails, greenspaces, roads and other uses;

“Clerk” means the Clerk of the District of Metchosin or his authorized designate;

“Commercial Soil Removal” means Removal or proposed Removal of a total of more than 100 cubic meters of Soil from any Lot in any calendar year;

“Commercial Soil Removal Permit Area” means the portion of a Lot for which the Municipality has issued a Permit to conduct Commercial Soil Removal;

“Compost Material” means any of the following: grass clippings or plant material from weeding or pruning, waste or leftovers from household food preparation, animal waste, or filler material such as paper or straw.

“Corporate Officer” means the Corporate Officer of the District of Metchosin or his/her authorized designate.

*(Bylaw 648)*

“Council” means the Council of the District of Metchosin;

“db” means decibel , and is to be measured as an Leq (equivalent or average sound level) over the course of a 30 second period;

*(Bylaw 465)*

“Deposit” includes the act of moving, Soil, Compost Material or Other Material and placing it on any Lot or land or in any Watercourse within the Municipality from which they did not originate and includes creating a stockpile or other storage facility of such materials;

*(Bylaw 687)*

“Deposit Area” means the area upon which a Soil Deposit is placed.

*(Bylaw 616)*

“Driveway Access Permit” means a road access permit issued to permit a boulevard crossing pursuant to the District’s Traffic and Highways Regulation Bylaw No. 57, and refers specifically to the first 5 metres of driveway approach from the edge of the public road pavement to the driveway, as referenced in Schedule B of that Bylaw.

*(Bylaw 616)*

“Engineer’s Report” means a report prepared by a Registered Professional in compliance with this Bylaw.

“Holiday” means New Year’s Day, Good Friday, Easter Monday, Victoria Day, Canada Day, B.C. Day, Labour Day, Thanksgiving Day, Remembrance Day, Christmas Day, and Boxing Day (December 26);

“Large Deposit” means deposit or proposed deposit of a total of 500 cubic metres or more of soil or other material on any lot equal to or greater than 0.4 ha in size, or a deposit or proposed deposit of a total of 250 cubic metres or more of soil or other material on a lot smaller than 0.4 ha, in any calendar year.

*(Bylaw 648)*

“Lot” includes any unit shown on the records of the Land Title Office in which land is held and includes a strata Lot created pursuant to the *Condominium Act*;

“Municipality” means the District of Metchosin or the area within the District of Metchosin;

“Natural Boundary” means the visible high-water mark of a Watercourse where the presence and action of the water are so common and usual, and so long continued in all ordinary years, as to mark upon the Soil of the bed of the body of water a character distinct from that of the banks thereof, in respect to vegetation, as well as in respect to the nature of the Soil itself;

“Other Material” includes asphalt, biological waste, concrete, construction and demolition waste, drywall, fertilizers, glass, masonry rubble, rebar, unchipped lumber, and Wood Waste, but does not include Soil or Compost Material;

*(Bylaw 687)*

“Permit” means a permit issued under this bylaw.

“Permit Area” means the area for which a Permit has been issued under this Bylaw.

“Permittee” means a person with a valid Permit under this Bylaw;

“Processing” includes the washing, screening or crushing of Soil;

“Qualified Environmental Professional” has the same meaning as set out in the Riparian Areas Regulation;

*(Bylaw 516)*

“Referendum” means a referendum authorized by the *Local Government Act* and required or initiated in accordance with this Bylaw.

“Registered Professional” is a person who is registered or licensed to practice in the capacities described under the sections of this Bylaw requiring a Registered Professional. The Registered Professional includes a professional engineer, qualified environmental professional, biologist, geologist, geoscientist, or agrologist who is working within their field of expertise and is in good standing with the applicable professional organization.

*(Bylaw 648)*

“Removal” means the act of Removing Soil from any Lot or land including creek beds, river beds and submerged lands in the Municipality from where it existed or stood, and includes Removal from a stockpile or other storage facility;

“Removal Area” means the area from which the soil is removed.

*(Bylaw 616)*

“Resident” means every individual over the age of eighteen who is currently living in the Municipality, or has a mailing address in the Municipality, or owns, leases or rents property or a dwelling or building in the Municipality.

“Riparian Area” means all areas of a parcel that are within 30 metres of the natural boundary of a watercourse.

*(Bylaw 648)*

“Riparian Areas Regulation” means the *Riparian Areas Protection Regulation*, B.C. Reg 178/2019 of the *Riparian Areas Protection Act*, SBC 1997, c.21;

(Bylaw 687)

“Riparian Assessment Area” has the same meaning as set out in the Riparian Areas Regulation;

(Bylaw 516)

“Soil” means clay, peat, sand, gravel, rock, soil and other substance of which land is naturally composed, or any combination of these substances, but does not include manure from animals, household or farm Compost Material, or Other Material;

(Bylaw 687)

“Watercourse” means a natural drainage course or source of water, whether usually containing water or not, including a lake, pond, river, stream, creek, spring, ravine, swamp and gulch and also includes a man-made depression with well-defined banks and a bed 0.6 m (2') or more below the surrounding land serving to give direction to a current of water at least 6 months of the year or having a drainage area of 0.32 km<sup>2</sup> (0.12 miles<sup>2</sup>), any of which may be enclosed in a conduit, but excludes roadside ditches and settling ponds and other waterways constructed within a Commercial Soil Removal Permit Area for the purpose of removing sediments and contaminants from water.

(Bylaw 465)

“Wood Waste” means wood residue as defined in the Code of Practice for Agricultural Environmental Management, sawdust, hog fuel, bark, bark mulch, wood chips, slabs, shavings, trimmings, mill ends, edgings, or other such waste resulting from any manufacturing process involved in producing lumber or other wood products;

(Bylaw 687)

### Designation

7.

- (1) This bylaw designates the entire area within the Municipality including every Lot as a potential Commercial Soil Removal Area.
- (2) Designation of any Lot as a potential Commercial Soil Removal Area does not:
  - (a) change the zoning or land use regulations relating to the Lot,
  - (b) authorize any Commercial Soil Removal, Soil Removal, Deposit or Processing, nor
  - (c) authorize any extended use beyond the terms of a Permit under this Bylaw.

### Prohibitions

8.A No person shall do any of the following anywhere in the Municipality except in compliance with Metchosin Land Use Regulations Bylaw No. 259 and in accordance with either a valid Permit issued under this Bylaw or in accordance with a valid Permit issued under this Bylaw or in accordance with the conditions for exemptions in section 9 or 10 of this Bylaw;

- (1) Remove Soil,
- (2) Conduct Commercial Soil Removal, or

- (3) Deposit any Soil or Compost Material.
8. B. No person shall deposit Other Material anywhere in the Municipality except in accordance with section 10.2 of this Bylaw, any bylaws of the Capital Regional District, and any regulation by the Province of British Columbia.

*(Bylaw 687)*

Permit Exemptions

9. Soil or Compost Material may be Removed from a Lot in the Municipality without a Permit only where the soil is not within a Riparian Area or Riparian Assessment Area and the Removal meets at least one of the following conditions:

*(Bylaw 516)*

*(Bylaw 648)*

- (1) the Removal is necessary for and is within the footprint of works and services authorized by a building permit or driveway access permit. The exemption does not extend to works located beyond the approved building site, and associated septic field, rainwater management facilities, utilities connections or driveway,

*(Bylaw 648)*

- (2) the Removal directly relates to preparing for or implementing a subdivision by a person who has received initial consideration of a subdivision and the Soil removed is not subsequently sold,

*(Bylaw 616)*

- (3) on any Lot smaller than or equal to 4 hectares (approximately 9.88 acres), the Removal of Soil does not exceed a total of 30 cubic meters in any calendar year,

- (4) on any Lot greater than 4 hectares (approximately 9.88 acres), the Removal of Soil does not exceed a total of 60 cubic meters in any calendar year,

- (5) any Soil that is Removed is relocated within the boundaries of the Lot from which it originates,

- (6) the Removal is by a florist, nursery operator, or horticulturalist, on land used for commercial landscape supply, horticultural use or as a nursery in compliance with the Land Use Bylaw and the *Agricultural Land Commission Act*, and such Removal is necessary as part of the landscape supply, horticultural or nursery operation,

*(Bylaw 648)*

- (7) the Removal is required for the construction or repair of works, roads, highways or services by or on behalf of the Municipality, the Capital Regional District, or the Ministry of Transportation and Highways and is from Lots or land owned by one of these authorities, or

- (8) the Removal is from land owned by the Municipality or the federal or provincial government and the Removal is undertaken by government in question.

10. Soil or Compost Material may be Deposited on a Lot in the Municipality without a Permit only where the soil is not within a Riparian Area or Riparian Assessment Area, where the Deposited Soil or Compost Material is not subsequently Removed from the Lot and the Deposit meets at least one of the following conditions:

(Bylaw 516)  
(Bylaw 648)

- (1) the Deposit is necessary for and is within the footprint of works and servicing authorized by a building permit or driveway access permit. The exemption does not extend to works located beyond the approved building site, and associated septic field, rainwater management facilities, utilities connections or driveway,
- (2) Wood Waste consisting solely of
  - (a) bark mulch or wood chips used for domestic purposes such as residential landscaping; and
  - (b) wood cut only for home heating may be deposited on a Lot without a Permit except within a Riparian Area or Riparian Assessment Area.

(Bylaw 687)

- (3) the Deposit of Soil is necessary for the works and servicing to prepare for or implement a subdivision by a person who has received initial consideration of a subdivision on that property,
- (4) on any Lot, the Deposit does not exceed a total of 80 cubic metres in any calendar year,
- (5) the Deposit consists solely of Soil or Compost Material which originates from elsewhere on the Lot,
- (6) the Deposit is by a florist, nursery operator, or horticulturalist, and such Soil or Compost Material is on land used for commercial landscape supply, horticultural use or as a nursery in compliance with the Land Use Bylaw and the *Agricultural Land Commission Act*, and such Deposit is necessary as part of the landscape supply, horticultural or nursery operation,

(Bylaw 648)

- (6) the Deposit is required for the construction or repair of works, roads, highways or services by or on behalf of the Municipality, the Capital Regional District, or the Ministry of Transportation and Highways, or
- (7) the Deposit is onto land owned by the Municipality or the federal or provincial government and is undertaken by the appropriate government.

10.1 Despite section 10, a person who intends to deposit soil must submit to the District of Metchosin, at least 10 days before the proposed deposit, a site profile, as set out in Schedule 1 of the Contaminated Sites Regulation of the *Environmental Management Act* of British Columbia, of the site from which the soil is or will be relocated.

(Bylaw 538)

11. The onus of demonstrating compliance with Sections 9 and 10 shall be at all times on the person undertaking the Deposit or Removal of soil, who shall provide to the District, on request, sufficient documentation to confirm that the person meets the conditions for an exemption.

(Bylaw 648)

## Permits

12. A person must apply for a Permit in order to Remove or Deposit more Soil or Compost Material than is allowed by the exemption in sections 9 or 10 or where the Removal or Deposit is within a Riparian Area or Riparian Assessment Area.

*(Bylaw 516)*

*(Bylaw 648)*

Permit Application

13. The form of the application for a Permit and the form of the Permit shall be as established by the Corporate Officer.

*(Bylaw 648)*

14. An application for a Permit shall be fully completed in the form established by the Corporate Officer and shall include the following unless otherwise agreed in writing by the Corporate Officer:

*(Bylaw 648)*

- (1) identification of whether or not the application is for Commercial Soil Removal,
- (2) for the Lot proposed for Commercial Soil Removal, Soil Removal or Deposit activity:
  - (a) the street address,
  - (b) the legal description,
  - (c) a title search, and
  - (d) the name of the owner.
- (3) the signature of the applicant and the owner if the owner is not the applicant,
- (4) plans, drawn to a scale of not less than 1:1000, of the Lot where Commercial Soil Removal, Soil Removal or Soil Deposit is proposed indicating:
  - (a) the Lot boundaries,
  - (b) the existing contours with contour intervals of not more than 2 meters (6.5'),
  - (c) buildings, structures, Watercourses, tree cover, wells, known Aquifers, sewage disposal fields, public utilities,
  - (d) the proposed Permit Area,
  - (e) the proposed Buffer Zone,
  - (f) the access from the proposed Permit Area to a highway,
  - (g) the general description and volume of Soil or Compost Material to be Removed or Deposited, and
  - (h) the proposed contours of the Lot in its final state upon completion of the Permit activities with contour intervals of not more than 2 meters (6.5').
- (5) identification of whether the application is in whole or in part within a Riparian Area or Riparian Assessment Area.

(Bylaw 648)

(6) for any Removal or Deposit proposed within a Riparian Assessment Area, written confirmation from a Qualified Environmental Professional shall be provided at the Permittee's expense, that the Deposit or Removal will be undertaken in compliance with Section 4(2) or Section 4(3) of the Riparian Areas Regulation.

(7) for any Removal or Deposit proposed within a Riparian Area, written confirmation from a Registered Professional that the deposit or removal will not cause danger on or to adjacent land, structures or rights of way, or foul, obstruct or impede the flow of any waterway.  
(Bylaw 648)

(8) for an application for soil deposit, a site profile, as set out in Schedule 1 of the Contaminated Sites Regulation of the *Environmental Management Act* of British Columbia, for the source site;  
(Bylaw 616)

(9) copies of all certificates, permits, plans, orders, approvals, reports, notifications and agreements which may be required or issued by the Province of British Columbia or by any other authority having jurisdiction over the proposed deposit or removal of soil, including the Agricultural Land Commission.  
(Bylaw 538)  
(Bylaw 648)

(10) the proposed truck routes over public highways to and from a permit area.  
(Bylaw 544)

### Permit Fees and Security

14.1 The following fees and security deposits apply:

(Bylaw 544)

(1) Every person who submits an application for a permit or extension must pay to the District of Metchosin a non-refundable administration fee at the time of application in the applicable amount based on the soil quantity to be removed or deposited and set out in schedule B to this Bylaw.

(Bylaw 648)

(2) Every person who submits an application for a permit must pay to the District of Metchosin a **material fee** in the applicable amount based on the soil quantity to be removed or deposited and set out in Schedule B to this Bylaw.

(Bylaw 648)

(3) Before issuance of a permit, the applicant for a permit must pay to the District of Metchosin a **security deposit** in the applicable amount based on the soil quantity to be removed or deposited and set out in the Schedule B to this Bylaw.

(Bylaw 648)

(4) If at any time, the Permit holder fails or refuses to comply with any obligation under this Bylaw or the Permit or any direction given by the Corporate Officer the District may deduct from the security any costs incurred by the District of Metchosin as a result.

(Bylaw 648)

Commercial Soil Removal Permits

(Bylaw 648)

15. For Commercial Soil Removal Permit applications, the applicant must also provide, at the expense of the applicant,

(1) a Registered Professional's Report that comprehensively sets out:

(Bylaw 648)

- (a) the general description and volume of Soil to be Removed at each of the proposed progressive stages of Removal,
- (b) cross-sections of the proposed Permit Area showing existing and proposed elevations,
- (c) whether or not the applicant intends to Process Soil on-site,
- (d) plans for transportation of Soil including haul routes to a highway,
- (e) the proposed methods to control:
  - (i) dust, noise, odour, smoke, vibration and visual impacts to adjacent or nearby Lots or lands, and
  - (ii) tracking of Soil or other material onto highways,
- (f) the projected noise levels at the boundary of the Lot and whether these levels are likely to exceed 55 db anywhere along the boundary,
- (g) for any Watercourse, well or Aquifer on, under or flowing through the Lot where the proposed Permit Area is situated, sampling, flow measurements, and baseline data showing weekly results over a period of at least eight months out of the most recent twelve months for,
  - (i) actual and estimated water levels for wells or Aquifers, and flow levels for Watercourses, and
  - (ii) the quality of the water including levels of turbidity and specific highlighting of any result higher than 25mg/litre total suspended solids, and any contamination with reference to federal or provincial health standards as appropriate.
- (h) the proposed methods of drainage control and protection of connecting or nearby Watercourses, wells or Aquifers during the proposed Commercial Soil Removal,
- (i) the proposed slopes which will be maintained upon completion of the operation,
- (j) the methods proposed to control the erosion of the banks of the Permit Area,
- (k) the plan and the estimated costs to provide chain link fencing at least two meters in height to enclose the entire Permit Area and minimize hazards to human and animal life and to prevent unauthorized Soil Removal or Deposits,

- (l) the proposed progressive stages, including completion dates for each stage, of excavation or filling showing contours as specified above, sections, and the method of access and position of permanent drainage on a separate plan,
- (m) the proposed location and description of Buffer Zones set out in the Regulations and Operating Standards section of this Bylaw and , stockpiles, and the location, grade and width of Berms or other proposed landscaping features,
- (n) the estimated cost of providing Berms or restoring trees or other barriers in the Buffer Zone in the event that the Buffer Zone is compromised during Commercial Soil Removal operations, and
- (o) a complete remediation and restoration plan including the estimated costs to ensure the Permit Area is safe, stable, and free from contamination, erosion and environmental risks following completion of the Commercial Soil Removal.

15(2) The Registered Professional must certify that the Report has identified all risks and factors set out in section 15 and has identified all reasonable measures to protect against these risks if operations proceed.

*(Bylaw 648)*

#### Large Soil Deposit

16. For a large Deposit (500 cubic metres or more on a Lot 0.4 ha or greater, 250 cubic meters or more on a Lot smaller than 0.4 ha) the applicant must also provide, at the expense of the applicant:

- (1) notification to the abutting property owners of the proposed soil deposit amounts and permit application,
- (2) a report from a Registered Professional including a site remediation plan addressing erosion control, sediment control in runoff, slopes and contours that provide a smooth transition to adjacent lands, and a vegetation remediation plan, including the estimated costs to complete the site remediation and vegetation remediation plans,
- (3) written confirmation from a Registered Professional that the Deposit will not cause danger on or to adjacent land, structures or rights of way, or foul, obstruct or impede the flow of any waterway,
- (4) confirmation that the Deposit is exempt from the requirement to file an application under Section 20 of the *Agricultural Land Commission Act*, or that permission has been given for the Deposit under Section 20 of the *Agricultural Land Commission Act*, or that, where applicable, notice has been given to the Agricultural Land Commission pursuant to Section 4 of the *Agricultural Land Reserve Use, Subdivision and Procedure Bylaw*, and,
- (5) the name, contact information and a signed letter of engagement of a Registered Professional that has agreed to monitor and report on the soil Deposit.

*(Bylaw 648)*

#### Permit Issuance

*(Bylaw 544)*

17. The Corporate Officer and the Council is under no obligation to process or consider an application for a permit which

- (1) is unsigned
- (2) is incomplete
- (3) does not comply with section 14, 14.1 or 15 of this Bylaw, as applicable, or
- (4) does not include the required fees and securities.

*(Bylaw 648)*

18. The Corporate Officer is authorized to issue a permit for which an application is made to remove or deposit soil, except a Commercial Soil Removal Permit application or an application for a Large Deposit, where the requirements of this Bylaw have been met and the proposed removal or deposit of soil meets the regulations and operating standards set out in this Bylaw.

*(Bylaw 648, 655)*

19. The Council must issue a Commercial Soil Removal Permit or a Large Deposit Permit for which an application is made where the requirements of this Bylaw have been met; and the proposed removal or deposit of soil meets the regulation and operating standards set out in this Bylaw.

*(Bylaw 655)*

#### Referendum

20.

- (1) Council may hold a Referendum prior to completing the review of a Commercial Soil Removal Permit application.
- (2) The results of any Referendum held under this Bylaw are not binding on Council but Council may choose to publicize the results or include them in any responses to referrals from any government ministry or agency.

21. For each Referendum held in relation to this Bylaw, the Municipality shall:

- (1) make best efforts to mail to every Resident residing on a Lot within 1 kilometer of any Lot boundary of the proposed Permit Area and, in cases where the Lot containing the proposed Permit Area is adjacent to a park, public trail or public greenspace, to all Residents of the Municipality:
  - (a) a clear summary of the application, and
  - (b) sufficient information about the proposed Commercial Soil Removal to enable each Resident to determine whether or not issuance of the Permit would potentially have negative impacts on the surrounding environment or the Resident's use and enjoyment of their dwelling or Lot.

22. Every Resident, upon request, may receive the information package and fill out a Referendum ballot, even if a particular Resident shares a dwelling or the same address with other Residents.

23. For greater certainty, if all or part of sections 20, 21, or 22 is for any reason held to be invalid or illegal by a decision of any Court of competent jurisdiction, it shall be severable, and such a decision shall not affect the validity of the remaining sections, subsections, clauses or phrases of this Bylaw.

#### Permit Authority and Term

*(Bylaw 648)*

24.

- (1) A Permit constitutes written authority under this Bylaw to conduct only those activities described in the Permit.
- (2) The issuance of a Permit shall not constitute authority to conduct Soil Processing except in accordance with Metchosin Land Use Bylaw No. 259.
- (3) All plans, specifications and Registered Professional Reports forming part of an application in respect of which a Permit is issued shall form part of and be incorporated in the Permit, and, without limiting the foregoing, a Permit issued shall be limited to the type and volume of Soil that is to be Deposited or Removed.

*(Bylaw 648)*

- (4) Every Permit issued shall cease to authorize Removal or Deposit as the case may be upon the earlier of:
  - (a) the Removal or Deposit of the amount of Soil authorized to be Removed or Deposited by the Permit, and
  - (b) the expiry date expressly stated in the Permit.
- (5) The term for any Permit shall not exceed:
  - (a) two years for Commercial Soil Removal Permits, or
  - (b) one year for all other types of Permits.

#### Permit Extension

*(Bylaw 648)*

25. If the Removal or Deposit authorized in a Permit is not completed before the Permit expires the Permit may be extended provided that:

*(Bylaw 648)*

- (1) the Permittee requests a renewal or extension in writing, and
- (2) the Permittee pays the applicable administration fee outlined in Schedule B, and
- (3) the Corporate Officer does not extend the Permit for a period of more than one year, or
- (4) Council does not extend the Commercial Soil Removal Permit for more than two years.

*(Bylaw 648)*

26. A Permittee may only apply for an extension once. No Permittee has a vested right to receive any extensions.

27. A Permittee may be required to provide any information authorized by this Bylaw as a pre-condition to considering an application as part of the request for extension.

*(Bylaw 648)*

28. All terms and conditions set out in the original Permit shall apply to each extension of the Permit with the exception of terms and conditions relating to dates or time periods if amended by the extension.

*(Bylaw 648)*

#### Regulations and Operating Standards

29.

- (1) The following regulations and operating standards shall apply to every Deposit or Removal including Commercial Soil Removal, unless stated otherwise:

*(Bylaw 616)*

- (a) the effects or impacts of Soil Removal, Commercial Soil Removal or Soil Deposit shall be confined within the Deposit Area, Removal Area or Permit Area so that such activities do not encroach upon, undermine, or physically damage any adjacent or nearby Lot, building, structure, highway, park, trail, or greenspace,

*(Bylaw 616)*

- (b) the boundary of the Deposit Area, Removal Area or Permit Area shall be clearly marked both at the site and on the plan and that those markings are maintained for the duration of the Deposit, Removal or Permit,”

*(Bylaw 616)*

- (c) the finished grade of a Deposit Area, Removal Area or Permit Area shall have a maximum slope of 1meter (3.3') rise in 2 meters (6.5') of run or a steeper grade as approved in a report by a Registered Professional a copy of which report has been provided to the Corporate Officer,

*(Bylaw 616)*

*(Bylaw 648)*

- (d) for all Permits except Commercial Soil Removal Permits, access to a Permit Area shall be controlled at all times by a gate or other suitable device to minimize hazards to human and animal life and to prevent unauthorized Soil Deposit or Removal,

- (e) for Commercial Soil Removal Permits, the entire Permit Area shall be completely enclosed by chain link fencing or fencing of equivalent safety and security standards at least 2 meters (6.6') in height with gates to minimize hazards to human and animal life and to prevent unauthorized Soil Removal or Deposit,

*(Bylaw 616)*

- (f) a Buffer Zone of the following width shall be provided and maintained for the life of the Permit;

- (i) for Commercial Soil Removal on Lots with a total area of 4 hectares (approximately 9.88 acres) or more, at least 150 meters around the perimeter of the Deposit Area, Removal Area or Permit Area, and

- (ii) for Commercial Soil Removal on Lots with a total area of less than 4 hectares (approximately 9.88 acres), at least 50 meters around the perimeter of the Permit Area unless otherwise reduced by the terms of the Permit in cases where a 50 meter Buffer Zone would completely preclude any viable Commercial Soil Removal,

*(Bylaw 616)*

- (g) despite Metchosin Noise Bylaw No. 260, the noise level associated with any Commercial Soil Removal Permit Area shall not exceed a 30 second Leq of 55 db measured at any boundary of the Lot containing the Permit Area,

*(Bylaw 465)*

- (h) no Soil Deposit, Removal or Commercial Soil Removal shall result in a total of more than 25mg/litre of suspended solids above background levels in any groundwater, Aquifer, well or surface water within the Municipality,  
(Bylaw 465)
- (i) the vibration levels resulting from any aspect of the operations shall not exceed 15 mm/sec. measured at any building, well or structure outside the Lot which contains the Deposit Area, Removal Area or Permit Area but within 1 kilometer or any boundary of the Deposit Area, Removal Area or Permit Area,  
(Bylaw 616)
- (j) the volume of any Soil Removal under a Commercial Soil Removal Permit shall not exceed 40,000 m<sup>3</sup> per year,
- (k) any statement contained in a report, declaration, or record required under this Bylaw shall be accurate and not misleading with respect to a material fact and shall not omit any material facts, the omission of which makes the statement false or misleading,
- (l) no Soil Deposit or Removal shall contravene any other bylaws of the Municipality, or any other pertinent provincial or federal legislation, and  
(Bylaw 648)
- (m) despite Metchosin Noise Bylaw No. 260,
- (i) blasting, loading, trucking, machinery operation or other activities associated with a Removal or Deposit, which create measurable noise at the boundaries of the Lot, shall only be allowed Monday through Friday inclusive, from 8:00 a.m. to 8:00 p.m. and Saturday from 9:00 a.m. to 4:00 p.m.,  
(Bylaw 616)
- (ii) blasting, loading trucking, machinery operation or other activities associated with a Commercial Soil Removal Permit, which create measurable noise at the boundaries of the Lot, shall only be allowed Monday through Friday inclusive excluding Holidays, from 9:00 a.m. to 4:00 p.m.  
(Bylaw 616)
- (n) Soil associated with a Soil Deposit may only be delivered from May 1<sup>st</sup> to October 31<sup>st</sup> of each year.  
(Bylaw 616)
- (o) Notwithstanding 29(1)(n), soil deliveries may be approved by the Corporate Officer for dates between November 1<sup>st</sup> to April 30<sup>th</sup> of each year where the delivery is deemed necessary and is directly related to works authorized by an associated permit or subdivision initial consideration approval, including but not limited to building permits, septic permits, and Driveway Access Permits.”  
(Bylaw 616)  
(Bylaw 648)
- (p) for all permits, except commercial soil removal permit, a copy of the permit must be posted on the property in respect of which the permit was issued in a place where the copy of the permit is visible from a highway during active soil deposit or soil removal.  
(Bylaw 538)

- (q) soil deposit and removal is prohibited on Sundays and holidays.

*(Bylaw 544)*

- (r) Where the Deposit is a Large Deposit, a Registered Professional must provide monthly reports to the Corporate Officer, rather than the twice yearly reports referenced in Section 31.

*(Bylaw 648, 655)*

### Reporting

30. The reporting requirements contained in this Bylaw are automatically included as part of every Permit whether or not expressly stated in the Permit.

31. By January 30<sup>th</sup> and July 30<sup>th</sup> of each year, every Permittee shall provide a report to the Corporate Officer detailing:

*(Bylaw 648)*

- (1) the total volume (in cubic meters) and the type of Soil Removed or Deposited under the Permit,
- (2) for Commercial Soil Removal, the area (in hectares) of land from which Soil has been Removed including undercut areas,
- (3) all data from water quality monitoring, and
- (4) the extent to which the Permittee has complied or not complied with the terms and conditions of the Permit and the Bylaw.

32. Failure to provide a report in any reporting period may result in,

- (1) an order from the Corporate Officer to prepare the report, or

*(Bylaw 648)*

- (2) cancellation of the Permit but only if preceded by a delay period of thirty days after the Clerk has provided written notice to the Permittee of the overdue report and the intention to cancel the Permit if the report is not received within thirty days.

*(Bylaw 648)*

### Registered Professional

33. Where this Bylaw requires that an application for a Permit include a report prepared by a Registered Professional, a Registered Professional shall certify at the Applicant's or Permittee's expense that:

- (1) the plans, specifications and reports for the proposed Commercial Soil Removal, Soil Removal or Deposit have been designed in compliance with good engineering practices, and
- (2) upon completion of the Soil Removal or Deposit, the works substantially comply with the terms of the Permit and the conditions specified in the plans, specifications and reports prepared by the Registered Professional.
- (3) the land within the permit area after the soil removal or deposit is completed is safe for the intended use, and has been suitably stabilized to mitigate impacts of erosion, sloughing and instability.
- (4) that the work will not injuriously affect adjacent properties, structures, buildings or utilities.

- (5) that there will be no more settlement or subsidence of an adjoining property, or a building or structure on an adjoining property, than prior to the deposit.
- (6) that the deposit, and resulting settlement or subsidence, will not prevent any use permitted under the Land Use Bylaw.
- (7) that the adjoining properties will not be subject to more flooding caused directly by stormwater runoff from the subject property.
- (8) that where required in accordance with this Bylaw, the deposit or removal has been monitored by the Registered Professional.

*(Bylaw 648)*

34. *(Deleted, Bylaw 465)*

35. *(Deleted, Bylaw 465)*

36. *(Deleted, Bylaw 465)*

Permit Suspension and Cancellation

*(Bylaw 648)*

37.

- (1) If:
  - (a) there is a contravention of any term or condition of the Permit or this Bylaw except for the reporting requirements in section 31, or
  - (b) the Permit was issued on the basis of statements made in an application for a Permit, report, declaration, or record required under this Bylaw that were false or misleading with respect to a material fact or that omitted to state a material fact, the omission of which made the statement false or misleading,

The Corporate Officer may:

*(Bylaw 648)*

- (c) suspend in whole or in part the rights of the Permittee under the Permit,
  - (d) cancel the Permit, or
  - (e) amend or attach new conditions to a Permit with the consent of the Permittee.
- (2) For any proposed material changes to the Permit, Council may require the submission of:
    - (a) amended plans, data and specifications, and
    - (b) a new application for a Permit.

Right to Enter and Inspect

38. The Corporate Officer, his authorized designate, and the Bylaw Enforcement Officer may, for the purposes of determining whether the regulations and operating standards of this Bylaw are being observed or the requirements of any Permit are being met, enter onto a Lot at all reasonable times and inspect all aspects of Commercial Soil Removal, Soil Removal or Deposit of Soils or Compost Materials.

*(Bylaw 648)*

## Offences

39. An offence is committed against this Bylaw by every person who:

- (1) conducts any Commercial Soil Removal, Soil Removal or Deposit without a Permit where a Permit is required,
- (2) violates any of the provisions of this Bylaw,
- (3) fails to comply with any of the terms or conditions of a Permit,
- (4) allows any act or thing to be done in contravention or violation of this Bylaw or any part of a Permit,
- (5) in the case of the owner or occupier of a Lot, fails to prevent any other person from contravening any part of this Bylaw or a Permit issued under it, or
- (6) fails to comply with any order or notice given under this Bylaw.

## Penalties

40.

- (1) Every person who commits an offence under this Bylaw or a Permit issued under it is liable upon summary conviction to a penalty of:
  - (a) for unauthorized Removal or Deposit of less than 50 cubic meters of Soil or compost material, the greater of,
    - (i) \$50 per cubic meter of Soil or compost material Removed or Deposited, or
    - (ii) the value of the Deposit or Removal as evidenced by receipts, other documents or reports, or an estimate by a Registered Professional,
  - (b) for unauthorized Removal or Deposit of 50 cubic meters or more of Soil or Compost Material or for conducting Commercial Soil Removal in contravention of this Bylaw or a Permit issued under it,
    - (i) \$100 per cubic meter of Soil or Compost Material Removed or Deposited;
  - (c) for contravening this Bylaw or the terms of a Permit relating to matters other than Soil Removal in a Commercial Soil Removal Permit Area,
    - (i) not less than \$5,000 for a first offence, and not less than \$10,000 for each subsequent offence, and
  - (d) for all other offences,
    - (i) not less than \$500 for a first offence, and not less than \$1000 for each subsequent offence.
- (2) Each day of any violation, contravention or breach of this Bylaw or a Permit issued under it shall be deemed to be a separate and distinct offence.

## Severability

41. If any section, subsection, clause or phrase of this Bylaw is for any reason held to be invalid or illegal by a decision of any Court of competent jurisdiction, it shall be severable, and such a decision shall not affect the validity of the remaining sections, subsections, clauses or phrases of this Bylaw.

Schedules

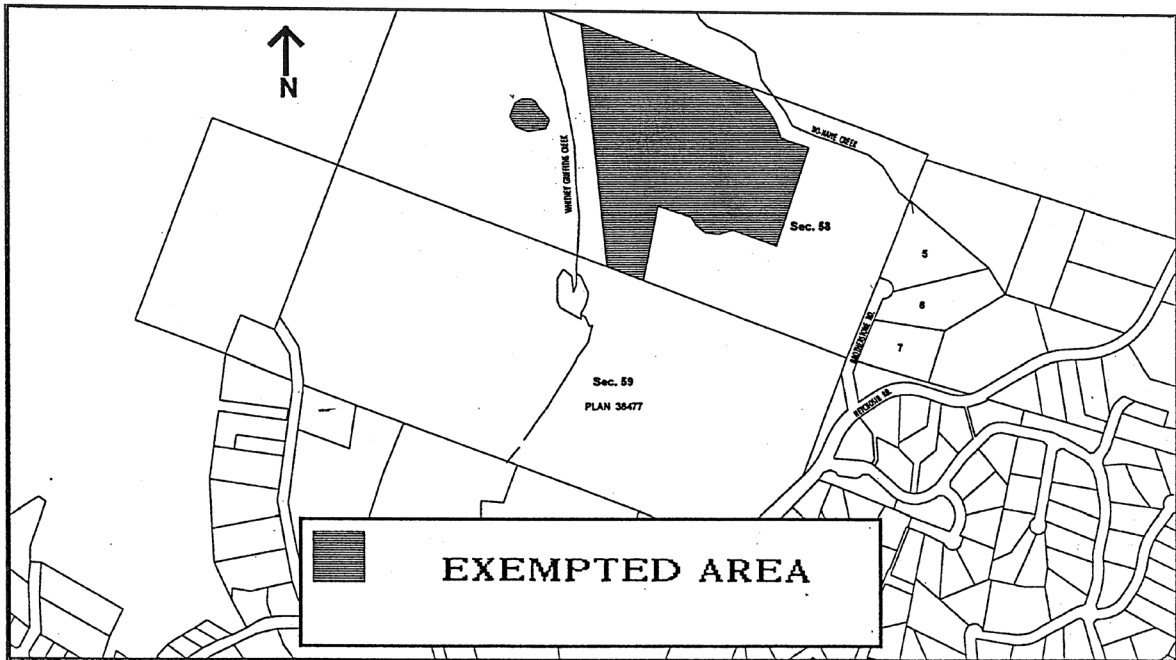
42. Schedule A is attached to and forms part of this Bylaw.

**SOIL REMOVAL AND DEPOSIT BYLAW NO. 402**

**SCHEDULE A**

**EXEMPTED AREAS**

1. The following Lots are exempted from the application of this Bylaw as per Section 3 of this Bylaw:
  - (1) The portion shown in cross-hatching below of Section 58, Esquimalt Land District, bearing PID 001-638-971, and the street address 3770 Brotherstone Road.



**SOIL REMOVAL AND DEPOSIT BYLAW NO. 402**

**SCHEDULE B**

**PERMIT FEES**

<b>Soil Deposit</b>	<b>Soil Removal</b>	<b>Administration Fee</b>	<b>Material Fee per m<sup>3</sup> of soil to be removed/deposited</b>	<b>Security Deposit</b>
Up to 250 m <sup>3</sup> on lot < 0.4 ha, or up to 500 m <sup>3</sup> on lot 0.4 ha or more	Soil Removal Permit	\$400	\$0.50	\$1,000
Large deposit (> 250 m <sup>3</sup> on lot < 0.4 ha, or > 500 m <sup>3</sup> on lot 0.4 ha or more)		\$500	\$0.50	\$1,000 + estimated costs to remediate
Large deposit in excess of 2,000 m <sup>3</sup>	Commercial Soil Removal Permit (in excess of 100 m <sup>3</sup> )	\$800	\$0.50	\$2,500 + estimated costs to remediate

*(Bylaw 655)*