

Memo



Date: September 1, 2009

File: BL9633/BL8504/BL9612/BL10232

To: City Manager

From: Ryan Smith, Subdivision Approving Officer

Subject: SOIL REMOVAL AND DEPOSIT BYLAW

Report Prepared by: Damien Burggraeve

Recommendation:

THAT Council receives the report from the Subdivision Approving Officer dated September 1, 2009;

AND THAT Council rescind the Soil Permit Bylaw No. 6933, and all amendments made there to are also rescinded;

AND THAT Council rescind the Soil Deposit Bylaw No. 8504;

AND THAT Council gives reading consideration to Bylaw No. 9612 being the new City of Kelowna Soil Removal and Deposit Bylaw;

AND FURTHER THAT Council give reading consideration to Bylaw No. 10232 being Amendment No. 76 to Ticket Information Utilization Bylaw No. 6550-89.

Background:

The existing Soil Deposit Bylaw (BL8504) sets out regulations for the deposit of soil on land where that soil did not previously exist including the requirement for a permit issued by the Director of Planning (now known as the Director of Land Use Management). As well, it does not regulate soil removal and lacks requirements to ensure proper and safe soil movement within the City. There is no fine for a violation of this Soil Deposit Bylaw. The lack of a penalty for breach has always limited the effectiveness of the current bylaw.

Details on the new proposed Soil Removal and Deposit Regulation Bylaw No. 9612 are provided in the attached Schedule "A" but the following points outline the general intent of the new Soil Removal and Deposit Bylaw No. 9612:

- Regulate, prohibit and impose requirements in the removal and the deposit of soil or other fill material
- Impose Environmental/Geotechnical Reporting Requirements where appropriate.
- Includes the authority to issue a Stop Work Order.

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- Also proposing an update to the Ticket Information Utilization Bylaw No. 6550 by adding a new SCHEDULE 28 to include the New Soil Removal and Deposit Regulation Bylaw No. 9612 Section 7.1 and fine of \$500.00 for removal or deposition of soil without a permit.

As an oversight of the last soil bylaw amendment, the older soil bylaw 6933 was never rescinded and is still technically in effect. This bylaw is not available on the City of Kelowna website but must be rescinded to avoid potential confusion.

Internal Circulation:

- Development Engineering
- Land Use Management
- Infrastructure Planning
- Subdivision Approval branch
- Office of the City Clerk

Legal/Statutory Authority:

Section 8 Fundamental powers with a Section 9 Spheres of concurrent authority of the Community Charter.

Considerations not applicable to this report:

Legal/Statutory Procedural Requirements:

Existing Policy:

Financial/Budgetary Considerations:

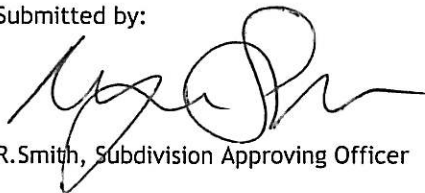
Personnel Implications:

Technical Requirements:

Communications Considerations:

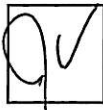
Alternate Recommendation:

Submitted by:



R. Smith, Subdivision Approving Officer

Approved for inclusion:



John Vos, General Manager, Community Services

CC:

- Development Engineering
- Land Use Management
- Infrastructure Planning
- Subdivision Approval Branch
- Office of the City Clerk

Attachments:

- Schedule A - Proposed Soil Removal and Deposit Regulation Bylaw No. 9612
- Schedule B - Soil Bylaw No. 6933
- Schedule C - Proposed amendment to Ticket Information Utilization Bylaw No. 6550-89



Development Services
1435 Water Street
Kelowna, BC V1Y 1J4
250 469-8622
kelowna.ca

BYLAW NO. 9612

FORM 1234

CITY OF KELOWNA
BYLAW NO. 9612

A bylaw to regulate the removal or deposit of soil within the
City of Kelowna

WHEREAS Section 8 (3) (m) of the *Community Charter*. 2003, c.26 provides that Council for the City of Kelowna may, by bylaw:

- a) regulate, prohibit and impose requirements in the removal of soil and the deposit of soil or other material

WHEREAS Section 195 (1) of the *Community Charter*. 2003, c.26 provides that Council for the City of Kelowna may, by bylaw:

- a) impose rates or levels of fees for a permit required under a municipal bylaw for
 - i. the removal of soil from, or
 - ii. the deposit of soil or other material on any land in the municipality or in any area of the municipality;
- b) impose rates or levels of fees for the activities referred to in paragraph (a)

NOW THEREFORE, the Municipal Council of the City of Kelowna, in open meeting assembled, hereby enacts as follows:

1. TITLE

1.1 This Bylaw may be cited as "Soil Removal and Deposit Regulation Bylaw No. 9612".

2. APPLICABILITY

2.1 This Bylaw applies to all lands within the City of Kelowna.

2.2 Nothing in this Bylaw shall preclude anyone from complying with the provisions of any other local, provincial, or federal regulations or enactment.

2.3 Any enactment referred to herein is a reference to an enactment of British Columbia, and the regulations thereto, as amended, revised, consolidated or replaced from time to time, and any bylaw referred to herein is a reference to an enactment of the Council of the City of Kelowna, as amended, revised, consolidated, or replaced from time to time.

2.4 The following Schedules are attached to and form part of this Bylaw:

- a) Schedule "A" - Application
- b) Schedule "B" - Permit

3. DEFINITIONS

3.1 In this Bylaw, unless the context otherwise requires:

“**City**” means the **City** of Kelowna;

“**Council**” means the **Municipal Council** of the **City** of Kelowna;

“**Deposit**” means to place, store, **stockpile**, spill, or release directly or indirectly, **soil** on any **land**, where that **soil** did not previously exist;

“**Director**” means the **Director** of **Planning and Development Services**, official signing authority or a duly authorized representative;

“**Highway**” means any public street, road, lane, bridge, or walkway but does not include a private easement on private property;

“**Land**” means any **land** within the boundaries of the **City** including **land** covered by lakes, streams, wetlands or **watercourses**;

“**Owner**” means the registered owner or owners of an estate in fee simple of the **Lands**.

“**Parcel**” means any lot, block, or other area in which **land** is held or into which **land** is subdivided but does not include a **highway**;

“**Permit**” means a **Permit** issued by the **Director** in accordance with **Section 6** of this Bylaw;

“**Private Service Corridor**” means **land** accommodating the servicing of a building or facility with any water, sewer, energy, or communications system, which connects directly to or from any **highway**, municipal or other right-of-way, or municipal property;

“**Public Service Corridor**” means **land** accommodating the collection or distribution of any water, sewer, energy, or communication system, but excludes **private service corridors**;

“**Qualified Professional**” means a person registered with a professional association including the Association of Professional Engineers and Geoscientists of BC, the Corporation of the Province of British Columbia Land Surveyors, British Columbia Institute of Agrologists or other person who is qualified because of knowledge, training and experience to organize, supervise and perform the duties required in this bylaw;

“**Remove**” or “**Removal**” means the act of removing **Soil** from any **Lands** in the **City**, or from any area of the **City**, from where it existed or stood, which place or location shall include a **stockpile** or other storage facility;

“**Soil**” means **soil**, topsoil, sand, gravel, rock, silt, clay, peat, or any other substance of which **land** is composed, or any combination thereof that is clean, without contamination, natural, and non-compostable;

“**Stockpile**” means a man-made accumulation of **soil** held in reserve for future use, distribution or removal;

“**Subdivision Approving Officer**” means a person appointed by **Council** as **Subdivision Approving Officer** or **Deputy Subdivision Approving Officer**;

“Watercourse” means a natural **watercourse** or source of water supply, whether usually containing water or not, groundwater, and a lake, river, creek, spring, ravine, wetland and gulch.

4. RESTRICTIONS

- 4.1 Except as otherwise permitted in this bylaw, no person shall **deposit** or **remove soil**, or undertake any action which results in the **deposit** or **removal** of **soil**, on any land within the **City** until a **Permit** for such **deposit** or **removal** is approved by the **Subdivision Approving Officer** pursuant to the provisions of this Bylaw.

5. EXEMPTIONS FROM PERMIT REQUIREMENT

- 5.1 Notwithstanding Section 4, a **Permit** is not required where the **deposit** or **removal** of soil on that land:

- (a) involves the movement of existing **soil** within the boundaries of a single legal **parcel**;
- (b) involves less than 50 cubic metres of **soil** per **parcel** of land per calendar year;
- (c) involves **stockpiles** on land where such use is permitted under the **City of Zoning Bylaw No. 8000**, and a valid business license for that use exists;
- (d) is required as part of a concrete and asphalt plant operation where such use is permitted under the **City of Kelowna Zoning Bylaw No. 8000**, and a valid business license for that use exists;
- (e) is in accordance with a valid **Building Permit**, **Development Permit**, and/or approved **Site Grading Plan**;
- (f) is in accordance with a letter of **Preliminary Layout Review** as issued by the **City’s Subdivision Approving Officer**;
- (g) is required for the regular operation and maintenance of a nursery or golf course and nursery;
- (h) is required to create or maintain a **private service corridor**, a driveway, or a paved parking area for which a **building Permit** or **development Permit** is not required, and which is necessary to accommodate a permitted use on the land in question;
- (i) occurs on a **highway right-of-way**, future **highway**, or forest service road as is necessary for the construction or maintenance of the **highway**;
- (j) is performed by an employee or agent of the **City** in the creation or maintenance of a public trail, park or recreation facility, in the reclamation of a disturbed area;
- (k) is required as part of a solid waste processing and disposal operation, including **composting facilities**, which has approval pursuant to federal, provincial or municipal regulations or bylaws;
- (l) is required as part of the clean-up or remediation of contaminated soils as directed and approved by the **Ministry of Environment**;
- (m) is required for the construction or maintenance of a private sewage disposal system for which a sewage disposal permit pursuant to the *B.C. Health Act* has been issued; or

6. PERMIT REQUIREMENTS

6.1 Unless a requirement is waived by the **Subdivision Approving Officer**, every application for a **Permit** shall include detailed plans, data and specifications, in a satisfactory form, and the application shall contain (but not limited to) information with respect to the following matters:

- (a) The legal description of the property including the name and address of the registered owner.
- (b) Description of the type of soil or other material and the purpose for which the soil is to be removed or the soil or other material is to be deposited.
- (c) A plot plan clearly identifying the area of land from which the soil is sought to be removed and deposited including all pertinent topographic features, including existing buildings, structures, **watercourses** and tree cover.
- (d) A site grading plan including the proposed slopes which will be maintained upon project completion of the **soil deposit** or **removal**.
- (e) The methods proposed to control the erosion of the banks after the **removal** or the **deposit**.
- (f) The proposed methods of drainage control for the site during and after the **deposit** or **removal** operation.
- (g) The proposed methods of access to the site during the **deposit** or **removal** operation, the proposed struck route for moving the **soil** and the frequency of trucking operations.
- (h) The proposed methods of noise and dust control during the **deposit** or **removal** operation.
- (i) Outline of the proposed grading and rehabilitation of the proposed soil removal or soil and other material deposit on site during and upon completion of the proposed soil removal or soil and other material deposit operation, showing the correlation with the grades and vegetation cover of all adjacent lands.
- (j) Copies of any permits and approvals of Federal or Provincial authorities required by statute or regulation in connection with the proposed soil removal or soil and other material deposit operation.

6.2 In addition to the above mentioned requirements, the **Subdivision Approving Officer** may require the following:

- (a) An erosion and sediment control plan prepared by a qualified professional.
- (b) An Environmental Assessment and/or a geotechnical and/or a hydrology report prepared by a qualified professional.
- (b) Environmental or geotechnical monitoring contract to document compliance with the conditions of the soil deposit or removal permit.
- (e) A performance security deposit in the amount of 125% of the estimated cost to implement monitoring plans and recommendations of the qualified professional.

- 6.3 A **Permit** shall allow the holder thereof to deposit on **land** described in the **Permit** for a period of time, and subject to the conditions outlined in the **Permit**. There is no fee for the **Permit** if applied for prior to soil placement or removal. A permit fee of \$250 will be applicable to those who apply for a permit after soil removal or deposit activities have already commenced.
- 6.4 Application for a **Permit** shall be made to the **Subdivision Approving Officer**, and the **Subdivision Approving Officer** may refuse to issue a **Permit** if the plans, data and specifications do not meet satisfactory requirements of this Bylaw or if the proposed **removal** or **deposit** of soil or other material will or is reasonably likely to:
- a) damage, destroy, obstruct, divert or impede the flow of or otherwise injuriously affect any **watercourse**, ditch, drain, sewer or other water utility, existing statutory right-of-way, covenant areas, structures or other improvements on the land or on any adjoining or reasonably adjacent land, whether privately or publicly owned;
 - b) contravene any Bylaw of the **City**;
 - c) threaten the health, safety or welfare of the public or be otherwise contrary to the public interest;
 - d) result in the use of the lands in a manner inconsistent with the current zoning or the future land use as designated in the Official Community Plan for the lands;
 - e) adversely affect the air, light or view of adjoining or adjacent properties, or it substantially alters the appearance and nature of the surrounding area.
- 6.5 Unless a provision is waived or modified by the **Subdivision Approving Officer**, a **Permit** issued pursuant to this Bylaw shall be subject, at minimum, to the following conditions:
- (a) All damage to municipally or privately-owned drainage facilities, **highways**, or **lands**, or other municipally or privately-owned property, or natural **watercourses**, resulting from the **removal** or **deposit**, or any activities related directly to the **removal** or **deposit**, shall be repaired by the Permittee.
 - (b) All drainage facilities and natural **watercourses** shall be kept free from silt, clay, sand, rubble, debris, gravel and any other matter or thing originating from any movement of soil and causing obstruction to such drainage or natural **watercourses**.
 - (c) The **deposit** or **removal** operations shall not encroach upon, undermine or physically damage any property.
 - (d) No natural **watercourse** shall be altered or diverted, except with the approval of the Ministry of Environment.
 - (e) The finished slope of the **deposit** shall have a maximum slope of 2:1
 - (f) The finished slope of the **deposit** or **removal** shall respect the natural contour of the surrounding area.
 - (g) No person engaged in the soil **removal** or **deposit** operation shall cause or permit dust or dirt to escape therefrom so as to constitute a nuisance to any other person.
 - (h) Only clean, non-contaminated, natural and non-compostable soil may be **removed** or **deposited**.

- (i) The size and configuration of the **removed** or **deposited** soil shall not adversely affect the air, light or view of adjoining or adjacent properties, nor shall it substantially alter the appearance and nature of the surrounding area.
- (j) Except as certified by a Registered Professional with expertise in geotechnical engineering or except as provided on an accepted Lot Grading Plan, a cut on a parcel that is steeper than one vertical to one horizontal with a total height greater than 1.2 metres that is created by excavation is prohibited
- (k) Except as certified by a registered professional with expertise in geotechnical engineering or except as provided on an accepted Lot Grading Plan, a fill placed on a parcel that is steeper than one vertical to two horizontal with a total height greater than 1.2 metres that is created by fill is prohibited
- (l) No person shall deposit **soil** so as to raise the elevation of a legal **parcel** more than 1.2 metres above the natural grade of an abutting property, except as required by the Subdivision Approving Officer for flood protection.

6.6 No permit issued pursuant to this Bylaw or any interest herein shall be transferred or assigned. Where a permit holder sells, transfers or otherwise disposes of his/her interest in the land in respect of which a subsisting permit has been issued, he/she shall forthwith cease the soil **removal** or material **deposit** operations thereon and the permit shall become void and of no effect and shall be returned to the **Subdivision Approving Officer**.

6.7 The **Subdivision Approving Officer** may require as-built drawings and a completion certificate prepared by a Registered Professional Engineer for the Province of British Columbia, for the **deposit** as a condition of the **Permit**.

6.8 A **Permit** only applies to the deposit area(s) as specifically set out and described in the **Permit**.

6.9 During the currency thereof, each permit issued pursuant to this Bylaw shall be visibly displayed in a protected, accessible, conspicuous position upon the lands referred to therein and shall be made available upon request.

7. ENFORCEMENT

7.1 In the event of a breach of any provision of this Bylaw or any permit issued pursuant hereto, the **City** or its agents may issue a fine to:

- a) the permit holder;
- b) the owner or occupier of lands from or upon which soil is being **removed** or **deposited**;
- c) any person engaged in the soil **removal** or deposit operation or either of them, a notice of such breach. Every person receiving such notice shall forthwith cease and desist from all soil **removal** or material **deposit** operations, and every owner or occupier of land upon receiving a notice of a breach shall thereupon cease to permit any further **removal** of soil or **deposit** of soil or other material from or upon the soil lands, until such breach is remedied to the satisfaction of the **City**.

7.2 Any person who does not comply with this bylaw or the conditions of a **Permit** shall, in addition to any penalties levied by this bylaw, be required to compensate for any resultant damage to **City** and Provincial drainage facilities, **highways**, or other **City** or Provincial property or facilities.

- 7.3 If a person does not comply with this bylaw or **Permit** conditions, the **City**, its agents, or contractors may enter upon the **lands** where the non-compliance has occurred and carry out any works required to remedy such non-compliance, or repair any resultant damage.
- 7.4 Any person who does not comply with this bylaw or **Permit** conditions shall, upon summary conviction, be liable to a penalty up to ten thousand dollars (\$10,000.00) for each offence.
- 7.5 Where an offence is a continuous one, each day that the offence is continued shall constitute a separate offence.

8. **STOP WORK ORDER**

- 8.1 The Subdivision Approving Officer may direct the immediate suspension or correction of all or a portion of the soil deposit activities by attaching a stop work order notice on the property whenever it is found that the work is not being performed in accordance with the requirements of Soil Bylaw No. 9612 or of this of any bylaw of the City.
- 8.2 The notice referred to in section 8.1 shall remain posted on the property until that which is contrary to the regulations has been remediated to the satisfaction of the Subdivision Approving Officer.

9. **RE-CONSIDERATION**

- 9.1 Where an applicant or **owner** of property subject to a decision made by the **Subdivision Approving Officer** pursuant to Section 4 or 6 of this bylaw is dissatisfied with the decision, the applicant or **owner** may apply to the **Council** for re-consideration of the matter within 30 days of the decision being communicated to them.
- 9.2 An application for re-consideration must be delivered in writing to the City Clerk and must set out the grounds upon which the applicant considers the requirement or decision of the **Subdivision Approving Officer** is inappropriate and what, if any, requirement or decision the applicant considers the **Council** ought to substitute.
- 9.3 The City Clerk must place each application for re-consideration on the agenda of a regular meeting of **Council** to be held not earlier than two weeks from the date the application for re-consideration was delivered, and must notify the applicant and any other party who the City Clerk reasonably considers may be affected by the re-consideration, of the date of the meeting at which the re-consideration will occur.
- 9.4 At the meeting, the **Council** may hear from the applicant and any other person interested in the matter under re-consideration who wishes to be heard, and may either confirm the requirement or decision of the **Subdivision Approving Officer or Designate** or substitute its own requirement or decision.

10. **SEVERABILITY**

- 10.1 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. Such a decision shall not affect the validity of the remaining sections, subsections, clauses or phrases of this Bylaw.

11. REPEAL

11.1 City of Kelowna Soil Deposit Bylaw No. 8504 and No. 6933, and all amendments thereto, are hereby repealed.

12. EFFECTIVE DATE

12.1 This bylaw shall take full force and effect upon the date of adoption.

Read a first, second and third time by the Municipal Council this

Deposited with the Minister of Health

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk

APPLICATION FOR PERMIT SOIL DEPOSIT OR REMOVAL

FILE # _____

For a list of exemptions from this Permit refer to section 5 of Bylaw 9612.

If your property is located within the Agricultural Land Reserve it may be necessary to first gain approval from the BC Agricultural Land Commission.

1. Applicant Information

Name: _____ Phone: _____ Fax: _____ Address: _____
E-mail _____

2. Legal Description of Land

Legal Description: _____
Civic Address: _____

3. Land Ownership (if different from above)

Name/Address: _____ Phone: _____

4. Fill Origin - Please provide address of property where soil is originating from

5. Soil Removal / Deposit Information

Estimated quantity of soil to be removed/deposited: _____ cubic metres.

Date(s) on which removal/deposit will occur: _____

6. The subject property IS / IS NOT located within the ALR (please circle).

7. Is this a permanent deposit? _____ YES _____ NO (please check)

Submission Requirements - Please attach to the Soil Removal/Deposit Application Form

- A letter outlining why and where the soil is to be removed and deposited.
- A site plan clearly identifying the area of land from which the soil is sought to be removed and deposited including all pertinent topographic features (structures, watercourses, roads, trees)
- The proposed methods of access to the site during the removal and deposit operation, the proposed truck route for moving the soil and the frequency of trucking operations. (Please contact the City's Transportation Division for designated truck route information).
- The proposed methods of noise and dust control during the removal and deposit operation.
- A site grading plan including the proposed slopes which will be maintained upon project completion.
- The methods proposed for drainage and erosion control for the new contours of the land.

SIGNATURE: _____ DATE: _____

Schedule B - Soil Deposit and Removal Permit

Soil Deposit and Removal Permit (Bylaw No. 9612)

Authorization is Hereby Given To:

Applicant Name : _____

Applicant Address: _____

1. To Place / Remove _____ cubic metres fill on/from _____ (short legal Address) to _____
(Purpose of deposit / removal)

In accordance with the terms and conditions of the Soil Deposit Bylaw, and the following additional terms and conditions prescribed by the:

A) **Local Authority:**

1.0 Location

This approval only applies to placement / Removal of fill material on Lot __,
Section __, Township __, O.D.Y.D., Plan ____, located at __ (Civic address) _____,
as described on the site plan attached to this permit.

2.0 Term

The approval is valid for _____ months from the date of the issuance of the permit, or until completion of the project, whichever occurs first.

3.0 General Conditions

- (a) All damage to municipally or privately-owned drainage facilities, highways, or lands, or other municipally or privately-owned property, or natural watercourses, resulting from the removal or deposit, or any activities related directly to the removal or deposit, shall be repaired by the Permittee.
- (b) All drainage facilities and natural watercourses shall be kept free from silt, clay, sand, rubble, debris, gravel and any other matter or thing originating from any movement of soil and causing obstruction to such drainage or natural watercourses.
- (c) The deposit or removal operations shall not encroach upon, undermine or physically damage any property.
- (d) No natural watercourse shall be altered or diverted, except with the approval of the Ministry of Environment.
- (e) The finished slope of the deposit shall have a maximum slope of 2:1
- (f) The finished slope of the deposit shall respect the natural contour of the surrounding area.

- (g) No person engaged in the soil removal or deposit operation shall cause or permit dust or dirt to escape there from so as to constitute a nuisance to any other person.
- (h) The size and configuration of the removed or deposited soil shall not adversely affect the air, light or view of adjoining or adjacent properties, nor shall it substantially alter the appearance and nature of the surrounding area.
- (i) No person shall deposit soil so as to raise the elevation of a legal parcel more than 1.2 metres above the natural grade of an abutting property, except as required by the Subdivision Approving Officer for flood protection.

I HEREBY UNDERSTAND AND AGREE TO ALL THE TERMS AND CONDITIONS SPECIFIED IN THIS PERMIT.

Signature of Owner/Authorized Agent

Date

Print Name in Bold Letters

This permit is issued by the City of Kelowna by its authorized signatory

Subdivision Approving Officer

On the __ day of _____, 20__, and is to expire on the ____ day of _____ 20__.

This permit shall be prominently displayed at the place of business/residence and a copy at the site of soil removal.

Attachments: Site Plan

CITY OF KELOWNA
BY-LAW NO. 6933

**A by-law to regulate the removal of soil from land within
the City of Kelowna, to require the holding of a permit for
such purpose, and to fix a fee for such permit**

WHEREAS Section 930.1(1) of the Municipal Act, R.S.B.C., 1979, Chapter 290 empowers the City of Kelowna to regulate the removal of soil, sand, gravel, rock or other substance of which land is composed from any land in the municipality, and require the holding of a permit for such purpose and impose a fee for the permit, and establish different regulations for different areas;

AND WHEREAS it is considered that the unregulated removal of soil, sand, gravel, rock or other substances of which land is composed from certain areas of the City of Kelowna that are identified as geologically fragile would have a harmful effect upon those lands, adjacent lands, public highways, persons and properties in the vicinity of the soil removal operation and may create or cause hazardous conditions or cause damage.

NOW THEREFORE, the Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. This by-law may be cited for all purposes as "Soil Removal By-Law No. 6933".

2. In this by-law, the following words are hereby defined:

"Application" means an application for a soil removal permit in the form attached hereto as Schedule "B".

"Land or Lands" means those areas of land in the City of Kelowna listed in Schedule "A" hereto.

"Owner" means the registered owner(s) in fee simple of the land and in the case of co-owners means all co-owners.

"Permit" means a soil removal permit issued by the City of Kelowna pursuant to the terms of this by-law as set out in the form attached hereto as Schedule "C".

"Permit Fee" means the amount of \$50.00 payable to the City of Kelowna upon application for a soil removal permit.

"Professional Engineer" means a person registered as a professional engineer with the Association of Professional Engineers of British Columbia.

"Soil" means sand, gravel, rock and other substances of which land is composed and any combination thereof.

3. No owner or person shall remove soil or permit the removal of soil from any lands without a valid permit being issued by the City of Kelowna.

4. Every application for a permit shall be made in writing to the City of Kelowna Inspection Services Department in the form set out in Schedule "B" and shall include the following:
 - (a) a plot plan and topographic map clearly identifying the area of land from which soil is sought to be removed;
 - (b) the purpose of the soil removal;
 - (c) the legal description and owners of the land;
 - (d) the quantity of soil to be removed in cubic metres;
 - (e) the hours of operation;
 - (f) the date of commencement and duration of soil removal;
 - (g) the proposed truck route for removing the soil and the frequency of trucking operations;
 - (h) a permit fee in the sum of Fifty Dollars (\$50.00) payable to the City of Kelowna; and
 - (i) a report prepared by a Professional Engineer verifying that the proposed soil removal will not create hazardous conditions or damage to the lands from which soil is sought to be removed, adjacent lands, public highways, persons and their properties adjacent to the proposed truck route.
5. A permit shall not be issued in the event that an application does not comply with the provisions of this by-law. A permit shall not be transferred or assigned.
6. An owner who obtains a permit shall comply with all applicable City of Kelowna By-Laws including, without restricting the generality of the foregoing, Zoning By-Law, City of Kelowna Traffic By-Law and any applicable land use restrictions that may be registered in the Land Title Office against title to the lands.
7. An owner who obtains a permit shall conduct soil removal operations only between the hours of 7:00 a.m. and 8:00 p.m.
8. No owner or person shall allow dust or debris of any kind to escape from the boundaries of the lands from which soil is being removed or from trucks removing the soil. In the event that any soil or debris does escape, it shall be cleaned up immediately and in any event within 48 hours.
9. A permit issued pursuant to the terms of this by-law shall be valid for a period not exceeding one year from the date of issuance.
10. In the event of any breach of the provisions of this by-law, the City of Kelowna's Manager of Inspection Services shall cancel a soil removal permit issued pursuant to the provisions of this by-law.


11. The City of Kelowna by its authorized representatives shall have the right at all times to enter upon and inspect lands for which a permit has been issued.
12. Every person who violates any of the provisions of this by-law is guilty of an offence and liable to prosecution pursuant to the provisions of the Offence Act RSBC 1979 Chapter 305.
13. Soil Removal By-Law No. 6476-89 and amending By-Law No. 6717-90 are hereby repealed.

Read a first time by the Municipal Council this 8th day of July, 1991.

Read a second time by the Municipal Council this 8th day of July, 1991.

Read a third time by the Municipal Council this 8th day of July, 1991.

Reconsidered, finally passed and adopted by the Municipal Council of the City of Kelowna this 16th day of July, 1991.



Mayor



City Clerk

SCHEDULE "A"

DESIGNATED SOIL REMOVAL LANDS

- 1) The SE 1/4 of Sec. 31, not included within the limits of D.L. 580A, S.D.Y.D., Twp. 29, O.D.Y.D., except Plans B3677, 3093, 13170, 17707, 18684, 20390, 32874 and 36632 - Mission Ridge Road.
- 2) Lot 1, Plan 9269 excluding Plan 17733, S.D.Y.D. - Bullock Road.
- 3) Lot 3, Plan 1775 excluding Plan 24362, S.D.Y.D. - Hammer Avenue.
- 4) Lots 1, 2, 4, 5, 23, 24 and 25, D.L. 358, Plan 40481, O.D.Y.D. - Westpoint Drive.
- 5) Lot 7, Plan 28238, S.D.Y.D. - Maranda Court.
- 6) Lot C, Plan 32000, S.D.Y.D. - Raymer Road.
- 7) SE 1/4, Sec. 29, Twp. 29, S.D.Y.D. - Westridge Drive.
- 8) Lot 6, Plan 1775, S.D.Y.D. - Raymer Road.
- 9) Lot A, Plan 19938, Sec. 14, Twp. 26, O.D.Y.D. - Hollywood Road South.
- 10) Lot A, Plan 33939, Sec. 14, Twp. 26, O.D.Y.D. - Hollywood Road South.
- 11) Lots 13, 14 and 15, Plan 35670, Sec. 25, Twp. 28, S.D.Y.D. - Vintage Terrace Road.
- 12) The easterly 110 m of Lot 4, Plan 2877, Sec. 25, Twp. 28, S.D.Y.D. - Vintage Terrace Road.
- 13) The easterly 85 m of Rem. Lot 6, Plan 477, Sec. 25, Twp. 28, S.D.Y.D. - Lakeshore Road.
- 14) Lots 27 to 36 inclusive, Lots 40 to 48 inclusive, and Lots 50 and 53, all of Plan 43389, Sec. 29, Twp. 29, O.D.Y.D. - Westridge Drive.
- 15) The easterly 280 m of Rem. Lot 3, Plan 6731, O.D.Y.D. - Lakeshore Road.
- 16) Lot A, Plan 40598, Sec. 16, Twp. 26, O.D.Y.D. - O'Reilly Road.
- 17) Lot 51, Plan 27662, Sec. 30, Twp. 26, O.D.Y.D. - Churchill Court.

SCHEDULE "B"

SOIL REMOVAL PERMIT APPLICATION

Pursuant to Soil Removal By-Law No. 6933 and amendments thereto, application for a Soil Removal Permit is hereby requested:

Name of Applicant: _____

Address: _____

Description of land on which application is made to remove soil (legal and civic address)

Describe purpose of removal of soil: _____

Volume of soil to be removed in cubic metres _____

Describe type of soil to be removed: _____

Proposed truck route and frequency of trucking operations: _____

Hours of operation: _____

Date of commencement and duration of soil removal: _____

A permit fee of \$50.00 shall accompany application for soil removal permit and a plot plan and topographic map identifying area of land from which soil is sought to be removed.

Professional Engineer's Report to be provided by: _____

(name of engineer)

Signature of Applicant

Date

SCHEDULE "C"

SOIL REMOVAL PERMIT

Pursuant to Soil Removal By-Law No. 6933 and amendments thereto, a permit is hereby issued for soil removal by the following owner(s) from the following property:

Name of Owner: _____

Address: _____

Phone No.: _____

Lands from which soil is to be removed:

Volume of soil to be removed in cubic metres: _____

Truck route: _____

Date of commencement and duration of soil removal: _____

This permit is issued subject to compliance with the provisions of Soil Removal By-Law No. 6933 and amendments, all other applicable City of Kelowna by-laws and all plans, specifications and other supporting data submitted with the application for this permit.

This permit is issued on the _____ day of _____, 19____.

This permit shall expire on the _____ day of _____, 19____.

Receipt No. _____. This permit shall not be transferred or assigned.

Permit No. _____.

Issuing Date: _____.

Inspection Services Manager

Proposed Amendment to MTI Bylaw 6550-89

Bylaw No. 6550-89

<u>Soil Bylaw No.9612</u>	<u>Section</u>	<u>Fine</u>
Breach of any provision of Soil Bylaw No.9612	7.1	\$500
