

**THE CORPORATION OF THE DISTRICT OF SAANICH**

**BYLAW NO. 7058**

**TO REGULATE OR PROHIBIT THE DEPOSIT OF FILL ON LANDS**

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The Municipal Council of the Corporation of the District of Saanich in open meeting enacts as follows:

1. In this Bylaw:

**BUILDING ENVELOPE** means that portion of a lot within the building setbacks for the principle building or buildings permitted on the lot by the provisions of the “Zoning Bylaw 1988, No. 6120” or any successor bylaw or bylaws.

**CORPORATION** means the Corporation of the District of Saanich.

**COUNCIL** means the Municipal Council of the Corporation of the District of Saanich.

**DIKE** means an embankment composed of fill that is constructed to prevent the flooding of land.

**DIRECTOR OF ENGINEERING** means the Director of Engineering of the Corporation of the District of Saanich, or his appointee.

**FILL** means soil, sand, gravel, rock or other material which can be used to alter the contours of land.

**FLOODPLAIN** means land contained within the boundary of an elevation contour line, the approximate location of which is shown on the maps attached hereto and marked as Schedule “A” to this bylaw, and lying below the elevation of the said elevation contour lines but does not include a highway or portion of a highway.

**HIGHWAY** means a street, road, lane, bridge, viaduct and any other way open to public use, but does not include a private right-of-way on private property.

**MUNICIPALITY** means the geographic area of the District of Saanich or any part thereof.

**NATURAL BOUNDARY** means the visible high water mark of any lake, river, stream or other body of water where the presence and action of the water are so common and usual and so long continued in all ordinary years, as to mark on the soil of the bed of the body of water a character distinct from that of its banks, in vegetation, as well as in the nature of the soil itself.

**PERMIT** means the written authority granted by the Director of Engineering for deposit of fill on lands within the Municipality, upon the terms, conditions, plans and specifications applicable to the application for such deposit.

**PERSON** means an individual, a body corporate, a firm, partnership, association or any other legal entity of an employee or agent thereof.

**STOCKPILE** means to store fill in a pile within the intention of later removing all or part of the pile.

2. (a) No person shall deposit, cause or permit to be deposited any fill upon any lands lying within 15 metres of the centre line of a stream or portion of a stream identified by crosshatching on the maps attached hereto and marked Schedule "A" to this bylaw.
- (b) For the purposes of this section, the "centre line of a stream" shall mean a line which is equidistant from the natural boundaries of each side of the stream.
- (c) Except as permitted under subsections (d) and (e) of this section, no person shall deposit, cause or permit to be deposited any fill upon any lands lying within a floodplain identified on the maps attached hereto and marked as Schedule "A" to this bylaw.
- (d) The Director of Engineering may, following consultation with the Director of Planning, issue a permit for the deposit of fill in a floodplain for the purpose of constructing a driveway, where
  - (i) the proposed driveway is to serve a building proposed to be constructed on land which is outside the floodplain,
  - (ii) the proposed driveway is the only reasonable access to the proposed building, and,
  - (iii) the proposed deposit of fill and excavation of the pond would not significantly impair the agricultural capacity of the remainder of the parcel.
- (e) It shall be a condition of every permit issued under s. 2 (d) that a pond designed by a Professional Engineer and approved by the Director of Engineering having a storage volume at least equal to the volume of fill deposited for the driveway shall be constructed and maintained within the floodplain on the same parcel as the parcel on which the driveway is being constructed.

- (f) The Engineer may, following consultation with the Manager of Environmental Services, issue a permit for the deposit of fill within a floodplain or within 15 metres of the centre line of a stream for ecological restoration and enhancement projects.
  - (g) No person shall construct a dike on any land lying within a floodplain identified on the maps attached hereto and marked as Schedule 'A' to this bylaw.
3. (a) No person shall deposit, cause or permit to be deposited fill on any lands within the municipality which are not within a floodplain or within 15 metres of the centre line of a stream shown on Schedule "A" without holding a valid and subsisting permit for such deposit issued by the Director of Engineering pursuant to this bylaw.
- (b) No permit shall be issued until the plans, data and specifications required by this bylaw for a permit application have been filed with and approved by the Director of Engineering.
- (c) An application for a permit under this bylaw shall be in the form of Schedule "B" attached hereto and the permit shall be in the form of Schedule "C" attached hereto.
- (d) No permit shall be issued to authorize the deposit of fill upon the building envelope of a lot in any RS, RD, RC, RT, RM, RA or RP Zone District of the "Zoning Bylaw, 1988, No. 6120" or any successor bylaw or bylaws unless the deposit:
- i) Is required to elevate a proposed building on the lot for which a building permit has been issued to a height sufficient to permit sewer or drain connections to achieve a minimum acceptable grade to the municipal sewer or drain mains, or
  - ii) Is required to elevate a proposed garage or carport on the lot for which a building permit has been issued so that the driveway will not exceed a grade of 15%, or
  - iii) Is required to provide a sound foundation for a proposed building, for which a building permit has been issued, in which case the depth of fill deposited shall be the minimum required by sound engineering practice, or
  - iv) Is for the purpose of landscaping or backfilling foundation walls or retaining walls.
- (e) Notwithstanding subsection (a), a person may deposit, cause or permit to be deposited without a permit up to 40 cubic metres of fill in any one calendar year on any land other than:

- i) Land within a floodplain,
  - ii) Land within 15 metres of the centre line of stream shown on Schedule "A",
  - iii) Land within 3 metres of a street, or
  - iv) Land within a building envelope.
- (f) Nothing contained in this section shall be construed to regulate or prohibit the relocation of fill from one place to another within the boundaries of a lot in any zone district, other than a Rural zone as defined in the "Zoning Bylaw, 1988, No. 6120" or any successor bylaw or bylaws.
4. (a) Notwithstanding any provision of the bylaw, it shall not be unlawful for any person who is authorized by the appropriate authority to deposit, cause or permit to be deposited fill on any highway in the Municipality.
- (b) Notwithstanding any provision of the bylaw, the Director of Engineering may issue a permit for the deposit of fill within 15 metres of the centre line of any stream if the fill is to be used in the construction or support of a bridge over the stream.
- 4.1 In any case where,
- (a) it is proposed to deposit fill on land within the Agricultural Land Reserve, and,
  - (b) the proposed deposit of fill is prohibited by this bylaw, and,
  - (c) the proposed deposit of fill is permitted as a farm use under s.2(2) of the Agricultural Land Reserve Use, Subdivision and Procedure Regulation, BC Reg 171/2002,

the following shall apply:

- i) a permit shall be obtained pursuant to this bylaw before any depositing of fill takes place,
- ii) all regulations prescribed by this bylaw governing the deposit of fill on lands located outside of a floodplain, including applicable fees and security deposits, shall apply,
- iii) Unless permitted under the *Water Act* or the *Waste Management Act*, no permit shall be issued where the proposed placement of fill will
  - (a) cause danger on or to adjacent land, structures or rights-of-way, or
  - (b) foul, obstruct or impede the flow of any waterway.

5. Every applicant for a permit shall file with his application detailed plans, data and specifications prepared by a registered professional engineer for the province of British Columbia, or any other qualified person, in a satisfactory form, and showing the contour of the ground in its current state with contour intervals of not more than 2 metres using Saanich datum or with contours according to reasonable engineering standards, and the application shall contain information with respect to the following matters:
  - (a) All pertinent topographic features, buildings, structures and tree cover.
  - (b) The proposed slopes which will be maintained upon completion of the operation.
  - (c) The methods proposed of drainage control for this site during and after the operation.
  - (d) The proposed methods of access to the site during the operation.
  - (e) The proposed progressive stages of filling in terms of development during the permit period, showing contours specified above, grades and slopes, on separate plans for each stage including specific completion dates for each stage.
  - (f) The proposed contours of the ground in its final state upon completion of the operation with contours as specified above and showing the methods of access and positive methods of permanent drainage on a separate plan.
  - (g) The proposed location of machinery, buildings, scales and all other proposed structures and improvements.
6.
  - (a) A permit shall allow the holder thereof to deposit fill on land described in the permit for a period of twelve (12) months. The fee for each permit shall be the sum of \$100.00 and shall be paid upon the issuance of the permit.
  - (b) No fee shall be charged for a permit issued under s.2 (f).
7. Permits will be issued only on application in writing from persons having a registered interest in the land in respect of which the permit is applied for. Application shall be made to the Director of Engineering for a permit and payment for the permit shall be according to paragraph 6 hereof. The Director of Engineering shall refuse to issue a permit if the plans, data and specifications do not meet satisfactory engineering standards and the requirements of this bylaw.
8. Each and every permit issued pursuant to this bylaw shall be subject to the following conditions:

- (a) All damage to municipal or private-owned drainage facilities, roads, or lands, or other municipally or privately-owned property, or natural water courses, resulting from the deposit of fill, shall be repaired. All drainage facilities and natural water courses shall be kept free of silt, clay, sand, rubble, debris, gravel and any other matter or thing originating from any deposit of fill and causing obstruction to such drainage or natural water courses. Drainage facilities or natural water courses shall not be polluted.
  - (b) The operations by which fill is deposited shall not encroach upon, undermine or physically damage any property.
  - (c) No natural water course shall be altered or diverted, except with the approval of the Comptroller of Water Rights as provided for in the *Water Act* of the Province of British Columbia.
  - (d) The finished slope of the fill shall have a maximum slope of one (1) metre rise in two (2) metres of run.
  - (e) The size and configuration of the fill deposit shall be such as neither to affect adversely the air, light and view of adjoining or adjacent properties, nor to alter substantially, the appearance and nature of the surrounding area.
  - (f) The deposit of fill for any of the purposes set out in Section 3 (d) (i) (ii) or (iii) shall be strictly in accordance with the provisions of the British Columbia Building Code, as amended from time to time.
9. Each and every permit issued pursuant to this bylaw authorizing the deposit of fill in an amount exceeding 50,000 cubic metres shall be subject to the following conditions in addition to the conditions specified in Section 8 hereof:
- (a) The permit holder shall take all necessary measures, which may include the construction of a suitable haul road base to ensure that no mud, dirt or other material is tracked onto the public roadway as a result of fill deposit operations.
  - (b) Any mud, dirt or other material deposited or tracked onto the public roadway as a result of the fill deposit operation shall be removed by the permit holder at the conclusion of each work day.
  - (c) The permit holder shall ensure that each truck transporting loose or dusty fill material shall have its load covered with a tarp dust cover to prevent the material from falling off the truck.
10. A permit applies only to the deposit of fill in the area(s) specifically set out and described in the permit.

11. Where the holder of a permit owns or acquires further land on which he proposes to deposit fill, then he must before any such deposit, notify the Director of Engineering and make application for and obtain a further permit.
12. All machinery and vehicles used at lands on which fill is, or is being deposited and transported to and from such lands, shall be in good and proper working order and contain sound reducing and dust elimination equipment wherever reasonably possible.
13. No deposit of fill operation of any kind whatsoever shall occur on any Sunday or statutory holiday. No deposit of fill operations in which the total amount of fill to be deposited is 50,000 cubic metres or less shall be carried out except between the hours of 7:00 a.m. and 9:00 p.m. No deposit of fill operations in which the total amount exceeds 50,000 cubic metres shall be carried out except between the hours of 7:00 a.m. and 5:00 p.m., Monday to Friday inclusive.
14.
  - (a) No person shall stockpile fill or permit fill to remain stockpiled within 8 metres of any highway for a period in excess of one year.
  - (b) No person shall deposit fill or permit fill to be deposited within 3 metres of any highway.
15. Prior to a permit being issued for a provincial, municipal or commercial fill deposit operation, notification thereof shall be given by the Director of Engineering, by posting a sign on the proposed site and by mailing or delivering a letter to the owners and occupiers of real property adjacent to the proposed site.
16.
  - (a) The Director of Engineering, or any of his inspectors, are hereby authorized to enter, at all reasonable times, upon any property for the purpose of administering and enforcing this bylaw.
  - (b) The Director of Engineering may give notice to any person of a breach of any of the provisions of the bylaw, or a permit issued pursuant thereto, and such person shall forthwith cease and desist from depositing any further fill until such breach is remedied.
  - (c) Where the Director of Engineering determines that a person has contravened the terms and conditions of a permit, or is placing fill on land without a permit, he may:
    - i) suspend the permit until he is satisfied that the contravention has ceased; or
    - ii) cancel the permit if he is satisfied that the person has, by reason of the contravention, put it beyond his power to comply with the terms and conditions of the permit; or

- iii) order the person to stop the contravention; or
  - iv) order the person who caused fill to be placed on the land without a permit or in contravention of the terms and conditions of the permit, to remove the fill.
- (d) No person shall prevent or obstruct, or attempt to prevent or obstruct the authorized entry of the Director of Engineering or other appointed employee authorized under Section 15 (a) of this bylaw.
- (e) Any person who fails to obey an order of the Director of Engineering under this section thereby commits an offence and shall be liable to the penalties provided under this bylaw.
- (f) Where fill has been deposited on a lot without a permit required by this bylaw or otherwise contrary to the provisions of this bylaw, no building permit shall be issued for the construction of a building or structure upon the lot until the fill has been removed or a permit has been issued to authorize the deposit or the deposit has otherwise been brought into compliance with this bylaw.
17. As security for the due and proper compliance of all of the requirements and conditions of this bylaw, every person shall, before receiving a permit or a renewal of a permit for deposit of fill, provide a cash deposit or irrevocable letter of credit drawn upon a chartered bank, in a form acceptable to the Director of Engineering:
- (a) For a permit in which the total amount of fill to be deposited is 50,000 cubic metres or less, in the amount of \$500,000 for each half hectare or part thereof of site upon which fill is to be deposited,
  - (b) Where the total amount of fill to be deposited is over 50,000 cubic metres, in the amount of \$1,500,000 for each half hectare or part thereof of site upon which fill is to be deposited,

which security shall be maintained in full force and effect throughout the permit period.

In the event the permit holder fails to comply with any requirements or conditions of this bylaw or a permit issued under this bylaw, the Director of Engineering may cause the deposit to be forfeited to the municipality and may use the funds to correct any damage or disturbance to municipal property.

For a permit under s. 2 (f), the security may be waived at the discretion of the Engineer.

18. (a) Every person who violates, contravenes or commits any breach of the provisions of this bylaw shall be guilty of an offence punishable on summary conviction and shall be liable to forfeit and pay a fine of not less than One Hundred Dollars (\$100.00) and not more than One Thousand Dollars (\$1,000.00). Each day any violation, contravention or breach of this bylaw continues shall be a separate and distinct offence.  
  
(b) The penalties imposed under this section shall be in addition to and not in substitution for any other penalty or remedy imposed by this bylaw.
19. Bylaw No. 5381, being the “Deposit of Fill Bylaw, 1984, No. 5381” is hereby repealed except insofar as it repeals any other bylaw.
20. This bylaw may be cited for all purposes as the “**DEPOSIT OF FILL BYLAW, 1993, NO. 7058**”.

**Includes Bylaw Amendments No. 7308, 7776, 8391, 8631 and 8933.**

**SCHEDULE "A"**

REFERRED TO IN THIS BYLAW  
IS NOT ATTACHED  
BUT MAY BE OBTAINED OR PERUSED,  
IF DESIRED, BY CONTACTING THE  
LEGISLATIVE DIVISION AT  
(250) 475-1775

THE CORPORATION OF THE DISTRICT OF SAANICH  
DEPOSIT OF FILL BYLAW NO. 7058  
SCHEDULE "B"  
APPLICATION FOR PERMIT

1. I/We \_\_\_\_\_  
of \_\_\_\_\_

owner(s) of the lands herein described, herewith make application to deposit fill in accordance with the plans, data and specifications filed herewith on the following area(s) within the Municipality having legal description:

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

2. All persons, firms, corporations, owner, owners or their agents having any right, title or interest in and to the said land are the following:

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

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

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

and their consent in writing to such deposit of fill is herewith attached.

3. The fill is being deposited for \_\_\_\_\_

\_\_\_\_\_

The area on which the fill is to be deposited is \_\_\_\_\_ hectare(s).

The estimated amount of fill to be deposited is \_\_\_\_\_ cubic metres.

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

(a) Supply of cash deposit/irrevocable letter of credit in the amount of \$

(b) Submit the permit fee in the amount of \$

5. Filed herewith are the plans, data and specifications required by Bylaw No. 7058.

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Date

THE CORPORATION OF THE DISTRICT OF SAANICH  
DEPOSIT OF FILL BYLAW NO. 7058  
SCHEDULE "C"

PERMIT

Permit Fee \$\_\_\_\_\_ received.

Received cash deposit/irrevocable letter of credit in the amount of \$\_\_\_\_\_ as security for the proper compliance with the District of Saanich Deposit of Fill Bylaw No. 7058 and the plans, data and specifications filled by the Permittee.

Permission is hereby given to

\_\_\_\_\_

Address

\_\_\_\_\_

to deposit fill on the area(s) described as:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

in accordance with the terms and conditions of Bylaw No. 7058 and the plans, data and specifications filed by the Permittee.

Receipt No. \_\_\_\_\_

Permit No. \_\_\_\_\_

Date Permit Granted \_\_\_\_\_

Date Permit Expires \_\_\_\_\_

\_\_\_\_\_  
Director of Engineering