



Village of Lions Bay Soil Deposit, Soil Removal and Land Alteration Bylaw No. 510, 2018

Office Consolidation

This document is an office consolidation of Bylaw Notice Enforcement Bylaw No. 510, 2018 with subsequent amendments adopted by the Village of Lions Bay.

All persons making use of this consolidation are reminded that it has no Council sanction, that amendments have been incorporated only for convenience of reference, and that for all purposes of interpretation and application, the original bylaws should be consulted. The Village of Lions Bay will, in no event, be liable or responsible for damages of any kind arising out of the use of this consolidation.

This is not the official version of Bylaw Notice Enforcement Bylaw No. 510, 2018 as amended, nor is it admissible in a court of law. For such purposes, official certified copies of the original bylaws can be obtained from the Village Office or by contacting us at: admin@lionsbay.ca

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List of Amending Bylaws

Bylaw No.	Section	Description	Adopted
556	2(a)	Amends the definition of "alteration of land" in section 4.1 (a)	January 22, 2019

Village of Lions Bay
Soil Deposit, Soil Removal and Land Alteration Bylaw No. 510, 2018

A bylaw to regulate the Deposit and Removal of Soil
and the Alteration of Land within the Village of Lions Bay

WHEREAS the *Community Charter*, authorizes the Council of the Village of Lions Bay to regulate, prohibit and impose requirements in relation to the removal and deposit of soil in the *Municipality*;

AND WHEREAS the *Municipality* may impose rates or levels of fees for a permit for the alteration, deposit, or removal of soil on or from any land or area in the Village of Lions Bay;

NOW THEREFORE, the Council of the Village of Lions Bay, in open meeting assembled, enacts as follows:

1.0 Title/Citation

- 1.1 This bylaw may be cited for all purposes as the “Soil Deposit, Soil Removal and Land Alteration Bylaw No. 510, 2018”.

2.0 Repeal and Application

- 2.1 Lions Bay Soil and Material Deposit By-law No. 157, 1987 is hereby repealed.
- 2.2 This Bylaw applies to all land in the Village of Lions Bay.
- 2.3 Nothing in this Bylaw shall preclude anyone from complying with the provisions of any other local, provincial, or federal regulations or enactments.

3.0 Purpose

- 3.1 This Bylaw has been enacted for the purpose of regulating the *deposit* and *removal of soil* and *other material* and the *alteration of land* within the Village of Lions Bay in the general public interest. The purpose of this Bylaw does not extend:
 - a) to the protection of owners, occupiers or persons involved in the *deposit* or *removal of soil* or *alteration of land* from economic loss;

- b) to the assumption by the *Municipality* or any officer or employee of the *Municipality* of any responsibility for ensuring compliance by a person involved in the *deposit or removal of soil* on or *alteration of land*, his or her representatives, or any employees, contractors, or agents with this Bylaw, or any other enactments applicable to the *deposit of soil* or the development or *alteration of land*;
- c) to providing any person with a warranty that any *deposit or removal of soil* or *alteration of land* will not violate this Bylaw, or any other enactment or create any nuisance of any type.

4.0 Definitions

4.1 Within this Bylaw, the following definitions apply:

Alteration of Land means:

- (a) the *deposit or removal of soil* or other material within a *parcel* other than the *deposit or removal of soil* constituting *minor works*.

[Amended by Bylaw No. 556]

Bylaw Enforcement Officer means a person appointed by the *Municipality* to act on matters of bylaw enforcement.

Contaminated Soil means the presence in *soil* of a *hazardous waste* or another prescribed substance in quantities or concentrations exceeding provincial environmental quality standards.

Council means the elected and appointed Mayor and Councillors of the *Municipality* acting as the *Municipal Council* in assembled meetings thereof.

Deposit or Deposited means the placement, storage, filling, spilling or releasing, directly or indirectly, of *soil* or *other material* on lands in the *Municipality* where the *soil* or *other material* was not previously located.

Hazardous Waste has the meaning prescribed under the *Environmental Management Act*.

Invasive Species means a species not native to British Columbia whose introduction or spread does or is likely to cause economic or environmental harm or harm to human health.

Minor Works means the *removal or deposit of soil* or *alteration of land* where:

- (i) at any point the depth of the *soil removed or deposited* does not exceed 1.2 meters;
- (ii) the unrestrained slope of the filled or excavated surface does not exceed three (3) horizontal to one (1) vertical (30%);
- (iii) retaining walls associated with the work do not exceed a height of 1.2 meters measured from the natural ground elevation; and
- (iv) for *deposit of soil*, the slope of the existing ground does not exceed thirty percent (30%) at any point or, where the existing ground is filled, the underlying natural ground surface does not exceed thirty percent (30%) at any point.

Municipality means the Village of Lions Bay, in the Province of British Columbia, and where the context so requires also means the land included in the boundaries of the *Municipality*.

Other Material includes, but is not limited to, construction and demolition waste, masonry rubble, concrete, asphalt, wood waste, unchipped lumber, drywall, refuse, undecomposed organic matter, *contaminated soil*, *soil* containing *invasive species*, and other similar matter.

Organic Waste means biodegradable, compostable waste of plant or animal origin from domestic or industrial sources.

Owner means a person registered in the records of the land title office as the fee simple owner of a *parcel*, including the strata corporation in the case of a *parcel* under strata ownership.

Parcel means any lot, block or area in which land is held or into which it is subdivided.

Parcel Line means any boundary of a *parcel*.

Permit means the written authority granted by the *Municipality* and/or the *Public Works Manager* pursuant to this Bylaw for the *deposit or removal of soil* and *other material* or site alteration through the *alteration of land*.

Permit Holder means a person holding a *permit* issued by the *Municipality*.

Public Works Manager means a person who holds the position of *Public Works Manager* for the *Municipality* or such persons designated by Council or the Chief Administrative Officer to act on their behalf in the execution of this Bylaw.

Qualified Registered Professional means an, engineer, geoscientist, agrologist, environmental consultant, soil scientist, biologist, or land surveyor who is registered

with a professional association that is regulated by a statute, appointed to act in the capacities described under the sections of this Bylaw requiring a *qualified registered professional*;

Remove or Removal means to take, excavate, or extract *soil* from a *parcel* on which it exists or has been *deposited*.

Soil means clay, silt, topsoil, sand, gravel, cobbles, rocks, boulders, peat or other substance of which land is naturally composed, down to the bedrock but shall not include *other material*.

Stockpile means a man-made accumulation of *soil* or *other material* held in reserve for future use, distribution or *removal*.

Wood waste means wood residue in mechanically shredded form and includes sawdust, hog fuel, bark, chips, slabs, shavings, trimmings, edgings, or other such waste which is the result of any manufacturing process involved in the production of lumber or other wood products.

5.0 Prohibition

- 5.1 No person shall cause or permit the *deposit* or *removal* of *soil* or *alteration of land* within the *Municipality* except in accordance with this Bylaw.
- 5.2 No person shall deposit *other material* on any land within the *Municipality* without a valid permit or exemption under the *Environmental Management Act*, and amendments thereto.

6.0 Permit Requirements

- 6.1 Subject to the other terms in this Bylaw, no person shall cause or allow the *deposit* or *removal of soil* or *alteration of land* within the *Municipality* unless the person:
 - a) has applied for and been issued a valid and subsisting *permit* for such *deposit* or *removal* or *alteration*; and
 - b) carries out the *deposit* or *removal* or *alteration* in accordance with this Bylaw and the terms and conditions set out in the *permit*.

7.0 Permit Exemptions

7.1 Despite Section 5 of this Bylaw, a *permit* is not required where the *deposit or removal of soil or alteration of land*:

- a) is less than 27 cubic meters (m³) of *soil* in a calendar year;
- b) constitutes *minor works*;
- c) is for the purpose of constructing or maintaining provincial roadways, forest service roads, walkways or trails;
- d) is on land owned by, or works undertaken by, the *Municipality*;
- e) is on land managed under the *Forest Act* or regulated under the *Highways Act* and for which a provincial soil permit has been obtained, so long as the land continues to be used as managed forest or highways;
- f) is required as part of the clean-up or remediation of *contaminated soil* as directed and approved by the *Ministry of Environment*;
- g) involves *stockpiles* on land, other than residentially zoned land, and subject to compliance with any requirements of the Ministry of Mines;
- h) is undertaken pursuant to the *Mines Act* or under an active *Mines Act* permit issued by the designated Ministry of the Province of British Columbia;
- i) is undertaken as flood protection works by or on behalf of a dyking authority, a provincial ministry or the *Municipality*; or
- j) is undertaken to resolve emergency situations that present an immediate danger related to flooding, erosion or other immediate threats to life or property, including removal of hazardous trees.

8.0 Permit Application

8.1 An application for a *permit* must be made on a form provided by the *Municipality*.

8.2 A separate application for a separate *permit* must be made for each *parcel* onto which *soil* is to be *deposited* or from which *soil* is to be *removed*, as per Section 10.0 (*Permit Application Requirements*).

8.3 The *permit* application must be signed by the applicant, and

- a) If the applicant is not the *owner*, by all owners of the *parcel*, and
- b) In the case of strata property:
 - i. by an authorized representative(s) of the strata corporation plus the strata lot owner for the property where the *soil* is to be *deposited* or *removed*; and
 - ii. by resolution of the strata council if the *soil* is to be *deposited* or *removed* or the *alteration of land* takes place on common property.

9.0 Permit Application Fees

9.1 An application for a *permit* must be accompanied by a non-refundable permit fee as set out below and in Fees Bylaw No. 497, 2016, as amended.

- a) \$100 for any application for the *deposit* or *removal* of more than 27 cubic meters (m³) and up to 45 m³ in any one year, or;
- b) \$200.00 for any application for the *deposit* or *removal* of more than 45 m³ and up to 90 m³ in any one year, or;
- c) \$400.00 for any application for the *deposit* or *removal* of more than 90 m³ and up to 180 m³ in any one year, or;
- d) \$600 for any application for the *deposit* or *removal* of more than 180 m³ in any one year.

10.0 Permit Application Requirements

10.1 The *Public Works Manager* shall determine the submission requirements pursuant to this section for every application for a *permit* between 27 and 45 m³ of *soil* to be *deposited* or *removed*, including in respect of the *alteration of land*, which could include some or all of the requirements contained in this section. At a minimum the following will be required:

- a) the location of the site from which *soil* is to be *removed*, in the case of *soil deposition*, or the location of the site to which *soil* is to be *deposited*, in the case of *soil removal*;
- b) the general description and volume of the *soil* to be *deposited* or *removed*;
- c) all drainage facilities, natural watercourses and ground water aquifers shall be kept free of silt, clay, sand, rubble, debris, gravel and all other material or thing originating from any removal or deposit of soil, from or upon any lands.

10.2 Where the application set out in section 10.1 relates to *parcels* (or portions thereof) that are situated within a development permit area pursuant to section 488(1)(b) of the *Local Government Act* (protection of development from hazardous conditions), the *Public Works Manager* is entitled to require that such application also be accompanied by detailed plans, data and specifications for the proposed site prepared by a *Qualified Registered Professional* to a scale of not more than 1:1,000, unless otherwise authorized by the *Public Works Manager*, showing the contour of the ground in its current state and containing information regarding the *soil deposit* or *removal* with respect to any, or all of the matters set out in section 10.3 c) through r).

10.3 Every application for a *permit* for more than 45 m³ of *soil* to be *deposited* or *removed*, including the *alteration of land*, shall be accompanied by detailed plans, data, and specifications for the proposed site prepared by a *Qualified Registered Professional* to a scale of not more than 1:1,000, unless otherwise authorized by the *Public Works Manager*, showing the contour of the ground in its current state and shall contain information regarding the *soil deposit* or *removal* with respect to the following matters:

- a) the location of the site from which *soil* is to be *removed*, in the case of *soil deposition*, or the location of the site to which *soil* is to be *deposited*, in the case of *soil removal*;
- b) the general description and volume of the *soil* to be *deposited* or *removed*;
- c) all features including buildings, structures, tree cover, roads, bridges, and natural watercourses;
- d) land uses and designations, such as civic address, zoning, areas prone to flooding and erosion, and environmentally sensitive areas;
- e) the proposed slopes which will be maintained upon completion of the *soil deposit* or *removal*;

- f) the proposed methods to control the erosion of the banks of the *soil deposit or removal*;
- g) the proposed methods of drainage control during the *soil deposit or removal*;
- h) the proposed methods to control noise and dust generated by the proposed *soil deposit or removal*;
- i) the proposed methods and locations of access to the site during the *soil deposit or removal*;
- j) the proposed grading and rehabilitation plan for the *soil deposit or removal* site during and upon completion of the proposed *soil deposit and removal* operation, and copies of any remediation or site closure plans filed with the Ministry of Energy and Mines or the Ministry of Environment and any remediation requirements of these or other ministries or authorities having jurisdiction;
- k) the proposed location of machinery, buildings, scales, and all other proposed structures and improvements;
- l) the proposed location of buffers and tree cover, and the location and grade width of berms;
- m) the proposed schedule for the *deposit or removal of soil*, indicating the amounts to be either *removed* or *deposited* on a monthly basis;
- n) the proposed routes to and from a *soil deposit or removal* area;
- o) a traffic management plan, which would include but not be limited to a description of the frequency of trucks, signage, placement of safety control devices, and other traffic control that would minimize the disturbance created;
- p) copies of all other necessary approvals and permits from Federal and Provincial authorities required by statute or regulation in connection with the proposed *soil deposit or removal*;
- q) a site reclamation plan including Invasive Species Management Plan, prepared by a *Qualified Registered Professional* to be incorporated into the *permit*; and
- r) such other information as may be required under any applicable Development Permit.

11.0 Permit Issuance

11.1 Where

- a) a completed application for a *permit* under this Bylaw has been submitted; and,

- b) the proposed *soil deposit or removal* set out in the application conforms with this Bylaw, all other bylaws of the *Municipality*, and all other applicable enactments; and,
- c) the applicant for the *permit* has paid the *Municipality* the required application fees;

the *Public Works Manager* may issue the *permit*, issue the *permit* with all or some conditions as per Section 12.11 or refuse the *permit* for non-compliance with the Bylaw.

11.2 Where an application or renewal is refused, or a *permit* is suspended or revoked, or a stop work order is issued in respect of it, by the *Public Works Manager*, the applicant may request a reconsideration of the decision in accordance with the procedure set out in Council Procedures Bylaw No. 476, 2015, as amended.

12.0 Permit Conditions

12.1 Permitted *soil deposit and removal or land alteration* activities may only occur between the hours of 7:30 a.m. to 5:30 p.m. on any day of the week except Sundays and statutory holidays, unless otherwise varied by the *permit*.

12.2 No person may *deposit or remove soil or alter land* so as to do any of the following:

- a) foul, obstruct, divert, or impede the flow of or damage or destroy any watercourse, ditch, rain, sewer, or other water utility, whether privately or publicly owned;
- b) damage or destroy amenities on the lands or adjacent lands including, without limitation, any utilities, works or services, statutory rights of way, structures, buildings or improvements;
- c) contravene any *Municipality* bylaw or provincial or federal law;
- d) threaten the health and safety of the public;
- e) result in the use of the *permit* lands in a manner inconsistent with the current zoning for the *permit* lands;
- f) compromise the hydrological function or drainage capacity of the *permit* lands or adjoining lands;
- g) result in *soil* on the land or on adjacent land becoming unstable or susceptible to erosion, slippage, landslide, slumping or settling;

- h) result in excessive costs for any government to provide public utilities, works or services to the *permit* lands or adjoining lands;
- i) permit dust, dirt or noise to escape the property boundary that may cause a private or public nuisance;
- j) result in the coverage of topsoil;
- k) permit the promotion of growth of invasive species on the lands that are subject to the *permit*, or on adjoining lands; or
- l) contravene any condition or requirement of a *permit* or this Bylaw.

12.3 All descriptions, plans and specifications submitted by the applicant in support of the *permit* application and marked 'FINAL' by the *Municipality* form part of and are incorporated into the *permit* and the *permit* specifically limits *soil deposit or removal* in accordance with the descriptions, plans and specifications accepted by the *Municipality*. Any amendments of descriptions, plans or specifications by the applicant must be approved in writing by the *Municipality* and the *permit* amended accordingly.

12.4 The *permit holder* is at all times responsible for compliance with the provisions of this Bylaw and any other applicable enactment and for any claim, demand, damage, loss, costs, expense, fees or fine that may arise from a *deposit or removal of soil*.

12.5 The *permit holder* shall save harmless, indemnify and keep indemnified the *Municipality*, its officers, employees, contractors, and elected officials from any claims, demands, damages, losses, costs, expenses, fees, fines, actions, proceedings whatsoever brought by persons arising from the issuance of a permit under this Bylaw with respect to the *deposit or removal of soil or other material* authorized under a *permit*.

12.6 The issuance of a *permit* does not constitute authority to conduct processing or *stockpiling of soil* or other material on the property if not appropriately zoned for such use.

12.7 Every *permit* issued pursuant to this Bylaw shall expire twelve (12) months following the date of issuance. Every *permit* shall cease to authorize *soil deposit or removal* upon the expiry date without the necessary *permit* renewal in accordance with Sections 13.1, and 13.2.

- 12.8 No *permit* issued pursuant to the terms of this Bylaw may be transferred, assigned or sold.
- 12.9 Before a *permit* is issued, the applicant shall have first obtained all other permits and permissions required from the *Municipality* and any other authority having jurisdiction.
- 12.10 Any *soil* or *other material* deposited without a *permit* (or contrary to the terms of a *permit*) shall be *removed* from the *parcel* by the *owner* of the *parcel* at the *owner's* cost. Failure to remove the *soil* or *other material* within the time period so given for the *removal* shall constitute an offence under this Bylaw. In the event that the owner of the *parcel* fails to *remove* the *soil* or *other material* in accordance with this section within the stated time period, the *Municipality* or its appointed agents may, at its sole discretion and at the expense of, as the case may be, the *permit* holder or the *owner* of the *parcel*, enter onto the *parcel* or any part thereof and carry out the work required to effect the *removal* of *soil* or *other material*.
- 12.11 The *Public Works Manager* may impose conditions on a *permit* that restrict the location of *deposit* or *removal* and the type and volume of *soil* to be *deposited* or *removed* based on the information supplied by the applicant under section 10.1, 10.2 or 10.3 of the Bylaw, to ensure the *deposit* or *removal* occurs in the manner and amount specified in the application. Where the applicant is required to submit detailed plans, data and specifications under section 10.2 or 10.3 of the Bylaw, the *Public Works Manager* may issue the *permit* on conditions pertaining to subsections 10.3 a) through r) of the Bylaw to ensure the applicant *deposits* or *removes soil* in accordance with the detailed plans, data and specifications provided.
- 12.12 If required under the terms of the *permit*, upon completion of the soil deposit and removal authorized by a *permit*, the *permit* holder shall deliver to the Director a certificate from a *Qualified Registered Professional* stating that all *soil deposited* or *removed* was *deposited* or *removed* in substantial compliance with the requirements of the *permit* and good environmental and engineering practices.

13.0 Permit Renewal

- 13.1 A *permit* for *soil deposition* or *removal* may be renewed for one additional term not to exceed twelve (12) months at the request of the applicant if the *Public Works Manager* determines, after inspecting the *permit* lands that the applicant is in full

compliance with the *permit* and this Bylaw and the renewal is reasonably necessary to permit the applicant's proposed development of the site in accordance with Zoning and Development Bylaw No. 520, 2017 and any applicable development permit, development variance permit, Board of Variance order, temporary use permit, or building permit.

13.2 Application for renewal of a *permit* or part thereof will be made in the same manner as provided herein for a new *permit*. The original application may be re-submitted for renewal, provided all applicable drawings and specifications are updated as necessary to identify any material changes to site conditions and to demonstrate compliance with current bylaws and regulations.

13.3 At least 30 days prior to the expiry of a renewed *permit*, an applicant may apply to Council for an extension of a *permit* for up to six (6) months and shall provide full details in support of such application to the Public Works Manager and to the Corporate Officer, who shall set the matter down for the next regular Council meeting.

14.0 Permit Revocation and Reinstatement

14.1 The *Public Works Manager* may issue a stop work order, with immediate effect, acting reasonably, if *soil deposit* or *removal* activities have not been undertaken in accordance with the terms and conditions of this Bylaw or the *permit*.

14.2 The *Public Works Manager* may, by delivery of a 10 day written notice to a *permit holder*, revoke or suspend a *permit* under this Bylaw where:

- a) the *permit holder* has contravened this Bylaw, or another bylaw of the *Municipality*;
- b) the *permit holder* has contravened a condition of the *permit*;
- c) the *permit* was issued by the *Municipality* on the basis of descriptions, plans and specifications submitted by the *permit holder* in support of the permit application which were incorrect or misleading; or
- d) the *permit holder* failed or refused to comply with a stop work order made pursuant to this Bylaw.

14.3 The *Public Works Manager* may reinstate a *permit* if the applicant provides a report from a *Qualified Registered Professional* confirming compliance with the Bylaw.

15.0 Enforcement

15.1 The *Public Works Manager, Bylaw Enforcement Officer*, all *Municipality* employees, persons retained by the *Municipality* for inspection purposes, and agents of the *Municipality* are authorized individually or in combination to enter at all reasonable times on any *parcel* to ascertain whether the provisions of this Bylaw are being observed.

15.2 For the purposes of ascertaining compliance with this Bylaw the *Public Works Manager* may require a *permit holder* to provide records of *soil deposit or removal* and/or a specified report from a *Qualified Registered Professional*.

16.0 Offences and Penalties

16.1 Any person who violates any of the provisions of this Bylaw or who suffers or permits any act or thing to be done in contravention of this Bylaw, or who refuses, or omits or neglects to fulfill, observe, carry out or perform any duty or obligation imposed by or pursuant to this Bylaw, including refusal or hindering of an inspection under this Bylaw, is guilty of an offence and

- a) pursuant to the *Community Charter* or the *Offence Act* or both shall be liable on summary conviction to:
 - (i) a fine not exceeding ten thousand dollars (\$10,000.00), imprisonment of not more than 6 months, or both,
 - (ii) the costs of prosecution, and
 - (iii) any other penalty or remedy imposed or permissible pursuant to an enactment;
- b) the penalties and remedies imposed under subsection a) shall be in addition to and not in substitution for any other penalty or remedy imposed by or permissible under this Bylaw or any other enactment; and
- c) each day that a violation is caused or allowed to continue constitutes a separate offence under this Bylaw.

16.2 Any person who neglects or refuses to carry out works prescribed by the *Public Works Manager* to remedy a contravention of this Bylaw commits an offence.

16.3 In addition to the foregoing, the *Municipality* may elect enforcement under Bylaw Notice Enforcement Bylaw No. 385, 2006, as amended, and in that event, any bylaw contraventions under this Bylaw shall not constitute the creation of an offence.

17.0 Severability

17.1 If any Section or portion of this Bylaw is held to be invalid by a Court of competent jurisdiction, such invalid Section or portion shall be severed and such invalidity shall not affect the remainder of this Bylaw.

READ A FIRST TIME	the	10 th	day of	April, 2018.
READ A SECOND TIME	the	10 th	day of	April, 2018.
READ A THIRD TIME	the	24 th	day of	April, 2018.
Approval of the Ministry of Energy, Mines and Petroleum Resources waived	the	27 th	day of	June, 2018.
Approval of the Ministry of Environment and Climate Change Strategies waived	the	9 th	day of	July, 2018.
ADOPTED	the	17 th	day of	July, 2018.

Mayor

Corporate Officer

Certified a true copy of Soil Deposit,
Soil Removal and Site Alteration
Bylaw No. 510, 2018 as adopted.

Corporate Officer