



Soil Removal and Fill Deposit Regulation Bylaw No. 8094

The Council of the City of Richmond enacts as follows:

PART ONE – APPLICATION

1. Application

- 1.1 This bylaw applies only to lands located within an **agricultural land reserve**, as defined in this bylaw.
- 1.2 Nothing in this bylaw precludes or relieves a person from complying with the provisions of the *Agricultural Land Commission Act* and regulations or any other applicable local, provincial or federal enactment or regulation.

PART TWO – INTERPRETATION

2. Interpretation

2.1 In this bylaw:

AGRICULTURAL LAND RESERVE

means the area of land within the City of Richmond designated as protected agricultural land under the *Agricultural Land Commission Act*, as amended, and shown in the hatched areas outlined in bold in Schedule “A”, which is attached and forms part of this bylaw.

BC LAND SURVEYOR

means a person who is listed as a practicing member under Section 34(1) of the *Land Surveyors Act*, as amended.

CITY

means the City of Richmond.

COMMISSION

means the Provincial Agricultural Land Commission established under the *Agricultural Land Commission Act*, as amended.

COUNCIL

means the municipal council of the City of Richmond.

DEPOSIT	means to place, store, pile, spill or release, directly or indirectly, fill on a parcel or contiguous parcels of land where that fill did not exist or stand previously and includes a stockpile .
EXISTING FARM	means a parcel that has been previously operated as a farm in compliance with the <i>Agricultural Land Commission Act</i> and a parcel designated as a farm operation through property assessment and property tax designation.
FARM	means a parcel for farming purposes, such as farming of plants and animals, and includes a farm business or farm operation as specified in the <i>Farm Practices Protection (Right to Farm) Act</i> .
FILL	means a deposit comprised of soil or permitted material or combination thereof.
GUIDELINES FOR FARM PRACTICES INVOLVING FILL	means the document published by the <i>Ministry of Agriculture and Lands</i> , which outlines standard practices of agricultural fill , as amended.
HIGHWAY	includes a street, road, lane, bridge, viaduct and any other way open to public use, other than a private right-of-way on private property or any other public right-of-way as defined in Part 1 of the <i>Transportation Act</i> .
MANAGER	means Manager, Community Bylaws and any person designated by the Manager to act in Manager's place.
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 an authorization to remove soil or deposit fill issued under this bylaw.
PERMITTED MATERIAL	includes: (a) any material that is listed in the <i>Guidelines for Farm Practices Involving Fill</i> , or that is used as specified in the <i>Guidelines for Farm Practices Involving Fill</i> ;

	(b) any material not specified in (a) that is certified in writing, as a standard farm practice, by a Professional Agrologist in a form acceptable to the Manager ; and
	(c) any material that is authorized for deposit as fill at a specified location by the Commission pursuant to Section 20 (3) of the <i>Agricultural Land Commission Act</i> , as amended.
PROFESSIONAL AGROLOGIST	means a person who is a member in good standing under Section 15 of the <i>Agrologist Act</i> , as amended.
PROFESSIONAL ENGINEER	means a person who is a certified member under Section 20 of the <i>Engineers and Geoscientists Act</i> , as amended.
PROVINCIAL ENACTMENT	means an enactment of the Province of British Columbia.
REMOVAL	means to remove soil from a parcel or contiguous parcels of land on which it exists or has been deposited.
SOIL	means topsoil, sand, gravel, rock, silt, clay, peat or any other substance of which land is composed, or any combination thereof;
STOCKPILE	means a man-made accumulation of soil held in reserve for future use, deposit or removal .
WOODWASTE	means a wood by-product as defined under the <i>Code of Agricultural Practice for Waste Management</i> and includes hog fuel, mill ends, wood chips, bark and sawdust but does not include demolition waste, construction waste, tree stumps, branches, logs or log ends.

PART THREE – RESTRICTIONS AND EXEMPTIONS

3.1 Restrictions

- 3.1.1 Subject to a **Provincial enactment** and any procedure, authorization or permission thereunder, no person shall **deposit soil**, or cause, suffer or permit the **deposit of soil** on any land within the **agricultural land reserve** except in accordance with this bylaw.

- 3.1.2 Except as otherwise provided in this bylaw, but subject to any procedure, authorization, or permission respecting activity regulated under an applicable **Provincial enactment**, no person shall carry out, cause, suffer or permit the **removal** of soil from, or the **deposit** of fill on, any land located within the **agricultural land reserve** without first making application for and obtaining a **permit** from the City, and every such deposit or removal shall conform in all respects to the requirements and regulations of this bylaw and the terms and conditions of the **permit**.

3.2 Exemptions

- 3.2.1 Despite Section 3.1.2, a **permit** is not required where the **deposit** or **removal**:
- (a)
 - (i) is related to, or carried out in connection with, an existing “farm use” or “non-farm use” supported by a “Notice of Intent”, as defined in the *Agricultural Land Commission Act* and submitted and acknowledged pursuant to that Act;
 - (ii) is for an approved **farm** practice as defined in the *Guidelines for Farm Practices Involving Fill* on an **existing farm** operation; and
 - (iii) is outlined in a “Soil Removal or Fill Deposit Notice”, identified in Schedule “B”, which is attached and forms part of this bylaw, and is submitted to the City for an **existing farm** operation, as indicated by their property assessment and property tax designation, a minimum of five (5) business days prior to scheduled **soil removal** or **fill deposit**;
 - (b) will not:
 - (i) exceed One Hundred (100) cubic metres in volume on or from a single **parcel** over one calendar year; and
 - (ii) exceed one (1) metre in depth at any point; and
 - (iii) be carried out for more than One (1) month in duration;
 - (c) is by a floriculturalist or horticulturist on lands owned by that person or business and in connection with such trade or business;
 - (d) is required for the erection of a building or structure under a valid building permit or development permit issued by the City, where the **deposit** or **removal** is in accordance with the approved drawings submitted as part of the application for the building permit;
 - (e) is related to the construction of works and services for a subdivision where the **deposit** or **removal** is in accordance with the approved drawings submitted as part of the application for subdivision;

- (f) is required to create, maintain or repair a private road, driveway, paved parking area, dyke or any **highway** or statutory right-of-way necessary to accommodate a permitted use on the property;
- (g) is required for the construction, maintenance or repair of utility works within a **highway** or municipal works, by or on behalf of the **City**;
- (h) involves the movement of existing **soil** within the boundaries of a single **parcel** or contiguous parcels of land;
- (i) is required for the construction or maintenance of a private sewage disposal system or septic field for which a permit has been granted; or
- (j) involves the open storage or stockpiling of **soil** or **woodwaste** intended to be processed and removed in connection with a lawful use of the land on which they are stored.

PART FOUR – PERMIT APPLICATION PROCESS

4.1 Application Requirements

- 4.1.1 Every application for a **permit** shall be made in writing to the **Manager** using the “Application for Soil Removal / Fill Deposit” provided for that purpose by the **City**, identified in Schedule “C”, which is attached and forms part of this bylaw and shall include:
- (a) a non-refundable application fee of Six Hundred Dollars (\$600.00);
 - (b) a security deposit in accordance with the requirements of Section 4.2.1;
 - (c) the following documents, plans and information relating to the proposed **removal** or **deposit** operation:
 - (i) evidence, satisfactory to the **Manager**, that an applicable application for **soil removal** or **fill deposit** has been made under the *Agricultural Land Commission Act*, as amended, and approved by the **Commission**;
 - (ii) a description of the composition and volume of the **soil** to be removed or **fill** to be deposited as prepared by a **Professional Agrologist**;
 - (iii) the street location, legal description and a copy of the title search of the **parcel**;
 - (iv) the consent in writing of the registered owner or owners of the **parcel**;
 - (v) a plan in reasonable detail indicating clearly the location of the proposed **deposit** or **removal** and all pertinent topographic features, including existing buildings, structures, watercourses and tree cover;

- (vi) the depths and proposed slopes which will be maintained upon completion of a **removal** or **deposit**;
- (vii) the methods proposed to control the erosion of the banks of a **removal** or **deposit**;
- (viii) the proposed methods of drainage control for the site during and after a **removal** or **deposit**;
- (ix) the proposed methods of access to the **removal** or **deposit** site during the operation including a scale map of the proposed routing and scheduling of truck and vehicular traffic;
- (x) evidence, satisfactory to the **Manager**, that all requirements have been met under the City's *Boulevard and Roadway Protection and Regulation Bylaw No. 6366*, as amended;
- (xi) evidence, satisfactory to the **Manager**, that all requirements have been met under the City's *Tree Protection Bylaw No. 8057* as amended;
- (xii) the location and size of any buffer zones necessary to provide a visual and sound barrier between the **permit** area and adjacent lands, parks, roads, **highways** and other uses;
- (xiii) the proposed methods of noise and dust control during the **removal** or **deposit** operation, in compliance with the City's *Public Health Protection Bylaw No. 6989*, as amended;
- (xiv) the proposed completion dates for all **removal** or **deposit** operations;
- (xv) where requested by the **Manager**, site plans prepared by a **BC Land Surveyor** or **Professional Engineer** which plans may be required to show or include, without limitation, a statement of the volume of **soil** to be removed or **fill** to be deposited along with the calculations, cross-sections and other data and information used in calculating estimated total volume, site contours, particulars as to the present use and occupancy of the **parcel**, proposed slopes, pertinent topographic features, buildings, highways, watercourses and all other structures, utilities and facilities;
- (xvi) an indemnity in favour of the **City**, in the form prescribed, indemnifying and saving harmless the **City**, its agents, employees, officers and servants, from and against all claims, demands, losses, costs, damages, actions, suits or proceedings whatsoever by whomsoever brought by reason of, or arising from, the issue by the **City** of a permit under this bylaw to conduct the proposed **deposit** or **removal** operation; and

- (xvii) such further and other information as the **Manager** determines is necessary to adequately describe the nature and extent of the **removal** or **deposit** operation.

4.2 Security

- 4.2.1 Prior to the issuance of a **permit**, every applicant must deposit with the **City**, security in the form of cash or an unconditional, irrevocable letter of credit drawn on a Canadian financial institution, in a form acceptable to the **Manager**, in an amount equal to Twenty Dollars (\$20.00) per cubic metre of **soil** to be removed or **fill** to be deposited, based on the volume as outlined in the applicable reports submitted under Section 4.1.1 (c)(ii) and Section 4.1.1(c)(xv), to a maximum of Ten Thousand Dollars (\$10,000.00), to ensure full and proper compliance with the provisions of this bylaw and all terms and conditions of the **permit**.
- 4.2.2 That portion of the security deposit not required for the foregoing purposes or to repair damage to **City** property caused by the **removal** or **deposit** operations shall be returned to the applicant upon receipt of a final report, in a form acceptable to the **Manager**, from the **Professional Agrologist** and the **Professional Engineer** providing applicable documentation under Section 4.1.1(c)(ii) and Section 4.1.1(c)(xv) respectively and confirming that all aspects of the original **removal** or **deposit** operation have been fulfilled. Any assessment of damage to **City** property or the costs of necessary repairs will be provided by the General Manager, Engineering & Public Works or designate.

4.3 Permit Issuance

- 4.3.1 Subject to Section 4.3.2, where:
 - (a) an application for a **permit** complies with the requirements of this bylaw;
 - (b) the proposed **removal** or **deposit** complies with this bylaw and all other applicable **City** bylaws;
 - (c) the proposed **removal** or **deposit** has been approved by the **Commission**; and
 - (d) the **Manager**, having regard to the documents, plans and information submitted with the application for a **permit**, is of the opinion that the **deposit** or **removal** operation can be carried out safely, without undue nuisance or interference to adjacent parcels or the public, or damage or injury to persons or property;the **Manager** may issue a **permit**.
- 4.3.2 The **Manager** must not issue a **permit** where the proposed **removal** or **deposit** could reasonably be expected to:
 - (a) reduce, damage or otherwise adversely affect the long-term agricultural viability of the **parcel** which is the subject of the **permit** or any adjacent or nearby **parcel**;

- (b) endanger, damage or otherwise adversely affect any adjacent **parcel**, structure, **highway**, easement, utility works and services or right-of-way;
- (c) foul, obstruct, impede or otherwise adversely affect any stream, creek, waterway, watercourse, groundwater aquifer, waterworks, ditch, drain, sewer or other established drainage facility; or
- (d) endanger or otherwise adversely affect an environmentally sensitive area.

For the purposes of making a determination under this section, the **Manager** may require an applicant to obtain a report by a **professional engineer**, scientist, technician or other person qualified under a **Provincial enactment** to make an assessment or recommendation on the matter and the **Manager** may refuse, limit, or impose conditions on a **permit** based on information or advice provided in such a report or reports.

4.4 Expiry

- 4.4.1 Every **permit** shall expire twelve (12) months from the date of issue or upon such earlier date as may be specified in the **permit**.

4.5 Renewal, Extension or Modification

- 4.5.1 If the **removal** or **deposit** operations authorized by a **permit** are not completed before the **permit** expires, or it becomes necessary to alter or deviate from the particulars of the **permit** application or drawings submitted for a **permit**, the **Manager** may renew, extend or modify the permit upon written request of the **permit** holder, subject to the following:
 - (a) a **permit** holder has no vested right to receive an extension, renewal or modification and the **Manager** may require that a new **permit** application be submitted;
 - (b) the permit holder shall pay a non-refundable fee of One Hundred Dollars (\$100.00)
 - (c) the application for a renewal, extension or modification is received no later than thirty (30) days before the expiry date of the existing **permit**;
 - (d) the **Manager** may renew or extend a **permit** for an additional period of not more than one (1) year, except where the extraction or processing of aggregate or minerals is being carried out pursuant to a valid permit issued under the *Mines Act* or other **Provincial enactment**, in which circumstance a **permit** may be renewed as required, but continues to be subject to all other terms and conditions of this bylaw and other applicable enactments;
 - (e) the **Manager** may require that the **permit** holder provide additional information authorized by this bylaw as a pre-condition to considering an application for a **permit** renewal, extension or modification; and

- (f) all terms and conditions set out in the original **permit** shall apply to each renewal, extension or modification of the **permit** except as amended or modified by the renewal, extension or modification.

PART FIVE – REGULATIONS

5.1 Regulations

5.1.1 Every **removal of soil or deposit of fill** shall comply with, and every **permit** issued under this bylaw is subject to the observance or fulfilment of, the following requirements, restrictions and regulations, to the satisfaction and approval of the **Manager**:

- (a) no **soil removal** or **fill deposit** activities may be carried out between the hours of 8:00 p.m. and 7:00 a.m. the following morning;
- (b) no **soil removal** or **fill deposit** activities may be carried out on a Sunday or any statutory holiday;
- (c) every vehicle used for hauling **soil** or **fill** shall be properly licensed and insured and in compliance with all applicable laws and regulations governing the use and operation of the vehicle on a **highway**;
- (d) every load of **soil** or **fill** shall be fully and properly covered so as to prevent **soil**, **fill** or dust from blowing or falling from the vehicle;
- (e) all damage to drainage facilities, natural watercourses, **highways** or other public or private property shall be promptly and properly repaired to the satisfaction of the **Manager** at the expense of the **permit** holder;
- (f) all streams, creeks, waterways, natural watercourses, groundwater aquifers, waterworks, ditches, drains, sewers or other established drainage facilities shall be kept free of all **soil** or **fill** arising from or caused by the **removal** or **deposit** operations;
- (g) no **removal** or **deposit** greater than One-half (0.5) metres in depth shall be undertaken within Two and One-half (2.5) metres of any utility pole, pipeline, structure or **highway** or below overhead wires without giving prior notice to and receiving written approval from the **City** or other authority having jurisdiction;
- (h) no **removal** or **deposit** shall be undertaken on a **highway**, statutory right-of-way or easement without first obtaining the permission in writing of the **City** or other authority having jurisdiction over such **highway** or statutory right-of-way;
- (i) all structures or excavations erected or made in connection with a **removal** or **deposit** operation shall be temporary in nature and shall be removed forthwith upon completion of the operation;

- (j) all hazards or potential hazards arising from the **removal** or **deposit** operation shall be adequately fenced or otherwise protected for the safety of the public;
- (k) during and upon completion of every **removal** or **deposit** operation, the boundaries of all adjacent **parcels**, **highways**, rights-of-way and easements shall be protected from erosion or collapse and from run-off of water or mud;
- (l) all **stockpiles** of **soil** or **fill** shall be confined to the locations prescribed in the **permit** and shall be maintained so that they do not adversely affect or damage adjacent **parcels** or cause a nuisance to any person;
- (m) all **removal** or **deposit** operations must not encroach upon, undermine, damage or endanger any adjacent **parcels** or any setback area prescribed in the **permit** or a bylaw; and
- (n) all **removal** or **deposit** operations shall be limited only to the area specified in the **permit** which shall be clearly marked at the site and such markings maintained for the duration of the **permit**.

5.1.2 The **Manager** may issue a **permit** subject to the observance or fulfilment of additional conditions specified in the **permit** which in the opinion of the **Manager** are necessary to achieve the purposes of this bylaw.

PART VI – ADMINISTRATION

6.1 Right of Entry for Inspection

6.1.1 Subject to any requirements of a **Provincial enactment**, the **Manager** is hereby authorized at all reasonable times to enter upon and inspect any **parcels** to determine whether the requirements, restrictions, regulations, terms, conditions and directions of this bylaw or a **permit** are being observed. For certainty, any entry by the **Manager** to a site that is a “mine” for the purposes of the *Mines Act* must be conducted in compliance with the entry provisions of the Health, Safety and Reclamation Code for Mines in British Columbia under the *Mines Act*.

6.1.2 No person shall prevent or obstruct or attempt to prevent or obstruct the **Manager** from entering upon **parcels** as authorized by Section 6.1.1.

6.2 Notice of Non-compliance

6.2.1 The **Manager** may give notice to any person of a breach of, or non-compliance with, any of the provisions of this bylaw or a **permit** issued thereto and such person shall immediately cease all **soil removal** or **fill deposit** activities until such breach or non-compliance is remedied to the satisfaction of the **Manager**, and every owner of a **parcel** shall refuse to permit the further **removal** of **soil** or **deposit** of **fill** from or upon the **parcel** until such time as the breach or non-compliance is remedied to the satisfaction of the **Manager**.

6.3 Failure to Remedy Non-Compliance

6.3.1 In the event that any person having received notice of breach fails within the time specified therein to remedy such breach, the City or its appointed agents may enter upon the **parcel** or any part thereof and carry out the works required to remedy the breach, and the expense of doing so shall be paid by the person in breach and, if not paid within 90 days, the expense, with interest at the prescribed rate and costs, shall be recovered in the same manner as municipal taxes.

6.4 Suspension or Cancellation of Permit

6.4.1 If:

- (a) there is a contravention of any term, condition, requirement or restriction of this bylaw or a **permit** issued under this bylaw; or
- (b) a **permit** was issued under this bylaw on the basis of statements made in the permit application or a 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 **Manager** may:

- (i) suspend in whole or in part the rights of the **permit** holder under the **permit**;
- (ii) cancel the **permit**; or
- (iii) amend or attach new conditions to a **permit** with the written consent of the **permit** holder.

6.5 Right of Reconsideration

6.5.1 Where an applicant or owner of a **parcel** is subject to a requirement or a decision made by the **Manager** under this bylaw and is dissatisfied with the requirement or decision, the applicant or owner may apply to the General Manager, Engineering and Public Works for reconsideration of the matter within 30 days of the requirement or decision being communicated to them.

6.5.2 An application for reconsideration 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 **Manager** inappropriate and what, if any, requirement or decision the applicant or owner considers the General Manager, Engineering and Public Works ought to substitute.

6.5.3 The General Manager, Engineering and Public Works may hear from the applicant and any other person interested in the matter under reconsideration who wishes to be heard and may either confirm the requirement or decision of the **Manager** or substitute its own requirement or decision.

PART SEVEN – OFFENCES AND PENALTIES

7.1 Offences and Penalties

7.1.1 Any person who contravenes or violates any provision of this bylaw or any permit issued under this bylaw or who suffers or allows any act or thing to be done in contravention or violation of this bylaw or any permit issued under this bylaw, or who fails or neglects to do anything required to be done under this bylaw or any permit issued under this bylaw, commits an offence and upon conviction shall be liable to a fine of not more than Ten Thousand Dollars (\$10,000.00) and where the offence is a continuing one, each day that the offence is continued shall constitute a separate offence.

PART EIGHT – SEVERABILITY AND CITATION

8.1 Severability

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

8.2 Citation

8.2.1 This Bylaw is cited as “Soil Removal And Fill Deposit Regulation Bylaw No. 8094”.

FIRST READING

JUL 24 2007

SECOND READING

JUL 24 2007

THIRD READING

OCT 22 2007

ADOPTED

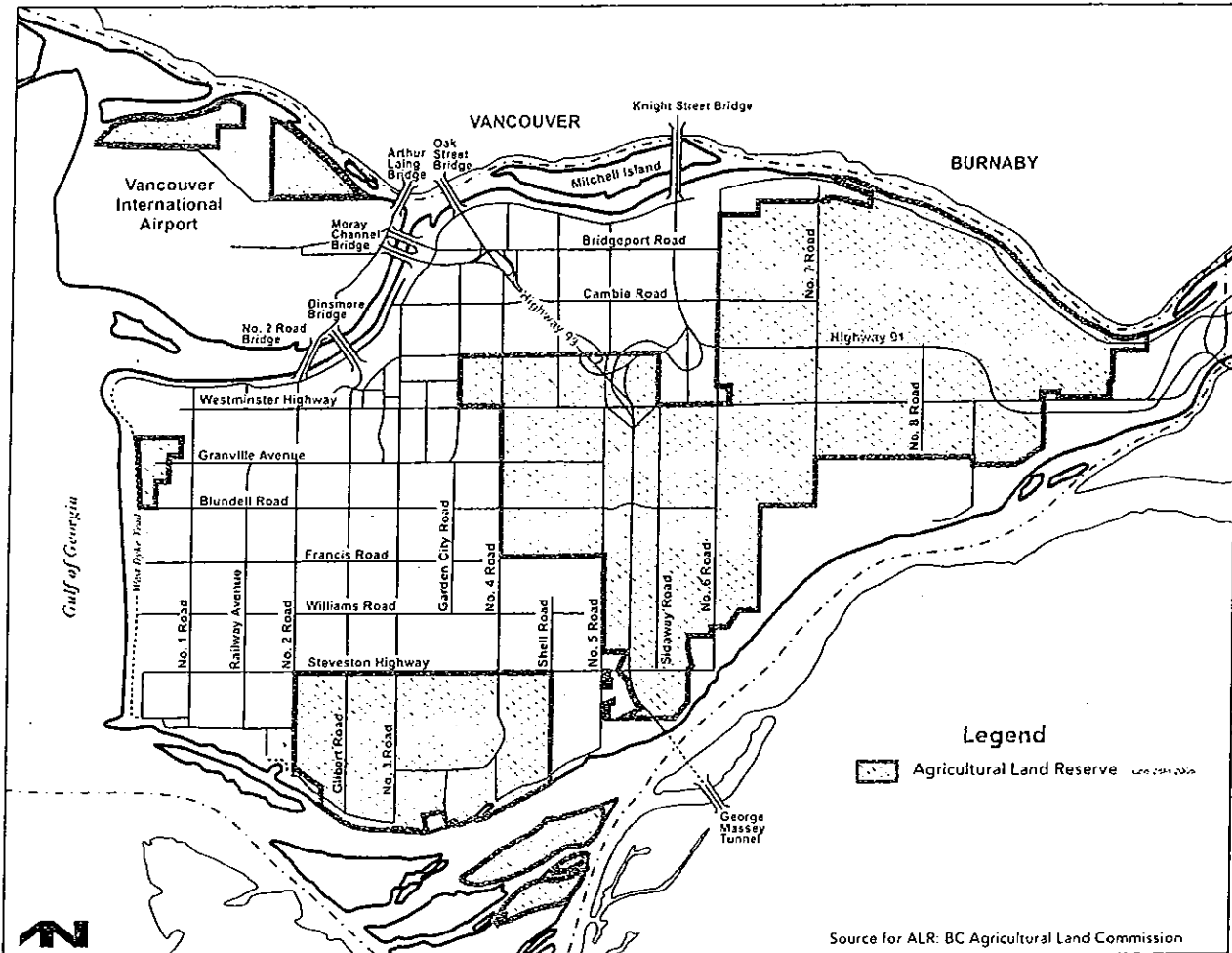
CITY OF RICHMOND
APPROVED for content by originating dept.
APPROVED for legality by Solicitor

MAYOR

CORPORATE OFFICER

SCHEDULE A TO BYLAW NO. 8094

Agricultural Land Reserve
City of Richmond



SCHEDULE B to BYLAW NO. 8094

Notice of Soil Removal or Fill Deposit
Existing Farm Operations - Agricultural Land Reserve

Notice to remove soil

Notice to deposit fill

Owner: _____

Address: _____

Telephone: (B) _____ (C) _____

Fax: _____ Email: _____

Address of Property, or Legal Description _____

Current Use of Property: _____

Adjacent Uses: North: _____ East: _____
 South: _____ West: _____

Purpose of Project (reference *Guidelines for Farm Practices Involving Fill (BC Ministry of Agriculture and Lands)*)

Volume: _____ cubic metres Depth _____ metres

Declaration: I/We declare that:

- the information provided in this document is true and correct, to the best of my/our knowledge, and
- that any fictitious or misleading information that I/we provide may be a violation of the City of Richmond Soil Removal and Fill Deposit Regulation Bylaw No 8094 and punishable by a fine of up to \$10,000.

Date

Signature of Owner

Print name

SCHEDULE C to BYLAW NO. 8094

Application for Soil Removal / Fill Deposit
Proposed Farm or Non-Farm Operations - Agricultural Land Reserve

Application to remove soil

Application to deposit fill

Owner: Agent:
Address: Address:
Telephone: (B) Telephone: (B)
(C) (C)
(F) (F)
Email: Email:

Address of Property or Legal Description
Size of Property / Parcel: hectares
Current Use of Property:

Adjacent Uses: North:
East:
South:
West:

Total Project Area: hectares
Volume of Soil or Fill: cubic metres
Depth of Soil or Fill: metres
Duration of Project: weeks / months

Type of Soil / Fill Material (reference Guidelines for Farm Practices Involving Fill (BC Ministry of Agriculture and Lands))

Purpose of Project (reference Guidelines for Farm Practices Involving Fill (BC Ministry of Agriculture and Lands))

Proposed Reclamation Measures (for soil removal projects)

**Application for Soil Removal / Fill Deposit
Proposed Farm or Non-Farm Operations - Agricultural Land Reserve**

Has a Professional Agrologist reviewed the project and provided a written report? Yes No

(If yes, please attach a copy of the report)
(If no, please explain why) _____

Has a Professional Engineer reviewed the project and provided a written report? Yes No

(If yes, please attach a copy of the report)
(If no, please explain why) _____

Are you hereby undertaking to provide a security deposit as outlined in Section 4.2.1 of the City's Soil Removal and Fill Deposit Regulation Bylaw No 8094 (deposit is required to be in place before any permit is issued) Yes No

Have all requirements been met under the following City Bylaws:

Boulevard and Roadway Protection and Regulation Bylaw No. 6366 Yes No

Tree Protection Bylaw No. 8057 Yes No

Public Health Protection Bylaw No. 6989 Yes No

(If yes for any, please attach confirmation)
(If no for any, please explain why) _____

Please attach the following documents:

- Copy of Submission to Agricultural Land Commission
- Certificate of Title or Title Search Print
- Map or sketch of parcel showing the proposed project
- Map of Routing and Schedule for Vehicular Traffic
- Any photographs
- Other Documents as Required under Section 4.1

Declaration: I/We declare that:

- the information provided in this document is true and correct, to the best of my/our knowledge, and
- that any fictitious or misleading information that I/we provide may be a violation of the City of Richmond Soil Removal and Fill Deposit Regulation Bylaw No 8094 and punishable by a fine of up to \$10,000.

Date

Signature of Owner

Print name