

CORPORATION OF THE DISTRICT OF MAPLE RIDGE

BY-LAW NO. 6398 – 2006

A By-law to regulate the removal of soil, sand, gravel, rock or other substances of which land is composed (“Soil”) from lands within the Corporation of the District of Maple Ridge.

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**WHEREAS** the Council may regulate the removal of Soil within the District and require a permit for such removal and fix fees for permits and fees for Soil removal and may make different regulations for different areas;

**AND WHEREAS** the Council deems it desirable and in the public interest to regulate the removal of Soil and to fix fees.

**NOW THEREFORE** the Municipal Council of the Corporation of the District of Maple Ridge **ENACTS AS FOLLOWS:**

1. This By-law may be cited for all purposes as “Maple Ridge Soil Removal By-law No. 6398 – 2006”.

**DEFINITIONS:**

2. In this by-law unless the context otherwise requires:

**Berm** – shall include an embankment or buffer area built of earth material for the purpose of reducing the transmission of noise emanating from soil removal operations and for screening the soil removal operations from the view of the users of properties adjoining the soil removal operations. The minimum width of such berm shall be 7.5 metres.

**Chief Inspector of Mines** – is the Chief Inspector appointed pursuant to the provisions of the “Mines Act, R.S.B.C., 1996” and amendments thereto.

**Corporation** - shall mean the Corporation of the District of Maple Ridge.

**Council** – shall mean the Municipal Council of the Corporation of the District of Maple Ridge.

**Date of Flying** – shall mean the calendar day on which the aerial photography is taken for the volumetric computation.

**Days** – means any period of time expressed in days shall be exclusive of Sundays, Christmas Day, Good Friday, Easter Monday, Dominion Day, Victoria Day, British Columbia Day, Labour Day, Remembrance Day, New Year’s Day, the 26<sup>th</sup> day of December and a day fixed by the Parliament of Canada, or by the B.C. Legislature, or appointed by Proclamation of the Governor General or the Lieutenant Governor to be observed as a public holiday.

**Designated Lands** – means lands legally described in Schedule “A”

**Engineer** – shall mean the Municipal Engineer of the Corporation appointed from time to time or such other employee or agent of the Corporation authorized or designated to carry out the duties with respect to the provisions of this By-law.

**Mine** – means a mine as defined in the “Mines Act, R.S.B.C., 1996” and amendments thereto and includes gravel pits and necessary incidental operations thereto.

**Mines Permit** – means a permit issued by the Minister pursuant to the “Mines Act, R.S.B.C., 1996”.

**Municipality** – shall mean the geographic area of the Corporation of the District of Maple Ridge or any part thereof.

**Permit** – shall mean a written authority granted and issued by the Engineer in the form designated in Schedule “C” of this by-law for the removal of soil from the area designated in the permit upon the terms, conditions, plans and specifications relating to the application for such removal.

**Permit Fee** – shall mean the fee to be paid to the Municipality for the Permit, pursuant to Section 18 of this By-law.

**Person** – includes any individual, firm, corporation, partnership, society, association, limited partnership or any agent or employee thereof.

**Professional Engineer** – means a person registered or duly licensed as such under the provisions of the “Engineers and Geoscientists Act, R.S.B.C., 1996,” and amendments thereto, but does not include any so qualified individual who is an employee of the Corporation.

**Soil** – means soils, sand, gravel, rock or other substance of which land is composed and includes the entire mantle of any such material above bedrock.

**Soil Removal** – shall mean soil or topsoil moved, removed, excavated, extracted or taken from its natural place or location within the lands defined in the permit.

**Soil Removal Fee** – shall mean the volumetric fee to be paid to the Municipality for the removal of soil, pursuant to Section 19 of this By-law.

**Topsoil** – shall mean any and all of the substance of which land is composed from the surface of the land to a depth of one metre and includes soil materials prepared or manufactured for sale.

**Volumetric Computation** – shall mean the calculation of the volume of soil extracted from a designated area during the term of the Permit based upon aerial photographs taken on the date of flying.

## **GENERAL**

3. Except as provided in Section 5, Soil must not be removed from any lands within the Municipality, that are not Designated Lands
4. Except as provided in Section 5, Soil must not be removed from any lands in the Municipality without a permit
5. Soil may be removed from any lands within the Municipality without a permit as follows:

- (a) Soil removal for other than commercial purposes where the annual amount thereof does not exceed one hundred cubic metres from any one parcel of land within the Municipality.
  - (b) Any person lawfully engaged in the development or improvement of land within the Municipality or the construction of buildings on land within the Municipality where Soil removal is necessary for such development, improvement, or construction and where engineering drawings for such development or improvement have been approved by the Municipality or a building permit has been issued by the Municipality as the case may be, and where no approval and permit pursuant to the Mines Act is required.
  - (c) Soil removal from any area within the Municipality by any florist, nurseryman or farmer for use by him on the same parcel of land from which the said Soil was removed for the purpose of his bona fide business as a florist, nurseryman or farmer; provided however, no Soil removal shall be below the established grade of the street which abut the area from which the Soil is removed, or the established roadway from which access is provided from the area.
  - (d) Soil removal for the installation and maintenance of utilities or the construction of roads or other public works within the public rights-of-way or registered easements.
- 6. The amount of soil removed in any year from each of the designated lands must not exceed the quantities set out in Schedule A.
  - 7. Sections 8 through 35 of this By-law do not apply to Soil removal from any land in respect of which this By-law does not require a permit to be issued for such purpose.
  - 8. Soil removal shall not be permitted in Agricultural Land Reserve areas within the Municipality unless approval in writing and a permit is first obtained from the local authority appointed by the Provincial Agricultural Land Commission established under the "Agricultural Land Commission Act" and a permit is issued under the terms and conditions of this By-law.
  - 9. Soil removal is prohibited within the Municipality on Sundays or statutory holidays, except for emergency situations where life or property is endangered and authority is granted by the Engineer.
  - 10. Soil removal operations shall be permitted only between 0700 hours and 2100 hours, except for emergency situations where life or property is endangered and authority is granted by the Engineer.

### **EXEMPTIONS**

- 11. The Engineer shall have the right at all times to enter upon and inspect and measure all lands and premises for which a permit has been issued pursuant to the provisions of this By-law and he may give notice in writing to any person of a breach of any of the provisions of this By-law or any permit issued pursuant to the terms of this By-law and any such person shall forthwith cease and desist soil removal from either stockpiles or natural location or any other place whatsoever on or in the land described in the permit until such breach is remedied. Where such person fails to remedy the breach within seven (7) days of receiving the aforesaid notice, the Engineer shall forthwith cancel the permit.

### **PERMITS**

- 12. An application for a permit shall be filed with the Engineer in accordance with the terms and conditions prescribed in Schedule "B" to this By-law.

13. Permits shall be granted in the form prescribed in Schedule “C” to this By-law.
14. No permit issued pursuant to the terms of this By-law may be transferred, assigned or sold.
15. A permit may be issued for any period not exceeding one year and all permits shall expire not later than the date of flying, following the date of the issuance of the permit. A permit issued during the month of October in any year, shall expire on the last day of that October in the same year.
16. Applications for a permit shall be made to the Engineer and will be accepted only from the owner or owners of the land in respect of which the Permit is applied for. Where such lands are leased from the Crown or others, then the application for a Permit will be made by the Lessee on submission of adequate proof of the lease of the lands to be covered by the Permit.
17. Before a permit is issued, the applicant shall have first obtained all permits and permissions required from the District of Maple Ridge and any other authority having jurisdiction and without limiting such requirement, a Mines Permit.

### **FEES**

18. The fee for each Permit shall be one hundred dollars (\$100.00) and shall be payable to the Municipality.
19. In addition to the payment of the Permit Fee, a Soil Removal Fee shall be paid to the Municipality for the removal of Soil, which Soil Removal Fee shall impose a charge for each volumetric unit of Soil removed and shall be calculated in accordance with the provisions of Schedule “D” to this By-law. The Soil Removal fee may be different for different areas of the Municipality.
20. The amount of Soil Removal Fee to be paid shall be finally adjusted and determined by volumetric computation, provided by the Municipality. Any notice of refund or demand for adjustment to the Soil Removal Fee actually paid by the permit holder during the permit period, shall be in writing to the permit holder. The final adjustment of the Soil Removal Fee will include all soil removed between two consecutive dates of flying.
21. In the case of a permit which expires or has been cancelled prior to the date of flying, following the date of issue of the permit, the volume of soil removed by the Permit Holder following the issuance of the permit will, at the expense of the Permit Holder, be determined by the Engineer utilizing those methods which are at his disposal.
22. Should an independent volumetric computation, certified by a Professional Engineer (called the second computation) differ from the volumetric computation submitted by the Municipality for soil removed from lands covered by the permit by an amount of ten (10) percent or more, then a third computation shall be made by a company appointed by the Engineer and the final and binding assessment shall be the arithmetic mean of the three computations.
23. Should the second computation differ from the volumetric computation submitted by the Municipality for soil removed from lands covered by the permit by an amount of less than ten (10) percent, then the Municipality’s volumetric computation shall be binding on both the Permit Holder and the Municipality.
24. The second computation shall be received by the Engineer, not later than forty (40) days after the mailing of written notification pursuant to Section 20 of this By-law.

If the second computation is not received by the Engineer in compliance with the provisions of the previous paragraph, the Final Adjustment of Soil Removal Fees shall be made in accordance with Section 19 of this By-law. The cost of the second computation shall be borne by the Permit Holder.

25. The cost of the third computation shall be borne:
- (a) by the Municipality in whole if the difference between the second computation and third computation is equal to or less than three (3) percent of the second computation.
  - (b) by the Permit Holder in whole, if the difference between the Municipality's computation and the third computation is equal to or less than three (3) percent of the volumetric computation
  - (c) equally by the Municipality and Permit Holder if (a) above and (b) above are not applicable.

If sub paragraphs (b) and (c) are applicable, should the Permit Holder's share of the cost of the third computation not be received within fourteen (14) days of the posting of the demand for such share, then any permit issued under this By-law affecting the same lands shall be deemed to be cancelled forthwith.

### SECURITY

26. Prior to receiving a permit, each applicant shall deposit with the Municipality, cash or an irrevocable letter of credit from a chartered bank of Canada, in an amount prescribed in Schedule "E" to this By-law. The irrevocable letter of credit, or cash, as the case may be, will be held by the Municipality until the applicant has complied with all the relevant terms and conditions of this By-law. If, upon the expiration of a permit, the applicant has complied with all the relevant terms and conditions of this By-law, the irrevocable letter of credit or cash will forthwith be returned to the applicant. If for any reason the applicant fails to comply with the relevant provisions of this By-law, or any permit issued pursuant thereto, the Engineer may at any time demand payment of the irrevocable letter of credit. Upon such failure as aforesaid the Engineer may apply any cash to rectify any breach of the terms and conditions of this By-law. If the cost of such rectification is less than the amount of cash deposited by the applicant or the amount of cash received by demand upon the irrevocable letter of credit, then the Municipality shall forthwith pay such excess to the applicant. If the cost of such rectification exceeds the amount of cash deposited by the applicant or the amount of cash received by demand upon the irrevocable letter of credit, then the applicant shall forthwith, upon written demand by the Engineer pay such deficiency to the Municipality. If such deficiency is not paid to the Municipality within thirty (30) days from the demand as aforesaid, the amount of the deficiency may be recovered by the Municipality, together with interest at twelve (12) percent per annum with costs in a like manner as municipal taxes.

### OPERATIONS

27. In addition to the requirements of this By-law, an application for a permit shall have attached to it the plan of the system under which it is proposed to work the mine as submitted to the Chief Inspector of Mines, pursuant to the Mines Act.
28. All stockpiles of soil shall be confined to the lands designated in the permit and all such stockpiles shall be maintained so as not to undermine or in any way adversely affect adjacent property. No soil shall be deposited **within 7.5 metres** of any road allowance or adjacent property, unless the owner of the property agrees in writing.
29. Soil removal operations shall not encroach upon, undermine or physically damage any adjoining land, road allowance or statutory right-of-way.

30. All vehicles and machinery used for soil removal shall be kept within the confines of a berm or buffer area designed to minimize noise emanating from the said vehicles and machinery and to screen the said vehicles and machinery from the view of persons using adjoining land or highways.
31. At no time during any soil removal operations shall the noise level of stationary equipment (at any property line of the designated lands) exceed fifty-five (55) decibels.
32. The Permit Holder shall remove from the lands covered by the permit, not later than ten (10) days after the issue or reissue of such permit all tree and foliage cover in the area the Permit Holder plans to remove soil from between the date of issuance or reissuance of the permit to the first day of the following October. The Permit Holder shall also remove tree and foliage cover from a distance surrounding the said area of fifteen (15) metres in width, excepting where such additional fifteen (15) metres in width would infringe on lands not with the Permit Holder's permit, in which case the removal will be up to fifteen (15) metres in width, if any such width is possible. The tree and foliage cover removal is to permit the Municipality to calculate by means of aerial photography and such methods as may be necessary, the height and contours of that portion of the said lands where soil is to be removed as described. Upon every October thereafter, the Permit Holder shall also remove tree and foliage cover in the area the Permit Holder plans to remove soil between the date of reissuance of the permit and the first day of the following October, for the same purpose and in the same manner. No soil shall be removed by the Permit Holder until the area which the Permit Holder plans to remove soil from has been defoliated and approval by the Engineer to commence removal has been given.
33. Soil removal shall not be permitted in any manner that does not assure positive gravity drainage for the bottom of all excavations at all times. This paragraph shall not be construed to prevent a Permit Holder from establishing settling ponds.
34. Soil removal shall not be permitted within 7.5 metres of any improved road allowance.
35. All damage to adjacent municipal or privately owned drainage facilities, road, lanes, or other municipally or privately owned property or natural watercourses resulting from the excavation, removal or the deposit of soil shall be repaired by the Permit Holder. All adjacent drainage facilities and natural watercourses shall be kept free of silt, clay, sand, rubble, debris, gravel and any other matter or thing originating from any excavation or filling of any lands and causing obstruction to such drainage facilities or natural watercourses. Drainage facilities or natural watercourses shall not be polluted.

#### **OFFENCE**

36. Every person who violates or contravenes or permits any breach of the provisions of this By-law shall be guilty of an offence punishable on summary conviction and shall be liable to pay a maximum fine of two thousand dollars (\$2,000.00). Each day of any violation, contravention or breach of this By-law shall be deemed to be a separate and distinct offence.

#### **SEVERABILITY**

37. If any section, subsection or clause of this By-law is declared or held to be invalid by a court of competent jurisdiction, then that invalid portion shall be severed and the remainder of this by-law shall be deemed to have been enacted and adopted without the invalid and severed section.
38. This By-law shall come into force and effect on adoption.

39. Maple Ridge Soil Removal By-law No. 4109 – 1988 as amended is hereby repealed.

READ a first time the 11<sup>th</sup> day of April, 2006.

READ a second time the 11<sup>th</sup> day of April, 2006.

READ a third time the 11<sup>th</sup> day of April, 2006.

APPROVED by the Minister of Community Services the 30<sup>th</sup> day of October, 2006.

RECONSIDERED AND ADOPTED the 14<sup>th</sup> day of November, 2006.

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MAYOR

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CLERK

SOIL REMOVAL BYLAW NO. 6398 - 2006  
SCHEDULE A

Pursuant to S.6, the commercial removal of soil for sale is permitted on the following lands in the annual quantities set out:

<b>Legal Description of Lands</b>	<b>Annual Quantity</b>
<p>1. District Lot 5326, Group 1, and N.W.D. except parts subdivided by Plan 77454, Plan 85044 and Plan LMP 13975.</p> <p>Parcel C, (Exp. Plan 7858) North West Quarter Section 26, Township 12 except part shown on Highway Plan 51582 and part subdivided by Plan 65044, NWD</p>	50,000 cubic metres
<p>2. Parcel A, (Reference Plan 3015) of the South West Quarter of Section 25, Township 12, Except Parcel One (Reference Plan 17316) N.W.D.</p>	50,000 cubic metres
<p>3. Lot 1, District Lot 5326, Group 1, NWD, Plan LMP 13975</p>	200,000 cubic metres
<p>4. Lot 1, South East Quarter, Section 10, Township 12, Plan 12923, N.W.D.</p> <p>Lot 2, South East Quarter, Section 10, Township 12, Plan 12923, N.W.D.</p>	Limits Not Applicable



**CORPORATION OF THE DISTRICT OF MAPLE RIDGE**

**SOIL REMOVAL BY-LAW NO. 6398 - 2006**

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**SCHEDULE B**

**APPLICATION FOR SOIL REMOVAL PERMIT**

1. I/We

\_\_\_\_\_ name

of

\_\_\_\_\_ address

do hereby make application for a permit for soil removal on the lands herein described:

\_\_\_\_\_ Legal description

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

2. The following are all persons, firms or corporations having any right, title, or interest in and to the said lands:

Name

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

and their consent in writing to such soil removal is attached.

3. The following is a brief description of the proposed soil removal operation:

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

4. The total estimated volume of soil to be removed is \_\_\_\_\_ cubic metres.

5. The estimated annual volume of soil to be removed is \_\_\_\_\_ cubic metres.
6. I have read and understood the contents of the District of Maple Ridge Soil Removal By-law No. 6398 – 2006 which By-law controls soil removal in the Municipality.
7. The following person or company is hereby appointed as agent to act on my (our) behalf in processing this application:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address to which communication is to be sent

8. The following information is attached in support of this application:

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

9. Applicant's Name: \_\_\_\_\_

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

Date of Application: \_\_\_\_\_

**CORPORATION OF THE DISTRICT OF MAPLE RIDGE**

**SOIL REMOVAL BY-LAW NO. 6398 - 2006**

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**INSTRUCTION TO APPLICANTS**

1. A soil removal permit application shall be accompanied by:
  - a) The plan of the system under which it is proposed to work the mine as submitted to the Chief Inspector of Mines pursuant to Section 27 of this by-law.
  - b) A copy of a valid Mines Permit issued by the Minister pursuant to the Mines Act, S.B.C. 1996, and amendments thereto.
  - c) A plan of the site from which the soil is intended to be removed at a scale of 1:500, showing:
    - i) Pertinent topographic features, building, structures, roads, rights-of-way, utilities, drainage features and significant tree stands.
    - ii) Proposed access to the site.
    - iii) Proposed location of fencing for site safety and security.
    - iv) Proposed area of operation for which a permit is sought.
    - v) Proposed location and size of berms, stockpiles, and buffer zones.
  - d) A written report detailing the following:
    - i) Proposed methods of drainage control within the designated area. If drainage is to be discharged to local watercourses methods of sediment elimination and any other pollution prevention processes must be detailed.
    - ii) Proposed method of erosion control on reclaimed and cleared but unmined areas.
    - iii) Proposed haul routes to be used.
    - iv) Estimated volume of truck traffic to be generated on the proposed haul route and the type of hauling vehicles to be used (including gross vehicle weight).
    - v) Proposed method by which the applicant will reclaim the site to conform to the Mines Permit.

**CORPORATION OF THE DISTRICT OF MAPLE RIDGE**  
**SOIL REMOVAL BY-LAW NO. 6398 - 2006**

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**SCHEDULE C**

**PERMIT**

1. This permit issued to:

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2. This permit authorizes soil removal from the lands described as:

\_\_\_\_\_

Civic Address

\_\_\_\_\_

Legal Description

3. The soil removal operation must conform to the operation plans on file with the Engineering office of the Municipality and must at all times be in accordance with the provisions of Maple Ridge Soil Removal By-law No. 6398 - 2006.

\_\_\_\_\_

Date Issued

\_\_\_\_\_

Expiry Date

\_\_\_\_\_

Municipal Engineer

**THE CORPORATION OF THE DISTRICT OF MAPLE RIDGE**

**SOIL REMOVAL BY-LAW NO. 6398 - 2006**

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**SCHEDULE D**

**SOIL REMOVAL FEE**

1. The Soil Removal Fee shall be calculated on the basis of fifty (\$0.50) cents for each cubic metre of soil estimated by the applicant to be removed from the designated area during the term of the permit; but in any event, the applicant's estimate of the soil to be removed as aforesaid shall not be less than the volume of soil removed from the designated area during the previous year.

Remittance of the Soil Removal Fee shall be paid to the Municipality as follows:

- a) by payment of one lump sum at the beginning of the term of the permit based on the estimated amount of soil to be removed from the designated area; or
  - b) by equal monthly payments during the term of the permit payable on or before the 25th day of each month during the term of the permit.
2. Where payments are made pursuant Section 1 (b) the applicant shall make one final payment to the Municipality on or before the 28th day of February in the year following the expiration of the permit, such final payment being adjusted and determined by the volumetric computation as determined in accordance with Section 19 to 25 of the By-law as the case may be.
  3. Any permit issued under this By-law shall be deemed to be cancelled forthwith if there is a failure to remit any fee when payable.

**CORPORATION OF THE DISTRICT OF MAPLE RIDGE**

**SOIL REMOVAL BY-LAW NO. 6398 - 2006**

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**SCHEDULE E**

**SECURITY DEPOSIT**

The applicant shall deposit with the Municipality an irrevocable letter of credit from a Chartered Bank of Canada or cash in an amount calculated as follows:

For the area within the Designated Lands from which soil is proposed to be removed:

- |  |         |
|--|---------|
| a) up to and including two hectares:   | \$5,000 |
| b) an additional sum per hectare or portion thereof for all area in excess of two hectares of: | \$2,500 |