

District of Chilliwack

Bylaw No. 1313

**A bylaw to regulate the
removal/deposit of soil substances
from lands within the District of Chilliwack**

WHEREAS Section 930.1 of the Municipal Act R.S.B.C. 1979, c.290 permits the Municipal Council of the District of Chilliwack to regulate or prohibit the removal or deposit of soil, sand, gravel, rock and other substance of which land is composed and to make different regulations and prohibitions for different areas and to require permits and impose rates or levels of fees therefor;

AND WHEREAS the Council of the District of Chilliwack wishes to encourage the safe, orderly and economical exploitation of the soil substance deposits within the District of Chilliwack's boundary;

NOW THEREFORE, the Municipal Council of the District of Chilliwack enacts as follows:

1. Citation

This Bylaw may be cited for all purposes as the "**Soil Removal and Deposit Bylaw 1989, No. 1313**".

2. Repeal

"Soil Removal and Deposit Bylaw 1989, No. 1181" and all amending bylaws thereto are hereby repealed.

3. Interpretation

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3.2 Definitions

In this Bylaw

"Aquifer" means a water bearing stratum of permeable rock, sand, or gravel;

"Buffer Zone" means a natural strip of land seven (7) metres in width, to screen the Soil Substance Deposit or Removal Area from view from a highway or from a parcel other than that in respect of which a Permit is issued and to provide setbacks between adjacent properties and highways;

"Deposit" means the act of placing Soil Substance on any lands in the District, or in any area of the District, where the Soil Substance did not previously exist or stand, including a stockpile or other storage facility;

"District" means the District of Chilliwack;

"Engineer" means the Municipal Engineer for the District as appointed by the Council and includes his designate authorized by Council;

"Permit" means a valid Soil Substance Removal or Deposit Permit;

"Permit Fee" means the fee required to be paid to the District pursuant to section 15.1 of this Bylaw;

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

"Removal or Deposit Fee" means the fee payable to the District of Chilliwack by a permit holder for the Removal or Deposit of Soil Substance pursuant to section 15.2 of this Bylaw;

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3.2 Definitions - continued

"Remove" means the act of removing Soil Substance from any lands in the District, or from any area of the District, where it existed or stood, which place or location shall include a stockpile or other storage facility;

"Soil Substance" includes soil, sand, gravel, rock, silts, clays, peats, or any other substance of which land is composed, or any combination thereof;

"Soil Substance Removal or Deposit Area" means an area within the District in respect of which a Permit has been issued;

"Soil Substance Removal or Deposit Permit Application" means an application in the form of Schedule A;

"Soil Substance Removal or Deposit Permit" means the written authority issued by the Engineer in the form of Schedule B or a permit issued pursuant to "Soil Removal and Deposit Bylaw 1989, No. 1181".

4. Other Legislation

4.1 This Bylaw shall be construed in a manner which is not inconsistent with the provisions of the *Mines Act*, S.B.C. 1980, c.28; the *Soil Conservation Act*, R.S.B.C. 1979, c.391; the *Waste Management Act*, S.B.C. 1982, c.41; and other statutes of Canada and the Province of British Columbia.

5. Soil Substance Removal and Deposit Requirements

5.1 No person shall remove, deposit, or cause to be removed or deposited any Soil Substance from or on any land in the District, or any area of the District, unless the person:

- (a) has applied for and received a valid and subsisting Permit for such removal or deposit in the form set out in Schedule B; and
- (b) carries out the Removal or Deposit in accordance with the terms and conditions set out in the Permit.

5.2 In no case shall soil substance be removed from or deposited on lands within the District other than those lands marked with cross-hatching on the plan attached hereto as Appendix 1 forming part of this Bylaw.

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6. Permit Exemptions

6.1 Despite sections 5.1 and 5.2 and subject to compliance with all other provisions and requirements of this Bylaw and all other applicable laws, Soil Substance may be Deposited anywhere in the District without a Permit only where the deposit of Soil Substance is by a florist, nurseryman, horticulturist, or farmer, and such Soil Substance is required and is used on lands upon which that person carries on such trade, purpose, or use.

7. Applications

7.1 Every Application for a Permit shall be made in writing to the Engineer in the form set out in Schedule A.

7.2 Prior to the issuance of a Permit the applicant shall deposit with the Engineer a letter of credit (the "Security") in the form of Schedule F in the amount of \$5,000.00, as Security for full compliance with all provisions of this Bylaw including payment of all Removal and Deposit Fees and shall renew such Security before it expires by depositing a fresh letter of credit at least two weeks before the expiry date of any then subsisting letter of credit. In the event the Security is not so renewed the District may, without notice to the Permit holder, draw upon the then subsisting letter of credit and hold the cash as Security.

7.3 If at any time the Permit holder fails or refuses to pay the Removal or Deposit Fees as specified by this Bylaw, or to comply with any obligation or direction given pursuant to this Bylaw, then the District may, at its discretion, deduct from the Security such Removal or Deposit Fees or cost incurred by the District as a result of the failure or refusal. In such event the Permit holder shall forthwith deposit a new letter of credit, on the terms as set out above, in the full amount of the Security as set out above. If the Permit holder fails or refuses to deposit the subsequent letter of credit so as to maintain the full value of the Security, then the Engineer may by written notice to the Permit holder immediately revoke the Permit.

8. Prime Consultant

8.1 The applicant shall retain a Professional Engineer to act as the prime consultant for the applicant and to be responsible for the coordination, preparation, and presentation of the required plans, specifications, and reports for the proposed Soil Substance Removal or Deposit works, and to certify that the proposed works have been designed in compliance with the requirements of the Bylaw and good engineering practices. The Professional Engineer shall be retained throughout the period of the Permit and the period during which required restoration takes place to advise the applicant on compliance with the Bylaw and Permit requirements. Upon completion of the Soil Substance Removal or Deposit works the Permit holder shall deliver to the Engineer a certificate from the Professional Engineer that all works have complied with the Bylaw and Permit requirements.

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9. Plans and Specifications

- 9.1 Except in respect of Removal of Soil Substance from land the title of which is vested in Canada or the Province, every Application for a Permit shall be accompanied by detailed plans, data, and specifications for the proposed site prepared by a Professional Engineer to a scale of 1:1000 or larger showing the contour of the ground in its current state with vertical contours at such intervals as the Engineer may determine according to reasonable engineering standards, and shall contain information in respect of the Soil Substance Removal or Deposit Area with respect to the following matters:
- (a) all pertinent features including buildings, structures, tree cover, roads, lanes, bridges, and natural watercourses;
 - (b) the proposed slopes which will be maintained upon completion of the operation;
 - (c) the methods proposed to control the erosion of the banks of the excavation or fill;
 - (d) the proposed methods of drainage control during the excavation or fill;
 - (e) the proposed methods and locations of access to the site during the excavation or fill;
 - (f) the proposed progressive stages of excavation or filling as at each anniversary date of issuance of the Permit showing vertical contours as specified above, grades, and slopes on a separate plan for each stage;
 - (g) the proposed contour of the ground in its final state upon completion of the operation with vertical contours as specified above and showing the method of access and position methods of permanent drainage on a separate plan;
 - (h) the proposed location of machinery, buildings, scales, and all other proposed structures and improvements;
 - (i) the proposed location of Buffer Zones and tree cover, and the location and grade width of berms;
 - (j) water table elevations;
 - (k) the proposed method of extraction and processing, including sorting, washing, crushing, and any other proposed processing activities; and
 - (l) the proposed routes over District highways to and from a Removal or Deposit Area.

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10. Permit Issuance Conditions

- 10.1 All damage to municipal or privately owned drainage facilities, roads, lanes, or other property or natural watercourses contiguous to a Soil Removal or Deposit Area resulting from the excavation, Removal, or Deposit of Soil Substance shall be repaired by the Permit holder. All drainage facilities and natural watercourses contiguous to a Soil Removal or Deposit Area 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.
- 10.2 A Buffer Zone shall be maintained at all times around each Soil Substance Deposit or Removal Area except to the extent required to maintain vehicular access to the Soil Substance Removal or Deposit Area as indicated on the Application for the Permit.
- 10.3 Stockpiles of Soil Substance shall be confined to the Soil Substance Removal or Deposit Area to which the Permit relates and shall be maintained so that they do not adversely affect or damage adjacent properties or Buffer Zones.
- 10.4 The operation by which the Soil Substance is Removed or Deposited shall not encroach upon, undermine, or physically damage any adjacent property.
- 10.5 No natural watercourse shall be altered or diverted except with the written permission of the appropriate provincial and federal authorities and the District.
- 10.6 The finished grade of any excavations or fills resulting from Soil Substance Removal or Deposit works shall, after reclamation, conform to such overall grading plans for the area as have been established in the Permit.

11. Period of Permit

- 11.1 A Permit shall remain valid until the earlier of:
 - (a) the completion of the works to which the Removal or Deposit was incidental;
 - (b) a failure to comply with a written direction from the Engineer given pursuant to this Bylaw.

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13. Transfer of Permit

13.1 A Permit may be sold, transferred, or assigned by the Permit holder upon the written approval of the Engineer if

- (a) notice of the intention to sell, transfer, or assign the Permit is provided to the Engineer, specifying particulars of the transferee; and
- (b) evidence satisfactory to the Engineer is provided by the Permit holder that the Soil Substance Removal or Deposit that has occurred pursuant to the Permit is in compliance with the provisions of this Bylaw.

14. Quantity Reports

14.1 The Permit holder shall

- (a) submit in the form of Schedule C a monthly report prior to the 28th day of each month showing the volume of Soil Substance Removed or Deposited during the preceding month;
- (b) maintain accurate and up-to-date records of all Soil Substance Removal or Deposit and make these records available for inspection by the Engineer on request; and
- (c) submit an annual audited statement detailing quantities of Soil Substance Removed or Deposited in the calendar year, including quantities not counted under section 14.1(a), and indicating compliance with the provisions of this Bylaw.

15. Fees

15.1 A non-refundable Permit Fee in the amount of Two Hundred and Fifty Dollars (\$250.00) shall accompany each Application for a Permit.

15.2 Every person who Removes or Deposits Soil Substance within the District shall pay to the District a Removal or Deposit Fee in the amount of **fifty cents (\$0.50)** for each and every cubic metre of Soil Substance Removed from or Deposited on the Soil Substance Removal or Deposit Area whether or not a Permit has been issued. The Removal or Deposit Fee shall be paid to the District on or before the last day of each month for the amount of Soil Substance Removed or Deposited in the preceding month.

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15. Fees - continued

- 15.3 Where a Removal or Deposit Fee is payable or has been paid pursuant to section 15.2 hereof for the Removal or Deposit of Soil Substance, and the Soil Substance for which the fee is payable or has been paid has been moved from one Soil Substance Removal or Deposit Area to another Soil Substance Removal or Deposit Area, no additional Removal or Deposit Fee shall be payable pursuant to this paragraph for that move. For each and every subsequent move of such Soil Substance, or portion thereof, the applicable Removal or Deposit Fees shall be payable. A move of Soil Substance to a temporary location, such as for a "preload" of lands, shall be the initial move, and any subsequent move of the preload Soil Substance shall attract applicable Removal or Deposit Fees.
- 15.4 Where Soil Substance is quantified in terms of tonnes, cubic yards, or both, the conversion chart contained in Schedule D of this Bylaw applies for the purpose of the calculation of Removal or Deposit Fees.

16. Right to Enter and Inspect

16.1 The Engineer may at all times

- (a) enter on and inspect land for which a Soil Substance Removal or Deposit Permit Application has been made and land for which a Permit has been issued;
- (b) inspect accounts maintained by the Permit holder in respect of its Soil Substance Removal or Deposit activities; and
- (c) as a condition of the validity of the Permit require audited statements, prepared in a form and by a quantity surveyor acceptable to the Engineer, of the volume of Soil Substance Removed or Deposited by the Permit holder in any period, the statements to be prepared at the cost of the Permit holder.

17. Insurance

- 17.1 The Permit holder shall save harmless and indemnify the District from any claims in connection with his Soil Substance Removal or Deposit operation and for such purpose shall maintain at all times during the Soil Substance Removal, Deposit, and reclamation works comprehensive liability insurance for his works in the amount of \$5,000,000.00 and shall name the District of Chilliwack as a co-insured. The insurance policy shall provide that no expiry, cancellation, or material change in the policy shall become effective until after thirty (30) days of

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17. 17.1 notice of such cancellation or change shall be given to the District by registered mail. The Permit holder shall deliver over to the District true copies of the policy of insurance and the receipts of payment. Should the Permit holder fail to maintain the policy, then the District may maintain the policy and all monies expended by the District for insurance premiums shall be charged to the Permit holder.

18. Building Construction and Landscaping

18.1 Despite the other provisions of this Bylaw, but subject to compliance with other bylaws of the District, Soil Substance may be Removed or Deposited in any area of the District where the Removal or Deposit is incidental to building construction or landscaping as follows

- (a) no Permit Fee as provided by section 15.1 shall be required to obtain a building, development, development variance, or temporary commercial or industrial use permit;
- (b) Removal or Deposit Fees shall be payable to the District in the amount of **fifty cents (\$0.50)** for each and every cubic metre of Soil Substance actually Removed or Deposited as part of the construction or landscaping as follows:
 - (i) at the time of an Application for a building permit as required pursuant to a District building regulation bylaw, the Application for the Permit shall be made, accompanied by an advance payment on account of the Deposit or Removal Fees. Such advance payment shall be calculated based on the volume of Soil Substance which the applicant estimates will be Deposited or Removed. The District may, as a condition of the issuance of the Permit, require a written estimate of such volume prepared and certified by a Professional Engineer;
 - (ii) within 30 days of the earlier of:
 - (1) the completion of all Deposit and Removal related to the building construction or landscaping, or
 - (2) the actual use and occupancy of the building

the Permit holder shall pay to the District the Removal or Deposit Fees. Except where the Soil Substance is obtained from a mine or other source within the boundaries of the District, the District may draw down the Removal or Deposit Fees from the advance payment referred to in subsection (i) unless within such 30 days the Permit holder provides to the District evidence satisfactory to the District of the actual amount of the Soil Substance Deposit or Removal in which event a reconciliation payment shall be paid by either the District or the Permit holder;

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18. 18.1 (c) the Permit holder shall not be required to retain a Professional Engineer as otherwise required under section 8.1.

19. Severability

If any section, subsection, clause or phrase of this Bylaw is for any reason held to be invalid or illegal by a decision of any Court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses or phrases of this

20. Contraventions

20.1 Every person who violates, contravenes, or commits any breach of a provision of this Bylaw, including a contravention of a Permit, shall be guilty of an offence punishable on summary conviction and shall be liable to pay a maximum fine of Ten Thousand Dollars (\$10,000.00) and costs. Each day of any violation, contravention or breach of this Bylaw shall be deemed to be a separate and distinct offence.

21. Headings

The headings to the provisions of this Bylaw are inserted for convenience of reference only and shall neither form part of nor affect the interpretation of this Agreement.

22. Schedules

22.1 Schedules A, B, C, D, E, and F are attached to and form part of this Bylaw.

"Soil Removal and Deposit Bylaw 1989, No. 1313" adopted on the 28th day of May, 1990.

Amendment Bylaw 1990, No. 1488 adopted on the 28th day of January, 1991.

Amendment Bylaw 1994, No. 2124 adopted on the 19th day of December, 1994.

"Mayor"

"Clerk"

**Schedule A to District of Chilliwack
"Soil Removal and Deposit Bylaw 1989, No. 1313"**

DISTRICT OF CHILLIWACK

SOIL SUBSTANCE REMOVAL OR DEPOSIT PERMIT APPLICATION

Applicant Information

(filled out by applicant)

Name of applicant
(if company, insert company name and individual representative applying on behalf of company)

Applicant's address for service

Applicant's telephone number

Land Identification Information

Legal description

Municipal address

Land Ownership

Registered owner

Address of owner

Lease holder

Address of lease holder

Soil Substance Removal or Deposit Information

Prepared by Prime Consultant:

Estimated quantity of Soil Substance	Type of Material	Quantity
1) to be removed	_____	_____ m ³
2) to be deposited	_____	_____ m ³

Estimate prepared by: (signature and seal required)

Date _____

Schedule A to District of Chilliwack (continued)

Consultant's Reports

Attached, as part of this Application, are the following reports, as provided by sections 8, 9, and 10 of the Soil Removal and Deposit Bylaw:

- 1) _____
(Title) (Author) (Date)
- 2) _____
- 3) _____

I, _____, as applicant on my own behalf, or as authorized signatory of the applicant (print company name), make this Application.

I confirm that the applicant has the authority to remove or deposit the Soil Substance as provided by this Application.

Declared the _____ day of _____.
(Signature of Applicant)
(Authorized Signature of Owner)

Processing Information: (filled out by District)

- A.L.R. approval
- Ministry of Mines approval
- Waste Management approval
- Title and legal correct
- Zoning correct
- Consent of owner for Application
- Environment study
- Permit Fee receipt no.

**Schedule B to District of Chilliwack
"Soil Removal and Deposit Bylaw 1989, No. 1313"**

DISTRICT OF CHILLIWACK

SOIL SUBSTANCE REMOVAL OR DEPOSIT PERMIT NO. _____

DATE OF ISSUE: _____ AND EXPIRY DATE: _____

Land Identification Information

Legal description

Municipal address

Land Ownership

Registered owner

Address of owner

Lease holder

Address of lease holder

Soil Substance Removal or Deposit Information

Applicant's estimate of quantities	Type of Material	Quantity
1) to be removed	_____	_____ m ³
2) to be deposited	_____	_____ m ³

Consultant's Reports

This Permit is subject to compliance with the following reports, which form part of this Permit:

- 1) _____
(Title) (Author) (Date)
- 2) _____
- 3) _____

Mining Approval (specify and attach)

Waste Management (specify and attach)

A.L.R. (specify and attach)

Schedule B to District of Chilliwack (continued)

Date which Statutory Declaration as per Schedule E is to be submitted by

Date Monthly Reports are due per this Bylaw:

- | | |
|----------|-----------|
| 1. _____ | 7. _____ |
| 2. _____ | 8. _____ |
| 3. _____ | 9. _____ |
| 4. _____ | 10. _____ |
| 5. _____ | 11. _____ |
| 6. _____ | 12. _____ |

NOTE: The issuance of this permit does not relieve the permit holder from complying with all applicable Federal and Provincial laws.

This Soil Substance Removal or Deposit Permit No. _____ is issued pursuant to the District of Chilliwack "Soil Removal and Deposit Bylaw 1989, No. 1313".

Municipal Engineer _____

Date _____

**Schedule C to District of Chilliwack
"Soil Removal and Deposit Bylaw 1989, No. 1313"**

**DISTRICT OF CHILLIWACK
MONTHLY VOLUME REPORT**

THIS SCHEDULE TO BE FILLED OUT MONTHLY AND SIGNED BY THE PERMIT HOLDER AND RETURNED TO THE DISTRICT OF CHILLIWACK AS PER SECTION 15.1 OF THIS BYLAW:

Permit Information

Soil Substance Removal or Deposit Permit No. _____ Date of Issue _____

Land Identification Information

Legal description

Municipal address

Land Ownership

Registered owner

Address of owner

Lease holder

Address of lease holder

I hereby declare that during the period _____ to _____ inclusive, the volume of Soil Substance removed was _____ cubic metres and that the volume of Soil Substance deposited was _____ cubic metres.

I declare that I have personal knowledge hereinafter disposed and I make solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of the *Canada Evidence Act*.

Signed:

(address)

(position title, owner, lessee or signing officer of limited company)

**Schedule D to District of Chilliwack
"Soil Removal and Deposit Bylaw 1989, No. 1313"**

DISTRICT OF CHILLIWACK

CONVERSION CHART

Sand and Gravel

BANK DEPOSIT

1 Cubic Meter

1 Cubic Meter

1 Cubic Meter

STOCK PILE DEPOSIT

1.18 Cubic Meters

1.54 Cubic Yards

2.17 Metric Tonnes

STOCK PILE DEPOSIT

1 Metric Tonne

1 Cubic Yard

1 Cubic Meter

BANK DEPOSIT

0.462 Cubic Meter

0.650 Cubic Meter

0.850 Cubic Meter

**Schedule E to District of Chilliwack
"Soil Removal and Deposit Bylaw 1989, No. 1313"**

DISTRICT OF CHILLIWACK

DECLARATION OF SOIL SUBSTANCE REMOVAL OR DEPOSIT QUANTITIES

Permit Information

Soil Substance Removal or Deposit Permit No. _____ Date of Issue _____

Land Identification Information

Legal description

Municipal address

Land Ownership

Registered owner

Address of owner

Lease holder

Address of lease holder

I hereby declare that during the period _____ to _____ inclusive, the volume of Soil Substance removed was _____ cubic metres and that the volume of Soil Substance deposited was _____ cubic metres.

I declare that I have personal knowledge hereinafter disposed and I make solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of the *Canada Evidence Act*.

Signed: _____
(address) _____

(position title, owner, lessee or signing officer of limited company)

SWORN BEFORE ME at the City of _____)
_____, in the Province of _____)
British Columbia, this _____)
day of _____)

_____) _____
A Commissioner for taking)
Affidavits for British Columbia)

**Schedule F to District of Chilliwack
"Soil Removal and Deposit Bylaw 1989, No. 1313"**

DISTRICT OF CHILLIWACK

LETTER OF CREDIT

(insert copy of letter of credit from Subdivision Bylaw)

Schedule "B"

TO BE ON BANK LETTERHEAD

day of

District of Chilliwack
8550 Young Road South
Chilliwack, B. C.
V2P 4P1

Dear Sir:

IRREVOCABLE COMMERCIAL LETTER OF CREDIT NO.

We hereby authorize you to draw on (NAME OF BANK), (ADDRESS OF BANK), Province of British Columbia, for account of (NAME OF TENDERER), up to an aggregate amount of

_____.
available by drafts at sight for 10% of tender value;

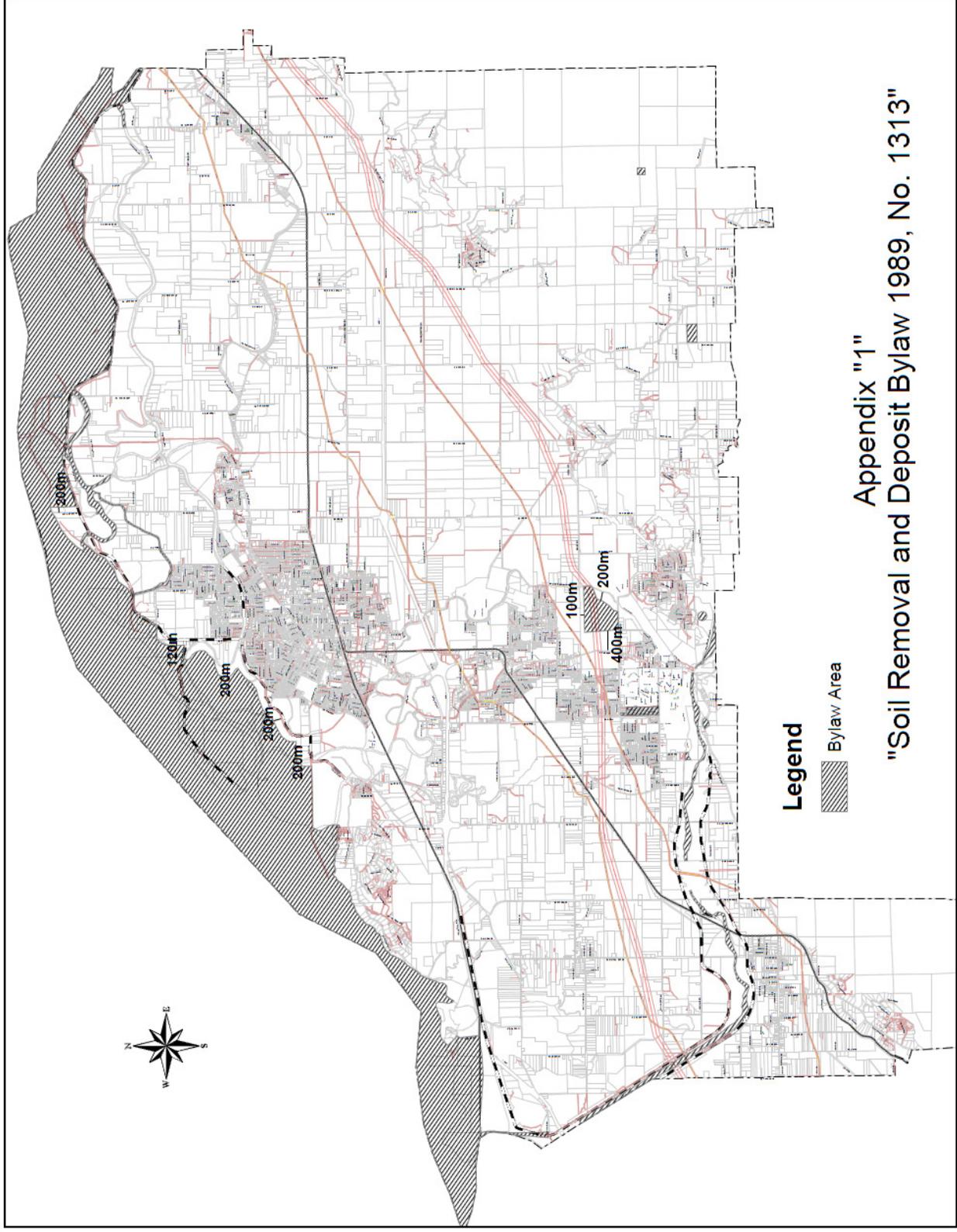
1. Drawings are to be made in writing to (NAME OF BANK).
2. Partial drawings may be made.
3. The Bank will not inquire as to whether or not the District has a right to make demand on this Letter of Credit.
4. This letter of Credit is irrevocable up to the expiry date.

DRAFTS MUST BE DRAWN AND NEGOTIATED NOT LATER THAN

The drafts under this Credit are to be endorsed hereon and shall state on their face that they are drawn under (NAME OF BANK), (ADDRESS OF BANK), Vancouver, B. C.
Letter of Credit No.

Yours truly,

Manager
On Behalf of
(NAME OF BANK)



Legend

▨ Bylaw Area

Appendix "1"
"Soil Removal and Deposit Bylaw 1989, No. 1313"