



FORT ST. JOHN

The Energetic City

CITY OF FORT ST. JOHN

**SOIL EXCAVATION AND DEPOSIT
BYLAW 2566, 2024**

CITY OF FORT ST. JOHN

SOIL EXCAVATION AND DEPOSIT BYLAW NO. 2566, 2024

The Council of the City of Fort St. John, in open meeting assembled, enacts as follows:

TITLE

- 1) This Bylaw may be cited as “Soil Excavation and Deposit Bylaw No. 2566, 2024”.

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SCHEDULES

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DEFINITIONS & INTERPRETATION

- 2) In this Bylaw:
- a) **“Agent”** means a person who acts for or on behalf of an Owner.
 - b) **“Building Bylaw”** means the City of Fort St. John *Building Bylaw No. 2248, 2015*, as amended or replaced from time to time.
 - c) **“Building Official”** means the person appointed as Building Inspector as per the *Building Bylaw*.
 - d) **“Building Permit”** means a permit authorizing construction, reconstruction, repair or alternation/renovation of a building or structure as per the *Building Bylaw*.
 - e) **“Bylaw Enforcement Officer”** means a person or persons employed from time to time by the City to enforce the bylaws of the City and includes designated Bylaw Enforcement Officer as set out in Schedule “C” to this Bylaw.
 - f) **“City”** means the City of Fort St. John, or the lands lying within the corporate boundaries of the City of Fort St. John, as the context may require.
 - g) **“Council”** means the Council of the City.
 - h) **“Deposit”** means the act of placing Soil where the Soil did not previously exist or stand.
 - i) **“Develop” or “Development”** includes any improvement to residential, commercial, industrial, institutional or municipal lands, highways and Right-of-Way areas, including the construction, reconstruction, repair or alteration/renovation of a building or structure, pursuant to a Building Permit.
 - j) **“Director”** means the Director of Development of the City or their delegate.
 - k) **“Drainage System”** means a system of works designed and constructed to control the flow of storm water, groundwater or both.
 - l) **“Excavation”** means the removal of Soil or Other Materials from Property in connection with land development, construction or other works and alterations, including grading and modification to the drainage at the Property.
 - m) **“Maintenance Agreement”** has the same meaning as in the Subdivision and Development Servicing Bylaw.

DEFINITIONS & INTERPRETATION (continued)

- n) **“Other Material”** includes but is not limited to construction or demolition waste, masonry rubble, concrete, asphalt, unchipped lumber, drywall, biological waste, glass, plastic debris, tree stumps and wood waste.
- o) **“Permit”** means a Soil Excavation and Deposit Permit issued to the Owner of property by the Director.
- p) **“Person”** includes an individual owner, occupier, corporation and the heirs, executors, administrators or other legal representatives of a parcel.
- q) **“Remove”** or **“Removal”** means the act of removing Soil from where it existed or stood.
- r) **“Security”** means a financial value deposited or given as assurance of the fulfillment of an obligation such as the securities required by Section 21 of this Bylaw.
- s) **“Stockpile”** means a man-made accumulation of Soil or Other Material.
- t) **“Stop Work Order”** means an order issued under section 18(c) of this Bylaw.
- u) **“Subdivision and Development Servicing Agreement”** has the same meaning as in the Subdivision and Development Servicing Bylaw.
- v) **“Subdivision and Development Servicing Bylaw”** means the City of Fort St. John *Subdivision and Development Servicing Bylaw No. 2405, 2021*, as amended or replaced from time to time.
- w) **“Utilities”** means the use of land whereby water, sanitary sewer, drainage facilities, similar public services are provided and maintained.
- x) **“Zoning Bylaw”** means the City of Fort St. John *Zoning Bylaw No. 2470, 2019*, as amended or replaced from time to time.

DEFINITIONS & INTERPRETATION (continued)

3) FURTHER DEFINITIONS

All other words, terms and expressions in this Bylaw shall be interpreted in accordance with their definitions in the *Community Charter*, the *Land Title Act*, the *Local Government Act*, the *Interpretation Act* and relevant City bylaws.

4) REFERENCE

A reference in this Bylaw to any other bylaw of the City is a reference to that bylaw as amended from time to time and any future bylaws relating to the same subject matter.

5) UNITS

Metric units are used for all measurements in this Bylaw.

6) HEADINGS

Headings for each section of this Bylaw are for reference purposes only.

APPLICATION AND ADMINISTRATION

7) PURPOSE

A BYLAW OF THE CITY OF FORT ST. JOHN TO ESTABLISH SOIL EXCAVATION AND DEPOSIT CONTROLS WITHIN THE CITY OF FORT ST. JOHN.

8) PROHIBITION

A person shall not Excavate, Deposit or Stockpile Soil or Other materials or change drainage on a property within the boundaries of the City without obtaining a Permit from the City.

9) APPLICATION

This Bylaw shall apply to all Property within the City's boundaries. The requirements of this bylaw do not apply to Property owned by the City.

10) ADMINISTRATION

- a) The Director is authorized to administer this Bylaw.
- b) This Bylaw applies independently and in conjunction with the provisions found in all other City bylaws governing the Development of Property or land use including but not limited to the *Zoning, Building and Subdivision and Development Servicing* bylaws as well as all applicable Provincial enactments and regulations including the *Local Government Act, Community Charter* and the *Environmental Management Act*.
- c) Where the Director may exercise discretion in relation to a requirement in this Bylaw they may, in reaching a decision, consider site conditions, transportation, access, user needs and other local government matters including, but not limited to:
 - i. whether the Excavation, Removal, Deposit or Stockpile of Soil or Other Materials will negatively impact neighbouring lands with respect to drainage or stability;;
 - ii. whether it will make impracticable the future subdivision or Development of Property or surrounding or neighbouring Property or lands; and
 - iii. whether it will or does adversely affect the stability of, , obstruct, impede, injury or damage any drain, ditch, stream, creek, waterway, water course, sewer, highway, lane, catch basin, culvert, manhole, public right of way, or any public utility.

11) AUTHORIZATION OF ENTRY

- a) The Director and any Bylaw Enforcement Officer are authorized to enter upon any Property to inspect in the Property in connection with their duties under this bylaw and to determine whether the provisions of this bylaw are being complied with.

APPLICATION AND ADMINISTRATION (continued)

- b) Pursuant to section 16 of the *Community Charter*, the Director and any Bylaw Enforcement Officer may enter into or upon any property within the City at any reasonable time, including for the following purposes:
 - i. To inspect and determine whether all regulations, prohibitions and requirements imposed under or pursuant to this bylaw are being met;
 - ii. To take action on default of an order under this bylaw; and
 - iii. To request anything to be produced to assist with an inspection, enforcement or action on default performed for the purpose of this bylaw.
- c) Upon the request of an occupant or Owner of a Property that are the subject of an inspection performed by the City under this Bylaw, a Bylaw Enforcement Officer shall display or produce identification which identifies them as a Bylaw Enforcement Officer.
- d) No person shall obstruct or interfere with a Bylaw Enforcement Officer in the performance of their duties.

12) SEVERABILITY

- a) If any section, subsection, provision or, clause in this Bylaw is for any reason held to be invalid by the decision of any court of competent jurisdiction, the invalid portion of the Bylaw shall be severed from the Bylaw and the decision that the portion of the Bylaw is invalid shall not affect the validity of the remaining portions of this Bylaw.
- b) If any portion of this Bylaw is held to be inconsistent with the *Local Government Act*, *Community Charter*, *Land Title Act*, *Environmental Management Act* or any other Provincial enactment or regulation, the applicable Provincial enactment or regulation will apply to the extent of that inconsistency.

GENERAL PROVISIONS & PROCEDURES

- 13) NO PERSON SHALL DO, OR ALLOW TO BE DONE, ANY OF THE FOLLOWING EXCEPT AS AUTHORIZED BY A PERMIT ISSUED BY THE CITY:
 - a) Excavate a volume of Soil or Other Materials greater than 15 cubic meters from a Property;
 - b) Deposit a volume greater than 10 cubic meters of Soil or Other Materials on a Property;
 - c) Change the surface material of Property in a way that will affect the drainage of a Property;
 - d) Grade or alter the drainage of a Property.

GENERAL PROVISIONS & PROCEDURES (continued)

- 14) THE PROVISIONS IN SECTION 13 DO NOT APPLY IF THE WORKS, EXCAVATION, REMOVAL DEPOSIT OR STOCKPILE:
- a) Are permitted under a current Building Permit that has been issued to the Owner by the City;
 - b) Are part of the construction of servicing that has been authorized by the City;
 - c) Are part of a current Maintenance or Subdivision and Development Servicing Agreement between the Owner and the City;
 - d) Are an allowed use within the City of Fort St. John *Zoning Bylaw* with a valid business license; or
 - e) Are performed within a low-density residential property with an area of less than 1000 square meters.
- 15) SOIL EXCAVATION AND DEPOSIT PERMIT APPLICATION:
- a) If an Owner proposes to Excavate, Remove, Deposit or Stockpile Soil or Other Materials on their Property, the Owner or their Agent shall apply for a Permit by submitting a completed application for a Permit in the form prescribed by the City for such applications. This submission, as approved by the Director, will form a part of the final Permit.
 - b) Applicants that submit an application for a Permit shall provide the following information:
 - i. Name, address and signature of the person that has prepared the application for a Permit and the Owner (if different than the applicant).
 - ii. Location of the proposed Excavation, Removal, Deposit, Stockpile or other Work with a legal description of the Property and its civic address;
 - iii. Site plan for the Property and the Excavation, Removal, Deposit, Stockpile showing existing contours at 0.25m spacing extending a minimum of 10.0m outside Property, unless waived by the Director;
 - iv. A proposed grading plan for the Property to the standard in the *Subdivision and Development Servicing Bylaw* showing the Property and locations of Excavation, Removal, Deposit or Stockpile that the applicant proposes to occur on the Property, unless waived by the Director;
 - v. An erosion and sediment control plan as per the *Subdivision and Development Servicing Bylaw*;
 - vi. The Drainage System for the Property as per the *Subdivision and Development Servicing Bylaw* unless waived by the Director;
 - vii. Proposed truck route for hauling of materials, including Soil or Other Materials, to and away from the Property;
 - viii. Work schedule for the Works and any Excavation, Removal, Deposit, Stockpile of Soil or Other Materials.

GENERAL PROVISIONS & PROCEDURES (continued)

- c) The Director will not review the application for a Permit until all information required by the City has been provided by the applicant.
 - d) Prior to the City issuing a Permit, the Owner shall pay the Permit Fee as set out in the City's *Fees and Charges for Various Municipal Services Bylaw*, as amended from time to time.
 - e) Prior to the issuance of a Permit, the Owner is required to provide security in the form of a cash deposit, certified cheque or bank draft, or irrevocable letter of credit in a form acceptable to the Director acting reasonably.
 - f) Any Permit issued to an Owner shall be valid for 1 year from the date the Permit was issued and shall expire thereafter subject only to any extension granted by the Director, which may be granted or withheld in their sole discretion.
 - g) A Permit is only to be issued to the Owner or authorized Agent.
- 16) SOIL EXCAVATION AND DEPOSIT APPLICATION REVIEW:
- a) Upon receipt of a completed application and the accompanying fee for a Permit and upon review and consideration of the completed application the Director may at their sole discretion:
 - i. Issue a Permit;
 - ii. Refuse to issue a Permit:
 - (1) If the applicant has not complied with the provisions of this Bylaw in making an application for the Permit;
 - (2) For a reason set out in section 17(a); or
 - (3) If, in the opinion of the Director acting reasonably, the applicant is incapable of carrying out the Excavation, Removal, Deposit or Stockpile in a safe, careful, competent and prudent manner with regard to the impacts in section 17(a).
 - iii. Issue a Permit with additional terms and conditions that the Director, acting reasonably, believes are necessary to protect the public and Property from the impacts of the Excavation, Removal, Deposit or Stockpile;
 - iv. May require, as a condition of issuing a Permit, that the applicant enter an indemnification agreement in which it agrees to indemnify and save harmless the City and its officials, officers, employees and agents from any claim, lawsuit, liability, debt, demand, loss or judgment (including costs, defense expenses and interest) whatsoever and howsoever arising either directly or indirectly as a result of the issuing of Permit or the carrying out of Excavation, Removal, Deposit or Stockpile activities.
- 17) CONSIDERATIONS:
- a) The Director will review each completed application for a Permit that is submitted to the City on an individual basis and may refuse a Permit, issue a Permit or issue a Permit with conditions, at their sole discretion, after considering the following factors, which includes but are not limited to, whether the proposed Excavation, Removal, Deposit or Stockpile would:

GENERAL PROVISIONS & PROCEDURES (continued)

- i. Obstruct, impede or divert any watercourse or other infrastructure whether privately or publicly owned;
 - ii. Be contrary to the public interest as determined by the Director acting reasonably;
 - iii. Result in the subject Property or another Property becoming susceptible to erosion, slippage, landslide, slumping, flooding, ponding or settling;
 - iv. Adversely affect the future development of another Property;
 - v. Create dust, dirt, vibrations, odours or noise which may constitute a nuisance;
 - vi. Contravene any other bylaws, enactments or regulations; or
 - vii. Contravene any recommendations from provincial ministries or agencies.
 - b) The Director's consideration of an application for a Permit includes the referral of the application to all relevant provincial ministries and agencies including, but not limited to:
 - i. Agricultural Land Commission;
 - ii. Archaeology Branch, Ministry of Forests, Lands, Natural Resource Operations and Rural Development
 - iii. Ministry of Energy, Mines and Low Carbon Innovation;
 - iv. Ministry of Environment and Climate Change Strategy; and
 - v. Ministry of Transportation and Infrastructure.
- 18) ORDERS
- a) The Director may issue an order to an Owner by:
 - i. Delivering in person, sent by registered mail to the address given on the Permit application or effected by the posting of an order at the Property.
 - b) The Director may issue an order to the Owner of the Property on which the Excavation, Removal, Deposit or Stockpile occurred or is underway to do any of the following:
 - i. Tidy or clean up any unsightly condition as a result of the Excavation, Removal, Deposit or Stockpile or any other activities underway on the Property that are related to these activities within 2 months of the date of issue of the order from the Director to the Owner; and
 - ii. If the Owner does not clean up or tidy the Property as required by an order made by the Director, the Director may fulfill the requirements of the Order and have the Property be cleaned or tidied at the Owner's expense and recover the costs from the Owner as a debt.
 - c) Upon the issue of a Stop Work Order to an Owner:
 - i. In circumstances where the Owner has a Permit for the Property, the Permits for the Property will be suspended;
 - ii. An Owner, and no other person will commence or continue to Excavate, Deposit, Remove or Stockpile Soil or Other Materials on the Property; and

GENERAL PROVISIONS & PROCEDURES (continued)

- iii. The Owner shall immediately cease all Excavation, Removal, Deposit or Stockpile of Soil or Other Materials authorized by the Permit and return the Permit to the Director.

19) STORAGE

- a) Soil and Other Materials shall be contained on the Property to which the Permit has been granted and no storage shall be allowed on any highway or other Property.
- b) Soil and Other Materials shall be removed from the Property as soon as construction is complete, or construction has ceased for a period of 6 months or more.
- c) Any temporary storage structures, shipping containers, and portable offices for construction purposes must conform to the *Zoning Bylaw*.

20) GENERAL

- a) Every Owner who causes or permits Excavation, Removal, Deposit or Stockpile activities to occur on their Property is responsible to ensure that no damage is caused to City Property, and if such damage should occur, the Owner shall be responsible for all costs associated with the repair of the damage to the City's Property.

SECURITY

21) DAMAGE DEPOSIT

- a) Prior to the City issuing a Permit to an Owner which proposes Excavation, Removal, Deposit or Stockpile activities on Property adjacent to City Property, the Owner shall deposit with the City, Security in accordance with Schedule D to this Bylaw, in the form of a cash deposit, certified cheque or bank draft, or irrevocable letter of credit in a form acceptable to the Director acting reasonably.
- b) If the Owner causes any damage to City Property the City may provide written notice to the Owner of the City's use of the Security and the City may use the Security to compensate for loss and recover the City's costs of repairs without prejudice to any other rights or remedies of the City whether at law or in equity to recover the cost of repairs to the City Property from the Owner.

22) UNFINISHED WORKS

- a) If the Owner performs the Excavation, Removal, Stockpile or Deposit activities in such a manner that causes the Director, acting reasonably, to consider this to constitute a concern for public safety or risk causing damage to neighboring Property, the Director may provide written notice to the Owner of the City's use of the Security to enter the Property to complete such Works required to mitigate the Directors concerns.

SECURITY (continued)

- b) If the City's cost of repairs or remediation is greater in value than the value of the Security provided by the Owner, the Owner shall cover the amount of the insufficiency by providing the City with payment forthwith upon receipt of the City's invoice for the amounts owing for the repairs or remediation.
- c) The security shall be returned, less any repair costs incurred, upon issuance of an approved as-built grading plan for the related Permit or where the Permit has been cancelled, and upon confirmation that City Property has not been damaged or, if damage has occurred, that it has been fully and satisfactorily repaired. The Security will be refunded to the Owner or Agent that submitted the Security. The Security will not be refunded when there is snow on the ground of the Property.

OFFENCES AND PENALTIES

- 23) Any Person who contravenes, violates, or fails to comply with any provision of this Bylaw, or who suffers or permits any act or thing to be done in contravention or violation of this Bylaw, commits an offence and shall be liable, upon summary conviction, to the penalties imposed and any other penalty or order imposed pursuant to the *Community Charter* as amended from time to time.
- 24) A person found to have violated or to have failed to comply with a provision of this Bylaw under the *Offence Act* may be ordered to pay a fine to a maximum of \$50,000.00 or to imprisonment for 6 months or both.
- 25) Any person designated as a Bylaw Enforcement Officer pursuant to the City of Fort St. John *Bylaw Notice Enforcement Bylaw No. 2428, 2018*, as amended or replaced from time to time, or the City of Fort St. John *Municipal Ticket Information System Bylaw No. 2429, 2018*, as amended or replaced from time to time, is hereby authorized and empowered to enforce the provisions of this Bylaw by the provisions of the *Bylaw Notice Enforcement Bylaw No. 2428, 2018*, as amended or replaced from time to time, or the *Municipal Ticket Information System Bylaw No. 2429, 2018*, as amended or replaced from time to time.
- 26) The penalty for a contravention dealt with in accordance with the *Bylaw Notice Enforcement Bylaw No. 2428, 2018*, as amended or replaced from time to time, shall be as follows:
 - a) The penalty amount set out in Column A3 of Table A.1 in Schedule A is payable for the corresponding contravention except when subsection b) or c), below, apply;
 - b) The early payment penalty set out in Column A4 of Table A.1 in Schedule A is payable if payment is received by the City within 14 days of the person receiving or being presumed to have received the bylaw notice;

OFFENCES AND PENALTIES (continued)

- c) The late payment penalty set out in Column A5 of Table A.1 in Schedule A is payable if payment is received more than 31 days after the person received or is presumed to have received the bylaw notice; and
 - d) The penalty and corresponding contravention may be available for a Compliance Agreement and 50% penalty reduction with the City as set out in Column A6 of Table A.1 in Schedule A.
- 27) The penalty for a contravention dealt with in accordance with the *Municipal Ticket Information System Bylaw No. 2429, 2018* as amended or replaced from time to time, shall be as follows:
- a) The words and expressions in Column B2 of Table B.1 in Schedule B shall designate the offence committed under the section number of this Bylaw appearing in Column B1 opposite the respective word or expressions; and
 - b) The penalty amount set out in Column B3 of Table B.1 in Schedule B of this Bylaw establishes the fines in respect to corresponding offence designated in Column B2.;
- 28) Where an offence of this bylaw is a continuing offence, each day that the offence is continued shall constitute a separate offence.
- 29) Any penalty imposed pursuant to this bylaw shall be in addition to, and not in substitute for, any other penalty or remedy imposed pursuant to any other applicable statute, law, or legislation.

SCHEDULES AND APPENDICES

- 30) LIST OF SCHEDULES
- a) The following is a list of schedules attached hereto and forming part of this Bylaw:
 - i. SCHEDULE A Bylaw Notice Enforcement Offences;
 - ii. SCHEDULE B Municipal Ticket Information Offences;
 - iii. SCHEDULE C Designated Bylaw Enforcement Officers; AND
 - iv. SCHEDULE D Damage Deposit

ENACTMENT

INTRODUCED AND READ FOR THE FIRST AND SECOND TIMES THIS 8th DAY OF January, 2024

READ FOR THE THIRD TIME THIS 9th DAY of September, 2024

AND ADOPTED THIS 15th DAY OF October, 2024

Lilia Hansen
Mayor

Bonnie McCue
Corporate Officer

SCHEDULE A

BYLAW NOTICE ENFORCEMENT OFFENCES

A – 1.0 BYLAW NOTICE ENFORCEMENT

**TABLE A.1
BYLAW NOTICE ENFORCEMENT CONTRAVENTIONS AND PENALTIES**

A1 Section	A2 Description	A3 Penalty (\$) (15-30 days)	A4 Early Payment (\$) (1-14 Days)	A5 Late Payment (\$) (31-60 Days) (Collections 60+)	A6 Compliance Agreement Available (50% of Penalty)
8)	Failure to obtain a permit	450.00	400.00	500.00	No
11)a)	Refuse Entry	450.00	400.00	500.00	No
11)d)	Obstruction of Bylaw Enforcement Officer	450.00	400.00	500.00	No
15)b)v)	Failure to follow ESC	450.00	400.00	500.00	Yes
15)b)vii)	Failure to follow Truck Route	450.00	400.00	500.00	Yes
18)b)	Disobey an order	450.00	400.00	500.00	No
18)c)	Disobey a stop work order	450.00	400.00	500.00	No
19)a)	Material or Soil Storage on Unauthorized property	450.00	400.00	500.00	Yes
19)b)	Failure to remove soil or materials upon completion	450.00	400.00	500.00	Yes

SCHEDULE B

MUNICIPAL TICKET INFORMATION OFFENCES

B – 1.0 MUNICIPAL TICKET INFORMATION OFFENCES

TABLE B.1

MUNICIPAL TICKET INFORMATION OFFENCES

B1 Section	B2 Description	B3 Fine
8)	Failure to obtain a permit	500.00
11)a)	Refuse Entry	500.00
11)d)	Obstruction of Bylaw Enforcement Officer	500.00
15)b)v)	Failure to follow ESC	500.00
15)b)vii)	Failure to follow Truck Route	500.00
18)b)	Disobey an order	500.00
18)c)	Disobey a stop work order	500.00
19)a)	Material or Soil Storage on Unauthorized property	500.00
19)b)	Failure to remove soil or materials upon completion	500.00

SCHEDULE C

DESIGNATED BYLAW ENFORCEMENT OFFICERS

C – 1.0 DESIGNATED BYLAW ENFORCEMENT OFFICERS

Director of Development Services

Director of Public Works and Utilities

Bylaw Enforcement Officers

SCHEDULE D
DAMAGE DEPOSIT

SCHEDULE D

DAMAGE DEPOSIT

_____ **Civic Address of Property:**

_____ **Soil Excavation and Deposit Permit#**

Before issuance of a Permit, which proposes construction on lands adjacent to municipal property, the Owner shall provide to the City of Fort St. John, this form as a signed acknowledgement and shall deposit with the City, a security in the amount of \$10 (ten dollars) per cubic meter of Soil Excavated or Deposited or **\$5,000.00** (five thousand dollars) whichever is greater in the form of cash, certified cheque, or an irrevocable and unconditional automatically renewing standby letter of credit, against costs of repairs for all municipal roads, works, or property damaged in any way through the construction described in the said Soil and Excavation Permit.

The security shall be returned, less any repair costs incurred, upon issuance of an approved as-built grading plan for the related Permit or where the Permit has been cancelled, and upon confirmation that municipal infrastructure has not been damaged or, if damage has occurred, that it has been fully and satisfactorily repaired. If the cost of repairs to Municipal infrastructure or mitigation of concerns is greater than the Damage deposit provided, the Owner shall pay the amount of the insufficiency to the City forthwith upon receipt of the City's invoice for that amount. **The Damage Deposit will be refunded to the Owner or Agent that submitted the deposit. The Damage Deposit will not be refunded when there is snow on the ground.**

The Damage Deposit in the sum of _____ was submitted to the City on the _____ day of _____, 20____ by: (please check one of the boxes below)

the Owner

the Authorized Agent

Owner / Agent Signature

Owner / Agent Name (Please Print)

Owner/ Agent Mailing Address

Owner/ Agent Email Address

(_____) _____
Owner/ Agent Phone Number

For Office Use Only:

Damage Deposit Received by: _____ Date: _____