City of Merritt

"City of Merritt Earthworks Bylaw 2313, 2021"

Consolidated For Convenience – September 2, 2026

Bylaw 2357	July 27, 2021

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CITY OF MERRITT

BYLAW 2313
A BYLAW TO REGULATE THE REMOVAL, MOVEMENT AND DEPOSIT OF SOIL AND OTHER MATERIALS.

WHEREAS Section 8(3)(m) of the *Community Charter*, 2003, c. 26 provides that Council for the City of Merritt may, by bylaw, regulate, prohibit and impose requirements in the removal of soil or the deposit of soil and other material;

AND WHEREAS Section 195 (1) of the *Community Charter*, 2003, c. 26 provides that Council for the City of Merritt may, by bylaw:

a) impose rates or levels of fees for a permit required under a municipal bylaw for:
   i) the removal of soil from, or
   ii) the deposit of soil or other material on
   any land in the municipality or any area of the municipality;
b) impose rates or levels of fees for the activities referred to in paragraph a).

AND WHEREAS Council of the City of Merritt wish that the removal and deposit of soil and other materials from or on lands within the City of Merritt be regulated;

NOW THEREFORE the Municipal Council for the City of Merritt in open meeting assembled, **ENACTS AS FOLLOWS:**

Citation

1. This Bylaw shall be cited as the "**Earthworks Bylaw 2313, 2021**".

Definitions

2. In this bylaw, unless the context otherwise requires:

"City" means the City of Merritt;

"Council" means the duly elected Municipal Council of the City of Merritt;

"Deposit" or "Deposition" means to place, store, Stockpile, spill, or release directly or indirectly, Material on any Land where that Material did not previously exist or stand;

"Highway" means any public street, road, Statutory Right of Way, lane, bridge, or walkway but does not include a private easement on private property;

"Land" means any land within the boundaries of the City including land covered by lakes, streams, wetlands or Watercourses;

"Material" means Other Material, Soil, or Wood Waste.

“Move” or “Movement” means the transfer, Soil disturbance, site grading, retaining or other Movement of Material within the same Parcel or collection of Parcels which form a property;

“Negative Impact” means any Deposit, Removal or Movement of Material that results in a change of existing drainage routing, slope instability, erosion, sediment discharge, is unsightly, produces a foul odour, creates dust, poses a fire hazard or causes any damage to adjacent parcels, Riparian Assessment Areas or Watercourses;

"Other Material" means degradable or non-degradable construction or demolition waste such as masonry rubble, concrete rubble, asphalt and contaminated soils regulated under the *Waste Management Act*, RSBC 1979, c. 428.5, as amended. Individual pieces of such waste shall not exceed 1 metre in length nor 1 cubic metre in volume;

“Earthworks Permit” means a Permit issued by the Director of Planning and Development Services, in accordance with this Bylaw;

“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;

“Registered Professional” means a person registered with a professional association including the Association of Professional Engineers and Geoscientists of BC, the Corporation of the Province of British Columbia Land Surveyors, British Columbia Institute of Agrologists or other person who is qualified because of knowledge, training and experience to organize, supervise and perform the duties required in this bylaw;

“Remove” or “Removal” means the excavation, Soil disturbance, site grading, utility works, transfer, Movement or extraction of Material from any Land where that Material previously existed or stood;

“Riparian Assessment Area” as defined in the City of Merritt Official Community Plan Bylaw as amended from time to time.

"Soil" means topsoil, peat, clay, silt, sand, gravel, cobbles, boulders, bedrock or other substance of which Land is naturally composed, but does not include stumps or logs.

“Sloping Terrain” means land with a slope angle greater than 20% for a distance of 6 metres or more.

“Stockpile” means a man-made accumulation of Material greater than 20m^3 held in reserve for future use, Deposit or Removal;

“Watercourse” means a natural channel or source of water supply, including a lake, river, creek, spring, ravine, wetland or gulch, whether or not usually containing water or groundwater.

"Wood Waste" means wood residue in mechanically shredded form and includes sawdust, hogfuel, bark, chips, slabs, shavings, trimmings, mill ends, edgings or other such material which is the result of any manufacturing or forestry process.

Application of Bylaw

3. This Bylaw applies to all Land within the City of Merritt.

4. This Bylaw applies to the:

   a) Removal and/or Movement of Material from one part of a Parcel and the Deposit of Material on another part of the same Parcel;

   b) Removal and/or Movement of Material from one Parcel within the City and its Deposit on another Parcel within the City;

   c) Deposit within the City of Material Removed from outside the City;

   d) Removal of Material from the City, even though the Removed Material is Deposited or is intended to be Deposited outside the City.

Prohibitions

5. Unless otherwise exempted in this Bylaw, no person will cause or permit the Deposit, Movement, or Removal of Material on any Land within the City until an Earthworks Permit has been granted pursuant to this Bylaw and every such Deposit, Movement or Removal shall conform in all respects to the regulations and requirements of this Bylaw and the terms and conditions of the Earthworks Permit.

6. No subdivision approval, development permit or building permit by itself authorizes the Deposit, Movement, or Removal of Material regulated by this Bylaw.

Riparian Assessment Areas

7. Notwithstanding any exemptions under this Bylaw, all properties in a Riparian Assessment Area require an Earthworks Permit regardless of volume of materials to be Deposited, Moved or Removed, unless such work is necessary to protect property during an emergency event.

Exemptions from Earthworks Permit Requirement

8. Despite Section 5 an Earthworks Permit is not required where the Deposit, Movement, or Removal:

   a) will not:
      i) exceed 30 cubic metres in volume on or from a single Parcel over 1 calendar year; and,
      ii) exceed 1 metre in depth at any point;
      iii) create a Negative Impact.

   b) is initiated and carried out by, or on behalf of, the City including, but not limited to, the construction, maintenance or repair of municipal or utility works within a Highway, Statutory Right of Way, easement or Land;

c) is on Land used for farm use, for horticultural use or as a nursery and only where such Deposit or Removal is part of the farm, horticultural or nursery operation;

d) is a Stockpile on Land where:
   i. such use is permitted, eg a gravel pit, concrete or asphalt operation appropriately zoned under the City's Zoning Bylaw, and
   ii. a valid business licence for that use exists; and,
   iii. is in compliance with the *Mines Act* R.S.B.C. 1996;

e) involves the open storage or Stockpiling of Material intended to be processed and Removed in connection with a lawful use of the Land on which they are stored, provided that the activities do not create a Negative Impact; or,

f) is in response to emergencies, by or on behalf of the City.

No Encroachment

9. No person shall Deposit, Move, or Remove Material from any Lands if such action will or does:

   a) in any way endanger surrounding or neighbouring Land or the support of that Land;

   b) make impracticable the future subdivision or development of the Land or surrounding or neighbouring Lands;

   c) adversely fouls, obstructs, impedes, injures damages or affects the stability of any drain, ditch, waterway, Watercourse, sewer, Highway, lane, catch basin, culvert, manhole, public right of way, or any public utility; or,

   d) disturbs, damages, destroys or diverts the drainage of any area of Land.

10. No person carrying on any Deposit, Movement, or Removal of any Material shall permit or cause any Material to be, or come, in, or upon any road, Highway, sidewalk, ditch, drain, catch-basin or other public place so as in any way to foul, impede, obstruct, injure or damage same or cause a nuisance thereon.

11. Any person who encumbers, obstructs, injures, fouls, or damages any Highway or portion thereof or public place shall, at their own cost, immediately remove, remedy or repair any such injury, fouling, damage, encumbrance or obstruction.

Dust Control

12. No operation by which Material is Removed, Moved, or Deposited may cause a nuisance affecting any neighbouring property, Highway, or right-of-way.

13. A dust control plan must be submitted with all Earthworks Permit applications for approval by the Director of Planning and Development Services, prior to issuance of an Earthworks Permit.

Earthworks Permit Application Requirements

14. An application for an Earthworks Permit must be made on a form provided by the City of Merritt and include the following information:

    a) name, address and contact information of the registered owner of the property and applicant;

    b) civic address and legal description of the property or properties where the Deposit, Movement, or Removal will take place, including property outside of the City boundary where any incoming Material to be Deposited may originate from;

    c) approval in writing from the registered owner, where the applicant is not the registered owner of the Parcel described in 14 (b);

    d) a purpose statement outlining the reasoning for Deposit, Movement, or Removal;

    e) a schedule showing the order of procedure, timing, method and the quantities of Material to be Deposited, Moved, or Removed;

    f) a plot plan clearly identifying the Land from which the Material is to be Deposited or Moved on or Removed from, including pertinent topographic features, existing buildings and structures, Watercourses, tree cover and property boundaries;

    g) a site grading plan showing proposed and existing grades and slopes and the proposed method of dust control, protection from wind and water erosion, and the proposed method of drainage and sediment control, during and after completion of the work;

    h) a current title search or State of Title Certificate, obtained from the Land Title Office within the 30 days prior to the application submission, for the Parcel or Parcels where the Material will be Deposited or Moved on, or Removed from;

    i) the location of any existing utilities, electrical, water and sanitary services, hydrants, valves, etc.; and,

    j) payment of the non-refundable Earthworks Permit Application Fee as per the *Land Use Amendment and Development Approval Procedures Bylaw*.

Site Disclosure

15. Concurrently with an Earthworks Permit Application a Site Disclosure Statement must be completed and submitted; if any *Environmental Management Act and Contaminated Sites Regulation* Schedule 2 activities are identified by the applicant the site disclosure statement will be forwarded to the appropriate Ministry for review.

16. In addition to the requirements above, the Director of Planning and Development Services, may require the following:

a) copies of any permits or approvals of Federal or Provincial Authorities required by statute or regulation in connection with the proposed Soil Deposit, Movement or Removal;

b) an erosion and sediment control plan and/or a hydrology report prepared by a Registered Professional;

c) a legal land survey prepared by a Registered Professional;

d) a quantity survey of Soils to be Deposited or Removed, prepared by a Registered Professional;

e) a Riparian Areas Protection Regulation report, as prepared by a Qualified Environmental Professional;

f) a report of the class of contaminated Soils;

g) deposit of a Security Fee as per the *Land Use Amendment and Development Approval Procedures Bylaw* which shall be held by the City as security that the work specified in the application is carried out to completion in accordance with the plans and other information approved by and deposited with the Director of Planning and Development Services;

h) proof of Comprehensive General Liability Insurance with policy limits of not less than $2,000,000 per occurrence, identifying the proposed work and proof of Errors and Omissions Insurance for the Registered Professionals. The evidence of Renewal and Notice of Termination shall be provided to the City not less than 30 days prior to the expiry dates or cancellation of the policies as the case may be;

i) City of Merritt Traffic Bylaw, Schedule G - Works within the Boulevard permit application.

17. A sketch of the proposed route plan for vehicles transporting the Permitted Material.

18. Every person to whom an Earthworks Permit has been issued hereunder shall complete the Permitted actions in accordance with the plans submitted in the application for an Earthworks Permit and shall utilize only the type of fill and the method of applying same as stated in the application for an Earthworks Permit.

19. Notwithstanding the provisions of Section 9 an Earthworks Permit authorizing such works may be issued if precautions can be taken which will prevent any such damage or injury therein referred to. In such case before an Earthworks Permit will be issued the applicant may be required to:

a) obtain the services of a Registered Professional to determine the feasibility and proper method of the proposed Removal, Movement or Deposit; and,

b) enter into an Agreement with the City to Remove, Move or Deposit the Material in such quantities, and in such manner as therein specified; and,

c) deposit a Security Fee as per *Land Use Amendment and Development Approval Procedures Bylaw* to ensure that the terms of such Agreement will be fully carried out;

d) provide proof of Comprehensive General Liability Insurance with policy limits of not less than $2,000,000 per occurrence for the proposed works and proof of Errors and Omissions Insurance for the Registered Professionals. The evidence of Renewal and Notice of Termination shall be provided to the City not less than 30 days prior to the expiry dates or cancellation of the policies as the case may be.

20. If there is Sloping Terrain within 5 metres of where the Removal, Deposit or Movement is taking place the following conditions must be followed:

a) Sloping Terrain with a slope angle less than or equal to 20%, normal development and engineering best practices apply;

b) Sloping Terrain with a slope angle greater than 20%, a Registered Professional engineer shall certify construction drawings and specifications for all works including, Deposit, Removal or Movement and supervise all construction.

21. Earthworks Permits are valid for 12 months from issue;

22. If an Earthworks Permit expires and work is still being performed a new application for an Earthworks Permit and Earthworks Permit Application Fee must be submitted.

Stockpiles

23. Stockpiles of Material may only be created within the area and time allowed by the Earthworks Permit.

24. No person may cause a Negative Impact by the Stockpiling of Material.

Wood Waste and Other Material

25. Unless otherwise exempted in this Bylaw, no person may cause or permit the Deposit of Wood Waste or any Other Material on any Land in the City unless the person has a valid Earthworks Permit for that Deposit.

Violations

26. If in the opinion of the Director of Planning and Development Services or their designate, the conditions of the Earthworks Permit are violated, the Earthworks Permit may be revoked, or a stop work order may be imposed. To continue work, the permittee may be required to remedy any deficiencies identified.

27. Any stop work order notice shall remain posted on the property until that which is contrary to the regulations has been remediated to the satisfaction of the Director of Planning and Development Services, or his designate.

Appeal

28. An applicant who has been denied a permit may appeal to Council.

29. A permittee upon whom a stop work order has been served may, by giving notice in writing to the Corporate Officer within 30 days of issuance of the stop work order appeal to the Council, who shall hear and determine the appeal by confirming, amending or rescinding the stop work order.

Enforcement

30. Failure to comply with any of the terms and conditions of this Bylaw shall be considered an offence against the Bylaw for which the Security Fee deposited pursuant to Sections 16 (g) or 19(c) or any part or parts thereof may be forfeited.

31. Any offence against the Bylaw is subject to the fines outlined in the Municipal Ticket Information Bylaw, as amended from time to time.

32. Each day that an offence against this Bylaw continues shall be deemed a separate and distinct offence.

33. Any person contravening or committing any breach of or committing any offence against any of the provisions of this Bylaw or who suffers or permits any act or thing to be done in contravention or in violation of any of the provisions of this Bylaw; or who refuses, omits or neglects to fulfil, observe, carry out or perform any duty, obligation, matter or thing whatsoever by this Bylaw prescribed or imposed or required to be done is liable, on summary conviction, to a fine not exceeding $10,000 or to a term of imprisonment not exceeding 6 months, or both.

Severability

34. If any provision of this Bylaw is held to be invalid by a court of competent jurisdiction, that provision shall be severed by the Bylaw and such invalidity shall not affect the validity of the remainder of this Bylaw.

READ A FIRST TIME this	20th day of July, 2021
READ A SECOND TIME this	20th day of July, 2021
READ A THIRD TIME this	20th day of July, 2021
ADOPTED this	27th day of July, 2021

Original signed by	Original signed by
_____	_____
Linda Brown Mayor	Greg Lowis Corporate Officer