



**Bowen Island Municipality  
Bylaw No. 568, 2022**

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A Bylaw to regulate Site Alterations within the Bowen Island Municipality

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**WHEREAS**, under the *Community Charter*, Council may enact bylaws to regulate, prohibit and impose requirements in relation to trees, the removal and deposit of soil and other material, to protect the well-being of the community, and may impose fees for the exercise of authority to so regulate, prohibit and impose requirements.

**AND WHEREAS**, Council considers that site alteration involving the deposit or removal of soils and other materials, including cut trees, should be orderly, in keeping with good practices and so as to minimize erosion, harmful alteration to drainage patterns, safety concerns, habitat loss, and the spread of invasive species within the community.

**THEREFORE**, be it resolved that the Council for Bowen Island Municipality in open meeting assembled enacts as follows:

**1.0 Citation**

- 1.1 This bylaw may be cited for all purposes as “Bowen Island Municipality Site Alteration Bylaw, No. 568, 2022”.

**2.0 Application**

- 2.1 This Bylaw applies to all lands within the Bowen Island Municipality
- 2.2 Nothing in this Bylaw shall preclude anyone from complying with the provision of any other local, provincial or federal regulations or enactment.

**3.0 Definitions**

- 3.1 In this Bylaw, the following definitions apply:

<b>Average Slope</b>	means the steepness of land surface of an area of site alteration. Average slope is calculated as a percentage by dividing the total change in elevation across a lot by the distance across the lot and multiplying by 100.
<b>Bylaw Enforcement Officer</b>	means a person appointed by the Municipality to act on matters of bylaw enforcement.
<b>Council</b>	means the elected Council members for the Municipality.
<b>Deposit</b>	means to place, store, pile, spill, or release Soil or Other Material at a location where that Soil or Other Material did not previously stand.

<b>Exposed Soil</b>	means areas of a lot where the vegetation (trees, shrubs, brush, grasses, etc.) has been removed, causing an increased risk of erosion and deleterious effects from movement of sediment.
<b>Highway</b>	means the surveyed right of way for a road and includes access routes in bare land strata plans.
<b>Invasive Species</b>	means any alien invasive species of plant identified in the <i>Spheres of Concurrent Jurisdiction – Environment and Wildlife Regulation</i> under the <i>Community Charter</i> .
<b>Landscaping Materials</b>	means any materials used for hard or soft landscaping such as, but not limited to, brick, gravel, stone, rock, concrete, timber, metals, plants, grasses, shrubs, trees used to improve landscape or outdoor space.
<b>Lot</b>	means the smallest unit in which land is designated as a separate and distinct entity on a legally recorded plan or description filed in the Land Title Office and includes a strata lot registered under the Strata Property Act.
<b>Manager</b>	means a person who holds the position of Manager of Planning and Development for the Municipality or a person designated to act on their behalf in the administration of this Bylaw.
<b>“Municipality”</b>	means the Bowen Island Municipality.
<b>Other Materials</b>	includes, but is not limited to, construction and demolition waste, masonry rubble, concrete, asphalt, drywall, refuse, , soil containing invasive species, and other similar matter.
<b>Owner</b>	means an owner as defined in the <i>Community Charter</i> , and in relation to the common property of a strata corporation, includes the strata corporation.
<b>Parcel Line</b>	means any boundary of a lot.
<b>Permit</b>	means the written authority for Site Alteration granted by the Manager or designate pursuant to this Bylaw.
<b>Permit Holder</b>	means a person holding a permit issued by the Municipality.
<b>Registered Professional</b>	means an arborist, engineer, geoscientist, agrologist, environmental consultant, soil scientist, biologist, or land surveyor who is registered with a professional association that is regulated by a statute, appointed to act in the capacities described under the sections of this Bylaw requiring a registered professional;
<b>Removal or remove</b>	means to take, excavate, or extract soil or other material from a parcel on which it exists or has been deposited.
<b>Site</b>	means any parcel of land and any group of lots or parcels of land.
<b>Site Alteration</b>	means any of the following, or combination of the following:

- (a) the placing, dumping or deposit of soil or other materials on land,
- (b) the alteration of the grade of the land by any means including placing soil, clearing, blasting, and grubbing,
- (c) the compaction of soil or the creation of impervious surfaces
- (d) excavating for the placing of a building foundation; and

to **alter a site** means to direct, cause, allow or suffer a site alteration.

**Soil** means clay, silt, topsoil, fill, sand, gravel, cobbles, boulders, peat or other substance of which land is naturally composed, down to and including the bedrock but does not include other material including wood waste.

**Stockpile** means a human-made accumulation of soil or other material held in reserve for future use, distribution or removal.

**Tree** means any living erect, woody plant which is 10cm (4") or more in diameter measured 1.4 m (4.5') above ground, and for the purpose of this Bylaw does not include a hedge.

**Wood waste** means wood residue in mechanically shredded form and includes sawdust, hog fuel, bark, chips, slabs, shavings, trimmings, edgings, or other such waste which is the result of any manufacturing process involved in the production of lumber or other wood products.

#### **4.0 Prohibition**

- 4.1 No person shall cause, direct, suffer or allow site alteration on any lot or site within the Municipality except in accordance with this Bylaw.

#### **5.0 Permit Requirements**

- 5.1 Subject to an exemption in this Bylaw, no person shall cause, permit, suffer or allow the alteration of a lot or site within the Municipality unless the person:

- a) has applied for and been issued a valid and subsisting permit for such alterations; and
- b) carries out the alterations in accordance with this Bylaw and the terms and conditions set out in the permit.

#### **6.0 Permit Exemptions**

- 6.1 Despite section 4 of this Bylaw, a permit is not required where the site alteration:

- a) Results in the deposit or removal of less than 10 cubic metres (m<sup>3</sup>) of soil in a calendar year, or the deposit or removal of less than 20 cubic metres (m<sup>3</sup>) on land with an average slope of less than 20%;
- b) Results in the creation of less than 50 sq. m. of exposed soil;
- c) Is for the purpose of constructing or maintain highways or public trails;
- d) Is related to an in accordance with a valid building permit issued by the Municipality;
- e) Is required as part of the clean-up or remediation of a parcel of land as directed and approved by the *Ministry of Environment*;
- f) Is undertaken as a permitted Agriculture use in a manner consistent with “normal farm practice” as defined in the *Farm Practices Protection (Right to Farm) Act*. (For certainty, soil deposit or removal as a non-farm use or for non-farm uses requires a permit under this Bylaw);
- g) Is undertaken to resolve emergency situations that present an immediate danger related to flooding, erosion or other immediate threats to life or property, including without limitation: the removal of any hazardous trees; fire suppression; flood protection; erosion protection; land slip events; and the clearing of any obstruction in a watercourse if the action is reported to the Municipality within two business days;
- h) Is supervised by the Provincial public health authority or *qualified professional* for the digging of soil percolation test pits to determine in-ground sewage disposal system capacity

- i) Is supervised by *A qualified professional* for the digging of test pits for geotechnical analysis.
- j) Is the creation of a garden or orchard to a maximum size of 500 m<sup>2</sup> and a maximum soil depth of 2 metres.
- k) Is Landscaping material or wood waste stockpiled as inventory for a permitted business as a going concern and not for any other purpose.
- l) Is carried out under the terms of a permit issued under the *Mines Act*.

## **7.0 Permit Application**

- 7.1 An application for a permit must be made on a form provided by the Municipality.
- 7.2 A separate application for a separate permit must be made for each parcel that is to be altered.
- 7.3 The permit application must be signed by the applicant, and
  - a) if the applicant is not the owner, by all owners of the lot or site, and
  - b) In the case of a strata property;
    - i. by an authorized representative(s) of the strata corporation plus the strata lot owner for the property where the site is to be altered; and
    - ii. by resolution of the strata council if the site alterations apply to common property.

## **8.0 Permit Application Fees**

- 8.1 An application for a permit must be accompanied by a non-refundable permit fee and a refundable deposit as set out in Schedule "A".
- 8.2 In the event of unpermitted work carried out in advance of a Permit being issued, a surcharge in addition to the site alteration permit application will be required as set out in Schedule "A".

## **9.0 Permit Application Requirements**

- 9.1 Subject to section 9.2, every application for a site alteration permit which includes between 50 cubic metres (m<sup>3</sup>) and 200 cubic metres (m<sup>3</sup>) of soil removed or deposited, or the creation of between 100 sq. m. and 300 sq. m. of exposed soil should be accompanied by:
  - a) The location of the lot or site:
    - i) from which soil and other material are to be removed, in the case of their being deposited, or
    - ii) from which soil or other material are to be deposited, in the case of their removal;
  - b) the general description and volume of the soil or, other material to be deposited or removed;
  - c) if required by the Manager, detailed plans, data and specifications for the proposed parcel or site prepared by a Registered Professional to a scale of not more than 1:1,000, unless otherwise

authorized by the Manager, showing the contour of the ground in its current state and containing information regarding the site alteration with respect to any (or all) of the matters set out in section 9.3.

9.2 Where an application under section 9.1 relates to a parcel (or portion thereof) that is:

- a) situated within the Agricultural Land Reserve (ALR);
- b) subject to flooding or floodplain hazards, including flood construction level covenants, save harmless covenants or identified on provincial flood mapping; or
- c) situated within a development permit area pursuant to section 488(1)(a) of the *Local Government Act* (protection of the natural environment, its ecosystems and biological diversity), if required by the Manager, the application must include detailed plans, data and specifications for the proposed site prepared by a Registered Professional to a scale of not more than 1:1,000, unless otherwise authorized by the Manager, showing the contour of the ground in its current state and containing information regarding the site alteration with respect to any or all of the matters set out in section 9.3.

9.3 Every application for a permit for site alteration that involves more than 200 cubic metres (m<sup>3</sup>) of soil, or other material, or the creation of more than 300 sq. m. of exposed soil shall be accompanied by detailed plans, data, and specifications for the proposed site prepared by a Registered Professional to a scale of not more than 1:1,000, unless otherwise authorized by the Manager, showing the contour of the ground in its current state and shall contain information regarding the site alteration with respect to the following matters:

- a) the location of the site:
  - (iii) from which soil and other material are to be removed, in the case of their being deposited, or
  - (iv) the location of the site to which soil or other material are to be deposited, in the case of their removal;
- b) the general description and volume of the soil or other material to be deposited or removed;
- c) all features including buildings, structures, tree cover, roads, bridges, and natural watercourses;
- d) land uses and designations, such as ALR, zoning, floodplain areas, environmentally sensitive areas, and First Nations reserve land;
- e) the proposed slopes which will be maintained upon completion of the site alteration;
- f) the proposed methods to control the erosion of the banks of the site alteration area;
- g) the proposed methods of drainage control during the site alterations;
- h) the proposed methods to control noise and dust generated by the proposed site alterations;
- i) the proposed methods and locations of access to the site during the site alterations;
- j) the proposed grading and rehabilitation plan for the site during and upon completion of the proposed site alterations, copies of any remediation requirements of the Agricultural Land Commission;

k) the proposed location of buffers and tree cover, and the location and grade width of berms as may be required;

l) the proposed schedule for the deposit or removal of soil, cut trees or other materials, indicating the amounts to be either removed or deposited on a monthly basis;

m) the proposed routes to and from the site;

n) a traffic management plan, which would include but not be limited to a description of the frequency of vehicles, signage, placement of safety control devices, and other traffic control that would minimize the disturbance created;

n) copies of all other necessary approvals and permits from Federal and Provincial authorities required by statute or regulation in connection with the proposed site alteration;

o) if the proposed site alteration takes place on ALR land, information on the past and proposed farming activity, if applicable, the relationship of the soil deposit or removal to existing or proposed farming activity on the land, impact on the agricultural capability of the land, and a report, prepared by a registered professional agrologist, identifying the positive benefit of the proposed soil deposit or removal to agriculture;

p) a site reclamation plan including an Invasive Species Management Plan, prepared by a registered professional to be incorporated into the permit.

9.4 Without limiting information required as part of an application under subsections 9.1, 9.2 or 9.3, the Manager may require an applicant to provide any other information the Manager considers appropriate or necessary to facilitate the review of the Permit application.

## **10.0 Permit Issuance**

10.1 Where the Manager is satisfied that:

a) an application for a permit under this Bylaw has been submitted in complete form;

b) the proposed site alteration set out in the application conforms with this Bylaw and other applicable bylaws of the Municipality; and

c) the applicant for the permit has paid the Municipality the required application fees and the refundable deposit;

the Manager may issue the permit.

10.2 The Manager may make orders with respect to a particular site, if the Manager considers that an application or site alteration in progress is not in compliance with this Bylaw, and to ensure compliance, may impose specific terms, restrictions, and requirements as a condition of permitting site alteration work to proceed.

10.3 The Manager may impose conditions on a permit that restrict the location of deposit or removal and the type and volume of soil, other materials or trees to be deposited or removed based on the information supplied by the applicant under sections 10.1, 10.2 or 10.3, to ensure the deposit or removal occurs in

the manner and amount specified in the application. Where the applicant is required to submit detailed plans, data and specifications under section 9.2 or 9.3, the Manager may issue the permit on conditions pertaining to subsections 9.3, to ensure the applicant undertakes the site alterations in accordance with the detailed plans, data and specifications provided.

- 10.4 For the purposes of ascertaining compliance with this Bylaw, the Manager may require an owner or Permit Holder to provide records in relation to the parcel or site or site alteration and without limitation, may require a report from a Registered Professional in relation to the parcel, site, or site alteration.
- 10.5 Every owner and Permit Holder of a parcel or site that is the subject of a site alteration must comply with all conditions set out in the Permit or in an order respecting the parcel or site, as well as with the conditions, restrictions and requirements of this Bylaw.
- 10.6 In the event that site alterations begin without a permit, the Manager has the discretion to waive or reduce the surcharge as identified in Schedule A.

### **11.0 GENERAL CONDITIONS**

- 11.1 Subject to any further restrictions imposed by the Manager, or a variation authorized by the Manager in writing, site alteration activities may only occur between the hours of 7:00 a.m. to 8:00 p.m. Monday through Friday, and 9:00 a.m. to 6:00 p.m. Saturday and Sunday. These hours may be varied by the Manager where the Manager considers the work cannot be carried out effectively within these hours.
- 11.2 Site Alteration activities are not permitted on statutory holidays unless prior written authorization from the Manager is provided.
- 11.3 No person may undertake any site alterations so as to do any of the following:
- a) foul, obstruct, divert, or impede the flow of or damage or destroy any watercourse, municipal infrastructure, ditch, drain, sewer, or other water utility, whether privately or publicly owned;
  - b) damage or destroy amenities on the lands or adjacent lands including, without limitation, any utilities, works or services, municipal infrastructure, statutory rights of way, structures, buildings or improvements;
  - c) contravene any Municipal bylaw or provincial or federal law;
  - d) threaten the health and safety of the public;
  - e) result in the use of any parcel or site in a manner inconsistent with the current zoning for the permit lands;
  - f) compromise the hydrological function or drainage capacity of the parcel, site, or adjoining lands;
  - g) result in soil on the parcel, site or adjacent land becoming unstable or susceptible to erosion, slippage, landslide, slumping or settling;
  - h) result in costs for the Municipality or other government entity to provide public utilities, works or services to the parcel, site or adjoining lands;
  - i) permit dust, dirt or noise to escape the parcel line or site boundary that may cause a private or public nuisance;
  - j) result in the coverage of topsoil; or
  - k) allow or suffer the growth, or increased growth of invasive species on the parcel or site that is subject to site alteration.
- 11.4 All descriptions, plans and specifications submitted by the applicant in support of the permit application and marked 'FINAL' by the Municipality form part of and are incorporated into the permit and the permit specifically limits site alterations in accordance with the descriptions, plans and specifications accepted by the Municipality.
- 11.5 The issuance of a permit does not constitute authority to conduct processing of soil on the parcel or site or any part thereof if not appropriately zoned for such use.



- 11.6 Every permit issued pursuant to this Bylaw shall expire twelve (12) months following the date of issuance unless an expiry date for a different term is expressly specified in the permit. Every permit shall cease to authorize site alterations upon the expiry date unless the permit has been renewed in accordance with sections 12.1, and 12.2.
- 11.7 The owner is responsible for the removal of any soil or other material deposited without a permit, or contrary to the terms of a permit. Failure to remove or the soil, or other material within the time period so given for the removal may result in the Municipality or its appointed agents entering onto the parcel or site and carrying out the work required to effect the removal of soil or other material at the expense of the owner.
- 11.8 If required under the terms of the permit, upon completion of the site alteration authorized by a permit, the permit holder shall deliver to the Manager a certificate from a Registered Professional stating that all site alterations are in substantial compliance with the requirements of the permit and good environmental and engineering practices.

## **12.0 PERMIT RENEWAL**

- 12.1 A permit for site alterations may be renewed at the request of the applicant for one additional term not to exceed twelve (12) months if the Manager or his designate determines, after inspecting the permit parcel that the applicant is in full compliance with the permit and this Bylaw.
- 12.2 Application for renewal of a permit or part thereof will be made in the same manner as provided herein for a new permit along with a non-refundable renewal fee as set out in Schedule A. The original application may be re-submitted for renewal, provided all applicable drawings and specifications are updated as necessary to identify any material changes to site conditions and to demonstrate compliance with current bylaws and regulations.

## **13.0 PERMIT REVOCATION AND REINSTATEMENT**

- 13.1 The Manager may issue a stop work order, with immediate effect, acting reasonably, if site alteration activities have not been undertaken in accordance with the terms and conditions of this Bylaw or the permit.
- 13.2 The Manager may, by delivery of written notice to a permit holder, revoke or suspend a permit under this Bylaw where:
- a) the Permit Holder has contravened this Bylaw, or another bylaw of the Municipality;
  - b) the Permit Holder has contravened a term or condition of the permit;
  - c) the permit was issued on the basis of descriptions, plans and specifications in support of the permit application that were incorrect or misleading; or,
  - d) the permit holder failed or refused to comply with a stop work order made pursuant to this Bylaw.
- 13.3 The Manager may reinstate a permit if the applicant provides a report from a Registered Professional confirming compliance with the Bylaw.

## **14.0 ENFORCEMENT**

- 14.1 The Manager, Bylaw Enforcement Officer, other Municipal employees, persons retained by the Municipality for inspection purposes, and agents of the Municipality are authorized individually

or in combination to enter at all reasonable times on any parcel to ascertain whether the provisions of this Bylaw are being observed.

- 14.2 A person must not hinder or obstruct a person authorized under section 14.1 from carrying out an inspection or enforcement of this Bylaw.

## 17.0 OFFENCES AND PENALTIES

- 17.1. A violation of any of the provisions identified in this Bylaw shall result in liability for penalties and late payment amounts established in the Municipality's Bylaw Notice Enforcement Bylaw.
- 17.2. Every person who violates a provision of this Bylaw, or who consents, allows or permits an act or thing to be done in violation of a provision of this Bylaw, or who neglects or refrains from doing anything required by a provision of this Bylaw, or fails to comply with an order, direction or notice made or delivered under this Bylaw, commits an offence and is liable, upon conviction, to the penalties prescribed under the *Offence Act*.
- 17.3. No person shall interfere with a Licence Inspector in issuing a bylaw notice or otherwise enforcing this Bylaw or carrying out their duties under this Bylaw.

## 18.0 IN FORCE

- 18.1 This bylaw comes into force on January 1, 2023.

**READ A FIRST TIME** this 27 day of June , 2022;

**READ A SECOND TIME** this 11<sup>th</sup> day of July, 2022;

**READ A THIRD TIME** this this 11<sup>th</sup> day of July, 2022;

**FINALLY ADOPTED** this 20<sup>th</sup> day of September, 2022.

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Gary Ander  
Mayor

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Hope Dallas  
Corporate Officer

**Schedule A:**

**Site Alteration Permit Fees**

<b>Schedule A: Site Alteration Permit Fees: Permit</b>	<b>Fee</b>	<b>Refundable Deposit*</b>	<b>Unpermitted Work in advance of a Site Alteration Permit, Surcharge in addition to the Site Alteration Permit Application Fee</b>
<b>SECTION 10</b>			
Site Alteration Permit for the deposit or removal of soil or other material less than 50 cubic metres (m <sup>3</sup> )	\$50	Not Applicable	Not Applicable
Site Alteration Permit for deposit or removal of more than 50 cubic metres (m <sup>3</sup> ) and up to 200 cubic metres (m <sup>3</sup> ), other material in any calendar year	\$250	\$1,000	\$1,000
Site Alteration Permit for deposit or removal of more than 200 cubic metres (m <sup>3</sup> ) and up to 1,000 cubic metres (m <sup>3</sup> ), or other material in any calendar year	\$500	\$2,500	\$2,500
Site Alteration Permit for the deposit or removal of more than 1,000 cubic metres (m <sup>3</sup> ), or other material in any calendar year.	\$1000	\$5,000	\$5,000
<b>SECTION 12</b>			
Permit Renewal		\$ 100	