

**THE CORPORATION OF THE TOWNSHIP OF LANGLEY**  
**EROSION AND SEDIMENT CONTROL BYLAW 2006 NO. 4381**  
**AMENDMENT BYLAW 2009 NO. 4754**

**EXPLANATORY NOTE**

Bylaw No. 4754 amends Erosion and Sediment Control Bylaw 2006 No. 4381 by updating and amending clauses and definitions for consistency with related Bylaws, Township Policies and the current Best Management Practices for erosion and sediment control. Further it includes previously omitted fees for service on a user pay basis.

**THE CORPORATION OF THE TOWNSHIP OF LANGLEY**

**EROSION AND SEDIMENT CONTROL BYLAW 2006 NO. 4381**

**AMENDMENT BYLAW 2009 NO. 4754 4754**

WHEREAS Section 8(3)(j) of the Community Charter, S.B.C. 2003, c. 26 authorizes Council to regulate, prohibit and impose requirements in relation to the protection of the natural environment;

AND WHEREAS Council deems it in the best interests of the environmental well being of the community that the streams, creeks, waterways, ditches, storm sewers and drains that make up the Township of Langley's Drainage System are protected from sediment and sediment-laden water;

NOW THEREFORE, the Municipal Council of the Corporation of the Township of Langley, in Open Meeting Assembled, ENACTS AS FOLLOWS:

1. This Bylaw may be cited for all purposes as "Erosion and Sediment Control Bylaw 2006 No. 4381 Amendment Bylaw 2009 No.4754".
2. The "Erosion and Sediment Control Bylaw 2006 No. 4381" is amended by deleting the text in its entirety and replacing it with the following:

**PART 1.**

1. Title  
This Bylaw may be cited as "Erosion and Sediment Control Bylaw 2009 No. 4381, as amended".
2. Definitions  
In this Bylaw, unless the context otherwise requires, the following words shall have the meanings described:  
  
"CONSTRUCTION" includes clearing, grubbing, excavating, grading, filling, installing services, constructing buildings and structures, and landscaping.  
  
"CPESC" means a Certified Professional in Erosion and Sediment Control under the certification program administered by the BC Chapter of the Soil and Water Conservation Society and the International Erosion Control Association.  
  
"DEVELOPABLE AREA" means all the land included in a development application or building permit application, but not land that is deemed environmentally sensitive and therefore not available for development.  
  
"ESC COORDINATOR" means the employee(s) of the Township whose duties include the monitoring and management of this Bylaw's provisions.

**“ESC FACILITIES”** means all erosion and sediment control works, measures, facilities and methods constructed or installed to reduce the likelihood of sediment and sediment-laden water reaching the Township Drainage System during all stages of Construction.

**“ESC MONITOR”** means a Qualified Professional responsible for monitoring and reporting on the ESC facilities.

**“ESC PLAN”** means the Erosion and Sediment Control Plan explained in Part II of this Bylaw.

**“ESC PERMIT”** means the Erosion and Sediment Control Permit issued by the Township to the Owner, pursuant to the terms and conditions of this Bylaw.

**“ESC FACILITIES DESIGNER”** means a Qualified Professional, trained in designing and implementing ESC Plans, who will design and supervise implementation of the ESC Facilities and provide confirmation that the ESC Facilities have been constructed and installed pursuant to the ESC Plan.

**“GUIDELINES”** means the latest edition of the document entitled “Land Development Guidelines for the Protection of Aquatic Habitat”, co-published by the Ministry of Environment and the Department of Fisheries and Oceans as amended from time to time.

**“MUNICIPAL ENGINEER”** means the General Manager, Engineering or his representative.

**“NOTICE TO COMPLY”** means a written notice from the Municipal Engineer to the Owner that:

- a) Alleges noncompliance with one or more Bylaw or Permit requirements, and/or notes any failures to maintain the validity of the Permit;
- b) Requires that all construction activities, other than those necessary to remedy the specified noncompliance must cease; and
- c) Requires remedy of the noncompliance within 24 hours, or if in the opinion of the Municipal Engineer special circumstances exist, on a date the Municipal Engineer considers reasonable given the circumstances.

**“NTU”** means nephelometric turbidity unit and is a standard unit measure of water turbidity.

**“OWNER”** means, in respect of real property:

- a) The registered owner of an estate in fee simple;
- b) The tenant for life under a registered life estate;
- c) The registered holder of the last registered agreement for sale;
- d) The holder or occupier of land held in the manner referred to in section 228 [*taxation of Crown land used by others*] or section 229 [*taxation of municipal land used by others*], and
- e) An Indian who is an owner under the letters patent of a municipality incorporated under section 12 [*incorporation of reserve residents as a village*] of the *Local Government Act*;

**“QUALIFIED PROFESSIONAL”** means an engineer, biologist, geoscientist, CPESC, applied scientist or technologist, acting alone or together with another Qualified Professional, if:

- a) The individual is registered and in good standing in British Columbia with an appropriate professional organization constituted under an Act, acting under that association’s code of ethics and subject to disciplinary action by that association;
- b) The individual’s area of expertise is recognized in the field of erosion and sediment control as one that is acceptable for the purpose of providing all or part of the design and monitoring of the ESC Facilities in respect of that development proposal, and
- c) The individual is acting within that individual’s area of expertise.

**“SEDIMENT OR SEDIMENT LADEN WATER”** means any sediment, rock, gravel, sand, soil, silt, clay, earth, construction or excavation wastes or other substances whether or not suspended in water.

**“SIGNIFICANT RAINFALL EVENT”** means any precipitation event, which meets or exceeds the intensity of 25mm in a 24 hour period.

**“STOP WORK ORDER”** means a written notice from the Municipal Engineer to the Owner ordering the Owner to halt all construction activity on the subject site until further notice.

**“TOWNSHIP”** means the Corporation of the Township of Langley.

**“TOWNSHIP DRAINAGE SYSTEM”** means all rivers, streams, creeks, waterways, watercourses, ditches, channels, storm sewers and drains located on Township roads, property and rights-of-way in favour of the Township.

**“TREATMENT CHEMICAL”** means any substance which is intentionally introduced to water in order to alter the physical or chemical properties.

**“90% FINAL COVER”** means the stage of development at which 90% of final ground cover is in place.

3. Prohibition of Discharge

- a) No person shall cause, or permit another person to cause, sediment or sediment-laden water to be discharged, either directly or indirectly, into the Township Drainage System.
- b) Without limiting the generality of Section 3. a), no person shall discharge, either directly or indirectly water with turbidity greater than 25 NTU, or as indicated by current Fisheries and Oceans Canada Guidelines/Best Management Practices, into the Township Drainage system, unless a Significant Rainfall Event has occurred.
- c) For Construction sites where an ESC permit has been issued, no person shall discharge, either directly or indirectly, water with turbidity greater than 25 NTU, or as indicated by current Fisheries and Oceans standards, into the Township Drainage System unless a Significant Rainfall Event has occurred.

- d) For Construction sites where an ESC Permit has been issued, no person shall discharge, either directly or indirectly, water with a turbidity greater than 100 NTU, or as indicated by current Fisheries and Oceans Canada standards, into the Township Drainage System within 24 hours of a Significant Rainfall Event.

4. ESC Permit

- a) All Construction sites, on land having a Developable Area less than 2000m<sup>2</sup>, shall comply with the water quality criteria described in Section 3. b) and utilize the best management practices for erosion and sediment control set out hereto in Schedule "B". However, should a person wish to use NTU limits for a Significant Rainfall Event as specified in Section 3. d), an ESC Permit will be required regardless of Developable Area.
- b) No Construction shall occur on any land having a Developable Area over 2000m<sup>2</sup> and zoned other than agricultural as per the Townships Zoning Bylaw 1987 No. 2500, as amended, until such time as the Township has issued an ESC Permit, or a written exemption to the ESC Permit requirement.
- c) If works, other than those directly related to the activities of a permit holder, result in a negative impact on the Township Drainage System, then that person causing the impact and not the permit holder shall be held responsible.
- d) An application for an ESC Permit must:
  - i. be made in the form set out in Schedule "A" to this bylaw;
  - ii. be signed by the Owner;
  - iii. have attached an ESC Plan;
  - iv. name an ESC Facilities Designer and ESC Monitor as identified in the Letter of Appointment attached hereto as Schedule "C";
  - v. include a non-refundable fee of a minimum of five hundred dollars (\$500) or as calculated by the ESC Coordinator at 5% of the supply, installation and maintenance costs of the ESC Facilities up to a maximum of two thousand dollars (\$2,000); and
  - vi. include a security deposit in cash, certified cheque or an Irrevocable Letter of Credit drawn on a Canadian Chartered Bank and payable to the Township of Langley for a term of at least twelve (12) months in an amount calculated by the ESC Coordinator to be one hundred and twenty per cent (120%) of the supply, installation and maintenance cost of the ESC Facilities proposed for the site or in an amount as determined by the Municipal Engineer.

5. Exception

- a) Notwithstanding Sections 4. a) and b), the requirement to obtain an ESC Permit may be waived by the Municipal Engineer should the proposed Construction be shown to have no negative impact on the Township Drainage System, having regard to the following factors:
  - i. construction timing and schedule;
  - ii. size of the proposed building or structure;
  - iii. soil conditions;
  - iv. existing ground cover (trees, gravel, etc.);
  - v. topographical conditions; and
  - vi. location of proposed Construction with respect to the location of the Township Drainage System.

- b) Exemptions must be requested in writing, signed by a Qualified Professional and must be accompanied by an administration fee of five hundred dollars (\$500).

6. Term

- a) An ESC Permit shall be valid for 12 months following the date of issuance. The ESC Permit may be extended for an additional period of time if the holder of the ESC Permit applies in writing, up to 1 month prior to the permit expiry date, to the ESC Coordinator, whose acceptance will not be unreasonably withheld.
- b) Applications for extension must be accompanied by an administration fee of five hundred dollars (\$500) and will be valid for no longer than one year from the original expiry date of the ESC Permit.

7. Amendments

- a) Amendments must be requested in writing, signed by a Qualified Professional and must be accompanied by an administration fee of five hundred dollars (\$500).

8. Security Deposit

- a) The Security deposit submitted with the ESC Permit application is to secure the full and proper compliance with the provisions of the ESC Permit and of this Bylaw. In the event the holder of an ESC Permit has not complied with the provisions of this Bylaw or fulfilled all the terms and conditions expressed in the ESC Permit and Construction has commenced, the necessary funds from the security deposit may be drawn down, at the Township's option, and the money used either by the Township or its agents to protect the Township Drainage System.
- b) When the amount of the security deposit is insufficient for the Township to complete the works necessary for protecting the Township Drainage System, the holder of the ESC Permit shall pay any deficiency to the Township on demand.
- c) When the holder of an ESC Permit complies with the provisions of this Bylaw and fulfills the terms and conditions expressed in the ESC Permit, the Township shall return the security deposit to that person at such time as the development has reached 90% Final Cover or earlier when the ESC Facilities can be removed to the acceptance of the Municipal Engineer.

**PART II**

9. ESC Plan

- a) All ESC Plans must be designed in accordance with the Guidelines and best management practices for erosion and sediment control as set out hereto in Schedule "B".
- b) All ESC Plans must be prepared under the guidance of an ESC Facilities Designer and must be checked, signed and sealed by the Facilities Designer.
- c) All ESC plans submitted with an ESC Permit application must be acceptable to the Municipal Engineer and must include, at a minimum, the following:
  - i. A multi stage plan which shows the measures for erosion and sediment control during clearing and grubbing, the installation of services, the building construction and the final grading and landscaping;
  - ii. Anticipated soil type in all areas to be disturbed and at all depths to be excavated;

- iii. Notes or other instructions that ensure that any existing ground cover are maintained as long as practicably possible, work is staged to prevent erosion whenever possible and that exposed soils are placed under non-erosive cover as soon as possible;
- iv. Proposed methods to ensure licensed vehicles do not track sediment or other debris onto paved roads;
- v. Proposed site access locations;
- vi. Wheel wash facilities as required;
- vii. Minimum specifications for all ESC related materials including but not limited to; gravels, sediment fence, hydroseed or other erosion or sediment controls referred to in the ESC Plan;
- viii. Property line(s) and other legal designations of the subject property or properties;
- ix. Locations of any existing underground services, as well as any proposed connection to existing services from the site;
- x. Location(s) of any trenches, basements, vaults or any other underground structures with proposed methods to manage excavation and trench dewatering;
- xi. Location(s) of any existing drainage infrastructure and the proposed measures to protect it;
- xii. Location(s) of any existing and proposed watercourses, ditches, swales or any other body of water within 50 metres of the site boundaries, along with the proposed protection measures;
- xiii. Location(s) of any existing and/or proposed buildings, including residential buildings or ancillary buildings or structures;
- xiv. Existing and proposed contours and relevant spot elevations;
- xv. Proposed ESC Facilities to be implemented on site, which shall include source controls as the primary method of erosion and sediment control;
- xvi. Pond sizing calculations, if applicable;
- xvii. Pond deactivation methodology, if applicable;
- xviii. For ESC Plans including Treatment Chemicals, the proponent must also provide:
  - a. The Material Safety Data Sheet and technical specifications including ecological toxicity data from the Treatment Chemical manufacturer;
  - b. A field testing kit for the Treatment Chemical, sensitive to one-tenth the LC50 of said Treatment Chemical for the most locally applicable species of aquatic organism noted on the Material Safety Data Sheet;
  - c. Anticipated normal dose rate
  - d. A detailed description of any apparatus used with the Treatment Chemical. Any automated apparatus must include a failsafe shutoff such that in case of chemical overdose or excess turbidity the discharge to the Township drainage system is automatically stopped;
  - e. An operations manual for the apparatus; and
  - f. A list of qualified individuals to operate the apparatus.
- xix. Proposed methods to restore disturbed areas following the completion of building construction; and
- xx. Any and all other details pertaining to the proposed Construction, describing how the ESC Facilities will meet the water quality criteria.

- d) Upon acceptance of the ESC Plan by the Municipal Engineer and approval of the ESC Permit application, the Municipal Engineer may issue an ESC Permit which may include such specific terms and conditions as the Municipal Engineer considers necessary in his sole discretion to reduce the likelihood of sediment and sediment laden water reaching the Township Drainage System.
- e) It is the responsibility of the Owner to ensure that all ESC Facilities described in the ESC Plan are constructed, implemented, installed, monitored, maintained and decommissioned according to the ESC Plan.

### **PART III**

#### **10. Design, Monitoring and Reporting**

- a) At the ESC Permit Application stage, the Owner must identify in a letter of appointment, in the form and substance of Schedule "C" hereto:
  - i. An ESC Facilities Designer who will design and supervise the implementation of the ESC Facilities; and
  - ii. An ESC Monitor who will:
    - a. Inspect all erosion and sediment control related works at minimum once per week, or after each Significant Rainfall Event whichever is greater;
    - b. Immediately report failures and maintenance requirements to the Owner;
    - c. Visually monitor discharge water quality; at any time the water appears turbid, test using a hand held meter with a manufacturer's specified range that includes 25 and 100 NTU or obtain samples in a laboratory supplied and prepared sample container and deliver samples to an independent CALA (Canadian Association for Laboratory Accreditation) accredited laboratory for turbidity measurement;
    - d. Immediately reports Permit violations to the Township of Langley ESC Coordinator; and
    - e. Maintain a log book which includes detailed documentation of the above noted activities. The monitoring log book must be provided to the ESC Coordinator within twenty four (24) hours of any request for it.

#### **11. Signage**

- a) Every Construction site where an ESC Permit has been issued must have a waterproof sign posted in a location visible from outside the Construction site for the duration of the Construction project. The sign shall clearly state the name and phone number of the ESC Facilities Designer, the ESC Monitor and the Township ESC Coordinator.

## **PART IV**

### 12. Offences and Enforcement

- a) The Municipal Engineer, the ESC Coordinator and the Township's Bylaw Enforcement Officers may enter upon the Construction site to carry out such inspections and tests as are reasonably necessary to ascertain whether there is compliance with the provisions of this Bylaw or an ESC Permit issued pursuant to this Bylaw. Where any inspection carried out pursuant to this Bylaw discloses conditions contrary to the Bylaw or a Permit issued pursuant to this Bylaw and a subsequent inspection is thereby made necessary, the fee for such subsequent inspection shall be Two Hundred Dollars (\$200) for each occurrence.
- b) For the purposes of issuing tickets and/or levying fines pursuant to this Bylaw, turbidity readings obtained using hand-held devices in the field shall be verified and confirmed through independent laboratory tests. Notice to Comply or Stop Work Orders may be issued by the Municipal Engineer, ESC Coordinator, and Township's Bylaw Enforcement Officers, based on visual inspection and/or field turbidity measurements.
- c) Where a person has failed to maintain the validity of the Permit or meet the provisions of this Bylaw, the Municipal Engineer may serve on such persons a Notice to Comply.
- d) A Notice to Comply must be served on the holder of the ESC Permit or the named ESC Monitor or the person responsible for violating the bylaw or all three by:
  - i. Personal service, or
  - ii. Return registered mail to the owner; it is deemed to have been served on the third day after mailing.
- e) If a person fails to comply with a Notice to Comply or Stop Work Order, the Township may utilize all or part of the security deposit to take whatever action the Township deems necessary to protect the Township Drainage System. The Township may concurrently pursue any other legal remedy it may believe is necessary.
- f) Any person who violates a provision of this Bylaw commits an offence punishable on summary conviction and may, at the discretion of the Municipal Engineer, be liable to a fine of not less than two thousand dollars (\$2000) and not more than ten thousand dollars (\$10,000) for each day on which an offence exists or is continuing, together with such costs as a court of competent jurisdiction may order. For the purposes of enforcing any judgment of a court or collecting any fine levied hereunder, the provisions of the Offence Act, R.S.B.C. 1996 c 338 as amended from time to time shall apply.
- g) All persons who commit an offence against this Bylaw shall be subject to a violation ticket in the amount and for offences prescribed in the Township of Langley Municipal Ticket Information Bylaw 2005, No. 4481 as amended from time to time.
- h) Prosecution of a person pursuant to Section 12. g) herein does not exempt the ESC Permit holder from remedying the non-compliance in accordance with the Notice to Comply.
- i) Where an offence is a continuing offence, each day that the offence continues may constitute a separate and distinct offence with the same minimum and maximum fines applying as set out in Section 12. g), h) and i) above.
- j) Fisheries and Oceans Canada, the British Columbia Ministry of Environment or Environment Canada may be notified of any violation of a Permit or the Bylaw.

13. General Provisions

- a) The provisions of this Bylaw are severable. If any provision is for any reason held to be invalid by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of the Bylaw.
- b) The schedules attached to this Bylaw shall be deemed to be an integral part of this Bylaw and enforceable as part of this Bylaw. The following Schedules are attached and form part of this Bylaw:
  - i. Schedule A – Erosion and Sediment Control Permit Application
  - ii. Schedule B – Erosion and Sediment Control for Building Sites Less Than 2000 m<sup>2</sup>
  - iii. Schedule C – Letter of Appointment
- c) In this Bylaw wherever the singular or the masculine is used, the same shall be construed as meaning the plural or feminine or body corporate or politic where the context or the parties hereto so require.
- d) Schedule B to the Subdivision and Development Control Bylaw 1994, No. 3335 and amendments thereto refers to siltation controls in general terms. Nothing in the Subdivision and Development Control Bylaw 1994 No. 3335 and amendments thereto shall derogate from the specifics set out in this Bylaw and should any ambiguity arise between the Subdivision and Development Control Bylaw 1994 No. 3335 and amendments and this Bylaw, this Bylaw shall prevail.

READ A FIRST TIME the	22	day of	June	, 2009
READ A SECOND TIME the	22	day of	June	, 2009
READ A THIRD TIME the	22	day of	June	, 2009
RECONSIDERED AND ADOPTED the		day of		, 2009

\_\_\_\_\_ Mayor \_\_\_\_\_ Deputy Township Clerk



## REPORT TO MAYOR AND COUNCIL

**PRESENTED:** JUNE 22, 2009 - REGULAR MEETING  
**FROM:** COMMUNITY DEVELOPMENT DIVISION  
**SUBJECT:** EROSION AND SEDIMENT CONTROL BYLAW 2006 NO. 4381  
AMENDMENT BYLAW 2009 NO. 4754

**REPORT:** 09-89  
**FILE:** 3900-25-4381

---

### RECOMMENDATION(S):

**That** Council receive this report entitled Erosion and Sediment Control Bylaw 2006 No. 4381 Amendment Bylaw 2009 No. 4754, for information; and further

**That** Council give first, second and third reading to Erosion and Sediment Control Bylaw 2006 No. 4381 Amendment Bylaw 2009 No. 4754.

### EXECUTIVE SUMMARY:

Erosion and Sediment Control Bylaw No. 4381 was adopted by Council on September 25, 2006 as a result of a mandate issued by the Department of Fisheries and Oceans (DFO) to regulate the amount of silt laden storm water entering into storm sewer systems, ditches, creeks and streams during construction activity of development projects. The bylaw has been effective by requiring Developers to retain qualified professionals to prepare detailed erosion and sediment control plans and obtaining Permits from the Township prior to construction; and further to monitor the site during construction to ensure bylaw compliance. In consultation with DFO and the development community staff has recently completed a comprehensive review of the bylaw and the proposed amendments, which could generally be termed as 'housekeeping' are intended to correct any inconsistencies with other related bylaws, restructure enforcement measures, address permitting fees and provide updated best management practices, as reflected in Schedule "A" of the Bylaw, presented as Attachment "A" to this report.

### PURPOSE:

The purpose of this report is to request Council's consideration of amendments to the Erosion and Sediment Control Bylaw.

**BACKGROUND/HISTORY:**

In 2006 the Department of Fisheries and Oceans enacted a mandate to regulate the amount of silt laden storm water entering streams, creeks, waterways, waterworks, ditches, drains and the Municipal drainage system. To satisfy this requirement, Council adopted the Erosion and Sediment Control (ESC) Bylaw No. 4381 on September 25, 2006.

The new position of ESC Coordinator was hence created to implement the Bylaw and review plans, issue permits, monitor development sites and provide enforcement measures in accordance with Erosion and Sediment Control Bylaw No. 4381. Initially the implementation of the bylaw concentrated on educating the development industry and was successful in communicating the importance of generating a functional “staged plan” design to control erosion and minimize the amount of sediment generated during the construction phase of development. In 2008, the full implementation of the bylaw was enforced which included the preparation of an Erosion and Sediment Control Permit for each development project, submission of monitoring results to ensure compliance with bylaw regulations and enforcement measures as required. We have recently reviewed the effectiveness of the bylaw and have determined that there is a need to amend the bylaw to correct inconsistencies with other related bylaws, restructure enforcement measures, address the Permitting process and Fees, and update best management practices.

**DISCUSSION/ANALYSIS:**

The current Erosion and Sediment Control Bylaw has been fully implemented for approximately one year and a comprehensive review has been completed recently. In consultation with the Department of Fisheries and Oceans, other jurisdictions and the development industry, staff has proposed amendments to address inconsistencies with other related bylaws, restructure enforcement measures, the permitting process and fees, and update approved best management practices. More specifically, the inconsistencies with other bylaws relate mainly to terminology used in other bylaws. The restructure of enforcement measures will allow for ticketing for non-compliance prior to issuance of stop work orders. A review of current permitting process and fee structure indicates a shortfall in the anticipated funding for bylaw administration. Therefore, additional fees are proposed to ensure the adequate level of service is being provided when amendments are proposed to a previously approved plan. Lastly, the process and procedure to permit the use of new environmentally friendly products have been incorporated into the bylaw.

**Intergovernmental Implications**

The proposed Bylaw amendments were developed and are being implemented in collaboration with the City of Surrey, Department of Fisheries and Oceans, and representatives from the development industry.

**Financial Implications**

The revised Permitting Fee structure is based on a “user pay” principle and is intended to ensure fees are set at a level commensurate with services provided. Additional fees relate to permit amendments, extensions and exemptions which are not currently charged to applicants.

Respectfully submitted,

David Anderson  
MANAGER, DEVELOPMENT ENGINEERING  
for  
COMMUNITY DEVELOPMENT DIVISION

DA/da

**ATTACHMENT A:** Erosion & Sediment Control Bylaw 2006 No. 4381 Amendment Bylaw  
2009 No. 4754