

CITY OF COQUITLAM

BYLAW NO. 1914 (1988)

A bylaw to regulate the removal and deposit of Soil Substances
from Lands within the City of Coquitlam

**Consolidated with amendments in bylaws: (1) 2086, 1989; (2) 2248, 1990; (3) 2363, 1991;
(4) 2424, 1992; (5) 2574, 1993; (6) 2767, 1994; (7) 2904, 1995; (8) 3031, 1996; (9) 3286, 1999;
(10) 3441, 2001; (11) 3572, 2003; (12) 4021, 2009; (13) 4350, 2012; (14) 4703, 2017;
(15) 4715, 2017**

NOTE: This is a consolidation for convenience purposes only and does not have the force of law.

WHEREAS the *Community Charter*, S.B.C. 2003, c. 26 permits Council for the City of Coquitlam to regulate the removal and deposit of soil, sand gravel, rock and other substances of which land is composed, and to require the holding of a permit for the purpose, and to fix a fee for the permit, and to make different regulations and prohibitions for different areas;

AND WHEREAS the Council for the City of Coquitlam wishes to encourage the safe orderly and economical exploitation of the soil substance deposits in the Coquitlam River Valley and in other lands in the Municipality;

AND WHEREAS the Council for the City of Coquitlam has adopted the Northwest Coquitlam Official Community Plan (Bylaw 1713, 1987) and the Northeast Coquitlam Official Community Plan (Bylaw 1611, 1987) which establish the policy for limiting sand and gravel excavation to certain areas within the Municipality and wishes to facilitate the implementation of the Official Community Plans.

NOW THEREFORE, the Municipal Council of the City of Coquitlam ENACTS AS FOLLOWS:

1. This Bylaw may be cited for all purposes as the “City of Coquitlam Soil Removal and Deposit Regulation Bylaw No. 1914, 1988.

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

“Adjustment Amount” means the amount of refund or additional payment described in the Notice of Adjustment.

“Council” means the Municipal Council of the City of Coquitlam.

“Deposit” or “Deposited” means, as the case may be, the deposit of a Soil Substance originating from outside of a Soil Substance Area for incorporation into land within a Soil Substance Area.

“Designated Areas” means land within the municipality which has been specifically designated by Council as a Soil Substance Area pursuant to Section 6 of this Bylaw.

“Mines Act” means the Mines Act S.B.C. 1980 Chapter 28 and amendments thereto.

“Municipal Engineer” means the municipal officer appointed as Municipal Engineer by the City of Coquitlam.

“Notice of Adjustment” means a notice of refund or a demand for payment in arrears of Removal and Deposit Fees.

“Official Community Plan” means an official community plan and amendments thereto of part or all of the City of Coquitlam duly adopted by bylaw of the City of Coquitlam.

“Owner” means the registered owner of the fee simple interest in the lands or the owner of a right, interest or reservation in the Soil Substance.

“Permit” means a valid Soil Substance Permit issued by the City of Coquitlam pursuant to this Bylaw or pursuant to Bylaw 1841, 1988.

“Permit Fee” means the fee required to be paid to the City of Coquitlam pursuant to paragraph 12 of this Bylaw.

“Removal”, “Remove” or “Removed” means, as the case may be, the removal of a Soil Substance originating from a Soil Substances Area to outside of the Soil Substance Area.

“Removal and Deposit Fee” means the fee payable to the City of Coquitlam by a Permit holder for the Removal or Deposit of Soil Substance pursuant to paragraph 13 of this Bylaw.

“Soil Substance Permit Application” means an application in the form approved by the Municipal Engineer from time to time.

“Soil Substance Permit” means the written authority granted by the Municipal Engineer pursuant to this Bylaw, or a permit issued by the Municipal Engineer pursuant to Bylaw No. 1841, 1988.

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

“Soil Substance Area” means those areas of land shown as a Soil Substance Area on Appendix I and Appendix II attached to this Bylaw.

3. This Bylaw shall be construed in a manner which is consistent with the provisions of the Mines Act, 1980, S.B.C. Chapter 28, and amendments thereto; the Fisheries Act, R.S.C. 1970 and amendments thereto; the Waste Management Act S.B.C. 1982 Chapter 41 and amendments thereto; and other Statutes of Canada and the Province of British Columbia.

4. No person shall Remove or Deposit any Soil Substance from or onto lands within the City of Coquitlam unless:

- a) the Removal of Soil Substance is incidental to building construction or landscaping activities for which approval has been granted by the City of Coquitlam and the quantity of soil substance is less than 5,000 cubic meters;
- b) a valid Conservation Permit or other valid permit is issued by the City of Coquitlam and this permit allows the Removal of Soil Substance incidental to preload or other construction activities involving earthworks;
- c) a valid Soil Substance Permit has been issued by the City of Coquitlam authorizing the Removal or Deposit of the Soil Substance; or
- d) the Soil Substance Removal is incidental to construction or other activities carried out by or on behalf of the City of Coquitlam.

5. No Soil Substance Permit shall be issued unless:

- a) the lands are located within the Soil Substance Area outlined in Schedule “D” to Northwest Area Plan of the Citywide Official Community Plan as depicted in Appendix I and made part of this Bylaw; or
- b) the lands are located within the Soil Substance Area outlined in Schedule “E” to Northeast Coquitlam Area Plan of the Citywide Official Community Plan as depicted in Appendix II to this Bylaw; or

- c) the lands are located within the Designated Areas shown cross-hatched on Appendix I hereto; and
- d) the City of Coquitlam Zoning Bylaw No. 1928 as amended, permits the resource use of those lands or transporting or processing or measurement or sale, or other activities related to Soil Substance Removal or Deposit on those lands; and
- e) the City receives a copy of the written approval of the Chief Inspector of Mines of British Columbia for the mining system intended to be used on those lands which is required by Sections 6, 7, 8, 9, 10 and 11 of the Mines Act, S.B.C. 1980, Chapter 28, and amendments thereto; and
- f) the City receives a copy of the written approval and permit of the Chief Inspector of Mines for British Columbia for a reclamation plan for those lands which is required by the Mines Act, S.B.C. 1980, Chapter 28, and amendments thereto; and
- g) the City receives a copy of any Waste Discharge Permits issued under the Waste Management Act S.B.C. 1982, Chapter 41, and amendments thereto for discharge of solid, liquid or airborne waste from those lands.

6. Council hereby designates the areas of land shown cross-hatched on Appendix I hereof as Designated Areas for the purposes of this Bylaw. These lands shall remain Designated Areas for a period of two (2) years from the date of adoption of this Bylaw by Council. Prior to the expiry of the two (2) year period referred to herein Council shall review the lands designated as Designated Areas and the Official Community Plan to determine if the implementation of policies 11 and 12 of the Official Community Plan require that the areas of land designated as Designated Areas are required as Soil Substance Areas.

7. A Soil Substance Permit may be issued by the Municipal Engineer, in a form approved by the Municipal Engineer from time to time, for any period not exceeding two (2) years.

8. A separate Soil Substance Permit shall be required by each person that Removes or Deposits a Soil Substance within a Soil Substance Area.

9. Soil Substance Permit Applications shall be made to the Municipal Engineer in writing in the form approved by the Municipal Engineer from time to time.

10. Soil Substance Permit Applications shall be authorized by the Owner. Such authorization shall be in writing and shall be attached to the Soil Substance Permit Application.

11. a) A Soil Substance Permit issued by the Municipal Engineer pursuant to Bylaw 1841, 1988 shall be a valid Soil Substance Permit for the purposes of this Bylaw.
- b) The applicant of a Soil Substance Permit application may within 10 business days of being notified in writing of the Municipal Engineer or designee's decision on their application, request Council to reconsider the Municipal Engineer or designee's decision by giving notice in writing to the City Clerk setting out the grounds on which the owner considers the decision to be inappropriate, including the specific decision being challenged.
- c) The City Clerk will place each request for reconsideration on the agenda of a meeting of Council to be held as soon as reasonably possible but not more than 10 weeks from the date on which the request for reconsideration was delivered.
- d) The City Clerk will notify the Municipal Engineer or designee of each request for reconsideration and the Municipal Engineer or designee will, prior to the date of the meeting at which the reconsideration will occur, provide a written report to Council setting out, at the level of detail the Municipal Engineer or designee considers appropriate, the rationale for the Municipal Engineer or designee's decision.
- (e) The City Clerk will notify the applicant of the date of the meeting at which reconsideration will occur.
- (f) Council will either confirm the decision of the Municipal Engineer or designee or substitute its own decision.
12. The fee payable to the City of Coquitlam for each Soil Substance Permit shall be the amount of One Hundred Dollars (\$100.00). The Permit Fee shall be paid at the time that the Soil Substance Permit Application is submitted.
13. a) The holder of a Soil Substance Permit shall pay to the City of Coquitlam a Removal and Deposit Fee for each and every cubic meter of Soil Substance Removed from or Deposited onto a Soil Substance Area under each Soil Substance Permit as follows:

DATE	RATE PER CUBIC METER OF SOIL SUBSTANCE REMOVED OR DEPOSITED
From January 1, 2013 until otherwise amended by Council for the City of Coquitlam:	Fifty-three cents (\$0.53)

The Removal and Deposit Fee shall be paid to the City of Coquitlam on or before the 30th day of each month for the amount of Soil Substance Removed from or Deposited onto a Soil Substance Area in the preceding month.

- b) Where a Removal and Deposit Fee is payable or has been paid pursuant to paragraph (a) hereof for the Removal of a Soil Substance and the Soil Substance for which the fee is payable or has been paid has been moved from one Soil Substance Area to another Soil Substance Area, or within a Soil Substance Area, including for the purpose of Deposit, no additional Removal and Deposit Fee shall be payable pursuant to this section.
- c) Where a Soil Substance is moved within the Soil Substance Area shown on Appendix I, the temporary Removal onto Pipeline Road directly adjacent to that Soil Substance Area for the purpose of facilitating transportation within that Soil Substance Area, those Soil Substances shall not be considered to be Removed from that Soil Substance Area.

14. Every holder of a Soil Substance Permit shall submit to the City of Coquitlam a Statutory Declaration of Quantities, in a form approved by the Municipal Engineer at intervals of every three months over the term of the Permit declaring the quantity of Soil Substance Removed from or Deposited within the Soil Substance Area in the preceding three month period. The Statutory Declarations shall be filed within thirty (30) days of the last day of the three month period for which the Declaration is filed.

- 15. a) The Removal and Deposit Fee submitted to the City of Coquitlam shall be based, as closely as possible, upon the quantities reported by the Permit holder in the Statutory Declarations referred to in Section 14 of this bylaw.
- b) At the end of each twelve-month period of the Permit, the Municipal Engineer may require the permit holder to pay an Adjustment Amount where he is satisfied that the actual amount of Soil Substance Removed from or Deposited onto the Soil Substance Area exceeds the amount set out in the Statutory Declarations filed pursuant to section 14 of this Bylaw. The Adjustment Amount shall be calculated by the Municipal Engineer on the basis of:
 - i) the Statutory Declarations referred to in Section 14 of this Bylaw;
 - ii) the Municipal Engineer's interpretation of aerial photography of the Soil Substance Area referred to in the Permit;
 - iii) any other information or evidence that the Municipal Engineer may obtain.

- c) where the Municipal Engineer concludes, after his review and inquiry that the amount of Soil Substance Removed from or Deposited onto the Soil Substance Area is less than the amount set out in the Statutory Declarations filed pursuant to Section 14 of this Bylaw, the City of Coquitlam shall refund that portion of the Removal and Deposit Fees paid by the Permit holder which was calculated on the excess declaration.
- d) the Adjustment Amount determined by the Municipal Engineer shall be deemed to be part of the Removal and Deposit Fees payable to the City of Coquitlam pursuant to Section 13 of this Bylaw and shall be payable within thirty (30) days of the date of the posting of the Notice of Adjustment.
- e) A Notice of Adjustment, in the approved by the Municipal Engineer from time to time, which shall be either a notice of refund or a demand for additional payment, shall be issued by the City of Coquitlam within ninety (90) days of the date of receipt of the last Statutory Declaration to be filed at the end of each twelve month period of the Permit. The Notice of Adjustment shall be issued by posting it to the Permit Holder under double registered mail within the time permitted for issuance of the Notice.

16. If upon receipt of a Notice of Adjustment, the Permit Holder wishes to dispute the quantum of the Adjustment Amount, the Permit holder shall within fourteen (14) days of the receipt of the Notice of Adjustment, convey to the Municipal Clerk of the City of Coquitlam, by double registered mail, a notice in writing of the dispute.

17. In the case of a dispute of the quantum of an Adjustment Amount the Permit holder shall engage a Professional Engineer to examine the aerial photography of the Soil Substance Area taken by the City of Coquitlam to render an opinion on the quantity of Soil Substance Removed from or Deposited on the Soil Substance Area during the period of the Permit and deliver the opinion and his calculation of the Soil Substance Removed or Deposited and Removal and Deposit Fee payable within thirty (30) days of the date the dispute notice was filed. The cost of this examination will be borne by the Permit Holder.

18. In the case of a dispute of the quantum of an Adjustment Amount, the Council will examine the Notice of Adjustment, the report of the Professional Engineer engaged by the Permit Holder and any other evidence submitted by the Permit Holder and/or the Municipal Engineer. Following an examination of this material, the Council shall either:

- a) confirm the original Notice of Adjustment; or
- b) instruct the Municipal Engineer to amend the Notice of Adjustment in accordance with the findings of the Council.

19. In addition to any other remedy or penalty provided for by this Bylaw, Council may, by resolution, suspend or cancel a Permit in the event that a Permit holder is not in compliance with or is in breach of the provisions of this Bylaw.

20. The City of Coquitlam shall have the right at all times to enter upon and inspect the lands for which a Soil Substance Permit Application has been made and lands for which a Permit has been issued.

21. This Bylaw is effective and in force and binding on all persons as and from the date of adoption by Council of the City of Coquitlam.

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

23. Every person who violates, contravenes or commits any breach of the provisions of this Bylaw shall be guilty of an offence punishable on summary conviction and shall be liable to pay a maximum fine of Two Thousand (\$2, 000.00) Dollars and costs. Each day of any violation, contravention or breach of this Bylaw shall be deemed to be a separate and distinct offence.

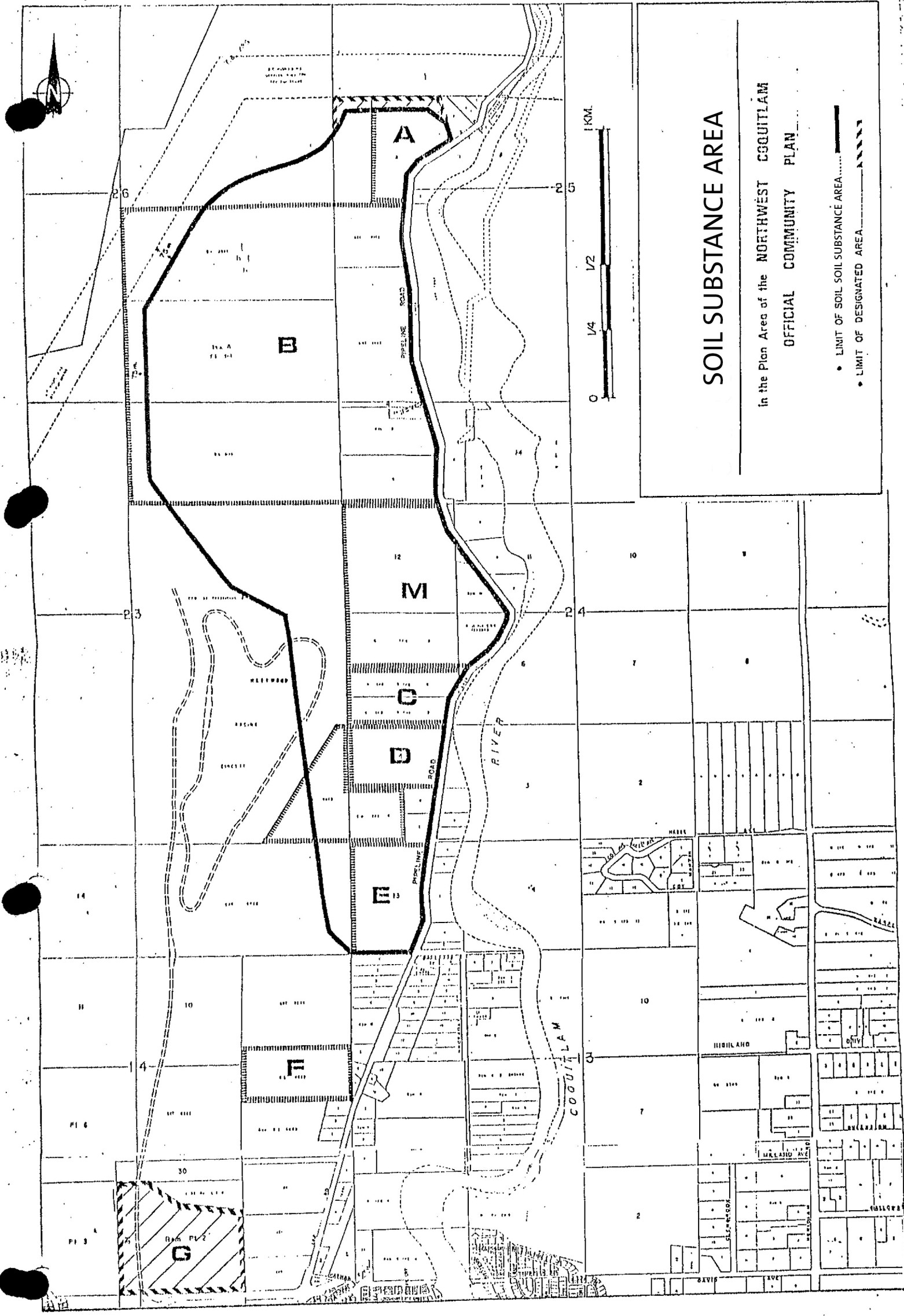
24. Bylaw No. 969, 1979, being the "City of Coquitlam Soil Removal Bylaw No. 969, 1979, and all amending bylaws thereto, are hereby repealed. Bylaw No. 1841 (1988) is hereby repealed.

READ A FIRST TIME this 8th day of August, 1988.

READ A SECOND TIME this 8th day of August, 1988.

READ A THIRD TIME this 8th day of August, 1988.

RECONSIDERED AND FINALLY PASSED AND ADOPTED and the Seal of the City affixed this 22nd day of August, 1988.



SOIL SUBSTANCE AREA
In the Plan Area of the NORTHWEST COQUITLAM
OFFICIAL COMMUNITY PLAN

- LIMIT OF SOIL SUBSTANCE AREA.....
- LIMIT OF DESIGNATED AREA.....

