

THE CORPORATION OF THE TOWNSHIP OF LANGLEY

WATERCOURSE PROTECTION BYLAW 2012 NO. 4964

EXPLANATORY NOTE

Bylaw 2012 No. 4964 repeals Bylaw 1991 No. 3110, reflects the current provincial legislation and provides clarity regarding its purpose and application.

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WHEREAS, Section 8(3)(j) of the *Community Charter*, S.B.C. 2003, c. 26, enables Council, by bylaw, to regulate, prohibit, and impose requirements in relation to protection of the natural environment and B.C. Regulation 144/2004 authorizes Council, by bylaw, to regulate, prohibit, and impose requirements in relation to polluting or obstructing, or impeding the flow of a stream, creek, waterway, watercourse, ditch, drain or sewer, whether or not it is located on private property;

NOW THEREFORE the Council of the Corporation of the Township of Langley in open meeting assembled enacts as follows:

CITATION

1. This Bylaw may be cited for all purposes as "Watercourse Protection Bylaw 2012 No. 4964".

DEFINITIONS

2. In this Bylaw:

"General Manager of the Engineering Division" means the person appointed to the position having that name by the Council of the Township, his or her designates, and Township employees acting under his or her direction.

"Person" includes an individual, corporation, partnership, firm, association or society and the personal or other legal representatives of a person to whom the context can apply according to law;

"Prohibited Material" means

- (a) Any material or substance that is dangerous, deleterious or toxic including, but not limited to, chemicals, chlorinated water, cleaning compounds (household and commercial), detergents, fertilizers, herbicides, pesticides, paints, soaps, solvents, and waste oil; or
- (b) Any material or substance whose direct or indirect release into a Watercourse would violate the *Fisheries Act*, R.S.C., 1985, c.F-14 or the *Environmental Management Act*, S.B.C. 2003, c. 53;

“Public Infrastructure” means roads, bridges, drainage systems, sewage systems, water systems, playfields, buildings, or other similar systems and facilities that are under the jurisdiction of the Township.

“Remedial Actions” may include, but are not limited to, inspection, survey, construction, demolition, maintenance, or repair works and activities.

“Township” means the Corporation of the Township of Langley;

“Township Land” means land owned by, in the control of, or subject to regulation by the Township. For certainty, this includes private property within the municipal boundaries.

“Watercourse” means a natural or man-made channel through which water flows at any time of the year and includes a brook, creek, ditch, drain, sewer, slough, stream, and any other body of water running through or situated partially or fully on Township Land (which includes watercourses on private property within the municipal boundaries).

PURPOSE

3. This Bylaw is enacted for the purpose of protecting a Watercourse from being polluted, for protecting public property and Public Infrastructure from damages resulting from the obstruction or impedance of flow in a Watercourse, for the protection of human health, safety or life, and to allow works to be performed in a Watercourse located on Township Land for these purposes.

PROHIBITION

4. No Person shall cause or permit any Prohibited Material, or water containing Prohibited Material, to be released, directly or indirectly, into a Watercourse.
5. No Person shall cause or permit the obstruction or impediment of the flow of a Watercourse.

EXEMPTION

6. The Township or a Person may, if they obtain all approvals required under provincial and federal legislation (e.g. the *Fisheries Act*, R.S.B.C. 1996, c. 149, the *Fish Protection Act*, S.B.C. 1997, c. 21, the *Water Act*, R.S.B.C. 1996, c. 483 and the *Fisheries Act*, R.S.C., 1985 c. F-14), undertake works which cause or permit the obstruction or impediment of the flow of a Watercourse.

INSPECTION

7. The General Manager of the Engineering Division may, at all reasonable hours and without notice, enter upon and inspect any Township Land, or premises located on Township Land, to determine if the provisions of the Bylaw are being met.

REMEDIAL ACTIONS

8. The General Manager of the Engineering Division may, at all reasonable hours and without notice, enter upon any Township Land, or premises located on Township Land, to take Remedial Actions to:
 - (a) protect public property or Public Infrastructure; or
 - (b) protect human health, safety or life.
9. If, in the opinion of the General Manager of the Engineering Division, any Person is violating the Bylaw, the General Manager of the Engineering Division may:
 - (a) order the immediate suspension of all or any portion of the activity which constitutes the violation by posting a notice to that effect on the property or the premises where the activity is occurring; and
 - (b) order the owner or occupier of the property or the premises where the activity is occurring to, at his, her or its own expense, take all Remedial Actions that the General Manager of the Engineering Division deems necessary within a specified time period.
10. If the owner or occupier of the property or the premises referred to in section 9 fails to take the necessary Remedial Actions within the specified time period, the General Manager of the Engineering Division may enter upon the property or the premises and undertake the necessary Remedial Actions.
11. The owner or occupier referred to in section 10 shall pay to the Township within thirty (30) days of demand of same, all costs and expenses incurred by or on behalf of the Township in taking the Remedial Actions referred to in that section. Any amount unpaid together with interest thereon on the 31st day of December in any year shall be added to and form part of the property taxes payable in respect of the property or premises where the Remedial Actions were taken and shall be treated as taxes in arrears.

ADMINISTRATION AND ENFORCEMENT

12. This Bylaw is to be administered and enforced by the General Manager of the Engineering Division.
13. For clarity, no part, section, sub-section, clause or sub-clause of this Bylaw imposes any duty, obligation or responsibility on the Township to enforce this Bylaw.

OFFENCE

14. Any Person who:
 - (a) violates any provision of this Bylaw or neglects or fails to do anything required to be done by this Bylaw, or
 - (b) causes or permits any other Person to violate any provision of this Bylaw or to neglect or fail to do anything required to be done by this Bylaw with respect to real property of which he or she is the registered owner, occupant, lessee or licensee,

commits an offence under this Bylaw and is subject to the imposition of any and all penalties or remedies available to the Township pursuant to this Bylaw or to other applicable bylaws or legislation.

PENALTY

15. A prosecution under this bylaw may be commenced by:
 - (1) proceedings under Division 3 of Part 8, of the *Community Charter*, SBC 2003, c 26; or Bylaw Notice Enforcement Bylaw 2008 No. 4703; or
 - (2) prosecution of the offence in accordance with the *Offence Act*, RSBC 1996, c 338.
16. Any Person who violates any provision of this Bylaw commits an offence under this Bylaw and, in addition to being subject to any remedies or penalties specifically provided for in this Bylaw, is also subject to prosecution and, upon summary conviction, a fine of not more than \$10,000.00 for each and every offence. Where the offence is a continuing one, each day that a violation of any provision of this Bylaw is caused, or allowed to continue, constitutes a separate offence.

SEVERABILITY

17. If any part, section, sub-section, clause or sub-clause of this Bylaw is, for any reason, held to be invalid by the decision of a Court of competent jurisdiction, it shall be severed and the validity of the remaining provisions of this Bylaw shall not be affected.

REPEAL

18. Watercourse Protection Bylaw 1991 No. 3110 is repealed.

READ A FIRST TIME the	25	day of	February	, 2013.
READ A SECOND TIME the	25	day of	February	, 2013.
READ A THIRD TIME the	25	day of	February	, 2013.
RECONSIDERED AND ADOPTED the	04	day of	March	, 2013.

 "JACK FROESE" Mayor "SUSAN PALMER" Deputy Township Clerk