

**REGIONAL DISTRICT OF NANAIMO  
BYLAW NO. 1803**

**A BYLAW OF THE REGIONAL DISTRICT OF NANAIMO TO REGULATE THE  
MANAGEMENT OF PRIVATELY OWNED MUNICIPAL SOLID WASTE AND  
RECYCLABLE MATERIAL FACILITIES**

**WHEREAS** The Regional District of Nanaimo, including municipalities within the District, and the Province of British Columbia are jointly committed to the regulation and management of Municipal Solid Waste and Recyclable Material within the District so as to encourage waste reduction and recycling and ensure that residual materials are disposed of in a manner consistent with the Solid Waste Management Plan approved by the Minister of Environment and Climate Change Strategy;

**AND WHEREAS** The Regional District of Nanaimo is authorized, inter alia, pursuant to the *Environmental Management Act* to regulate with respect to Municipal Solid Waste and Recyclable Material;

**AND WHEREAS** The Regional District of Nanaimo is operating under a Solid Waste Management Plan which defines a regulatory system for the management of all privately operated Municipal Solid Waste and Recyclable Material operations.

**AND WHEREAS** The goal of the regulatory system is to ensure proper management of privately operated facilities by specifying operating requirements so as to:

1. protect the environment and public health;
2. to protect the District's land base in accordance with the host municipality's zoning and land use policies;
3. to ensure that regional and municipal facilities and private facilities operate to equivalent standards; and
4. to achieve the objectives of the Solid Waste Management Plan.

**AND WHEREAS** This bylaw may not be approved or amended without the prior written approval of the Minister of Environment and Climate Change Strategy, per Chapter 53, Part 3, Section 34(1) of the *Environmental Management Act*.

**NOW THEREFORE** the Board of the Regional District of Nanaimo in open meeting duly assembled enacts as follows:

**1. CITATION**

This bylaw may be cited for all purposes as "*Waste Stream Management Licensing Bylaw No. 1803, 2021*".

**2. DEFINITIONS**

Terms, words and phrases used in this bylaw shall have the meanings set forth in this section, whether appearing in capital or lower case form.

<b><i>“Asphalt and Concrete Reprocessing Facilities”</i></b>	means any land or buildings and related improvements used for receiving asphalt, concrete or both for the purpose of reprocessing, resale or reuse.
<b><i>“Board”</i></b>	means the Regional Board of the Regional District of Nanaimo.
<b><i>“Brokering Facility”</i></b>	means any land or buildings and related improvements used for receiving, cleaning, sorting, baling or packaging Recyclable Material for the purpose of recycling, where the residue does not exceed 10% by weight or volume of the material received.
<b><i>“Composting Facility”</i></b>	means any land or buildings and related improvements where source-separated organic material is composted or biologically decomposed on a commercial basis using composting technology which may include physical turning, windrowing, in-vessel static pile aeration, whether aerobically or anaerobically, or other mechanical handling of organic matter.
<b><i>“Construction and Demolition Waste”</i></b>	means refuse that originates from demolition or construction sources that has not been managed with waste from other sources.
<b><i>“District”</i></b>	means the Regional District of Nanaimo.
<b><i>“Drop-off Depot”</i></b>	means a depot that exclusively receives recyclable material from hand-unloaded vehicles from residents and small businesses where the recyclable material and operations of the depot is pursuant to an approved plan under the Recycling Regulation B.C. Reg. 449/2004 as amended from time to time.
<b><i>“Environmental Management Act”</i></b>	means the Province of BC <i>Environmental Management Act</i> , SBC 2004 c.30, as amended or replaced and any successor legislation and any regulations thereunder.
<b><i>“Existing Facility”</i></b>	means any facility including an asphalt and concrete reprocessing facility, or brokering facility, lawfully operating without a license prior to the date this bylaw is adopted.
<b><i>“Facility”</i></b>	means lands, buildings, machinery, equipment or systems used for managing municipal solid waste, recyclable material or both, and includes any or all of an Asphalt and Concrete Reprocessing Facility, a Brokering Facility, a Composting Facility, a Material Recovery Facility, a Mixed Waste Facility, a Refuse Derived Fuel Facility, a Storage Facility and a Transfer Station.
<b><i>“General Manager”</i></b>	means a person appointed to the position of General Manager of the Regional District of Nanaimo or designate.

- “License”** means a license issued by the General Manager under this bylaw.
- “Licensee”** means the person to whom a valid and subsisting license has been issued.
- “Material Recovery Facility”** means any land or buildings and related improvements used for receiving Municipal Solid Waste or Recyclable Material and at which materials are separated manually or mechanically for the purpose of recycling.
- “Mixed Waste Facility”** means any Facility that manages or co-manages Mixed Municipal Solid Waste, and may include, but not limited to, a Material Recovery Facility, a Refuse Derived Fuel Facility, a Storage Facility or a Transfer Station.
- “Mixed Municipal Solid Waste”** means refuse that originates from residential, commercial, or institutional sources, or any combination of waste or refuse from these sources and other sources, but does not include Source Separated Recyclable Material or Construction and Demolition Waste.
- “Municipal Solid Waste”** means refuse that originates from residential, commercial, or institutional demolition, land clearing or construction sources but excludes municipal liquid waste.
- “Odour”** means smells which, in the opinion of the General Manager, are offensive, nauseous or obnoxious.
- “Qualified Professional”** means a person who:
- a) is registered in British Columbia with an appropriate professional association, acts under that professional association's code of ethics, and is subject to disciplinary action by that professional association; and
  - b) through suitable education, experience, accreditation and knowledge may be reasonably relied on to provide advice within their area of expertise as it relates to this bylaw.
- “Recyclable Material”** means the same as “recyclable material” as set out in the *Environmental Management Act, SBC 2003, c 53*, and as amended from time to time.

<b><i>“Recycle” or “Recycling”</i></b>	means any process by which Municipal Solid Waste or Recyclable Material is transformed into new products.
<b><i>“Refuse Derived Fuel Facility”</i></b>	means a facility that produces fuel from municipal solid waste that originates from residential, commercial or institutional sources.
<b><i>“Reuse Establishment”</i></b>	means an establishment that manages materials to be reused, whether for its original purpose for conventional reuse or to fulfil a different function for creative reuse or repurposing including books, clothing, household items and construction material but does not include Recycling.
<b><i>“Source-Separated Recyclable Material”</i></b>	means Recyclable Material that has been separated from Municipal Solid Waste by the waste generator at the point of generation for the purposes of recycling.
<b><i>“Solid Waste Management Plan”</i></b>	means the Regional District of Nanaimo’s approved Solid Waste Management Plan, as amended from time to time.
<b><i>“Store” and “Storage”</i></b>	means to keep on land or water, whether open to the air or not, or covered in a structure or container or not.
<b><i>“Storage Facility”</i></b>	means any land or buildings and related improvements where Municipal Solid Waste or Recyclable Material is accumulated and held and in respect of which there is no clear and convincing evidence that all the Municipal Solid Waste or Recyclable Material will be recycled in the near future.
<b><i>“Transfer Station”</i></b>	means any land or buildings and related improvements at which Municipal Solid Waste from collection vehicles is received, compacted, or rearranged for subsequent transport.

### 3. GENERAL

3.1 **Purpose of Bylaw.** This bylaw is enacted for the purposes of regulating privately owned waste management facilities within the District in the general public interest. It is not contemplated nor intended, nor does the purpose of this bylaw extend to:

- a. the protection of any person from economic loss;
- b. the assumption by the District or any employee of any responsibility for ensuring the compliance by a facility operator, their representatives or any employees, retained by their, with the requirements of this bylaw or any other applicable codes, enactments or standards;
- c. providing to any person a warranty with respect to any facility for which a License is issued under this bylaw;
- d. providing to any person a warranty that a facility operation is in compliance with this bylaw or any other applicable enactment.

3.2 **Additional Municipal Requirements.** The requirements under this bylaw are distinct and separate from the requirements of a municipality. Municipalities may impose further restrictions or require further conditions in addition to those imposed under this bylaw by the District.

3.3 **No Conflict with Environmental Management Act.** Nothing in this bylaw is intended to conflict with the *Environmental Management Act*, but this bylaw may impose further restrictions or require further conditions than those imposed under the *Environmental Management Act*.

3.4 **Compliance with Other Laws.** Except as otherwise specifically provided, nothing in this bylaw, including, *inter alia*, a license, excuses any person from complying with all other applicable enactments and laws.

### 4. FACILITIES REQUIRING LICENSES

4.1 **Prohibition.** No person shall own or operate a Facility within the District unless that person:

- a. has a valid and subsisting License issued by the General Manager for that Facility; or
- b. is entitled to an exemption under Section 4.2

4.2 **Exclusions.** A person is not required to obtain a License to own or operate any of the following Facilities:

- a. a Facility owned and operated by the District or its member municipalities;
- b. a privately operated Facility that holds a Permit, Approval or Operational Certificate, issued under the *Environmental Management Act*;
- c. a Drop-off Depot;
- d. a Reuse Establishment;
- e. a retail food, beverage, or drug establishment that accepts recyclable material on a return-to-retail basis;
- f. a facility handling only industrial waste, agricultural waste, or municipal liquid waste, or a combination of these wastes, provided that it does not handle any municipal solid waste;
- g. a Composting Facility owned or operated by a farmer, as that person is defined in the *Farm Practices Protection (Right to Farm) Act, R.S.B.S. 1996, c. 131 ("FPP(RTF)A")*, if that composting facility uses municipal solid waste and recyclable material originating solely from one or more farm businesses, defined in the *FPP(RTF)A*;
- h. an Asphalt and Concrete Reprocessing Facility where reprocessing of used materials is ancillary or secondary to the production of new asphalt or concrete; or
- i. a Facility that is exempted, in writing, by the General Manager.

### 5. FACILITY LICENSE APPLICATION

- 5.1 An application to obtain a License under this bylaw shall be submitted to the District's office in writing, in the form prescribed by the General Manager, and shall include, but is not limited to, the following supporting documentation:
- a. If the property on which the Facility intends to operate is within a municipality, a statement that the applicable zoning permits the Facility to operate;
  - b. a title search for the property on which the Facility intends to operate, conducted within 14 days of the date the application is submitted;
  - c. if the applicant is not the owner of the property on which the Facility intends to operate, a supporting letter from the owner of the property on which the Facility intends to operate;
  - d. an outline of the proposed material type, storage, and processing amounts including:
    - i. the maximum amount of materials that will be present or stored on site in both quantity and volume;
    - ii. the maximum amount of material that will be processed daily, monthly and annually;
  - e. a site plan for the facility;
  - f. operating, contingency, and closure plans for the facility;
  - g. a monitoring plan for the facility; and
  - h. a nuisance control plan (i.e. litter, odour, vectors, and animals).

## **6. NOTIFICATION OF MUNICIPALITY**

- 6.1 After submitting an application under Section 5 to the District, the applicant shall:
- a. within 7 days, hand deliver or send by registered mail a copy of that application and all supporting documentation to the corporate office of a municipality in which the Facility is proposed to be located; and
  - b. within 14 days, submit proof of delivery under subsection (a) to the Regional District of Nanaimo.
- 6.2 Within 60 days of receiving an application package sent in accordance with Section 6.1, the municipality may provide comments and recommendations to the General Manager.

## **7. PROCEDURE ON APPLICATION**

- 7.1 An applicant for a license shall, if required by the General Manager, and at the applicant's cost:
- a. publish a notice in a newspaper with circulation in the area where the Facility is proposed to be located which includes the following information:
    - i. the civic address of the facility;
    - ii. the name of the owner of the land on which the Facility is located or proposed to be located;
    - iii. the full name and address of the operator of the facility;
    - iv. a brief and complete description of the activity to be carried out and the municipal solid waste or recyclable material to be handled at the facility;
    - v. the address of the District to which any comments or concerns may be submitted; and
    - vi. such other information as the General Manager considers relevant.
  - vii. and within 15 days of the date of publication of the notice, provide to the General Manager a copy of the full-page tear sheet as proof that the application was published;
  - b. within 15 days of the submission of the application, post a sign in a conspicuous place on the property frontage of the proposed Facility location and satisfy the following conditions:
    - i. Minimum sign dimensions of 100 cm x 80 cm;
    - ii. Easily readable print of minimum 120 point size;

- iii. The sign must state, "This site is the subject of an application for a Waste Stream Management License issued by the Regional District of Nanaimo";
  - iv. Sign information also must include:
    - The type of Facility proposed for the location
    - The type of material to managed at the Facility
    - The design capacity of the Facility
    - The name and contact information of the applicant
    - The contact information for the Regional District of Nanaimo
  - v. The sign must be weather-proof or protected from the weather; and
  - vi. The sign must be posted for a period not less than 30 days.
- c. Within 15 days of being directed to do so, serve written notice that an application has been filed, including the information set out in Section 7.1 a. on any person that the General Manager considers materially affected by the application.

## 8. NOTICE

**8.1 Notice to Affected Persons.** The General Manager may give written notice of an application to:

- a. any person that the General Manager considers may be materially affected by the application; and,
- b. any authority the General Manager deems necessary to assist with regulatory requirements and may provide the authority any application information necessary for their assistance.

**8.2 Adversely Affected Persons.** Within 30 days of the date of the last posting, publishing, service, or display required under Section 7 of this bylaw for an application, a person may provide, in writing to the General Manager, notice that they may be adversely affected by the granting of the license and stating the reasons why and how they may be adversely affected.

**8.3 Applicant Response.** The General Manager shall provide a copy of the notice received under Section 8.2 to the applicant and the applicant may respond within 15 days in writing to the adversely affected person and the General Manager.

**8.4 Adequate Notice.** If in the opinion of the General Manager, any method of giving notice set out in Section 7 or Section 8 is not adequate or practical, the General Manager may, within 30 days of receipt of the application, require an applicant to give notice of the application by another method that is, in the opinion of the General Manager, more effective or practical.

## 9. EVALUATION OF LICENSE APPLICATION

**9.1** After receiving an application, The General Manager may consider the following in evaluating the application:

- a. the potential risk posed to the environment, public health, and nuisance;
- b. comments received from the municipality where the Facility or proposed Facility is located;
- c. comments received as the result of notification of the public;
- d. any environmental impact assessment and any other investigations, tests, surveys in respect of the Facility or proposed Facility;
- e. compliance with the District's Solid Waste Management Plan;
- f. history of compliance with District and member municipalities' bylaws; and
- g. any other matter or additional information which the General Manager considers relevant.

## 10. FACILITY LICENSE

**10.1 Terms and Conditions for Licensees.** After reviewing an application, the General Manager may issue or

amend a license on such terms and conditions and specifying such requirements as the General Manager considers necessary, and without limiting the generality of the foregoing, the General Manager may:

- a. specify the type, quality or quantity of Municipal Solid Waste or Recyclable Material that may be brought onto or removed from the Facility during a specified period of time;
- b. specify Municipal Solid Waste and Recyclable Materials which must not be handled at the Facility;
- c. require the Licensee to recover, for the purpose of recycling, any Recyclable Materials which are subject to material bans imposed by the District's bylaws or Solid Waste Management Plan, or as otherwise determined by the General Manager;
- d. require specified Facility operating procedures;
- e. require the Licensee to submit a land survey of the property;
- f. require the Licensee to submit plans, procedures, and specifications prepared by a Qualified Professional for or relating to environmental or nuisance assessment, public safety, monitoring, mitigation or controls at the facility.
- g. require the Licensee to construct, install, repair, alter, remove, or maintain works, and, prior to the commencement of any construction, installation, repair, alteration, removal or maintenance of such works, to provide plans and specifications prepared by a Qualified Professional;
- h. require the Licensee to install and maintain in good condition at all times at the Facility, devices or equipment to inspect, sample or monitor in any manner specified by the General Manager:
  - i. all or part of the Municipal Solid Waste for Recyclable Material; and
  - ii. the environment (air, land, and water) and public utilities (roads, ditching, etc.) within and adjacent to the Facility which may be affected by the handling of Municipal Solid Waste or Recyclable Materials.
- i. require the Licensee to keep records of all samples or monitoring data obtained in relation to the Facility and to submit the records to the General Manager;
- j. require the Licensee to keep records of volumes, weights, types, amounts, quantities, and composition and the geographic area of origin of Municipal Solid Waste or Recyclable Material brought onto or removed from the Facility and to submit records in accordance to conditions and terms of the license; and
- k. provide for implementing terms and conditions in phases or varying dates for compliance with terms and conditions.

### **10.2 Prohibitions**

- a. bring onto a facility Municipal Solid Waste or Recyclable Material which is of a type or quality, that is not permitted under their License;
- b. have on site more Municipal Solid Waste or Recyclable Material than is permitted under their License;
- c. handle at the Facility any Municipal Solid Waste or Recyclable Materials which are prohibited under the License;
- d. operate outside of the hours of operation specified in their License; or,
- e. operate the facility in a manner which is contrary to the operations plan specified in the License.

### **10.3 Requirements.** All Licensee's shall:

- a. maintain records for inspection of:
  - i. for a minimum of 10 years, all samples or monitoring data obtained in relation to the Facility; and,
  - ii. for a minimum of 5 years, volumes, weights, types, amounts, quantities, composition and the geographic area of origin of Municipal Solid Waste or Recyclable Material brought onto the Facility.



- b. keep the Facility free of litter;
- c. keep free of litter areas adjacent to the Facility that may be impacted by litter from the facility;
- d. protect Municipal Solid Waste and Recyclables Materials from the deterioration by the weather; and,
- e. prevent contaminated runoff that may leave the property.

**10.4 Requirements of License:** If required as a term or condition of their License, a Licensee shall:

- a. recover, for the purpose of recycling, any Recyclable Materials which are specified in the License;
- b. submit a land survey of the property by the deadline specified in the License;
- c. submit an operations plan for the Facility by the deadline specified in the License which is prepared to the satisfaction of the General Manager;
- d. submit plans, procedures, and specifications prepared by a Qualified Professional by the deadline specified in the License;
- e. prior to the commencement of any construction, alteration, or removal of works specified in the License, provide plans, and specifications for that work prepared by a Qualified Professional;
- f. construct, alter or remove works specified in their License;
- g. repair and maintain, in good condition at all times, at the Facility, devices or equipment specified in the License;
- h. submit records to the Regional District in accordance with the specifications and deadlines set out in the License; and,
- i. post their Certificate of Licensure in a conspicuous place.

## 11. SECURITY

**11.1 Requirement for Security.** The General Manager, as a condition of issuing or amending a license, may require an applicant or a licensee to provide an irrevocable letter of credit, cash or provide other security to the District in such form and amount as deemed by the General Manager acting, reasonably, as necessary to ensure compliance with the provisions of the License and of this bylaw.

**11.2 Deferral of Security.** The General Manager may allow up to 50% of the amount of security to be deferred for a period of one year from the date of issuance of a license.

## 12 TRANSITION

**12.1 Transition Period for Existing Facilities.** The owner or operator of an Existing Facility will not be in contravention of Section 4 if the owner or operator completes and files an application under Section 5 to obtain a license in respect of the Existing Facility at the District's office within 90 days of the date this bylaw is adopted.

## 13. AMENDMENTS

**13.1 Amendment of a Facility License.** The General Manager may amend the terms and conditions of a Facility License either in whole or in part subject to:

- a. an application in writing by a Licensee; or,
- b. on the General Manager's own initiative:
  - i. due to changes in the Facility's practices or operation;
  - ii. changes external to the operation of the Facility that may affect the Facility or may adversely affect others;
  - iii. for environmental protection; or
  - iv. to mitigate nuisance.

**13.2 Minor Amendment.** For the purposes of this bylaw a minor amendment to a Facility means:

- a. a change of ownership or name;
- b. a change of legal address or mailing address;
- c. a change to the hours of operation;
- d. a decrease in the authorized quantity of Municipal Solid Waste or Recyclable Material, accepted or stored;
- e. an increase in the authorized quantity of Municipal Solid Waste or Recyclable Material accepted or stored that does not exceed a 10% increase:
  - i. over that amount first authorized for the Facility; or,
  - ii. where there has been no increase in the authorized quantity for a period of at least 5 years.
- f. a change in the authorized quantity of Municipal Solid Waste or Recyclable Material accepted or stored such that, in the opinion of the General Manager, the change will not adversely impact the environment;
- g. a change in a requirement to record and submit information; or
- h. a change to the works, method of treatment, or any other condition in a Facility License such that, in the opinion of the General Manager, the change will not adversely impact the environment.

**13.3 Procedure on Amendment Application.** Amendment applications are subject to the same application and adjudication process as set out for a new license except that for minor amendments, publishing, posting and notification of the public are not required unless deemed necessary by the General Manager.

#### **14. VARIANCES**

**14.1 Issuance of Variance Order.** Where the General Manager considers that a person should have temporary relief from the requirements of a License, the General Manager may issue a variance order with respect to the requirements of the License.

**14.2 Terms and Conditions.** Where a variance order is issued, the General Manager shall:

- a. specify the requirements in respect of which the General Manager has granted relief;
- b. specify the period during which the variance order remains in effect; and
- c. cause a notice of the variance order to be published in a newspaper with circulation in the area where the Facility is located.

**14.3 Cancellation and Renewal.** The General Manager may,

- a. cancel a variance order; or
- b. renew or extend a variance order.

#### **15. FEES**

**15.1 Establishment of Fees.** The Board may establish, by bylaw, from time to time, rates or levels of fees, in relation to this bylaw.

#### **16. INSPECTIONS AND INVESTIGATIONS**

**16.1 Investigation.** The General Manager or a Bylaw Enforcement Officer may at any reasonable time and in a reasonable manner, enter any facility, site, or premise, except any premise or part of a premise occupied solely as a private residence, to investigate compliance with this bylaw.

**16.2 Additional Powers.** The General Manager or a Bylaw Enforcement Officer investigating compliance with this bylaw has the following powers and ability to:

- a. inspect, analyze, measure, sample or test land, and any article, substance or waste located on or in the land, and premises to ascertain

- i. whether pollution is present,
  - ii. the quantity of waste produced, treated, stored, handled, transported or discharged, or
  - iii. the characteristics of waste produced, treated, stored, handled, transported or discharged;
- b. take away samples of land, articles, substances or waste;
- c. examine and take away copies of records relating to
  - i. the production, treatment, storage, handling, transportation and discharge of waste, and
  - ii. the characteristics of the waste produced, treated, stored, handled, transported or discharged;
- d. require that anything related to the production, treatment, storage, handling, transportation or discharge of waste be operated, used or set in motion under conditions specified by the officer;
- e. use a computer system at the place that is being inspected to examine data, contained in or available to the computer system, related to the production, treatment, storage, handling, transportation or discharge of waste;
- f. record or copy by any method any information related to the production, treatment, storage, handling, transportation or discharge of waste;
- g. use any machine, structure, material or equipment in the place that is being inspected as is necessary to carry out the inspection;
- h. use copying equipment located at the place that is being inspected to make copies to take away;
- i. take photographs or make audio or video records.

**16.3 Assistance.** The General Manager or Bylaw Enforcement Officer may take with them onto any Facility, site, or premises such other persons or equipment as may be necessary for the purposes of the inspection.

**16.4 Requirement to Produce Records.** A person who is or was a director, receiver, receiver manager, officer, employee, banker, auditor or agent of a person who is the subject of an inspection under this section must, on request of the General Manager or Bylaw Enforcement Officer:

- a. produce, without charge or unreasonable delay, for examination by the inspecting officer
  - i. any approval, license, order, permit or waste management plan related to waste produced, treated, stored, handled, transported or discharged on or from the land or premises, and
  - ii. any other record that touches on any matter relating to the production, treatment, storage, handling, transport or discharge of waste on or from the land or premises, and
- b. provide the inspecting officer with information relevant to the purposes of the inspection.

**16.5 Safety Equipment.** The General Manager or a Bylaw Enforcement Officer entering a Facility, site or premise for the purpose of inspection shall make use of appropriate safety equipment.

**16.6 Assessment.** The General Manager may require a person carrying out a business on a premise related to the management of solid waste or recyclables, at person's expense:

- a. to undertake an environmental assessment for the purpose of determining pollution or nuisance resulting from the activity, which:
  - i. provides recommendations to mitigate such nuisance;
  - ii. is carried out by a Qualified Profession; and
- b. to provide that assessment by a specified deadline.

## **17. SUSPENSION AND CANCELLATION**

**17.1 Suspension and Cancellation of Facility Licenses.** Without limiting any other provision of this bylaw, the General Manager, after giving notice to a Licensee, may suspend for any period or cancel a Facility License, in whole or in part, if:

- a. the Licensee fails to comply with any term or condition of the Facility License or any provision of this bylaw;
- b. the Licensee made a material misstatement or material misrepresentation in the application for the Facility License;
- c. the Licensee failed to make payment of fees associated with this bylaw;
- d. the Licensee does not exercise any rights under the Facility License for a period of 3 years;
- e. the Licensee is an individual who has died;
- f. the Licensee is a corporation that is struck off the register or is dissolved by the operation of a statute;
- g. the Licensee is a partnership that is dissolved;
- h. the Licensee requests that the Facility License be suspended, but the license may not be suspended for longer than the period requested by the Licensee;
- i. the Licensee requests that the Facility License be cancelled; or
- j. the land and related improvements or buildings and related improvements licensed under this bylaw are no longer a Facility.

**17.2 Suspended or Cancelled License Not Valid.** A Facility License that is suspended or cancelled is not a valid and subsisting license. Notwithstanding the foregoing, the provisions in a Facility License relating to security continue to survive as set out in the License.

## **18. REQUEST FOR RECONSIDERATION**

**18.1 Definition of a Decision.** For the purpose of this Part, “decision” means the:

- a. imposition of a standard or requirement which is discretionary;
- b. refusal, issuance, amendment, suspension, or cancellation of a License;
- c. inclusion in a License of any term or condition which is discretionary.

**18.2 Request to Board.** An applicant or licensee who considers themselves aggrieved by a decision of the General Manager may request that the Board reconsider the decision by delivering written notice to the General Manager within 30 days of the date which the decision is made which contains the reasons for the request for reconsideration.

**18.3 Decision of Board.** On reconsidering the decision, the board may:

- a. confirm, reverse or vary the decision being reconsidered;
- b. refer the matter back to the General Manager for reconsideration, with or without directions; or
- c. make a decision that the General Manager could have made and that the Board considers appropriate in the circumstances

**18.4 No Stay During Reconsideration.** A reconsideration under this bylaw does not operate as a stay or suspend the operation of the decision being reviewed unless the Board decides otherwise.

## **19. OFFENCES AND PENALTIES**

**19.1** Any person who:

- a. contravenes a provision of this bylaw,
- b. suffers or permits any act or thing to be done in contravention of this bylaw,
- c. refuses, omits or neglects to fulfill, observe, carry out or perform any duty or obligation imposed under this bylaw, commits an offence, and each day that a contravention continues amounts to a separate offence.

- 19.2** A person found guilty of an offence under this bylaw is liable:
- a. if proceedings are brought under the *Offence Act*, to pay a fine not exceeding \$200,000 and other penalties, compensation and costs authorized by that *Act* and the *Local Government Act*; or
  - b. if a ticket is issued under Division 3 of Part 8 of the *Community Charter*, to pay the fine indicated on the ticket
- 19.3** A person that has been issued a bylaw notice under the Regional District of Nanaimo Bylaw Notice Bylaw No. 1786, 2019 for contravention of this bylaw is liable to pay a penalty indicated on the bylaw notice.
- 19.4** Fines and penalties imposed under this Section are in addition to and not in substitution for any cost recovery, remedial action or other consequence of default or contravention provided for under this bylaw, and do not limit the right of the District to bring civil proceedings or pursue any other remedy available at law.
- 19.5** If a corporation commits an offence under this bylaw, an employee, officer, director or agent of the corporation who authorized, permitted or acquiesced in the offence commits the offence whether or not the corporation is convicted.
- 19.6** If a contravention of this bylaw continues for more than one day, each day that the offence continues constitutes a separate and distinct offence and separate fines, each not exceeding the maximum fine for that offence, may be imposed for each day the offence continues.
- 20. CHANGE IN OWNERSHIP**
- 20.1 Notification of Change in Control.** A Licensee shall notify the District in writing of a change in control of the corporation or other entity which is the Licensee within 30 days after such a change.
- 20.2 Change in Facility Ownership.** A transfer or assignment of a Facility License to another party can only be exercised through an amendment of the license.
- 20.3 Delivery of Notices.** Any notice required to be given to an owner or operator of a Facility or a Licensee shall be deemed to have been delivered if such notice is delivered:
- a. by personal service of an owner or operator of a Facility or a Licensee;
  - b. By personal service to a director or officer of the corporation which is an owner or operator of a Facility or a Licensee;
  - c. by registered mail to the registered or records office of the corporation which is an owner or operator of a Facility or a Licensee;
  - d. by registered mail to the address for service set out in a Licensee;
  - e. personal service of an individual at the Facility who appears to be an employee in control of the Facility; or
  - f. by posting the notice in a conspicuous place on the door or gate to a Facility.
- 20.4 Severability**
- If any portion of this bylaw is deemed ultra vires, illegal, invalid or unenforceable in any way in whole or in part by any court of competent jurisdiction, such decision shall not invalidate or void the remainder of this bylaw. The Sections so held to be ultra vires, illegal, invalid or unenforceable shall be deemed to have been stricken therefrom this bylaw with the same force and effect as if such Sections had never been included in this bylaw or revised and reduced in scope so as to be valid and enforceable.
- 21. Repeal**
- a. "Regional District of Nanaimo Waste Stream Management Licensing Bylaw No. 1386, 2004"

and any amendments thereto are repealed on the date this bylaw is approved by the Minister of Environment and Climate Change Strategy.

- b. The Regional District of Nanaimo Bylaw Notice Bylaw No. 1786, 2019, is amended by:
  - i. inserting the content of Schedule 1 of this Bylaw into Schedule 1 and,
  - ii. adding Schedule 2 of this Bylaw as Schedule XX.
- c. The Regional District of Nanaimo Bylaw To Implement a Bylaw Enforcement Ticket information No. 1418 is amended by:
  - i. inserting the content of Schedule 1 of this Bylaw into Schedule 1 and,
  - ii. adding Schedule 2 of this Bylaw as Schedule XX.

**22. EFFECTIVE DATE**

Introduced and read three times this XXXX day of XXXX, XXXX

Received approval from the Ministry of Environment and Climate Change Strategy this XX day of

XXXX, XXXX

Adopted this XXXX day of XXXX, XXXX

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CHAIR

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CORPORATE OFFICER

**SCHEDULE 1**

<b>Schedule</b>	<b>DESIGNATED BYLAWS</b>	<b>DESIGNATED BYLAW ENFORCEMENT OFFICER</b>
1	Waste Stream Management Licensing Bylaw No. 1803	Bylaw Enforcement Officers

**SCHEDULE 2**  
**BYLAW NOTICE BYLAW NO. 1786**  
**Waste Stream Management Licensing Bylaw No. 1803**

<b>Section</b>	<b>Description</b>	<b>Penalty</b>	<b>Early Payment Penalty</b>	<b>Late Payment Penalty</b>
4	Operate unlicensed Facility	\$500	\$375	\$500
10.2 a.	Accept material which is not permitted	\$500	\$375	\$500
10.2 b.	Exceed Authorized Quantity	\$500	\$375	\$500
10.2 c.	Managing prohibited materials	\$500	\$375	\$500
10.2 d.	Operate outside authorized hours	\$500	\$375	\$500
10.2 e.	Operate contrary to operations plan	\$500	\$375	\$500
10.3 a.	Fail to maintain records	\$500	\$375	\$500
10.3 b. & c.	Fail to control litter	\$500	\$375	\$500
10.3 d.	Fail to protect material from deterioration by weather	\$500	\$375	\$500
10.3 e.	Fail to prevent contaminated runoff	\$500	\$375	\$500
10.4 a.	Fail to recover Recyclable Materials	\$500	\$375	\$500
10.4 b.	Fail to submit a legal survey	\$500	\$375	\$500
10.4 c.	Fail to submit to an operations plan	\$500	\$375	\$500
10.4 d.	Fail to submit documents prepared by a Qualified Professional	\$500	\$375	\$500
10.4 e.	Fail to submit plans in advance of construction	\$500	\$375	\$500
10.4 f.	Fail to construct works	\$500	\$375	\$500
10.4 g.	Fail to maintain works	\$500	\$375	\$500
10.4 h.	Fail to submit records	\$500	\$375	\$500
10.4 i.	Fail to post Certificate of Licensure	\$500	\$375	\$500
16.4	Fail to produce records	\$500	\$375	\$500
16.6	Fail to provide assessment	\$500	\$375	\$500