

Summary of Revisions made post consultation

Draft Bylaw 1803 was updated with advice from legal council and comments received from stakeholders during the consultation period. The following table summarizes all changes made to draft Bylaw 1803 after the webinar held on August 11, 2020.

Insertions (include spaces, commas etc.)	296
Deletions (include spaces, commas etc.)	315
Moves	10
Formatting	1173

Impactful changes made to the bylaw

Although most revisions made are minor, 2 areas of the bylaw saw changes that are material and are presented below:

1. The following was added under “facilities requiring a license”, “Exclusion”
an Asphalt and Concrete Reprocessing Facility where reprocessing of used materials is ancillary or secondary to the production of new asphalt or concrete

The ancillary processing of used materials is consistent with the core activity of asphalt or concrete production which is already regulated by the province.

2. The compliance and enforcement section of the bylaw has been revised to include a more effective ticketing regime. Tickets are more expedient in addressing minor compliance issues and assist with progressive enforcement with the goal of resolving matters without court action being necessary. These changes also align with RDN bylaw enforcement and greater application of the Municipal Ticket Information system (MTI).

Specific changes made to the bylaw

The following is a complete list of revisions made to the draft Bylaw With the exception of the two items discussed above, revisions do not result in a change to the purpose of the bylaw.

1. Added “AND WHEREAS” 4. to achieve the objectives of the Solid Waste Management Plan
2. Clarified definition of “Drop-off Depot” and “Recyclable Material” and removed the definition for “Litter”.
3. The following changes were made to “Facilities Requiring Licenses” “Exclusions”:

Removed:

a facility that operates for the sole purpose of receiving source separated recyclable material or municipal solid waste consisting exclusively of products defined in Section 1 of the Recycling Regulation B.C. Reg. 449/2004 and which the facility is responsible for managing under the Environmental Management Act, Stewardship Program;

Added:

an Asphalt and Concrete Reprocessing Facility where reprocessing of used materials is ancillary or secondary to the production of new asphalt or concrete

4. Added clarifying details to the following section:
“Facility License Application”, “Application Amendment”, “Report of Municipality/Notification of Municipality”, “Procedure on Application”, “Notice”, “Inspections and Investigations”
5. Moved the following to “Facility License”:

“Terms and Conditions or Licensees”:

e. require the Licensee to submit a land survey of the property;

“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.*

“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.*

“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.*

6. Added to following to “Security”

“Deferment 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.

7. Removed from “Transition”

Issuance of License to Existing Facilities. If the owner or operator of an existing facility files an application under Section 4.1, the General Manager will issue a license for the existing facility on such terms and conditions and specifying such requirements, as set out in Sections 5 and 6. Sections 4.3 to 4.5, inclusively, shall not apply to an application filed under Section 7.1.

8. Removed from “Amendments”

Evaluation of Amendment Applications. The General Manager may, as a result of an application, amend the terms and conditions of a License where the General Manager considers it advisable after considering any of the matters set out in Section 4.6 which, in the General Manager’s opinion are relevant at the time of such application.

9. Removed the following from “Fees”

Application Fees. Every person who applies for a License or a License amendment shall pay to the District, on application, the corresponding application fee as set out, respectively, in the RDN Fees Bylaw. An application fee shall not be refunded if a License is not issued or amended.

Payment of Security. Applications for a Facility License for a Facility not established prior to enactment of this bylaw must provide the amount of security as defined within the Facility’s License. For a License for facilities existing at the time of enactment of the bylaw, up to 50% of the amount of security may be deferred for a period of one year from the date of issuance of the license.

Annual Administration Fee. Every Licensee shall pay to the District upon the date of issuance of a Facility License and thereafter annually on the anniversary date of the issuance, the annual administration fee as set out in the District’s Fees Bylaw. The District will provide to all Licensees annual invoices setting out the annual administration fee due and payable in accordance with conditions established within

the District's Fees Bylaw.

District Invoices. All invoices rendered by the District shall be due and payable 30 days from the date of the invoice. Late payments will accrue interest computed at the rate of one and one quarter percent (1.25%) per month on the outstanding balance, calculated and compounded monthly, from the date such amounts become due and payable until the date they are paid in full.

10. Removed entire "Contraventions" section.

11. Added to "Inspections and Investigations"

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.*

12. "Repeals" renamed "Request for reconsideration" with clarifying details added.

13. The following changes were made to "Offences and Penalties"

Removed:

Offence. Any person who contravenes a provision of this bylaw, a Facility License, an order, a directive, or a requirement made or imposed under this bylaw commits an offence and is liable to a fine not exceeding \$200,000.

Separate Offences. Where there is contravention that continues for more than one day, separate fines, each not exceeding the maximum fine for the offence, may be imposed for each day or part thereof in respect of which the offence occurs or continues.

Offences by Employees, Officers, Directors or Agents. If a corporation commits an offence under this bylaw, an employee, officer, director, or agent of the corporation who authorized, permitted or acquiesces in the offence commits the offence even though the corporation is convicted.

Remedies Cumulative. The rights and remedies available to the District under this bylaw shall be cumulative and not alternative and shall be in addition to and not a limitation of any other rights and remedies that would otherwise be available to the District at law.

Added:

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.*

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*

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.

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.

If a corporation commits an offence under this Act, 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.

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.

14. "General" changed to "Change in Ownership".

15. Schedule 1 and 2 added.