

**CORPORATION OF THE  
TOWNSHIP OF BLANDFORD-BLENHEIM**

**BY-LAW NUMBER 1915-2015**

**A BY-LAW TO PROHIBIT AND REGULATE THE PLACING  
OR DUMPING OF FILL, THE REMOVAL OF TOPSOIL  
AND THE ALTERATION OF THE GRADE OF LAND IN  
THE TOWNSHIP OF BLANDFORD-BLENHEIM**

**WHEREAS** Section 142, 143 and 144 of the Municipal Act, S.O. 2001, Chapter 25, as amended, authorizes the Council of a local municipality to pass by-laws for prohibiting or regulating the placing or dumping of fill, the removal of topsoil and the alteration of grade of land in the municipality;

**AND WHEREAS** section 23.1 of the Municipal Act, S.O. 2001 authorizes a municipality to delegate its powers and duties to a person or body;

**AND WHEREAS** the Council of the Corporation of the Township of Blandford-Blenheim deems it advisable to enact a by-law for prohibiting or regulating the placing or dumping of fill, the removal of topsoil and the alteration of grade of land in the municipality;

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF BLANDFORD-BLENHEIM ENACTS AS FOLLOWS:**

**1. SHORT TITLE**

This By-law may be cited as the "Site Alteration By-law".

**2. DEFINITIONS**

In this by-law:

- 2.1 "Alteration" means the placement or Dumping of Fill on land, the removal of Topsoil from land, and/or the alteration of the Grade of land by any means, and "alter" and "altered" shall have a corresponding meaning;
- 2.2 "Applicant" means the person applying for a Permit under this By-law, and "Application" has a corresponding meaning;
- 2.3 "Drainage" shall mean the movement of water to a place of disposal, whether by way of the natural characteristics of the ground surface or by an artificial method;
- 2.4 "Dumping" shall mean the depositing of Fill in a location other than where the Fill was obtained and includes the movement and depositing of Fill from one location on a property to another location on the same property, and "Dump" shall have a corresponding meaning;

- 2.5 “Draft Plan of Subdivision” shall mean a draft plan of subdivision that has received approval from the approval authority or the Ontario Municipal Board, which approval has not lapsed, been withdrawn or otherwise terminated, but which has not yet received final approval pursuant to Section 51 of the *Planning Act*;
- 2.6 “Environmental Protection Area” means those areas designated in the Oxford County Official Plan and/or the Township of Blandford-Blenheim Zoning By-law;
- 2.7 “Fill” shall mean any type of material deposited or placed on lands and includes soil, stone, rock, concrete, asphalt, sod, turf or any combination thereof;
- 2.8 “Grade, Existing” shall mean the elevation of the existing ground surface of the lands at the time of filing of an application;
- 2.9 “Officer” or “Inspector” shall mean a person duly authorized to carry out administration and enforcement duties of this by-law;
- 2.10 “Permit” means a permit to Alter land issued by the Township under this By-Law;
- 2.11 “Permit Holder” means the person who has been issued a Permit under this By-Law;
- 2.12 “Professional Engineer” means an engineer licensed by the Association of Professional Engineers of Ontario;
- 2.13 “Rubbish” includes concrete, brick, rebar, wood, metal, plaster, plastics, asphalt roof shingles and other like materials;
- 2.14 “Site” shall mean the area of land containing any proposed Dumping or Alteration;
- 2.15 “Soil shall mean material commonly known as earth, topsoil, loam, subsoil, clay, sand, gravel, silt, rock or Fill;
- 2.16 "Topsoil" shall mean those horizons in a soil profile, commonly known as the "O" and the "A" horizons, containing organic material and includes deposits of partially decomposed organic matter such as peat.

### 3. EXEMPTIONS

- 3.1 This by-law does not apply to,
  - (a) activities or matters permitted by regulations made pursuant to the *Municipal Act*, activities or matters undertaken by a municipality or

a local board of a municipality, as defined in the *Municipal Affairs Act*, or activities or matters undertaken by a Crown agency as defined in the *Crown Agency Act*;

- (b) the placing or dumping of fill, removal of topsoil or alteration of the grade of land imposed as a condition to the approval of a site plan, a plan of subdivision or a consent under section 41, 51 or 53, respectively, of the *Planning Act* or as a requirement of a site plan agreement or subdivision agreement entered into under those sections;
- (c) the placing or dumping of fill, removal of topsoil or alteration of the grade of land imposed as a condition to a development permit authorized by regulation made under section 70.2 of the *Planning Act* or as a requirement of an agreement entered into under that regulation;
- (d) the placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken by a transmitter or distributor, as those terms are defined in section 2 of the *Electricity Act, 1998*, for the purpose of constructing and maintaining a transmission system or a distribution system, as those terms are defined in that section;
- (e) the placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken on land described in a licence for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the *Aggregate Resources Act*;
- (f) the placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken in order to lawfully establish and operate or enlarge any pit or quarry on land,
  - (i) that has not been designated under the *Aggregate Resources Act* or a predecessor of that Act, and
  - (ii) on which a pit or quarry is a permitted land use under a by-law passed under section 34 of the *Planning Act*; or
- (g) the placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken as an incidental part of drain construction or routine maintenance under the *Drainage Act* or the *Tile Drainage Act, 2001*, c. 25, s. 142 (5); 2002, c. 17, Sched. A, s. 30 (2, 3).
- (h) the placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken as part of landscaping that involves less than 60 cubic metres of imported Fill per year and does not significantly change the elevation or drainage pattern of the land or change the drainage of neighbouring lands.

- (i) the placement of less than 500 cubic metres of Fill per year on agriculturally zones land that is greater than 2 hectares, provided such Fill is placed a minimum of 10 metres from any property line.
  - (j) the placing or dumping of fill, removal of topsoil or alteration of the grade of land when associated with the stockpiling of soils, aggregate or other like materials within an Industrial Zone as identified in the Zoning By-law.
  - (k) the placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken in accordance with a permit issued under the *Building Code Act, 1992* as amended for the erection or demolition of a building or structure.
- 3.2 This by-law does not apply to normal agricultural practices including the ploughing of land associated with the planting, cultivation or harvesting of agricultural crops or to the removal of topsoil as an incidental part of a normal agricultural practice including such removal as an incidental part of sod-farming, greenhouse operations and nurseries for horticultural products. The removal of topsoil for sale, exchange or other disposition shall not be considered as an incidental part of a normal agricultural practice for the purposes of this subsection.
- 3.3 If a regulation is made under section 28 of the *Conservation Authorities Act* respecting the placing or dumping of fill, removal of topsoil or alteration of the grade of land in any area of the municipality, this by-law is of no effect in respect of that area.
- 3.4 This by-law does not apply to lands that are the subject of a Draft Plan of Subdivision, if a subdivision agreement or development agreement has been executed by the owner and by the Township and has been registered against the title of the subject lands and is still in effect.
- 3.5 This by-law does not apply to routine maintenance activities within established golf courses.

#### **4. GENERAL REGULATIONS**

- 4.1 No person shall Alter, or permit or cause any Alteration within the Township without a Permit.
- 4.2 No person shall Alter, or permit or cause any Alteration within the Township without written authorization to do so from the appropriate conservation Authority who has jurisdiction over the lands to which the application for permit applies.
- 4.3 No person shall fail to comply with any terms or conditions of a Permit.

- 4.4 No alteration can be divided into two or more Alterations for the purpose of avoiding the need to apply for a Permit pursuant to this By-Law.
- 4.5 All Fill used in the Alteration shall be clean and free of Rubbish, glass, garbage, termites, organic materials, liquid and toxic chemicals and other contaminants.
- 4.6 Any person who Alters land in contravention of this By-law or a Permit shall remove Fill, re-grade the land and take any other steps required to restore the land to its original condition and elevation, to the satisfaction of the Township.

**5. REQUIREMENTS FOR AN APPLICATION**

- 5.1 Applications shall be made on the form attached hereto as Schedule "A", which may be amended from time to time by the Township Council.

**6. ISSUANCE OF A PERMIT**

- 6.1 An applicant shall submit a soil investigation report for each source of Fill to the satisfaction of the Township. Where the source of Fill has not been determined prior to the Application for a Permit, the Township may issue a Permit without the soil investigation report on the condition that the Applicant shall provide a soil investigation report to the Township prior to the commencement of the Alteration. Said report shall be prepared by a Professional Engineer.
- 6.2 Where the intended Alteration includes the use of Fill in a quantity exceeding 1,000 cubic metres:
  - (a) the Applicant shall provide the Township with an irrevocable letter of credit or other such security deemed appropriate in the amount being the greater of: (i) fifty percent (50%) of the total estimated cost of the proposed Alteration as determined by the Township, or (ii) \$5,000.00; and,
  - (b) the security shall be released after a final inspection by the Township confirming all aspects of the Alteration have been completed to the satisfaction of the Township.
- 6.3 In respect to subsection 6.2 (a) above, the Township may require a Permit Holder to provide the Township with additional security, from time to time, where it is determined by the Township that the sum secured has become insufficient to adequately complete any work required to be done by the Permit Holder and to bring the land into compliance with this By-law.

6.4 In the event that:

- (a) the Permit Holder fails to comply with the provisions of this By-law, or with the terms, conditions or requirements of the Permit or order issued thereunder; or,
- (b) of any deficiency in or a failure to carry out any work or matter required to be done by the Permit Holder,

The Township may, in addition to any other remedy, use and draw upon the security, if any, to the extent necessary to complete or correct any work or matter required to be done by the Permit Holder and to bring the land into compliance with the By-law.

6.5 The Township shall issue a Permit to any person who meets the requirements of this By-law, except where:

- (a) the past conduct of the Applicant, including the past failure to comply with applicable laws, affords the Township reasonable grounds to believe that the Applicant will not carry out the Alteration in accordance with applicable law;
- (b) the Township reasonably believes that the issuing of a Permit to the Applicant might be adverse to the public interest;
- (c) the Application lands are subject to an order, or orders, made pursuant to (or by):
  - i. the Township's Property Standards By-law;
  - ii. the *Building Code Act, 1992* or any regulations made under it, including the *Building Code*;
  - iii. the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c.4, as amended, or any regulation made under it, including the *Fire Code*; or,
  - iv. the Medical Officer of Health;
- (d) the lands that are subject to the Application are located within an environmentally sensitive area;
- (e) the lands that are subject to the Application are not in compliance with the Zoning By-law;
- (f) the Applicant is indebted to the Township by ways of fines, penalties, judgements or outstanding (past due) property taxes; or,

- (g) the proposed Alteration will likely result in adverse effects either to the Application lands or to the surrounding area, including:
  - i. uncontrolled soil erosion;
  - ii. blockage, siltation or pollution of a watercourse;
  - iii. flooding or ponding caused by a watercourse overflowing its banks;
  - iv. flooding or ponding on neighbouring properties;
  - v. a detrimental effect on the natural environment of the area, including the spread or migration of contamination in the soil, groundwater, sediment or air;
  - vi. unauthorized injury or destruction of any trees which, in the opinion of the Township, could reasonably be avoided;
  - vii. public safety concerns;
  - viii. negative drainage impacts on existing properties; or,
  - ix. disruption to groundwater aquifers, water tables, or flows deemed to be unacceptable by the Township.

6.6 The Township shall not issue a Permit where the Applicant proposes to remove or alter a drain, except where the person can demonstrate to the satisfaction of the Township that:

- (a) the drain is no longer required; or,
- (b) alternative drainage measures will be constructed to maintain the existing drainage scheme.

Any drain, or portion thereof, that is abandoned shall be done in accordance with Section 84 of the *Drainage Act*, R.S.O. 1990.

6.7 The Township may, at any time and in their sole discretion, when issuing a Permit, impose such terms or conditions on the aforementioned Permit as The Township considers appropriate, including, but not limited to:

- (a) requirement for the construction of a retaining wall(s);
- (b) restricting the location of access routes or staging and storage areas;
- (c) requiring liability insurance coverage to the satisfaction of the Township; or,

- (d) requiring a record of site condition and supporting documentation for a Phase 1 and 2 Environmental Site Assessment, signed by a Professional Engineer.
  - (e) requiring the applicant to enter into an agreement for the remediation of the municipal road in the event that damage is done to the municipal road when material is hauled onto the subject site.
- 6.8 A Permit shall be valid for a period of up to 12 months. Upon the expiration of the Permit, a Permit Holder may apply to the Township for an extension of the Permit for the purpose of completing the Alteration. The Township, in their sole discretion, may deny the extension or grant the extension subject to any conditions the Township considers appropriate.
- 6.9 A Permit shall only issued to the registered owner of the property or the authorized agent of the registered owner of the property and shall be valid for the persons, lands and uses described in the Permit. A Permit shall not be transferrable.
- 6.10 No changes shall be permitted to the terms and conditions of the Permit or to the proposed Alterations as approved by the Permit, except as approved in writing by the Township in their sole discretion. The Township, in their sole discretion, may impose such further conditions to the amended Permit as the Township considers appropriate.
- 6.11 No person shall provide false or misleading information to the Township when applying for a Permit under this By-law or at any other time.
- 6.12 The Township may revoke a Permit where:
  - (a) the Township is of the opinion that the Alteration has resulted or will likely result in adverse effects to the land subject to the Permit or surrounding area;
  - (b) the Permit Holder has violated any of the provisions of this By-law or other applicable law, any of the conditions of its Permit, or any order issued under this By-law;
  - (c) the Permit was issued based on false or misleading information that was provided to the Township;
  - (d) the Permit was issued in error; or,
  - (e) otherwise authorized in accordance with the provisions of this By-law.

- 6.13 The permit holder shall ensure that the work which is the subject of the permit does not contaminate or otherwise foul any municipal roads and in the event that this occurs, ensure that any immediate safety hazard is removed or brought to the attention of the Township and all road users and that the road or roads affected are cleaned to the satisfaction of the Township within 24 hours of any request by the Township for such cleaning.

## 7. LOT GRADING REGULATIONS

7.1 All Alterations shall comply with the following:

- (a) the land shall be graded to provide positive drainage away from any building on the land;
- (b) the land shall be adequately sloped to conform with the Existing Grade at the property line of the land;
- (c) all Required Yards shall have a maximum slope of eight centimetres per metre (1 inch per foot).
- (d) the maximum slope of any new embankment shall be 3:1;
- (e) the Township, at their sole discretion, may waive subsections 7.1 (a) to (d) above where it can be demonstrated those requirements cannot be met, providing that the waiver of those requirements does not adversely impact the abutting lands;
- (f) the elevation of the land, where applicable, shall conform with the requirements of the Conservation Authority, or in the case where there is no minimum elevation established by the Conservation authority, to the minimum elevation established by the Township having regard to:
  - i. the elevation of the abutting highway;
  - ii. the elevation of the abutting lands; and,
  - iii. the potential for flooding.
- (g) any Topsoil that is being removed shall only be used to restore the land for which the Permit was issued unless the Township approves in writing the removal and relocation of the Topsoil from the land to another site within the Township.

## 8. ADMINISTRATION

- 8.1 The Council of the Corporation of the Township of Blandford-Blenheim hereby designates the Chief Building Official, the Director of Public Works, the Drainage Superintendent and the Director of Protective Services of the Township as Officers and Inspectors for the purposes of administering and enforcing this by-law and hereby delegates to them the power to issue permits and impose conditions to the permits in accordance with the provisions of this by-law.
- 8.2 Every Permit issued pursuant to this by-law shall be deemed to be subject to the condition that the owner of the lands where the Activity is proposed shall make a written request to the Township that an Officer make an inspection before any site alteration commences and after such site alteration is completed.
- 8.3 An Officer appointed under this by-law may during daylight hours and upon producing a certificate of designation of duties, enter and inspect any land to which this by-law applies. For the purpose of an inspection, the Officer may:
- (a) require the production for inspection of documents or things relevant to the inspection;
  - (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
  - (c) require information from any person concerning a matter related to the inspection; and,
  - (d) alone or in conjunction with a person possessing special or expert knowledge, make examination or take tests, samples or photographs necessary for the purposes of inspection.

No person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under this By-law.

- 8.4 If an Officer is satisfied that a contravention of the by-law has occurred, the officer may make an order requiring the person who contravened this By-law, or who permitted or caused the contravention, or the owner or occupier of the land on which the contravention occurred, to discontinue the contravening activity. The order shall set out,
- (a) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred;
  - (b) the municipal address or the legal description of the land; and

- (b) the date by which there must be compliance with the order.

Any person who contravenes an order under section 8.4 is guilty of an offence.

- 8.5 If an Officer is satisfied that a contravention of the by-law has occurred, the officer may make an order requiring work to be done to correct the contravention and the order shall set out,

- (a) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and,

- (b) the work to be done and the date by which it must be done.

Any person who contravenes an order under section 8.5 is guilty of an offence.

- 8.6 An order pursuant to this by-law shall be served in writing on the owner of the subject lands personally or by prepaid registered mail to the last known address of the owner of the land and shall be deemed effective:

- (a) on the date on which the notice is delivered to the person to whom it is addressed; or,

- (b) on the fifth day after the notice has been sent by registered mail to the person's last known address.

- 8.7 If the owner fails to do the work required by an order within the period specified, the Township, in addition to all other remedies it may have, may do the work or cause the work to be done by others and for this purpose may enter on the land with its employees and agents.

- 8.8 Any work done or caused to be done by the Township pursuant to section 8.7 shall be done at the expense of the owner of the land and the Township may charge an administration fee of 15% of such expense, with a minimum administration fee of \$80.00, and both the expense and the fee may be recovered as municipal taxes.

- 8.9 The applicant acknowledges that there may be instances where the Township does not have appropriate expertise, legal, engineering, hydrology, environmental, arborist, landscape or any other consultant the Township determines reasonable and necessary in order to evaluate studies and/or agreements or to provide assistance to the township throughout the site alteration process. In these instances the costs incurred for such evaluations or assistance shall be charged back to the applicant in addition to the regular application fee.

- 8.10 In the event that the costs incurred under Section 8.9 are unpaid after a period of 30 days from the date of billing they may be registered against the land, collected by action or in like manner as taxes provided for in the *Municipal Act, S. O. 2001, chapter 25* as amended.

## 9. REMEDIATION

- 9.1 Where fill is dumped or placed contrary to this by-law or contrary to a permit issued under this by-law, the person who dumped or placed it or who caused or permitted it to be dumped or placed shall forthwith remove it or cause it to be removed.
- 9.2 Where topsoil is removed from land contrary to this by-law or a permit issued under this by-law, the person who removed it or who caused or permitted it to be removed shall forthwith rehabilitate the land from which the topsoil has been removed and restore it to its original condition.
- 9.3 Where the grade of any land is altered contrary to this by-law or a permit issued under this by-law, the person who altered the grade or who caused or permitted the grade to be altered shall forthwith cause the grade to be restored to its original condition.

## 10. ENFORCEMENT

- 10.1 Any person who obstructs an Officer who is carrying out an inspection or work pursuant to the provisions of this by-law is guilty of an offence.
- 10.2 Any person who contravenes any provision of this by-law or an order made under this by-law is guilty of an offence and is liable,
- (a) on a first conviction, to a fine of not more than \$10,000; and
  - (b) on any subsequent conviction, to a fine of not more than \$25,000.
- 10.3 Despite subsection 10.2 of this by-law, where the person convicted is a corporation, the maximum fines in clauses 10.2 (a) and (b) shall be \$50,000 and \$100,000, respectively.
- 10.4 If a person is convicted of an offence under this by-law, in addition to any other remedy or any penalty provided by law, the court in which the conviction has been entered, and any other court of competent jurisdiction thereafter may make an order pursuant to section 144 (18) of the *Municipal Act, S.O. 2001, c. 25*, or an order pursuant to the *Provincial Offences Act* prohibiting the continuation or the repetition of the offence.

**11. SEVERABILITY**

11.1 If a court of competent jurisdiction should declare any section or part of a section of this By-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of the By-law and it is hereby declared that the remainder of the By-law shall be valid and remain in full force and effect.

**READ A FIRST AND SECOND TIME THIS \_\_\_\_ DAY of \_\_\_\_\_, 2015**

**READ A THIRD TIME AND FINALLY PASSED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2015**

\_\_\_\_\_  
**Mayor  
Marion Wearn**

\_\_\_\_\_  
**CAO / CLERK  
Rodger Mordue**

**TOWNSHIP OF BLANDFORD-BLENHEIM SITE ALTERATION BY-LAW**

**APPLICATION FOR A PERMIT**

1. Registered Owner of Affected Property: \_\_\_\_\_
2. Mailing Address of Owner: \_\_\_\_\_
3. Legal Description of Affected Property: \_\_\_\_\_
4. Existing Land Uses(s): \_\_\_\_\_
5. Official Plan Designation: \_\_\_\_\_ Zoning: \_\_\_\_\_
6. Purpose of Proposed Site Alteration Activity: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
7. Commencement/Completion Dates: \_\_\_\_\_ / \_\_\_\_\_
8. Description of Proposed Activity (attach addendum, if necessary):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
9. Contractor (if different from owner): \_\_\_\_\_
10. Attached, include a plan of the affected area drawn to scale, and accurately delineating:
  - (a) property boundaries, buildings and structures;
  - (b) existing topography (contour intervals);
  - (c) environmental constraints (Flood line, fill line, 100 year erosion line);
  - (d) hydrological features (lakes, streams, wetlands, drainage courses);
  - (e) biological features (vegetation communities);
  - (f) location/dimensions of proposed activities (include excavations, dumping or removal of fill, drainage alterations, associated works, temporary storage areas);

- (g) the proposed sediment and erosion control measures that will be installed prior to any Alteration;
- (h) the proposed elevations and drainage system measures to be used upon completion of the Alteration;
- (i) the proposed dust control, traffic control, noise control and siltation control measures that will be used during the Alteration; and,
- (j) the proposed hours of operation and vehicle routes for all equipment used in the Alteration.

11. If required, for major activities include a report from a qualified engineer, biologist and/or ecologist, describing the potential impacts on natural features and functions, and any required protection or mitigation measures.

12.

\_\_\_\_\_  
Signature of Owner or Authorized Agent

\_\_\_\_\_  
Date (day/month/year)