

**CORPORATION OF THE TOWNSHIP OF
NORTH DUMFRIES**

BY-LAW 2393-09

Being a By-law to regulate the placing or dumping of fill,
alteration of the grade of, or removal of topsoil from land within
the Municipality.

WHEREAS section 142(2) of the *Municipal Act 2001*, S.O., 2001, c.25, as amended, (the "Act") states that a local municipality may,

- (a) prohibit or regulate the placing or dumping of fill;
- (b) prohibit or regulate the removal of topsoil;
- (c) prohibit or regulate the alteration of the grade of the land;
- (d) require that a permit be obtained for the placing or dumping of fill, the removal of topsoil or the alteration of the grade of the land; and
- (e) impose conditions to a permit, including requiring the preparation of plans acceptable to the municipality relating to grading, filling or dumping, the removal of topsoil and the rehabilitation of the site;

AND WHEREAS section 23.1 of the Act permits a municipality, subject to certain restrictions, to delegate its powers under the Act to a person or body;

AND WHEREAS, the Council of the Corporation of the Township of North Dumfries considers it desirable to pass a By-law regulating or prohibiting the placing or dumping of fill on, the removal of topsoil from, and the alteration of the grade of, lands in the Township of North Dumfries;

NOW THEREFORE, the Council of The Corporation of the Township of North Dumfries enacts as follows:

SECTION 1 – DEFINITIONS

1. In this By-law,

- (a) "Act" means the *Municipal Act, 2001*, S.O. 2001, c.25, as amended;
- (b) "Alteration" means the placing or dumping of fill, the removal of topsoil and/or the alteration of the grade of the land, and "alter" and "altered" have a corresponding meaning;
- (c) "Crown" means the highest point of the highway, generally associated with the centerline of the road;
- (d) "Dumping" means the placing of any fill on any lands without a permit;
- (e) "Existing grade" means the naturally occurring grade;
- (f) "Fill" means any material or product used to alter the existing grade of lands;

- (g) "Grade" means the level of the lands;
- (h) "Officer" means the Township's Chief Building Official or his or her designate, including Municipal Law Enforcement Officers;
- (i) "Order" means (i) a Stop Work Order issued under section 4.6 of this By-law and (ii) a Work Order issued under section 4.7 of this By-law;
- (j) "Owner" means that person whose name appears on the latest revised assessment role of the Township and/or the registered owner of the lands;
- (k) "Permit" means a permit issued by the Township under this By-Law to alter lands;
- (l) "Person Responsible" means the owner and/or the person who causes or permits the alteration of lands in contravention of this By-law;
- (m) "Professional Engineer" means an engineer licensed by the Association of Professional Engineers of Ontario;
- (n) "Region" means the Regional Municipality of Waterloo;
- (o) "Rehabilitation" means restoring land that has been altered to the condition and elevation that existed prior to the alteration, and "rehabilitated" has a corresponding meaning;
- (p) "Required yard" shall have the same meaning as that found in the Township Zoning By-law #689-83, as amended;
- (q) "Topsoil" means 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; and
- (r) "Township" means The Corporation of the Township of North Dumfries, and, where the context so implies, includes its elected officials, employees, contractors and agents.

SECTION 2 – GENERAL

- 2.1 This By-law may be referred to variously as the "Alteration of Grade By-law" or, for the purposes of this By-law, as the "By-law".
- 2.2 The provisions of this By-law shall apply to all lands within the boundaries of the Township.
- 2.3 Nothing in this By-law shall serve to relieve any person from the obligation to comply with any other Township by-law.
- 2.4 The provisions of this By-law shall not apply to the alteration of land undertaken prior to the final passing of this By-law.
- 2.5 Imperial measurements, provided in brackets, are shown for convenience only and do not form part of this By-law.

SECTION 3 – ALTERATION OF LAND

- 3.1 No person shall alter or permit or cause the alteration of land within the Township unless in receipt of a permit.
- 3.2 Any permit issued by the Township shall be valid for a period of not more than 12 months.
- 3.3 The cost of the permit shall be as set out in Schedule "A" attached hereto and forming a part of the By-law.
- 3.4 Notwithstanding subsection 3.1 of this By-law, this By-law does not apply to the alteration of land undertaken,
- (a) by the Township or the Region or a local of board of either;
 - (b) pursuant to site plan or subdivision approval or a consent or a development permit obtained after December 31, 2002 under sections 41, 51, 53 or 70.2 respectively, of the *Planning Act*, R.S.O. 1990, c. P.13, as amended;
 - (c) in connection with work for which a building permit has been issued by the Township pursuant to section 8 of the *Building Code Act*, 1992, S.O. 1992, c.23, as amended;
 - (d) by a transmitter or distributor, as those terms are defined in section 2 of the *Electricity Act*, 1998, S.O. 1998, c. 15, Sched. A, as amended, for the purpose of constructing and maintaining a transmission system or a distribution system, as those terms are defined in that section;
 - (e) to lawfully establish and operate or enlarge any pit or quarry, including a wayside pit or wayside quarry, pursuant to the *Aggregate Resources Act*, R.S.O. 1990, c. A.8, as amended;
 - (f) 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 by the Township pursuant to section 34 of the *Planning Act*; or
 - (g) as an incidental part of drain construction under the *Drainage Act*, R.S.O. 1990, c. D.17, as amended, or the *Tile Drainage Act*, R.S.O. 1990, c. T.8, as amended.
- 3.5 A permit shall not be issued where an applicant purposes to remove a drain unless the applicant can demonstrate to the satisfaction of the Township that the drain is no longer required or that alternative drainage measures satisfactory to the Township will be constructed to maintain the existing drainage scheme.
- 3.6 The Township shall not issue a permit unless a lot-grading plan has been approved by the Township setting out:
- a) storm water control measures including, swales, tile drains and, or retaining walls are adequate to prevent the run-off of storm- water to adjacent lands;
 - b) the elevation of lands , which shall be consistent with the elevation of adjoining lands and which shall not exceed one metre (39 inches) above the crown at the front building line;
 - c) all yards, which shall be adequately sloped to conform with the existing grade at the property line of the lands. The slope of all required yards shall be a

maximum of eight centimetres per metre (1 inch per foot). All land shall be graded to provide positive drainage from the building line to the highway right-of-way;

- d) where it can be demonstrated that the requirements of b) and c) above cannot be met, an Officer, at his or her sole discretion, may waive the requirements provided that waiving these requirements does not create an adverse impact on adjoining lands;
- e) where applicable, elevation conforms to the requirements of the Grand River Conservation Authority. Where a minimum elevation has not been established by the Grand River Conservation Authority the minimum elevation shall be established to the satisfaction of the Officer having regard to the elevation of abutting roads, the elevation of abutting lands and the potential for flooding;
- f) the topsoil being removed is being used to restore the lands for which the permit is being issued unless it can be shown to the satisfaction of the Officer that the topsoil is not needed to restore the lands in which case the topsoil may be permitted to be removed from the land. Topsoil permitted to be removed may only be relocated within Township limits, and the site where the topsoil is proposed to be relocated shall be approved by the Officer; and
- g) satisfactory dust control, traffic control, noise control, hours of operation and vehicle travel routes are established for all equipment involved in the dumping, filling or grading operation;

- 3.7 All fill used shall be clean and free of rubbish, glass, garbage, termites, organic materials, liquid and toxic chemicals and other contaminants.

SECTION 4 - ADMINISTRATION AND ENFORCEMENT

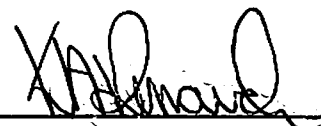
- 4.1 Every person who contravenes any provision of this By-law, a condition of a permit or an Order issued pursuant to this By-law is guilty of an offence and upon conviction thereof is liable to a fine in the maximum amount provided for by the Act.
- 4.2 Notwithstanding the provisions of subsection 4.1, every person who contravenes any provision of this By-law is guilty of an offence and may, at the option of the Township, be prosecuted pursuant to the provisions of the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended, and upon conviction thereunder is liable to a set fine in accordance with the Act and regulations passed thereunder.
- 4.3 An Officer may, at any reasonable time, enter and inspect any lands for the purpose of:
- (i) determining compliance with any provision of this By-law, including a permit issued pursuant to this By-law, or an order issued pursuant to this By-law; and/or
 - (ii) doing any work required by an Order provided that the service requirements of subsections 4.8 or 4.9 have been complied with.
- 4.4 Any alteration of land carried out contrary to this By-law or a permit issued pursuant to this By-law shall be removed and the site rehabilitated by the person responsible. Should the person responsible fail to rehabilitate the site as required, the Township shall issue an Order against the person responsible.
- 4.5 If an Officer is satisfied that there has been a contravention of this By-law, the Officer may, where a permit has been issued, revoke the permit and/or issue an Order requiring the person responsible to discontinue the activity. The Order shall set out the,

- (a) municipal address or the legal description of the land; and
 - (b) reasonable particulars of the contravention and the period within which there must be compliance.
- 4.6 If an Officer is satisfied that a contravention of this By-law has occurred, the Officer may issue an Order against the person responsible requiring work to be done to correct the contravention and the Order shall set out,
- (a) the municipal address or the legal description of the land; and
 - (b) reasonable particulars of the contravention and of the work to be done and the period within which there must be compliance with the order; and
 - (c) a notice stating that if the work is not done in compliance with the order within the period it specifies, the Township may have the work done at the expense of the owner and, for this purpose, may enter on the lands with its employees, contractors or agents
- 4.7 An Order issued pursuant to this By-law shall be served personally or by prepaid registered mail sent to the last known address of the owner of the land.
- 4.8 If an Officer is unable to effect service on the person responsible under subsection 4.8, the Officer may place a placard containing the terms of the Order in a conspicuous place on the land.
- 4.9 Should a person responsible not do any matter or thing required under this By-law, the Township may enter onto lands at issue and do the matter or thing at the expense of the Owner.
- 4.10 Costs incurred by the Township pursuant to section 4.9 of this By-law shall be recovered in like manner and with the same priority as municipal taxes pursuant to section 446 of the Act.
- 4.11 No person shall hinder or obstruct or attempt to hinder or obstruct an Officer in the performance of his duties or a person carrying out work in accordance with this section.


SECTION 5 – FORCE AND EFFECT

- 5.1 If any court of competent jurisdiction finds any provision of this By-law is invalid or is ultra vires the jurisdiction of the Township, the impugned provision shall be deemed to be severable and shall not invalidate any of the other provisions of this By-law.
- 5.2 This By-law shall come into force and effect when it is finally passed.

READ a First, Second and Third time this 7th day of December, 2009



MAYOR, KIM DENOUDEN



CLERK-ADMINISTRATOR , RODGER MORDUE

SCHEDULE "A"

BY-LAW NO. 2393-09

THE CORPORATION OF THE TOWNSHIP OF NORTH DUMFRIES

PERMIT FEES

Properties >1 acre	\$500.00
Properties ≤1 acre	\$350.00