

THE CORPORATION OF THE TOWNSHIP OF EAST GARAFRAXA

SITE ALTERATION BY-LAW

BY-LAW NUMBER 19 -2008

BEING A BY-LAW TO PROHIBIT OR REGULATE THE PLACING OR DUMPING OF FILL, REMOVAL OF TOPSOIL AND THE ALTERATION OF THE GRADE OF LAND

WHEREAS Section 142 of the *Municipal Act, 2001*, S.O. 2001, c. 25 as amended, authorizes a municipality to prohibit or regulate the dumping of fill, the removal of topsoil and alteration of grades;

NOW THEREFORE, the Council of the Corporation of the Township of East Garafraxa hereby enacts as follows:

**Definitions**

1. In this By-law:
  - a. "Fill" means any type of material deposited or placed on lands and includes soil, stone, concrete, peat, sod or turf either singly or in combination;
  - b. "Owner" includes the registered owner of any property in the Township and any person, firm or corporation which controls any property in the Township;
  - c. "Person" includes a natural individual and their heirs, executors, administrators or other legally appointed representatives, a corporation, partnership or other form of business association;
  - d. "Removal" means excavation or extraction of any fill which lowers the existing grade, including soil stripping;
  - e. "Soil" means material commonly known as earth, topsoil, loam, subsoil, clay, sand, peat or gravel;
  - f. "Township" means the Corporation of the Township of East Garafraxa.

**Prohibition**

2. No person may dump, place or remove fill or cause or permit fill to be dumped, placed or removed on any property in the Township.
3. No person may dump, place or remove soil or cause or permit soil to be dumped, placed or removed on any property in the Township.
4. Unless explicitly authorized by Council in writing, no person may alter the grade of any land or cause or permit the grade of any land to be altered on any property in the Township prior to Council providing conditions of approval for a site plan, plan of subdivision or a consent under section 41, 51 or 53, respectively, of the *Planning Act*, or prior to the execution by the Township of a site plan agreement, subdivision agreement or other development agreement, if such property would otherwise be exempt from this By-law pursuant to s. 5(b) of this By-law.

**Exemptions**

5. This By-law does not apply to:
  - a. activities or matters undertaken by the Township or a local board of the Township;
  - b. the placing, dumping of fill, removal of topsoil or alteration of the grade of land as a condition to the approval of 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, subdivision agreement or other development 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 a regulation made under section 70.2 of the *Planning Act* or as a requirement of any 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 on land 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*;
- 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 under the *Drainage Act* or the *Tile Drainage Act*;
- h. 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
- i. the placing or dumping of fill, removal of topsoil or alteration of the grade of land for the purpose of landscaping any residential property in the Township which is not subject to the exemption in clause b. above; or
- j. such other activities or matters as Council may permit after receipt of written application from a person seeking an exemption from this By-law.

#### Penalties

- 6. Every person who places or dumps fill or who causes or permits to be placed or dumped and every person who alters the grade of any land or who causes or permits the grade of any land to be altered and every person who places or removes soil or who causes or permits the removal of soil in the Township contrary to this By-law shall remove such fill or replace such soil and restore the existing grade of the land.
- 7. Where an Owner of land fails to do any work required in an order issued pursuant to this By-law within the period specified, the Township may determine to do the work and for this purpose may enter on the Owner's land with its employees and agents. The Township may charge such work back to the Owner of land for all costs incurred in undertaking such work, and such charge may be added to the tax roll.
- 8. Every person who contravenes any provision of this By-law is guilty of an offence, pursuant to the provisions of the *Provincial Offences Act*, R.S.O. 1990, c. P. 33, as amended, and upon a first conviction, is liable to a minimum fine of \$500.00 and to a maximum fine of \$100,000.00. Every person who is convicted of the same offence for a second and any subsequent time shall be liable to a minimum fine of \$5,000.00 and to a maximum fine of \$100,000.00 for each second and subsequent conviction.
- 9. Every person who contravenes any provision of this By-law is guilty of an offence and subject to the penalties as set out in Schedule "A" to this By-law at the discretion of a person duly authorized to enforce this By-law. Schedule "A" shall not apply in any circumstance where a person commits the same offence for a second and any subsequent occasion.

10. Schedule "A" of By-law 19-2008 shall be effective upon the approval and/or amendment of Schedule "A" of this by-law by the Regional Senior Justice of the Ontario Court of Justice.

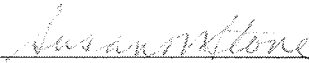
**General**

11. The short title of this By-law shall be the "Site Alteration By-law".

12. The provisions of this By-law shall come into force and take effect upon its final passing.

BY-LAW READ A FIRST AND SECOND TIME THIS 27<sup>th</sup> DAY OF MAY 2008

BY-LAW READ A THIRD TIME AND PASSED THIS 27<sup>th</sup> DAY OF MAY 2008

  
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CAO/CLERK

  
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HEAD OF COUNCIL

Schedule "A" to By-law Number 19 -2008

Item	Short Form Wording	Provision creating or defining offence	Set Fine (Includes Costs)
1	Causing or permitting the dumping, placement or removal of fill	Section 2	\$350.00
2	Causing or permitting the dumping, placement or removal of soil	Section 3	\$350.00
3	Causing or permitting the alteration of the grade of land	Section 4	\$350.00