

THE CORPORATION OF THE TOWN OF ORANGEVILLE

BY - LAW NUMBER 15-92

BEING A BY-LAW TO PROTECT AND CONSERVE TOPSOIL WITHIN THE
TOWN OF ORANGEVILLE

WHEREAS the Topsoil Preservation Act , R.S.O. 1990, C. T.12, provides that Councils of Municipalities may pass by-laws to regulate and prohibit the removal of Topsoil and to provide for the rehabilitation of lands where topsoil removal is permissible:

NOW THEREFORE THE CORPORATION OF THE TOWN OF ORANGEVILLE BY THE MUNICIPAL COUNCIL THEREOF ENACTS AS FOLLOWS:

Short Form Title

1. This By-law shall be commonly referred to as the Topsoil Removal By-law for the Corporation of the Town of Orangeville.

Definitions

2. For the purposes of this By-law, the following definitions and interpretations shall govern.
 - (a) "Corporation" means the Corporation of the Town of Orangeville.
 - (b) "Council" means the Council of the Corporation of the Town of Orangeville.
 - (c) "Director" means the Director of Public Works Department or his designate.
 - (d) "Lot" means a parcel of land, described in a deed or other document legally capable of conveying land, or shown as a lot or block on a registered plan of subdivision.
 - (e) "Topsoil" means that horizon in a soil profile known as the "A" horizon , containing organic material.
 - (f) "Erosion" means the detachment and movement of soil, sediment or rock fragments by water, wind, ice or gravity.
 - (g) "Land Disturbance" means any man-made change of the land surface including removing vegetative cover, excavating and filling and grading.
 - (h) "Body of Water" includes any brook, creek, stream, river, lake, pond, waterway, water course, canal, or other flowing or standing water.

General

3. No person shall remove or permit the removal of any topsoil within the Corporation unless:
 - (a) the exemptions contained in subsection 2(2) or 2(3) of the Topsoil Preservation Act, R.S.O. 1990, C. T.12 apply; or
 - (b) the removal is from a lot or group of lots the area of which is less than 0.5 hectares; or
 - (c) the removal is in accordance with a Topsoil Removal Permit issued pursuant to the by-law.

4. Notwithstanding the exemptions contained in subsections 3(a) and 3(b) of this By-law a Topsoil Removal Permit shall be required for all lots adjacent to any body of water, regardless of size.

5. All applications for Topsoil Removal Permits shall be made by the owner of the lot, or his authorized agent, in writing to the Director, or such other person or office as Council may from time to time appoint, during normal business hours.

6. Every application for a Topsoil Removal Permit shall be accompanied by:
 - (a) a Control Plan in accordance with section 7 of this By-law;
 - (b) the prescribed fee for the Topsoil Removal Permit as established from time to time, by Council, as follows:
 - (i) The fee for processing, administration and inspection for a 180 day permit is five hundred dollars (\$500.00) plus twenty-five dollars (\$25.00) per hectare.
 - (c) a Letter of Credit for Site Control Measures, detailed as follows:
 - (i) An irrevocable letter of credit to cover 100 % of the estimated site management control measures is required. The letter of credit is to be in a form acceptable to the Treasurer of the Corporation.
 - (ii) The letter of credit must remain in effect for the full duration of this permit. Any letter of credit and its subsequent renewal forms shall contain a clause stating that thirty (30) days notification will be given to the Corporation, in writing, prior to its expiry or cancellation.
 - (iii) In the event that the Corporation receives notification that a letter of credit is expiring and will not be renewed, or, if further or additional securities are not provided within the said thirty (30) days, the Corporation may draw on the current security. The applicant agrees that any interest accruing on the realized security shall belong to the Corporation and not to the applicant.

7. The Control Plan accompanying an application for a Topsoil Removal Permit shall include:
 - (a) A key plan showing the location of the site;
 - (b) the site boundaries and number of hectares of the site plan;

- (c) the use of the land and the location and use of the buildings and other structures adjacent to the site;
 - (d) the location, dimensions and use of the buildings and other structures existing or proposed to be erected on the site;
 - (e) the location of lakes, streams, wetlands, channels, ditches, other water courses and other bodies of water on and within thirty (30) metres beyond the site boundary;
 - (f) the Regional Storm Flood Plain and Conservation Authority Fill Regulation lines;
 - (g) the location of the predominant soil types;
 - (h) the location and type of vegetative cover;
 - (i) the location and dimensions of any existing and proposed storm water drainage systems and natural drainage patterns on and within thirty (30) metres beyond the site property boundary;
 - (j) the locations and dimensions of utilities, structures, roads, highways, and paving;
 - (k) the existing site topography at a contour interval not to exceed a half of one metre and to extend a minimum of thirty (30) metres beyond the site boundary;
 - (l) the proposed final elevations of the site;
 - (m) the location and dimensions of all proposed land disturbing activities;
 - (n) the location and dimensions of all temporary soil or dirt stockpiles;
 - (o) the location, dimensions, design details and design calculations of all construction site control measures necessary to meet the requirements of this By-Law;
 - (p) a schedule of anticipated starting and completion dates of each land disturbing or land developing activity including the installation of construction site control measures needed to meet the requirements of the Topsoil Removal; and
 - (q) provisions for maintenance of the construction site control measures during construction.
 - (r) any other necessary information with respect to the site.
8. Every Control Plan accompanying an application for a Topsoil Removal Permit must be certified by a professional engineer who is licensed to practise in the Province of Ontario or any other qualified person approved by the Director.
9. Notwithstanding any other provisions of this By-law, Council may, by by-law, waive the requirement for a Control Plan and/or may reduce the fee for a Topsoil Removal Permit in appropriate cases after taking into consideration the cost of the proposed works, the anticipated impact on the adjacent body of water and the use of the property.

10. All applications for a Topsoil Removal Permit shall meet the following Site Design Guidelines:
- (a) Site Dewatering - Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, upflow chambers, swirl concentrators, or other appropriate controls. If the water is demonstrated to have no particles greater than forty (40) microns, than dewatering operations may be conducted provided the water is not permitted to discharge directly into receiving water streams or bodies.
 - (b) Drain Inlet Protection - All storm drain inlets shall be protected with filter fabric, or equivalent barrier meeting accepted design criteria, standards and specifications.
 - (c) Site Erosion Control - The following criteria apply to land disturbing activities that result in runoff leaving the site:
 - (i) Channelized runoff from adjacent areas passing through the site shall be diverted around disturbed areas, if practical. Otherwise, the channel shall be protected by filter fences being placed along the channel edges to reduce sediment reaching the channel.
 - (ii) All activities on the site shall be conducted in a logical sequence to minimize the area of bare soil exposed at any one time.
 - (iii) Any soil or dirt storage piles containing more than one hundred cubic metres of material should not be located with a downslope drainage length of less than ten (10) metres to a roadway or drainage channel. If remaining for more than thirty (30) days, they shall be stabilized by mulching, vegetative cover, tarps or other means. Erosion from piles which will be in existence for less than thirty (30) days shall be controlled by filter fence barriers around the pile.
 - (d) Runoff from the entire disturbed area on the site shall be controlled as follows:
 - (i) All disturbed ground left inactive shall be stabilized by seeding, sodding, mulching or covering, or other equivalent control measure. The period of time of inactivity will be at the discretion of the Director but will not exceed thirty (30) days;
 - (ii) For sites with less than 0.5 hectares disturbed at one time and slopes less than twelve (12) percent grade, filter fences, or equivalent control measures shall be placed along all sideslope and downslope sides of the site;
 - (iii) For sites with more than 0.5 hectares disturbed at one time or with slopes greater than twelve (12) percent grade, or if a channel originates in the disturbed area, one or more sedimentation basins shall be constructed. Each sedimentation basin shall have a minimum surface area equal to one (1) percent of the area draining to the basin and a minimum depth of one (1) metre. The basin(s) shall be constructed in accordance with current design standards. The basins shall be designed to trap sediment greater than forty (40) microns in size, based on the flow from a five (5) year design storm for a one hour duration.

- (iv) The sedimentation basins shall be maintained and operated to ensure that they perform as designed. Without limiting the generality of the above, sediment shall be removed to maintain a depth of one (1) metre. It is not permitted to discharge sedimentation basins directly into receiving streams and/or other water bodies. The basin discharge rate shall be sufficiently low as to not cause erosion along the discharge channel; and,
 - (v) For sites located adjacent to existing residential area (in fill), a sediment control fence may be required around the entire perimeter of the site.
 - (vi) A three (3) metre wide buffer strip or sediment control fence will be provided along the perimeter of the downslope sides of the site.
 - (vii) The sediment control guidelines prepared by Credit Valley Conservation Authority and the Ministry of Natural Resources dated April, 1991, and as revised to the date of the application for the permit, shall be used as a guide.
11. A Topsoil Removal Permit shall be issued where the requirements of this By-law are met and where the Director is satisfied that no damage will occur as a result of erosion, sedimentation or flooding and that the land will be rehabilitated to the same or better condition than it was in at the time prior to the removal of the topsoil for which the Topsoil Removal Permit is issued.
12. Where the Director refuses to recommend issuance of a permit, the applicant shall be informed in writing of the refusal and may be required to provide additional information if the application is to be given further consideration.
13. Topsoil Removal Permits:
- (a) Shall be valid for a period of 180 days. The Public Works Department may extend the period one or more times for up to an additional 180 days each time. The Public Works Department may require additional control measures and inspection fees as a condition of the extension if they are necessary to meet the requirements of this By-Law; and
 - (b) As a condition of approval and issuance of the permit, the Public Works Department will require the applicant to deposit an irrevocable letter of credit to guarantee the execution of the approved control plan and any permit conditions.
 - (c) Shall require the permittee to:
 - (i) Notify the Public Works Department within 48 hours of commencing any land disturbing activity;
 - (ii) Notify the Public Works Department of completion of any control measures within fourteen (14) days after their installation;
 - (iii) Obtain permission in writing from the Public Works Department prior to modifying the control plan;
 - (iv) Install all control measures as identified in the approved control plan;

- (v) Maintain all road drainage systems, stormwater drainage systems, control measures and other facilities identified in the control plan;
 - (vi) Repair any siltation or erosion damage to adjoining surfaces and drainageways resulting from land developing or disturbing activities;
 - (vii) Inspect the construction control measures after each rain of one (1) centimetre or more and at least once each week and make needed repairs;
 - (viii) Allow the Public Works Department to enter the site for the purpose of inspecting compliance with the control plan or for performing any work necessary to bring the site into compliance with the control plan; and,
 - (ix) Maintain a copy of the control plan on site during site activity.
- (d) Upon the failure by the applicant to complete all or part of the Works in the times as stipulated in the Control Plan, the Corporation may draw the appropriate amount from the securities and use the funds to arrange for the completion of the said works, or any part thereof.
- (e) Upon the failure by the applicant to repair or maintain a specific part of the works as requested by the Corporation, and in the time requested, the Corporation may at any time authorize the use of all or part of the securities to pay the cost of any part of the Works the Corporation may in its or their absolute discretion deem necessary.
14. Employees of the Public Works Department shall inspect sites for which Topsoil Removal Permits have been issued to ensure compliance with the approved control plan.
15. The issuance of a Topsoil Removal Permit does not preclude the applicants responsibility to obtain all other approvals as may be required by any level of government and agencies thereof.
16. All sedimentation basins and other control measures necessary to meet the requirements of the By-law shall be in place prior to any land disturbance of the site. These measures shall be maintained by the applicant or subsequent landowner during the period of land disturbance in a satisfactory manner to ensure adequate performance and to prevent nuisance conditions.
17. Notwithstanding the owner's compliance with the provisions set out in the application for a Topsoil Removal Permit, no Topsoil Removal Permit shall be issued for the removal of Topsoil if, in the opinion of the Director the removal of Topsoil from the site applied for will;
- (a) Cause a nuisance within the Corporation;
 - (b) Unreasonably hinder the orderly development of any lands within the Corporation;
 - (c) Adversely affect the amenities of neighbouring lots; or,
 - (d) Adversely affect natural drainage systems thus affecting neighbouring lots.

18. If the property for which a Topsoil Removal Permit has been issued is transferred while the Topsoil Removal Permit remains in effect the new owner shall either:
 - (a) provide the Corporation with an Undertaking agreeing to comply with all the conditions under which the existing Topsoil Removal Permit was issued; and
 - (b) provide a Letter of Credit in accordance with the requirements of section 6(c) of this By-law.or;
 - (c) apply for and obtain a new Topsoil Removal Permit in accordance with the provisions of this By-law.
19. No notices of contravention or charges will be laid under this By-law with respect to properties that are under development at the time of the enactment of this By-law unless thirty (30) days written notice to comply with the By-law has been mailed by the Director to the property owner(s) listed on the assessment roll.
20. Where it is revealed or discovered that the holder of a Topsoil Removal Permit has provided misleading or false information on the application, the Topsoil Removal Permit issued under this By-law shall be revoked by the Director and the Topsoil Removal Permit holder shall thereafter cease and desist forthwith all operations being conducted under the authority of the revoked Topsoil Removal Permit.
21. Any person or corporation who contravenes any provision or requirements of this By-law may be issued a Notice of Contravention by an employee of the Public Works Department advising of the contravention.

Penalties

22. Every person or corporation who:
 - (a) provides misleading or false information in an application under this By-law in any statement or plan required to be produced under this By-law;
 - (b) fails to comply with any notice of contravention or other requirement under this By-law; or
 - (c) contravenes any provision or requirement of this By-law and every director or officer of a corporation who concurs in such production, failure or contravention is guilty of an offence and on conviction under the Provincial Offences Act, R.S.O., 1980, C. 400, as amended, is liable to a maximum fine of \$5,000.00, as prescribed under the Provincial Offences Act.

Enforcement

23. This by-law shall be enforced by the By-law Enforcement Officer for the Corporation.

Severability

24. In the event that any particular provision or provisions or part of a provision is found to be invalid or enforceable for any reason whatsoever, then the particular provision or provisions or part of the provision shall be deemed to be severed from the remainder of this By-law and all other provisions shall remain in full force and shall be valid and enforceable to the fullest extent permitted by law.

Effective Date

25. This By-law come into force and effect upon final passage of the by-law by Council.

BY-LAW READ A FIRST AND SECOND TIME THIS 3RD DAY OF FEBRUARY, A.D., 1992.

William Morris
CLERK

Mary T. Rose
HEAD OF COUNCIL

PASSED IN OPEN COUNCIL THIS 17th DAY OF February A.D., 1992.

BY-LAW READ A THIRD TIME THIS 17th DAY OF February, A.D., 1992.

William Morris
CLERK

Mary T. Rose
HEAD OF COUNCIL