

**CORPORATION OF THE  
TOWNSHIP OF ZORRA**



**BY-LAW NO. 49-03**

**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  
DEFINED AREAS IN THE TOWNSHIP OF ZORRA**

**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** the Council of the Corporation of the Township of Zorra deems it advisable to enact a by-law to repeal By-law 38-03 and replace it with this 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 ZORRA 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 "Activity" means one or more of the matters prohibited by section 4 of this by-law that requires a permit pursuant to this by-law;
- 2.2 "Chief Building Official" means the Chief Building Official/Drainage Superintendent for the Township of Zorra or his/her designate;
- 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has received approval from the approval authority or the Ontario Municipal Board, which approval has not lapsed, been withdrawn or otherwise terminated, but which has not yet received final approval pursuant to Section 51 of the *Planning Act*;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 on Map Schedule Z1 and Z2 in the Oxford County Official Plan;
- 2.7 "Fill" shall mean any type of material deposited or placed on lands and includes soil, stone, rock, concrete, asphalt, sod or turf;
- 2.8 "Grade, Existing" shall mean the elevation of the existing ground surface of the lands on the date of passage of this by-law;

- 2.9 "Officer" or "Inspector" shall mean a person duly authorized to carry out administration and enforcement duties of this by-law;
- 2.10 "Site" shall mean the area of land containing any proposed dumping or alteration;
- 2.11 "Soil shall mean material commonly known as earth, topsoil, loam, subsoil, clay, sand, gravel, silt, rock or fill;
- 2.12 "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 after December 31, 2002 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 after December 31, 2002 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 and 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*; 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)*.
- 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; or
- 3.9 To minor activities preapproved in writing by the Township's Chief Building Official, Building Inspector or By-law Enforcement Officer.

#### **4. PROHIBITIONS**

- 4.1 Unless otherwise exempted by this by-law, no person shall alter the grade of land, place or dump fill or remove topsoil within an Environmental Protection Area or on any land that is subject to a Draft Plan of Subdivision without having first obtained a permit pursuant to this by-law.
- 4.2 Where a permit has been issued pursuant to this by-law with respect to certain lands, no person shall alter the grade of those lands, place or dump fill on those lands, or remove topsoil from those lands, except in accordance with that permit and except in accordance with any terms, conditions, plans or other information that form part of the permit or were submitted as part of the application or supporting material for the issuance of that permit.

#### **5. REQUIREMENTS FOR AN APPLICATION**

- 5.1 A person applying for a permit to alter the grade of land, place or dump fill or remove topsoil within any Environmental Protection Area or on any land that is subject to a Draft Plan of Subdivision shall submit a completed application form, together with the required plans and information to the Township Clerk.
- 5.2 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 In an Environmental Protection Area, a permit will be issued only where the applicant has satisfactorily demonstrated that all of the requirements set out in subsections (a) to (d) following have been met:
  - (a) the applicant is the owner of the subject lands or is authorized by the owner to make all necessary commitments on the owner's behalf and has fulfilled all requirements pursuant to this by-law;
  - (b) the proposed Activity is associated with an existing or proposed use of the property that is otherwise legally permitted;
  - (c) the proposed Activity (including any protective measures that are required) will not result in:

- (i) interference with natural drainage processes or blockage of a watercourse;
  - (ii) soil erosion, slope instability or siltation in a watercourse;
  - (iii) pollution of a watercourse;
  - (iv) flooding, ponding or other impacts on the natural hydrologic cycle;
  - (v) a significant impact on healthy vegetation community within, or adjacent to the subject site;
  - (vi) a significant impact on any fish or wildlife habitat within, or adjacent to the subject site; or
  - (vii) any adverse effect, significant impact or interference with the natural features, forms or functions of the Environmental Protection Area; and
- (d) the applicant/owner, if required as a condition of the permit, will enter into an agreement with the Township, which may be registered on title to the subject lands, containing such provisions as the Township considers necessary to ensure the proposed Activity and any protective measures will be undertaken in accordance with approved plans and information. Such an agreement may contain a provision that the applicant/owner shall post with the Township security in an amount satisfactory to the Township, to ensure performance of the obligations under the agreement.

6.2 In an area that is subject to a Draft Plan of Subdivision, a permit will be issued only where the applicant has satisfactorily demonstrated that all of the requirements set out in subsections (a) to (f) following have been met:

- (a) the applicant is the owner of the subject lands or is authorized by the owner to make all necessary commitments on the owner's behalf and has fulfilled all requirements pursuant to this by-law;
- (b) the purpose of the proposed Activity is to satisfy one or more of the conditions of draft plan approval;
- (c) the subject lands are zoned to permit the intended use of the proposed subdivision and the proposed Activity is otherwise legally permitted;
- (d) the proposed site alteration (including any protective measures) will not result in:
  - (i) drainage patterns of adjacent properties being adversely disturbed;
  - (ii) any other works commencing on site until all pertinent approvals are in place;
  - (iii) undue dust problems for adjacent neighbours;
  - (iv) any existing Township roads being fouled with dirt, mud or debris;
  - (v) any existing Township road being used for construction access purposes except those routes designated for construction access by the Township's Director of Public Works;

- (vi) any on site burning of material without prior approval of the respective area Fire Chief;
  - (vii) any negative impact on groundwater levels except in accordance with plans that have been approved by the Township Engineer; or
  - (vii) any non-compliance with any relevant provisions of Section 6.1(c) of this by-law; and
- (e) The applicant has provided the Township and the County of Oxford with the first submission of engineering drawings for the lands that are subject to the draft plan of subdivision (or the relevant phase(s) thereof); and these plans have received municipal approval from the respective municipal engineering departments, and registration of the subdivision agreement on title is expected within four (4) months.
- (f) the applicant/owner, if required as a condition of the permit, will enter into a subdivision agreement or other development agreement with the Township, which may be registered on title to the subject lands, containing such provisions as the Township considers necessary to ensure the proposed Activity and any protective measures will be undertaken in accordance with approved plans and information. Such an agreement may contain provisions that the applicant shall post with the Township security in an amount satisfactory to the Township, to ensure performance of the obligations under the agreement.

## **7. APPEALS**

- 7.1 An applicant for permit pursuant to this by-law may appeal to the Ontario Municipal Board;
- (a) if the municipality refuses to issue a permit, within 30 days after the refusal;
  - (b) if the municipality fails to make a decision on the application, within 45 days after the application is received by the clerk;
  - (c) if the applicant objects to a condition in the permit, within 30 days after the issuance of the permit.
- 7.2 The Ontario Municipal Board may, by order;
- (a) uphold the decision of the municipality;
  - (b) require the municipality to vary any condition in a permit; or
  - (c) require the municipality to issue a permit on such conditions as the Board considers appropriate.
- 7.3 The decision of the Board is final and Section 95 of the *Ontario Municipal Board Act* does not apply to such a decision of the Board.

## **8. ADMINISTRATION**

- 8.1 The Council of the Corporation of the Township of Zorra hereby designates the Chief Building Official, the Building Inspector and the By-law Enforcement Officer 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.
- 8.4 If an Officer is satisfied that a contravention of the by-law has occurred, the officer may make an order requiring the owner of the land or the person who caused or permitted the placing or dumping of fill, removal of topsoil or alteration of the grade of land in contravention of the by-law to discontinue the activity 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 the period within which there must be compliance.
- 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) the municipal address or the legal description of the land;
  - (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 municipality may have the work done at the expense of the owner.
- 8.6 An order pursuant to this by-law shall be served on the owner of the subject lands personally or by prepaid registered mail to the last known address of the owner of the land.
- 8.7 An Officer who is unable to effect service pursuant to Section 8.6 of this by-law shall place a placard containing the order in a conspicuous place on the property and the placing of the placard shall be deemed to be sufficient service of the order on the owner.
- 8.8 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.
- 8.9 Any work done or caused to be done by the Township pursuant to section 8.8 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.

## **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 subsection 8.4 or 8.5 of 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. EFFECTIVE DATE

- 11.1 This by-law shall come into full force and effect on the day it is passed.

## 12. REPEAL

- 12.1 By-law 38-03 is hereby repealed.

**READ A FIRST AND SECOND TIME THIS 30<sup>th</sup> DAY of SEPTEMBER, 2003**

**READ A THIRD TIME AND FINALLY PASSED THIS 30<sup>th</sup> DAY OF SEPTEMBER 2003**

  
MAYOR  
WILLIAM SEMENIUK, JR.

  
CLERK ADMINISTRATOR  
DONALD W. MACLEOD

**TOWNSHIP OF ZORRA 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, 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) or other su
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)