

THE CORPORATION OF THE TOWNSHIP OF TAY

BY-LAW NO. 98-43

**A by-law to prohibit or regulate the placing or
Dumping of Fill in areas of the Township of Tay**

WHEREAS Section 142 of the Municipal Act, R.S.O. 1990 c.M.45, as amended, authorizes the Council of local municipalities to pass by-laws for prohibiting or regulating the placing or dumping of Fill of any kind in any defined area or areas in the Township of Tay;

AND WHEREAS it is deemed expedient to repeal By-law No. 96-24 and pass this by-law;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF TAY ENACTS AS FOLLOWS:

PART 1 – DEFINITIONS

1.1 In this by-law:

- (a) "Corporation" means the Corporation of the Township of Tay;
- (b) "Drainage" means the movement of water to a place of outflow;
- (c) "Dumping" means 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, "Dump" shall share a corresponding meaning;
- (d) "Fill" means any type of material deposited or placed on lands and includes but is not limited to sand, soil, stone, granular material, concrete, sod or turf either singly or in combination;
- (e) "Inspector" means the following persons who are authorized to carry out any of the powers or duties pursuant to this by-law, for the period of their employment with the Corporation:
 - Director of Planning & Development or designate
 - Director of Public Works or designate
 - Planning Technician
 - Chief Building Official
- (f) "Existing Grade" means the elevation of the ground surface of the lands upon which dumping and/or placing of Fill is proposed prior to the dumping or placing of fill and of abutting ground surface up to 3 metres wide surrounding such lands, except that where placing or dumping of Fill has occurred in contravention of this by-law Existing Grade shall mean the ground surface of the lands as it existed prior to the placing or dumping of Fill;
- (g) "Finished Grade" means the approved elevation of the ground surface of lands upon which Fill has been placed in accordance with this by-law;

- (h) "Proposed Grade" means the proposed elevation of the ground surface of the lands upon which Fill is proposed to be placed in accordance with this by-law;
- (i) "Owner" includes any person, firm or corporation shown as being the registered owner on which Fill is to be placed or dumped of the lands according to Assessment records as well as the tenant or occupant of such lands or a mortgagee in possession of such lands.
- (j) "Placing" means the distribution of Fill on lands to establish a Finished Grade higher than the Existing Grade, "Place" shall have a corresponding meaning;
- (k) "Ponding" means the accumulation of surface water in an area not having adequate drainage therefrom where the lack of drainage is caused by the Placing or Dumping of Fill;
- (l) "Soil" means material commonly known as earth, top soil, loam, subsoil, clay, sand or gravel;
- (m) "Swale" means a shallow depression in the ground sloping to a place of outflow of surface water for the purpose of providing a method of drainage;
- (n) "Township" means the Corporation of the Township of Tay;
- (o) "Township of Tay" means the lands within the geographic boundary of the Township.

PART II – PROHIBITION

- 2.1 (a) No person shall Place or Dump Fill in the areas of the Township of Tay defined and zoned Environmental Protection, "EP", "EP2", or "EP3" by the General Zoning By-law 1767 of the Corporation.
- (b) No person shall Place or Dump Fill in areas of the Township of Tay other than those areas described in subsection 2.1(a) of this Section, without having first obtained a permit issued by an Inspector.
- (c) The provisions of subsection 2.1(b) of this section do not apply to:
- (i) the use, operation, establishment, alteration, enlargement or extension of a waste management system or waste disposal site approved pursuant to Part 8 of the *Ontario Building Code*;
 - (ii) a waste, waste disposal site or waste management system that is approved pursuant to the *Environmental Protection Act*;
 - (iii) the construction, extension, alteration, maintenance or operation of works under section 26 of the *Public Transportation and Highway Improvement Act*;
 - (iv) the activities of the Township, The County of Simcoe, District School Boards, Crown agencies as defined in the *Crown Agency Act* and Ontario Hydro;
 - (v) persons operating a pit or quarry who are in possession of a valid license or permit issued under the *Aggregate Resources Act*;

- (vi) a building permit has been issued by the Chief Building Official for the erection of a building or structure;
 - (vii) A work permit has been issued by the Ministry of Natural Resources under the *Public Lands Act* or the *Lakes and Rivers Improvement Act*;
 - (viii) Fill is Placed or Dumped in an excavation to the elevation of the Existing Grade at the immediate perimeter of the excavation following the demolition or removal of a building or structure;
 - (ix) Where soil is placed on lands for the purpose of lawn dressing, landscaping, adding to flower beds or vegetable gardens, provided the Finished Grade of any portion of the lands is not increased by more than 30 centimetres (12 inches), or where soil is added to a contained flower bed or landscape planter.
- (d) Where a permit has been issued under this by-law authorizing the Placing or Dumping of Fill on lands, no person shall Place or Dump fill except in accordance with the plans, documents and any other information on the basis of which a permit was issued.
 - (e) If there is a conflict between this By-law passed and a By-law passed by the Council of the County of Simcoe, the By-law of the County of Simcoe prevails.

PART III – PERMITS

- 3.1 A person applying for a permit to Dump or Place Fill on the lands shall submit the following to the Township:
- (a) a complete application in the form prescribed.
 - (b) the applicable permit fee calculated in accordance with Schedule "A" which forms part of this by-law.
 - (c) an accurate plan of the lands showing:
 - (i) The property lines of the lands with dimensions;
 - (ii) Existing elevations in the form of contours at 1.0 metre intervals or less, or spot elevations along the property and 3.0 metres beyond the property line at sufficient intervals to clearly show the existing drainage patterns on the lands and on the abutting lands;
 - (iii) All existing storm sewers, ditches, swales, creeks and watercourses on the lands and on abutting lands and public highways;
 - (iv) Proposed sediment and erosions controls that will be installed prior to Filling of the Lands;
 - (v) Proposed final elevations and drainage system (which may include swales, ditches, tile and pipe, etc.) to be used upon completion of the Filling operation; and
 - (vi) A description of the proposed Fill.
 - (d) The inspector, upon reviewing the application, may request that the existing and proposed elevations be certified by an Ontario Land Surveyor or Professional Engineer.
- 3.2 The Inspector shall issue a permit where:
- (a) The Inspector is satisfied that the lands which are the subject to the application for permit are not within an area where the Placing or Dumping of Fill is prohibited under subsection 2.1(a) of this by-law.

- (b) The applicant has fulfilled all requirements of PART III of this by-law.
 - (c) The drainage system for the lands is provided in accordance with the Corporation's by-laws and the Inspector is satisfied that provision has been made for surface, storm-water Drainage where such Drainage is not provided by natural gradients or Swales.
 - (d) The Inspector is satisfied that the proposed final elevations and resulting drainage pattern, the type of Fill to be used, and the method of Placing or Dumping of Fill, are all in accordance with prevailing Township standards and proper engineering practice.
 - (e) The Inspector is satisfied that the Placing or Dumping of Fill will not result in:
 - (1) Soil erosion;
 - (2) Blockage of a watercourse;
 - (3) Siltation in a watercourse;
 - (4) Pollution of a watercourse;
 - (5) Flooding;
 - (6) Ponding caused by a watercourse overflowing its banks;
 - (7) A detrimental effect on any healthy 75 mm caliper or larger trees located on the lands; or
 - (8) A detrimental effect on the natural environment of the area.
- 3.3 (a) The permit issued pursuant to subsection 3.2 shall be valid for a period of one year from the date of issuance but shall expire after 6 months from the date of issuance if work has not been commenced. Where a permit is to be cancelled, the Inspector shall notify the owner the date upon which the Permit will be cancelled, which shall be no earlier than 15 days from the date of the notice.
- (b) A permit which is no longer valid or which has expired pursuant to subsection 3.3(a) may be renewed within a six month period from the date of expiry upon the making of written application to the Inspector accompanied by a payment of one half of the original permit fee, provided that the proposed work has not been revised.
- 3.4 The issuance of a permit by the Inspector does not relieve the applicant's responsibility to obtain all other approvals which may be required by any level of government and agencies thereof.
- 3.5 If the lands for which a permit has been issued are transferred while the permit remains in effect the new owner of the lands shall within 30 days of Transfer either:
- (a) Provide the Township with an undertaking to comply with all the conditions under which the existing permit was issued; or
 - (b) Apply for and obtain a new permit in accordance with the provisions of this by-law.

- 3.6 No person shall Place or Dump, or cause to be Placed or Dumped, Fill on any land for storage purposes, unless the outside storage of such Fill on the land is permitted by the General Zoning By-law of the Corporation.

PART IV – ENFORCEMENT

- 4.1 No person shall Place or Dump, or cause to be Placed or Dumped, Fill on any land unless:
- (a) It is done in accordance with a permit issued under this by-law, or in accordance with the provisions of subsection 2.1(c) of this by-law.
 - (b) All Fill to be used is free of garbage and is clean;
 - (c) The Drainage system for the lands is provided in accordance with the Corporation's by-laws and the Inspector is satisfied that provision has been made for surface, storm-water Drainage where such Drainage is not provided by natural gradients or Swales; and
 - (d) The Fill is Placed or Dumped in such a manner, or the Retaining Wall containing such Fill is erected in such a manner, that no Ponding is caused on abutting lands.
- 4.2 Every person who Places or Dumps Fill shall:
- (a) Ensure that the Finished Grade surface be protected by sod, turf, seeding for grass, greenery, asphalt, concrete or other means, either singly or in combination.
 - (b) Ensure that Fill shall not be Placed around the perimeter of any existing building to an elevation higher than 150 millimeters above the ground floor level of such building, unless such building and its foundation walls are raised in a manner satisfactory to the Chief Building Official.
 - (c) Ensure that no trench in which piping is laid forming part of the Drainage system shall be covered and backfilled until the work has been inspected and approved by the Inspector;
 - (d) Provide such protection for trees as may be required by the Inspector.
 - (e) Provide such siltation control measures as may be required by the Inspector, and
 - (f) Ensure that the Placing of the Fill will not track mud onto or foul any municipal roadways.
- 4.3 The Owner of any land upon which Fill is being dumped, has recently dumped, or upon which it is proposed that Fill be dumped shall allow employees of the Corporation to enter upon the land for the purpose of determining compliance with the provisions of this by-law.
- 4.4 Employees of the Corporation may inspect any land within the Township, upon which Fill is being dumped, has recently been dumped, or upon which it is proposed that Fill be dumped to determine compliance with the provisions of this by-law.

- 4.5 The administration and enforcement of this by-law shall be performed by the Inspectors as may be appointed by by-law of the Corporation.
- 4.6 Where it is revealed or discovered that the holder of a permit issued under this by-law has provided misleading or false information on the application, the said permit shall be revoked by the Inspector and the permit holder under this by-law shall thereafter cease and desist forthwith all operations being conducted under the authority of the revoked permit. Notice of the revocation of the permit shall be provided in the manner set out in subsection 3.3(a).

PART V – ADMINISTRATION

- 5.1 An Inspector may, during daylight hours and upon producing a certificate of designation, enter and inspect any land to which the by-law applies.
- 5.2 An Inspector may, in carrying out an inspection, be accompanied by an assisting person.
- 5.3 If, after inspection, the inspector is satisfied that there is a contravention of the by-law, he or she shall notify the owner of the land of the particulars of the contravention by personal service or prepaid registered mail and may, at the same time, provide all occupants with a copy of the notice.
- 5.4 After giving any person served with a notice under subsection 5.3 an opportunity to appear before the Inspector and make representations in connection with it, the Inspector may make an order setting out,
- (a) the municipal address or the legal description of the land;
 - (b) reasonable particulars of the work to be done to correct the contravention and the period in which there must be compliance with the order; and
 - (c) notice 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.
- 5.5 An order under subsection 5.4 shall be served personally or by prepaid registered mail.
- 5.6 If the person fails to do the work required by the order within the period specified, the Corporation, in addition to all other remedies it may have, may do the work and for this purpose may enter on the land with its employees and agents.
- 5.7 Costs incurred by the Township under Subsection 5.6 of this by-law are a lien on the land upon the registration in the Land Registry Office of a Notice of Lien.
- 5.8 No person shall cause or permit the Placing or Dumping of Fill on his or her lands in contravention of this by-law.
- 5.9 Every person or corporation who 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.

- 5.10 Notwithstanding any other provisions of this by-law, the Inspector may waive the requirement for a plan and/or reduce or waive the permit fee where it considers it appropriate after taking into consideration the proposed works and any other relevant information provided by the applicant. No Filling of any lands shall occur prior to a final decision of the Inspector, and after consulting the Planning & Development Committee of Council.
- 5.11 In the event that any particular provision or provisions or part of a provision of this by-law is found to be invalid or unenforceable 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.
- 5.12 That By-law No. 96-24 passed on the 10th day of April 1996 is hereby repealed.

BY-LAW READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 13TH DAY OF JUNE, 2012.

THE CORPORATION OF THE TOWNSHIP OF TAY

MAYOR, Scott Warnock

CLERK, Alison Thomas

BY-LAW NO. 98-43

SCHEDULE "A"

Fees

Application processing fee \$25.00

Permit \$50.00 plus \$25.00 for each hectare of filled lands

*Where, in the opinion of the Inspector, a review by the Township Engineer is required a deposit to cover the review costs shall be required prior to review and issuance of permit.