

THE CORPORATION OF THE TOWNSHIP OF ADJALA-TOSORONTIO

BY-LAW 14 - 08

A BY-LAW TO PROHIBIT AND REGULATE THE PLACEMENT, REMOVAL AND STOCKPILING OF FILL, AND ALTERATION OF THE GRADE OF LAND IN THE TOWNSHIP OF ADJALA-TOSORONTIO

Fill By-Law

WHEREAS a municipality may prohibit or regulate the placing or dumping of fill, and prohibit or regulate the alteration of the grade of land, pursuant to Section 142 of the *Municipal Act, 2001*, S.O. 2001, c.25; and,

WHEREAS Council deems it in the public interest to regulate the placing or dumping of fill, the alteration of the grade of land in the Township of Adjala-Tosorontio, prescribe fees for a permit, the circumstances under which a permit may be issued, and the conditions to such permit; and,

WHEREAS Council may 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 Council desires to protect the adverse impacts of inappropriate fill to protect the economic, social and environmental wellbeing of the municipality and the health, safety and well-being of persons pursuant to Section 11 of the *Municipal Act, 2001*;

NOW THEREFORE the Council of The Corporation of the Township of Adjala-Tosorontio enacts as follows:

1. DEFINITIONS

In this By-law:

- (a) "Agricultural lands" means lands zoned for agricultural use under the Township Zoning By-Law, as amended and is used for the growing of crops, including nursery and horticultural crops, and/or raising of livestock;
- (b) "Council" means the Council of the Township of Adjala – Tosorontio;
- (c) "Conservation Authority" means the conservation authority established under the *Conservation Authorities Act* with jurisdiction over a particular geographic area;
- (d) "Director" means the Director of Building & Enforcement Services for the Township and shall include any person authorized by the Director to carry out the powers and/or duties of the Director pursuant to this By-Law;
- (e) "Dump, dumped or dumping" shall mean the depositing of fill in a location other than where the fill was obtained and includes the movement or placing of fill from one location on lands to another location on the same lands;
- (f) "Fill" means any type of material deposited or placed on lands and, without limiting the generality of the foregoing, includes earth, top soil, loam, subsoil, stone, aggregate, asphalt, or any combination thereof;

- (g) "Fill Operation" means the action of hauling and dumping or removing fill on any land in the Township;
- (h) "Officer" means individuals appointed by the Township as Inspectors or By-Law Enforcement Officers or such other person as, from time to time, have been delegated responsibility to act under this By-Law by the Director;
- (i) "Operator" means any person, firm or corporation authorized by the Owner to manage and/or control the placing or dumping of fill;
- (j) "Owner" means the registered owner(s) of the land;
- (k) "Person" includes any individual, corporation, partnership or association;
- (l) "Qualified Person" means a person who has the qualifications and expertise necessary to complete the intended function, and includes a person licenced under the *Professional Engineers Act*, or person who holds a certificate of registration under the *Professional Geoscientists Act*;
- (m) "Rehabilitate, rehabilitation" means to bring the site back to a normal, safe condition to the satisfaction of the Township;
- (n) "Site" means real property where a fill operation is occurring, planned to occur, or has occurred;
- (o) "Stabilization" means ensuring that the finished grade surface is protected by sod, turf, seeding for grass, greenery, or other means to the satisfaction of the Township;
- (p) "Township" means the Corporation of the Township of Adjala-Tosorontio;

2. GENERAL REGULATIONS

No person shall:

- (a) place or dump fill, or cause or permit fill to be placed or dumped on any land except in accordance with the provisions of this By-law and without first obtaining a Permit under this By-law from the Director, unless otherwise exempt under Section 4;
- (b) alter, or cause or permit to be altered, the grade of any land except in accordance with the provisions of this By-law and without first obtaining a Permit under this By-law unless otherwise exempt under Section 4;
- (c) fail to obey an order issued under Section 11 or 12 of this By-Law.

3. APPLICATION OF BY-LAW

This By-law applies to fill operations within the geographical area of the Township other than as exempted under Section 4 of this By-Law.

4. EXEMPTIONS

The following are activities which are exempted from application of this By-law:

- (a) activities of a Ministry of the Provincial Government, Corporation of the County of Simcoe, Conservation Authority, the Township or

activities currently under exemption, related but not limited to the establishment or maintenance of utilities and services, road, bridges, flood and erosion control facilities, walkways, bicycle paths, fences, retaining walls, steps and lighting;

- (b) 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 regulation made under section 70.2 of the *Planning Act* or as a requirement of an agreement entered into under that regulation;
- (c) 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;
- (d) the construction, extension, alteration, maintenance or operation of works under Section 28 of the *Public Transportation and Highway Improvement Act*, R.S.O. 1990, c. P.50, as amended;
- (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 as an incidental part of drain construction under the *Drainage Act* or the *Tile Drainage Act*;
- (g) 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, but not including the removal of topsoil for sale, exchange or other disposition;
- (h) any minor work where not more than 100 cubic metres of fill per year is placed or dumped on lands for the purpose of lawn dressing, constructing a fence, pool or other accessory structure, landscaping or adding to flower beds or vegetable gardens, provided that there is no alteration to the volume, direction, intensity or form of storm water run-off to adjacent properties or where the works are permitted under the Township's Building Permit process.

5. APPLICATION FOR PERMIT

An Owner who wishes to import or remove more than 100 cubic metres of fill in any given year, or alter the grade of land shall submit an application in the form prescribed by the Director that:

- (a) Identifies proposed haul route(s) with a map and clearly specifies type of temporary signage, sign posts, and locations along roadway identifying the haul route to the satisfaction of the Township;
- (b) Identifies the commercial fill driveway entrance on a map and clearly shows internal stacking area, mud mat specifications and location, and location and specification of temporary truck turning signs, along with any additional traffic controlling measures as may be necessary for larger fill operations to the satisfaction of the Township;

- (c) Contains accurate plan(s) of the land to the satisfaction of the Director based on an identified legal survey showing:
 - (i) The property lines of the lands on which the fill is to be placed or dumped with appropriate dimensions,
 - (ii) For filling less than 500 cubic meters existing spot elevations on three (3) meter grids across the lands and six (6) meter grids beyond the property lines to clearly show the existing drainage patterns on the lands and on the abutting lands; and for filling greater than 500 cubic meters, a topographical survey at one meter contour intervals certified by a Qualified Person or surveyor defining all material and manmade features, including top and bottom of slopes, drainage patterns, tree lines, buildings, and stockpiles on the land and within thirty (30) meters on abutting lands,
 - (iii) All existing swales, creeks, watercourses, public utilities, on the lands and on abutting lands and public roadways,
 - (iv) All existing buildings, the species and size in calliper of all trees including the location of all shrubs and driveways on the lands and of all easements and right-of-way over, under, across or through the lands,
 - (v) Soil erosion control measures and locations,
 - (vi) Proposed grades and drainage systems upon completion of the fill operation, and
 - (vii) All proposed ground covering to be used upon completion of the fill operation.
- (d) Contains a description and source of the proposed fill material along with a soil analysis report prepared by a Qualified Person;
- (e) Contains a report prepared from a Qualified Person concluding that the proposed fill operation will not have a negative impact on the environment, groundwater aquifer, water table, normal and seasonal drainage patterns, and drainage affecting neighbouring properties;
- (f) Contains the following approvals where applicable:
 - (i) Where a portion of the subject property is on lands where a regulation under the Conservation Authorities Act is in force as identified through the Nottawasaga Valley Conservation Authority or Toronto & Region Conservation Authority, provide copy of Permit from the Conservation Authority having jurisdiction,
 - (ii) Where the subject property is within woodlands as defined in the County of Simcoe's Forest Conservation By-Law, provide copy of Permit from the County of Simcoe,
 - (iii) Where the subject property is within the Oak Ridges Moraine as identified in the Township's Zoning By-Law, provide copy of Township Planning Approval,
 - (iv) Where the subject property is accessed by a municipal roadway, provide copy of Township Commercial Fill Entrance Permit.

- (g) For Agricultural Lands, the application shall be accompanied by agricultural justification reports prepared by a Qualified Person to address any potential effects on existing agricultural operations and the long-term viability of the lands for agricultural use;
- (h) Provides documentation of notification of the project to all adjacent property owners and those along the haul routes which identifies:
 - (i) the proposed hauling schedule to include duration, days of the week and hours of proposed fill operation,
 - (ii) haul routes and commercial fill entrance location using a map,
 - (iii) type and location of temporary signage to identify haul routes and truck turning areas,
 - (iv) measures to be employed to prevent tracking mud and other debris onto the roadway,
 - (v) measures to be employed to ensure minimal disruption of normal traffic due to the fill operation,
 - (vi) quality of tested fill to be hauled to site in relation to Ministry of Environment standards and additional measures for sampling fill being hauled to site including frequency and method of testing,
 - (vii) Operator's business and legal name, contact information, and includes the name and contact information of the person who will be on-site for the full duration of the fill operation, charged with the responsibility to ensure continuation of the above measures.
- (i) Is accompanied by the prescribed fees payable to the Township of Adjala-Tosorontio in accordance with Section 6 of this By-law, namely;
 - (i) The application fee,
 - (ii) The Security Deposit, and
 - (iii) The Road Maintenance Security.
- (j) Contains an irrevocable consent signed by the Owner authorizing any Officer to enter the Site to determine compliance with the By-law or to perform any work necessary to bring the Site into compliance.

6. FEES

Prescribed fees include:

- (a) Permit application fees are set out in the Township Fees and Charges By-law, as amended;
- (b) The Security Deposit, as established by the Director to ensure sufficient funds are available to repair or restore the Site if required following a Work Order issued under Section 11 of this By-Law or due to expiry or revocation of Permit; and
- (c) The Road Maintenance Security, as established by the Township to ensure sufficient funds are available to repair and restore the roadways along the haul route(s), calculated at a depreciated value.

7. PERMIT CONDITIONS

- (a) The following shall be deemed conditions of every Permit:
 - (i) A Permit expires on the lesser of one calendar year after it is issued or on the date stated for the completion of the fill operation in the Application,
 - (ii) There are no contraventions of any other applicable law or regulation,
 - (iii) The Owner shall provide the Director with at least five (5) business days' notice of the commencement of hauling & placement of fill,
 - (iv) Once the fill operation commences, and until the rehabilitation of the Site is complete, the Owner shall provide bi-weekly reports prepared by a Qualified Person to the Director to confirm that the works are implemented in accordance with the By-law and that it is achieving adequate performance,
 - (v) The Township may apply any portion of a road maintenance security to remediate, control or to prevent damage to the haul routes if the Owner fails or refuses to do so after the Director has given notice to the Owner.
- (b) The Director may attach such other conditions to a Permit that, in the opinion of the Director, are reasonably required to protect the economic, social and environmental well-being of the Township and the health, safety and well-being of persons due to the fill operation, including but not limited to the imposition of insurance requirements;
- (c) The Owner shall securely install and maintain the Permit Placard issued with the Permit at the driveway entrance so that it is readily identifiable from the roadway;
- (d) The Owner shall keep and maintain the following records in a good and businesslike manner:
 - (i) The full and complete legal name and business name, if different from the legal name, of each hauler,
 - (ii) The commercial vehicle registration number of each hauler,
 - (iii) The motor vehicle permit number of the motor vehicles owned and operated by each hauler,
 - (iv) The date and time of each delivery of fill
 - (v) The point of origin of each delivery of fill
 - (vi) The volume of each delivery of fill,
 - (vii) The content of material of each delivery of fill, and
 - (viii) To make available for inspection upon the request of an Officer the records referred to in this clause.
- (e) The securities provided by the Owner are interchangeable and may be used by the Township to remedy any breach of legislation, regulation, or this By-law;
- (f) The Township may engage legal, engineering, hydrogeology, environmental, surveying, and landscape consultants to evaluate studies and agreements upon notifying the Owner of the intention

to do so. The cost of the engagement shall be paid by the Owner plus a ten percent (10%) administrative charge;

- (g) The Owner indemnifies the Township, its elected officials, officers, employees, and agents, from any liability, cost, damages or losses incurred directly or indirectly by issuing the Permit.

8. EXPIRY OR REVOCATION OF PERMIT

- (a) The Township may revoke a Permit if:
 - (i) the Township determines that the application contained false or misleading information, or
 - (ii) the Owner breaches any of the conditions or terms of this By-law or Permit.
- (b) When a Permit expires or is revoked, the Owner shall immediately cease all fill hauling and placement, and shall immediately rehabilitate and stabilize the site so as to prevent adverse effects from erosion and sedimentation from or at the site.

9. OTHER APPROVALS

The issuance of a Permit under this By-law does not excuse the Owner from complying with other applicable federal, provincial, and municipal laws, and it does not warrant or guarantee that the Owner will obtain any other permit or authorization from the Township or other government entity.

10. RECOVERY OF COSTS

- (a) Costs incurred by the Township over and above the securities held arising from any default or failure to perform the obligations and requirements under this By-law including under Section 7, plus interest accrued to the date payment is made at the rate of ten percent (10%) or such lesser rate as may be approved by the Township, will be recoverable from the owner of the lands by action or in like manner as taxes pursuant to the provisions of Section 446 of the *Municipal Act, 2001*;
- (b) Costs incurred by the Township as set out in Section 10(a) of this By-law including interest at the prescribed rate, are a lien on the lands upon registration in the proper land registry office of a notice of lien pursuant to Section 446(5) of the *Municipal Act, 2001*;
- (c) The lien is in respect to all costs that are payable at the time the notice is registered plus interest at the prescribed rate and accrued to the date payment is made;
- (d) Upon payment of all costs payable plus interest accrued to the date of debt retirement being made by the owner of the land, a discharge of the lien shall be registered to the Township in the proper land registry office of a notice of lien pursuant to Section 446 of the *Municipal Act, 2001*.

11. ORDER TO DISCONTINUE ACTIVITY

If an Officer is satisfied that a contravention of this 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 fill, or alteration of the grade of land in contravention of this By-Law to discontinue the activity and the order shall set out:

- (a) the municipal address and/or legal description of the land;
- (b) reasonable particulars of the contravention; and
- (c) the date or period of time within which there must be compliance.

12. WORK ORDER

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. That order shall set out:

- (a) the municipal address and/or legal description of the Site;
- (b) particulars of the contravention, the work to be done, and the period within which there must be compliance with the order;
- (c) direction to provide immediate stabilization of all disturbed areas at the Owner's sole expense; and
- (d) a notice stating that if the work is not done in compliance with the order within the period specified, the Township may have the work done at the expense of the Owner.

13. CONTRAVENTION AND SYSTEM OF FINES

Every Person who contravenes any provision of this By-law is guilty of an offence and upon conviction thereof is liable to:

- (a) in the case of an individual, a fine of not less than \$500.00 and not more than \$25,000.00 for a first offence and a fine of not more than \$100,000.00 for any subsequent offence; and
- (b) in the case of a corporation, a fine of not less than \$500.00 and not more than \$50,000 for a first offence and to a fine of not more than \$100,000.00 for any subsequent offence.

14. GENERAL

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

- 15. THAT** the provisions of this By-law shall take full force and effect with the passing hereof.
- 16. THAT** By-law 08-31 and any amendments thereto are hereby repealed.
- 17. THAT,** notwithstanding anything contrary to the rules of procedure, this By-law be introduced and read a first and second time and be considered read a third time and finally passed this 3rd day of March, 2014.

MAYOR TOM WALSH

*Office
Consolidation*

CLERK BARBARA KANE

Excerpt from
Fees and Charges By-law No. 16-36

Schedule "B"
To
By-law No. 16 - 36

**PUBLIC WORKS AND PARKS
FEES AND CHARGES**

PARKS AND RECREATION

	FEE
Facility Rentals	
<u>Jim Wales Public Room</u>	
Resident - maximum 7 hours - per event weekday	20.00
Resident - maximum 7 hours - per event weekend	20.00
Non-Resident - maximum 7 hours - per event weekday/weekend	30.00
Commercial - maximum 7 hours - per event weekday/weekend	40.00
Registered Charitable Organization based within the Township - 12 free uses weekday/weekend	n/c
After 12 uses - per event	25.00
Registered Charitable Organization based outside the Township - per event weekday/weekend	30.00
<u>Municipal Centre Public Room</u>	
Resident - maximum 7 hours - per event weekday	25.00
Resident - maximum 7 hours - per event weekend	50.00
Non-Resident - maximum 7 hours - per event weekday	75.00
Non-Resident - maximum 7 hours - per event weekend	100.00
Commercial - maximum 7 hours - per event weekday	100.00
Commercial - maximum 7 hours - per event weekend	150.00
Registered Charitable Organization based within the Township - 12 free uses weekday/weekend	n/c
After 12 uses - per event	25.00
Registered Charitable Organization based outside the Township - per event weekday/weekend	30.00
<u>Gazebo (Includes use of two junior soccer fields)</u>	
Resident - maximum 5 hours - per event weekday/weekend	15.00
Non-Resident - maximum 5 hours - per event weekday/weekend	20.00
Commercial - maximum 5 hours - per event weekday/weekend	25.00
Registered Charitable Organization based within the Township - 12 free uses weekday/weekend	n/c
After 12 uses - per event	15.00
Registered Charitable Organization based outside the Township - per event weekday/weekend	20.00
<u>Ball Diamond Rental</u>	
Line Stripe – per season – per hamlet	n/c
Resident - maximum 5 hours - per event (games or practices) - Resident rate is based on 50% of players being Township Residents	10.00
Non- Resident - maximum 5 hours - per event (games or practices)	15.00

Schedule "B"
To
By-law No. 16 - 36

**PUBLIC WORKS AND PARKS
FEES AND CHARGES**

PARKS AND RECREATION

	FEE
Tournament - per day	25.00
Concession stand - maximum 5 hours - per event	10.00
Concession stand - per Tournament day	15.00
Porto let - per day	120.00
 <u>Soccer Field Rental</u>	
Resident - maximum 5 hours - per event (games or practices) - Resident rate is based on 50% of players being Township Residents	10.00
Non- Resident - maximum 5 hours - per event (games or practices)	15.00
Tournament - per day	25.00
Porto let - per day	120.00

PUBLIC WORKS

	FEE
Entrances	
Residential Entrance - permits with culvert (installed by owner)	200.00
Residential Entrance - deposit refundable to current owner upon final acceptance	300.00
Residential Entrance - permits no culvert	200.00
Commercial Entrance - permits with culvert (installed by owner)	300.00
Commercial Entrance - deposit refundable to current owner upon final acceptance	500.00
Commercial Entrance - permits no culvert	300.00
Fill Entrance - permits with culvert (installed by owner)	500.00
Fill Entrance - permits no culvert	500.00
Fill Entrance - deposit refundable to current owner upon final acceptance	500.00
 General Public Works Fees	
Road occupancy permit	50.00
Road cut - permits plus costs	200.00
Oversized load permit	150.00
Public Works and Engineering Compliance Letter	100.00
Public Works review fee for any application made under the Planning Act	75.00
Legal documentation for lifting .3m reserve for private purposes	500.00
Snow clearing or other works on unassumed or private roads - per hour in accordance with Ministry of Transportation current Ontario Provincial Standard Specifications, as amended plus municipal costs	Cost

Schedule "B"
To
By-law No. 16 - 36

**PUBLIC WORKS AND PARKS
FEES AND CHARGES**

FEE

Municipal Numbering

Purchase of a municipal number sign	20.00
Purchase of a post	15.00
Installation only	75.00
Installation of sign, plus all material (sign & post)	110.00

Fill Permit

Permit Fee

Renewal Fee

Application for placement of fill	1,000.00 + 2.00/m ³	500.00 + 2.00/m ³
Application for placement of fill for the rehabilitation of Aggregate operations	1,000.00 + 2.00/m ³	1,000.00+ 2.00m ³

FEE

Site plan review (1 review assumed)	100.00
Site inspection (minimum of 2 required at \$75.00 - per inspection)	150.00
Security - minimum deposit	1,000.00