

**THE CORPORATION OF THE TOWN OF INNISFIL**

**Consolidated Site Alteration By-law  
BY-LAW 050-13 As Amended by By-law 045-14**

**A By-law of The Corporation of the Town of Innisfil to prohibit and regulate the placing or dumping of fill, the removal of topsoil, and the alteration of the grade of land in the Town of Innisfil to be known as the Site Alteration By-law.**

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

**WHEREAS** Council may require that a permit be obtained for the placing or dumping of fill, the removal of topsoil, and the alteration of the grade of land in the Town of Innisfil, prescribe the fees for the permit, the circumstances under which a permit may be issued, and the conditions to such a permit;

**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 well being of the municipality, pursuant to Section 11 of the *Municipal Act, 2001*.

**NOW THEREFORE** the Council of The Corporation of the Town of Innisfil enacts as follows:

**1. DEFINITIONS**

In this By-law:

- (a) "Agricultural lands" means lands used for the growing of crops, including nursery and horticultural crops; raising of livestock; and, raising of other animals for food.
- (b) "Agriculturalist" means an Owner or tenant who is authorized to use Agricultural Lands for those purposes;
- (c) "Code" means the technical code set out as Schedule "D" to this By-law;
- (d) "Council" means the Council of the Town;
- (e) "Conservation Authority" means the conservation authority established under the *Conservation Authorities Act* with jurisdiction over a particular geographic area.

**Consolidated Site Alteration By-law  
By-law 050-13 As Amended by By-law 045-14**

- (f) “Designated Officer” means a person designated by the Town Engineer.
- (g) “Owner” means the registered owner on title of the Site;
- (h) “Person” includes any individual, corporation, partnership or association;
- (i) “Permit” means an authorization to perform a Site Alteration, which is granted in writing by a Designated Officer;
- (j) “Protected Area” includes a watercourse, an environmental protection area, or a designated protection zone;
- (k) “Qualified Person” means a person who has the qualifications set out in Subsection 5(2) of *Records of Site Condition – Part XV.1 of the Act, O. Reg. 153/04*, as amended, being:
  - 1. The person holds a licence, limited licence or temporary licence under the *Professional Engineers Act*; or
  - 2. The person holds a certificate of registration under the *Professional Geoscientists Act, 2000* and is a practising member, temporary member or limited member of the Association of Professional Geoscientists of Ontario.
- (l) “Site Alteration” means:
  - 1. placing or dumping of fill or topsoil;
  - 2. removing fill or topsoil; or,
  - 3. altering the grade on more than 0.5 hectares of land.
- (m) “Site” means real property where Site Alteration is occurring, planned to occur, or has occurred.
- (n) “Soil Bank” means the stockpiling of surplus topsoil or fill on a property that would be reused, transported or utilized on another property.
- (o) “Town” means the Corporation of the Town of Innisfil, or the geographic area whose inhabitants are incorporated as that corporation, as the context requires.
- (p) “Guidelines” means the *Management of Excess Soil- A Guide for Best Management Practices*, as amended and prepared by the Ontario Ministry of the Environment.
- (q) “Town Engineer” means the Town Engineer or designate.
- (r) “Town Solicitor” means the Town Solicitor or designate which may include an external law firm.

**2. STATUTORY EXEMPTIONS**

**Consolidated Site Alteration By-law  
By-law 050-13 As Amended by By-law 045-14**

The following are activities which are exempted from application of this By-law by operation of Subsections 142(5) through (7) of the *Municipal Act, 2001*, as amended:

- (a) activities or matters undertaken by a municipality or a local board of a municipality;
- (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 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, but not include the removal of topsoil is for sale, exchange or other disposition.

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

- (i) 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; or

**Consolidated Site Alteration By-law  
By-law 050-13 As Amended by By-law 045-14**

The following activities are exempted from application of this By-law by operation of the *Building Code Act*, R.S.O. 1992, c. 25, and the regulations thereunder:

- (j) the placing or dumping of the minimal amount of fill, removal of soil or alteration of the grade of land undertaken where a building permit has been issued or an order, directive or other requirement of an Inspector or Chief Building Official under the *Building Code Act, 1992* that is required for the structural integrity of the approved development, to be determined by the Designated Officer.

**3. OTHER EXEMPTIONS**

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

- (a) any minor work on a residential property where not more than fifty (50) cubic metres per year of topsoil 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 Town's Building Permit process;
- (b) the placing or dumping of fill, removal of topsoil or alteration of the grade of land as an incidental part of the construction of any form of underground servicing as part of a permitted development process where the fill or soil is removed and properly held or stored for subsequent replacement;
- (c) activities of a Ministry of the Provincial Government, Corporation of the County of Simcoe, Conservation Authority, the Town 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;
- (d) construction of any building, structure, driveway, loading or parking facilities permitted or required on a lot pursuant to an order made by the Minister of Municipal Affairs, pursuant to Section 47 of the *Planning Act*;
- (e) works undertaken by the holder of a related Road Occupancy Permit; or,
- (f) fill being placed or dumped in an excavation to the elevation of existing grade following the demolition or removal of a building or structure.

**4. SITE ALTERATION PROHIBITIONS**

No Person shall place or dump, or cause or permit to be placed or dumped, fill or topsoil on land or alter, or cause or permit to be altered, the existing or finished grade of land within the Town, unless it is otherwise permitted by, or exempted from the provisions of, this By-law.

**Consolidated Site Alteration By-law  
By-law 050-13 As Amended by By-law 045-14**

**5. APPLICATION OF BY-LAW**

This By-law applies to Site Alteration within the geographical area of the Town.

**6. APPLICATION**

An Agriculturalist who wishes to undertake Site Alteration by importing 1000 cubic metres of fill or topsoil or more for agricultural purposes on Agricultural Land zoned for agricultural use shall comply with the following application requirements:

- (a) submit an Application for Site Alteration for Agricultural and Development Purposes in the form required by the Town.
- (b) submit agricultural justification reports to address any potential effects on existing agricultural operations and the long-term viability of the lands for agricultural use;
- (c) provide documentation of notification of the project and schedule to all adjacent property owners and those property owners along the haul routes;
- (d) submit the prescribed fees payable to the Town in accordance with Section 8 of this By-law, including
  - 1. application fee; and
  - 2. road maintenance security.
- (e) submit an irrevocable consent signed by the Owner authorizing the Designated Officer and staff of the Conservation Authority to enter the Site to determine compliance with the By-law or to perform any work necessary to bring the Site into compliance;
- (f) submit an undertaking signed by the Owner that the proposed Site Alteration will be conducted in accordance with the By-law.
- (g) submit a report prepared by a qualified person indicating how the Guidelines have been satisfied.

**7. MINIMUM STANDARDS**

Every person who places or dumps fill or causes fill to be placed or dumped, or alters the grade of land shall in accordance with this By-law shall:

- (a) shall not construct any slope steeper than 3:1, and no fill shall encroach upon abutting lands, either above or below existing or finished grade, and which is not so high as to have a significant negative impact on abutting and other lands. No retaining walls are to be constructed to support placed or dumped fill.

**Consolidated Site Alteration By-law  
By-law 050-13 As Amended by By-law 045-14**

- (b) ensure that the finished grade surface is protected by sod, turf, seeding of grass, greenery, asphalt, concrete or such other material as the Designated Officer may approve, either singly or in combination;
- (c) ensure that the fill is not placed around the perimeter of any existing building to an elevation higher than the elevation specified by the Ontario *Building Code Act* or regulations thereunder, as amended, below the top of foundation of such building, unless such building and its foundation walls are altered in a manner satisfactory to the Designated Officer;
- (d) ensure that no trench in which piping is laid forming part of the piped drainage system is covered and backfilled until the work has been inspected and approved by the Designated Officer;
- (e) provide such protection for trees with a calliper greater than seventy five (75) millimetres as may be required by the Designated Officer;
- (f) ensure that all fill used is clean and free of rubbish, rubber, plastics, metals, glass, garbage, termites, organic material, liquid or solid and/or toxic chemicals, and other contaminants or related waste and for this purpose the Designated Officer may require contaminant testing of the fill to be placed or dumped; and
- (g) ensure that fill is dumped or placed in such a manner that no ponding is caused on the subject lands or abutting and other lands and that adequate provision is made to manage surface storm water drainage.

**8. FEES**

Permit and associated fees applicable under this By-law are set out in the Fees and Charges By-law, as amended.

**9. PERMIT CONDITIONS**

- (a) The following shall be deemed conditions of every Permit:
  - 1. A Permit expires on the lesser of one calendar year after it is issued or on the date stated for the completion of the Site Alteration in the application.
  - 2. There are no contraventions of regulations, standards or guidelines established, pursuant to the *Environmental Protection Act*, and regulation thereunder, as amended;
  - 3. There shall be no nuisance to the Town or property owners within the vicinity of the Site, determined at the sole and absolute discretion of the Town.
  - 4. There are no contraventions of any other applicable law or regulation.

**Consolidated Site Alteration By-law  
By-law 050-13 As Amended by By-law 045-14**

5. The Owner shall provide the Designated Officer with at least five (5) business days' notice of the commencement of Site Alteration.
  6. Once Site Alteration commences, and until the rehabilitation of the site is complete, the Owner shall provide weekly reports to the Designated Officer to confirm that the works are implemented in accordance with the By-law and that it is achieving adequate performance. The Designated Officer has the power to enter upon and examine the site at any reasonable time or times. A Designated Officer may be accompanied on his or her inspection duties by such other person or persons as he or she deems necessary in order to properly carry out his or her duties under this by-law.
  7. The Town may apply any portion of a road maintenance security to remediate, control or to prevent damage to the haul roads if the Owner fails or refuses to do so after a Designated Officer has given notice to the Owner.
  8. The Owner shall provide characterization and analytical records of the quality of soil being brought to the site prior to receiving any material, as confirmed by a Qualified Person, that the soil is appropriate based on the site location/sensitivity, anticipated land uses, groundwater use/sensitivity, pre-existing site concentrations or other factors to ensure that there is no likelihood of adverse effect based on the importation of the soil to the Site.
- (b) The Designated Officer may attach such other conditions to a Permit that, in the opinion of the Designated Officer, are reasonably required to protect the public and the natural environment from adverse effects associated with erosion and sedimentation from or at the Site, including but not limited to the imposition of insurance requirements.
- The Designated Officer may require the Owner to enter into a Site Alteration Agreement as a condition of the Permit. Said Agreement shall be in the form approved by the Town Solicitor.
- (c) The Town may engage legal, engineering, hydrogeology, environmental and landscape consultants to evaluate studies and agreements. The cost of that engagement shall be paid by the Owner plus a ten percent (10%) administrative charge.
  - (d) The securities provided by the Owner are interchangeable and may be used by the Town to remedy any breach of legislation, regulation, this By-law or a related agreement with the Owner.
  - (e) The Owner indemnifies the Town, its elected officials, officers, employees, and agents, from any liability, cost, damages or losses incurred directly or indirectly by issuing the Permit.

**Consolidated Site Alteration By-law  
By-law 050-13 As Amended by By-law 045-14**

- (f) Public notification to adjoining properties, those along the haul route and provided to the Town for posting on the Town's website at least one week in advance of the start of work.

**10. EXPIRY OR REVOCATION OF PERMIT**

- (a) The Town may revoke a Permit if:
  - 1. the Town determines that the application contained false or misleading information; or
  - 2. 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 Site Alteration and shall immediately rehabilitate and stabilize the Site so as to prevent adverse effects from erosion and sedimentation from or at the Site.

**11. 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 Town or other government entity.

**12. RECOVERY OF COSTS**

- (a) Costs incurred by the Town arising from any default or failure to perform the obligations and requirements under this By-law, 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 Town, shall be recoverable from the Owner of the lands by action or in like manner as taxes.
- (b) Costs incurred by the Town under this By-law including interest are a lien on the lands upon registration in the proper land registry office of a notice of lien.

**13. ORDER TO DISCONTINUE ACTIVITY**

If a Designated Officer is satisfied that a contravention of this By-law has occurred, the Designated Officer may make an order requiring the Owner of the land and any person who caused or permitted the placing of dumping of fill, removal of topsoil or alteration of the grade of land, to discontinue the activity. That order shall set out:

- (a) the municipal address and/or legal description of the Site; and,

**Consolidated Site Alteration By-law  
By-law 050-13 As Amended by By-law 045-14**

- (b) particulars of the contravention and period within which there must be compliance.

**14. WORK ORDER**

If a Designated Officer is satisfied that a contravention of the By-law has occurred, the Designated 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 it specifies, the Town may have the work done at the expense of the Owner.

**15. 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.

**16. 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.

**18. FORCE AND EFFECT**

- (a) That this By-law shall come into force and effect on the day it is passed.

**Consolidated Site Alteration By-law  
By-law 050-13 As Amended by By-law 045-14**

- (c) By-laws 118-07 and 015-13 are repealed upon the passage of this By-law, except with respect to the approved permit site alteration and fill matters, prior to the date of the passage of this By-law.
- (d) The remaining sections in By-law No. 050-13 shall remain in full force and effect and shall be consolidated with the amendments under By-law No. 045-14.

**PASSED THIS 5th DAY OF JUNE, 2013.**

**Amended by By-law 045-14 the 21ST DAY OF MAY 2014**

---

**Barbara Baguley, Mayor**

---

**Jason Reynar, Clerk**