

This is a consolidation of the Township's by-law to prohibit or regulate the placing or dumping of fill, removal of topsoil and the alteration of the grade of land and to repeal By-law 40-2008, being By-law 65-2009 as amended by By-law 28-2014 and 44-2017. This is prepared for reference and information purposes only. The following consolidation is an electronic reproduction made available for information only. It is not an official version of the by-law. Official versions of all by-laws can be obtained from the Township by calling (519) 941-1007. If there are any discrepancies between this consolidation and By-laws 65-2009, 28-2014 and 44-2017 the By-laws shall prevail.

THE CORPORATION OF THE TOWNSHIP OF AMARANTH

SITE ALTERATION BY-LAW (OFFICE CONSOLIDATION)

BY-LAW NUMBER 65-2009 (contains amending By-laws 28-2014 and 44-2017)

BEING A BY-LAW TO PROHIBIT OR REGULATE THE PLACING OR DUMPING OF FILL, REMOVAL OF TOPSOIL AND THE ALTERATION OF THE GRADE OF LAND AND TO REPEAL BY-LAW 40-2008

WHEREAS Section 142 of the *Municipal Act, 2001*, S.O. 2001, c. 25 as amended, authorizes a municipality to prohibit or regulate the dumping of fill, the removal of topsoil and alteration of grades;

NOW THEREFORE, the Council of the Corporation of the Township of Amaranth hereby enacts as follows:

Definitions

1. In this By-law:
 - a. "Fill" means any type of material deposited or placed on lands and includes soil, topsoil, aggregate material, stone, concrete, peat, sod or turf either singly or in combination;
 - b. "Owner" includes the registered owner of any property in the Township and any person, firm or corporation which controls any property in the Township;
 - c. "Person" includes a natural individual and their heirs, executors, administrators or other legally appointed representatives, a corporation, partnership or other form of business association;
 - d. "Removal" means excavation or extraction of any fill which lowers the existing grade, including soil stripping;
 - e. "Soil" means material commonly known as earth, topsoil, loam, subsoil, clay, sand, peat or gravel;
 - f. "Township" means the Corporation of the Township of Amaranth.

Prohibition

2. No person shall dump, place or remove fill or cause or permit fill to be dumped, placed or removed on any property in the Township.
3. No person shall alter the grade of any land or cause or permit the grade of any land to be altered on any property in the Township.
4. No person shall dump, place or remove soil or cause or permit soil to be dumped, placed or removed on any property in the Township.

Exemptions

5. The prohibitions set out in sections 2, 3 and 4 of this By-law do not apply to:
 - a. activities or matters undertaken by the Township or a local board of the Township;
 - b. the placing, dumping of fill, removal of topsoil or alteration of the grade of land as a condition to the approval of 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, subdivision agreement or other development agreement entered into under those sections;
 - c. the placing of a reasonable amount of fill in an approved building envelope, in conjunction with a building permit issued under the *Building Code Act*;
 - 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
 - i. the placing or dumping of fill, removal of topsoil or alteration of the grade of land for the purpose of landscaping any residential property in the Township which is not subject to the exemption in clause b. above; or
 - j. such other activities or matters as may authorized by a permit issued by Council pursuant to this By-law.

Permits

6. Every person who applies for a permit pursuant to this By-law shall provide the following information in writing:
 - a. A description of the site where fill is proposed to be added and/or removed;
 - b. Grading plans showing the current and proposed final condition of the site;
 - c. The source of any fill to be imported;
 - d. Chemical analysis of samples of any fill to be imported demonstrating that contaminants are not present;
 - e. Estimates of the amount of fill to be removed and/or Imported;

- f. Haul route(s) for truck traffic associated with the importation and/or removal of fill; and
- g. Proposed hours of operation and duration for the proposed importation and/or removal of fill.

Conditions

7. Unless otherwise specified in writing, every person who proceeds pursuant to a permit issued under this By-law to undertake activities otherwise prohibited by sections 2 through 4 (hereinafter referred to as "Site Alteration"), shall abide by the following standard terms and conditions, in addition to such other terms and conditions as may be imposed by Council:
 - a. Site Alteration shall be limited to the site for which a permit was issued;
 - b. Site Alteration shall only be undertaken by the person to whom the permit was issued and no permit shall be transferrable without the written approval of the Township;
 - c. Site Alteration shall only be permitted in accordance with the information submitted by the applicant under s. 6 of this By-law;
 - d. Site Alteration shall not be carried out beyond any time limit specified by Council; and
 - e. Prior to any Site Alteration being carried out, the applicant shall deposit with the Township a security in a form acceptable to the Treasurer and in an amount deemed appropriate by Council, which security may be applied to any obligation of the applicant under this By-law. The unspent portion of such security shall be returned to the applicant following the expiry of the applicable permit, subject to the applicant having fulfilled all of its obligations under this By-law.
 - f. Half load restrictions be observed pursuant to the Township by-laws and/or the *Highway Traffic Act*.
 - g. The placing or Dumping or removal of no more than 20 tri-axle truck loads (approximately 400 cubic metres) of Fill on a lot or property, within any one-year period, provided there is no change in the locations, direction, or elevation of any natural or artificial Watercourse, open channel, swale or ditch used to drain the land.
 - h. This does not remove the responsibility of the landowner to obtain the required entrance permit from the appropriate authority having jurisdiction over the road, or permit from the Conservation Authority having jurisdiction.
8. Every person who carries out any Site Alteration pursuant to the exemptions set out in subsections 5(a) through (i), inclusive, shall ensure that only inert fill is imported into the Township by themselves and/or their agents.

Penalties

9. Every person who places or dumps fill or who causes or permits to be placed or dumped and every person who alters the grade of any land or who causes or permits the grade of any land to be altered and every person who places or removes soil or who causes or permits the removal of soil in the Township contrary to this By-law shall remove such fill or replace such soil and restore the existing grade of the land.
10. Where an Owner of land fails to do any work required by a permit issued pursuant to this By-law or pursuant to s. 9 of this By-law the Township may undertake such work and for this purpose may enter on the Owner's land with its employees and agents. The Township may recover the costs of such work from any security held in respect of the lands in question or, such costs may be added to the tax roll.
11. Every person who contravenes any provision of this By-law, or a condition set out in section 7 or 8 of this By-law, or imposed by Council pursuant to this By-law, is

guilty of an offence, pursuant to the provisions of the *Provincial Offences Act*, R.S.O. 1990, c. P. 33. Where the Township proceeds by way of prosecution, upon a first conviction, such person is liable to a minimum fine of \$500.00 and to a maximum fine of \$100,000.00. Every person who is convicted of the same offence for a second and any subsequent time shall be liable to a minimum fine of \$5,000.00 and to a maximum fine of \$100,000.00 for each second and subsequent conviction.

General

- 12. The short title of this By-law shall be the "Site Alteration By-law".
- 13. The provisions of this By-law shall come into force and take effect upon its final passing.
- 14. THAT By-Law 40-2008 be hereby repealed.

BY-LAW READ A FIRST AND SECOND TIME THIS **9TH** DAY OF **DECEMBER 2009**

BY-LAW READ A THIRD TIME AND PASSED THIS **9TH** DAY OF **DECEMBER 2009**

Original Signed By
HEAD OF COUNCIL

Original Signed By
CLERK

Schedule "A"

**Township of Amaranth
Part I Provincial Offences Act
By-Law 65-2009: Site Alteration**

| Item | Short Form Wording | Provision creating or defining offence | Set Fine |
|-------------|---|---|-----------------|
| 1 | Dump or remove fill | Section 2 | \$350.00 |
| 2 | Dump or remove soil | Section 3 | \$350.00 |
| 3 | Alteration of grade of land | Section 4 | \$350.00 |
| 4 | Failure to abide by conditions of permit | Section 7 | \$350.00 |
| 5 | Failure to abide by conditions of exemption | Section 8 | \$350.00 |
| 6 | Failure to remove fill or replace soil and restore existing grade | Section 9 | \$350.00 |

Note: the general penalty provision for the offences listed above is Section 61 of the *Provincial Offences Act*, R.S.O. 1990, c. P33