



## THE CORPORATION OF THE TOWNSHIP OF AUGUSTA

### BY-LAW NUMBER 2767

#### A BY-LAW TO REGULATE THE CARRYING ON AND OPERATION OF TOPSOIL IN THE TOWNSHIP OF AUGUSTA

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**WHEREAS** section 142 (2) of the Municipal Act 2001, c. 25 S.O. 2001 as amended gives powers to local municipalities to prohibit or regulate the removal of topsoil.

**NOW THEREFORE** the Council of the Township of Augusta enacts as follows:

#### SECTION 1 - RESTRICTIONS

- 1.1 No person shall remove topsoil within the Township of Augusta except in compliance with this by-law.
- 1.2 No person shall remove topsoil within the Township of Augusta:
- in areas designated as "A" Agricultural Resource Lands as defined by the current Official Plan of the Township of Augusta.
  - In areas zoned as "A-1" Restricted Rural as defined in the current Zoning By-Law of the Township of Augusta.
  - In areas Zoned as "A-2" General Rural as defined in the current Zoning By-Law of the Township of Augusta that are currently or have been used within the past 5 years as an agricultural use.

#### SECTION 2 - INTENT

Nothing in this by-law is intended to make lawful any operation which would otherwise be unlawful by reason of it constituting the use, occupation or employment of any lands, buildings or structures or excavation for purposes or activities prohibited by a zoning by-law or any other by-law of the Township of Augusta or the Ontario Municipal Act or for any other reason.

#### SECTION 3 - APPLICATION

- 3.1 An application for permission to remove topsoil shall be in writing and shall include the following information:
- 3.1.1 A Site Plan showing the location, shape, contours, dimensions, area of the land, the use of the land, the location and use of all lands and building within seventy-five (75 ) metres, or less at the discretion of the by-law enforcement officer, of any of the boundaries of the lands proposed for topsoil removal.
- 3.1.1.1 Existing and anticipated final grades.
- 3.1.1.2 Drainage provisions.

- 3.1.1.3 All entrances and exits.
- 3.1.1.4 The plan for ultimate rehabilitation and the intended use of the land after the topsoil has been removed.
- 3.1.1.5 Environmentally sensitive areas identified by the Ministry of Natural Resources or the Conservation Authority.
- 3.1.1.6 The soil classification according to the Canada Land Inventory classification system and a rehabilitation plan demonstrating that where the soils are classes 1 to 3 the acreage and average soil capability for agriculture are restored.

#### SECTION 4 - **HOURS OF OPERATION**

- 4.1 No person shall engage in topsoil removal or permit the operation of any machinery or equipment between 10:00 p.m. and 7:00 of the next succeeding day nor any Sunday.

#### SECTION 5 - **SET BACKS**

- 5.1 No topsoil shall be removed or stockpiled or processed within the following distances:
  - 5.1.1 A Provincial Highway or County Road seventy-five (75) metres.
  - 5.1.2 A Township Road: seventy-five (75) metres. Shorter distances may be agreed upon by the by-law enforcement officer.
  - 5.1.3 The nearest residence or lands zoned for residential use: seventy-five (75) metres.

#### SECTION 6 - **OPERATIONS**

- 6.1 Every owner or operator of a site shall:
  - 6.1.1 Leave a minimum of not less than five (5) inches of topsoil.
  - 6.1.2 All trees, shrubs, boulders or other material removed to expose topsoil shall be collected and stored in an area designated for that purpose on the site plan.
  - 6.1.3 Every owner or operator shall control dust and shall comply with all directions of the Ministry of the Environment with respect to the mitigation and control of dust.

#### SECTION 7 - **REHABILITATION**

- 7.1 Every owner or operator shall show on a site plan a program for the rehabilitation of the lands from which topsoil has been removed and shall rehabilitate the said lands in accordance with the agreed rehabilitation program contained on the site plan.
  - 7.1.2 The owner and operator shall forthwith commence to rehabilitate the said lands as soon as 25% of the said lands have been stripped in accordance with the agreed site plan. Rehabilitation shall be completed within one (1) year of the topsoil removal.

#### SECTION 8 - **LICENCE**

- 8.1 Prior to the issuance of approval for the removal of topsoil an applicant shall:
  - 8.1.1 Provide to the Township an agreement executed by the applicant demonstrating the manner in which the applicant will comply with this by-law to

the satisfaction of the Township.

- 8.1.2 The applicant shall be responsible for all costs of the Municipality in connection with the application including survey, engineering, legal, planning consultants and registration, if required.
- 8.1.3 The applicant shall deposit the sum of one thousand (\$1,000.00) dollars per acre shown on the application for removal, with the Clerk of the Township as Security to be applied towards the cost of processing any application for a license hereunder and the applicant shall reimburse the Township for all additional expenses incurred by it within ten (10) days of demand. Any unused portion of the fee shall be returned to the applicant upon rehabilitation of the lands to the satisfaction of the Municipality.
- 8.1.4 Permission shall be issued upon the signing of an agreement but may be revoked upon any breach of this by-law or an agreement entered into pursuant to this by-law.
- 8.1.5 The fee for permission under this by-law shall be one hundred dollars (\$100.00). The inspection fees will be one hundred dollars (\$100.00) for each of the required four (4) inspections. The total of five hundred dollars (\$500.00) is payable upon application for the permission. A fee of one hundred dollars (\$100.00) will be payable to the municipality for any additional inspections required by the municipality.

#### SECTION 9 - **INSPECTION**

- 9.1 A Municipal inspector authorized by the Township is hereby authorized to enter on lands on which an application has been made for permission hereunder to ensure compliance with this by-law.

#### SECTION 10 - **VALIDITY**

- 10.1 If any provision of this by-law is for any reason held to be invalid, it is hereby declared to be the intention that all the remaining provisions shall remain in full force and effect until repealed, notwithstanding that one or more provisions shall have been declared to be invalid.

#### SECTION 11 - **ENFORCEMENT**

- 11.1 Every person convicted of a breach of the provisions of this by-law shall forfeit and pay at the discretion of the convicting Provincial Judge a sum not to exceeding ten thousand dollars (\$10,000.00) for each such offence exclusive of costs, recoverable under the Provincial Offences Act, as amended, or may be imprisoned for a term not exceeding twenty-one days (21).

By-Law 2759 is hereby repealed in its entirety.

**READ** a first and second time this 25<sup>th</sup> day of May, 2009.

**READ** a third time and passed this 25<sup>th</sup> day of May, 2009.

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REEVE

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CLERK