

OFFICE CONSOLIDATION

This is a consolidation of the Township's by-law to govern and control the dumping of fill and alteration of grades being By-law 97-84 as amended by By-laws 99-111, 2002-58, 2002-98, and 2005-74. 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 Clerk's Department. If there are any discrepancies between this consolidation and the By-laws named above, the By-laws shall prevail.

THE CORPORATION OF THE TOWNSHIP OF KING

BY-LAW NUMBER 97-84

A BY-LAW TO CONTROL THE DUMPING OF FILL AND ALTERATION OF GRADES

WHEREAS the Municipal Act, R.S.O., 1990, c.M.45 (as amended) authorizes Council to enact by-laws prohibiting or regulating dumping of fill and alteration of grades;

NOW THEREFORE the Municipal Council of the Corporation of the Township of King
ENACTS AS FOLLOWS:

1. DEFINITIONS

In this By-Law:

- (1) ~~"MANAGER" means the Manager of By Law Enforcement of the Township;~~
By-law Enforcement Officer (99-111) (99-111 repealed by 2002-58)
- (2) "CHIEF BUILDING OFFICIAL" means the Chief Building Official of the Township;
- (3) "DUMPING" means the movement and depositing of fill from one location to a different location and includes the movement and depositing of fill from one location on a property to another location on the same property and "dump" or "dumped" in relation to fill shall have the same meaning;
- (4) "FILL" means any type of material deposited or placed on lands and, without limiting the generality of the foregoing, includes soil, stone, concrete, construction materials, asphalt, sod or turf either singly or in combination;
- (5) "GRADE" shall be defined as follows:
 - (a) "EXISTING GRADE" means the elevation of an existing ground surface, except that where placing or dumping of fill or alteration of the grade has occurred in contravention of this By-Law "existing grade" shall mean the ground surface of the land as it existed prior to the placing or dumping of fill or alteration of the grade;
 - (b) "FINISHED GRADE" means the elevation of ground surface of land upon which fill has been placed or dumped or after alteration to the grade has occurred;
 - (c) "PROPOSED GRADE" means the elevation of ground surface of land upon which fill is proposed to be placed;
- (6) "INSPECTOR" means the ~~Manager of By Law Enforcement~~ By-law Enforcement Officer (99-111) (99-111 repealed by 2002-58) and the Chief Building Official and such Municipal Law Enforcement Officers as may be appointed by the Township from time to time;

INSPECTOR means the Manager of By-Law Enforcement, the Director of Operations, the Chief Building Official, and such Municipal Law Enforcement Officers, as may be appointed by the Township from time to time. (2002-98)

OAK RIDGES MORaine CONSERVATION ACT, 2001 means the Oak Ridges Moraine Conservation Act, S.O. 2001, c.31 enacted by the Province of Ontario, December 14, 2001, and any amendments thereto. (2002-58)

OAK RIDGES MORaine CONSERVATION PLAN means the Oak Ridges Moraine Conservation Plan established by regulation by the Minister of Municipal Affairs for all or part of the Oak Ridges Moraine Area, and any amendments thereto. (2002-58)

- (7) "OWNER" means the registered owner of the land for which a Permit is sought or obtained;
- (8) "PERMIT" means a permit issued by ~~the Manager of By-Law Enforcement~~ a By-law Enforcement Officer (99-111) (99-111 repealed by 2002-58) pursuant to the provisions of this By-Law;
- (9) "PERSON" includes a natural individual and his or her heirs, executors, administrators or other legally appointed representatives, a corporation, partnership or other form of business association;
- (10) "PLACING" means the distribution of fill on lands to establish a finished grade higher or lower than the existing grade and "place" or "placed" in relation to fill shall have the same meaning;
- (11) "PONDING" means the accumulation of surface water in an area not having drainage therefrom where the lack of drainage is caused by the placing or dumping of fill or the alteration of the grade;
- (12) "REMOVAL" means excavation or extraction of any fill which lowers the existing grade, including soil stripping;
- (13) "RETAINING WALL" means a wall made of concrete or concrete product or other materials approved by the Chief Building Official designed to contain and support fill which has a finished grade higher than that of adjacent lands;
- (14) "SOIL" means material commonly known as earth, top soil, loam, compost, subsoil, clay, sand or gravel or any combination thereof;
- (15) "SWALE" means shallow depression in the ground sloping to a place of disposal for the purpose of providing a method of drainage or surface water;
- (16) "TOWNSHIP" means the Corporation of the Township of King or its geographic limits as the context requires;
- (17) "ZONING BY-LAW" means the Township of King Zoning By-Law 74-53 (as amended or successor legislation thereto).

2. **GENERAL PROHIBITIONS**

- (1) No person may place or dump fill or cause fill to be placed or dumped in the Township except in accordance with this By-Law.
- (2) No person may alter the grade or cause the grade of any land in the Township to be altered except in accordance with this By-Law.
- (3) Except as provided in Section 3 (Exceptions) no person shall place or dump, or

cause to be placed or dumped, fill in the Township without first having obtained a permit issued by the ~~Manager of By-Law Enforcement~~. By-Law Enforcement Officer (99-111) (99-111 repealed by 2002-58)

- (4) Where a Permit has been issued, no person may place or dump fill or cause fill to be placed or dumped and no person may alter the grade of any land or cause the grade of any land to be altered in the Township except in accordance with the provisions of that Permit.

3. **EXCEPTIONS**

The provisions of this By-Law do not apply:

- (1) Where a regulation under the Conservation Authorities Act, R.S.O., 1990 (as amended), is in force respecting the placing or dumping of fill or the alteration of the grade in a specified area;
- (2) Where the placing or dumping of fill or alteration of the grade is carried out by any municipality, local board as defined in the Municipal Affairs Act (as amended), Crown agency as defined in the Crown Agency Act (as amended) or by Ontario Hydro;
- (3) Where the placing or dumping of fill or alteration of the grade occurs by way of licence or permission obtained under the applicable provincial or federal legislation, including the Aggregate Resources Act (as amended) and the Environmental Protection Act (as amended);
- (4) To activities or matters prescribed by regulation enacted pursuant to the Municipal Act (as amended) or pursuant to subsection 28(1)(f) of the Conservation Authorities Act, (as amended);
- (5) To fill being placed on lands shown in a grading and drainage plan approved by the Township in conjunction with subdivision, rezoning or site plan approvals, provided the provisions of such approvals relating to fill are adhered to;
- (6) Where a building permit has been issued by the Chief Building Official for the erection of a building or structure, and the site plan accompanying the building permit application provides sufficient information to determine that the placing or dumping of fill or alteration of grade conforms with the provisions of this By-Law, provided the provisions of such building permit related to fill are adhered to;

- (7) Where fill is placed on lands zoned for residential use within the meaning of the Zoning By-Law for the purposes of lawn dressing, landscaping, adding to flower beds or vegetable gardens, provided that:
 - (a) the elevation of the land within 600mm of the property line is not changed; and
 - (b) there is no change in the location, direction or elevation of any natural or artificial watercourse, open channel, swale or ditch used to drain land;
- (8) Where fill is placed or dumped in an excavation to the elevation of existing and adjacent grade following the demolition or removal of a building or structure, provided the provisions of Section 4(d) are adhered to.

4. **GENERAL PROHIBITIONS and REGULATIONS**

- (1) No person may place or dump fill or cause fill to be placed or dumped and no person may alter the grade of any land or cause the grade of any land to be altered in the Township in the following circumstances:
 - (a) where the owner or person in lawful possession of the land has not consented to the placing or dumping of fill or to alteration of the grade;
 - (b) where the fill is placed or dumped or the grade is altered for storage purposes and such storage is not permitted pursuant to the Zoning By-Law;
 - (c) where the placing or dumping of fill or alteration of the grade will result in changing any grade established by a grading and drainage plan approved by the Corporation in relation to any subdivision, rezoning, site plan or building permit approval and such placing or dumping of fill or alteration occurs without a Permit;
 - (d) where the fill includes material from the demolition of any structure or includes "refuse" as that term is defined within the meaning of the Corporation of the Township of King Waste Disposal By-Law 89-111 (as amended or successor legislation thereto) or includes toxic or hazardous materials, glass or sewage.
 - (e) where the placing or dumping of fill or alteration of the grade would result in soil erosion or soil pollution, blockage or siltation of any watercourse, pollution of any watercourse, flooding or ponding on any land or

detrimental effect on any environmentally significant or sensitive area or wetland complex;

- (f) where the placing of fill or alteration of the grade would result in detrimental effect on any healthy tree greater than 250mm caliper or where the placing or dumping of fill or alteration of the grade would not be in accordance with the Regional Municipality of York's Tree By-Law TR-1-91-154(or successor legislation thereto);
 - (g) where the placing or dumping of fill or alteration of the grade does not accord with Township design standards and accepted engineering and environmental principles.
 - (h) where the placing or dumping of fill or alteration of the grade is on any land zoned for environmental protection or open space purposes pursuant to the zoning by-law, unless approval therefor has been issued by the Lake Simcoe Region Conservation Authority or Metropolitan Toronto Conservation Authority or a Permit has been issued pursuant to this By-Law.
- (2) No person may place or dump fill or cause fill to be placed or dumped and no person may alter the grade of any land or cause the grade of any land to be altered in the Township without a Permit where the volume of the fill being place or dumped or the volume of the fill involved in the alteration exceeds fifty (50) cubic metres.

The issuance of any and all Fill Permits for lands within the Oak Ridges Moraine shall be in strict compliance with and no Fill Permits shall issue which contravenes, the *Oak Ridges Moraine Conservation Act, 2001* and the Oak Ridges Moraine Conservation Plan. (2002-58)

No person may place or dump fill or cause fill to be placed or dumped and no person may alter the grade of any land or cause the grade of any land to be altered except in strict compliance with the Oak Ridges Moraine Conservation Plan. A Fill Permit may include conditions to address the requirements of the Oak Ridges Moraine Conservation Plan. (2002-58)

A Fill Permit will only be issued if, in addition to compliance with all other requirements, the intended use for the filled area is a permitted use under the Zoning By-law or the Oak Ridges Moraine Conservation Plan. (2002-58)

That the Clerk of the Clerk's designate is authorized to administer the Fill Control By-law process and to issue Fill Permits. (2002-58)

That By-law Number 99-111 to amend By-law Number 97-84 be repealed. (2002-58)

5. **ISSUANCE OF A PERMIT**

- (1) ~~The Manager of By Law Enforcement~~ (99-111) (99-111 repealed by 2002-58) is hereby authorized and directed to issue a Permit for a period not to exceed six (6) months in circumstances where applicants have satisfied the requirements of this By-Law.
- (2) An applicant for a Permit to dump or place or remove fill or to alter the grade of land shall submit the following to the ~~Manager of By Law Enforcement~~ By-law Enforcement Officer (99-111) (99-111 repealed by 2002-58):
 - (a) A completed application in the form prescribed from time to time by the ~~Manager of By Law Enforcement~~ By-law Enforcement Officer (99-111) (99-111 repealed by 2002-58) in accordance with the information required in this By-Law;
 - (b) The applicable Permit fee as established by Council of the Corporation of the Township from time to time and as set out in Schedule "A" to this By-Law;
 - (c) When required by the ~~Manager of By Law Enforcement~~ By-law Enforcement Officer (99-111) (99-111 repealed by 2002-58) in order to assess the impact of the fill or alteration on the environment affected, a Fill-Control Plan, which shall include any or all of the following as shall be specified by the ~~Manager of By Law Enforcement~~ By-law Enforcement Officer (99-111) (99-111 repealed by 2002-58):
 - (i) a key map showing the location of each lot, including the nearest major intersection and north arrow;
 - (ii) the lot boundaries and numbers of hectares of each lot;
 - (iii) the existing and proposed use of the land and the location and use of the buildings and other structures adjacent to each lot;
 - (iv) the location, dimensions and use of any building and other

structures existing or proposed to be erected on each lot;

- (v) the location of lakes, streams, wetlands, channels, ditches, other watercourses and other bodies of water on and within a minimum of thirty (30) metres beyond each lot boundary;
 - (vi) the Regional Storm Flood Plain and Conservation Authority Fill Regulation lines;
 - (vii) the location and identification of the predominant existing soil types;
 - (viii) the species, grade at base and size, in caliper, of all trees greater than 250mm in caliper, all shrubs, trees and hedges within one (1) metre of the property line and driveways on each lot and all easements and rights-of-way over, under, across or through each lot;
 - (ix) the location and dimensions of any existing and proposed storm water drainage systems and natural drainage patterns on and within a minimum of thirty (30) metres beyond each lot boundary;
 - (x) the location and dimensions of utilities, structures, roads, highways and paving located within a minimum of thirty (30) metres beyond each lot boundary;
 - (xi) the existing topography on each lot and extending a minimum of thirty (30) metres beyond each lot boundary;
 - (xii) the proposed final grades of each lot;
 - (xiii) the location and dimensions of all proposed land disturbance activities, including construction of access roads;
 - (xiv) the location and dimensions of all temporary soil, dirt or fill stockpiles;
 - (xv) the location, dimensions, design details and design calculations of all construction site erosion control measures that may be necessary to minimize the impact of the proposal;
 - (xvi) a schedule of the anticipated starting and completion dates of each land disturbance or land development activity;
 - (xvii) provisions for the maintenance of the construction site erosion control and dust control measures during construction and after is required;
 - (xviii) the scale of drawing, ranging from 1:250 to 1:1000 as deemed appropriate (each drawing control plan to be in metres);
 - (xix) an indication on the drawing of directions of overland waterflow and overland flow route;
 - (xx) provisions indicating the times machinery, including vehicles used to haul fill, will be operated so as to conform to the Township of King Noise By-Law 81-142, as amended.
- (d) Proposed final grades and drainage system to be used upon completion of the filling operation;

- (e) A description of the proposed fill, including a list of the sources and geotechnical reports as to content and quality prepared by qualified experts in that regard;
 - (f) A plan showing the design details to proper scale of any retaining wall that may be required and the dimensions of any materials to be used in construction of such retaining wall; and;
 - (g) Security in a form and amount to be determined by the ~~Manager of By Law Enforcement~~ By-law Enforcement Officer (99-111) (99-111 repealed by 2002-58) to secure performance of the work for which the Permit is being applied. The ~~Manager of By Law Enforcement~~ By-law Enforcement Officer (99-111) (99-111 repealed by 2002-58) may draw upon the security posted to recover the cost of the Township performing any required work which the Owner has failed to perform.
- (3)
- (a) The ~~Manager of By Law Enforcement~~ By-law Enforcement Officer (99-111) (99-111 repealed by 2002-58) may, prior to the issuance of a Permit, require the owner and/or proposed Permit holder to enter into an agreement which may be registered on title to the subject lands containing such requirements of this By-Law as the ~~Manager of By Law Enforcement~~ By-law Enforcement Officer (99-111) (99-111 repealed by 2002-58) considers necessary to ensure that the placing or dumping or removal of fill is done in accordance with the prevailing Township design standards and proper engineering principles.
 - (b) Requirements in an agreement may include the owner and/or proposed permit holder posting with the Township, the required security and where, in the opinion of the ~~Manager of By Law Enforcement~~ By-law Enforcement Officer (99-111) (99-111 repealed by 2002-58), extensive activities are proposed, certifications by a geotechnical engineer or other similar qualified person, both prior to the issuance of a Permit and upon completion of the work. Such certifications shall state that the owner and/or proposed Permit holder can and has complied with all of the obligations and conditions contained in the applied for and issued Permit.
- (4) The ~~Manager of By Law Enforcement~~ By-law Enforcement Officer (99-111) (99-111 repealed by 2002-58) may require a Permit applicant to install such site remediation measures, including topsoil, seeding, sodding and installation of berms and landscaping, as are necessary to minimize the visual impact of fill or grade alteration proposals.
- (5) The Owner of the land where fill is to be placed or dumped or his authorized agent shall request the ~~Manager of By Law Enforcement~~ By-law Enforcement Officer (99-111) (99-111 repealed by 2002-58) to make inspections at the commencement and conclusion of

the work, and shall request such further inspection as may be required. All associated costs are to be paid by the Owner or his authorized agent pursuant to Schedule "A".

- (6)
 - (a) The Permit issued pursuant to this By-Law shall be valid to the expiry date as specified on the Permit by the ~~Manager of By-Law Enforcement~~ By-law Enforcement Officer (99-111) (99-111 repealed by 2002-58).
 - (b) A Permit which is no longer valid or which has expired pursuant to this By-Law may be renewed within a six month period from the date of expiry upon the making of written application to the ~~Manager of By-Law Enforcement~~ By-law Enforcement Officer (99-111) (99-111 repealed by 2002-58) accompanied by a payment of one half of the original Permit fee, provided that the proposed work has not been revised.
 - (c) The issuance of a Permit by the ~~Manager of By-Law Enforcement~~ By-law Enforcement Officer (99-111) (99-111 repealed by 2002-58) does not alleviate the responsibility of the Owner and Permit holder to obtain all other approvals which may be required by any level of government and agencies thereof.
 - (d) 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 forthwith advise the ~~Manager of By-Law Enforcement~~ By-law Enforcement Officer (99-111) (99-111 repealed by 2002-58) of such transfer and either:
 - (i) provide the Township with an Undertaking to comply with all the conditions under which the existing Permit was issued , or;
 - (ii) apply for and obtain a new Permit in accordance with the provisions of this By-Law.
- (7) A Permit may be revoked by the ~~Manager of By-Law Enforcement~~ By-law Enforcement Officer (99-111) (99-111 repealed by 2002-58) under the following circumstances:
 - (a) if it was obtained on mistaken, false or incorrect information;
 - (b) if it was issued in error;
 - (c) if the Owner or Permit holder requests in writing that it be revoked;
 - (d) if the terms of an agreement made under this By-Law have not been complied with;
 - (e) if work authorized under the Permit has not been commenced prior to its expiry date; or;
 - (f) if an Owner fails to comply with the provisions of this By-Law.

- (8) Any person applying for a Permit shall have such rights of appeal to the Ontario Municipal Board in relation to refusal thereof as are set out in the Municipal Act (as amended).

6. **ENFORCEMENT**

(1) ~~The Manager of By Law Enforcement and the Chief Building Official and such Municipal Law Enforcement Officers as are employed by the Township shall be "Inspectors" within the meaning of Section 223.1 of the Municipal Act (as amended) for the purposes of inspection pursuant to this By law and a certified copy of this By Law shall serve as a certificate of designation for such purposes.~~

The Manager of By-law Enforcement, the Director of Operations, the Chief Building Official and such Municipal Law Enforcement Officers as are employed by the Township shall be "Inspectors" within the meaning of Section 223.1 of the Municipal Act (as amended) for the purpose of inspection pursuant to this By-law and a certified copy of this By-law shall serve as a certificate of designation for such purposes. (2002-98)

(2) Inspectors are hereby authorized to carry out inspections in relation to this By-Law and are delegated such powers as are within the jurisdiction of the Township in order to administer and enforce this By-Law.

(3) Each inspector, in the performance of his or her responsibilities pursuant to this By-Law, shall observe the requirement set forth in Section 223.1 of the Municipal Act (as amended), including the giving of notice to those potentially in breach of this By-Law, together with an opportunity to make representations in that regard, prior to the issuance of an Order, which shall set out a required date for compliance.

7. **REMEDIES and PENALTIES**

(1) Every person who places or dumps fill or who causes fill to be placed or dumped and every person who alters the grade of any land or who causes the grade of any land to be altered in the Township in a manner contrary to this By-Law shall remove such fill and restore the existing grade of the land.

~~(2) Where an owner of land fails to do any work required in an Order issued pursuant to this By Law within the period specified, the Township may, by resolution or By Law, determine to do the work and for this purpose may enter on the Owner's land with its employees and agents.~~

Where an owner of land fails to do any work required in an Order issued pursuant

to this By-law within the period specified, the Director of Operations may determine to do the work and for this purpose may enter on the Owner's lands with the Township's employees and agents. (2005-74)

- (3) Notice of the costs incurred by the Township to perform any work required in an Order issued pursuant to this By-Law may be registered against the Owner's land for the purpose of giving notice of the Township's lien against such lands and may be recovered by action or as municipal taxes.
- (4) Every person who contravenes any provision of this By-Law is guilty of an offence, pursuant to the provisions of the Provincial Offences Act, R.S.O., 1990, c.P.33 (as amended) and, upon conviction, is liable to a fine of up to \$5,000.00 or to the maximum fine applicable pursuant to that legislation.
- (5) In the event that damage occurs to any Township Road as a result of any activity or activities regulated by this By-law the owner and/or permit hold shall be liable for, and shall bare all costs for repairing any such damage.

8. **GENERAL PROVISIONS**

- (1) The provisions of this By-Law shall apply to all lands and premises within the Township.
- (2) Should any section of this By-Law be declared invalid by a court of competent jurisdiction, such section shall be construed as being severed herefrom and the remainder of the By-Law shall continue in full force and effect.
- (3) The short title of this By-Law shall be the "Fill Control By-Law."
- (4) This By-Law shall be administered by the ~~Manager of By-Law Enforcement By-law Enforcement Officers~~ (99-111) (99-111 repealed by 2002-58) Director of Operations (2002-98).
- (5) The provisions of this By-Law shall come into force and effect upon third reading hereof.

READ a FIRST and SECOND time this 23rd day of June, 1997.

Margaret Black, Mayor

Evelyn Jurgens, Clerk

READ a THIRD time and FINALLY PASSED this 23rd day of June, 1997.

Margaret Black, Mayor

Evelyn Jurgens, Clerk

SCHEDULE "A"

TO

BY-LAW NUMBER 97-84

**TYPE OF PROPERTY
WHERE FILL IS TO BE PLACED**

BASE PERMIT FEE

Owner occupied Residential property	\$100.00
All other types of property	\$500.00

ENGINEERING

FEE

Site Plan Review	\$150.00/review
Site Inspection	\$150.00/inspection

NOTE For each additional inspection or review the applicant will be required to pay an additional \$150.00 fee.