

## **The Corporation of the Town of LaSalle**

### **By- law Number 7080**

A By-law to prohibit and/or regulate the placing or dumping of fill, the alteration of grades and the removal of topsoil from land within the Town of LaSalle.

**Whereas** s.142 of the *Municipal Act*, 2001, authorizes a municipality to prohibit or regulate the placing or dumping of fill, the alteration of grades and the removal of topsoil from land within the municipality;

**And Whereas** the Corporation considers it desirable to enact such a By-law;

**Now therefore the Council of the Corporation of the Town of LaSalle hereby enacts as follows:**

#### **Definitions**

1. In this By-law:

- 1) "Chief Building Official" and/or Town Engineer and/or Town Compliance Officer means the Officials of the Town of LaSalle.
- 2) "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.
- 3) "fill" means any type of material deposited or placed on lands and includes soil, stone, concrete, construction materials, asphalt, sod or turf, either alone or any combination thereof.
- 4) "grade" is defined as follows:
  - a) "existing grade" means the elevation of an existing ground surface, except that where the placing or dumping of fill or the alteration of the grade or the removal of topsoil 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, the alteration of the grade or the removal of topsoil;
  - b) "finished grade" means the elevation of the ground surface of land upon which fill has been placed or dumped or after alteration of the grade or the removal of topsoil has occurred; and
  - c) "proposed grade" means the proposed elevation of the ground surface of land upon which any fill is proposed to be placed.
- 5) "Inspector" means the Chief Building Official and such municipal law enforcement officers as may be appointed by the Town from time to time.
- 6) "owner" means the registered owner of the land concerned.
- 7) "permit" means a permit issued by the Chief Building Official and/or Town Engineer pursuant to the provisions of this By-law.

- 8) "person" includes a natural individual and their heirs, estate trustees or other legally appointed representatives, a corporation, partnership or other form of business association.
- 9) "placing" means the distribution of fill on lands to establish a finished grade higher or lower than the existing grade and "place" in relation to fill shall have the same meaning.
- 10) "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, the alteration of the grade or the removal of topsoil.
- 11) "removal" means excavation or extraction of any fill which lowers the existing grade, including soil stripping.
- 12) "retaining wall" means a wall made of concrete or concrete product or other material approved by the Chief Building Official and/or Town Engineer designed to contain and support fill which has a finished grade higher than that of adjacent lands.
- 13) "soil" means material commonly known as earth, topsoil, loam, subsoil, clay, sand or gravel or any combination thereof.
- 14) "swale" means a shallow depression in the ground sloping to a place for disposal for the purpose of providing a method of drainage of surface water.
- 15) "topsoil" means those horizons in a soil profile, commonly known as the "O" and the "A" horizons, containing organic material and includes deposits of partially decomposed organic matter such as peat.
- 16) "Town" means The Corporation of the Town of LaSalle, and includes the geographical limits of the Town of LaSalle, as the context may require.
- 17) "Zoning By-law" means the Town of LaSalle Zoning By-law No. 5050 as amended, or any successor By-law thereto.

## **General Prohibitions and Regulations**

2.

- 1) No person may place or dump fill or cause or permit fill to be placed or dumped in the Town except in accordance with this By-law.
- 2) No person may alter the grade or cause or permit the grade of any land in the Town to be altered except in accordance with this By-law.
- 3) No person may remove topsoil or cause or permit the removal of topsoil from any land in the Town except in accordance with this By-law.
- 4) No person shall place or dump fill or cause or permit fill to be placed or dumped, or alter the grade or cause or permit the grade of land to be altered, or remove topsoil or cause or permit the removal of topsoil from any land lying within any Zone as designated in the Zoning By-law.
- 5) Where a permit has been issued, no person may place or dump fill or cause or permit fill to be placed or dumped in the Town except in accordance with the provisions of that permit.

- 6) Where a permit has been issued, no person may alter the grade of any land or cause or permit the grade of any land in the Town to be altered except in accordance with the provisions of that permit.
- 7) Where a permit has been issued, no person may remove topsoil or cause or permit the removal of topsoil from any land in the Town except in accordance with the provisions of that permit.

3.

- 1) No person may place or dump fill or cause or permit fill to be placed or dumped and no person may alter the grade of any land or cause or permit the grade of any land to be altered and no person shall remove topsoil or cause or permit the removal of topsoil from any land within the Town:
  - a) where the owner or person in lawful possession of the land has not consented to the placing or dumping of fill or to the alteration of the grade or to the removal of topsoil; or
  - b) where the fill is placed or dumped or the grade is altered or the topsoil is removed for storage purposes and such storage is not permitted pursuant to the Zoning By-law; or
  - c) where the placing or dumping of fill or the alteration of the grade or the removal of topsoil will result in changing any grade established by a grading and drainage plan approved by the Town in relation to any subdivision, consent to sever, re-zoning, site plan or building permit approval and such placing or dumping of fill or alteration of the grade or the removal of topsoil occurs without a permit; or
  - d) where the fill includes such things as, without limitation, material from the demolition of any structure or site redevelopment or road construction or reconstruction or includes refuse, rubbish, junk or used material of any kind whatsoever, or includes toxic or hazardous materials or sewage; or
  - e) where the placing or dumping of fill or the alteration of the grade or the removal of topsoil would result in soil erosion or soil pollution, the blockage or siltation of any watercourse, the pollution of any watercourse, flooding or ponding on any land or detrimental effect on any environmentally significant area or wetland complex and Canada Heritage or Natural Environment; or
  - f) where the placing or dumping of fill or alteration of the grade or removal of topsoil would result in detrimental effect on any healthy tree greater than 10 millimetres in caliper; or
  - g) where the placing or dumping of fill or the alteration of the grade or the removal of topsoil is not in accordance with Town design standards or with accepted engineering and environmental principles; or
  - h) where the placing or dumping of fill or the alteration of the grade or the removal of topsoil is on any land zoned Natural Environment, Wetland, Floodway or Recreational pursuant to the Zoning By-law, unless approval therefor has been issued by the Essex Region Conservation Authority or a permit has been issued pursuant to this By-law.
- 2) No person may place or dump fill or cause or permit fill to be placed or dumped and no person may alter the grade of any land or cause or permit the grade of any land to be altered or remove any topsoil or cause or permit the removal of topsoil from any land in the Town without a permit [where the volume of the fill being placed or dumped or the volume of fill involved in the alteration exceeds 5 cubic metres].

## Exceptions

4. The provisions of this By-law do not apply to the following areas, persons and activities:
- a) where a regulation under Section 28 of the Conservation Authorities Act is in force respecting the placing or dumping of fill or the alteration of any grade or the removal of topsoil in an area as specified in that regulation;
  - b) where the placing or dumping of fill or alteration of the grade or the removal of topsoil is undertaken by the Town or a local board of the Town;
  - c) where the placing or dumping of fill or alteration of the grade or the removal of topsoil is 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;
  - d) where the placing or dumping of fill or alteration of the grade or removal topsoil is 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 the Zoning By-law;
  - e) where the placing or dumping of fill, the alteration of the grade or the removal of topsoil from land is imposed as a condition after December 31, 2002 to the approval of a site plan, a plan of subdivision or a consent under the Planning Act, or as a requirement of a site plan agreement, subdivision agreement or severance agreement entered into under that Act;
  - f) where fill is placed on lands shown in a grading and drainage plan approved by the Town in conjunction with subdivision, re-zoning or site plan approvals, provided the provisions of such approvals relating to fill are adhered to;
  - g) where the placing or dumping of fill, the alteration of the grade or the removal of topsoil from land is undertaken by a transmitter or distributor for the purposes of constructing and maintaining a transmission system or a distribution system, as those terms are defined in Section 2 of the *Electricity Act, 1998*;
  - h) where the placing or dumping of fill, the alteration of the grade or the removal of topsoil on land is undertaken as an incidental part of drain construction under the *Drainage Act* or the *Tile Drainage Act*;
  - i) where a building permit has been issued by the Chief Building Official and/or Town Engineer for the erection of a building or structure, and the site or building plan accompanying the building permit application provides sufficient information to determine that the placing or dumping of fill, the alteration of grade or the removal of topsoil conforms with the provisions of this By-law, provided the provisions of such building permit related to fill are adhered to;
  - j) where fill is placed on lands zoned for residential use within the meaning of the Zoning By-law for the purpose of lawn dressing, landscaping, adding to flower beds or vegetable gardens, provided that:
    - i) the elevation of the land within 1.5 metres of the property line is not changed; and
    - ii) there is no change in the location, direction or elevation of any natural or artificial watercourse, open channel, swale or ditch used to drain the land;
  - k) where fill is placed or dumped in an excavation to raise the grade 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; and
  - l) where the removal of topsoil is 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 this exception does not apply to the removal of topsoil for sale, exchange or other disposition.

## Issuance of a Permit

5.

- 1) The Chief Building Official and/or Town Engineer is hereby authorized to issue a permit where the applicant has 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 or to remove any topsoil from land shall submit the following to the Chief Building Official:
  - a) a completed application in the form prescribed from time to time by the Chief Building Official in accordance with the information required in this By-law;
  - b) the applicable permit fee as established by a resolution of the Council of the Town from time to time;
  - c) when required by the Chief Building Official and/or Town Engineer in order to assess the impact of the fill or alteration or removal on the environment affected, a fill-control/ topsoil and removal plan, which shall include any or all of the following as shall be specified by the Chief Building Official and/or Town Engineer:
    - i) a key map showing the location of the parcel of land including the nearest major intersection and north arrow;
    - ii) the boundaries and number of hectares of the parcel of land;
    - iii) the existing and proposed use of the land and the location and use of the buildings and other structures adjacent to the parcel of land;
    - iv) the location, dimensions and use of any building and other structures existing or proposed to be erected on the parcel of land;
    - v) the location of lakes, streams, wetlands, channels, ditches, other watercourses and other bodies of water on or within a minimum of 100 metres beyond each boundary of the parcel of land;
    - vi) the location and identification of the predominant existing soil types;
    - vii) the species, grade at base and size of all trees greater than 10 millimetres in caliper and, all shrubs, trees and hedges within 2 metre(s) of the property line and driveways on the parcel of land and all easements and rights-of-way over, under, across or through the parcel of land;
    - viii) the location and dimensions of any existing and proposed storm water drainage systems and natural drainage patterns on and within a minimum of 2 metres beyond each boundary of the parcel of land;
    - ix) the location and dimensions of utilities, structures, roads, highways and paving located within a minimum of 2 metres beyond each boundary of the parcel of land;
    - x) the existing topography on the parcel of land and extending a minimum of 100 metres beyond each boundary of the parcel of land;
    - xi) the proposed final grades of the parcel of land;
    - xii) the location and dimensions of all proposed land disturbance activities, including construction of access roads;
    - xiii) the location and dimensions of all temporary soil, dirt or fill stockpiles;
    - xiv) 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;
    - xv) a schedule of the anticipated starting and completion dates of each land disturbance or land development activity and hours of operation;
    - xvi) provisions for the maintenance of the construction site erosion control and dust control measures during construction and after as required;
    - xvii) the scale of drawing, ranging from 1:250 to 1:1000 as deemed appropriate (each drawing control plan to be in metres); and
    - xviii) an indication on the drawing of directions of overland water flow and overland flow route;

- d) proposed final grades and drainage system to be used upon completion of the filling, alteration or removal 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 Chief Building Official and/or Town Engineer to secure performance of the work for which the permit is being applied;
- h) a description of the proposed haul route within the Town.

6.

- 1) The Chief Building Official may, prior to the issuance of a permit, require the owner or the person to whom the permit will be issued (the "permit holder") to enter into an agreement which may be registered against the title to the subject lands containing such requirements as the Chief Building Official and/or Town Engineer considers necessary to ensure that the placing or dumping or removal of fill, the alteration of the grade or the removal topsoil is done in accordance with the prevailing Town design standards and proper engineering principles.
- 2) An agreement referred to in sub-section (1) herein may include a requirement that the owner or the proposed permit holder post with the Town such security as may be required and where, in the opinion of the Chief Building Official and/or Town Engineer, extensive activities are proposed, require certification by a geotechnical engineer or other similarly qualified person, both prior to the issuance of a permit and upon completion of the work. All such certification shall state that the owner or proposed permit holder can and has complied with all of the obligations and conditions contained in the permit.
- 3) The Chief Building Official and/or Town Engineer may require the owner or the proposed permit holder to install such site remediation measures, including topsoil, seeding, sodding and installation of berms and silt screens and landscaping, as are necessary to minimize the visual impact of fill or grade alteration or removal proposals
- 4) The issuance of a permit by the Chief Building Official and/or Town Engineer does not preclude the responsibility of the owner and/or the permit holder to obtain all other approvals which may be required by any level of government or agencies of the government.
- 5) 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 Chief Building Official and/or Town Engineer of such transfer and either:
  - a) provide the Town with an undertaking to comply with all the conditions under which the existing Permit was issued; or
  - b) apply for and obtain a new permit in accordance with the provisions of this By-law.

### **Permit Expiry**

7.

- 1) Any permit issued pursuant to this By-law shall be valid until the expiry date as specified on the permit by the Chief Building Official and/or Town Engineer.
- 2) A permit which is no longer valid or which has expired pursuant to this Bylaw may be renewed within one (1) month from the date of expiry upon the making of a written application to the Chief Building Official and/or Town

Engineer accompanied by a payment of 50% of the original permit fee, provided that the proposed work has not been revised.

### **Permit Revocation**

8. Any permit issued pursuant to this By-law may be revoked by the Chief Building Official and/or Town Engineer under any one of the following circumstances:
- a) if the permit 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 owner or permit holder does not comply with the terms of an agreement entered into under this By-law;
  - e) if the work authorized under the permit has not been commenced prior to the expiry date of the permit; or
  - f) if an owner or permit holder fails to comply with the provisions of this By-law.

### **Enforcement and Penalties**

- 9.
- 1) This By-law shall be administered by the Chief Building Official and/or Town Engineer and/or Compliance Officer, and any Building Inspectors as may be designated by the Chief Building Official or the Town from time to time.
  - 2) Inspectors may, at any reasonable time, enter on land in the Town to carry out an inspection for the purposes of determining whether or not there has been compliance with any provision of this By-law, or compliance with a permit issued pursuant to this By-law.
  - 3) Every person who places or dumps fill or who causes or permits fill 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 or removes topsoil or causes or permits the removal of topsoil from any land in the Town in a manner contrary to this By-law shall remove or restore such fill, as the case may be, and shall restore the existing grade of the land.
  - 4) Where any person fails to do any work required pursuant to this By-law or in accordance with the terms and conditions of any permit issued pursuant to this By-law within the period specified by the Chief Building Official and/or Town Engineer, the Town may, by resolution or by-law, proceed to do the work, and for this purpose may enter on the owner' s land, at any reasonable time, with its employees and/or agents.
  - 5) The Town may recover the costs of doing the work under sub-section (4) herein from the owner or the person who failed to do the required work by adding the cost thereof to the tax roll of the parcel of land that is the subject of the permit and collecting those costs in the same manner as property taxes.
10. Every person who contravenes any provision of this By-law is guilty of an offence, pursuant to the provisions of the Provincial Offences Act, and upon conviction, is liable to a fine of up to \$5,000.00 or the maximum fine applicable pursuant to that Act.

### **General Provisions**

- 11.
- 1) The provisions of this By-law shall apply to all lands and premises within the Town of LaSalle.
  - 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 from this By-law and the remainder of this By-law shall continue in full force and effect.
  - 3) The short title of this By-law shall be the" Site Alteration By-law".

- 4) The provisions of this By-law shall come into force and effect upon the final passing thereof.

**Read** a first, second, and third time and finally passed this 8th day of September, 2009.

1st Reading – September 8, 2009

2nd Reading – September 8, 2009

3rd Reading – September 8, 2009

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Mayor – G. Baxter

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Clerk – B. Andreatta