

TOWNSHIP OF CENTRAL MANITOULIN

BY-LAW NO. 2002-09

BEING A BY-LAW TO PROTECT AND CONSERVE TOPSOIL WITHIN THE TOWNSHIP OF CENTRAL MANITOULIN.

WHEREAS the Topsoil Preservation Act, Chapter 504, R.S.O. 1980 provides that Councils of Municipalities may pass by-laws to regulate or prohibit the removal of Topsoil, and;

WHEREAS the Council of the Corporation of the Township of Central Manitoulin deems it advisable to exercise this authority as well as to provide for the rehabilitation of lands where topsoil removal is permissible:

NOW THEREFORE the Council of the Corporation of the Township of Central Manitoulin ENACTS as follows:

1. For the purposes of this by-law, the following definitions and interpretations shall govern:

- (a) "Body of water" includes any brook, creek, stream, river, lake, pond, waterway, and water course, canal, or other flowing or standing water.
- (b) "Township or municipality" means the Corporation of the Township of Central Manitoulin.
- (c) "Council" means the Council of the Corporation of the Township of Central Manitoulin.
- (d) "Lot" means a parcel of land, described in a deed or other document legally capable of conveying land, or shown as a lot or a block on a registered plan of subdivision.
- (e) "Erosion" means the detachment and movement of soil, sediment or rock fragments by water, wind, ice or gravity;
- (f) "Topsoil" means that horizon in a soil known as the "A" horizon, containing organic material.
- (g) "Land disturbance" means any man-made change of the land surface including removing vegetative cover, excavating, filling, grading, and construction or building of roads or parking lots.
- (h) "Site" means the lands from which it is proposed that Topsoil be removed.

2. No person or corporation shall remove or cause or permit the removal of any topsoil from any land within the Township of Central Manitoulin unless:

- (a) the exemptions contained in Subsection 2(2) or 2(3) of the Topsoil Preservation Act, R.S.O. 1980, and Chapter 504 as apply and listed herein:
  - i. 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;
  - ii. the removal of topsoil as an incidental part of drain construction under the *Drainage Act* or the *Tile Drainage Act*;
  - iii. the removal of topsoil as an incidental part of operations authorized under the *Aggregate Resources Act*;
  - iv. the removal of topsoil as an incidental part of operations authorized under the *Mining Act*;
  - v. the removal of topsoil by a Crown agency or Hydro One.
  - vi. the removal of topsoil as an incidental part of the construction of underground services where the topsoil is removed and held for subsequent replacement;
  - vii. the removal of topsoil, where the quantity of topsoil removed in any one lot does not, in any consecutive three month period, exceed five cubic metres; and
  - viii. the removal of topsoil as an incidental part of the construction of a public highway.
- (b) the cumulative total topsoil removed from lots exceeding one hectare in size is less than one hectare; or
- (c) a Topsoil Removal Permit has been issued by the municipality.

TOWNSHIP OF CENTRAL MANITOULIN

Top Soil Preservation By-law continued...

3. Notwithstanding the exemptions contained in Subsection 2(a) and 2(b) of this By-law no person or corporation shall remove or permit the removal of topsoil from any land adjacent to any size body of water without having been issued a Topsoil Removal Permit by the municipality.

4. The owner or the authorized agent of the owner shall make all applications for Topsoil Removal Permits, in writing.

5. All applications for Topsoil Removal Permits shall:

- (a) be in a form established from time to time, by the municipality;
- (b) be accompanied by a comprehensive Control and Rehabilitation Plan in accordance with Section 6;
- (c) be accompanied by a fee, as established by Council from time to time, on a per hectare basis;
- (d) be accompanied by a financial guarantee in an amount determined by the municipality and in a form satisfactory to the municipality such guarantee to ensure the proper implementation and maintenance of site management control measures and final rehabilitation as specified in the Permit;
- (e) contain all other information as may be required therein; and
- (f) be duly executed by the owner.

6. The Control and Rehabilitation Plan accompanying an application for Topsoil Removal Permit shall include:

- (a) a key map showing the location of the site;
- (b) the site boundaries and number of hectares of the site,
- (c) the use of the land and the location and use of the buildings and other structures adjacent to the site;
- (d) the location, dimensions and use of the building and other structures existing or proposed to be erected on the site;
- (e) the location of lakes, streams, wetlands, channels, ditches, other water courses and other bodies of water on and within thirty (30) metres beyond the site boundary;
- (f) the location of the predominant soil types;
- (g) the location and type of vegetative cover;
- (h) the location and dimensions of any existing and proposed storm water drainage systems and natural drainage patterns on and within thirty (30) metres beyond the site boundary;
- (i) the location and dimensions of utilities, structures, roads, highways and paving;
- (j) the existing site topography as per a current Ontario Base Map and extending a minimum of thirty (30) metres beyond the site boundary;
- (k) the proposed final elevations of the site;
- (l) the location and dimensions of all proposed land disturbing activities;
- (m) the location and dimensions of all temporary soil or dirt stockpiles;
- (n) the location, dimensions, design details and design calculations of all construction site control measures necessary to meet the requirements of this By-law;
- (o) a schedule of the anticipated starting and completion dates of each land disturbing or land developing activity including the installation of construction site control measures needed to meet the requirements of this By-law;
- (p) provisions for the maintenance of the construction site control measures during construction;
- (q) the scale of drawing;
- (r) the rehabilitation plans for the site, and;
- (s) any other necessary information with respect to the site.

7. Every Control and Rehabilitation Plan accompanying an application for a Topsoil Removal Permit must be certified by a professional engineer who is licensed to practice in the Province of Ontario.

8. Notwithstanding any other provisions of this By-law, the Council may not waive the requirement for a Control and Rehabilitation Plan. However, in appropriate cases after taking into consideration the cost of the proposed works, the anticipated impact on the adjacent body of water and the use of the property, Council may waive or reduce the fee and/or financial guarantee for a Topsoil Removal Permit.

TOWNSHIP OF CENTRAL MANITOULIN

Top Soil Preservation By-law continued...

9. All applications for a Topsoil Removal Permit shall meet the site design guidelines as set out in Schedule "B" to this By-law.

10. The municipality shall issue a Topsoil Removal Permit within 30 days where the requirements of this By-law are met and where the municipality is satisfied that no damage will occur as a result of erosion, sedimentation or flooding and that the land will be rehabilitated to the same or better condition than it was in at the time prior to the removal of the topsoil for which the Topsoil Removal Permit is issued. Rehabilitation may take the form of:

- (a) leveling and regrading of affected lands;
- (b) planting of trees
- (c) the replacement of topsoil and stabilization by either sodding, hydroseeding, mulching or such other methods as may be directed.

11. Where the municipality refuses to issue a Topsoil Removal Permit, the applicant shall be informed in writing of the refusal and may be required to provide additional information if the application is to be given further consideration.

12. Topsoil Removal Permits issued are subject to the conditions contained in Schedule "C" to this By-law.

13. Topsoil Removal Permits shall be valid for a period of 365 days. The municipality may extend the period one or more times for an additional 365 days each time. The municipality may require additional control measures and/or inspection fees as a condition of the extension if they are necessary to meet the requirements of this By-law.

14. All sedimentation basins and other control measures necessary to meet the requirements of this By-law shall be in place prior to any land disturbance of the site. These measures shall be maintained by the Topsoil Removal Permit holder or subsequent landowner during the period of land disturbance in a manner satisfactory to the municipality to ensure adequate compliance with the requirements of this By-law and to prevent damage occurring as a result of erosion, sedimentation or flooding.

15. Employees of the municipality shall inspect sites for which Topsoil Removal Permits have been issued for compliance with the approved Control Plan.

16. No Topsoil Removal Permit shall be issued for the removal of topsoil if, in the opinion of the municipality, the removal of topsoil from the lands will;

- (a) cause an unacceptable level of waste in the municipality.
- (b) unreasonably hinder the orderly development of any lands within the municipality.
- (c) adversely affect adjacent lots; or adversely affect natural drainage systems thus affecting adjacent lots.
- (d) not leave adequate topsoil to allow rehabilitation of the property.

17. The issuance of a Topsoil Removal Permit by the municipality does not preclude the applicant's responsibility to obtain all other approvals, which may be required by any other level of government and agencies thereof.

18. If the property for which a Topsoil Removal Permit has been issued is transferred while the Topsoil Removal Permit remains in effect the new owner shall either:

- (a) provide the municipality with an agreement to comply with all the conditions under which the existing Topsoil Removal Permit was issued; and
- (b) provide a financial guarantee in accordance with the requirements of Schedule "A" to this By-law.

19. No notices of contraventions or charges will be laid under this By-law at the time of enactment of this By-law until thirty (30) days written notice to comply with the By-law has been given by the municipality.

TOWNSHIP OF CENTRAL MANITOULIN

Top Soil Preservation By-law continued...

20. Any person or corporation who contravenes any provision requirement of this By-law may be issued a Notice of Contravention by the municipality, and directed to forthwith cease and desist all operations.

21. Where it is revealed or discovered that the holder of a Topsoil Removal Permit has provided misleading or false information on the application, the Topsoil Removal Permit issued under this By-law shall be revoked by the municipality and the Topsoil Removal Permit holder shall thereafter cease and desist forthwith all operations being conducted under the authority of the revoked Topsoil Removal Permit.

22. Where the municipality issues a written order to cease and desist all operations being conducted under authority of the Topsoil Removal Permit, and if such written order is not fully complied with within 3 days of the delivery order, the municipality may draw on the letter of credit and carry out such work as may be required to comply with the conditions of the Topsoil Removal Permit.

23. Every person or corporation who:

- (a) provides misleading or false information in an application under this By-law in any statement or plan required to be produced under this By-law;
- (b) fails to comply with any notice of contravention or other requirement under this By-law; or contravenes any provision or requirement of this By-law and every director or officer of a corporation who concurs in such production, failure or contravention is guilty of an offense and on conviction is liable to a fine in the amount provided for by Section 62 of the Provincial Offenses Act, or any successor legislation in substitution thereof;
- (c) every contravention of any provision of this By-law shall constitute a separate offense for each day such contravention occurs or continues.

24. All Schedules attached to this By-law shall form part of this By-law.

25. 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 the part of the provision shall be deemed to be severed from the remainder of this By-law and all other provisions shall remain in full force and shall be valid and enforceable to the fullest extent permitted by law.

Read a first time this 8<sup>th</sup> day of April 2002.

Read a second time with amendments this 3rd day of June 2002.

Read a third time and duly enacted this \_\_\_\_ day of \_\_\_\_\_ 2002.

—

\_\_\_\_\_  
Reeve

\_\_\_\_\_  
Clerk

Hereby certified as a true copy of the Corporation of the Township of Central Manitoulin By-law 2002-09.

\_\_\_\_\_  
Clerk-Treasurer

\_\_\_\_\_  
Date

TOWNSHIP OF CENTRAL MANITOULIN  
SCHEDULE "A" TO TOPSOIL PRESERVATION BY-LAW 2002-09

Describes fees for the Permit and conditions for the financial guarantee.

Fees:

The fee for a Topsoil Removal permit shall be \$100.00 per hectare.

Financial Guarantee:

The financial guarantee shall be in the form of either a letter of credit issued by an accredited financial institution or a certified cheque.

The financial guarantee shall be in an amount equal to the fee for the Topsoil Removal Permit. The Waste Management and Drainage Committee may stipulate a financial guarantee exceeding this amount in situations where they believe that there is a high potential for a negative environmental impact if proper control and rehabilitation is not undertaken.

The financial guarantee shall be released once rehabilitation of the property has been achieved. Rehabilitation shall be as proposed in the Control and Rehabilitation Plan and shall be to the satisfaction of the municipality.

Under no circumstances will this financial guarantee exceed the assessed value of the property.

TOWNSHIP OF CENTRAL MANITOULIN

SCHEDULE "B" TO BY-LAW 2002-09

Site Design Guidelines

The following requirements shall be met on all sites where a Topsoil Removal Permit is required to remove topsoil:

1. Site Dewatering: Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, upflow chambers, swirl concentrators or other appropriate controls. If the water is demonstrated to have no particles greater than 40 microns in size, then dewatering operations may still be conducted provided the water is not permitted to discharge directly into receiving bodies of water or streams.

2. Drain Inlet Protection: All lot storm-drain inlets or any other inlets as the municipality considers necessary, shall be protected with filter fabric or equivalent barriers meeting accepted design criteria, standards and specifications accepted by the municipality.

3. Site Erosion Control: The following criteria apply to land disturbing activities that result in runoff leaving the site:

(a) Channeled runoff from adjacent areas passing through the site shall be diverted around disturbed areas, if practical. Otherwise, the channel shall be protected by filter fences placed along channel edges to reduce sediment reaching the channel.

(b) All activities on the site shall be conducted in a logical sequence to minimize the area of bare soil exposed at any one time.

(c) Any soil or dirt storage piles containing more than one hundred (100) cubic metres of material shall not be located within a downslope drainage length of less than ten (10) metres to a roadway or drainage channel. If remaining for more than thirty (30) days, said soil or dirt storage piles shall be stabilized by mulching, vegetative cover, tarps or other means. Erosion from soil or dirt piles which will be in existence for less than thirty (30) days shall be controlled by filter fence barriers around the pile.

(d) Runoff from the entire disturbed area on the site shall be controlled as follows:

(i) All disturbed ground left inactive shall be stabilized by seeding, sodding, mulching or covering, or other equivalent control measures. The period of time of inactivity shall be at the discretion of the municipality but shall not exceed thirty (30) days or such longer period as deemed advisable at the discretion of the municipality.

(ii) Notwithstanding paragraph 3(4)(a), a Topsoil Removal Permit holder or applicant for a Topsoil Removal Permit who has applied for but not yet received a building permit or any other necessary permit may be granted an extension to the permitted period of inactivity, at the discretion of the municipality, provided that said applicant or permit holder provides satisfactory proof that he has made his best efforts to have said building or other necessary permit issued;

(iii) For sites with less than four (4) hectares disturbed at one time and slopes less than twelve (12) percent grade, filter fences or equivalent control measures shall be placed along all sideslope and downslope sides of the site;

(iv) For sites with more than four (4) hectares disturbed at one time or with slopes greater than twelve (12) percent grade, or if a channel originates in the disturbed area, one or more sedimentation basins shall be constructed. Each sedimentation basin shall have a surface area of at least one (1) percent of the area draining to the basin and at least one (1) metre of depth and be constructed in accordance with design specifications, with design specifications acceptable to the municipality. Sediment shall be removed to maintain a depth of one (1) metre. It is not permitted to directly discharge the basin into receiving water streams or bodies. Basin discharge rate shall be sufficiently low as to not cause erosion along the discharge channel;

TOWNSHIP OF CENTRAL MANITOULIN

SCHEDULE "B" TO BY-LAW 2002-09

Site Design Guidelines continued...

(v) For sites located adjacent to existing residential areas, a sediment control fence may be required around the entire perimeter of the site; A three metre wide buffer strip or sediment control fence shall be provided along the perimeter along the downslope sides of the site; For sites with extensive fill requirements, the municipality may waive the requirements for stabilization of the disturbed land after thirty (30) days of inactivity provided that the sediment control measures have been implemented to the satisfaction of the municipality.

4. Rehabilitation: Where site rehabilitation is not covered under any other provision or By-law, the municipality may request, as part of the Control Plan, plans for rehabilitation of the site. All rehabilitation should be completed before temporary on-site drainage control measures are removed. Rehabilitation should proceed on a phased basis, such that topsoil is stabilized as construction on each phase of the site is completed. Rehabilitation may take the form of:

- (a) Leveling and regrading of affected lands
- (b) Planting of trees and other stabilizing ground cover
- (c) The replacement of topsoil and stabilization by either sodding, hyroseeding, mulching or other such methods as may be directed.

TOWNSHIP OF CENTRAL MANITOULIN

SCHEDULE C TO BY-LAW 2002-09

Topsoil Removal Permit Conditions

1. All Topsoil Removal Permit holders shall:

- (a) Notify the municipality within 48 hours of commencing any land disturbing activity;
- (b) Notify the municipality of the completion of any control measures within days after their installation;
- (c) Obtain permission in writing from the municipality prior to modifying the Control and Rehabilitation Plan;
- (d) Install all control measures as identified in the approved Control and Rehabilitation Plan;
- (e) Maintain all road drainage systems, stormwater drainage systems, control measures and other facilities identified in the Control and Rehabilitation Plan;
- (f) Repair any siltation or erosion damage to adjoining surfaces and drainageways resulting from land developing and/or disturbing activities;
- (g) Inspect the construction control measures at least once per week and after each rainfall of at least one (1) centimetre and make the needed repairs;
- (h) Allow the employees of the municipality to enter the site for the purpose of inspecting for compliance with the Control and Rehabilitation Plan or for performing any work necessary to bring the site into compliance with the Control and Rehabilitation Plan; and maintain a copy of the Control and Rehabilitation Plan on the site.

2. The Municipality:

- (a) Upon the failure by the Topsoil Removal Permit holder to complete all or part of the works in the time stipulated in the Control and Rehabilitation Plan, may draw the appropriate amount from the financial guarantee and use the funds to arrange for the completion of the said works, or any part thereof;
- (b) Upon the failure by the Topsoil Removal Permit holder to repair or maintain a specific part of the works as requested by the municipality, and in the time requested, the municipality may at any time authorize the use of all or part of the financial guarantee to pay the cost of any part of the works it may in its or their absolute discretion deem necessary, or;
- (c) In the case of emergency repairs or clean-up, the municipality may undertake the necessary works at the expense of the Topsoil Removal Permit holder and reimburse itself out of financial guarantee posted by the applicant.

**See application form below**



TOWNSHIP OF CENTRAL MANITOULIN  
TOWNSHIP OF CENTRAL MANITOULIN

**APPLICATION FOR A TOPSOIL REMOVAL PERMIT**

NAME: \_\_\_\_\_ Location of site: LOT \_\_\_\_\_  
ADDRESS: \_\_\_\_\_ Concession \_\_\_\_\_  
\_\_\_\_\_ WARD # \_\_\_\_\_  
\_\_\_\_\_ SIZE: \_\_\_\_\_  
TELEPHONE: No.: \_\_\_\_\_

A fee must accompany this application in the amount as set out by By-law 2002-09.

A Control and Rehabilitation Plan must accompany this application as set out in By-law 2002-09

The Control and Rehabilitation Plan must be certified by a professional engineer licensed to practice in the Province of Ontario.

Please take note of the following:

The municipality shall issue a Topsoil Removal Permit within 30 days where the requirements of this By-law are met and where the municipality is satisfied that no damage will occur as a result of erosion, sedimentation or flooding and that the land will be rehabilitated to the same or better condition than it was in at the time prior to the removal of the topsoil for which the Topsoil Removal Permit is issued. Rehabilitation may take the form of:

- (a) Levelling and regrading of affected lands;
- (b) Planting of trees
- (c) the replacement of topsoil and stabilization by either sodding, hydro seeding, mulching or such other methods as may be directed.

A copy of By-law 2002-09 is attached to this application and must be adhered to in all of its parts.