

THE CORPORATION OF THE TOWNSHIP OF ESSA

BY-LAW NO. 98-28

A By-law of the Council of the Corporation of the Township of Essa, to regulate and prohibit the removal of topsoil within the Township of Essa.


WHEREAS the Topsoil Preservation Act, RSO 1990, c. T.12, provides that By-laws may be passed by Councils of local Municipalities regulating or prohibiting and providing for the issuing of permits for the removal of topsoil and requiring the rehabilitation of lands from which topsoil has been removed;

AND WHEREAS the Council of the Corporation of the Township of Essa deems it advisable to exercise this authority, be it enacted as follows:

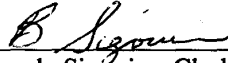
1. In this By-law:
 - a. "Clerk" means the Clerk-Administrator duly appointed by the Council of the Corporation of the Township of Essa.
 - b. "Corporation" means the Corporation of the Township of Essa.
 - c. "Council" means Council of the Corporation of the Township of Essa.
 - d. "Lot" means a parcel of land, described in a deed or other document legally capable of conveying land, or shown as a lot or block on a registered plan of subdivision.
 - e. "Person" means any human being, firm, association, partnership, private club, incorporated company, corporation, tenants in common, joint tenants, agent or trustee and the heirs, executors or other legal representatives of a person to whom the context can apply according to law.
 - f. "Topsoil" means that horizon in a soil profile, known as the "A" horizon, containing organic material.
 - g. "Township" means the Township of Essa.
2. No person shall remove or permit the removal of any topsoil from any lands within the Township of Essa unless such person has applied for and obtained a permit for such purpose under this By-law.
3.
 - a. Applications for permits shall be made to the Clerk or such other person as Council may from time to time appoint during normal business hours.
 - b. Only the registered owner may make application under Section 3(a).
4. All applications for permits shall contain the following and shall be filed with the Clerk before any permit may be issued:
 - a. An application in the form of Schedule "A" attached to and forming part of this By-law, containing all information indicated in Schedule "A" and signed by the applicant.
 - b. A copy or photocopy of the registered deed showing the legal owner of the subject property.
5. Permits for topsoil removal shall only be issued after consideration of the application by Council and at the direction of Council.

6.
 - a. No permits shall be issued for the removal of topsoil for any lands for which the Canada Land Inventory of Soil Capability for Agriculture is Class 1, 2, 3 or 4.
 - b. No permits shall be issued for the removal of topsoil for any lands zoned Agricultural (A1) (A2), Open Space Park (OSP), or Open Space Conservation (OSC) under Township of Essa Zoning By-law 92-77, as amended.
7. No permits shall be issued for the removal of topsoil unless the applicant provides a plan of rehabilitation for the affected lands which, in the opinion of Council, is sufficient to return the lands to the same soil class they were in at the time of the application within 5 years of the date of application.
8. This By-law does not apply to:
 - a. 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.
 - b. The removal of topsoil as an incidental part of drain construction under the Drainage Act or the Tile Drainage Act.
 - c. The removal of topsoil as an incidental part of operations authorized under the Aggregate Resources Act.
 - d. The removal of topsoil as an incidental part of operations authorized under the Mining Act.
 - e. The removal of topsoil by a Crown agency or Ontario Hydro.
 - f. In the case of a By-law passed by a local municipality, the removal of topsoil by a County or Regional Municipality.
 - g. The removal of topsoil as an incidental part of any construction for which leave to construct has been granted pursuant to the Ontario Energy Board Act.
 - h. The removal of topsoil as an incidental part of the construction of any form of underground services where the topsoil is removed and held for subsequent replacement.
 - i. 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,
 - j. The removal of topsoil as an incidental part of the construction and maintenance of a public highway.
9. This By-law does not apply to the extent that;
 - a. It is inconsistent with the terms of any approval or agreement under the Planning Act; or,
 - b. It would prevent the construction of any building, structure, driveway, loading or parking facilities permitted or required on a lot pursuant to:
 - i. A By-law passed by a municipality pursuant to Section 34 of the Planning Act,
 - ii. An order made by the Minister of Municipal Affairs pursuant to Section 47 of the Planning Act.

10. Any person who contravenes this By-law or provides false information in an application under Section 4, is guilty of an offence, and liable upon summary conviction to a penalty pursuant to the Provincial Offences Act and every such fine is recovered under the Provincial Offences Act.



Robert Davis - Mayor



Brenda Sigouin - Clerk-Administrator

SCHEDULE "A"
to By-law 98-28

APPLICATION FOR A PERMIT TO REMOVE TOPSOIL
UNDER BY-LAW 98-28 OF THE TOWNSHIP OF ESSA

Name of Registered Owner of property from which topsoil is to be removed

Mailing Address of Owner _____

Permanent Address of Owner _____

Telephone Number (Home) _____ (Business) _____

Area of land from which topsoil is being removed _____

Quantity of topsoil intended to be removed _____

Period during which topsoil is intended to be removed _____

Canada Land Inventory of Soil Capability Class or Classes for subject lands

Zoning of the subject property under the Township of Essa Zoning By-law 92-77

Current use of subject lands _____

Is plan of rehabilitation included with this application? Yes _____ No _____

NOTE: By-law 98-28 provides a penalty for providing false information in this application.

Dated: _____

Signature of registered owner(s)

Signature of registered owner(s)

Permission is granted to this application subject to By-law No. 98-28 of the Township of Essa.

Approved by Council Resolution #

passed on the _____ day of

, 19 _____

Clerk-Administrator