

THE CORPORATION OF THE
T O W N O F P E L H A M
BY-LAW #624 (1980)

Being a by-law to control the removal of topsoil from lands in the Town of Pelham and to rescind Town of Pelham By-law #595 (1980).

WHEREAS The Topsoil Preservation Act, R.S.O. 1977, Chapter 49 conveys the power to pass by-laws to prohibit or control the removal of topsoil to local municipalities;

AND WHEREAS the Council of the Corporation of the Town of Pelham deems it necessary and expedient to control the removal of topsoil within the Town of Pelham;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF PELHAM ENACTS AS FOLLOWS:

(1) DEFINITIONS: -

- (a) "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.
- (b) "TOPSOIL" means that horizon in a soil profile, known as the "A" horizon, containing organic material as defined in The Topsoil Preservation Act.
- (c) "INSPECTOR" means a ~~person appointed~~ by by-law by the Town to carry out the provisions of this by-law.
- (d) "COUNCIL" means the Council of the Corporation of the Town of Pelham.
- (e) "CLERK" means the Clerk of the Corporation of the Town of Pelham.
- (f) "AGRICULTURAL ENGINEER" means the person appointed by the Ministry of Agriculture & Food to carry out such duties as required.

*see By-law #1113
(1987)
attached*

(2) THE removal of topsoil within the boundaries of the Town of Pelham shall be by permit only.

(3) ALL applications for a permit shall be in the form as set out in Schedule "A" attached hereto and forming part of this by-law and shall contain all information required therein together with the covenant to rehabilitate as set out therein.

(4) REHABILITATION PROCEDURES: -

(a) All lands shall require a detailed drainage plan approved by the Agricultural Engineer to be submitted by the applicant to the Town for acceptance and all drainage works recommended therein shall be completed prior to the commencement of stripping.

(b) All lands shall require a detailed plan of operations, containing such things as: amount of land to be stripped in each season, location of stockpiles, if any, normal hours of operation, expected completion date of entire lot, any other details which may be desirable as information to the Town.

(c) The site shall be subsoiled or chisel ploughed and manured with 22 tonnes per hectare of animal manure or 11 tonnes per hectare of poultry manure and worked to establish a proper seed bed. A detailed soil analysis and the specifications for the soils further rehabilitation shall then be obtained by the applicant from the appropriate government agency and be submitted to the Town together with proof of compliance to the specifications contained therein. The site shall be seeded with a mixture of perennial seeds free of noxious weeds and containing at least 11 to 14 kilograms per hectare of Birds-foot Trefoil and 20 kilograms per hectare of Red Fescue, all seeds to be minimum Canada No. 1 Grade and sown on or before October 1st. in the same calendar year in which the lands have been stripped. Said cover crop to remain on the lands for a period of not less than 3 years. Notwithstanding the requirements of this Section nothing shall prevent the normal harvesting of any agricultural crop which may be produced as a product of the rehabilitation procedures.

(d) In the event that commercial fertilizers are to be used, a detailed soil analysis shall be obtained from the appropriate government agency and the specifications for commercial fertilizer and cover crop shall be adhered to. All growth during the first growing season shall not be removed but shall be tilled into the soil. Following the initial year, a further soil analysis and the specifications for the soils further rehabilitation shall then be obtained by the applicant from the appropriate government agency and be submitted to the Town together with proof of compliance to the specifications contained therein. The site shall be seeded with a mixture of perennial seeds free of noxious weeds and containing at least 11 to 14 kilograms per hectare of Birds-foot Trefoil and 20 kilograms per hectare Red Fescue, all seeds to be minimum Canada No. 1 Grade. Such cover crop to remain on the lands for a period of not less than three years. Notwithstanding the requirements of this section nothing shall prevent the normal harvesting of any agricultural crop which may be produced as a product of the rehabilitation procedures after the first year's crop has been tilled into the soil.

(e) In the event that conifers are planted as the initial crop, the lands after said conifers are harvested, shall be cleared to their original state and all the requirements for rehabilitation shall be completed to the satisfaction of the Town before any portion of the rehabilitation guarantee deposit can be refunded.

(5) IN the event of the failure of the owner to carry out any of the provisions of this by-law or the rehabilitation covenant, the permit shall be immediately revoked and the Town, its servants or agents shall on fifteen (15) days notice in writing notify of its intention, and forthwith in cases of emergency, have the right to enter on the said lands and, at
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the expense of the owner, do any such work as contained herein, payments for such work to be deducted from the monies on deposit as guarantee, and further, should the soil deposits be insufficient to cover the costs of such work, shall have the right to recover the additional cost thereof by action or in like manner as taxes.

(6) THIS by-law shall not apply to any person or class of persons exempted under The Topsoil Preservation Act, 1977, R.S.O. 1977, Chapter 49, as amended, from time to time.

(7) THE Owner shall enter into an agreement with the Town of Pelham covering all aspects of the stripping and rehabilitation; such agreement shall be suitable for registration on title.

(8) PENALTY: -

Every person who:

(a) knowingly furnishes false information in any application under this by-law or in any statement or return required to be furnished under this by-law; or,

(b) fails to comply with any notice, direction, or other requirement under this by-law; or,

(c) contravenes any provision of this by-law shall be guilty of an offence and on Summary Conviction shall be liable to a fine of not more than One Thousand Dollars (\$1,000) exclusive of costs for each offence and every such fine shall be recoverable under The Provincial Offences Act, R.S.O. 1979.

(d) each day a violation continues may be deemed a separate offence.

(9) THIS by-law shall be in force and take effect upon the date of its passing by Council and shall apply to all lots or portions thereof which have not been stripped as of the date of the passing of this by-law.

(10) EVERY provision of this by-law is declared to be severable from the remainder of this by-law and if any Court of competent jurisdiction shall declare any provision invalid, such declaration shall not affect the validity of the remainder thereof.

(11) THAT By-law #595 (1980), which has received one (1) reading be and is hereby rescinded.

READ A FIRST TIME BY COUNCIL
THIS 30th. DAY OF JUNE, 1980 A.D.

E.S. Bergenstein
MAYOR

Alma Hackett

READ A SECOND AND THIRD TIME AND
FINALLY PASSED BY COUNCIL THIS
28th. DAY OF JULY , 1980 A.D.

E.S. Bergenstein
MAYOR

J. Cherny
CLERK *pro tempore*

SCHEDULE
" A "
TO
BY-LAW #624 (1980)

A - APPLICATION FOR A PERMIT TO REMOVE TOPSOIL:

- (1) Name of Registered Owner of Property for which topsoil is to be removed _____
- (2) Mailing Address of Owner _____

- (3) Permanent Address of Owner _____

- (4) Name & Address of Applicant (If different from owner) _____

- (5) Area of Site from which the topsoil is to be removed _____ ha
- (6) Total area of lot on which the site is located _____ ha
- (7) Expected date of completion _____
- (8) Current use of lands to be stripped _____

B - ALL APPLICATIONS FOR A PERMIT MUST BE ACCOMPANIED BY THE FOLLOWING:

- (i) a non-refundable application fee of \$100.00
- (ii) a photocopy of the duplicate registered deed of the lot in question
- (iii) a plot plan dated and signed by an Ontario Land Surveyor showing the following:
 - (a) the boundaries and dimensions of the parcel to be stripped, abutting lands owned by the applicant showing the boundaries and dimensions;
 - (b) the distance between the applicant's land and the nearest township lot line or appropriate landmark (e.g. bridge, railway crossing, road, street, etc.)
 - (c) the approximate location of all natural and artificial features on the subject land (e.g. buildings, railways, highways, watercourses, drainage ditches, banks, slopes, swamps, wooded areas, wells and septic tanks) and the location of any of these features on adjacent lands which may affect the application;
 - (d) the use of adjoining lands (e.g. residential, agricultural, industrial, commercial, etc.) and the distances to the nearest dwelling under separate ownership;
 - (e) the location, width and names of all road allowances, right-of-ways, streets, highways, within or abutting the property, indicating whether they are public travelled roads, private roads or rights-of-way or unopened road allowances;
 - (f) the location and nature of any restrictive covenant or easement affecting the subject land;
 - (g) contour intervals of 0.5m;
 - (h) details of operation

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(iv) A rehabilitation guarantee deposit in the amount of \$1,000.00 per hectare or any portion thereof for lands as set out in Section 4. Such deposits are refundable upon a report of the inspector indicating that all of the provisions of the by-law have been completed to the satisfaction of the Town.

I, _____, of the _____ in the _____ solemnly declare:

ALL of the above statements are true, I agree to adhere to all of the provisions of the by-law, and I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

DECLARED BEFORE ME AT THE

_____)
IN THE _____)
_____)
THIS _____ DAY OF _____)
19 ____ A.D.)

_____) SIGNATURE OF OWNER OR AUTHORIZED AGENT

.....)
A COMMISSIONER, ETC.)
)

If signed by an agent, written authorization of the owner must accompany the application.

FOR OFFICE USE ONLY:

INSPECTORS COMMENTS _____

COUNCIL DECISION AND DATE _____

I, _____, the duly authorized Topsoil Inspector for the Town of Pelham hereby certify that I have inspected the lot in question and that the site applied for will not adversely affect good agricultural practices being conducted on adjacent lands.

SIGNATURE OF TOPSOIL INSPECTOR

I, _____, the Clerk of the Town of Pelham hereby grant this permit for the removal of topsoil from the site as requested above on the terms and conditions hereinbefore set forth.

SIGNATURE OF CLERK OF TOWN OF PELHAM

PERMIT NUMBER _____
ISSUED THIS _____ DAY OF _____, 19 ____ A.D.

THE CORPORATION OF THE
T O W N O F P E L H A M

BY-LAW NO. 1113 (1987)

Being a by-law to amend By-law #624 (1980),
a by-law to control the removal of topsoil
from lands in the Town of Pelham.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE
TOWN OF PELHAM ENACTS AS FOLLOWS:

(1) THAT Section 1 - Definitions of By-law #624 (1980) be
amended by deleting subsection (c) in its entirety and
substituting the following in its place:

"(c) "Topsoil Inspector" means a person
appointed by the Corporation of the Town
of Pelham as By-law Enforcement Officer."

(2) THAT By-law #627 (1980) be and is hereby rescinded.

READ A FIRST, SECOND AND THIRD TIME
AND FINALLY PASSED BY COUNCIL THIS
16th. DAY OF MARCH, 1987 A.D.



MAYOR



CLERK