

**CORPORATION OF THE TOWN OF  
THE BLUE MOUNTAINS**

**BY-LAW NO. 2002 – 78, AS AMENDED**

**Office Consolidation  
(Amended by By-law Nos. 2004-95, 2004-103 and 2007-100)**

Being a By-law to prohibit or regulate the placing or dumping of fill, and/or the alteration of the grade of land, in areas of the Town of The Blue Mountains

**WHEREAS** Section 223.1 of the *Municipal Act* (R.S.O. 1990 Chapter M. 45), as amended, authorizes the Council of a local municipality to pass by-laws for prohibiting or regulating the placing or dumping of fill, and/or the alteration of the grade of land, in any defined area or on any class of land;

**AND WHEREAS** Council of the Corporation of the Town of The Blue Mountains deems it expedient to pass a by-law to prohibit or regulate the placing or dumping of fill and/or the alteration of the grade of land in areas of the Town;

**NOW THEREFORE** the Council of the Corporation of the Town of The Blue Mountains does hereby enact as follows:

**1. DEFINITIONS**

**In this By-law,**

“alter grade” means the alteration of the grade of any land by any means including the construction of a building or addition, the installation of an in-ground swimming pool, the disturbance or movement of fill, the extraction of fill, the excavation of fill, the placing or dumping of fill, landscaping, and the dredging of ponds, lakes, rivers, streams, marshes and wetlands.

“area” means the greatest horizontal floor area of a building or structure within the outside surfaces of the exterior walls.

“builder” means a Builder as defined by the *Ontario New Home Warranties Plan Act*, R.S.O. 1990, Chapter 0.31 who has an ownership interest in the lot or land to be constructed upon. (By-law 2004-103)

“dump” means the depositing of fill in a location other than where the fill was obtained and includes the movement and depositing of fill from one location on a property to another location on the same property.

“environmentally significant land” includes lands identified as:

- (i) class 1, 2, 3, 4, 5, 6, or 7 wetlands or life science area of natural and scientific interest by the Ministry of Natural Resources maps, as amended from time to time, and
- (ii) environmentally significant areas on maps prepared by any authority having jurisdiction over land in the Town of The Blue Mountains, as amended from time to time.

“existing grade” means the elevation of the ground surface of the lands upon which dumping and/or placing of fill is proposed prior to the dumping or placing of fill and of abutting ground surface up to 3 metres wide surrounding such lands, except that where placing or dumping of fill has occurred in contravention of this By-law, existing grade shall mean the ground surface of the lands as it existed prior to the placing or dumping of fill.

“fill” means any type of material deposited or placed on lands and includes but is not limited to sand, soil, stone, granular material, concrete, timber, stumps, asphalt, loam, sod or turf either singly or in combination.

“finished grade” means the approved elevation of the ground surface of lands upon which Fill has been placed in accordance with this By-law.

“owner” includes any person, firm or corporation shown as being the registered owner on which fill is to be placed or dumped of the lands according to assessment records as well as the tenant or occupant of such lands or a mortgagee in possession of such lands.

“permit” means a Permit issued in accordance with the provisions of this By-law.

“place” means the distribution of fill on lands to establish a finished grade higher than the existing grade.

“septic system tile field” means that component of any class of septic system where a system of pipes underneath ground level are located to dispose of effluent underneath the ground.

“soil” means material commonly known as earth, top soil, loam, subsoil, clay, sand or gravel, free of contamination.

“swale” means a shallow depression in the ground sloping to a place of outflow of surface water for the purpose of providing a method of drainage.

“Town” means the Corporation of The Town of The Blue Mountains.

## 2. PROHIBITION

- a) No person shall place or dump fill, or alter the existing grade of any land, except in accordance with the provisions of this By-law.
- b) No person shall place or dump fill, or alter the existing grade of any land that is defined as environmentally significant land.
- c) No person shall place or dump fill, or alter the existing grade of any land, defined and zoned as:
  - (i) Hazard H Zone, Private Open Space OS2 Zone, Development D Zone, Deferred Development DD Zone and Holding h Zone by Zoning By-law No. 83-40 of the Corporation of the Township of Collingwood, as amended, or
  - (ii) Hazard H Zone, Development D Zone and Holding h Zone by Zoning By-law No. 10-77 of the Corporation of the Town of Thornbury, as amended.
- d) No person shall place or dump fill, and/or alter the existing grade of land on a lot defined and zoned as a Residential Zone by Zoning By-law No. 83-40, as amended, or by Zoning By-law No. 10-77, as amended, prior to obtaining a permit. (*By-law No. 2007-100*)
- e) The provisions of this Section do not apply to:
  - i. Land zoned as any Residential Zone by Zoning By-law No. 83-40, as amended, or Zoning By-law No. 10-77, as amended, where said land is subject to the provisions of an agreement made under Section 41 of the *Planning Act*, chapter P.13, R.S.O. 1990 and amendments thereto.
  - ii. The use, operation, alteration or replacement of a septic system tile field that existed on the effective date of this By-law, provided that any alteration to or replacement of the septic system tile field in accordance with Part 8 of the Ontario Building Code or the *Environmental Protection Act* does not increase the land area or change the location of the system in any Hazard (H) Zone, Development (D) Zone, Deferred Development (DD) Zone or Private Open Space (OS2) Zone;
  - iii. The construction, extension, alteration, maintenance or operation of works under Section 26 of the *Public Transportation and Highway Improvement Act*;
  - iv. The activities of the Town, the County of Grey, or any local board or commission of the Corporation or the County as defined by the *Municipal Act*, and any Department or Ministry of the Government of Canada or Ontario, or any Conservation Authority established by the Government of Ontario, and for the purposes of this Section shall include Ontario Hydro;
  - v. A work permit has been issued by the Ministry of Natural Resources under the *Public Lands Act* or the *Lakes and Rivers Improvement Act*;
  - vi. A work authorized by the Grey Sauble Conservation Authority or the Nottawasaga Valley Conservation Authority under the *Conservation Authorities Act*;
  - vii. The placing or dumping of fill and/or the alteration of the existing grade of the land in an area designated as a Residential Zone by Zoning By-law No. 83-40, as amended, or Zoning By-law No. 10-77, as amended, which is related to the erection of a building having an area of less than 60 square metres or the construction of an addition having an area less than 60 square metres or the installation of a privately-owned outdoor swimming pool provided 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;

- viii. Fill that is placed or dumped in an excavation to the elevation of the existing grade at the immediate perimeter of the excavation following the demolition or removal of a building or structure;
- ix. The placing or dumping of fill and/or the alteration of the existing grade of the land where said land is subject to the provisions of an Agreement entered into between the owner of the lands and the Town respecting the placing or dumping of fill and/or alteration of the existing grade of the land; and,
- x. When soil is placed on lands for the purpose of lawn dressing, landscaping, adding to flower beds or vegetable gardens, provided the finished grade of any portion of the lands is not increased by more than 15 centimetres (6 inches), or where soil is added to a contained flower bed or landscape planter provided 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.

### 3. TRANSITION

The provisions of Section 2. (d) of this By-law with respect to the requirement for a permit are effective three months after the date of the passing of this By-law.

### 4. ADMINISTRATION, FEES AND SECURITY DEPOSITS

- (a) The fee for a permit required pursuant to Section 2.(d) of this By-law shall be \$100.00 except that no fee shall apply where the permit is issued in conjunction with a permit issued pursuant to the provisions of the *Building Code Act*, Chapter B.13, R.S.O. 1990 and amendments thereto.
- (b) Drainage and grading plans, prepared by a Professional Engineer or a Professional Engineering Firm or an Ontario Land Surveyor or an Ontario Land Surveying Firm, are required to be provided in conjunction with an application for a permit demonstrating how the roof, foundation and surface drainage of the lot are to be accommodated without adversely affecting adjacent properties and demonstrating compliance with Overall Drainage and Grading Plans of the Subdivision (if applicable).
- (c) As a condition of any permit required pursuant to Section 2.(d) of this By-law, a security deposit in the amount of \$3,000.00 must be provided so as to ensure that the grading and drainage is completed in accordance with the Permit and this By-law and to ensure that any damages to a Town right-of-way or Town property, including a sidewalk, boulevard or road, are rectified.
- (d) Prior to the release of the security deposit referred to in Section 4.(c) of this By-law, the Professional Engineer or Professional Engineering Firm or, the Ontario Land Surveyor or Ontario Land Surveying Firm, must certify that the drainage and grading of the land has been completed in accordance with the drainage and grading plan for which the permit has been issued.
- (e) In the event that damage occurs to any Town right-of-way or Town property as a result of any activity or activities regulated by this By-law, the owner shall be liable for, and shall bear all costs for repairing any such damage and the security deposit referred to in Section 4.(c) may be used by the Town to rectify the damage.
- (f) Notwithstanding Section 4 (c), where a Builder proposes to construct three or more dwellings within a Plan of Subdivision or Condominium at one time and such lots that the dwellings are to be constructed upon are within a portion of the Plan that has been registered, the security deposit to be provided to the Town shall be calculated as follows: (*By-law 2004-103*)

i. First lot	\$3,000.00
ii. Second Lot	\$1,500.00
iii. Subsequent Lots	\$500.00

### 5. CONFLICT

If there is a conflict between this By-law and a By-law passed by the Council of the County of Grey, the By-law of the County of Grey prevails.

### 6. ENFORCEMENT

Every person who contravenes any provision of this By-law is guilty of an offence and shall be liable to a penalty as provided in the *Provincial Offences Act*.

**7. SEVERABILITY**

In the event that any particular provision or provisions of this By-law is found to be invalid or unenforceable for any reason whatsoever, then the particular provision or provisions 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 and second time this 28 day of October 2002.

Read a third time and passed this 28 day of October 2002.

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Ross Arthur, Mayor

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Stephen Keast, Clerk