

Township of Georgian Bay Office Consolidation

This is a consolidation of the Township's **Site Alteration By-law** being **By-law No. 2014-72, as amended**. This is an electronic reproduction made available for reference and information purposes only. It is not an official version of the By-law. Official versions of all by-laws can be obtained by contacting the Clerks Department at (705) 538-2337 or **clerks@gbtownship.ca**. If there are any discrepancies between this consolidation and By-law No. 2014-72, as amended, the By-law(s) shall prevail.

By-law No. 2014-72, as amended by

| By-law No. | Appendix No. | Date Enacted |
|-------------------|------------------------------------------------|---------------------|
| 2017-65 | Section 2.1 (b) change By-law 91-19 to 2014-75 | August 14, 2017 |
| 2017-65 | Section 3.3 change By-law 91-19 to 2014-75 | August 14, 2017 |
| 2024-039 | Add Sections 3.4, 8.4 and 8.5 | May 13, 2024 |

**THE CORPORATION OF THE
TOWNSHIP OF GEORGIAN BAY
BY-LAW NO. 2014-72**

A By-law to prohibit and regulate the placing or
dumping or removal of fill in areas of the
Township of Georgian Bay

This By-law applies only to shoreline areas and to land zoned Environmental Protection (EP) and Open Space (OS).

The primary intent of this By-law is to protect and preserve water quality by prohibiting the placing or removal of fill in shoreline areas and lands zoned Environmental Protection (EP) and Open Space (OS). Lands zoned Environmental Protection (EP) are significant contributors to water quality as they are commonly comprised of wetlands. Wetlands are nature's water filters due to their ability to remove harmful impurities from water before it enters the main body of a watershed. Further, wetlands are the breeding ground and home for many species of plants, fish, insects, animals, birds and wildlife.

This By-law recognizes that property owners have the right to engage in normal landscaping activities on their waterfront property. However, this By-law prohibits any landscaping work that could significantly alter the grade or topography in a manner that increases the flow of surface water to neighbouring lands or the adjacent waterbody.

There are no licenses, permits or fees required with this By-law. Council may grant exceptions from this By-law.

WHEREAS Section 142 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, authorize a local municipality to pass a By-law to prohibit or regulate the placing or dumping of fill, the removal of topsoil, and the alteration of the grade of any property in any defined area or areas in the Township of Georgian Bay;

AND WHEREAS an Order to discontinue activity and work orders are authorized under Section 444 and 445 of the Municipal Act S.O. 2001, c.25 where a contravention of this bylaw has occurred;

AND WHEREAS the Council of the Corporation of the Township of Georgian Bay deems it appropriate and desirable in the public interest to enact such a By-law for the purposes of:

- Implementing the District Municipality of Muskoka Lake System Health Program by preventing erosion and sedimentation of the lakes in the Township;
- Preventing the extensive topographical changes to the properties in the shoreline areas of the Township;
- Protecting and preserving the environmentally protected areas of the Township; and,
- Ensuring a healthy and sustainable ecosystem and natural environment.

NOW THEREFORE BE IT ENACTED by Council of the Corporation of the Township of Georgian Bay as follows:

1. DEFINITIONS

In this By-law:

- (a) "Alteration" or "Site Alteration" means a change in elevation from Existing Grade or Finished Grade resulting from:
- (i) The Placing or Dumping of fill;
 - (ii) The Removal of topsoil;
 - (iii) Placing, Dumping, Removal, or Blasting of Rock;
or,
 - (iv) Any other action that alters the Grade of land including the Altering in any way of a Natural Drainage Course on a Site

"Alter", "Altered" and "Altering" shall have a corresponding meaning.

- (b) "Building Permit" means a Building Permit issued under the Ontario Building Code Act, 1992, S.O. 1992, c. 23, as amended;
- (c) "Clerk" means the Clerk or designate for the Corporation of the Township of Georgian Bay;
- (d) "Council" means the Council of the Corporation of the Township of Georgian Bay;
- (e) "Director" means the Director of Development Services, Manager of Planning or the Senior Planner for the Township of Georgian Bay or his or her designate provided such designate is an Inspector appointed under this By-law;
- (f) "Drainage" means the movement of water to a place of disposal, whether by way of the natural characteristics of the ground surface or by artificial means;
- (g) "Dumping" and "Dump" means the depositing of Fill in a location other than where the Fill was obtained or the movement and depositing of Fill from one location on a property to another location;
- (h) "Fill" means any type of material capable of being removed from or deposited on lands, including, but not limited to: soil, stone, sod, turf, concrete, wood, stumps, rock, asphalt, granular material, either singularly or in combination;
- (i) "Grade" means the elevation of the ground surface and shall be more particularly defined as follows:

- (i) "Existing Grade" means the elevation of the existing ground surface of the lands upon which Dumping and/or Placing of Fill, Altering of the Grade, Removing of topsoil, or Blasting of Rock is proposed. Existing Grade shall mean the ground surface of such lands as it existed prior to the said activity;
 - (ii) "Finished Grade" means the approved elevation of ground surface of lands upon which Fill has been Placed or Dumped, the Grade Altered or topsoil Removed, in accordance with this By-law;
- (j) "Inspector" means the following persons who are authorized to carry out any of the powers or duties pursuant to this By-law, for the period of their employment with the Township;
- Municipal Law Enforcement Officers
- (k) "Landscaping, Minor" means the construction of walkways, pathways, flowerbeds, and similar landscaping features where the landscaping does not significantly alter the topography of the lands and shall not increase the flow or the rate of flow of surface water to the adjacent lands or the adjacent lake or water body but does not include the planting or creation of lawns;
- (l) "Natural Drainage Course" means a valley or elongated depression created by naturally flowing water that varies in size and may be dry or contain intermittent, ephemeral or perennial running water, including a lake, river, stream, creek, spring, ravine, swamp and gulch with well-defined banks and a bed that gives direction to a water course, but excludes roadside ditches, Drainage ditches and irrigation works;
- (m) "Owner" means the registered Owner(s) of the property;
- (n) "Person" means any individual, corporation, partnership, association, firm, trust or other entity and includes anyone acting on behalf or under the authority of such entity, and the singular shall include the plural;
- (o) "Placing" means the distribution of Fill on lands to establish a Finished Grade; "Place" and "Placed" shall have a corresponding meaning.
- (p) "Proposed Grade" means the proposed elevation of ground surface of land upon which Fill is proposed to be Placed or Dumped, the Grade Altered, topsoil or Rock Removed;

- (q) "Removing" means any type of material extracted and taken away from lands and includes but is not limited to sand, Soil, stone, granular material, concrete, asphalt, either singularly or in combination; "Remove", "Removal" and "Removed" shall have a corresponding meaning;
- (r) "Rock Blasting" means to break up or dislodge various rock material, in compliance with the Township's Blasting By-law, to form or open up land through various means including, but not limited to, explosives or hydraulics; "Blasting of Rock" shall have a corresponding meaning;
- (s) "Shoreline Area" means the area of land abutting a waterbody that is located within the front yard setback as defined in the Township's Zoning By-law and includes the area of land extending to the existing level of the abutting waterbody;
- (t) "Site" means the area of land where Alteration will occur;
- (u) "Soil" means material commonly known as earth, topsoil, loam, subsoil, clay, sand or gravel;
- (v) "Township" and "Township of Georgian Bay" means the Corporation of the Township of Georgian Bay;
- (w) "Vegetation" means any woody plant, or contiguous cluster of plants including, but not limited to, trees, shrubs, and hedgerows;
- (x) "Zoning By-law" means the By-law regulating land use within the Township as required under the Planning Act.

2. AREA OF APPLICATION OF THE BY-LAW

2.1 This By-law shall only apply to the following areas in the Township;

- (a) Lands within the Environmental Protection (EP) Zone in the Zoning By-law;
- (b) Lands within the Open Space (OS) Zone in Zoning By-law 2014-72 or lands within the Natural State Island (NSI) zone, Open Space (OS1) zone, or Natural State Conservation (NSC) zone in a subsequent Comprehensive Zoning By-law;
- (c) Lands within the Shoreline Area.

3. PROHIBITION

- 3.1 No Person shall Place or Remove Fill, or cause or permit any site alteration on lands within the area defined in this By-law as the Shoreline Area, except as noted in Section 4 Exemptions From Application of By-law.
- 3.2 No Person shall Place or Remove Fill, or cause or permit any site alteration on lands zoned Environmental Protection (EP) under the Zoning By-law, except as noted in Section 4 Exemptions From Application of By-law.
- 3.3 No Person shall Place or Remove Fill, or cause or permit any site alteration on lands zoned Open Space (OS) under Zoning By-law 2014-72 or lands within the Natural State Island (NSI) zone, Open Space (OS1) zone, or Natural State Conservation (NSC) zone in a subsequent Comprehensive Zoning By-law, except as noted in Section 4 Exemptions From Application of By-law.
- 3.4 Every person shall comply with any Order issued under the authority of this By-law.

4. EXEMPTIONS FROM APPLICATION OF BY-LAW

The provisions of this By-law do not apply to:

- (a) The Placing of Fill for the purposes of Minor Landscaping;
- (b) The maintenance or replacement of any existing landscaping, existing driveways and existing beaches (both natural beaches or beaches where permits has been obtained from the appropriate approval authority);
- (c) The Placing or Dumping of Fill, Removal of topsoil, Blasting of Rock in compliance with the Township's Blasting By-law, or Alteration of the Grade of land imposed after December 31, 2002, as a condition of the approval of a site plan, a plan of subdivision or a consent under section 41, 51 or 53, respectively, of the Planning Act or as requirement of a site plan agreement or subdivision agreement entered into under those sections;
- (d) The Placing or Dumping of Fill, Removal of topsoil, Blasting of Rock in compliance with the Township's Blasting By-law, or Alteration of the Grade of land imposed after December 31, 2002, as a condition to a development permit authorized by regulations made under Section 70.2 of the Planning Act or as a requirement of an agreement entered into under the regulation;
- (e) The Placing or Dumping of Fill, Removal of topsoil, Blasting of Rock, or Alteration of the Grade of land undertaken by a transmitter or distributor, as those terms are defined in Section 2 of the Electricity Act, 1998, for the purpose of constructing and maintaining a transmission system or a

distribution system, as those terms are defined in that section;

- (f) The Placing or Dumping of Fill, Removal of topsoil, Blasting of Rock, or Alteration of the Grade of land undertaken on land described as a license for pit or quarry or a permit for a wayside pit or wayside quarry issued under the Aggregate Resources Act;
- (g) The Placing or Dumping of Fill, Removal of topsoil, Blasting of Rock, or Alteration of the Grade of land 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 By-law passed under section 34 of the Planning Act;
- (h) The Placing or Dumping of Fill, Removal of topsoil, Blasting of Rock, or Alteration of the Grade of land undertaken as an incidental part of drain construction under the Drainage Act or the Tile Drainage Act;
- (i) The Removal of topsoil as incidental part of normal agricultural practice including such Removal as an incidental part of sod farming, greenhouse operation and nurseries for horticultural products, but not the Removal of topsoil for sale, exchange or other disposition;
- (j) The Placing or Dumping of Fill, Removal of topsoil, Blasting of Rock in compliance with the Township's Blasting By-law or Alteration of Grade necessary for the installation of a septic system approved and for which a Building Permit has been issued under the Ontario Building Code Act;
- (k) The Placing or Dumping of Fill, Removal of topsoil, Blasting of Rock in compliance with the Township's Blasting By-law, or Alteration of Grade necessary for the installation of a foundation for a building or structure approved under the Ontario Building Code Act and a Building Permit has been issued by the Township;
- (l) A waste, waste disposal site or waste management system that is approved pursuant to the Environmental Protection Act;

- (m) The construction, extension, alteration, maintenance or operation of works under Section 26 of the Public Transportation and Highway Improvement Act;
- (n) The activities of the District School Boards;
- (o) The activities of Crown Agencies as defined in the Crown Agency Act;
- (p) The Placing or Removal of Fill within 5 metres of any building or structure where a Building Permit has been issued;
- (q) The Placing or Removal of Fill within 3 metres of any building, structure or other land use permitted as an exemption to the front yard setback in the Township's Zoning By-law;
- (r) Activities authorized under a work permit issued by the Ministry of Natural Resources under the Public Lands Act or the Lakes and Rivers Improvement Act;
- (s) Fill placed 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;
- (t) The Placing or Dumping of Fill for the purpose of one temporary access road no wider than 4.5 metres on properties within the Shoreline Area that are only accessible by water;

5. CONSIDERATION BY COUNCIL

- 5.1 If any Owner or Person wishes to apply for relief from this By-law, they may do so by submitting a written request identifying the nature and extent of relief requested and accompanied by a site plan/diagram and a description of the proposed works to the Clerk. Council, in deciding whether to grant relief, shall consider the environmental impact of the proposed activity and may require the applicant to provide such additional information as it deems necessary and, Council may impose such conditions on the relief as it deems appropriate.

6. INSPECTION BY AN INSPECTOR

- 6.1 Notwithstanding Section 435 of the Municipal Act, 2001, as amended, the Inspector for the Township, having probable cause to believe that a violation of this By-law is occurring or has occurred may enter the lands at any

reasonable time for the purpose of inspecting the Site to determine whether there is a violation or any or all portions of Section 3 of this By-law and to prevent further destruction.

- 6.2 Any Person who obstructs an Inspector in carrying out an inspection under this By-law is guilty of an offence.

7. ORDERS

- 7.1 Where an Inspector is satisfied that a Person has contravened any provision of this By-law, the Inspector may make an Order requiring the Person to discontinue the activity and shall set out the particulars of the contravention. The Order shall set out the information contained in Schedule 'A'.

- 7.2 Where the Director is satisfied that a Person has contravened any provisions of this By-law, the Director may make a Repair Order requiring the Person to rehabilitate the land in such a manner and within such a period as the Director considers appropriate.

- 7.3 An Order issued under this section may be served personally or served by sending it by registered mail to the last known address of:

- (i) The Owner of the property at the address shown on the municipal tax rolls; and
- (ii) The Person identified as contravening this By-law.

- 7.4 Where service of an Order is made by mail, the Order shall be deemed to have been served on the fifth business day after the order is mailed.

- 7.5 Where services cannot be made under the preceding sections of this By-law, it is deemed sufficient if the Inspector places a placard containing the terms of the Order in a conspicuous place on the affected lands and the placement of the placard shall be deemed to be sufficient service of the Order on the Person to whom the Order is directed.

- 7.6 A Person to whom an Order under this section has been directed may request a review by Council by filling a written request with the Clerk within 30 days after the date of the Order. Council may confirm, alter or revoke the Order.

- 7.7 If a Person fails to comply to an Order, the Township may carry out the work, enter the property for that purpose and recover the cost, with interest, all in accordance with Section 446 of the Municipal Act, 2001, as amended.

8. PENALTY

- 8.1 Any person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable for the following fines:
- (a) On a first conviction, to a minimum fine of \$500 and a maximum fine of not more than \$10,000; and
 - (b) On any subsequent conviction, to a minimum fine of \$1,000 and a maximum fine of not more than \$25,000
- 8.2 Where a Corporation is convicted of an offence under this By-law, the Corporation is liable for the following fines:
- (a) On a first conviction, to a minimum fine of \$2,500 and a maximum fine of not more than \$50,000
 - (b) On any subsequent conviction, to a minimum fine of \$4,000 and a maximum fine of not more than **\$100,000**
- 8.3 Where a Person is convicted of an offence for contravening this By-law, in addition to any other remedy or any penalty imposed by the By-law, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may issue an order to the Person to rehabilitate the land or to plant or replant Trees in such a manner any within such a period as the court considers appropriate.
- 8.4 If an Order has been issued under this By-law, and the Order has not been complied with, the contravention of the Order shall be designated as a continuous offence for each day or part of a day that the Order is not complied with.
- 8.5 Every person who contravenes any Section of this By-law shall, upon issuance of a penalty notice in accordance with the Township's Administrative Monetary Penalty System By-law, be liable to pay the Township an administrative penalty.
9. CONFLICT WITH OTHER BY-LAWS
- 9.1 Nothing in this By-law shall exempt any person from complying with the requirement of any By-law in force or from obtaining any license, permission, permit, authority or approval required under any By-law or legislation.
10. ADMINISTRATION
- 10.1 Schedule 'A' shall form part of this By-law.
- 10.2 If any section or sections of this By-law or parts thereof are found by any Court to be illegal or beyond the power of the Council to enact, such section or sections or parts thereof shall be deemed to be severable and all other sections or parts of this By-law shall be deemed to be separate and independent there from and continue in full force and effect unless and until similarly found illegal.

10.3 The short title of this By-law is the "Site Alteration By-law".

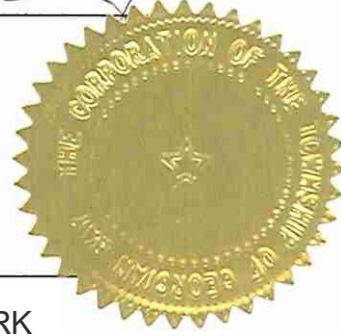
11. EFFECTIVE DATE

11.1 This By-law shall come into force and take effect on the day of passing thereof.

Read and finally passed this 10th day of November, 2014.


LARRY BRAID, MAYOR


SUSAN BOONSTRA, CLERK



SCHEDULE 'A'

STOP WORK ORDER
TOWNSHIP OF GEORGIAN BAY

Under the authority of Section 7 of By-law 2013-XX YOU ARE HEREBY DIRECTED AND ORDERED TO forthwith stop, halt, cease, and desist from any and all works associated with the alteration of a site on those lands comprising of:

MUNICIPAL ADDRESS/ LEGAL DESCRIPTION OF THE PROPERTY:

OWNER/ INDIVIDUAL RESPONSIBLE FOR DESTRUCTION:

DESCRIPTION OF INFRACTION:

DATE OF INSPECTION: _____

EFFECTIVE ORDER DATE: _____ TO _____

SIGNATURE OF OFFICER: _____ DATE: _____

Pursuant to Section 7.6 of By-law 2013-XX, where the person to whom the Order is directed has been served in accordance with this By-law is not satisfied with the terms of the Order, the person may request a review by Council by filing a written request by personal service or certified mail to the Clerk within 30 days after the date of the Order.

Township of Georgian Bay
99 Lone Pine Road
Port Severn, Ontario
LOK 1S0

Copy To: By-law Enforcement, Director of Planning, Clerk