

THE CORPORATION OF THE TOWNSHIP OF WEST LINCOLN

BY-LAW NO. 2015-55

A BY-LAW TO PROHIBIT THE DUMPING OF FILL AND THE  
ALTERATION OF THE GRADE OF LAND WITHIN THE  
TOWNSHIP OF WEST LINCOLN

**WHEREAS** Section 142(2)(a) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that the Council of a local municipality may pass by-laws to regulate or prohibit the removal of topsoil, the placing or dumping of fill and the alteration of the grade of land;

**AND WHEREAS** Council of the Corporation of the Township of West Lincoln deems it in the public interest and expedient to prohibit certain site alterations within the Township;

**NOW THEREFORE** the Council of the Corporation of the Township of West Lincoln enacts as follows:

DEFINITIONS

1. In this By-law:

“**Clerk**” shall mean the Clerk of the Corporation of the Township of West Lincoln;

“**Council**” means the Council of the Corporation of the Township of West Lincoln;

“**Director**” means the Director of Planning & Building for the Township of West Lincoln or his or her designate.

“**Dumping**” 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;

“**Existing Grade**” means the ground surface of 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 soil, stone, concrete, asphalt, sod or turf either singly or in combination;

“**Finished Grade**” means the elevation of the ground surface of lands upon which fill has been placed;

“**Incompatible Soil**” means, for example, clay or loam when placed on top of sandy or gravelly soils or impervious clay subsoil when placed on top of topsoil;

“**Inspector**” means the person or persons appointed by Council for the purposes of enforcing the By-law;

“**Owner**” includes the registered owner of the lands on which fill is proposed to be placed or dumped or which lands are to be re-graded and any person, firm or corporation, whether alone or with others, that has the right to possess or occupy the lands or actually does occupy or possess the lands, including a lessee;

**“Place of Disposal”** means a municipally-owned storm drainage sewer, roadside ditch, a natural watercourse, or an outlet for storm drainage approved by the Corporation;

**“Placing”** means the distribution of fill on lands to establish a finished grade different from the existing grade;

**“Ponding”** means the accumulation of surface water in the area not having drainage therefrom where the lack of drainage is caused by the placing or dumping of fill or altering of the grade of land;

**“Site”** means lands which are the subject of an application for a permit pursuant to the provisions of this By-law;

**“Site Alteration”** means site grading, or the temporary or permanent placing, dumping or removal of any material, originating on the site or elsewhere;

**“Soil”** means material commonly known as earth, topsoil, loam, subsoil, clay, sand or gravel;

**“Township”** means the Corporation of the Township of West Lincoln;

#### PROHIBITION

2. No person shall dump, or cause or permit the placing or dumping of fill within the Township.

#### EXEMPTIONS

3. This By-law does not apply to:
  - (a) activities or matters undertaken by the Township or a local board of the Township;
  - (b) the placing or dumping of fill after December 31, 2002 as a condition to 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 a requirement of a site plan agreement or subdivision agreement entered into under those sections;
  - (c) the placing or dumping of fill after December 31, 2002 as a condition to a development permit authorized by regulation made under section 70.2 of the Planning Act or as a requirement of an agreement entered into under that regulation;
  - (d) the placing or dumping of fill 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;
  - (e) the placing or dumping of fill undertaken on land described in a licence for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the Aggregate Resources Act;
  - (f) the placing or dumping of fill 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 a by-law passed under section 34 of the Planning Act ; or
- (g) the placing or dumping of fill undertaken as an incidental part of drain construction under the Drainage Act or the Tile Drainage Act;
  - (h) the use, operation, establishment, alteration, enlargement or extension of a waste management system or waste disposal site lawfully permitted under Part V of the Environmental Protection Act, R.S.O. 1990 c.E.19, as amended, or a waste disposal site or waste management system that is exempted by regulation from said Part V;
  - (i) the construction, extension, alteration, maintenance or operation of works under Section 28 of the Public Transportation and Highway Improvement Act, R.S.O. 1990 c.P.50, as amended;
  - (j) any work conducted pursuant to, and in accordance with the provisions of, a regulation made under Section 28 of the Conservation Authorities Act respecting the placing or dumping of fill in any area of the Township;
  - (k) any work where soil is placed or dumped on lands for the purpose of lawn dressing, landscaping or adding to flower beds or vegetable gardens, provided that the ground elevation of the lands is not increased by more than two hundred (200) millimeters (8 inches) and there is no change in the direction, rate or quality of runoff to neighbouring properties.

#### ENFORCEMENT

- 4. The administration and enforcement of this By-law shall be performed by the Director, his or her designates, and those persons designated from time to time as Inspectors under this By-law.
- 5. The Director and his or her designates, and Inspectors, shall have all powers necessary to carry out the administration and enforcement of this By-law, including the power to enter upon and inspect any lands to determine compliance with this By-law or a Permit issued under this By-law.
- 6. Where a person has placed or dumped fill, or caused or permitted the dumping of fill in contravention of this By-law, the Director may make an Order directing the person to do any or all of the following:
  - (a) comply with the conditions of the Permit and this By-law;
  - (b) cease the work which is the subject of the contravention; and/or
  - (c) require work to be done to correct the contravention to the satisfaction of the Director, and within the time specified in the Order.

7. Where a person fails to correct any such contravention to the satisfaction of the Director within the time specified in an Order issued pursuant to this By-law, the Township, in addition to all other remedies it may have, may take all necessary steps to bring the lands into compliance with the terms of this By-law, and may enter upon land, at any reasonable time, for this purpose.
8. The Township may recover its costs incurred under Section 7, plus interest accrued to the date payment is made at the rate of fifteen percent (15%) per annum, from the owner of the land by action or in a like manner as municipal taxes.

#### OFFENCE AND PENALTY

9. Every person who contravenes any provision of this By-law is guilty of an offence and is liable for every day or part thereof upon which such offence occurs or continues to a fine of not more than \$5,000.00 on a first conviction, and not more than \$10,000.00 on any subsequent conviction.
10. Every corporation that contravenes any provision of this By-law is guilty of an offence and is liable for every day or part thereof upon which such offence occurs or continues to a fine of not more than \$10,000.00 on a first conviction, and not more than \$25,000.00 on any subsequent conviction.

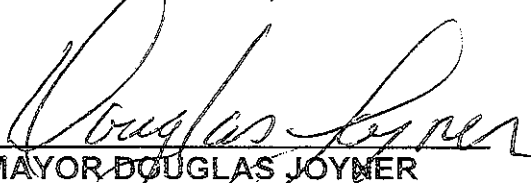
#### SEVERABILITY

11. In the event that any provision or part of this By-law is found to be invalid or unenforceable for any reason whatsoever, then the particular provision or part thereof shall be deemed to be severed from the remainder of the By-law and all other provisions or parts thereof shall remain in full force and shall be valid and enforceable to the fullest extent permitted by law.

#### GENERAL

12. The short title of this By-law is the Township of West Lincoln Site Alteration By-law.
13. This By-law shall come into force and take effect upon its final passing.

**READ A FIRST, SECOND AND THIRD  
TIME AND FINALLY PASSED THIS  
22<sup>nd</sup> DAY OF JUNE, 2015.**

  
MAYOR DOUGLAS JOYNER

  
CAROLYN LANGLEY, CLERK