

# The Corporation of the Town of Ajax

## By-law Number 38-2021

**Whereas**, pursuant to the Municipal Act, S.O. 2001, c. 25, as amended, the Town of Ajax may pass a by-law to prohibit or regulate the placing or dumping of fill, the removal of top soil, the alteration of grade of land, and require that a permit be obtained for the placing or dumping of fill, the removal of topsoil or the alteration of the grade of land;

**Now therefore**, the Council of The Corporation of the Town of Ajax hereby enacts as follows:

### 1. Short Title

1.1 This By-law may be cited as the “Sediment and Erosion Control By-law”.

### 2. Definitions

2.1 In this By-law:

- (a) “agricultural practices” means cultivating land for agricultural purposes, including sod-farming, greenhouse operations, nurseries for horticultural products and the raising of livestock.
- (b) “applicant” means the owner, where such an owner is an individual, or any individual authorized in writing, by the owner, to apply for a Permit on the owner’s behalf.
- (c) “body of water” includes any brook, creek, stream, river, lake, pond, waterway, water course, canal, or other flowing or standing water.
- (d) “Council” means the Council of The Corporation of the Town of Ajax.
- (e) “Director” means the Director of Planning and Development Services, or his designate.
- (f) “dumping” means the movement and depositing of fill from one location to a different location and includes the movement and depositing of fill from one location on a property to another location on the same property.
- (g) “erosion” means the detachment and movement of soils, sediment or rock fragments by water, wind, ice or gravity.
- (h) “fill” means any type of material deposited or placed on lands and includes soil, stone, concrete, construction materials, asphalt, sod or turf, either singly or in combination.
- (i) “land disturbance” means any man-made change of the land surface, including removing vegetative cover, excavating, filling and grading.
- (j) “owner” means the registered owner of the land.
- (k) “Permit” means a Permit issued pursuant to this By-law.
- (l) “placing” means the distribution of fill on lands to establish a finished grade higher or lower than the existing grade and “place” in relation to fill shall have the same meaning.
- (m) “removal” means the excavation or extraction of any fill which lowers the existing grade, including soil stripping.
- (n) “site” means a parcel of land, described in a deed or other document legally

capable of conveying land, or shown as a block on a registered plan of subdivision.

- (o) “Site Inspection Clearance Certificate” means a certificate issued by an Ontario Licensed Exterminator that the entire land disturbance at the site has been inspected and is free of any infestation of any rodents and other vermin that may cause negative impacts to the surrounding community
- (p) “soil” means material commonly known as earth, topsoil, loam, subsoil, clay, sand or gravel or any combination thereof.
- (q) “topsoil” means that horizontal in a soil profile known as the “O” and the “A” horizons containing organic materials, and includes deposits of partially decomposed organic matter, such as peat.
- (r) “Town” means The Corporation of the Town of Ajax.

### **3. Scope**

- 3.1 No Person shall place or dump fill or cause or permit fill to be placed or dumped in the Town except in accordance with this By-law.
- 3.2 No person may alter the grade of any land in the Town or cause or permit the grade of any land in the Town to be altered, except in accordance with this By-law.
- 3.3 Where a Permit has been issued, no person shall place or dump fill or cause or permit any fill to be placed or dumped and no person shall alter the grade of any land or cause or permit the grade of any land to be altered, except in accordance with the provisions of the Permit.
- 3.4 No Person shall remove or cause or permit the removal of any topsoil, place or dump fill or cause or permit fill to be placed or dumped, or grade or perform or cause or permit any grading or any other land disturbance or land filling activity within the Town, without first obtaining a Permit.

### **4. Exemptions**

- 4.1 This By-law shall not apply to:
  - (a) Activities or matters undertaken by a municipality, a local board of a municipality or a Crown agency.
  - (b) The placing or dumping of fill, removal of topsoil or alteration of the grade of land 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 (Ontario), or as a requirement of a Subdivision Agreement, Site Plan Agreement or a Development Agreement entered into under these sections.
  - (c) The placing or dumping of fill, removal of topsoil 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 (Ontario), for the purpose of constructing and maintaining a transmission system or distribution system as those terms are defined in that section.
  - (d) The placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken on land as an incidental part of operations authorized under the Aggregate Resources Act (Ontario).

- (e) The placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken on land as an incidental part of drainage construction under the Drainage Act (Ontario) or the Tile Drainage Act (Ontario).
  - (f) The removal of topsoil as an incidental part of normal agricultural practices, but not including the removal of topsoil for sale, exchange or other disposition.
  - (g) The site upon which fill is dumped or placed, topsoil is removed or grade of land is altered, is less than 0.5 hectare.
- 4.2 Notwithstanding the exemptions listed in section 4.1 of this By-law, no Person shall remove or permit or cause the removal of topsoil from any land or placement of fill on any land adjacent to or within 30 metres of any body of water, without having been issued a Permit.
- 4.3 Notwithstanding any other provisions of this By-law, the Town may waive requirements for a Sediment and Erosion Control Plan in appropriate cases after taking into consideration the proposed work, the anticipated impact on an adjacent body of water and the use of the property.

## **5. Application Contents**

- 5.1 To obtain a Permit to dump or place or remove fill or to alter the grade of land, the owner of the land, or his authorized agent, shall sign and submit a complete application on the approved form.
- 5.2 All applications for a Permit shall be accompanied by:
- (a) A site map;
  - (b) A Sediment and Erosion Control Plan;
  - (c) A fee, as established by Council from time to time, as detailed in Schedule "A";
  - (d) Security in a form satisfactory to the Town as detailed in Schedule "A" to secure performance of the work for which the Permit is issued. The Town may draw upon the security to recover the cost of the Town performing any required work which the Owner has failed to perform;
  - (e) Confirmation that the appropriate archeological studies have been completed to the satisfaction of the Ministry of Culture, and this information relayed to the Town;
  - (f) A Conservation Authority approval, if required;
  - (g) A Tree Preservation Plan and Arborist Report, if required;
  - (h) A Mud Tracking and Dust Control Plan, if required;
  - (i) All other information that may be required therein, including a report describing special site conditions; and
  - (j) Site Inspection Clearance Certificate (unless waived by the Director).

## **6. Sediment & Erosion Control Plan**

- 6.1 In accordance with Section 5 of this By-law, the Sediment and Erosion Control Plan shall include:
- (a) A key map showing the location of the site, site boundaries, the number of hectares of the site and a north arrow;

- (b) The use of land and the location and use of the buildings and other structures adjacent to the site;
- (c) The location, dimensions, and use of the buildings and other structures existing or proposed to be erected on the site;
- (d) Identification of driveways on each site and all basements and right-of-ways over, under, across or through each site;
- (e) The location of all bodies of water on and within 30 metres beyond the land disturbance boundary;
- (f) The location of the Conservation Authority Regulatory lines on and any Conservation Regulatory Lines within 30 metres of the land disturbance boundary;
- (g) The location of predominant soil types;
- (h) The location and type of existing vegetative cover, including the species and size in caliper of all trees, and the location of all shrubs;
- (i) The location and dimensions of any existing and proposed storm water drainage systems and natural drainage patterns on and within 30 metres beyond the land disturbance;
- (j) The location and dimensions of utilities, roads, highways and paving within 30 metres beyond the land disturbance;
- (k) The existing site topography at a contour interval not to exceed 0.5 metres and to extend a minimum of 30 metres beyond the site boundary;
- (l) The proposed final elevation of the land disturbance;
- (m) The location and dimensions of all proposed land disturbing activities on the site;
- (n) The location and dimensions of all temporary soil and dirt stockpiles on the site;
- (o) The location of mudmats, swales, silt fences, sediment buffers, and sediment control ponds (the "Sediment Control Pond");
- (p) The location, dimensions, design details and design calculations of all construction control measures necessary to meet the requirements of this By-law (the "Sediment Control Brief").
- (q) Provisions for the maintenance of the construction control measures during construction as required;
- (r) An indication on the drawing of directions of overland flow and overland flow routes;
- (s) A schedule of the anticipated starting and completion dates of each land disturbing or land developing activity, including the installation of construction control measures needed to meet the requirements of this By-law;
- (t) All drainage must be self contained; and,
- (u) All silt fences must be offset at least 0.6 metres into the site and maintain a undisturbed strip around the perimeter of the site.

6.2 The Sediment and Erosion Control Plan accompanying the application for a Permit shall be certified by a professional engineer who is licensed to practice in the Province of Ontario, or any other qualified person approved by the Town.

## **7. Sediment Control Pond Design Criteria**

- 7.1 The Sediment Control Pond shall be constructed prior to topsoil stripping or fill placement.
- 7.2 The Sediment Control Pond and conveyance channels shall be located in such a way that the runoff will be captured and conveyed from the entire disturbed area to the Sediment Control Pond.
- 7.3 The Sediment Control Pond volume shall consist of a permanent pool and active storage component. The permanent pool component should be sized for ultimate development conditions to provide a volume equivalent to a Level 1 water quality control as per the current Ministry of the Environment SWMP Manual. The active storage volume component should be sized for a minimum of 125 m<sup>3</sup>/ha of runoff and released over a minimum 24-hour period.
- 7.4 To maintain sufficient permanent pool volume during the land disturbance period, the Sediment and Erosion Control Plan shall provide a maintenance schedule. The Sediment Control Pond shall be cleaned by the owner once the permanent pool volume has been reduced to 75 m<sup>3</sup>/ha, a 40% reduction in volume.
- 7.5 Other storm water management control functions required for the site shall be implemented by the owner as required in their Permit approvals.

## **8. Sediment and Erosion Control Brief**

- 8.1 A Sediment and Erosion Control Brief shall include:
  - (a) A description of the features in the drawing in accordance with Section 6.1;
  - (b) A description of the measures to be undertaken to prevent erosion and to retain sediment on the site, including, but not limited to, the designs and specifications for swales, dikes, drains, sediment control ponds, mud mats and a schedule for their maintenance and upkeep;
  - (c) An estimate of the cost of implementing and maintaining all interim sediment and erosion control measures as per standards acceptable to the Town; and,
  - (d) A description of new sediment and erosion control techniques, provided such techniques are proven to be as or more effective than the existing sediment and erosion controls.

## **9. Tree Preservation and Arborist Report**

- 9.1 A Tree Preservation Plan and Arborist Report shall include:
  - (a) The location and type of existing vegetative cover, including the species and size in caliper of all trees, and the location of all shrubs. An assessment of the existing vegetative cover to determine the preservation value.
  - (b) A description of the vegetative measures, tree protection and tree preservation to be used, including, but not limited to, mulches, types of seeds and fertilizers and their application rates; the type, location and extent of pre-existing and undisturbed vegetation types, and a schedule for maintenance and upkeep.

## **10. Mud Tracking and Dust Control**

- 10.1 The Mud Tracking and Dust Control Plan shall describe the provisions for mud tracking and dust control, including the procedure for mud tracking prevention and road clean up, and designates a contact person directly responsible for such a program.
- 10.2 If the site remains dormant at any time for more than 365 days, the owner shall seed, mulch and maintain areas that have been disturbed and are otherwise unfinished.
- 10.3 The owner shall seed, mulch and maintain the entire site if a building permit is not issued within 365 days of a Permit being issued.

## **11. Design Guidelines**

- 11.1 All applications for a Permit shall meet the site design guidelines as set out in Schedule "B" to this By-law.
- 11.2 All sediment and erosion control devices shall be completed to the current requirements of Federal Agencies, Provincial Agencies, the Toronto and Region Conservation Authority and the Central Lake Ontario Conservation Authority.
- 11.3 Permits are subject to the conditions contained in Schedule "C" to this By-law.

## **12. Issuance of Permit**

- 12.1 The Town shall issue a Permit where the requirements of this By-law are met and where the Director is satisfied that no damage will occur as a result of erosion, sedimentation or flooding and that the land will be rehabilitated to the same or better condition than it was in at the time prior to the removal of the topsoil, placement of fill or grading.
- 12.2 All sedimentation basins and other control measures necessary to meet the requirements of this By-law shall be in place prior to any land disturbance of the site, unless otherwise approved by the Director. These measures shall be maintained by the Permit holder or subsequent landowners during the period of land disturbance in a manner satisfactory to the Director, to ensure adequate compliance with the requirements of this By-law and to prevent damage occurring as a result of erosion, sedimentation or flooding.
- 12.3 The sediment and erosion control measures shall remain in place until the completion of the landscaping. Upon completion of the landscaping, all sediment and erosion control measures shall be removed.
- 12.4 Town Employees may inspect sites for which Permits have been issued for compliance with the approved Sediment and Erosion Control Plan. No work authorized under the Permit shall be carried out without at least a 48 hour notice being given to the Director.
- 12.5 The issuance of a Permit by the Town does not preclude the applicant's responsibility to obtain all other approvals which may be required by any level of government and agencies or authorities thereof.
- 12.6 If the lands for which a Permit has been issued is transferred while the Permit remains in effect, the new owner shall either:
  - (a) Provide the Town with:
    - (i) an Undertaking agreeing to comply with all the conditions under which the existing Permit was issued; and
    - (ii) security in accordance with the requirements of Schedule "A"; or

- (b) Apply for and obtain a new Permit in accordance with the provisions of this By-law.

### **13. Regular Inspection**

- 13.1 To ensure the proper implementation of the Sediment and Erosion Control Plan during the Permit period, the owner or agent shall inspect the control works weekly and after rainfall events. Photographic records and field notes shall be kept of each Site Control Measure which shall be available for review by officials from the Town.
- 13.2 The owner shall repair or replace any silt fence immediately when damaged.
- 13.3 The owner shall remove sediment from all silt fences when accumulation reaches 50% of the height of the silt fence.

### **14. Enforcement**

- 14.1 Where it is revealed or discovered that the holder of a Permit has provided misleading or false information on the application, the Permit issued under this By-law shall be revoked by the Director and the Permit holder shall thereafter cease and desist forthwith all operations being conducted under the authority of the revoked Permit.
- 14.2 Every person who places or dumps fill or who causes or permits fill to be placed or dumped, and every person who alters the grade of any land or who causes or permits the grade of any land to be altered in the Town in a manner contrary to this By-law, shall remove such fill and restore the existing grade of the land.
- 14.3 Any person who contravenes any provision or requirement of this By-law may be issued an order by a Town Employee or Agents detailing the contravention, in accordance with The Municipal Act (Ontario), and the provisions of the said section shall apply to the By-law.
- 14.4 Upon the failure by a Permit holder to satisfy the requirements of the Permit, or upon any person failing to satisfy an order issued pursuant to section 14.3 of this By-law, the Town may:
  - (a) enter upon the owner's land and complete all or part of the works in the Sediment and Erosion Control Plan, and may draw the appropriate amount from the security posted and use the funds to arrange for the completion of the said works, or any part thereof;
  - (b) repair or maintain a specific part of the works as requested by the Town, and in the time requested. The Town may also at any time, authorize the use of all or part of the securities to pay the cost of any part of the works it may in its' absolute discretion deem necessary; or
  - (c) in the case of emergency repairs or clean up, undertake the necessary works at the expense of the Permit holder and reimburse itself out of securities posted by the applicant.
- 14.5 The owner shall immediately reinstate the security to its original value after any draw down by the Town.
- 14.6 Notice of the costs incurred by the Town to perform any work required in an order issued pursuant to this By-law may be registered against the title of the owner's lands for the purpose of giving notice of the Town's lien against such lands, and may be recovered by action or in the like manner as municipal taxes. Interest shall accrue on such costs until the date payment is made.

## **15. Offence**

15.1 Every Person who:

- (1) provides misleading or false information in an application under this By-law in any statement or plan required to be produced under this By-law;
- (2) fails to comply with any order or other requirement under this By-law; or
- (3) contravenes any provision or requirement of this By-law,

is guilty of an offence and upon conviction is liable to a fine for a first offence of not more than \$10,000.00 and on any subsequent offence of not more than \$25,000.00. Notwithstanding the foregoing, if the person convicted of an offence is a corporation, the maximum fine for a first conviction is \$50,000.00 and for any subsequent conviction is \$100,000.00.

15.2 All Schedules attached to this By-law shall form part of this By-law.

15.3 If a court of competent jurisdiction declares any provision, or any part of a provision, of this By-law to be invalid, or to be of no force and effect, it is the intention of Council in enacting this By-law, that each and every other provision of this By-law authorized by law, be applied and enforced in accordance with its terms to the fullest extent possible according to law.

## **16. Repeal**

16.1 That By-laws 46-2019 are hereby repealed.

READ a first and second time  
this Twenty-First day of June,  
2021

READ a third time and passed  
this Twenty-First day of June,  
2021

**Shaun Collier, Mayor**  
**Alexander Harras, Acting Clerk**

## **Schedule “A” to By-law Number 38-2021**

### **Permit Fees**

1. A Permit shall be valid for 365 days. The Fee for processing, administration and inspection for a:
  - 1.1. Minor Sediment & Erosion Control Permit is \$2,012.10.
  - 1.2. Major Sediment & Erosion Control Permit is \$2,074.50, plus \$942.40 per hectare.

### **Security for Site Control Measures**

2. An irrevocable Letter of Credit or cash to cover 100% of the estimated cost of site control measures, including the cost of the implementation of a mud tracking prevention program, is required. The Letter of Credit is to be in a form acceptable to the Director of Finance.
3. The Letter of Credit must remain in effect for the full duration of the Permit, with an automatic renewal clause in the document. Any Letter of Credit and its subsequent renewal forms shall contain a clause stating that 30 days written notice must be given to the Town prior to its expiry or cancellation. All calculations to be supplied by the owner or their representative and verified by Town Staff.
4. In the event that the Town receives notice that a Letter of Credit is expiring and will not be renewed, or, if further or additional securities are not provided within the said 30 days, the Town may draw on the current Letter of Credit at the discretion of the Director. The Permit holder agrees that any interest accruing on the realized security shall belong to the Town and not to the Permit holder.
5. It is the responsibility of the Permit holder:
  - (a) to provide proof satisfactory to the Town that the site has been adequately reinstated and stabilized in accordance with this By-law and the Sediment and Erosion Control Plan accompanying the Permit; and
  - (b) to request that the Town carry out a final inspection within 48 hours to confirm that all relevant terms of this By-law have been complied with.
6. The security may be reduced from time to time at the discretion of the Director.
7. When the provisions of subsections (a) and (b) of section 5 have been fully complied with to the satisfaction of the Director, the Director shall return the security.
8. When a Site Plan Agreement, Subdivision Agreement or Development Agreement has been executed with the Town, the security held for the Permit may form part of the securities required under such agreements where the owner/applicant and the Town agrees.
9. If a new owner satisfies all the conditions outlined in the By Law, the security will be returned to the original owner.

### **Erosion and Sediment Control Permit Extension**

10. The fee for processing, administration and inspection for a Permit extension is \$1,037.30

## Schedule “B” to By-law Number 38-2021

### Site Plan Guidelines

The following requirements shall be met on all sites where a Permit is required to remove topsoil:

#### 1. Site Dewatering

- (a) Dewatering operations may be conducted provided that the water is not permitted to discharge directly into receiving bodies of water or streams;
- (b) Water pumped for dewatering operations on the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, upflow chambers, swirl concentrators or other appropriate controls.

#### 2. Drain Inlet Protection

All rear lot storm drain inlets or any other inlets as the Director considers necessary, shall be protected with filter fabric, or equivalent barriers meeting accepted design criteria, standards and specifications accepted by the Director.

#### 3. Site Erosion Control

The following criteria apply to land disturbing activities that result in runoff leaving the site:

- (a) Channelized runoff from adjacent areas passing through the site shall be diverted around disturbed areas, if practical. Otherwise, the channel shall be protected by sediment control fences being placed along the channel edges to reduce sediment reaching the channel.
- (b) All activities on the site shall be conducted in a logical sequence to minimize the area of bare soil exposed at any one time.
- (c) Any topsoil or dirt storage piles containing more than one hundred cubic metres of material shall not be located less than 10 metres from or up the slope from a roadway or channel. If remaining for more than 30 days, said topsoil or dirt storage piles shall be stabilized by mulching, vegetative cover, tarps or other means. Erosion from topsoil or dirt storage piles which will be in existence for less than 30 days shall be controlled by filter fence barriers around the pile.
- (d) Runoff from the entire disturbed area on the site shall be controlled as follows:
  - (i) All disturbed ground left inactive shall be stabilized by seeding, sodding, mulching or covering, or other equivalent control measure. The period of time of inactivity shall be at the discretion of the Director, but shall not exceed 30 days or such longer period as deemed advisable at the discretion of the Director.
  - (ii) Notwithstanding Section 3(d)(i), a Permit holder or applicant for a Permit who has also applied for but not yet received, a building permit or any other necessary permit, may be granted an extension to the permitted period of inactivity, at the discretion of the Director, provided that said applicant or Permit holder provides satisfactory proof that he has made his best efforts to have said building or other necessary permit issued.
  - (iii) For sites with less than 4 hectares disturbed at one time and with slopes less than 12 percent grade, sediment control fences or equivalent control measures shall be placed along all downslope sides of the site.

- (iv) For sites having a drainage area of more than 4 hectares disturbed at one time or with slopes greater than 12 percent grade, one or more sedimentation basins shall be constructed. The basins shall be designed to trap sediment particles greater than 40 microns in size and be constructed in accordance with environmentally responsible design criteria. The basin discharge rate shall be sufficiently low as to drain the site, but not to cause erosion along the discharge channel.
- (v) For sites located adjacent to existing residential areas, a sediment control fence may be required around the entire perimeter of the site to prevent drainage onto private lands.
- (vi) A 3 metre wide buffer strip or sediment control fence shall be provided along the perimeter of the downslope sides of the site.
- (vii) The sediment control guidelines prepared by the Local Conservation Authorities and the Province of Ontario are to be followed.
- (viii) For sites with extensive fill requirements, the Director may waive the requirements for stabilization of disturbed land after 30 days of inactivity, provided that the sediment control measures have been implemented to the satisfaction of the Director.

## Schedule “C” to By-law Number 38-2021

### Sediment and Erosion Control Permit Conditions

1. All Permit holders shall:
  - (a) Notify the Director within 48 hours of commencing or recommencing any land disturbing activity;
  - (b) Notify the Director of the completion of any control measures within 7 days after their installation;
  - (c) Obtain permission in writing from the Director prior to modifying the Sediment and Erosion Control Plan;
  - (d) Install all control measures as identified in the approved Sediment and Erosion Control Plan prior to soil stripping;
  - (e) Maintain all road drainage systems, stormwater drainage systems, control measures and other facilities identified in the Sediment and Erosion Control Plan;
  - (f) Promptly repair any siltation or erosion damage to adjoining surfaces and drainage ways resulting from land developing or disturbing activities;
  - (g) Inspect the sedimentation control measures at least once per week and after each rainfall of at least 1 centimetre and make needed repairs;
  - (h) Allow Town Employees or Agents to enter the site for the purpose of inspecting for compliance with the Sediment and Erosion Control Plan or for performing any work necessary to bring the site into compliance with the Sediment and Erosion Control Plan;
  - (i) Maintain a copy of the Sediment and Erosion Control Plan and Permit on the site; and
  - (j) All sub contractors and suppliers be notified of access routes to the site and ensure compliance with these instructions.