

**THE CORPORATION OF THE TOWN OF OAKVILLE  
BY-LAW NUMBER 1996-184**

***A By-Law To Prohibit Or Regulate Site Alterations  
in Areas of the Town of Oakville***

**WHEREAS** Section 223.1 of the Municipal Act, R.S.O. 1990, c. M-45, as amended, authorizes the Council of the Corporation of the Town of Oakville to pass by-laws for prohibiting or regulating the placing or dumping of fill and the alteration of the grade of land in any defined area or on any class of land in the Town of Oakville, other than those areas subject to regulations made under section 28(1)(f) of the Conservation Authorities Act;

**AND WHEREAS** it is deemed in the public interest to pass such a by-law;

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF OAKVILLE ENACTS AS FOLLOWS:**

1. In this by-law:
  - (a) "Body of water" includes any brook, creek, stream, river, lake, pond, waterway, water course, canal, or other flowing or standing water;
  - (b) "Council" means the Council of The Corporation of the Town of Oakville;
  - (c) "Director" means the Director of Planning Services of the Town of Oakville, and shall include any person authorized by the Director to carry out any of the powers or duties of the Director pursuant to this by-law;
  - (d) "Drainage" means the movement of stormwater, whether by way of the natural characteristics of the ground surface or by an artificial method;
  - (e) "Dumping and Dump" means the depositing of fill in a location other than where the fill was obtained and also includes the movement and depositing of fill from one location on a property to another location on the same property;

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- (f) "Engineer" means a Professional Engineer currently licensed to practice in the Province of Ontario;
- (g) "Erosion" means the detachment and movement of soil, sediment or rock fragments by water, wind, ice or gravity;
- (h) "Fill" means any type of material deposited or placed on lands and includes but is not limited to earth topsoil, stone, concrete, asphalt, sod or turf, either singly or in combination;
- (i) "Grade" means the elevation of the ground surface of lands and:
- (i) "Finished Grade" means the Town of Oakville approved final elevation of ground surface of lands upon which the site alteration is proposed;
- (ii) "Existing Grade" means the elevation of the existing ground surface of the lands 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;
- " (iii) "Proposed Grade" means all proposed elevations of ground surface of lands upon which site alterations are undertaken;
- (j) "Land Disturbance" means any man-made change of the land surface including, but not limited to, removing vegetative cover, excavating, filling and grading;
- (k) "Owner" includes any person, partnership, sole proprietorship, or corporation legally owning, controlling or in possession of the lands on which fill is to be placed or dumped or which the grade is altered;
- (l) "Permit" means a permit issued under this by-law;

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- (m) "Placing or Place" means the distribution of fill on lands to establish a finished grade higher than the existing grade;
  - (n) "Ponding" means the accumulation of surface water in an area not having adequate drainage therefrom where the lack of drainage is caused by the placing or dumping of fill;
  - (o) "Retaining Wall" means wall designed to contain and support earth fill which has a finished grade higher than that of adjacent lands;
  - (p) "Site" means the lands from which it is proposed that soil be removed or moved to;
  - (q) "Soil" means any material naturally occurring on the earth's surface, including, but not limited to earth, top soil, loam, subsoil, clay, sand or gravel;
  - (r) "Swale" means a shallow depression which provides a conveyance system for surface stormwater.
  - (s) "Town of Oakville" means The Corporation of the Town of Oakville.
  - (t) "Watercourse" means a natural or man-made channel in which a flow of water occurs, either continuously or intermittently, with some degree of regularity.
2. 2.1 No person shall alter the grade or cause the grade to be altered in the Town of Oakville without having first obtained a permit issued under this by-law by the Director.
- 2.2 Subsection 2.1 does not apply to those areas described in subsection 2.4 of this by-law or to those lands excluded by Schedule "D" to this by-law..

2.3 A regulation made under clause 28(1)(f) of the *Conservation Authorities Act* respecting the placing or dumping of fill in any area of The Town of Oakville supersedes the provisions in this by-law.

2.4 This by-law does not apply to:

- a) the placing or dumping of fill, removal of soil, or the alteration of the grade of land by any municipality, local board as defined in the *Municipal Affairs Act*, Crown agency as defined in the *Crown Agency Act* and Ontario Hydro; or
- b) activities or matters prescribed by Ontario regulation.

2.5 Where a permit has been issued under this by-law authorizing the altering of the grade of lands, no person shall alter the grade or shall cause the grade to be altered except in accordance with the plans, documents and any other information on the basis of which the permit was issued.

3. 3.1 A person applying for a permit to alter grades on the Lands shall submit the following to the Director:

- (a) a complete application in the form prescribed by the Director;
- (b) the applicable permit fee calculated in accordance with Schedule "A" which forms part of this by-law;
- (c) an accurate plan of the lands showing:
  - (i) the property lines of the lands with dimensions;
  - (ii) existing elevations in the form of contours at 0.5 metre intervals or less, with spot elevations along the property lines and 3.0

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- metres beyond the property line at sufficient intervals to clearly show the existing drainage patterns on the lands and on the abutting lands;
- (iii) all existing storm sewers, ditches, swales, creeks and watercourses on the lands and on abutting lands and public highways;
- (iv) all existing buildings, the species and size in caliper of all trees greater than 75 mm, the location of all shrubs and driveways on the lands and all easements and rights-of-way over, under, across or through the lands;
- (v) proposed sediment and erosion controls that will be installed prior to alteration of the lands;
- (vi) proposed final elevations and drainage system to be used upon completion of the site alteration operation; and
- (vii) a description of the proposed fill or topsoil removal operation;
- (d) a plan showing the design details, to proper scale, with an Engineer's signature and stamp, of any retaining wall that may be required, and the size, type and location of all material to be used in construction of such retaining wall; and,
- (e) security in a form and amount to be determined by the Director to secure performance of the work for which the permit was obtained, which security shall be available to

recover the cost of the Town of Oakville performing any required work which the Owner has failed to perform to the Town's satisfaction.

3.2 In addition to the requirements in subsection 3.1, the Director may make an order directing a person applying for a permit to provide an environmental audit of the fill material.

4. 4.1 The Director may, prior to the issuance of a permit, require the applicant to enter into an agreement which may be registered on title to the lands containing such requirements as the Director considers necessary to ensure that the site alteration is done in accordance with prevailing Town of Oakville design standards and proper engineering principles.

4.2 The agreement referred to in subsection 4.1 may contain a provision that the applicant post with the Town of Oakville security in an amount determined by the Director to ensure performance of the applicant's obligations under the agreement.

4.3 The Director may issue a permit where:

- (a) the Director is satisfied that the lands which are the subject of the application for a permit are not within an area where the site alteration is prohibited under subsection 2.2 of this by-law;
- (b) the applicant has fulfilled all requirements of section 3 of this by-law;
- (c) the applicant has entered into the agreement referred to in section 4.1 of this by-law, if required, and has performed all the obligations which the agreement requires to be performed prior to the issuance of a permit;

- (d) the Director is satisfied that the proposed final elevations and resulting drainage pattern, the design of any retaining wall, the type of fill to be used and the method of grading are all in accordance with prevailing Town of Oakville design standards and proper engineering practice;
- (e) the Director is satisfied that if the height of any retaining wall exceeds 0.6m, a guard or fence will be installed on top of the wall, and if the wall is 1 metre in height or greater that an Engineer's stamp of approval is provided on the plan submitted with the application; and
- (f) the Director is satisfied that the grading will not result in:
  - (i) soil erosion;
  - (ii) blockage of a watercourse;
  - (iii) siltation in a watercourse;
  - (iv) pollution of a watercourse;
  - (v) flooding or ponding caused by a watercourse overflowing its banks;
  - (vi) a detrimental effect on the natural environment of the area; or
  - (vii) flooding of neighbouring properties.

5. 5.1 The permit issued pursuant to section 4 shall be valid for a period of one year from the date of issuance but shall expire after 6 months from the date of issuance if work has not commenced.

5.2 A permit which is no longer valid or which has expired pursuant to subsection 1 of this section may be renewed at the sole discretion of the

Director within a six month period from the date of expiry upon the making of written application to the Director accompanied by a payment of one half of the original permit fee, provided that the proposed work has not been revised.

6. The issuance of a permit by the Director does not relieve the applicant's responsibility to obtain all other approvals which may be required by any level of government and agencies thereof.
7. If title to the lands for which a permit has been issued is transferred while the permit remains in effect the new owner of the lands shall within 30 days of the transfer either:
  - (a) provide the Town of Oakville with an undertaking to comply with all the conditions under which the existing permit was issued; or
  - (b) apply for and obtain a new permit in accordance with the provisions of this by-law.
8. No person shall alter the grade or cause to be graded any land or cause any fill to be placed or dumped on any site for any purpose, including storage, unless the outside storage of such fill on the land is permitted by the applicable zoning by-law of The Corporation of the Town of Oakville.
9. No person shall grade or cause to be graded any land unless:
  - (a) it is done with the prior written consent of the owner of the land where the site alteration is to take place;
  - (b) all fill to be used is free of garbage and is reasonably clean;
  - (c) the drainage system for the lands is provided in accordance with the Town of Oakville's by-laws and the Director is satisfied that provision has been



made for surface and stormwater drainage where such drainage is not provided by natural gradients or a swale;

- (d) the alteration of the site is conducted in such a manner, or the retaining wall containing such fill is erected in such a manner, that no ponding is caused on abutting lands; and
- (e) the alteration of the site is conducted a minimum distance of 0.3m from the abutting property line unless it is shown that the alteration within this 0.3m area will not cause ponding on the abutting lands.

10. Every person who alters the grade shall:

- (a) when required by the Director, provide a retaining wall which does not encroach upon abutting lands, either above or below existing grade, such retaining wall to be constructed to the satisfaction of the Director. The Director may require that a retaining wall be constructed where:
  - (i) erosion of fill onto abutting lands may occur; or
  - (ii) the finished grade of the lands at the property line is higher than that of the existing grade of the abutting lands;
- (b) ensure that the finished grade surface be protected by sod, turf, seeding for grass, greenery, asphalt, concrete or other means, either singly or in combination;
- (c) ensure that fill shall not be placed around the perimeter of any existing building to an elevation higher than 150 millimeters below the ground floor level of such building, unless such building and its foundation walls are raised in a manner satisfactory to the Director;
- (d) provide such protection for trees as may be required by the Director;

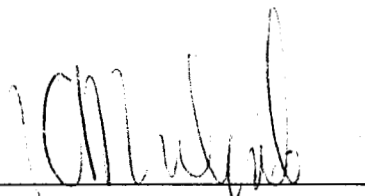
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- (e) provide such siltation control measures as may be required by the Director;  
and
  - (f) ensure that the altering of the grade will not track mud onto or foul any  
municipal roadways.
11. The Owner of any land upon which grade alteration is undertaken or fill is being dumped, has been dumped , or upon which it is proposed that fill be dumped shall allow employees of the Planning Services Department of the Town of Oakville to enter upon the land for the purpose of determining compliance with the provisions of this by-law.
12. Inspectors of the Planning Services Department may inspect any land during daylight hours upon which fill is being dumped or the grade is being altered, has been dumped, or upon which it is proposed that fill be dumped to determine compliance with the provisions of this by-law. Any inspector may be accompanied by an assisting person.
13. The administration and enforcement of this by-law shall be performed by the Director, by such persons authorized by the Director, and by the inspectors appointed by by-law of the Council of The Corporation of the Town of Oakville.
14. Where it is revealed or discovered that the holder of a permit issued under this by-law has provided misleading or false information on the application, the said permit may be revoked by the Director and the permit holder under this By-law shall thereafter cease and desist forthwith all operations being conducted under the authority of the revoked permit.
15. If, after inspection, the inspector is satisfied that there is a contravention of this by-law, he or she shall notify the Owner of the land of the particulars of the contravention by personal service or prepaid registered mail, and may, at the same time, provide all occupants with a copy of the notice.

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16. After giving any person served with a notice under Section 15 an opportunity to appear before the inspector and make representations in connection with it, the inspector may make an order setting out,
- a) the municipal address or the legal description of the land;
  - b) reasonable particulars of the work to be done to correct the contravention and the period in which there must be compliance with the order; and
  - c) notice that if the work is not done in compliance with the order within the period it specifies, the Town of Oakville may have the work done at the expense of the owner.
17. An order under Section 16 shall be served personally or by prepaid registered mail.
18. A notice or order under Section 15 or 16 when sent by prepaid registered mail shall be sent to the last known address of the owner of the land.
19. An inspector who is unable to effect service under Section 15 or 17, shall place a placard containing the terms of the notice or order in a conspicuous place on the site, and the placing of the placard shall be deemed to be sufficient service of the notice or order on the Owner.
20. If the Owner fails to do the work required by the order within the period it specifies, the Town of Oakville, in addition to all other remedies it may have, may do the work and for this purpose, may enter on the land with its employees and agents.
21. Cost incurred by the Town of Oakville under Section 20 are a lien on the land upon the registration at the proper Land Registry Office of a notice of lien.
22. The lien referred to in Section 20 is in respect of all costs that are payable at the time the notice is registered plus interest accrued to the date payment is made.

23. No person shall obstruct an inspector who is carrying out an inspection under Section 12 or a person carrying out work under Section 20.
24. Every person or corporation and every director or officer of a corporation 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 or concurs in such action or omission; or
  - 2) contravenes any provision or requirement of this By-law or concurs in such production, failure or contravention;
- is guilty of an offence, and on conviction under the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended, is liable to a fine of not more than \$5,000.00 as prescribed under the Provincial Offences Act, as amended.
25. Notwithstanding any other provisions of this by-law, the Director may waive the requirement for a plan and/or reduce or waive the permit fee where he considers it appropriate after taking into consideration the proposed works and whether the applicant has conformed with the by-law.
26. In the event that any particular provision or provisions or part of a provision is found to be invalid or unenforceable for any reason whatsoever, then the particular provision or provisions or part of the provision 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.
27. All Schedules attached to this by-law form part of this by-law.

**READ A FIRST, SECOND and THIRD TIME** and finally passed this

23rd day of September, 1996.



MAYOR



CLERK

## **SCHEDULE "A" TO BY-LAW 1996-184**

### **1. PERMIT FEE SCHEDULE**

<b>TYPE OF PROPERTY WHERE SITE IS BEING ALTERED</b>	<b>PERMIT FEE</b>	<b>REFUNDABLE SECURITY (CASH OR L.C.)</b>	<b>RENEWAL FEE AFTER 12 MOS. FROM DATE OF ISSU</b>
Infill Lot	\$300.00	\$3,000.00 (see procedure for release)	\$150.00
1. Owner Occupied Residential Property		\$1,5000.00	
i) Property adjacent a watercourse or shoreline	\$300.00		\$150.00
ii) Property contains a drainage easement or catchbasin	\$300.00		\$150.00
iii) Construction of a pool	\$300.00		\$150.00
iv) All other types	\$150.00		\$ 75.00
2. Commercial/Industrial Site Plan		Security under site plan or otherwise to be determined.	
i) Extension to existing parking lot and/or building	\$300.00		\$150.00
ii) Site plan contained within an unassumed subdivision	\$300.00		\$150.00
iii) all other types	\$500.00 (plus \$30.00 per hectare)		\$500.00
Subdivisions and all other Types of Site Alteration not Included Above	\$500.00 (plus \$30.00 per hectare)	Security to be determined	\$500.00

### **2. SECURITY FOR SITE CONTROL MEASURES**

- a) The security deposit money or letter of credit may be used for mud tracking cleanup of the road or restoration of any municipal works. The owner will be notified of the required cleanup, and if the work is not completed by the owner, the Town will carry out the work using the security money to cover the cost plus 25% of the value of the work to cover the administration cost.
- b) The letter of credit must remain in effect for the full duration of the permit. 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.
- c) 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 thirty (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 cash security shall belong to the Town and not to the Permit holder.

- d) At the Director's discretion, the Permit holder must give proof of liability insurance of a minimum one (1) million dollars. This must include environmental liability.

3. It is the responsibility of the Permit Holder:

- i) to provide proof satisfactory to the Director that the site has been adequately reinstated and stabilized in accordance with this By-law and the plan accompanying the Permit;
- ii) to request that the Town carry out a final inspection to confirm that all relevant terms of this by-law have been complied with.

4. When the provisions of subsection (3) have been fully complied with to the satisfaction of the Director, he shall release the applicant's security.

**SCHEDULE "B" TO BY-LAW 1996-184**

**TOWN OF OAKVILLE**

**ACKNOWLEDGMENT BY OWNER/AGENT**

NAME OF OWNER: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

PHONE: \_\_\_\_\_ LOT/PLAN NO.: \_\_\_\_\_

The undersigned owner/agent acknowledges that in issuing any building permit and/or reviewing lot grading plans supplied by the owner, the Corporation of the Town of Oakville does not purport to permit or approve any changes to the elevations or the lot grading of the property to which the permit relates, which would adversely affect the drainage of the property and adjacent lands or may result in loss or damage to the surrounding lands.

The undersigned hereby acknowledges that the sole responsibility for the completion of the lot grading and drainage in accordance with the law and sound engineering principles rests with the undersigned as owner of the property, and that the sole liability for such works rests entirely with the owner and/or his or her agents.

The undersigned owner also acknowledges that the total costs including any amounts in excess of the deposit, of said rectification works, including the Town administration fee, will be entirely the responsibility of the owner.

A copy of the Town of Oakville policy with respect to lot grading and deposits is available from the Development Engineering Section of the Planning Services Department. It is recommended that these be reviewed by the owner prior to signing.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE OF OWNER

\_\_\_\_\_  
WITNESS

## **SCHEDULE "C" TO BY-LAW 1996-184**

### **LOT GRADING CERTIFICATION**

#### **DESIGN & DRAWING REQUIREMENTS**

Two (2) certified copies of a lot grading plan will be required showing existing elevations of the lot, and sufficient elevations of adjacent properties to indicate existing drainage patterns. All grading plans are to be metric and printed from original drawings with all information legible and clear. All plans are to be folded to 8 1/2" x 11" size, with title blocks visible.

On this plan, the new proposal will be superimposed, indicating the proposed elevations along with any proposals that may be necessary to eliminate potential drainage problems to the subject property, or any adjacent property. The plan must also show all driveways, sidewalks, walkways, easements, catchbasins, etc., along with any other features that may affect the drainage proposal.

All elevations shall be tied into existing Town of Oakville bench marks and be related to geodetic datum.

A certificate on the drawing, executed by a Registered Professional Engineer, or a Registered Ontario Land Surveyor, should be in the following form:

*"I have reviewed plans for the construction of \_\_\_\_\_ located at \_\_\_\_\_ and have prepared this plan to indicate the compatibility of the proposal to existing adjacent properties and municipal services. It is my belief that adherence to the proposed grades as shown will produce adequate surface drainage and proper facility of the municipal services without any detrimental effect to the existing drainage patterns or adjacent properties."*

The use of Reverse Driveways is actively discouraged by the Town of Oakville. If their use is proposed, the proponent must ensure that a suitable degree of flood protection is provided. Reverse Driveway drainage facilities may not be connected by gravity to the storm sewer system unless it can be proven that surcharging by the sewer system during a 1:100 year storm will not cause them to flood.

The owner of the property is to provide a \$3,000 guarantee in the form of a Certified Cheque or a Letter of Credit, along with a letter which indicates that he is making the deposit to guarantee that the grading will be done in the manner indicated on the plan, and will not create any detrimental drainage effects to adjacent properties. He must further acknowledge that should he not achieve the intent of the above, the funds on deposit will not be released, but will, instead, be used to rectify any problems which may have been created, and he further consents to allow the Town of Oakville to enter upon the property to rectify any problems.

Following the completion of the work, it will then be the responsibility of the Consulting Engineer or Surveyor (the one who drew up the original plan and certificate) to visit on site and take required elevations to verify that the grading has been completed in accordance with the plans submitted, and that the finished project does not detrimentally affect drainage on adjacent properties. This shall be confirmed in writing to the Planning Services Department, after which a release of the financial deposit held by the Town can be arranged.

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SIGNATURE AND STAMP OF APPLICANT'S ENGINEER/SURVEYOR



**SCHEDULE "D" TO BY-LAW 1996-184**

Permits are required for:

- a) Additions to an existing residential building or new residential buildings with areas greater than 500 ft<sup>2</sup> (50 m<sup>2</sup>)
- b) Pools requiring excavation
- c) Parking lots (including extensions to or new lots)
- d) Infill lots
- e) Removal of Vegetative Cover greater than 1/2 hectare in area
- f) Alteration of grade within 0.3m from the property line that impacts the drainage
- g) Alteration of grade on an owner occupied residential property containing a drainage easement, catchbasin or that is next to a watercourse or shoreline
- h) All commercial and/or industrial site plans
- i) All subdivisions of any type
- j) The removal or hauling in of 50 cubic m (8 ± truck loads) of clean fill

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You may need a permit for site/lot alteration to grades if one of the following applies:

#	QUESTIONS	YES	NO
1	Is your lot greater than 1/2 hectare in size?		
2	Does your lot have or abut a form of watercourse or shoreline?		
3	Is there a drainage catchbasin located on your lot?		
4	Is there a major overland flow route (for drainage) or a drainage easement on your lot?		
5	Does your pool require excavation?		
6	Are you altering the grade within 0.3m of the property line?		

Provisions of the by-law do not apply where lands are altered to establish finished grade shown in a grading and drainage plan approved by the Director in conjunction with subdivision rezoning or other written agreements approved by the Town.