

THE CORPORATION OF THE TOWNSHIP OF TINY

BY-LAW NUMBER 07-036

Being a By-law to Regulate and Prohibit the Removal of Topsoil
within the Township of Tiny and to repeal By-law 42-87
"Topsoil Preservation By-law"

WHEREAS Section 142 of the Municipal Act, S.O. 2001, c. 25, as amended, provides that a local municipality may pass a by-law to prohibit and regulate the removal of topsoil;

AND WHEREAS Council for The Corporation of the Township of Tiny deems it advisable to exercise this authority;

NOW THEREFORE the Council of the Corporation of the Township of Tiny enacts as follows:

1. **DEFINITIONS**

- 1.1 "Topsoil" means those horizons in a soil profile, commonly known as the "O" and the "A" horizons, containing organic material;
- 1.2 "Township" means The Corporation of the Township of Tiny or the land within the geographic limit of The Corporation of the Township of Tiny as the contexts requires;
- 1.3 "Officer" means a Municipal Law Enforcement Officer or other person appointed by by-law to enforce the provisions of this By-law and includes the Clerk;

2. **PROHIBITION**

- 2.1 No person shall remove topsoil in the Township, as defined in Section 1.1 of this by-law, except as outlined in Section 3 of this by-law.

3. **EXEMPTIONS**

This By-law does not apply to:

- 3.1 Activities or matters undertaken by a municipality or a local board of a municipality;
- 3.2 The placing or dumping of fill, removal of topsoil or alteration of the grade of land imposed 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;
- 3.3 The placing or dumping of fill, removal of topsoil or alteration of the grade of land imposed 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;
- 3.4 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*, for the purpose of constructing and maintaining a transmission system or a distribution system, as those terms are defined in that section;

- 3.5 The placing or dumping of fill, removal of topsoil or alteration of the grade of land 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*;
- 3.6 The placing or dumping of fill, removal of topsoil 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 a by-law passed under section 34 of the *Planning Act*; or
- 3.7 The placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken as an incidental part of drain construction under the *Drainage Act* or the *Tile Drainage Act*.

EXCEPTIONS

- 3.8 A by-law respecting the removal of topsoil does not apply to the removal of topsoil as an incidental part of a normal agricultural practice including such removal as an incidental part of sod-farming, greenhouse operations and nurseries for horticultural products.

EXCLUSIONS

- 3.9 The exception in Section 3.8 respecting the removal of topsoil as an incidental part of a normal agricultural practice does not include the removal of topsoil for sale, exchange or other disposition.

PENALTY

- 4.1 Every person who contravenes any provision of the By-law is guilty of an offence and upon conviction is liable to a penalty as provided for in the *Municipal Act*.

OBSTRUCTION

- 5.1 No person shall hinder or obstruct, or attempt to hinder or obstruct, any Officer exercising a power or performing a duty under this by-law.
- 5.2 Any person who has been alleged to have contravened any of the provisions of this by-law, shall identify themselves to the Officer upon request, failure to do so shall be deemed to have obstructed or hindered the Officer in the execution of his duties.

SEVERABILITY

- 6.1 In the event that any particular provision 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.

SINGULAR AND PLURAL USE

- 7.1 In this By-law, unless the context otherwise requires words importing the singular shall include the plural and use of the masculine shall include the feminine, where applicable.

8. **REPEALING BY-LAW**

8.1 That By-law 42-87 is hereby repealed.

9. **SHORT TITLE**

9.1 This By-law may be cited as the "Topsoil Preservation" by-law.

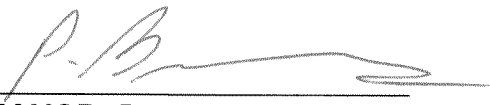
10. **EFFECTIVE DATE**

10.1 This by-law shall come into full force and take effect on the date of passing.

READ A FIRST AND SECOND TIME THIS 14th DAY OF May 2007.

READ A THIRD TIME AND FINALLY PASSED THIS 14th DAY OF May 2007.

THE CORPORATION OF THE TOWNSHIP OF TINY


MAYOR, Peggy Breckenridge


CHIEF ADMINISTRATIVE OFFICER/CLERK, A. Ruth Coursey