

**The Corporation of the United Townships of Dysart, Dudley,  
Harcourt, Guilford, Harburn, Bruton, Havelock, Eyre and Clyde**

**By-Law No. 2023-75**

**Being a By-Law to Regulate Site Alteration in the Municipality of Dysart et al**

**Whereas**, Council deems it advisable to exercise authority and provide for remediation of lands to protect water bodies and environmental protection zoned lands; and

**Whereas**, Section 142 of the Municipal Act, 2001, S.O. c. 25, as amended, authorizes the municipal councils to pass by-laws to regulate and prohibit the placing or dumping of fill, removal of topsoil, and alteration of the grade of land; and

**Whereas**, Section 8, 9, and 11 of the Municipal Act, 2001, S.O. c. 25, as amended, permits a municipality to pass by-laws necessary or desirable for municipal purposes, and paragraphs 5,6, and 8 of Subsection 11 (2) authorizes by-laws respecting the economic, social and environmental well-being of the municipality, the health and well-being of persons, and the protection of persons and property; and

**Whereas**, Section 446 of the Municipal Act, 2001, S.O. c. 25, as amended, provides that where a person fails to do something that is required under a by-law, the municipality may undertake to do the thing required at the persons expense and the costs may be collected in the same manner as taxes; and

**Now therefore** the Council of the Municipality of Dysart et al enacts as follows;

THAT in this By-law,

**1. Short Title**

This By-law may be cited as the “Site Alteration By-law”

**2. Definitions**

For the purpose of this By-law;

2.1 **“Environmental Protection Zoned Areas”** means the any area of land zoned as Environmental Protection (EP) in accordance with the Municipality of Dysart et al Zoning By-law 2005-120 mapping as amended,

2.2 **“High Water Mark”** means the usual or average level to which a body of water rises at its highest point and remains for a sufficient time so as to change the characteristics of the land. On a body of water where the water level is regulated by control structures, this means the regulated high water mark.

2.3 **“Injure”** means to harm, damage or impair a tree or native vegetation and includes, but is not limited to, harm, damage or impairment caused by changing grades around a tree, compacting soil over root areas, severing roots, improper application of chemicals, improper pruning or the removal of branches and bark and the term “injury” and “injuring” shall have corresponding meaning;

2.4 **“Native Vegetation”** means vegetation comprised of plant species, other than noxious weeds, that are indigenous to the area and which reasonably could have been expected to naturally occur on the land.

2.5 **“Owner”** means the registered owner(s) of the property.

- 2.6 “**Sediment Control**” means the practice or device designed to keep eroded soil on a construction site, so that it does not wash off into the water or neighbouring properties.
- 2.7 “**Site Alteration**” means, but is not limited to, any alteration of the existing grade or landscape of a property through the removal, placing, relocation or movement of fill, grass, or native vegetation.
- 2.8 “**Site Alteration Committee**” means a committee appointed by Council to hear appeals with regards to this by-law.
- 2.9 “**Steep Slope**” means any area with a slope of 25% or more, measured over a horizontal distance inland of 45 metres from the high water mark, along a continuous shoreline frontage of 25 metres;

### 3. General Regulations

- 3.1 This by-law applies to all lands situated within 30m from a high water mark and within environmental protection zoned areas.
- 3.2 No person shall conduct site alteration or permit site alteration to be conducted except in accordance with this by-law.

### 4. Exceptions

- 4.1 Except as required in subsection 5.3 with regards to site alteration on environmental zoned areas, section 6 with regards to restoration, and subsection 7.2 with regards to maintenance of retaining walls, this by-law does not apply to existing site conditions that were in place prior to the passing of this by-law.

### 5. General Requirements for Site Alteration

- 5.1 Where site alteration is permitted to occur, care shall be taken to ensure trees and native vegetation beyond the extent of the site alteration, including root systems, are not injured.
- 5.2 On a developed waterfront lot, site alteration may be completed in areas that permit destruction of trees in accordance with County of Haliburton Shoreline Tree Preservation By-law 3505, as amended specifically for:
- a) Structures permitted within the water setback and 3 metres around these structures,
  - b) Existing legal noncomplying building setbacks and 5 metres around these buildings, or redevelopment utilizing these setbacks.
  - c) Existing legal noncomplying sewage system setbacks and 5 metres around the distribution pipe, or replacement of such system, and
  - d) A 5 metre wide path to access the water.
- 5.3 Within an environmental protection zoned area, site alteration is restricted to a maximum 1.5 metre wide stairway, walkway, boardwalk or landing, utilizing construction practices to limit impact on the area such as helical piles or surface mounted footing. Where land within this area has been altered from past activity, restoration of those areas utilizing native vegetation shall occur concurrently with any permitted site alteration.

## 6. Restoration of Shoreline

- 6.1 For non-developed property, site alteration that has occurred beyond that of a 5 metre wide path to the water shall be restored utilizing native vegetation.
- 6.2 Every Owner who is sent a notice identifying the requirement to restore their property in accordance with this section shall:
  - a) Complete restoration by the date required in the notice,
  - b) Contact the Chief Building Official within 15 days of the dated notice to request a reasonable extension on the date to complete restoration, or
  - c) Contact the Chief Building Official within 15 days of the dated notice to request an Appeal to the Site Alteration Committee.
- 6.3 Where an appeal to the Site Alteration Committee is made, the Committee shall hear the appeal within a reasonable time frame and may:
  - a) Confirm, modify or rescind the Notice,
  - b) Extend the time for complying with the Notice.

## 7. Site Alteration Requirements

- 7.1 Any retaining walls within 30 metres of the high water mark shall be constructed to be structurally capable of supporting the intended loads. Any retaining walls at the high water mark shall be permitted and approved by the Ministry of Natural Resources and Forestry.
- 7.2 Any retaining wall within 30 metres of the high water mark shall be maintained to ensure its continued function of retaining earth.
- 7.3 Slopes within an area of site alteration shall be protected from erosion and where steep slopes exist, any stumps and root systems shall be retained.
- 7.4 Sediment control measures shall be installed and maintained from the commencement of any site alteration activity up until the final surfaces have been established, including grass and shrubs by means of:
  - a) 1 layer of silt control fencing, filter sock, waddles or straw bales at the limit of the any ground disturbance or soil storage, sufficient to restrict any silt from extending beyond the limit of disturbance, and
  - b) 1 continuous layer of Silt control fencing, filter sock or waddles in any direction that run off or erosion can occur, beyond the area where ground is being disturbed or soil is being stored for the purpose of capturing any silt that may pass through the first layer during intense rain events.
- 7.5 Foundation drainage pipes from buildings or structures that extend towards the shoreline shall:
  - a) Terminate not more than 2.5 metres from the building or structure it serves, and
  - b) Discharge onto rock, gabion stone or similar surface that will prevent erosion.
- 7.6 Site alteration shall be completed in a manner as to not affect neighbouring properties with any water run off due to an increasing grade elevation or diversion of drainage. Such drainage issues shall be corrected by means of:
  - a) An effective swale to direct drainage, or,

- b) A french drain, foundation drainage, or similar permanent means to effectively divert any run off below grade.

## **8. Relief**

- 8.1 If any person wishes to apply for relief from this By-law, they may do so by submitting a written request identifying the specific extent and nature of the relief requested and accompanied by a Landscape and/or grading and drainage plan and supporting documentation to the chief building official for review with the applicable fee.
- 8.2 Any relief approved by the chief building official shall be in writing and made available at the request of the public along with the supporting documentation.
- 8.3 Where relief is refused, the decision shall be in writing and the applicant may appeal the decision to the Site Alteration Committee.

## **9. Enforcement and Penalty Provisions**

- 9.1 This By-law shall be administered and enforced by the Chief Building Official, Building Inspector and Municipal Law Enforcement Officer.
- 9.2 This By-law is to be read in conjunction with all the Statutes referred to in the preamble hereto and in the event that there is a conflict between the provision of this By-law and the provisions of the Act as amended, or its regulations, then the provisions of the latter will prevail.
- 9.3 No person shall hinder or obstruct the Chief Building Official, Building Inspector or Municipal Law Enforcement Officer in the enforcement of this By-law.
- 9.4 Every person who contravenes any provision of this By-law is guilty of an offence and on conviction is liable to a fine as provided for in the Provincial Offences Act, R.S.O. 1990, c. p. 33 or as may be amended.
- 9.5 If this By-law is contravened and a conviction entered, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty that is imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.

## **10. By-Law to be Repealed**

- 10.1 All by-laws or part thereof and resolutions passed prior to this by-law which contradict this by-law, have no force for this by-law's purposes, and are hereby rescinded.

## **11. Ultra Vires**

- 11.1 Should any sections of this by-law, including any section or part of any schedules attached hereto, be declared by a court of competent jurisdiction to be ultra vires, the remaining sections shall nevertheless remain valid and binding.

## **12. Implementation**

- 12.1 This By-law shall come into full force and effect upon the date of passing.

**Read** a first, second and third time, passed, signed and the Corporate Seal attached hereto this 22<sup>nd</sup> day of August, 2023.

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Murray Fearrey, Mayor

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Tamara Wilbee, CAO, Deputy Clerk

THE CORPORATION OF THE UNITED TOWNSHIPS OF DYSART, DUDLEY,  
HARCOURT, GUILFORD, HARBURN, BRUTON, HAVELOCK, EYRE AND CLYDE

PART 1 Provincial Offences Act

By-law 2023-75: Site Alteration By-law

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision Creating or Defining Offence	COLUMN 3 Set Fine
1.	Damage or destroy native vegetation where not permitted	Section 5.1	\$700
2.	Commence site alteration where not permitted	Section 5.2	\$700
3.	Commence Site Alteration within environmental protection area	Section 5.4	\$700
4.	Construct retaining wall not structurally adequate	Section 7.1	\$700
5.	Fail to maintain retaining wall	Section 7.2	\$700
6.	Fail to protect slopes from eroding	Section 7.3	\$700
7.	Fail to install or maintain sediment control measures	Section 7.4	\$500
8.	Fail to retain water run off within property limits	Section 7.5	\$700