

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

BY-LAW NO. 2003 - 95

**A BY-LAW TO REGULATE THE OPERATION
OF PITS AND QUARRIES**

WHEREAS Section 124(1) of the Municipal Act S.O. 2001, c. 25 authorizes the Municipality to pass by-laws for regulating the operation of pits and quarries within the Municipality.

AND WHEREAS the Council of the Corporation of the United Townships of Dysart et al deems it advisable to regulate the operation of pits and quarries within the Municipality.

NOW THEREFORE the Council of the Corporation of the United Townships of Dysart et al enacts as follows:

Definitions

In this by-law the following definitions shall apply:

- 1) "Aggregate" means gravel, sand, clay, earth, shale, stone, limestone, dolostone, sandstone, marble, granite, rock other than metallic ores.
- 2) "Holiday" means a holiday as defined in the Interpretation Act of Ontario.
- 3) "Operate" means, when used in relation to a pit or quarry, all activities associated with a pit or quarry that are carried out on land from which aggregate is being excavated.
- 4) "Person" means an individual, a partnership, a corporation, a municipality, a public road authority or other group or body.
- 5) "Pit" means land or land under water from which unconsolidated aggregate is being or has been excavated and that has not been rehabilitated, but does not mean land or land under water excavated for a building or other work on the excavation site.

- 6) "Planting Strip" means an area which shall be used for no purpose other than the planting of trees or a continuous un-pierced hedgerow of evergreens or shrubs, not less than 1.5 metres high, immediately adjacent to the lot line or portion thereof along which such planting strip is required herein.
- 7) "Quarry" means land or land under water from which consolidated aggregate is being or has been excavated and that has not been rehabilitated, but does not mean land or land under water excavated for a building or other work on the excavation site.
- 8) "Rehabilitate" means to treat land from which aggregate has been excavated so that the use or condition of the land:
 - a) is restored to its former use or condition; or
 - b) is changed to another use or condition that is or will be compatible with the use of the adjacent land.
- 9) "Site" means the lands used for the operation of a pit or quarry.
- 10) "Municipality" means the Corporation of the United Townships of Dysart, Dudley, Harcourt, Guilford, Harburn, Bruton, Havelock, Eyre and Clyde.

Application

- 11) No person shall operate a pit or quarry on land except in compliance with the provisions of this by-law, any other applicable by-law of the Municipality and all Provincial and Federal legislation.
- 12) Nothing in this By-law is intended to make lawful any operation of a pit or quarry, which would otherwise be unlawful under a zoning by-law, other Municipal by-law or Provincial or Federal legislation or regulation.
- 13) This By-law shall not apply to the excavation of aggregate by an individual or group of individuals for use by the individual or group of individuals but not for resale for commercial purposes.

Hours of Operation

- 14) Unless otherwise agreed to in the Operators Agreement referred to herein, no person shall permit the operation of any machinery or equipment in connection with a pit or quarry, other than water pumping equipment:
 - a) on a holiday or on a Sunday; and/or
 - b) on any Saturday during the months of July and August, except where deemed by Council to be an emergency situation.

- 15) Unless otherwise agreed to in the Operators Agreement referred to herein, no person shall permit:
- a) the hauling or trucking of aggregate from a pit or quarry on any other day except between the hours of 6:00 am. and 6:00 pm; and/or
 - b) the crushing of aggregate in a pit or quarry on any other day except between the hours of 7:00 am. and 7:00 pm., Monday to Friday inclusive, during the months of January to June inclusive and September to December inclusive.

Setback Limits

- 16) In this By-law, "Excavation Setback Area" means the area within the setbacks for a pit or quarry established by the Municipality's Comprehensive Zoning By-law.
- 17) No person shall excavate aggregate within the "Excavation Setback Area" of a site.

Screening:

- 18) The person operating a pit or quarry shall before commencing operation, plant and thereafter maintain a planting strip along the boundary of the site to obstruct the view of the pit or quarry in compliance with the Municipality's Comprehensive Zoning By-law. For operations commencing after the date of passing of this by-law the planting strip, ingress and egress shall be shown on the site plan, approved in accordance with Section 25 of this By-law.

Maintenance Standards

- 19) The person operating the pit or quarry shall ensure that:
- a) any building or structure or processing plant on the site is maintained in a good state of repair and the site is kept in an orderly and safe condition;
 - b) each entrance to and exit from the site is located in accordance with an approved entrance permit;
 - c) all internal combustion engines located and operated within the site are properly fitted with sound muffling equipment equal to the manufacture's specifications or better, and all equipment is operated to avoid any nuisance due to noise;
 - d) all entrances to public roads are treated with appropriate dust control measures, as often as is necessary and whenever requested by the Municipality; and

- e) all scrap on the site is collected in an area on the site but outside the "Excavation Setback Area". All scrap is to be removed from the site to an approved disposal area approved for that purpose by Provincial and Municipal agencies. For the purpose of this paragraph, "scrap" means all waste material, refuse, debris, including scrap lumber and metal, discarded machinery, equipment, and motor vehicles.

Rehabilitation:

- 20) The person operating a pit or quarry shall rehabilitate the site in accordance with the provisions of this by-law.
- 21) The person operating a pit or quarry shall ensure that:
 - a) all topsoil or subsoil stripped in the operation of the site is used in the rehabilitation of the site;
 - b) adequate vegetation is planted and maintained to control erosion of any topsoil replaced on the site;
 - c) when the site is finally rehabilitated, the excavation face:
 - i) of any pit has a slope that is at least 3 horizontal metres for every vertical metre; and
 - ii) of any quarry has a slope that is at least 2 horizontal metres for every vertical metre;
- 22) The person operating a pit or quarry shall, as part of the rehabilitation, remove from the pit or quarry and the land surrounding the pit or quarry, or from that portion of the pit or quarry not being used, all structures and equipment used in the operation of the pit or quarry save and except fences.
- 23) The person operating a pit or quarry shall rehabilitate the pit or quarry in accordance with any plans filed with the Municipality, which plans form part of an Operator's Agreement as set out below. Such plans may require progressive rehabilitation.

Operator's Agreement

- 24) Prior to amending the Municipality's Comprehensive Zoning By-law to permit the establishment of a pit or quarry, or an extension to an existing pit or quarry, the person proposing to operate a pit or quarry shall make application for and shall enter into an Operator's Agreement with the Municipality.
- 25) Every application shall be accompanied by a site plan signed by the applicant which must show:
 - a) a general description of the proposed site, including lot and concession lines, if any;
 - b) the shape, dimensions and area of the of the proposed site;
 - c) the use of the land and the location and use of the buildings and structures within 150 metres of the proposed site of a pit, or within 500 metres of the proposed site of a quarry;

- d) the location, dimensions and use of the buildings and other structures existing or proposed to be erected on the proposed site;
- e) the location of the "Excavation Setback Area";
- f) the location and type of existing and proposed fences;
- g) the location of the proposed planting strip;
- h) every existing and proposed entrance to and exit from the proposed site;
- i) any surface water excluding spring run-off, but including all streams and creeks, on and surrounding the proposed site and proposed water diversion, storage and drainage facilities on the site and points of discharge to surface water;
- j) subject to available information, the location of existing water wells on and within 300 metres of the proposed site;
- k) if it is intended to excavate below the water table;
- l) the direction of excavation of the pit or quarry;
- m) the progressive rehabilitation and final rehabilitation plans; and
- n) any other necessary information respecting the proposed site.

26) An Operator's Agreement shall contain:

- a) a statement that the person operating the pit or quarry will comply with the provisions of this By-law;
- b) a statement that the person operating the pit or quarry shall operate and rehabilitate the pit or quarry in accordance with the approved site plan, this By-law and the Operator's Agreement;
- c) a statement that the person operating the pit or quarry shall be responsible for all reasonable costs incurred by the Municipality, with respect to the application, the re-zoning, the preparation of the Operator's Agreement, including any survey, engineering, planning or legal costs; and
- d) the consent of the registered owner of the site to the registration of the Operator's Agreement on title to the lands to which it applies.

27) An Operator's Agreement may contain:

- a) additional site specific regulations with respect to the proposed pit or quarry;

- b) additional operation or rehabilitation requirements;
- c) requirements relating to haul routes;
- d) requirements relating to the provision of municipal road improvements and sign postings;
- e) the requirement to post security to ensure compliance with the Operator's Agreement and the rehabilitation of the pit or quarry; and
- f) such other matters as the Council of the Municipality deems appropriate.

General

- 28) This By-law in no way relieves any person from complying with any other by-law of the Municipality, including any zoning by-law and shall not in any way restrict or limit the Council of the Municipality in exercising its discretion respecting an application to amend the Municipality's Comprehensive Zoning By-law to permit a pit or quarry or the extension of a pit or quarry.
- 29) If any provision of this by-law is for any reason held to be invalid by a court of competent jurisdiction it is hereby declared to be the intention of the Council of the Municipality that all remaining provisions shall continue to be in full force and effect.

Penalty

- 30) Any person who contravenes or fails to comply with any provision of this By-law shall be guilty of an offence and upon conviction shall be liable to the fines and penalties prescribed by the Provincial Offences Act.
- 31) Where this by-law requires any matter or thing to be done and there is default of its being done by the person directed or required to do it, such matter or thing may be done by the Municipality at the person's expense and the Municipality may recover the expense incurred in doing it by action or in a like manner as municipal taxes.

READ a first, second and third time, signed and the Corporate Seal attached hereto this 8th day of September, 2003.

Murray Fearrey - Reeve

CAO/Clerk Tammy McKelvey