THE CORPORATION OF THE TOWNSHIP OF LAURENTIAN VALLEY

BY-LAW NUMBER 2010-07-035

Being a By-Law to protect and conserve topsoil and to regulate its removal within the Township of Laurentian Valley, and also to repeal three By-laws being By-Law Number 909-04-94 of the (former) Township of Stafford, By-Law Number 645-12-91 of the (former) Township of Pembroke and By-Law Number 97-6 of the (former) Township of Alice and Fraser.

WHEREAS Sections 9, 10 and 11 of the Municipal Act, 2001, S.O., c. 25, as amended gives municipalities broad powers to enact by-laws;

AND WHEREAS Section 142 of the Municipal Act, 2001, S.O., c. 25, as amended, adds to the authority of municipalities by specifically authorizing site alteration regulation including prohibiting or regulating the removal of topsoil in the municipality or in any area or areas thereof defined in the by-law;

AND WHEREAS the Council of the Corporation of the Township of Laurentian Valley deems it necessary to regulate or prohibit the removal of topsoil and to require that a permit be obtained for the removal of topsoil, wherein conditions can be imposed relating to the removal of topsoil and the rehabilitation of the site;

NOW THEREFORE, the Council of the Corporation of The Township of Laurentian Valley enacts as follows:

1. SHORT TITLE

This By-Law shall be cited as the "Topsoil Preservation By-Law".

2. DEFINITIONS

In this by-law the following definitions and interpretations shall govern:

(a) "CAO" means the Chief Administrative Officer of the Corporation of the Township of Laurentian Valley;

(b) "Council" shall mean the Council of the Corporation of the Township of Laurentian Valley;

(c) "Flood Fringe" means the outer portion of the flood plain, where the two zone approach applies, between the floodway and the edge of the flood plain being the limits of the flooding hazard. Depths and velocities of flooding are generally less severe in the flood fringe than those experienced in the floodway.

(d) "Flood Plain" means the area of land within a watershed which is or may be subject to inundation during a flooding event. This area shall be calculated as being the area that would be flooded with an expected average frequency of once in one hundred years. Lands subject to flooding shall have a corresponding meaning.

(e) "Floodway" means the portion of the flood plain where development and site alteration would cause a danger to public health and safety and property damage. Where the one zone approach is applied, the floodway is the entire contiguous flood plain. Where the two zone concept is applied the floodway is the contiguous inner portion of the flood plain, representing that area required for the safe passage of flood flow and/or that area where flood
depths and/or velocities are considered to such that they pose a potential threat to life and/or property damage. Where the two zone approach applies, the outer portion of the flood plain is called the flood fringe.

(f) "High Water Mark" means the present normal mark made by the action of water under natural conditions on the shore or bank of water, which action has been so common and usual and so long continued that it has created a difference between the character of the vegetation or soil on one side of the mark and the character of the vegetation or soil on the other side of the mark.

(g) "Lot" means a parcel or tract of land:
   i) which is a whole lot as shown on a Registered Plan of Subdivision,
      but a Registered Plan of Subdivision for the purposes of this paragraph does not include a Registered Plan of subdivision which has been deemed not to be a Registered Plan of Subdivision under a By-law passed pursuant to Section 50 of the Planning Act, R.S.O. 1990, c.P.13 as amended;
   ii) which is a separate parcel of land the owner of which does not retain the fee or equity of redemption in, or a power or right to grant, assign, or exercise a power of appointment with respect to any abutting land, or
   iii) the description of which is the same as in a deed which has been given consent pursuant to The Planning Act R.S.O. 1990, c.P.13 as amended.

(h) "Owner" means the owner or owners whose names appear on the parcel register for the Lot;

(i) "Permit to Remove Topsoil" means a permit authorizing the removal of topsoil subject to the provisions of this By-law;

(j) "Person(s)" shall mean any human being, firm, association, partnership, private club, incorporated company, corporation, tenants in common, joint tenants, agent or trustee and the heirs, executors or other legal representatives of a person to whom the context can apply according to law;

(k) "Provincially Significant Wetland (PSW)" means a wetland area identified as provincially significant by the Ontario Ministry of Natural Resources using evaluation procedures established by the Province, as amended from time to time.

(l) "Site" means that part of the "Lot" on which topsoil removal, processing and/or stockpiling is to take place;

(m) "Topsoil" means those horizons in a soil profile, commonly known as the "O" and the "AA" horizons, containing organic material and includes deposits of partially decomposed organic matter such as peat;

(n) "Topsoil removal" means the extraction, screening, scraping-off, stockpiling, or trucking of Topsoil;

(o) "Township" means the Corporation of the Township of Laurentian Valley.

(p) "Watercourse" means an open channel, ditch or depression, either natural or manmade, in which the flow of water occurs either continuously or intermittently.

3. No person shall remove or cause or permit the removal of any Topsoil from any lands in the Township of Laurentian Valley unless:
(a) The exemptions contained in Section 142.(5) of the *Municipal Act* apply to the Topsoil removal; or

(b) 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, excepting that 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 as set out in Sections 142 (6) and 142(7) of the Municipal Act; or

(c) The owner has obtained a Permit to Remove Topsoil and the removal of the Topsoil is in accordance with the permit and any agreement entered into pursuant to the permit.

4. All applications for a Permit to Remove Topsoil shall be made in writing to the CAO of the Township, or his or her designate, by the Owner of the Lot. The form of the Application and the Permit to Remove Topsoil shall be subject to the approval of the CAO of the Township and may include such condition as the CAO or his or her designate deem appropriate.

5. All applications for a Permit to Remove Topsoil shall submit the following to the CAO of the Township or his/her designate:

(a) A complete application in the form by the CAO and which form may be amended from time to time subject to the approval of the CAO;

(b) Payment of the prescribed application fee of Two Hundred and Fifty ($250.00) Dollars to cover the cost of processing the Application for Permit to Remove Topsoil and where the application is approved, the supervision cost for the Township’s designated employee or its authorized agent.

6. No Permit to Remove Topsoil shall be issued for the removal of Topsoil if:

(a) the area for the removal of Topsoil is greater than five (5) acres, or the proposed depth of removal does not allow for a minimum of three (3) inches to be retained;

(b) the Owner or predecessor in title already has or had a Permit to Remove Topsoil for the same Site;

(c) the removal of Topsoil from the Site applied for will be detrimental to the use of the entire Lot for normal farming purpose using acceptable farming practices;

(d) the lands of the proposed Site are designated Agriculture or Environmental Protection in the Official Plan of the Township of Laurentian Valley, and/or shown as a Natural Heritage Feature on Schedule “C” to the Official Plan of the Township of Laurentian Valley, and/or zoned Agriculture (A), Environmental Protection (EP) or Natural Heritage Feature (NHF) in Comprehensive Zoning By-law 08-04-391 of the Township of Laurentian Valley or is within 120 metres of a PSW as shown on a schedule to Zoning By-law 08-04-391. An exception designation or zone category to any one of the aforementioned designations or zones, shall also be construed to be included in this prohibition;

(e) the stockpiling of Topsoil on the Site applied for is proposed closer than 61 metres to any property line or closer than 30 metres from the high water mark of any creek, lake river or stream or any natural water course;

(f) the removal of Topsoil from the Site applied for will be closer than 30 metres
from the high water mark of any creek, lake river or stream or any natural water course;

(g) the area for the removal of Topsoil has been identified by the Ontario Ministry of Natural Resources as habitat of any rare threatened or endangered species;

(h) the area for the removal of Topsoil is within the floodway and/or flood fringe of the Ottawa River; or

(i) there are two (2) or more permits presently issued for Sites on the same Lot.

7. (a) Notwithstanding the prohibitions as outlined in Section 6.(d) and (g) above, where the applicant has submitted an Environmental Impact Study (EIS) to the satisfaction of the Township and the Ministry of Natural Resources, a permit may be issued in those areas, subject to any conditions and/or restrictions as identified in the EIS.

(b) For lands within 120 metres from a Provincially Significant Wetland, a permit may be issued if it has been demonstrated that there will be no negative impacts on the natural features or the ecological functions for which the area is identified. In order to demonstrate that there will be no negative impacts Council shall consult with the Ministry of Natural Resources and the County of Renfrew regarding development and its possible impacts and may require an Environmental Impact Study (EIS).

8. The CAO may grant a Permit to Remove Topsoil for a lesser area than that applied for and may impose such conditions as Council considers reasonable and in the public interest.

9. Once a Permit to Remove Topsoil is granted to an applicant, the applicant shall deposit with the Township, a certified cheque payable to the Township of Laurentian Valley, at the rate of Five Hundred ($500.00) Dollars per acre calculated on the area of the site from which topsoil is to be removed, prior to commencing to remove topsoil guaranteeing the due performance by the Owner or his agent of the agreement entered into with the Township.

10. The Township shall hold said deposit until the Owner fulfills all obligations pursuant to this By-law, the Application and the Permit to Remove Topsoil, to the standards required in this by-law and to the satisfaction of the Council.

11. No Permit to Remove Topsoil shall be issued unless CAO or his or her designate is satisfied that the rehabilitation for the site will be carried out as follows:

(a) The Site shall be cultivated and harrowed to establish a proper seed bed.

(b) The Site shall be planted, with a mixture of perennial seed and fertilized so that the entire Site is covered with vegetation, other than noxious weeds, so as to prevent wind and water erosion within twelve (12) months after the removal of the Topsoil.

(c) The Site, if within 30 metres of a property line adjacent to a residence shall be planted, with a mixture of perennial seed and fertilized so that the entire Site is covered with vegetation, other an noxious weeds, so as to prevent wind and water erosion by September 15th of the same year if the Topsoil has been removed before August 15th and by June 15th the following year if the Topsoil has been removed after August 15th in any year.

(d) No invasive species shall be used in the plantings.
12. Revocation of Permit to Remove Topsoil
   (a) The Permit to Remove Topsoil of any Owner who contravenes the provisions of this by-law or of this Application, the By-law or Permit to Remove Topsoil, may be revoked forthwith by the CAO or his/her designee.
   (b) The Permit to Remove Topsoil of any Owner who included any misleading or false statements in the document provided to permit the issue of the said Permit to Remove Topsoil may be revoked forthwith by the CAO or his/her designee.
   (c) Any Owner whose Permit to Remove Topsoil has been revoked for any reason whatsoever shall immediately rehabilitate the site which is the subject of the permit as provided in this by-law.
   (d) Any Owner whose Permit to Remove Topsoil has been revoked shall not be entitled to apply for any Permit to Remove Topsoil pursuant to the provisions of this by-law for a period of five (5) years from the date of revocation.

13. Any person or persons guilty of an offence under any of the provisions of this By-Law shall, upon conviction, forfeit and pay the fine for such offence as provided for under Section 61 of The Provincial Offences Act.

14. If an Owner defaults in carrying out any provision of this By-law, the Application or Permit to Remove Topsoil, including the carrying out of the required rehabilitation measures, Council after ten (10) days notice in writing to the Owner requiring the Owner to perform the works, and if the Owner remains in default thereafter, Council may instruct its employees or a contractor to undertake the works and may draw on the deposit for reimbursement. If there is any deficiency, any amounts payable by the Owner to the Township shall be deemed to be taxes and may be added to the roll and collected in like manner as taxes, pursuant to the provisions of the Municipal Act.

15. This By-Law shall apply to all lands in the Township of Laurentian Valley.

16. That By-Law Number 909-04-94 of the (former) Township of Stafford, By-Law Number 645-12-91 of the (former) Township of Pembroke and By-Law Number 97-6 of the (former) Township of Alice and Fraser are hereby repealed upon this by-law coming into full force and effect upon the final passing thereof.

17. This By-law shall come into force and take effect upon the final passing thereof.

READ A FIRST AND SECOND TIME THIS SIXTH DAY OF JULY, 2010

READ A THIRD TIME AND PASSED THIS SIXTH DAY OF JULY, 2010

Mayor

Bruce Lloyd, Deputy Chief Administrative Officer