

BY-LAW # 22

A BY-LAW RESPECTING THE CONTROL OF GRAVEL AND SAND PITS  
WITHIN THE MUNICIPALITY OF PERTH-ANDOVER

The Council of the municipality of Perth-Andover duly assembled hereby enacts as follows:

1. TITLE

This By-Law may be cited as the Perth-Andover Gravel Pit By-Law.

2. INTERPRETATION

In this By-Law:

(a) "Excavation of Land" includes any act, operation or process by which earth, sand, gravel, stone, rock, clay or similar material is cut into, dug, uncovered, removed, displaced, relocated or bulldozed; including the conditions resulting there from providing the excavation extends to a depth of more than five feet below the undisturbed surface which existed before the excavation began.

(b) "Excavation land" has a corresponding meaning to "Excavation of land."

3. EXCAVATION OF LAND

No person may commence or continue any excavation of land unless an excavation permit has been issued therefor by the Building Inspector pursuant to the provisions of this By-Law.

4. Excavation of land mentioned in Section 3,

(a) does not apply to

(i) the construction, repair or alteration of streets in connection with an approved subdivision plan or under a contract awarded by the municipality,

(ii) work performed by a public utility,

(iii) an excavation for a basement or cellar, footing of a building or structure, swimming pool or other installation authorized by a building permit under the Perth-Andover Building By-Law,

(iv) commercial limestone quarrying, mentioned in the provisions of this By-Law,

(v) the grading or other excavation of land which does not result in a cut or fill exceeding five feet.

5. A person seeking to obtain an excavation permit shall make application in writing to the Building Inspector in a form prescribed by the Council, and such application signed by the applicant shall,

(a) record the name and address of the applicant and the location of the proposed excavation;

(b) contain a statement indicating the purpose of the work to be carried on and the portion of the land where excavation will commence or is in progress, and the order of sequence for excavating the balance of the land;

(c) contain a statement of the estimated volume of material in cubic yards proposed to be excavated during the term of the excavation permit;

(d) state the estimated dates of commencement of the excavation;

(e) indicate the maximum depths and maximum gradients of the excavation;

(f) set out the controls and methods to be employed in preventing the excessive emission of smoke, dust, odors, toxic materials, vibrations and noise;

(g) include one or more plans drawn to a scale of not less than 1" to 100' indicating,

(i) the boundaries of the property and its relation to existing streets and other properties,

(ii) existing topography at not more than five foot contour intervals,

(iii) locations of water systems and drainage systems,

(iv) an outline of the area to be excavated,

(v) the location of proposed water courses and drainage systems, including lakes, ponds and retention areas,

(vi) the setbacks, yards and separation from existing roads or uses of the excavation or grading of the land,

(vii) the proposed location of any buildings, scale house, equipment, equipment storage areas and equipment repair sheds or areas,

- (viii) the location of protective fencing,
  - (ix) the location of entrances and exits,
  - (x) the location of traffic routes to and from the area to be excavated, and
  - (xi) the location and size of signs; and
- (h) be accompanied by plans required by section 6.

6. An application for an excavation permit shall be accompanied by one or more plans, other than those mentioned in subsection (g) of section 5, drawn to a scale mentioned in that clause, indicating the proposed method of rehabilitation of the site according to the provision of this By-Law, and setting out,

- (a) the proposed grading contours at intervals deemed necessary by the Council, but not more than five foot intervals;
- (b) the location, quantity and type of trees, planting or other ground cover materials to be used;
- (c) details of all items and features pertaining to improvement and preservation of the land, including any retaining walls; and
- (d) the estimated dates of commencement and completion of such rehabilitation, the portion of land on which it will commence, and the order and time schedule for rehabilitation of the balance of the site.

7. Subject to section 10, where,

- (a) an application under Section 5 has been received;
- (b) the applicant has deposited with the Council a sum of money or a surety bond under the provisions of section 11 satisfactory to the Council;
- (c) the proposed excavation and rehabilitation of the site have been approved by the Council as conforming with all requirements of this By-Law; and
- (d) the fee set out in Section 8 has been paid;

the Building Inspector shall issue the excavation permit requested.

8. An excavation permit is valid until the 31st day of December of the year in which it is issued, and the fee of such permit is \$10.00.

9. An excavation permit shall,
- (a) be in a form prescribed by the Building Inspector;
  - (b) be signed by the Building Inspector;
  - (c) indicate the purpose of the work to be carried on;
  - (d) set out the controls and methods to be employed in preventing the emission of smoke, dust, odors, toxic materials, vibrations and noise in compliance with Provincial Statutes;
  - (e) specify the manner and time limits for rehabilitation of the land of the site in respect to which the permit is issued; and
  - (f) include any other detail or prohibition, not inconsistent with this By-Law, deemed advisable by the Council.

10. No permit may be issued under Section 7 if in the opinion of the Council;

- (a) the proposed work would
  - (i) create a hazard to human life,
  - (ii) endanger adjoining property, or
  - (iii) adversely affect a public sewer, water main, water course or street; or
- (b) the land of the site is subject to geological instability or flood hazards to the extent that no reasonable amount of corrective work could eliminate or sufficiently reduce the instability or hazard.

11. No excavation permit may be issued under Section 7 until the applicant has deposited a sum of money, or a surety bond in lieu thereof, issued by an insurance company licensed to carry on business in New Brunswick, in an amount determined by the Council to be adequate to cover the estimated cost of rehabilitation of the land of the site in accordance with the terms and time limits specified in the permit.

12. A permit under Section 7 is subject to the following terms and conditions:

- (a) that the slope of the excavation is not steeper than,

- (i) for the first 20 feet of its depth, one foot vertical to one foot horizontal, and
  - (ii) for the remainder of its depth, a slope of one to one;
- (b) that, where the excavation will result in a cut exceeding 20 feet in depth, a terrace not less than 10 feet in width is provided at each 20 foot interval of the depth;
- (c) that adequate measures are taken to prevent surface water from damaging the face of the excavation or fill by the provision of berms, swales or other satisfactory methods;
- (d) that the top or toe of the slope of the excavation, or any building, structure or storage and repair area in connection therewith is not within 25 feet of
- (i) the boundary of a residential zone area,
  - (ii) an abutting or adjoining property line unless a consent in writing from the owner thereof is filed with the Building Inspector, or
  - (iii) a public street or highway;
- (e) that access-ways and roads are maintained in a dust-free condition by paving, oiling or use of calcium chloride except as may otherwise be allowed by the Council;
- (f) that the site of the excavation is enclosed by a "page wire" fence of at least four feet in height except as may otherwise be allowed by the Council;
- (g) excavation of land shall only be carried on between the hours of 7:00 o'clock in the forenoon and 8:00 o'clock in the afternoon of each day except holidays as defined in the Interpretation Act when no excavation of land is permitted, except as may otherwise be allowed by the Council;
- (h) that all operations are conducted in a safe manner so as not to cause injury to persons or damage to property; and
- (i) that no excavation of land is performed in such a manner as to lower the water table on neighbouring properties.

13. The land of the site with respect to which a permit has been issued under Section 7 shall be rehabilitated in the following manner:

(a) where an excavation is 20 feet or more in depth, the slope thereof shall be

(i) with respect to the upper 20 feet reduced to a cutface no steeper than as set out in subsection (a) of Section 12; and

(ii) with respect to the remainder, terraced as set out in subsection (b) of the said section;

(b) all plants, equipment, buildings and structures, other than fences required under subsection (f) of Section 12 placed or erected on the site for the purposes of the excavation shall be removed, and all stock piles, earth, sand, gravel, stone, rock, clay or similar material shall be removed or backfilled into the excavation; and

(c) the site shall be cleared of debris and covered with a layer of soil, capable of supporting vegetation, to a depth of not less than six inches, except for areas under water or on rock faces, and seeded with grass or other ground cover to prevent erosion unless, in the opinion of the Council, such covering and seeding is not necessary.

14. All matters pertaining to the use of explosives in the excavation or rehabilitation of land under this section, including handling, storing, drilling, placing, blasting cover, warning and signals, shall be arranged and conducted strictly in accordance with the appropriate governmental regulations.

15. Where a holder of a permit violates

(a) any term or condition mentioned in Section 12, or

(b) any provision of this By-Law;

the Building Inspector may suspend or revoke the excavation permit, and may, if the conditions leading to the suspension are subsequently corrected, reinstate the suspended permit.

16. Where a holder of an excavation permit fails to rehabilitate the site in the manner and within the time limits specified in the permit, the Council may cause the required work to be done and to be paid for from the deposit mentioned in Section 11.

17. Where the owner or operator of a gravel pit being operated within the municipality makes application for an excavation permit, the permit shall be refused unless the owner-operator makes satisfactory arrangements with the Council to have the gravel pit or excavation comply with the terms and conditions of the permit as set out in Section 12.

18 (1) The Council may order any work that it deems necessary for the safety of persons to be done in or around gravel pits being operated within the municipality and gravel pits no longer in operation within the municipality.

(2) Where the Council order work to be done under subsection (1), it may, if the owner of the gravel pit refuses or neglects to carry out the necessary work, have the work done at the owners expense and the expense of the work is a debt owed by the owner of the gravel pit to the municipality.

19. VIOLATIONS AND PENALTIES

Any person who violates any provision of this By-Law is guilty of an offence and is liable on summary conviction to a maximum fine of \$500.00 for a single violation and \$100.00 a day for each day that the violation continues.

20. This By-Law comes into force on the date of final passing thereof.

READ A FIRST TIME BY TITLE THIS 10th day of March, 1975.

READ A SECOND TIME BY TITLE THIS 7th day of April, 1975.

READ IN ITS ENTIRETY IN COUNCIL THIS 7th day of April, 1975.

READ A THIRD TIME BY TITLE AND ENACTED THIS 3rd day of October, 1977.

*B. B. Wagner*  
.....  
Mayor

*M. Blatter*  
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Clerk

BY-LAW # 43

A BY-LAW OF THE MUNICIPALITY OF PERTH-ANDOVER  
TO AMEND BY-LAW # 22, BEING THE  
PERTH-ANDOVER GRAVEL PIT BY-LAW

The Council of the Municipality of Perth-Andover duly assembled, hereby enacts as follows:

1. The sixth line of sub-section (a) of section 2 of By-Law # 22, being the Perth-Andover Gravel Pit By-Law is repealed and the following substituted therefor:

"excavation extends to a depth of more than 1.5 metres"

2. The last line of paragraph (v) of sub-section (a) of section 4 of By-Law # 22, being the Perth-Andover Gravel Pit By-Law is repealed and the following substituted therefor:

"one and one half metres."

3. The second line of sub-section (c) of section 5 of By-Law # 22, being the Perth-Andover Gravel Pit By-Law is repealed and the following substituted therefor:

"material in cubic metres proposed to be excavated during"

4. Sub-section (g) of section 5 of By-Law # 22, being the Perth-Andover Gravel Pit By-Law is repealed and the following substituted therefor:

"(g) include one or more plans drawn to a scale having a ratio of one to one thousand indicating,"



5. Paragraph (ii) of sub-section (g) of section 5 of By-Law # 22, being the Perth-Andover Gravel Pit By-Law is repealed and the following substituted therefor:

"(ii) existing topography at not more than 1.5 metre contour intervals,"

6. The second line of sub-section (a) of section 6 of By-Law # 22, being the Perth-Andover Gravel Pit By-Law is repealed and the following substituted therefor:

"necessary by the Council, but not more than 1.5 metres"

7. Paragraph (i) of sub-section (a) of section 12 of By-Law # 22, being the Perth-Andover Gravel Pit By-Law is repealed and the following substituted therefor:

"(i) for the first 6 metres of its depth, one-half a metre vertical to one-half a metre horizontal, and"

8. Sub-section (b) of section 12 of By-Law # 22, being the Perth-Andover Gravel Pit By-Law is repealed and the following substituted therefor:

"(b) that, where the excavation will result in a cut exceeding 6 metres in depth, a terrace not less than 3 metres in width is provided at each 6 metre intervals of the depth;"

9. The last line of sub-section (d) of section 12 of By-Law # 22, being the Perth-Andover Gravel Pit By-Law is repealed and the following substituted therefor:

"in connection therewith is not within 7.5 metres of"

10. The second line of sub-section (f) of section 12 of By-Law # 22, being the Perth-Andover Gravel Pit By-Law is repealed and the following substituted therefor:

" "page wire" fence of at least 1.5 metres in height"

11. Sub-section (a) of section 13 of By-Law # 22, being the Perth-Andover Gravel Pit By-Law is repealed and the following substituted therefor:

"(a) where an excavation is 6 metres or more in depth, the slope thereof shall be"

12. The first line of paragraph (i) of sub-section (a) of section 13 of By-Law # 22, being the Perth-Andover Gravel Pit By-Law is repealed and the following substituted therefor:

"(i) with respect to the upper 6 metres reduced to"

13. The third line of sub-section (c) of section 13 of By-Law # 22, being the Perth-Andover Gravel Pit By-Law is repealed and the following substituted therefor:

"to a depth of not less than 15 centimetres, except for areas"

14. This By-Law comes into force on the date of final passing thereof.

READ A FIRST TIME BY TITLE this 15th day of MARCH 1978.

READ A SECOND TIME BY TITLE this 15th day of MARCH 1978.

READ IN ITS ENTIRETY IN COUNCIL this 6th day of NOVEMBER 1978.

READ A THIRD TIME BY TITLE AND ENACTED this 6th day of November, 1978.

  
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Mayor

  
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Clerk

BY-LAW NO. 45

A BY-LAW OF THE MUNICIPALITY OF PERTH-ANDOVER

TO AMEND BY-LAW NO. 22, BEING

THE PERTH-ANDOVER GRAVEL PIT BY-LAW

The Council of the Municipality of Perth-Andover duly assembled, hereby enacts as follows:

1. Subsection (g) of section 12 of By-Law # 22, being the Perth-Andover Gravel Pit By-Law is repealed and the following substituted therefor:

"(g) excavation of land shall only be carried on between the hours of 7:00 o'clock in the forenoon and 9:00 o'clock in the afternoon of each day except holidays as defined in the Interpretation Act when no excavation of land is permitted except as may otherwise be allowed by the Council;"

2. The By-Law comes into force on the date of final passing thereof.

READ A FIRST TIME BY TITLE this 6th day of November 1978.

READ A SECOND TIME BY TITLE this 6th day of November 1978.

READ IN ITS ENTIRETY IN COUNCIL this 16th day of May 1979.

READ A THIRD TIME BY TITLE AND ENACTED this 16th day of May 1979.

*B. W. Wagner*  
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Mayor

*W. M. H. H. H.*  
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Clerk