



## Report to Council

Department: Development Services  
Division: Development Services  
Date: June 3, 2024  
Prepared by: Lori Chadwick, Director, Development Services  
Report Number: Development Services-2024-05  
Subject: Fill and Grade By-law Amendments  
Number of Pages: 4 plus attachments

### Recommendation(s)

**That** Development Services Report 2024-05 entitled "Fill and Grade By-law Amendments" prepared by Lori Chadwick, Director, Development Services dated June 3, 2024 be received; and

**That** By-law 2336, Being a By-law to Amend By-law 1799, the Fill and Grade By-law for the Town of Essex, be read a first, second, and third time, and finally passed on June 3, 2024.

### Purpose

To report back to Council on the feasibility of repealing or amending By-law 1799 to prevent large-scale fill sites, and to review the possibility terminating current large-scale fill permits as directed by Council via Resolution R24-03-068.

### Background and Discussion

On August 6, 2019, Council adopted By-Law 1799, being a by-law to provide for the regulation of the placing and/or dumping of fill and the alteration of grade and/or removal of

topsoil from land in the Town of Essex. This By-law is primarily devoted to the placing of fill on properties not associated with development on the same property and is commonly referred to as the “Fill and Grade By-Law” and is **attached** to this report.

On October 2, 2023, through a Notice of Motion and as a result of concerns raised by various residents adjacent to large-scale fill sites, Council directed Administration to review the Fill and Grade By-law, and to provide a Report to Council on the benefits and/or issues to large scale fill properties.

On March 4, 2024, Administration presented a Report to Council describing the intent of the By-law, the permitting process, and the various benefits and issues associated with large-scale fill and grade sites in the Town of Essex. Council thereby directed Administration to report back to Council on the feasibility of either repealing or amending By-law 1799 to prevent further large-scale fill sites in the Town of Essex and to review the possibility terminating current large-scale fill permits.

Administration has reviewed the feasibility of repealing the Fill and Grade By-law and does not recommend this approach. A Fill and Grade By-law allows the Town to implement limits and restrictions on matters such as volume and height of the fill, thereby continuing to allow smaller-scale fill sites. A Fill and Grade By-law also allows the Town to explicitly state, in by-law form, that large-scale fill sites of a certain volume are not permitted in the Town of Essex. Lastly, the By-law grants the authority to protect adjacent properties from adverse effects stemming from active fill sites.

Instead, Administration recommends that By-law 1799 be amended as follows:

- That a restriction be imposed of no more than 1,200 cubic metres (m<sup>3</sup>) of fill on a property over its lifetime.
- That the lot-grading plan as required as a part of an application for a Fill and Grade Permit now details not only the existing and proposed grades on the property, but also the volume of fill.

- That the By-law be clear that it does not apply to properties where a building permit has been issued for construction of a building or structure.
- That the application fee be increased from \$200.00-\$400.00 (depending on volume) to a flat fee of \$500.00 for all permit applications up to a maximum of 1,200m<sup>3</sup>.
- That the security deposit of \$500.00 plus \$0.50 per m<sup>3</sup> be applied to all permit applications, up to a maximum of 1,200m<sup>3</sup>.

The above-noted amendments are presented for Council's decision under By-law 2336 attached to this Report.

There are currently three (3) active fill and grade permits in the Town of Essex:

1. 2664 County Road 12, expiring June 29, 2024
2. 5080 County Road 11, expiring September 17, 2024
3. 0 County Road 12 (the property adjacent to and west of 2209 County Road 12), expiring December 31, 2024

Administration has reviewed the feasibility of terminating the current active fill and grade permits and has determined there is a risk to the Town of potential liability. Instead, Administration recommends that the sites continue to operate until their expiry date. Should the property owners wish to apply for a new fill and grade permit, the applicant would be required to comply with the new By-law, should Council adopt the amendments.

## Financial Impact

As previously described, all complaints regarding fill and grade sites must be investigated, which is an operating cost to the Town that cannot be recouped from the permit fee or security deposit. It is expected that with the prevention of large-scale fill sites, complaints will be reduced. Damage to roads and rights of way are the financial responsibility of the property owner of the fill and grade site and can be recouped through the security deposit collected at time of permit.

## Consultations

Joseph Malandruccolo, Director, Legal & Legislative Services

Kevin Girard, Director, Infrastructure Services

Kevin Carter, Chief Building Official/Manager By-law Enforcement

Paul Vlodarchyk, Deputy Chief Building Official

## Link to Strategic Priorities

- ☒ Embrace asset management best practices to build, maintain, and continuously improve our municipally owned infrastructure.
- ☐ **Leverage our Town's competitive advantages to promote jobs and economic investment.**
- ☒ Take care of our natural environment and strengthen the sense of belonging to everyone **who makes Essex "home"**.
- ☐ Deliver friendly customer service in an efficient, effective, and transparent manner while providing an exceptional working environment for our employees.
- ☐ Build corporate-level and community-level climate resilience through community engagement and partnership and corporate objectives.

## Report Approval Details

Document Title:	Fill and Grade By-law Matters - Development Services-2024-05.docx
Attachments:	<ul style="list-style-type: none"><li>- By-Law No. 1799 - Fill Permit.pdf</li><li>- By-Law No. 2033 - Amend Grade and Fill By-Law.pdf</li><li>- Fill By-Law Amendments - June 3 2024.pdf</li></ul>
Final Approval Date:	May 30, 2024

This report and all of its attachments were approved and signed as outlined below:

A handwritten signature in black ink, appearing to read 'Doug Sweet', with a stylized flourish at the end.

**Doug Sweet, Chief Administrative Officer - May 30, 2024 - 11:04 AM**