



## Report to Council

Department: Development Services  
Division: Building and By-law Enforcement  
Date: June 7, 2021  
Prepared by: Mike Diemer, By-law/Property Standards Officer  
Report Number: Building and By-Law Enforcement-2021-01  
Subject: Fill and Grade Report  
Number of Pages: 4

### Recommendation(s)

**That** Building and By-Law Enforcement Report-2021-01 entitled Fill and Grade Report prepared by Mike Diemer dated June 07-2021 be received.

### Purpose

That administration be directed to review, with consultation with Deputy Mayor Meloche and Councillor Verbeek and prepare a Report with recommendations on the issues, pros, and cons, related to fill sites and limitations on the number of sites, permits and their extensions thereof; Resolution Number R21-05-189

### Background and Discussion

The Town of Essex created the Grading and Fill By-Law #1799 in 2019 to regulate the properties that bring in fill, as well as the grading that is completed on the properties. Within this By-Law, a permit is required to do work on the property. In order to obtain a permit the property owner, or representative of the property owner, is to submit an application to the

Building & By-Law Enforcement Division with certain conditions of the By-Law to be satisfied. The Officer may grant or refuse to grant any Fill Permit applied for on an event-by-event basis but in no case shall an event being applied for be longer than one (1) year in duration. The Officer shall make the issuance of any such Fill Permit subject to such terms and conditions as the Officer may designate as being appropriate on an event-by-event basis. Any breach by the Owner of any of the terms and conditions of the issued Fill Permit shall render the Fill Permit null and void.

This ensures that the proponent must comply with all the conditions within the By-law before being granted a fill permit lasting no longer than 1 year in duration. However, if the proponent wishes to renew/extend their fill permit during that 1 year period, they would be unable to as the current by-law does not allow the renewal of an existing fill permit. A proponent may, however, apply for a new fill permit for the same project/property the following year. This is under the condition that the proponent submits a new application and complies with all the conditions within the existing by-law.

Extending and/or renewing an existing 1-year grade fill permit may cause further increase with a number of local issues including concerns regarding noise, dust, truck traffic, road damage, erosion, drainage and other social, health and environmental concerns.

Prohibiting the extension and/or renewal of an existing 1-year grade fill permit on larger projects being five acres or greater in lot size may cause a rush to complete the work within the timeline of their original permit and could exacerbate the issues into one compressed calendar year such as greater daily amounts of dust, truck traffic, road damage, erosion, drainage and other social, health and environmental concerns are all compressed into 1 calendar year.

Limiting the number of sites where fill can be brought to is contrary to the principles of the permitting process due to creating conflicts evolving from the minimal sites throughout the municipality. This process would also create conflicts for Administration as fairness and integrity could come into question.

Contaminated soils cannot be used nor imported at any time. The By-law dictates that the proponent must have all soils tested prior to being imported into our Municipality. However, the By-law does not require testing of soil containments during or after the fill process. In order to safeguard from any suspicious imported fill, the officer will issue a Stop Work Order and mandate mandatory testing in order for the proponent to continue the current permitted project.

## Financial Impact

Security deposits are collected for all Grade Fill applications in-order to protect ratepayers **from potential additional costs incurred by the landowners'** private projects. Deposits are collected on a case-by-case basis and depend largely on the volume of the site. As such, larger sites will require a higher sum as a deposit in order to repair any damages incurred during the Fill process.

## Consultations

Kevin Carter, Chief Building Official

Jeffrey Morrison, Director Corporate Services

Kevin Girard, Director Infrastructure Services

## Link to Strategic Priorities

- ☐ Manage, invest and plan for sustainable municipal infrastructure which meets current and future needs of the municipality and its citizens.
- ☐ Create a safe, friendly and inclusive community which encourages healthy, active living for people of all ages and abilities.
- ☐ Provide a fiscal stewardship and value for tax dollars to ensure long-term financial health to the municipality.
- ☐ Manage responsible and viable growth while preserving and enhancing the unique rural and small town character of the community.
- ☒ Improve the experiences of individuals, as both citizens and customers, in their interactions with the Town of Essex.
- ☐ **Improve the Town's capacity to meet the ongoing and future service needs of its citizens** while ensuring the corporation is resilient in the face of unanticipated changes or disruptions.

### Report Approval Details

Document Title:	Fill and Grade Report.docx
Attachments:	- By-Law 1799 - Grade and Fill.pdf
Final Approval Date:	Jun 2, 2021

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

**Chris Nepszy, Chief Administrative Officer - Jun 2, 2021 - 1:56 PM**