

## **TOWN OF QUISPAMSIS**

### **BY-LAW NO. 54**

## **A BY-LAW RESPECTING THE CONTROL OF GRAVEL AND SAND PITS AND THE EXCAVATION OF LAND**

### **(AS AMENDED)**

### **INTERPRETATION**

1. In this Section:
  - 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 therefrom, providing the excavation extends to a depth of (1.0) one metre below the undisturbed surface which existed before the excavation began.
  - b) "Excavate Land" has a corresponding meaning to "Excavation of Land".

### **PERMITS**

2.
  - a) No person may undertake or continue the excavation of land in the Town of Quispamsis unless an excavation permit has been issued by the Building Inspector pursuant to this By-law.
  - b) Notwithstanding subsection 2(a), an excavation permit is not required for:
    - i) the construction, repair or alteration of streets in connection with an approved subdivision plan or under a contract award by the Town;
    - 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 installations authorized by a building permit under the Town of Quispamsis Building By-law.
3. A person seeking to obtain an excavation permit under this section shall make application in writing to the Building Inspector in a form prescribed by that officer.

4. An application for an excavation permit shall be signed by the applicant and shall set out and include:
  - a) the name and address of the applicant and the location of the proposed excavation;
  - b) a statement indicating the purpose of the excavation;
  - c) the proposed base or lowest level of the excavation;
  - d) the means to be employed by the applicant to maintain accesses to the excavation, and public streets over which excavated material is transported, in a dust-free condition as by paving, sweeping or the use of calcium chloride;
  - e) the estimated date of commencement of the work involved in the excavation;
  - f) a proposal for rehabilitation of the site of the excavation as provided for herein and the proposed time limit therefore, and
5. An application for an excavation permit shall be accompanied by a bond or letter of guarantee equal to 10 per cent of the estimated value of rehabilitation. The minimum value for such a bond or letter of guarantee shall be established at \$1,000.00 for all applications.
6. An application for an excavation permit shall be accompanied by a plan drawn to scale not less than 1:1000 indicating thereon:
  - a) the boundaries of the property with respect to which the application is made, and its relation to existing streets and other properties;
  - b) existing topography at no more than 2 metres contour intervals, or spot elevations or cross sections with a vertical scale of 1 to 100, or any combination where 2 metre contour intervals are not available;
  - c) location of existing natural watercourses and drainage;
  - d) location of existing power transmission line towers and other structures;
  - e) an outline of the area to be excavated;
  - f) the location of proposed natural watercourses and drainage, including lakes, ponds and retention areas;

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- g) the proposed location of any buildings, scale house, equipment, equipment storage area and equipment repair sheds or areas;
  - h) the location of protective fencing;
  - i) the location of entrances and exits to the site of the proposed excavation and gates;
  - j) the location of traffic routes to and from the area to be excavated; and
  - (k) the location and size of signs erected or proposed to be erected within the site of the proposed excavation and gates;
7. Subject to Section 9 where
- a) an application for an excavation permit has been received;
  - b) the proposed excavation and the proposal for rehabilitation of the site meet the requirements hereof,
  - c) the fee set out in Section 8 has been paid, and
  - d) the bonding conditions outlined in Section 5) have been met to the satisfaction of the Building Inspector;
- the Building Inspector shall issue the excavation permit requested.
8. An excavation permit is valid until December 31st in the year of issue, and the fee for such permit or a renewal thereof is \$100.00.
9. No excavation permit shall be issued under this section if
- a) the proposed work would be apt to:
    - i) create a hazard to human life,
    - ii) cause injury to a person,
    - iii) damage adjoining property, or
    - iv) adversely affect a public water main or sewer, or a watercourse or street; or

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- b) the land of the site is or would be subject to geological instability or flood hazard to the extent that no reasonable amount of corrective work could eliminate or sufficiently reduce the instability or hazard.

### TERMS AND CONDITIONS OF PERMITS

- 10. A permit under this section is subject to the following terms and conditions:
  - a) that no excavation shall take place below the base specified in the excavation permit;
  - b) that accesses to the excavation and public streets over which excavated material is transported are maintained by the person named in the permit in a dust-free condition, as by paving, sweeping or the use of calcium chloride;
  - c) that the excavation, and any work related thereto, is carried out only between the hours of 7:00 a.m. and 8:00 p.m. and only on days other than Sundays and holidays as defined by the Interpretation Act;
  - d) that no operation in relation to the excavation is conducted in such manner as
    - i) to be apt to create a hazard to human life, to cause injury to a person or to damage adjoining property,
    - ii) to permit ponding of water in excess of 150mm in depth
    - iii) to lower the water table on neighbouring properties, or
    - iv) to prejudice proposed or required rehabilitation of the land;
  - e) that adequate measures shall be taken in the excavation of land to prevent surface water from damaging the face of an excavation or fill by the provision of berms, swales or other satisfactory methods.
  - f) that no person shall excavate land so that the top or toe of the slope of the excavation shall be:
    - i) within 30 metres of the boundary of a residential zoned area.

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- ii) within 15 metres of an adjoining property unless a consent in writing from the owner thereof is filed with the Building Inspector at the time of application for an excavation permit.
  - iii) within 30 metres of a road, street or highway.
- g) that slopes of an excavation not exceeding 6 metres in height should not be steeper than 1.5 horizontal to 1.0 vertical provided that the slope is not steeper than the natural angle of repose of the excavated material.

If slopes of an excavation exceed 6.0 metres in height they should be terraced at every 6.0 metres in widths or at depths and widths approved by the Town.

- h) that any land that extends, projects or juts over or beyond the top face or slope of an excavation is to be removed and left in a condition at the end of each working shift so as to prevent the danger of a fall by natural or other causes.
- i) that the land of the site of the excavation is rehabilitated as provided for herein within the time period specified in the permit.
- j) that all matters pertaining to the use of explosives in the excavation of land, including handling, storing, drilling, placing blasting cover, warning and signals shall be arranged and conducted strictly in accordance with the appropriate Federal and Provincial regulations.
- k) that the property to be used for excavation of land be enclosed along its exterior boundaries with a fence of at least 1.5 metres in height. No fence will be required where, in the opinion in writing of the Town, such fencing is impractical or unnecessary.
- l) that no refuse be stored or dumped in the excavation without the written approval of the town, along with being acceptable under the Clean Environment Act.
- m) that all operations are to be carried out in accordance with the Occupational Health and Safety Act and the New Brunswick Clean Environment Act, including all amended updates and revisions.

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**REHABILITATION**

11. a) The land of the site of an excavation of land shall be rehabilitated by the owner thereof within the time limit specified in the excavation permit;
- b) In the event an excavation permit does not set a time limit for rehabilitation, has not been applied for, has not been issued, has expired, has been terminated, or has been cancelled, the owner of the site of an excavation of land shall complete rehabilitation in accordance with this section within 6 months from the date of occurrence of any of the following:
- i) the cancellation, termination or expiration of the permit.
  - ii) depletion of sand, gravel or rock from the site to the extent that further operation would be no longer viable;
  - iii) the failure to seek renewal of an expired or cancelled permit;
  - iv) the issuance of an order for cessation under Section 12 a);
  - v) cessation of operations; or
  - vi) the completion of proposed work outlined as detailed in the permit application section;
- c) Rehabilitation mentioned in subsection 11 a) and b) shall include the following:
- i) where an excavation is over 6 metres deep, a terrace shall be provided not less than 6 metres in width at each 6 metres interval of depth;
  - ii) except for terraces provided pursuant to clause i), slopes of the excavation shall be not steeper than 3 horizontal to 1 vertical;
  - iii) all plants or equipment, or buildings or structures, placed or erected on the site for purposes of the excavation shall be removed;
  - iv) all stock piles, earth, shale or other excavated material shall be removed from the site, backfilled into the excavation where feasible, or brought to a common grade with the rest of the land; and
  - v) the land shall be cleared of debris and a layer of soil capable of supporting vegetation shall be spread thereon to a depth of not less than 15 cm, except for areas under water or rock faces, and seeded with grass or other ground cover to prevent erosion, but

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the Building Inspector may modify this requirement where the proposed use of the land after the excavation does not require such work.

- vi) fences and barriers shall remain unless otherwise ordered by the Building Inspector.
- vii) permanent drainage of water shall be established so as to prevent ponding of water in excess of 150 mm.

### VIOLATIONS AND PENALTIES

- 12.
  - a) Where any person violates any provision of this By-law the Building Inspector shall by written notice served personally on, or sent by registered mail to the person named in the permit, state the nature of the violation and order the cessation thereof.
  - b) When any person fails to comply with an order under Section 12 a) the Building Inspector shall suspend or cancel the excavation permit, and may, if the conditions leading to the suspension are subsequently corrected, reinstate the suspended permit.
  - c) When any person fails to rehabilitate the land in accordance with the requirement of this By-law, the Council of the Town of Quispamsis may cause the required work to be done and recover all costs connected therewith from the owner.
- 13.
  - a) Every person who violates a provision of this By-law is guilty of an offence and is liable on a summary conviction to a fine of not less than One Hundred Dollars (\$100.00) and not more than Five Hundred Dollars (\$500.00) for a single violation and not less than Twenty-Five Dollars (\$25.00) and not more than (\$100.00) a day for each day that the violation continues.
  - b) The Council of the Town of Quispamsis may order any work that it deems necessary for the safety of persons to be done in or around a land excavation site and the expense of the work is a debt owed by the owner thereof to the Town of Quispamsis.



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**FIRST READING:** June 16, 1992

**SECOND READING:** June 16, 1992

**THIRD READING AND ENACTED:** July 14, 1992

Catherine P. Snow (signed)

Emil T. Olsen (signed)

TOWN CLERK

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MAYOR

RETYPE MARCH 1994