



## **BACKFILLING AND EXCAVATION REGULATIONS**

### **1.0 REGULATIONS**

These Regulations shall be known as the Town of Torbay Backfilling and Excavation Regulations.

### **2.0 ADOPTION**

These Regulations are made and adopted under Section 413 of the *Municipalities Act, Chapter M-24, S.N. 1999*.

### **3.0 APPLICATION**

These Regulations shall apply to all new Backfilling and Excavation carried out within the municipal boundary of the Town of Torbay.

### **4.0 POLICY STATEMENT**

These Backfilling and Excavation Regulations will allow The Town Council of the Town of Torbay to employ a consistent and equitable approach to Property Owners and Developers in relation to backfilling and excavating properties.

### **5.0 BACKGROUND**

Over the past number of years, the Town of Torbay has encountered many problems with Property Owners and Developers backfilling and excavating properties, without a proper grading plan, utilizing unsuitable material, and with no consideration given to neighboring properties or surrounding landscapes.

### **6.0 PURPOSE**

The purpose of these Regulations is to establish a set direction to the Town and its residents/developers in relation to backfilling and excavating properties.

## 7.0 DEFINITIONS

In this Backfilling and Excavating Regulations document all terms will have definitions assigned in accordance with the Town of Torbay Development Regulations, Schedule 'A'.

Notwithstanding the above, the following definitions will apply:

**Approved Material** means a material that is deemed to be suitable for backfilling a property either by the Town of Torbay and/or by the appropriate government department whether Federal or Provincial.

**Approved Vacant Building Lot** means a lot that has been approved for development by Council.

**Backfilling** means the depositing of any approved material on a property.

**Excavating** means the removal of any material on a property.

**Existing Home** means a dwelling that is built and currently occupied or a dwelling that has been approved by Council, and construction has begun on that dwelling. The beginning of construction is considered to mean that the footings for the foundation have been laid.

**Grading Plan** means plan that is drafted to show both existing grades and proposed finish grades on a property.

**Material Source** means the origin of the material or the location in which the material comes from.

**New Lot** means a lot that is proposed and approved for development, whether it is in a new development or as an infill lot on an existing street.

**Property** means a piece of land or real estate that is owned by somebody.

**Topsoil** means the upper fertile layer of soil from which plant roots take nutrients.

**Truck Load** means a load consisting of 8 tonnes for a single axel truck and 16 tonnes for a tandem axel truck of material.

## 8.0 POLICY/REGULATION

**8.1** Before any backfilling occurs in the Town of Torbay, a backfilling permit is required; unless one of the following items apply (*regardless if a permit is required or not the source and type of material approval shall be required as per section 8.3 (a) of this policy*):

- (a) The number of truck loads is to be less than six loads;
- (b) The material is topsoil for landscaping purposes only;

- (c) There is a development permit issued on the property for new construction with an approved grading plan; and
- (d) There is a development agreement in place for the development of the property with an approved grading plan.

**8.2** Prior to any excavating occurring in the Town of Torbay, an excavation permit shall be required, unless one of the following items apply:

- (a) There is a development permit issued on the property for new construction with an approved grading plan;
- (b) There is a development agreement in place for the development of the property with an approved grading plan; or
- (c) The excavation is being completed for landscaping purposes.

**8.3** Prior to a backfilling and or excavating permit being issued, the following conditions shall apply:

- (a) The applicant shall provide proof of ownership of the property proposed to be backfilled or excavated;
- (b) A grading plan shall be submitted to the Town for approval prior to work commencing;
- (c) The source and type of the material shall be approved by the Town of Torbay and/or by the appropriate government department whether Federal or Provincial;
- (d) An agreed time line for the project shall be determined.

**8.4** The following conditions shall be added to a backfilling and excavating permit where deemed necessary by the Town.

- (a) In instances where six or more loads are being dumped or removed, a security deposit shall be required. This deposit shall be used to complete the work in the event that it is not completed in the amount of time allotted for the project. The amount of deposit shall be determined by the Town, and paid prior to a permit being issued;
- (b) Seeding/ Sodding of the backfilled area shall be required as determined by the Town;
- (c) Dust control shall be required on the route to the property; and
- (d) Streets on the route to the property shall be kept free of debris.

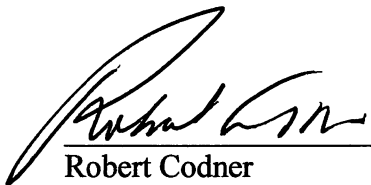
**8.5** The Town of Torbay reserves the right to inspect the backfilled or excavated property at any time.

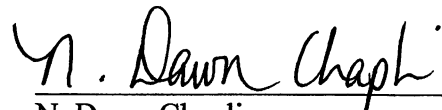
**8.6** Any damage to neighboring properties shall be the responsibility of the permit holder; an additional deposit shall be required prior to release of a permit.

**8.7** The Town may, and is hereby irrevocably authorized by the applicant, to use the deposit taken by the Town to pay the cost of having all conditions of the backfilling and or excavated permit satisfied.

This Backfilling and Excavation Regulations are adopted by Resolution of Council, this 10<sup>th</sup> day of December, 2012.

Resolution No. # 571-12.

  
Robert Codner  
Mayor

  
N. Dawn Chaplin  
Chief Administrative Officer / Town Clerk

Under section 413 of the *Municipalities Act 1999*, the Town Council of Torbay adopts the Town of Torbay Backfilling and Excavation Regulations as approved (or as amended).

SIGNED AND SEALED this 23<sup>rd</sup> day of January, 2013

Mayor:  (Council Seal)

Clerk: 