

SITE ALTERATION AND THE MUNICIPAL ACT, 2001

Sediment Control Workshop
Wednesday, May 7th, 2003
Black Creek Pioneer Village
Presenter: Yvonne Hurst



BACKGROUND

- Prior to 1995 municipalities passed fill and grading by-laws through adoption of a private member's bill
- Provisions for site alteration by-laws first incorporated into the Municipal Act in 1995
- Topsoil removal by-laws passed under Topsoil Preservation Act

SO WHAT'S NEW

The new Act:

- Site alteration provisions are continued, streamlined and made consistent in the new Act
- Topsoil removal provisions are incorporated from the Topsoil Preservation Act (now repealed)
- Revises the definition of topsoil to include peat
- Clarifies municipal authority to regulate and prohibit the extraction of peat
- Right of an applicant to appeal to the OMB
- Provides for delegation of powers to pass site alteration by-laws

Power to Pass By-laws

Section 142 provides authority for a municipality to:

- prohibit or regulate the placing or dumping of fill
- Prohibit or regulate removal of topsoil (including peat)
- Prohibit or regulate alteration of the grade of land

Delegation

- Lower-tier municipality has flexibility to delegate or all part of its power to upper tier (with upper-tier consent)
- An Upper tier may, by agreement, designate officers to enforce lower tier by-laws
- A Lower tier may, by agreement, designate officers to enforce upper tier by-laws

Enforcement

- Municipality may:
 - enter and inspect any land at any reasonable time to determine compliance with a by-law, order, condition of a permit or court order;
 - designate officers with the power to issue permits and impose condition to the permits
 - officer designated under Section 142 may make an order requiring work to correct contravention of permit

Enforcement....continued

- by-law may provide for fines of not more than \$10,000 – first conviction; not more than \$25,000 any subsequent conviction
- Court may order rehabilitation, removal of fill or restoration of the grade of land to its original condition
- Municipality may recover the costs incurred plus interest by action or in like manner as taxes
- Costs incurred are a lien on the land upon registration in the proper land registry office.

Exemptions

Exemptions include:

- municipal or local board site alterations
- Sections 41, 51 and 53 of the *Planning Act*
- Section 70.2 of the *Planning Act*
- Constructing/maintaining a transmission or distribution system – *Electricity Act, 1998*
- *Aggregate Resources Act* ; section 34 of the *Planning Act* and the *Drainage Act*.

Elements to Consider When Preparing a Site Alteration By-law

- Effect of other provincial legislation or regulations
- Enforcement? Upper tier/Lower tier
- Officers: Who will enforce; how many officers and has Council developed guidelines for the issuance of permits
- What conditions would be included in the permits

Where Do you Get the Authority Filtering Process

