

BY-LAW NO. 1792

OF THE CORPORATION OF THE
TOWNSHIP OF PELHAM

A BY-LAW TO REGULATE THE CARRYING
ON AND OPERATION OF PITS AND QUARRIES

WHEREAS the Council of the Corporation of the Township of Pelham is authorized by Chapter 249 of The Municipal Act, R.S.O. 1960 to exercise such powers.

NOW THEREFORE the Council of the Corporation of the Township of Pelham enacts as follows:-

1.1 For the purposes of this By-law, the following definitions and interpretations shall apply:

1.2 HOLIDAY: shall mean a holiday as defined by the Interpretations Act, R.S.O. 1960, save and except Easter Monday and Remembrance Day which for the purposes of this By-law shall not be considered as holidays.

1.3 PIT: Shall mean any depression or cavity in the natural level of the ground made other than by natural causes by the removal of top soil or sub-soil or both, and from which sand, gravel, stone or other similar material is, or is proposed to be removed for direct use on a road or for processing for road construction, road surfacing, building construction, concrete aggregates, or similar uses.

1.4 QUARRY: is defined as in paragraph 1.3 above but the definition of pit or quarry shall not include any depression or cavity made in the course of building construction or a farm pond or swimming pool.

1.5 STREET OR ROAD: shall mean a public highway as defined by the "Municipal Act".

1.6 PERSON: shall mean an individual, or individuals, a partnership, a corporation, a municipality, or other group or body.

2.1 No person shall operate a pit or quarry within the Township of Pelham except in compliance with the provisions of this By-law.

2.2 Nothing in this By-law is intended to make lawful any operation which would otherwise be unlawful by reason of its constituting the use of any land, buildings or structures for purposes prohibited by a Zoning By-law or any other By-law of the Township of Pelham or by The Mining Act or for any other reason.

2.3 Persons operating pits or quarries shall deposit a plan of survey with the Council of the Township of Pelham within 90 days from the date of the passing of this By-law showing:-

- (a) areas owned or under lease and held for present or future pit or quarry operations,
- (b) the true shape, dimensions and location of any pit or quarry operations being carried out at the time of depositing the plan with the said Council, as certified by an Ontario Land Surveyor.
- (c) the location, height, dimensions and use of all buildings or structures on the property,
- (d) the existing and proposed grades, contours and excavation setbacks,
- (e) the drainage provisions,
- (f) all entrances and exits.

2.4 No person shall operate a pit or quarry or operate or permit the operation of a rock crusher, a rock or gravel grader therein or in relation thereto or use any explosives:

2.4.1 on each twenty-four (24) hour period of any public holiday, and

2.4.2 between the hours of ten o'clock in the afternoon and seven o'clock in the morning of the next succeeding day on any day which is not a public holiday.

2.5 Notwithstanding anything else in this By-law, a pit or quarry shall be permitted to operate at any hour on any day if the Council of the Township of Pelham is satisfied and certifies, in writing, that such operation is necessary by reason of climatic condition, demand, accident or other disaster which in the interest of the public requires the operation of the pit or quarry.

2.6 Every owner or occupant of a pit or quarry shall at regular intervals cause all roads in the pit or quarry and all roads within three hundred (300) feet of the property boundary which are in regular use as a result of the operation of the pit or quarry to be treated with oil, calcium chloride or other dust-controlling substance as often as is necessary to control dust, or whenever requested by the Council of the Township of Pelham.

2.7 Subject to the provisions of The Mining Act, no excavation shall be made closer than fifty (50) feet from the boundary of the property line of any pit or quarry (without the written consent of the Council of the Township of Pelham or the adjacent owner.)

2.8 Notwithstanding anything else in this By-law, no excavation shall be made within two hundred (200) feet of any public street or highway unless with the consent in writing of the Council.

2.9 Every owner or occupant of a pit or quarry shall plant trees of a species which will attain a normal height of at least thirty-five (35) feet on all lands on the property of the pit or quarry within fifty (50) feet of the limit of any public street or highway, save and except on roads within the pit or quarry property. Such lands shall be planted with a minimum of fifty (50) trees to each acre of land.

2.10 No buildings shall be located and no equipment shall be located, save and except that used for administration and/or storage purposes for the operation of the pit or quarry within:

2.10.0 fifty (50) feet of the boundary of the property of the pit or quarry, or

2.10.2 two hundred (200) feet of a public street or highway, whichever is the greater.

2.11 Every owner or occupant of a pit or quarry shall erect and maintain on the surface of the lands that surround the pit or quarry, a farm type mesh fence of at least five (5) feet in height sufficient to enclose the pit or quarry save and except for one entrance and one exit each of a width of twenty-five (25) feet or less.

2.12 Every owner or occupant of a pit or quarry shall locate each and every entrance and exit to the pit or quarry so that on a public street or highway there is clear vision of such entrance and exit for a distance of not less than five hundred (500) feet.

2.13 Each owner or occupant of a pit or quarry shall erect at intervals of at least five hundred (500) feet as well as at every entrance and exit, signs warning the public of the operation of the pit or quarry. The signs erected at the entrance and exit shall have a minimum dimension of three (3) feet by three (3) feet, while all other signs shall have a minimum dimension of twelve (12) inches by eighteen (18) inches.

2.14 All signs required by this By-law shall:

2.14.1 be visible from every point of access to the pit or quarry, and

2.14.2 be approved by the Council of the Township of Pelham or its agent duly authorized thereunto.

2.15 All equipment located and operated within the pit or quarry shall be properly fitted with sound muffling equipment, where applicable, to prevent any nuisance due to noise.

2.16 Every owner or occupant of a pit or quarry shall store within the boundary of the property all top soil removed from the surface of the land in which the pit or quarry is made.

3.1 Every owner or occupant of a pit or quarry which has not been in operation for a period of twelve (12) consecutive months or a portion of a pit or quarry which has not been excavated for a period of twelve (12) consecutive months, shall:

3.1.1 Remove from the pit or quarry and the land surrounding the rim, or from that portion of the pit or quarry not being excavated, all buildings, structures and equipment used exclusively in such operations save and except fences.

3.1.2 Grade the floor so that it has a gradient of less than one (1) foot vertical in one hundred (100) feet horizontal, and all protruding rocks or boulders are covered.

3.1.3 Grade the sides so that the angle of the sides measured in a straight line from the point of intersection of the side and the floor to the rim shall not exceed a gradient of one (1) foot vertically and two (2) feet horizontally.

3.1.4 Replace on the excavated areas top soil in sufficient quantity and depth to raise and maintain a healthy growth of plants adequate to bind the soil.

3.1.5 Plant the slope of the excavation where not otherwise planted with a minimum of thirty (30) trees to the acre.

3.2 Every owner and/or every occupant of lands on which any pit or quarry or any part thereof which is existing at the time of the passing of this By-law and which has not been in operation for a period of twelve (12) consecutive months and which is located within three hundred (300) feet of a public street or road shall level and grade the floor and sides thereof and shall level and grade the area within three hundred (300) feet of their edge or rim so that they will not be dangerous or unsightly to the public.

4.1 The approval and consent of the Municipal Corporation and of the Ontario Municipal Board are required to amend or repeal any of the provisions of By-law No. 1589, entitled "A By-law to prohibit the making of or establishment of Gravel Pits and Stone Quarries within the Township of Pelham."

4.2 Permission to develop or extend land for pits and quarries shall only be given on conditions which include and assure, as far as possible, that the development in question will not, in the end result, cause unacceptable deterioration of scenic properties in the area nor adversely affect values of neighbouring properties.

The minimum requirements to be met by all persons applying for Council's consideration, approval, and consent to any amendment to By-law No. 1589, for submission to the Ontario Municipal Board are as follows:

- (a) Each application for approval of a proposed amendment shall be made in writing and the applicant shall file with the application four copies of a description and plan prepared and certified by an Ontario Land Surveyor showing the ownership and extent of the lands that are the subject of the application.
- (b) All information required in Section 2.3 of this By-law if it has not been deposited with the Clerk of the Township within a period of ninety days prior to the date of the application.
- (c) A draft agreement incorporating, by reference to the provisions of this By-law, the terms, conditions, guarantees and security, the applicant is prepared to offer and enter into to assure, as far as possible, a minimum inconvenience and hazard to affected ratepayers and residents of the Municipality and to the maximum rehabilitation and restoration of the property.
- (d) The applicant shall be responsible for all costs of the Municipality, in connection with the application, including survey, engineering and legal, planning consultants fees, registrations and any and all costs incurred by the Municipality in any application to the Ontario Municipal Board for an amendment to By-law No. 1589.


The sum of \$1,000.00 shall be deposited with the Municipal Clerk with each application and the Municipality shall be reimbursed for all additional expense incurred by it within 10 days of demand.
- (e) The Council reserves the right to impose such further and other requirements and conditions in the agreement hereinbefore mentioned as the particular circumstances of each application may indicate.

5.1 This By-law shall be administered by the Council of the Township of Pelham.

5.2 If any provision of this By-law is for any reason held to be invalid, it is hereby declared to be the intention that all remaining provisions shall remain in full force and effect until repealed, notwithstanding that one or more provisions shall have been declared to be invalid.

5.3 Every person convicted of a breach of the provisions of this By-law shall forfeit and pay at the discretion of the convicting magistrate a sum not exceeding \$300.00 for each such offense exclusive of costs, recoverable under the Summary Convictions Act, or may be imprisoned for a term not exceeding twenty-one (21) days.

READ A FIRST AND SECOND TIME THIS 3rd DAY OF DECEMBER, 1968.



REEVE



CLERK

READ A THIRD TIME THIS 3RD DAY OF DECEMBER, 1968.



REEVE



CLERK