

1980

## c 504 Topsoil Preservation Act

Ontario

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CHAPTER 504

Topsoil Preservation Act

1. In this Act,

Interpre-  
tation

- (a) "lot" means a parcel of land, described in a deed or other document legally capable of conveying land, or shown as a lot or block on a registered plan of subdivision;
- (b) "topsoil" means that horizon in a soil profile, known as the "A" horizon, containing organic material. 1977, c. 49, s. 1.

2.—(1) Subject to subsections (2) and (3), by-laws may be passed by the councils of municipalities,

By-laws  
regulating  
or  
prohibiting  
removal of  
topsoil

- (a) regulating or prohibiting the removal of topsoil in the municipality or in any area or areas thereof defined in the by-law;
- (b) providing for the issuing and renewing of permits for the removal of topsoil;
- (c) providing for the refusal to issue, refusal to renew and revocation of permits on such grounds as are prescribed in the by-law;
- (d) prohibiting any person from removing topsoil within the area or areas to which the by-law applies without a permit therefor;
- (e) requiring the rehabilitation of lands from which the topsoil has been removed;
- (f) prescribing standards of rehabilitation to be met for the purposes of clause (e);
- (g) prescribing rehabilitation procedures to be followed for the purposes of clause (e); and
- (h) exempting any land or any person or class of persons from any or all of the provisions of a by-law passed pursuant to this subsection.

Application

(2) A by-law passed under subsection (1) does not apply to,

(a) the removal of topsoil as an incidental part of a normal agricultural practice including such removal as an incidental part of sod-farming, greenhouse operations and nurseries for horticultural products;

R.S.O. 1980,  
cc. 126, 500

(b) the removal of topsoil as an incidental part of drain construction under the *Drainage Act* or the *Tile Drainage Act*;

R.S.O. 1980,  
c. 378

(c) the removal of topsoil as an incidental part of operations authorized under the *Pits and Quarries Control Act*;

R.S.O. 1980,  
c. 268

(d) the removal of topsoil as an incidental part of operations authorized under the *Mining Act*;

(e) the removal of topsoil by a Crown agency or Ontario Hydro;

(f) in the case of a by-law passed by a local municipality, the removal of topsoil by a county or regional municipality;

R.S.O. 1980,  
c. 332

(g) the removal of topsoil as an incidental part of any construction for which leave to construct has been granted pursuant to the *Ontario Energy Board Act*;

(h) the removal of topsoil as an incidental part of the construction of any form of underground services where the topsoil is removed and held for subsequent replacement;

(i) the removal of topsoil where the quantity of topsoil removed in any one lot does not, in any consecutive three-month period, exceed five cubic metres; and

(j) the removal of topsoil as an incidental part of the construction of a public highway.

Idem

(3) A by-law passed under subsection (1) does not apply to the extent that,

R.S.O. 1980,  
c. 379

(a) it is inconsistent with the terms of any approval or agreement under the *Planning Act*; or

(b) it would prevent the construction of any building, structure, driveway, loading or parking facilities permitted or required on a lot pursuant to,

- (i) a by-law passed by a municipality pursuant to section 39 of the *Planning Act*, R.S.O. 1980,  
c. 379
  - (ii) an order made by the Minister of Housing pursuant to section 35 of the *Planning Act*,
  - (iii) a land use regulation made by the Minister of Housing pursuant to section 4 of the *Parkway Belt Planning and Development Act*, or R.S.O. 1980,  
c. 368
  - (iv) a development permit issued by the Minister of Housing pursuant to the *Niagara Escarpment Planning and Development Act* or an exemption granted pursuant to clause 23 (c) of the said Act. 1977, c. 49, s. 2; O. Reg. 407/79. R.S.O. 1980,  
c. 316
- 3.** Part XIX of the *Municipal Act* applies with necessary Enforcement  
modifications to by-laws passed under this Act. 1977, c. 49, s. 3. R.S.O. 1980,  
c. 302

