

City of Kingston

Ontario

By-Law Number 2016-XXX

Site Alteration By-Law

Passed:

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By-Law Number 2016-XXXX

A By-Law to Prohibit or Regulate the Placing or Dumping of Fill, the Removal of Topsoil, and the Alteration of the Grade of the Land Within the City of Kingston.

Passed:

Whereas Section 142 of the *Municipal Act, 2001*, ~~S.O.~~SO 2001, c. 25, as amended, authorizes ~~that~~ the Council of a local municipality mayto pass a by-law prohibiting or regulating the placing or dumping of fill, the removal of topsoil, and the alteration of the grade of the land ~~in any defined area or on any class of land~~within the City of Kingston;

~~AND WHEREAS~~**And Whereas** Section 425 of the *Municipal Act, 2001* authorizes the council of every municipality to pass by-laws providing that a person who contravenes a by-law of the municipality passed under the Act is guilty of an offence;

And Whereas Section 429 of the *Municipal Act, 2001* authorizes the council of every municipality to establish a system of fines for offences under a by-law of the municipality passed under the Act;

And Whereas Council may also require that a permit be obtained for the placing or dumping of fill, the removal of topsoil, and the alteration of the grade of the land within the City of Kingston, and may prescribe the fees for ~~the~~a permit, the circumstances under which a permit may be issued, and the conditions to such a permit;

~~AND WHEREAS~~ Council deems it in the public interest to enact a by-law for prohibiting or regulating the placing or dumping of fill, the removal of topsoil, and the alteration of the grade of the land in order to ensure that:

- ~~(a) Existing drainage patterns are maintained;~~
- ~~(b) Interference and damage to watercourses or waterbodies is limited;~~
- ~~(c) Water quality is maintained;~~
- ~~(d) Erosion and sedimentation are prevented;~~
- ~~(e) Changes to drainage or grade are appropriate to protect natural heritage features and areas and archaeological resources;~~
- ~~(f) The use of hazardous or improper fill is prevented; and,~~
- ~~(g) Unanticipated drainage and site alteration changes are prevented.~~

~~AND WHEREAS~~**And Whereas** it is in the interest of the community to protect significant cultural and natural heritage features and areas from unnecessary alteration or destruction ~~until such time as a final determination has been made on the need for long-term protection~~;

~~NOW THEREFORE~~**Now Therefore** the Council of ~~the~~**The** Corporation of the City of Kingston hereby enacts as follows:

DEFINITIONS

1.- In this By-Law, the following definitions apply:

- (1) “Adjacent Lands” means those lands contiguous to a specific natural heritage feature or area or archaeological resource where it is likely that development or site alteration would have a negative impact on the feature, area, or resource.

- (2) “Agricultural Operation” means the conduct of Agriculture as a business activity that is carried out with the expectation of gain or reward, and includes the production of maple syrup, honey, eggs, milk or cream, and the operation of machinery and equipment, and may include a hobby farm.
- (3) “Agriculture” means the science, art, or practice of preparing and cultivating the soil; growing field crops, greenhouse crops, mushrooms, nursery stock, and turf grass; and growing, producing or raising livestock, poultry, ratites, fur-bearing animals, cultured fish, deer and elk, game animals and birds, and honey bees.
- (4) “Alter” means changing to change the grade of the land either through the depositing of fill or the excavation of land, or a combination thereof, and “altering” has a corresponding meaning.
- (5) “Applicant” means the person who submits an application to the ~~Corporation of the City of Kingston~~ for a Site Alteration Permit pursuant to the provisions of this By-Law.
- (6) “Archaeological Resources” include artifacts, archaeological sites, and marine archaeological sites. -The identification and evaluation of such resources are based upon archaeological fieldwork undertaken in accordance with the *Ontario Heritage Act*, RSO 1990, c 0.18.
- (7) “City” means ~~the~~The Corporation of the City of Kingston ~~and Utilities Kingston.~~
- (8) “Control Plan” means a drawing~~(s)~~ or drawings and supporting report detailing the existing conditions, the proposed work, the proposed grades, elevations and drainage pattern, the proposed erosion and sedimentation control, and the environmental protection measures for a property.
- (9) “Designate” means a person who is an employee of the ~~Corporation of the City of Kingston~~City and who has been appointed by the Director to administer all or part of this By-Law on behalf of the Director.
- (10) “Development” means the creation of a new lot, change in land use or the construction of buildings and structures, requiring approval under the Planning Act, RSO 1990, c P.13, but does not include:
- (a) activities that create or maintain infrastructure authorized under an environmental assessment process;

(b) works subject to the *Drainage Act*, RSO 1990, c D.17;

(c) underground or surface mining of minerals or advanced exploration of mining lands in significant areas of mineral potential where advanced exploration has the same meaning under the *Mining Act*, RSO 1990, c M.14.

~~(10)~~(11) “Director” means the Director of ~~Engineering~~Engineering for the City of ~~Kingston~~, or his/her Designate, who is responsible for the administration and interpretation of ~~the~~this By-Law.

~~(11)~~(12) “Drainage” means the movement of water across a property, whether by way of the natural characteristics of the ground surface or by an artificial method.

~~(12)~~(13) “Dump” means depositing fill by any means, and includes the movement and depositing of fill from one location on a property to another location on the same property, and “dumping” and “dumped” have a corresponding meaning.

(14) “Ecological Function” means the natural processes, products or services that living and non-living environments provide or perform within or between species, ecosystems and landscapes. These may include biological, physical and socio-economic interactions.

(15) “Environmental Impact Assessment” means an analysis performed by a Qualified Person which assesses the impact of a proposed development on natural heritage features and areas, and their ecological function and makes recommendations for measures to ensure that the proposed development has no negative impacts.

(16) “Environmental Protection Areas” means areas of natural and scientific interest (ANSIs), fish habitat or significant wildlife habitat areas, provincially significant wetlands, coastal wetlands and locally significant wetlands and their immediately related water bodies and shown on the Official Plan.

(17) “Farm” means a tract of land devoted to an Agricultural Operation.

~~(13)~~(18) “Fill” means any type of material deposited or placed on lands and includes, but is not limited to, soil, stone, concrete, asphalt, rubbish, garbage, turf, dirt, earth, aggregate, and binder either singly or in

combination, whether originating on the site or elsewhere, used or capable of being used to raise, lower, or in any other way affect or alter the contours of ground.

~~(14)~~(19) _____ “Floodplain” means the area, usually low lands adjoining a watercourse or ~~waterbody~~water body, which has been or may be subject to the 1:100 year flood hazard.

~~(15)~~(20) _____ “Grade” means the elevation of the ground surface, and shall be more particularly defined as follows:

~~(i)~~(a) “Existing Grade” means the elevation of the existing ground surface of the land ~~as of the date that this By-Law is passed~~prior to any site alteration, including abutting ground surface up to three (3) metres wide surrounding such lands;

~~(ii)~~(b) “Finished Grade” means the approved elevation of ground surface of land upon which fill has been placed or dumped, topsoil removed, or the grade altered in accordance with this By-Law; and,

~~(iii)~~(c) “Proposed Grade” means the proposed elevation of ground surface of land upon which fill is proposed to be placed or dumped, topsoil removed, or grade altered.

~~(16)~~(21) _____ “Natural Heritage Features and Areas” ~~include~~means features and areas, including significant wetlands, significant coastal wetlands, other coastal wetlands, fish habitat, waters supporting aquatic species at risk, significant woodlands, significant valleylands, significant habitat of endangered species and threatened species, significant wildlife habitat, and significant areas of natural and scientific interest, which are important for their environmental and social values as a legacy of the natural landscapes of an area.

~~(22)~~ _____ “Negative Impacts” means that in regard to natural heritage features and areas, degradations that threaten the health and integrity of the natural features or ecological functions for which an area is identified due to single, multiple or successive development or site alteration activities.

~~(17)~~(23) _____ “Normal Farm Practice” means ~~any activity undertaken in accordance with a practice, as defined in~~ the *Farming and Food Production Protection Act* ~~that is part of an Agricultural Operation, and,~~ 1998, SO 1998, c.1, as amended, that is conducted in a manner consistent with proper and

~~accepted~~acceptable customs and standards as established and followed by similar ~~Agricultural Operations~~agricultural operations under similar circumstances, ~~and may make;~~ or makes use of innovative technology in a manner consistent with proper advanced farm management ~~techniques~~practices.

~~(18)~~(24) _____ “Officer” means an individual appointed by the ~~Corporation of the City of Kingston~~City to enforce the provisions of this By-Law, and includes a municipal by-law enforcement officer.

~~(25)~~ _____ “Official Plan” means the document in which the City sets out its land use planning goals and policies that guide: physical development and redevelopment, protection of natural and cultural heritage, resource management, and the necessary supporting infrastructure.

~~(19)~~(26) _____ “Owner” means the person(s) or corporation(s) registered on the title of the land in the Land Registry Office ~~or Land Titles Office~~.

~~(20)~~(27) _____ “Permit Holder” means the Owner or the person in possession of the property, and includes a lessee, a mortgagee in possession, or a person in charge of the property, to whom a valid Site Alteration Permit has been issued.

~~(21)~~(28) _____ “Place” or “Placing” means the distribution of fill on lands to establish a Finished Grade higher or lower than the Existing Grade.

~~(22)~~(29) _____ “Ponding” means the accumulation of surface water caused by the placing or dumping of fill, the removal of topsoil, or the alteration of the grade of the land.

~~(30)~~ _____ “Qualified Person” means an individual with current knowledge in the field of biology, ecology or other specialty as required by the specific circumstances.

~~(23)~~(31) _____ “Removal” means the excavation or extraction of any fill that lowers the Existing Grade, and includes soil stripping.

~~(24)~~(32) _____ “Retaining Wall” means a wall that is designed and used to contain and support fill between ~~adjacent~~adjoining lands of different elevations.

~~(25)~~(33) _____ “Rural Area” means the area defined as Rural in the applicable Official Plan.

~~(26)~~(34) “Site Alteration” means activities, such as the placing or dumping, grading, excavation and the placement of fill, the removal of topsoil or that would change the alteration, landform and natural vegetative characteristics of the grade of land or any combination thereof; site.

~~(27)~~(35) “Site Alteration Permit” means the written authorization from the Director to perform work regulated by this By-Law.

~~(28)~~(36) “Soil” means any material commonly known as earth, topsoil, soil, loam, subsoil, clay, sand, or gravel.

~~(29)~~(37) “Swale” means a depression in the ground sloped for the purpose of providing drainage of surface water.

~~(30)~~(38) “Topsoil” means those horizons in a soil profile, commonly known as the “O” and the “A” horizons, containing organic material, and including deposits of partially decomposed organic matter such as peat.

~~(39)~~ “Urban Area” means the area Woodlands” mean trees defined in the Forestry Act that are more than one hectare in area. This includes both Contributory and Significant Woodlands.

~~(a)~~ “Contributory Woodlands” means woodlands as ~~Urban~~defined in the applicable Official Plan.

~~(31)~~(b) “Significant Woodlands” means woodlands as defined in the Official Plan.

APPLICATION OF THE BY-LAW

- 2.- (1) This By-Law applies to all lands within the geographic limits of the City of Kingston, other than ~~that portion of any property that is~~those areas which are subject to regulations made under Section 28 of the *Conservation Authorities Act*, R.S.O. RSO 1990, c- C.27, ~~as amended.~~

GENERAL PROHIBITIONS

3. (1) No person shall place or dump fill, remove topsoil, or alter the grade of the land in the City ~~without having first obtained a Site Alteration Permit in accordance with this By-Law.~~of Kingston unless:

(a) exempted by Section 4 of this By-Law; or

- (b) in possession of a Site Alteration Permit issued by the Director in accordance with this By-Law and in accordance with its terms and conditions.
- (2) No person shall ~~place or dump~~ contravene the terms or conditions of a Site Alteration Permit issued under this By-Law.

EXEMPTIONS

4. Despite Section 3, this By-Law does not apply to:

- (1) activities or matters undertaken by a municipality or a local board of a municipality;
- (2) the placing or dumping of fill, ~~remove~~removal of topsoil, or alteralteration of the grade of the land in contravention of a Site Alteration Permit as a condition to the approval of a site plan, a plan of subdivision or a consent under Sections 41, 51 or 53, respectively, of the *Planning Act* or as a requirement of a site plan agreement or subdivision agreement entered into under those sections;

SPECIFIC EXEMPTIONS

~~4. Notwithstanding Section 3, a person may undertake Site Alteration without applying for a Site Alteration Permit provided that the Site Alteration is undertaken:~~

- (3) (a) the placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken by a transmitter or distributor, as those terms are defined in Section 2 of the *Electricity Act, 1998*, SO 1998, c.15, Schedule A, for the purpose of constructing and maintaining a transmission system or a distribution system, as those terms are defined in that section;
- (4) the placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken on land described in a license for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the *Aggregate Resources Act*, RSO 1990, c A.8;
- (5) the placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken on land in order to lawfully establish and operate or enlarge any pit or quarry on land,
- (a) that has not been designated under the *Aggregate Resources Act* or a predecessor of that Act, and

- (b) on which a pit or quarry is a permitted land use under a by-law passed under Section 34 of the *Planning Act*,
- (6) the placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken as an incidental part of drain construction under the *Drainage Act* or the *Tile Drainage Act*, RSO 1990, c T.8;
- (7) the placing or dumping of fill, removal of topsoil or alteration of the grade of land on lots ~~equal to or~~ less than or equal to one (1.0) hectare in size, with the exception of vacant lots ~~and~~, lands designated as ~~, or adjacent to~~, Environmental Protection ~~Areas~~Area or Open Space in the ~~applicable~~ Official Plan, and Adjacent Lands;
- (8) ~~(b)~~ the placing or dumping of fill, removal of topsoil or alteration of the grade of land for the installation of a swimming pool, provided a pool permit is obtained from the City;
- (9) ~~(c)~~ the placing or dumping of fill, removal of topsoil or alteration of the grade of land for the purpose of lawn dressing, landscaping, or adding to flower beds or vegetable gardens and provided that:
- (i)(a) No soil in excess of thirty (30) centimeters (12 inches) in depth is placed on the lands;
 - (ii)(b) The elevation of the land within sixty (60) centimeters (24 inches) of any property line is not changed; and,
 - (iii)(c) There is no change in the location, direction, or elevation of any natural or artificial watercourse, waterbody, open channel, swale, or ditch used to drain land;
- (10) ~~(d)~~ the placing or dumping of fill, removal of topsoil or alteration of the grade of land as part of a Normal Farm Practice, including, but not limited to, sod-farming, greenhouse operations, nurseries, and Agricultural Operations, but not including the removal of topsoil for sale, exchange, or other disposition;
- (11) ~~(e)~~ the placing or dumping of fill, removal of topsoil or alteration of the grade of land as part of the excavation or restoration of the Existing Grade following the demolition or removal of a building or structure;

~~(12) (f) the placing or dumping of fill, removal of topsoil or alteration of the grade of land~~ pursuant to a building permit for the erection of a building or structure, and provided that the drawings that accompany the building permit application provide sufficient information for the Director to determine that the placing or dumping of fill, removal of topsoil, or alteration of the grade of the land conforms to the provisions of this By-Law;

~~(g) pursuant to a condition to the approval~~ placing or dumping of a site plan, a planfill, removal of subdivision, or a consent under Section 41, 51, topsoil or 53 respectively alteration of the Planning Act or as a requirement grade of a Site Plan Control Agreement or Subdivision Agreement entered into under those Sections;

~~(h) pursuant to a condition to a development permit authorized by a regulation made under Section 70.2 of the Planning Act, or as a requirement of an agreement entered into under that regulation;~~

~~(13) (i) by the City,~~ land by the Cataraqui Region Conservation Authority, a ~~local municipal board,~~ a utility provider, or a Ministry of the Provincial or Federal Government; or;

~~(j) as part of a Cut Permit issued by the City; or,~~

~~(k)~~ (14) for the purpose of placing or dumping of fill on a property in the Rural Area for landscaping, provided the property is not designated as Environmental Protection Area or Open Space in the ~~applicable~~ Official Plan, and that the final grade has a maximum slope of 3:1.

STATUTORY LIMITATIONS

PLANNING & DEVELOPMENT PROCESS

~~5. Notwithstanding Section 3, a person may undertake Site Alteration without applying for a Site Alteration Permit provided that the Site Alteration is undertaken:~~

~~(1) as part of any activity conducted under Provincial or Federal legislation;~~

~~(2) by a transmitter or distributor for the purpose of constructing and maintaining a transmission system or a distribution system, as defined in the Electricity Act, 1998, as amended;~~

~~(3) on land described in a license for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the Aggregate Resources Act;~~

~~(4) on land in order to lawfully establish and operate or enlarge any pit or quarry on land:~~

~~(a) that has not been designated under the Aggregate Resources Act or a predecessor of that Act; and,~~

~~(b) on which a pit or quarry is a permitted land use under a By-Law passed under Section 34 of the Planning Act;~~

~~(5) as part of drain construction under the Drainage Act or the Tile Drainage Act;~~

~~(6) as part of the use, operation, establishment, alteration, enlargement, or extension of a waste management system or waste disposal site within the meaning of Part V of the Environmental Protection Act, R.S.O. 1990, c. E19, as amended, or a private waste disposal site or waste management system that is exempted by regulations for that Part; or,~~

~~(7) as part of the construction, extension, alteration, maintenance, or operation of works under Section 26 of the Public Transportation and Highway Improvement Act, R.S.O. 1990, c. P.50, as amended.~~

5. An Owner who has made an application for the approval of a site plan, a plan of subdivision or a consent under Sections 41, 51 or 53, respectively, of the Planning Act, may, prior to approval, make an application for a Site Alteration Permit, subject to:

Provision of financial securities in accordance with Section 8 **PLANNING & DEVELOPMENT PROCESS**

~~(a) 6. (1) The provisions of this Site Alteration By-Law; and~~

~~(b) Such other terms and conditions as amended from time to time, shall form part of the development approval process governed determined by the Planning Act Director.~~

~~(2) An application for a Site Alteration Permit may be processed concurrently with an application submitted pursuant to the Planning Act and may form part of the technical information requested in order to consider the Planning Application complete.~~

~~(3) Where there is a development application involving a Planning Approval, there shall be no Site Alteration as a result of any site preparation until the issuance of a Site Alteration Permit and/or the receipt of the final approval of the applicable Planning Applications.~~

APPLICATION FOR A SITE ALTERATION PERMIT

7 SITE ALTERATION PERMITS

Permit Application Process

6. (1) AnyEvery person intendingthat intends to undertake any Site Alteration within the limits of the City of Kingston, either through their own actions or through any other person, shall apply for and obtain a Site Alteration Permit in accordance with the provisions of this By-Law, unless otherwise exempted by Sections 4 or 5, prior to

~~undertaking any Site Alteration, personally or through another person or corporation shall:~~

~~(a) (2) An Applicant Complete and submit an application for a Site Alteration Permit ~~shall submit~~ in the following form prescribed by the City from time to time to the Director;~~

~~(a) A completed application that includes:~~

~~(i) The names and addresses of the Owner of the land(s) upon which the fill is to be dumped or placed, topsoil removed, or grade altered, proposed Permit Holder and Applicant (if different), contractor, and consulting engineer (if applicable);~~

~~(b) The municipal address and legal Pay the required fee, as set out in the City's Fees and Charges By-Law in place at the time of application;~~

~~(ii) Provide a description of the land upon which the fill is to be dumped or placed, topsoil removed, or grade altered;~~

~~(iii)(c) A schedule for the proposed works, including the start and end dates and the construction period;~~

~~(iv) A description of the proposed works;~~

~~(v) Provide a description of the fill and source of the fill, where applicable;~~

~~(vi)(d) Identification and the identification of any watercourse, waterbody water body, shoreline, fill or flood regulated area wetland and/or floodplain as determined after pre-consultation with the Cataraqui Region Conservation Authority;~~

~~(vii)(e) Confirmation Provide confirmation of the requirement to conduct an Environmental Impact Statement Assessment as determined after pre-consultation with the Cataraqui Region Conservation Authority and the Director ~~of the Planning & Development Department, or his/her designate;~~~~

~~(viii)(f) Confirmation Provide confirmation of the requirement to conduct a Stage 1 Archaeological Report as determined after pre-consultation with the Heritage Planner, or his/her designate;~~

~~(ix)(g) Confirmation Provide confirmation of existing Official Plan designations, zoning, and the status of any planning applications on the property as determined after pre-consultation with the Director of Planning, Building and Development Licensing Services or his/her designate; ~~and,~~~~

~~(vi) All required signatures as per Subsection (i) above.~~

~~(b) Every Site Alteration Permit application shall be accompanied by the prescribed fee, payable in accordance with Schedule 'A' of this By-Law, as it may be amended from time to time.~~

~~(e)(h)~~ **Submit a** Control Plan including drawings and a supporting report to the satisfaction of the Director, and containing any information the Director deems necessary. -At a minimum, the Control Plan shall contain the following information ~~shall be~~ provided on a drawing to a scale acceptable to the Director:

~~(i)~~ i. Property boundaries and easements, **area and size of the site to be disturbed**;

~~(ii)~~ ii. Drainage routes and slopes;

~~(iii)~~ iii. Location of waterbodies or watercourses on, or within thirty (30) metres of, the property;

iv. Location of shorelines, wetlands and floodplains, cultural heritage and natural heritage features and areas;

~~(iv)~~ v. Existing buildings, roads, **highways**, utilities, **structures, paving, sidewalks, walkways, catch basins** and vegetation;

~~(v)~~ vi. **Areas** Location and dimension of all areas to be filled or altered, with Existing and Proposed Grades; ~~and,~~

vii. ~~Proposed erosion~~ Location and ~~sediment~~ dimensions of all proposed temporary stock piles for soil and other materials;

viii. Location and dimensions for all proposed staging areas for equipment;

~~(vi)~~ ix. Provision for the maintenance of construction site control and environmental protection measures. **during construction including a mud tracking prevention program which describes the procedures for mud tracking prevention and road clean up and designates a contact person for such a program throughout each land development activity; and,**

REQUIREMENTS FOR PERMIT ISSUANCE

x. Location, dimensions, design details and design calculations of all construction site control measures necessary to meet the requirements of this By-Law, including details of the proposed sediment and erosion control measures, and details of any drainage system to be used upon the completion of the Site Alteration.

(2) If the Site Alteration works will necessitate the injury or removal of trees, an application for a Tree Permit and supporting documents in accordance with the City's Tree By-Law may be required.

8. 7. (1)- All Applicants shall ~~pre-consult~~conduct meaningful consultation with regards to site alteration proposals with the City and the Cataraqui Region Conservation Authority prior to applying for a Site Alteration Permit.

(2) Prior to the issuance of a Site Alteration Permit, ~~where a security deposit does not exist under a separate agreement for the subject property,~~ the Applicant or Owner shall provide a security deposit in accordance with the following:

(a)- Where the value of the works are ~~valued~~estimated to be in excess of Fifty Thousand Dollars (\$50,000.00), a security deposit in the form of cash, certified cheque, or irrevocable ~~bank~~ letter of credit in an amount approved by the Director shall be deposited with the City. ~~The security deposit may be drawn upon by the City, at its sole discretion, to remedy any deficiency in any work.~~ Upon written application by the Applicant/Owner, and upon the satisfaction of the Director that all conditions and requirements of the Site Alteration Permit have been fulfilled, the City will return ~~said~~the security deposit or the remaining amount of any reduced security deposit.

(b) The amount of the security deposit:

i. —(i) — Shall be valued at ten percent (10% of%) of the estimated value of the works, up to the first Two Hundred Thousand Dollars (\$200,000.00) estimated cost of the works and one percent (1%%) of any additional amount in excess of Two Hundred Thousand Dollars (\$200,000.00); and,

ii. —(ii) — May be reduced, at the discretion of the Director, by an amount equal to the value of any work completed to the date of the reduction request, provided that the value of work

completed is certified by a Professional Engineer, or other qualified professional.

~~(3)~~ ~~(3)~~ The Director may require the Applicant to undertake the following as part of the application for a Site Alteration Permit:

~~(a)~~ ~~Prepare and submit~~ If an Environmental Impact Statement (EIS), which Assessment (EIA) is required, it shall be prepared by a professional qualified in the relevant environmental field of study and conform Qualified Person, to the following requirements:

~~(i)~~ ~~The EIS shall be acceptable to the Director and other authorities having jurisdiction;~~

~~(ii)~~ ~~The EIS~~ Director's satisfaction, and shall include, ~~but is not limited to, the~~ following:

~~(a)~~ A description of the proposal and rationale for undertaking the site alteration works;

~~(b)~~ A survey illustrating the legal boundaries of the property, easements, rights-of-way or other encumbrances;

~~(1)(c)~~ An outline of the location, the size of the property, and the amount of fill to be placed or dumped, topsoil to be removed, or grade to be altered;

~~(2)(d)~~ A ~~An inventory and~~ description of the type of ~~feature(s)~~ the key features present and their significance, including a reference to all ~~natural heritage features~~ Natural Heritage Features and Areas and ecological functions;

~~(3)(e)~~ A discussion and evaluation of the compatibility of the proposed placement or dumping of fill, removal of topsoil, or alteration of the grade of the land with the existing ~~natural heritage features~~ Natural Heritage Features and Areas and ecological functions;

~~(4)(f)~~ The identification of any portion of the property where placing or dumping fill, removing topsoil, or altering the grade of the land should be precluded, and an outline of the need for and type of mitigation required to protect identified ~~natural heritage features~~ Natural Heritage Features and ~~areas~~ Areas and ecological functions; and,

~~(5)~~ ~~The impact that~~ A professional conclusion as to whether the site alteration would have on any adjacent lands.

~~(g) (iii) —~~ The EIS shall demonstrate that there will be no negative proposal is acceptable, considering potential impacts on the natural heritage features or area, its adjacent lands, or on their ecological and areas, related functions and any proposed measures needed to protect the Natural Heritage Feature(s) or Area(s) affected, consistent with the Provincial Policy Statement and the Official Plan.

~~(4)~~ Where a property is identified as containing ~~archaeological resources~~ Archaeological Resources, or as being an area of archaeological potential, the Applicant or Owner shall be required to complete a Stage 1 Archaeological Assessment, as well as any subsequent assessments or recommendations as identified within the Stage 1 Archaeological Assessment.

~~(b)~~ These assessments shall be prepared by an archaeologist holding a license from the Province of Ontario, in accordance with all relevant legislation and policy, including, but not limited to, the *Ontario Heritage Act*, the Archaeological Assessment Technical Guidelines, Standards and Guidelines for Consulting Archaeologists, or any superseding document(s) published by the Province of Ontario.

~~(c)13. Enter into a Site Alteration Agreement that may be registered on title to the affected lands. A Site Alteration Agreement shall include, but not be limited to:~~

- ~~(i) Measures necessary to ensure that the placing or dumping of fill, the removal of topsoil, or the alteration of the grade of the land is undertaken in accordance with this By-Law, any approved control plan, and the supporting information provided thereto, and proper engineering principles;~~
- ~~(ii) Financial security requirements in accordance with Subsection 8(2) of this By-Law; and,~~
- ~~(iii) Requirements that a Professional Engineer, or other similarly qualified person, upon completion of the work, certify that that the Owner, Applicant, and/or proposed Permit Holder has complied with all of the obligations and conditions contained in the Site Alteration Permit.~~

~~(4)5~~ Where required, the Applicant shall submit a plan for a Retaining Wall.- The plan submitted shall include construction details and be accompanied by a building permit where required. -No Retaining Wall shall encroach, either above or below Existing Grade, upon abutting lands unless authorized in writing by the Owner of the abutting lands.

~~(e)(a)~~ The Director may require that a Retaining Wall be constructed where:

~~(i)~~i. Erosion of fill onto abutting lands may occur; or,

~~(ii)~~ii. The Finished Grade of the lands at the property line is higher or lower than that of the Existing Grade of the abutting lands.

~~(f)~~(b) ~~Provide~~The Applicant shall provide any other information, document, or plan that may be required by the Director to determine if the proposed work conforms to this By-Law and/or any applicable statute, regulation, or by-law.

~~(4)~~ In reviewing a Site Alteration Permit application 8.(1) When all the requirements have been provided, the Director shall ~~confer with such persons, staff, qualified professionals, and agencies as s/he considers necessary for the proper~~will review of the application, the determination of whether or not complete Site Permit Application and may:

(a) Issue a Site Alteration Permit;

(b) Issue a Site Alteration Permit ~~should be issued, and the identification of any with conditions thereto;~~ or,

ISSUANCE OF A SITE ALTERATION PERMIT

~~(c)~~ 9. ~~(1)~~ The Director may Refuse to issue a Site Alteration Permit where:

~~(a)~~ The Owner, Applicant, and/or proposed Permit Holder have fulfilled all the requirements pursuant to this By Law and have paid the fee prescribed in Schedule 'A';

~~(b)~~ The Owner, Applicant, and/or proposed Permit Holder have entered into the Site Alteration Agreement referred to in Subsection 8(3)(c) of this By Law, if required, and have performed all obligations that the Agreement requires to be performed prior to the issuance of a Site Alteration Permit;

~~(c)~~ The Director is satisfied that the proposed final elevations and resulting drainage pattern, the design and construction details of any Retaining Wall, the type of fill to be used, and the method of placing or dumping of fill, are in accordance with proper engineering practices;

~~(d)~~ The Director is satisfied, after consultation with the appropriate environmental authority, where applicable, that the placing or dumping of fill, the removal of topsoil, or the alteration of the grade of the land will not result in:

~~(i)~~ Soil erosion or negative impact on drainage;

~~(ii)~~ Blockage of a watercourse;

~~(iii)~~ Sedimentation in a watercourse or waterbody;

- ~~(iv) Pollution of a watercourse or waterbody;~~
 - ~~(v) Flooding or ponding caused by a watercourse or waterbody overflowing its banks; or,~~
 - ~~(vi) A detrimental effect on any environmentally sensitive natural heritage feature or area as defined in this By-Law; and,~~
 - ~~(e) Any proposed dumping of fill complies with all provisions of the applicable Zoning By-Law and is clearly accessory or secondary to the uses permitted on a property, such that the proposed dumping of fill will not become or constitute the primary use of the subject property.~~
- (2) Where the Director refuses to issue a Site Alteration Permit pursuant to this By-Law, the Director will inform the Applicant ~~shall be informed~~ in writing ~~of the refusal by the Director.~~ The Director may reconsider the application if additional information or documentation is submitted by the Applicant, within thirty (30) days of the notification of the decision to refuse.
- (3) ~~Where~~If an Owner, Applicant or Permit Holder ~~makes~~proposes to make a material change to a plan, specification, document, or other information related to the Site Alteration Permit following the issuance of a Site Alteration Permit, the Owner, Applicant or Permit Holder, as the case may be, shall first submit a revised application. The Director may require payment of up to one-half of the original Permit fee and submission of revised drawings or other information. ~~Any revised application submitted pursuant to this sub-section shall be deemed to be a new application, which shall be approved by the Director in accordance with this By-Law.~~

TERM OF A SITE ALTERATION PERMIT

10. Term of a Site Alteration Permit

9. (1) ~~Any~~ A Site Alteration Permit issued pursuant to this By-~~law~~Law shall be valid for a period of not more than two (2) years from the date the Permit was issued.
- ~~(2) An Applicant,~~ A Site Alteration Permit may be renewed for a period of up to two (2) additional years, upon written request from the Owner, ~~or Permit Holder shall apply to renew a~~ at least thirty (30) days prior to its expiry, provided that the Director is satisfied that there are reasonable grounds for the renewal.
- ~~(3) No~~ Site Alteration Permit shall be renewed where the ~~work authorized will not be complete prior to the expiration~~ Owner or Applicant is in breach of any of the provisions of this By-Law or the terms and conditions of the Site Alteration

~~Permit. A Site Alteration Permit may only be extended where an application to renew is filed at least 30 days prior to its expiry.~~

~~(4)~~ Every application to renew a Site Alteration Permit shall be accompanied by the applicable fee as set out in ~~this By-Law~~ the City's Fees and Charges By-Law in place at the time of application.

~~(3) No permit shall be renewed where the Permit Holder is in breach of any of the terms of this By-Law, the Site Alteration Permit, or the Site Alteration Agreement.~~

PERMIT CONDITIONS

~~11.~~ Permit Conditions

~~10. (1) All Site Alteration Permits shall contain the following~~ The Director may impose conditions:

~~The issuance of~~ on a Site Alteration Permit ~~by the Director does~~ that are reasonable which may include, but are not ~~relieve~~ restricted to:

~~(a)(b)~~ A requirement that the Owner, Applicant, and/or Permit Holder ~~from any responsibility to~~ obtain all other approvals that may be required by any level of government or authority having jurisdiction or agencies thereof.

~~(b) A Site Alteration Permit is not transferable to another property.~~

~~(c) The work shall be done at the request of, or with the consent of, the Owner of the lands where fill is to be placed or dumped, the topsoil removed, or the grade of the land altered.~~

~~(d)(c)~~ If the ownership of the lands for which a Site Alteration Permit has been issued is transferred while the Permit remains in effect, the Permit Holder shall advise the Director and the new Owner in writing prior to property transfer and the new Owner of the lands shall forthwith advise the Director that such a transfer has been completed and either:

~~(i)~~ i. Provide the City with an undertaking to comply with all the conditions under which the existing Site Alteration Permit was issued; or,

~~(ii)~~ ii. Apply for and obtain a new Site Alteration Permit in accordance with the provisions of this By-Law.

- ~~(e)~~(d) All fill to be dumped or placed shall be clean and free of waste, asphalt, trash, rubbish, glass, liquid or toxic chemicals, hazardous waste or contamination.;
- ~~(f)~~(e) No ponding or alteration of existing surface water flow resulting directly or indirectly from the site alteration shall be caused on abutting lands.;
- ~~(g)~~(f) ~~Where required~~ For disturbed areas, the Finished Grade surface shall be protected by sod, turf, seeding for grass, greenery, asphalt, concrete, or other means either singly or in combination, within two (2) months of completion of the work, or as specified by the Director.;
- ~~(h)~~(g) All trenches in which piping is laid, forming part of the drainage system shall be inspected by the Director prior to back-filling the excavation.;
- ~~(i)~~(h) Erosion and sedimentation control measures shall be provided around all disturbed areas in a manner satisfactory to the Director prior to the commencement of the placing or dumping of fill, the removal of topsoil, or the alteration of the grade of the land, and shall ~~maintain such measures~~ be maintained in good working order until the site has stabilized.;
- (j) All fill shall be properly compacted using acceptable engineering practices, unless being stockpiled on site for future use.;
- (k) ~~Ensure~~ The Permit Holder shall ensure that natural drainage or any natural or human-made watercourse or waterbody is not altered in such a manner that will negatively affect other property or the environment.;
- (l) If Archaeological Resources are discovered or identified during the placement of any fill, the removal of any topsoil, or the alteration of the grade of the land, even after the issuance of a Site Alteration Permit, the Owner, Applicant and/or Permit Holder shall immediately cease all activity on the property and contact the Director.;
- ~~(m)~~ ~~-----~~ ~~(2) The Director may impose conditions on any Site Alteration Permit requiring~~ A requirement that the Permit Holder, Owner, and Applicant to comply with all recommendations or conclusions of all or any parts of the studies, ~~control plan~~ Control Plan and reports submitted as part of

the application for a Site Alteration Permit, ~~and such other conditions that are imposed by the Director after the consultation required by Section 8.~~

PERMIT POSTING

- ~~12-11.~~ (1)- A copy of the Site Alteration Permit, issued by the Director, shall be posted in a conspicuous place on the subject property that is adjacent to a public road and visible to all persons, or at such other location designated by the Director, prior to the placement of any fill, the removal of any topsoil, or the alteration of the grade of the land allowed by the Site Alteration Permit.

REVOCATION OF A PERMIT

- ~~13-12.~~ (1)- A Site Alteration Permit may be revoked by the Director under any of the following circumstances:

(a) If it was issued on mistaken, misleading, false, or incorrect information;

~~(b) If it was issued in error;~~

~~(c)~~(b) If the Owner, Applicant, or Permit Holder requests, in writing, that it be revoked;

~~(d)~~(c) If the terms of an Agreement ~~under~~ entered pursuant to this By-Law are not complied with; or,

~~(e)~~(d) If an Owner, Applicant or Permit Holder fails to comply with any provision of the Site Alteration Permit or this By-Law.

- (2) ~~When~~ Upon notice that a Site Alteration Permit ~~is~~ has been revoked, the Owner, Applicant, and/or Permit Holder shall immediately cease all operations being conducted under the authority of the revoked Site Alteration Permit and shall immediately rehabilitate and stabilize the land so as to prevent adverse impacts from erosion and sedimentation.

Agreements

- ~~(g)~~13. The Owner may enter into a Site Alteration Agreement that may be registered on title to the affected lands. A Site Alteration Agreement shall include, but not be limited to:

- i. Measures necessary to ensure that the placing or dumping of fill, the removal of topsoil, or the alteration of the grade of the land is undertaken in accordance with this By-Law, any approved Control Plan, the Site Alteration Agreement, and the supporting information provided thereto proper engineering principles;
- ii. Security deposit requirements in accordance with Subsection 8(2) of this By-Law; and,
- iii. Requirements that a Professional Engineer, or other similarly qualified person, upon completion of the work, certify that that the Permit Holder has complied with all of the obligations and conditions contained in the Site Alteration Permit.

APPEALS TO CITY COUNCIL

- 14.- (1) An Applicant ~~for a Site Alteration Permit pursuant to this By Law may~~ may appeal in writing to the Council of the City ~~of Kingston whereif~~:
- (a) The City refuses to issue a Site Alteration Permit, within thirty (30) days after the refusal; or,
 - (b) The Applicant objects to a term or condition in the Site Alteration Permit, within thirty (30) days after the issuance of the Permit.
- ~~(2)~~ (2) — An Applicant shall submit an appeal in writing to the Clerks Department, by way of registered mail to the City Clerk.
- ~~(3)~~ The Director shall prepare and forward a report to Council which will set out the reasons for the refusal of the Site Alteration Permit or the terms or conditions of the Site Alteration Permit as the case may be. At the Council meeting in which the report from the Director is presented, the Applicant will be permitted to appear as a delegation.
- ~~(4)~~ On appeal, the Council has the same powers as the Director under this By-Law, and may make a decision to:
- (a) Confirm the refusal to issue the Site Alteration Permit;
 - (b) Issue a Site Alteration Permit, with or without conditions; or,
 - (c) Affirm, vary, or add any conditions to the Site Alteration Permit.

(5) The decision made by Council on the appeal of the Site Alteration Permit is final. The Clerk shall notify the Applicant in writing of Council's decision within five (5) business days.

ENFORCEMENT

15. (1) ~~The enforcement of this By-Law shall be performed by the Director, any persons designated by~~ Council hereby delegates to the Director the Director for the purpose of delegating the power authority to enforce this By-Law, to issue Site Alteration Permits under this By-Law and to impose terms and conditions on the Site Alteration Permits, and to such permits.

(2) The Director may appoint from time to time, persons to act as Officers of the City, as may be appointed by to administer and enforce the provisions of this By-Law.

~~(2)~~ (3) An Officer may, during daylight hours and upon producing the appropriate identification, enter and inspect any on land to which this By-Law applies at any reasonable time for the purpose of carrying out an inspection to determine whether the By-Law, an Order, a Permit, a Permit condition, or a Court Order under not this By-Law, an Order, or a condition of a Site Alteration Permit is being complied with.

~~(3) The power of entry in Subsection 15(2) does not allow an~~ (4) An Officer in carrying out an inspection, pursuant to enter Section 15(3) may be accompanied by the Director, and any building.

~~No other person shall obstruct an~~ necessary to assist the Officer who is with his or her enforcement activities.

(5) An Officer carrying out an inspection pursuant to this By-Law, Section 15(3) may:

(a) require the production for inspection of documents or things relevant to the inspection;

(b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;

(c) require information from any person concerning a matter related to the inspection; and,

(d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

(4)(6) No person shall hinder or obstruct, or attempt to hinder or obstruct any person who ~~so obstructs an Officer~~ is guilty of an offence pursuant to exercising a power or performing a duty under this By-Law.

ORDERS

16. (1) ~~If after inspection,~~ Where the ~~Officer~~Director is satisfied that ~~there is a~~ contravention of this By-~~Law~~ has occurred, the ~~Officer~~Director may ~~make issue~~ an Order to Discontinue requiring the ~~Owner, Applicant, or Permit Holder or the person who~~ contravened the By-Law, or who caused or permitted the ~~placing~~contravention, or the Owner or ~~dumping of fill, the removal of topsoil, or the alteration of the grade~~occupier of the land ~~in~~on which the contravention of ~~this~~the By-Law occurred, to discontinue the contravening activity ~~and reinstate the land or otherwise correct the contravention.~~

~~16. (2)~~ The Order to Discontinue shall set out:

~~(a) The municipal address and the legal description of the land;~~

~~The~~ reasonable particulars of the contravention adequate to identify the contravention, the location of the land on which the contravention occurred and the date by which there must be compliance with the Order.

17. (1) Where the Director is satisfied that a contravention of this By-Law has occurred, the Director may issue an Order requiring the person who contravened the By-Law or who caused or permitted the contravention, or the owner or occupier of the land on which the contravention occurred, to do the work required to be done specified in the Order that is necessary in the opinion of the Director to correct the contravention.

~~(b)~~ (2) The Order shall set out the reasonable particulars of the contravention adequate to identify the contravention, the location of the contravention, and the ~~period within~~date by which there must be compliance; and, with the Order.

~~(c)~~ A notice stating (3) The Order may provide that if the work is not done person named in compliance the Order fails to comply with the Order within the by a date specified period, in the Order, that the City may shall have the work done at the sole right to enter upon the land affected by the Order at any time.

and to complete the work specified in the Order at the expense of the person named in the Order and may draw on any financial security provided by the Owner to complete the work.

~~(2) If the work required by (1) An Order to Discontinue issued under Section 17, or an Order under Subsection 16(1)(b) is not done within the specified period, the City and its agents, in addition to all other remedies it may have issued under Section 18, may do the work at the Owner's expense, and may enter upon the land at any reasonable time for this purpose.~~

~~(3) An Order pursuant to Subsection 16(1) of this By Law shall be served personally or by prepaid registered mail to the last known address of the Owner, Applicant, and/or Permit Holder.~~

18. Anby an Officer who is unable to effect service pursuant to Section 16(3) of this By-Law shall place a placard containing the terms of the Order, may be posted in a conspicuous place on the property ~~and where the contravention occurred, or may be sent by registered mail to the person contravening this By-Law.~~

(2) Where an Order issued under this By-Law is served personally by an Officer, it shall be deemed to have been served on the placingdate of delivery to the placard-person(s) named.

(3) The posting of the Order on the property where the contravention took place shall be deemed to be sufficient service of the Order on the Owner, Applicant, person or corporation named in the Order on the date it is posted.

(4) Where an Order issued under this By-Law is sent by registered mail, it shall be sent to the last known address of the person named in the Order and shall be deemed to have been served on the fifth day after the Order is mailed.

19. (1) If a person fails to comply with an Order issued pursuant to Section 18 of this By-Law, the City may enter the lands at any reasonable time for the purposes of doing the things described in the Order at the person's expense.

(4)(2) If the City enters on the lands and completes the work, the City may recover its costs to complete the work from the person named in the Order by drawing upon the financial security, or by action, or by adding the costs to the tax roll and/or Permit Holder, collecting them in the same manner as property taxes.

~~Costs incurred by the City under Subsection 16(2), plus (a)~~ The costs include interest accrued to the date payment is made~~calculated~~ at the rate of fifteen ~~(15) percent per annum or such lesser rate as may be approved by (15%), calculated for the period commencing on the day the City incurs the City, may be recovered from costs and ending on the Owner by action day the costs, including interest, are paid in a like manner as taxes, and such costs are considered full.~~

~~(5)~~ (b) The amount of the costs, including interest, constitutes a lien on the land upon the registration in the proper land registry office of a notice of a lien, and,

(a) (c) The lien is shall be in respect of all costs that are payable at the time the Notice notice is registered, plus interest accrued at the rate of fifteen percent (15%) to the date of the payment, and, is made in full.

PENALTIES

~~(b) Upon payment of all costs payable, plus interest accrued to the date of payment, a discharge of the lien shall be registered by the City in the proper land registry office.~~

OFFENCE

~~17. (1) Any Every person who breaches any contravenes a provision of this By-Law, contravenes the terms or conditions of any Site Alteration Permit, or contravenes an Order issued under this By-Law, is guilty of an offence.~~

~~20. (2) Any officer or, and, if the person is a corporation, every director or officer of a the corporation who knowingly concurs in the contravention of a provision of this By-Law, contravention of any terms or conditions of any Site Alteration Permit, or contravention of an Order issued under this By-Law, is guilty of an offence, and all such offences are designated as continuing offences.~~

PENALTIES

~~18. (1) Any (2) Every person who contravenes any provision of this By-Law, any term or condition of a Site Alteration Permit, or an Order issued under Section 16 17 or Section 18 of this By-Law is guilty of an offence and is liable, and all such offences are designated as continuing offences.~~

~~(a) On first conviction, to a fine of not more than (1) A person who is convicted of an offence under this By-Law is liable, for each day or part of a day that the~~

~~offence continues, to a maximum of~~ Ten Thousand Dollars (\$10,000.00);
and,

~~(b) On any subsequent conviction, to a fine of not more than Twenty Five Thousand Dollars (\$25,000.00).~~

~~(2) Despite Subsection 18(1), where the person convicted~~total of all daily fines is a corporation:

~~(a) The maximum fine in Subsection 18(1)(a) shall be Fifty Thousand Dollars (\$50,000.00); and,~~

~~(b) 21.~~ The maximum fine in Subsection 18(1)(b) shall be not limited to One Hundred Thousand Dollars (~~\$100,000.00~~);

~~(3) If~~2) When a person or corporation is convicted of an offence ~~for~~
~~contravening under~~ this By-Law, ~~any term or condition~~the conditions of a Site
Alteration Permit, or an Order issued under ~~Section 16 of~~ this By-Law, the
Court in which the ~~contravention conviction~~ has been entered, and any Court
of competent jurisdiction thereafter, may, in addition to any fine imposed,
make an order:

(a) Prohibiting the continuation or repetition of the offence; and,

Requiring the person, convicted to correct the contravention in ~~such a~~the manner and
within ~~such a~~the period ~~as that~~ the Court considers appropriate ~~to:~~

~~(a) Rehabilitate the land;~~

~~(b) Remove, including requiring the person to abide by any term or condition of
the relevant Site Alteration Permit, rehabilitate the land, remove the fill
dumped or placed contrary to this By-Law or to a Site Alteration Permit issued
under this By-Law; and/or,~~

~~(c)~~(b) Restore, or restore the grade of the land to its original condition.

ADMINISTRATION

19. (1) The ~~administration~~short title of this By-Law ~~shall be performed by~~is the
Director, "Site Alteration By-Law".

(2) References to any statute or any persons so designated by the Director provision
thereof include such statute or provision as amended, revised, re-enacted
and/or consolidated from time to time, and any successor statute.

~~(2) Schedules 'A' and 'B' shall form part of this By-Law.~~

(3) If any ~~Section~~section or ~~Sections~~sections of this By-Law or parts thereof are
found by any Court to be invalid or beyond the power of the Council to
enact, such ~~Section~~section or ~~Sections~~sections or parts thereof, shall be

deemed to be severable and all other ~~Sections~~sections or parts of this By-Law shall be deemed to be separate and independent there from and continue in full force and effect ~~unless and until similarly found invalid.~~

~~(4) The short title of this By Law is the "Site Alteration By Law".~~

~~(5) This By Law shall come into force and take effect on the date of its passing.~~

TRANSITIONAL PROVISIONS

~~20. (1) Notwithstanding any other provision of this By Law, any site that was receiving fill on any day within fifteen (15) days prior to the day this By Law was passed may continue to be used only for the purpose of receiving fill without first obtaining a Site Alteration Permit in accordance with Section 3, provided that:~~

~~(4) (a) the owner of the site applies for a Provisional Site Alteration Permit by submitting If there is a conflict between this By-Law and a by-Law passed under the Municipal Act, the provision that is the most restrictive regarding site alteration shall prevail.~~

~~(5) Nothing in this By-Law shall exempt any person or corporation from complying with the requirements of any other by-law in force, or from obtaining any license, permission, permit, authority or approval required under any other by-law or legislation.~~

~~(6) Any application received prior to the passage of this By-Law would be processed in accordance with the provisions of By-Law Number 2008-128.~~

~~Any application received prior to the prescribed form to the Director no later than thirty (30) days after passage of this By-Law is passed;~~

~~(b) the owner of the site submits all information required by the Director to issue a Provisional Site Alteration permit;~~

~~(c) the owner of the site receives a provisional Site Alteration Permit within fifteen (15) days of making application for the Provisional Site Alteration Permit;~~

~~(d) the Provisional Site Alteration Permit is not appealed or challenged in a court of competent jurisdiction;~~

~~(e) the owner complies with all terms and conditions of the Provisional Site Alteration Permit; and,~~

~~(f) a copy of the provisional Site Alteration Permit, issued by the Director, shall, will be posted in a conspicuous place on the subject property that is adjacent to a public road and visible to all persons, or at such other location designated by the Director.~~

~~(2) The Provisional Site Alteration Permit shall expire on the earlier of the day that the Permit is revoked by the Director, or a permanent Site Alteration Permit is issued, or six (6) months from the date it was issued.~~

~~(3) The Director may revoke the Provisional Site Alteration Permit at any time where the Director has reasonable and probable grounds to believe that any of the following may be occurring or may be likely to occur as a result of the filling activities:~~

~~(a) negative impacts on the natural heritage features or area, its adjacent lands, or on their ecological functions;~~

~~(b) negative impacts on archaeological or cultural resources; or,~~

~~(c) negative impacts on adjacent properties related to altered drainage patterns or runoff, including downstream properties.~~

~~(4)(7) The owner shall make application for a permanent Site Alteration Permit, including submitting all required studies and information, processed in accordance with this By-Law no later than five (5) months from the date this By-Law comes into force the provisions of By-Law Number 2008-128.~~

~~(5) The Director may, in writing, extend the term of the Provisional Site Alteration Permit where the owner has complied with all requirements of the Provisional Site Alteration Permit, has made an application for a permanent Site Alteration Permit, and is awaiting the completion of any technical studies.~~

~~GIVEN ALL THREE READINGS AND PASSED June 17, 2008~~

~~SIGNED ORIGINAL IN CLERK'S OFFICE _____ SIGNED ORIGINAL IN CLERK'S OFFICE~~

CITY CLERK

MAYOR

Schedule 'A'

PERMIT FEES

The following shall be paid to the City at the time of application for a Site Alteration Permit pursuant to this By-Law:

<u>Fee Type</u>	<u>Fee</u>	<u>Renewal Fee*</u>
Permit (includes administrative fee and 3 hours of staff review/ inspection)	\$300	\$150
Review/Inspection in excess of 3 hours	Will be based on the City's Rates & Fees By Law	Will be based on the City's Rates & Fees By Law

~~* Renewal fee valid only if a Site Alteration Permit is renewed thirty (30) days before the original expiry date.~~

~~Note: Rates and Permit Fees may increase annually in accordance with the Consumer Price Index (CPI).~~

Given all Three Readings and Passed: [Meeting Date]

John Bolognone
City Clerk

Bryan Paterson
Mayor