

THE CITY OF TIMMINS

BY-LAW No. 2019-8343

Being a by-law to prohibit or regulate any alteration to the grade (topography) of land, the dumping or placement of fill, the removal of topsoil, soil or fill, the interference with and damage to watercourses, drainage systems and water supplies, alterations to drainage and site alterations, and the use of municipal highways for the movement of topsoil, soil or fill, within the City of Timmins.

WHEREAS section 142 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended (the "*Municipal Act*"), authorizes a municipality to pass by-laws to prohibit or regulate the placement or dumping of fill, the removal of topsoil, soil or fill, and the alteration of grades, and to require a permit for such site changes with or without conditions, and require restoration and rehabilitation of the site in the event of contravention of the by-law;

AND WHEREAS section 11(3) of the *Municipal Act*, authorizes a municipality to pass by-laws regulating highways, including parking and traffic on highways;

AND WHEREAS sections 2, 8 through 11 and 97 of the *Municipal Act, 2001*, authorize a municipality to pass by-laws to prohibit or regulate drainage, flooding and flood control, the interference with and damage to watercourses, drainage systems and water supplies, alterations to drainage and site alterations, and allow for the inspection, testing and sampling of land drainage systems;

AND WHEREAS the Council of The Corporation of the City of Timmins considers it desirable and necessary to prohibit or regulate the placement or dumping of fill, the removal of topsoil, soil or fill, the interference with and damage to watercourses, drainage systems and water supplies, alterations to drainage and site alterations, and the alteration of grades, to protect the environment, safeguard infrastructure and mitigate the impact of fill hauling on the City's residents;

NOW THEREFORE, the Council of The Corporation of the City of Timmins hereby enacts as follows:

1. Definitions

In this by-law,

- 1.1. "applicant" means each person who seeks or obtains a Site Alteration Permit (as defined in this By-Law), and includes their agents, successors, or assigns;
- 1.2. "City" means The Corporation of the City of Timmins or the geographic jurisdiction of the City of Timmins as the context requires;
- 1.3. "contaminated fill" means,
 - 1.3.1. any fill that does not meet the fill quality standards identified in the Site Alteration Guidelines; or

- 1.3.2. fill that contains putrescible material, with the exception of topsoil; or
- 1.3.3. bio-solids created by the paper manufacturing process, either in the form of pure paper fiber bio-solids or as mixed with other material to form products known as, “nitro-sorb”, “sound-sorb”, or other products with similar composition;
- 1.4. “Council” means the Council of The Corporation of the City of Timmins;
- 1.5. “ditch” means a linear depression, swale, or open channel, all of which convey storm water runoff from public or private properties in the same manner as does a piped sewer system;
- 1.6. “drain” means a culvert, rain water leader, sewer, swale, Ditch, or storm sewer, all of which collect and carry rain water, ground water, surface water or subsurface water, and includes appurtenances such as manholes and catch basis, but does not include any drainage works created under the *Drainage Act*, R.S.O. 1990, c. D.17;
- 1.7. “drainage” means the movement of water across a property, whether by way of the natural surface or subsurface characteristics of the property or by an artificial method;
- 1.8. “dumping” shall be broadly interpreted to include stripping, removing, moving, transporting, importing, exporting or placing of any fill into, out of, or upon lands within the City;
- 1.9. “erosion” means the wearing or washing away of soil, sediment or rock fragments by water, wind, ice, or gravity;
- 1.10. “fill” means any type of material deposited or placed on lands, and includes clean fill, soils and topsoils with any water content and other regulated materials including, stone, concrete, construction materials, asphalt, sod, turf, or debris either singly or in combination;
- 1.11. “good repair” means operating as designed or intended;
- 1.12. “grade” means the elevation of the ground surface and shall be more particularly defined as follows:
 - 1.12.1. “existing grade” means the elevation of the existing ground surface of the lands upon which dumping, placing of fill, altering the grade, or removing of topsoil is proposed, except that where such activity has occurred in contravention of this by-law, existing grade shall mean the ground surface of such lands as it existed prior to the said activity;
 - 1.12.2. “finished grade” means the approved elevation of the ground surface of lands after fill has been placed or dumped, the grade altered or topsoil removed, in accordance with this by-law;
 - 1.12.3. “proposed grade” means the proposed elevation of the ground surface of land upon which fill is proposed to be placed or dumped, the grades altered or topsoil removed;
- 1.13. “Issuer of Permits” means the individual appointed by Council as the Issuer of Permits or, where such appointment does not exist, the Director of Public Works and Engineering or his designate;
- 1.14. “landscaping means the installation and maintenance of any of the following elements:

- 1.14.1. vegetation including trees, shrubs, hedges, ornamental plantings, grass or other ground cover, or
- 1.14.2. non-vegetative hardscaping materials, such as brick, pavers, rock, stone, concrete, tile, and wood, excluding monolithic concrete and asphalt and any area used for parking, but including such features as a walkway, patio, deck or in-ground pool, or
- 1.14.3. architectural elements such as decorative fencing, walls, sculptures, gazebos, trellises, planters, benches and other similar features;
- 1.15. “Mattagami Region Conservation Authority”, or “MRCA” means the non-profit organization legislated under the *Conservation Authorities Act*, R.S.O. 1990, c. C.27 (“*Conservation Authorities Act*”), that delivers services and programs to protect and manage impacts on water and other natural resources, operating with its own Board of Directors comprised of members appointed by the City, most being elected municipal officials;
- 1.16. “obstruction” means anything which prevents or hinders proper functioning of a ditch or drain including, but not limited to fill, topsoil, rocks, gravel, pavement, landscaping, pavement, interlock, fencing, swimming pools, decks, sheds, or retaining walls;
- 1.17. “officer” means a municipal law enforcement officer appointed by the City of Timmins for the purpose of enforcing this by-law;
- 1.18. “owner” means the registered owner of a property and includes, the owner’s agent, tenant, persons in possession of property, or the property manager;
- 1.19. “ponding” means the accumulation of surface water in an area not having adequate drainage where the lack of drainage is caused by the placing or dumping of fill or altering of grade;
- 1.20. “permit” means a Site Alteration Permit;
- 1.21. “permit-holder” means an applicant who was issued a permit under this by-law and/or the owner of a lot to which a permit issued under this by-law applies;
- 1.22. “person” means any individual, firm, partnership, company or corporation or any trustee, manager or other person, either individually or jointly with others, owning, occupying or having the management or supervision of any building or property, and shall also include any agent, workman, servant, employee, or authorized representative of such individual, firm, partnership, company or corporation, and their successors and assigns;
- 1.23. “property” includes a building or structure or part of a building or structure, and includes the lands and premises appurtenant thereto and all mobile homes, mobile buildings, mobile structures, outbuildings, fences, and erections on and subsequently erected on the land, and includes vacant property;
- 1.24. “qualified person” means a licensed professional engineer in the Province of Ontario, or a licensed surveyor (for the purpose of land surveying), or an environmental consultant, or a professional geoscientist, approved by the Issuer of Permits possessing expert or special knowledge in regards to matters contained within this by-law;
- 1.25. “153/04 Qualified Person” means a qualified person as defined in Section 5 of Ontario Regulation 153/04;

- 1.26. “retaining wall” means a wall designed to contain and support fill which has a finished grade higher than that of adjacent lands;
- 1.27. “site” means the lands from which it is proposed that material, such as fill, be moved or removed, or subjected to a site alteration and/or land development;
- 1.28. “site alteration” means dumping, the removal of topsoil from land, including any lands which are submerged under any watercourse, or the alteration of the grade of land by any means including placing fill, clearing and grubbing, the compaction of soil or the creation of impervious surfaces, or any combination of these activities, and “alter” or “alteration” has a corresponding meaning;
- 1.29. “Site Alteration Guidelines” means a document prepared by the City which includes design details and requirements for site alteration permits, which may be amended from time to time;
- 1.30. “Site Alteration Permit” means a permit issued by the Issuer of Permits pursuant to the provisions of this by-law and the Site Alteration Guidelines for the purpose of dumping, removing of topsoil from land, or the alteration of the grade of land by any means including placing fill, clearing and grubbing, the compaction of soil or the creation of impervious surfaces, installation of a ditch or drain, or any combination of these activities;
- 1.31. “soil” means any material commonly known as earth, topsoil, loam, subsoil, clay, sand or gravel;
- 1.32. “soil report, on-site” means a soil report prepared by a 153/04 Qualified Person attesting to the soil conditions at the location of a site alteration;
- 1.33. “soil report, source” means a soil report prepared by a 153/04 Qualified Person attesting to the soil conditions at the source location(s) of fill for use at the location of a site alteration;
- 1.34. “topsoil” means those horizons in a soil profile, commonly known as the “O” and the “A” horizons, containing organic material and includes deposits of partially decomposed organic matter such as peat;
- 1.35. “watercourse” means an identifiable depression in the ground in which a natural flow of water occasionally, regularly, or continuously flows;
- 1.36. “works” means any physical change to the land, and is synonymous with “site alteration” as defined in this by-law;
- 1.37. “Zoning By-law” means a by-law passed by the City pursuant to section 34 of the *Planning Act*, R.S.O. 1990, c. P.13 (“*Planning Act*”), including Zoning By-law 2011-7100, as amended from time to time and any successor thereto.

2. Interpretation

- 2.1. Unless otherwise specified, references in this by-law to parts, sections, subsections, clauses and schedules are references to parts, sections, subsections, clauses and schedules in this by-law.
- 2.2. Unless otherwise specified, any reference to a statute or by-law includes and is a reference to such statute or By-law and to the regulations made pursuant to it, with all amendments in force from time to time, and to any statutes, By-laws, or

regulations that may be passed which have the effect of supplementing or superseding such statutes, By-laws or regulations.

- 2.3. This by-law is gender-neutral and, accordingly, any reference to one gender includes the other. References in this by-law to items in the plural include the singular, and references to the singular include the plural, as applicable.
- 2.4. The words “include”, “includes” or “including” are not to be read or interpreted as limiting the words, phrases or descriptions that precede them.
- 2.5. Headings are inserted for convenience of reference purposes only, form no part of this By-law and shall not affect in any way the meaning or interpretation of the provisions of this By-law.

Severability

- 2.6. If a court of competent jurisdiction declares any section, or any part of any section, of this by-law to be invalid, or to be of no force or effect, it is the intention of the City that every other provision of this by-law be applied and enforced in accordance with its terms to the extent possible according to law.

Application

- 2.7. The provisions of this by-law shall apply to all lands and premises within the City.

Compliance with Other Laws

- 2.8. This by-law and the provisions contained within are intended to be complementary to Provincial statutes and to other by-laws passed by Council. In the event that any other applicable law requires a higher standard than this by-law requires, the higher standard shall apply.

Delegated Authority – Site Alteration Guidelines

- 2.9. The Issuer of Permits is hereby authorized to amend the provisions of the Site Alteration Guidelines, as required.

3. Exempted Activities

- 3.1. The provisions of this by-law, with respect to the requirement to obtain a Site Alteration Permit, do not apply in instances where the placing, dumping, or removal of fill or topsoil, or the alteration of the grade of land is,
 - 3.1.1. as a result of reconstruction of parking lots provided that an approved, existing site plan is in place;
 - 3.1.2. as a result of reconstruction work, including landscaping activities, in accordance with a municipally approved, existing site plan;
 - 3.1.3. imposed as a condition to the approval of a site plan, a plan of subdivision or a consent under Section 41, 51 or 53 respectively, of the *Planning Act* or as a requirement of a site plan agreement or a subdivision agreement executed and in good standing entered into under the afore-mentioned sections;

- 3.1.4. imposed as a condition to a development permit authorized by regulation made under Section 70.2 of the *Planning Act*, or as a requirement of an agreement entered into and in good standing under that regulation;
 - 3.1.5. undertaken on land in order to lawfully establish and operate or enlarge any pit or quarry on land, that has been designated under the *Aggregate Resources Act*, R.S.O. 1990, c. A.8, or a predecessor of that Act, and on which a pit or quarry is a permitted land use under a by-law passed under Section 34 of the *Planning Act*;
 - 3.1.6. undertaken as an incidental part of drain construction under the *Drainage Act*, R.S.O. 1990, c. D.17 or the *Tile Drainage Act*, R.S.O. 1990, c. T.8;
 - 3.1.7. associated with 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. E.19 or a waste, waste disposal or waste management system that is exempted by regulation from Part V of the *Environmental Protection Act*, R.S.O. 1990, c. E.19;
 - 3.1.8. undertaken with 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;
 - 3.1.9. 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*, S.O. 1998, c. 15, Sched A for the purpose of constructing and maintaining a transmission system or a distribution system, as those terms are defined in that section; or
 - 3.1.10. undertaken on land described in a Closure Plan as defined in the *Mining Act*, R.S.O. 1990, c. M. 14, as filed pursuant to the provisions thereof.
- 3.2. The provisions of this by-law, with respect to the requirement to obtain a Site Alteration Permit as described in the Site Alteration Guidelines, do not apply to the extent that topsoil is placed on lands with a residential zoning category pursuant to the applicable zoning by-law, for the purpose of lawn dressing, landscaping or gardening provided the Issuer of Permits is satisfied that;
 - 3.2.1. The elevation of the land within 600mm of any property line is not changed;
 - 3.2.2. There is no change in the location, flow rate, direction or elevation of any natural or artificial watercourse, open channel, swale or ditch intended to drain land(s); and
 - 3.2.3. There is sufficient control of any sediment runoff.
 - 3.3. The provisions of this by-law, with respect to the requirement to obtain a Site Alteration Permit as described in the Site Alteration Guidelines, do not apply in instances where the placing, dumping, or removal of fill or topsoil, or the alteration of the grade of land is undertaken on property owned by the City, a local board of the City, any municipal, Federal, or Provincial government or government agency, any school board, or any post-secondary institution accredited by the Ministry of

Advanced Education and Skills Development. However, if fill or topsoil is being moved from these properties to a receiver site which is located on private property, then the private property receiver site is required to have in place a valid Site Alteration Permit.

- 3.4. The provisions of this by-law, with respect to the requirement to obtain a Site Alteration Permit as described in the Site Alteration Guidelines, do not apply to the placement and/or removal of topsoil as an incidental part of a normal agricultural practices including, sod farming, greenhouse operations and nurseries for horticultural products.
- 3.5. The provisions of this by-law, with respect to the requirement to obtain a Site Alteration Permit, do not apply in an area to the extent of any conflict with a regulation made under Section 28 of the *Conservation Authorities Act* respecting the placing or dumping of fill, removal of topsoil or alteration of the grade of land in such area, however, the remaining provisions of this by-law remain in effect.
- 3.6. The provisions of this by-law do not apply where there is a business use occurring on a property that is involved in the regular import/export of material such as landscaping suppliers, asphalt producers/processors, or aggregate producers/processors, provided that such business has appropriate land-use zoning permissions to operate from the property and provided that the business and the property is in compliance with all other applicable laws.

4. Restrictions

- 4.1. No person shall conduct, permit, or cause to be conducted or permitted any site alteration works, including on any lands which are submerged under any watercourse or other body of water, except in accordance with the provisions of this by-law and the Site Alteration Guidelines, including any requirement for a Site Alteration Permit.
- 4.2. No person shall alter the grade of any land or cause or permit the alteration of the grade of any land, including any lands which are submerged under any watercourse or body of water, except in accordance with the provisions of this by-law and the Site Alteration Guidelines, including any requirement for a Site Alteration Permit.
- 4.3. Where a Site Alteration Permit has been issued pursuant to this by-law, no permit holder shall, except in accordance with the provisions of the Site Alteration Permit,
 - 4.3.1. place, dump or remove fill or cause or permit fill to be placed, dumped or removed; or
 - 4.3.2. alter the grade of any land or cause or permit the alteration of the grade of any land in the City.
- 4.4. In addition to the other requirements of this By-law, no person shall conduct, permit, or cause to be conducted or permitted any site alteration works
 - 4.4.1. outside of the hours of 7am-10pm Eastern Standard/Daylight Time unless approved in writing by the Issuer of Permits;

- 4.4.2. during a period in which a wind warning has been issued for the area by Environment Canada and when dust/material is being blown off of the site;
or
- 4.5. within 24 hours after receiving precipitation, unless the operations being performed during this time are completely within the boundaries of the site alteration property and/or do not result in mud tracking onto the adjacent properties, including roadways.

5. Preservation of Drainage

- 5.1. No person or owner shall, or shall permit any person to, alter or obstruct, or cause or contribute to the obstruction of a ditch, drain, or lot grade such that the flow of storm, rain, ground, surface or subsurface water is increased, impaired or deviates from the existing drainage pattern or approved grading and drainage pattern and causes or is likely to cause an adverse condition on any abutting property.
 - 5.1.1. For the purposes of section 5.1, “deviates” does not include a corrective measure which in the sole opinion of the Issuer of Permits, improves the property’s drainage without impacting the existing drainage pattern or approved grading and drainage pattern or causing an adverse condition on any abutting property.
- 5.2. Where an owner wishes to alter a roadside ditch system or a ditch that conveys stormwater from City lands via a registered or unregistered easement, an application shall be made for a Site Alteration Permit in accordance with the procedure described in Part 6 of this by-Law.
- 5.3. No owner or person shall fail to keep a privately owned ditch or drain on his or her land in Good Repair.
- 5.4. No owner or person shall allow a privately owned ditch or drain on his or her property to fall into disrepair such that the flow of storm, rain, ground, surface or subsurface water is increased, impaired or deviates from the existing drainage pattern or approved grading and drainage pattern and causes or is likely to cause an adverse condition on any abutting property.

6. Permits

Site Alteration Permits

- 6.1. The Issuer of Permits has the authority to issue a Site Alteration Permit where an applicant has satisfied the requirements of this by-law and the Site Alteration Guidelines.
- 6.2. All applicants for a Site Alteration Permit shall pay the appropriate fees, as identified in the Site Alteration Guidelines, as may be amended from time to time.
- 6.3. All applicants for a Site Alteration Permit shall submit a completed permit application, including the submission of supporting documents, tests, securities, consents from the owner of subject lands, draft Control Plans and other requirements as described in the Site Alteration Guidelines within a 6 month timeframe from the date of

submission of the application form, failing which, the application is deemed to have expired.

- 6.4. No applicant or other person shall knowingly furnish false, incorrect or misleading information for the purposes of obtaining a Site Alteration Permit.
- 6.5. Applicants for a Site Alteration Permit who are unable to comply with the timeframe specified in Section 6.3 of this by-law shall be required to make a new application for a Site Alteration Permit including the payment of applicable fees, and such applicants are not entitled to a refund of any fees paid for with respect to the previous, expired application.
- 6.6. The Issuer of Permits shall not issue a Site Alteration Permit if the proposed site alteration activity does not comply with the zoning category for the property, pursuant to the applicable zoning by-law.
- 6.7. The Issuer of Permits shall not issue a Site Alteration Permit if;
 - 6.7.1. the Issuer of Permits reasonably believes that the proposed site alteration works, and the works' resulting impacts on the proposed grade and drainage, are not in accordance with good engineering standards and practice;
 - 6.7.2. the proposed site alteration works will result in:
 - 6.7.2.1. erosion;
 - 6.7.2.2. blockage, siltation, or contamination of a watercourse;
 - 6.7.2.3. flooding or ponding;
 - 6.7.2.4. a detrimental effect on any trees located on the lands or adjacent lands having a breast height of 150 millimetres or more;
 - 6.7.2.5. an undue detrimental effect on the natural environment;
 - 6.7.2.6. the placing or dumping of fill or topsoil, or the alteration of grade of the land in or within 120 metres of a Provincially Significant Wetland as identified by the Ministry of Natural Resources and Forestry; or
 - 6.7.2.7. unsafe conditions for the abutting lands.
 - 6.7.3. the Issuer of Permits reasonably believes that the site will not be rehabilitated, including replanting, to a condition which is substantially similar to or improved from the condition of the site prior to the undertaking of the work which is the subject of the Site Alteration Permit immediately upon completion of grading or construction; or
 - 6.7.4. the Issuer of Permits reasonably believes that the proposed site alteration works will contravene (including failure to obtain or comply with required approvals of) any of the following Acts or regulations enacted pursuant to those Acts:

- 6.7.4.1. the *Environmental Protection Act*, R.S.O. 1990, c. E.19;
- 6.7.4.2. the *Ontario Water Resources Act*, R.S.O. 1990, c. O.40;
- 6.7.4.3. the *Conservation Authorities Act*, R.S.O. 1990, c. C.27
- 6.7.4.4. the *Ontario Heritage Act*, R.S.O. 1990, c. 0.18;
- 6.7.4.5. the *Building Code Act*, S.O. 1992, c. 23;
- 6.7.4.6. the *Planning Act*, R.S.O. 1990, c. P.13;
- 6.7.4.7. the *Municipal Act, 2001* S.O. 2001, c. 25;
- 6.7.4.8. the *Drainage Act*, R.S.O. 1990, c. D 17;
- 6.7.4.9. the *Tile Drainage Act*, R.S.O. 1990, c. T.8
- 6.7.4.10. the *Fisheries Act*, R.S.C. 1985, c. F.14
- 6.7.4.11. applicable zoning or land use by-laws;

Site Alteration Permit Constructions

- 6.8. Upon issuance of a Site Alteration Permit, and at any point thereafter until the site alteration project is fully complete, the Issuer of Permits may, from time to time, and at the expense of the permit holder, require source soil reports and/or on-site soil reports prepared by a 153/04 Qualified Person retained by the City.
- 6.9. Should a source soil report and/or on-site soil report referred to in Section 6.8 of this by-law, reveal non-compliance with the approved Site Alteration Permit conditions with respect to fill quality or reveal the presence of contaminated fill, the Issuer of Permits may, at their discretion, suspend the Site Alteration Permit and prohibit the continued dumping and/or removal of fill until such time as a source soil report and/or on-site soil report, as the context requires, is submitted demonstrating that all contaminated fill has been removed from the site alteration location.
- 6.10. No Site Alteration Permit holder shall fail to,
 - 6.10.1. notify the Issuer of Permits a minimum of two (2) business days prior to the commencement of the site alteration;
 - 6.10.2. obtain permission in writing from the Issuer of Permits prior to modifying any element of the approved Site Alteration Permit conditions;
 - 6.10.3. maintain a copy of the Site Alteration Permit on the site at all times;
 - 6.10.4. maintain all roads in the same or better condition than existed prior to the commencement of the work and keep all roads free of any materials or equipment associated with the work; and
 - 6.10.5. following the completion of the work, and prior to the release of any securities or portion thereof, provide an as-built survey for the fill site and a statement from a professional engineer or Ontario land surveyor certifying that,

- 6.10.5.1. the grading has been completed in accordance with the plans submitted as part of the permit application;
 - 6.10.5.2. the finished site alteration project does not detrimentally affect drainage on adjacent properties; and
 - 6.10.5.3. the finished site alteration project does not detrimentally affect the quality or quantity of water in wells on adjacent properties.
- 6.11. The Issuer of Permits may designate truck routes and trucking schedules as a condition of a Site Alteration Permit in order to minimize impacts to the public and City infrastructure.
 - 6.12. The Issuer of Permits may require public notification and signage regarding designated truck routes and trucking schedules as a condition of a Site Alteration Permit in order to minimize impacts to the public.
 - 6.13. The Issuer of Permits may require an applicant to hold an information meeting at the expense of the applicant, and at a time and location and in a format approved by the Issuer of Permits.
 - 6.14. The Issuer of Permits may require a permit-holder to install site remediation measures including topsoil, seeding, sodding and the installation of berms and landscaping, as necessary, to minimize the visual impact of fill or grade alteration works and to provide for stabilization of altered grades.
 - 6.15. The Issuer of Permits may require, as a condition of any permit issued pursuant to this By-law, that a retaining wall be constructed where:
 - 6.15.1. erosion of abutting lands may occur as a result of the work which is the subject of the permit; or
 - 6.15.2. the finished grade of the site is of a higher elevation at a property line than that of the existing grade at the same property line of abutting lands.
 - 6.16. The Issuer of Permits may impose addition terms and conditions upon the issuance of a Permit:
 - 6.16.1. to deal with particular grading or drainage concerns for the work proposed, for the purpose of limiting negative effects or potential harm to proper drainage and other property;
 - 6.16.2. to require proof of testing of fill or soil to ensure the materials dumped, placed or used to alter grade meet the fill quality standards identified in the Site Alteration Guidelines;
 - 6.16.3. to require temporary construction site control measures to limit drainage and erosion during a period of construction or the period of a Site Alteration Permit issued under this by-law; and
 - 6.16.4. to require temporary site siltation control measures to control drainage and erosion and ensure soil stabilization until the work under the permit is complete or until permanent soil control measures have been supplied.

- 6.17. The Issuer of Permits may, at their discretion, bring a report to Council discussing a Site Alteration Permit prior to issuing the permit.

Permit Expiry, Renewal and Transfer

- 6.18. All permits issued under this by-law shall expire or be renewed in accordance with the terms identified in the Site Alteration Guidelines.
- 6.19. Permit conditions may be transferred in accordance with the terms identified in the Site Alteration Guidelines.

Permit Refusal, Suspension and Revocation

- 6.20. The Issuer of Permits may refuse to accept an application for a permit, or may refuse to issue a permit, where in the opinion of the Issuer of Permits, the acceptance of a permit application or the issuance of a permit would not be in the best interests of the City.
- 6.21. The Issuer of Permits, in determining whether the acceptance of a permit application or the issuance of a permit would not be in the best interests of the City, may consider relevant circumstances including, but not limited to:
- 6.21.1. past performance of the applicant in complying with the provisions of this by-law or any applicable legislation;
 - 6.21.2. ongoing or past prosecution of the applicant regarding compliance with this by-law or any applicable legislation;
 - 6.21.3. the number of active permits within the City or within a geographic area of the City; and
 - 6.21.4. the condition of lands within a geographic area, including public highways, which provide access to a proposed area of site alteration. This may include any planned highway improvements by the City or the Province of Ontario.
- 6.22. Where the Issuer of Permits refuses to issue a permit, the applicant shall be informed of this decision in writing or by electronic mail, providing the reason(s) for the refusal.
- 6.23. The Issuer of Permits shall revoke a permit if,
- 6.23.1. the permit was obtained on mistaken, false, incorrect or misleading information;
 - 6.23.2. the permit was issued in error; or
 - 6.23.3. the permit holder requests in writing that the permit be revoked.
- 6.24. The Issuer of Permits may suspend and/or revoke a permit if,
- 6.24.1. the permit holder or any person acting on behalf of the permit holder fails to comply with the conditions of an issued permit made under this by-law; or

- 6.24.2. the permit holder or any person acting on behalf of the permit holder fails to comply with the provisions of this by-law, an order issued pursuant to this by-law and/or any other applicable legislation.
- 6.25. If a permit is suspended in accordance with the provisions of this by-law, the Issuer of Permits may impose additional conditions on the applicant. Until such time as those conditions are satisfied, in the sole discretion of the Issuer of Permits, the permit shall remain suspended.
- 6.26. If a permit is suspended or revoked in accordance with the provisions of this by-law, then any financial security provided by the applicant may be used or drawn upon by the City to remedy any non-compliance with the provisions of this by-law, without any further notice to the applicant.

7. Enforcement and Penalties

- 7.1. This by-law may be enforced by an officer.
- 7.2. Pursuant to the *Municipal Act, 2001*, an officer may enter upon any property at any reasonable time without a warrant for the purpose of inspecting a property to determine whether or not there is compliance with the standards prescribed in this by-law.
- 7.3. When conducting an inspection pursuant to Section 7.2 of this by-law and the *Municipal Act, 2001*, an officer may,
 - 7.3.1. require the production for inspection of documents or things, including permits, drawings, or specifications, that may be relevant to the site alteration, the property or any part thereof;
 - 7.3.2. inspect and remove documents or things relevant to the property or part thereof for the purpose of making copies or extracts; and
 - 7.3.3. require information from any person concerning a matter related to a property or part thereof;
 - 7.3.4. be accompanied by a person who has special or expert knowledge in relation to a property or part thereof;
 - 7.3.5. alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs for the purposes of the inspection; and
 - 7.3.6. order the owner of the property to take and supply at the owner's expense such tests and samples as are specified in the order.

Orders

- 7.4. Pursuant to the *Municipal Act, 2001*, an officer who finds that a property does not conform with any of the provisions of this by-law may make an order,
 - 7.4.1. stating the municipal address or the legal description of the property;

- 7.4.2. giving reasonable particulars of the work, tests, samples required to be completed by the owner, occupant or permit-holder or requiring the discontinuance of the site alteration by the owner, occupant or permit-holder; and
- 7.4.3. indicating the time for complying with the terms and conditions of the order and giving notice that, if the work is not carried out within that time, the City may carry out the work at the owner's, occupant's, or permit-holder's expense.
- 7.5. An order issued pursuant to Section 7.4 of this by-law may be served by personal delivery to the owner or occupant or by sending it by registered mail to the last known address of the owner or the address of the owner as shown on the most recent assessment roll for the premises or by sending it by registered mail to the occupant at the last known address of the occupant.
- 7.6. Service of an order pursuant to Section 7.5 of this by-law shall be deemed to have been effected on the date that it is delivered personally or three days after it was mailed as the case may be.
- 7.7. Where an order has been issued and compliance has not been achieved by the date specified in the order, the City may cause the work set out in the order to be done.
- 7.8. The City may recover the costs of doing any work undertaken pursuant to Section 7.7 of this by-law, together with an administration charge equal to fifty percent (50%) of the total costs, from the owner or occupant by adding the costs and administration charge to the tax roll and collecting them in the same manner as property taxes.
- 7.9. No person shall fail to comply with an order.

Penalties

- 7.10. Every person who fails to comply with an order issued pursuant to this by-law or who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a maximum fine of \$100,000.00, and in the case of a continuing offence, for each day or part of a day that the offence continues, an additional maximum fine of \$10,000.00.
- 7.11. In addition to any fine or any other penalty, any person who is convicted of contravening a provision of this by-law, the terms and conditions of a permit issued pursuant to this by-law, or an order issued pursuant to this by-law and Section 444(1) or 445(1) of the *Municipal Act, 2001*, may be ordered by a court of competent jurisdiction at the expense of the person to:
 - 7.11.1. rehabilitate the land and/or shoreline;
 - 7.11.2. remove the fill, soil and/or topsoil placed or dumped; and
 - 7.11.3. restore the grade of the land to its original condition or an alternative deemed by the Issuer of Permits to be acceptable.
- 7.12. If a person is convicted of an offence for contravening an order to stop the injuring or destruction of trees, the court in which the conviction has been entered, or any court

of competent jurisdiction thereafter, may order the person/corporation to rehabilitate the land or plant or replant trees in such manner and within such period as the court considers appropriate, including any silvicultural treatment necessary to re-establish the trees.

8. Short Title

8.1. This by-law may be cited as the Site Alteration By-law.

9. Repeal and Existing By-law

9.1. By-Law No. 2010-6901 is repealed on the day that this by-law comes into force and effect

10. Effective Day

10.1. This by-law shall come into full force and effect on June 25, 2019.

11. Transition

11.1. Any permit that has been issued under By-law 2010-6901 which is in effect and in good standing prior to the passage of this by-law shall be deemed to have continued under the provisions and conditions of By-law 2010-6901 and that existing permit, until such time as that permit has expired.

READ a first and second time this 25th day of June, 2019.

READ a third and final time and enacted and passed this 25th day of June, 2019.

READ a first and second time this 25th day of June, 2019.

READ a third and final time and enacted and passed this 25th day of June, 2019.

**CERTIFIED TRUE COPY
OF BY-LAW NO. 2019-8343**

**(SGD) GEORGE PIRIE
MAYOR**

CLERK

**(SGD) STEPH PALMATEER
CLERK**