

The Corporation of the City of Kawartha Lakes

By-law 2019-105

Site Alteration By-law

A By-law To Repeal and Replace By-law 2018-214, Being a By-law Regulating the Removal of Topsoil, Placement of Fill, and the Alteration of Grades

Recitals

1. Section 10(2) of the Municipal Act, 2001, S.O. 2001, c.25, as amended (the “Municipal Act, 2001”) authorizes a municipality to pass By-laws respecting the economic, social and environmental well-being of the municipality and the health, safety and well-being of persons;
2. Section 128 of the Municipal Act, 2001 authorizes local municipalities to prohibit and regulate with respect to public nuisances;
3. Section 129 of the Municipal Act, 2001 authorizes local municipalities to prohibit and regulate with respect to noise, vibration and dust;
4. Section 142 of the Municipal Act, 2001 authorizes municipal councils to pass by-laws respecting Site Alteration, including by-laws regulating the removal of Topsoil, Placement of Fill, and the alteration of the Grade of the land in any defined areas in the municipality;and
5. Council considers it in the public interest to enact a by-law regulating the removal of Topsoil, Soil, Placement of Fill, and the alteration of the Grade of land within the City in order to ensure that:
 - a. Existing drainage patterns are maintained and Erosion and sedimentation is prevented;
 - b. Changes to drainage or Grades are appropriate to protect natural heritage features and archaeological resources;
 - c. Interference and damage to watercourses or water bodies are prevented;
 - d. Groundwater and surface water quality is maintained;
 - e. Excess soil is appropriately reused, in accordance with Ontario Regulation 406/19 under the *Environmental Protection Act*, R.S.O. 1990, c. E.19;

- e.f. There is no discharge of a contaminant into the natural environment that causes or may cause an Adverse Effect and that degradation of the pre-existing Soil and ground water quality at the Site and on abutting and adjacent properties is prevented;
- f.g. Haul Routes for the transportation of Fill, Soil and Topsoil authorized for Placement, Dumping or removal will be designated to and/or from a Site by the Director to minimize damage to the City's roads and minimize interference and/or disturbance to the City's residents and businesses;
- g.h. Disturbance to landform characteristics are kept to a minimum;
- h.i. The proponent of the Site Alteration project pays for its costs; and
- i.j. The precautionary principle, as defined by the Bergen Ministerial Declaration on Sustainable Development (1990), is respected and applied to the issue of Site Alteration within the Municipality.

Accordingly, the Council of The Corporation of the City of Kawartha Lakes enacts this By-law 2019-105.

Section 1.0 Definitions and Interpretation

1.1 Definitions:

The following definitions shall be applicable to this By-law.

- 1.1.1 **“Adverse Effect”** means as defined in the Environmental Protection Act, R.S.O. 1990, c. E.19, as amended.
- 1.1.2 **“Agricultural Drain”** means infrastructure constructed for the purpose of draining Agricultural Land under the Drainage Act, R.S.O. 1990, c. D.17, as amended, or the Tile Drainage Act, R.S.O. 1990, c. T.8, as amended.
- 1.1.3 **“Agricultural Impact Assessment”** means a study that describes the agricultural area and uses, evaluates the potential impacts of non-agricultural development on agricultural operations and the Agricultural System and recommends ways to avoid or, if avoidance is not possible, minimize and mitigate adverse impacts, as defined by Provincial Plans.
- 1.1.4 **“Agricultural Lands”** means all lands that are zoned appropriately and used by an Agricultural Operation as defined by the Farming and Food Production Protection Act, 1998, S.O. 1998, c. 1, as amended.

- 1.1.5 **“Agricultural Operation”** means an agricultural, aquacultural, horticultural or silvicultural operation that is carried on in the expectation of gain or reward and interpreted by the Farming and Food Production Protection Act, 1998, S.O. 1998, c. 1, as amended, to include:
- (a) draining, irrigating or cultivating land;
 - (b) growing, producing or raising,
 - (i) livestock, including poultry and ratites,
 - (ii) fur-bearing animals,
 - (iii) bees,
 - (iv) cultured fish,
 - (v) deer and elk,
 - (vi) game animals and birds, or
 - (vii) any additional animals, birds or fish prescribed by the Minister;
 - (c) the production of agricultural crops, greenhouse crops, maple syrup, mushrooms, nursery stock, tobacco, tree and turf grass, and any additional agricultural crops prescribed by the Minister;
 - (d) the production of eggs, cream and milk;
 - (e) the operation of agricultural machinery and equipment;
 - (f) the application of fertilizers, Soil conditioners and pesticides;
 - (g) ground and aerial spraying;
 - (h) the storage, handling or use of organic wastes for farm purposes;
 - (i) the processing by a farmer of the products produced primarily from the farmer’s agricultural operation;
 - (j) activities that are a necessary but ancillary part of an agricultural operation such as the movement of transport vehicles for the purposes of the agricultural operation; and
 - (k) any other agricultural activity prescribed by the Minister, conducted on, in or over agricultural land. 1998, c. 1, s. 1 (2).

- 1.1.6 “**Applicant**” means each Person who is in the process of obtaining a Permit.
- 1.1.7 “**City**”, “**City of Kawartha Lakes**” or “**Kawartha Lakes**” means The Corporation of the City of Kawartha Lakes.
- 1.1.8 “**Conservation Authority**” means the Kawartha Region Conservation Authority, Lake Simcoe Region Conservation Authority, Otonabee Region Conservation Authority, or the Ganaraska Region Conservation Authority, as designated by the Province as having jurisdiction within the boundaries of the City of Kawartha Lakes.
- 1.1.9 “**Contaminated Fill**” means:
- a. Fill which contains material or debris that does not naturally occur in the location of the lot or parcel of land;
 - b. any Soil that does not meet the Table 1 Standards of the “Solid, Ground Water and Sediment Standards for Use under Part XV.1 of the Environmental Protection Act” as published by the Ministry of the Environment, Conservation and Parks (MOECP) dated April 15, 2011, as amended, unless the Applicant has demonstrated to the satisfaction of the Director that the existing ambient Soil quality of the receiving site does not meet Table 1 Standards or that the Placing or Dumping of Soil meets Table 2 Standards would not have a detrimental effect on ground water; and
 - c. any Fill that contains putrescible material.
- 1.1.10 “**Contractor’s Yard**” means a lot, building or structure where equipment and materials of a contractor, landscaper or similar business are stored or where the contractor, landscaper or similar business performs activities permitted by the Zoning By-law.
- 1.1.11 “**Council**” or “**City Council**” means the Council of the City of Kawartha Lakes.
- 1.1.12 “**Site Alteration Agreement**” means a legal agreement between the City, an Applicant and an Owner, and including any other relevant party, which can be registered on the title of the Property.
- 1.1.13 “**Director**” means the City’s Director of Engineering and Corporate Assets, or a designate.
- 1.1.14 “**Dumping**” means the depositing of Fill in a location on properties within the City, or the movement and depositing of Fill from one

location to another location and “Dump” and “Dumped” in relation to Fill have the same meaning. “Place” shall have a similar meaning.

- 1.1.15 **“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, as defined by the Provincial Plans.
- 1.1.16 **“Environmental Impact Study”** or **“Natural Heritage Evaluation”** means a study which shall:
- a. demonstrate that the development or Site Alteration will have no Adverse Effects on the Key Natural Heritage Feature or on the related ecological functions;
 - b. identify planning, design and construction practices that will maintain and, where possible, improve or restore the health, diversity and size of the Key Natural Heritage Feature and its connectivity with other Key Natural Heritage Features and with Key Hydrologic Features;
 - c. demonstrate how connectivity within and between Key Natural Heritage Features and Key Hydrologic Features will be maintained and, where possible, improved or restored before, during and after construction;
 - d. determine whether a Minimum Vegetation Protection Zone is required, and if one is required, specify the dimensions of the required Minimum Vegetation Protection Zone, and provide for the maintenance and, where possible, improvement or restoration of natural self-sustaining vegetation within it; and
 - e. in the case of a Key Natural Heritage Feature that is fish habitat, ensure compliance with the requirements of the Department of Fisheries and Oceans (Canada).
- 1.1.17 **“Erosion”** means the detachment and movement of Soil, sediment or rock fragments by water, wind, ice or gravity.
- 1.1.18 **“Erosion and Sediment Control Plan”** means a plan as defined in Section 5.7 of this By-law.
- 1.1.19 **“Farmer”** means the owner or operator of an Agricultural Operation.
- 1.1.20 **“Feature”** means a Key Natural Heritage Feature and/or Key Hydrologic Feature, as defined by Provincial Plans.

- 1.1.21 **“Fill”** means any type of imported or relocated material deposited or Placed on the Property and includes Soil, stone, concrete, slurry, sod or turf either singly or in combination, ~~scientifically demonstrated inert and able to pass a slump test as outlined in the General Waste Management provisions contained in Ontario Regulation R.R.O. 1990, Reg. 347: GENERAL WASTE MANAGEMENT as amended.~~
- 1.1.22 **“Fill Operation”** means an operation that involves Placing or Dumping of Fill and shall be comprised of each of the following, as may be applicable:
- a. **“Small Fill Operation”** means an operation that involves the Placing or Dumping of up to 1,000 cubic metres of Fill.
 - b. **“Large Fill Operation”** means an operation that involves the Placing or Dumping of more than 1,000 cubic metres of Fill.
- 1.1.23 **“Flood Plain”** means the area, usually low lands adjoining a watercourse, which has been or may be subject to flooding hazards.
- 1.1.24 **“Flooding”** means the inundation of areas not normally covered by water.
- 1.1.25 **“Grade”**, means the elevation of the ground surface of land and shall be comprised of the following as may be applicable:
- a. **“Existing Grade”** means the elevation of an existing ground surface, upon which Dumping and/or Placing of Fill or other Site Alteration is proposed and of the adjacent ground surface up to three (3) metres wide surrounding such site;
 - b. **“Proposed Grade”** means the proposed elevation of the ground surface of land upon which any Fill is proposed to be Placed; and
 - c. **“Finished Grade”** means the approved elevation of ground surface of lands, upon which Fill has been placed or removed in accordance with this By-law.
- 1.1.26 **“Grading and Drainage Plan”** means a plan containing any or all of the matters and activities described in Section 5.7 of this By-law.
- 1.1.27 **“Hydrogeological Impact Study”** or **“Hydrogeological Study”** means a hydrogeologic and geotechnical review of the stratigraphy of the overburden (Soil) from ground surface to bedrock, depth to bedrock, depth to water table, aquifers, aquitards, and infiltration capacity,

- 1.1.28 **“Infrastructure”** means physical structures (facilities and corridors) that form the foundation for development, as defined by the Provincial Plans.
- 1.1.29 **“Inspector”** means any Officer and any of the following staff members of the City: Director of Engineering and Corporate Assets, Director of Development Services, Director of Public Works, or a designate, Roads Supervisors in the City’s Department of Public Works – Roads General Operations, and such Municipal Law Enforcement Officers as may be appointed by the City from time to time.
- 1.1.30 **“Key Hydrologic Feature”** means Permanent streams, intermittent streams, inland lakes and their littoral zones, seepage areas and springs and wetlands as defined by the Provincial Plans.
- 1.1.31 **“Key Natural Heritage Feature”** means Habitat of endangered species and threatened species; fish habitat; wetlands; life science areas of natural and scientific interest (ANSIs), significant valleylands, significant woodlands; significant wildlife habitat (including habitat of special concern species); sand barrens, savannahs, and tallgrass prairies; and alvars as defined by the Provincial Plans.
- 1.1.32 **“Lake Simcoe Protection Act”** means the Lake Simcoe Protection Act, 2008 or any successor thereto.
- 1.1.33 **“Lake Simcoe Protection Plan”** means a plan established under Lake Simcoe Protection Act, 2008 or any successor thereto.
- 1.1.34 **“Landform Features”** means distinctive physical attributes of land such as slope, shape, elevation and relief as defined by the Provincial Plans.
- 1.1.35 **“Lot”** means a lot or block within a registered plan of subdivision of land or any portion of a lot or block which may be conveyed separate and distinct under the provisions of the Planning Act, or any parcel of land that may be legally conveyed as one separate and distinct parcel by an Owner.
- 1.1.36 **“Minimum Vegetation Protection Zone”** means as defined by the Provincial Plans.
- 1.1.37 **“Manager of Municipal Law Enforcement and Licensing”** means the person who holds that position and his or her delegate(s) or, in the event of organizational changes, another person designated by Council.

- 1.1.38 **“Municipal Act”** means the Municipal Act, 2001 or any successor thereto.
- 1.1.39 **“Municipal Storm Drainage System”** means the City’s stormwater collection and treatment system.
- 1.1.40 **“Municipal Law Enforcement Officer”** means a person appointed by Council under Section 15 of the Police Services Act to enforce the by-laws of the City, and includes any Licencing Officer.
- 1.1.41 **“Normal Farm Practice”** is defined as meaning a practice that:
- a. is conducted in a manner consistent with proper and acceptable customs and standards as established and followed by similar agricultural operations under similar circumstances; or
 - b. makes use of innovative technology in a manner consistent with proper advanced farm management practices.
- 1.1.42 **“Oak Ridges Moraine Conservation Act”** means the Oak Ridges Moraine Conservation Act, 2001 or any successor thereto.
- 1.1.43 **“Oak Ridges Moraine Conservation Plan”** means a Plan established under the Oak Ridges Moraine Conservation Act, 2001 or any successor thereto.
- 1.1.44 **“Official Plan”** means a land use policy document adopted by the council of the City by By-law, pursuant to Section 17 of the Planning Act, as amended.
- 1.1.45 **“Order”** means an order issued pursuant to the provisions of this By-law.
- 1.1.46 **“Owner”** means the registered owner of the Property in question as revealed in the Land Registry Office of the Ministry of Government and Consumer Services; any occupant of the Property in question with authority to act on behalf of the registered owner; any person authorized by the registered owner to act on his or her behalf, any mortgagee or receiver and manager or trustee in bankruptcy with possession and control of the Property may have a similar meaning to Person.
- 1.1.47 **“Permit”** means an approval issued pursuant to the provisions of this By-law.
- 1.1.48 **“Person”** means an individual, partnership, association, firm or corporation.

- 1.1.49 **“Place”** means the distribution of Fill on Property to establish a Finished Grade higher or lower than the Existing Grade and “Placing”, “Placement” and “Placed” in relation to Fill have the same meaning.
- 1.1.50 **“Ponding”** means the accumulation of surface water in an area not having drainage where the lack of drainage is caused by the Placing or Dumping of Fill or the alteration of the Grade.
- 1.1.51 **“Prime Agricultural Area”** means areas where prime agricultural lands predominate, and as defined by the Provincial Plans.
- 1.1.52 **“Prime Agricultural Land”** means specialty crop areas and/or Canada Land Inventory Class 1, 2, and 3 lands, as amended from time to time, and as defined by the Provincial Plans.
- 1.1.53 **“Provincial Plans”** means the Provincial policy and four land use plans including the Provincial Policy Statement, 2014; A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019; Greenbelt Plan, 2017; Oak Ridges Moraine Conservation Plan, 2017; and Lake Simcoe Protection Plan, 2009; currently in effect within the City. Any changes made by the Province to the Provincial policy or four land use plans, creation of additional plans or policies, or rescinding of policies or plans shall not require an amendment to this By-law.
- 1.1.54 **“Qualified Person”** means a professional person who is accredited or certified with a degree in the study of relevant environmental sciences and as further defined in the Environmental Protection Act, as amended, Ontario Regulation 153/04, Records of Site Condition – Part XV.1 of the Act. The QUALIFIED PERSON may include an agrologist if Soil is to be used for an agricultural purpose.
- 1.1.55 **“Rehabilitation Plan”** means a plan approved under the Aggregate Resources Act, R.S.O. 1990, c. A.8, as amended to rehabilitate a pit or quarry.
- 1.1.56 **“Retaining Wall”** means a wall designed to contain and support Fill which has a Finished Grade higher than that of abutting lands.
- 1.1.57 **“Risk Management Official”** means the Risk Management Official appointed under Part IV of the Clean Water Act, 2006, S.O. 2006, c. 22.
- 1.1.58 **“Site Alteration”** means the Placement or Dumping of Fill on land, the removal of Soil from land or the alteration of the Grade of land by any means.

- 1.1.59 **“Site Alteration Plan”** means a plan containing any or all of the matters and activities described in Schedule “B” to this By-law.
- 1.1.60 **“Soil”** means material that is naturally occurring commonly known as clay, earth, gravel, loam, rock, sand, subsoil, or any combination thereof that is the result of the natural breakdown of rock or organic material; Topsoil may also have a similar meaning.
- 1.1.61 **“Source Water Protection Area”** or **“Source Protection Area”** means a drinking water source protection area established by subsection 4(1) or by the regulations under the Clean Water Act, 2006, S.O. 2006, c. 22.
- 1.1.62 **“Surface Water Intake Protection Zone”** means an area that is related to a surface water intake and within which it is desirable to regulate or monitor drinking water threats as defined by Ontario Regulation 287/07: General, under the Clean Water Act, 2006, S.O. 2006, c. 22, ss. 2(1), 116(3), as amended.
- 1.1.63 **“Swale”** means a shallow depression in the ground sloping to a place for the purpose of conveying surface drainage.
- 1.1.64 **“Table 1 Standards”** means the standards established in Table 1 of the “Soil, Ground Water and Sediment Standards for Use under Part XV.1 of the Environmental Protection Act” published by the Ministry of Environment and Climate Change dated April 15, 2011, as amended from time to time.
- 1.1.65 **“Table 2 Standards”** means the standards established in Table 2 of the “Soil, Ground Water and Sediment Standards for Use under Part XV.1 of the Environmental Protection Act” published by the Ministry of Environment and Climate Change dated April 15, 2011, as amended from time to time.
- 1.1.66 **“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.
- 1.1.67 **“Wellhead Protection Area”** means an area that is related to a wellhead and within which it is desirable to regulate or monitor drinking water threats as defined by Ontario Regulation 287/07: GENERAL, under the Clean Water Act, 2006, S.O. 2006, c. 22, ss. 2(1), 116(3), as amended.
- 1.1.68 **“Zoning By-law”** means a by-law passed by the City pursuant to Section 34 of the Planning Act, as amended, and includes all Zoning By-laws for the City’s former Towns, Villages, and Townships, as

amended or superseded from time to time and the City's Oak Ridges Moraine Zoning By-law 2005-133, as amended, whichever is applicable to any land to which this By-law applies.

1.2 Interpretation:

- (a) Schedule "A" - Exemptions - is attached to and forms part of this by-law.
- (b) Schedule "B" – Site Alteration Plan – is attached to and forms part of this by-law.
- (c) Except as otherwise provided, the provisions of this By-law apply to Soil removal, Placement of Fill, and Grade alteration throughout the City and may be referred to as the Site Alteration By-law.
- (d) The words "include" and "including" are not to be read as limiting the meaning of a word or term to the phrases or descriptions that follow.

1.3 Statutes: References to laws in this by-law are meant to refer to the statutes, as amended from time to time that are applicable within the Province of Ontario.

1.4 Severability: If a court or tribunal of competent jurisdiction declares any portion of this By-law to be illegal or unenforceable, that portion of this By-law shall be considered to be severed from the balance of the By-law, which shall continue to operate in full force and effect.

Section 2.0 Regulations and Prohibitions

- 2.1. No Person or Owner shall remove Soil, cause or permit Fill to be Placed or removed, or perform any other form of Site Alteration in the City except in accordance with this By-law.
- 2.2. No Person or Owner shall, except in accordance with the provisions of a Site Alteration Permit issued by the City pursuant to this By-law;
 - i. remove Soil or cause or permit the removal of Soil;
 - ii. Place Fill or cause or permit Fill to be Placed; or
 - iii. alter the Grade of any land or cause or permit the Grade of any land in the City to be altered.
- 2.3. No Owner, Person or Person acting on the behalf of an Owner shall cause or permit the removal of Soil or the Placement or Dumping of Fill or alteration of the Grade of any land or Property within the City unless the

Owner has consented in writing to the removal of Soil, Placing or Dumping of Fill or to the alteration of the Grade.

- 2.4. No Person or Owner shall permit a Property being used for storage purposes to be altered by the Placement or Dumping of Fill unless such storage is permitted as part of a Contractor's Yard pursuant to the Zoning By-law, as amended.
- 2.5. No Person or Owner shall cause or permit the removal of Soil or the Placing or Dumping of Fill or altering the Grade of any land or Property within the City that contravenes any Federal, Provincial or Municipal By-law, notice, Order, regulation, Permit or agreement.

Protection of the Natural Environment:

- 2.6. No Person or Owner shall cause or permit the Placing or Dumping of Fill that contains materials that are from the demolition of any structure including construction refuse or debris, toxic or hazardous materials, glass, raw sewage, or Contaminated Fill unless permitted by an order, regulation or permit as issued in accordance to Municipal, Federal or Provincial regulation.
- 2.7. No Person or Owner shall cause or permit the Placing or Dumping of Fill that contains putrescible materials, termites and invasive species including eggs and seeds of such species, except as permitted by the Nutrient Management Act and O. Reg. 267.
- 2.8. No Person or Owner shall remove Soil, Place or Dump Fill or alter the Grade of a Property by causing or permitting any other form of Site Alteration on land zoned as Hazard Land, Open Space or Environmental Protection zones, including exception zones thereof, as identified in the Zoning By-law, or within or adjacent to a watercourse, Flood Plain area or a wetland or other such regulated areas pursuant to O. Reg. 167/06, O. Reg. 168/06, O. Reg. 179/06, or O. Reg. 182/06 made pursuant to Section 28 of the Conservation Authorities Act, R.S.O. 1990, c. C.27 as amended, unless, approval has been issued by the Conservation Authority that has jurisdiction over such land, and/or a Permit has been issued pursuant to this By-law, as required.
- 2.9. To protect Landform Features identified in landform conservation areas 1 and 2 as defined by the Oak Ridges Moraine Conservation Plan and through the implementing Oak Ridges Moraine Zoning By-law 2005-133, as amended, no Person or Owner shall remove Soil, Place or Dump Fill or alter the Grade of a Property where the activity may impact any land within the Oak Ridges Moraine Conservation Plan Area unless, approval has been issued by the Conservation Authority that has jurisdiction over such land, and/or a Permit has been issued pursuant to this By-law.

- a. Small Fill Operations may be prohibited if it is determined there will be an impact to the Landform Features; and
 - b. Large Fill Operations will be prohibited.
- 2.10. To protect Key Natural Heritage Features and Key Hydrologic Features, no Person or Owner shall remove Soil, Place or Dump Fill or alter the Grade of a Property where the activity is within a Key Natural Heritage Feature, Key Hydrologic Feature, or any associated Minimum Vegetation Protection Zone as defined by the Provincial Plans unless approval has been issued by the Conservation Authority that has jurisdiction over such land (and the activity is in accordance with the approval), or a Permit has been issued pursuant to this By-law (and the activity is in accordance with the Permit).
- a. Small Fill Operations will be prohibited within the Feature, and also may be prohibited within the associated Minimum Vegetation Protection Zone if it is determined there will be an impact to the Feature; and
 - b. Large Fill Operations will be prohibited within the Feature, and may also be prohibited within the associated Minimum Vegetation Protection Zone if it is determined there will be an impact to the Feature.

2.11. No Person or Owner shall remove Soil, Place or Dump Fill or alter the Grade of a Property where the activity will likely result in Soil Erosion from wind or water, unless the required erosion and sediment control measures as per this By-law are in place in advance of the work and maintained, and exposed soils are vegetated within the prescribed time frame.

~~2.11.~~2.12. No Person or Owner shall remove Soil, or Place or Dump Fill in contravention of the rules pertaining to the reuse of excess soil set out in Ontario Regulation 406/19 under the *Environmental Protection Act, R.S.O. 1990, c. E.19.*

Protection of Agricultural Resources and Preservation of Drainage:

~~2.12.~~2.13. No Person or Owner shall remove Soil, Place or Dump Fill or alter the Grade of a Property where the activity will result in the blockage of a Municipal Storm Drainage System, Agricultural Drain, natural drainage system, or watercourse.

~~2.13.~~2.14. No Person or Owner shall remove Soil, Place or Dump Fill or alter the Grade of a Property where the activity will cause or permit sediment or sediment laden water to be discharged, either directly or indirectly, into a Municipal Storm Drainage System, Agricultural Drain, natural drainage system, or watercourse.

~~2.14.~~2.15. No Person or Owner shall remove Soil, Place or Dump Fill or alter the Grade of a Property where the activity will result in the Flooding or Ponding of water on an abutting Property.

~~2.15.~~2.16. No Person or Owner shall fail to provide Erosion or sediment protection for wind and drainage run off related to the activity of removal of Soil, Placement or Dumping of Fill or alteration of grade, where such Erosion or sediment may enter onto an abutting Property.

~~2.16.~~2.17. A Farmer Placing between 500 cubic metres to 1000 cubic metres of Fill per calendar year on Agricultural Land as an incidental part of a Normal Farm Practice shall be exempt from Sections 2.2.ii, 2.3, 4.0 and 5.0 of this By-law provided that the Farmer submits to the City a completed Agricultural Soil Placement Declaration Statement confirming that it is by definition of this By-law Agricultural Land, an Agricultural Operation and an incidental part of a Normal Farm Practice and is in compliance with this By-law.

Protection of Archaeological Resources:

2.18. No Person or Owner shall remove or disturb Soil in an area that may contain archaeological resources or have archaeological potential, as identified in accordance with provincial criteria and/or the City's archaeological potential modelling, without first having an archaeological assessment conducted by a qualified archaeologist in accordance with provincial standards, and submitted to the City to its satisfaction.

Section 3.0 Exemptions

- 3.1 The regulations established by this By-law do not apply to the activities and matters described in **Schedule "A"**.
- 3.2 Notwithstanding Section 3.1, no person shall place Contaminated Fill on properties subject to the Exemptions outlined in Schedule "A".

Section 4.0 Issuance of a Site Alteration Permit

- 4.1 An Owner or Applicant shall have a preliminary discussion or meeting with the Director and any other Persons that the Director deems necessary, in order to review the proposal to determine if a Permit or Site Alteration Permit could be issued under the requirements of this By-law.
- 4.2 No Person shall remove Soil, Place or Dump Fill or alter the Grade unless the alteration of Grade is established by a Site Alteration Plan as approved by the Director.
- 4.3 Every Person who alters the Grade of land or who causes or permits the alteration of the Grade of land contrary to this By-law or contrary to the terms

of a Permit shall forthwith restore the land to its original condition including the replacement of Topsoil and seed to the Existing Grade of the land.

- 4.4 The issuance of a Permit under this By-law does not relieve the Owner or the Applicant from the obligation to secure all other applicable approvals.
- 4.5 When applying for a permit an Applicant authorized by the Owner and/or Owner shall submit the following information:
- In this section Site Alteration shall have the meaning listed in 1.1.58 and include Fill, Soil, Topsoil as a described term in the Site Alteration Plan
- a. a completed application and any applicable fees in the form prescribed from time to time by the Director in accordance with the information required in this By-law;
 - b. proof of liability insurance showing the City as an additional named insured as may be required by the Director at his or her sole discretion and in a form satisfactory to the City;
 - c. the name, address and contact telephone number or the Owner(s) of the land upon which the Site Alteration is to occur and all authorized agents for the Owner;
 - d. the municipal address of the land on which the Site Alteration is to occur;
 - e. legal description of the land upon which the Site Alteration is to occur;
 - f. the Owner's authorization, Owner's proof to bind a corporation where applicable;
 - g. a Site Alteration Plan, except where exempt, based on a legal survey if required by the Director, accurately indicating:
 - i. the Property lines of the lands for the Site Alteration with dimensions,
 - ii. all materials and manmade features, including top and bottom of slopes, drainage patterns, tree lines, buildings and stockpiles on the lands and within thirty (30) metres on abutting lands and water bodies,
 - iii. all existing storm sewers, ditches, swales, creeks, watercourses and wetlands on the lands and on abutting lands and public highways,

- iv. all existing buildings, trees and driveways on the lands and all easements and right-of-ways over, under, across or through the lands,
- v. proposed Grade and drainage systems upon completion of the Site Alteration,
- vi. all proposed ground covering to be used upon completion of the Site Alteration operation, and
- vii. all Erosion, sediment and tree protection measures for Site Alteration operation;
- h. a copy of a Permit for related activities issued by a Conservation Authority where applicable within the City of Kawartha Lakes;
- i. a description of the Fill proposed to be Dumped or Placed including a detailed description of the source of the Fill with a letter from the party from whom the Fill is being acquired attesting that the Fill meets the requirements for clean Fill if applicable, the quantity of Fill (expressed in cubic metres), and the proposed location of the Fill on the lands. Contact information shall be included;
- j. the Permit fee, where Soil removal, Fill Placement, or Site Alteration activity associated with an application is subject to the provisions of this By-law, and shall be adjusted annually in accordance to the Consolidated Fees By-law:
 - Small Fill Operation \$600 (2019),
 - Large Fill Operation \$1,000 plus \$1.00 per cubic metre (2019);
- k. the Permit fee, where all Soil removal, Fill Placement, or Site Alteration activity associated with an application is regulated by a Conservation Authority but impacts the City's Infrastructure, shall be adjusted annually in accordance to the Consolidated Fees By-law:
 - Small Fill Operation \$600 (2019),
 - Large Fill Operation \$1,000 (2019);
- l. for a Large Fill Operation, a Site Alteration Plan shall be submitted in order to assess the impact of the Fill Placement or Grade alteration on the Property and the Plan shall include information for matters and activities described in **Schedule "B"**;
- m. when required by the Director, an Environmental Impact Study, Natural Heritage Evaluation, and/or Hydrogeological Impact Study, shall be

submitted in order to assess the impact of the Fill Placement or Grade alteration on the Key Natural Heritage Features and/or Key Hydrologic Features on or within 120 metres of the Property;

- n. when required by the Director, an Agricultural Impact Assessment shall be submitted if the Site Alteration is on or adjacent to Agricultural or Rural lands as identified in the City's Official Plan or in the Provincial Agricultural System as Prime Agricultural Area, where the placement is not part of an Agricultural Operation and a Normal Farm Practice;
- o. when required by the Director, an archaeological assessment shall be submitted if Site Alteration is within an area that may contain archaeological resources or have archaeological potential, as identified in accordance with provincial criteria and/or the City's archaeological potential modelling;
- p. a description of the proposed quantity and type of Fill, whether it qualifies as a Table 1 Standards of Fill or a Table 2 Standards of Fill, including a list of the Fill origin sources and geotechnical reports as to content and quality, prepared by a Qualified Person in that regard. The Applicant shall demonstrate in a report how the proposed Fill Placement and type of Fill being Placed meets the existing and/or intended land uses for the Property as indicated by the City's Official Plan, relevant Zoning By-law, and/or Rehabilitation Plan ~~approved by the Ministry of Natural Resources and Forestry;~~
- q. a certificate from the Owner, Applicant and each Qualified Person referenced in paragraph 5.3 and Schedule "B" certifying that the Fill contains no contaminants as defined in the Environmental Protection Act, R.S.O. 1990, c. E.19, as amended, and that the intended reuse site demonstrates compliance with O. Reg. 406/19;
- r. a plan showing the design details to proper scale of any Retaining Wall that may be required and the dimensions of any materials to be used in construction of such Retaining Wall. A Retaining Wall plan may require a building permit as regulated by the Building Code Act; and
- s. for a Large Fill Operation a security in a form and amount to be determined by the Director to include 100% for the operation and removal of all required on-site works and off-site improvements associated with the Permit and \$1.00 per cubic metre of Fill being placed on the site and held in accordance to the Consolidated Fees By-law. Securities for on-site and off-site works will be refunded once the City is satisfied that the works have been completed and/or constructed to the City's satisfaction and that the Fill meets the Ministry of the Environment, Conservation and Parks criteria. The City reserves

the right to have the Fill tested at the Applicant's and/or Owner's expense.

- 4.6 The City shall have the authority to designate all truck routes and trucking schedules, including any revisions, in order to minimize impacts to the public and municipal Infrastructure. The City shall require truck traffic to follow designated aggregate haul routes where possible. Public notification may also be required by the City.
- 4.7 An Owner or Person operating a Small Fill Operation or Large Fill Operation shall post information at the entrance to the excavation site containing the purpose of the operation, names, mailing addresses, and emergency telephone numbers of the company to which the Permit has been issued as well as sub-consultants, contractors, and trucking companies that are undertaking the work, to the satisfaction of the City. Emergency contact names and telephone numbers shall also be provided to the City as part of the permit application in Section 4.5 of this By-law.
- 4.8 Any person removing Soil, Placing or Dumping Fill, or altering Grades within the City shall implement and maintain an approved Construction Management Plan as per the City's requirements, including staging work to limit erosion, vegetating stockpiles and exposed soil, mud tracking and dust control program. As part of the Permit process, when required, such a plan shall be provided in writing to and be approved by the City and shall include the provision of mud mats and dust control measures at both the extraction and placement sites, and the continuous monitoring thereof. Where mud and dust, and construction site management are not controlled to the satisfaction of the City, the City may, without Order, have such mud or dust controlled by City employees or a third party contractor and such costs, plus a 30% management and administration charge in accordance to the Consolidated Fees By-law, shall be invoiced and collected as per Section 7.4 of this By-law.
- 4.9 In addition to Section 4.8, the Director may revoke the Permit until such invoices are paid in full at the sole discretion of the City.
- 4.10 The City may draw upon the security posted pursuant to Paragraph 4.5 sf. to recover the costs incurred by the City in performing any required work which the Owner or the Applicant has failed to perform.
- 4.11 The City will consider a Permit for the removal of Soil, Placement of Fill, or the alteration of Grades within an area identified by a Conservation Authority, source water protection plan, or by the City's Official Plan as a Source Water Protection Area, Surface Water Intake Protection Zone or Wellhead Protection Area subject to the appropriate studies being submitted for review and approval by the relevant Conservation Authority, the Risk Management Official, and/or the City as required.

- 4.12 The City will not issue a permit to an Applicant and/or Owner if the City is made aware in advance of processing the Permit application that the Applicant or Owner has outstanding Orders for violations issued by the Ministry of the Environment, Conservation and Parks or other government agency for Property located within the City.

Section 5.0 Permit Requirements

- 5.1. The Director may, prior to the issuance of a Permit, require the Owner or Applicant or both to enter into a Site Alteration Agreement which may be registered on title to the Lot containing such requirements of this By-law as the Director considers necessary to ensure that the alteration of land or the Placing or Dumping or removal of Fill is done in accordance with the prevailing design standards of the City and proper engineering principles, and that prior to the commencement of the Placing or Dumping of Fill, a program to control mud tracking onto public roads and dust control program containing measures considered to be appropriate by the Director to control mud tracking and dust both on the Lot or other land from which the Fill is proposed to be removed and on the land on which Fill is to be Placed or Dumped and the truck routes proposed to be used by the Applicant, if any, to move the Fill to the Lot on which it is proposed to be Dumped or Placed.
- 5.2. Requirements contained in a Site Alteration Agreement Development Agreement or will include the Owner or Applicant or both releasing and indemnifying the City, certifying that the Fill placed contains no contaminants as defined in the Environmental Protection Act, as amended, posting with the City the required security and where, in the opinion of the Director, extensive activities are proposed, certification by a geotechnical engineer or other similarly Qualified Person, both prior to the issuance of a Permit and upon completion of the work. All such certification shall state that the Owner or Applicant has complied with all of the obligations and conditions contained in the Permit.
- 5.3. The Director may at the Applicant's and/or Owner's expense, require the testing of any Fill by a Qualified Person retained by the City. Fill Removal and/or Placement of Fill operations may be suspended pending test results at the direction of the Director.
- 5.4. The City requires the Applicant and/or Owner to provide copies of prior certification that every load of Fill being placed on a Property complies with all Ministry of the Environment, Conservation and Parks Table 1 Standards or Table 2 Standards, whichever is applicable based on the zoning and/or intended use of the Property, [as more specifically set out in O. Reg. 406/19 and guidelines thereto.](#)
- 5.5. The Property Owner and/or the Applicant for which a Permit has been issued shall be solely responsible for the removal of Contaminated Fill and

- the Property shall not be used for the remediation or cleaning of Contaminated Fill.
- 5.6. The Director may require the Applicant and/or Owner to install such site remediation measures, including Soil Erosion and sediment control, seeding, sodding and installation of berms and landscaping, as are necessary to minimize the visual impact of Fill or Grade alteration proposals and to provide for stabilization of the altered Grades.
- 5.7. An Erosion and Sediment Control Plan shall be completed as part of the Site Alteration Plan and Permit application submitted to the Director and shall include but may not be limited to the following requirements:
- i. Project description, including the nature of the land disturbing activity;
 - ii. Condition of the existing site, including site use, topography, soil types and characteristics, vegetation, drainage system and receiving waters;
 - iii. Description of areas in the site that have potential for Erosion or sediment transportation;
 - iv. A delineation and description of measures to be taken to prevent Erosion and to retain sediment on the site, including but not limited to the designs and specifications for swales, dykes, drains, sediment control ponds, and a schedule for their continued maintenance over the project lifespan specified by the City; and
 - v. A delineation and description of the revegetative measures to be used including, but not limited to, mulches, type of seeds, the type and location of pre-existing and undisturbed vegetation types. The proposed revegetation shall consist of native, non-invasive plant species.

Section 6.0 Permit Expiry, Renewal, Transfer, and Revocation

- 6.1. A Permit shall expire 90 calendar days after the day on which it is issued pursuant to this By-law. Alternatively, an extended time frame may be approved by the Director upon request by the Owner and/or Applicant.
- 6.2. A Permit may be renewed at any time prior to its expiry for an additional 90 day period by an Applicant and/or Owner making a written application to the Director accompanied by the applicable fee as described in the City's Consolidated Fees By-Law. Any requested changes to the permit as a result of the renewal request shall be considered a new and separate permit.

- 6.3. A Permit shall not be renewed if the Applicant and/or Owner have violated the terms of a Permit previously issued by the City until the violation has been rectified.
- 6.4. A Permit shall not be transferred to a new Owner and/or Applicant unless the Director approves an amendment to the Permit by an Applicant and/or Owner making a written application to the Director accompanied by the applicable fee as described in the City's Consolidated Fees By-Law.
- 6.5. It is a condition of each Permit that the Permit shall be revoked by the Director or Municipal Law Enforcement Officer under the following circumstances:
 - i. if the Permit was obtained on mistaken, false or incorrect information;
 - ii. if the Permit was issued in error;
 - iii. if the Property Owner or Property Applicant fails to comply with an Order;
 - iv. if the Owner or Applicant requests in writing that the Permit be revoked;
 - v. if the terms of a Development Agreement under this By-law have not been complied with; or
 - vi. if an Owner and/or an Applicant fails to comply with the provisions of this By-law or with an Order requiring work to be done to correct any contravention of this By-law.
- 6.6. Unless otherwise permitted by the terms of an Order, Every Person who removes Soil contrary to this By-law or contrary to an issued Permit shall forthwith rehabilitate the land from which the Soil was removed including the replacement of the Topsoil and the restoration of the Existing Grade.
- 6.7. Unless otherwise permitted by the terms of an Order, Every person who removes and Places Fill or who causes or permits Fill to be removed or Placed contrary to this By-law or to a Permit shall forthwith remove such Fill and restore the Grade of the land that existed prior to the Placement of Fill on the Property.
- 6.8. Unless otherwise permitted by the terms of an Order, Every Person who alters the Grade of land or who causes or permits the alteration of the Grade of land contrary to this By-law or to a Permit shall forthwith restore the land to its original condition including the Existing Grade of the land.

Section 7.0 Orders

- 7.1. If the Director or Municipal Law Enforcement Officer becomes aware that a contravention of this By-Law is occurring or has occurred, the Director or Municipal Law Enforcement Officer may make an Order requiring any person who is removing Soil, placing Fill, or altering the Grade of land in contravention of this By-law to discontinue the activity or to do work to correct the contravention.
- 7.2. The contents of an Order issued under the By-Law shall include:
- i. The reasonable particulars of the contravention;
 - ii. The inspection date;
 - iii. The municipal address of the Property or legal description of the Property where the Order applies;
 - iv. The Owner information;
 - v. What must be done to rectify the contravention, which may include the provision of a remediation plan with associated soil testing, provided by a Qualified Person;
 - vi. A time period, which is not less than fourteen (14) days ~~and is not more than sixty (60) days~~, in which the Order must be complied with;
 - vii. A statement that, where an Owner fails to comply with an Order within the specified time frame, a Municipal Law Enforcement Officer may, in addition to any enforcement of this By-Law, cause the City's forces to complete the work required by the Order, without further Order to the Owner; and
 - viii. Payment of double the fee otherwise payable per paragraph 4.5(g)(j) or 4.5(g)(k), to the extent that those payments would have been made had the Owner complied with the By-law, as well as any associated fees or administration charges payable pursuant to section 4.8.
- 7.3. Orders under this By-law shall be deemed sufficient if delivered in person, by regular mail, email, by courier, or by registered mail to the address of the Property on which the contravention is occurring and to the last known address of the registered Owner of the Property on which the contravention is occurring, if different. Any such Order shall be conclusively deemed to have been given and received upon the same day if personally delivered or sent by email or facsimile, or, if mailed, delivery shall be deemed completed after three business days.

- 7.4. When a Person or Owner fails to comply with an Order issued by the Director or a Municipal Law Enforcement Officer, the City may in addition to all other remedies enter onto the Property at a reasonable time to complete the remedial work. The costs of this action, including a General Inspection fee as set out in the Consolidated Fees By-law, shall be added to the tax roll of the Property which is the subject matter of the Order and shall be collected in like manner as municipal taxes, or by drawing on the security provided.

Section 8.0 Enforcement and Penalties

- 8.1. **Enforcement:** This By-law may be enforced by every Municipal Law Enforcement Officer who has been designated by Council.
- 8.2. **Obstruction:** No Person shall hinder or obstruct, or attempt to hinder or obstruct, any Officer, Inspector, City Employee or Agent exercising a power or performing a duty under this By-law or under the Municipal Act, 2001, as amended.
- 8.3. **Offence and Penalty:** Every person who contravenes this By-law or an Order made by an officer under the authority of the Municipal Act, 2001, is guilty of an offence and, upon conviction, is liable to a fine in accordance with the Municipal Act, 2001, and to any other applicable penalty. More specifically:
- a. Any individual person or owner who contravenes this By-law or an Order issued under this By-law is guilty of an offence and is liable, on a first conviction, to a fine of not more than \$10,000, and on any subsequent conviction, to a fine of not more than \$50,000.
 - b. Any corporation who contravenes this By-law or an Order issued under this By-law is guilty of an offence and is liable, on a first conviction, to a fine of not more than \$50,000, and on any subsequent conviction, to a fine of not more than \$100,000.
- 8.4. Any person who contravenes the provisions of this by-law is guilty of an offence and, upon conviction, is subject to a fine as provided in the Provincial Offences Act, 1990, c.P.33, as amended from time to time, and to any other applicable penalties.
- 8.5. **Multiple Offences:** The conviction of a Person for the contravention of any provision of this By-law shall not operate as a bar to the prosecution against the same Person for any subsequent or continued contravention of this By-law.
- 8.6. **Court Order:** If a Person is convicted of an offence for contravening this By-law or an Order made by an officer under the authority of the Municipal

Act, 2001, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other penalty, Order the Person, in such manner and within such period as the court considers appropriate to:

- i. rehabilitate the land; or
- ii. restore the Grade of the land to its original condition.

Section 9.0 Rights of Entry

- 9.1. The Director, Municipal Law Enforcement Officers, and the City's employees and agents may enter on the Owner's land at any reasonable time for the purpose of confirming compliance with the By-law or for doing works pursuant to Section 7.4 of the By-law.

Section 10.0 General Provisions

- 10.1 **Administration:** The Director of Engineering and Corporate Assets is responsible for the administration of this By-law.
- 10.2 **Designation of Officers:** All Municipal Law Enforcement Officers and Inspectors as defined in this By-law are designated as Officers for the purpose of the enforcement of this By-law.
- 10.3 **Effective Date:** This By-law comes into force on the date that it receives third reading and is passed.

Section 11.00: Repeals

11.01 **Repeal:** By-law 2018-214, a By-law Regulating The Removal of Topsoil, Placement of Fill, and the Alteration of Grades, is repealed.

By-law read a first, second and third time, and finally passed, this 16 day of July, 2019.

—
Andy Letham, Mayor

—
Cathie Ritchie, City Clerk



Set Fines By-law
2019-105.pdf

Schedule “A”

Permit Exemptions

The Permit exemptions noted below apply only to the provisions of this By-law, and do not prevent the owner and/or applicant from obtaining other required Federal, Provincial and/or municipal approvals, as required by law (including Conservation Authority Act approvals).

The provisions of this By-law do not apply to the removal or Placement of Fill or alteration of the Grade of land under the following situations:

1.0 General Exemptions

- 1.1 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 as amended or a waste disposal or waste management system that is exempted by regulation from said Part V;
- 1.2 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;
- 1.3 Emergency measures taken by the City or Conservation Authority or any other federal, provincial or governmental agency or body, to prevent Flooding, Erosion, slipping of Soil or damage of trees;
- 1.4 The activities of the City or the Conservation Authority related but not limited to the establishment or maintenance of utilities and services, roads, bridges, Flood and Erosion control facilities, walkways, bicycle paths, fences, retaining walls, steps and lighting;
- 1.5 The Placing or Dumping of Fill, removal of Topsoil or alteration of the Grade of land as a condition to the approval of a site plan, a plan of subdivision or a consent under Section 41, 51 or 53 of the Planning Act, R.S.O. 1990 c. P.13 as amended, or as a requirement of a site plan agreement or subdivision agreement entered into under those sections;
- 1.6 The Placing or Dumping of Fill, removal of Topsoil or alteration of the Grade of land as a condition to a development permit authorized by regulation made under Section 70.2 of the Planning Act, R.S.O. 1990 c. P.13 as amended or as a requirement of an agreement entered into under that regulation;
- 1.7 Aggregate (as defined in the Aggregate Resources Act, R.S.O. 1990, c. A.8, as amended) brought onto a pit or quarry operating under a licence or

- wayside permit issued under that statute as part of the operations of that pit or quarry;
- 1.8 The Placing or Dumping of Fill, removal of Topsoil or alteration of the Grade of land undertaken on land described in a licence and/or site plan for a pit or quarry or a permit for a wayside pit or wayside quarry issued/approved under the Aggregate Resources Act, R.S.O. 1990 c. A.8 as amended;
 - 1.9 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,
 - i. that has not been designated under the Aggregate Resources Act, R.S.O. 1990 c. A.8 as amended or a predecessor of that statute; and
 - ii. on which a pit or quarry is a permitted land use under a By-law passed under Section 34 of the Planning Act, R.S.O. 1990 c. P.13 as amended;
 - 1.10 Any rehabilitation or filling activity in a pit or quarry licensed under the Aggregate Resources Act, R.S.O. 1990 c. A.8 as amended, and specifically addressed on the approved site plan when there is insufficient overburden retained to rehabilitate such pit or quarry in accordance with that statute;
 - 1.11 The Placing or Dumping of Fill, removal of Topsoil or alteration of the Grade of land undertaken as an incidental part of the Agricultural Drain construction or Agricultural Drain cleanout under the Drainage Act, R.S.O. 1990, c. D.17, as amended, or the Tile Drainage Act, R.S.O. 1990, c. T.8, as amended;
 - 1.12 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, Schedule A, as amended, for the purpose of constructing and maintaining a transmission system or a distribution system, as those terms are defined in that section;
 - 1.13 The activity is undertaken in accordance with an Order issued pursuant to the City's Property Standards By-law as amended from time to time;
 - 1.14 The activity is conducted within a Contractor's Yard which imports, processes, uses, and/or sells Soil materials and which complies with the applicable City's Zoning By-law as amended;
 - 1.15 The activities or matters undertaken by the City or a local board of the City, Province of Ontario, or Dominion of Canada involving the alteration of Grades or Placement of Fill on Property or public highways. These organizations shall ensure that Fill materials being removed meets all relevant Ministry of the Environment, Conservation and Parks Table 1 Standards and/or Table 2 Standards requirement. All contractors or

agents working on behalf of the City or a local board of the City, Province of Ontario, or Dominion of Canada will be required to obtain approvals for the Placement of these Fill materials on private Property, with the exception of the Placement of ditching materials;

- 1.16 The Placing or Dumping of Fill, removal of Topsoil or alteration of the Grade of land imposed after December 31, 2002 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 subdivision agreement entered into under those sections;
- 1.17 The Placing or Dumping of Fill, removal of Topsoil or alteration of the Grade of land imposed after December 31, 2002 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 under that regulation.

The provisions of this By-law do not apply to the Removal or Placement of Fill or alteration of the Grade of land under follow situations:

2.0 Building and Development Exemptions

- 2.1 Construction, where authorized by the Chief Building Official and a building permit including erection, installation, construction, demolition of a building, structure, swimming pool or on-site sewage system issued in accordance to the Building Code Act, 1992, S.O. 1992, c. 23, as amended, or in accordance to the Swimming Pool and Swimming Pool Fence By-law, where the building permit application provides sufficient information to determine that the Placing or Dumping of Fill conforms with provisions of this By-law and the amount of Fill to be Dumped or Placed pursuant to the building permit does not exceed 500 cubic metres;
 - a. A one-time Placing or Dumping of Fill within a 100 metre radius and associated with the construction of agricultural or farm buildings or structures shall be permitted, through the issuance of a Building Permit where applicable, so as to establish an appropriate Grade relative to the surrounding area of the buildings or structures and as deemed appropriate;
- 2.2 The Placing or Dumping of Fill in an excavation to the elevation of Existing Grade following the demolition or removal of a building or structure for which a building permit has been issued. This includes demolition or removal of an agricultural building or structure where a building permit is not required;
- 2.3 The Placing or Dumping of Fill on lands for the purpose of Flood or Erosion control to establish Finished Grade shown on a Grading and Drainage Plan

- approved by the Conservation Authority or City in conjunction with a subdivision approval;
- 2.4 The Placing or Dumping of Fill on lands for non-residential Site Alteration involving an amount of Fill of less than two hundred (200) cubic metres on a Lot within any one-year period, provided that there is no significant change in the direction or rate of drainage to the neighboring properties, and unless the site includes or is adjacent to a body of water. Such alteration shall not take place within sixty (60) centimetres of any Property line;
- 2.5 The Placing or Dumping of Soil or Topsoil on lands zoned or used for residential purposes within the meaning of the Zoning By-Law for the purpose of lawn dressing, landscaping, adding of flowerbeds or vegetable gardens, provided that:
- a. The elevation of the land is not changed within sixty (60) centimetres of the Property line;
 - b. There is no change in the location, direction, or elevation of any natural or artificial watercourse, open channel, swale, or ditch used to drain land;
 - c. The functionality of any drainage Infrastructure is not impeded;
 - d. The volume of Soil or Topsoil does not exceed one hundred (100) cubic metres in any consecutive 12 month period on a Lot which is 0.1 hectares or less; and
 - e. The volume of Soil or Topsoil does not exceed two hundred (200) cubic metres in any consecutive 12 month period on a Lot which is greater than 0.1 hectares in area.
- 2.6 The resurfacing or paving of existing driveways where there is no alteration to the existing driveway base and no significant change in the direction or rate of drainage to neighboring properties;
- 2.7 The Placing or Dumping of Fill for the construction and/or installation of a new driveway and associated works within the municipal right-of-way as per Public Works Access to Municipal Right-of-Way By-Law 2017-151 as amended from time to time and subject to the following provisions:
- a. The use is permitted by the Zoning By-law;
 - b. Driveways shall not be installed in advance of the zoning use being established;

- c. The width of the driveway shall not exceed seven (7) metres and the depth of fill does not exceed fifteen (15) centimetres above the existing Grade; and
 - d. An entrance permit has been issued by Public Works.
- 2.8 One time widenings of existing driveways are permitted to a maximum increase in impervious area of 50% of the original driveway area to a maximum width of seven (7) metres.

The provisions of this By-law do not apply to the Removal of Topsoil or Placement of Fill or alteration of the Grade of land under follow situations:

3.0. Agricultural Exemptions

- 3.1. The provisions of this By-law do not apply to the removal of Soil, as an incidental part of a Normal Farm Practice as defined by the Farming and Food Production Protection Act, S.O. 1998, C. 1, as amended, on Agricultural Lands as part of an Agricultural Operation;
- 3.2. The provisions of this By-law do not apply to the Placing or Dumping of Fill and resulting Alteration of Grade on Agricultural Lands as part of an Agricultural Operation with an annual calendar year limit of 500 cubic metres as an incidental part of a Normal Farm Practice as defined by the Farming and Food Production Protection Act, S.O. 1998, c. 1 as amended, save and except requirements for the protection of the natural environment found within Sections 2.6, 2.7, 2.12, 2.13, 2.14 and 2.15 unless permitted or required by the Nutrient Management Act, 2002, S.O. 2002, c. 4, as amended;
- 3.3. The provisions of this By-law do not apply to any form of Site Alteration or the alteration of Grade where soils are being moved within an Agricultural Operation wholly within Kawartha Lakes as an incidental part of a Normal Farm Practice as defined by the Farming and Food Production Protection Act, S.O. 1998, c. 1 as amended, on Agricultural Lands as part of an Agricultural Operation;
- 3.4. Storage of Topsoil for the restoration of Agricultural Lands used for Normal Farm Practices, as an incidental part of an agricultural or horticultural operation shall not exceed one thousand (1,000) cubic metres, and shall be Stored a minimum of 30 metres from any Property line and any Key Hydrologic Feature and/or Key Natural Heritage Feature.
- 3.5. The removal of Topsoil on Agricultural Lands as part of an Agricultural Operation incidental to a Normal Farm Practice including but not limited to removal as an incidental part of sod-farming, greenhouse operations and nurseries for horticultural products or other agricultural activities as per the Farming and Food Production Protection Act, S.O. 1998, C. 1, as amended;

- 3.6. The harvesting or excavation and removal of peat and/or organic soils in a commercial operation as approved by the Conservation Authority and/or the Ministry of Natural Resources and Forestry.

Schedule “B”

Site Alteration Plan

- 1.0 A Site Alteration Plan, shall be submitted in order to assess the impact of the Fill Placement or Grade alteration on the Property affected. For a Small or Large Fill Operation, the Plan must be prepared by a Professional Engineer or an Ontario Land Surveyor. The Plan shall include any or all of the matters and activities described as follows:
- i. key map showing the location of each Lot, including the nearest roadways and major intersection, and north arrow;
 - ii. locations where municipal pavement, ditches, culverts, sidewalks, facilities or other Infrastructure or services are impacted. The City may invoke its right to post a No Heavy Trucks route in the event that a hauler is damaging Municipal infrastructure;
 - iii. the Lot’s boundaries and area (expressed in square metres and/or hectares) of each such Lot or parcel of land;
 - iv. the existing and proposed use of the land and the location and use of the buildings and other structures adjacent to each Lot. This information shall include the distance between the proposed work area and adjacent residential uses;
 - v. the location, dimensions and use of any building and other structures existing or proposed to be erected on each Lot;
 - vi. the location of all Key Natural Heritage Features, Key Hydrologic Features and/or any other environmentally sensitive features, including but not limited to: lakes, streams, rivers, wetlands, channels, ditches, other watercourses and other bodies of water including hydrologically sensitive features such as springs, seeps, etc. on and within a minimum of 120 metres beyond each Lot’s boundaries;
 - vii. the location of all Regulatory Flood Lines and Conservation Authority Regulation limits;
 - viii. the location and identification of the predominant existing Soil types on and abutting the Lot within 120 metres;
 - ix. the species, Grade at base and size (in diameter at breast height) of all trees greater than 250 millimetres in calliper, all shrubs, trees and hedges within three (3) metre(s) of the Property line and driveways on each Lot and all easements and rights-of-way over, under, across or through the Lot;

- x. the location and dimensions of any existing and proposed storm water drainage systems and natural drainage patterns on and within a minimum of 30 metres beyond each Lot's boundaries;
- xi. the location and dimensions of utilities, structures, roads, highways and paving located within a minimum of 30 metres beyond each Lot's boundaries;
- xii. the existing topography on the Lot and extending a minimum of 30 metres beyond the Lot's boundaries;
- xiii. the Proposed Grades of each Lot;
- xiv. the location and dimensions of all proposed land disturbance activities, including construction of access roads;
- xv. the location and dimensions of all temporary Soil, Topsoil or Fill stockpiles on the Property;
- xvi. the total quantity of fill in cubic metres;
- xvii. the location, dimensions, design details and design calculations of all construction site Erosion control measures that may be necessary to minimize the impact of the proposal;
- xviii. a schedule of the anticipated starting and completion dates of each land disturbance or land development activity;
- xix. provisions for the maintenance of the construction site Erosion control and dust control measures during construction and after as required;
- xx. traffic management information including proposed daily truck traffic levels, a plan of proposed external haul routes and daily schedule for hours of hauling operations, traffic control plan and a plan showing signage as required by the City;
- xxi. the scale of drawing, ranging from 1:250 to 1:1000 as deemed appropriate, in metres;
- xxii. an indication on the drawing of directions of overland water flow and overland flow route; ~~and~~;
- xxiii. any information, being location of intended reuse site, soil testing results or otherwise, required by Ontario Regulation 406/19 – Excess Soil Management; and
- xxiv. any information, plans or studies required by Ontario Regulation 140/02, as amended – The Oak Ridges Moraine Conservation Plan.

The City shall require a \$3,000.00 deposit should the City require the services of a Qualified Person to peer review the studies submitted by the Applicant;