

# The Corporation of the City of Kawartha Lakes

## By-Law 2024-

### A By-Law to Amend By-Law 2019-105, being 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. By-Law 2019-105 was adopted by Council on the 16<sup>th</sup> day of July, 2019 to Regulate the Removal of Topsoil, Placement of Fill and the Alteration of Grades in the City of Kawartha Lakes.
2. Council adopted resolution CR2024-488 on the 24<sup>th</sup> day of September, 2024 to approve amendments to By-Law 2019-105, as outlined in Report LGL2024-008.
3. This By-Law implements those amendments.

Accordingly, the Council of The Corporation of the City of Kawartha Lakes enacts this By-law 2024-      .

#### Section 1.00: Definitions and Interpretation

##### 1.01 Definitions:

All defined terms in the amending By-law take their meaning from By-law 2019-105 of the City of Kawartha Lakes.

1.02 **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.

1.03 **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 2.00: Amendment Details

##### 2.01 Amendment: Recitals:

That the following paragraph be inserted as recital paragraph 5(e) with all subsequent paragraphs in recital 5 renumbered, as required:

5(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;

##### 2.02 Amendment: Section 1.1.21

That Section 1.1.21 be amended to read as follows:

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.

2.03 Amendment: Section 2.12

That the following Section be added as Section 2.12, before the Protection of Agricultural Resources and Preservation of Drainage heading, with all subsequent subsections within Section 2 to be renumbered, as required:

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.

2.04 Amendment: Section 2.18

That the following Section be added as Section 2.18:

**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.

2.05 Amendment: Section 4.5(o)

That the following Section be added as Section 4.5(o) with all subsequent subsections within Section 4.5(o) renumbered, as required:

4.5(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;

2.06 Amendment: Section 4.5(p)

That Section 4.5(p) be amended to read as follows:

4.5 (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;

2.07 Amendment: Section 4.5(q)

That Section 4.5(q) be amended to read as follows:

4.5(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;

2.08 Amendment: Section 4.10

That Section 4.10 be amended to read as follows:

4.10 The City may draw upon the security posted pursuant to Paragraph 4.5.s to recover the costs incurred by the City in performing any required work which the Owner or the Applicant has failed to perform.

2.09 Amendment: Section 5.4

That Section 5.4 be amended to read as follows:

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.

2.10 Amendment: Sections 6.6, 6.7 and 6.8 be amended to include the following wording as the opening statement of each respective paragraph:

"Unless otherwise permitted by the terms of an Order,"

2.11 Amendment: Section 7.2(v):

That Section 7.2(v) be amended to read as follows:

7.2(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;

2.12 Amendment: Section 7.2(vi):

That Section 7.2(vi) be amended to read as follows:

7.2(vi) A time period, which is not less than fourteen (14) days, in which the Order must be complied with;

2.13 Amendment: Section 7.2(viii):

That Section 7.2(viii) be amended to read as follows:

7.2(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 fees or administration charges payable pursuant to section 4.8.

2.14 Amendment: Section 7.3:

That Section 7.3 be amended to read as follows:

- 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.

2.15 Amendment: Schedule B:

That Schedule B be amended to include the following Section, with all subsequent subsections renumbered, as required:

- xxiii. any information, being location of intended reuse site, soil testing results or otherwise, required by Ontario Regulation 406/19 – Excess Soil Management; and

**Section 3.00: Administration and Effective Date**

- 3.01 **Administration of the By-law:** The Director of Engineering and Corporate Assets is responsible for the administration of this by-law.
- 3.02 **Effective Date:** This By-law shall come into force on the date it is finally passed.

By-law read a first, second and third time, and finally passed, this 22nd day of October, 2024.

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Doug Elmslie, Mayor

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Cathie Ritchie, City Clerk