

The Township of Cavan Monaghan

By-Law No. 2012-27

Being a By-Law to Control the Dumping of Fill and Alteration of Grades

Whereas Section 142 of the Municipal Act, 2001, as amended, authorizes the Council of the Township of Cavan Monaghan to pass By-laws for prohibiting or regulating the placing or dumping of fill of any kind and for prohibiting or regulating the alteration of the grade of land in any defined area or areas in the Municipality other than those areas subject to regulations made under Section 28(1) of the Conservation Authorities Act, as amended;

And Whereas Council deems it in the public interest to regulate the dumping and placing of fill and other site alterations in order to ensure that existing drainage patterns are maintained and that any changes to existing drainage patterns are appropriate to protect environmental features; to prevent the importation of hazardous material; and to keep the disturbance of landform characteristics to a minimum;

Now Therefore the Township of Cavan Monaghan enacts as follows:

Part 1 Definitions

In this By-law:

- (1) "Agricultural Lands" includes all lands that are used by a farming business registered under the Farm Registration and Farm Organizations Act, 1993, S.O. 1993, c.21, as amended, for growing of crops, including nursery and horticultural crops; raising livestock; raising of other animals for food, fur, fibre, including poultry and fish; aquaculture; apiaries; agro-forestry; maple syrup production;
- (2) "Body of Water" includes any body of flowing or standing water whether naturally or artificially created;
- (3) "Chief Building Official" means the Chief Building Official of the Township of Cavan Monaghan and shall include any person authorized by the Chief Building Official to carry out any of the powers or duties of the Chief Building Official pursuant to this By-law;
- (4) "Clearing and/or Grubbing" means the removal of all surface objects, brush, roots and other protruding obstructions, trees and stumps which result in the removal of topsoil or the alteration of grade of land;
- (5) "Commercial Fill Operation" means the placing or dumping of fill involving remuneration paid, or any other form of consideration provided, to the owner or occupier of the land, whether or not the remuneration or consideration provided to the owner is the sole reason for the placing or dumping of the fill;
- (6) "Complete Application" means an application and contents as described in this By-law;
- (7) "Conservation Authority" means any Conservation Authority designated by the Province that may fall within the jurisdictional boundaries of the Township of Cavan Monaghan.
- (8) "Control Measures" means erected measures to prevent the migration of silt and material from the location of the fill or site of disturbance to

another adjacent location that may be impacted. Various “Control Measures”, such as silt fencing, silt curtains, silt control barriers are used depending on the site and control measures application requirements;

- (9) “Council” means the Council of the Township of Cavan Monaghan;
- (10) “Development” means the construction of buildings and above or underground services such as roads, parking lots, paved storage areas, watermains, storm and sanitary sewers, general grading works and similar facilities on any lands within the Municipality;
- (11) “Drainage” means the movement of water to a place of disposal or facilitation of movement, whether by way of the natural characteristics of the ground surface, aquifer or by an artificial method;
- (12) “Dumping” means the movement and depositing of fill from one location to a different location and includes the movement and depositing of fill from one location on a property to another location on the same property and "dump" or "dumped" in relation to fill shall have the same meaning;
- (13) “Environmental Impact Study (EIS)” means a report prepared to address the potential impacts of development or interference on natural features and ecological functions. There are three types:
 - Comprehensive EIS is a landscape scale, watershed or sub watershed study which sets the width of setbacks and offers guidance for the investigation, establishment and maintenance of buffers.
 - Scoped EIS is an area or site-specific study that addresses the potential negative impacts to features described previously in a comprehensive study.
 - Full EIS is an area or site-specific study prepared, in the absence of a comprehensive study to address possible impacts from a development. Due to the lack of guidance from a comprehensive study, the full EIS is typically much more detailed than a scoped study, and will also include statements to address possible negative impacts at a regional scale.
- (14) “Erosion” means the detachment and movement of soil, sediment or rock fragments by water, wind, ice or gravity;
- (15) “Fill” means any type of material deposited or placed on lands and, without limiting the generality of the foregoing, includes soil, stone, concrete, construction materials/rubble, asphalt, sod or turf either singly or in combination thereof;
- (16) “Greenbelt Plan” means the Greenbelt Plan as approved by an Order-in – Council (No. 208/2005) in conjunction with the Provincial Requirements and the Township of Cavan Monaghan;
- (17) “Grade” shall be defined as follows:
 - (a) "Existing Grade" means the elevation of an existing ground surface, except that where placing or dumping of fill or alteration of the grade has occurred in contravention of this By-law "existing grade" shall mean the ground surface of the land as it existed prior to the placing or dumping of fill and/or alteration of the grade;

- (b) "Finished Grade" means the elevation of ground surface of land upon which fill has been placed or dumped or after alteration to the grade has occurred;
 - (c) "Proposed Grade" means the elevation of ground surface of land upon which fill is proposed to be placed;
- (18) "Inspector" means the Chief Building Official/By-law Enforcement Officer and any other person designated a Municipal Law Enforcement Officer for the purpose of inspection and enforcement of this By-law as may be appointed by the Township of Cavan Monaghan;
 - (19) "Lot" means a parcel of land, described in a deed or other document legally capable of being conveyed, or shown as a block on a registered plan of subdivision;
 - (20) "Municipal Designate" means the Chief Building Official/By-law Enforcement Officer of the Township of Cavan Monaghan;
 - (21) "Municipality" means the Township of Cavan Monaghan or its geographic limits as the context requires;
 - (22) "Oak Ridges Moraine" means those lands defined as the Oak Ridges Moraine Conservation Plan Area, by Ontario Regulation 140/02;
 - (23) "Oak Ridges Moraine Conservation Plan" means Ontario Regulation 140/02;
 - (24) "Owner" means the person, for the time being, managing or receiving the rent from the property, or paying the municipal taxes on the land, who also may be registered as the owner on title, in connection with which the word is used, whether on his/her own account, or as agent, trustee, or any other person who would so receive the rent if such land were let, and shall also include a lessee or occupant of the property, who under the terms of the lease, is in control of the land for which the property is located;
 - (25) "Occupant" means any person or persons over the age of eighteen years in possession of the property;
 - (26) "Permit" means a permit issued by the governing municipality, upon review and approval of the Municipal Designate or person authorized to issue said permit, pursuant to the provisions of this By-law;
 - (27) "Person" includes a natural individual and his or her heirs, executors, administrators or other legally appointed representatives, a corporation, partnership or other form of business association;
 - (28) "Placing" means the distribution of fill on lands to establish a finished grade higher or lower than the existing grade and "place" or "placed" in relation to fill shall have the same meaning;
 - (29) "Ponding" means the accumulation of surface water in an area not having drainage therefrom where the lack of drainage is caused by the placing or dumping of fill or the alteration of the grade;
 - (30) "Qualified Tree Consultant" means an arborist certified by the International Society of Arboriculture who has a diploma (minimum) in arboriculture or urban forestry;
 - (31) "Regulated" means any area that falls under the jurisdictional boundary of the Ministry of Natural Resources, Department of Fisheries and Oceans Canada, the governing Conservation Authority and environmentally

protected designation from the Township of Cavan Monaghan. These areas are protected under various pieces of provincial and federal legislation in order to protect the ecological, hydrological and fauna complexes found within these areas;

- (32) "Removal" means excavation or extraction of any fill which lowers the existing grade, including soil stripping;
- (33) "Retaining Wall" means a wall made of concrete or concrete product or other materials approved by the Chief Building Official designed to contain and support fill which has a finished grade higher than that of adjacent lands;
- (34) "Site Alteration" means dumping, the removal 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, or any combination of these activities;
- (35) "Soil" means material commonly known as earth, top soil, loam, compost, organics, peat, subsoil, clay, sand or gravel or any combination thereof;
- (36) "Swale" means a shallow depression in the ground sloping to a place of disposal for the purpose of providing a method of drainage or surface water;
- (37) "Topsoil" means those horizons in a soil profile, commonly known as the "O" and "A" horizons, containing organic material and includes deposits of partially decomposed organic matter such as peat, detritus and humus;
- (38) "Watercourse" means a natural or man-made channel or swale in which water flows, either continuously or intermittently with some degree of regularity;
- (39) "Wetland" means land such as swamps, marsh, bog or fen not including land that is being used for agricultural purposes and no longer exhibits wetland characteristics that:
 - (i) Is seasonally or permanently covered by shallow water or has the water table close to or at the surface; and
 - (ii) Has hydro-soils and vegetation dominated by hydrophilic or water-tolerant plants.
- (40) "Zoning By-law" means the Comprehensive Zoning By-law for the Township of Cavan Monaghan as amended from time to time.

Part 2 General Prohibitions and Regulations

- (1) No person shall place or dump any fill, remove any topsoil or otherwise alter the grade of land by causing, permitting or performing any other form of site alteration on land within the Township of Cavan Monaghan without the owner first receiving a permit issued under this By-law unless the foregoing activities are set out in the exceptions in section 3(1) or 3(2) of this By-law.
- (2) No person shall place or dump any fill or alter any grade that is on any land zoned for environmental protection or open space purposes pursuant to the Zoning By-law, or within or adjacent to a watercourse, flood plain or a wetland or other such regulated areas pursuant to the

Conservation Authorities Act, Section 28, Ontario Regulation 182/06, 167/06 and 168/06, unless approval therefore has been issued by the governing Conservation Authority/ Provincial Agency or a permit has been issued pursuant to this By-law. In addition to obtaining a permit under subsection (1), where the applicant's lands include areas regulated under the Conservation Authorities Act, no person shall undertake any activities referenced in subsection (1) in such areas until such time as an approval or permit has been issued by the local Conservation Authority.

- (3) Notwithstanding the issuance of a permit under this By-law, such alteration may be subject to other provincial and/or federal approvals or permits. Owners are advised to consult with such other provincial or federal agencies to determine whether other permits or approvals are required.
- (4) Notwithstanding anything else contained in this By-law except for Section 3 (Exemptions), no person shall cause, permit or perform a site alteration on any lands in the Oak Ridges Moraine unless:
 - (a) The applicant for the permit can demonstrate that such site alteration is permitted pursuant to the Oak Ridges Moraine Conservation Plan; or
 - (b) Such site alteration is directly associated with a building permit issued by the Municipality or any other development agreement with the Municipality; or
 - (c) Such site alteration is directly associated with activities described in Section 3 (Exemptions) of this By-law.
- (5) Except as provided in Section 3 (Exceptions) no person shall cause, permit or perform a site alteration in the Municipality within areas designated as "Key Natural Heritage and Hydrologic Features" in the Official Plan of the Township of Cavan Monaghan that is outside of the Oak Ridges Moraine or within a "Settlement Area" designated in the Oak Ridges Moraine Conservation Plan, unless such site alteration is permitted by the Official Plan for the Township and is directly associated with a building permit issued by the Municipality, or unless such site alteration is directly associated with activities described in Section 3 of this By-law.
- (6) Except as provided in Section 3 (Exceptions) no person shall cause, permit or perform a site alteration on any lands in the Oak Ridges Moraine that are designated by the Oak Ridges Moraine Conservation Plan as:
 - (a) "Natural Linkage Area",
 - (b) "Natural Core Area", or
 - (c) Areas of high aquifer vulnerability or landform conservation areas in lands designated as "Countryside Area",unless such site alteration is directly associated with a building permit issued by the Municipality or any other development agreement with the Municipality, or unless such site alteration is directly associated with activities described in Section 3 of this By-law.
- (7) No person shall cause, permit or perform a site alteration on lands that are subject to an approved site plan, draft plan of subdivision or a consent under Sections 41, 51 or 53 respectively of the Planning Act, as amended, without a site plan agreement, pre-servicing agreement, subdivision agreement or consent agreement entered into under those sections.

- (8) No person, in the performance of a site alteration, shall injure or destroy a municipal tree or other tree, which in the opinion of the Municipal Staff, the placing of fill or alteration of the grade would result in detrimental effect on woodlands, significant woodlands or any tree having special tree status as defined in the Township of Cavan Monaghan Official Plan.
- (9) Notwithstanding anything else contained in this By-law except for Section 3, no person shall cause, permit or perform a site alteration on any lands which are licensed or permitted and used as a pit or quarry under the Aggregate Resources Act, R.S.O. 1990, c. A.8, as amended, (or any predecessor legislation thereof), or otherwise.
- (10) No person shall place or dump fill or cause or permit fill to be placed or dumped that includes material from the demolition of any structure and toxic or hazardous materials, glass or sewage that may be a contravention of the definition of inert fill pursuant to the standards set out by the Ministry of Environment; in the Environmental Protection Act R.S.O. 1990, Regulation 347.
- (11) No person shall undertake site alteration or cause site alteration to occur on any land for storage purposes unless the outside storage of such fill (where the site alteration involves fill) on the land is permitted by the Township's Zoning By-law and such storage shall not exceed five hundred (500) cubic meters.

Part 3 Exemptions

This By-law is not applicable to the following:

- (1)
 - (a) 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, as amended, or a waste, waste disposal or waste management system that is exempted by regulation from said Part V;
 - (b) 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;
 - (c) Emergency measures taken by the Township of Cavan Monaghan, the County of Peterborough or any other Federal, Provincial or Regional agency, to prevent flooding, erosion, slipping of soil or damage of trees;
 - (d) The activities of the Township, local board of the municipality, the County 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;
 - (e) 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 or as a requirement of an agreement entered into under that regulation;
 - (f) Aggregate, as defined in the Aggregate Resources Act, brought onto a pit or quarry operating under a license or wayside permit issued under that Act as part of the operations of that pit or quarry;

- (g) The placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken on land described in a license for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the Aggregate Resources Act;
 - (h) 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 or a predecessor of that Act; 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.
 - (i) Any rehabilitation or filling activity in a pit or quarry licensed under the Aggregate Resources Act, and specifically addressed on the approved site plan when there is insufficient overburden retained to rehabilitate such pit or quarry in accordance with that Act;
 - (j) The placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken as an incidental part of the drain construction 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;
 - (k) 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;
 - (l) The removal of topsoil from agricultural lands incidental to a normal agricultural practice including such removal as an incidental part of sod-farming, greenhouse operations and nurseries for horticultural products. This exception does not include the removal of topsoil for sale, exchange or other disposition;
 - (m) To activities or matters prescribed by regulation enacted pursuant to the Municipal Act, as amended, or pursuant to subsection 28(1)(f) of the Conservation Authorities Act, (as amended);
 - (n) To fill being placed on lands shown in a grading and drainage plan approved by the Municipality in conjunction with subdivision, rezoning or site plan approvals, provided the provisions of such approvals relating to fill are adhered to and all “applicable law” requirements concerning said fill placement and grading is met.
- (2) The following are not subject to the permitting requirements or regulations contained in Part 2, subsection (1) of this By-law:
- (a) Construction of a building or structure pursuant to a valid building permit which has been issued for the erection of the building or structure and/or on-site sewage system, and the site plan accompanying the building permit application provides sufficient information to determine that the placing or dumping of fill conforms with the provisions of this By-law, and the amount of fill to be dumped or placed pursuant to the building permit does not exceed five hundred (500) cubic metres;

- (b) The placing or dumping of soil on lands for the purpose of lawn dressing, landscaping or adding to flower beds or vegetable gardens, provided that the ground elevation of the lands is not increased by more than twenty (20) centimetres and there is no significant change in the direction or rate of drainage to neighbouring properties. Such alteration shall not take place within sixty (60) centimetres of any property line. Such placing of fill shall not exceed fifty (50) cubic meters per 12 month period commencing on January 1st of each year;
- (c) 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;
- (d) Fill being placed or dumped 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 by the Municipality's Engineers in conjunction with a subdivision approval;
- (e) Site alteration involving an amount of soil of less than fifty (50) cubic meters on a lot within any one year period, provided that there is no significant change in the direction or rate of drainage to neighbouring properties, and unless the site includes or is adjacent to a body of water. Such alteration shall not take place within sixty (60) centimeters of any property line;
- (f) Replacement of topsoil for restoration of agricultural lands used for normal agricultural practices, as an incidental part of sod farming, greenhouse operations, and nurseries for horticultural practices which shall not exceed twenty (20) centimeters annually, or at the discretion of the Municipal Designate. Storage of such topsoil shall not exceed five-hundred (500) cubic meters.

Part 4 Requirements for Issuance of a Permit

- (1) An owner or a person authorized, in writing, to act as an agent for such owner applying for a site alteration permit shall have a pre-consultation meeting with the Municipal Designate and any other persons that the Municipal Designate deems necessary, in order to review the proposal to determine if a permit can be issued under the requirements of this By-law.
- (2) An owner or a person authorized, in writing, to act as an agent for such owner applying for a permit shall provide public notice of the site alteration application for a period of 30 days through clearly visible signage at the site. The Notice must be a minimum size of 28 cm by 43 cm.
- (3) An owner or a person authorized, in writing, to act as an agent for such owner applying for a permit shall provide the following as required by the Municipal Designate:
 - (a) A completed application form;
 - (b) The name and address and contact telephone number of the owner of the land upon which the fill is to be dumped or placed or other site alteration is to occur;
 - (c) The municipal address of the land on which the fill is to be dumped or placed or other site alteration is to occur;
 - (d) Legal description of the land upon which the fill is to be dumped or placed or other site alteration is to occur;

- (e) The applicable fees calculated in accordance with rates set out in Schedule “A” of this By-law and the Municipality’s’ Fees By-law at the time the application is made;
- (f) A scale drawing of any retaining wall that may be required and a description, including dimensions, of any materials to be used in the construction of such retaining wall;
- (g) Security in an amount as determined in accordance with Section 2 of Schedule B for the purpose of remediating off-site impacts and returning the land to a condition satisfactory to the Municipal Designate. The security submitted hereunder is subject to the terms and conditions set out in Schedule “B” to this By-law.
- (h) A site alteration plan accurately indicating the following:
 - (i) The property lines of the lands for the site alteration with dimensions;
 - (ii) For site alteration quantity less than five-hundred (500) cubic meters, existing spot elevations on three (3) meter grids across the lands and three (3) metres beyond the property lines to clearly show the existing drainage patterns on the lands and on the abutting lands; and for site alteration in an amount greater than five-hundred (500) cubic metres, a site plan including a topographic survey at one metre contour intervals certified by a professional engineer or Ontario Land Surveyor defining all material 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; and, a description of the type, quantity and location of natural land cover features on the site and within thirty (30) metres on adjacent lands;
 - (iii) All existing storm sewers, ditches, swales, creeks, watercourses, wetlands and any environmentally sensitive features on the lands and on abutting lands and public highways;
 - (iv) Existing buildings, the species and size in caliper of all trees, the location of all shrubs and driveways on the lands and of all easements and rights-of-way over, under, across or through the lands;
 - (v) Where required by the Municipal Designate, a volume calculations plan;
 - (vi) Proposed grades and drainage systems upon completion of the site alteration operation;
 - (vii) All proposed ground covering to be used upon completion of the site alteration operation;
 - (viii) Where required by the Municipal Designate, the foregoing site alteration plan shall be based upon a plan prepared by an Ontario Land Surveyor;
- (i) All erosion, sediment and tree protection measures for the site

alteration operation;

- (j) 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 was acquired attesting that the fill meets the requirements for clean fill set out in Section 4.5(s) or 4.6 of this By-law if applicable, the quantity of the fill (expressed in cubic metres), and the proposed location of the fill on the lands, and may include contact information if required by the Municipal Designate or, where required by the Municipal Designate, a Certificate of Approval from the soil remediation facility;
 - (k) A signed authorization by the owner of the land on which the work is to be performed, or by a person authorized, in writing, to act as an agent for such owner, certifying the correctness of all the information in the application;
 - (l) A signed authorization of a grantee(s) of any easements within the property accepting the placing or dumping of fill or other site alteration on or abutting any easements;
 - (m) The Official Plan designation and Zoning of the property;
 - (n) An Environmental Impact Study and/or Hydrogeological Assessment shall be prepared as part of the application by a qualified professional for proposed fill sites in areas of the Municipality adjacent to areas containing key natural heritage and hydrologic features or where the land is designated as Countryside by the Oak Ridges Moraine Conservation Plan or the land is subject to the Greenbelt Plan, the application shall be accompanied by any and all documents, reports or studies required by such plan(s) to demonstrate compliance with their provisions;
 - (o) Such tree reports prepared by a qualified tree consultant as may be required by the Municipal Designate or other By-laws or policies of the Municipality;
 - (p) Any other study, report, plan, drawing or material related to the application as deemed necessary by the Municipal Designate to constitute a complete application. All reports must have been prepared within the 12 month period immediately preceding the application date.
- (4) If the land that is the subject of the permit application is, in the opinion of the Municipal Designate, of an environmentally sensitive or significant nature, he/she may seek comments/approvals from the Conservation Authority to assist in the permit process and such comments shall form part of the completed application.
- (5) In reviewing any application, the Municipal Designate may seek comments/approvals from any other agency he/she deems necessary and such comments shall form part of the completed application.
- (6) As a condition of the issuance of a permit, the Municipal Designate may require the owner of the land which is the subject of the permit either prior to the permit being issued or after the permit has been issued to comply with one or more of the following:
- (a) Notify the Municipal Designate or an inspector in writing within forty eight (48) hours of commencing any work;

- (b) Construct a retaining wall including a safety fence which does not encroach upon lands abutting the land on which the work is to be performed, (retaining walls one (1) metre or higher may be subject to a building permit pursuant to the Building Code Act, 1992, S.O. 1992 c. 23, as amended) and conforms with the Municipality's Zoning By-law, as amended;
- (c) Ensure that fill is placed or dumped in such a manner, and any retaining wall containing such fill is erected in such a manner, and any other site alteration is conducted in such a manner, that no ponding is caused on abutting lands and that adequate provision is made to permit proper surface stormwater drainage;
- (d) Provide a monitoring plan prepared by a qualified professional(s) to be included as a component in a Site Control Plan, in the agreement referred to in Part 6 (2) that would provide for the early detection of potential impacts during and post fill placement to ensure the ongoing protection of environmentally sensitive or significant lands on or adjacent to the site. At a minimum, the monitoring plan would include the following (or other monitoring requirements as may be deemed appropriate by the Municipality):
 - i) parameters, threshold values and methods/frequency monitoring;
 - ii) pre-fill placement baseline conditions;
 - iii) duration of monitoring; and,
 - iv) reporting requirements (method and frequency).
- (e) Install and maintain the erosion and sediment control measures as identified in the approved site alteration plan and the latest guidelines for erosion measures of the Conservation Authority;
- (f) Notify the Municipal Designate or an inspector, in writing, of the completion of any erosion control measures within fourteen (14) days after their installation;
- (g) Inspect the erosion control measures at least once a week and after each rainfall event wherein the amount of rainfall is equal to or greater than one centimeter per hour and make needed repairs immediately;
- (a) Obtain the permission of the Municipal Designate, in writing, prior to modifying the site alteration plan.
- (i) Keep, maintain, and make available for inspection upon the request of the Municipal Designate, the following records in a good and business-like manner:
 - i) the full and complete legal name, and business name if different from the legal name, of each hauler;
 - ii) the commercial vehicle registration number of each hauler;
 - iii) the motor vehicle permit number of the motor vehicles owned and operated by each hauler;
 - iv) the date and time of each delivery of fill;
 - v) the point of origin of each delivery of fill;
 - vi) the volume of each delivery of fill;

- vii) the content of material of each delivery of fill, and
 - viii) any other information required by the Municipal Designate.
- (j) Provide to the Municipal Designate or an inspector a report from a qualified engineer, or environmental consultant possessing expert or special knowledge in respect to the source and nature of the fill to be placed or dumped, that all fill meets standards prescribed by the Ministry of the Environment for any current land use and any future land use for the land designated under an Official Plan or amendment to an Official Plan approved by Council or Council for the County of Peterborough;
 - (k) Notify the Municipal Designate or an inspector of the commencement, the completion and of the various stages of performance of the work in the alteration of the grade of the land and placing or dumping of fill on the land and to make the commencement, the completion and the various stages available for inspection;
 - (l) Install all tree protection measures required by the approved site alteration plan prior to commencing any work and maintain these tree protection measures throughout the entire duration of the work;
 - (m) Provide that fill shall not be placed or dumped around the perimeter of any existing building unless such building and its foundation walls are evaluated and reinforced in accordance with accepted engineering and construction practice, and an appropriate building permit has been issued;
 - (n) Provide adequate drainage from the land on which the work is to be performed in accordance with a drainage agreement, if applicable, and in any event in accordance with an approved site alteration, reasonable environmental practices, and proper engineering practice;
 - (o) Ensure that no trench in which drainage piping is laid is covered and backfilled until the work has been inspected and approved by the Municipal Designate;
 - (p) Remove the topsoil prior to the performance of the work in the alteration of the grade or the placing or dumping of fill;
 - (q) Provide security to secure the maintenance of the highways that are used by the trucks delivering or removing the fill in a state of repair and free from dust and mud;
 - (r) Ensure that the finished grade surface is protected by sod, turf, seeding for grass, greenery, asphalt, concrete or such other material shown on submitted plans;
 - (s) Ensure that all fill used is material that does not contain any putrescible material and which meets any of the following criteria:
 - i) rock, including demolition debris such as domestic brick and concrete that does not contain cement fines, exposed rebar, paint or coatings, decomposable materials, plastic, asphalt, petroleum products,

- hydrocarbon materials and any putrescible organic materials;
 - ii) soil that meets the standards set out in Table 1 of the Soil, Ground Water and Sediment Standards referenced in O.Reg. 153/04;
 - iii) liquid slurry material, to the extent that the free water is removed and the resulting wet or slurried material meets the standards set out in Table 1 of the Soil, Ground Water and Sediment Standards referenced in O.Reg. 153/04, and any free water from the liquid slurry that meets the standards set out in Table 1 of the Soil, Ground Water and Sediment Standards referenced in O.Reg. 153/04;
 - iv) topsoil, sod and turf materials to be stockpiled for use as final cover only.
- (t) Ensure that such dust control measures are in place so as to restrict the blowing of dust onto any adjacent lands or highways;
 - (u) Operate in compliance with provisions of the Municipal Noise By-law, as amended, and any successor legislation thereto;
 - (v) Conditions to address the requirements of the Oak Ridges Moraine Conservation Plan;
 - (w) Conditions to address the requirements of other commenting agencies;
 - (x) An agreement, if required by Part 6.
- (7) Notwithstanding Subsection 6(s), fill consisting of soil that meets the standards set out in Table 2 of the Soil, Ground Water and Sediment Standards referenced in O.Reg. 153/04 may be permitted by the Municipal Designate on a case by case basis where the owner provides sufficient hydrogeological studies, and such other studies as may be required by the Municipal Designate, in order to demonstrate, to the satisfaction of the Municipal Designate, that the placing or dumping of such fill would not have a detrimental effect on ground water.
- (8) The Municipal Designate shall issue a permit when:
- (a) The Municipal Designate is satisfied that the lands which are the subject of the application for a permit are not within an area where placing or dumping of fill or other site alteration is prohibited under Part 2 of this By-law;
 - (b) The applicant has fulfilled the requirements of Part 4 of this By-law;
 - (c) If required by Part 6, the applicant has entered into the agreement referred to in Part 6;
 - (d) In addition to compliance with all other requirements, the intended use for the filled area is a permitted use under the County of Peterborough's Official Plan, the Township's Official Plan, the Municipal Comprehensive Zoning By-law, the Oak Ridges Moraine Conservation Plan and the Greenbelt Plan; and

- (e) The amount of fill to be dumped or placed on any lot will not exceed five-hundred (500) cubic meters, in which case the approval of Council will be required.
 - (f) For applications for site alteration in an amount less than five-hundred (500) cubic meters, the Municipal Designate may not require all items specified in Part 4 to be provided.
- (9) Where a permit has been issued under this By-law authorizing site alteration on lands, no person shall undertake or permit site alteration except in accordance with:
- (a) the plans, documents and any other information required for the issuing of the permit;
 - (b) the terms and conditions of the permit;
 - (b) compliance with the agreement entered into with the Municipality as a condition of obtaining the permit; and
 - (d) all other provisions of this By-law.
- (10) The Municipality may engage legal, engineering, hydrology, environmental, arborist, landscape or any other consultant the Municipal Designate deems necessary in order to evaluate studies and/or agreements or to provide assistance to the Municipal Designate throughout the site alteration process in which case the costs incurred for such evaluations shall be charged back to the applicant plus a 5% administration charge.
- (11) The Municipality may draw on the security required pursuant to Subsection 4.3(g) in order to remedy any breach of the provisions of this By-law, the conditions imposed on the fill permit by the Municipal Designate, or any other obligation of the owner relating to the fill permit, and, without limiting the generality of the foregoing, such security may be used to return the land to a condition satisfactory to the Municipal Designate and to pay any outstanding amounts owed by the owner that relate to the fill permit.
- (12) The Municipal Designate may require that additional security be provided by the owner at any time if, in the opinion of the Municipal Designate, such additional security is required, and the owner shall provide such additional security immediately upon the request of the Municipal Designate.
- (13) The issuance of any permit by the Municipal Designate shall not relieve the permit holder from compliance with this By-law or any other applicable law or legislation.
- (14) Council shall have the same powers as the Municipal Designate pursuant to this By-law for the issuance of permits under Parts 4 and 5.

Part 5 Expiry, Renewal, Revocation and Transfer of Permits

- (1) (a) The permit issued pursuant to Section 4.7 shall be valid for a period of one (1) year from the date of issuance;
- (b) A permit which is no longer valid or which has expired pursuant to Subsection 5.1(a) may be renewed within a six (6) month period following the date of expiry upon written application to the Municipal Designate accompanied by a payment of one half of the original permit fee, provided that the previously permitted work has not

been revised;

- (c) No permit shall be extended past the expiry date without the approval of Council and such extension shall be for a period not exceeding six (6) months from the date when the original permit was to be completed;
 - (d) Where it is revealed or discovered that a permit was issued based on false or misleading information, the Municipal Designate may revoke the permit, and the owner and permit holder shall ensure that all work that was the subject of the revoked permit ceases;
 - (e) If title to the land for which a permit has been issued is transferred while the permit remains in effect, the permit shall be cancelled unless the new owner, within thirty (30) days of the transfer:
 - i) provides the Municipality with an undertaking agreeing to comply with all conditions under which the existing permit was issued; or
 - ii) applies for and obtains a new permit in accordance with the provisions of this By-law.
- (2) When work has commenced before a permit for that work has been issued, the fees for an application for each permit required shall:
- (a) Double the amount otherwise specified in this By-law; and
 - (b) Include an additional \$250.00 for each inspection that was made, required or requested prior to the permit being issued.
- (3) The Municipal Designate may revoke the permit for the following reasons:
- (a) It was obtained on mistaken, false or incorrect information;
 - (b) It was issued in error;
 - (c) The owner or Permit holder requests in writing, that it be revoked;
 - (d) The terms of an agreement under this By-law have not been complied with;
 - (e) Work authorized under the permit has not been commenced prior to its expiry date;
 - (f) An owner has failed to comply with the provisions of this By-law; or
 - (g) The land has been transferred and the new owner has not complied with the requirements under Section 5 (1) (e) of this By-law.
- (4) Where the Municipal Designate has revoked the permit pursuant to Section 5.5 of this By-law, the owner and permit holder shall ensure that all work that was the subject of the revoked permit ceases and any work having a detrimental effect on the property be corrected.

Part 6 Permit Agreement/Issuance

- (1) The Municipal Designate is hereby authorized and directed to issue a Permit for a period not to exceed one (1) year in circumstances where

applicants have satisfied the requirements of this By-law.

- (2) Where greater than five-hundred (500) cubic metres of fill is being placed or dumped or where the resulting proposed grade will be greater than two (2) meters above or below the existing grade, the owner shall provide a complete application and enter into an agreement upon the discretion of the governing Municipality. The agreement shall be registered on title to the land on which the work is to be performed and such agreement shall include the following conditions as part of the complete permit application:
- (a) A completed application in the form prescribed from time to time by the Municipal Designate in accordance with the information required in this By-law;
 - (b) The applicable Permit fee as established by Council of the Township of Cavan Monaghan from time to time and as set out in Schedule "A" to this By-law;
 - (c) When required by the Municipal Designate in order to assess the impact of the fill or alteration on the environment affected, a Fill-Control Plan, which shall include any or all of the following as shall be specified by the Municipal Designate:
 - (i) the retaining of a qualified engineer or environmental consultant approved and recognised by the Municipal Designate who shall be responsible for ensuring that the site alteration is in accordance with reasonable engineering and environmental practices such as the Ministry of the Environment standards for inert fill (Environmental Protection Act R.S.O. 1990, Regulation 347), and is in accordance with the plans submitted for the permit, and is in accordance with conditions imposed pursuant to Section 7 of this By-law.
 - (ii) as part of the Fill-Control Plan, the Municipal Designate may require the retained engineer or environmental consultant to report in writing on a regular basis or as determined by the Municipal Designate that the site alteration is in accordance with the approved permit issued. This report must state that he/she is satisfied that the site alteration will not result in:
 - 1. Soil erosion;
 - 2. Blockage of a watercourse;
 - 3. Siltation in a watercourse;
 - 4. Pollution of a watercourse;
 - 5. Flooding or ponding on abutting lands;
 - 6. Flooding or ponding caused by a watercourse overflowing its banks;
 - 7. A detrimental effect on any trees of a caliper of seventy - five (75) millimetres or more located on the lands;
 - 8. Detrimental effect on matters of inherent biological sensitivity such as, but not limited to, aquifer recharge, water quality, unusual plants or wildlife and overwintering habitats;
 - 9. Unauthorized injury or destruction of municipal trees or other trees protected under By-laws of the Municipality;
 - 10. Injury or destruction of other trees, which in the opinion of the Municipal Designate, could reasonably

be avoided;

- (iii) the Municipal Designate may require as part of the Fill-Control Plan a schedule that may include the nature/source of fill, volume required, the amount of fill being placed or removed per day, the vehicular route for the transport of said fill and the name of the haulage company/contractor retained to do said site alteration;
- (iv) may require a key map showing the location of each lot, including the nearest major intersection and north arrow;
- (v) the lot ownership, boundaries and number of hectares of each lot;
- (vi) the existing and proposed use of the land and the location and use of the buildings and other structures adjacent to each lot;
- (vii) the location, dimensions and use of any building and other structures existing or proposed to be erected on each lot;
- (viii) the location of lakes, streams, wetlands, channels, ditches, other watercourses and other bodies of water on and within a minimum of thirty (30) metres beyond each lot boundary;
- (ix) the higher of the Regional Storm or the Hundred Year Flood Elevation as accepted by the Conservation Authority;
- (x) the location and identification of the predominant existing soil types;
- (xi) the species, grade at base and size, in calliper, of all trees greater than 250mm in calliper, all shrubs, trees and hedges within one (1) metre of the property line and driveways on each lot and all easements and rights-of-way over, under, across or through each lot;
- (xii) the location and dimensions of any existing and proposed storm water drainage systems and natural drainage patterns on and within a minimum of thirty (30) metres beyond each lot boundary;
- (xiii) the location and dimensions of utilities, structures, roads, highways and paving located within a minimum of thirty (30) metres beyond each lot boundary;
- (xiv) the existing topography on each lot and extending a minimum of thirty (30) metres beyond each lot boundary;
- (xv) the proposed final grades of each lot;
- (xvi) the location and dimensions of all proposed land disturbance activities, including construction of access roads;
- (xvii) the location and dimensions of all temporary soil, dirt or fill stockpiles;
- (xviii) 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;

- (xix) a schedule of the anticipated starting and completion dates of each land disturbance or land development activity;
 - (xx) provisions for the maintenance of the construction site erosion control and dust control measures during construction and after are required;
 - (xxi) the scale of drawing, ranging from 1:250 to 1:1000 as deemed appropriate (each drawing control plan to be in metres);
 - (xxii) an indication on the drawing of directions of overland waterflow and overland flow route;
 - (xxiii) provisions indicating the times machinery, including vehicles used to haul fill, will be operated so as to conform to Part 2 (15).
- (d) That the owner acknowledges that the Municipality may engage legal, engineering, hydrology, environmental, arborist, landscape or any other consultant the Municipal Designate deems necessary in order to evaluate studies and/or agreements or to provide assistance to the Municipal Designate throughout the site alteration process in which case the costs incurred for such evaluations shall be charged back to the applicant plus a 5% administration charge;
- (e) To provide security to be used to remedy any breach of the By-law or agreement;
- (f) To indemnify the Municipality for any liability, costs, damages or losses incurred directly or indirectly caused by the issuing of a permit and to provide insurance satisfactory to the Municipality;
- (g) Proposed final grades and drainage system to be used upon completion of the filling operation;
- (h) A description of the proposed fill, including a list of the sources and geotechnical reports as to content and quality prepared by qualified experts in that regard;
- (i) 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; and;
- (j) Security in a form and amount to be determined by the Municipal Designate to secure performance of the work for which the Permit is being applied. The Municipal Designate may draw upon the security posted to recover the cost of the Township performing any required work which the Owner has failed to perform.
- (3) (a) The Municipal Designate may, prior to the issuance of a Permit, require the owner and/or proposed Permit holder to enter into an agreement which may be registered on title to the subject lands containing such requirements of this By-law as the Municipal Designate considers necessary to ensure that the placing or dumping or removal of fill is done in accordance with the prevailing

Municipal design standards and proper engineering principles;

- (b) Requirements in an agreement may include the owner and/or proposed permit holder posting with the Township, the required security and where, in the opinion of the Municipal Designate, extensive activities are proposed, certifications by a geotechnical engineer or other similar qualified person, both prior to the issuance of a Permit and upon completion of the work. Such certifications shall state that the owner and/or proposed Permit holder can and has complied with all of the obligations and conditions contained in the applied for and issued Permit.
- (4) The Municipal Designate may require a Permit applicant to install such site remediation measures, including topsoil, seeding, sodding and installation of berms and landscaping, as are necessary to minimize the visual impact of fill or grade alteration proposals.
- (5) The Owner of the land where fill is to be placed or dumped or his authorized agent shall request the Municipal Designate to make inspections at the commencement and conclusion of the work, and shall request such further inspection as may be required. All associated costs are to be paid by the Owner or his/her authorized agent pursuant to Schedule "A".
- (6)
 - (a) The Permit issued pursuant to this By-law shall be valid to the expiry date as specified on the Permit by the Municipal Designate.
 - (b) A Permit which is no longer valid or which has expired pursuant to this By-law may be renewed within a six (6) month period from the date of expiry upon the making of written application to the Municipal Designate accompanied by a payment of one half of the original Permit fee, provided that the proposed work has not been revised;
 - (c) The issuance of a Permit by the Municipal Designate does not alleviate the responsibility of the Owner and Permit holder to obtain all other approvals which may be required by any level of government and agencies thereof;
 - (d) If the lands for which a Permit has been issued are transferred while the Permit remains in effect, the new Owner of the lands shall forthwith advise the Municipal Designate of such transfer and either:
 - (i) Provide the Municipality with an Undertaking to comply with all the conditions under which the existing Permit was issued, or;
 - (ii) Apply for and obtain a new Permit in accordance with the provisions of this By-law.

Part 7 Administration and Enforcement

- (1) The administration and enforcement of this By-law shall be performed by the Municipal Designate, the Chief Building Official and such Municipal Law Enforcement Officers as are employed/designated by the Municipality shall be "Inspectors" for the purposes of inspection pursuant to this By-law and a certified copy of this By-law shall serve as a certificate of designation for such purposes.
- (2) Inspectors are hereby authorized to carry out inspections in relation to this

By-law and are delegated such powers as are within the jurisdiction of the Municipality in order to administer and enforce this By-law.

- (3) Inspectors may, at any reasonable time enter and inspect any land, including soil testing and the taking of samples, to determine whether the provisions of this By-law, or a condition of a permit issued under this By-law have been complied with or to request a Bill of Lading for the materials used. This power of entry does not allow the inspector to enter any building.
- (4) Upon completion of the work pursuant to the permit, the owner and/or permit holder shall so advise the Municipal Designate.
- (5) No person shall obstruct an inspector who is carrying out an inspection pursuant to this By-law.

Part 8 Appeals

- (1) Notwithstanding section 7(1):
 - (a) The Municipal Designate may, at anytime, refer applications to Council for Council's consideration and decision; or
 - (b) Council may request (by resolution) that an application be presented to Council for approval; or
 - (c) Where the Municipal Designate has refused to issue a permit or where the conditions imposed upon the permit are disputed, the Applicant may request that the application be presented to Council for approval.

Upon receipt of the resolution under subsection (b) or the written application under subsection (c), the Municipal Designate shall refer the matter to Council.

Part 9 Orders and Remedies

- (1) If an Inspector, upon inspection of a site, has reasonable grounds that a contravention of this By-law has occurred, the inspector shall notify the owner and the Permit holder of the particulars of the contravention in the form of a "Notice of Contravention" and/or an "Order to Comply" pursuant to Section 444(1) or 445(1) of the Municipal Act, 2001, as amended, at the same time and provide all occupants with a copy of the notice and such order shall contain:
 - (a) the municipal address and the legal description of the property;
 - (b) the grounds/particulars of the contravention;
 - (c) the period within which there must be compliance.
- (2) The inspector by a written Notice of Contravention and/or an Order to Comply pursuant to Section 444(1) or 445(1) of the Municipal Act, 2001, as amended, may require any person who has altered the grade of land, or who has caused or permitted the grade to be altered contrary to the provisions of this By-law, or who has placed or dumped fill, or who has caused or permitted any form of site alteration contrary to the provisions of this By-law:
 - (a) to cease all work in respect of the site alteration;
 - (b) to remove the fill;
 - (c) to fill in any excavations or ponds; and/or
 - (d) to do all work necessary;

- (i) to eliminate any hazard resulting from alteration of the grade or the dumping or placing of fill and to restore the land to a condition of safety;
 - (ii) to preserve the land pending any hearing of an appeal in respect of an application;
 - (iii) to remediate off-site impacts resulting from the site alteration and restore the land to its former condition prior to the alteration of the grade of the land or to the placing or dumping of the fill on the land or other site alteration.
- (3) The notice and/or order referred to in this section shall also contain:
 - (a) The time frame in which the work contained in the order must be carried out;
 - (b) A notice stating that if the work is not done in compliance with the order within the period it specifies, the Municipality may have the work done at the expense of the owner.
- (4) An owner who has received a Notice of Contravention and/or an Order to Comply shall comply with the Notice of Contravention and/or the Order to Comply within the time frame specified in the Notice of Contravention of the Order to Comply, otherwise, the Municipal Designate may draw financial securities as required.
- (5) A Notice of Contravention or an Order to Comply shall be served personally or by prepaid registered mail or in accordance with Section 9(7) of the By-law.
- (6) A Notice of Contravention or an Order to Comply pursuant to this By-law sent by prepaid registered mail shall be sent to the last known address to the owner of the land and permit holder.
- (7) An inspector who is unable to effect service pursuant to Section 9(5) of this By-law shall place a placard containing the terms of the Notice of Contravention or an Order to Comply in a conspicuous place on the property and the placing of the placard shall be deemed to be sufficient service on the owner and permit holder.
- (8) If the owner or permit holder fails to do the work required by the Order within the period of time it specifies, the Municipality, in addition to all other remedies it may have, may do the work and for this purpose may enter on the land with its employees and agents. The costs incurred by the Municipality in so doing shall be paid by the owner of the land and may be recovered by the Municipality in like manner as taxes or drawing on the financial securities provided or drawing upon the financial securities deposited with the application for a permit.

Part 10 Penalty and Offences

- (1) Any person, other than a corporation, who contravenes the provisions of this By-law, the terms or 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, as amended is guilty of an offence and upon conviction, is liable:

- (a) On a first conviction, to a fine of not more than \$10,000.00
 - (b) On any subsequent conviction to a fine of not more than \$25,000.00.
- (2) A corporation that contravenes the provisions of this By-law, the terms or 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, as amended, is guilty of an offence and upon conviction, is liable:
- (a) On a first conviction, to a fine of not more than \$50,000.00. On any subsequent conviction to a fine of not more than \$100,000.00
 - (b) 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, as amended, may be ordered by a court of competent jurisdiction at the expense of the person to:
 - (i) Rehabilitate the land;
 - (ii) Remove the fill placed and dumped;
 - (iii) Restore the grade of the land to its original condition
 - (iv) Remediate onsite and offsite impacts; and,
 - (v) Compensate affected parties.
- (3) 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 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.

Part 11 Severability

- (1) If any provision of this By-law, or the application thereof to any person or circumstance, is invalid, the invalidity shall not affect other provisions or application of this By-law which can be given effect without the invalid provision or application, and to this end, the provisions of this By-law are severable.

Part 12 Effective Dates

- (1) This By-law shall come into force and effect upon approval.

Part 13 General Provisions

- (1) The provisions of this By-law shall apply to all lands and premises within the Township of Cavan Monaghan.
- (2) Should any section of this By-law be declared invalid by a court of competent jurisdiction, such section shall be construed as being severed herefrom and the remainder of the By-law shall continue in full force and effect.
- (3) The short title of this By-law shall be the "Fill Control By-law."
- (4) The provisions of this By-law shall come into force and effect upon third reading hereof.

Read a First, Second and Third Time and Finally Passed this day of
....., 2012.

Mayor

Clerk

Schedule "A"

1. Fees

Description	Application Fee	Fee Per Cubic Metre
Fill Less than 500 cubic metres	\$500.00	\$.24
Fill Greater than 500 cubic metres	\$750.00	\$.60
Extension of permit for Fill Less than 500 cubic metres (sec. 5.1(b))	\$250.00	
Extension of permit for Fill Greater than 500 cubic metres (sec. 5.1(b))	\$375.00	

The above application fees are non-refundable.

The above fees shall be doubled in the event that the Applicant has performed any site alteration prior to the submission or approval of an application in contravention of this By-law.

2. Security

Security for default of agreement to carry out work or other breach of this By-law or fill permit conditions and obligations.	\$3,000.00 or 100% of the cost of remediating off-site impacts and returning the land to a condition satisfactory to the CBO, whichever is greater, additional security as required.
Security for maintenance of the highways that are used by the trucks delivering or removing fill.	Amount to be determined by CBO.

The Township may engage legal, engineering, hydrology, environmental, arborists, landscape or any other consultant the Municipal Designate or CBO deems necessary in order to evaluate studies and/or agreements in which case the costs incurred for such evaluations shall be charged back to the applicant plus a 5% administration charge; (sec. 4.9, 6.1(g))

Schedule 'B' - Security for Site Alteration

1.
 - (a) Where required, security shall be in the form of cash, bank draft, money order, certified cheque or an irrevocable letter of credit in a form acceptable to the Municipality.
 - (b) In order for a letter of credit to be accepted by the Municipality, it must be from a bank listed as a Schedule 'I' bank and under the Bank Act, S.C. 1991, c. 46 and must include in its wording an automatic clause requiring the bank to provide thirty days advance notice to the Commissioner of Finance and Treasurer by registered mail if it intends not to renew the letter of credit.
 - (c) In the event that the Municipality receives notice that a letter of credit is expiring and will not be renewed, or if further or additional securities are not provided within the said thirty days, the Municipality may draw on the current letter of credit at the discretion of the Municipal Designate.
 - (d) Any interest accruing on realized cash security shall belong to the Municipality not to the Permit holder.
 - (e) The security may be used for:
 - (i) Cleanup of mud tracking of the road or restoration of any municipal works. The owner will be notified of the required cleanup, and if the work is not completed by the owner, the Municipality will carry out the work using the security money to cover the cost plus 25 percent of the value of the work to cover the administration cost;
 - (ii) The completion or rectification of work required under the permit;
 - (iii) The completion of work required under an order issued under Article 10 of this Chapter.
 - (l) The security shall be held pending the completion of all works required under the permit and any order issued under this Chapter and pending compliance with the provisions of any agreement entered into pursuant to Section 967. 6. I (e).
2. It is the responsibility of the Permit holder:
 - (a) to provide proof satisfactory to the Municipal Designate that the site has been adequately reinstated and stabilized in accordance with this Chapter and the plan accompanying the permit;
 - (b) to provide a certificate of a consulting engineer or surveyor that the elevations have been completed in accordance with the plans submitted and the finished project does not detrimentally affect drainage on adjacent properties;
 - (c) to request that the Municipality carry out a final inspection to confirm that all relevant terms of this Chapter have been complied with.
3. When:
 - (i) the provisions of paragraph 2 of this Schedule;
 - (ii) all work required under the permit or any order; and

- (iii) the provisions of any agreement entered into pursuant to Section 967.6.1 (e) has been fully complied with to the satisfaction of the Municipal Designate, the Municipal Designate shall release the applicant's security.