

THE CORPORATION OF THE CITY OF KAWARTHA LAKES

BY-LAW 2012-200

A BY-LAW REGULATING THE REMOVAL OF TOPSOIL, PLACEMENT OF FILL,
AND THE ALTERATION OF GRADES

Recitals

1. The *Municipal Act, 2001*, as amended, 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 land in any defined areas in the municipality other than those areas subject to regulations made under Section 28(1) of the *Conservation Authorities Act*, as amended;
2. Council considers it advisable to enact a by-law regulating the removal of topsoil, placement of fill, and the alteration of the grade of land within the City.

Accordingly, the Council of The Corporation of the City of Kawartha Lakes enacts this By-law 2012-200.

Section 1.0: Definitions and Interpretation

1.1 **Definitions:**

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

- 1.1.1 "Applicant" means each Person who seeks or obtains a Permit.
- 1.1.2 "City", "City of Kawartha Lakes" or "Kawartha Lakes" means The Corporation of the City of Kawartha Lakes.
- 1.1.3 "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.
- 1.1.4 "Contaminated Fill" means material which contains any solid, liquid, gas, odour, waste product, radioactivity or any combination thereof which is present in a concentration greater than that which naturally occurs in the location of the lot or parcel of land in question and which has the potential to have an adverse effect on the natural environment, human activity, and/or health and safety as defined under the *Environmental Protection Act*, R.S.O. 1990, c.E.19, as amended, and includes bio-solids created by the paper manufacturing process, either in the form of pure paper fibre bio-solids or as mixed with other material to form products known as "nitro-sorb", "sound-sorb", or other products with similar composition.
- 1.1.5 "Contractor's Yard" means a lot, building or structure where equipment and materials of a contractor are stored or where a contractor performs shop or assembly work.
- 1.1.6 "Council" or "City Council" means the Council of the City of Kawartha Lakes.
- 1.1.7 "Director" means the City's Director of Development Services, Director of Public Works, or a designate.
- 1.1.8 "Dumping" shall be broadly interpreted for this by-law to include stripping, removing, moving, transporting, importing, exporting or placing of any Fill or Topsoil into, out of or upon lands within any single or adjacent properties within the City.
- 1.1.9 "Fill" means any type of material deposited or Placed on lands and includes Soil, stone, concrete less than 0.1 cubic metres in size which does not contain steel reinforcement, construction materials, asphalt, sod or turf either singly or in combination.
- 1.1.10 "Finished Grade", means the elevation of the ground surface of land upon which Fill has been Placed or Dumped or after alteration of the Grade has occurred.

- 1.1.11 "Grade" means the elevation of an existing ground surface, except where the Placing or Dumping of Fill or the alteration of the then existing ground surface has occurred in contravention of this By-law in which case Grade means the elevation of the ground surface as it existed prior to such Placing or Dumping of Fill on or alteration of the existing ground surface occurring.
- 1.1.12 "Inspector" means any of the following staff members of the City: Director of Development Services or a designate, 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.
- 1.1.13 "Large Fill Operation" means an operation that involves the Placing or Dumping of more than 500 m³ of Fill.
- 1.1.14 "Lot" means a lot or block shown on a registered plan of subdivision of land and the land is not within a registered plan of subdivision. Lot means a parcel of land owned by an Owner.
- 1.1.15 "Minor Fill Operation" means an operation that involves the Placing or Dumping of less than 100 m³ of Fill.
- 1.1.16 "Municipal Law Enforcement Officer" means an Officer appointed by Council under the *Police Services Act*, as amended, to enforce the City's by-laws.
- 1.1.17 "Normal Agricultural Practice" includes animal husbandry, cash crop farming, sod-farming, greenhouse operations and nurseries for horticultural products but does not include the sale, exchange or other disposition of Topsoil.
- 1.1.18 "Officer" means a person designated by Council in accordance with the *Municipal Act, 2001*, as amended, to enforce the provisions of this by-law.
- 1.1.19 "Owner" means each registered Owner of land
- (a) for which a Permit is sought or obtained; or
 - (b) in respect of which there is or may be contravention of
 - i) this By-law;
 - ii) an order made pursuant to the *Municipal Act, 2001*, as amended; or
 - iii) a court order made pursuant to the *Municipal Act, 2001* as amended.
- 1.1.20 "Permit" means a permit issued by the Director pursuant to the provisions of this By-law.
- 1.1.21 "Person" includes a natural individual and their heirs, executors, administrators or other legally appointed representatives, a corporation, partnership or other form of business association.
- 1.1.22 "Place" means the distribution of Fill on lands to establish a Finished Grade higher or lower than the Existing Grade and "Placing" and "Placed" in relation to Fill have the same meaning.
- 1.1.23 "Ponding" means the accumulation of surface water in an area not having drainage there from where the lack of drainage is caused by the Placing or Dumping of Fill or the alteration of the Grade.
- 1.1.24 "Proposed Grade" means the proposed elevation of the ground surface of land upon which any Fill is proposed to be Placed.
- 1.1.25 "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.
- 1.1.26 "Retaining Wall" means a wall designed to contain and support Fill which has a Finished Grade higher than that of abutting lands.
- 1.1.27 "Small Fill Operation" means an operation that involves the Placing or Dumping of between 100 and 500m³ of Fill.

- 1.1.28 "Soil" means material commonly known as clay, earth, gravel, loam, rock, sand, subsoil, and/or Topsoil, or any combination thereof.
- 1.1.29 "Swale" means a shallow depression in the ground sloping to a place for the purpose of providing a method of drainage of surface water.
- 1.1.30 "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 dated April 15, 2011, as amended from time to time.
- 1.1.31 "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 dated April 15, 2011, as amended from time to time.
- 1.1.32 "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.
- 1.1.33 "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) Except as otherwise provided, the provisions of this By-law apply to topsoil removal, placement of fill, and grade alteration throughout the City.
- (c) 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 may remove Topsoil, cause or permit Fill to be Placed or removed in the City or alter the Grade or cause or permit the Grade of any land in the City except in accordance with this By-law.
- 2.2 Where a Permit has been issued, no Person may, except in accordance with the provisions of that Permit,
 - (a) remove Topsoil or cause or permit the removal of Topsoil;
 - (b) Place Fill or cause or permit Fill to be Placed; or
 - (c) alter the Grade of any land or cause or permit the Grade of any land in the City to be altered.
- 2.3 The regulations established by this by-law do not apply to the activities and matters described in Schedule "A".
- 2.4 The exemptions described in Schedule "A" do not apply to work that is not completed in accordance with the terms of the applicable exemption. This would apply to the importation of additional Fill materials required by a pit or quarry licensed under the *Aggregate Resources Act*, as amended, beyond that quantity which existed on the property prior to the legal establishment of the pit or quarry, to implement its Rehabilitation Plan as approved by the Ministry of Natural Resources and to re-establish post-extraction land uses subject to section 2.7.2 (g) of this By-law.

- 2.5 If a regulation is made under Section 28 of the *Conservation Authorities Act*, as amended, respecting the removal of Topsoil, placement of Fill, or alteration of the grade of land in any area of the City of Kawartha Lakes, the regulations established by this by-law are of no effect in respect of that area. Conversely, the provisions of this By-law shall prevail on all lands not governed by a regulation made under Section 28 of the *Conservation Authorities Act*, as amended, especially in situations where the provisions of this By-law and a regulation made under Section 28 of the *Conservation Authorities Act*, as amended, would apply respecting the removal of Topsoil, placement of Fill, or alteration of the grade of land.
- 2.6 No Person may remove Topsoil or cause or permit the removal of Topsoil and no Person may Place or Dump Fill or cause or permit Fill to be Placed or Dumped and no Person may alter the Grade of any land or cause or permit the Grade of any land to be altered within the City in any of the following circumstances:
- (a) where the Owner has not consented in writing to the removal of Topsoil, Placing or Dumping of Fill or to alteration of the Grade;
 - (b) where the Fill is Placed or Dumped or the Grade is altered for storage purposes and such storage is not permitted pursuant to the Zoning By-law, as amended;
 - (c) where the Placing or Dumping of Fill is in contravention of any Federal, Provincial or Municipal laws, by-laws, notices, regulations, permits or agreements;
 - (d) where the removal of Topsoil, Placing or Dumping of Fill or alteration of the Grade will result in changing any Grade established by a grading and drainage plan approved by the Director including, without limitation, a grading and drainage plan approved by the Director in relation to any subdivision, re-zoning, site plan or building permit approval, and such Placing or Dumping or Fill or alteration occurs without a valid Permit therefore;
 - (e) where Municipal pavement, ditches, culverts, sidewalks, facilities or other infrastructure or services are, or may be, in any way impacted. The City may invoke its right to post a No Heavy Trucks route in the event that a hauler is damaging Municipal infrastructure;
 - (f) where the Fill includes material from the demolition of any structure, toxic or hazardous materials, glass, raw sewage, Contaminated Fill, construction refuse or debris; or
 - (g) where the removal of Topsoil, Placing or Dumping of Fill or alteration of the Grade is on or with respect to any land zoned within any of the Open Space or environmental protection zones provided in the Zoning By-law, as amended, unless either approval therefore has been issued by the Conservation Authority with jurisdiction over such land, or a Permit has been issued pursuant to this By-law.
- 2.7 **Issuance of a Permit**
- 2.7.1 The Director is hereby authorized and directed to issue a Permit where an Applicant has satisfied the requirements of this By-law.
- 2.7.2 An Applicant shall submit the following information to the Director:
- (a) a completed application in the form prescribed from time to time by the Director in accordance with the information required in this By-law. The Director at his or her sole discretion may require proof of liability insurance showing the City as an additional named insured. The proof of insurance must be submitted in a form satisfactory to the City;
 - (b) a copy of the property deed, owner's authorization, owner's proof to bind the corporation where applicable, and a copy of a Permit issued by a Conservation Authority where applicable within the City of Kawartha Lakes;
 - (c) the Permit fee, where Topsoil removal, Fill placement, or site alteration activity associated with an application is subject to the provisions of this By-law, shall be as follows:

- Minor Fill Operation \$300;
- Small Fill Operation \$600;
- Large Fill Operation \$1,000 plus \$1.00/m³;

- (d) the Permit fee, where all Topsoil 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 as follows:

- Minor Fill Operation \$300;
- Small Fill Operation \$600;
- Large Fill Operation \$1,000;

- (e) when required by the Director 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 Director:

- i) a key map showing the location of each Lot, including the nearest major intersection and north arrow;
- ii) the Lot's boundaries and area (expressed in hectares) of each such lot or parcel of land;
- iii) 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;
- iv) the location, dimensions and use of any building and other structures existing or proposed to be erected on each Lot;
- v) the location of lakes, streams, wetlands, channels, ditches, other watercourses and other bodies of water on and within a minimum of 30 metres beyond each Lot's boundaries;
- vi) the location of all Regulatory Flood Lines and Conservation Authority Fill Regulation lines;
- vii) the location and identification of the predominant existing Soil types on and abutting the Lot within 120 metres;
- viii) the species, Grade at base and size 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;
- ix) 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;
- x) the location and dimensions of utilities, structures, roads, highways and paving located within a minimum of 30 metres beyond each Lot's boundaries;
- xi) the existing topography on the Lot and extending a minimum of 30 metres beyond the Lot's boundaries;
- xii) the Proposed Grades of each Lot;
- xiii) the location and dimensions of all proposed land disturbance activities, including construction of access roads;
- xiv) the location and dimensions of all temporary Soil, dirt or Fill stockpiles on the property;
- xv) 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;

- xvi) a schedule of the anticipated starting and completion dates of each land disturbance or land development activity;
 - xvii) provisions for the maintenance of the construction site erosion control and dust control measures during construction and after as required;
 - xviii) traffic information including proposed daily truck traffic levels, a plan of proposed external haul routes and daily schedule for hours of hauling operations, and a plan showing signage as required by the City;
 - xix) the scale of drawing, ranging from 1:250 to 1:1000 as deemed appropriate, in metres;
 - xx) an indication on the drawing of directions of overland water flow and overland flow route; and,
 - xxi) any information, plans or studies required by Ontario Regulation 140/02 - The Oak Ridges Moraine Conservation Plan. The City may require a \$3,000 deposit should the City require the services of a Qualified Person to peer review the studies submitted by the Applicant;
- (f) Proposed Grades and drainage system to be used upon completion of the Placing or Dumping of Fill on a Lot;
 - (g) 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 operation 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;
 - (h) a certificate of the Owner, Applicant and each Qualified Person referenced in paragraph 2.7.2(e) certifying that the Fill contains no contaminants as defined in the *Environmental Protection Act*, R.S.O. 1990, c. E.19, as amended;
 - (h) 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
 - (i) 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/m³ of Fill being placed on the site. Securities for on-site and off-site works will be refunded once the City is satisfied that they have been removed and/or constructed to the City's satisfaction. The Fill securities will be refunded once the operation is complete and the City is satisfied that the Fill meets Ministry of Environment criteria. The City reserves the right to have the Fill tested at the Applicant and/or Owner's expense.

2.7.3 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 will require truck traffic to follow designated aggregate haul routes where possible. Public notification may also be required by the City. Operators of Small Fill Operations and Large Fill Operations shall be required to post information at the entrance to the site of the 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.

2.7.4 Any person removing Topsoil, Placing or Dumping Fill, or altering grades within the City shall implement and maintain an approved mud tracking and dust control program. Such program 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 removal and dumping sites, and the continuous monitoring thereof. Where mud and dust are not controlled to the satisfaction of the City, the City may, without notice, have such mud or dust controlled by Municipal forces or a third party contractor and such costs, including a 30% management and administration charge, shall be paid by the applicant upon invoicing. Any associated Permit may also be considered revoked, until such invoices are fully paid and any additional letters of credit or securities provided, at the sole discretion of the City.

- 2.7.5 The City may draw upon the security posted pursuant to paragraph 2.7.2(i) to recover the costs incurred by the City in performing any required work which the Owner or the Applicant has failed to perform.
- 2.7.6 The issuance of a Permit does not relieve the Owner or the Applicant from the obligation to secure all other applicable approvals.
- 2.7.7 The City will consider a Permit for the removal of Topsoil, placement of Fill, or the alteration of grades within an area identified by a Conservation Authority or by the City's Official Plan as a Source Water Protection Area or Wellhead Protection Area subject to the appropriate studies being submitted for review and approval by the relevant Conservation Authority and the City.
- 2.7.8 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 Environment or other government agency for property located within the City or in other municipal jurisdictions.

2.8 Permit Requirements

- 2.8.1 The Director may, prior to the issuance of a Permit, require the Owner or Applicant or both to enter into an 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 mud tracking 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.
- 2.8.2 Requirements contained in an agreement may include the Owner or Applicant releasing and indemnifying the City, certifying that the Fill 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 can and has complied with all of the obligations and conditions contained in the applied for and issued Permit.
- 2.8.3 The Director may, from time to time and at the Applicant's expense, require the testing of any Fill by a Qualified Person retained by the City in the presence of the Applicant's Qualified Person. Dumping and/or Fill Removal may be suspended pending test results at the direction of the Director.
- 2.8.4 The Director may require the 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 and to provide for stabilization of the altered grades.

- 2.8.5 The property for which a Permit has been issued under this By-law shall not be used for the remediation or cleaning of Contaminated Fill.
- 2.8.6 A Large Fill Operation shall provide on-site temporary sanitary facilities to the City's satisfaction.
- 2.8.7 The City may require the Applicant and/or Owner to install test wells to monitor the long-term impacts of the Fill as Placed depending on the volume of Fill being placed on the property.
- 2.8.8 The City may require 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 Environment Table 1 Standards or Table 2 Standards, whichever is applicable based on the zoning and/or intended use of the property.

2.9 Permit Expiry, Renewal, Transfer, and Revocation

- 2.9.1 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.
- 2.9.2 A Permit may be renewed at any time prior to its expiry for an additional 90 day period by an Applicant making a written application to the Director accompanied by a payment of 50% of the original Permit fee, provided that the Permit requirements imposed by this By-law and any agreement made pursuant to paragraph 2.8.1 respecting the Permit proposed to be renewed are not amended or changed.
- 2.9.3 A Permit will 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.
- 2.9.4 A Permit may not be transferred to a new Owner or Applicant unless the Director approves an amendment to the Permit.
- 2.9.5 It is a condition of each Permit that the Permit may be revoked by the Director under the following circumstances:
 - (a) if it was obtained on mistaken, false or incorrect information;
 - (b) if it was issued in error;
 - (c) if the Owner or Applicant requests in writing that it be revoked;
 - (d) if the terms of an agreement under this By-law have not been complied with; or
 - (e) if an Owner 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.

Section 3.0: Enforcement and Penalties
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- 3.1 **Enforcement:** This by-law may be enforced by every officer who has been designated by Council under section 4.2.
- 3.2 **Orders:** Every officer who has been designated by Council under section 4.2 is authorized to make orders in accordance with the *Municipal Act, 2001*, as amended, requiring any person who is removing topsoil, 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.
- 3.3 **Obstruction:** No person shall hinder or obstruct, or attempt to hinder or obstruct, any officer exercising a power or performing a duty under this by-law or under the *Municipal Act, 2001, as amended*.
- 3.4 **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, as amended*,

is guilty of an offence and, upon conviction, is liable to a fine in accordance with the *Municipal Act, 2001, as amended*, and to any other applicable penalty.

3.5 **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.

3.6 **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, as amended*, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may order the person, in such manner and within such period as the court considers appropriate to:

- (a) rehabilitate the land; or
- (b) restore the grade of the land to its original condition.

3.7 **Enforcement**

3.7.1 Each Person who Removes Topsoil contrary to this By-law or to a Permit shall forthwith rehabilitate the land from which the Topsoil was removed including the replacement on the land of Topsoil and the restoration of the Existing Grade.

3.7.2 Each 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 existing Grade of the land.

3.7.3 Each 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.

3.7.4 Where an Owner fails to do any work required in an order issued pursuant to this By-law within the period specified, the Director may cause the work to be done at the Owner's expense and, for this purpose, the Director, Inspectors and the City's employees and agents may enter on the Owner's land at any reasonable time.

Section 4.0: General Provisions

4.1 **Administration:** The Director of Development Services is responsible for the administration of this By-law.

4.2 **Designation of Officers:** All Inspectors as defined in this By-law are designated as officers for the purpose of the enforcement of this By-law.

4.3 **Effective Date:** This By-law comes into force on the date that it receives third reading and is passed.

By-law read a first, second and third time, and finally passed, this 24th day of July, 2012.



Ric McGee, Mayor



Joel Lemoyre, Deputy Clerk

SCHEDULE "A"

EXEMPTIONS

- 1.0 The provisions of this By-law do not apply to the extent that the Removal or Placement of Fill or alteration of the Grade of land is:
- (a) undertaken on properties for the purpose of residential or commercial swimming pool installations;
 - (b) 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*, as amended, or as a requirement of a site plan agreement or a subdivision agreement executed and in good standing entered into under those sections;
 - (c) imposed after December 31, 2002 as a condition to a development permit authorized by regulation made under section 70.2 of the *Planning Act*, as amended, or as a requirement of an agreement entered into and in good standing under that regulation;
 - (d) undertaken on land on which the removal of topsoil or alteration of the grade is a permitted use under a zoning by-law passed under Section 34 of the *Planning Act*, as amended;
 - (e) undertaken by transmitter or distributor, as those terms are defined in section 2 of the *Electricity Act, 1998*, as amended, for the purpose of constructing and maintaining a transmission system or a distribution system, as those terms are defined in that section;
 - (f) undertaken as an incidental part of drain construction under the *Drainage Act* or the *Tile Drainage Act*;
 - (g) undertaken in accordance with a permit issued by the City's Chief Building Official pursuant to the *Building Code Act, 1992*, as amended, for the erection or demolition of a building or structure, provided the Director and the Chief Building Official are satisfied that the permit application provides sufficient information to determine compliance with the provisions of this By-law;
 - (h) undertaken as a necessary part of constructing a building or a sewage system for which a permit has been issued under the *Building Code Act, 1992*, as amended;
 - (i) undertaken in accordance with an order issued pursuant to the City's Property Standards By-law as amended from time to time; or
 - (j) 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.
- 2.0 The provisions of this By-law do not apply to the extent that Fill is Placed on lands zoned or used for residential purposes within the meaning of the Zoning By-law for the purpose of lawn dressing, landscaping, adding to flower beds or vegetable gardens, provided that:
- (a) the elevation of the land within 0.3 metres of the property line is not changed;
 - (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 Dumping or Placing of Fill on a Lot which is 0.1 hectares or less, provided that the volume of Fill Dumped or Placed does not exceed 75 cubic metres in any consecutive 12 month period; and
 - (e) the Dumping or Placing of Fill on a Lot which is greater than 0.1 hectares in area, provided that the volume of Dumped or Placed Fill does not exceed 150 cubic metres in any consecutive 12 month period.
- 3.0 The provisions of this By-law do not apply to the extent that Topsoil is removed or placed as an incidental part of bona fide Normal Agricultural Practice, including such removal as an incidental part of sod-farming, greenhouse operations and nurseries for horticultural products. This provision does not include the removal of topsoil from an agricultural operation for sale, exchange or other disposition.

- 4.0 While the provisions of this By-law do not apply in an area to the extent of any conflict with a regulation made under Section 28 of the *Conservation Authorities Act*, as amended, respecting the Placing or Dumping of Fill, removal of Topsoil or alteration of the Grade of land in such area, an Applicant or Owner making a Permit application to a Conservation Authority will be required to submit a Permit application to the City subject to the requirements of Section 2 of this By-law for access approval to enable the activities on the property being sought through the Conservation Authority Permit.

- 5.0 The provisions of this By-law do not apply in an area to the extent to any conflict with a regulation made under Ontario Regulation 140/02 – The Oak Ridges Moraine Conservation Plan respecting the Removal and Placement of Fill or alteration of the Grade of land in such area.