

THE CORPORATION OF THE TOWNSHIP OF MUSKOKA LAKES

BY-LAW NUMBER 2022-108

A By-law of The Corporation of the Township of Muskoka Lakes to regulate and prohibit the modifications being made to the landscape on properties in the Township of Muskoka Lakes.

WHEREAS Section 142 of the *Municipal Act, 2001*, S.O. 2001 c. 25, permits the enactment of a By-law by the Council of The Corporation of the Township of Muskoka Lakes:

- (a) to prohibit or regulate the placing or dumping of fill;
- (b) to prohibit or regulate the removal of soil;
- (c) to prohibit or regulate blasting and the alteration of the grade of any property in the Township of Muskoka Lakes
- (d) to require a permit be obtained for the placing or dumping of fill, the removal of soil, or the alteration of the grade of the land and;
- (e) to impose conditions to a permit, including requiring the preparation of plans acceptable to the municipality relating to grading, filling or dumping, the removal of soil and rehabilitation of the land.

AND WHEREAS, an order to discontinue and work orders are authorized under Section 444 and 445 of the *Municipal Act 2001*, S.O. 2001 c. 25 where a contravention of this by-law has occurred;

AND WHEREAS, the Council of The Corporation of the Township of Muskoka Lakes may require that a permit be obtained for the placing or positioning of fill, the removal of soil, and the alteration of the grade of land in the Township of Muskoka Lakes and prescribe the fees for the permit and the circumstances under which a permit may be issued and the conditions to such a permit;

AND WHEREAS, the Council of The Corporation of the Township of Muskoka Lakes deems it desirable in the public interest to implement such a By-law for the purpose of:

- (a) Implementing the District of Muskoka Lake System Health Program by preventing erosion and sedimentation of the lakes in the Township,
- (b) Preventing extensive topographical changes and significant site alteration of properties in Waterfront Areas,
- (c) Preventing significant site alteration in Scenic Corridors,
- (d) Protecting and preventing site alteration in Environmental Protection Areas,
- (e) Sustaining a healthy and aesthetically pleasing natural environment.

NOW THEREFORE, the Council of The Corporation of the Township of Muskoka Lakes enacts as follows:

In this By-law words used in the present tense include the future, words in the masculine gender include the feminine and neutral; the singular number includes the plural, and the plural includes the singular.

1.0 DEFINITIONS

For the purpose of this By-law, the following definitions shall apply:

“Agreement” means any **Agreement** made between the **Township** and a property owner such as but not limited to a **Consent Agreement**, **Site Plan Agreement** or **License Agreement**;

“Alteration” or **“Site Alteration”** means a change in elevation from **Existing Grade** or **Finished Grade** resulting from:

- i. the **Placing** or **Dumping** of **Fill**,
- ii. the removal of **Soil** or **Fill**,
- iii. **Placing**, **Dumping**, removal, or **Rock Blasting**, or
- iv. any other action that alters the **Grade** of land including the altering in any way of a **Natural Drainage Course** on a **Site**.

“**Breast Height**” refers to a point of measurement 1.37 m (4.5 ft.) above the highest point on a tree where the ground meets the trunk;

“**Council**” means the Council of the **Township** of Muskoka Lakes;

“**Designated Officer**” means a person designated by the **Township** under Section 10;

“**Diameter**” means the **Diameter** of the stem of a tree measured outside the bark at a specified point of measurement;

“**Director**” means the Director of Development Services and Environmental Sustainability for the **Township** or his or her designate provided such designate is an **Officer** appointed under this By-law;

“**Drainage**” means the movement of water to a **Place** of disposal, whether by way of the natural characteristics of the ground surface or by artificial means;

“**Driveway**” means the ingress and egress lane or lanes that are connected to a highway that lead to a building with habitable floor area or a garage but does not include a **Parking Area**;

“**Dry Laid**” means a method of construction or installation of where individual stones, blocks or pavers are laid on a bed of sand or gravel or other similar material and the stones, blocks or pavers are held in place by tightly compacted material and does not include the use of concrete or mortar;

“**Dumping**” and “**Dump**” means the depositing of **Fill** in a location other than where the **Fill** was obtained or the movement and depositing of **Fill** from one location on a property to another location on the same property;

“**Erosion**” means the detachment and movement of **Soil**, sediment or rock fragments by water, wind, ice or gravity;

“**Fill**” means any type of material capable of being removed from or deposited on lands, such as **Soil**, stone, sod, turf, concrete, stumps, rock, and asphalt either singly or in combination excluding construction material which are incorporated into a building or structure within 6 months of deposit on the lands;

“**Financial Assurance**” means a commitment of funds by an owner or applicant to the **Township** that is a sufficient amount to equal the cost of re-vegetation or re-naturalization of a property and any subsequent studies or inspections required by the **Township**;

“**Gazebo**” means the current definition within the **Township** of Muskoka Lakes Comprehensive **Zoning By-law** or its successor;

“**Grade**” means the elevation of the ground surface and shall be more particularly defined as follows:

- (i) “**Existing Grade**” means the elevation of the existing ground surface of the lands upon which **Dumping** and/or **Placing** of **Fill**, altering of the **Grade**, removing of **Soil**, or **Rock Blasting** is proposed and of abutting ground surface up to three metres wide surrounding such lands, except that where such activity has occurred in contravention of this By-law, **Existing Grading** shall mean the ground surface of such lands as it existed prior to the said activity;

(ii) “**Proposed Grade**” means the proposed finished elevation of ground surface after **Fill** is **Dumped** or **Placed**, the **Grade** altered or **Soil** removed; and

(iii) “**Finished Grade**” means the approved elevation of ground surface of lands upon which **Fill** has been **Placed** or **Dumped**, the **Grade** altered or **Soil** removed, in accordance with this By-law;

“**Natural Drainage Course**” means a valley or elongated depression created by naturally flowing water that varies in size and may be dry or contain intermittent, ephemeral, or perennial running water, including a lake, river, stream, creek, spring, ravine, swamp and gulch with well-defined banks and a bed that gives direction to a water source, but excludes roadside ditches, **Drainage** ditches and irrigation works;

“**Officer**” means a Municipal Law Enforcement **Officer** that has been appointed through a By-law in the **Township** of Muskoka Lakes to administer and enforce by-laws in the **Township**;

“**Order**” means a mandatory requirement for action within a specified time period specifically issued by an **Officer** or other authorized personnel to address issues of non-compliance with any section of this by-law or the conditions of a **Permit** which includes a Stop Work **Order** or an **Order** to Remedy;

“**Owner**” means the registered **Owner(s)** of the property;

“**Patio**” means a non-roofed outdoor area, designed for lounging, sunbathing, eating, and similar uses;

“**Parking Area**” means the use of an area of land, building or structure associated with the principal use of the same lot for the parking of motor vehicles and does not include the ingress or egress lane(s) of a **Driveway**;

“**Permit**” means the authorization in writing from the Director or his or her designate provided such designate is an **Officer**, to make modifications to landscapes in the **Township** pursuant to this By-law;

“**Person**” means any individual, corporation, partnership or association, firm, trust, or other entity and includes anyone acting on behalf or under the authority of such entity;

“**Placing**” or “**Place**” means the distribution of **Fill** on lands to establish a **Finished Grade**, and includes **Soil** stripping;

“**Professional**” means a **Person**, who in the opinion of the **Township**, has experience and training in the pertinent discipline, and who is a qualified expert with expertise appropriate for the relevant critical area or subject;

“**Proposed Grade**” means the proposed elevation of ground surface of land upon which **Fill** is proposed to be **Placed** or **Dumped**, the **Grade** altered, **Soil** or rock removed;

“**Pumphouse**” means the current definition within the **Township** of Muskoka Lakes Comprehensive **Zoning By-law** or its successor;

“**Rock Blasting**” means to break up or dislodge various rock material to form or open up land through various means such as, but not limited to, explosives or hydraulics;

“**Sauna**” means a small room or small building that is heated to a high temperature usually with steam in which people sit in order to clean or refresh their body;

“**Sedimentation Control Plan**” means a plan to control **Erosion** and sedimentation prepared and implemented to comply with this By-law;

“**Site**” means the lands which are the subject of an application for a **Permit** and where the **alteration** will occur, or has occurred if the **Soil** has not yet been stabilized so as to prevent **erosion** and sedimentation;

“**Soil**” means material commonly known as earth, topsoil, loam, subsoil, clay, sand or gravel;

“**Temporary Access Road**” means a temporary road that is no wider than 4.5m (15ft) and has been constructed for the purpose of gaining temporary access to a water access only property in order to allow for construction vehicles or other machinery to safely maneuver a property;

“**Township**” and “**Township of Muskoka Lakes**” means The Corporation of the Township of Muskoka Lakes;

“**Vegetation**” means any woody plant, or contiguous cluster of plants including trees, shrubs, and hedgerows;

“**Walkway**” means a passage or pathway for walking along which connects different areas of a property;

“**Water Permeable**” (or “**Permeable Materials**”) means any material used or a style of construction or installation that allows water or other liquids to pass through the constructed or installed feature or structure”;

“**Zoning By-law**” means the By-law regulating land use in the Township of Muskoka Lakes as provided for under the Planning Act.

2.0 LAND SUBJECT TO THIS BY-LAW

2.1 This By-law applies to the following lands within the Township:

- (a) All lands within 91.4m (300 ft.) of a navigable waterway in the Waterfront as designated in the Official Plan;
- (b) All lands within 60.9m (200 ft.) of a navigable waterway in the Urban Centre or Community designation in the Official Plan;
- (c) All lands zoned Environmental Protection (EP1 and EP1-PSW) in the Township Comprehensive **Zoning By-law**;
- (d) All lands zoned Scenic Corridor in the Township Comprehensive **Zoning By-law**; and
- (e) All lands on an island within the Township of Muskoka Lakes beyond those areas included within Section 2.1 (a) to (d), except in the case of Tobin Island, Acton Island, Tondern Island, Royal Muskoka Island, and Bala Park Island.

3.0 EXEMPTIONS

3.1 This By-law does not apply to the following:

- (a) activities or matters undertaken by the Township or a local board of the Township;
- (b) the **Placing or Dumping of Fill**, removal of **Soil**, **Rock Blasting**, or **Alteration of the Grade** of land imposed after December 31, 2002 as a condition to the approval of a **Site** plan, a plan of subdivision or a consent under section 41, 51 or 53, respectively, of *the Planning Act* or as requirement of a site plan **Agreement** or subdivision **Agreement** entered into under those sections;
- (c) the **Placing or Dumping of Fill**, removal of **Soil**, **Rock Blasting**, or **Alteration of the Grade** of land imposed after December 31, 2002 as a condition to a development permit authorized by regulation made under section 70.2 of the *Planning Act* or as requirement of an **Agreement** entered into under the regulation;

- (d) the **Placing or Dumping of Fill**, removal of **Soil, Rock Blasting**, 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*, for the purpose of constructing and maintaining a transmission system or a distribution system, as those terms are defined in that section;
- (e) the **Placing or Dumping of Fill**, removal of **Soil, Rock Blasting**, or **Alteration of the Grade** of land undertaken on land described in a license for a pit or quarry or a permit for wayside pit or wayside quarry issued under the *Aggregate Resource Act*;
- (f) the **Placing or Dumping of Fill**, removal of **Soil, Rock Blasting**, 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*;
- (g) the **Placing or Dumping of Fill**, removal of **Soil, Rock Blasting**, or **Alteration of the Grade** of land undertaken as an incidental part of drain construction under the *Drainage Act* or the *Tile Drainage Act*;
- (h) the removal of **Soil** as incidental part of a normal agricultural practice including such removal as an incidental part of sod farming, greenhouse operation and nurseries for horticultural products, but not the removal of **Soil** for sale, exchange or other disposition;

3.2 The following are exempt from the requirements of this By-law provided that all relevant conditions are met:

- (a) the **Placing or Dumping of Fill**, removal of **Soil, Rock Blasting** or **Alteration of Grade** necessary for the installation of a septic system approved and for which a permit has been issued under the Ontario Building Code Act and an area no larger than 4.5 m (15 ft.) from the outer edge of the septic system envelope for the purposes of grading to accommodate the system;
- (b) the **Placing or Dumping of Fill** necessary for the installation of a **Driveway** upon obtaining any necessary entrance permit from the **Township of Muskoka Lakes**, District of Muskoka, Ministry of Transportation or other relevant authority, and subject to the following condition:
 - (i) The **Driveway** is compliant with the current version of the Comprehensive **Zoning By-law** of the **Township of Muskoka Lakes**.
- (c) the **Placing or Dumping of Fill** for the purpose of creating a **Temporary Access Road**;
- (d) the **Placing or Dumping of Fill**, removal of **Soil, Rock Blasting** or **Alteration of Grade** necessary for the installation of a foundation for a building approved under the Ontario Building Code Act and a building permit has been issued by the Township, or for a building, structure, or feature installed in compliance with the **Zoning By-law**, and an area no larger than 4.5 m (15 ft.) from the outer edge of the building or structure envelope for the purposes of grading to accommodate the installation. The ability to alter **Grade** 4.5m (15ft.) from the outer edge of the envelope does not apply to the installation of **Patios, Walkways** and stairways;
- (e) The **Placing or Dumping of Fill**, removal of **Soil** or **Alteration of Grade** on a property that contains less than 91.4 m (300 feet) of assessed lot frontage abutting a navigable waterway and that does not contain a **Gazebo, Sauna** or **Pumphouse** located within 20.1 m (66 ft.) of the high water mark, if such **Placing or Dumping of Fill**, removal of **Soil** or **Alteration of Grade** only:

- (i) occurs in an area between 4.5 m (15 ft.) and 15.2 m (50 ft.) of the high water mark;
 - (ii) occurs in a contiguous area of not more than 18.5 sq. m. (200 sq. ft.);
 - (iii) results in a maximum increase in elevation of 0.9m (3ft.); and
 - (iv) if the **Patio** has joints and spaces between any hardscape material topping which consists of **Permeable Materials**.
- (f) The **Placing or Dumping of Fill**, removal of **Soil** or **Alteration of Grade** on a property that contains 91.4 m (300 feet) or greater of assessed lot frontage abutting a navigable waterway and that does not contain a **Gazebo**, **Sauna** or **Pumphouse** located within 20.1 m (66 ft.) of the high water mark, if such **Placing or Dumping of Fill**, removal of **Soil** or **Alteration of Grade** only:
- (i) occurs in an area between 4.5 m (15 ft.) and 15.2 m (50 ft.) of the high water mark;
 - (ii) occurs in a contiguous area of not more than 18.5 sq. m. (300 sq. ft.);
 - (iii) results in a maximum increase in elevation of 0.9m (3ft.); and
 - (iv) if the **Patio** has joints and spaces between any hardscape material topping which consists of **Permeable Materials**.
- (g) The **Placing or Dumping of Fill**, removal of **Soil** or **Alteration of Grade** on a property that contains 91.4 m (300 feet) or greater of assessed lot frontage abutting a navigable waterway and that does not contain more than one of a **Gazebo**, **Sauna** or **Pumphouse** located within 20.1 m (66 ft.) of the high water mark, if such **Placing or Dumping of Fill**, removal of **Soil** or **Alteration of Grade** only:
- (i) occurs in an area between 4.5 m (15 ft.) and 15.2 m (50 ft.) of the high water mark;
 - (ii) occurs in a contiguous area of not more than 18.5 sq. m. (200 sq. ft.);
 - (iii) results in a maximum increase in elevation of 0.9m (3ft.); and
 - (iv) if the **Patio** has joints and spaces between any hardscape material topping which consists of **Permeable Materials**.
- (h) The **Placing or Dumping of Fill**, removal of **Soil** or **Alteration of Grade** for the purpose of installing a **Dry Laid Walkway** or stairway that does not exceed a width of 0.8 m (6 ft.) in any location.

4.0 GENERAL PROVISIONS AND REGULATIONS

4.1 No **Person** shall cause or permit any **Site Alteration**:

- (a) within 15m (50 ft.) of a navigable waterway in areas defined as Waterfront, Urban Centre, or Community designation; or
- (b) within an area zoned Environmental Protection (EP1 and EP1-PSW), except in conjunction with the permitted uses of and in compliance with the **Zoning By-law**; or
- (c) in an area zoned Scenic Corridor or Scenic Area in the Township's Comprehensive **Zoning By-law** within a distance of 30.4m (100ft.) from the lot line abutting the scenic corridor;

Unless such **Site Alteration** occurs in accordance with an applicable section as set out in Section 3.2.

4.2 No **Person** shall cause or permit **Site Alteration**:

- (a) in any area between 15m (50ft.) and 91.4m (300ft.) of a navigable waterway in the Waterfront designation; or
- (b) in any area between 15 m (50 ft.) and 60.9m (200ft.) of a navigable waterway in an Urban Centre or Community designation; or

in (c) in any area beyond 15m (50ft.) of a navigable waterway on lands defined in Section 2.1 (e);

Without first obtaining a **Permit** unless such **Site Alteration** occurs in accordance with an applicable exemption set out in Section 3.2.

4.3 No **Person** shall cause or permit **Site Alteration** that may result in:

- (a) **Erosion** on the **Site** or any neighbouring property;
- (b) Siltation or pollution of a watercourse, wetland or storm sewer;
- (c) Injury or destruction to any trees of a caliper of 1 inch **Diameter at Breast Height** or more located on the lands;

4.4 No **Person** shall cause or permit the **Placing** or **Dumping** of **Fill**, removal of **Soil** or **Alteration** of **Grade** for the purposes of the installation of a **Patio**, which **Placing** or **Dumping** of **Fill**, removal of **Soil** or **Alteration** of **Grade** exceeds the maximum allowable area set out in Section 3.2 (e)(ii), (f)(ii), or (g)(ii), whichever applies, of this By-law;

4.5 No **Person** shall cause or permit the **Placing** or **Dumping** of **Fill**, removal of **Soil** or **Alteration** of **Grade** for the purposes of the installation of a **Patio**, which **Placing** or **Dumping** of **Fill**, removal of **Soil** or **Alteration** of **Grade** results in an elevation change of greater than 0.9m (3ft.);

4.6 No **Person** shall cause or permit the **Placing** or **Dumping** of **Fill**, removal of **Soil** or **Alteration** of **Grade** for the purposes of the installation of a **Patio** which installation is not **Water Permeable** or is not **Dry Laid**;

4.7 No **Person** shall cause or permit the **Placing** or **Dumping** of **Fill**, removal of **Soil** or **Alteration** of **Grade** for the purposes of the installation of a **Walkway** or stairway which is greater than 1.8m (6ft.) wide;

4.8 No **Person** shall cause or permit the **Placing** or **Dumping** of **Fill**, removal of **Soil** or **Alteration** of **Grade** for the purposes of the installation of a **Patio**, closer than 4.5m (15ft.) to the high water mark;

4.9 No **Person** shall fail to comply with an **Order** issued under this By-law;

4.10 No **Person** shall pull down, remove or deface an **Order** posted under this By-law;

4.11 No **Person** shall fail to produce or post a **Permit** as required by this by-law;

4.12 If archaeological resources are discovered or identified during any **Site Alteration**, including that permitted by this By-law, the **Owner** shall immediately cease all activity on the **Site** and contact the **Director** and take such actions as defined by the **Director** or other responsible agency to address, safeguard, and protect the resources;

4.13 Sufficient **Erosion** and sedimentation control measures, such as a sedimentation fence, shall be provided around any area that may be disturbed in a manner satisfactory to the **Director** or an **Officer** prior to the commencement of the **Site Alteration**, and shall be maintained in good working order until the **Site** has been stabilized and operations completed;

4.14 No **Person** shall fail to erect an adequately installed sedimentation fence before the commencement of **Site Alteration** or construction of a building, structure, septic area or **Patio**;

4.15 No **Person** shall fail to adequately maintain a sedimentation fence during **Site Alteration** or construction of a building, structure, septic area or **Patio**;

- 4.16 Despite Sections 3.2 (d) of this By-law, no **Person** shall cause or permit any **Site Alteration** in order to erect a building, structure or thing for an occasional or special event as permitted by the Comprehensive **Zoning By-law**;
- 4.17 No **Person** shall fail to re-vegetate or re-naturalize a **Temporary Access Road** upon completion of a building **Permit**, septic **Permit** or **Site Plan Agreement**;
- 4.18 No **Person** shall permit any **Site Alteration** contrary to the provisions of any **Agreement** entered into with the **Township** that is registered or approved for the property on which such injury or destruction of trees take place.
- 4.19 No **Person** shall permit any **Site Alteration** before the appropriate approvals have been issued whether it be through a **Site Plan Agreement**, a building **Permit**, septic **Permit** or other approval received from the **Township** of Muskoka Lakes.

5.0 APPLICATION REQUIREMENTS

- 5.1 A **Person** who wishes to obtain a **Permit** shall submit to the **Director** an application that:
- (a) Is a complete Application as set out in Schedule "A", in such form as may be approved by the **Director**;
 - (b) Is accompanied by the prescribed fees payable to the **Township** in accordance with the existing **Township** of Muskoka Lakes Fees and Charges By-law;
 - (c) As part of the application for a **Permit**, the **Owner** shall permit an **Officer**, **Director** or anyone designated by an **Officer** or **Director** to enter upon his or her property and undertake such **Site** inspections as may be required to consider the application. An **Officer**, **Director** or anyone designated by an **Officer** or **Director** may undertake a **Site** inspection prior to, during and after the proposed activity.
 - (d) At the discretion of the **Director**, all applications to alter a **Site** may be required to include a **Sedimentation Control Plan** in accordance with the requirements in Section 9 of this By-law and a **Financial Assurance** in a form and amount acceptable to the **Director**;
 - (e) Includes any report required by the **Township** or external agency (e.g. **Sedimentation Control Plan**, archeological report, **Vegetation** analysis, environmental impact assessment, geotechnical report, or hydrogeological report.)
 - (f) An application for a **Permit** shall be deemed incomplete, and no **Permit** be issued if;
 - (i) The application has not been completed in full;
 - (ii) The **Owner**/applicant has not signed the application;
 - (iii) The party who will be undertaking or responsible for the **Site Alteration** has not signed the application;
 - (iv) The application fee has not been paid;
 - (v) Any required inspections have not been undertaken;
 - (vi) A **Financial Assurance** required by the **Director** has not been provided.
- 5.2 The **Director** has the discretion to require a **Financial Assurance** as a condition of issuing a **Permit**, and the **Financial Assurance** shall be dealt with in accordance with the following conditions:
- (a) The **Financial Assurance** may be drawn upon by the **Township** to remedy any deficiency in work under a **Permit**, including but not limited to site restoration.

- (b) The **Financial Assurance** shall remain in effect for the full duration of the **Permit**.
- (c) Any **Financial Assurance** in the form of a letter of credit shall contain a clause stating that 30 days' written notice shall be given to the **Township** prior to its expiry or cancellation. In the event that the **Township** receives this notice, and further securities are not provided by the **Owner**, the **Director** may draw on the letter of credit to render it as cash security.
- (d) The **Financial Assurance** shall be released by the **Township** following the completion of a final inspection to the satisfaction of the **Director**.

6.0 ISSUANCE OF PERMIT

6.1 The **Director** shall issue a **Permit** where:

- (a) The **Director** is satisfied that the application is complete, in accordance with this By-law and the Schedules;
- (b) The **Director** is satisfied that the **Site** is not within an area where **Alteration** is prohibited under Section 4 of this By-law;
- (c) The **Director** is satisfied that the proposed **Placing** or **Dumping of Fill**, altering of the **Grade** or removing of **Soil**, will not result in the following:
 - (i) **Erosion**;
 - (ii) Blockage of a natural or manmade watercourse;
 - (iii) Siltation of a natural or manmade watercourse;
 - (iv) Contamination of a natural or manmade watercourse;
 - (v) Any disruption or impact of both warm and cold watercourses;
 - (vi) Flooding or ponding;
 - (vii) A detrimental effect on any **Vegetation** that has been designated for conservation;
 - (viii) A detrimental effect on the natural environment of the area;
 - (ix) Contravening the intent of the by-law as expressed in the recitals.
- (d) All other **Permits**, application material, background studies, **Agreements**, documents, reports and **Financial Assurances**, if required, have been received, reviewed and approved to the satisfaction of the **Director**;
- (e) Any other matters that the **Director** considers relevant.

7.0 RENEWAL, TRANSFER, EXPIRY AND REVOCATION OF PERMITS

Renewal

- 7.1 A **Permit** which has expired may be renewed by the **Director** as appropriate, within a period of three months before the date of expiry upon the submission of a written request to the **Director** accompanied by a payment of one-half of the original Application Fee, provided that the proposed work which was the subject of the **Permit** has not been revised;
- 7.2 A **Permit** which has been renewed in accordance with this section shall thereafter be treated as a new **Permit** except that it shall not again be renewed, unless specifically stated in a **Site Alteration Agreement**.

Transfer

- 7.3 A **Permit** shall expire upon the transfer of ownership of the **Site** unless the new **Owner** provides written commitment to comply with all conditions under which the **Permit** was issued, prior to transfer of the **Site**, including compliance with this By-law and **Agreement** to provide **Financial Assurance** in a form and amount

acceptable to the **Director**, at which time any **Financial Assurance** previously provided by the original **Permit** holder pursuant to this By-law shall be released.

7.4 Failing the written commitment from the new **Owner**, the **Permit** shall be deemed to be cancelled as of the date of transfer.

7.5 A **Permit** is not transferable to another **Site**.

Expiry and Revocation

7.6 A **Site Alteration Permit** expires on the date set out in the **Permit**.

7.7 The **Township** may revoke any **Permit** if:

- (a) It was obtained on mistaken, false or misleading information;
- (b) It was issued in error;
- (c) The **Owner** or **Permit** holder requests it be revoked in writing;
- (d) Work authorized under the **Permit** has not commenced prior to its expiry date;
- (e) The **Owner** has breached any of the prohibitions of Section 4 of this By-law; and
- (f) The land has been transferred and the new **Owner** has not complied with the requirements under this section of the By-law.

7.8 When a **Permit** expires or is revoked, the **Owner** shall immediately cease all **Site Alteration**, and shall immediately rehabilitate and stabilize the **Site** so as to prevent adverse effects from **Erosion** and sedimentation from or at the **Site**. If the **Owner** has a registered site plan **Agreement**, subdivision **Agreement**, or a developmental **Agreement** that includes the **Site Alteration** as a condition or requirement, rehabilitation and stabilization shall take place in accordance with that **Agreement**.

8.0 REVIEW OF DECISIONS OF DIRECTOR

8.1 An Applicant for a **Permit** under this By-law may request a review by **Council**:

- (a) Where the **Director** refuses to issue a **Permit**, within ten (10) days after the refusal; or
- (b) if the **Director** fails to make a decision on the complete Application, within thirty (30) days after the complete application is received by the **Director**, or
- (c) if the Applicant objects to a condition in the **Permit**, within thirty (30) days after the issuance of the **Permit**.

9.0 REQUIREMENTS FOR SEDIMENTATION CONTROL PLANS

9.1 Every **Sedimentation Control Plan** shall be completed and signed by a **Professional** as defined in this by-law;

9.2 A **Sedimentation Control Plan** shall identify and include the relevant information as set out in Schedule "B" of this By-law;

9.3 The **Township** may request additional information on any **Sedimentation Control Plan** that is submitted with an application.

10.0 ORDERS

10.1 Where the **Director**, their designate or an **Officer** is satisfied that a **Person** has contravened any provision of this By-law, the **Officer** may issue a "Stop Work Order", an "Order to Remedy" or both and such **Orders** shall contain:

- (a) The municipal address and legal description of the land, this may also include the roll number associated with the land;
 - (b) Reasonable particulars of the contravention(s); and
 - (c) The period in which there must be compliance; or,
 - (d) Consist of verbal direction followed by a written **Order** should a written **Order** not be possible at the time of inspection.
- 10.2 The **Orders** issued pursuant to Section 10.1 of this By-law may require a **Person** or corporation who has contravened any section of this By-law to:
- (a) Cease all work in relation to **Site Alteration**;
 - (b) Remove the **Fill**;
 - (c) **Fill** in any excavations or ponds;
 - (d) Complete all necessary work to:
 - (i) Eliminate any hazard or potential hazard from the **Alteration** of the **Grade** or the **Placing, Dumping** or **Removal** of **Fill** and to restore the land to a condition of safety and/or its original environmental condition to the satisfaction of the **Township**.
 - (ii) restore the land to its former condition prior to the **Alteration** of the **Grade** of the land or to the **Placing, Dumping, cutting** or **Removal** of the **Fill** on the land or other **Site Alteration** to the satisfaction of the **Township**;
 - (iii) Undertake such further investigations as required by the **Township** to identify the extent of any breach of this By-law and do work to correct the contravention, as deemed appropriate by the **Township**.
 - (e) Any other requirement as deemed necessary by the **Director** or **Officer**.
- 10.3 Any remedial work that is ordered through a "Stop Work Order" or an "Order to Remedy" shall be done in accordance with a **Professional's** report/plan that shall be submitted to the **Township** within the period of compliance provided for listed on the **Order**.
- (a) An **Order** is not deemed to be complied with until the **Professional's** report/plan has been approved by the **Township**, which may include a review by a third party retained by the **Township** and the remedial work has been completed to the satisfaction of the **Township**.
- 10.4 Any **Order** issued under this section may be served personally and/or served by sending it by registered mail, and/or email to the last known address of;
- (a) The **Owner** of the property at the address shown on the municipal tax rolls;
 - (b) The **Person** identified as contravening this by-law;
 - (c) If sent via email, the **Order** shall be sent to the last known email address of the **Person(s)** or corporation(s) in which the **Order** is addressed to.
- 10.5 Where service of an **Order** is made by registered mail, the **Order** shall be deemed to have been served on the fifth day after the **Order** is mailed.
- 10.6 Where service of an **Order** is made by email, the **Order** shall be deemed to have been served on the fifth day after the **Order** was emailed or upon a response from the recipient of the **Order**.

- 10.7 Where service cannot be made under Section 10.4, it is deemed sufficient if the **Director**, their designate or **Officer** places a placard containing the terms of the **Order** in a conspicuous place on the affected lands and the **Placing** of the placard shall be deemed to be sufficient service of the **Order** on the **Person** to whom the **Order** is addressed to;
- 10.8 If the **Owner** or **Permit** holder fails to do the work required by an "Order to Remedy" or "Stop Work Order" issued pursuant to Sections 10.1-10.2 inclusive of this By-law within the period specified, 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 **Township** in so doing shall be paid by the **Owner** of the land and may be recovered by the **Township** in the same manner as property taxes or by drawing on the **Financial Assurance** provided.
- 10.9 Any costs incurred by a property **Owner** as a result of remedial action as outlined in Section 10.8 of this By-law will also include interest calculated at a rate of 15% which is calculated for the period commencing on the day the **Township** incurs the cost and ending on the day the cost, including the interest, is paid in full;
- 10.10 The amount of the cost incurred could constitute a lien on the land upon which the registration in the proper land registry office of a notice of lien. The lien is in respect of all costs that are payable at the time the notice is registered plus interest accrued at the rate established in Section 10.9 to the date full payment is made;
- 10.11 Upon the **Township** receiving payment of all costs payable plus interest accrued to the date of payment, the **Township** shall register a discharge of the lien in the proper land registry office at the expense of the **Owner**;
- 10.12 If a **Person** or corporation is not satisfied with the terms of an "Order to Remedy" or a "Stop Work Order" they may request an appeal to be heard by **Council** or any appointed appeal body/committee by submitting an appeal form within 30 days of receiving the **Order** upon paying the prescribed fees as set out in the existing **Township** of Muskoka Lakes Fees and Charges By-law;
- 10.13 When an appeal is heard by **Council**, **Council** has the power to confirm, modify or rescind an "Order to Remedy" or "Stop Work Order". The decision of **Council** is final and no further appeals will be permitted.

11.0 INSPECTION AND ENFORCEMENT

- 11.1 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. Any **Person** who is alleged to have contravened any of the provisions of this By-law shall identify themselves to the **Officer** upon request, failure to do so shall be deemed to have obstructed or hindered the **Officer** in the execution of his duties.
- 11.2 The **Director**, their designate or an **Officer** may, at any reasonable time, enter and inspect any land to determine whether provisions of this By-law, a condition of a **Permit** issued under this By-law has been complied with, or to ensure that an **Order** issued under this By-law or Section 431 of the Municipal Act, 2001, has been complied with;
- 11.3 For the purposes of conducting an inspection pursuant to Section 10.2 of this By-law, the **Township** may, in accordance with Section 436(2) of the Municipal Act, 2001:
- (a) Require the production of documents or things relevant to the inspection;
 - (b) Inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;

- (c) Require information from any **Person** concerning a matter related to the inspection;
 - (d) Alone or in conjunction with a **Person** possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purpose of the inspection.
- 11.4 Upon completion of the work pursuant to the **Permit**, the **Owner** and/or **Permit** holder shall contact the municipality for an inspection;
- 11.5 This By-law shall be administered and enforced by the **Director**, their designate or an **Officer**;

12.0 OFFENCES AND PENALTIES

- 12.1 Every person who contravenes any provision of this By-law, and every director or officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation is guilty of an offence and on conviction is liable to a fine as provided for in the Provincial Offences Act, R.S.O. 1990, c. P.33. The applicable fines are as set out in Schedule "C" of this By-law.
- 12.2 Every person who contravenes the provisions of any section of this By-law, is guilty of an offence under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended and is liable on conviction to a penalty where the minimum fine shall not exceed \$500 and a maximum fine shall not exceed \$100,000 exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended.
- 12.3 Every director or officer of a corporation who contravenes any provisions of the By-law is guilty of an offence under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended and is liable on conviction to a penalty where the minimum fine shall not exceed \$500 and a maximum fine shall not exceed \$100,000 exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended.
- 12.4 Every person who contravenes the provisions of any section of this By-law, and every director or officer of a corporation who knowingly concurs in the contravention of the By-law by the corporation is guilty of an offence under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended and is also liable for a special fine in circumstances where there is an economic advantage or gain from the contravention of this By-law and the maximum amount of the special fine may exceed \$100,000.
- 12.5 If there is a contravention of any provision within this By-law, and the contravention has not been complied with or corrected, the contravention of the provisions shall be designated as a continuous offence for each day or part of a day that the contravention remains uncorrected;
- 12.6 For the purposes of this By-law, if there is an offence respecting two or more acts or omissions, each of which separately constitutes an offence and is a contravention of the same provision of this By-law, then the offence is deemed a multiple offence.
- 12.7 For the purpose of continuous offences, every person who contravenes any provision of this By-law, and every director or officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation, is guilty of an offence and is liable on conviction to a penalty not exceeding \$10,000 per day or part thereof, exclusive of costs, under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended.
- 12.8 For the purpose of multiple offences, every person who contravenes any provision of this By-law, and every director or officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation, is guilty of an offence and is liable on conviction to a penalty not exceeding \$10,000 per

offence, exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended.

12.9 Notwithstanding Section 12.7 and 12.8, and in accordance with the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended, the total of all fines for the continuous offences or multiple offences is not limited to \$100,000.

12.10 If an **Order** has been issued under this By-law, and the **Order** has not been complied with, the contravention of the **Order** shall be designated as a continuous offence for each day or part of a day that the **Order** is not complied with.

13.0 OTHER APPROVALS

13.1 The issuance of a **Permit** under this By-law does not excuse the **Owner** from complying with other applicable federal, provincial and municipal By-laws.

14.0 CONFLICT WITH OTHER BY-LAWS

14.1 Nothing in this By-law shall exempt any **Person** from complying with the requirement of any By-law in force or from obtaining any license, permission, **Permit**, authority or approval required under any By-law or legislation.

15.0 SEVERABILITY

15.1 If any section or sections of this By-law or parts thereof are found by any Court to be illegal or beyond the power of the **Council** to enact, such Section or Sections or parts thereof shall be deemed to be severable and all other Sections or parts of this By-law shall be deemed to be separate and independent there from and continue in full force and effect unless and until similarly found illegal.

16.0 INTERPRETATIONS

16.1 For the purposes of this By-law, all measurements are shown in imperial and metric equivalent is in brackets following. The imperial measurement shall prevail and the metric equivalent is for reference only.

16.2 "Ft." within this By-law refers to "feet" and "m" in this By-law refers to metres.

16.3 Schedules "A" to "C" shall form part of this By-law.

17.0 REPEAL

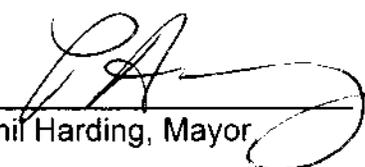
17.1 By-law 2008-56 shall be repealed.

18.0 EFFECTIVE DATE AND SHORT TITLE

18.1 This By-law will come into force and effect on the date of passage.

18.2 The short title of this By-law is the "Site Alteration By-law"

READ a First, Second and Third time, and finally passed this 14th day of September, 2022.


Phil Harding, Mayor


Lauren Tarasuk, Clerk

SCHEDULE "A"

Information Required for Application of a Site Alteration Permit

1. Name, address and telephone number of all registered owners
2. Signature or authorization of all registered owners
3. Name, address, and telephone number of person retained to perform the work
4. Municipal address of property
5. Legal description of property
6. The dimensions and location of all proposed areas to be altered
7. If required, all locations and dimensions of rock blasting that is proposed to occur
8. The location of all sedimentation control fences on the property and any other areas of sedimentation control measures
9. The location and size of any stockpiled fill or removed material and the location of its disposal
10. If required, any locations of tree conservation barriers to be used

AND

11. A Sedimentation Control Plan as specified in Section 9 of this By-law.

SCHEDULE "B"

For Design and Maintenance of Erosion and Sedimentation Control Measures

1. Pre-Construction Information

The Sedimentation Control Plan shall include the following descriptive information with respect to the pre-construction state of the Site:

- (a) A 1" = 40' scale Site map and key map
- (b) Drainage information, including:
 - i. existing storm water drainage;
 - ii. natural drainage channels on Site;
 - iii. natural drainage channels within 30m (100ft.) of the Site boundary; and
- (c) Location and type of existing vegetative cover;
- (d) Description of the historic, current and any proposed future land use of the Site.

2. Sediment Control Plan

The Sedimentation Control Plan shall include the following information relating to the proposed Site Alteration:

- (a) A detailed description of the location and dimensions of all proposed Site Alteration activities.
- (b) Description of local receiving waters such as watercourses and lakes (e.g. warm water fisheries, cold water fisheries; aquatic habitat use, confined or unconfined valley);
- (c) Description of neighbouring areas, such as residential and commercial areas, reserves, natural areas, parks, storm sewers, and roads that might be affected by the land disturbance;
- (d) A description of soils on the site, including erodibility, and grain size analysis. This description should include a summary of the soils/geotechnical report for the site;
- (e) The location of all sediment fences that will be installed on the site in accordance with Sections 4.19-4.21 of this By-law
- (f) Description of areas within the development site that have potential for serious erosion or sediment problems;
- (f) A land alteration sequencing plan, setting out;
 - i. timing of construction activities;
 - ii. sequencing of installation and removal of all control measures; and
 - iii. measures taken to minimize exposed areas.
- (g) Description of how the site will be stabilized after construction is completed. This will require a phasing plan of the altered areas to be reseeded and the expected time of stabilization;
- (h) The location and dimensions of all temporary soil or dirt stockpiles;

- (i) The location of all erosion and sedimentation control measures to be installed on the Site.
- (j) Provide a list of emergency and non-emergency contacts complete with a phone number and email address (e.g. owner, site supervisor);

Ministry of Environment Best Management Practices

The Ministry of Environment Best Practice manual may also be used in conjunction with the aforementioned Design and Maintenance of Erosion and Sedimentation Control Measures to ensure Adequate Performance for any and all Site Alterations.

THE CORPORATION OF THE TOWNSHIP OF MUSKOKA LAKES
PART I Provincial Offences Act
By-law 2022-108: Site Alteration By-law
SCHEDULE "C": SET FINES

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision creating or defining offence	COLUMN 3 Set Fine
1	Cause or permit site alteration within 15m of a navigable waterway in Waterfront, Urban or Community designation	4.1 (a)	\$800.00
2	Cause or permit site alteration in an Environmental Protection zone	4.1 (b)	\$800.00
3	Cause or permit site alteration within a Scenic Corridor or Scenic Area	4.1 (c)	\$800.00
4	Cause or permit site alteration without a permit in Waterfront designation	4.2 (a)	\$800.00
5	Cause or permit site alteration without a permit in Community/Urban Centre designation	4.2 (b)	\$800.00
6	Cause or permit site alteration without a permit on an island	4.2 (c)	\$800.00
7	Cause or permit site alteration resulting in erosion	4.3 (a)	\$800.00
6	Cause or permit site alteration resulting in siltation/pollution of a watercourse/wetland/storm sewer	4.3 (b)	\$800.00
7	Cause or permit site alteration resulting in injury or destruction of tree	4.3 (c)	\$800.00
8	Place/dump fill, remove soil, alter grade for installation of patio causing elevation change greater than permitted	4.4	\$800.00
9	Place/dump fill, remove soil, alter grade for installation of patio causing elevation change greater than 0.9m (3ft.)	4.5	\$800.00
10	Cause or permit the installation of a patio- not water permeable	4.6	\$800.00
11	Cause or permit the installation of a patio- not dry laid	4.6	\$800.00
12	Place/dump fill, remove soil, alter grade for installation of walkway greater than 1.8m (6ft.) wide	4.7	\$800.00
13	Place/dump fill, remove soil, alter grade for installation of patio closer	4.8	\$800.00

	than 4.5m (15ft.) to the high water mark		
14	Fail to comply with an Order	4.9	\$800.00
15	Pull down/Remove/Deface a posted Order	4.10	\$300.00
16	Fail to produce or post permit	4.11	\$300.00
17	Fail to erect sedimentation fence	4.14	\$800.00
18	Fail to maintain sedimentation fence	4.15	\$300.00
19	Cause or permit site alteration for occasional or special event	4.16	\$300.00
20	Fail to re-vegetate or re-naturalize temporary access road	4.17	\$800.00
21	Permit site alteration contrary to agreement	4.18	\$800.00
22	Permit site alteration before approval has been issued	4.19	\$800.00
23	Hinder or obstruct officer	11.1	\$500.00

NOTE: The penalty provision for the offences indicted above is Section 12 of By-law 2022-108, a certified copy of which has been filed.