

By-law Number 25-67

The Corporation of the Township of Clearview

Being a By-law to regulate site alteration and movement of fill in the Township of Clearview

(Site Alteration and Movement of Fill By-law)

Whereas section 142 of the Municipal Act, 2001, S.O. 2001, c.25, as amended (hereafter referred to as the Municipal Act, 2001) authorizes the Council of The Corporation of the Township of Clearview to pass by-laws to prohibit or regulate the placing or dumping of fill, the removal of topsoil, and the alteration of the grade of land; to require that a permit be obtained for such activities; and to impose conditions to a permit, including the requirement for plans acceptable to the municipality relating to grading, filling, dumping, removal of topsoil, and site rehabilitation;

And Whereas sections 8, 9 and 11 of the Municipal Act, 2001, provide that a municipality may pass by-laws necessary or desirable for municipal purposes.;

And Whereas paragraphs 5, 6, and 8 of subsection 11(2) of the Municipal Act, 2001 authorize municipalities to pass by-laws respecting the economic, social and environmental well-being of the municipality, the health, safety and well-being of persons, and the protection of persons and property;

And Whereas the Corporation of the Township of Clearview desires to align its Site Alteration and Fill By-law with Ontario Regulation 406/19: On-Site and Excess Soil Management, a regulation made under the Environmental Protection Act that establishes rules for the reuse, movement, and quality of excess soil, as well as with other applicable laws and standards governing soil management and environmental protection in Ontario;

And Whereas section 23.2 of the of the Municipal Act, 2001, authorizes a municipality to delegate its powers to an officer, employee, or agent of a municipality;

And Whereas subsection 444(1) of the Municipal Act, 2001 permits a municipality, if satisfied that a contravention of a by-law of the municipality passed under that Act, has occurred, to make an order requiring the person who contravened the by-law or who caused or permitted the contravention, or the owner or occupier of the land on which the contravention occurred, to discontinue the contravening activity;

And Whereas subsection 445(1) of the Municipal Act, 2001 permits a municipality, if satisfied that a contravention of a by-law of the municipality passed under that Act has occurred, to make an Order requiring the person who contravened the by-

law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to do work to correct the contravention;

And Whereas Subsection 446 of the Municipal Act, 2001 authorizes a municipality to direct or require a person to do a matter or, thing, and to provide that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense; and for these purposes, the municipality may enter upon land at any reasonable time. The municipality may recover the costs of doing a matter or, thing from the person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes;

And Whereas section 425 of the Municipal Act, 2001 authorizes a municipality to pass a by-law providing that a person who contravenes a by-law of the municipality is guilty of an offence;

And Whereas section 426 of the of the Municipal Act, 2001 deems that any Person that hinders or obstructs, or attempts to hinder or obstruct, any Person who is exercising or performing a duty under this By-law created under the Act is guilty of an offence;

And Whereas section 429 of the Municipal Act, 2001 authorizes a municipality to establish a system of fines for the offences under a by-law;

And Whereas the Council of the Corporation of the Township of Clearview deems it necessary and desirable to establish a by-law to regulate site alteration and movement of fill;

Now Therefore the Council of the Corporation of the Township of Clearview hereby enacts as follows:

1. Definitions

1.1 For the purpose of this by-law the following definitions shall apply:

"Adverse Effect" as defined in Section 1 of the Environmental Protection Act, RSO 1990, c E.19, means one or more of:

- a) Impairment of the quality of the natural environment for any use that can be made of it;
- b) Injury or damage to Property or to plant or animal life;
- c) Harm or material discomfort to any person;
- d) An adverse effect on the health of any person;
- e) Impairment of the safety of any person;
- f) Rendering any Property or plant or animal life unfit for human use;

- g) Loss of enjoyment of normal use of Property; and
- h) Interference with the normal conduct of business.

"Agricultural" means the use of Property or a building on the Property for an agricultural purpose, including, but not limited to, animal husbandry, aquaculture, beekeeping, dairying, field crops, forestry, fruit farming, horticulture, market gardening, poultry raising and the operation of glass- or plastic-covered greenhouses.

"Applicant" means the Owner of a Property and includes a Person authorized in writing to act on behalf of the Owner to apply for a Permit.

"Application" means a written submission to request or amend a Permit.

"Beneficial Purpose" means a reasonable and identifiable use or function for which Excess Soil is to be deposited at a Reuse Site, including but not limited to site grading, landscaping, erosion control, rehabilitation, or another use that contributes to or supports an undertaking carried out on the Site.

A Beneficial Purpose shall not include the deposit, storage, or stockpiling of Excess Soil solely for disposal, for indefinite storage, speculative or undeclared future use, or for purely aesthetic purposes, such as creating landscape features or berms intended only for visual screening, noise attenuation, or similar cosmetic enhancements where such works are not otherwise required by law, regulation, or as a condition of approval for a development or infrastructure project.

Whether a Beneficial Purpose exists shall be determined by the Director having regard to:

- a) the type and scope of the proposed undertaking on the Site;
- b) the quantity of Excess Soil proposed to be deposited;
- c) the duration and timing of the deposit activity; and
- d) any other relevant circumstances related to the Site and the Permit application.

"Conservation Authority" means the Nottawasaga Valley Conservation Authority.

"Condition(s)" means the mandatory performance requirements outlined in a Permit or Order and may include the requirement for monetary deposits or securities in connection with the Application, or the requirement to enter into an agreement with the Municipality governing any aspect of the proposed work, remediation, or restoration of the Site

"Contaminant" means any solid, liquid, gas, odor, heat, sound, vibration, radiation or combination of any of them resulting directly or indirectly from human activities that causes or may cause an Adverse Effect.

"Council" means the Council of The Corporation of the Township of Clearview.

"Director" means the individual designated by the Township's Chief Administrative Officer or Council to carry out the powers and duties assigned under this By-law and to have overall responsibility for its administration. The Director may delegate any of their powers or duties under this By-law to another person and is authorized to designate one or more individuals as Officers for the purposes of this By-law.

"Drainage" means the movement of surface water, whether by way of the natural characteristics of the ground surface or by artificial means.

"Fill" means any type of material that can be removed from (cut) or placed on (in-fill) land including but not limited to, the following:

- a) "Aggregate" means a collective term for the mineral materials such as sand, gravel and crushed stone that can be used with a binding medium to form compounds such as concrete. Aggregates can either be natural or manufactured;
- b) "Clean concrete and brick" means concrete, brick, block and other silica-based construction materials that are free of Contaminants.
- c) "Compost" means a mixture of various decaying organic substances, such as dead leaves or manure, used for fertilizing soil;
- d) "Excess Soil" means soil, crushed rock, or soil mixed with rock or crushed rock, that has been excavated as part of a project and removed from the project area for the project;
- e) "Liquid Soil" means soil that has a slump of more than 150 millimetres using the Test Method for the Determination of "Liquid Waste" (slump test) set out in *Schedule 9 to R.R.O.1990, Regulation 347 (Environmental Act)*;
- f) "Rock" means a naturally occurring aggregation of one or more naturally occurring minerals that is 2 millimetres or larger in size or that does not pass the US No. 10 sieve;
- g) "Sod" means the upper stratum of soil bound by grass and plant roots into a thick mat (turf);
- h) "Soil" means unconsolidated naturally occurring mineral particles and other naturally occurring materials resulting from the natural breakdown of rock or

organic matter by physical, chemical or biological processes that are smaller than 2 millimetres in size or that pass the US No. 10 sieve;

- i) "Topsoil" means those horizons in a soil profile, commonly known as the "O" and the "A" horizons, containing organic material and includes deposits of partially decomposed organic matter such as peat; and
- j) "Asphalt" means a mixture of dark bituminous pitch with sand or gravel, used for surfacing roads, driveways and paths, which may include, without limitation, loose or recycled material or a contiguous surface.

"Grade" at any point on the land means the elevation of the ground surface of the land; and,

- a) "Approved Grade" means the final elevation of the ground surface following Site Alteration or Movement of Fill as approved by the Director in accordance with this By-law;
- b) "Existing Grade" means the elevation of the existing ground surface prior to any Site Alteration and Movement of Fill, including the natural Grade prior to human activities or the Grade previously legally established such as a former Approved Grade; and
- c) "Unapproved Grade" means the elevation of the ground surface that is not an Existing Grade or Approved Grade.

"Guidelines" means the Application, supporting documentation and any Conditions or requirements for a Permit, as determined by the Director from time to time, to be used for the purpose of administering this By-law. Without limiting the generality of the foregoing, the Guidelines may require the posting of deposits and/or securities in connection with the Application. The Guidelines form part of this By-law and have the same force and effect as if they were set out herein. Guidelines may be posted at www.clearview.ca.

"Highway" means a common and public highway and includes a street, bridge or other structure forming part of a highway over or across which a highway passes and includes the whole of a road allowance under the jurisdiction of the Township.

"Invasive Species" means Invasive Species as defined in the *Invasive Species Act, 2015*, S.O.2015, c.22 as may be amended.

"Large Site Alteration" means any Site Alteration that does not meet the definition of a Minor Site Alteration or a Small Site Alteration.

"Minor Site Alteration" means a one-time maximum cumulative volume of Site Alteration per Property based on the area of Property suitable for Site Alteration

(the Property area excluding buildings, structures and fixed features) calculated as follows: Area of Property suitable for Site Alteration in hectares x 100 m³/hectare of Site Alteration, up to a maximum area of Property suitable for Site Alteration of 1.0 hectares. The maximum volume is a one-time maximum cumulative allowance. Any Site Alteration that exceeds the maximum one-time cumulative volume is prohibited without a Permit. Once this cumulative volume has been reached regardless of the timeframe over which it occurred, no further Site Alteration is allowed without a Permit.

The maximum volume calculation excludes any Site Alteration conducted under the approval of any other legal instrument of the Township such as a Building Permit or Swimming Pool Permit.

“Movement of Fill” means any non-natural transfer of Fill from one location to another of any distance except Fill that is transported through the Township and is always contained within the transport vessel.

“Normal Farm Practice” means a practice that,

- a) is conducted in a manner consistent with proper and acceptable customs and standards as established and followed by similar agricultural operations under similar circumstances, or
- b) makes use of innovative technology in a manner consistent with proper advanced farm management practices.

“Officer” means a Municipal By-law Enforcement Officer, or other individual authorized in writing by the Director to enforce this By-law. Without limiting the generality of the foregoing, the Director may designate a peer review consultant, technical specialist, or other qualified person as an Officer for the purposes of this By-law.

“Ontario Regulation 153/04” means Ontario Regulation 153/04 (Records of Site Condition — Part XV.1 of the Environmental Protection Act.)

“Ontario Regulation 406/19” means *Ontario Regulation 406/19* (On Site and Excess Soil Management) under the Environmental Protection Act.

“Order” means a written direction issued by an Officer and/or Director and made under the authority of Sections 444 or 445 of the Municipal Act requiring a Person to discontinue the contravening activity or to correct the contravention.

“Owner” means the registered Owner(s) of the Property.

“Permit” means a formal authorization issued by the Township under this By-law.

"Person" includes individuals, sole proprietorships, partnerships, corporations, trustees, agents, or legal representatives.

"Property" means a legal parcel of land, including all buildings, structures, and fixtures thereon, that may be conveyed or otherwise transferred in accordance with applicable law.

"Public Information Centre" means an open meeting to which all members of the public are invited, for the purpose of informing the public and receiving comments regarding a proposed Site Alteration.

"Qualified Person" means a person who meets the qualifications as set out in Section 5 or 6 of *Ontario Regulation 153/04* (Records of Site Condition - Part XV.1 of the Environmental Protection Act).

"Reuse site" means a site at which Excess Soil is used for a Beneficial Purpose and does not include a waste disposal site

"Road(s)" means a common and public highway, and includes a street, bridge or other structure forming part of a Highway over or across which a Highway passes and includes the whole of a road allowance under the jurisdiction of the Township.

"Site" means the lot or lots of a Property altered or proposed to be altered by means of a Site Alteration.

"Site Alteration" means, but is not limited to, any alteration to the Existing Grade of a Property-through the removal, placing, relocation or Movement of Fill.

"Site Alteration and Fill Management Plan" means a document prepared by, or on behalf of an Owner in accordance with the Guidelines detailing such things as current Site conditions, methodology, Existing Grade, Approved Grade and impact mitigation measures.

"Small Site Alteration" means any Site Alteration that does not meet the definition of a Minor Site Alteration and is less than 1,000 m³ of total Site Alteration in any 12-month period.

"Temporary Fill Storage Site" means any Property where Fill is stored above the Existing Grade on a temporary basis as part of the activities of a licensed business.

"Temporary Storage of Fill" means the storage of Fill at a Temporary Fill Storage Site above Existing Grade for a period of time determined by the activities of the licensed business with the expectation that the business involves the regular Movement of Fill on to and off the Site in a manner that results in no Fill being stored longer than 18 months.

"Township" means the Corporation of the Township of Clearview and includes the geographical area within the Township.

"Tree" means any species of woody perennial plant including its root system that has reached or can reach a height of at least 4.5 metres at physiological maturity.

"Watercourse" means a natural or man-made channel or swale in which a flow of water occurs, either continuously or intermittently with some degree of regularity.

"Zoning By-law" means the Township's Zoning By-law, as applicable and amended from time to time.

2. Interpretation and Administration

2.1 This By-law applies to all Property in the Township of Clearview.

2.2 The Director will be responsible for the administration of this By-law.

Delegated Authority

2.3 The Director is authorized and has delegated authority to:

- a) Approve, exempt/waive, issue, revoke, extend, renew, amend, or close a Permit and/or grant approvals of Site Alteration and impose Conditions for continuing to hold a Permit depending on the Site Alteration in addition to the requirements under this By-law;
- b) Determine when a Public Information Centre or a Meeting of Council is required or not required;
- c) Determine and deem an Application as abandoned, expired, or closed;
- d) Approve and coordinate any remediation works;
- e) Approve amendments to Site Alteration and Fill Management Plans;
- f) Approve and amend Application forms and Guidelines;
- g) Establish appropriate requirements for the issuance of a Permit;
- h) Ensure compliance with section 3.9 of this By-law, including requiring appropriate testing and documentation.
- i) Appoint a peer review consultant or other engineering, scientific and technical experts to fulfill the role or duties of an Officer for purposes of this By-law;
- j) Require or exempt certain works from provisions of this By-law, as permitted in this By-law;

- k) Authorize any Person to carry out any of the powers or duties of the Director and/or Officer pursuant to this By-law; and
- l) Authorize and/or to hire such agents, contractors, and other Persons to perform the work, as required.

3. Prohibitions

- 3.1 No Person shall conduct, undertake, cause, permit or carry out a Site Alteration on any Property within the Township without first obtaining a Permit, unless otherwise exempt as set forth in this By-law.
- 3.2 No Person shall have, or allow to remain, Fill on that Person's Property that is not approved through a Permit, whether or not the Fill was placed there while the Person was the Owner of the Property.
- 3.3 Every person to whom a Permit is issued shall comply with the provisions and conditions of a permit.

Responsibility for Other Obligations

- 3.4 Compliance with this By-law does not relieve the Owner from any responsibility to obtain all other permits, approvals, or authorizations required by any other government, agency, or authority having jurisdiction, nor does it relieve the Owner from complying with any other applicable laws, regulations, or obligations.

Trees

- 3.5 No Person shall conduct, undertake, cause, permit or carry out a Site Alteration that could injure or destroy a Tree except in accordance with the Corporation of the County of Simcoe's Forest Conservation By-law.

Groundwater

- 3.6 No Person shall conduct, undertake, cause, permit or carry out a Site Alteration that may adversely affect the quality or quantity of any surface water or groundwater however it may exist including all water used for or available as a source of water for agriculture or human consumption.

Drainage/Watercourse

- 3.7 No Person shall conduct, undertake, cause, permit or carry out a Site Alteration that could adversely affect any Watercourse or Drainage on any Property without prior written approval from the Director.

Unapproved Grade

- 3.8 No Person shall conduct, undertake, cause, permit or carry out a Site Alteration that will result in an Unapproved Grade.

Adverse Effect

- 3.9 No Person shall conduct, undertake, cause, permit or carry out a Site Alteration that will, or can be reasonably expected to, result in an Adverse Effect.

Ontario Regulations

- 3.10 No Person shall conduct, undertake, cause, permit or carry out Site Alteration unless the Fill:
- a) Complies with the requirements of Ontario Regulation 406/19 and Ontario Regulation 153/04;
 - b) Does not contain putrescible materials;
 - c) Does not contain Contaminants; and
 - d) Is free of termites, pests and Invasive Species including the eggs and seeds of such species.

By-laws, Acts and Plans

- 3.11 No Person shall conduct, undertake, cause, permit or carry out Site Alteration on any Property unless the activity is in accordance with the:
- a) Zoning By-law;
 - b) Noise By-law;
 - c) Property Standards By-law;
 - d) Fees and Charges By-law
 - e) Road Occupancy Permit (if applicable);
 - f) Requirements of the County of Simcoe;
 - g) Requirements of a Conservation Authority;
 - h) Requirements of the Niagara Escarpment Commission as per the Niagara Escarpment Planning and Development Act; and,
 - i) All other statutes, regulations, policies, and By-laws.

Beneficial Purpose Requirement

- 3.12 No Person shall deposit, cause to be deposited, or permit the deposit of Excess Soil at a Reuse Site unless:

- a) the Excess Soil is being deposited for a Beneficial Purpose as determined by the Director; and
- b) the quantity of Excess Soil proposed to be deposited does not exceed what is necessary for the Beneficial Purpose, as determined by the Director.

4. Exemptions

4.1 Notwithstanding Section 3 of this By-law, this By-law does not apply to:

4.1.1 Activities or matters undertaken by the Township, the Corporation of the County of Simcoe, a Conservation Authority, the Province of Ontario or the Government of Canada.

4.1.2 In accordance with Section 142 (5) of the Municipal Act, 2001, this By-law does not apply to;

- a) activities or matters undertaken by a municipality or a local board of a municipality;
- b) the placing or dumping of fill, removal of topsoil or alteration of the grade of land imposed after December 31, 2002, as a condition to the approval of a site plan, a plan of subdivision or a consent under section 41, 51 or 53, respectively, of the Planning Act or as a requirement of a site plan agreement or subdivision agreement entered into under those sections;
- c) the placing or dumping of fill, removal of topsoil or alteration of the grade of land imposed after December 31, 2002, as a condition to a development permit authorized by regulation made under section 70.2 of the Planning Act or as a requirement of an agreement entered into under that regulation;
- d) 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, 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 topsoil or alteration of the grade of land undertaken on land described in a licence for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the Aggregate Resources Act;

- f) 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; or
- g) the placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken as an incidental part of drain construction under the Drainage Act or the Tile Drainage Act.

Exception

- 4.2 A by-law respecting the removal of topsoil does not apply to the removal of topsoil as an incidental part of a normal agricultural practice including such removal as an incidental part of sod-farming, greenhouse operations and nurseries for horticultural products.

Exclusion

- 4.3 The exception in respecting the removal of topsoil as an incidental part of a normal agricultural practice does not include:
- a) the removal of topsoil for sale, exchange or other disposition;
 - b) 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
 - c) 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.

5. Requirements for Issuance of a Permit

- 5.1 The Applicant shall comply with all requirements set out in this By-law and in the Guidelines as a condition of obtaining a Permit.
- 5.2 The requirements contained in the Guidelines are mandatory as adopted by Council. No Permit shall be issued unless the Applicant has provided all information, documentation, fees, deposits, securities, and agreements required under this By-law and the Guidelines to the satisfaction of the Director.

- 5.3 The Director may refuse to issue a Permit where the Applicant has failed to satisfy any requirement under this By-law or the Guidelines.
- 5.4 Despite section 3.1, a Permit is not required in the following situations:
- a) A Minor Site Alteration;
 - b) When another legal instrument of the Township, such as a planning approval, a building permit, or legal agreement with the Township that includes a clause specifically waiving the requirement for a Permit, including:
 - i. Construction or demolition of a Building and minor related works adjacent to the building footprint pursuant to a building permit which has been issued by the chief building official; and
 - ii. A Site Alteration for a septic disposal system where a permit has been issued in accordance with Part 8 of the Ontario Building Code or through an Environmental Compliance Approval issued by the Ministry of Environment Conservation and Parks;
 - iii. Any Filling of an excavation to the elevation of Existing Grade following the demolition or removal of a Building for which a demolition permit has been issued by the chief building official, or for which no demolition permit is required under the Building Code Act, R.S.O. 1992, c.23.
 - c) Normal Farm Practice;
 - d) Site Alteration that is an incidental part of the construction or reconstruction of any public Highway, or underground service;
 - e) Temporary Fill Storage Sites (such as a garden center, contractors' yard, aggregate distribution yard, Fill storage yard or similar facility and could include a Soil Bank Storage Site but not a Soil Processing Site) where:
 - i. There is no permanent alteration to Existing Grade;
 - ii. The activities comply with Ontario Regulation 406/19 On-Site and Excess Soil Management;
 - iii. There is no Adverse Effect;
 - iv. Site Alteration in the form of Temporary Storage of Fill occurs above Existing Grade;
 - v. Any Fill does not include Liquid Soil;
 - vi. The activity that involves the Temporary Storage of Fill requires a Business License;
 - vii. The Property is zoned for the activity that involves the Temporary Storage of Fill;

- viii. The period of storage is determined by the activities of the licensed business with the expectation that the business involves the regular Movement of Fill on to and off the Site in a manner that results in no year over year net increase in Fill volume storage above Existing Grade; and,
 - ix. The Owner can provide records to the satisfaction of the Township that the above noted conditions are being met.
- f) When a Permit waiver is provided by the Director in writing.
- 5.5 Where the requirement for a Permit is waived in accordance with the provisions of Section 5.4 all other Sections of the By-law except, 5.6 through 5.11 and Section 6, of the By-law remain applicable.
- 5.6 An Applicant applying for a Permit shall complete an Application for a Permit in the form established by the Director and shall submit the Application along with all applicable fees and documentation. The required documentation shall be outlined on the application form included in the Guidelines.
- 5.7 The applicable Site Alteration Permit fee as set out in the Township's Fees and Charges By-law.
- 5.8 Notwithstanding anything else in this By-law, no Permit will be issued until the Director is satisfied that a completed Application, including all supporting documentation, and information required as identified in the Guidelines, including fees and deposits, has been submitted and approved.

Large Site Alteration

- 5.9 In the case of a Large Site Alteration, at the discretion of the Director based on the size and potential issues related to the Application, additional requirements may be imposed including, but not limited to:
 - a) A Site Alteration and Fill Management Plan prepared by a Qualified Person;
 - b) A Public Information Centre;
 - c) A legal agreement with the Township; and,
 - d) Approval of Council.

Public Meeting

- 5.10 At the discretion of the Director the Applicant may be required to conduct a Public Information Centre and/or a submission to Council.

- 5.11 In the case of a Public Information Centre all comments and concerns received must be addressed by the Applicant and submitted to the Director for evaluation as part of the Application.

Fees and Charges

- 5.12 Fees as referenced under this By-law are payable under the Township's Fees and Charges By-Law including but not limited to administration and enforcement activities.
- 5.13 If works have been performed prior to the issuance of a Permit, the fees for an application for Permit shall:
- a) Double the amount otherwise specified in this By-law; and,
 - b) Include engineering site inspections(s) fees as defined in the Township's Fees and Charges By-law for each inspection that was made, required or requested prior to a Permit being issued.

6. Abandonment, Closure, Expiry, Renewal, Transfer, Revocation and Amendment of Permits

Abandoned

- 6.1 An Application for a Permit will be deemed abandoned, and the Application and respective file will be closed, where a period of twelve (12) months has elapsed during which:
- a) The Person applying for a Permit has not provided all information, documents, fees and deposits as required by the Director including any new submissions that may be required;
 - b) The Application has been placed on hold or in abeyance; or
 - c) The Application has not seen meaningful progress through submissions towards the issuance of a Permit.

Expiry

- 6.2 A Permit for a Small Site Alteration will be issued for a period of one year and expires on the date set out in the Permit, unless otherwise specified as a Condition of the Permit.
- 6.3 A Permit for a Large Site Alteration will be issued for a period of up to one (1) year. The specific term of the Permit will be set out in the Permit and may be subject to earlier expiry if specified as a Condition of the Permit.

- 6.4 Permits issued for a Large Site Alteration will be subject to an annual review conducted by the Director to determine whether such Permit should be amended, renewed or revoked.
- 6.5 Every Owner shall satisfy all Conditions of the Permit, even if the Permit is expired, and shall also provide the Township with:
- a) A letter of acknowledgment of the filing of a Record of Site Condition (in accordance with Ontario Regulation 153/04, as amended) if required;
 - b) A completed final topographic survey confirming the Approved Grade; and,
 - c) Proof of completion of all Permit Conditions.

Transfer

- 6.6 If title to the Property for which a Permit has been issued is transferred while the Permit is in effect, the Permit shall be automatically revoked unless the new Owner of the lands, at a minimum of thirty (30) days prior to the time of the transfer, provides the Township with an undertaking, to the satisfaction of the Director, to comply with all Conditions under which the Permit was issued.

Revocation

- 6.7 The Director may at any time and without notice revoke a Permit for any of the following reasons:
- a) It was obtained based on mistaken, false or incorrect information;
 - b) It was issued in error;
 - c) The Property Owner and/or Permit holder requests in writing that it be revoked;
 - d) The Permit holder has failed to comply with any of the Conditions of the Permit;
 - e) The Permit holder is unwilling or unable to comply with the Conditions of an Order;
 - f) the works authorized by the Permit have been abandoned or have not been commenced within a reasonable time after the issuance of the Permit; or
 - g) the works authorized by the Permit are being carried out in a manner that poses a risk to public health, safety, or the environment.

Amendment

- 6.8 An Applicant or Owner may submit a request to the Director for an amendment to a Permit based on proposed changes to the details of the initial Application as reflected in the Conditions.

Renewal

- 6.9 An Applicant or Owner may submit a request to the Director for a renewal to a Permit if the only change from the initial Application and Conditions is the timeline and expiry date.

Closure

- 6.10 A Permit is considered closed when all the Conditions and Orders related to the Permit have been fulfilled to the satisfaction of the Director, at which time all unexpended deposits and securities held by the Township shall be released to the Applicant unless an agreement specifies otherwise.

7. Enforcement

Officers and Director

- 7.1 This By-law may be enforced by Officers and/or the Director. Without limiting any other powers, duties, or functions under this By-law, Officers and/or the Director may enter any Property to carry out inspections reasonably required to determine compliance with this By-law, to determine that a condition of a Permit issued under this By-law has been complied with, to give verbal or written directions, to issue Orders to discontinue work or to perform work as necessary to ensure compliance with this By-law, or to ensure that an Order issued under this By-law or Sections 431, 444 or 445 of the Municipal Act, 2001, has been complied with;
- 7.2 An Officer and/or the Director may issue an Order under this By-law to any Person believed to be contravening or have contravened any provision of this By-law.
- 7.3 An Order may include but is not limited to:
- a) A requirement to immediately desist from the activity constituting or contributing to such a contravention;
 - b) Leave the Property and cease the contravening activity immediately; and,
 - c) Take immediate action to mitigate and/or remediate the impacts of the activity.

Entry and Inspection

7.4 Officers and the Director may, at any reasonable time:

- a) Enter and inspect Property to determine compliance with the provisions of this By-law, or any Condition of a Permit, or Order issued under this By-law. This power of entry does not allow entry into any dwelling;
- b) May be accompanied by such other person or persons, as they deem necessary to properly carry out their duties under this By-law;
- c) Enter the Property to collect information, take photographs, videos, measurements, readings and samples (air, surface water, groundwater, soil, materials, etc.,);
- d) Require the production of copies of reports, manifests or other documentation for the purposes of auditing any Site Alteration or compliance with the Conditions of a Permit, agreement or Order; and,
- e) Require the production of documents for inspection or things relevant to the inspection, inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts.

Duty to Identify

7.5 Where an Officer has reasonable grounds to believe that an Offence has been committed by a Person, the Officer may require the name, address and proof of identity of that Person, and the Person shall supply the required information.

Obstruction

7.6 No Person shall hinder or obstruct or attempt to obstruct the Director or Officer, or person in the discharge of duties under this By-law as required by the Director or Officer in order to bring a Property into compliance with this By-law or an Order issued under this By-law.

7.7 No person shall provide false information in any statement, whether orally, in writing or otherwise, made to an Officer or the Director.

7.8 No Person shall hinder or obstruct, or attempt to hinder or obstruct, any Officer or Director who is exercising a power or performing a duty under this By-law.

Fail to Comply with an Order

7.9 No Person shall fail to comply with an Order issued under this By-law or in accordance with section 444 or 445 of the Municipal Act, 2001.

Presumption

- 7.10 Where any Site Alteration occurs, is undertaken, caused or permitted on any Property, the Owner of the Property is presumed to have undertaken, caused, or permitted the Site Alteration to occur, which presumption may be rebutted by evidence to the contrary on a balance of probabilities.

8. Orders

Contravention

- 8.1 If an Officer or the Director is satisfied that a Person has undertaken, caused, permitted, allowed or performed a Site the Alteration in contravention of the provisions of this By law, the Conditions of a Permit, and/or an agreement pursuant to this By-law, the Officer may issue an Order requiring work to be done to correct the contravention in accordance with s. 444 or 445 of the Municipal Act, 2001.
- 8.2 Orders issued shall contain the municipal address and/or the legal description of the Property, and shall set out:
- a) Reasonable particulars of the contravention, the work to be done, any work or action required to cease or be undertaken to rectify the contravention, and the period within which there must be compliance with the Order; and
 - b) Notification that if the work or action is not done, or ceased, in compliance with the Order within the period specified, the Township may have the work done at the expense of the Owner and seek penalties as outlined in this By-law.
- 8.3 Any remedial work that is ordered through an Order to discontinue work or an Order to perform work as necessary to ensure compliance with this by-law 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.
- 8.4 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.

Order Served

- 8.5 Any Order issued pursuant to this by-law may be served personally and/or served by sending it by prepaid 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 roll;
- 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.
- d) If the Township is unable to effect service on the Owner, a placard containing the terms of the Order may be placed in a conspicuous place on the Property and the placing of the placard shall be deemed to be service of the Order.

Order Deemed to be Served

- 8.6 If an Order is served on a Person by registered mail, it shall be deemed to have been served on the Person on the 5th day after mailing of the Order, which deemed service may be rebutted by the Person proving, on a balance of probabilities, that they did not receive the Order.
- 8.7 An Order may also be issued to a new Owner in any case where ownership of the Property has changed but the offence continues or remains.

9. Work Done by the Township

- 9.1 If the Conditions of an Order made under this By-law are not complied with within the period specified in the Order, in addition to all other remedies it may have, the Township may undertake any activity to fulfill any of the Conditions of a Permit or Order at the Owner's expense and may enter upon Property at any reasonable time for this purpose.

10. Penalty and Offence

Offence

- 10.1 Every Person who contravenes a provision of this By-law, a Condition of a Permit or an Order issued under this By-law, is guilty of an Offence.
- 10.2 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 deemed to be a continuing Offence for each day or part of a day that the Order is not complied with.

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 by the *Provincial Offences Act*,

R.S.O. 1990, c. P.33 ("*Provincial Offences Act*") with the applicable set fine amounts as set out in Schedule "A" to this By-law.

Penalties

- 10.3 Further, 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 under the provisions of the Municipal Act, 2001 and shall be subject to the following penalties in accordance with the Municipal Act, 2001:
- a) Upon a first conviction, to a fine of not less than \$250 and not more than \$50,000;
 - b) Upon a second or subsequent conviction for the same Offence, to a fine of not less than \$500 and not more than \$100,000;
 - c) Upon conviction for a continuing Offence, to a fine of not less than \$500 and not more than \$10,000 for each day or part of a day that the Offence continues. The total of the daily fines may exceed \$100,000; and
 - d) Upon conviction of a multiple Offence, for each Offence included in the multiple Offence, to a fine of not less than \$10,000 and not more than \$100,000.
 - e) The total of all fines for each included Offence is not limited to \$100,000.
- 10.4 When a Person has been convicted of an Offence under this By-law, the Ontario Court of Justice, or any Court of competent jurisdiction thereafter may, in addition to any other penalty imposed on the Person convicted, make an Order prohibiting the continuation or repetition of the Offence by the Person convicted.

Cost Recovery

- 10.5 The Township may recover its costs of remedying a violation of this By-law by invoicing the Owner, by instituting court proceedings or by adding the cost, including interest, to the tax roll in the same manner as municipal taxes and the exercise of any one remedy shall not preclude the exercise of any other available remedy.

11. Appeal

- 11.1 A Person who considers themselves aggrieved by an Order made by an Officer may appeal the Order to the Director within 20 days after the date on which the Order is made. The appeal shall be in writing and shall contain the Person's name, address, email address (if applicable), phone number and details concerning the reason for appealing the Order and the remedy being requested.

- 11.2 An appeal shall be served by prepaid ordinary or registered mail, courier, or email addressed to the attention of the Director.
- 11.3 An appeal will be heard only if filed/received per the above-mentioned time period and all applicable fees paid.
- 11.4 The appeal shall be heard in writing. The Director may also arrange for an oral hearing to be held if the Director, in his/her sole and absolute discretion, considers it necessary to do so.
- 11.5 An appeal does not stay the operation of the Order appealed from, but the Director may, on such terms as are just, stay the operation of the Order until the disposition of the appeal.
- 11.6 On an appeal, the Director may request and require production of any further documents, reports, and information to be provided by the person appealing the Order, from the Officer who issued the Order, and from any other person who may have knowledge or information relevant to the Order. The Director may consider any issue relevant to the issuance of the Order, including legal issues and interpretation of the By-law, and may consult with legal counsel in determining the validity of the Order.
- 11.7 The Director may affirm, vary, or rescind the Order and take any other action that the Director considers the person ought to take in accordance with this By-law and for this purpose, the Director may substitute his/her opinion for that of the Officer. Any decision made by the Director shall be made in writing and shall be delivered by ordinary prepaid registered mail, courier, email, or facsimile transmission to the person appealing the Order and the Officer who issued the Order.

12. Liability and Indemnification

- 12.1 Nothing in this By-law limits the responsibility or liability of any Person who has lawfully or unlawfully undertaken Site Alteration from any personal injury, including injury resulting in death or Property damage resulting from such Site Alteration or from acts or omissions of such Person, or his or her agents, employees, or contractors.
- 12.2 The provisions of this By-law shall not be construed as acceptance by the Township, its officers, employees, or agents of any responsibility or liability whatsoever by reason of allowing such Site Alteration, approving the request for permitting such Site Alteration, or activities related to the Site Alteration.
- 12.3 The Township is not responsible for any damages, losses or injuries caused as a result of any Site Alteration.

- 12.4 The Operator and Owner shall be jointly and severally responsible to indemnify and save harmless the Township, its officers, employees, and agents from all losses, damages, costs, expenses, claims, demands, actions, lawsuits, or other proceedings of every nature and kind arising from, and in consequence of activities related to Site Alteration.

13. Transition Provision

- 13.1 Notwithstanding the repeal of By-law 02-62 and all amendments thereto, those By-laws shall continue to apply to any acts, omissions, or occurrences, and to any Offences that took place prior to the enactment of this By-law.

14. Validity, Severability and Interpretation

- 14.1 Where there is a conflict between a provision of this By-law and a provision of any other Township By-law, the provision that establishes the highest standards to protect the health and safety of the public and natural environment shall apply. No agreement shall be deemed to provide an exemption from the requirements of this By-law unless this By-law authorizes such exemption, and an agreement specifically provides for it.
- 14.2 Should a court of competent jurisdiction declare a part or whole of any provision of this by-law to be invalid or of no force and effect, the provision or part is deemed severable from this by-law and it is the intention of Council that the remainder survive and be applied and enforced in accordance with its terms to the extent possible under law.
- 14.3 This By-law, and the provisions contained within, are intended to be complimentary to Federal and Provincial statutes and Regulations, and to other By-laws passed by Council. If any other applicable law requires a higher standard than this By-law requires, the higher standard shall apply.
- 14.4 Whenever any reference is made in this by-law to a statute or regulation of the Province of Ontario, such reference shall be deemed to include all subsequent amendments to such statute or regulation and all successor legislation to such legislation.
- 14.5 Words importing singular number shall include the plural.

15. Schedules

- 15.1 That Schedule A "Part I Provincial Offences Act Fines" attached hereto forms part of this by-law.

16. Repeal

16.1 That By-law 02-62 and all amending by-laws are hereby repealed.

17. Force and Effect

17.1 This by-law shall take force and effect upon final passage hereof.

By-law Number 25-67 read a first, second and third time and finally passed this 24th day of November, 2025.

Douglas Measures, Mayor

Sasha Helmkey, Director of Legislative Services/Clerk

Site Alteration By-law 25-67
The Corporation of the Township of Clearview

Schedule A – Part I Provincial Offences Act Fines

Item	Short Form Wording	Provision for Creating or Defining Offence	Set Fine
1	Conduct, undertake, cause, permit or carry out Site Alteration on any Property without a Permit	3.1	\$400.00
2	Have fill on that Person's Property that is not approved through a Permit	3.2	\$400.00
3	Allow fill to remain on that Person's Property that is not approved through a Permit	3.2	\$400.00
4	Fail to comply with conditions of a Permit	3.3	\$250.00
5	Conduct, undertake, cause, permit or carry out Site Alteration that could injure or destroy a tree	3.5	\$250.00
6	Conduct, undertake, cause, permit or carry out Site Alteration that may adversely affect the quality or quantity or any surface water or ground water	3.6	\$250.00
7	Conduct, undertake, cause, permit or carry out Site Alteration that could adversely affect any Watercourse or Drainage on any Property	3.7	\$250.00
8	Conduct, undertake, cause, permit or carry out Site Alteration that will result in an Unapproved Grade	3.8	\$250.00
9	Conduct, undertake, cause, permit or carry out Site Alteration that will, or can be reasonably expected to, result in an Adverse Effect	3.9	\$250.00
10	Hinder or obstruct any person(s) in the discharge of duties under this By-law in	7.6	\$400.00

Item	Short Form Wording	Provision for Creating or Defining Offence	Set Fine
	order to bring a Property into compliance with this By-law or an Order issued under this By-law		
11	Attempt to obstruct any person(s) in the discharge of duties under this By-law in order to bring a Property into compliance with this By-law or an Order issued under this By-law	7.6	\$400.00
12	Provide false information in any statement to an Officer	7.7	\$250.00
13	Hinder or obstruct, or attempt to hinder or obstruct, any officer or director who is exercising a power or performing a duty	7.8	\$400.00
14	Fail to obey an Order issued under this By-law	7.9	\$400.00

Note: The penalty provision for the offences indicated above is section 10 of By-law 25-67, a certified copy of which has been filed.