

THE CORPORATION OF THE TOWN OF GRIMSBY

BY-LAW NO. 2020-44

BEING A SITE ALTERATION BY-LAW TO REGULATE THE REMOVAL, PLACING OR DUMPING OF FILL IN THE TOWN OF GRIMSBY

WHEREAS section 142 of the *Municipal Act, 2001*, S.O. 2001, c. 25, provides that a local municipality may 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 the placing or dumping of fill, the removal of topsoil and the alteration of the grade of land and for imposing conditions to a permit, including requiring the preparation of plans acceptable to the municipality relating to grading, filling or dumping, the removal of topsoil and the rehabilitation of the site;

AND WHEREAS sections 8, 9 and 11 of the *Municipal Act, 2001* permit a municipality to pass by-laws necessary or desirable for municipal purposes, and paragraphs 11(2) 5, 6 and 8 authorize 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 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 section 425 of the of the *Municipal Act, 2001* permits a municipality to pass by-laws providing that any person who contravenes any by-law of the municipality enacted under the statute is guilty of an offence;

AND WHEREAS subsection 426(4) of the of the *Municipal Act, 2001* provides that any person that hinders or obstructs, or attempts to hinder or obstruct, any person who is exercising or performing a duty under a by-law enacted under the statute is guilty of an offence;

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 the statute 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 section 446 of the *Municipal Act, 2001*, provides a municipality with the authority to direct or require a person to do a matter or thing, the municipality may also 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 WHEREAS Council for the Town of Grimsby deems it expedient and in the public interest to enact this By-law;

NOW THEREFORE, Council of the Corporation of the Town of Grimsby enacts as follows:

PART I – DEFINITIONS

1. In this By-law:

- (a) “Agricultural Lands” includes:
 - (i) land upon which agriculture is a permitted use pursuant to the applicable zoning by-law(s), and
 - (ii) land which is being used for agriculture at the time of application of a Permit;
- (b) “Conservation Authority” means the Niagara Peninsula Conservation Authority;
- (c) “Commercial Fill Operation” means the removal, placing or dumping of Fill involving remuneration paid, or other compensation, to an owner of land whether or not the remuneration or compensation to the Owner is the sole reason for the removal, placing or the Dumping of Fill;
- (d) “Complete Application” means an application and contents described in Part VII of this By-law;
- (e) “Director” means the Director of Public Works and shall include any person authorized by the Director to carry out any of the powers or duties of the Director pursuant to this By-law;
- (f) “Dump”, “Dumped” or “Dumping” means the placing or depositing of Fill in a location other than where the Fill was obtained and includes the movement and depositing of Fill from one location to another on the same property;
- (g) “Fill” means any type of material removed from or deposited or placed on lands and, without limiting the generality of the foregoing, includes soil, subsoil, Topsoil, stone, sod, turf, clay, sand, gravel or other such similar material, either singly or in combination thereof to the discretion of the Director;
- (h) “Haul Route” means Roads designated or approved by the Town for the purposes of ingress or egress to a Site Alteration as a condition of a Permit;
- (i) “Lot” shall mean a parcel of land which can be legally conveyed;
- (j) “MOE” means the Ministry of the Environment, Conservation and Parks;
- (k) “Municipal Law Enforcement Officer” means a person appointed by Council to enforce the provisions of this By-law and a Police Officer;
- (l) “Normal Farm Practice” means a practice that is conducted in a manner consistent with proper and accepted customs and standards as established and followed by similar agricultural operations under similar circumstances and includes the use of innovative technology used with advanced management practices;
- (m) “Order” means an order issued under this By-law;
- (n) “Owner” means the registered owner of land;

- (o) "Permit" means a permit issued pursuant to the provisions of this By-law which is, subject to Sections 42 and 43, valid for a period of twelve (12) consecutive months;
- (p) "Public Open House" means a meeting that is open to the public for the purposes of Section 27 of this By-law;
- (q) "Qualified Person" means a person who meets the qualifications as set out in section 5 or 6 of O. Reg. 153/04 - Records of Site Condition - Part XV.1 of the *Environmental Protection Act*;
- (r) "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 Town;
- (s) "Security" means financial security in the form of a cash deposit or an irrevocable letter of credit to ensure fulfillment of the terms of a Permit or to secure the cost of repairing damage to municipal property as a result of work undertaken under a Permit which is posted under this By-law or pursuant to a Site Alteration Agreement;
- (t) "Site" means the Lot or Lots altered or proposed to be altered by a Site Alteration;
- (u) "Site Alteration" means temporary or permanent removal or Dumping of Fill on land originating from the Site or from elsewhere by any means;
- (v) "Site Alteration Agreement" means an agreement between an Owner and the Town required by the Director as a condition of obtaining a Permit under this By-law;
- (w) "Site Plan" means a set of drawings that clearly indicates the area on the Site subject to Site Alteration along with the property lines of the Lot or Lots;
- (x) "Topsoil" means those horizons in a soil profile, commonly known as "O" and "A" horizons, containing organic material and includes deposits of partially decomposed organic material such as peat;
- (y) "Town" means The Corporation of the Town of Grimsby;
- (z) "Zoning By-law" means a by-law passed under section 34 of the *Planning Act*, R.S.O. 1990, c. P.13, applicable to lands within the Town.

PART II – SHORT TITLE

2. This By-law may be cited and known as the "Site Alteration By-law".

PART III – SCOPE

3. This By-law shall apply to all Site Alterations within the Town, unless the Conservation Authority has made a regulation under section 28 of the *Conservation Authorities Act*, R.S.O. 1990, c. C.27, applicable to the Site, or unless specifically excluded pursuant to this By-law.

PART IV – ADMINISTRATION AND DELEGATED AUTHORITY

4. The Director shall be responsible for the administration of this By-law.
5. The Director is authorized and has the 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 on the issuance of a Permit;
 - (b) determine and deem an application for Permit as abandoned, expired, or closed;
 - (c) approve and coordinate any remediation works;
 - (d) approve amendments to Site Alterations;
 - (e) appoint a peer review consultant or other engineering, scientific and technical experts to fulfill the role or duties of Municipal Law Enforcement Officer for purposes of this By-law;
 - (f) require or exempt works from the requirements of this By-law;
 - (g) authorize any person to carry out any of the powers or duties of the Director pursuant to this By-law;
 - (h) approve forms and documents to be used under this By-law;
 - (i) to hear and consider appeals of decisions to deny a Permit;
 - (j) authorize and/or to hire such agents, contractors and other persons to perform the work, as required; and
 - (k) to take any actions or steps incidental to or ancillary to the Director's authority under this By-law.

PART V – GENERAL PROHIBITIONS

6. No person shall cause, permit, perform or carry out a Site Alteration without first obtaining a Permit from the Town to do so.
7. No person shall import any Fill onto any land where the quality of the imported soil is not acceptable for the intended use and betterment of the land.
8. Where a Permit has been issued under this By-law authorizing a Site Alteration, no person shall undertake or permit a Site Alteration except in accordance with:
 - (a) the plans, documents or other material filed in support of the issuance of the Permit;
 - (b) the conditions attached to the Permit;
 - (c) compliance with the terms of any agreement with the Town entered into under this By-law; and
 - (d) the provisions of this By-law.
9. No person shall modify an approved Site Alteration without approval of the Director.
10. No person shall operate a Commercial Fill Operation in the Town.

11. No person shall remove or Dump Fill, or cause or permit the removal or Dumping of Fill unless such Fill complies with the Ministry of Environment standards for clean Fill, as described in the *Environmental Protection Act*, R.S.O. 1990, c. E.19.
12. No person shall import any Fill onto any property with the use of a hydro excavation truck, being any truck that excavates, removes or moves Fill with water and/or air, except where approval has been given by Council.
13. No person shall fail to obey an Order issued under this By-law.
14. No person shall obstruct a Municipal Law Enforcement Officer carrying out an inspection under this By-law.

PART VI – EXEMPTIONS

15. This By-law is not applicable to the following:
 - (a) a Site Alteration:
 - (i) that involves the Dumping or placing of Topsoil on a Site for improving the soil capability for agricultural purposes on Agricultural Lands as part of a Normal Farm Practice,
 - (ii) that is incidental to a grading requirement under the Ontario Building Code for the construction or demolition of a building or structure for which a building permit has been issued or for the purpose of constructing a driveway, parking lot or assembly area reasonably accessory to the building or structure for which a building permit has been issued or is a septic disposal system where a permit has been issued by the Town, Region of Niagara or MOE in accordance with Part 8 of Division B of the Ontario Building Code,
 - (iii) on lands for the purpose of flood or erosion control to establish finished grade shown on a grading and drainage plan approved by the Conservation Authority, or
 - (iv) on lands for storage purposes either as a primary or accessory use provided that the use is permitted on the lands pursuant to the Zoning By-law;
 - (b) public sector related activities or matters undertaken by the Town or a local board of the Town;
 - (c) the 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 sections 41, 51 or 53, respectively, of the *Planning Act* or as a requirement of a site plan agreement or subdivision/severance agreement entered into under those sections;
 - (d) the 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;

- (e) the Dumping of Fill, removal of Topsoil or alteration of the grade of land undertaken by a transmitter or distributor, as those terms are defined in section 2 of the *Electricity Act, 1998*, S.O. 1998, c. 15, Sched. A, for the purpose of constructing and maintaining a transmission system or a distribution system, as those terms are defined in that section;
- (f) the 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*, R.S.O. 1990, c. A.8;
- (g) the 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 statute, 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*;
- (h) the 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*, R.S.O. 1990, c. D.17 or the *Tile Drainage Act*, R.S.O. 1990, c. T.8;
- (i) the use, operation, establishment, alteration, enlargement or extension of a waste management system or waste disposal site lawfully permitted under Part V of the *Environmental Protection Act*, or a waste disposal site or waste management system that is exempted by regulation from said Part V;
- (j) the construction, extension, alteration, maintenance or operation of works under section 28 of the *Public Transportation and Highway Improvement Act*, R.S.O. 1990, c. P.50;
- (k) the construction of a building or structure, including a driveway and parking pad or pool, pursuant to a valid building permit which has been issued by the Town for the erection of a building or structure, where the Site Plan accompanying the building permit application provides sufficient information to ensure that the Site Alteration proposed therein meets the guidelines established by the Director pursuant to this By-law;
- (l) any filling of an excavation to the elevation of an existing grade following the demolition or removal of a building or structure for which a demolition permit has been issued, or for which no demolition permit is required under the *Building Code Act, 1992*, S.O. 1992, c. 23;
- (m) any Site Alteration that is:
 - (i) determined to be a Normal Farm Practice, and
 - (ii) carried on by Owners or properties that have an active registration as a "farming business" as defined in the *Farm Registration and Farms Organization Funding Act* and are in good standing under that statute;

- (n) the stockpiling of Fill in the ordinary course of the operation of a garden supply establishment that is legally established under the Zoning By-law, provided that such activity does not result in the permanent alteration of the existing grade of the land of the garden supply establishment. For this exemption to apply, the Owner must:
 - (i) maintain records from the material source sites indicating that the imported material meets the requirements of the site condition standards for agricultural property use, and
 - (ii) demonstrate, to the satisfaction of the Director, that the material is being exported regularly and not returning to the same property.

16. A Permit is not required for a Site Alteration if the size of the Site and total amount of Fill is:

- (a) 0.1 hectares or less - a maximum of 10 cubic metres of Fill;
- (b) 0.2-0.5 hectares - a maximum of 100 cubic metres of Fill;
- (c) 0.5 hectares or larger - a maximum of 500 cubic metres of Fill.

The maximum volumes noted above are permitted within any twelve (12) month period for betterment of and the permitted use of the Site.

Notwithstanding that, a Permit is not required under Sections 16(a), (b) and (c), every person carrying out a Site Alteration in the Town shall provide notice of same to the Director as outlined in Schedule "D".

PART VII - ADMINISTRATION AND REQUIREMENTS FOR ISSUANCE OF A PERMIT

17. Any Site Alteration involving Fill that exceeds the maximum volumes set out in Section 16 is prohibited unless a Permit is issued by the Director and such permitted works may not be performed in contravention of the Town's Noise By-law or anytime on Saturday, Sunday or on a statutory holiday.

18. Every Owner applying for a Permit shall submit to the Director:

- (a) a completed application in the form provided in Schedule "A" to this By-law;
- (b) payment of the fee for a Permit as set out in Schedule "B" of this By-law;
- (c) a Security in an amount satisfactory to the Director;
- (d) a description of the Fill proposed to be removed or Dumped including a detailed description of the destination or source of the Fill, the quantity of the Fill and the proposed placement of the Fill;
- (e) a certificate of commercial general liability insurance in the owner's name, in the amount of \$5,000,000, naming the Town as an additional insured party, and maintain said liability insurance for the duration in which the Permit is valid;
- (f) a Site Alteration Plan satisfactory to the Director, accurately indicating the following:

- (i) the property lines of the lands and location on the Site of the Site Alteration with dimensions,
 - (ii) location and details of any proposed sediment control measures,
 - (iii) all existing storm sewers, ditches, swales, creeks, watercourses and wetlands on the lands and on abutting lands and public Roads,
 - (iv) all woodlands on the Site and of all easements and right-of-way's over, under, across or through the Site,
 - (v) proof of permission with respect to the removal, placement or Dumping of the Fill from the grantee of any easement on the Site impacted by a Site Alteration,
 - (vi) all existing buildings and driveways on the Site,
 - (vii) all existing elevations with sufficient buffer onto adjacent properties to assess existing drainage patterns,
 - (viii) proposed grades and drainage systems upon completion of the Site Alteration,
 - (ix) proposed ground covering to be used upon completion of the Site Alteration,
 - (x) location and composition of any temporary or permanent entrances and/or access roads that will be constructed to facilitate access to the Site, and
 - (xi) location and composition of any temporary or permanent mud mat at the entrance to the Site to mitigate mud tracking onto the municipal right of way;
- (g) where applicable, copies of any approval required from any other agency, including, but not limited to, the Conservation Authority;
 - (h) the proposed Haul Route;
 - (i) a certificate stating that the Fill contains no contaminants within the meaning of the *Environmental Protection Act*;
 - (j) an executed unconditional release and indemnity to save harmless the Town, its elected officials, staff and agents, with respect to any and all liability which may arise directly or indirectly from the Site Alteration, including the presence of any fill that is determined to contain contaminants within the meaning of the *Environmental Protection Act*; and
 - (k) any other study, report, plan or material related to the application as deemed necessary by the Director to constitute a Complete Application.

19. The certificate and release & indemnity required by Section 18(j) shall be in the form prescribed by the Director from time to time.

PART VIII - ISSUANCE OF A PERMIT BY THE DIRECTOR

20. The Director shall review or cause to be reviewed a Complete Application for a Permit. In carrying out its review the Director may

seek comments from any other agency deemed necessary as part of a Complete Application.

21. The Director shall issue a Permit where:
- (a) the person has fulfilled all of the requirements of this By-law, including the payment of all applicable fees, charges and Security;
 - (b) the Site is not within an area where the Site Alteration is prohibited under this By-law or any other applicable law;
 - (c) the issuance of the Permit:
 - (i) will result in maintaining or improving the overall agricultural capability of the Site, or
 - (ii) is incidental to a Normal Farm Practice, or
 - (iii) is appropriate for the development and use of the Site and that the general intent and purpose of:
 - A. the Zoning By-law,
 - B. the Official Plan, and
 - C. this By-law,
 will be maintained.
22. The Director may require the Applicant to enter into a Site Alteration Agreement in the form set out in Schedule "C" to this By-law, which may include a requirement to provide additional Security.
23. Where the Director refuses to issue a Permit, any person who considers themselves aggrieved may appeal the decision of the Director in accordance with the following process:
- (a) file a notice of appeal in writing within twenty (20) days of the date of the decision to deny issuance of the Permit that shall contain the person's name, address, email address (if applicable), phone number, and details concerning the reason for appealing the denial;
 - (b) serve the notice of appeal by prepaid ordinary or, registered mail, courier, or email addressed to the attention of the Director;
 - (c) the appeal shall be in writing only;
 - (d) the Director may request and require production of any further documents, reports and information to be provided by the person appealing and may consider any issue relevant to the issuance of the Permit, including legal issues and interpretation of the By-law, and may consult with legal counsel; and
 - (e) the Director may affirm, vary or rescind the decision in writing and shall deliver by ordinary prepaid registered mail, courier, email, or facsimile transmission to the person appealing the decision.
24. The Director shall not issue a Permit or accept an application for a Site Alteration within a twelve (12) month period of the expiry date of any previous Permit.

PART IX – CONSIDERATION BY COUNCIL OVER 1000 CUBIC METRES

25. Where the Site Alteration involves the removal or Dumping of Fill out of or onto a Site that exceeds one thousand (1000) cubic metres within any twelve (12) month period, the Permit for such Site Alteration may only be issued when approved by Council, which shall have the same powers as the Director pursuant to this By-law.
26. In addition to the requirements of Sections 21 and 22, every Owner applying to Council for approval of a Permit for a Site Alteration involving in excess of one thousand (1000) cubic metres of Fill will be required to enter into a Site Alteration Agreement in the form set out in Schedule "C" to this By-law, which may include a requirement to provide additional Security.
27. Upon receipt of a Complete Application for a Site Alteration that exceeds one thousand (1000) cubic metres:
- (a) the Director shall:
 - (i) schedule a Public Open House,
 - (ii) provide the person submitting the Complete Application notice of the Public Open House at least thirty (30) days prior to the date of the meeting,
 - (iii) provide notice of the Complete Application to all registered Owners of land within one hundred and twenty (120) metres of the boundaries of the Site, and
 - (iv) post notice of the Public Open House on the Town's Web Page at least ten (10) days prior to the Public Open House date; and
 - (b) the person submitting the Complete Application shall post a placard on the Site as provided by the Town at least ten (10) days prior to the Public Open House so that it is clearly visible to the public, provide proof of the placement of the placard to the Director and leave the placard on the Site until the Permit is issued or denied.
28. Delivery of any notice to the person submitting the Complete Application shall be made by regular mail and shall be deemed to have been delivered on the fifth (5) day after the date of mailing.
29. Comments received at the Public Open House shall form part of a technical report provided by the Public Works Department to Council and form part of the review by Council.
30. Consideration of the Complete Application shall be held in public and the Owner may request to be a delegate.
31. Upon reviewing the Complete Application and technical report, Council shall consider whether it meets the requirements of Sections 21 and 22 of this By-law and the decision of Council is final.

PART X - CONDITIONS ON PERMITS AND HAUL ROUTES

32. The Director shall, as a condition of the issuance of a Permit, require an Owner of the Site which is the subject of the Permit either prior to the Permit being issued or after the Permit has been issued, to comply with the following:

- (a) notify the Director in writing at least seventy-two (72) hours:
 - (i) before commencing any work under the Permit, and
 - (ii) of the completion of the work under the Permit;
 - (b) maintain the Roads providing ingress and egress to the Site in the same condition that existed prior to the commencement of the work;
 - (c) keep all Roads providing ingress and egress to the Site free from any damage, equipment or material or mud tracked onto the Road arising from any works undertaken as a result of the Permit;
 - (d) remediate and clean up forthwith any material or mud tracked onto the Roads where required to do so by Town staff;
 - (e) ensure that any dust control measures are in place so as to restrict and limit the blowing of dust onto any adjacent lands;
 - (f) install temporary signage in accordance with Ministry of Transportation's Ontario Traffic Manual (OTM) Book 7 regulations on all Roads immediately adjacent to the Site where Fill is being Dumped;
 - (g) inspect and maintain sediment control measures to ensure they are kept in good working order;
 - (h) ensure that any machinery operating on a Road or any person directing traffic on a Road does so in a manner acceptable to the Director and in accordance with all other applicable law;
 - (i) ensure that Fill that is Dumped on the Site is in accordance with the Permit, the Site Plan and all other applicable law;
 - (j) provide the Director or a Municipal Law Enforcement Officer a report from a Qualified Person, qualified engineer or environmental consultant possessing an expert or special knowledge in respect to the source and nature of the Fill to be Dumped that the Fill meets the standards prescribed by the MOE; and
 - (k) provide Security satisfactory to the Director or secure the maintenance of the Roads that are used by trucks delivering or removing Fill in a state of good repair and free from dust and mud.
33. The Director may, as a condition of the issuance of a Permit, require an Owner of the Site which is the subject of the Permit, either prior to the Permit being issued or after the Permit has been issued, to comply with one or more of the following:
- (a) keep, maintain and make available to the Director the following records:
 - (i) the full and complete legal name and business name if different from the legal name of each hauler,
 - (ii) the commercial vehicle registration number of each hauler,
 - (iii) the motor vehicle permit number of the motor vehicles owned and operated by each hauler,

- (iv) the date and time of delivery of Fill,
 - (v) the point of origin of each delivery of Fill,
 - (vi) the volume of each delivery of Fill,
 - (vii) the content of material of each delivery of Fill,
 - (viii) any other information required by O. Reg. 153/04, and
 - (ix) any other information required by the Director; and
- (b) comply with any other conditions imposed by the Director.
34. In addition to Sections 32 and 33, as a condition of the Permit, the Town may designate one or more Haul Routes to be used to access / egress a Site for the Site Alteration.
35. Where Haul Routes are not within the jurisdiction of the Town, the Town may require that the Owner provide proof of permission to use the Roads.
36. Every Owner who is issued a Permit under this By-law shall be responsible for ensuring that the designated Haul Routes are used by any person coming to or from the Site for works carried out under the Permit and any failure to do so shall be in contravention of this By-law.
37. The Town may engage legal, engineering or other technical consultants the Director deems necessary in order to evaluate and/or review studies and/or agreements or to provide assistance to the Director in respect of an application and ensuing Site Alteration in which case such costs shall be charged back to the Owner.
38. The Town may draw on any Security provided under this By-law in order to remedy any breach of the provisions of this By-law, the conditions of a Permit, or any other obligation of the Owner relating to the Permit.
39. The issuance of a Permit under this By-law does not relieve an Owner or any other person from compliance with the By-law or any other applicable law.

PART XI - SUSPENSION, REVOCATION, TRANSFER AND EXPIRY OF A PERMIT

40. A Permit issued pursuant to the provisions of this By-law may be revoked by the Director at any time and without notice under any of the following circumstances:
- (a) if no work has been commenced after three (3) months from the date of issuance;
 - (b) if the Permit was issued on mistaken, misleading, false or incorrect information;
 - (c) if the Permit was issued in error; and
 - (d) where the Owner is in contravention of a condition to the Permit, a provision of this By-law, or a provision of the Site Alteration Agreement, where one has been entered into.
41. No refund of any Permit fees paid pursuant to this By-law shall be provided if a Permit expires.

- 42. A Permit may be renewed/extended prior to the passing of the tenth (10) month from the date of the issuance of the Permit if work has not been completed under that Permit. A renewal/extension may be granted upon submission of a new application to the Director accompanied by a payment of Permit fees, provided that the previously permitted work has not been revised.
- 43. A renewal or extension of a Permit issued pursuant to this By-law shall be valid for a period of six (6) months from the date of issuance, but shall expire after three (3) months from the date of issuance if work has not been commenced by that date.
- 44. A Permit may be cancelled upon written request from the Owner to the Director. An inspection of the Site will be conducted to ensure that no work has commenced and that the Site is in an acceptable condition, and at the discretion of the Director, a refund of the Fee for the Permit may be made.
- 45. If title to the Site for which a Permit has been issued is transferred while the Permit remains in effect, the Permit is automatically cancelled unless the new Owner, within thirty (30) days prior to the transfer:
 - (a) provides the Town with an undertaking agreeing to comply with all conditions under which the existing Permit was issued, an executed assumption agreement satisfactory to the Director and an executed release and indemnity as required by Section 18(j); or
 - (b) applies for and obtains a new Permit in accordance with the provisions of this By-law.

PART XII - ORDERS

- 46. For the purpose of ensuring compliance with this By-law, the Director or any person authorized by the Director or a Municipal Law Enforcement Officer may, at all reasonable times, enter upon and inspect any Site to determine whether or not the following are being complied with:
 - (a) this By-law;
 - (b) a condition of a Permit;
 - (c) a provision of the Site Alteration Agreement or a direction or order made under this By-law; or
 - (d) a prohibition order made under section 431 of the *Municipal Act, 2001*.
- 47. The Director or a Municipal Law Enforcement Officer may, for the purposes of the inspection under Section 46:
 - (a) require the production for inspection 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 in writing or otherwise as required by the officer from any person concerning a matter related to the inspection; or

- (d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.
48. Any cost incurred by the Town in exercising its authority to inspect under Section 47(d) including, but not limited to, the cost of any examination, test, sample or photograph necessary for the purposes of the inspection, shall be paid by the Owner or occupant of the Site where the inspection takes place.
49. If the Director or a Municipal Law Enforcement Officer is satisfied that:
- (a) a contravention of this By-law has occurred, he or she may make an Order requiring the Owner or the person who caused or permitted the Site Alteration to discontinue the activity and the Order shall set out:
 - (i) the municipal address or the legal description of the Site,
 - (ii) reasonable particulars of the contravention, and
 - (iii) the period of time within which there must be compliance;
 and,
 - (b) a person has caused or permitted the performance of a Site Alteration in contravention of the provisions of this By-law, he or she may make an order requiring work to be done to correct the contravention and the order shall set out:
 - (i) the municipal address or the legal description of the Site,
 - (ii) reasonable particulars of the contravention,
 - (iii) the period of time within which there must be compliance, and
 - (iv) that if the work is not done in compliance with the Order within the period as specified, the Town may have the work completed at the expense of the Owner.
50. Any Order issued under Section 49 shall be served personally or by registered mail to the last known address of the Owner of the Site and to any other person to be served. If an Order is served by registered mail, the service shall be deemed to have been made on the fifth (5) day after the date of mailing.
51. Upon completion of the work to correct the contravention by or on behalf of the Town under Section 49, the Town shall have a lien on the land for the amount spent in excess of any Security applied to remedy or rectify the contravention and the amount may be added to the tax roll and collected in the same manner and with the same priority as municipal property taxes.

PART XIII - PENALTY AND OFFENCE

52. Administrative Penalty Process By-law 2018-86 applies to each administrative penalty issued pursuant to this By-law.
53. Each person who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with Administrative Penalty By-law 2018-86, be liable to pay to the Town an

administrative penalty in the amount of \$250 for each day or part thereof on which the contravention occurs or continues.

- 54. Every person who contravenes any provision of this By-law, a condition of a Permit or an Order issued under this By-law, is guilty of an offence and upon conviction is liable:
 - (a) on a first conviction, to a fine of not more than \$10,000; and
 - (b) on any subsequent conviction, to a fine of not more than \$25,000.

- 55. Notwithstanding Section 54, where the person convicted is a corporation, the maximum penalty that may be imposed is,
 - (a) on a first conviction, to a fine of not more than \$25,000; and
 - (b) on any subsequent conviction, to a fine of not more than \$50,000.

- 56. In addition to any fine or any other penalty, any person who is convicted of contravening a provision of this By-law, the terms or conditions of a Permit issued pursuant to this By-law or any Order issued pursuant to this By-law, may be ordered by a court of competent jurisdiction at the expense of the person to:
 - (a) rehabilitate the land;
 - (b) remove the Fill; and
 - (c) restore the grade of the land to its original condition.

PART XIV – OBSTRUCTION

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

- 58. No person shall provide false information in any statement, whether orally, in writing or otherwise, made to a Municipal Law Enforcement Officer or the Director.

- 59. No person shall hinder or obstruct, or attempt to hinder or obstruct, any Municipal Law Enforcement Officer or Director who is exercising a power or performing a duty under this By-law

PART XV - SEVERABILITY

- 60. Should a court of competent jurisdiction declare any provision of this by-law to be invalid or of no force and effect, the provision is deemed severable from this by-law and it is the intention of the Town that the remainder of the by-law shall survive and be applied and enforced in accordance with its terms to the extent possible under the law.

PART XVI – INTERPRETATION

- 61. Any reference to a statute, regulation, by-law or other statutory instrument shall be deemed to refer to the legislation as amended, consolidated, replaced or modified.

PART XVII – REPEAL OF BY-LAW 2019-34

62. Subject to Section 64, By-law No. 2019-34 is repealed. Where the provisions of any other by-law, resolution or action of Council are inconsistent with the provisions of this By-law, the provisions of this By-law shall prevail.

PART XVIII – TRANSITION

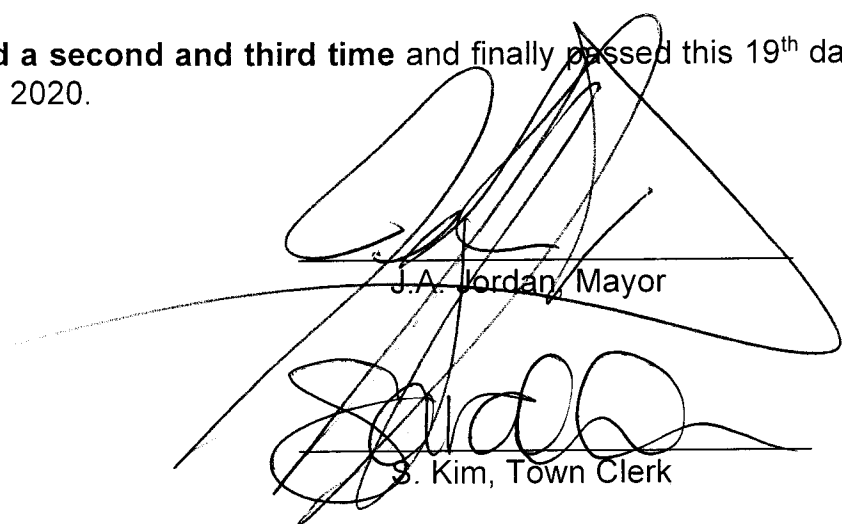
63. This By-law replaces By-law 2019-34 and all predecessors thereto for any Permit issued or Site Alteration requested after the date of passage of this By-law. Notwithstanding the repeal of By-law 2019-34, for any Permit issued or agreement entered into prior to the enactment of this By-law, the provisions of By-law 2019-34 and all predecessors thereto, shall continue to apply with respect to any acts, omissions or occurrences, and to any offences that took place prior to the passage of this By-law.

PART XIX - ENACTMENT

64. This By-law shall come into force and effect on June 1, 2020.

Read a first time this 19th day of May, 2020.

Read a second and third time and finally passed this 19th day of May, 2020.



J.A. Jordan, Mayor

S. Kim, Town Clerk

SCHEDULE "A"

SITE ALTERATION BY-LAW APPLICATION & PERMIT

SITE ALTERATION APPLICATION

Please complete all applicable sections of the application form. An incomplete application will not be processed. Please return forms to the Public Works Engineering Division.

PROPERTY INFORMATION OF SITE

MUNICIPAL ADDRESS: _____

LOT NO: _____ PLAN NO: _____ CONCESSION NO: _____

ROLL NO: 2615- _____ CURRENT ZONING: _____

LAND OWNER (check one):
INDIVIDUAL: _____ COMPANY: _____

REGISTERED LAND OWNER(S)

SURNAME FIRST NAME INITIAL

TELEPHONE CELL FAX

EMAIL _____

CONSULTANT INFORMATION

COMPANY NAME _____

TELEPHONE CELL FAX

EMAIL _____

ADDRESS _____

LEGAL NAME (For use with agreements) _____

DESIGNATE (To which all correspondence will be sent) _____

CONTRACTOR INFORMATION

COMPANY NAME _____

TELEPHONE _____ CELL _____ FAX _____

EMAIL _____

ADDRESS _____

LEGAL NAME (For use with agreements) _____

DESIGNATE (To whom all correspondence will be sent) _____

TYPE OF WORK

Remove	Place	SIZE OF LOT / CUBIC METRES OF FILL PER YEAR
_____	_____	0.1 hectares or less / maximum of 10 m ³
_____	_____	> 0.1 to 0.2 hectares / maximum of 50 m ³
_____	_____	> 0.2 to 0.5 hectares / maximum of 100 m ³
_____	_____	> 0.5 to hectares or larger / maximum of 500 m ³
_____	_____	> 500 m ³ to < 1000 m ³
_____	_____	1000 m ³ or greater
_____	_____	Other

PROPOSED START DATE: _____

PROPOSED COMPLETION DATE: _____

BRIEFLY DESCRIBE WORK PROPOSED:

ESTIMATED VOLUME OF FILL TO BE EXPORTED/IMPORTED:
(Including all material for driveway and/or septic construction)

FINANCIAL (SCHEDULE B)

APPLICATION FEE _____
RENEWAL/EXTENSION FEE _____
HAUL ROUTE INSPECTON FEE _____
OTHER FEES _____
TOTAL FEES: _____

SECURITY CASH DEPOSIT _____
 LETTER OF CREDIT _____

OWNER AUTHORIZATION (IF AN AGENT IS USED)

The Owner must complete this section. In the case of multiple Owners, a separate authorization form for each individual person or entity is required. Please attach an additional page in the same format as this authorization, if necessary.

I, _____, being the registered owner of the subject lands, hereby authorize _____ to submit the above application to the Town of Grimsby for approval thereof.

Signature: _____ Date: _____

Printed Name: _____ Title: _____

CONSENT FOR RELEASE OF INFORMATION

I understand that all information and material that is submitted with any application may be made available to the public, and specifically, any application to Council relating to a Site Alteration in excess of 1,000 cubic metres shall become part of the public record.

In submitting this application and any supporting materials or information, I hereby acknowledge the above-noted and provide my consent to the disclosure of all information set out in this application.

Furthermore, I understand and acknowledge that my application will be shared with the Niagara Peninsula Conservation Authority, the Municipal Property Assessment Corporation and any other agencies that may have jurisdiction, comment if the location of the subject lands falls within their respective field of responsibility.

Signature: _____ Date: _____

Printed Name: _____ Title: _____

Note: Original signature(s) are required. In the case of a corporation, the signature(s) must be that of an officer(s) with authority to bind the corporation.

PERMISSION TO ENTER

I acknowledge that a site walk may be required in order to view the property and its relation to the surrounding lands, and in this regard, I authorize members of Council (or a representative thereof), Town staff, Peer Review Consultants retained by the Town, and relevant External Agency Review Staff to enter onto the Site for the purpose of evaluating the merits of the application at an arranged time.

Signature: _____ Date: _____

Printed Name: _____ Title: _____

Note: Original signature(s) are required. In the case of a corporation, the signature(s) must be that of an officer(s) with authority to bind the corporation.

IMPORTANT INFORMATION

- The security deposit will be refunded to the individual/company who provided initial payment following a final inspection by Town staff. Please note that the security deposit will be applied to any unpaid taxes and/or water and sewer charges. Any application fee, municipal services fee, and agreement preparation fee are non-refundable. The security deposit will be refunded upon cancellation of a permit, less the administration fee, provided that no work has commenced.
- The Owner hereby authorizes the Town and any of its authorized agents to enter onto the subject lands for the purposes of inspection or with labour and equipment to complete or repair any works as deemed necessary by the Town.
- The Town may engage legal, engineering, hydrology, environmental, arborists, landscape or any other consultant as deemed necessary by the Director of Public Works in order to evaluate studies and/or agreements, in which case the costs incurred for such evaluations shall be charged back to the owner. The cost of the necessary studies and/or agreements and costs incurred for such evaluations will become a fee imposed by the Town and such fee will be added to the tax roll of property and collected in the same manner as municipal taxes.
- Fees shall be adjusted upon completion of work where required to reflect totals based on accurate fill volumes as verified by a professional engineer prior to final clearance.
- It is the Owner's responsibility to obtain all necessary approvals from any federal, provincial, regional or municipal governments or agencies, including the conservation authority, prior to submitting an application for a site alteration permit.

CERTIFICATION

The Owner hereby expressly certifies that:

- (i) it has read and understands the Site Alteration By-law and all Schedules and it agrees to abide fully by all terms and conditions set out therein;
- (ii) it has not and will not receive any remuneration or compensation of any kind for the removal, placing or dumping of fill on its lands; and
- (iii) any and all fill used in completing the Site Alteration contains no contaminants within the meaning of the *Environmental Protection Act*, R.S.O. 1990, c. E.19.

RELEASE & INDEMNITY

The Owner hereby releases and agrees to indemnify and save completely harmless the Town, its elected officials and its employees, representatives, agents and contractors, from and against all claims, demands, damages, causes of action, costs, expenses and any other liabilities of any nature or which may arise, directly or indirectly, from the Site Alteration on the land, including the presence of any fill that is determined to contain contaminants within the meaning of the *Environmental Protection Act*.

I, _____, hereby make the above application for Site Alteration, declaring that all information contained herein is true and correct, and acknowledge the Town will process the application based on the information provided.

Signature: _____ Date: _____

Printed Name: _____ Title: _____

Personal information contained on this form is collected and will be used for the purpose of administrating the Site Alteration application process. Questions about this collection should be directed to the Town Clerk.

FOR OFFICE USE ONLY

APPLICATION

COMPLETED APPLICATION RECEIVED: _____

APPLICATION APPROVED FOR RECEIPT: _____

APPROVED BY: _____

SITE ALTERATION PERMIT ISSUED

PERMIT ISSUED BY: _____

PERMIT NUMBER: _____ PERMIT DATE: _____

RENEWAL DATE: _____ EXPIRY DATE: _____

HAUL ROUTE

DESCRIPTION (ATTACH MAP WHERE POSSIBLE):

HAUL ROUTE APPROVED BY: _____

HAUL ROUTE INSPECTION PRIOR

DATE INSPECTED: _____

NOTES (ATTACH PHOTOS WHERE POSSIBLE):

HAUL ROUTE INSPECTION DURING

DATE INSPECTED: _____

NOTES (ATTACH PHOTOS WHERE POSSIBLE):

HAUL ROUTE INSPECTION AFTER

DATE INSPECTED: _____

NOTES (ATTACH PHOTOS WHERE POSSIBLE):

SCHEDULE 'A'
Town of Grimsby
Site Alteration By-law Application & Permit

SITE ALTERATION PERMIT

PERMIT NUMBER: _____ PERMIT DATE: _____

RENEWAL DATE: _____ EXPIRY DATE: _____

MUNICIPAL ADDRESS: _____

LOT NO: _____ PLAN NO: _____ CONESSION NO: _____

ROLL NO: 2615- _____ CURRENT ZONING: _____

LAND OWNER (check one)
PERSON: _____ COMPANY: _____

REGISTERED LAND OWNER (S): (Please Print)

SURNAME FIRST NAME INITIAL

TELEPHONE CELL FAX

EMAIL _____

APPLICATION FEE _____

RENEWAL/EXTENSION FEE _____

HAUL ROUTE INSPECTON FEE _____

OTHER FEES _____

TOTAL FEES: _____

SECURITY CASH DEPOSIT _____

LETTER OF CREDIT _____

NATURE OF APPROVAL

The Owner has applied for a Site Alteration Permit pursuant to the provisions of the Town of Grimsby's Site Alteration By-law.

The Site Alteration Permit is valid for a twelve (12) month period from the date of issuance, but shall expire after three (3) months from the date of issue if no work has commenced by that date.

Pursuant to the Site Alteration By-law, the Owner hereby acknowledges that the sole responsibility for the completion of the work undertaken as part of this application including compliance with any conditions rests entirely with the Owner.

The Owner certified that it has read and understands the Site Alteration By-law and all Schedules and it agrees to abide fully by all terms and conditions set out therein; that it has not and will not receive any remuneration or compensation of any kind for the removal, placing or dumping of fill on its lands; and any and all Fill used in completing the Site Alteration contains no contaminants within the meaning of the *Environmental Protection Act*, R.S.O. 1990, c. E.19

The Owner releases and agrees to indemnify and save completely harmless the Town, its elected officials and its employees, representatives, agents and contractors, from and against all claims, demands, damages, causes of action, costs, expenses and any other liabilities of any nature or which may arise, directly or indirectly, from the Site Alteration on the land, including the presence of any fill that is determined to contain contaminants within the meaning of the *Environmental Protection Act*.

The Owner also agrees that it will be entirely responsible for all costs related to all works pertaining to the Site Alteration of the lands.

Signature: _____ Date: _____

Printed Name: _____ Title: _____

TOWN OF GRIMSBY APPROVAL

Signature: _____ Date: _____

Personal information contained on this form is collected and will be used for the purpose of administrating the Site Alteration application process. Questions about this collection should be directed to the Town Clerk.

SCHEDULE "B" PERMIT FEES AND SECURITIES

A. Fees

<u>Description</u>	<u>Fee</u>
(1) Permit application fee to be applied where the fill being removed or placed exceeds the following limits per lot size: <ul style="list-style-type: none"> • 0.1 hectares or less / maximum of 10 m³ • > 0.1 to 0.2 hectares / maximum of 50 m³ • > 0.2 to 0.5 hectares / maximum of 100 m³ • > 0.5 hectares or larger / maximum of 500 m³ • > 500 m³ but less than 1000 m³ 	\$500
(2) Renewal/extension fee to be applied when a permit has been issued under Paragraph (1) and subsequently, the amount of material has exceeded the allowable limits.	\$250
(3) Permit application fee to be applied where the fill being removed or placed is greater than 1000 cubic metres.	\$1,000
(4) Fee to be applied when a renewal/extension is granted two (2) months prior to the expiration of the permit issued under Paragraph (3).	\$500
(5) A renewal/extension occurring after expiration of, or within the two (2) months prior to the expiration of, the permit issued under Paragraph (3) is considered a new application and subject to new application fees.	New application fees
(6) Engineering or zoning review or other changes after permit has been issued under Paragraph (3).	\$1,000
(7) Haul Route inspection (prior to, during and after issuance of a permit).	\$100 (each inspection)
(8) Fee to be applied for any permit application which has been made post-commencement of activities.	150% of applicable fees
(9) Fee to be applied to cover a site investigation in relation to a site alteration violation.	100% of applicable application fee (each occurrence)
<p>This fee shall be applied in any situation where work or activities have been undertaken for which a Permit is required but was not obtained. This fee is in addition to all other fees, charges and securities applicable under this By-law.</p>	

B. Security

<u>Description</u>
(1) Permits issued under Paragraphs (3) and (5) of Section A above, will be subject to Security, which will be used to ensure fulfillment of the terms of the Permit and to secure the cost of repairing damage to municipal property as a result of the work. The amount of the Security will be established at the discretion of the Director of Public Works, but shall not be less \$10,000.
(2) If the amount of the Security is less than \$50,000, only a cash deposit will be accepted.
(3) If the amount of the Security is \$50,000 or more, the Security shall be in the form of an irrevocable letter of credit to the satisfaction of the Town.

SCHEDULE "C"
SITE ALTERATION AGREEMENT

THIS AGREEMENT made this day of _____ 20 .

BETWEEN:

THE CORPORATION OF THE TOWN OF GRIMSBY
(the "Town")

OF THE FIRST PART

- and -

<*>

(the "Owner")

OF THE SECOND PART

WHEREAS the Owner is the registered Owner of the property municipally known as

in the Town of Grimsby, Ontario and described in Appendix "1" attached hereto (the "Site") in this Agreement;

AND WHEREAS section 142 of the *Municipal Act, 2001* (the "Act") authorizes a municipality to pass a by-law prohibiting or regulating the removal, placing or Dumping of Fill, the removal of Topsoil, the alteration of the grade of land; requiring a Permit to take any such actions; and requiring the restoration and rehabilitation of the lands in the event of contravention of the by-law;

AND WHEREAS section 9 of the Act provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act, including the capacity to contract;

AND WHEREAS sections, 9, 10, 11 and 391 of the Act authorize a municipality to impose fees or charges on persons, for services or activities provided or done by or on behalf of it or for the use of its property, including property under its control and add fees and charges imposed by the municipality to the tax roll for the following property in the local municipality and collect them in the same manner as municipal taxes;

AND WHEREAS subsection 434.1(1) of the Act authorizes a municipality to impose an administrative penalty if the municipality is satisfied that a person has failed to comply with a by-law of the municipality passed under the Act;

AND WHEREAS the Owner intends to alter the grade of the Site in accordance with the Site Alteration By-law No. 2020-44 (the "By-law") and has applied for a permit pursuant to the By-law (the "Permit");

AND WHEREAS the Owner intends to use the Town's public highways (the "Road") for the ingress and egress for the purposes of bringing Fill out of or onto the Site pursuant to the By-law;

AND WHEREAS all capitalized terms herein have the same meaning as in the By-law unless otherwise defined herein;

NOW THEREFORE in consideration of the application for the Permit and after review of the application and of the covenants hereinafter set forth the parties hereto mutually covenant and agree as follows:

1 SITE ALTERATION OF PROPERTY

1.1 The Owner agrees that, within twelve (12) months from the date of issuance of the Permit, all removal or Dumping of Fill from or onto the Site and any restoration required, shall be completed in accordance with the By-law and the Site Plan as previously approved.

1.2 It is the responsibility of the Owner:

- A. To obtain the approval of the Director to obtain a Permit in accordance with the By-law and comply with all the terms and conditions of the By-law, the Permit an any conditions thereof; and
- B. To request that the Town carry out a prior, during and final inspection of the Haul Routes and to obtain the approval of the Director that the By-law and the terms and condition of the Permit have been complied with.

1.3 The Owner agrees that the works described in Sections 1.1 and 1.2 above will be completed on or before _____, 20__.

1.4 The Owner acknowledges and agrees that the Town has no control over and is not responsible or liable for any adverse effects or damage resulting from any of the following on the Site or any neighboring property to the Site or any other property as a result of the Permit:

- A. Soil erosion;
- B. Blockage of a watercourse;
- C. Siltation in a watercourse;
- D. Pollution of a watercourse;
- E. Flooding or ponding on adjacent lands;
- F. Flooding or ponding caused by a watercourse overflowing its banks;
- G. A detrimental effect on any trees;
- H. Detrimental effect on matters of inherent biological sensitivity such as aquifer recharge, water quality, unusual plants or wildlife and overwintering habitats;
- I. Injury or destruction of municipal trees.

1.5 The Owner acknowledges, accepts and agrees that, the Owner is responsible for any and all damage(s) to the Road(s) resulting from the ingress and egress of vehicles involved in the removal or Dumping of Fill respecting the Site Alteration.

2 SITE ALTERATION PERMIT

2.1 The Owner acknowledges and agrees that no Permit will be issued by the Town:

- A. Until an executed copy of this Agreement has been delivered to the Town; and
- B. The Owner has paid all required fees and deposited the Security; or
- C. If the Owner is in default of the By-law or any other applicable law.

3 SECURITY

- 3.1 The Owner shall deposit with the Town at the time of execution of this Agreement, a Security in the amount of \$ _____ by way of a cash deposit or letter of credit for:
- A. All damages to Road(s) caused or resulting from the ingress or egress to the site to which the Owner has been issued a Permit; and
 - B. Performance of any other provision required by the By-law, the Permit or this Agreement (collectively, the "Obligations").
- 3.2 In the event that the amount of Obligations result in repairs or costs beyond the Security posted in Section 3.1, the Owner agrees and accepts that the Town will impose a fee for and equal to, the repair or costs and will:
- A. Hold the Owner responsible and liable for all the costs to repair the Road(s),
 - B. Assign the repairs for the Road(s) damage to a contractor in accordance with the Town's Procurement Policy to the discretion of the Director of Public Works; and,
 - C. The cost of the Road(s) damage repairs will become a fee imposed by the Town and such fee, will be added to the tax roll of property and collected in the same manner as municipal taxes.
- 3.3 In the event of default, the Owner agrees and consents to permit forces hired by the Town to enter upon the Site and undertake the works to be done under this Site Alteration Agreement, unencumbered and without restriction in any manner.

4 RELEASE OF SECURITY

- 4.1 When the Obligations set out in this Agreement have been completely fulfilled, including receipt, satisfactory to the Director that the provisions of this Agreement have been fully complied with, the Security or the balance of the Security shall be released.

5 MUNICIPAL FREEDOM OF INFORMATION

- 5.1 The Owner acknowledges that this Agreement and any information or documents related to it to the Town may be disclosed pursuant to the provisions of the *Municipal Freedom of Information and Protection of Privacy Act*. This acknowledgement shall not be construed as a waiver of any right to object to the release of this Agreement or any related information or documents.

6 ASSUMPTION OF AGREEMENT

- 6.1 If the Owner transfers or conveys all or any portion of the Site, it shall obtain an executed assumption agreement from the purchaser that is satisfactory to the Town that agrees to assume all covenants and conditions set forth in this Agreement as if the purchaser were the Owner.

7 AGREEMENT TO BE READ IN CONJUNCTION WITH PERMIT

7.1 This Agreement is to be read, interpreted and applies in conjunction with any Permit issued to the Owner and any conditions applicable thereto.

IN WITNESS WHEREOF the parties hereto have duly set their hands and seals as of the day and year first above written.

SIGNED, SEALED AND DELIVERED
In the presence of:

THE CORPORATION OF THE TOWN OF GRIMSBY

MAYOR

CLERK

[NAME OF OWNER]

Name:
Title:

Name:
Title:

I/We have authority to bind the corporation.

(Schedule "C" Site Alteration Agreement)

(Description of Site)

MUNICIPAL ADDRESS:

LOT NO:

PLAN NO:

CONCESSION NO:

REGISTERED LAND OWNER (S):

NAME

SIGNATURE

DATE

NAME

SIGNATURE

DATE

WITNESS:

NAME

SIGNATURE

DATE

SCHEDULE "D"
NOTICE FOR FILL

PROPERTY INFORMATION OF SITE

MUNICIPAL ADDRESS: _____

LOT NO: _____ PLAN NO: _____ CONCESSION NO: _____

ROLL NO: 2615- _____ CURRENT ZONING: _____

LAND OWNER (check one):
PERSON: _____ COMPANY: _____

REGISTERED LAND OWNER(S)

SURNAME FIRST	NAME	INITIAL
TELEPHONE	CELL	FAX

EMAIL _____

QUESTIONS

1. Are you:

a) Registered as a farming business?	Yes/No
b) A tenant farmer of the Site in question?	Yes/No
c) In good standing under the <i>Farm Registration and Farms Organization Funding Act, 1993</i> ?	Yes/No

2. Do you:

a) Propose to remove fill from the Site?	Yes/No
b) Propose to add fill to the Site?	Yes/No
c) Propose to alter the grading of the Site?	Yes/No
d) Propose to remove soils from the Site?	Yes/No

3. Description of Proposed Work

Remove	Place	SIZE OF LOT / CUBIC METRES OF FILL PER YEAR
_____	_____	0.1 hectares or less / maximum of 10 m ³
_____	_____	> 0.1 to 0.2 hectares / maximum of 50 m ³
_____	_____	> 0.2 to 0.5 hectares / maximum of 100 m ³
_____	_____	> 0.5 to hectares or larger / maximum of 500 m ³
_____	_____	> 500 m ³ to < 1000 m ³
_____	_____	1000 m ³ or greater
_____	_____	Other

4. Do you propose to construct retaining wall(s)? Yes/No

5. Please describe nature of proposed works (attach sketch or plan to illustrate):

6. Is there:

a) A registered flood and/or fill line on the Site? Yes/No

b) An environmentally sensitive area (ESA) on this Site? Yes/No

7. Have or will you receive any remuneration or compensation for the removal of Fill from or Dumping of Fill on the Site? Yes/No

The undersigned certifies to the Town that any and all Fill removed or used in completing the Site Alteration contains no contaminants within the meaning of the *Environmental Protection Act*, R.S.O. 1990, c. E.19. The undersigned hereby releases and agrees to indemnify and save completely harmless the Town, its elected officials and its employees, representatives, agents and contractors, from and against all claims, demands, damages, causes of action, costs, expenses and other liabilities of any nature, which may arise, directly or indirectly from the Site Alteration, including the presence of Fill that is determined to contain contaminants.

The undersigned also agrees that the total costs of all works will be entirely the responsibility of the Owner.

Signature: _____ Date _____

Printed Name: _____ Title: _____

Personal information contained on this form is collected and will be used for the purpose of administrating the Site Alteration application process. Questions about this collection should be directed to the Town Clerk.

FOR OFFICE USE ONLY

1. Based on the information provided by this form, do the works require a Site Alteration Application and Permit? Yes/No

If yes, a Site Alteration Application must be submitted (Schedule "A").

If no, the works are exempt from the requirement to obtain a Site Alteration Permit.