

THE CORPORATION OF THE CITY OF ST. THOMAS

BY-LAW NO. 140 -2025

**A BY-LAW TO PROHIBIT AND REGULATE THE REMOVAL OF TOPSOIL,
THE PLACING OR DUMPING OF FILL,
AND THE ALTERATION OF THE GRADE OF LAND
IN AREAS OF THE CITY OF ST. THOMAS**

WHEREAS section 142 of the *Municipal Act, 2001*, S.O. 2001, c. 25 as amended, provides that the Council of a local municipality may pass a by-law to:

- (a) prohibit or regulate the placing or dumping of fill;
- (b) prohibit or regulate the removal of topsoil;
- (c) prohibit or regulate the alteration of the grade of the land;
- (d) require that a permit be obtained for the placing or dumping of fill, the removal of topsoil or the alteration of the grade of the land;
- (e) impose 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 section 436 of the *Municipal Act* provides that a municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not a by-law passed by municipality, a direction, or order of the municipality or an order made under section 431 has been complied with;

AND WHEREAS section 425 of the *Municipal Act, 2001*, S.O. 2001, c. 25 as amended, provides that a municipality may pass by-laws providing that a person who contravenes a by-law passed under the *Municipal Act, 2001*, is guilty of an offence;

AND WHEREAS section 444 of the *Municipal Act, 2001*, S.O. 2001, c. 25 as amended, provides that where a municipality is satisfied that a contravention of a by-law passed under the *Municipal Act, 2001*, has occurred, the municipality may 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 445 of the *Municipal Act, 2001*, S.O. 2001, c. 25 as amended, provides that if a municipality is satisfied that a contravention of a by-law of the municipality passed under the *Municipal Act, 2001*, has occurred, the municipality may 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 section 446 of the *Municipal Act, 2001*, S.O. 2001, c. 25 as amended, provides that if a municipality has the authority under a by-law, under the *Municipal Act, 2001* or any other Act, 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 that 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 429 of the *Municipal Act, 2001*, S.O. 2001, c. 25 authorizes a municipality to establish a system of fines for the offences under a by-law;

AND WHEREAS section 391 of the *Municipal Act, 2001*, S.O. 2001, c. 25 authorizes a municipality to impose fees and charges on persons for services or activities provided or done by or on behalf of it, for cost payable by it for services or activities done by or on behalf of any other municipality or any local board and for use of its property, including property under its control;

NOW THEREFORE the Council of the Corporation of the City of St. Thomas hereby enacts as follows:

1. SCOPE OF BY-LAW

1.1. SHORT TITLE

This By-law and any amendments thereto shall be known as the "Site Alteration By-law".

1.2. INTENT AND SCOPE

The purpose of this By-law is to regulate and prohibit the placing or dumping of fill, the removal of topsoil and the alteration of the grade of land, within the City of St. Thomas.

1.3. CONTENT OF BY-LAW

All references in the By-law to sections, regulations, exceptions, tables, figures, schedules, and maps, refer to those in this By-law unless otherwise indicated.

2. INTERPRETATION AND DEFINITIONS

2.1. This By-law includes the Schedules annexed hereto and the Schedules are hereby declared to form part of this By-law.

2.2. In this By-law, words under the present tense include future tense, words in the masculine gender include the feminine and neuter, and items in the plural include the singular and the singular plural.

2.3. In this By-law the word "metre" shall be represented by the abbreviation "m" and the word "centimetre" shall be represented by the abbreviation "cm".

2.4. Headings are inserted for convenience of reference purposes only, form no part of this By-law and shall not affect in any way the meaning or interpretation of the provisions of this By-law.

2.5. In this By-law the following words shall mean as follows:

"Agricultural Land" means the use of land for apiaries, animal husbandry or the cultivation of trees, shrubs, flowers, grains, sod, fruits, vegetables and other crops or ornamental plants.

"Applicant" means the Owner of the land, or means any Person authorized in writing by the Owner, to apply for a Permit on the Owner's behalf;

"Authorized Agent" means a Person with authorization to act on behalf of the Owner(s).

"City" means the Corporation of the City of St. Thomas.

"City Engineer" or "Director" means the City Engineer – Director of Environmental and Infrastructure Services for the Corporation of the City of St. Thomas or a person designated by the City Engineer for the purposes of this By-law.

"Control Measures" means those human-made features constructed on site for the purpose of controlling water, which include but are not limited to, dewatering, drain inlet protection and protection against site erosion;

"Ditch" means a linear depression, swale, or open channel, all of which convey stormwater runoff from public or private lands in the same manner as does a piped sewer system;

"Drain" means a culvert, rainwater leader, sewer, swale, ditch, or storm sewer, all of which collect and carry rainwater, groundwater, surface water or subsurface water, and includes appurtenances such as maintenance holes and catch basis, but does not include any drainage works created under the *Drainage Act*, R.S.O. 1990, c. D.17;

"Drainage" means the movement of water to a Place of Disposal, whether by way of natural characteristics of the ground surface or by an artificial means;

"Drainage Way" means a natural or constructed established path of drainage which facilitates the run-off of surface water toward a Watercourse;

"Dumping" or "Dump" means the depositing of Fill in a location other than where the Fill was obtained and includes the movement and depositing of Fill from one location on a Property to another location on the same Property, as well as Fill brought onto the Property;

"Erosion" means the detachment and movement of soil, sediment or rock fragments by water, wind, ice or gravity;

"Fees and Charges By-law" means the Environmental and Infrastructure Services Fees and Charges By-law 94-2025, as amended, or its successor by-law;

"Fill" means any type of material deposited, moved, Dumped or Placed on lands and includes, while not limiting the generality of the foregoing, Topsoil, soil, stone, concrete, asphalt, sod or turf either singly or in combination;

"Flooding" or "Flood" means the submerging of land or a portion of land under water;

"Grade" means the ground surface elevation of the lands as it relates to:

- (a) **"Existing Grade"** means the elevation of the existing ground surface of the lands upon which Site Alteration is proposed and of the abutting ground surface within three (3) metres surrounding such lands, except that where activity has occurred in contravention of this By-law, Existing Grade shall mean the ground surface of the lands as it existed prior to such activity;
- (b) **"Finished Grade"** means the final elevation of the ground surface following the Site Alteration as approved by the Director in accordance with this By-law.
- (c) **"Proposed Grade"** means the proposed elevation of the ground surface of lands upon which Site Alteration is proposed; and
- (d) **"Unapproved Grade"** means the elevation of the ground that is not an Existing Grade or Approved Grade.

"Incompatible Soil" means, two or more soil types which are of such a different nature that the flow or percolation of water may be affected by their combination when used as Fill, for example, clay or loam when Placed on top of sandy or gravelly soils or impervious clay subsoil when Placed on top of Topsoil;

"Inspector" means a Person employed by the City to carry out observations and inspections for compliance with this By-law or where a Permit has been issued and includes an Officer;

"Lot" means a parcel of land separate in ownership from any abutting land to the extent that a consent contemplated by section 50 of the *Planning Act*, R.S.O. 1990, c.P.13, as amended, would not be required for its conveyance;

"Normal Agricultural Practices" means any activity performed on private lands by the Owner or Owner's agent that is considered by the Ministry of Agriculture, Food and Rural Affairs to be a routine or common procedure for the type of crop, soil type or general climatic conditions related to the subject property;

"Officer" means a By-law Enforcement Officer, Inspector, or other individual authorized by the City to enforce this By-law and may include his/her designate, a peer review consultant or other technical specialist, if designated by the Director under this By-law;

"Owner" means the registered owner of the land(s);

"Permit" means the formal authorization of a Site Alteration issued by the City under this By-law;

"Permit Holder" means a Person who has been issued a Permit pursuant to this By-law. A Permit Holder can be the Owner(s), or their Authorized Agent, of the Site that is the subject of the Permit;

"Person" means an individual, corporation, partnership, company, association or party of the heirs, executors, administrators, or other legal representatives of such person to whom the context can apply according to the law;

"Place of Disposal" means a municipally-owned storm drainage sewer, a roadside ditch, a natural watercourse, or an outlet for storm drainage approved by the City;

"Placing" or "Place" means the distribution of Fill on lands to establish a Finished Grade different from the Existing Grade;

"Ponding" means the accumulation of surface water in an area not having Drainage;

"Property" or "Site" means the land, including all buildings and structures on the land, which are the subject of an application for a Permit pursuant to this By-law

"Remove" means to transfer Fill or Topsoil away from a Property;

"Retaining Wall" means a wall designed to contain and support Fill which has a Finished Grade higher than that of adjacent lands;

"Site Alteration" means:

- (a) Removal of Topsoil; or
- (b) alteration of the Grade of land; or
- (c) the temporary or permanent Placing, Dumping or Removal of any Fill, originating on the Site or elsewhere; or
- (d) the temporary or permanent placement, construction, or alteration of structures on or under the land which will affect established drainage patterns; or
- (e) the changing of surface cover affecting drainage or erosion risk, including paving or removal of plants, vegetation, or trees;

"Site Alteration Application" means an application for a Site Alteration Permit submitted to the City by an Applicant or Authorized Agent.

"Site Alteration Plan" means a detailed set of accurate drawings and information consisting, at a minimum, of the documentation outlined in Schedule "A" to this By-law to support the proposed Site Alteration.

"Stormwater Management" or "SWM" means the control of surface water runoff from a Site through surface water quality control and quantity Control Measures due to changes of the Site's physical characteristics such as an increase in hard surface area.

"Swale" means a shallow depression in the ground sloping to a Place of Disposal of surface water for the purpose of providing a method of drainage;

"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;

"Watercourse" means a natural or constructed channel through which water flows including, but not limited to, rivers, streams and municipal or private storm drains;

3. AUTHORITY OF THE DIRECTOR

- 3.1. The Director is authorized and has the delegated authority to:
- (a) make administrative amendments to the Site Alteration Application form
 - (b) determine and deem a Site Alteration Application as complete, expired, or closed;
 - (c) waive the requirement for a Site Alteration Application, or any part thereof pursuant to subsection 7.5 of this By-law;
 - (d) impose Site-specific conditions to a Permit;
 - (e) approve, exempt, issue, revoke, transfer, extend, renew, amend or close a Permit;
 - (f) require, approve, and coordinate any remediation works;
 - (g) make administrative amendments to Site Alteration Plans;
 - (h) ensure compliance with this By-law and/or Permit conditions by conducting inspections 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 Inspector or Officer for the purposes of this By-law;
 - (j) require or exempt certain works from provisions of this By-law;
 - (k) perform enforcement functions as required; and,
 - (l) authorize and/or hire agents, contractors, and other Persons to perform work, as required.

4. GENERAL PROHIBITIONS

- 4.1. No Person shall conduct, undertake, cause, permit, or carry out any Site Alteration of land within the geographic limits of the City of St. Thomas without first obtaining a Permit, unless otherwise exempt as set forth in this By-law.
- 4.2. No Person shall cause, permit, or perform any Site Alteration other than in compliance with this By-law and the terms and conditions of a Permit.
- 4.3. Notwithstanding anything in this By-law, a Site Alteration Permit issued pursuant to this By-law does not authorize the installation of municipal services on a Site.
- 4.4. No Person shall cause, permit, or perform any Site Alteration unless it is done at the request of, or with the consent of, the Owner of the affected land.
- 4.5. No Person shall Place or Dump Fill, or cause Fill to be Placed or Dumped, on any land for storage purposes unless the storage of such Fill on the land is permitted by a Permit in accordance with this By-law. The period of storage shall be based on the project requirements and site location and shall not exceed the time limit set out by O.Reg. 406/19: On-site and Excess Soil Management.
- 4.6. No Person shall cause, permit, or perform any Site Alteration, or permit a site condition to remain, and no Permit shall be issued for any Site Alteration that will result in:
- (a) soil erosion,
 - (b) blockage of a natural drainage system or Watercourse,
 - (c) blockage of stormwater drainage or management system,
 - (d) siltation or pollution in a drainage system or Watercourse,
 - (e) Flooding or Ponding or adverse effect on abutting lands,
 - (f) Flooding or Ponding caused by a Watercourse overflowing its banks,
 - (g) a detrimental effect on the natural environment of the area;
 - (h) an unacceptable level of nuisance;
 - (i) public safety concerns;
 - (j) the fouling of, impairment of, or physical damage to, any adjacent roadway or other municipal infrastructure;
 - (k) unauthorized injury or destruction of any trees, located on the Site or on abutting lands, with a diameter at breast height (DBH) equal to or greater than 20 cm, which could reasonably be avoided;
 - (l) a detrimental effect on environmental protection areas, sensitive ground, groundwater aquifers, water tables, or surface water features or on significant natural heritage features or ecological functions;
 - (m) any adverse effect on any archeological, cultural heritage or historically significant features;
 - (n) contamination of or the degradation of the environmental quality of land which includes soil, groundwater, and sediment; and/or
 - (o) any contravention of regulations, standards or guidelines established pursuant to the *Environmental Protection Act*.

5. EXEMPTIONS

5.1. This By-law is not applicable to the following activities:

- (a) 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, but the Removal of Topsoil as an incidental part of a Normal Agricultural Practice does not include the Removal of Topsoil for sale, exchange or other disposition;
- (b) a Site Alteration undertaken on land described in a license for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the *Aggregate Resources Act*;
- (c) a Site Alteration 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*;
- (d) 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*, as amended, where a Certificate of Approval has been obtained under Part V of the *Environmental Protection Act*, or a waste disposal site or waste management system that is exempted by regulation from Part V of that Act;
- (e) actions by a municipality or any local board as defined in the *Municipal Act, 2001* having jurisdiction within the City of St. Thomas;
- (f) any action by any Crown agency as defined in the *Crown Agency Act*;
- (g) a Site Alteration 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 duly executed by the City and Owner that is affecting those lands;
- (h) a Site Alteration 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;
- (i) a Site Alteration 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;
- (j) a Site Alteration of land undertaken as an incidental part of drain construction under the *Drainage Act* or the *Tile Drainage Act*;
- (k) a Site Alteration as part of the lawful construction, extension, alteration, maintenance, or operation of works under Section 26 of the *Public Transportation and Highway Improvement Act*;
- (l) any work where soil is Placed or Dumped on lands for the purpose of topdressing lawns with Topsoil or adding to flower beds or vegetable gardens, or the cultivation or tilling of garden beds, provided that such work does not have an adverse effect on existing Drainage patterns to neighbouring properties;
- (m) the excavation or Placing of soil to a depth of less than 15 cm and having no significant impact on trees, ground cover, vegetation, Watercourses, Swales, or existing Drainage patterns and not altering or creating a slope of greater than 8%;
- (n) minor landscaping works which are at least 30 cm from any property line and does not adversely affect existing Drainage patterns to neighbouring properties.

6. PRESERVATION OF DRAINAGE

- 6.1. No Person, Owner, or Occupant shall, or shall permit any Person to, alter or obstruct, or cause or contribute to the construction of a Ditch, Drain, Swale or a Lot grade such that the flow of rain, surface ground water or subsurface water is increased, impaired or deviates from the existing Drainage pattern or approved grading and Drainage pattern and causes or is likely to cause an adverse condition on any abutting Property or municipal right-of-way.
- 6.2. No Person, Owner, or Occupant shall, or shall permit any Person to alter any grade on a property, alter or obstruct, or cause or contribute to the obstruction of a Ditch, Drain, Swale or Lot grade such that the properties grading and drainage would no longer comply with the City of St. Thomas Engineering Standards.
- 6.3. No owner or Occupant shall allow a private Ditch, Drain or Swale to fall into disrepair such that the flow of rain, surface ground water or subsurface water is increased, impaired or deviates from the existing Drainage pattern or approved grading and Drainage pattern and causes or is likely to cause an adverse condition on any abutting Property or municipal right-of-way.

7. ISSUANCE OF A PERMIT

- 7.1. Subject to section 5 of this By-law, any Person who wishes to undertake any Site Alteration shall submit a Site Alteration Application to the Director.
- 7.2. A Site Alteration Permit application shall contain all information related to the Site Alteration as outlined in Schedule 'A' to this By-law, or as requested by the Director. The Permit application review will not commence until the City deems the Site Alteration Permit application to be complete.
- 7.3. The Director reserves the right to seek comments or approvals from any relevant agency, including (but not limited to) a Conservation Authority, Elgin County, or adjacent municipalities as well as the right to retain the services of a peer review consultant for the purposes of reviewing the completeness and compliance of a Site Alteration Permit application and associated information with the requirements of Schedule 'A' to this By-law or with the requirements of this By-law.
- 7.4. Proof of any other permit or consent required from the City or any external agency or person in relation to the Site Alteration shall be provided as part of the Site Alteration Permit application.
- 7.5. Notwithstanding any other section of this By-law or schedule thereto, the Director may waive the requirement for a Site Alteration Permit application, or any part thereof, after considering:
 - (a) the nature and scale of the proposed Site Alteration; and
 - (b) the anticipated impact on the site and the surrounding environment.
- 7.6. The Director shall review all Site Alteration Permit applications and may issue a Permit if:
 - (a) a complete Site Alteration Permit application has been submitted, including any information requested by the Director;
 - (b) the lands which are the subject of the Site Alteration Permit application is for a use or purpose permitted under the City's Zoning By-law and is not within an area where Site Alteration is prohibited under this By-law, or other applicable law;
 - (c) the Proposed Grade, resulting drainage patterns, stormwater management practices, site infrastructure, including any Retaining Walls, the type of Fill to be used and the method of Placing or Dumping of Fill will all be performed in accordance with proper engineering and environmental practices as determined by the City in its sole discretion;
 - (d) existing Topsoil will only be Removed from the Site for human-made facilities, such as buildings or parking lots, and that all remaining existing Topsoil will not be Removed from the Property, destroyed or buried by the Placement of Incompatible Soils;

- (e) the Site Alteration is consistent with any applicable Site Plan or Plan of Subdivision approvals;
- (f) the Site Alteration is for the excavation of a pool, the provisions of the Swimming Pool Fence By-law 56-2011, as amended, have been or will be complied with;
- (g) all concerns of the Director and all other requirements of this By-law have been met;
- (h) the Applicant has provided the non-refundable application fee in accordance with the Fees and Charges By-law; and
- (i) the Applicant has provided a security deposit, in accordance with Schedule 'B', in a manner acceptable to the City, to secure compliance with the Permit, including any conditions imposed.

7.7. The Director may impose conditions of approval, as deemed appropriate in the Directors sole discretion, on the granting of a Permit, which may include, but is not limited to:

- (a) the construction of a retaining wall;
- (b) the restriction of the location of access/haul routes or staging and storage areas, including imposing half load restrictions;
- (c) the implementation of erosion, siltation, or construction Control Measures;
- (d) the implementation of tree protection measures;
- (e) the implementation of stormwater management systems to contain any stormwater runoff from the Site.
- (f) providing liability insurance coverage to the satisfaction of the Director;
- (g) providing a Record of Site Condition and supporting documentation for a Phase 1 and 2 Environmental Site Assessment signed by a qualified Engineer or Geoscientist;
- (h) providing test results from a certified lab that are signed or stamped by an Engineer or Geoscientist that demonstrate acceptable fill quality for the land use of the site in accordance with O.Reg. 153/04: Records of Site Condition – Part XV.1 of the Act, made under the *Environmental Protection Act*.

8. CONDITIONS AND REGULATIONS

- 8.1. A Permit issued pursuant to this By-law shall be valid for a period of up to 180 days from the date of issuance.
- 8.2. A Permit may be extended a maximum of two (2) times. Each extension approval and duration, to a maximum of 180 days, is at the sole discretion of the Director. Extension requests are subject to a fee of fifty percent (50%) of the original non-refundable application fee.
- 8.3. A new Site Alteration Permit application and non-refundable application fee will be required if either the initial Permit has previously been extended twice or if a written extension request is not submitted to the Director ten (10) business days in advance of the current permit expiry date.
- 8.4. An Applicant may submit a written request to the Director to amend the Site Alteration Plans of an approved Permit, subject to the following:
 - (a) should the amendment request include significant changes from the original application the Director may require a new application be submitted; and
 - (b) minor amendment requests are subject to a fee of fifty percent (50%) of the original non-refundable application fee.

- 8.5. A Permit may be revoked by the Director at any time and without notice if:
- (a) it is revealed or discovered that an Applicant provided mistaken, misleading, false, or incorrect information in the application;
 - (b) it was issued in error;
 - (c) the Permit Holder requests, in writing, that it be revoked;
 - (d) the Permit Holder fails to comply with any provisions of the approved Permit or this By-law;
 - (e) the Permit Holder is in non-compliance of an Order issued under this By-law;
 - (f) ownership of the Property has changed, and the new owner has not applied to have the Permit transferred per subsection 8.15 of this By-law;
 - (g) Site Alteration activities have not commenced within ninety (90) days of Permit issuance.
 - (h) to protect the safety, health, and well-being of the public; and/or
 - (i) to minimize any financial impact to the City.
- 8.6. If a Permit has expired or has been revoked after work commences and prior to the completion of the Site Alteration, the Permit Holder shall immediately ensure that all work in connection with the Permit ceases and the Owner and Permit Holder shall each be held jointly responsible for the restoration of the Site to its original condition or stabilize the Site in a manner that will prevent adverse impacts on adjacent properties and the environment, all to the satisfaction of the Director, prior to the release of any remaining security deposit.
- 8.7. A Permit will be closed when:
- (a) the Site Alteration works are complete;
 - (b) all required inspection clearances are obtained, and the Permit conditions fulfilled to the satisfaction of the Director; and
 - (c) any Orders are resolved to the satisfaction of the Director.
- 8.8. Any Fill that will be Placed or Dumped is compliant with all provisions of the *Environmental Protection Act* and the regulations thereunder, including but not limited to O.Reg. 406/19: On-site and Excess Soil Management.
- 8.9. All erosion and sediment Control Measures necessary to meet the requirements of this By-law shall be in place prior to the commencement of any Site Alteration.
- 8.10. Following issuance of a Permit, a City inspection of the installed erosion and sediment controls and/or tree protection measures shall occur once the Control Measures are installed and prior to the commencement of any Site Alteration.
- 8.11. Requests for City inspection of the installed erosion and sediment controls and/or tree protection measures are to be submitted to the Director a minimum of two (2) business days in advance of the desired inspection date and time.
- 8.12. All erosion and sediment Control Measures, including tree protection measures, dust control, and sediment tracking, shall be monitored and maintained by the Permit Holder in a manner satisfactory to the Director until such time as the final restoration or rehabilitation of the site has occurred.
- 8.13. All Permits will require the Applicant to:
- (a) Notify the Director a minimum of two (2) business days prior to commencing any work related to the Site Alteration;
 - (b) provide the Inspector with the name, phone number and email address of a Site emergency contact person;
 - (c) obtain permission in writing from the Director prior to modifying the approved Site Alteration Plan;
 - (d) ensure that a copy of the approved Site Alteration Plan is on Site at all times when Site Alteration activities are occurring;
 - (e) maintain a log of all erosion and sediment Control Measure inspections after each rainfall event of 2.5 cm or more and at least once each week and undertake any necessary repairs and submit regular monitoring reports as requested by the Director;
 - (f) repair or remedy any siltation or Erosion damage to adjoining surfaces, such as adjacent properties, roadways, Drainage Ways, and Watercourses as a result of Site Alteration activities, to the satisfaction of the Director;

- (g) maintain all road drainage systems, stormwater drainage and management systems, erosion and sediment Control Measures and other facilities identified in the approved Site Alteration Plan;
- (h) ensure that no mud or debris is tracked onto municipal highways and that these highways are not fouled as a result of the Site Alteration;
- (i) ensure that any Fill used is clean and free of waste and debris, including but not limited to termites, organic materials, liquid and toxic chemicals or other contaminants;
- (j) ensure that Fill will not be Placed or Dumped around the perimeter of any existing building in contravention of the requirements of the Ontario Building Code;
- (k) ensure that any increase in stormwater runoff from the site is retained on site through stormwater management quantity and quality control;
- (l) ensure that no piped connection to City culverts, ditches or sewer system is covered or backfilled until the work has been inspected and approved by the Inspector;
- (m) provide written evidence to the Inspector that the Site Alteration has been completed in accordance with the Permit and request the necessary final inspection by the City;
- (n) ensure that following completion of the Site Alteration that the completed works are monitored and maintained so as not to impede the existing Drainage pattern of surrounding properties.

8.14. Final restoration or rehabilitation of the land shall take the form of:

- (a) leveling and re-grading of effected lands; and,
- (b) the replacement of topsoil to a depth of 10 cm and stabilization by sodding, turf, hydroseeding, mulching, planting of trees or vegetation, asphalt, concrete or such other material as the Director may approve, either singly or in combination.

8.15. If ownership of the Site for which a Permit has been issued is transferred while the Permit remains in effect, the Permit shall be revoked by the Director unless the new Owner of the Site, within thirty (30) days of the transfer;

- (a) provides the Director with a written undertaking to comply with all the conditions under which the existing Permit was issued and replaces the security deposit provided by the original Applicant, at which time the original security deposit may be released; or
- (b) applies for and obtains a new Permit in accordance with the provisions of this By-law.

9. ENFORCEMENT

9.1. This By-law may be enforced by Officers and/or the Director. Without limiting or restricting any other power, duty or function granted by this By-law, Officers and/or the Director may:

- (a) give verbal or written direction;
- (b) issue an Order to discontinue or to perform work; and
- (c) enter the Property and/or carry out and direct whatever inspections are reasonably required to determine compliance with this By-law.

9.2. 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.

9.3. An Order may include, but is not limited to, the following:

- (a) comply with the conditions of the Permit and/or this By-law;
- (b) immediately desist from the activity constituting or contributing to the contravention;
- (c) leave the Property and cease the contravening activity immediately; and/or
- (d) take immediate action to mitigate and/or remediate the impacts of the activity within a specified time period.

10. ENTRY AND INSPECTION

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

- 10.2. 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.
- 10.3. An Inspector or Officer may, in accordance with the provisions of section 436 of the *Municipal Act*, at any reasonable time:
- (a) enter a Property for the purpose of an inspection, and/or investigation 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 except in accordance with section 437 of the *Municipal Act, 2001* or as otherwise permitted by applicable law;
 - (b) alone, or in conjunction with a Person possessing special or expert knowledge, collect information, take photographs, videos, measurements, readings, and samples (ex. air, surface water, groundwater, Soil, materials etc.), necessary for the purposes of the inspection;
 - (c) require information from any Person concerning the matter or the production of copies or reports, manifests, or other documentation for the purposes of auditing the Site Alteration or compliance with the conditions of a Permit or Order; and
 - (d) 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 purposes of making copies or extracts.

11. CONTRAVENTION

- 11.1. If an Officer is satisfied that a contravention of one or any of the provisions of this By-law and/or the conditions of a Permit pursuant to this By-law has occurred, the Officer may issue an Order requiring work to be done to correct the contravention.
- 11.2. 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 City may have the work done at the expense of the Owner and seek penalties as outlined in this By-law.
- 11.3. Orders issued by an Officer under this By-law shall be served as follows:
- (a) personally, or by prepaid registered mail to the address shown on the last revised assessment roll or the last known address of the Owner, the Permit Holder, or any other Person to whom the Order is issued; or
 - (b) if the City is unable to effect service, after reasonable attempts have been made, a placard containing the terms of the Order may be posted in a conspicuous place on the Property and the posting of the placard shall be deemed service of the Order.
- 11.4. If an Order is served to a Person by registered mail, it shall be deemed served on the Person on the fifth (5) day after the date of mailing the Order, which deemed service may be rebutted by the Person proving, on a balance of probabilities, that they did not receive the order.
- 11.5. If an Order is served by posting a placard on the Property, it shall be deemed served the day it is posted.
- 11.6. 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.

12. REMEDIAL ACTION

- 12.1. Upon the failure by the Permit Holder to complete all or part of the Site Alteration within the time stipulated in the Permit, the City may draw the appropriate amount from the Security Deposit and use the funds to arrange for the completion of the said Site Alteration, or any part thereof.
- 12.2. Upon the failure by the Permit Holder to remedy any direction or Order, issued by the City within the time requested, the City shall thereupon have full authority and power to immediately purchase such materials, tools and machinery and to employ such agents that, in the Director's sole opinion, is deemed necessary for the proper remedy and completion of such direction or Order.

- 12.3. In the case of emergency, in the sole opinion of the City, employees or agents of the City may enter upon the Lands for the purpose of making repairs to any of the Site Alteration works without notice.

13. RECOVERY OF EXPENSES

- 13.1. Where the City, its employees or agents have performed work required to bring the Property into compliance with this By-law or Permit conditions or if the City takes any remedial action(s) described in Section 12 of this by-law, all expenses incurred by the City in doing the work including any related administrative fees, shall be deemed a debt to the City and may be collected by the City, and/or drawn from the Security Deposit, and/or added to the tax roll for the Property and collected in the same manner as municipal taxes.
- 13.2. The treasurer of a municipality may add any unpaid fine to the tax roll for any Property in the local municipality for which all the Owners are responsible for paying the fine and collect in the same manner as municipal taxes.

14. OFFENCE AND PENALTY

- 14.1. Every person who contravenes any of the provisions of this By-law is guilty of an offence and, pursuant to section 429 of the *Municipal Act, 2001*, all contraventions of this By-law are designated as continuing offences.
- 14.2. Every person, excluding a corporation, who is convicted of an offence is liable to a fine not exceeding \$50,000.
- 14.3. Every corporation who is convicted of an offence is liable to a fine not exceeding \$100,000.
- 14.4. In addition to the fine amounts set out in sections 14.2 and 14.3 for each day or part of a day that an offence continues, the person or corporation shall be liable to a fine not exceeding \$10,000.
- 14.5. The fine amounts set out in sections 14.2, 14.3, and 14.4 are exclusive of costs and are recoverable under the Provincial Offences Act.

15. LIABILITY AND INDEMNIFICATION

- 15.1. The provisions of this By-law do not limit 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.
- 15.2. Likewise, provisions of this By-law shall not be construed as acceptance by the City, 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.
- 15.3. The City is not responsible for any damages, losses or injuries caused as a result of any Site Alteration.
- 15.4. The Permit Holder and Owner shall be jointly and severally responsible to indemnify the City, 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.

16. SEVERABILITY

- 16.1. Each and every of the foregoing sections of this By-law is severable and that, if any provision of this By-law should for any reason be declared invalid by any court of competent jurisdiction, it is the intention of Council that each and every of the then remaining provisions hereof shall remain in full force and effect.

17. APPLICATION OF OTHER LAWS AND APPROVALS

- 17.1. The issuance of a Permit by the City does not relieve the Applicant of the responsibility of obtaining and complying with all other approvals that may be required by the City, or any other level of government or agencies thereof.

17.2. Any reports required by the City or external agency (e.g. archeological report, environmental impact assessment, heritage impact assessment, and/or geotechnical report etc.) shall be submitted and approved by the City and/or external agency prior to issuance of a Permit.

18. REPEAL

18.1. By-law 161-2010 and any amendments thereto, are hereby repealed.

19. ENACTMENT

19.1. This By-law shall come into full force and take effect upon its final passing.

Read a First and Second time this 1st day of December 2025

Read a Third time and Finally passed this 1st day of December 2025

"Original signed by"

Maria Konefal, City Clerk

"Original signed by"

Joe Preston, Mayor

SCHEDULE 'A'
APPLICATION FORM AND SUBMISSION REQUIREMENTS

A Person applying for a Permit pursuant to this By-law shall complete the Site Alteration Application form and provide the following, as required:

- 1) All Site Alteration Applications shall include Erosion and Sediment Control Plans (ESC). The ESC shall be designed to prevent erosion, minimize sediment migration from the site alteration and mitigate sediment contamination of adjacent environmental features, lands, or municipal infrastructure. Details including all stockpile locations, construction entrances/exits, mud mats, sediment fencing, berms, swales, sediment traps and any other temporary or permanent Control Measures to be left in place after the Site Alteration is completed as well as final restoration and stabilization works of the altered land shall be provided in accordance with the City's Engineering Standards.
- 2) If the Site Alteration includes the removal of 10 or more trees having a diameter at breast height (DBH) equal to or greater than 20 cm, a Tree Management Plan shall be submitted that satisfies the requirements of the City's Engineering Standards.
- 3) Should stormwater quality control be required in order to achieve preservation of drainage as outlined in Section 6 of this By-law, a Stormwater Management Report shall be submitted that satisfies the requirements of the City's Engineering Standards.
- 4) If the Site Alteration includes Fill to be Placed or Dumped, documentation and monitoring compliant with the provisions of the Environmental Protection Act and regulations thereunder, including but not limited to O. Reg. 406/19: On-Site and Excess Soil Management shall be provided.
- 5) Lot Grading Plans to support individual Lot grade alterations (i.e. Category 1), shall provide sufficient detail to ensure the effective management of surface water runoff and conveyance of runoff away from buildings toward a suitable Drainage outlet without negatively affecting adjacent or downstream properties, in accordance with the City's Engineering Standards.
- 6) Site Grading Plans to support severances, infill lots, or site plan applications (i.e. Category 2 or 3) shall be provided with sufficient topographic information of the Existing Grades and the Proposed Grades, including elevations of abutting streets and the Grade 10m beyond adjoining property lines along with the direction of surface drainage flow, all in accordance with the City's Engineering Standards.
- 7) Overall Grading and Drainage Plans to support subdivision approval (i.e. Category 4) shall provide sufficient topographic information to indicate overland flow directions and account for and accommodate external drainage that is tributary to the development., all in accordance with the City's Engineering Standards.
- 8) Any other information in support of the Site Alteration, as may be requested by the Director.

SITE ALTERATION & GRADING APPLICATION FORM

Permit Number: (Office use only)	Date of Application: (MM/DD/YYYY)
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Owner's Name: _____ Person ☐ Company ☐

Address: _____

Phone: Residence: _____ Business: _____ Email: _____

Applicant/Agent's Name (if different from owner): _____

Address: _____

Phone: Residence: _____ Business: _____ Email: _____

Owner's Authorization (Required when the Owner is not the Applicant)

I/We _____ (Name(s) of the Owner(s), being the
registered Owner(s) of the subject lands, hereby authorize _____
(Name of Agent) to act as my/our agent(s) in the submission and processing of the Site Alteration Permit Application.

Signature _____ Date _____
(dd/mm/yyyy)

Witness _____ Date _____

DESCRIPTION OF PROPERTY

Municipal Address: _____

Brief Legal Description: Lot _____ Plan _____

(Attach survey if available)

DESCRIPTION OF PROPOSED WORK (PLEASE MAKE APPLICABLE PROVISIONS)

Do you propose to add fill to the property? Yes/No

Do you propose to alter the grading of the property? Yes/No

Do you propose to remove soil from the property? Yes/No

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

Please describe the nature of the proposed work by attaching a separate sheet and sketch if required.

PLEASE ANSWER THE FOLLOWING QUESTIONS:

Is there a registered flood and/or fill line on or adjacent to the property? Yes/No

Is there a significant natural area or fish habitat on / or adjacent to the property? Yes/No

Has the property ever been used for industrial/commercial/institutional purposes? Yes/No

Will elevations be altered at any property boundary? Yes/No

Is the land or portion of land within the archaeological resource potential area? Yes/No

Has there been consultation with KCCA / other Agencies? Yes/No

Is this a Heritage property? Yes/No

Date of Consultation: _____ Name of Staff Consulted: _____

Applicant's Signature: _____ Date: _____

I certify that any fill to be placed on the site contain no contaminants within the meaning of the Environmental Protection Act, R.S.O. 1990 as amended or any other regulations from the Province of Ontario relating to such work; and,

I forever and unconditionally release and indemnify the City of St. Thomas with respect to any and all liability which may arise in the event that the fill contains contaminants within the meaning of the Environmental Protection Act, and any successor legislation.

Applicant's Signature: _____ Date: _____

Witness Signature: _____ Date: _____



Personal information is collected by authority of the Municipal Act as amended and enables city staff to process your request for a permit. Please contact Nathan Bokma at 545 Talbot St., St. Thomas, ON, N5P 3V7, Telephone 519.631.1680 ext. 4151 for questions.

SCHEDULE 'B'
FEES AND SECURITY DEPOSIT

Permit Fees

- 1) The fee for the processing, administration, and inspection of a Permit shall be charged and collected in accordance with the Fees and Charges By-law.
- 2) Permit renewals, amendments, and transfers are subject to additional fees in accordance with the Fees and Charges By-law.

Additional Fees

- 3) The prescribed fees for the regular and on-going inspection of Site Alteration Permits are included in the Permit fees as set out in the Fees and Charges By-law.
- 4) Any additional inspections required to address non-compliance of this By-law, the terms and conditions of a Permit, Order or where remedial works is required will be subject to additional inspection fees as set out in the Fees and Charges By-law.
- 5) The preparation and issuance of Site Alteration compliance or remediation Order(s) will be subject to administrative fees as set out in the Fees and Charges By-law.

Security Deposit

- 6) An irrevocable letter of credit, certified cheque or bank draft held by the City to secure performance of the Owner and Permit Holder obligations pursuant to this By-law and/or Permit, including as needed, stabilizing and/or returning the Site to its original condition, carrying out work under the Permit and complying with all other provisions of this By-law.
- 7) The amount of the Security Deposit is determined by **Table 1** including any additional amounts based on scope of Site Alteration and Site-specific conditions as solely determined by the Director.
- 8) The Security Deposit must remain in effect for the full duration of the Permit. Any letter of credit and subsequent renewals shall contain a clause stating that thirty (30) days written notice must be provided to the City prior to its expiry or cancellation.
- 9) The Security Deposit must be replenished to one hundred percent (100%) of the original amount within thirty (30) days of the City's request to remain in compliance with the Permit.
- 10) The Permit Holder must submit a request to the City to carry out the necessary final inspections to obtain clearances that all By-law provisions, Permit terms and conditions, and any Orders have been satisfied.
- 11) When all relevant provisions, terms and conditions have been completed to the satisfaction of the Director, the balance of the Security Deposit shall be released.
- 12) If the Permit has expired or is revoked, the Security Deposit is to remain in effect until the Site is restored or stabilized to a condition acceptable to the Director

TABLE 1

Category *	Development Type	Deposit Required
1	Alteration to Residential Lot (i.e. R1, 2, 3 and 4 Zoning)	\$1,000 + HST
2	Development less than 1 acre	5% of construction value for Grading and ESC works, plus 50% of the site stabilization value
3	Development greater than 1 acre (excluding Subdivisions)	10% of construction value for Grading and ESC works, plus 50% of the site stabilization value
4	Subdivision Developments	15% of construction value for Grading and ESC works, plus 100% of the site stabilization value

* Category 2, 3 and 4 site alterations require the cost estimate to be reviewed and approved prior to providing the security deposit.

