

**MUSKOKA LAKES ASSOCIATION AND FRIENDS OF
MUSKOKA COMMENTS DATED MARCH 14, 2022**

Key:

1. **Red** reflects our proposed additions and deletions
2. **Green** reflects our comments

**THE CORPORATION OF THE TOWNSHIP OF
MUSKOKA LAKES BY-LAW NUMBER 2022-XXX**
**A By-law of The Corporation of the Township of Muskoka Lakes
to regulate and prohibit the modifications being made to the
landscape on
properties in the Township of Muskoka Lakes.**

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

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

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

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

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

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

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

1.0 DEFINITIONS

[Throughout the by-law, there are many words that have been defined but the first letter is not capitalized. Whenever a term is defined, it should be used with a capital first letter. This will avoid any uncertainty about the meaning of the words.]

In the By-law:

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

- i. The **Placing** ~~placing~~ or **Dumping** ~~dumping~~ of **Fill** ~~fill~~,
- ii. the removal of **Soil** ~~topsoil~~,
- iii. **Placing** ~~placing~~, **Dumping** ~~dumping~~, removal, or **Rock Blasting** ~~blasting of rock~~, or
- iv. any other action that alters the **Grade** ~~grade~~ of land including the altering in any way of a natural drainage course on a **Site** ~~site~~.

“Breast Height” means a point of measurement 1.37 m (4.47 ft.) above the highest point on a tree **from** where the ground meets the trunk;

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

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

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

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

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

“Driveway” means the ingress and egress lane or lanes that are connected to a highway that lead to a residential dwelling unit but does not include a ~~Parking Area~~;

“Dry Laid” means a method of construction or installation of a patio where individual stones are laid on a bed of sand or gravel or other similar material and the design is held together by tightly compacted material and does not include the use of concrete or mortar;

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

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

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

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

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

- (i) **“Existing Grade”** means the elevation of the existing ground surface of the lands upon which Dumping and/or Placing of Fill, altering of the Grade, removing of ~~Soil Topsoil~~, or Rock Blasting is proposed and of abutting ground surface up to three metres wide surrounding

such lands, except that where such activity has occurred in contravention of this By-law, Existing Grading shall mean the ground surface of such lands as it existed prior to the said activity;

(ii) **“Proposed Grade”** means the proposed finished elevation of ground surface after ~~Dumping and/or Placing of Fill fill is dumped or placed~~, the ~~Grade grade~~ altered or ~~Soil Topsoil~~ removed; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Temporary Access Road” means a temporary road that has been constructed for the purpose of gaining temporary access to a water access only property in order to allow for construction vehicles or other machinery to safely maneuver a property; ~~-A Temporary Access Road shall be re-vegetated or re-naturalized upon the completion of the building permit or septic permit for which it was established;~~
[Section 4.23 addresses this point and is probably the best place for it.]

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

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

“Water Permeable” means any material used or a style of construction or installation that allows water or other liquids to pass through the feature or structure, this definition can also be used for “permeable materials”; and

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

2.0

LAND SUBJECT TO THIS BY-LAW

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

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

3.0 EXEMPTIONS

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

- (a) activities or matters undertaken by the Township or a local board of the Township;
- (b) the ~~Placing placing~~ or ~~Dumping dumping~~ of ~~Fill fill~~, removal of ~~Soil topsoil~~, ~~Rock Blasting blasting-of-rock~~, or alteration of the Grade of land imposed after December 31, 2002 as a condition to the approval of a site plan, a plan of subdivision or a consent under section 41, 51 or 53, respectively, of *the Planning Act* or as requirement of a site plan agreement or subdivision agreement entered into under those sections;
- (c) the ~~Placing placing~~ or ~~Dumping dumping~~ of ~~Fill fill~~, removal of ~~Soil topsoil~~, ~~Rock Blasting blasting-of-rock~~, or alteration of the Grade of land imposed after December 31, 2002 as a condition to a development permit

authorized by regulation made under section 70.2 of the *Planning Act* or as requirement of an agreement entered into under the regulation;

- (d) the ~~Placing placing~~ or ~~Dumping dumping~~ of ~~Fill fill~~, removal of ~~Soil topsoil~~, ~~Rock Blasting blasting-of-rock~~, or alteration of the Grade of land undertaken by a transmitter or distributor, as those terms are defined in Section 2 of the *Electricity Act, 1998*, for the purpose of constructing and maintaining a transmission system or a distribution system, as those terms are defined in that section;
- (e) the ~~Placing placing~~ or ~~Dumping dumping~~ of ~~Fill fill~~, removal of ~~Soil topsoil~~, ~~Rock Blasting blasting-of-rock~~, or alteration of the Grade of land undertaken on land described in a license for a pit or quarry or a permit for wayside pit or wayside quarry issued under the *Aggregate Resource Act*;
- (f) the ~~Placing placing~~ or ~~Dumping dumping~~ of ~~Fill fill~~, removal of ~~Soil topsoil~~, ~~Rock Blasting blasting-of-rock~~, or alteration of the Grade of land undertaken on land in order to lawfully establish and operate or enlarge any pit or quarry onland;
 - i. that has not been designated under the *Aggregate Resources Act* or a predecessor of that Act, and
 - ii. on which a pit or quarry is a permitted land use under a By-law passed under section 34 of the *Planning Act*;
- (g) the ~~Placing placing~~ or ~~Dumping dumping~~ of ~~Fill fill~~, removal of ~~Soil topsoil~~, ~~Rock Blasting blasting-of-rock~~, or alteration of the Grade of land undertaken as an incidental part of drain construction under the *Drainage Act* or the *Tile Drainage Act*;
- (h) the removal of ~~Soil topsoil~~ as incidental part of a normal agricultural practice including such removal as an incidental part of sod farming, greenhouse operation and nurseries for

horticultural products, but not the removal of ~~Soil topsoil~~ for sale, exchange or other disposition;

- (i) the ~~Placing placing~~ or ~~Dumping dumping~~ of ~~Fill fill~~, removal of ~~Soil topsoil~~, ~~Rock Blasting blasting-of-rock~~ or alteration of ~~Grade grade~~ necessary for the installation of a septic system approved and for which a permit has been issued under the Ontario Building Code Act and an area no larger than 4.5 m (15 ft.) from the outer edge of the septic system envelope for the purposes of grading to accommodate the system;
- (j) the ~~Placing placing~~ or ~~Dumping dumping~~ of ~~Fill fill~~ necessary for the installation of a driveway upon obtaining any necessary entrance permit from the Township of Muskoka Lakes, District of Muskoka, Ministry of Transportation or other relevant authority, and subject to the following conditions:
 - (i) The ingress and egress lane(s) of a driveway is no wider than 6.1m (20 ft.) unless otherwise approved by the entrance permit or a Site Plan Agreement;
 - (ii) The driveway does not extend closer to a navigable waterway than the rear of a dwelling, sleeping cabin or garage to which it is serving and is no closer than 20.1m (66 ft.) from the high water mark; and,
 - (iii) Is not located on lands zoned Environmental Protection (EP1) under the Zoning By-law.
 - (iv) For the purposes of this section, a parking area is not subject to the width requirement of subsection (i).
- (k) the ~~Placing placing~~ or ~~Dumping dumping~~ of ~~Fill fill~~ for the purpose of one ~~Temporary Access Road temporary-access-road~~ no wider than 4.5m (15 ft.) on properties only accessible by water;
- (l) the ~~Placing placing~~ or ~~Dumping dumping~~ of ~~Fill fill~~, removal of ~~Soil topsoil~~, Rock Blasting or alteration of ~~Grade grade~~ necessary for the installation of a foundation for a building approved under the Ontario Building Code Act and a building permit has been issued by the Township, or for a building, structure, or feature installed in compliance with the Zoning By-law, and an area no larger than 4.5 m (15 ft.) from the outer edge of the building or structure envelope for the purposes of

grading to accommodate the installation. The ability to alter **Grade grade** 4.5m (15ft.) from the outer edge of the envelope does not apply to the installation of patios, walkways and stairways; and -

Patios, Walkways and Stairways

(m) The **Placing placing** or **Dumping dumping** of **Fill fill**, removal of **Soil topsoil** or alteration of **Grade grade** necessary for the installation of a patio, walkway and/or stairway, subject to the provisions as set out in Section 3.1 (l) and the following conditions:

- (i) For patios located within the permitted front yard setback of the Zoning By-law for a sundeck, the maximum area permitted is 200 square feet, the maximum increase in elevation is 0.9m (3ft.) and only one (1) patio area is permitted;
- (ii) For patios located within the permitted front yard setback of the Zoning By-law for a sundeck, no more than one of a gazebo, sauna or pumphouse is located within the front yard of the property;
- (iii) That all patios within the permitted front yard setback of the Zoning By-law for a sundeck shall have joints and spaces between any hardscape material which are sufficient to allow for infiltration of water and consist of permeable materials;
- (iv) That the patio is setback at least 4.5m (15ft.) from the high water mark;
- (v) That the walkway or stairway not exceed a width of 1.8m (6 ft.) in any location; and,
- (vi) That the installation of the patio, walkway or stairway is dry laid and does not cause or result in the removal of any tree in contravention of the Township's Tree Preservation By-law, unless otherwise granted permission through a Site Plan Agreement.

4.0 GENERAL PROVISIONS AND REGULATIONS

4.1 No person shall cause or permit any **Site Alteration site alteration** within 15m (50 ft.) of a navigable waterway in the Waterfront,

Urban Centre, or Community designation, such designations as defined in the Township's Official Plan with the exception of Section 3.1(m). ;

- 4.2** No person shall cause or permit any **Site Alteration** ~~site-alteration~~ within an area zoned Environmental Protection (EP1 and EP1-PSW) in the Township's Comprehensive Zoning By-law, except in conjunction with the permitted uses of and in compliance with the Zoning By-law. ;
- 4.3** No person shall cause or permit any **Site Alteration** ~~site-alteration~~ in an area zoned Scenic Corridor or Scenic Area in the Township's Comprehensive Zoning By-law within a distance of 30.4m (100ft.) from the lot line abutting the scenic corridor. ;
- 4.4** No person shall cause or permit **Site Alteration** ~~site-alteration~~ without an **Owner** ~~owner~~ or person first obtaining a **Permit** ~~permit~~ under this By-law in any area between 15m (50ft.) and 91.4m (300ft.) of a navigable waterway in the Waterfront designation as defined in the Township's Official Plan. ;
- 4.5** No person shall cause or permit **Site Alteration** ~~site-alteration~~ without an **Owner** ~~owner~~ or person first obtaining a **Permit** ~~permit~~ under this By-law in any area beyond 15m (50ft.) ~~of a navigable waterway~~ on an island as defined in Section 2.1 (e). ;
- 4.6** No person shall cause or permit **Site Alteration** ~~site-alteration~~ without an **Owner** ~~owner~~ or person first obtaining a **Permit** ~~permit~~ under this By-law in any area between 15 m (50 ft) and 60.9m (200ft.) of a navigable waterway in an Urban Centre or Community designation as defined in the Township's Official Plan. ;
- 4.7** No person shall cause or permit **Site Alteration** ~~site-alteration~~ that may result in:
- (a) Erosion on the **Site** ~~site~~ or any neighbouring property;
 - (b) Siltation or pollution of a watercourse, wetland or storm sewer; **or**
 - (c) Injury or destruction to any trees of a caliper of 1 inch diameter at breast height or more located on the lands, **unless this is done in**

compliance with the requirements of the Township's Tree Preservation By-law or in compliance with a Permit. ;

[We believe it is not reasonable to prohibit cutting any trees, and suggest permitting tree cutting when it is done in compliance with the Township's Tree Preservation By-law (as in Section 4.12 for patios etc.), or upon first obtaining a Permit under this By-law.]

- 4.8 No person shall cause or permit the installation of a patio greater than 200 square feet. ;
- 4.9 No person shall cause or permit the installation of a patio which results in an elevation change of greater than 0.9m (3ft.). ;
- 4.10 No person shall cause or permit the installation of more than one (1) patio area within the front yard setback. ;
- 4.11 No person shall cause or permit the installation of a patio that is not water permeable or is not dry laid. ;
- 4.12 No person shall cause or permit the installation of a patio or stairway/walkway which results in trees being removed in contravention of the requirements of the Tree Preservation By-law. ;
- 4.13 No person shall cause or permit the installation of a walkway or stairway greater than 1.8m (6ft.) wide. ;
- 4.14 No person shall cause or permit the installation of a patio within 4.5m (15ft.) of the high water mark. ;
- 4.15 No person shall fail to comply with an Order issued under this By-law. ;
- 4.16 No person shall pull down, remove or deface an Order posted under this By-law. ;
- 4.17 No person shall fail to produce or post a ~~Permit permit~~ as required by this by-law. ;
- 4.18 If archaeological resources are discovered or identified during any ~~Site Alteration site-alteration~~, including that permitted by this By-law, the ~~Owner owner~~ shall immediately cease all activity on the ~~Site site~~

and contact the Director and take such actions as defined by the Director or other responsible agency to address, safeguard, and protect the resources. †

- 4.19** Sufficient erosion and sedimentation control measures, such as a sedimentation fence, shall be provided around any area that may be disturbed in a manner satisfactory to the Director or an Officer prior to the commencement of the Site Alteration, and shall be maintained in good working order until the Site has been stabilized and operations completed. †
- 4.20** No person shall fail to erect an adequately installed sedimentation fence before the commencement of **Site Alteration site-alteration** or construction of a building, structure, septic area or patio. †
- 4.21** No person shall fail to adequately maintain a sedimentation fence during **Site Alteration site-alteration** or construction of a building, structure, septic area or patio. †
- 4.22** Despite Sections 3.1 (I) of this By-law, no person shall cause or permit any **Site Alteration site-alteration** in order to erect a building, structure or thing for an occasional or special event as permitted by the Comprehensive Zoning By-law. †
- 4.23** No person shall fail to re-vegetate or re-naturalize a **Temporary Access Road temporary-access-road** upon completion of a building permit or septic permit. †
- 4.24** No person shall allow or permit to allow any **Site Alteration site alteration** contrary to the provisions of a site plan agreement registered against the property on which such alterations take place.

5.0 APPLICATION REQUIREMENTS

5.1 A person who wishes to obtain a **Permit permit** shall submit to the Director an application that:

- (a) Is a complete Application **containing the information** as set out in Schedule “A” **and such other information as the**

Director may require, in such form as may be approved by the Director;

- (b) Is accompanied by the prescribed fees payable to the Township in accordance with the existing Township of Muskoka Lakes Fees and Charges By-law;
- (c) As part of the application for a Permit, the **Owner owner** shall permit an Officer, Director or anyone designated by an Officer or Director to enter upon his or her property and undertake such **Site site** inspections as may be required to consider the application. An Officer, Director or anyone designated by an Officer or Director may undertake a **Site site** inspection prior to, during and after the proposed activity.
- (d) At the discretion of the Director, all applications to alter a **Site site** may be required to include a Sedimentation Control Plan in accordance with the **requirements Requirements** in Section 9 of this By-law, **and Financial Assurance in an amount and form acceptable to the Director**;
- (~~e~~ **e**) **Applications shall include** ~~includes~~ any report required by the Township or external agency (e.g. Sedimentation Control Plan, archeological report, **Vegetation vegetation** analysis, environmental impact assessment, geotechnical report, or hydrogeological report.)
- (~~f~~ **e**) An application for a Permit shall be deemed incomplete, and no Permit be issued if;
 - (i) The application has not been completed in full;
 - (ii) The **Owner owner**/applicant has not signed the application;
 - (iii) The party who will be undertaking or responsible for the **Site Alteration site-alteration** has not signed the application;
 - (iv) The application fee has not been paid; ~~or~~
 - (v) Any required inspections have not been undertaken;

- (vi) Any Financial Assurance required by the Director has not been provided; or
- (v) Any plan or report required pursuant to Sections 5.1 (d) and (e) of this By-law have not been provided.

5.2 The Director has the discretion to require Financial Assurance as a condition of issuing a Permit, and the Financial Assurance will be dealt with according to the following terms:

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

[We suggest it is appropriate to include a mechanism regarding Financial Assurance.]

6.0 ISSUANCE OF PERMIT

6.1 The Director shall issue a Permit where:

- (a) The Director is satisfied that the application is complete, in accordance with this By-law and the Schedules;
- (b) The Director is satisfied that the ~~Site site~~ is not within an area where alteration is prohibited under Section 4 of this By-law;
- (c) The Director is satisfied that the proposed ~~Placing placing~~ or ~~Dumping dumping~~ of ~~Fill fill~~, altering of the ~~Grade grade~~ or removing of ~~Soil topsoil~~, will not result in the following:
 - (i) Erosion;

- (ii) Blockage of a natural or manmade watercourse;
- (iii) Siltation of a natural or manmade watercourse;
- (iv) Contamination of a natural or manmade watercourse;
- (v) Any disruption or impact of both warm and cold watercourses;
- (vi) Flooding or ponding;
- (vii) A detrimental effect on any **Vegetation** ~~vegetation~~ that has been designated for preservation;
- (viii) A detrimental effect on the natural environment of the area; [We urge Council to determine the meaning of 'detrimental effect on the natural environment of the area'. Arguably, any amount of blasting or tree cutting damages the natural environment, and elected Council members should provide the Director with guidance/direction on what amount and type of site alteration should be permitted. For example, blasting that changes the landscape visible from the lake, or that changes the character of the natural environment (by removing a rock cliff, for example), should not be permitted.]
- (ix) Contravening the intent of the by-law as expressed in the recitals.

- (d) All other permits, application material, background studies, agreements, documents and reports, **and Financial Assurance, if required**, have been received, reviewed and approved to the satisfaction of the Director;
- (e) Any other matters that the Director considers relevant.

6.2 The Permit shall set out the following information:

- (a) **details of the location and dimension of all permitted Site Alteration;**
- (b) **the location and dimensions of permitted Rock Blasting;**
- (c) **the location and dimensions of all required sediment fences and other required sedimentation control measures to be installed on the Site;**
- (d) **the location and dimensions of all temporary soil or dirt stockpiles;**

- (e) the location and dimensions of all required tree preservation barriers;
- (f) the location where Fill or blasted material will be deposited (including whether on-site or offsite); and
- (g) such other information as the Director determines. [This is meant to cover the information currently required to be provided pursuant to Schedule "A" of the current By-law and would seem to represent an appropriate level of information.]

7.0 RENEWAL, TRANSFER, EXPIRY AND REVOCATION OF PERMITS

Renewal

7.1 A Permit which has expired may be renewed by the Director as appropriate, within a period of three months before the date of expiry upon the submission of a written request to the Director accompanied by a payment of one-half of the original Application Fee, provided that the proposed work which was the subject of the Permit has not been revised;

7.2 A Permit which has been renewed in accordance with this section shall thereafter be treated as a new Permit except that it shall not again be renewed, unless specifically stated in a Site Alteration Agreement.

Transfer

7.3 A Permit shall expire upon the transfer of ownership of the ~~Site site~~ unless the new ~~Owner owner~~ provides written commitment to comply with all conditions under which the ~~Permit permit~~ was issued, prior to transfer of the ~~Site site~~, including compliance with this By-law and agreement to provide Financial Assurance in a form and amount acceptable to the Director, at which time any Financial Assurance previously provided by the original ~~Permit permit~~ holder pursuant to this By-law shall be released.

7.4

Failing the written commitment from the new ~~Owner owner~~, the ~~Permit permit~~ shall be deemed to be cancelled as of the date of transfer.

7.5 A ~~Permit permit~~ is not transferable to another site.

Expiry and Revocation

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

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

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

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

8.0 REVIEW OF DECISIONS OF DIRECTOR

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

- (a) Where the Director refuses to issue a **Permit permit**, within ten (10) days after the refusal; or

- (b) if the Director fails to make a decision on the complete Application, within thirty (30) days after the complete application is received by the Director, or
- (c) if the Applicant objects to a condition in the ~~Permit permit~~, within thirty (30) days after the issuance of the ~~Permit permit~~.

9.0 REQUIREMENTS FOR SEDIMENTATION CONTROL PLANS

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

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

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

10.0 ORDERS

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

- (a) The municipal address and legal description of the land, this may also include the roll number associated with the land;
- (b)
Reasonable particulars of the contravention(s); and
- (c) The period in which there must be compliance; or,
- (d) Consist of verbal direction followed by a written Order should a written Order not be possible at the time of inspection.

10.2 The Orders issued pursuant to Section 10.1 of this By-law may require a person or corporation who has contravened any section of this By-law to:

- (a) Cease all work in relation to Site Alteration;
- (b) Remove the ~~Fill fill~~ and deposit the Fill in a specified location;
- (c) Fill in any excavations or ponds;
- (d) Complete all necessary work to:
 - (i) Eliminate any hazard or potential hazard from the alteration of the ~~Grade grade~~ or the ~~Placing plaeing~~, ~~Dumping dumping~~ or removal of ~~Fill fill~~ and to restore the land to a condition of safety and/or its original environmental condition to the satisfaction of the Township.
 - (ii) restore the land to its former condition prior to the alteration of the ~~Grade grade~~ of the land or to the ~~Placing plaeing~~, ~~Dumping dumping~~, cutting or removal of the ~~Fill fill~~ on the land or other ~~Site Alteration site-alteration~~ to the satisfaction of the Township;
 - (iii) Undertake such further investigations as required by the Township to identify the extent of any breach of this By-law and do work to correct the contravention, as deemed appropriate by the Township.
- (e) ~~Fulfill any Any~~ other requirement as deemed necessary by the Director or Officer.

10.3 Any remedial work that is ordered through a “Stop Work Order” or an “Order to Remedy” shall be done in accordance with a professional’s report/plan that shall be submitted to the Township within the period of compliance provided for listed on the Order.

- (a) An Order is not deemed to be complied with until the professional’s report/plan has been approved by the Township, which may include a review by a third party retained by the Township and the remedial work has been completed to the satisfaction of the Township.

10.4 Any Order issued under this section may be served personally and/or served by sending it by registered mail, and/or email to the last known address of;

- (a) The ~~Owner~~ ~~owner~~ of the property at the address shown on the municipal tax rolls;
- (b) The person identified as contravening this by-law;
- (c) If sent via email, the Order shall be sent to the last known email address of the person(s) or corporation(s) in which the Order is addressed to.

10.5 Where service of an Order is made by registered mail, the Order shall be deemed to have been served on the fifth day after the Order is mailed.

10.6 Where service of an Order is made by email, the Order shall be deemed to have been served on the fifth day after the Order was emailed or upon a response from the recipient of the Order.

10.7 Where service cannot be made under Section 10.4, it is deemed sufficient if the Director, their designate or officer places a placard containing the terms of the Order in a conspicuous place on the affected lands and the ~~Placing~~ ~~placing~~ of the placard shall be deemed to be sufficient service of the Order on the person to whom the Order is addressed to;

10.8 If the ~~Owner~~ ~~owner~~ or ~~Permit~~ ~~permit~~ holder fails to do the work required by an “Order to Remedy” or “Stop Work Order” issued pursuant to Sections 10.1-10.2 inclusive of this By-law within the period specified, the ~~Township~~ ~~Municipality~~, in addition to all other remedies it may have, may do the work and for this purpose may enter on the land with its employees and agents. The costs incurred by the ~~Township~~ ~~Municipality~~ in so doing shall be paid by the ~~Owner~~ ~~owner~~ of the land and may be recovered by the ~~Township~~ ~~Municipality~~ in the same manner as property taxes or by drawing on the ~~Financial Assurance~~ ~~financial-assurance~~ provided.

[The term ‘Municipality’ is not a defined term in this By-law. The term ‘Township’ is the defined term for the Township of Muskoka Lakes.]

10.9 Any costs incurred by a property ~~Owner~~ ~~owner~~ as a result of remedial action as outlined in Section 10.8 of this By-law will also include

interest calculated at a rate of 15% which is calculated for the period commencing on the day the ~~Township Municipality~~ incurs the cost and ending on the day the cost, including the interest, is paid in full;

10.10 The amount of the cost incurred ~~will~~ ~~could~~ constitute a lien on the land upon which the registration in the proper land registry office of a notice of lien. The lien is in respect of all costs that are payable at the time the notice is registered plus interest accrued at the rate established in Section 10.9 to the date full payment is made;

[The costs incurred by the Township to remediate the land should constitute a lien on the land, in order to help ensure that the Township and its taxpayers recover these amounts.]

10.11 Upon the ~~Township Municipality~~ receiving payment of all costs payable plus interest accrued to the date of payment, the Township shall register a discharge of the lien in the proper land registry office at the expense of the ~~Owner~~ ~~owner~~;

10.12 If a person or corporation is not satisfied with the terms of an “Order to Remedy” or a “Stop Work Order” they may request an appeal to be heard by Council upon paying the prescribed fees as set out in the existing Township of Muskoka Lakes Fees and Charges By-law;

10.13 When an appeal is heard by Council, Council has the power to confirm, modify or rescind an “Order to Remedy” or “Stop Work Order”.

11.0 INSPECTION AND ENFORCEMENT

11.1 No person shall hinder or obstruct, or attempt to hinder or obstruct, any Officer exercising a power or performing a duty under this By-law. Any person who is alleged to have contravened any of the provisions of this By-law shall identify themselves to the Officer upon request, failure to do so shall be deemed to have obstructed or hindered the Officer in the execution of his duties.

11.2 The Director, their designate or an ~~Officer~~ ~~officer~~ may, at any reasonable time, enter and inspect any land to determine whether provisions of this By-law, a condition of a ~~Permit~~ ~~permit~~ issued under this By-law has

been complied with, or to ensure that an order issued under this By-law or Section 431 of the Municipal Act, 2001, has been complied with. †

11.3 For the purposes of conducting an inspection pursuant to Section 10.2 of this By-law, the Township may, in accordance with Section 436(2) of the Municipal Act, 2001: †

- (a) Require the production of documents or things relevant to the inspection;
- (b) Inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- (c) Require information from any person concerning a matter related to the inspection; and
- (d) Alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purpose of the inspection.

11.4 Upon completion of the work pursuant to the ~~Permit permit~~, the ~~Owner owner~~ and/or ~~Permit permit~~ holder shall contact the ~~Township municipality~~ for an inspection. †

11.5 This By-law shall be administered and enforced by the Director, their designate or an ~~Officer officer~~. †

12.0 OFFENCES AND PENALTIES

12.1 Every person who contravenes any provision of this By-law, and every director or officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation is guilty of an offence and on conviction is liable to a fine as provided for in the Provincial Offences Act, R.S.O. 1990, c. P.33. ~~The applicable fines are set out in Schedule "C".~~

12.2 Every person who contravenes the provisions of any section of this By-law, is guilty of an offence under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended and is liable on conviction to a penalty where the minimum fine shall not exceed \$500 and a maximum fine shall

not exceed \$100,000 exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended.

12.3 Every director or officer of a corporation who contravenes any provisions of the By-law is guilty of an offence under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended and is liable on conviction to a penalty where the minimum fine shall not exceed \$500 and a maximum fine shall not exceed \$100,000 exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended.

12.4 Every person who contravenes the provisions of any section of this By-law, and every director or officer of a corporation who knowingly concurs in the contravention of the By-law by the corporation is guilty of an offence under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended and is also liable for a special fine in circumstances where there is an economic advantage or gain from the contravention of this By-law and the maximum amount of the special fine may exceed \$100,000.

12.5 If there is a contravention of any provision within this By-law, and the contravention has not been complied with or corrected, the contravention of the provisions shall be designated as a continuous offence for each day or part of a day that the contravention remains uncorrected;

12.6 For the purposes of this By-law, if there is an offence respecting two or more acts or omissions, each of which separately constitutes an offence and is a contravention of the same provision of this By-law, then the offence is deemed a multiple offence.

12.7 For the purpose of continuous offences, every person who contravenes any provision of this By-law, and every director or officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation, is guilty of an offence and is liable on conviction to a penalty not exceeding \$10,000 per day or part thereof, exclusive of costs, under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended.

12.8 For the purpose of multiple offences, every person who contravenes any provision of this By-law, and every director or officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation, is guilty of an offence and is liable on conviction to a penalty not exceeding \$10,000 per offence, exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended.

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

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

13.0 OTHER APPROVALS

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

14.0 CONFLICT WITH OTHER BY-LAWS

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

15.0 SEVERABILITY

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

16.0 INTERPRETATIONS

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

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

16.3 Schedules “A” to “C” ~~“A-G”~~ shall form part of this By-law.

17.0 REPEAL

17.1 By-law 2008-56 shall be repealed.

18.0 EFFECTIVE DATE AND SHORT TITLE

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

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

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

Phil Harding, Mayor

Lauren Tarasuk, Clerk

SCHEDULE "A"

Information Required for Application of a Site Alteration Permit

1. Name, address and telephone number of all registered ~~Owners~~ owners
2. Signature or authorization of all registered ~~Owners~~ owners
3. Name, address, and telephone number of person retained to perform the work
4. Municipal address of property
5. Legal description
description of
property ~~AND~~
6. A Sedimentation
Control Plan as
specified in Section 9
of this By-law.

7. The information set out in Section 6.2 of this By-law.

[Adding the information set out in Section 6.2 of the By-law will cover the information currently required to be provided pursuant to Schedule "A" of the current By-law and would seem to represent an appropriate level of information in order for Staff to be able to assess and application.]

SCHEDULE "B"

For Design and Maintenance of Erosion and Sedimentation Control Measures

1. Pre-Construction Information

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

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

2. Sediment Control Plan

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

- (a) A detailed description of the location and dimensions of all proposed Site Alteration activities.

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

Provide a list of emergency and non-emergency contacts complete with a phone number and email address (e.g. owner, **Site site** supervisor);

- (k) **A statement as to where Fill or blasted Rock is to be deposited on Site or off Site.** [This is a requirement of the Township's current Site Alteration By-law and should be included. (See Schedule A of By-law 2008-56)]

Ministry of Environment Best Management Practices

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

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

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision creating or defining offence	COLUMN 3 Set Fine
1	Cause or permit to cause Site Alteration site alteration within 15m of a navigable waterway in Waterfront designation	4.1	\$1000.00
2	Cause or permit to cause Site Alteration site alteration within 15m of a navigable waterway in the Urban Centre or Community designation	4.1	\$1000.00
3	Cause or permit to cause Site Alteration site alteration in an Environmental Protection zone	4.2	\$1000.00
4	Cause or permit to cause Site Alteration site alteration within a Scenic Corridor or Scenic Area	4.3	\$1000.00
5	Cause or permit to cause Site Alteration site alteration without a	4.4	\$1000.00

	Permit in Waterfront designation		
6	Cause or permit to cause Site Alteration site alteration without a Permit on an island	4.5	\$1000.00
7	Cause or permit to cause Site Alteration site alteration without a Permit in Community/Urban Centre designation	4.6	\$1000.00
6	Cause or permit to cause Site Alteration site alteration resulting in erosion	4.7 (a)	\$1000.00
7	Cause or permit to cause Site Alteration site alteration resulting in siltation/pollution of a watercourse/wetland/storm sewer	4.7 (b)	\$1000.00
8	Cause or permit to cause Site Alteration site alteration resulting in injury or destruction of tree	4.7 (c)	\$1000.00
9	Cause or permit to install patio greater than 200 square feet in size	4.8	\$1000.00
10	Cause or permit installation of a patio greater than 0.9m in change of elevation	4.9	\$1000.00

11	Cause or permit installation of more than one patio in front yard setback	4.10	\$1000.00
12	Cause or permit to cause the installation of a patio- not water permeable	4.11	\$1000.00

13	Cause or permit to cause the installation of a patio- not dry laid	4.11	\$1000.00
14	Cause or permit to cause the installation of a patio resulting in removal of trees	4.12	\$1000.00
15	Cause or permit to cause the installation of a walkway/stairway greater than 6 feet wide	4.13	\$1000.00
16	Cause or permit to cause the installation of a patio within 4.5 m of high water mark	4.14	\$1000.00
17	Fail to comply with an Order	4.15	\$1000.00
18	Pulldown/Remove/Deface a posted Order	4.16	\$300.00
19	Fail to produce or display Permit	4.17	\$300.00
20	Fail to erect sedimentation fence	4.20	\$1000.00
21	Fail to maintain sedimentation fence	4.21	\$1000.00

22	Cause or permit Site Alteration site alteration for occasional or special event	4.22	\$1000.00
23	Fail to re-vegetate or re-naturalize temporary access road	4.23	\$1000.00
24	Allow or permit to allow Site Alteration site alteration contrary to Site Plan Agreement	4.24	\$1000.00
25	Hinder or obstruct officer	11.1	\$500.00

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