

THE CORPORATION OF THE TOWN OF GANANOQUE

BY-LAW 2016-050

**BEING A BY-LAW TO PROHIBIT OR REGULATE THE PLACING OR DUMPING
OF FILL OR THE ALTERATION OF THE GRADE OF LAND IN
THE SEPARATED TOWN OF GANANOQUE**

WHEREAS by Section 5 of the Municipal Act, 2001, S.O. 2001, c. 25, the powers of a municipal corporation are to be exercised by its Council;

AND WHEREAS the Municipal Act, 2001, S.O. 2001, c. 25, provides that the powers of every Council are to be exercised by Bylaw;

WHEREAS Sections 142 to 144 inclusive of the Municipal Act, 2001, S.O. 2001, c.25, as amended authorizes the Council of The Corporation of the Separated Town of Gananoque to pass by-laws for prohibiting or regulating the placing or dumping of fill and for regulating the alteration of the grade of land in any area or areas in the Separated Town of Gananoque

AND WHEREAS, Section 142(2) of the Municipal Act 2001, provides that a Local Municipality may;

- (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 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 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;
- (f) require that fill dumped or placed contrary to this by-law or a permit issued under this section of the Municipal Act be removed by the person who dumped or placed it or who caused or permitted it to be dumped or placed;
- (g) require the rehabilitation of land from which topsoil has been removed contrary to this by-law or a permit issued under this section; and
- (h) require that the grade of the land altered contrary to this by-law or a permit issued under this section be restored to its original condition by the person who altered it or who caused or permitted it to be altered.

AND WHEREAS, Section 142(4) of the Municipal Act 2001, provides that a Local Municipality may designate persons as officers for the purpose of this section and sections 143 to 146 of the Municipal Act 2001 and delegate to them, subject to the conditions found within this by-law, the power to issue permits and impose conditions to the permits;

AND WHEREAS Sections 142(5), 142(6), 142(7) and 142(8) of the Municipal Act 2001 exempt certain situations from this by-law, namely:

- (a) Section 142(5) of the Municipal Act 2001 - activities or matters undertaken by a municipality or a local board of a municipality;
- (b) Section 142(5) of the Municipal Act 2001 - the placing or dumping of fill, removal of topsoil or alteration of the grade of land imposed as a condition to the approval of a site plan, a plan of subdivision, or a consent under section 41, 51 or 53 of the Planning Act or as a requirement of a site plan agreement or subdivision agreement entered into under those sections of the Planning Act;
- (c) Section 142(5) of the Municipal Act 2001 - the placing or dumping of fill, removal of topsoil or alteration of the grade of land imposed 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 of the Planning Act;
- (d) Section 142(5) of the Municipal Act 2001 - the placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken by a transmitter or distributor, as those terms are defined in section 2 of the Electricity Act, 1998, for the purpose of constructing and maintaining a transmission system or a distribution system, as those terms are defined in that section of the Electricity Act, 1998;
- (e) Section 142(5) of the Municipal Act 2001 - the placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken on land described in a licence for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the Aggregate Resources Act;
- (f) Section 142(5) of the Municipal Act 2001 - the placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken on land in order to lawfully establish and operate or enlarge any pit or quarry on land;
 - (i) that has not been designated under the Aggregate Resources Act or a predecessor of that Act, and
 - (ii) on which a pit or quarry is a permitted land use under a by-law passed under section 34 of the Planning Act, or
- (g) Section 142(5) of the Municipal Act 2001 - the placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken as an incidental part of drain construction under the Drainage Act or the Tile Drainage Act 2001;
- (h) Section 142(6) of the Municipal Act 2001 – a by-law respecting the removal of topsoil does not apply to the removal of topsoil as an incidental part of a normal agricultural practice including such removal as an incidental part of so-farming, greenhouse operations and nurseries for horticultural products;
- (i) Section 142(7) of the Municipal Act 2001 – subsection (h) above [section 142(6)] does not include the removal of topsoil for sale, exchange, or disposition;
- (j) Section 142(8) of the Municipal Act 2001 – if a regulation is made under section 28 of the Conservation Authorities Act respecting the placing or dumping of fill, removal of topsoil or alteration of the grade of land in any area of the municipality, a by-law passed under this section is of no effect in respect of that area:

AND WHEREAS the Corporation of the Town of Gananoque desires to establish Policies and Procedures related to the approval/disapproval of the removal of topsoil, addition of fill, and site alteration of properties located within the Town of Gananoque, including a standardized Application Form.

NOW THEREFORE the Council of the Corporation of the Separated Town of Gananoque enacts as follows:

DEFINITIONS

1. For the purposes of this by-law:

- a) "**Town**" means The Corporation of the Separated Town of Gananoque;
- b) "**Applicant**" means the owner, where such owner is an individual, or means any individual authorized in writing by the owner to apply for a permit on the owner's behalf;
- c) "**Clerk**" means the Clerk of The Corporation of Town of Gananoque;
- d) "**CRCA**" shall mean the Cataraqui Region Conservation Authority;
- e) "**Director**" means the Director of Public Works/Recreation of the Town of Gananoque or his designate;
- f) "**Drainage**" means the movement of water to a place of disposal, whether by way of the natural characteristics of the ground surface or by an artificial method;
- g) "**Dumping**" 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;
- h) "**Fill**" means the area, usually low or erosion prone lands adjoining a watercourse, such as along the Gananoque and St. Lawrence Rivers for which the hazard land has been mapped by the CRCA or the areas identified as "Flood Plain" and "Hazard Land" on Schedule "A" of the Town of Gananoque's zoning by-law or where there is no mapping within 15m (consistent with OP S 4.4.2(1)) of a waterbody's edge;
- i) "**Flood Plain**" means the area, usually low lands adjoining a watercourse, which has been or may be subject to the 1:100 year flood hazard;
- j) "**Grade**" shall be 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 or altering the grade of land is proposed and of abutting ground surface up to three (3) metres wide surrounding such lands, except that where placing or dumping of fill or altering the grade of land has occurred in contravention of this by-law existing grade shall mean the ground surface of the lands as it existed prior to the placing or dumping of fill or altering the grade of land;
 - ii) "**Finished grade**" means the approved elevation of ground surface of lands upon which fill has been placed or grade of land has been altered in accordance with this by-law;
 - iii) "**Proposed grade**" means the proposed elevation of ground surface of lands upon which fill is proposed to be placed or altering the grade of land is proposed;
- k) "**Inspector**" means a person designated by the Town to inspect the placing or dumping of fill, or the alteration of the grade of land for compliance with a permit;

- l) **"Owner"** means the registered owner of the land for which a permit is sought or obtained;
- m) **"Permit"** means permission or authorization given in writing by the Director to perform work regulated by this by-law or part thereof;
- n) **"Permit Holder"** means the owner as defined in this by-law or the person in possession of the property and includes a lessee, a mortgagee in possession or a person in charge of the property;
- o) **"Placing"** means the distribution of fill on lands to establish a finished grade higher or lower than the existing grade;
- p) **"Ponding"** means the accumulation of surface water in an area not having drainage there from where the lack of drainage is caused by the placing or dumping of fill or altering of the grade of land;
- q) **"Removal"** means excavation or extraction of any fill which lowers the existing grade, which includes soil stripping;
- r) **"Retaining Wall"** means a concrete or concrete product wall or other material approved by the Director designed to contain and support fill which has a finished grade higher than that of adjacent lands;
- s) **"Soil"** means any material commonly known as earth, top soil, loam, subsoil, clay, sand or gravel; and
- t) **"Swale"** means a depression in the ground sloping to a place of disposal of surface water for the purpose of providing a method of drainage.
- u) **"Altering"** or **"Alter"** means changing the grade of land either through the depositing of fill on or the excavation of land or a combination thereof.

SCOPE

This by-law applies to all lands within the geographic limits of the Separated Town of Gananoque.

PROHIBITIONS

- 2. a) No person shall remove, place or dump fill on land, or cause fill to be removed, placed or dumped on land, or alter the grade of land in the Town without having first obtained a permit issued by the Director.
- b) As follows:
 - i) No person shall remove, place or dump fill on land, or cause fill to be removed, placed or dumped on land or alter the grade of land within any flood plain, except those works that, in the opinion of the Director in consultation with the CRCA, serve to protect buildings or structures from flooding or provide conservation benefits such as, but not limited to, shoreline protection, bank stabilization, improvement of wildlife habitat or improvement of flood control.
 - ii) No person shall remove, place or dump fill or cause fill to be removed, placed or dumped or alter the grade of the portion of the property within an evaluated wetland, except for those exceptions noted in Section 2(c) (xii) and (xiii) of this by-law.

- c) The provisions of subsection (a) of this section do not apply in those areas of the Town where:
- i) a regulation made under Section 28 of the Conservation Authorities Act, R.S.O. 1990, respecting the placing or dumping of fill is in force and applies to lands in question;
 - ii) the placing or dumping of fill or alteration of the grade of land 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, as those terms are defined in that Section;
 - iii) activities or matters prescribed by regulation;
 - iv) fill is being placed or the grade of land is being altered in conformity with a grading and drainage plan approved by the Town in conjunction with subdivision, pre-development, consent or site plan approvals under Sections 41, 51 or 53 respectively of the Planning Act and the requisite agreement that has been entered into;
 - v) a building permit has been issued by the Town for the erection of a building or structure, and the site plan accompanying the building permit application provides sufficient information to determine that the placing or dumping of fill or altering the grade of land conforms with provisions of this by-law;
 - vi) soil no greater than 300 mm in depth is placed on lands for the purpose of lawn dressing, landscaping, adding to flower beds or vegetable gardens, provided that:
 - * the elevation of the land within 600 mm of any property line and any swale is not changed; and
 - * there is no change in the location, direction or elevation of any natural or artificial watercourse, open channel, swale or ditch used to drain land;
 - * measures as outlined in Section 5(b) are undertaken;
 - vii) fill is placed or dumped in an excavation to the elevation of existing grade following the demolition or removal of a building or structure; or
 - viii) fill is dumped or placed on lands zoned "Prime Agricultural or Rural" where there is an alteration to the grade of land as an incidental part of a commonly accepted agricultural practice;
 - ix) the use, operation, establishment, alteration, enlargement or extension of a waste management system or waste disposal site within the meaning of Part V of the Environmental Protection Act, R.S.O. 1990, c.E19, as amended, or a waste private disposal site or waste management system that is exempted by regulation from said Part V;
 - x) the construction, extension, alteration, maintenance or operation of works under Section 26 of the Public Transportation and Highway Improvement Act, R.S.O. 1990 c.P.50, as amended;

- xi) emergency measures taken by the Town or the Cataraqui Region Conservation Authority to prevent erosion, slipping of soil, damage of trees or damage to property;
 - xii) the activities of the Town, a Ministry of the Provincial Government, or the Cataraqui Region Conservation Authority, related in the establishment or maintenance of utilities and services, roads, bridges, flood and erosion control facilities, walkways, bicycle paths, fences, retaining walls, steps and lighting;
 - xiii) the activities of the Town, a Ministry of the Provincial Government, the Cataraqui Region Conservation Authority, or other conservation groups recognized by the Town that serves to enhance, restore or protect natural habitat;
 - xiv) any activities of the Town not described in Section 2(c)(xi),(xii) and (xiii) of this by-law;
 - xv) the placing or dumping of fill, removal of topsoil or alteration of grade of land undertaken of land described in a licence for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the Aggregate Resources Act;
 - xvi) the placing or dumping of fill or alteration of grade of land undertaken as an incidental part of drain construction and maintenance under the Drainage Act or the Tile Drainage Act.
- d) Where a permit has been issued pursuant to this by-law authorizing the placing or dumping of fill or altering the grade of land, no person shall remove, place or dump fill or cause fill to be removed, place or dumped or alter the grade of land except in accordance with the plans, documents and any other information on the basis of which such permit was issued.
- e) Where a person has removed, dumped or placed fill or altered the grade of land or caused fill to be removed, dumped or placed, or the grade of land to be altered contrary to this by-law or not in conformity with an issued permit, that person, the owner and the permit holder will each be responsible for the reinstatement of the land to existing grade including the removal of fill and any other restoration as deemed appropriate by an Inspector in conjunction with the CRCA.
- f) No person shall place or dump, or cause to be placed or dumped, fill on any land for storage purposes, unless the outside storage of such fill on the land is permitted by the applicable zoning by-law of the Town or is a site approved by the Director in relation to a subdivision, predevelopment, consent or site plan approval under Sections 41, 51 or 53 respectively of the Planning Act.
- g) Subject to Section 2 (c), no person shall remove, place or dump fill or cause to be removed, place or dumped, fill on any land which results in the alteration of any grade established by a grading and drainage plan which has been approved by the Town as part of a subdivision, consent, rezoning or site plan approval, without a permit.
- h) Subject to Section 2 (c), no person shall remove, place or dump, or cause to be removed, placed or dumped, fill or alter the grades of any land unless:
- i) it is done at the request of or with the consent of the owner of lands where the fill is to be placed, dumped or removed;

- ii) all fill to be dumped or placed is clean and free of asphalt, trash, rubbish, glass, liquid or toxic chemicals, hazardous waste or garbage materials;
- iii) the drainage system for the lands is provided in accordance with the Town's by-laws and the Director is satisfied that provision has been made for surface, storm water drainage where such drainage is not provided by natural gradients or a swale; and
- iv) the fill is placed or dumped or removed in such a manner, or the retaining wall containing such fill is erected in such a manner such that no ponding or alteration of existing flow is caused on abutting lands.

REQUIREMENTS FOR ISSUANCE OF A PERMIT

3. An applicant for a permit to dump, place or remove fill on the lands shall submit the following to the Director:
- a) a completed application in a form prescribed by the Director (Schedule "B");
 - b) the applicable permit fee in accordance with Schedule "L" of the General Rates and Fees By-law to this by-law;
 - c) a security deposit in the form of cash, certified cheque or irrevocable bank letter of credit in an amount approved by the Director which may be drawn upon by the Town at its sole discretion to remedy any deficiency in any work or to correct any works completed under a permit issued under this By-law. Upon written application by the applicant/owner and upon the satisfaction of the Director that all conditions and requirements of the permit have been fulfilled, which may at the discretion of the Director include a requirement for the signed seal of a Professional Engineer certifying that all conditions and requirements of the permit have been fulfilled, the Town will return said security deposit or the remaining amount of any reduced security deposit.
 - d) a fill plan including drawings and a supporting report containing any information the Director deems necessary. At a minimum the following information shall be provided on a drawing to a scale acceptable to the Director:
 - property boundaries and easements
 - drainage routes and slopes
 - areas to be filled, with existing and proposed grades
 - existing buildings, utilities and vegetation
 - proposed erosion and sediment control measures
 - information, as pertinent, on the following:
 - * proposed methods and location to delineate where fill is to be placed
 - * proposed methods and location to contain fill, as may be warranted
 - * notes about any areas on the property not to be disturbed during the filling and about any sequencing of the filling work.
 - e) a completed Environmental Impact Statement (EIS) prepared by a professional qualified in the relevant environmental field of study and acceptable to the Town and other authorities having jurisdiction for any property designated as Environmentally Sensitive on Schedules 'B', 'C', 'D' and 'E' in the Town's Official Plan or any other area that has been identified as being a sensitive environmental feature by best available information supplied by a recognized environmental authority. The study, among other matters, shall:

- i) outline the location, size and amount of grade to be altered, fill to be placed, dumped or removed;
- ii) describe the type and degree of sensitivity of the area;
- iii) discuss and evaluate the compatibility of the proposed alteration of grade, filling or fill removal within the sensitive area with the pertinent features and ecological functions for which the area has been identified;
- iv) identify any portion of the sensitive area where development and filling should be precluded; and
- v) outline the need for and type of action required to resolve any incompatibility found;
- vi) evaluate the extent of flooding, erosion and dynamic beach hazards on the property where applicable, and discuss whether or not the proposed filling or alteration of grades will aggravate such hazards.

Any approved filling project shall comply with the recommendations of the study and by the directions of the Town and any other authority having jurisdiction.

The requirement for an EIS may be waived where the Town has consulted with the appropriate environmental authorities and it has been determined an EIS is not necessary. In the review of an EIS, the Town's Official Plan, relevant environmental authorities and the Provincial Policy Statement, including implementation guidelines, shall be consulted.

If the Environmentally Sensitive area is a provincially significant wetland or floodplain, this section is superseded by Section 2 (b) of this by-law.

- 4. a) The Director may, prior to the issuance of a permit, require the owner and/or proposed permit holder to enter into an agreement or similar arrangement which may be registered on title to the subject lands containing such requirements as the Director considers necessary to ensure that the placing, dumping or removal of fill or altering the grade of land is in accordance with prevailing Town design standards and proper engineering principles.
 - b) Requirements contained in an agreement may include the owner and/or proposed permit holder posting with the Town, the security, in accordance with Section 3(c), certifications by a Professional Engineer or other similarly qualified person prior to the issuance of a permit and upon completion of the work. Such certifications shall state that the owner and proposed permit holder can and has complied with all of the obligations and conditions contained in the applied for and issued permit.
5. Every person who removes, places or dumps fill or alters the grade of land, or causes fill to be removed, placed or dumped or the grade of land to be altered shall:
- a) when required by the Director, provide a retaining wall, which does not encroach upon abutting lands, unless authorized in writing by the owner of the abutting lands, either above or below existing grade, such retaining wall to be constructed to satisfaction of the Director. The Director may require that a retaining wall be constructed where:
 - i) erosion of fill onto abutting lands may occur; or

- ii) the finished grade of the lands at the property line is higher than that of the existing grade of the abutting lands;
- b) ensure that the finished grade surface be protected by sod, turf, seeding for grass, greenery, asphalt, concrete or other means, either singly or in combination within an expedient time frame, or as specified by the Director;
- c) ensure that fill shall not be placed around the perimeter of any existing building to an elevation higher than 150 mm below the top of foundation wall of such building, and in conformity with Sentence 9.15.4.3 (1) of the Ontario Building Code, unless such building and its foundation walls are raised in a manner satisfactory to the Director;
- d) ensure that no trench in which piping is laid forming part of the drainage system shall be covered until the work has been inspected by the inspector, and authorization is given to back fill the installation;
- e) provide erosion and sedimentation control measures around all disturbed areas, in a manner satisfactory to the Director, prior to the commencement of the placing, dumping or removal of fill or altering the grades of land, and shall maintain such measures in good working order until the site has stabilized in accordance with Section 5 (b);
- f) provide any other measures that are deemed appropriate by the Director to protect the environment or fully implement the recommendations of an EIS;
- g) ensure that fill is properly compacted using accepted engineering practices and in a manner satisfactory to the Director, with special considerations where the fill is to be used to support buildings, structures, paving, piping or other similar features;
- h) ensure that the fill stockpiled or placed and any excavations or alteration of the grade of land or property has at a minimum the legal angle of repose as specified by the Occupational Health and Safety Act, R.S.O. 1990, Chapter O.1, as amended, and corresponding regulations for construction;
- i) ensure that natural drainage or any natural or man-made watercourse is not altered in such a manner that will negatively affect other property or the environment.

ISSUANCE OF A PERMIT

6. The Director may issue a permit where:
- a) the owner and the applicant and the proposed permit holder have fulfilled all requirements pursuant to this by-law;
 - b) the owner and proposed permit holder have entered into the agreement referred to in Section 4(a) of this by-law, if required, and have performed all obligations which the agreement requires to be performed prior to the issuance of a permit;
 - c) the Director is satisfied that the proposed final elevations and resulting drainage pattern, the design of any retaining wall, the type of fill to be used and the method of placing or dumping of fill, are all in accordance with prevailing Town design standards and proper engineering practice;

- d) the Director is satisfied that the height of any retaining wall to be constructed either shall not exceed one metre from the low side of the finished grade or that the design and installation of any retaining wall which exceeds one metre in height has been certified by a qualified consulting engineer and is in compliance with any applicable legislation or by-law;
 - e) the Director is satisfied after consultation with the appropriate environmental authority where applicable that the placing, dumping or removal of fill or the altering of the grade of land will not result in:
 - i) soil erosion or negative impact on drainage;
 - ii) blockage of a watercourse;
 - iii) sedimentation in a watercourse;
 - iv) pollution of a watercourse;
 - v) flooding or ponding caused by a watercourse overflowing its banks; or
 - vi) a detrimental effect on any evaluated wetland or areas as defined in the Town's Official Plan or other area that has been identified as a sensitive environmental area or feature by a recognized environmental authority;
 - vii) violation of other applicable law.
 - f) the proposed dumping of fill complies with all provisions of the applicable zoning by-law and is clearly accessory or secondary to the uses permitted on a property by such zoning by-law such that the proposed dumping of fill will not become or constitute the primary use of the subject property.
7. a) The permit issued pursuant to this by-law shall be valid for a period not to exceed two years from the date the permit was issued by the Director.
- b) A permit which is no longer valid, or which has expired pursuant to this by-law and the terms and conditions of such have not been fulfilled, must be renewed upon the making of written application to the Director accompanied by payment of the original permit fee, failing which the Town shall remedy any deficiencies pursuant to the provisions of this by-law.
- c) The issuance of a permit by the Director does not relieve the owner or the permit holder from any responsibility to obtain all other approvals, which may be required by any level of government and agencies thereof.
- d) If the lands for which a permit has been issued are transferred while the permit remains in effect, the permit holder shall advise the Director and the new owner in writing prior to property transfer and the new owner of the lands shall forthwith advise the Director that such transfer has been completed and either:
 - i) provide the Town with an undertaking to comply with all the conditions under which the existing permit was issued; or
 - ii) apply for and obtain a new permit in accordance with the provisions of this by-law.

REVOCACTION OF PERMIT

8. A permit may be revoked by the Director under any of the following circumstances:
- a) if it was issued on mistaken, false or incorrect information;
 - b) if it was issued in error;
 - c) if the owner or permit holder requests, in writing, that it be revoked;

- d) if the terms of an agreement under this by-law have not been complied with;
- e) if work authorized under the permit has not been commenced prior to its expiry date; or
- f) if an owner fails to comply with Section 7(d) of this by-law.

APPEALS

9. Any applicant for a permit pursuant to this by-law may appeal to the Ontario Municipal Board by filing a letter of appeal with both the Clerk and the Ontario Municipal Board:
- a) where the applicant objects to a condition in the permit within thirty (30) days after the issuance of a permit; or
 - b) where the Town fails to make a decision on the application within forty-five (45) days after the application is received by the Clerk;
 - c) where the Town refuses to issue a permit, within 30 days after the refusal.

ADMINISTRATION AND ENFORCEMENT

10. The administration and enforcement of this by-law shall be performed by the Director, by such persons authorized by the Director, and by the Provincial Offences Officers of the Town, as may be appointed by by-law.
11. Upon completion of the works pursuant to a permit, the owner or permit holder shall so advise the Director. If the Director is satisfied, based on the information provided by the owner or permit holder and or any information the Director deems relevant, that the works have been completed in conformity with the permit and this by-law, the Director shall issue a Certificate of Completion to the owner.
12. An inspector may, during daylight hours, and upon producing the appropriate identification, enter and inspect any land to which the by-law applies.
13. No person shall obstruct an inspector who is carrying out an inspection pursuant to this by-law, and any person who so obstructs an inspector is guilty of an offence pursuant to this by-law.
14. If, after inspection, the inspector is satisfied that there is a contravention of this by-law, the owner or permit holder shall be notified of the particulars of the contravention by personal service or prepaid registered mail and may, at the same time, provide all occupants with a copy of the notice.
15. After giving any persons served with a notice pursuant to Section 14 of this by-law, an opportunity to appear before the inspector and make representations in connection with it, the inspector may make an order setting out:
- a) the municipal address or the legal description of the land;
 - b) reasonable particulars of the work to be done to correct the contravention and the period in which there must be compliance with the order;
 - c) notice that if the work is not done in compliance with the order within the specified period, the Town may have the work done at the expense of owner.

16. An order pursuant to Section 15 of this by-law shall be served personally or by prepaid registered mail.
17. A notice or order pursuant to this by-law when sent by prepaid registered mail shall be sent to the last known address of the owner of the land and permit holder.
18. An inspector who is unable to effect service pursuant to this by-law shall place a placard containing the terms of the notice or order in a conspicuous place on the property and the placing of the placard shall be deemed to be sufficient service of the notice or order on the owner and permit holder.
19. If the owner or permit holder fails to do the work required by the order within the period it specifies, the Town, 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 agent and assess costs.
20.
 - a) Costs incurred by the Town pursuant to this by-law may be recovered by the Town, including interest accrued to the date of payment at the rate of 15 percent, from the owner of the land by action or in a like manner as taxes and are a lien on the land upon the registration in the proper land registry office of a notice of lien.
 - b) The lien is in respect of all costs that are payable at the time the notice is registered plus interest accrued to the date of payment.
 - c) Upon payment of all costs payable plus interest accrued to the date of payment by the owner of the land, the discharge of the lien shall be registered by the Town at the Leeds and Grenville Counties Land Registry Office.
21. No person, after receiving proper notice, shall disobey an order made pursuant to this by-law.

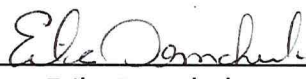
PENALTY

22. Pursuant to Section 144 (16) of the Municipal Act, 2001, S.O. 2001, c.25, as amended, any person who contravenes any provision of, or order issued under, this by-law is guilty of an offence and is liable:
 - a) on a first conviction, to a fine of not more than \$10,000, and
 - b) on any subsequent conviction, to a fine of not more than \$25,000.
23. Pursuant to Section 144 (17) of the Municipal Act, 2001, S.O. 2001, c.25, as amended, despite Section 22 where the person convicted is a corporation the maximum fines in Clauses 22 (a) and (b) are \$50,000 and \$100,000 respectively.

CONFLICT

24. Should a court of competent jurisdiction declare any section of this by-law invalid, such section shall be construed, as being severed here from, and the remainder of the by-law shall continue in full force and effect.
25. That By-law 2004-054 is hereby repealed.
26. This by-law shall come into force and take effect on the date of its passing.

READ A FIRST AND SECOND TIME this 3rd day of May, 2016.



Mayor, Erika Demchuk



Clerk, Kelly Shipclark

READ A THIRD TIME, and finally passed this 7th day of June, 2016.



Mayor, Erika Demchuk



Clerk, Kelly Shipclark

SCHEDULE 'A'

The fees for the Fill permit shall be set out in the Town's Fees and Rates By-law. The fees shall be paid to the Town at the time of application for a fill/excavation permit:

**LOT GRADING PERMIT FORM**

This permit is required for all work taking place on lands within the Town of Gananoque. All works submitted for application will be reviewed by the Public Works Department. All applications will be given consideration however not all requests will be approved.

APPLICATION DATE:	TOWN REPRESENTATIVE:
APPLICANT INFORMATION	
APPLICANT:	
MAILING ADDRESS:	PHONE NO.:
	FAX NO.:
CONTRACTOR INFORMATION (IF APPLICABLE)	PHONE NO.:
	FAX NO.:
ADDRESS OF INTENDED WORK:	
Proof of Insurance, WSIB and Traffic Control Plan are required from applicant before the permit will be administered.	
DESCRIPTION OF WORK	
Provide brief description of work, also provide a detailed sketch or plan on a separate sheet outlining the location of the work to be completed and all information as required in By-Law 2016-050.	
Start date:	Completion date:
AGREEMENT	
I, THE UNDERSIGNED HAVE READ AND AGREE TO ABIDE BY ALL CONDITIONS SET OUT IN THE MUNICIPAL CONSENT APPLICATION REQUIREMENTS DOCUMENT AND APPROVAL LETTER IF ISSUED.	
Applicant Signature	Date
Director of Public Works or designate, for the Town of Gananoque hereby grants approval to proceed with the work stated above and outlined on the sketch subject to the terms and conditions included with this document.	
Town Use Only LG NUMBER:	Signature of Director of Public Works or Designate
	Date

In consideration of any permit issued in respect to this application, the property owner and his or her agent hereby agrees to observe, keep and perform and be subject to the regulations and conditions of the said permit and indemnify and save harmless the Corporation of the Town of Gananoque from and against all loss, cost charges, damages expenses, claims and demands whatsoever to which it may be liable for reason of anything done or omitted to be done in the construction of the works authorized.

Lot Grading Plan

The plan must:

1. be prepared by a professional engineer, Ontario Land Surveyor, landscape architect or architect as required in Bylaw 2016-050.
2. include the following details:
 - a. civic address and legal description of the property
 - b. drawing scale no less than 1:500 (metric)
 - c. north arrow
 - d. project location with reference to adjoining streets (street names) or dimensions to street corners at mid-block locations
 - e. legal dimensions of all property lines
 - f. building location and distances to other buildings, property lines, driveways, etc.,
 - g. distances to flood line if development is located within flood fringe area. Indicate flood protection level (FPL) if development is located within flood fringe area. We will provide minimum FPL elevation.

- for properties subject to a waterways permit, the proposed ground elevations and lot grade design must meet the conditions of the waterways permit
- h. existing and proposed geodetic lot grade elevations (in metric) both on the site and on adjacent property, public right-of-ways or easements, including:
 - proposed ground elevation at the house and at corners of the building
 - garage floor elevation and proposed driveway slope
 - location of any retaining walls required in order to manage surface water within the property
 - any other elevations that may affect the lot grading (e.g., walk-outs, window wells)
- i. drainage patterns indicated by flow arrows and slopes described in percentages
- j. location of roof drain downspouts, downspout extensions, and sump pump discharge outlets:
 - downspout extensions should not direct surface water onto adjacent property and should be angled in the same direction as the lot grading pattern
 - for corner lots, and those flanking a public sidewalk or walkway, the sump pump discharge outlet must be constructed at the back of the house or the side of the house not adjacent to the street, sidewalk or walkway
- 3. include site-servicing information indicating the following:
 - a. size and location of existing and proposed sewer and water service connections, including the connection details (e.g., connection type, invert elevations, percent slope) to the common mains
 - b. size and location of any existing sewer and water service connections proposed for reuse or abandonment
 - c. size, location (alignment), and material type of sewer and water mains and other underground utilities in the public right-of-ways or easements

Special lot grading design consideration will be given to:

- rural properties 5 acres and larger,
- properties adjacent to undeveloped or closed street or lane right-of-ways, and
- properties that cannot meet the intent of Bylaw 2016-050