

within twelve (12) hours of any request by the Director or an Inspector for such cleaning;

- (h) ensure that fill is placed or dumped in such a manner and any retaining wall containing such fill is erected in such a manner that no ponding is caused on the site or abutting lands and that adequate provision is made for proper surface stormwater drainage;
- (i) ensure that the fertility and viability of Agricultural land is maintained; and
- (j) ensure that all conditions of the Permit issued pursuant to this By-law, and any other requirements of this By-law are fulfilled to the satisfaction of the Director.

REVOCATION OF A PERMIT

19. A Permit issued pursuant to the provisions of this By-law may be revoked by the Director under any of the following circumstances:
 - (a) if the Permit was issued on mistaken, misleading, false or incorrect information;
 - (b) if the Permit was issued in error;
 - (c) if the Owner requests in writing that the Permit be revoked;
 - (d) if the terms of an agreement under this By-law are not complied with; or
 - (e) if an Owner fails to comply with any provision of this By-law or condition of the Permit.
20. Where a Permit issued pursuant to the provisions of this By-law is revoked, every Owner shall immediately cease all operations being conducted under the authority of the revoked Permit and, unless otherwise directed by the Director, immediately rehabilitate and stabilize the lands so as to prevent adverse impacts.

APPEAL TO COUNCIL

21. Every applicant for a Permit pursuant to the provisions of this By-law may appeal in writing to Council where:
 - (a) the Director refuses to issue a Permit, within 30 days after refusal; or
 - (b) the applicant for Permit objects to a condition in the Permit, within 30 days after the issuance of the Permit.
22. On an appeal, Council has the same powers as the Director under this By-law and may:
 - (a) issue a site alteration Permit, either with or without conditions;
 - (b) affirm, vary or add any condition to the Permit; or

- (c) confirm the refusal of the Director to issue the Permit.

EXEMPTIONS

23. This By-law does not apply to:

- (a) activities or matters undertaken by the City or a local board of the City;
- (b) the placing or dumping of fill, removal of topsoil or alteration of the grade of the land imposed after December 31, 2002 as a condition to the approval of a site plan, a plan of subdivision or a consent under section 41, 51 or 53, respectively, of the *Planning Act* or as a requirement of a site plan agreement or subdivision agreement entered into under those sections;
- (c) the placing or dumping of fill, removal of topsoil or alteration of the grade of land imposed after December 31, 2002 as a condition to a development permit authorized by regulation made under section 70.2 of the *Planning Act* or as a requirement of an agreement entered into under that regulation;
- (d) the placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken by a transmitter or distributor, as those terms are defined in section 2 of the *Electricity Act, 1998*, for the purpose of constructing and maintaining a transmission system or a distribution system, as those terms are defined in that section;
- (e) the placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken on land described in a licence for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the *Aggregate Resources Act*;
- (f) the placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken on land in order to lawfully establish and operate or enlarge any pit or quarry on land,
 - (i) that has not been designated under the *Aggregate Resources Act* or a predecessor of that Act, and
 - (ii) on which a pit or quarry is a permitted land use under a by-law passed under section 34 of the *Planning Act* ; or
- (g) the placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken as an incidental part of drain construction under the *Drainage Act* or the *Tile Drainage Act*;
- (h) the use, operation, establishment, alteration, enlargement or extension of a waste management system or waste disposal site lawfully permitted under Part V of the Environmental Protection Act, R.S.O. 1990 c.E.19, as amended, or a waste disposal site or waste management system that is exempted by regulation from said Part V;

- (i) the construction, extension, alteration, maintenance or operation of works under Section 28 of the Public Transportation and Highway Improvement Act, R.S.O. 1990 c.P.50, as amended;
- (j) any work conducted pursuant to, and in accordance with the provisions of, a regulation made under Section 28 of the Conservation Authorities Act respecting the placing or dumping of fill in any area of the City;
- (k) any work where soil is placed or dumped on lands for the purpose of lawn dressing, landscaping or adding to flower beds or vegetable gardens, provided that the ground elevation of the lands is not increased by more than two hundred (200) millimeters (8 inches) and there is no change in the direction, rate or quality of runoff to neighbouring properties.

EXCEPTIONS

- 24. The provisions of this By-law with respect to the removal of topsoil do not apply to the removal of topsoil as an incidental part of a normal farm practice including the removal as an incidental part of sod farming, greenhouse operation and nursery uses.
- 25. The exception referred to in Section 24 above respecting 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 like disposition.

ENFORCEMENT

- 26. The administration and enforcement of this By-law shall be performed by the Director, his or her designates, and those persons designated from time to time as Inspectors under this By-law.
- 27. The Director and his or her designates, and Inspectors, shall have all powers necessary to carry out the administration and enforcement of this By-law, including the power to enter upon and inspect any lands to determine compliance with this By-law or a Permit issued under this By-law.
- 28. Where a person has placed or dumped fill, or caused or permitted the placing or dumping of fill, the removal of topsoil or the alteration of the grade of land in contravention of any Permit issued pursuant to this By-law, without a Permit where a Permit is required under this By-law, or contrary to any other provision of this By-law, the Director may make an Order directing the person to do any or all of the following:
 - (a) comply with the conditions of the Permit and this By-law;
 - (b) cease the work which is the subject of the contravention; and/or

- (c) require work to be done to correct the contravention to the satisfaction of the Director, and within the time specified in the Order.

- 29. Where a person fails to correct any such contravention to the satisfaction of the Director within the time specified in an Order issued pursuant to this By-law, the City, in addition to all other remedies it may have, may take all necessary steps to bring the lands into compliance with the terms of this By-law, and may enter upon land, at any reasonable time, for this purpose.
- 30. The City may recover its costs incurred under Section 29, plus interest accrued to the date payment is made at the rate of fifteen percent (15%) per annum, from the owner of the land by action or in a like manner as municipal taxes.

OFFENCE AND PENALTY

- 31. Every person who contravenes any provision of this By-law is guilty of an offence and is liable for every day or part thereof upon which such offence occurs or continues to a fine of not more than \$5,000.00 on a first conviction, and not more than \$10,000.00 on any subsequent conviction.
- 32. Every corporation that contravenes any provision of this By-law is guilty of an offence and is liable for every day or part thereof upon which such offence occurs or continues to a fine of not more than \$10,000.00 on a first conviction, and not more than \$25,000.00 on any subsequent conviction.

SEVERABILITY

- 33. In the event that any provision or part of this By-law is found to be invalid or unenforceable for any reason whatsoever, then the particular provision or part thereof shall be deemed to be severed from the remainder of the By-law and all other provisions or parts thereof shall remain in full force and shall be valid and enforceable to the fullest extent permitted by law.

ASSISTANCE FOR INSPECTOR

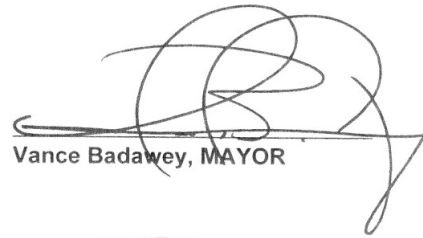
- 34. The Director or an Inspector shall have the right to retain the services of the City of Port Colborne's consulting engineer for the purposes of determining whether the requirements of Schedule "B" have been complied with, and to assist with the administration of this By-law.

GENERAL

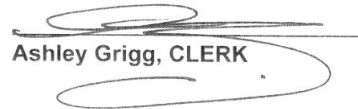
- 35. That By-law No. 2802/121/92, being a By-law to Prohibit the Removal of Top Soil From Lands Within the City of Port Colborne enacted by the Council of the City of Port Colborne on October 13, 1992 is hereby repealed.
- 36. The short title of this By-law is the City of Port Colborne Site Alteration By-law.

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

**READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 13TH DAY
OF SEPTEMBER, 2010.**



Vance Badawey, MAYOR



Ashley Grigg, CLERK

SCHEDULE "A"**SITE ALTERATION PERMIT FEES**

1. Basic Fee for affected land area of 1 hectare for a 6 month permit	\$100.00
2. Additional fee per hectare or fraction thereof over one hectare	\$20.00/ha
3. Maximum fee for a 6 month permit	\$1,000.00
Example: 15 ha = \$100 + (\$20 x 14ha) = \$380.00	
Note: Fees include inspection of control plans and site by City staff	
4. Permit Extension Fee – fee per hectare	\$20.00/ha
Example: same 15 ha site = (\$20.00 x 15 ha) = \$300.00	

SCHEDULE "B"

Plans for the alteration and grading or for the placing or dumping of fill shall be prepared in accordance with the standard drawings and to the satisfaction of the City of Port Colborne, in accordance with the City's Municipal Servicing Standards and as follows:

		(1) indicate: the north arrow on the plan, swales - inverts and typical cross-section, all grade breaks, direction of arrow flows, title block - including lot and plan number and scaled used;
		(2) refer all elevations to the closest municipal bench mark (metric-geodetic);
		(3) show all proposed catch basins, leads, top of grade elevations and inverts;
		(4) show existing contours;
		(5) show regional flood lines if applicable;
		(6) show existing and proposed elevations at lot corners and all building corners;
		(7) show specified building grade (i.e. highest ground elevation at outside wall), driveway elevations, top of foundation and lowest opening in foundation;
		(8) show existing and proposed road grades, lengths and elevations on all streets with symbols at grade changes indicating direction of slope;
		(9) indicate all semi-detached lots with "S" on the plan;
		(10) show all easements - existing and proposed;
		(11) show proposed elevations along boundary of all blocks abutting single family and semi-detached lots in the subdivision;
		(12) illustrate that all drainage outlets for abutting properties are maintained;
		(13) show a table for a list of revisions above the title block;
		(14) the approval of a drainage plan is related to drainage only; it is the responsibility of the developer to ensure that the drainage plan complements the land and suits the houses to be constructed;
		(15) show temporary erosion control measures to be in place during the construction period, e.g. silt fence, sedimentation traps, etc., and permanent erosion control works to be left in place after construction and lot grading is completed, e.g. siltation ponds, etc.