

THE CORPORATION OF THE TOWNSHIP OF THE ARCHIPELAGO

DRAFT SITE ALTERATION BY-LAW

SUMMARY OVERVIEW

Note: The below summary overview is provided for illustrative purposes only and does not form part of the Tree Preservation By-law.

Established in 1980, the Township of The Archipelago is a water-based, seasonally oriented municipality consisting of several thousand islands in Georgian Bay and a number of inland freshwater lakes. The Township originated from a strong desire to preserve its high-quality recreational character and the natural environment and to recognize and respect the interests of its taxpayers. These unique natural features support a variety of aquatic and land-based species, flora, and fauna, support a vibrant tourism economy, and provide countless opportunities for residents and visitors to enjoy high-quality recreational activities.

Together with the Tree Preservation By-law, the Site Alteration By-law provides a framework to preserve and protect the natural environment within the Township, leading to an experience for residents and visitors to enjoy a relaxing and aesthetically appealing environment. The health of the natural environment is determined by a variety of factors, natural and human, and the Township will continue to do all that it can to protect and preserve the high-quality natural environment in our community. Together, the Site Alteration By-law and Tree Preservation By-law provide an enhanced layer of protection for the natural environment, above the minimum requirements for development as per the Township's Comprehensive Zoning By-law (By-law A2000-07, as amended) and the strategic direction for development as outlined in the Township's Official Plan.

This Site Alteration By-law recognizes the rights of property owners to use and enjoy their property, including minor changes to a property that are likely to have little environmental impact, without making an application or inquiry to the Township beforehand. Instead, this Site Alteration By-law is intended to apply to situations where a property owner, or someone acting on their behalf, intends to significantly alter the grade or topography of a property in a manner that would significantly and negatively impact upon sensitive environmental features on said property or neighbouring lands or bodies of water.

This Site Alteration By-law applies to all residentially zoned lands and lands zoned for environmental protection as per the Township's Comprehensive Zoning By-law. It is intended to be understood and applied in tandem with the Tree Preservation By-law, with similar goals of environmental protection. The Tree Preservation By-law is intended to apply to situations when significant removal of trees and/or shoreline vegetation is proposed.

The Site Alteration By-law establishes opportunities for property owners to seek permission for certain activities not otherwise permitted by the Tree Preservation By-laws, with approval of these requests delegated to Township staff, and the opportunity for appeal of staff's decision to Council for final determination. In such instances, property owners, or someone acting on their behalf, are encouraged to apply for and obtain permission from the Township before such significant projects and activities are undertaken on residentially zoned lands or lands zoned for environmental protection. The By-law is intended to be flexible and responsive to the needs of property owners in the Township. The Site Alteration By-law, together with the Tree Preservation By-law, is intended to be applied on a "go forward" basis and does not affect existing development or landscaping.

THE CORPORATION OF THE TOWNSHIP OF THE ARCHIPELAGO

BY-LAW NO. 2024-XXXX

A BY-LAW TO PROHIBIT OR REGULATE THE REMOVAL OF TOPSOIL, THE PLACING OR DUMPING OF FILL AND THE ALTERATION OF THE GRADE OF LAND WITHIN THE TOWNSHIP OF THE ARCHIPELAGO.

WHEREAS Section 10(2) of the *Municipal Act*, 2001, S.O. 2001, c.25, as amended, authorizes a Municipality to pass by-laws respecting the economic, social and environmental well-being of the Municipality and the health, safety and well-being of persons;

AND WHEREAS Section 142 of the *Municipal Act*, 2001, S.O. 2001, c.25, as amended, authorizes a municipality to pass by-laws to prohibit, regulate or require a permit for, and impose conditions upon, the placing or dumping of fill, removal of topsoil, or alteration of the grade of land;

AND WHEREAS, Section 425 of the *Municipal Act*, 2001, c.25, as amended, authorizes a municipality to pass by-laws providing that a person who contravenes a by-law of the municipality passed under this Act is guilty of an offence;

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 primary objective of the Township of The Archipelago's Official Plan is to respect, maintain and improve the natural environment of the region, and of the UNESCO Biosphere Reserve, of which the Township is a part.

AND WHEREAS Council for the Corporation of the Township of The Archipelago deems it in the public interest to enact a By-law prohibiting or regulating the placing or dumping of fill, the removal of topsoil, and the alteration of the grade of the land.

NOW THEREFORE the Corporation of the Township of The Archipelago enacts as follows:

1. ADMINISTRATION

- (a) The short title of this By-law is the "Site Alteration By-law".

2. DEFINITIONS

In this By-law:

- (a) "**Alteration**" or "**Site Alteration**" means a change in elevation from existing grade or finished grade resulting from:
 - (i) The placing or dumping of fill;

- (ii) The removal of topsoil;
 - (iii) Placing, dumping, removal, or blasting of rock; or,
 - (iv) Any other action that alters the grade of land including the altering in any way of a natural drainage course on a site.
- (b) **"Building"** means a structure, whether temporary or permanent, as defined within the *Building Code*, used or intended to be used for the shelter, accommodation or enclosure of persons, goods or chattels;
- (c) **"Building Permit"** means a Building Permit issued under the Ontario Building Code Act, 1992, S.O. 1992, c.23, as amended;
- (d) **"Clerk"** means the Clerk or designate for the Corporation of the Township of The Archipelago;
- (e) **"Council"** means the Council of the Corporation of the Township of The Archipelago;
- (f) **"Diameter"** means the width measured outside the bark at a specified point of a tree stem or trunk;
- (g) **"Diameter at Breast Height"** (DBH) means the outside bark diameter of a tree at breast height. Breast height is defined as 1.37 m (4.5 feet) above the forest floor on the uphill side of the tree. For the purposes of determining breast height, the forest floor includes the duff layer that may be present, but does not include unincorporated woody debris that may rise above the ground line;
- (h) **"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;
- (i) **"Driveway"** means any open roadway developed on private property or across Crown land that provides vehicular access from a public or private road to one individual lot;
- (j) **"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 a separate property;
- (k) **"Erosion"** means the detachment and movement of soil, sediment, or rock fragments by water, wind, ice, or gravity;
- (l) **"Fill"** means any type of material capable of being removed from or deposited on lands, including, but not limited to soil, bedrock, sod, turf, concrete, wood, stumps, rock, asphalt, granular material, either singularly or in combination, provided that the material does not contain invasive species and will not be harmful to the natural environment;
- (m) **"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 land upon which the placing, dumping, cutting or removal of fill or altering of the grade or the blasting of rock is proposed, except where such activity has occurred in contravention of this By-law, then the existing grade shall mean the ground surface of such lands as they existed prior to placing, dumping, cutting or removal of fill or altering of the grade or the blasting of rock requiring a shoreline permit under this By-law;
- (ii) **“Finished Grade”** means the approved final elevation of ground surface of the land upon which fill has been placed, dumped, cut or removed or the grade altered in accordance with this By-law. Finished grade and as built shall have a corresponding meaning;
- (iii) **“Proposed Grade”** means the proposed finished elevation of ground surface of land upon which fill is proposed to be placed or the site is proposed to be altered.
- (n) **“Highwater Mark”** means, in the case of Georgian Bay 176.44 metres G.S.C. above sea level, and in all other cases means the normal water mark of any water at the time of the original surveys of the geographic townships unless altered by the construction of a dam or dams belonging to any municipal, provincial or other public authority, in which case the measurement shall be from the highwater mark as controlled by such dam or dams;
- (o) **“Minor Landscaping”** means the construction of walkways, pathways, flowerbeds, and similar landscaping features where the landscaping does not significantly alter the topography of the lands **more than 0.3m (1ft.)** and shall not increase the flow or rate of flow of surface water to the adjacent lands or the adjacent lake or waterbody but does not include the planting or creation of lawns;
- (p) **“Manager”** means the Manager of Development and Environmental Services for the Township of The Archipelago;
- (q) **“Native Shoreline Vegetation”** means vegetation (i.e., any woody plant, or contiguous cluster of plants including, but not limited to, trees, shrubs, and hedgerows) comprised of plant species, other than invasive species or noxious weeds, which:
 - (i) are Indigenous to the Township, or
 - (ii) reasonably could have been expected to naturally occur on lands, and
 - (iii) are located within 7.5 m (25 ft.) of the highwater mark of any navigable waterway;
- (r) **“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 course, but excludes roadside ditches, drainage ditches and irrigation works;
- (s) **“Navigable”** means any body of water that is capable in its natural state or, at normal water level of being navigated by floating vessels of any description for the purposes of transportation, recreation or commerce, so long as such navigation does not negatively

impact the aquatic environment of that body of water; it also includes a canal and any other body of water created or altered for public use as a result of the construction of any work, as well as any waterway where the public right of navigation exists by dedication of the waterway for public purposes or by the public having acquired the right to navigate through long use;

- (t) **“Officer”** means a person designated by By-law by Council as an Officer for the purposes of implementing and enforcing this By-law;
- (u) **“Order”** means a directive requiring a person to stop the placing or dumping of fill, removal of topsoil, or alteration of the grade of land, and rehabilitate the land in such a manner and within such a period as the Officer considers appropriate;
- (v) **“Owner”** means with respect to land or property, the registered owner, occupant, tenant, or the person for the time managing or receiving the rent of the property whether on his own account or on account of an agent or trustee of any other person, or any of the aforesaid;
- (w) **“Parking Area”** means an area provided for the parking of motor vehicles and may include aisles, parking spaces, and related ingress and egress lanes, and a private garage;
- (x) **“Person”** means any individual, an Owner, corporation, partnership, company, firm, association, or party and includes the successors, assigns, heirs, executors, administrators, or other legal representatives of a person to who the context can apply according to law and the singular shall include the plural;
- (y) **“Placing”** means the distribution of fill on lands to establish a finished grade;
- (z) **“Planning Act”** means the Provincial legislation, the *Planning Act*, R.S.O. 1990, c.P.13;
- (aa) **“Professional”** means a person who, in the opinion of the **Manager**, demonstrates experience and training in the pertinent discipline, and which includes only the following for the purposes of this By-law:
 - (i) **“Engineer”** means a person who holds a license or a temporary licence under the *Professional Engineers Act*, R.S.O. 1990, c. P.28 and who engages in the ‘practice of professional engineering’ as defined in this Act;
 - (ii) Any other person, who in the opinion of the **Manager**, is a qualified expert with expertise appropriate for the relevant critical area or subject;
- (bb) **“Road, Private”** means any roadway or open way that allows for the passage of a conventional passenger vehicle(s) and serves as access over more than one property to more than one lot, but does not include a driveway, a public road or public highway as defined in the Municipal Act;

- (cc) **“Road, Public”** means a public highway or road other than a driveway, a lane, right-of-way or private road that is maintained by a public road authority and that is open and passable by the public;
- (dd) **“Road, Seasonal”** means a private road or a public road other than an improved public road, that is not maintained year-round;
- (ee) **“Road, Temporary Access”** means a temporary road that is no wider than 4.5 m (15 ft) and 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 on a property;
- (ff) **“Shoreline Area”** means the area of land abutting a waterbody that is located within the front yard setback and includes the area of land extending to the high-water mark of the abutting waterbody;
- (gg) **“Site”** means the area of land where alteration will occur;
- (hh) **“Site Plan”** means a scaled drawing showing lot lines, buildings or structures existing and/or proposed on a lot and including such details as parking areas, access points, landscaped areas, building areas, setbacks from lot lines, building heights, floor area, lot coverage, lighting, septic tank tile fields, utility lines, site servicing details, grading and drainage and stormwater management, or any other items required by the Township to be represented on the drawing;
- (ii) **“Soil”** means material commonly known as earth, topsoil, loam, subsoil, clay, sand or gravel;
- (jj) **“Structure”** means anything that is erected, built, or constructed, the use of which requires location on the ground or being attached to something having location on the ground, and for the purposes of this By-law, shall not include free standing walls, fences, or hedges;
- (kk) **“Topsoil”** means those horizons in a soil profile, commonly known as the “O” and “A” horizons, containing organic material and includes deposits of partially decomposed organic matter such as peat;
- (ll) **“Tree or Healthy Tree”** means any living species of a stemmed perennial woody plant, with a Diameter at Breast Height (DBH) of 15 cm (6 in.) or greater, located on any lands within the Township;
- (mm) **“Township”** and **“Township of The Archipelago”** means the Corporation of the Township of The Archipelago;
- (nn) **“Waterway”** means any creek, pond, stream, river or standing body of water, whether or not such body of water is seasonal;
- (oo) **“Zone”** means an area delineated on a Zoning Map Schedule and established by the Zoning By-law for a specific use; and,

- (pp) **“Zoning By-law”** means the By-law regulating land use within the Township as required under the Planning Act.

Note that definitions for terms not otherwise defined above may be found in the Township's Comprehensive Zoning By-law (By-law A2000-07, as amended).

3. LAND SUBJECT TO BY-LAW

This By-law shall only apply to the following areas in the Township:

- (a) All lands zoned Natural State (NS), Natural State Conservation (NSC), Environmentally Sensitive (ES), Environmentally Sensitive One (ES1), Environmentally Sensitive Two (ES2), Coastal/Island Residential (CR), Inland Lakes Residential (IR), or General Residential (GR), as defined in the Zoning By-law.

4. PROHIBITIONS

- (a) No person shall undertake or cause to be undertaken any site alteration on lands within an area described in Section 3 of this By-law, unless:
- (iii) exempted by Section 5 of this By-law; or
 - (iv) except in accordance with approval granted pursuant to Section 6 of this By-law.
- (b) No person shall fail to comply with an Order issued under this By-law.
- (c) No person shall remove or deface an Order posted under this By-law.

5. EXEMPTIONS FROM APPLICATION OF BY-LAW

- (a) An Owner may undertake one or more of the following activities, without making an application to the Township before doing so:
- (i) Minor landscaping, including yard maintenance activities, the installation of flowerbeds, food gardens, and similar landscaping features and activities where the landscaping does not alter the grade or topography of the land **more than 0.3m (1ft.)**.
 - (ii) The placing or dumping of fill, removal of topsoil, or alteration of the grade of land that is reasonably required to install a pathway no wider than 2.0m (6.5ft.).
 - (iii) The maintenance or replacement of existing features such as landscaping, pathways, driveways, parking areas, patios, stairways, walkways, retaining walls, firepits, and picnic table platforms, to a reasonably similar size.
 - (iv) The placing or dumping of fill, removal of topsoil, or alteration of the grade of land that is reasonably required to demolish, repair, enlarge, replace, or construct a building (including foundation) pursuant to a building permit issued under the Building Code Act.

- (v) The placing or dumping of fill, removal of topsoil, or alteration of the grade of land that is reasonably required for the installation of a septic system approved and for which a Building Permit has been issued under the Building Code Act.
 - (vi) The placing or dumping of fill, removal of topsoil, or alteration of the grade of land that is required to facilitate development permitted per the Zoning By-law, including, but not limited to, the construction of a shoreline structure such as a dock or sauna, and which complies with the requirements of the Zoning By-law, as may be amended.
 - (vii) The placing or dumping of fill, removal of topsoil, or alteration of the grade of land that is reasonably required in order to install a driveway for vehicular access, at least 3.0m (10ft.) but not more than 9.0m (30ft.) in width to the building, structure or thing in a residential zone in respect for which a Building Permit has been issued.
 - (viii) The placing or dumping of fill for the purpose of creating a temporary access road, provided that appropriate remediation works follow the termination of such an access, to the satisfaction of the Township.
 - (ix) The placing or dumping of fill, removal of topsoil, or alteration of the grade of land that is required for emergency works as a result of an adverse weather event.
- (b) Despite any other section of this By-law, the provisions of this By-law do not apply to activities exempted by subsection 142(5) of the *Municipal Act* as follows:
- (i) Activities or matters undertaken by the Township or a local board of the Township;
 - (ii) 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 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.
 - (iii) 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.
 - (iv) 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.
 - (v) 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*.

- (vi) 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,
 - a. That has not been designated under the *Aggregate Resources Act* or a predecessor of that Act, and
 - b. On which a pit or quarry is a permitted land use under a by-law passed under section 34 of the *Planning Act*;
- (vii) 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*.

6. RELIEF

- (a) If any owner, contractor, or person wishes to apply for exemption from this By-law, they may do so by submitting a written request identifying the nature and extent of the relief requested and accompanied by a site plan/diagram and a description of the proposed site alteration to the Clerk.
- (b) The Township hereby delegates to the Manager the authority to grant a request for an exemption and to impose conditions in accordance with best management practices.
- (c) An owner who applies for exemption from this By-law shall submit the following information:
 - (i) A completed application form;
 - (ii) Payment of the required application fees;
 - (iii) Any required report by the Township, including, but not limited to, archaeological assessment, vegetation analysis, environmental impact study, or geotechnical report.
- (d) A decision regarding an application for an exemption shall not be made until such time as all the required documents have been filed, the applicable fee has been paid, and any required inspections have been completed. Upon deeming the application complete, the Manager shall issue a notice to this effect to the Owner by personal service, ordinary mail, or email.
- (e) The Manager may grant a request for an exemption where the applicant has demonstrated that the proposed activities will not result in any of the following:
 - (i) erosion;
 - (ii) blockage of a watercourse;
 - (iii) siltation in a watercourse;
 - (iv) contamination of a watercourse;

(v) flooding or ponding;

(vi) a detrimental effect on any natural heritage feature; or,

(vii) a detrimental effect on the natural environment of the area.

(f) Where the Manager decides to grant relief from this By-law to permit site alteration otherwise prohibited, any activities undertaken shall be consistent with the supporting material(s) provided to the Township for their consideration, including, but not limited to, a site plan indicating the following relevant detail pertaining to the site and the proposed site alteration activities:

(i) property boundaries of the site with dimensions, including its area in hectares;

(ii) all existing above and below grade utilities, ditches, swales, drainage courses, storm sewers, bodies of water, watercourses, natural heritage features and environmental sensitive areas on the site and on abutting properties and highways;

(iii) locations of all driveways on the site and of all easements and rights-of-way over, under, across or through the site;

(iv) location and dimensions of all existing buildings and structures on the site;

(v) proposed sediment and erosion controls that will be installed prior to alteration of the site;

(vi) proposed grades and the drainage system to be used upon completion;

(vii) location of all wetlands, floodplains, shoreline, top of bank features and approximate regulation limits as required by the applicable Conservation Authority;

(viii) quantity of fill to be received on the site; and,

(ix) any other information as deemed reasonably necessary by the Manager to inform their decision as to whether to grant relief.

7. APPEALS TO COUNCIL

(a) An owner who requests an exemption pursuant to this By-law may appeal in writing to the Council by filing notice of appeal by personal service or registered mail with the Manager:

(i) If the Manager refuses to grant an exemption, within thirty (30) days after the refusal.

(ii) If the Manager fails to make a decision on the application within forty-five (45) days after the date of the notice of complete application.

(iii) If the applicant objects to a condition in the granted exemption, within thirty (30) days after the exemption is granted.

(b) The Council has the same powers as the Manager under this By-law, and may:

(i) Confirm the refusal to grant the exemption.

(ii) Grant the exemption, with or without conditions.

(iii) Affirm, vary, or add any conditions to the granted exemption.

(iv) Confirm the issuance of an Order to discontinue work.

(c) The decision of the Council shall be final.

8. INSPECTION/COMPLIANCE MONITORING

(a) This By-law shall be implemented and enforced by an Officer.

(b) The Officer may enter upon the land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:

(v) this By-law;

(vi) the approved plans; and,

(vii) a direction or order made under the *Municipal Act*, 2001, c.25, as amended or this By-law.

(c) For the purposes of an inspection under this By-law, the Officer may:

(i) require the production for inspection of documents or things relevant to the inspection;

(ii) inspect, scan and, if necessary, remove documents or things relevant to the inspection for the purpose of making copies or extracts;

(iii) require information from any person concerning a matter related to the inspection; and,

(iv) alone or in conjunction with a professional possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

(d) All documents and records shall be kept in a good and business-like manner for review by the Officer at their request.

(e) A receipt shall be provided for any document or thing removed under this By-law and the document or thing shall be promptly returned after the copies or extracts are made.

9. ORDERS

(a) If an Officer is satisfied that a contravention of this By-law has occurred, the Officer may make an Order requiring the person who contravened this By-law, or who caused

or permitted the contravention or the owner of the lot on which the contravention occurred to:

- (i) discontinue the contravening activity; and/or
- (ii) do work to correct the contravention.

(b) An Order shall set out:

- (i) reasonable particulars of the contravention adequate to identify the contravention;
- (ii) the location of the land on which the contravention occurred; and
- (iii) either:

- a. in the case of an Order under section 9 (a)(i), the date by which there must be compliance with the Order; or
- b. in the case of an Order under section 9 (a)(ii), the work to be done and the date by which the work must be done.

- (c) In default of any work required by an Order under section 9 (a)(ii) being done by the owner directed or required to do it, the work may be done by the Township at the owner's expense. For the purposes of this section, the Township and its employees, agents and representatives may enter upon land at any reasonable time.
- (d) The Township may recover the costs of doing or any matter pursuant to this By-law by adding the costs to the tax roll and collecting them in the same manner as property taxes.
- (e) The costs in section 9 (d) shall include interest calculated at a rate of 19 per cent per annum, calculated for the period commencing on the day the Township incurs the costs and ending on the day the costs, including interest, are paid in full.
- (f) An Order issued under this By-law shall be served on the person who the Officer believes is contravening this By-law, by personal delivery or registered mail at the last known address or by email to the last known email address to whom service is required to be made. The Order shall be deemed to have been served on the fifth business day after the date of mailing or emailing or on the date of personal delivery.
- (g) An Officer who is unable to effect service of an Order pursuant to this By-law shall place a placard containing the Order in a conspicuous place on the land and the placing of the placard shall be deemed to be sufficient service.
- (h) A person who has been served with an Order and who is not satisfied with the terms and conditions of the Order may appeal to Township Council, or its delegate as defined in the Delegation By-law, by sending a notice of appeal and the applicable fee by registered mail or personal delivery to the Clerk within thirty (30) days after being served with the Order.

- (i) An appeal under section 9 (h) shall be conducted pursuant to the *Statutory Powers and Procedures Act*, R.S.O. 1990, c. S.22, as amended.
- (j) An Order under this By-law that is not appealed within the time referred to in section 9 (h) shall be deemed to be final.

10. PENALTY

- (a) Any Person, including a corporation, who contravenes any provisions of this By-law, or an Order issued pursuant to this By-law, the *Provincial Offences Act*, R.S.O. 1990, c. P. 33, as amended, and Section 444(1) or 445(1) of the *Municipal Act*, R.S.O. 2001, c. 25, as amended, is guilty of an offence and, upon conviction, is liable:
 - (i) on a first conviction, to a fine of not more than \$10,000;
 - (ii) upon a second or subsequent conviction for the same offence, to a fine of not more than \$100,000; and
 - (iii) upon conviction for a continuing offence, to a fine of not more than \$10,000 for each day or part of a day that the offence continues. The total of daily fines is not limited to \$100,000.
- (b) If a corporation has contravened any provision of this By-law or an Order issued pursuant to this By-law and Section 444(1) or 445(1) of the *Municipal Act*, 2001, c.25, as amended, every director and officer of said corporation is guilty of an offence.
- (c) Every person who is alleged to have contravened any of the provisions of this By-law, shall identify themselves to an Officer upon request, failure to do so shall be deemed to have hindered or obstructed an Officer in the execution of their duties.
- (d) For the purposes of this By-law, an offence is a second or subsequent offence if the act giving rise to the offence occurred after a conviction had been entered at an earlier date for the same offence.
- (e) If a contravention of any provision of this By-law has not been corrected, the contravention of the provision shall be deemed to be a continuing offence for each day or part of a day that the contravention remains uncorrected.
- (f) 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 deemed to be a continuing offence for each day or part of a day that the Order is not complied with.
- (g) For the purposes of this By-law, a “multiple offence” means an offence in respect of 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.
- (h) In addition to the penalties set out in section 10(a) herein, should a provincial offences officer within the meaning of the *Provincial Offences Act*, R.S.O. 1990, c. P.33 lay charges under Part I of that Act, the accused is liable to the set fines corresponding to the short form wording set out in Schedule ‘A’ hereto. For clarity, it is the intention of

council that after the passing of this By-law, the set fines for Part I offences listed in Schedule 'A' hereto shall be specified by the Regional Senior Justice of the Ontario Court of Justice in accordance with section 91.1(2) of the *Provincial Offences Act*, R.S.O. 1990, c. P.33.

- (i) Upon conviction, any penalty imposed under this By-law may be collected under the authority of the *Provincial Offences Act*, R.S.O. 1990, c. P. 33, as amended.

11. CONFLICT WITH OTHER BY-LAWS

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

12. SEVERABILITY

If a court of competent jurisdiction declares any section or part of this By-law invalid, it is the intention of Council of the Township that the remainder of this By-law shall continue in force unless the court makes an order to the contrary.

13. TRANSITION AND EFFECTIVE DATE

Notwithstanding anything herein to the contrary, this By-law shall come into effect on [month], [day] [year].

14. BY-LAW REVIEW AND UPDATE

This By-law shall be reviewed and updated on an ongoing and periodic basis.

15. INTERPRETATION

- (a) References in this By-law to any statute or statutory provision include references to that statute or statutory provision as it may from time to time be amended, extended or re-enacted.
- (b) The words "include", "includes" and "including" are not to be read or interpreted as limiting words, phrases or descriptions that precede them.
- (c) Dimensions specified in metric units shall be the official dimensions. Imperial dimensions contained in parentheses are provided as a convenience only.
- (d) In this by-law, the word "metre" shall be represented by the abbreviation "m", the word "centimetre" shall be represented by the abbreviation "cm", and the word "millimetre" shall be represented by the abbreviation "mm". The words "foot" and "feet" shall be represented by the abbreviation "ft." and the word "inch" shall be represented by the abbreviation "in.".
- (e) Headings are inserted for convenience of reference purposes only, form no part of this by-law and shall not affect in any way the meaning or interpretation of the provisions of this by-law.

- (f) This By-law and the provisions contained within are intended to be complementary to provincial statutes and to other by-laws passed by the Township. In the event that any other applicable law requires a higher standard than this By-law requires, the higher standard shall apply.
- (g) In this By-law, unless the context otherwise requires words importing the singular shall include the plural and use of the masculine shall include the feminine, where applicable.
- (h) Where this By-law refers to a person undertaking an activity, matter, work or thing, it is also intended to apply to persons that direct another person to undertake such activity, matter, work or thing.
- (i) The Schedules appended to this By-law are incorporated into and form part of this By-law, subject to the set fine amounts listed in Schedule "A" for proceedings commenced under Part I of the *Provincial Offences Act*, R.S.O. 1990, c. P.33, which amounts shall be specified by the Regional Senior Justice of the Ontario Court of Justice in accordance with section 91.1(2) of the *Provincial Offences Act*, R.S.O. 1990, c. P.33, after the passing of this by-law.

READ a first and second time this xx day of xx, 2024.

READ a third time and finally passed this xx day of xx, 2024.

Reeve – Bert Liverance

Clerk – Maryann Martin

(DRAFT) SCHEDULE 'A' TO BY-LAW 2024-XX

CORPORATION OF THE TOWNSHIP OF THE ARCHIPELAGO

PART I PROVINCIAL OFFENCES ACT BY-LAW 2024-XX: SITE ALTERATION BY-LAW

A BY-LAW TO PROHIBIT OR REGULATE THE REMOVAL OF TOPSOIL, THE PLACING OR DUMPING OF FILL AND THE ALTERATION OF THE GRADE OF LAND WITHIN THE TOWNSHIP OF THE ARCHIPELAGO.

Item	Short-Form Wording	Provision Creating the Offence	Set Fine
1.	Place or dump, cause or permit to be placed or dumped, any fill, without the Township granting relief from this By-law, unless otherwise exempted by Section 5 of this By-law.	Section 4(a)	\$900.00
2.	Remove, cause, or permit to be removed any fill without the Township granting relief from this By-law, unless otherwise exempted by Section 5 of this By-law.	Section 4(a)	\$900.00
3.	Permit or perform, site alteration on any land without the owner's consent.	Section 4(a)(iii)	\$900.00
4.	Permit or perform site alteration not in accordance with an approved Site Plan.	Section 4(a)(i) Section 5(d)	\$900.00
5.	Permit or perform site alteration not in accordance with an approved Subdivision Agreement.	Section 4(a)(i) Section 5(d)	\$900.00
6.	Permit or perform a site alteration not in accordance with an approved Consent Agreement.	Section 4(a)(i) Section 5(d)	\$900.00
7.	Permit or perform a site alteration not in accordance with an approved Condominium Agreement.	Section 4(a)(i) Section 5(d)	\$900.00
8.	Fail to comply with an Order.	Section 4(b)	\$1,000.00
9.	Remove or deface an Order posted under this By-law	Section 4(c)	\$900.00
10.	Obstruct or interfere with or attempt to obstruct or interfere with an Officer.	Section 4(d)	\$900.00
11.	Fail to present identification to an Officer upon request.	Section 9(c)	\$900.00

The penalty provision for the offences indicated above is Section 12.2 of the *Provincial Offences Act*. R.S.O 1990. C.P.33