

THE CORPORATION OF THE TOWNSHIP OF THE ARCHIPELAGO

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 waterbodies.

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 required 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. 2025 -

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;

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

- (a) In this By-law:

- (i) "**Alteration**" or "**Site Alteration**" means a change in elevation from existing grade or finished grade resulting from:
- a. The placing or dumping of fill;
 - b. The removal of topsoil;
 - c. Placing, dumping, removal, or blasting of rock; or,
 - d. Any other action that alters the grade of land including the altering in any way of a natural drainage course on a site.

- (ii) “**Building**” means a structure, whether temporary or permanent, as defined within the Ontario Building Code, used or intended to be used for the shelter, accommodation or enclosure of persons, goods or chattels;
- (iii) “**Building Permit**” means a building permit issued under the *Ontario Building Code Act*, 1992, S.O. 1992, c.23, as amended;
- (iv) “**Clerk**” means the Clerk or designate for the Corporation of the Township of The Archipelago;
- (v) “**Council**” means the Council of the Corporation of the Township of The Archipelago;
- (vi) “**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;
- (vii) “**Driveway**” means any open roadway developed on private property or across Crown land that provides vehicular access from a public road or private road to one individual lot;
- (viii) “**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 site to another location on a separate site;
- (ix) “**Erosion**” means the detachment and movement of soil, sediment, or rock fragments by water, wind, ice, or gravity;
- (x) “**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;
- (xi) “**Grade**” means the elevation of the ground surface and shall be more particularly defined as follows:
 - a. “**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;
 - b. “**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 grade shall have a corresponding meaning;
 - c. “**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.
- (xii) “**Minor Landscaping**” means the construction of walkways, pathways, flowerbeds, and similar landscaping features where the landscaping does not significantly alter the grade of the site more

than 0.3m (1ft.) and shall not increase the flow or rate of flow of surface water to the adjacent lands or any adjacent waterbody. For the purposes of this by-law, minor landscaping does not include the planting or creation of lawns;

- (xiii) “**Manager**” means the Manager of Development and Environmental Services for the Township of The Archipelago;
- (xiv) “**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 waterbody, but excludes roadside ditches, drainage ditches and irrigation works;
- (xv) “**Officer**” means a person designated by By-law by Council as an Officer for the purposes of implementing and enforcing this By-law;
- (xvi) “**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 reasonably appropriate;
- (xvii) “**Owner**” means the registered owner of the property;
- (xviii) “**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;
- (xix) “**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;
- (xx) “**Placing**” means the distribution of fill on a site to establish a finished grade;
- (xxi) “**Planning Act**” means the Provincial legislation, the *Planning Act*, R.S.O. 1990, c.P.13;
- (xxii) “**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:
 - a. “**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 that Act;
 - a. Any other person, who in the opinion of the Manager, is a qualified expert with expertise reasonably appropriate for the relevant critical area or subject;
- (xxiii) “**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*, S.O. 2001, c. 25;

- (xxiv) **“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;
- (xxv) **“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;
- (xxvi) **“Site”** means the area of land where alteration will occur;
- (xxvii) **“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;
- (xxviii) **“Site-Specific Exemption”** means a request from an Owner or their authorized agent for the Township’s approval to undertake an activity or activities which are not otherwise permitted as an exempted activity as outlined in Section 5 of this By-law;
- (xxix) **“Soil”** means material commonly known as earth, topsoil, loam, subsoil, clay, sand or gravel;
- (xxx) **“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;
- (xxxi) **“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;
- (xxxii) **“Township”** and **“Township of The Archipelago”** means the Corporation of the Township of The Archipelago;
- (xxxiii) **“Waterbody”** means any creek, pond, stream, river or standing body of water, whether or not such body of water is seasonal;
- (xxxiv) **“Zone”** means an area delineated on a Zoning Map Schedule and established by the Zoning By-law for a specific use; and,
- (xxxv) **“Zoning By-law”** means the By-law regulating land use within the Township as required under the Planning Act.
- (b) 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).
- (c) Where terms have been defined in Section 2 of this By-law, those terms will be shown with underlined emphasis in the remainder of this By-law.

3. LAND SUBJECT TO BY-LAW

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

- (i) All lands zoned Natural State (NS), Natural State Conservation (NSC), Environmentally Sensitive (ES), Environmentally Sensitive One (ES1), Environmentally Sensitive Two (ES2), as defined in the Zoning By-law; and,
- (ii) All lands zoned 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:
 - (i) exempted by Section 5 of this By-law; or
 - (ii) exempted in accordance with approval granted pursuant to Section 7 of this By-law.
- (b) No person, through their own actions or through any other person or corporation, shall undertake any site alteration on lands within an area described in Section 3 of this By-law, without the Owner's prior consent.
- (c) No person shall fail to comply with an Order issued under this By-law.
- (d) No person shall remove or deface an Order posted under this By-law.

5. EXEMPTIONS FROM APPLICATION OF BY-LAW

- (a) Notwithstanding Section 4 of this By-law, a person may undertake any activities of site alteration on lands described in Section 3 to this By-law, without obtaining prior approval from the Township where one or more of the following activities are proposed:
 - (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, removal of topsoil, or alteration of the grade of land 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) The provisions of this By-law do not apply to activities exempted by subsection 142(5) of the *Municipal Act*, S.O. 2001, c. 25, 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, a plan of condominium, 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*.

- (viii) Any other activities which are exempted under subsection 142(5) of the *Municipal Act*, S.O. 2001, c. 25, as may be amended from time to time.

6. DESIGNATION OF OFFICERS

- (a) Council may appoint, by by-law, Officers to enforce the provisions of this By-law for such terms and on such conditions as Council considers appropriate, and the Clerk is authorized to issue Certificates of Designation to these individuals.

7. APPLICATIONS FOR SITE-SPECIFIC EXEMPTION

- (a) If any Owner, or their authorized agent, wishes to apply for a site-specific exemption from this By-law, they may do so by submitting a written request to the Clerk identifying the nature and extent of the proposed activity and accompanied by:
- (i) a site plan/diagram of the site and the proposed activity; and,
 - (ii) a written description of the proposed site alteration.
- (b) The Township hereby delegates to the Manager the authority to grant or refuse approval for an application for a site-specific exemption and to impose conditions in accordance with best management practices.
- (c) An Owner, or their authorized agent, who applies for a site-specific exemption from this By-law shall submit the following:
- (i) A completed application form, including the information referred to in Section 7(a) of this By-law; and,
 - (ii) Payment of the required application fees;
- (d) For the purposes of Section 7(a) and Section 7(c) of this By-law, the diagram of the site and the proposed activity shall include the following:
- (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, waterbodies, 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, and top of bank features;
 - (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.
- (e) In addition to the requirements under Section 7(c) of this By-law, the Manager may, at their sole discretion, require that an Owner, or their authorized agent, submit a technical report prepared by a qualified professional which justifies the proposed site alteration activities, including, for example, an archaeological assessment, vegetation analysis, environmental impact study, or geotechnical report.
- (f) 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.
- (g) For the purposes of Section 7(f) of this By-law, the Manager shall inform the Owner and/or their authorized agent of any additional information that is required before deeming an application complete and shall issue a notice to this effect within 21 days from receiving an incomplete application form and the required application fee.
- (h) 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 waterbody;
 - (iii) siltation in a waterbody;
 - (iv) contamination of a waterbody;
 - (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.
- (i) 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 relevant detail pertaining to the site and the proposed site alteration activities as per Section 7(d) of this By-law.

8. APPEALS TO COUNCIL

- (a) An Owner, and/or their authorized agent, who requests a site-specific exemption pursuant to Section 7 of this By-law may appeal in writing to Council by filing notice of appeal by personal service or registered mail with the Manager:
 - (i) If the Manager refuses to grant approval for a site-specific exemption, within thirty (30) days after the refusal.
 - (ii) If the Manager fails to grant or refuse approval for a site-specific exemption 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 site-specific exemption, within thirty (30) days after the site-specific exemption is granted.
- (b) Council has the same powers as the Manager under this By-law, and may:
 - (i) Confirm the refusal to grant the site-specific exemption.
 - (ii) Grant the site-specific exemption, with or without conditions.
 - (iii) Affirm, vary, or add any conditions to the granted site-specific exemption.
 - (iv) Confirm the issuance of an Order to discontinue work.
- (c) The decision of Council shall be final.

9. INSPECTION/COMPLIANCE MONITORING

- (a) This By-law shall be implemented and enforced by an Officer.
- (b) Upon the Township's receipt of a request to grant a site-specific exemption, the Owner and/or their authorized agent, shall permit an Officer to enter upon their property and undertake such inspections of the site as may be required to consider the application. An Officer may undertake a site inspection prior to, during, and/or after the proposed activity.
- (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 qualified 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.
- (f) No person shall prevent, hinder, or obstruct, or attempt to hinder or obstruct, an Officer who is lawfully exercising a power or performing a duty under this By-law.

10. 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 site 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 10(a)(i), the date by which there shall be compliance with the Order; or
 - b. in the case of an Order under Section 10(a)(ii), the work to be completed and the date by which the work shall be completed.
- (c) In default of any work required by an Order under Section 10(a)(ii) being completed by the Owner directed or required to do it, the work may be completed by the Township at the Owner's sole expense. For the purposes of this section, the Township and its employees, agents and representatives may enter upon the site at any reasonable time to complete any work required by an Order under Section 10 (a)(ii) of this By-law in default of the work being completed by the Owner directed or required to do it.
- (d) The Township may recover the costs of completing 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 10(d) shall include interest calculated at a rate per annum 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 directly to the person who the Officer believes is contravening this By-law, by personal delivery or registered mail at the said person's last known address or by email to the said person's last known email address. The Order shall be deemed to have been served once five (5) business days have passed following the mailing or emailing of the Order to said person whom the Officer believes in contravening this By-law; or, where served by personal delivery, on the date of personal delivery to said person whom the Officer believes is contravening this By-law.
- (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 an obvious conspicuous place on the site and the placing of the placard shall be deemed to be sufficient service in fulfilment of the requirements of Section 10(f) of this By-law.
- (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 Council, or its delegate, 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 10(h) of this By-law 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 10(h) of this By-law shall be deemed to be final.

11. 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*, 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 for continuing offences 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*, S.O. 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. For the purposes of this provision, 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 11(a) of this By-law, 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 and long 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.

12. CONFLICT WITH OTHER BY-LAWS

- (a) 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.

13. SEVERABILITY

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

14. TRANSITION AND EFFECTIVE DATE

- (a) Notwithstanding anything herein to the contrary, this By-law shall come into effect on April 1, 2025.

15. BY-LAW REVIEW AND UPDATE

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

16. 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 otherwise, words in the singular shall include the plural, 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 and **FINALLY PASSED** in **OPEN COUNCIL** this **17th** day of **January, 2025**.

THE CORPORATION OF THE TOWNSHIP OF THE ARCHIPELAGO

Bert Liverance, Reeve

Maryann Martin, Clerk

**SCHEDULE 'A' TO BY-LAW 2025 -
CORPORATION OF THE TOWNSHIP OF THE ARCHIPELAGO
PART I PROVINCIAL OFFENCES ACT BY-LAW 2024 – 25
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/dump fill (not exempted)	Section 4(a)	\$900.00
2.	Remove fill (not exempted)	Section 4(a)	\$900.00
3.	Without Owner consent	Section 4(b)	\$900.00
4.	Not per approved site plan	Section 4(a)(i) Section 5(b)(ii)	\$900.00
5.	Not per approved subdivision agreement	Section 4(a)(i) Section 5(b)(ii)	\$900.00
6.	Not per approved consent agreement	Section 4(a)(i) Section 5(b)(ii)	\$900.00
7.	Not per approved condominium agreement	Section 4(a)(i) Section 5(b)(ii)	\$900.00
8.	Not per approved site- specific exemption	Section 4(a)(i) Section 7(i)	\$900.00
9.	Fail to comply with an Order	Section 4(c)	\$1,000.00
10.	Remove or deface an Order	Section 4(d)	\$900.00
11.	Obstruct/interfere with Officer	Section 9(f)	\$900.00
12.	Fail to present ID	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