

TO: GENERAL COMMITTEE

SUBJECT: REPEAL AND REPLACE SITE ALTERATION BYLAW 2006-101

WARD: ALL

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DIRECTOR OF ENVIRONMENTAL SERVICES

GENERAL MANAGER APPROVAL: B. PARKIN, P. ENG
GENERAL MANAGER OF INFRASTRUCTURE & GROWTH
MANAGEMENT (ACTING)

CHIEF ADMINISTRATIVE OFFICER APPROVAL: C. LADD, CHIEF ADMINISTRATIVE OFFICER

*14-08-05
J.F. THOMPSON*

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RECOMMENDED MOTION

1. That the proposed Site Alteration By-law prohibiting and regulating the placing or dumping of fill, the removal of topsoil, and the alteration of the grade of land in all areas within the City of Barrie (City), as attached as Appendix A to Staff Report ENV005-14, be adopted and By-law 2006-101 be repealed.
2. That the Fees By-law be amended to include the proposed new fees attached as Appendix B to the Staff Report ENV005-14.

PURPOSE & BACKGROUND

Report Overview

3. This Report is intended to outline the need to replace By-law 2006-101 and to provide detailed rationale to support a successor as identified in the proposed By-law and to protect the natural environment and City infrastructure. Protection will be achieved by regulating site alteration activities on development sites and preventing erosion and sedimentation from occurring through the implementation of permits and Site Alteration Plans.

Background

4. By-law 2006-101 was enacted in 2006 after significant environmental degradation in areas of the City due to failure of erosion and sediment controls in place on developing properties. These issues raised liability concerns and the City faced legal action from the Federal Department of Fisheries and Oceans Canada.
5. By-law 2006-101 prohibits and regulates the placing or dumping of fill, the removal of topsoil, and the alteration of the grade of land in all areas within the City of Barrie through an established legal and enforceable set of rules that all development sites over 0.5 hectares in size must follow

including the installation and maintenance of set standards for erosion and sediment control measures. Regulation and enforcement of By-law 2006-101 is accomplished through the review of applications, issuance of permits, regular inspections and corrective actions to address arising issues.

6. Changes to the Municipal Act rendered the Site Alteration By-law inoperable and upon a review of the By-law in 2012 by Legal Services, City Staff have only been able to effectively address Site Alteration issues where a permit has not been obtained prior to Site Alteration activities.
7. There have been significant advancements in the variety of erosion and sediment controls (ESC) available within the environmental industry. The six ESC Controls that have been identified in By-law 2006-101 are now restrictive as there are more innovative and effective solutions for the same issues.

ANALYSIS

8. Environmental Services Department, Environmental Operations Branch began the Site Alteration By-law update process in the fall of 2013 by conducting an extensive amount of research on industry best practices and consulting with other departments and staff involved in Site Alteration with the objective of identifying issues and challenges with the existing Site Alteration By-law.
9. Environmental Operations conducted a review of approximately 30 different municipal Site Alteration by-laws from across Ontario and from within the Nottawasaga Valley Conservation Authority (NVCA) and the Lake Simcoe Region Conservation Authority (LSRCA) watersheds. Many municipal By-laws have been updated (Innisfil, Markham, Georgina, Bradford West Gwillimbury and East Gwillimbury) to take into account issues surrounding fill quality, ESC measures, dewatering, temporary sediment control ponds and a more comprehensive and streamlined approach for sites that will enter into Subdivision and Site Plan agreements once Site Alteration is complete.
10. There have been several documents developed that focus on erosion and sediment control for development sites since the enactment of By-law 2006-101 including the document that has become the industry standard in the Greater Golden Horseshoe Area with respect to erosion and sediment control, the Erosion & Sediment Control Guideline for Urban Construction. The proposed By-law recommends the use of this document in assisting applicants with the preparation of Site Alteration Plans for applications under the proposed By-law.
11. During the development of the proposed Site Alteration By-law, the Environmental Operations Branch collaborated with all City Departments involved in Site Alteration including: Planning; Engineering; Legal Services; Roads, Parks and Fleet; , and Environmental Services. Comments were also received from By-law Services, the Deputy Clerk, Insurance Risk Examiner and the Finance Department.
12. Once an Internal review of the proposed By-law was completed, the proposed By-law was shared with the other regulatory agencies including the Ontario Ministry of the Environment, the Lake Simcoe Region Conservation Authority and the Nottawasaga Valley Conservation Authority. Comments were well received and the proposed By-law is being highly supported by all of these agencies.
13. City Staff presented the changes to the proposed By-law to the Development Community on July 24th, 2014 and included landowners from the annexed lands and the Simcoe County Homebuilders Association. The presentation was well received and some good discussion occurred during this Meeting.

14. The proposed By-law builds upon industry best standards for ESC measures and has adopted a format similar to the Town of Markham Site Alteration By-law. Among the municipalities that were consulted, the Town of Markham was viewed as an industry leader.
15. The proposed By-law will assist the City in the environmental protection of the annexed lands until such time that the secondary planning and re-zoning process has been completed. As the majority of the annexed lands are zoned agricultural, the By-law proposes that no Site Alteration shall occur on these lands unless the Site Alteration activities will result in maintaining or improving the overall fertility of the agricultural lands (Appendix A - Section 5.7).
16. The proposed By-law will assist the City in addressing sites that have been stripped of soil and are awaiting development by requiring these sites to be stabilized. The proposed Site Alteration By-law has a maximum thirty (30) day time period that a site can remain inactive without stabilization, at which time a site shall be stabilized by vegetation or another acceptable form of stabilization. Under the proposed By-law the Director of Engineering will be granted the powers to extend this time period under special circumstances such as extensive Fill requirements (Appendix A - identified in Section 5.5.6 of Schedule C).
17. It is recommended that Site Alteration permits that are currently in place (issued under By-law 2006-101), be granted an extension to January 1st, 2015 to meet requirements of the proposed Site Alteration By-law if approved by Council.
18. Staff will monitor the effectiveness and impact of the proposed Site Alteration By-law, and will make future recommendations to Council regarding any required amendments deemed necessary.
19. The proposed By-law will greatly improve the administration and enforcement measures for site alteration permits and requirements. In addition, the permitting structure allows for a case by case review of each site, recognizing the differences and complexity of each site.
20. The proposed By-law provides authority to the General Manager of Infrastructure and Growth Management to act on behalf of the City and delegate responsibilities to Enforcement Officers to enter into properties to collect samples, conduct inspections and enforce the proposed By-law. This will include MLEO Officers for the purpose of legal action (Appendix A - please refer to the definition for Enforcement Officer and Section 9 - Administration and Enforcement).
21. The proposed By-law will require Site Alteration ESC measures on all sites that are being developed however only those sites greater than 0.5 hectares will be required to obtain a permit unless otherwise exempt as set forth in the proposed By-law.
22. The proposed By-law requires that an application and associated actions therein be conducted and approved by a Qualified Person as defined by the By-law. A Site Alteration Plan, ESC Plan and Fill Management Plan (where required) are required as part of an application for a permit (Appendix A - Schedule B)
23. The proposed By-law will include up-to-date requirements for liability and proof of insurance for permit holders. This requirement has been developed collaboration with the City's Insurance Risk Examiner.
24. Staff training was identified as a necessary component of an effective site alteration enforcement strategy. Currently in Ontario there is a training course that is available to municipal staff which upon successful completion, leads to a designation as Certified Inspectors of Sediment and Erosion Control (CISEC). It is recommended that certain staff members in the Environmental Services and Engineering Departments attend this training course. It is recommended that Engineering Inspectors, Development Services Coordinators and Environmental Officers obtain full certification because of the knowledge needed to conduct these roles.

25. Appendix C attached is a consolidated revision of the proposed By-law.

ENVIRONMENTAL MATTERS

26. The following environmental matters have been considered in the development of the recommendation:
- a) The Site Alteration By-law regulates erosion and sediment controls through the use of engineered control measures, devices and stabilization requirements. Sediment entering watercourses can be a major issue in the City which causes impacts to the aquatic environment. Sediment can harm fish gills, smother fish spawning beds and aquatic organisms and permanently change localized ecosystems within a water body. These discharges are illegal and are classified as spills under Provincial legislation which City staff are obligated to respond to and address. Various levels of government, including provincial and federal, may be involved depending on the sensitivity of the natural environment. The City currently has two healthy cold water fisheries (Lover's Creek and Hewitt's Creek) both of which support healthy a population of several cold water fish species.
 - b) Rare, threatened and endangered species on sites and any environmentally protected areas, conservation authority regulated areas, wetlands, wildlife habitat and fish habitat will be protected by a 30 meter buffer as a requirement in the proposed By-law. This will protect the natural environment for the future.

ALTERNATIVES

There are two alternatives available for consideration by General Committee:

27. **Alternative #1** General Committee could maintain the existing By-law with respect to Site Alteration By-law 2006-101.

This alternative is not recommended as the enactment of the proposed Site Alteration By-law builds upon industry best practices and the framework of other recently passed municipal By-laws with respect to Site Alteration. The proposed By-law will allow for full cost recovery for the City in regards to administration and enforcement. In addition, Municipal Act changes have rendered Site Alteration By-law 2006-101 inoperable leaving the City with little to no capacity to deal with Site Alteration issues.

- Alternative #2** General Committee could revise sections within the proposed Site Alteration By-law.

This alternative is not recommended as the proposed Site Alteration By-law was structured as such that the altering of any one section may affect the administration or enforcement of another section (Schedule and/or detrimental effect upon the environment through the removal of a protective requirement). The requirements of the proposed By-law have been developed based upon municipalities that have championed the issue of Site Alteration and protecting the natural environment through doing so.

FINANCIAL

28. It is recommended that the Fees By-law be amended at such time that Council approves the proposed Site Alteration By-law to include the required, updated fee structure for Site Alteration permitting, enforcement and securities. By-law 2006-101 allows for full cost recovery for permits however, this fee was included within the By-law and was never amended since 2006. Additionally, the Environmental Fee that was collected was not sufficient if the City were required to rehabilitate lands due to failure of the permit holder to comply with an order issued under By-law 2006-101. The Environmental Fee has been incorporated into the Security Deposit required as part of an application for a permit.
29. In accordance with the City's Financial Policy Framework, the proposed Fee Structure will allow the City to operate full cost recovery for all of the work associated with this By-law and will also bring the Site Alteration By-law fees up to date with the standard fees collected from other municipalities. This level of increase is based on the fact that the fees have not been updated since 2006.
30. Security deposits within the proposed By-law will be set at \$5,000.00 per hectare of Site Alteration Area (defined in the By-law) and shall be provided in the form of a Letter of credit or other acceptable form. Proposed securities will allow for the City to have access to funds in the event that the Permit Holder fails to comply with Orders under the By-law or for environmental clean-up of infrastructure and restoration of the natural environment.
31. Securities in the amount of \$5,000.00 shall also be collected for damages to roads such as mud tracking and dust control. All securities shall be provided along with the accompanying application for a permit.
32. Proposed enforcement fees have been included as a new tool for Enforcement Officers to ensure that proper actions are taken in the positive correction of site deficiencies for ESC measures. It is not expected that revenue will be generated from any of these fees collected.
33. Additionally, a separate inspection fee is being recommended for staff time from both the Engineering and Environmental Services Departments to address concerns and to establish full cost recovery of the time spent on Site Alteration properties.
34. All fees and associated increases can be found in Appendix B.

LINKAGE TO COUNCIL STRATEGIC PRIORITIES

35. The recommendations included in this Staff Report support the following goals identified in the 2010-2014 City Council Strategic Plan:

- **Manage Growth and Protect the Environment**

The proposed recommendations enhance the City's ability to monitor and control and prevent erosion and sedimentation from development sites into the natural environment and the City infrastructure and promote the environmentally sustainable development of lands within the City.

- **Strengthen Barrie's Financial Condition**

The proposed recommendations allow for Fees to be collected for services rendered that were previously outdated or where no powers were in place to allow for Fees to be collected. Proposed recommendations allow for industry best practices to be implemented in the City and may bring new markets to the City relating to industry supplies for erosion and sediment control measures as well as technical environmental consulting firms and Qualified Persons.

- Direct and Manage Economic Development

The proposed recommendations allow for the City to simultaneously manage growth and protect the environment and direct and manage economic development as Secondary Plans will need to be in place; agricultural lands will not be developed until such plans are in place; this may alleviate pressures on the City with regards to planning for the future.

- Improve and Expand Community Involvement and City Interactions

City interdepartmental groups involved in the proposed By-law will create a more collaborative approach to Site Development, which will result in more positive City interactions with Site Owners and Developers. Community involvement will greatly improve through the proposed notification of what will be happening on the site and notification that will be provided to area residents which will hopefully result in a positive view on Development occurring within the City.

The City of
BARRIE

By-law 2014-XXX
Site Alteration By-law

This By-law printed under and by
the authority of the Council of the
City of Barrie

A By-law of the Corporation of the City of Barrie, to prohibit and regulate the placing or dumping of fill, the removal of topsoil, and the alteration of the grade of land in all areas within the City of Barrie.

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BY-LAW NUMBER 2014-XXX

A BY- LAW TO PROHIBIT AND REGULATE THE PLACING OR DUMPING OF FILL, THE REMOVAL OF TOPSOIL, AND THE ALTERATION OF THE GRADE OF LAND IN THE CITY OF BARRIE AND TO REPEAL BY-LAW 2006-101

WHEREAS *Section 142 of the Municipal Act*, permits the enactment of a by-law by the Council of the Corporation of the City of Barrie to prohibit or regulate the placing or dumping of fill, the removal of topsoil, and the alteration of the grade of land in the City of Barrie and to repeal By-law 2006-101;

AND WHEREAS *Section 398 of the Municipal Act*, authorizes a municipality to add fees and charges to the tax roll for a property and collect them in the same manner as municipal taxes;

AND WHEREAS *Section 444 of the Municipal Act*, authorizes that the municipality may make an order requiring the person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to discontinue the contravening activity;

AND WHEREAS *Section 445 of the Municipal Act*, authorizes that where the municipality is satisfied that a contravention of the by-law has occurred, the municipality may make an order requiring the person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to do work to correct the contravention;

AND WHEREAS *Section 446 of the Municipal Act*, authorizes a municipality to direct or require a person to do a matter or thing, the municipality may also provide that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense;

AND WHEREAS the Council may require that a permit be obtained for the placing or dumping of fill, the removal of topsoil, and the alteration of the grade of land in the City of Barrie and prescribe the fees for the permit and the circumstances under which a permit may be issued and the conditions to such a permit;

NOW THEREFORE the Council of The City of Barrie enacts as follows:

1 DEFINITIONS

In this by-law:

ADJACENT– means abutting or contiguous to;

AGRICULTURAL LANDS – includes all lands that are cultivated and/or used for the raising of livestock;

AGRICULTURAL USES – means,

- a) Growing crops, including nursery and horticultural crops,
- b) Raising livestock and other animals, including poultry and fish, for food and fur,
- c) Aquaculture, and
- d) Agro-forestry and syrup production;

APPLICANT – means the Owner of the Site, where such Owner is an individual, or means any Person, authorized in writing by the Owner, to apply for a Permit on the Owner's behalf;

AREA OF NATURAL AND SCIENTIFIC INTEREST – means an area that has been,

- a) Identified as having earth science/life science values related to protection, scientific study or education, and
- b) Further identified by the Ministry of Natural Resources as such using evaluation procedures established by the Ministry, as they may be amended from time to time;

AUTHORIZED AGENT – means a Person acting on behalf of the Owner as designated on the application;

BODY OF WATER – includes any body of flowing or standing water whether naturally or artificially created;

CONTINUOUS OFFENCE – means an uninterrupted offence of this By-law;

CITY – means The Corporation of The City of Barrie;

CLERK – means the Clerk of the City;

COUNCIL – means the Council of the City;

DIRECTOR OF ENGINEERING – means the Director of the Engineering Department of the City or designate;

DIRECTOR OF ENVIRONMENTAL SERVICES – means the Director of the Environmental Services Department of the City or designate;

DEVELOPMENT – means the construction of buildings or structures and above or underground services such as roads, parking lots, paved storage areas, water mains, storm and sanitary sewers, general grading works and similar facilities on any Site in the City of Barrie;

DRAINAGE – means the movement of water to a Body of Water, whether by way of natural characteristics of the ground surface or by an artificial method;

DUMPING – means the depositing of imported Fill in a location on the Site or the movement and depositing of Fill from one location on a Site to another location on the same Site;

ENDANGERED SPECIES – means any native species, that is at risk of extinction throughout all or part of its Ontario range if the limiting factors are not reversed, as listed in the regulations under the *Endangered Species Act, 2007, SO 2007, c 6* which may be amended from time to time;

ENFORCEMENT OFFICER – means a Person authorized by the City of Barrie to carry out observations and inspections and take samples as prescribed by this By-law and has been duly appointed by the General Manager of Infrastructure and Growth Management to enforce this By-law. It shall also include Persons duly appointed as Municipal Law Enforcement Officers by the City of Barrie for the purposes of legal action;

ENVIRONMENTAL PROTECTION AREAS – as defined by the City of Barrie Official Plan as it may be amended from time to time;

EROSION – means the detachment and movement of Soil, sediment or rock fragments by water, wind, ice or gravity;

EXISTING GRADE – means the elevation of the existing ground surface of the Site upon which Site Alteration is proposed and of Adjacent ground surface up to three (3) metres wide surrounding such Site, except that where Site Alteration has occurred in contravention of this By-law, Existing Grade shall mean the ground surface of the Site as it existed prior to Site Alteration;

FILL – means any type of imported or relocated material deposited or placed on the Site and includes Soil, stone, concrete, sod or turf either singly or in combination;

FINISHED GRADE – means the approved elevation of ground surface of the Site upon which Fill has been placed or grade of land has been altered in accordance with this By-law;

FISH HABITAT – means the spawning grounds and any other areas including nursery, rearing, food supply and migration areas on which fish depend directly or indirectly in order to carry out the life processes, as defined in the *Federal Fisheries Act, RSC 1985, c F-14*, as it may be amended from time to time;

GENERAL MANAGER OF INFRASTRUCTURE AND GROWTH MANAGEMENT – means the General Manager of Infrastructure and Growth Management Division of the City or designate;

HABITAT OF ENDANGERED, RARE AND THREATENED SPECIES – means land that,

- a) Is an area where individuals of an endangered species, a rare species or a threatened species lives or has the potential to live and find adequate amounts of food, water, shelter and space needed to sustain their population, including an area where a species concentrates at vulnerable point in its annual or life cycle and an area that is important to a migratory or non-migratory species; and
- b) Has been further identified, by the Ministry of Natural Resources or by any other Person, as such according to evaluation procedures established by the Ministry of Natural Resources, as they may be amended from time to time;

LAND DISTURBANCE – means any man-made change of the land surface including removing vegetative cover, and/or excavating and/or filling and/or grading;

MUNICIPAL ACT – means the *Municipal Act, 2001, S.O. 2001, c.25*, as it may be amended or replaced from time to time;

OWNER – means the legal registered Owner of the Site as shown by the records of the Land Registry Office where the property register for the Site is situated or the Person or his authorized agent in lawful control of the premises or Site for which a Permit is sought or obtained;

PERMIT – means permission or authorization given in writing by the Director of Engineering to perform work regulated by this By-law or part thereof and shall include all information contained within the approved Site Alteration Plan and any special conditions identified by the Director of Engineering;

PERMIT HOLDER – means the Owner as defined in this By-law or the person in possession of and includes a lessee, a mortgagee in possession or a Person in charge of the Site;

PERSON – includes any individual, corporation, partnership, company, association or party and the heirs, executors, administrators, or other legal representatives of such person, to whom the context can apply according to the law;

PLACING – means the distribution of Fill on the Site to establish a Finished Grade higher or lower than existing grade;

PLANNING ACT – means the *Planning Act, R.S.O. 1990, c.13*, as it may be amended or replaced from time to time;

PONDING – means the accumulation of surface water in the area not having Drainage from where the lack of Drainage is caused by the Placing or Dumping of Fill or altering of the grade of land;

PROPOSED GRADE – means the proposed elevation of ground surface of land upon which Fill is proposed to be placed or altering the grade of land is proposed;

PREVIOUSLY DEVELOPED SITE – means a Site that has been altered by paving, construction, and/or land use that would typically have required regulatory permitting to have been initiated (alterations may exist now or in the past);

QUALIFIED PERSON – means a person who holds a license, limited license or temporary license under the *Professional Engineers Act* as it may be amended from time to time and/or an environmental consultant approved by the Director of Engineering that possesses expert or special knowledge in regards to matters contained within this By-law;

RARE SPECIES – means a native species that is not currently at risk of becoming threatened but, because of its limited distribution, small population or specialized habitat needs, could be put at risk of becoming threatened through all or part of its Ontario range by changes in land use or increases, in certain types of human activity;

REMOVAL – means excavation or extraction of any Fill which lowers the Existing Grade, and includes Soil Stripping;

RETAINING WALL – means a concrete or concrete product wall or other material approved by the Director of Engineering designed to contain and support Fill which has a Finished Grade higher than that of Adjacent lands;

SECURITY DEPOSIT – means a certified cheque, cash or a financial institution letter of credit;

SITE – means a property/lot/or a parcel of land described in a deed or other document legally capable of conveying land, or shown as a block on a registered plan of subdivision;

SITE ALTERATION – means activities such as Removal of Topsoil from the Site, the Placing or Dumping of Fill at the Site, the alteration of the Existing Grade of land at the Site or excavation by any means including but not limited to the Removal of vegetative cover, the compaction of Fill or the creation of impervious surfaces, or any combination of these activities that would change the landform and natural vegetative characteristics of the Site, but does not include:

- a) The construction of facilities for transportation, infrastructure and utility uses by a public body; or
- b) The reconstruction, repair or maintenance of a drain approved under the Drainage Act; or
- c) The carrying out of Agricultural Uses.

SITE ALTERATION AREA – means the total area of the Site that Site Alteration will occur on;

SITE ALTERATION PLAN – means a plan prepared by a Qualified Person on behalf of an Owner in connection with a Site Alteration Permit pursuant to this By-law and shall include general requirements, Erosion and sediment control plans and Fill management plans;

SOIL – means any material commonly known as earth, Topsoil, loam, subsoil, clay, sand or gravel;

SOIL STRIPPING – means the Removal of Soil or Topsoil;

SWALE – means a depression in the ground surface sloping for the purpose of conveying surface Drainage;

TOPSOIL – means those horizons in a Soil profile, commonly known as the "O" and the "A" horizons, containing organic material and includes deposits of partially decomposed organic matter such as peat;

THREATENED SPECIES – means any native species that is at risk of becoming endangered throughout all or part of its Ontario range if the limiting factors are not reversed;

TREASURER – means the Treasurer of the City;

VALLEYLAND – means a natural area that occurs in a valley or other landform depression that has water flowing through or standing for some period of the year;

WATERCOURSE – means a natural or man-made channel or Swale in which water flows, either continuously or intermittently with some degree of regularity;

WETLAND – means land such as a swamp, marsh, bog or fen (not including land that is being used for agricultural purposes and no longer exhibits wetland characteristics) that,

- a) Is seasonally or permanently covered by shallow water or has the water-table close to or at the surface;
- b) Has hydric soils and vegetation dominated by hydrophytic or water tolerant plants; and
- c) Has been further identified by the Ministry of Natural Resources, or by any other Person, as such according to evaluation procedures established by the Ministry of Natural Resources, as they may be amended from time to time;

WILDLIFE HABITAT – means land that,

- a) Is an area where plants, animals and other organisms live or have the potential to live and find adequate amounts of food, water, shelter and space to sustain their population, including an area where species concentrate at a vulnerable point in its annual or life cycle and an area that is important to migratory or non-migratory species; and
- b) Has been further identified by the Ministry of Natural Resources, or by any other Person, according to evaluation procedures established by the Ministry of Natural Resources, as they may be amended from time to time;

WOODLAND – means a treed area, woodlot, or forested area, other than a cultivated fruit or nut orchard or a plantation established for producing Christmas trees;

2 GENERAL

- 2.0 No Person shall carry out any Site Alteration activity within the City of Barrie, without first obtaining a Permit, unless otherwise exempt as set forth in this By-law.
- 2.1 Where a Person has carried out a Site Alteration activity contrary to this By-law, that Person, the Owner and the Permit Holder shall each be jointly responsible for the restoration of the Site to the pre-existing conditions or to the satisfaction of the Director of Environmental Services.

3 REQUIREMENTS FOR ISSUANCE OF A PERMIT

- 3.0 All Permit applications must be completed in full, and all required supporting documentation provided, prior to the issuance of a Permit.
- 3.1 To obtain a Permit pursuant to this By-law, an applicant shall provide the following information:
 - 3.1.1 A completed application for a Site Alteration Permit, duly signed by the Applicant, in the form (Schedule "E") prescribed by the Director of Engineering as it may be amended from time to time;
 - 3.1.2 The application Permit fees as set out in the City's Fees By-law as it may be amended from time to time;
 - 3.1.3 Securities as per Schedule "A" of this By-law;
 - 3.1.4 Proof of insurance from an insurer licensed in the Province of Ontario for Commercial General Liability Insurance for not less than five (5) million dollars (\$5,000,000) per occurrence with an annual aggregate limit of no less than ten (10) million dollars (\$10,000,000) and Environmental Liability Insurance for no less than Two (2) Million Dollars (\$2,000,000);
 - 3.1.5 A Site Alteration Plan, certified by a Qualified Person, meeting the standards set out in Schedule "B" of this By-law, containing the Site design guidelines as set out in Schedule "C" of this By-law;

- 3.1.6 Confirmation that the Applicant complies or will comply with the Permit conditions as specified in Schedule "D" of this By-law as it may be amended from time to time to the satisfaction of the Director of Engineering;
- 3.1.7 Confirmation that the appropriate archaeological assessments on Sites deemed to have moderate to high potentials for the discovery of archaeological resources have been completed to the satisfaction of the Ministry of Culture;
- 3.1.8 Any additional information as required, in writing, by the Director of Engineering.

4 EXPIRY, RENEWAL, TRANSFER, REVOCATION AND REFUSAL OF PERMITS

- 4.0 Permits issued pursuant to this By-law shall be valid for a period of one (1) year from the date of issuance. Should Site Alteration activities continue past this period, or should rehabilitation measures not be completed within one (1) year, the Director of Engineering may renew the Permit one or more times for an additional one (1) year period each time. The Director of Engineering may require additional Erosion and sediment control measures and fees, as conditions of the renewal.
- 4.1 Notwithstanding section 4.0, Permits issued under this By-law shall expire ninety (90) days after the date of issuance of the permit if Site Alteration activities have not commenced.
- 4.2 A Permit which is no longer valid or which has expired pursuant to this By-law must be renewed upon making a written application to the Director of Engineering accompanied by payment of fees, failing which the City shall remedy any deficiencies pursuant to the provisions of this By-law at the Owner's expense.
- 4.3 If the title of the Site for which a Permit has been issued is transferred while the Permit remains in effect, the Permit shall be cancelled unless the new Owner of the Site, within thirty (30) days of the transfer, forthwith advises the Director of Engineering of such transfer and either;
 - 4.3.1 Provides the City with an undertaking to comply with all the conditions under which the existing Permit was issued and also provides a Security Deposit in accordance with the requirements of Schedule "A" of this By-law; or
 - 4.3.2 Applies for and obtains a new Permit in accordance with the provisions of this By-law.
- 4.4 Where a Permit is issued based on mistaken, false or misleading information, the Director of Engineering shall revoke the Permit, and the Owner and/or the Permit Holder shall ensure that all work that was the subject of the revoked Permit ceases.
- 4.5 A Permit may be revoked by the Director of Environmental Services or the Director of Engineering under any of the following circumstances;
 - 4.5.1 It was issued in error;
 - 4.5.2 The Owner or Permit Holder requests, in writing, that it be revoked;
 - 4.5.3 The terms of the agreement under this By-law have not been complied with;
 - 4.5.4 Work authorized under the Permit has not been commenced prior to its expiry date; or
 - 4.5.5 The Owner fails to comply with subsection 4.3 of this By-law.
- 4.6 If a Permit has expired, been cancelled or revoked after the work has commenced and prior to the completion of Site Alteration, the Owner shall forthwith restore the Site to its original condition or stabilize the Site to the satisfaction of the Director of Environmental Services in a manner that will prevent adverse impacts on the Adjacent properties and the environment.

- 4.7 Where the Director of Engineering refuses to issue a Permit, the applicant shall be informed in writing of the refusal.

5 PROHIBITIONS

- 5.0 No Site Alteration shall be permitted within any areas designated as Environmental Protection Areas as identified under the City's Official Plan or Zoning By-law, as each may be amended or replaced from time to time.
- 5.1 No Person shall permit, perform or cause to permit or to have performed Site Alteration on a Site within the City other than in conformity with this By-law and within the terms and conditions of a Permit issued under this By-law.
- 5.2 Every Person shall comply with an order issued under this By-law.
- 5.3 No Person shall permit or cause to be permitted any Site Alteration activities for storage purposes, unless the storage of such Fill on the Site is permitted by this By-law and the applicable Zoning by-law of the City.
- 5.4 No Person shall permit or cause to be permitted any Site Alteration activities unless:
- 5.4.1 It is done at the request of or with consent of the Owner of the Site where the Fill is to be placed, dumped or removed;
 - 5.4.2 All non native or imported Fill to be placed is clean and free of trash, rubbish, glass, liquid or toxic chemicals and meets the standards set out in the *Soil, Groundwater and Sediment Standards* referenced in O. Reg 153/04, as may be amended from time to time, with respect to all contaminants in the Fill;
 - 5.4.3 The Drainage system for the Site is provided in accordance with this By-law and all other applicable City By-laws and the Director of Engineering is satisfied that the provision has been made where such Drainage is not provided by natural gradients or a Swale;
 - 5.4.4 Erosion and sediment control requirements are met as required by this By-law;
- 5.5 No person shall carry out any Site Alteration on any Site during any period in which a wind warning for the area has been issued by Environment Canada, except for mitigation measures designed to prevent adverse impacts on Adjacent sites and the environment.
- 5.6 No person shall carry out any Site Alteration Adjacent to or within 30 metres of Wetlands, Fish Habitat, significant valley lands, significant woodlands, significant wildlife habitat, habitats of Rare and Endangered Species, Areas of Natural or Scientific Interest and permanent or intermittent streams without having been issued a Permit under this By-law by the Director of Engineering or without having obtained written permission from the Conservation Authority where applicable.
- 5.7 No Site Alteration shall occur on any lands zoned Agricultural unless the owner provides a certificate, signed by a Qualified Person, confirming that the Site Alteration will result in maintaining or improving the overall fertility of the Agricultural Lands.
- 5.8 No person shall permit or cause to be permitted any Site Alteration activities that will result in:
- 5.8.1 Soil erosion;
 - 5.8.2 Blockage of a storm drainage system;
 - 5.8.3 Blockage of a natural Drainage system or Watercourse;
 - 5.8.4 Siltation or pollution in a Watercourse;

- 5.8.5 Flooding or Ponding caused by a Watercourse overflowing its banks;
 - 5.8.6 Unreasonable hindrance of the orderly Development of lands within the City;
 - 5.8.7 Flooding or Ponding on a neighboring property or adverse effect on the amenities Adjacent to the Site to which the Permit relates;
 - 5.8.8 A negative impact on any Environmental Protection Areas or Areas of Natural or Scientific Interest, Wetlands or wetland complex as identified by the Lake Simcoe Region Conservation Authority (LSRCA), Nottawasaga Valley Conservation Authority (NVCA), the Ministry of Natural Resources, or the City;
 - 5.8.9 The contamination of Soil or groundwater;
 - 5.8.10 An adverse effect to archeological or historically significant features.
- 5.9 No Permit shall be issued for proposed Site Alteration that will result in:
- 5.9.1 Soil erosion;
 - 5.9.2 Blockage of a storm Drainage system;
 - 5.9.3 Blockage of a natural Drainage system or Watercourse;
 - 5.9.4 Siltation or pollution in a Watercourse;
 - 5.9.5 Flooding or Ponding caused by a Watercourse overflowing its banks;
 - 5.9.6 Unreasonable hindrance of the orderly development of lands within the City;
 - 5.9.7 Flooding or Ponding on a neighboring property or adverse effect on the amenities Adjacent to the Site to which the Permit relates;
 - 5.9.8 A negative impact on any Environmental Protection Areas or Areas of Natural or Scientific Interest, Wetlands or wetland complex as identified by the Lake Simcoe Region Conservation Authority, Nottawasaga Valley Conservation Authority, the Ministry of Natural Resources, or the City;
 - 5.9.9 The contamination of Soil or groundwater;
 - 5.9.10 An adverse effect to archeological or historically significant features.

6 EXEMPTIONS AND EXCEPTIONS

- 6.0 Sites less than 0.5 hectares in size shall be exempted from the requirements to obtain a Permit provided that:
 - 6.0.1 Such Site is not Adjacent to an Environmentally Protected Area and meets the criteria set out in Section 5.0 and 5.8; or
 - 6.0.2 The Site Alteration does not in any way affect the land Drainage of the abutting sites.

Despite the permit exemption, sites less than 0.5 hectares in size remain subject to, and shall comply with, all other relevant provisions of this By-law, and other applicable by-laws, legislation or regulation of any level of government.

- 6.1 A permit will not be required for a Previously Developed Site where the Site Alteration Area is less than 0.5 hectares in size.

- 6.2 This By-law does not apply:
- 6.2.2 Where no more than 300 mm of soil in depth is placed on sites for the purpose of lawn dressing, landscaping, adding to flower beds or vegetable gardens, provided that:
 - 6.2.2.1 There is no change in the location, direction or elevation of any natural or artificial Watercourse, open channel, Swale or ditch flow rate used to drain land; and
 - 6.2.2.2 There is control of any sediment runoff.
 - 6.2.3 To activities undertaken by the City;
 - 6.2.4 To Site Alteration requirements imposed after December 31, 2002 as a condition to the approval of a Site plan, plan of subdivision or a consent under sections 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;
 - 6.2.5 To Site Alteration requirements 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 the regulation;
 - 6.2.6 To Site Alteration requirements undertaken by a transmitter or distributor, as those terms defined in Section 2 of the *Electricity Act, 1998*, for the purpose of constructing and maintaining a transmission system or a distribution system;
 - 6.2.7 To Site Alteration undertaken as an incidental part of the drain construction under the *Drainage Act, Tile Drainage Act or the Municipal Act, 2001*;
 - 6.2.8 To Removal of Topsoil as an incidental part of normal agricultural practices, sod-farming, greenhouse operations and nurseries for horticultural products. This exception does not include the Removal of Topsoil for sale, exchange or other deposition;
 - 6.2.9 To Site Alteration requirements undertaken on Sites as described in a license for a pit or quarry or a Permit for a wayside pit or wayside quarry issued under the *Aggregate Resources Act*;
 - 6.2.10 To Site Alteration requirements undertaken on Sites in order to lawfully establish and operate or enlarge any pit or quarry;
 - 6.1.10.1 That land has not been designated under the *Aggregate Resources Act* or a predecessor of that Act; and
 - 6.1.10.2 On which a pit or quarry is a permitted land use under a By-law passed under section 34 of the *Planning Act*;
 - 6.2.11 If a regulation is made under section 28 of the *Conservation Authorities Act* respecting the Site Alteration in any area of the City;
 - 6.2.12 To Removal or addition of Topsoil where the quantity of Topsoil removed or added in any one Site does not exceed five (5) cubic metres and does not contravene Section 5.8 of this By-law; or
 - 6.2.13 To Fill that is Placed or Dumped in an excavation to the elevation of Existing Grade following the demolition or Removal of a building or structure.

7 WORK ORDER

- 7.0 If an Enforcement Officer has reasonable or probable grounds to believe that a contravention of this By-law has occurred, the Enforcement Officer may make an order requiring work to be done to correct the contravention.
- 7.1 An order issued under Section 7.0 shall set out:
- 7.1.1 The reasonable particulars of the contravention;
 - 7.1.2 What the Owner must do to rectify the contravention;
 - 7.1.3 The date and time by which the order must be complied with;
 - 7.1.4 A statement that if the work is not done in compliance with the order within the specified time period; the City may have the work done at the expense of the Owner;
 - 7.1.5 Information regarding the City's contact person;
 - 7.1.6 The name of the Owner, the municipal address and the legal description of the Site that is the subject of the contravention.

8 STOP WORK ORDER

- 8.0 If an Enforcement Officer has reasonable or probable grounds to believe that a contravention of this By-law has occurred, the Enforcement Officer may make an order requiring the owner of the land and Person who caused or permitted to be caused the Site Alteration to discontinue all activities on the Site.
- 8.1 An order issued under Section 8.0 shall set out:
- 8.1.1 The reasonable particulars of the contravention;
 - 8.1.2 What the Owner must do to rectify the contravention;
 - 8.1.3 The date and time by which the order must be complied with;
 - 8.1.4 A statement that if the work is not done in compliance with the order within the specified time period, the City may have the work done at the expense of the Owner;
 - 8.1.5 Information regarding the City's contact Person; and
 - 8.1.6 The name of the Owner, the municipal address and the legal description of the Site that is the subject of the contravention.

9 ADMINISTRATION AND ENFORCEMENT

- 9.0 The Director of Environmental Services may delegate any of his/her duties under this By-law.
- 9.1 Enforcement Officers, upon producing the appropriate identification, may enter and inspect any sites, including soil testing and the taking of samples, to determine whether the provisions of this By-law, an order issued under this By-law or a condition of the Permit issued under this By-law have been complied with.

- 9.2 No Person shall hinder or obstruct, or attempt to hinder or obstruct, any Enforcement Officer who is exercising a power or performing a duty under this By-law.
- 9.3 This By-law shall apply to all Site Alteration on all Sites within the City whether such activity occurred prior to the date of the passage of this By-law, or subsequent to the passage of this By-law.

10 SERVICE OF ORDERS

- 10.0 Orders issued by an Enforcement Officer under Section 7.0 and 8.0 shall be served personally upon the Owner or by prepaid registered mail to the last known address of the Owner and any other Person to be served. If served by registered mail, the document shall be deemed received by the Owner 7 days after mailing.
- 10.1 If the City is unable to effect service on the Owner under Section 10.0, a placard containing the terms of the order may be placed in a conspicuous place at the Site and the placing of the placard shall be deemed to be sufficient service of the order on the Owner.

11 WORK TO BE DONE BY THE CITY

- 11.0 If the work required by an order under Section 7.0 and 8.0 of this By-law is not done within the specified period, the City, in addition to all other remedies it may have, may do the work at the Owner's expense and may enter upon the Site, at any reasonable time, for this purpose.
- 11.1 If the costs for work pursuant to Section 11.0 are not paid to the City within 30 days of written demand thereof, the Treasurer may add the costs, including interest, to the tax roll for the Site and collect them in the same manner as municipal taxes.

12 OFFENCE AND PENALTY

- 12.0 Every Person who contravenes any provision of this By-law is guilty of an offence and liable on conviction to a penalty not exceeding \$5,000, exclusive of costs and the provisions of the *Provincial Offences Act, R.S.O. 1990, c. P.33*, as amended, shall apply to said fine.
- 12.1 Every Person who contravenes the provisions of any section of this By-law and every Director or Officer of a Corporation, who knowingly concurs in the contravention by the Corporation, is guilty of an offence under the provisions of the *Municipal Act*.
- 12.2 Every Person who contravenes the provisions of any section of this By-law and every Director or Officer of a Corporation, who concurs in the contraventions by the Corporation, is guilty of an offence and liable on conviction to a penalty where the minimum fine shall not exceed \$500 and a maximum fine shall not exceed \$100,000 exclusive of costs under the provisions of the *Municipal Act*.
- 12.3 For the purpose of Continuous Offences, every Person who contravenes any provision of this By-law and every Director or Officer of a Corporation who knowingly concurs in the contravention of a by-law of the Corporation is guilty of an offence and liable on conviction to a penalty not exceeding \$10,000, exclusive of costs under the provisions of the *Municipal Act*,
- 12.3.1 Notwithstanding Section 12.3 and the provisions of the *Municipal Act 2001*, the total of all daily fines for the offence is not limited to \$100,000.
- 12.5 For the purpose of multiple offences, every person who contravenes any provision of this By-law and every Director or Officer of a Corporation who knowingly concurs in the contravention of a by-

law of the Corporation is guilty of an offence and liable on conviction to a penalty not exceeding \$100,000, exclusive of costs under the provisions of the *Municipal Act 2001*;

12.5.1 Notwithstanding Section 12.5 and the provisions of the *Municipal Act 2001*, the total of all daily fines for the offence is not limited to \$100,000.

13 SEVERABILITY

13.0 If a court or tribunal of complement jurisdiction declares any provision or part of a provision of this By-law to be illegal or unenforceable for any reason whatsoever, then that particular provision or part of the provision shall be severed and the remainder of this By-law shall continue to remain in full force and shall be valid and enforceable to the fullest extent permitted by the law.

14 APPLICATION OF OTHER LAWS AND APPROVALS

14.0 The issuance of a Permit by the Director of Engineering does not relieve the Applicant of the responsibilities of obtaining all other approvals which may be required by the City or any level of government and agencies thereof or from the compliance with any other by-law, legislation or regulation.

15 SCHEDULES

15.0 The following Schedules attached to this By-law form and are part of this By-law:

15.0.1 Schedule "A" Security Deposit;

15.0.2 Schedule "B" Standards for Site Alteration Plans;

15.0.3 Schedule "C" Site Design Guidelines;

15.0.4 Schedule "D" Permit Conditions;

15.0.5 Schedule "E" Application for Site Alteration Permit

15.1 The Schedules identified in Section 14.0 may be amended and/or updated from time to time by the City as approved by the General Manager of Infrastructure and Growth Management.

16 SHORT NAME

16.0 This By-law shall be referred to as the "Site Alteration By-law".

17 REPEAL

17.0 By-law 2006-101, as amended, is hereby repealed.

18 FORCE AND EFFECT

18.0 This By-law shall come into force and have effect immediately upon the final passing thereof.

READ a first and second time **XXX**

READ a third time and finally passed this **XXX**

THE CORPORATION OF THE CITY OF BARRIE

MAYOR – J.R. LEHMAN

CITY CLERK – DAWN A. MCALPINE

SCHEDULE A

SECURITY DEPOSIT

1. A Security Deposit in favour of the City to cover \$5000.00 per hectare of Site Alteration Area is required to cover the total estimated cost of erosion and sediment control measures or Site control measures for the duration of the Permit is required. The City will also require a Security Deposit of \$5,000.00 for damages to roads such as mud tracking and dust control. The Security Deposit shall be in a form acceptable to the City Clerk.
 - 1.1 The Security Deposit must remain in effect for the full duration of the permit. Any Security Deposit and its subsequent renewal forms shall contain a clause stating that thirty (30) days written notice must be given to the City prior to its expiry or cancellation;
 - 1.2 In the event that the City receives notice that a Security Deposit is expiring and will not be renewed, or, if further or additional securities are not provided within the said thirty (30) days, the City may draw on the current Security Deposit at the discretion of the Director of Engineering. The permit holder agrees that any interest accruing on the realized security shall belong to the City and not the Permit Holder.
2. It is the responsibility of the Permit Holder:
 - 2.1 To provide proof satisfactory to both the Director of Environmental Services and the Director of Engineering that the Site has been adequately reinstated and stabilized in accordance with the requirements of this By-law and the Site Alteration Plan accompanying the Permit.
 - 2.2 To request in writing that the City carry out a final inspection to confirm that all relevant terms of this By-law have been complied with.
3. When the provisions of Section 2 of this Schedule have been fully complied with to the satisfaction of the Director of Engineering and the Director of Environmental Services, the Director of Engineering shall release the applicant's Security Deposit or the remaining amount of any reduced Security Deposit.
4. The Permit shall be made available to the applicant within forty (40) working days of receipt of a completed application and provided that all of the required information is presented to the City for review.

SCHEDULE B

STANDARDS FOR SITE ALTERATION PLANS

The Owner shall ensure that the information required for Site Alteration Plans are provided by a Qualified Person. Two (2) certified paper copies and one (1) digital version copy of the Site Alteration Plan are required to be submitted to the Director of Engineering. All plans are to be in metric units and printed from the original drawings with all information provided legible and clear. All plans are to be folded to 8.5" x 11.0" size with the title blocks visible. All elevations shall be tied to the existing City benchmarks and be related to geodetic datum (NAD 83). Digital copies are to be submitted in original software format (ACAD/ARC GIS).

1. GENERAL REQUIREMENTS

The Site Alteration Plan shall be at a scale of 1:500 (or 1:1000 if accepted by the Director of Engineering) and shall include the following requirements:

- 1.1 A key map showing the location of the Site, Site boundaries, number of hectares of the Site, the Site Alteration Area, the Site address or Site number, plan numbers, bearing distance over perimeter, the nearest major intersection, a legend and a north arrow;
- 1.2 The use of the Site and the location and use of the building and other structures Adjacent to the Site;
- 1.3 The location, dimensions and use of the buildings and other structures existing or proposed to be erected on the Site;
- 1.4 The location of driveways on each Site and all basements and right-of-way over, under, across or through each Site;
- 1.5 The location of lakes, streams, wetlands, channels, ditches, other water courses, other water bodies and environmental protection areas on and within thirty (30) metres beyond the site boundary;
- 1.6 The location of the Regional storm flood line and the Conservation Authority Fill regulation lines;
- 1.7 The location and identification of predominant Soil types;
- 1.8 The location and species types of existing vegetative cover, including the species and size of all trees and shrubs;
- 1.9 The location and dimensions of any existing and proposed storm water drainage systems and natural drainage patterns on and within thirty (30) metres beyond the Site boundary;
- 1.10 The location of any easements on the Site;
- 1.11 The location and dimensions of utilities, structures, roads, highways and paving on the Site within thirty (30) metres beyond the Site boundary;
- 1.12 The identification of the proposed Finished Grade elevations of the Site;
- 1.13 The location and dimensions of all proposed Site Alteration activities;
- 1.14 The location and dimensions of all proposed temporary stockpiles for Fill, Soil and other materials;
- 1.15 The location and dimension of all proposed access routes from highways;

- 1.16 The location and dimensions of all proposed staging areas for equipment;
- 1.17 An indication on the drawing of the directions of overland flow and overland flow routes;
- 1.18 A field survey of the existing Site topography at a contour interval not to exceed one half of one metre determined in accordance with the Canadian Geodetic Datum and to extend a minimum of thirty (30) metres beyond the Site boundary with spot elevations along the property line at 0.5-1.0 metre intervals to clearly show the existing Drainage patterns on the Site and the Adjacent Sites;
- 1.19 The location, dimensions, design details and design calculations of all Site control measures, including plan and profile drawings of Erosion and Sediment Controls (ESC) and Storm water management devices, necessary to meet the requirements of this By-law. As required in this By-law for the Sites with more than five (5) ha disturbed at a time, or in a staggered manner, all of which are served by a common discharge location, a Sediment Control Pond or equivalent control measures shall be provided. The design criteria for Sediment Control Ponds is provided in Schedule "C" of this By-law;
- 1.20 Provisions for the maintenance of the Site and control measures and a schedule for monitoring procedures during construction including a mud tracking prevention program which describes the procedure for mud tracking prevention and road clean up and designating a contact Person for such a program throughout each land disturbing and land developing activity;
- 1.21 A schedule of the anticipated start and completion dates of each land disturbing or land developing activity including the installation of erosion and sediment control measures needed at the Site to meet the requirements of this By-law;
- 1.22 Details of Site rehabilitation including the type and location of all interim and permanent stabilization measures;
- 1.23 A certificate on the drawings, executed by a Qualified Person or a Registered Ontario Land Surveyor, in the following form:

"I have reviewed the plans for the construction of _____ located at _____ and have prepared this plan to indicate the compatibility of the proposal to existing adjacent properties and municipal services. It is my belief that adherence to the proposed grades as shown will produce adequate surface drainage and proper facility of municipal services without any detrimental effect to the existing drainage patterns or adjacent properties."
- 1.24 And such other information with respect to the Site as may be required by the Director of Engineering.

2. EROSION AND SEDIMENT CONTROL PLAN

An Erosion and Sediment Control Plan (ESC Plan) shall be completed and submitted as part of the Site Alteration Plan. An ESC Plan shall include but may not be limited to the following requirements:

- 2.1 Project description including the nature and purpose of land disturbing activity, the legal description of the Site, and a reference to Adjacent Sites and landmarks;
- 2.2 Condition of the existing Site including Site use, Site topography, Soils, vegetation, Drainage system, and receiving waters;

- 2.3 Description of areas within the Development Site that have potential for serious erosion or sediment transportation problems;
- 2.4 Description of the features in the drawing as per Section 1 of this Schedule;
- 2.5 A delineation and description of the measures to be undertaken to prevent erosion and to retain sediment on the Site, including but not limited to, the designs and specifications for Swales, dikes, drains, sediment control ponds, and a schedule for their maintenance and upkeep;
- 2.6 A delineation and description of the vegetative measures to be used, including, but not limited to, mulches, types of seeds and fertilizers and their application rates, the type, location and extent of pre-existing and undisturbed vegetation types and a schedule for maintenance and upkeep;
- 2.7 Description of any new Erosion and Sediment Control (ESC) techniques and effective measures provided such techniques are proven to be as or more effective than the equivalent ESC;
- 2.8 Record keeping procedure including sample inspection and maintenance forms. Maintenance record-keeping procedure including name of the Person who will keep the inspection and maintenance records;
- 2.9 An estimate of the cost of implementing and maintaining all interim ESC measures as per standards acceptable to the City; and
- 2.10 The ESC Plan must be stamped, dated and signed by a Qualified Person.

3. FILL MANAGEMENT PLAN

Where excess Fill is to be received at a site, a Fill Management Plan shall be completed by a Qualified Person and submitted as part of the Site Alteration Plan. A Fill Management Plan shall include but may not be limited to the following requirements:

- 3.1 The Qualified Person shall ensure that any excess Fill received at the Site meets the standards set out in the *Soil, Groundwater and Sediment Standards* referenced in O. Reg 153/04, as may be amended from time to time, with respect to all contaminants in the Fill;
- 3.2 The Qualified Person shall ensure that any liquid slurry material received at the Site meets the standards set out in the *Soil, Groundwater and Sediment Standards* referenced in O. Reg 153/04, as may be amended from time to time, with respect to all contaminants in the liquid slurry;
- 3.3 Completion of a pre-Fill Site condition assessment report for Soil and groundwater;
- 3.4 Provide a characterization and pre-approval from all excess Fill source locations prior to the acceptance of any excess Fill at the Site;
- 3.5 Provide a plan for dust and noise controls;
- 3.6 Provide a plan for traffic and transportation management;
- 3.7 Provide details of how each load will be visually inspected to screen for odours, visible staining or debris
- 3.8 Provide details regarding record keeping and establishing written documentation for the tracking of all incoming loads of Fill including;

- 3.8.1 Date and Time of arrival to the Site;
 - 3.8.2 Name and location of the source Site;
 - 3.8.3 Quantity of excess Fill received;
 - 3.8.4 Written confirmation and analytical results provided by the Site Qualified Person acknowledging that the Fill is acceptable for receipt at the Site as well as audit sampling protocols that would be representative of the volume of excess Soil received.
 - 3.8.5 Rejections of any loads of Fill due to visual inspection or review of analytical results.
- 3.9 Once excess Fill is received, written documentation must be provided by the Qualified Person to the Director of Environmental Services confirming the Fill was received and the quality of Fill was appropriate;
 - 3.10 Plans for Fill placement and segregation shall also be developed by the Qualified Person that include provisions for ensuring that Fill from each source is deposited in segregated locations within the Fill area so that it can be assessed and, if necessary, remediated;
 - 3.11 Contingency plans outlining actions to be taken if audit sampling or other information identifies concerns with Fill quality from a source site;
 - 3.12 Retaining Walls are required if the Finished Grade of the Site is higher than that of the Existing Grade of the Adjacent Sites. The details of the Retaining Wall including dimensions shall be duly signed by a Qualified Person.

SCHEDULE C

SITE DESIGN GUIDELINES

Site Alteration shall prevent the impairment of water, groundwater and Soil quality as well as the off-site effects of Soil Erosion and sedimentation. All Site Alteration activities shall be performed in accordance with the *Erosion & sediment Control Guideline for Urban Construction* as prepared by the Greater Golden Horseshoe Area Conservation Authorities dated December 2006 as may be amended and updated from time to time, federal, provincial, LSRCA, NVCA, City standards and any other applicable legislation that may apply. The Site control measures outlined in this schedule shall be deemed conditions of every Permit unless waived in writing by the Director of Engineering.

1 SITE DEWATERING

- 1.1 Dewatering operations may be conducted provided that water is not permitted to discharge directly into the receiving Body of Water and meets federal, provincial and municipal water quality requirements set forth through legislation; and
- 1.2 Water pumped from the Site shall be treated by structural devices such as sediment control ponds, grit chambers, sand filters, up-flow chambers, swirl concentrators or other appropriate controls.
- 1.3 If water is demonstrated through laboratory analysis to meet the requirements set forth in the City's Sewer Use By-law, then dewatering operations may be conducted provided water is not permitted to discharge directly into a receiving Body of Water.
- 1.4 Where a Permit to Take Water from the Ministry of the Environment (MOE) is required for the Site, the Applicant shall obtain a written approval from the City by way of a discharge agreement to discharge through the City's Sewer Use By-law 2012-172 as may be amended or replaced from time to time.

2 DRAIN INLET PROTECTION

- 2.1 All storm drain inlets shall be protected with filter fabric or equivalent barriers so as not to admit sediment-laden run-off from the disturbed areas and the control measures must meet the standards and specifications accepted by the Director of Engineering.

3 SITE EROSION AND SEDIMENT CONTROL PRACTICES

The Site Alteration Plan should consider the following types of controls;

- 3.1 Stabilization practices for Soil erosion and sediment control are commonly of three types:
 - 3.1.1 Vegetative stabilization practices such as temporary seeding, sod stabilization, permanent seeding and planting, maintenance of buffer zone, and preservation of natural vegetation;
 - 3.1.2 Non-vegetative stabilization practices such as mulching, geo-textiles, Soil-retaining measures and stream bank stabilization; and
 - 3.1.3 In-stream stabilization practices such as temporary stream crossings, cofferdams, dry flumes, sediment curtains, by-passes or full diversions, and de-watering.

- 3.2 Runoff velocity dissipation measures, which slow down the runoff flowing across the Site by using measures such as check dams, surface roughening and gradient terraces;
- 3.3 Stormwater runoff controls, which prevent runoff from flowing across disturbed areas by using measures such as earth dikes, Drainage Swales and drains;
- 3.4 Structural practices such as temporary sediment control ponds, which hold storm water runoff in a controlled fashion and remove sediments in the storage device; and
- 3.5 In the event that a sediment control pond cannot be constructed to service the entire Site (i.e., capture all runoff from the Site), the reasons must be documented and alternative control measures must be implemented. Other sediment control measures, which remove sediments from runoff before it leaves the Site, include silt fences, sediment traps, storm drain inlet protection, filter fabrics, and straw bale barriers.

4 SEDIMENT CONTROL POND

- 4.1 As required in this By-law, for Sites with more than five (5) ha disturbed at a time, or in a staggered manner, all of which are served by a common discharge location, a series of Sediment Control Ponds shall be provided.
- 4.2 Sediment Control Pond Design should be as follows:
 - 4.2.1 The Sediment Control Pond shall be constructed prior to topsoil stripping or fill placement;
 - 4.2.2 The sediment control pond and conveyance channels shall be located in such a way that the runoff will be captured and conveyed from the entire Site Alteration Area to the pond;
 - 4.2.3 The sediment control pond volume shall consist of both permanent pool and active storage component. The permanent pool component should be sized for a minimum 125 m³/ha or the volume required equivalent to an "Enhanced Protection" water quality control under the latest MOE SWM Planning and Design manual, whichever is greater. The active storage volume component should be sized for a minimum of 125 m³/ha of runoff or the latest MOE, LSRCA/ NVCA requirements, whichever is greater and released over a minimum 24-hour period;
 - 4.2.4 The depth to width ratio should be three (3) or greater but less than six (6) (ideally 4:1). Interior side slopes should be 3:1. Basin depth should be a minimum of 1.0 metres to avoid re-suspension of previously settled out sediment and less than 2.5 metres;
 - 4.2.5 To maintain continuous function during the land disturbance period, the Site Alteration Plan shall provide the maintenance schedule. The sediment control pond must be cleaned once the designed permanent pool volume has been reduced by 50%. To verify sediment accumulation, the sediment control pond should be measured at least on a monthly basis from the start of land disturbance. Material that is dredged from a pond shall be stored on the lot in a suitable location; and
 - 4.2.6 A Qualified Person shall be assigned by the owner of the Site to oversee erosion and sediment control practices on the Site and perform the necessary assessments through the duration of the construction and stabilization period. Records of all monitoring, inspections, and repair works shall be documented to effectively identify and track areas of susceptibility and plan for future maintenance works, as well as, to share or report the information to other Site personnel. The inspection forms/reports shall be posted and

presented for any agency staff visiting the site as evidence that due diligence was afforded to the implementation and maintenance of the approved Permit.

5 LAND DISTURBING ACTIVITIES THAT RESULT IN RUNOFF LEAVING THE SITE

- 5.1 All the activities on the property shall be conducted in a phased manner subject to the satisfaction of the Director of Engineering to minimize the area of bare Soil exposed at any one time.
- 5.2 Concentrated runoff from adjacent areas passing through the Site shall be diverted around disturbed areas, if practical. Otherwise, the channel shall be protected by cut-off Swales and/or silt fences being placed along channel edges to avoid sediment from disturbed areas reaching the channel.
- 5.3 Any topsoil or dirt storage piles containing more than one hundred cubic metres (100m³) of material shall not be located less than ten (10) metres from or up the slope from a roadway, building structure or channel. If remaining for more than thirty (30) days, said Soil or Fill storage piles shall be stabilized by mulching, vegetative cover, traps or other means. Erosion from Soil or Fill storage piles which will be in existence for less than thirty (30) days shall be controlled by sediment control fence (i.e., silt fence) barriers around the pile.
- 5.4 All Topsoil stockpiled, prior to the passing of this By-law shall be subject to the provisions of this By-law.
- 5.5 Runoff from the entire Site Alteration Area on the Site shall be controlled as follows:
 - 5.5.1 All disturbed areas that has been stripped of Topsoil shall be stabilized by seeding, sodding, mulching, or other acceptable control measures. The period of time of inactivity shall not exceed thirty (30) days unless otherwise permitted by the Director of Environmental Services.
 - 5.5.2 Notwithstanding the above paragraph, a Permit Holder or Applicant for a Permit who has also applied for but not yet received a building permit or any other necessary permit may be granted an extension to the permitted period of inactivity, at the discretion of the Director of Environmental Services, provided that the applicant or Permit Holder provides satisfactory proof that he/she has made his/her best efforts to have said building or other necessary permit issued. Fees for the extension will be deferred for the period of inactivity if the Site is secured in a manner satisfactory to the City;
 - 5.5.3 For Sites less than five (5) hectares disturbed at one time, sediment control fences and cut-off Swales/ channels or equivalent control measures shall be placed along all down-slope boundaries of the Site;
 - 5.5.4 For Sites Adjacent to existing residential areas, a fence and cut-off swale/channel may be required around the entire perimeter of the Site to prevent Drainage onto private lands. A three (3) metre wide buffer strip and/or sediment control fence shall be provided along the perimeter of the down-slope boundaries of the Site;
 - 5.5.5 The *Erosion & Sediment Control Guideline for Urban Construction* prepared by the Greater Golden Horseshoe Area Conservation Authorities, the Ministry of Natural Resources for the Province of Ontario, or City standards are to be followed; and
 - 5.5.6 For Sites with extensive Fill requirements, the Director of Environmental Services may waive the requirements for stabilization of disturbed areas after thirty (30) days of

inactivity provided that the sediment control measures have been implemented to the satisfaction of the Director of Environmental Services.

- 5.6 All waste and unused building materials (including garbage, cleaning wastes, wastewater or any hazardous materials) shall be properly disposed of and not allowed to be mixed with Soil and carried by runoff from the Site into a receiving Watercourse or storm sewer system.
- 5.7 Precautions shall be taken to ensure that mud will not be tracked offsite by any vehicle exiting the Site.
- 5.8 Rehabilitation shall take the form of:
 - 5.8.1 Leveling and regrading of the affected lands, the planting of trees, shrubs and other vegetation or other landscaping; and
 - 5.8.2 The replacement of Topsoil to a minimum depth of ten (10) cm and the stabilization by either sodding, hydro-seeding, mulching, or such other methods as approved by the Director of Environmental Services.

SCHEDULE D

PERMIT CONDITIONS

1 All Permit Holders under this By-law shall:

- 1.1 Notify the Director of Engineering within 48 hours prior to any Site Alteration activity;
- 1.2 Notify all residents, within a 500 metre radius of the Site, three (3) weeks before the commencement of Site Alteration;
- 1.3 Notify the Director of Engineering of the completion of any erosion and sediment control measures, within 48 hrs after installation;
- 1.4 Notify the Director of Engineering of the Removal of any erosion and sediment control measures, within 48 hrs after decommissioning;
- 1.5 Obtain permission in writing from the Director of Engineering prior to modifying the Site Alteration Plan;
- 1.6 Install all erosion and sediment control measures, as identified in the approved Site Alteration Plan, prior to Soil Stripping;
- 1.7 Maintain all road Drainage systems, stormwater Drainage systems, control measures and other facilities identified in the approved Site Alteration Plan;
- 1.8 Repair any erosion or sedimentation damage to adjoining surfaces and Watercourses resulting from Site Alteration activities;
- 1.9 Inspect the erosion and sediment control measures at least once per week and after each rainfall and provide written inspection reports to the City. Complete any repairs within 48 hours to the satisfaction of the Director of Environmental Services;
- 1.10 Allow employees of the City and/or any other person(s) working on behalf of the City, to enter the Site for the purpose of inspecting for compliance with the approved Site Alteration Plan or for performing any work necessary to bring the Site into compliance with the approved Site Alteration Plan;
- 1.11 Maintain a current approved copy of the Site Alteration Plan and the Permit on the Site, as well as, copies of all inspection reports, at all times;
- 1.12 Be responsible for the activities of agents, servants, employees, contractors and subcontractors who may create a situation of non-compliance of the Permit;
- 1.13 Construct additional erosion and sediment control measures, not identified in the Site Alteration Plan, as deemed necessary by the Director of Environmental Services to ensure no erosion and sediment damage to the Adjacent Sites; and
- 1.14 Not remove trees or other vegetation designated as environmentally significant or otherwise to be protected unless permission is obtained from the City;

2 The City may:

- 2.1 Inspect the Site periodically to ensure compliance with the By-law, particularly the Site Alteration Plan, that was approved as part of the Permit;
- 2.2 Upon failure by the Permit Holder to complete all or part of the works in the time stipulated in the approved Site Alteration Plan, draw the appropriate amount from the Securities deposited and use funds to arrange for the completion of the said works, or any part thereof;
- 2.3 Upon failure by the Permit Holder to install, repair, maintain or decommission a specific erosion and sediment control as requested by the City, and in the time requested, authorize the use of all or part of the Securities to pay for the associated costs incurred, at the Director of Engineering discretion as deemed necessary at any time; or
- 2.4 In the case of emergency repairs or clean-up, undertake the necessary works at the expense of the Permit Holder and reimburse itself out of Securities posted by the Permit holder; and
- 2.5 Inform the Applicant, where necessary, that additional information is required to ensure that erosion and sediment damage does not occur to Adjacent Sites from the activities on the Site.

PROPERTY INFORMATION

Address:

Registration Plan Number:

Roll Number:

Lot/ Block Number(s):

Conc. & Lot Number:

19TM Number:

QUALIFIED PERSON AND/OR CONSULTANT INFORMATION

Company Name:

Contact Person:

Surname:

First name:

Position:

Address:

Contact Information:

Telephone:

Cell:

Fax:

Email:

After hours Contact Information:

Surname:

First name:

Telephone:

Cell:

Email:

Legal Name for Use with Agreements:

Designate to Which All Correspondence Will be Sent:

CONTRACTOR INFORMATION

Company Name: _____

Contact Person: Surname: _____
First name: _____
Position: _____

Address: _____

Contact Information Telephone: _____
Cell: _____
Fax: _____
Email: _____

After hours Contact Information: Surname: _____
First name: _____
Telephone: _____
Cell: _____
Email: _____

Legal Name for Use with Agreements: _____

Designate to Which All Correspondence Will be Sent: _____

APPLICATION REQUIREMENTS

Proposed Start Date: _____
Proposed Completion Date: _____

Site Area: _____ ha
Site Alteration Area Size: _____ ha

Required & Included:

- Completed Application**
(as per Section 3.1.1)
- Applicable Application Permit Fees**
(as per Section 3.1.2)
- Securities**
(as per Section 3.1.3)
- Proof of Liability Insurance**
(as per Section 3.1.4)
- Site Alteration Plan (2 copies)**
(as per Section 3.1.5)

Notes of Explanation

OWNER'S AUTHORIZATION (If an Agent is used)

The Owner must complete this section. For more than one owner, a separate authorization from each individual or corporation is required. Attach an additional page or pages in the same format as this authorization, if necessary.

I, _____ being the registered owner of the subject Site, hereby authorize _____ (*print agent's name*), to submit the above application to the City of Barrie for approval thereof.

Signature:

Date:

Name of Signatory:

Title:

APPLICANT'S CERTIFICATION

THE APPLICANT has read the Site Alteration By-law and Schedules and agrees to abide by all the conditions therein.

I, hereby make the above application for Site Alteration, declaring that all information contained herein is true and correct, and acknowledging the City of Barrie will process the application based upon the information provided.

Signature:

Title:

**APPENDIX B
TO STAFF REPORT ENV005-14**

Site Alteration By-law Fees Structure

SCHEDULE E: Engineering Department- Section 2 (Development Fees)

FEE

Permit Application Fees	
Minor Permit (Site Alteration Area equal to or less than 5.0 ha)	\$1,500.00
Major Permit (Site Alteration Area greater than 5.0 Ha)	\$3,000.00

Security Fees	
Site Alteration Area Fee (\$5,000.00 per Hectare of Site Alteration Area) as per Schedule A.	\$5,000.00 /ha of Site Alteration area
Security Deposit for damages to roads such as mud tracking and dust control as per Schedule A.	\$5,000.00
The City may engage legal, engineering, environmental, landscape consultants to evaluate studies and/or agreements in which case the costs incurred will be charged back to the applicant.	Full Cost Recovery plus a 25% Administration Fee

Inspection Fees	
Inspection Fee	\$80.61 /hr

Permit Renewal Fees	
Permit Renewal Fee (if renewed before permit expires)	
Minor Permit	\$1,200.00
Major Permit	\$2,500.00

Permit Amendment Fees	
Permit Amendment Fee	\$250.00
Amendment Fee due to noncompliance	
Minor Permit	\$400.00
Major Permit	\$1,150.00

SCHEDULE J: Roads, Parks and Fleet and Environmental Services
Department- Environmental Response

FEE

Inspection Fees	
Inspection Fee	\$80.61 /hr

Enforcement Fees	
1st Time Offence for a Work Order	\$160.00
2nd Time Offence for a Work Order	\$400.00
Stop Work Order	\$560.00

APPENDIX C

TO STAFF REPORT ENV005-14



What Work have City Staff completed to date?

- Staff reviewed approximately 30 different Site Alteration By-laws from Ontario municipalities that were local, of similar size and that recently passed Site Alteration By-laws. Staff also reviewed industry best practices, independent reports, legislation and industry research in support of the draft By-law.
- Staff completed a series of training sessions around surface water quality and erosion and sediment control and held a number of sessions with all of the departments involved in Site Alteration to develop and review the proposed draft.
- Internal Process Flow charts were developed to assist staff in identifying roles when operating under the new By-law. An internal process has been identified for; Application Process, Internal Distribution of Works, A silt complaint or silt spill has been observed, Tree Preservation Enforcement and Where a Permit Holder fails to comply with an order.
- Staff presented the proposed By-law to the Infrastructure and Growth Management Divisional Management Team on June 10, 2014 and received comments from DMT regarding the By-law.
- Staff presented the proposed By-law to the Executive Management Team on June 24, 2014 and received comments.
- Staff shared the proposed By-law with the Ontario Ministry of the Environment, the Lake Simcoe Region Conservation Authority and the Nottawasaga Valley Conservation Authority to receive comments. Comments were received from these regulatory agencies and the City has full support with moving this By-law forward from these agencies.
- Staff conducted a presentation to the Development community on July 24, 2014 which was opened to landowners in the Annexed lands as well as the Simcoe County Homebuilders Association. The presentation was followed by a question and answer period which was well received.

How will lands within the City of Barrie be affected?

- All Site Alteration activities within the City limits will be governed by the By-law regardless of the property size. The size of the Site Alteration will determine whether the Site requires a permit.
- Lands that are zoned Agricultural cannot be altered by Site Alteration activities. These lands will have to be re-zoned prior to obtaining a permit (i.e. Annexed Lands).

What will be required under the new By-law to obtain a permit?

- A Qualified Person must now prepare the requirements needed to obtain a Site Alteration permit. This process will streamline the approach for Sites moving into Site Plans and Subdivision Agreements. A qualified person will need to complete a detailed Site Alteration Plan including an Erosion and Sediment Control (ESC) Plan. Where Fill is to be received at a site, a Fill Management Plan will also be required.

What else has changed?

- The Site Owner/Applicant will be required to notify the area residents at least 3 weeks prior to Site Alteration activities commencing (500m radius for notification in addition to a placard on the site).

APPENDIX C

TO STAFF REPORT ENV005-14



Proposed Site Alteration By-law Consolidated Revisions

- The Site Owner/Applicant will be required to notify the Director of Engineering 48 hours before Site Alteration activities commence.
- The Director of Engineering will have the ability to place special permit conditions on any Site Alteration Permit. This is important where development is occurring around sensitive lands.
- Liability and Proof of Insurance and securities sections have been strengthened by the assistance of the Deputy Treasurer and Insurance Risk Examiner.

How will noncompliance issues be handled?

- Engineering Inspection Staff will identify noncompliance and Environmental Officers will follow-up if items are not addressed.
- Work Orders/ Stop Work Orders are new enforcement tools that will assist Enforcement Officers with Site Alteration By-law noncompliance. New Enforcement Fees should encourage noncompliance cooperation if orders are not followed.

Will the City be recovering all of our costs under the new By-law?

- The current By-law (2006-101) was never updated to update permit costs. The proposed By-law will take all costs associated with applications for permitting, inspections and enforcement and they will be reflected in the Fees By-law as follows:

Application Fees

- Minor Permit Application Fee- \$1,500.00 (up to 5 ha of Site Alteration)
 - Permit is valid for 1 year from the date of issuance and includes a full review of the permit application information and the cost of 12 monthly inspections.
- Major Permit Application Fee- \$3,000.00 (Greater than 5 ha of Site Alteration)
 - Permit is valid for 1 year from the date of issuance and includes a full review of the permit application information and the cost of 12 monthly inspections.

Renewal Fees

- Minor Permit Renewal Fee- \$1,200.00
 - Permit will be renewed for an additional 1 year from the date of renewal and includes a full review of the permit application information and the cost of 12 monthly inspections.
- Major Permit Renewal Fee- \$2,500.00
 - Permit will be renewed for an additional 1 year from the date of renewal and includes a full review of the permit application information and the cost of 12 monthly inspections.

Inspection Fees

- Additional Inspections/ more frequent inspections will be charged at \$80.61/hour

Enforcement Fees

- 1st Time Work Order Offence- \$160.00
- 2nd Time Work Order Offence- \$400.00
- Stop Work Order Offence- \$560.00

APPENDIX C

TO STAFF REPORT ENV005-14

The City of
BARRIE Proposed Site Alteration By-law Consolidated Revisions

- Enforcement Fees will be applied where a Site Owner/ Applicant fails to complete the required work identified in the work/stop work order report by the required deadline. This is to encourage compliance with the By-law.

Amendment Fees

- Permit Amendment Fee- \$250.00

Amendment Fee due to noncompliance

- Minor Permit- \$400.00
- Major Permit- \$1,150.00
- Where there is a need to amend a permit due to a noncompliance issue that should have been resolved by an amendment, the above fees will apply.

Securities

- Securities will protect actions taken by the City in dealing with Site Alteration noncompliance. Securities will be set at \$5,000 per hectare of site alteration area. Additional securities are required for damages to City roads, mud tracking and dust control which is set at \$5,000.00.

What about active Site Alteration Permits?

- All sites operating under a permit prior to the By-law being updated will have to renew their permit by January 1, 2015.

What else needs to be done by Staff?

- Conditions in Subdivision and Site Plan Agreements will need to be consistent with requirements presented in the new By-law. Enforcement Tools will also need to be worked into these processes at that time.
- Municipalities across Ontario are participating in Inspection and Enforcement Staff Training through the Certified Inspector of Sediment and Erosion Control Program (CISEC). City Staff have recommended that various staff from the Infrastructure and Growth Management Division attend this course and/or obtain this certification. The City will be hosting this course in collaboration with the Lake Simcoe Region Conservation Authority, Toronto Region Conservation Authority and CISEC Canada on September 25/26 at the Dorian Parker Centre on Sunnidale Road.

