TO: CHAIR AND MEMBERS – PLANNING COMMITTEE

FROM: R. W. PANZER
GENERAL MANAGER OF PLANNING AND DEVELOPMENT

SUBJECT: CITY OF LONDON
SITE ALTERATION BY-LAW
MEETING ON DECEMBER 11, 2006

RECOMMENDATION

That, on the recommendation of the General Manager of Planning & Development, that the attached draft Site Alteration By-law BE CIRCULATED for review and comment by Municipal Departments, local agencies, organizations and individuals that may have an interest in the new by-law and brought back with recommendations to a future public meeting of Planning Committee.

BACKGROUND

Site alteration is defined as the “placing or dumping of fill, removal of topsoil, or the alteration of the grade”. In 1996, the City passed its first Site Alteration By-law. This by-law was prepared in response to development pressures in areas which were deemed to be of natural heritage significance. The original by-law was approved to address site alteration activities within areas designated as “Environmental Protection Areas”.

The by-law was amended in 2001 and further amended in 2003 to require a site alteration permit for alterations proposed within any Environmental Protection Area (ie any ESA or lands designated as Open Space) or any land that was subject to a draft plan of subdivision.

AMENDMENTS TO THE MUNICIPAL ACT

The Municipal Act 2001 was amended in May 2003 and the amendments provided greater authority to municipalities with regard to site alteration activities. These changes include:

- In addition to the authority to prohibit or regulate the placing or dumping of fill, the authority to regulate and prohibit the removal of topsoil;
- The authority to require rehabilitation of land where topsoil has been removed and to require restoration of the land to its original grade (including any plans required by the municipality relating to the topsoil removal/rehabilitation); and
- Increased fines for violators. The original maximum fine for an offence was $5000. this has been increased to maximum fines of $10,00 for the first conviction and $25,000 for subsequent convictions. Also, a municipality may obtain a court order after a conviction to require the person convicted of the offence to rehabilitate and restore the original grade of the land.

Based on the changes to the Municipal Act, staff from the Environmental and Engineering Department, Planning and Development Department and Legal Services carried out a review of the current Site Alteration By-law (C.P. -1363(c)-13). Attached is a copy of the current Site Alteration By-law and a draft of the proposed Site Alteration by-law which incorporates the changes to the Municipal Act and provides further direction and guidance for site alteration activities in the City.

The remainder of this report identifies the major changes between the current Site Alteration by-law (C.P. -1363 (c)-13) and the proposed Site Alteration By-law.
WHAT ARE THE PROPOSED CHANGES TO THE SITE ALTERATION BYLAW (C.P.-1363(C)-13)?

The following table provides a comparison of the structure of the existing site alteration by-law and the proposed by-law.

<table>
<thead>
<tr>
<th>Part</th>
<th>Bylaw C.P.-1363(C)-13</th>
<th>Proposed Site Alteration Bylaw</th>
</tr>
</thead>
<tbody>
<tr>
<td>Part 1</td>
<td>Definitions</td>
<td>Definitions</td>
</tr>
<tr>
<td>Part 2</td>
<td>Exemptions</td>
<td>Definitions</td>
</tr>
<tr>
<td>Part 3</td>
<td>Prohibitions</td>
<td>Exemptions</td>
</tr>
<tr>
<td>Part 4</td>
<td>Requirements for an Application</td>
<td>Prohibitions</td>
</tr>
<tr>
<td>Part 5</td>
<td>Requirements for an Issuance of a Permit</td>
<td>Requirements for an Issuance of a Permit</td>
</tr>
<tr>
<td>Part 6</td>
<td>Appeals</td>
<td>Issuance of a Permit</td>
</tr>
<tr>
<td>Part 7</td>
<td>Administration</td>
<td>Appeals</td>
</tr>
<tr>
<td>Part 8</td>
<td>Enforcement</td>
<td>Administration and Enforcement</td>
</tr>
<tr>
<td>Part 9</td>
<td>Effective Date</td>
<td>Order to Discontinue Activity</td>
</tr>
<tr>
<td>Part 10</td>
<td>N/A</td>
<td>Work Order</td>
</tr>
<tr>
<td>Part 11</td>
<td>N/A</td>
<td>Remediation</td>
</tr>
<tr>
<td>Part 12</td>
<td>N/A</td>
<td>Penalty</td>
</tr>
<tr>
<td>Part 13</td>
<td>N/A</td>
<td>Repeal</td>
</tr>
<tr>
<td>Part 14</td>
<td>N/A</td>
<td>Severability</td>
</tr>
<tr>
<td>Part 15</td>
<td>N/A</td>
<td>In Force</td>
</tr>
</tbody>
</table>

The following is a brief synopsis of the major changes to each section.

Definitions

The definitions part of the existing by-law has been expanded from 12 definitions to 22 definitions. Terms such as: “development”, “proposed rough grade”, “land disturbance”, “litter and debris”, “mud tracking”, “site alteration”, and “topsoil” have been identified to provide greater clarity for both the applicant and City staff when dealing with site alteration applications.

Exemptions

The existing by-law exempts lands which do not have a draft approval for a plan of subdivision and lands which are not defined as an Environmental Protection Area (2.1 f) and j) of current by-law. The proposed by-law does not exempt lands which do not have draft plan approval or lands which are not defined as an Environmental Protection Area. This change provides the City with greater control over major site alteration activities. Exemptions have been permitted for minor gardening activities and to address the need for grade alterations following the demolition of structure.

Exemptions for the placing or dumping of fill, removal of topsoil or alteration to grades which relate to applications/approvals under the Planning Act (ie site plans, plan of subdivision), the Electricity Act (public utilities works), the Drainage Act, the Tile Drainage Act and the Conservation Authorities Act have also been included in the proposed by-law.
Prohibitions

As previously noted, the Municipal Act 2001 was amended in May 2003 and in addition to the authority to prohibit or regulate the placing or dumping of fill, the Act provides the authority to regulate and prohibit the removal of topsoil. As a result, the regulation to prohibit the removal of topsoil has been incorporated throughout the proposed by-law.

As noted above (see Exemptions section) one of the main differences between the existing by-law and the proposed by-law is that site alteration activities will be prohibited in all locations (without a permit), not just within Environmental Protection Areas (EPAs). In order to allow for limited site alteration, the proposed by-law does propose that no permit be required if the area of land is 2 hectares or less and:

i) is not part of an Environmental Protection Area; or
ii) is not within 30 metres of an Environmental Protection Area.

Requirements for Issuance of Permit

The proposed by-law provides greater details on submission requirements for permits for site alteration (ie scale of plans, overland flow routes, sediment and erosion control measures, etc). The application must also include information such as the location of EPA's within 30 metres of the site; locations of water courses; location of known land fill sites; flood fringe, flood plan and Conservation Authority Fill regulation lines and tree preservation areas.

Issuance of a Permit

The proposed by-law notes that permits are valid for one year and that they may be renewed within 180 days of expiry. It also notes that the permit shall expire 180 days after issuance if works have not commenced. The proposed by-law also provides the typical conditions which may be imposed to a site alteration permit (see Schedule B). These revisions to the existing by-law will provide tighter controls on the length of time a permit is valid and will inform the applicant up front on what types of conditions will be attached to the site alteration permit.

Appeals

There were minor changes to the Appeals part of the existing by-law. The recommended changes are to provide greater clarity to the appeal process.

Administration and Enforcement

The existing by-law notes that the Commissioner of Planning and Development (or designate) is responsible for administering and enforcing the Site Alteration By-law. The new by-law proposes that the administration and enforcement shall be performed by the General Manager of Planning and Development, the Chief Building Official, the Manager of Subdivisions and Special Projects and the Manager of Parks Planning and Design (and any other officers as designated). More importantly, the general enforcement of the by-law will be performed by municipal law enforcement officers who are more familiar evidence taking and requirements associated with prosecutions.

Order to Discontinue Activity and Work Order

The existing by-law provides officers with the power to make an "order". Under the proposed by-law an officer can make an "order to discontinue activity" which is required if a contravention to the by-law has occurred. The officer can also make a "work order" which requires the owner to perform work to correct the contravention. These two new sections to the by-law (Parts 8 and 9) provide the details of these types of orders.
Remediation
This section replaces Part 7.6.1 of the existing site alteration by-law. It provides greater detail and outlines person's responsibilities when they dump fill, remove topsoil and alter grades contrary to the by-law.

Penalty
As previously noted the Municipal Act 2001 was amended in May 2003 and the amendments provided greater authority to municipalities to increase fines for violators. The original maximum fine for an offence was $5000. This has been increased to maximum fines of $10,000 for the first conviction and $25,000 for subsequent convictions. Also, a municipality may obtain a court order after a conviction to require the person convicted of the offence to rehabilitate and restore the original grade of the land. This new fine structure has been incorporated into the proposed site alteration by-law.

CONCLUSION

The proposed Site Alteration By-law incorporates the changes to the Municipal Act and provides greater direction for staff and applicants with respect to the site alteration process.

PREPARED BY:  
ALLISTER MACLEAN 
SENIOR PLANNER

SUBMITTED BY:  
D. N. STANLAKE 
MANAGER OF SUBDIVISION AND SPECIAL PROJECTS

RECOMMENDED BY:  
R. W. PANZER 
GENERAL MANAGER OF PLANNING AND DEVELOPMENT

November 28, 2006
AM/am
"Attach."
Bill No. 14
2003

By-law No. C.P.-1363(c)-13

A by-law to amend By-law No. C.P.-1363-381 entitled, "A by-law to prohibit and regulate the placing of fill and the alteration of the grade of land in defined areas of the City of London".

The Municipal Council of The Corporation of the City of London enacts as follows:

1. Section 1.1 of Part 1 - DEFINITIONS of By-law No. C.P.-1363-381, is amended by deleting therefrom the definition for "Commissioner".

"Commissioner" shall mean the Commissioner of Planning and Development for The Corporation of the City of London or his/her designate.

2. Section 1.1 of Part 1 - DEFINITIONS of the said By-law, is further amended by adding thereto the following new definitions:

"Draft Plan of Subdivision" shall mean the draft plan of the proposed subdivision pursuant to section 51 of the Planning Act, R.S.O. 1990, as amended

"General Manager" shall mean the General Manager of Planning and Development for The Corporation of the City of London or his/her designate

3. Section 2.1 of Part 2 - BY-LAW - PROVISIONS NOT APPLICABLE - VARIOUS of the said By-law, is amended by adding thereto the following new part (j):

"(j) in areas which do not have "draft plan of subdivision" approval".

4. Section 3.1 of Part 3 - GRADE ALTERATION - PERMIT REQUIRED of the said By-law, is deleted and the following new section 3.1 is enacted in its place:

3.1 GRADE ALTERATION - PERMIT REQUIRED

Unless otherwise exempted by this by-law, no person shall alter the grade of land or place or dump fill within any Environmental Protection Area or on any land that is subject to a draft plan of subdivision without having first obtained a permit issued by the General Manager.

5. Section 4.1 of Part 4 - APPLICATION REQUIREMENTS - PERMIT of the said By-law, is deleted and the following new section 4.1 is enacted in its place:

4.1 APPLICATION REQUIREMENTS - PERMIT

A person applying for a permit to alter the grade of land or place or dump fill within any Environmental Protection Area or on any land that is subject to a draft plan of subdivision shall submit a completed application form, along with the required plans and information to the General Manager.

6. Section 5.1 of Part 5 - PERMIT ISSUANCE - REQUIREMENTS - VARIOUS of the said By-law, is amended in line 1 by deleting therefrom the words "The Commissioner shall issue a permit where:" and by substituting therefor the words:

"In an Environmental Protection Area, the General Manager shall issue a permit where;"

7. Part 5 - REQUIREMENTS FOR ISSUANCE OF A PERMIT of the said By-law, is further amended by adding the following as a new section 5.1.1:

5.1.1 PERMIT REQUIREMENTS - DRAFT PLAN

In an area that is subject to a draft plan of subdivision, the General Manager shall issue a permit where:

(a) the applicant has fulfilled all requirements pursuant to this by-law;
(b) the proposed activity is pursuant to meeting the conditions of draft plan of subdivision approval;

(c) the General Manager is satisfied that the proposed site alteration (including any protective measures) will not result in:

(i) drainage patterns of adjacent properties being adversely disturbed;

(ii) any other works commencing on site until all pertinent approvals are in place;

(iii) undue dust problems for adjacent properties;

(iv) any existing City street being fouled with dirt, mud or debris;

(v) any existing City street being used for construction access purposes except those routes designated for construction access by the City Engineer;

(vi) any on-site burning of material without prior approval of the Fire Department;

(vii) any negative impact on groundwater levels except those which are approved by the City Engineer; and

(viii) any non-compliance with any relevant conditions of subsection 5.1(c) of this by-law;

(d) registration of the subdivision agreement on title is expected within four (4) months;

(e) the City is in receipt of the first submission of engineering drawings for the area (or portion thereof) of draft plan of subdivision approval; and

(f) the owner, if required, enters into an agreement which may be registered on title to the subject lands containing such conditions as the General Manager considers necessary to ensure that the site alteration and any protective measures will be undertaken in accordance with the approved plans and information. Such agreement may contain a provision that the applicant post with the City security in an amount determined by the General Manager, to ensure performance of the obligations under the agreement."

Section 5.5 of Part 5 – COMMISSIONER – IMPOSITION OF CONDITIONS of the said By-law, is deleted and the following new section 5.5 is enacted in its place:

5.5 COMMISSIONER – IMPOSITION OF CONDITIONS
The General Manager may impose conditions to permit as in the opinion of the General Manager are reasonable to ensure that the proposed site alteration is consistent with the provisions of Section 5.1 or Section 5.1.1 of this by-law.

Part 7 – NOTICE – CONTRAVENTION - OWNER of the said By-law, is amended by adding the following as new sections 7.6.1 and 7.6.2:

7.6.1 CONTRAVENTION – PERSON TO REMOVE FILL
Where fill is dumped or placed or grading carried out contrary to this by-law or contrary to a permit issued pursuant to this by-law, it shall be removed by the person who dumped or placed it or who caused or permitted it to be dumped or placed.

7.6.2 REQUIRED ACTIONS – CITY CAN DO
Where anything required to be done in accordance with this by-law is not done, the General Manager or persons designated by the General Manager of Planning and Development for The Corporation of the City of London may, upon such notice as he/she deems suitable, do such thing at the expense of the person required to do it and, in so doing, may charge an administration
fee of 15% of such expense with a minimum fee of $60.00, and both the expense and the fee may be recovered by action or in like manner as municipal taxes.

10. The said By-law is further amended throughout its text by deleting the title "Commissioner" wherever it appears and by substituting therefor the title "General Manager".

11. This by-law comes into force on the day it is passed.

PASSED in Open Council on December 2, 2002

Anne Marie DeCicco
Mayor

Linda M. Rowe
Manager of Legislative Services
COMMUNITY PLANNING

By-law CP-1363-381

A by-law to prohibit and regulate the placing or dumping of fill and the alteration of the grade of land in defined areas of the City of London.

WHEREAS section 223.1 of the Municipal Act, R.S.O. 1990, c. M. 45, as amended by section 56 of the Planning and Municipal Statute Law Amendment Act, 1994 authorizes the Council of a local municipality to pass by-laws for prohibiting or regulating the placing or dumping of fill and the alteration of the grade of land in the Municipality;

AND WHEREAS the City of London Official Plan has identified areas containing important natural features which have been recommended for long-term protection, or more detailed assessment prior to the final determination of land use designations;

AND WHEREAS it is in the interest of the community to protect these important natural features from unnecessary degradation or alteration until such time as a final determination has been made on the need for long-term protection;

THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

SHORT TITLE
THE CITY OF LONDON SITE ALTERATION BY-LAW

Part 1
DEFINITIONS

1.1 definitions

In this by-law:

"Commissioner" shall mean the Commissioner of Planning and Development for The Corporation of the City of London or his designate;

"Drainage" shall mean the movement of water to a place of disposal, whether by way of the natural characteristics of the ground surface or by an artificial method;

"Dumping" shall mean the depositing of fill in a location other than where the fill was obtained and includes the movement and depositing of fill from one location on a property to another location on the same property;

"Environmental Protection Area" includes "Environmental Review" areas and "Open Space" areas designated on Map Schedule "A: Land Use of the Official Plan for the City of London Planning Area adopted by Municipal Council and amended from time to time.

"Fill" shall mean any type of material deposited or placed on lands and includes soil, stone, rock, concrete, asphalt, sod or turf;

"Grade, Existing" shall mean the elevation of the existing ground surface of the lands identified as "Environmental Protection Area" on the date of passage of this by-law;

"Inspector" shall mean a person duly authorized by the Commissioner to carry out the administration and enforcement duties described in Parts 7 and 8 of this by-law;

"Owner" shall mean the registered owner of land, or their agent, or anyone acting under the direction of the owner and their agent;

"Site" shall mean the area of land containing any proposed dumping or alteration; and

"Soil" shall mean material commonly known as earth, topsoil, loam, subsoil, clay, sand, gravel, silt, rock or fill.
Part 2
EXEMPTIONS

2.1 By-law - provisions not applicable - various
The provisions of this by-law do not apply;

(a) where a regulation made under subsection 28(1) of the "Conservation Authorities Act" respecting the alteration to existing grades and the placing or dumping of fill is in effect;
(b) to the placing or dumping of fill or alteration of the grade of land undertaken by any municipality or local board as defined in the Municipal Affairs Act, to a Crown agency as defined in the Crown Agency Act or to Ontario Hydro;
(c) to activities or matters prescribed by regulations pursuant to the Municipal Act;
(d) in areas that are zoned and draft plan approved for development and a subdivision agreement or development agreement has been entered into between the owner and the City which has been registered against the title of the subject lands and is still in effect;
(e) in areas that are under licence or permit, issued in accordance with the Aggregate Resources Act;
(f) in areas that are not defined as "Environmental Protection Area" by this by-law;
(g) to the ploughing of land associated with the planting, cultivation or harvesting of agricultural crops, and routine maintenance of existing drains;
(h) to routine maintenance activities within established golf courses; and
(i) to minor activities approved by the Commissioner as exceptions.

Part 3
PROHIBITIONS

3.1 Grade alteration - permit required
Unless otherwise exempted by this by-law; no person shall alter the grade of land or place or dump fill within any Environmental Protection Area without having first obtained a permit issued by the Commissioner.

3.2 Grade alteration - in accordance with permit
Where a permit has been issued pursuant to this by-law, no person shall alter the grade of land, or place or dump fill except in accordance with the plans, conditions and any other information on the basis of which a permit was issued.

Part 4
REQUIREMENTS FOR AN APPLICATION

4.1 Application requirements - permit
A person applying for a permit to alter the grade of land or place or dump fill within any Environmental Protection Area shall submit a completed application form, along with the required plans and information to the Commissioner.

4.2 Application - approved form
Applications shall be made on the form approved by the Commissioner.

Part 5
REQUIREMENTS FOR ISSUANCE OF A PERMIT

5.1 Permit issuance - requirements - various
The Commissioner shall issue a permit where:

(a) the applicant has fulfilled all requirements pursuant to this by-law;
(b) the proposed activity is associated with an existing use of the property;
(c) the Commissioner is satisfied that the proposed site alteration (including any protective measures) will not result in:
(i) interference with natural drainage processes or blockage of a watercourse;
(ii) soil erosion, slope instability or siltation in a watercourse;
(iii) pollution of a watercourse;
(iv) flooding, ponding or other impacts on the natural hydrologic cycle;
(v) a significant impact on any healthy vegetation community within, or adjacent to the subject site; and,
(vi) a significant impact on any fish or wildlife habitat within, or adjacent to the subject site; and,

the owner, if required, enters into an agreement which may be registered on title to the subject lands containing such conditions as the Commissioner considers necessary to ensure that the site alteration and any protective measures will be undertaken in accordance with the approved plans and information. Such an agreement may contain a provision that the applicant post with the City security in an amount determined by the Commissioner, to ensure performance of the obligations under the agreement.

5.2 Permit valid - until expiry date
A permit issued pursuant to this by-law shall be valid to the expiry date as specified on the permit by the Commissioner.

5.3 Permit issuance - no exemption from other requirements
A permit issued pursuant to this by-law does not preclude the applicant's responsibility to obtain all other approvals which may be required by any level of government and/or agencies thereof.

5.4 Permit transfer - requirements
If the lands for which a permit has been issued are transferred while the permit remains in effect the new owner of the lands shall either:
(a) provide the City with an undertaking to comply with all the conditions under which the existing permit was issued; or,
(b) apply for and obtain a new permit in accordance with the provisions of this by-law.

5.5 Commissioner - imposition of conditions
The Commissioner may impose conditions to a permit as in the opinion of the Commissioner are reasonable to ensure that the proposed site alteration is consistent with the provisions of section 5.1 of this by-law.

5.6 Commissioner - refer application - comment
The Commissioner may refer any application, associated plans and information to municipal staff, public agency, advisory body and/or other qualified professional for comment prior to making a decision.

Part 6
APPEALS

6.1 Permit - conditions - refusal - appeal to OMB
An applicant for a permit pursuant to this by-law may appeal to the Ontario Municipal Board:
(a) where the applicant objects to a condition in the permit, within thirty (30) days from the issuance of a permit; and,
(b) where the Commissioner refuses to or does not issue a permit within forty-five (45) days from the date the application and all required plans and information are received by the clerk, within thirty (30) days from the expiration of the forty-five (45) days.

6.2 OMB - powers on appeal
The Ontario Municipal Board may make an order,
(a) upholding the decision of the municipality;
(b) requiring the municipality to vary any condition in a permit; or,
(c) requiring the municipality to issue a permit on such conditions as the Board considers appropriate.

6.3 OMB decision - final
The decision of the Ontario Municipal Board is final.

6.4 Ontario Municipal Board Act - sections not applicable
Sections 43 and 95 of the Ontario Municipal Board Act do not apply to a decision of the Ontario Municipal Board under section 6.2 of this by-law.
6.5 OMB powers - correction of errors
The Board may, without a hearing, correct an error in decision under this section if the error is of a typographical, clerical or similar nature.

Part 7
ADMINISTRATION

7.1 Commissioner - administers and enforces by-law
The administration and enforcement of this by-law shall be performed by the Commissioner and such persons duly authorized by the Commissioner.

7.2 Commissioner - inspection - before alteration of site
The owner of the lands where the alteration, filling or excavation is proposed, shall request that the Commissioner make an inspection before site alteration is permitted and after such site alteration is completed.

7.3 Inspectors - training and designation
Each inspector under this by-law shall be suitably trained and issued with a certificate of designation.

7.4 Inspectors - powers - enter and inspect
An inspector may during daylight hours and upon producing the certificate of designation, enter and inspect any land to which the by-law applies.

7.5 Inspectors - accompanied by assistant
An inspector may, in carrying out an inspection, be accompanied by an assisting person.

7.6 Notice - contravention - owner
If, after the inspection, the inspector is satisfied that there is a contravention of this by-law, he or she shall notify the owner of the land of the particulars of the contravention by personal service or prepaid registered mail and may, at the same time, provide all occupants with a copy of the notice.

7.7 Inspector - powers - to make order
After giving any person served with a notice pursuant to this by-law an opportunity to appear before the inspector and make representations in connection with the notice, the inspector may make an order setting out:

(a) the municipal address or the legal description of the land;
(b) reasonable particulars of the work to be done to correct the contravention and the period in which there must be compliance with the order; and,
(c) notice that if the work is not done in compliance with the order within the specified period the City may have the work done at the owner's expense.

7.8 Order - method of service
An order pursuant to this by-law shall be served personally or by prepaid registered mail sent to the last known address of the owner of the land.

7.9 Inspector - placard - site constitutes service
An inspector who is unable to effect service pursuant to section 7.8 of this by-law shall place a placard containing the notice or order in a conspicuous place on the property and the placing of the placard shall be deemed to be sufficient service of the notice or order on the owner.

7.10 City - entry to do remedial work
If the owner fails to do the work required by the order within the period it specifies the City, in addition to all other remedies it may have, may do the work and for this purpose may enter on the land with its employees and agents.

7.11 Costs - represent lien
Costs incurred by the City pursuant to this by-law are a lien on the land upon the registration in the proper land registry office of a notice of a lien.

7.12 Costs - interest accrues until payment
The lien is in respect of all costs that are payable at the time the notice is registered plus interest accrued to the date payment is made.

7.13 Regulation - Conservation Authorities Act - supersedes by-law
A regulation made under the Conservation Authorities Act respecting the placing or dumping of fill in any area of the City supersedes the provisions of this by-law.
Part 8
ENFORCEMENT

8.1 Inspector obstructed—constitutes offence.
Any person who obstructs an inspector who is carrying out an inspection or work pursuant to the provisions of this by-law is guilty of an offence.

8.2 Fine for conviction—Provincial Offences Act.
Any person who contravenes any of the provisions of this by-law is guilty of an offence and upon conviction is liable to a fine as provided for in the Provincial Offences Act.

8.3 Court order—continuation or repetition of offence.
If a person is convicted of an offence under this by-law, in addition to any other remedy or any penalty provided by law, the court in which the conviction has been entered, and any other court of competent jurisdiction thereafter may make an order prohibiting the continuation or the repetition of the offence of any person.

Part 9
EFFECTIVE DATE

9.1 Effective date
This by-law comes into force on the day it is passed.

PASSED in Open Council on July 2, 1996

D.L. Haskett
Mayor

J. A. Malpass
Assistant City Clerk

First Reading - July 2, 1996
Second Reading - July 2, 1996
Third Reading - July 2, 1996
CITY OF LONDON SITE ALTERATION BY-LAW

APPLICATION FOR A PERMIT

1. Registered Owner of Affected Property: ____________________________

2. Mailing Address of Owner: ____________________________
   City: ____________ Postal Code: _______ Phone #: ____________

3. Legal Description of Affected Property: ____________________________

4. Existing Land Use(s): ____________________________

5. Official Plan Designation: ____________ Zoning: ____________

6. Purpose of Proposed Site Alteration Activity: ____________________________

7. Commencement/Completion Dates: ____________/ ____________

8. Description of Proposed Activity (attach addendum, if necessary):
   ____________________________
   ____________________________
   ____________________________
   ____________________________

9. Contractor (If different from owner): ____________________________

10. Attached, include a plan of the affected area drawn to scale, accurately delineating:
    a) property boundaries, buildings and structures;
    b) existing topography (contour intervals);
    c) environmental constraints (Flood line, fill line, 100-year erosion line);
    d) hydrological features (lakes, streams, wetlands, drainage courses);
    e) biological features (vegetation communities);
    f) location/dimensions of proposed activities (include excavations, dumping or removal of fill, drainage alterations, associated works, temporary storage areas);

11. If required, for major activities include a report from a qualified engineer, biologist and/or ecologist, describing the potential impacts on natural features and functions, and any required protection or mitigation measures.

12. Signature of Owner or Authorized Agent: ____________________________ Date: (day/month/year)
Bill No. 2006
By-law No.

Being 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.

WHEREAS Sections 142 to 144 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended authorizes the Council of a local municipality to pass by-laws for prohibiting or regulating the placing or dumping of fill, the removal of topsoil, the alteration of the grade of land, and for requiring the obtaining of permits including conditions;

AND WHEREAS subsection 144(1) of the Municipal Act, 2001 provides that a municipality may, at any reasonable time, enter and inspect any land to determine whether a by-law, order or a condition to a permit under section 142, 143 or 144 or a court order under subsection 144(18) is being complied with, except that this power of entry does not allow a municipality to enter any building;

AND WHEREAS section 428 of the Municipal Act, 2001 provides that the power to enter and inspect land in section 144 shall be exercised by an employee of the municipality who may be accompanied by any person under his or her direction;

AND WHEREAS section 426 of the Municipal Act, 2001 provides that no person shall hinder or obstruct, or attempt to hinder or obstruct, any person exercising a power or performing a duty under the Municipal Act, 2001 or this by-law, and any person who so hinders or obstructs is guilty of an offence;

AND WHEREAS subsection 144(6) of the Municipal Act, 2001 provides that where a Work Order has been made requiring work to be done to correct the contravention of the by-law, and the work is not done within the specified period, the municipality may do the work at the owner's expense and may enter upon land at any reasonable time for that purpose;

AND WHEREAS subsection 144(12) of the Municipal Act, 2001 provides that the municipality may recover the costs incurred by the municipality in using or employing the work under subsection 144(6) plus interest accrued to the date payment is made at a rate of 12 per cent or such lesser rate as may be approved by the municipality from the court of the land by action or in like manner as taxes;

AND WHEREAS costs incurred by the municipality under subsection 144(6) of the Municipal Act, 2001 are a lien on the land upon the registration in the proper land registry office of a notice of lien;

AND WHEREAS the Council of the Corporation of the City of London deems it advisable to enact a by-law to repeal By-law CP-1353-381 and its amendments, and replace it with this by-law;

NOW THEREFORE the Council of the Corporation of the City of London hereby enacts as follows.

SHORT TITLE

1.1 This by-law may be cited as the "Site Alteration By-law".

DEFINITIONS

2.1 For the purpose of this by-law:

a) "applicant" means an owner, or an owner's agent who is authorized by the owner to act on behalf of the owner, applying for a permit under this by-law;

b) "City" means the Corporation of the City of London;

c) "City Engineer" means the General Manager of Environmental and Engineering Services and City Engineer for the City of London, or designate;

d) "contaminated fill" means soil, fill or other material containing any solid, liquid, gas, odour, waste product, radioactivity or any combination thereof which is present in a concentration greater than which naturally occurs and which has the potential to have an adverse effect on human activity;

e) "development" means the construction of buildings 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;
"dumping" means the depositing of fill in a location other than where the fill was obtained and includes the movement and depositing of fill from one location on a property to another location on the same property;

"Environmental Protection Area" shall mean those areas designated as Open Space and Environmental Review on Map Schedule "A" and as "Environmentally Significant Areas (ESAs)" and "Potential Environmentally Significant Areas (ESAs)" delineated on Map Schedule "B" of the Official Plan for the City of London Planning Area adopted by the Municipal Council and amended from time to time;

"fill" means any type of material deposited or placed on land and includes soil, stone, concrete, asphalt, sod or turf either singly or in combination;

"General Manager" means the General Manager, Planning & Development Department for the City of London, or designate;

"grade" means the elevation of the ground surface and shall be more particularly defined as follows:

i) "existing grade" means the elevation of the existing ground surface of the land upon which site alteration is proposed or as it existed prior to the site alteration;

ii) "proposed rough grade" means the approximate elevation of ground surface of land proposed after the site has been altered;

"land disturbance" means any man-made change of the ground surface including removing vegetative cover, removing topsoil, excavating, filling and grading;

"litter and debris" includes building materials, garbage, waste, vegetation or any other loose material that may be transported from the site by wind, persons, vehicles or other means;

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

"mud tracking" means the obstruction or clogging of drainage, injurious, or fouling of roads, boulevards and bridges via the throwing, placing or depositing of dirt, refuse or any other debris;

"officer" means persons designated by by-law to carry out and enforce the provisions of this by-law;

"owner" means a registered owner of the land or agent as designated by an owner, in writing, or anyone acting under the direction of the owner and their agent;

"permit" means a topsoil removal, fill placement or alteration of grade permit;

"permit holder" means an owner to whom a permit has been issued;

"site" means the area of land containing or proposed to contain any placing or dumping of fill, removal of topsoil, or alteration of grade;

"site alteration" means placing or dumping of fill, removal of topsoil, or alteration of the grade;

"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;

"Treasurer" shall mean the City Treasurer for the City of London, or designate.

EXEMPTIONS

3.1 This by-law does not apply to:

a) activities or matters undertaken by the City or any local board of the City;

b) the placing or dumping of fill, removal of topsoil or alteration of the grade of land imposed after December 31, 2002 as a condition to the approval of a site plan, a plan of subdivision or a consent under section 41, 51 or 53, respectively, of the Planning Act, or as a requirement of a site plan agreement or subdivision agreement entered into under those sections;
c) the placing or dumping of fill, removal of topsoil or alteration of the grade of land imposed after December 31, 2002 as a condition to a development permit authorized by regulation made under Section 70.2 of the Planning Act or as a requirement of an agreement entered into under that regulation;

d) the placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken by a transmitter or distributor, as those terms are defined in Section 2 of the Electricity Act, 1998, for the purpose of constructing and maintaining a transmission system or a distribution system, as those terms are defined in that section;

e) the placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken on land described in a license for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the Aggregate Resources Act;

f) the placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken on land in order to lawfully establish and operate or enlarge any pit or quarry on land:

(i) that has not been designated under the Aggregate Resources Act or a predecessor of that Act, and

(ii) on which a pit or quarry is a permitted land use under a by-law passed under Section 54 of the Planning Act;

g) the placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken as an incidental part of drain construction under the Drainage Act or the Tile Drainage Act;

h) the removal of topsoil as an incidental part of a normal agricultural practice including such removal as an incidental part of sod-farming, greenhouse operations and nurseries for horticultural products, provided in all cases that the removal of the topsoil is not for sale, exchange or other disposition;

i) land disturbance associated with minor gardening, landscaping or the installation of swimming pools incidental to a residential use;

j) the placing or dumping of fill in connection with the elevation of existing grade following the demolition or removal of a building structure; or

k) 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 under Section 53 of the Planning Act entered into under that section.

3.2 This by-law is not to apply in a part of any area of the City for which a regulation is made under section 28 of the Conservation Authorities Act respecting the placing or dumping of fill, removal of topsoil or alteration of the grade of land in respect of that area.

PROHIBITION

4.1 No person shall remove or cause the removal of any topsoil, place or dump or cause to be placed or dumped fill, or alter or cause to be altered the grade of or on any land in the City except in accordance with the requirements of this by-law.

4.2 No person shall place or dump or cause to be placed or dumped fill, remove or cause to be removed topsoil, or alter or cause to be altered the grade without first having obtained a permit from the General Manager pursuant to this by-law.

4.3 (a) Section 4.2 shall not apply if the site alteration is pursuant to a subdivision agreement, site plan agreement, or consent agreement that has been executed by the owner and by the City and has been registered against the title of the subject land and is still in effect.

(b) Section 4.2 shall not apply if the site alteration occurs on a site that has an area of 2 hectares or less and: (i) is not part of an Environmental Protection Area; or (ii) is not within 30 metres of an Environmental Protection Area.

4.4 Where a permit has been issued pursuant to this by-law with respect to certain land, no person shall alter or cause to be altered the grade of that land, place or dump or cause to be placed or dumped fill on that land, or remove or cause to be removed topsoil from that land, except in accordance with that permit and except in accordance with any terms, conditions, plans or other information that form part of the permit or were submitted as part of the application or supporting material for the issuance of that permit.

4.5 No person shall contravene a Work Order or an Order to Discontinue Activity under this by-law.
4.6 No person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty, including carrying out an inspection, pursuant to this by-law.

REQUIREMENTS FOR ISSUANCE OF A PERMIT

5.1 A person applying for a permit for site alteration shall submit the following to the General Manager:

(1) a complete application in the form prescribed by the General Manager;

(2) the application permit fee calculated in accordance with Schedule “A” to this by-law;

(3) a Control Plan, satisfactory to the City Engineer, and which is certified by a Professional Engineer who is licensed to practice in the province of Ontario or any other qualified person approved by the City Engineer, which shall include:

(a) a key map showing the location of the site, including the nearest major intersection and north arrow;

(b) the site boundaries and number of hectares of the site;

(c) The scale of 1:500, unless otherwise specified in writing by the City, (each drawing or plan to be in metres);

(d) An indication on the drawings of directions of overland flow and overland flow routes;

(e) The proposed rough grade and the existing grade at a contour interval not to exceed one half (1/2) of one (1) metre and to extend a minimum of thirty (30) metres beyond the site boundary and a reference to a minimum of two geodetic benchmarks used to establish the contours in (k) above, all contours to be referenced to the geodetic elevations;

(f) The location, dimensions, design details and design calculations of all stormwater and erosion control measures and dust control measures;

(g) Provisions for specific controls in locations where flows exit the site and where required to protect slopes (i.e. rock check dams, sediment basins);

(h) provisions to protect existing retaining walls, if any, and no new or extended retaining walls;

(i) The location of all Environmental Protection Areas as defined in this by-law located (a) and within a minimum of 30 metres beyond the site boundary;

(j) The locations of lakes, streams, wetlands, channels, ditches, other watercourses and other bodies of water on and within a minimum of thirty (30) metres beyond the site boundary;

(k) The locations and dimensions of any existing and proposed storm water drainage systems associated with the rough grading and natural drainage patterns on and within a minimum of thirty (30) metres beyond the site boundary;

(l) The location of known landfill sites if any;

(m) The Flood Fringe, Flood Plain and Conservation Authority Fill Regulation lines;

(n) An identification of all tree preservation areas;

(o) The locations of all existing easements, and right-of-ways over, under, and across or through the site, and the locations and dimensions of existing services and utilities within the site;

(p) The location of the buildings and structures retained on the site;

(q) The location of construction access road(s);

(r) The locations of any stockpiles of materials including fill, topsoil, or other materials; and
(s) Any other information with respect to the site required by the City Engineer or General Manager.

(4) a schedule of the anticipated starting and completion dates of each land disturbing or land developing activity including the installation of construction site sediment and erosion control measures needed to meet the requirements of the City Engineer;

(5) where fill is involved, proposed final elevations and drainage system to be used upon completion of the filling operation;

(6) where fill is involved, a description of the proposed fill;

(7) a completed security agreement as set out in Schedule "C", which security is to be in a form and amount to be determined by the City Engineer;

(8) where required by the City Engineer, a Certificate of Insurance in the owner's name for Third Party General Liability Insurance, naming the City as an Additional Insured, covering the ownership of the property to a minimum amount of two million dollars ($2,000,000.00) per occurrence. The Insurance shall not be cancelled or permitted to lapse unless the insurer notifies the City in writing at least thirty (30) days prior to the date of cancellation. In addition, the City reserves the right to require such other and amounts of Insurance as appropriate, including Environmental Liability insurance;

(9) certification that the Fill contains no contaminants within the meaning of the Environmental Protection Act, R.S.O. 1990, c. E.19, as amended; and

(10) a release by the registered owner to forever release the City from, and indemnify the City with respect to, any and all liability which may arise in the event that the Fill contains contaminants within the meaning of the Environmental Protection Act, R.S.O. 1990, c. E.19, as amended.

ISSUANCE OF A PERMIT

6.1 The General Manager shall not issue a permit unless:

(1) the site alteration is associated with an existing or proposed use of the property that is otherwise legally permitted;

(2) the applicant has fulfilled all requirements pursuant to this by-law;

(3) the General Manager is satisfied that the proposed final elevations and resulting drainage pattern the type of fill to be used and the method of placing or dumping of fill are in accordance with prevailing City of London design standards and proper engineering practice; and

(4) the General Manager is satisfied that the site alteration will not result in:

(a) soil erosion or slope instability;

(b) blockage of a watercourse or interference with natural drainage processes;

(c) siltation in a watercourse;

(d) pollution of a watercourse;

(e) flooding or ponding or other impacts on the natural hydrologic cycle;

(f) where tree preservation is required by the General Manager, a detrimental effect on any healthy 50 mm caliper or larger trees located on the land;

(g) where vegetation protection is required by the General Manager, a significant impact on any healthy vegetation community within, or adjacent to the subject site; and

(h) where fish or wildlife habitat protection is required by the General Manager, a significant impact on any fish or wildlife habitat within or adjacent to the subject site.

6.2. The permit issued pursuant to this by-law shall only be valid for a period of 1 year from the date of issuance, or as specified on the permit by the General Manager, whichever period of time is less. A permit that is no longer valid shall be deemed to have expired.
6.3 A permit which is no longer valid or which has expired pursuant to this by-law may be renewed within 180 days from the date of expiry upon the making of written application to the General Manager accompanied by a payment of one half (1/2) of the original permit fee, provided that the proposed work has not been revised. The renewed permit shall be valid for a period of 1 year from the date of issuance, or as specified on the permit by the General Manager, whichever period of time is less.

6.4 Notwithstanding sections 6.2 and 6.3, a permit shall expire 180 days after the date of issuance if in the opinion of the General Manager or City Engineer, the site alterations have not been commenced.

6.5 When a permit expires and is not renewed within 180 days, or is revoked, the owner shall immediately cease all site alteration, and shall immediately rehabilitate and stabilize the site so as to prevent adverse effects from erosion and sedimentation from or at the site. If the owner has registered a site plan agreement, a subdivision agreement or a consent agreement that includes site alteration as a condition or requirement, rehabilitation and stabilization shall take place in accordance with that agreement.

6.6 The issuance of a permit by the General Manager does not preclude the applicant’s responsibility to obtain all other approvals which may be required by any level of government and agencies thereof.

6.7 If the land for which a permit has been issued is transferred while the permit remains in effect, the permit is no longer valid unless the new owner of the land provides the City with an undertaking to comply with all the conditions under which the existing permit was issued. Otherwise, the owner shall apply for and obtain a new permit in accordance with the provisions of this by-law.

6.8 Where the General Manager refuses to issue a permit, the applicant shall be informed in writing.

6.9 Permits shall be subject to the conditions set out in Schedule "B" to this by-law.

6.10 A permit is non-transferable to another site.

6.11 Every person to whom a permit is issued shall:
(a) ensure that the Control Plan in section 5(3) is implemented;
(b) forthwith after the site alteration, ensure that the site surface is protected by sod, turf, seeding for grass vegetation, asphalt, concrete, or other similar means, or a combination thereof;
(c) provide documentation showing the origin of all fill that is placed or dumped if not disclosed in the control plan submission; and
(d) ensure that all conditions of the permit and any requirements of this by-law are fulfilled to the satisfaction of the City Engineer or General Manager.

6.12 The City may revoke any permit if the application contains false or misleading information, or if the owner has breached any conditions of the permit, or has violated any provision of this by-law.

APPEALS

7.1 An applicant for a permit pursuant to this by-law may appeal to the Ontario Municipal Board:
(1) if the municipality refuses to issue a permit, within thirty (30) days after the refusal;
(2) if the municipality fails to make a decision on the application, within forty-five (45) days after the application is received by the General Manager; or
(3) if the applicant objects to a condition in the permit, within thirty (30) days after the issuance of the permit.

7.2 The Ontario Municipal Board may by order:
(1) uphold the decision of the municipality;
(2) require the municipality to vary any condition in a permit; or
(3) require the municipality to issue a permit on such conditions as the Board considers appropriate.

7.3 The decision of the Board is final.

7.4 Section 95 of the Ontario Municipal Board Act does not apply to a decision of the Board.
ADMINISTRATION AND ENFORCEMENT

8.1 The administration of this by-law shall be performed by the General Manager, Planning & Development Department, the Chief Building Official, the Manager of Subdivision and Special Projects, and the Manager of Parks Planning and Design, hereby designated as officers for the purposes of this by-law. The administration of this by-law shall also be performed by such persons as may be designated as officers in Schedule "D" of this by-law. Officers shall have the power to issue permits and impose conditions to the permits as set out in this by-law.

8.2 The enforcement of this by-law shall be performed by the General Manager, Planning & Development Department, the Manager of Site Plan Approval, the Manager of By-law Enforcement, and the Chief Building Official, hereby designated as officers for the purposes of this by-law. The enforcement of this by-law shall also be performed by such other persons as may be designated as municipal law enforcement officers by by-law of the Council of the Corporation of the City of London.

8.3 The General Manager or an officer, and any person under their direction may, at any reasonable time and upon producing the appropriate identification, enter and inspect any land to which the by-law applies, to determine whether the by-law, order or a permit is being complied with. This section does not allow an officer or any person to enter any building.

ORDER TO DISCONTINUE ACTIVITY

9.1 If an officer is satisfied that a contravention of this by-law has occurred, the officer may make an order, known as an Order to Discontinue activity, requiring the owner of the land or the person who caused or permitted the site alteration in contravention of the by-law, to discontinue the activity.

9.2 The Order to Discontinue Activity shall set out:

(a) the municipal address or the legal description of the land;

(b) reasonable particulars of the contravention and of the work to be done;

(c) a deadline, being a specific date, for compliance with the Order to Discontinue Activity.

9.3 The Order to Discontinue Activity shall be served personally or by prepaid registered mail to the last known address of the registered owner of the land.

WORK ORDER

10.1 In addition to any powers in section 9.1 above, if an officer is satisfied that a contravention of this by-law has occurred, the officer may make an order, known as a Work Order, requiring the owner of the land to perform the work to correct the contravention.

10.2 The Work Order shall set out:

(a) the municipal address or the legal description of the land;

(b) reasonable particulars of the contravention and of the work to be done;

(c) a deadline, being a specific date, for compliance with the Work Order; and

(d) a notice that if the work is not done in compliance with the Work Order by the deadline, the municipality may have the work done at the expense of the owner and the cost of the work may be recovered by adding the amount to the owner’s tax roll.

10.3 The Work Order shall be served personally or by prepaid registered mail to the last known address of the registered owner of the land.

10.4 If the City is unable to effect service on the owner under section 10.3, it shall place a placard containing the terms of the Work Order in a conspicuous place on the land and may enter on the land for this purpose. The placing of the placard shall be deemed to be sufficient service of the Work Order.

10.5 If the work required by a Work Order under sections 10.1 and 10.2 is not completed by the deadline specified in the Work Order, the City in addition to all other remedies it may have, may do the work or cause the work to be done at the owner’s expense and may enter upon land, at any reasonable time, for this purpose.
(b) The City may recover the costs incurred by it in doing the work or causing it to be done under section 10.5(a) plus interest accrued to the date payment is made at the rate of fifteen (15) per cent from the owner of the land by action or in like manner as taxes.

(c) Costs incurred by the City under section 10.5(a) are a lien on the land upon the registration in the Land Registry Office of a notice of lien. The lien is in respect of all costs that are payable at the time the notice is registered plus interest accrued to the date payment is made. Upon payment of all costs payable plus interest accrued to the date payment is made by the owner of the land, a discharge of the lien shall be registered by the City in the Land Registry Office.

**REMEDINATION**

11.1 Where fill is dumped or placed contrary to this by-law or contrary to a permit issued under this by-law, the person who dumped it or who caused or permitted it to be dumped shall forthwith remove it or cause it to be removed.

11.2 Where topsoil is removed from land contrary to this by-law or contrary to a permit issued under this by-law, the person who removed it or who caused or permitted it to be removed shall forthwith rehabilitate the land from which the topsoil has been removed.

11.3 Where the grade of land is altered contrary to this by-law or a permit issued under this by-law, the person who altered the grade or who caused or permitted the grade to be altered shall forthwith cause the grade to be restored to a condition satisfactory to the City Engineer.

**PENALTY**

12.1 Any person who hinders or obstructs or attempts to hinder or obstruct any person exercising a power or performing a duty under this by-law contrary to section 4.6 is guilty of an offence and is liable to a fine as provided for in the Provincial Offences Act.

12.2 Any person who contravenes any provision of this by-law other than section 4.6, or who contravenes an Order made under sections 4.1 or 10.1 of this by-law is guilty of an offence and is liable,

(a) on a first conviction, to a fine of not more than Ten Thousand Dollars ($10,000.); and

(b) on any subsequent conviction, to a fine of not more than Twenty-five Thousand Dollars ($25,000.).

12.3 Despite section 12.2, where the person convicted is a corporation, the maximum fines in subsections 12.2 (a) and (b) are Fifty Thousand Dollars ($50,000.) and One Hundred Thousand Dollars ($100,000.), respectively.

12.4 If a person is convicted of an offence for contravening this by-law or an Order under this by-law, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may order the person, in such manner and within such period as the court considers appropriate,

(a) to rehabilitate the land;

(b) to remove the fill dumped or placed contrary to the by-law or permit; or

(c) to restore the grade of the land to its original condition.

**REPEAL**

13.1 By-law CP-1363-381 and any amendments thereto are hereby repealed.

**SEVERABILITY**

14.1 Notwithstanding that any section or sections of this by-law, or part or parts thereof, may be found by any court of law to be bad or illegal or beyond the power of the Council to enact, such section or sections, or a part or parts thereof shall be deemed to be severable, and all other sections of this by-law, or parts thereof, are separate and independent therefrom and enacted as such.

**IN FORCE**

15.1 This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on __________, 2006.
PERMIT FEE

Permit for Placing or Dumping of Fill / Alteration of Grade / Removal of Top Soil:
$ 500.00 plus $ 25.00/ha
PERMIT CONDITIONS

1. It is a condition of obtaining, renewing and continuing to hold a permit that the permit holder shall:

   (a) Notify the General Manager or his/her designate a minimum of two business days prior to the commencement or recommencement of any land disturbing activity, and request in writing prior to the commencement of site alteration that the City conduct an inspection;

   (b) Ensure that no site alteration occurs prior to the City conducting an inspection;

   (c) Obtain permission in writing from the General Manager or his/her designate prior to modifying any element of the Control Plan;

   (d) Install all control measures as identified in the approved Control Plan;

   (e) Maintain all road drainage systems, stormwater drainage systems, control measures and other facilities identified in Control Plan;

   (f) Promptly repair any siltation or erosion damage to adjoining surfaces and drainage ways resulting from land developing or disturbing activities;

   (g) Inspect the sedimentation control measures on site once per week and after each rainfall of at least one centimetre and make needed repairs;

   (h) Allow City officers or agents of the City to enter the site for the purpose of inspecting for compliance with these by-law or for performing any work necessary to bring the site into compliance with the by-law;

   (i) Before the permit expires and is not renewed within 180 days, either: (1) Commence construction pursuant to a subdivision agreement, a site plan agreement, or a conservation agreement, or (2) rehabilitate the land;

   (j) Provide the City with a rehabilitation plan for the site;

   (k) Maintain a copy of the permit on the site;

   (l) Notify all subcontractors and suppliers of approved access routes to the site and ensure compliance with these instructions;

   (m) Maintain all roads in a safe or better condition than existed prior to the commencement of the work and keep all roads free from any materials or equipment arising from the work set out in the permit;

   (n) Ensure that all alteration is done at the request of or with the consent of the owner or owners of the land;

   (o) Ensure that all fill to be used is not contaminated fill, and is clean and free of trash, rubber, glass, liquid or toxic chemicals or garbage, unless the placing or dumping of such fill is authorized by a certificate issued by the Ministry of the Environment;

   (p) Ensure that the drainage system for the land is provided in accordance with the City's by-laws and that the General Manager is satisfied that provision has been made for surface and storm water drainage where such drainage is not provided by natural gradients or a swale;

   (q) Ensure that the fill is placed or dumped in such a manner, or the alteration of the grade is such, or the removal of topsoil is such that no ponding is caused on abutting land;

   (r) Ensure that there are specific controls in place in locations where flows exit the site (i.e. rock check dams, sediment basins);

   (s) Ensure that all Environmental Protection Areas as defined in this by-law are surrounded by appropriate fencing prior to commencement of any site alteration, satisfactory to the General Manager and/or City Engineer;

   (t) Ensure that site sediment and erosion control measures as determined by the City Engineer are adhered to, where required;

   (u) Agree that upon the failure by the permit holder to complete all or part of the works in the time stipulated in the Control Plan, the City may draw the
appropriate amount from the securities posted and use the funds to arrange for the completion of the said works, or any part thereof;

(v) Agree that upon failure by the permit holder to install, repair or maintain a specific part of the works as requested by the City, and in the time requested, the City may at any time authorize the use of all or part of the securities to pay the cost of any part of the works it may in its absolute discretion deem necessary;

(w) Agree that upon failure by the permit holder to carry out repairs or clean-up in the time requested by the City, the City may undertake the necessary works at the expense of the permit holder and reimburse itself out of securities posted by the applicant; and

(x) Request in writing after the completion of site alteration that the City conduct an inspection.
SECURITY AGREEMENT

THIS SECURITY AGREEMENT entered into this ______ day of ____________, 20__.

BETWEEN:

______________________________
(the "Owner")

AND

THE CORPORATION OF THE CITY OF LONDON
(the "City")

WHEREAS the Owner has applied for a Permit under the City's Site Alteration By-law;

AND WHEREAS the City's Site Alteration By-law requires an applicant for a permit to submit a completed security agreement, which security is to be in a form and amount to be determined by the City Engineer and the General Manager;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the premises and the sum of TWO DOLLARS ($2.00) of lawful money of Canada now paid by the Owner to the City, the receipt and sufficiency whereof is hereby acknowledged, the Parties agree one with the other as follows:

1. The lands subject to this Agreement (the "Lands") are described as follows:

ALL AND SINGULAR those certain parcels or parts of land and being in the City of London, and being comprised of

and also known as (assessment roll): ________ with Municipal Address: ________________________.

2. (a) The Owner agrees to deliver an irrevocable letter of credit or other cash security as identified in the City's Subdivision Security Policy, in a form satisfactory to the City's General Manager of Finance in the amount of $______________.

(b) If the General Manager and City Engineer, acting reasonably, determines that there is a breach of the City's Site Alteration By-law, the irrevocable letter of credit or other security may be drawn upon in full and the fines used to secure sediment and erosion control, remediation of the site, and site stabilization as determined necessary in the opinion of the General Manager and City Engineer or his designate.

(c) It is the responsibility of the Owner to obtain the approval of the General Manager and City Engineer that the site has been adequately graded and stabilized in accordance with this By-law, the plans accompanying the Permit and the terms and conditions and design guidelines of the Permit; and to request that the City carry out a final inspection of the site and to obtain the approval of the General Manager and City Engineer that this By-law and terms and conditions of the permit have been complied with by the Owner. When the provisions of this section have been fully complied with to the satisfaction of the City Engineer and General Manager, they shall release the Owner's security.

(d) Should costs associated with any securing of sediment and erosion control, remediation of the site, or site stabilization of the Lands be incurred by the City in excess of the amount of the Owner's irrevocable letter of credit or other security, the municipality may recover the costs by action or by adding the costs to the tax roll and collecting them in the same manner as municipal taxes.
IN WITNESS WHEREOF the Parties have affixed their hand and seal attested by their duly authorized signing officers in that regard.

SIGNED SEALED AND DELIVERED

__________________________
Name of Owner

__________________________
Name (print): ______________________
Title: ______________________

__________________________
Name (print): ______________________
Title: ______________________
I/we have authority to bind the Corporation.

THE CORPORATION OF THE CITY OF LONDON

__________________________
Name (print): ______________________
Title: ______________________

GENERAL MANAGER OF PLANNING AND DEVELOPMENT
For the purposes of this By-law, the City designates as officers the individuals as set out below: