

THE HONOURABLE JEANINE E. LEROY  
REGIONAL SENIOR JUSTICE  
ONTARIO COURT OF JUSTICE  
WEST REGION

80 DUNDAS STREET, 10<sup>th</sup> FLOOR, UNIT L  
LONDON, ONTARIO N6A 6A8



L'HONORABLE JEANINE E. LEROY  
JUGE PRINCIPAL RÉGIONAL  
COUR DE JUSTICE DE L'ONTARIO  
RÉGION DE L'OUEST

80, RUE DUNDAS, 10<sup>e</sup> ÉTAGE, UNITÉ L  
LONDON (ONTARIO) N6A 6A8

TELEPHONE/TÉLÉPHONE (519) 660-2292  
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## MEMORANDUM

Date: October 25, 2023

To: The Honourable Justice Sharon Nicklas, Chief Justice  
The Honourable Justice Aston Hall, Associate Chief Justice

From: Associate Chief Justice Jeanine E. LeRoy  
Ontario Court of Justice

Your Honour:

Re: Delegation of Authority - Regional Senior Justice – West Region

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Pending the appointment of a new Regional Senior Judge following the swearing in of Associate Chief Justice LeRoy, effective October 25, 2023, I delegate my authority insofar as I am able, as Regional Senior Justice, including authority to sign and authorize judicial expense accounts on my behalf, to The Honourable Justice Kevin McHugh.

Handwritten signature of Jeanine LeRoy in black ink.

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Justice Jeanine LeRoy  
Associate Chief Justice  
Ontario Court of Justice

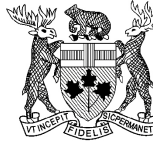
Handwritten signature of Kevin McHugh in black ink.

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Justice Kevin McHugh  
Ontario Court of Justice  
West Region

OFFICE OF THE REGIONAL SENIOR JUSTICE  
ONTARIO COURT OF JUSTICE  
WEST REGION

80 DUNDAS STREET, 10<sup>th</sup> FLOOR, UNIT L  
LONDON, ONTARIO N6A 6A8



CABINET DU JUGE PRINCIPAL RÉGIONAL  
COUR DE JUSTICE DE L'ONTARIO  
RÉGION DE L'OUEST

80, RUE DUNDAS, 10<sup>e</sup> ÉTAGE, UNITÉ L  
LONDON (ONTARIO) N6A 6A8

TELEPHONE/TÉLÉPHONE (519) 660-2292  
FAX/TÉLÉCOPIEUR (519) 660-3138

November 21, 2023

Raylene Martell  
Municipality of Grey Highlands  
206 Toronto Street South  
Unit One  
Markdale, Ontario N0C 1H0

Dear Ms. Martell

**Re: Set Fines - Provincial Offences Act - Part 1 By-law 2023-083, Site Alteration**

Enclosed herewith is the Part 1 original Order and original schedule of set fines for the above referenced Bylaw, the Bylaw indicated in the schedules.

The setting of the fines does not constitute my approval of the short form of wording used to describe the offences.

Please ensure that a copy of the said documents is forwarded to the Provincial Offences Court in Owen Sound, together with a certified copy of the Bylaw.

Yours truly,

Kevin McHugh  
Acting Regional Senior Justice  
Ontario Court of Justice  
Encl.

/tz

**ONTARIO COURT OF JUSTICE**

**PROVINCIAL OFFENCES ACT**

**PART I**

IT IS ORDERED pursuant to the provisions of the Provincial Offences Act and the rules for the Ontario Court of Justice that the amount set opposite each of the offences in the schedule of offences under the Provincial Statutes and Regulations thereunder and **By-law 2023-083 of the Municipality of Grey Highlands** attached hereto are the set fines for those offences. This Order is to take effect November 21st, 2023.

Dated at London this 21st day of November 2023.



Kevin McHugh  
Acting Regional Senior Justice  
Ontario Court of Justice

**Schedule "A"**  
**Municipality of Grey Highlands**  
**Part 1 Provincial Offences Act**  
**By-law 2023-083 – Site Alteration Permit**  
**Municipal Set Fines**

<b>Item</b>	<b>Short Form Wording</b>	<b>By-law Section Creating or Defining Offenses</b>	<b>Set Fine</b>
1	Conducting Site Alteration without obtaining a Permit.	2.2(a)	\$500.00
2	Conducting Site Alteration without registration.	2.2(b)	\$500.00
3	Failure to use approved designated haul route to and from the site.	5.3	\$500.00
4	Failure to maintain a copy of the signed Permit on-site.	12.1	\$250.00
5	Failure to notify the Director of change in volume of material.	12.3	\$500.00
6	Failure to notify the Director of change in completion date.	12.4	\$250.00
7	Failure to notify the Director of change in material.	12.5	\$250.00
8	Failure to submit load tickets monthly.	12.6	\$500.00
9	Tracking of mud, dirt, or debris on Municipal highways.	12.7	\$500.00

NOTE: the general penalty provision for the offenses listed above is in section 13.2 of By-law 2023-083, a certified copy of which has been filed.

**The Corporation of the Municipality of Grey Highlands**

**By-law No. 2023-083**

**A By-law to permit Site Alteration projects and to regulate the hauling of fill within the Municipality of Grey Highlands and to be known as the Site Alteration and Fill By-law.**

**Whereas**, Section 10 of the Municipal Act, 2001, S.O. 2001 c.25, permits the Municipality of Grey Highlands to pass a by-law for the protection of persons and property, and structures; and

**Whereas**, Section 142 of the Municipal Act, 2001, S.O. 2001 c.25, permits the enactment of a by-law by the Council of the Corporation of the Municipality of Grey Highlands to prohibit or regulate the placing or dumping of fill, prohibit or regulate the removal of topsoil, prohibit or regulate the alteration of the grade of the land, require that a permit be obtained for the placing or dumping or the removal of topsoil or the alteration of the grade of the land; and

**Whereas**, Section 391 of the Municipal Act, 2001, S.O. 2001 c.25, authorized Municipalities to impose fees and charges on persons for services or activities provided or done by or on behalf of it and for the use of its property; and

**Whereas**, it is deemed expedient that the Council of the Corporation of the Municipality of Grey Highlands enacts a Site Alteration and Fill By-law.

**Now Therefore the Council of the Municipality of Grey Highlands hereby enacts as follows:**

**1.0. Definitions**

1.1. "Director" means the Director of Transportation and Public Spaces for the Municipality of Grey Highlands and any designate or successor to that position.

1.2 "Fill" means topsoil, soil, rock, stone, recycled concrete free of rebar and free from contamination, sod or turf, either singularly or in combination.

1.3. "Highway" includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct, trestle, or any other structure incidental thereto, any part of which is intended for or used by the public for the passage of vehicles and includes the area between the lateral property lines thereof.

1.4. "Municipality" means the Municipality of Grey Highlands.

1.5. "Owner" means the registered Owner as shown in the records of the Land Registry Office for any property that is subject to this By-law.

1.6. "Qualified Person" means a licensed professional (Engineer or Geoscientist) as defined in Section 5 or 6 of Ontario Regulation 153/04 (Records of Site Condition - Part XV.1 of the Environmental Protection Act).

1.7. "Permit" (or "Site Alteration Permit") means a Site Alteration Permit issued under this by-law.

1.8. "Site Alteration" or "Alteration" means a change, variation or modification to existing grades resulting from the removal, placement or dumping of fill, blasting of rock and/or the altering of the grade of lands or any other action that alters the grade of land.

## **2.0. Application of By-law, Permits and Registration**

2.1. This By-law applies to all lands within the Municipality of Grey Highlands, save and except any lands owned by the Municipality.

2.2. No person shall undertake or cause to be permitted any Site Alteration unless such Site Alteration is:

- a. authorized by a permit; or
- b. registered under this by-law; or
- c. exempted under section 2.3 or section 2.6.

2.3. The following Site Alteration activities are exempt from this by-law:

- a. all those Site Alteration activities exempted pursuant to subsections 142(5)(a) through (g) and (6) of the Municipal Act, 2001.

2.4. The following Site Alteration activities shall be authorized by a Permit:

- a. A Site Alteration which will or does result in the placement and/or removal of more than one thousand (1000) cubic metres of fill upon a property within any consecutive twelve (12) month period; and
- i. The property that the Site Alteration is proposed or will occur is located on a Municipal Highway; or
- ii. The haul route to and/or from the property that the Site Alteration is proposed or will occur utilizes Municipal Highways.

2.5. Site Alteration activities shall be registered with the Municipality in accordance with Section 7.1 prior to the commencement of such Site Alteration unless:

- a. it is authorized by a permit as set out in section 2.4;
- b. it is exempt from the requirement to be registered as set out in section 2.6.

2.6. The following Site Alteration activities are exempt from the requirement to be registered under section 2.5:

- a. Site Alteration that will not result in the placement and/or removal of more than one thousand (1000) cubic metres of fill upon a property within any consecutive twelve (12) month period.

## **3.0. General Regulations**

3.1. Notwithstanding the conduct of Site Alteration in accordance with this By-law, the owner of such lands where the Site Alteration occurs remains responsible for obtaining any and all other approvals that may be required, including but not limited to:

- a. County of Grey
- b. Applicable Conservation Authority
- c. Niagara Escarpment Commission (NEC)
- d. Ministry of Transportation (MTO)
- e. Ministry of the Environment, Conservation and Parks (MECP)

3.2. Without limiting the generality of section 3.1, no person shall

conduct any Site Alteration except in accordance with applicable

legislation, regulations, guidelines etc. enacted by the Federal and Provincial government including but not limited to:

- a. Ontario Regulation 153/04 Record of Site Condition
- b. Ontario Regulation 406/19 On-site and Excess Soil Management
- c. The Drainage Act, R.S.O 1990
- d. Highway Traffic Act.
- e. Erosion & Sediment Control Guideline for Urban Construction

3.3. Notwithstanding the exemptions provided for in section 2.3, specifically that relating to subsection 142(5)(b) of the Municipal Act, (with respect to Planning Act approval sections 41, 51 and 53) no Site Alteration activities shall commence unless such Site Alteration has been authorized under an agreement entered into under authority of sections 41, 51 or 53 of the Planning Act, or a "pre-servicing agreement" unless such Site Alteration is subject to a permit issued under this by-law.

#### **4.0. Permits**

4.1. Any person who is required to obtain a Permit hereunder shall apply for such Site Alteration Permit in the Application form set out in Schedule "B,,.

4.2. The Application form shall be submitted by the Owner of the property whereupon the Site Alteration is proposed or will occur or by a person authorized in writing by the Owner.

4.3. Permits shall be issued to the Owner and the Owner shall be responsible for compliance with this by-law.

4.4. Any person intending to apply for a Permit shall pre-consult with the Municipality and the applicable Conservation Authority prior to submitting an application. Pre-consultation may include a meeting at the municipal office, a telephone or video call with the Director.

4.5. The Director may issue a Permit and impose conditions thereto provided:

- a. the Application fulfills and/or meets all the requirements set out in this By-Law;
- b. the required fee has been paid;
- c. the Owner has entered into the Agreement referenced in section 5.1;
- d. the Entrance required pursuant to section 6.0 exists or an Entrance Permit therefore has been applied for and issued;
- e. the proposed Site Alteration complies with all provisions of the applicable Zoning By-Law and is clearly accessory or secondary to the uses permitted on a property, such that the proposed dumping or removal of fill will not become or constitute a primary use of the subject property;
- f. the Director determines that the proposed haul route is capable of accommodating the traffic to and/or from the subject property without damage and/or that potential damage is adequately addressed through a haul route agreement.

#### **5.0. Haul Routes**

5.1. All Site Alteration Permits shall be subject to a condition requiring the Applicant to enter into a haul route agreement to ensure that the Municipality's public highway(s) and infrastructure are not negatively impacted by the Site Alteration activity including but not limited to the transportation of fill to and/or from the property upon which the Site



Alteration is occurring. The municipality shall approve one designated haul route to and/or from the site.

5.2. It is mandatory that the haul route be comprised of in order of availability:

- a. Provincial Highways
- b. County Highways
- c. Class 1 through 6 Municipal Highways in descending order.

5.3. Any person failing to use a designated haul route is in contravention of this by-law and is guilty of an offence.

5.4. Unless otherwise provided in the required Haul Route Agreement, load restrictions imposed by the Municipality under authority of the Highway Traffic Act, continue to apply.

5.5. A haul route agreement may among other things include and require the Applicant to make improvements to all or portions of the designated haul route and/or to provide securities for road improvements to ensure that any damage to the public highway is or can be repaired at the Owner's expense.

## **6.0. Entrances**

6.1. Any property whereupon Site alteration works requiring a Permit (section 2.0) is proposed or authorised, such property shall be accessible by a Small-Scale Commercial/Light Industrial Entrance in accordance with the Municipality's Entrance Permit Policy A09-T-04.

6.2. Where such access does not exist, it shall be a condition of any permit issued hereunder that a Temporary Entrance Permit should be applied for using the Small-Scale Commercial/Light Industrial Entrance design.

## **7.0. Registration**

7.1. Where required pursuant to section 2.5, the Owner or a person authorized in writing by the Owner shall complete and submit the registration form appended hereto as Schedule "C".

7.2. Site Alteration shall not commence until ten (10) days from the date upon which the Site Alteration Registration Form was submitted. Ten (10) business days will be required for the registration to be reviewed and to allow staff to complete a site visit. Turnaround time is dependent on weather conditions i.e. snow.

7.3. The submission of a Site Alteration Registration Form authorizes the Director to enter and inspect the property to conduct such inspections prior to, during and after the completion of the Site Alteration activities.

7.4. Where it is determined, prior to the commencement of or during the conduct of the Registered Site Alteration activities, that such Site Alteration required a Permit under section 2.4, the Director may require the Owner to obtain a Site Alteration Permit and in furtherance thereto, issue a Stop Work Order.

## **8.0. Expiry Dates**

8.1. Permits will be valid for a period of one (1) year from the date of issuance.

8.2. Should Site Alteration activities be anticipated to continue beyond the one-year term, an application to extend the term of the Permit shall be submitted and the Director may extend the Permit for a period of up to one year upon payment of the required fee.

8.3. Permits issued under this by-law shall expire six (6) months after the date of issuance of the Permit if Site Alteration activities have not commenced.

## **9.0. Revocation of Permits**

9.1. The Municipality may revoke a Permit issued under this by-law for any of the following reasons:

- a. it was issued based on mistaken, false, or incorrect information;
- b. it was issued in error;
- c. the Owner requests in writing that it be revoked or terminated;
- d. there exists a violation or noncompliance with a condition of the Permit;
- e. work authorized under the Permit has not been commenced prior to its expiry date.

## **10.0. Stop Work Order**

10.1 If the Director has reasonable or probable grounds to believe that a contravention of this by-law or a Permit issued hereunder has occurred, the Director may make an order requiring the Owner to discontinue all or portions of the authorized Site Alteration. Such Order shall set out:

- a. the reasonable particulars of the contravention; and
- b. what the Owner must do to rectify the contravention; and
- c. the date and time by which the order the order must be complied with; and
- d. a statement that if the work is not done in compliance with the order within the specified time period, the Municipality may have the work done at the expense of the Owner.

## **11.0. Fees**

11.1. All fees related to Site Alteration shall be as set out in the Corporation of the Municipality of Grey Highlands Fees and Charges by-law that is currently in effect.

11.2. The volume fee will be calculated based on an estimated anticipated volume plus 10%. The fees will be adjusted accordingly to reflect the actual volume.

11.3. Actual volume quantities will be determined by;

- a. a pre and post construction topographic surveys of the Site Alteration area. The survey and data analysis shall be completed by a Qualified Person retained by the Owner.
- b. submission of load tickets, complete with a summary page of total volume.

11.4. Payment of fifty percent of the fee will be required prior to any Site Alteration works.

11.5. Where an Owner enters into a Haul Route Agreement which includes and/or provides for the completion of structural improvements to a municipal public highway, the Owner shall be entitled to a 50% reduction of the applicable fee. For the purpose of this by-law structural

improvements are such improvements intended or designed to facilitate

the proposed heavy truck traffic and do not include such improvements solely intended to provide for safe two-way truck traffic on the municipal highway such as the construction of turning lanes, platform/lane width expansions, the installation of warning signage etc.

## **12.0. Prescribed Conditions of the Permit**

12.1. The Owner shall maintain a copy of the Permit and all additional information submitted with the application on-site at all times.

12.2. The Owner shall be responsible for the activities of agents, employees, contractors, and subcontractors who may create a situation of non-compliance of the Permit.

12.3. The Owner shall notify the Director, in writing, of any changes to the quantity of material being imported and/or exported.

12.4. The Owner shall notify the Director, in writing, of any changes to the completion date of the proposed works.

12.5. The Owner shall notify the Director, in writing, of any changes to the material being imported to the subject site. The notification must be accompanied by a certificate from a Qualified Person confirming satisfactory and compliance.

12.6. The Owner will be required to submit to the Director, copies of the load tickets monthly, including a summary page. Each ticket should include at a minimum, the type of material and scale weight.

12.7. Tracking of mud, dirt, or debris of any kind from the site onto municipal right of way is prohibited. The Owner shall ensure that the wheels of all vehicles and equipment are free of mud, dirt, and debris when such vehicles exit the site.

12.8. The Director may, at any reasonable time:

- a. Enter and inspect the property to determine whether the provisions of this by-law, or any condition of a Permit or order issued under the by-law, are complied with.
- b. Enter the property to collect information for audit and verification of the condition of a Permit or order; and
- c. Require the production of copies of reports, manifest or other documentation for the purposes of auditing compliance with the conditions of a Permit or order.

## **13.0. Offence and Penalty**

13.1. The Director is hereby authorized and empowered to enforce the provisions of this by-law.

13.2. Every person who contravenes any provision of the by-law is guilty of an offence and upon conviction is liable to a fine as provided for by the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended.

## **14.0. Implementation**

14.1. Schedules "A", "B" and "C" hereby form a part of this by-law.

14.2. This by-law shall come into force and have immediate effect upon the final passing thereof.

14.3. All existing Site Alteration projects within the Municipality in operation prior to the approval of this by-law shall adhere to this by-law upon final passing thereof.

c. The Municipality will issue a notice and a copy of this by-law via registered mail to all known active sites to inform the owner(s) of the passing of the by-law and requirements herein.

d. Fees will be calculated based on a start date concurrent with the date this by-law was passed.

e. A topographic survey to be completed upon the passing of the by-law.

Read a first, second and third time, and finally passed on June 21 2023.

  
The Corporation of the  
Municipality of Grey Highlands  
Paul McQueen, Mayor

  
Raylene Martell, Municipal Clerk

Certified to be a True Copy of  
Grey Highlands By-law 2023-083.

  
Certified by: Raylene Martell, Municipal Clerk  
Municipality of Grey Highlands, County of Grey  
Date: July 13, 2023

RM

**Schedule "A"**  
**Municipality of Grey Highlands**  
**Part 1 Provincial Offences Act**  
**By-law 2023-083 - Site Alteration Permit**  
**Municipal Set Fines**

Item	Short Form Wording	By-law Section Creating or DefininQ Offenses	Set Fine
1	Conducting Site Alteration without obtaining a Permit.	2.2(a)	\$500.00
2	Conducting Site Alteration without registration.	2.2(b)	\$500.00
3	Failure to use approved designated haul route to and from the site.	5.3	\$500.00
4	Failure to maintain a copy of the signed Permit on-site.	12.1	\$250.00
5	Failure to notify the Director of change in volume of material.	12.3	\$500.00
6	Failure to notify the Director of change in completion date.	12.4	\$250.00
7	Failure to notify the Director of change in material.	12.5	\$250.00
8	Failure to submit load tickets monthly.	12.6	\$500.00
9	Tracking of mud, dirt, or debris on Municipal highways.	12.7	\$500.00
10	Refuse to allow the Director to enter and inspect the property.	12.8.a	\$500.00
11	Refuse to allow the Director to enter the property to collect information for audit and verification of the condition.	12.8.b	\$500.00
12	Refuse to provide the Director copies of reports, manifest or other documents upon request.	12.8.c	\$500.00

Schedule "B"  
Municipality of Grey Highlands  
By-law 2023-083 - Site Alteration Permit  
Application Form

<b>Property Information</b>	
Municipal Address:	
Legal Description:	
Roll No.:	
Prooerty Area:	m <sup>2</sup> or ha
<b>Owner of Property</b>	
Name:	
Address:	
Telephone No.:	
Email Address:	
<b>Aoolicant for Site Alteration Permit (if different than owner)</b>	
Name:	
Address:	
Telephone No.:	
Email Address:	
<b>Site Contact Information</b>	
Name:	Telephone No.:
<b>Site Alteration Information</b>	
Type of Work:	r-: Import Fill    r- Export Fill    :J Both
Approximate Volume	Importing: m3
	Exporting: m3
Anticipated No. of Trucks per Day:	
Start Date:	Completion Date:
<b>Additional Information</b>	
LI Attach proposed haul Route	
11 Attach proof of clearance or permit from applicable Conservation Authority	
0 Attach proof of clearance or permit from Niagara Escarpment Commission	
11 Attached proof of registration with the Ministry of Environment, Conservation and Park	
Date	Signature



Schedule "C"  
Municipality of Grey Highlands  
By-law 2023-083 - Site Alteration  
Registration Form

Prooerty Information	
Municipal Address:	
Legal Description:	
Roll No.:	
Property Area:	m <sup>2</sup> or ha
Owner of Property	
Name:	
Address:	
Telephone No.:	
Email Address:	
Site Contact Information	
Name:	I Telephone No.:
Site Alteration Information	
Type of Work:	Q Import Fill :] Export Fill 7 Both
Approximate Volume	Importing: m3
	Exporting: m3
Anticipated No. of Trucks per Dav:	
Start Date:	Completion Date: I
Additional Information	
11 Attach haul route	
Date	Signature

July 13, 2023

Crown Counsel  
Ministry of the Attorney General  
Crown Law Office – Criminal  
720 Bay Street, 10<sup>th</sup> Floor  
Toronto, ON M5G 2K1

To whom it may concern,

Re: Set Fine Application – Grey Highlands By-law 2023-083 – Site Alteration

The Municipality of Grey Highlands recently passed By-law 2023-083 being a by-law to permit Site Alteration projects and to regulate the hauling of fill within the Municipality of Grey Highlands and to be known as the Site Alteration and Fill By-law. This by-law was passed on June 21, 2023.

Enclosed please find:

1. A certified copy of By-law 2023-083.
2. A word version of the set fines schedule.

We respectfully request your consideration of this matter.

If you require anything further, please contact this office.

Sincerely,

*Raylene Martell*

Raylene Martell  
Director of Legislative Services/Municipal Clerk  
Municipality of Grey Highlands

Encl.