

PROPERTY MAINTENANCE

Chapter 967 DUMPING - FILL - SITE ALTERATIONS

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WHEREAS section 142 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, authorizes local municipalities to pass by-laws prohibiting or regulating the placing or dumping of fill, the removal of topsoil and the alteration of the grade of land.

Article 1
INTERPRETATION

967.1.1 Applicant - defined

“applicant” means the person who submits an application for a permit under this Chapter.

967.1.2 Application - defined

“application” means an application for a permit for site alteration as defined in Section 967.1.25.

967.1.3 Arborist - defined

“arborist” means an expert in the care and maintenance of trees and includes an arborist qualified by the Ministry of Training, Colleges and Universities, a forest technician or forestry technologist with an applicable college diploma and a minimum of two years urban forestry experience, a certified arborist qualified by the Certification Board of the International Society of Arboriculture, a consulting arborist registered with the American Society of Consulting Arborists, a Registered Professional Forester designated pursuant to the *Professional Foresters Act, 2000*, S.O. 2000, c. 18, as amended, or a person with other similar qualifications as approved by the Commissioner.

967.1.4 Body of water - defined

“body of water” means any brook, creek, stream, river, lake, pond, waterway, watercourse, canal, swale, wetland or other land area containing or capable of containing flowing or standing water.

967.1.5 Boundary tree - defined

“boundary tree” means a tree, the trunk of which is located on or partially on abutting land within 6 metres of the property line. By-law 166-07, 10 December, 2007.

967.1.6 Commissioner - defined

“Commissioner” means the Commissioner of Planning and Development for the Town of Richmond Hill or such successor office, as the case may be. By-law 166-07, 10 December, 2007; By-law 145-08, 14 July, 2008.

967.1.7 Commissioner of Parks Recreation and Culture - defined

“Commissioner of Parks Recreation and Culture” means the Commissioner of Parks Recreation and Culture for the Town of Richmond Hill or such successor office, as the case may be.

967.1.8 Council - defined

“Council” means the Council of the Town of Richmond Hill.

967.1.9 DBH - defined

“DBH” means the diameter of the trunk of a tree at a point of measurement 1.4 metres above the ground. Where a tree has branches or bumps which interfere with DBH measurement as aforesaid, DBH shall be measured as indicated in Schedule ‘E’. Where a tree is growing on a slope or is leaning, DBH shall be measured as indicated in Schedule ‘E’. Where a tree forks below or near 1.4 metres above the ground, DBH shall be measured as indicated in Schedule ‘E’. DBH of multi-trunk trees shall be measured as indicated in Schedule ‘E’.

967.1.10 Drainage - defined

“drainage” means the movement of stormwater, whether by way of the natural characteristics of the ground surface or by artificial means.

967.1.11 Dump or dumping - defined

“dump” or “dumping” means the depositing of fill in a location other than the location from which the fill was obtained and includes the movement or depositing of fill from one location to another on the same land.

967.1.12 Emergency work - defined

“emergency work” means work required to be done immediately in order to prevent imminent danger including maintenance work necessary due to natural events (i.e. ice storm, high winds, lightning), as well as maintenance work associated with emergency drain, utility and building repairs.

967.1.13 Engineer - defined

“engineer” means a professional engineer currently licensed to practice in the Province of Ontario.

967.1.14 Erosion - defined

“erosion” means the detachment and movement of soil, sediment or rock fragments by water, wind, ice or gravity.

967.1.15 Fill - defined

“fill” means any type of material deposited or placed on land and includes but is not limited to soil, earth, topsoil, stone, aggregate, asphalt, sod, turf, or any combination thereof.

967.1.16 Greenbelt Area - defined

“Greenbelt Area” means the area of land designated under section 2 of the *Greenbelt Act, 2005*, S.O. 2005, c. 1, as amended.

967.1.17 Greenbelt Plan - defined

“Greenbelt Plan” means the plan established under section 3 of the *Greenbelt Act, 2005*, S.O. 2005, c. 1, as amended.

967.1.18 Grade - defined

“grade” at any point on a site means the elevation of the ground surface of the land; and

- (a) “existing grade” means the grade as it existed prior to any site alteration;
- (b) “finished grade” means the actual grade after a site alteration is completed; and
- (c) “proposed grade” means the grade proposed by an applicant for a permit.

967.1.19 Injure or injury - defined

“injure” or “injury” means to:

- (a) harm;
- (b) damage; or
- (c) not protect a tree in accordance with the Tree Protection Policies set out in Schedule ‘D’

entirely or in part, and/or any acts which will harm a tree’s health or damage a tree in any manner.

967.1.20 Inspector - defined

“inspector” means an individual appointed by the Commissioner for the administration and enforcement of this Chapter.

967.1.21 Municipal Act - defined

“Municipal Act” means the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended.

967.1.22 Oak Ridges Moraine Area - defined

“Oak Ridges Moraine Area” means the area of land designated under section 2 of the *Oak Ridges Moraine Conservation Act, 2001*, S.O. 2001, c. 31, as amended.

967.1.23 Oak Ridges Moraine Conservation Plan - defined

“Oak Ridges Moraine Conservation Plan” means the plan established under section 3 of the *Oak Ridges Moraine Conservation Act, 2001*, S.O. 2001, c. 31, as amended.

967.1.24 Owner - defined

“owner” means:

- (a) the registered owner(s) of the site as shown in the records of the Land Registry Office; or

- (b) where the site is included in a description registered under the *Condominium Act, 1998*, S.O. 1998, c. 19, as amended, the board of directors of the condominium corporation.

967.1.25 Permit - defined

“permit” means a permit issued under this Chapter.

967.1.26 Permit application fee - defined

“permit application fee” means the prescribed fee as set out in Chapter 684 of the Town of Richmond Hill Municipal Code.

967.1.27 Person - defined

“person” means an individual, corporation, partnership, executor, administrator of an estate or any other legal entity recognized by the laws of Ontario and Canada.

967.1.28 Police officer - defined

“police officer” means a police officer of the York Regional Police Force.

967.1.29 Ponding - defined

“ponding” means the accumulation of surface water in an area not having adequate drainage therefrom where the lack of drainage is caused by the site alteration.

967.1.30 Pool - defined

“pool” means any body of water located outdoors on privately owned property, contained by artificial means in which the depth of water at any point can exceed 0.6 metres.

967.1.31 Retaining wall - defined

“retaining wall” means a wall designed to contain and support fill which has a finished grade higher than that of abutting land.

967.1.32 Site - defined

“site” means the land altered or proposed to be altered by means of a site alteration.

967.1.33 Site alteration - defined

“site alteration” means:

- (a) the placement or dumping of fill on land;
- (b) the removal of topsoil from land;
- (c) the alteration of the grade of land by any means including the removal of vegetative cover, the compaction of soil or the creation of impervious surfaces, or the combination of any of the foregoing activities; or

(d) the combination of any of the activities listed in (a) to (c).

967.1.34 Site alteration plan - defined

“site alteration plan” means a plan required by this Chapter and containing the information prescribed in Schedule ‘B’.

967.1.35 Swale - defined

“swale” means a shallow depression in the ground sloping to a place of disposal of surface water for the purposes of providing a method of drainage of surface water.

967.1.36 Topsoil - defined

“topsoil” means those horizons in a soil profile, commonly known as the ‘O’ and ‘A’ horizons, containing organic material and includes deposits of partially decomposed organic matter such as peat.

967.1.37 Town - defined

“Town” means The Corporation of the Town of Richmond Hill or the territory under its jurisdiction as the context requires.

967.1.38 Tree - defined

“tree” means any perennial woody plant, including its root system, which has reached or can reach a height of at least 4.5 metres at physiological maturity.

967.1.39 Tree protection zone - defined

“tree protection zone” means the area around a tree described in Schedule ‘D’.

967.1.40 Watercourse - defined

“watercourse” means a natural or man-made channel or swale in which a flow of water occurs, either continuously or intermittently.

**Article 2
GENERAL PROHIBITIONS**

967.2.1 Permit - required

No person shall cause, permit or perform a site alteration on land within the Town without a permit issued under this Chapter.

967.2.2 Oak Ridges Moraine Area - restriction and conformity

For lands within the Oak Ridges Moraine Area:

- (a) no site alteration is permitted if the Oak Ridges Moraine Conservation Plan prohibits site alteration on the said lands; and
- (b) any application for a site alteration must comply with the requirements of the Oak Ridges Moraine Conservation Plan.

967.2.3 Greenbelt Area - restriction and conformity

For lands within the Greenbelt Area:

- (a) no site alteration is permitted if the Greenbelt Plan prohibits site alteration on the said lands; and
- (b) any application for a site alteration must comply with the requirements of the Greenbelt Plan.

967.2.4 Permit - conformity with terms and conditions

No person shall cause, permit or perform a site alteration on land within the Town other than in conformity with the terms and conditions of any permit issued under this Chapter and the requirements set out in this Chapter.

967.2.5 Posting of permit

Prior to any site alteration being commenced pursuant to a permit issued under this Chapter, the permit shall be posted by the owner in a conspicuous place on the site to which the permit applies and the permit shall remain posted until the site alteration to which the permit applies is completed.

967.2.6 Failure to obey order

No person shall fail to obey an order issued under Article 10.

967.2.7 Injury of trees

No person, in the performance of a site alteration, shall injure or permit to be injured a tree, which is subject to tree protection measures as a condition of a permit issued under this Chapter except to the extent that such injury is specifically authorized in writing in accordance with the provisions of this Chapter and any other applicable by-laws of the Town or the Regional Municipality of York for the protection of trees. By-law 166-07, 10 December, 2007.

967.2.8 Administration - enforcement - Commissioner - others

The administration and enforcement of this Chapter shall be performed by the Commissioner, by persons authorized by the Commissioner, and by such By-law Enforcement Officers of the Corporation as may be appointed by the Commissioner of Planning and Development of the Corporation. By-law 145-08, 14 July, 2008.

**Article 3
EXCLUSIONS**

967.3.1 Exclusions to application of Chapter

This Chapter does not apply to:

- (a) activities or matters set out in clauses 142 (5) (a) to (g) of the *Municipal Act*;
- (b) areas which are the subject of a regulation made under section 28 of the *Conservation Authorities Act*, R.S.O. 1990, c. C.27, as amended, respecting site alteration; and
- (c) 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 the removal of topsoil as an incidental part of a normal agricultural practice does not include the removal of topsoil for sale, exchange or other disposition.

967.3.2 No permit required

Notwithstanding Article 2 of this Chapter, no permit is required for the site alterations set out in Schedule ‘A’.

967.3.3 Subject to provisions

Notwithstanding Section 967.3.2, the site alterations set out in Schedule ‘A’ remain subject to the provisions of Sections 967.2.2 to 967.2.4 inclusive, Article 7 and Articles 10 to 12 inclusive.

**Article 4
APPLICATION FOR PERMITS**

967.4.1 Permit application - submissions to Commissioner

A person applying for a permit shall submit the following to the Commissioner:

- (a) a completed application in the form approved by the Commissioner;
- (b) the applicable permit application fee;
- (c) a site alteration plan and other documentation for the site meeting the standards and containing the information prescribed in Schedule ‘B’;
- (d) security in a form and amount to be determined by the Commissioner in accordance with Schedule ‘F’ to secure performance of the site alteration for which the permit is being obtained and compliance with any conditions of granting the permit;
- (e) proof of any other permit or consent that may be required from the Town or any external agency or person for the site alteration.

967.4.2 Waiver by Commissioner

The Commissioner may waive any of the requirements for a permit application set out in Section 967.4.1.

**Article 5
CRITERIA FOR ISSUING A PERMIT**

967.5.1 Criteria for issuing a permit

The Commissioner may issue a permit for a site alteration in accordance with an approved site alteration plan if:

- (a) the applicant has fulfilled all of the requirements of Article 4 ;
- (b) the Commissioner is satisfied that the site which is the subject of the application for a permit is not within an area where site alteration is prohibited;
- (c) the Commissioner is satisfied that the proposed grade and resulting drainage pattern, the design of any retaining wall, the type of fill to be used and the methods of performing the site alteration are all in accordance with prevailing Town design standards and proper engineering practice;
- (d) the Commissioner is satisfied that the site alteration will not result in:
 - (i) erosion;
 - (ii) blockage of a watercourse or swale;
 - (iii) siltation in a watercourse;
 - (iv) pollution of a watercourse;
 - (v) flooding or ponding caused by a watercourse overflowing its banks;
 - (vi) a detrimental effect on the natural environment of the area;
 - (vii) unauthorized injury of a tree on land owned by the Town or other trees protected under by-laws of the Town or the Regional Municipality of York; or
 - (viii) flooding or ponding on abutting properties;
- (e) the applicant has entered into any agreement required pursuant to Section 967.6.1 (e);

- (f) the Commissioner is satisfied that the site alteration is for a purpose permitted by the applicable zoning by-law of the Town;
- (g) the proposed site alteration is for the excavation of a pool, the Commissioner is satisfied that the provisions of any by-law of the Town regulating pool enclosures or pools have or will be complied with;
- (h) the Commissioner is satisfied that the site which is the subject of the application for permit will be rehabilitated to the same or better condition than it was prior to the site alteration;
- (i) the site which is the subject of the application for permit, is within any area designated under an Official Plan or amendment to an Official Plan that has been approved by the Council of the Town or the Regional Municipality of York and that requires the preparation of a master environmental servicing plan and the Commissioner is satisfied that approval of the site alteration is not premature pending the results of the master environmental servicing plan and its approval by the Town; and
- (j) the applicant is the owner of the site which is the subject of the application to which the permit will apply and has executed the permit application.

Article 6
CONDITIONS IMPOSED AT
DISCRETION OF COMMISSIONER

967.6.1 Conditions imposed at discretion of Commissioner

The Commissioner may issue a permit subject to such conditions as are, in the opinion of the Commissioner, necessary to meet the criteria of approval set out in Article 5, to protect public safety or to prevent the creation of a public nuisance, including without limiting the generality of the foregoing, conditions:

- (a) requiring the construction of a retaining wall;
- (b) restricting the location of access routes, staging areas or storage areas;
- (c) prescribing erosion, siltation or construction control measures beyond the control measures specified in Schedule ‘C’;
- (d) prescribing tree protection measures beyond the tree protection measures specified in Schedule ‘D’;

- (e) requiring the owner to enter into an agreement with the Town containing such provisions, including but not limited to the provision of security for the owner's obligations under this Chapter, as the Commissioner considers necessary to ensure that the site alteration is done in accordance with prevailing Town design standards, proper engineering principles and the requirements of this Chapter, which agreement may be registered on title to the land; and
- (f) requiring the applicant to provide proof of liability insurance coverage to the satisfaction of the Commissioner, in an amount satisfactory to the Commissioner, and at the discretion of the Commissioner naming the Town as an additional insured.

Article 7
GENERAL REGULATIONS AND
CONDITIONS APPLICABLE TO ALL PERMITS

967.7.1 Consent of owner

No person shall perform a site alteration or permit the performance of a site alteration without the consent of the owner of the site.

967.7.2 Conditions

Every person who performs a site alteration shall:

- (a) notify the Commissioner in writing within forty eight hours of commencing any site alteration;
- (b) notify the Commissioner in writing of the completion of any control measures as identified in Schedule 'C', prescribed by any permit issued under this Chapter within fourteen days after their installation;
- (c) obtain permission of the Commissioner in writing prior to modifying the applicable approved site alteration plan;
- (d) install and maintain all control measures as identified in Schedule 'C', prescribed by any permit issued under this Chapter and shown on the applicable approved site alteration plan and any other facilities shown on the applicable approved site alteration plan;
- (e) inspect the control measures as identified in Schedule 'C', prescribed by any permit issued under this Chapter and shown on the applicable approved site alteration plan and any other facilities shown on the applicable approved site alteration plan at least once per week and after each rainfall and make needed repairs;

- (f) install all tree protection measures required by Schedule 'D', Section 967.6.1 (d) and shown on the applicable approved site alteration plan prior to commencing any site alteration and maintain these tree protection measures until the site alteration is completed;
- (g) not interfere with any municipal drainage systems, control measures as identified in Schedule 'C', prescribed by any permit issued under this Chapter and shown on the applicable approved site alteration plan and any other facilities shown on the applicable approved site alteration plan;
- (h) repair any siltation or erosion damage or other damage to abutting properties resulting from the site alteration;
- (i) ensure that Chapter 801 of the Town of Richmond Hill Municipal Code is complied with at all times;
- (j) maintain a copy of any applicable approved site alteration plan at the site;
- (k) ensure that the finished grade surface is protected by grass, greenery, asphalt, concrete or other means, either singly or in combination;
- (l) ensure that all fill is reasonably clean and free from deleterious materials;
- (m) ensure that all fill meets standards prescribed by the Ontario Ministry of the Environment for any current land use and any future land use for the site as designated under an Official Plan or amendment to an Official Plan approved by Council of the Town or the Regional Municipality of York;
- (n) ensure that fill shall not be placed around the perimeter of any existing building to an elevation higher than 150 millimetres below the ground floor level of such a building, unless such building and its foundation walls are raised in a manner satisfactory to the Commissioner; and
- (o) if applicable comply with the provisions of the *Building Code Act, 1992*, S.O. 1992, c. 23, as amended and the Building Code O. Reg. 350/06, as amended.

**Article 8
EXPIRY - RENEWAL - REVOCATION
AND TRANSFER OF PERMITS**

967.8.1 Permits - valid

Permits issued under this Chapter shall be valid for a period of one year from the date of issuance.

967.8.2 Permits - expiration

Notwithstanding Section 967.8.1, permits issued under this Chapter shall expire six months after the date of issuance of the permit if no site alteration is commenced under the permit.

967.8.3 Permits - renewal

A permit which has expired may be renewed at the sole discretion of the Commissioner within a six month period from the date of expiry, upon the making of a written application to the Commissioner, and payment of the permit application fee.

967.8.4 Permits - false information

Where it is revealed or discovered that a permit was issued based on false or misleading information, the Commissioner may revoke the permit, and if the permit is revoked, the owner and the applicant to which the permit was issued shall ensure that all site alteration that was the subject of the revoked permit ceases and the site is restored to the condition in which it existed before the permit was issued and site alteration commenced.

967.8.5 Permits - transfer of title

If title to the site for which a permit has been issued is transferred while the permit remains in effect, the permit shall automatically expire unless the new owner of the site, within thirty days of the transfer provides the Town with an undertaking to comply with all the conditions under which the existing permit was issued.

967.8.6 Permit - expired - restoration of site

If a permit has expired or has been revoked after site alteration has commenced and prior to the completion of the site alteration, the owner shall forthwith restore the site to its original condition or stabilize the site to the satisfaction of the Commissioner in a manner that will prevent adverse impacts on abutting properties and the environment. By-law 166-07, 10 December, 2007.

**Article 9
ADMINISTRATION**

967.9.1 Administration of authority - delegated to Commissioner

The Commissioner is responsible for the administration of this Chapter and is hereby delegated the authority to:

- (a) receive permit applications;
- (b) receive permit application fees;
- (c) issue permits, including conditions thereto in accordance with this Chapter or refuse to issue permits; and
- (d) to approve the Town entering into any agreements permitted under this Chapter. By-law 83-08, 12 May, 2008.

967.9.2 Inspectors

The Commissioner may appoint inspectors under this Chapter for the administration and enforcement of this Chapter.

967.9.3 By-law enforcement officers

By-law enforcement officers of the Town are also inspectors under this Chapter for the administration and enforcement of this Chapter.

967.9.4 Delegation of Commissioner's powers and duties

The Commissioner may delegate any of the Commissioner's powers and duties under this Chapter to an inspector, including, without limitation, the power to enforce this Chapter and to administer, review and refuse or issue permits, including conditions thereto, in accordance with this Chapter.

967.9.5 Power of entry

The Commissioner, an inspector or a police officer and any person under the direction of the Commissioner, an inspector or a police officer may enter on the site at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:

- (a) the provisions of this Chapter;
- (b) a direction or order issued under this Chapter or the *Municipal Act*;
- (c) a condition of a permit issued under this Chapter; or
- (d) an order under section 431 of the *Municipal Act*.

967.9.6 Inspection - production of documents

For the purposes of an inspection carried out pursuant to Section 967. 9.5 the Commissioner, an inspector or a police officer may:

- (a) require the production for inspection of documents or things relevant to the inspection;
- (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- (c) require information from any person concerning a matter related to the inspection; and
- (d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purpose of inspection.

967.9.7 Inspection pursuant to an order

The Town may undertake an inspection pursuant to an order issued under section 438 of the *Municipal Act* where the Commissioner and inspector or a police officer have reason to believe that the following are not being complied with:

- (a) the provisions of this Chapter;
- (b) a direction or order issued under this Chapter or the *Municipal Act*;
- (c) a condition of a permit issued under this Chapter;
- (d) an order under section 431 of the *Municipal Act*,

or where the Commissioner, an inspector or police officer have been denied entry contrary to Section 967.9.5.

**Article 10
ORDERS**

967.10.1 Order to discontinue activity

If the Commissioner or an inspector is satisfied that a contravention of this Chapter has occurred, the Commissioner or inspector may make an order requiring the owner of the site or the person who caused or allowed the site alteration under this Chapter, to discontinue the activity and the order shall set out:

- (a) the municipal address or the legal description of the site;
- (b) reasonable particulars of the contravention adequate to identify the contravention; and
- (c) the date by which there must be compliance with the order.

967.10.2 Order for work

If the Commissioner or an inspector is satisfied that a person has caused or permitted the performance of a site alteration in contravention of the provisions of this Chapter, the Commissioner or inspector may make an order requiring work to be done to correct the contravention and the order shall set out:

- (a) the municipal address or the legal description of the site;
- (b) reasonable particulars of the contravention adequate to identify the contravention;
- (c) the date by which there must be compliance with the order; and
- (d) if the work is not done in compliance with the order by the date it specifies, the Town may have the work done at the expense of the owner.

967.10.3 Order issued

Without limiting the generality of Section 967.10.2, the Commissioner or an inspector may issue an order under Section 967.10.2:

- (a) requiring that fill dumped or placed contrary to this Chapter be removed by:
 - (i) the person who dumped or placed it;
 - (ii) the person who caused or permitted it to be dumped or placed; or
 - (iii) the owner of the site on which it was dumped or placed;
- (b) requiring the rehabilitation of the site from which topsoil has been removed contrary to this Chapter or a permit issued under this Chapter;
- (c) requiring that the grade of the site altered contrary to this Chapter be restored to its original condition by:
 - (i) the person who altered the grade;
 - (ii) the person who caused or permitted the grade to be altered; or
 - (iii) the owner of the site on which the grade was altered.

967.10.4 Service of orders

Orders issued by the Commissioner or an inspector under Sections 967.10.1 or 967.10.2 shall be served personally or by prepaid registered mail to the last known address of the owner of the site and any other person who caused or allowed the site alteration.

967.10.5 Unable to effect service of order

If the Town is unable to effect service on any person under Section 967.10.4, a placard containing the terms of the order may be placed in a conspicuous place on the site and the placing of the placard shall be deemed to be sufficient service of the order.

**Article 11
WORK DONE BY MUNICIPALITY**

967.11.1 Work done by municipality

If the work required by an order under Section 967.10.2 is not done by the date set out in the order, the Town, in addition to all other remedies it may have, may do the work at the owner's expense and may enter upon the site, at any reasonable time, for this purpose in accordance with the provisions of the *Municipal Act*.

**Article 12
PENALTY AND OFFENCE**

967.12.1 Contravention

Any person who contravenes any provision of this Chapter or an order issued pursuant to Section 967.10.1 or Section 967.10.2 is guilty of an offence.

967.12.2 Continuing and multiple offences

All contraventions of this Chapter or orders issued under Sections 967.10.1 and 967.10.2 are designated as multiple offences and continuing offences. A multiple offence is an offence in respect of two or more acts or omissions each of which separately constitutes an offence and is a contravention of the same provision of this Chapter. For the purposes of this Chapter, an offence is a second or subsequent offence, if the act giving rise to the offence occurred after a conviction had been entered at an earlier date for the same offence.

967.12.3 Fines

On conviction of an offence under this Chapter, a person is liable to a fine in accordance with section 429 of the *Municipal Act* and the following rules made pursuant to section 429 of the *Municipal Act*:

- (a) a minimum fine of \$500 and a maximum fine which shall not exceed \$100,000 for a contravention of this Chapter;

- (b) in the case of a continuing offence, for each day or part of a day that the offence continues, a minimum fine of \$500 and a maximum fine of \$10,000, the total of which, notwithstanding Section 967.12.3 (a), may exceed \$100,000; and
- (c) in the case of a multiple offence, for each offence included in the multiple offence, a minimum fine of \$500 and a maximum fine of \$10,000, the total of which, notwithstanding Section 967.12.3 (a), may exceed \$100,000.

967.12.4 Special fines

On conviction of an offence under this Chapter a person is, in addition to the fine provided for in Section 967.12.3, liable to a special fine in accordance with clause 429 (2) (d) of the *Municipal Act*. The amount of the special fine will be the minimum fine as provided for in Section 967.12.3 to which may be added the amount of economic advantage or gain that person has obtained or can obtain from the contravention of this Chapter and/or order issued pursuant to Section 967.10.1 or Section 967.10.2. Pursuant to subsection 429 (3), par. 1 of the *Municipal Act* a special fine may exceed \$100,000.

967.12.5 Additional remedy

If this Chapter is contravened and a conviction is entered, in addition to any other remedy and to any penalty imposed by the Chapter, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order:

- (a) prohibiting the continuation or repetition of the offence by the person convicted; and
- (b) requiring the person convicted to correct the contravention in the manner and within the period that the court considers appropriate.

967.12.6 Presumption

If a contravention of this Chapter or an order issued pursuant to Section 967.10.1 or Section 967.10.2 occurs, the contravention is presumed to have been committed by the owner of the site on which the contravention has occurred unless otherwise proven by the owner.

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Article 13 SEVERABILITY

967.13.1 Severability

In the event that any particular provision or part of a provision of this Chapter is found to be invalid or unenforceable for any reason whatsoever, then the particular provision or provisions or part of the provision shall be deemed to be severed from the remainder of this Chapter and all other provisions shall remain in full force and shall be valid and enforceable to the fullest extent permitted by law.

Article 14 APPLICATION OF OTHER LAWS

967.14.1 Application of other laws

The issuance of a permit does not relieve the applicant of the responsibility of obtaining all other approvals that may be required by the Town or any other level of government and agencies thereof or compliance with any other by-law, legislation or obligation.

Article 15 SCHEDULES

967.15.1 Schedules

All schedules attached to this Chapter form part of this Chapter.

Article 16 REPEAL - ENACTMENT

967.16.1 By-law - previous

By-law No. 66-91 is hereby repealed on January 1, 2008.

967.16.2 Effective date

This Chapter shall come into force and take effect on January 1, 2008.
By-law 166-07, 10 December, 2007.

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SCHEDULE

Schedule 'A' - Exemption to Requirement for Permit

Notwithstanding Section 967.2.1, no site alteration permit shall be required for:

1. emergency work performed in consultation with the Town, subject to any requirement from the Commissioner to obtain a permit for the continuation of such work;
2. cultivation or tilling of garden beds so long as such work does not have an adverse effect on existing drainage patterns on abutting properties;
3. the removal of topsoil incidental to a normal agricultural practice including such removal as an incidental part of sod-farming, greenhouse operations and nurseries for horticultural products; and
4. minor landscaping works, as determined at the sole discretion of the Commissioner, which are at least 0.6 metres from any property line and do not impact drainage patterns on abutting properties.

The exemption from the permit requirements under this Chapter granted to site alterations listed in this Schedule do not provide an exemption from other provisions of this Chapter. All site alterations shall be performed in compliance with applicable provisions. By-law 166-07, 10 December, 2007; Schedule 'A'.

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Schedule 'B' - Standards for Plans Application for Site Alteration Permit

Two certified copies of a site alteration plan are required. All plans are to be metric and printed from original drawings with all information legible and clear. All plans are to be folded to 21.59 centimetres x 27.94 centimetres size with title blocks visible. All elevations shall be tied to existing Town of Richmond Hill benchmarks and be related to geodetic datum.

The design of all proposed site grading and drainage systems, including but not limited to swales, retaining walls, sewers, driveways, paved or vegetated areas, shall conform to the Town of Richmond Hill Standards and Specifications Manual.

Proposed new dwellings or additions to dwellings on residential lots, the site alteration plan and other documentation to be submitted shall conform to Division 'D' of the Town of Richmond Hill Standards and Specifications Manual.

Pregrading or preservicing of site plans or subdivisions, the site alteration plan and other documentation to be submitted shall conform to Division 'F' of the Town of Richmond Hill Standards and Specifications Manual.

Site alteration plans, or accompanying documentation shall include the following information:

1. a key map showing the location of the site;
2. the site boundaries;
3. the number of hectares of the site;
4. the use of the site and any abutting land;
5. the location, dimensions and use of buildings or structures existing or proposed to be erected on the site;
6. the location and use of buildings or structures on abutting land within 30 metres beyond the site boundary;
7. the location of any easements over the site;
8. the location of lakes, streams, wetlands, channels, ditches, swales, other watercourses, bodies of water or other natural heritage features on the site within 30 metres beyond the site boundary;
9. the Regional Storm Flood Plan and Conservation Authority Fill Regulation lines;
10. the location, dimensions, and details of all existing and proposed retaining walls, including labelled spot elevations along the bottom and top

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of wall, material type, and structural details in accordance with the Town of Richmond Hill Standards and Specifications Manual;

11. the location and type of vegetative cover on the site, including the variety and DBH of every tree on the site;

12. the location (including distance from the property line), variety, and DBH and tree protection zone for every boundary tree, any access route to the site, or any proposed staging or storage area. Where access to boundary trees is not available, estimated DBH shall be provided;

13. such tree reports prepared by an arborist as may be required by the Commissioner, Schedule 'D' or other Town by-laws or policies;

14. the location and dimension of any existing proposed storm water drainage systems, and natural drainage patterns on or within 30 metres beyond the site boundary;

15. the location and dimensions of utilities, structures, highways, paving, sidewalks, walkways, easements, catch basins;

16. the existing grade elevations at contour intervals not to exceed one half of one metre and to extend a minimum of 30 metres beyond the site boundary with spot elevations along at sufficient intervals to clearly show the existing drainage patterns on the site and on abutting properties;

17. the proposed final grade elevations of the site;

18. the location and dimensions of all proposed site alterations;

19. the location and dimensions of all proposed temporary stockpiles for soil and other materials;

20. the location and dimensions of all proposed access routes from highways;

21. the location and dimensions of all proposed staging areas for equipment;

22. the location, dimensions, design details and design calculations of all construction site control measures necessary to meet the requirements of this Chapter, including details of the proposed sediment and erosion control measures, and details of any drainage system to be used upon the completion of the site alteration;

23. a schedule of the anticipated starting and completion dates of each site alteration activity including the installation of site control measures needed to meet the requirements of this Chapter;

24. provision for the maintenance of the construction site control measures during construction including a mud tracking prevention program

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which describes the procedures for mud tracking prevention and highway clean up and designates a contact person for such a program throughout each site alteration, land disturbing or land developing activity;

25. the scale of drawing;

26. details of the site rehabilitation including the type and location of all interim and permanent stabilization measures;

27. a certificate on the drawing, executed by an engineer, or an Ontario Land Surveyor, in the following form:

"I have reviewed plans for the construction of

*_____ located at _____
and have prepared this plan to indicate the compatibility of the proposal to existing adjacent properties and municipal services. It is my belief that adherence to the proposed grades as shown will produce adequate surface drainage and proper facility of the municipal services without any detrimental effect to the existing drainage patterns or adjacent properties."*

28. and such further and other information with respect to the site as may be required by the Commissioner. By-law 166-07, 10 December, 2007; Schedule 'B'.

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Schedule 'C' - Control Measures

Every site alteration shall be performed using appropriate erosion and sediment control measures. Erosion and sediment control measures shall be designed and included on the site alteration plan in conformity with Division "D" of the Town of Richmond Hill Standards and Specifications Manual. By-law 166-07, 10 December, 2007; Schedule 'C'.

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Schedule 'D' - Tree Protection Policies

Every site alteration shall be performed in accordance with the Tree Protection Policies set out in this Schedule. Compliance with the Tree Protection Policies is deemed to be a condition of every permit unless specifically exempted in writing by the Commissioner.

1. Application of tree protection policies

Tree protection measures are required for all municipal trees. The injury of any trees located wholly or partially on municipal land is regulated or prohibited under separate by-laws of the Town. Permits granted under this Chapter do not exempt the permit holder from the provisions of those by-laws.

Tree protection measures apply to boundary trees except as may be authorized in writing by the Commissioner in accordance with the provisions of this Schedule.

Tree protection measures are encouraged for all trees and may be required by the Commissioner for trees other than municipal trees and boundary trees where the protection of the tree is required as a condition of any other municipal approval or by-law or where required to protect public safety.

2. Discretion of the Commissioner

The Commissioner shall exercise any discretion under this Chapter in accordance with the provisions of any by-law or policy for the protection of trees generally applicable throughout the Town and the Tree Protection Policies listed in this Schedule. In the event of a conflict between the Tree Protection Policies listed in this Schedule and other policies or by-laws for the protection of trees applicable within the Town, the policy or by-law that is the most protective of trees shall prevail for the purposes of this Chapter.

Subject to the provisions of any other by-law, the Commissioner, in consultation with the Commissioner of Parks, Recreation and Culture may provide relief from the requirements of these Tree Protection Policies or require tree protection measures above and beyond the tree protection measures prescribed in this policy having regard to the variety and location of the tree and any circumstances surrounding the site alteration that may pose a particular hazard to the tree.

3. Tree protection zones

For the purposes of this Chapter the tree protection zone for any tree shall be determined as follows:

Table 1 - Tree Protection Zones

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Trunk Diameter (DBH)	Minimum Protection Distances Required ¹
<10 cm	1.8m
11 - 40 cm	2.4m
41 - 50 cm	3.0m
51 - 60 cm	3.6m
61 - 70 cm	4.2 m
71 - 80 cm	4.8 m
81 - 90 cm	5.4 m
91 - 100+ cm	6.0 m

¹Tree protection zone distances are to be measured from the outside edge of the tree base towards the drip line and may be limited by an existing paved surface, provided that surface remains intact throughout the site alteration.

4. Activities prohibited or restricted within tree protection zones

Unless specifically authorized by a permit issued under this Chapter, the following activities are prohibited within a tree protection zone for municipal trees and other trees protected as a condition of a permit issued under this Chapter:

- (a) site alteration or land disturbance to existing grade through deposit of fill, trenching, excavating, scraping or paving;
- (b) storage of construction materials, soils, waste, debris or equipment;
- (c) disposal of any liquids, eg. concrete sleuth, gas, oil, paint; and
- (d) movement or parking of vehicles or equipment or other activities that may compact the soil.

Where the applicant proposes to conduct any of the above activities within the tree protection zone, the applicant shall submit a report to the satisfaction of the Commissioner, prepared by an arborist:

- (a) describing the adaptability of the tree to the proposed site alteration or work associated with the site alteration, including a “structural hazard rating” for all trees greater than 100 mm in DBH prepared in accordance with methodology of Evaluation of Hazard Trees in Urban Areas, International Society of Arboriculture (SA), Second Edition or an equivalent method acceptable to the Commissioner;
- (b) outlining any tree protection measures recommended or required to protect the tree from injury; and
- (c) certifying whether the proposed site alteration is expected to injure the tree.

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Permission to conduct the prescribed activities shall be refused if granting permission is likely to cause the injury of a tree contrary to the provisions of a by-law of the Town or the Regional Municipality of York and may be refused in the case of other trees, if, in the opinion of the Commissioner, there is a reasonable alternative, including modifications to the site alteration plan that would prevent or limit the injury of the tree.

5. Tree protection barriers

Tree protection barriers shall be erected along the perimeter of the tree protection zone of any municipal tree, boundary tree or other tree protected as a condition of a permit issued under this Chapter prior to commencing any work related to the site alteration and shall remain in place throughout the entire duration of the work.

Tree protection barriers shall be erected in accordance with the following standards:

- (a) the required barrier shall be 1.2 metres high, wood clad hoarding. Where branches of the tree interfere with the barrier, the height of the barriers may be lowered to accommodate the branches;
- (b) tree protection barriers located on the Town highways, where visibility must be maintained shall be 1.2 metres high, and consist of orange plastic web snow fencing on a 5.08 centimetres x 10.16 centimetres frame;
- (c) where some excavate or fill has been temporarily located near a tree protection barrier, plywood or similar material shall be used to ensure that no material enters the tree protection zone;
- (d) all supports and bracing shall be located outside the tree protection zone in a manner that minimizes damage to roots within or outside the tree protection zone; and
- (e) signage, at least 40 centimetres x 60 centimetres in size of white gator board or equivalent shall be posted and maintained on the tree protection barrier, clearly identifying the area as a tree protection zone in which grading, storage or materials or equipment is prohibited and advising that the removal of the tree protection barrier is prohibited prior to completion of the site alteration.

6. Security for tree protection

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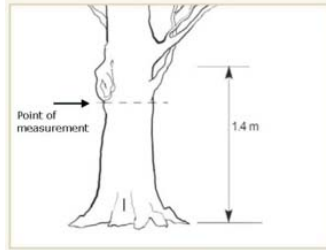
Security for the protection of trees may be required by the Commissioner in an amount to be determined by the valuation of the tree in accordance with the current edition of the International Society of Arboriculture "Guide for Plan Appraisal" or an equivalent guide chosen by the Commissioner.

Security for tree protection shall be held by the Commissioner for twenty-four months after the date of final inspection of the site alteration or such longer or shorter time as the Commissioner deems necessary to satisfy the Commissioner that the tree has not been injured as a result of the site alteration. Applicants applying for the early release of security of the site alteration shall produce a report of an arborist certifying that the tree has not been injured as a result of the site alteration. By-law 166-07, 10 December, 2007; Schedule 'D'.

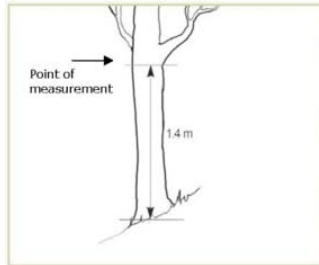
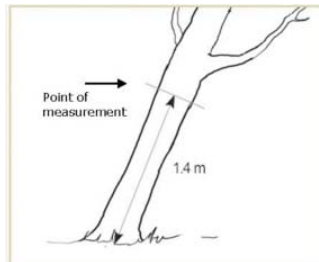
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Schedule 'E' - Measurement of DBH

1. Tree has branches or bumps which interfere with DBH measurement. Measure DBH below the branch or bump.

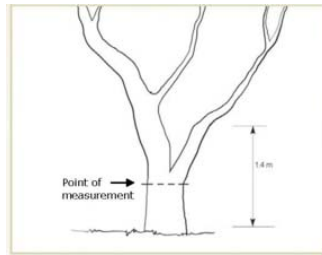


2. Vertically growing tree is on a slope or leaning tree. Measure diameter 1.4 m from the ground at the midpoint of the trunk along the slope.

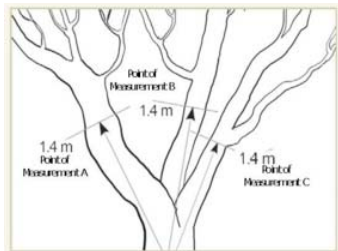


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3. Tree forks below DBH or near DBH. The measurement is recorded at the narrowest part of the main stem below the fork.



4. Tree splits into several trunks close to ground level. Measure DBH of each trunk separately, using the principles shown in categories 1-3 above. The DBH for the tree is found by taking the square root of the sum of all squared stem DBHs.



By-law 166-07, 10 December, 2007; Schedule 'E'.

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Schedule 'F' - Security for Site Alteration

1.
 - (a) Where required, security shall be in the form of cash, bank draft, money order, certified cheque or an irrevocable letter of credit in a form acceptable to the Town.
 - (b) In order for a letter of credit to be accepted by the Town, it must be from a bank listed as a Schedule 'I' bank and under the *Bank Act*, S.C. 1991, c. 46 and must include in its wording an automatic clause requiring the bank to provide thirty day advance notice to the Commissioner of Finance and Treasurer by registered mail if it intends not to renew the letter of credit.
 - (c) In the event that the Town receives notice that a letter of credit is expiring and will not be renewed, or if further or additional securities are not provided within the said thirty days, the Town may draw on the current letter of credit at the discretion of the Commissioner.
 - (d) Any interest accruing on realized cash security shall belong to the Town and not to the permit holder.
 - (e) The security may be used for:
 - (i) cleanup of mud tracking of the road or restoration of any municipal works. The owner will be notified of the required cleanup, and if the work is not completed by the owner, the Town will carry out the work using the security money to cover the cost plus 25 percent of the value of the work to cover the administration cost;
 - (ii) the completion or rectification of work required under the permit;
 - (iii) the completion of work required under an order issued under Article 10 of this Chapter,
 - (f) The security shall be held pending the completion of all works required under the permit and any order issued under this Chapter and pending compliance with the provisions of any agreement entered into pursuant to Section 967. 6.1 (e).
2. It is the responsibility of the permit holder:
 - (a) to provide proof satisfactory to the Commissioner that the site has been adequately reinstated and stabilized in accordance with this Chapter and the plan accompanying the permit;

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- (b) to provide a certificate of a consulting engineer or surveyor that the elevations have been completed in accordance with the plans submitted and the finished project does not detrimentally affect drainage on adjacent properties;
- (c) to request that the Town carry out a final inspection to confirm that all relevant terms of this Chapter have been complied with.

3. When:

- (i) the provisions of paragraph 2 of this Schedule;
- (ii) all work required under the permit or any order; and
- (iii) the provisions of any agreement entered into pursuant to Section 967. 6.1 (e) have been fully complied with to the satisfaction of the Commissioner, the Commissioner shall release the applicant's security.

4. Notwithstanding paragraph 3, security held for the protection of trees shall be held until the Commissioner is satisfied that no municipal or boundary tree was injured or destroyed as a result of the site alteration in accordance with Tree Protection Policies set out in Schedule 'D'.

5. Notwithstanding anything in this Schedule to the contrary, where there is a conflict with respect to the provisions related to any security for the protection of trees and the provisions of this Schedule, the provisions of Schedule 'D' shall govern to the extent of any conflict. By-law 166-07, 10 December, 2007; Schedule 'F'.