

SCHEDULE G | EXCAVATION PITS

.1 PROCESS

- (1) For the purposes of this Schedule, ‘development permit’ means a development permit issued by the Council for an *excavation pit* on a specified *parcel*.
- (2) Subject to section .10, no *person* shall
 - (a) develop or operate an *excavation pit*;
 - (b) remove excavated material from an *excavation pit*; or
 - (c) institute reclamation procedures in an excavation pit, except under the authority of a development permit issued in accordance with the requirements of this *Bylaw*.
- (3) A *property owner* or their authorized agent may apply for a development permit by submitting to the *Municipality*,
 - (a) a completed application, including the information required in the form approved by the *Council*; and
 - (b) the application fee set out in Schedule C.
- (4) The information and other documentation to be provided by an applicant for the purposes of an application under subsection (3) shall include
 - (a) if the applicant is not the *owner* of the parcel of land where the proposed *excavation pit* is to be operated, the written consent of the *owner* to the operation of the *excavation pit* on that *parcel* of land;
 - (b) the real property tax number and the name of the owner as shown on the tax notices under the *Real Property Tax Act* R.S.P.E.I. 1988, Cap. R-5, for the *parcel* of land where the proposed *excavation pit* is to be located;
 - (c) a map or plan showing the location, shape, dimensions, approximate area and description of the *property* on which the *excavation pit* is to be located and the location of the proposed *excavation pit*, together with the existing grades of the *property* on which the *excavation pit* is to be located;
 - (d) details of the existing land *use* of the location of the proposed *excavation pit*, including whether the *property* on which the proposed *excavation pit* is located is designated under the *Prince Edward Island Lands Protection Act* R.S.P.E.I. 1988, Cap. L-5;
 - (e) details of the *use* of all land within 500 metres of the boundary of the proposed *excavation pit*;
 - (f) the location and extent of all *watercourses* and *wetlands* within the *property* boundaries or within 250 metres of the proposed *excavation pit*;
 - (g) the details of all drainage from the proposed *excavation pit*;

- (h) proposed measures to prevent soil eroded from the proposed *excavation pit* from entering any adjacent *watercourses* or *wetlands*;
 - (i) a description of all entrances to and exits from the proposed *excavation pit*;
 - (j) the proposed location and size of stockpiles of the matter to be excavated, overburden and waste;
 - (k) proposed measures to protect people and livestock from any hazards that may be created by the proposed *excavation pit*, including fencing and posting of signs that warn of its proximity; and
 - (l) other information respecting the proposed *excavation pit* and its operation that may be required by the *Council* in order to assess the application.
- (5) A plan referred to in clause (4)(c) may be in the form of an aerial photograph, a survey plan certified by a professional land surveyor or a line drawing made by an applicant, but the applicant shall ensure that any plan submitted for the purposes of this section contains sufficient detail and identifies the location and extent of the features referred to in subsection (4) with sufficient clarity to allow the *Council* to properly assess the application.
- (6) *Council* may grant a development permit to the applicant if, after reviewing an application submitted in accordance with subsection (3) and after following the procedures and considering the criteria set out in this *Bylaw* for a site-specific amendment use, *Council* is satisfied that
- (a) the application has been made in accordance with the requirements of this *Bylaw*; and
 - (b) the application includes the information and other requirements referred to in subsection (4) and is otherwise acceptable to *Council*, and
 - (c) adequately provides for the operation of the *excavation pit* in compliance with this *Bylaw* and the requirements of any other enactment.
- (7) In making its assessment under subsection (6), *Council* may consult with the *Province's* department responsible for the environment or other qualified professionals.
- (8) In determining whether or not to grant a development permit, *Council* may establish such terms and conditions as are necessary to ensure compliance with the *Bylaw* and any other enactment, including criteria for the renewal of the development permit.
- (9) Upon making a decision with regards to an application for a development permit, *Council* shall provide public notice in accordance with Part 15 of this *Bylaw*.

.2 DISPLAY REQUIRED

- (1) A holder of a development permit shall display the development permit for an *excavation pit* in clear view at the entrance to the *excavation pit* for which it was issued.

.3 REASONS FOR REFUSAL

- (1) Where the *Council* refuses to issue development permit to an applicant, the *Council* shall provide written reasons for the refusal to the applicant.

.4 COMPLIANCE REQUIRED

- (1) All activities associated with the operation of an *excavation pit* shall be carried out in compliance with this *Bylaw* and the requirements set out in paragraphs 1.0 to 2.6, inclusive, of the Design and Operational Criteria for Excavation Pits set out in the Schedule to the *Excavation Pits Regulations*.
- (2) The operator of an *excavation pit* shall ensure that the design and operation of the *excavation pit* comply with this *Bylaw* and the requirements set out in paragraphs 1.0 to 2.6, inclusive, of the Design and Operational Criteria for Excavation Pits set out in the Schedule to the *Excavation Pits Regulations*.
- (3) A development permit holder shall notify the *Council* in writing of any change in the circumstances of the development permit that relates to any information the development permit holder provided in the application for the development permit.

.5 SUSPENSION

- (1) *Council* may suspend or revoke a development permit if *Council* is satisfied that any one or more of the following conditions prevail:
 - (a) the *excavation pit* is not designed, located, constructed, or operated in accordance with the requirements set out in this *Bylaw* or and the requirements set out in paragraphs 1.0 to 2.6, inclusive, of the Design and Operational Criteria for Excavation Pits set out in the Schedule to the *Excavation Pits Regulations*;
 - (b) the development permit holder has obtained the development permit through misrepresentation or fraud.
- (2) A suspension under subsection (1) remains in force for the period of time specified by *Council*, which shall not exceed the remainder of the period during which the development permit is valid.
- (3) Where a development permit is suspended under subsection (1), the development permit holder may reapply to *Council* for reinstatement of the development permit on the expiry of the suspension period specified under subsection (2) by providing proof satisfactory to *Council* that the contravention that gave rise to the suspension has been corrected.

.6 EXPIRY

- (1) Notwithstanding section 3.15 of this *Bylaw*, unless otherwise specified by the *Council*, a development permit expires one year after the date on which it was issued.

.7 RENEWAL

- (1) A development permit holder may renew the development permit prior to its expiry by submitting a completed application in the form required by *Council* to *Council*, accompanied by the renewal fee set out in Schedule C.
- (2) An applicant under subsection (1) shall provide, in respect of the *excavation pit* to which the development permit relates,
 - (a) the information required under clauses .1(4)(a) and (b); and
 - (b) any information under clauses .1(4)(d) and (e) that has changed since the issuance of the development permit or the previous renewal, whichever last occurred.

.8 PROHIBITION

- (1) The holder of development permit for an *excavation pit* shall not transfer or use the development permit for the development or operation of an *excavation pit* other than the *excavation pit* for which it was granted.

.9 RECLAMATION PROCEDURES

- (1) The holder of a development permit shall, before the *excavation pit* is abandoned, conduct reclamation procedures and institute safety measures that are acceptable to the *Council*, including
 - (a) sloping of the working faces of the *excavation pit*;
 - (b) contouring of pit floors to limit ponding of surface water; and
 - (c) restricting public access to the *excavation pit* by appropriate means.
- (2) The *Council* may direct the *owner* of a property on which an abandoned *excavation pit* is located to perform activities relating to the closure and reclamation of the *excavation pit*, if the Council believes on reasonable grounds that
 - (a) the slope or grading of the *excavation pit* is contributing to the release of sediment, silt or surface water runoff that is detrimental to the environment;
 - (b) the closure and reclamation of the *excavation pit* would contribute to an improvement in the natural habitat of the area;
 - (c) the *excavation pit* may be injurious to the health or safety of a person; or

- (d) the *excavation pit* interferes with or is likely to interfere with the comfort, well-being, livelihood, or enjoyment of life of a person.
- (3) Clause 2(c) does not apply to an *owner* of a property referred to in subsection (2) who is acting under the authority of a directive issued by the *Council* under that subsection.

.10 EXEMPTION

- (1) The registered *owner* of a parcel is exempt from the requirement to obtain development permit for the operation of an *excavation pit* located on that parcel if the material to be excavated is for private use and is not sold commercially or supplied to any person for resale.