

BY-LAW 2009-170

**A BY-LAW OF THE CITY OF GREATER SUDBURY
TO REGULATE THE REMOVAL OF TOPSOIL, THE
PLACING OR DUMPING OF FILL, AND THE
ALTERATION OF GRADES OF LAND**

WHEREAS the City wishes to protect and preserve agricultural lands within its boundaries in accordance with its Official Plan;

AND WHEREAS the City wishes to protect bodies of water and adjoining lands that may be adversely affected by activities related to the removal of topsoil, placing or dumping of fill and/or the alteration of grades of land;

AND WHEREAS the City wishes to protect its residents and property owners from adverse effects related to the removal of topsoil, placing or dumping of fill and/or the alteration of grades of land;

AND WHEREAS Section 142 of the *Municipal Act, 2001*, S.O. 2001, c.25, allows municipalities to prohibit or regulate the placing or dumping of fill, to prohibit or regulate the removal of topsoil, to prohibit or regulate the alteration of the grade of land, to require that a permit be obtained for the placing or dumping of fill, the removal of topsoil, or the alteration of the grade of land, and to impose conditions to such permits;

**NOW THEREFORE THE COUNCIL OF THE CITY OF GREATER SUDBURY
HEREBY ENACTS AS FOLLOWS:**

PART I – SHORT TITLE

1. This By-law shall be known as the Site Alteration By-law.

PART II - INTERPRETATION

2. (1) In this By-law,

“Adequate Performance” of a Control Plan or Modified Control Plan means that:

- (i) All stormwater or snowmelt on a Site passes through a Final Control Device before reaching any Protected Area;

- (ii) There is no apparent sedimentation in a downstream or Protected Area;
and,
- (iii) There is no adverse effect to adjoining property owners caused by dusting due to soil erosion or City infrastructure caused by fouling of roads and blocking of stormwater management systems.

"Alteration" means changes in elevation of 100mm or more from Existing Grade or Finished Grade resulting from the Placing or Dumping of Fill, the Removal of Topsoil or any other action that alters the Grade of land;

"Body of water" includes any brook, creek, stream, river, lake, pond, waterway, and water course, canal, or other flowing or standing water;

"Control Plan" means a Plan to control erosion and sedimentation prepared and implemented by a Professional to comply with this By-law and the Control Plan Requirements attached at Schedule "A";

"Director" means the Director of Building Services/Chief Building Official of the City of Greater Sudbury or his or her designates;

"Erosion" means the detachment and movement of soil, sediment or rock fragments by water, wind, ice or gravity;

"Fill" means any type of material capable of being removed from or deposited on lands, such as soil, topsoil, stone, sod, turf, concrete, and asphalt either singly or in combination as acceptable to the Director;

"Final Control Device" means the most down gradient erosion or sedimentation control device between a Site and a downstream or Protected Area;

"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 or Site upon which Placing or Dumping of Fill, Alteration of the Grade or

Removal of Topsoil is proposed and of abutting ground surface up to three metres wide surrounding such Land or Site, except that where such activity has occurred in contravention of this By-Law, Existing Grade shall mean the ground surface of such Land or Site as it existed prior to the said activity;

(ii) "Finished Grade" means the approved elevation of ground surface of Land or a Site upon which Fill has been placed or dumped, the Grade altered, or Topsoil removed, in accordance with this By-Law;

(iii) "Proposed Grade" means the proposed elevation of ground surface of the Land or Site upon which fill is proposed to be placed or dumped, the grade altered or topsoil removed;

"Land" or "Property" means real property within the boundaries of the City of Greater Sudbury;

"Owner" includes any person, partnership, organization or corporation who or which is the registered owner of Land;

"Permit" or "Site Alteration Permit" means an authorization granted in writing by the Director pursuant to this By-law, to perform a Site Alteration on a defined Site and subject to the conditions in Schedule "B" attached to this By-law and such other conditions as the Director may impose and shall include a Conditional Site Alteration Permit issued pursuant to Section 8.1 and an Existing Operation Permit pursuant to Schedule "C";

"Placing or 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 or Site to another location on the same or another Property or Site;

"Professional" means a professional engineer or a landscape architect who is licensed to practice in the Province of Ontario, and who is retained by an applicant to prepare and implement a Control Plan;

"Protected Area" includes a body of water, and any area outside the Land or Site on which Site Alteration is occurring, has occurred or will occur;

"Removal of Topsoil" means the removal of Topsoil from Land or a Site or from any part thereof and includes the movement of Topsoil from one Property or Site to another as well the movement of Topsoil to another location on the same Property or Site;

"Site" means real property where Site Alteration is occurring, has occurred or will occur;

"Site Alteration" means one or more of the following activities in relation to a Property:

- (i) placing or dumping fill,
- (ii) removal of topsoil, or,
- (iii) 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.

(2) References in this By-law to words in the singular shall be deemed to include the plural.

(3) References in this By-law to "By-law" shall be deemed to include a reference to the Schedules attached hereto.

PART III - EXEMPTIONS

3. This By-law does not apply to:

- (1) activities or matters undertaken by the City of Greater Sudbury or a local board of the City of Greater Sudbury;
- (2) 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*, R.S.O. 1990, c. P.13, as amended, or as a

requirement of a site plan agreement or subdivision agreement entered into under those sections;

(3) 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;

(4) 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*, S.O. 1998, c. 15, as amended, for the purpose of constructing and maintaining a transmission system or a distribution system, as those terms are defined in that Section;

(5) 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*, R.S.O. 1990, c. A.8, as amended;

(6) 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,

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

(b) on which a pit or quarry is a permitted Land use under a By-law passed under section 34 of the *Planning Act*;

(7) 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*, R.S.O. 1990, c. D.17, as amended or the *Tile Drainage Act*, R.S.O. 1990, c. T.8, as amended;

- (8) 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 but this exemption does not apply to the Removal of Topsoil for sale, exchange or other disposition;
- (9) any Site Alteration as an incidental part of the construction, renovation, replacement or demolition of a basement, foundation, driveway, driveway entrance or septic bed for residential purposes in accordance with the *Building Code Act*, 1992, S.O. 1992, c. 23, as amended;
- (10) any Site Alteration where Fill is placed or dumped on lands for the purpose of lawn dressing, constructing a fence, pool or other accessory structure, landscaping or adding to flower beds or vegetable gardens, provided that the Finished Grade elevation of the land does not adversely affect adjoining property owners, that there is no Alteration to the volume, direction, intensity or form of storm water run-off to adjacent properties and that where the Land or Site is located in a plan of subdivision the approved grading plan is maintained;
- (11) any Site Alteration as an incidental part of the construction of any form of underground service where the Fill or Topsoil is removed and properly held or stored for subsequent replacement;
- (12) any approved Site Alteration undertaken by a Permit Holder in relation to a Road Occupancy Permit issued by the City; or,
- (13) any Site Alteration undertaken on land described in a Closure Plan as defined in the *Mining Act*, R.S.O. 1990, c. M.14, as amended and filed pursuant to the provisions thereof.

4. If a regulation is made under section 28 of the *Conservation Authorities Act*, R.S.O. 1990, c. C.27, as amended, respecting the Placing or Dumping of Fill, Removal of Topsoil or Alteration of the Grade of Land in any area of the City of Greater Sudbury, this By-law is of no effect in respect of that area.

PART IV – SITE ALTERATION

Application

5. No person shall perform any Site Alteration on any Land or Site, or, being the Owner of the Land or Site, cause or permit any Site Alteration from such Land or Site, unless the person or Site Alteration is exempt from the provisions of this By-Law or a Permit has been obtained in compliance with this By-law.
6. Except in accordance with Schedule “C”, no Site Alteration Permits shall be issued for the Removal of Topsoil from any Site being Land designated as “Agricultural Reserve” by the City of Greater Sudbury Official Plan which Lands are identified in Schedule “D” to this By-law.

Permits and Issuance of Permits

7. All applications for Site Alteration Permits shall be made to the Director who:
- (1) shall receive and process all applications for Permits and transfer or renewal of Permits required under this By-law;
 - (2) shall administer the issuance of Permits in accordance with the provisions of this By-law;
 - (3) shall sign all Permits issued pursuant to this By-law;
 - (4) shall maintain and keep records of all applications received, all Permits issued and renewed, any suspension or revocation of a Permit, and of any other status change to a Permit issued under this By-law;
 - (5) shall enforce this By-law together with the By-law Enforcement Officers for the City of Greater Sudbury; and,
 - (6) shall generally perform all functions incidental to and necessary for the due administration and enforcement of this By-law.
- 7.1 The Director may create and require the use of forms or other documents for the proper implementation of this By-law.

8. Subject to Section 8.1, all applications for Permits shall include the following and shall be filed with the Director prior to the issuance of a Permit:

- (1) a signed and completed application by the Owner of the land comprising the Site in the general form attached as Schedule "E" to this By-law, which form may be amended from time to time by the Director;
- (2) the fixed fee for a Site Alteration Permit as established in Sections 12 or 13 of this By-law, as the case may be, and as amended from time to time by Council;
- (3) a current copy or copies of the parcel registry showing the legal owner of the Site;
- (4) a Control Plan, the requirements of which are set out in Schedule "A" of this By-law;
- (5) security in a form and amount to be determined in accordance with sections 25 and 26 of this By-law, to secure performance of the Applicant's obligations under this By-law and any Permit that is issued;
- (6) a commitment in writing by a qualified Professional that:
 - (a) The Control Plan complies with the Control Plan Requirements attached as Schedule "A" of this By-law and will achieve Adequate Performance;
 - (b) The amount of security referred to in Section 25 of this By-law or the higher amount indicated in the Control Plan by the Professional is sufficient to implement the Control Plan and rehabilitate the Site;
 - (c) The Professional will notify the Director in writing within five business days if the Professional ceases to be retained to monitor and enforce compliance with the Control Plan; and,

- (d) Until the Professional gives such notice, the Professional will monitor and enforce compliance with the Control Plan until the Site is rehabilitated; and,
- (7) An undertaking signed by the Owner that the proposed Site Alteration will be conducted in accordance with the Control Plan or Modified Control Plan, as the case may be, and this By-law.

Transition

- 8.1** (1) During the 30 days immediately following the passing of this By-law, Applicants for Permits shall be able to apply for a Conditional Site Alteration Permit in accordance with subsections 8.1(2) or 8.1(3).
- (2) Subject to subsection 8.1(1), where the Application is for a Permit for a Site that is not an Existing Operation, the Applicant shall be required to immediately file the documents and submit the fees indicated in subsections 8(1), (2), (3), (5) and (7) and shall have 180 days from the date of filing of the Application to submit the Control Plan required by subsection 8(4) and the commitment in writing required by subsection 8(6).
- (3) Subject to subsection 8.1(1), where the Application is for a Permit for a Site that is an Existing Operation, the Applicant shall meet the requirements set out in Schedule "C".
- (4) Where the Applicant has met the requirements of subsection 8.1(1) and either of subsections 8.1(2) or (3), and where the Director is satisfied pursuant to section 15 of this By-law, the Director shall issue a Conditional Site Alteration Permit which shall automatically expire:
- a) on the required date for filing of the Control Plan or Modified Control Plan if the Applicant fails to file the Control Plan or Modified Control Plan by such date or any extended time provided by the Director; and,

- b) 30 days after the actual date of filing of the Control Plan or Modified Control Plan if the Applicant does file the Control Plan or Modified Control Plan by the required date or any extended time provided by the Director.
- (5) The Director may extend the time for filing of Control Plan or Modified Control Plan at his or her discretion.
- (6) Conditional Site Alteration Permits shall be subject to all of the requirements of this By-law and may be revoked by the Director at any time for non-compliance with the provisions of this By-law.

General

9. An applicant shall not submit or cause or permit an Application for a Permit to be submitted to the City that is misleading or contains false information.
10. Where it is discovered or revealed that the holder of a Permit issued under this By-law has provided misleading or false information on the Application for a Permit, as determined by the Director, the said Permit shall be revoked by the Director and the Permit Holder shall forthwith cease all Site Alteration which was the subject of the revoked Permit.
11. The Director or his or her designates shall, subject to the provisions of this By-law, upon receipt of a Permit application, make or cause to be made all investigations which he or she deems necessary.
12. Permit fees shall be the greater of \$500 or \$50 per hectare of Site Alteration area and the same fees shall apply to the new area for Site Alteration where an Applicant wishes to extend an existing Permit to a larger area than initially applied for.
13. The amount of \$250 is hereby fixed as an application fee for the renewal of a Permit or the transfer of an existing Permit to a new Owner of the Land.
14. A Permit issued pursuant to this By-law shall be valid for a period equal to the project schedule submitted on or with the Permit Application but no greater than five years from the date of issuance.

15. The Director shall issue a Permit when:

- (1) the Director is satisfied that the Application and attached documentation are complete and in accordance with this By-law;
- (2) the Applicant has provided the security required by sections 25 and 26 of this By-law;
- (3) the Director is satisfied that the Proposed Grade and resulting drainage pattern, the type of Fill proposed to be used, if any, and the proposed method of Placing and Dumping of Fill, Alteration of the Grade, or Removal of Topsoil, are all in accordance with the City of Greater Sudbury's standards and proper engineering and environmental standards and practices;
- (4) the Director is satisfied that the Site will be rehabilitated to a suitable condition and will not adversely affect any Protected Area; and,
- (5) all other concerns identified by City Departments or outside agencies during the review of the application can be satisfied.

16. All Permits issued pursuant to this By-law shall be subject to the terms and conditions set out in Schedule "B" to this By-law.

17. Notwithstanding the issuance of a Permit pursuant to this By-law, an Applicant shall comply with all other applicable legislation.

18. No person shall enjoy a vested right in the continuance of a Permit and upon the issue, renewal, transfer, cancellation or suspension thereof, the Permit shall be the property of the City of Greater Sudbury.

19. (1) A Permit Holder may request that a Permit be transferred to a new owner where the Land that is the subject of the Permit is being transferred to a new owner and the Director may agree to the transfer provided the new Owner complies with any reasonable conditions set by the Director, in accordance with this By-law.

(2) Prior to the transfer of a Permit to a new owner, the new owner shall provide security as indicated in sections 25 and 26 and the Director shall thereafter return the security provided by the previous permit holder unless such security is required by the City to correct any deficiencies or issues pursuant to this By-law.

20. A Permit or a copy thereof shall be posted in a visible location on the Site at all times during which the Permit is valid and in effect.

Refusal to Issue Permit

21. Where the Director refuses to issue a Permit, the Applicant shall be informed in writing of the refusal by the Director. The Director may reconsider the Application if additional information or documentation required by the Director is submitted by the Applicant.

Appeal

22. An applicant for a Permit under this By-law may appeal a refusal to issue a Permit, a condition in a Permit, a failure to make a decision on an Application for a Permit or a revocation of a Permit to the Hearing Committee of the Council of the City of Greater Sudbury which shall have all the powers of the Director pursuant to this By-law. The decision of the Committee shall be final.

23. Notwithstanding any other provisions of this By-law, the Director may waive the requirement for a Control Plan or certain requirements thereof and/or may reduce the application or security fee for a Site Alteration Permit in appropriate cases after taking into consideration the cost of the proposed works, the anticipated impact on any protected area, and the use of the Site.

24. No person shall fail to comply with the Control Plan Requirements set out in Schedule "A" or the Modified Control Plan Requirements set out in Schedule "C", as the case may be, the Permit Conditions set out in Schedule "B", any other condition of a Permit imposed by the Director or with any other requirement of this By-law.

Security

25. An applicant for a Permit shall provide security in the amount of \$500 per hectare that is the subject of the Permit application. The Director may, however, prior to the issuance of a Permit under this By-law, require the Applicant to provide additional security for the Applicant's obligations under this By-law and any Permit issued if the Professional retained by the Applicant, where applicable, is of the opinion that a higher amount would be required to properly rehabilitate the Site in accordance with proper engineering standards and practice, this By-law, the Control Plan and the terms and conditions of the Permit.

26. Security determined in accordance with Section 25 shall be provided by way of an irrevocable letter of credit, certified cheque, or cash.

27. The City shall release the Permit Holder's security where:

- (1) the Permit Holder, or any prior Permit Holder for the Land, has complied with all of the requirements of this By-law to the satisfaction of the Director;
- (2) the security has not been used by the City to address work required to be done pursuant to this By-law;
- (3) in the case where the Permit Holder is subject to a Control Plan, the Professional has certified that the Control Plan has been fully implemented and achieves Adequate Performance; and
- (4) in the case where the Permit Holder is subject to a Modified Control Plan, the Director is satisfied that the Modified Control Plan has been fully implemented and achieves Adequate Performance;

Enforcement

28. Every person obtaining a Permit under this By-law when so requested by the Director or his or her designates, a By-law Enforcement Officer, or by any other person authorized by Council, shall produce the Permit for inspection.

29. A Permit may be revoked by the Director under the following circumstances:

- (1) if it was obtained on mistaken, false or incorrect information;
- (2) if it was issued in error;
- (3) if the Permit Holder requests in writing that it be revoked; or,
- (4) if a Permit Holder fails to comply with the provisions of this By-law or the conditions of any Permit.

30. The Director or his or her designates, a By-law Enforcement Officer or any other person authorized by Council may at any reasonable time enter and inspect any Land to determine whether this By-law or any Permit issued thereunder is being complied with, but this section does not allow the entry into any building.

31. No person shall obstruct the Director or his or her designates, a By-law Enforcement Officer or any other person authorized by Council with respect to the administration and enforcement of this By-law.

Order to Discontinue Activity

32. If the Director is satisfied that a contravention of this By-law or Permit issued thereunder has occurred, the Director may make an Order requiring the Owner of the Land or the person who caused or permitted the Site Alteration in contravention of the By-law or permit to discontinue the activity and the Director shall set out the municipal address or the legal description of the Land and reasonable particulars of the contravention and the period within which there must be compliance.

Work Order

33. If the Director is satisfied that a contravention of this By-law or a Permit issued thereunder has occurred, the Director may make an Order requiring work to be done to correct the contravention and the order shall set out the municipal address or the legal

description of the Land, reasonable particulars of the contravention and of the work to be done and the period within such there must be compliance with the Order and a notice stating that if the work is not done in compliance with the Order within the period, the City may have the work done at the expense of the Owner and added to the tax roll for the Land, to be collected as taxes.

34. If the work required by an Order set out above is not done within the specified period, the Director is hereby authorized to perform the work at the Owners' expense and to enter upon the Land for this purpose, either personally or by way of contractors, and to use the security provided, if applicable, and to transfer the cost, or remaining cost of such work to the tax roll for the Land.

35. The costs set out above incurred by the City shall include interest accrued to the date payment is made at the rate of 15% per annum, and may include a 10% administration fee, if the work is performed for the City by someone under the City's direction.

36. Before the City enters on Land to perform the work set out above, the Order shall be served upon the Owner of the Land personally or by prepaid mail to the last known address of the Owner of the Land, or as set out in any Permit application.

37. If the City is unable to effect service as set out above, the Director may place a placard containing the terms of the order in a conspicuous place on the Land and may enter upon the Land for this purpose.

Penalty

38. Any person who contravenes this By-law, a condition of a Permit or an Order as set out herein is guilty of an offence and is liable to a maximum fine of \$100,000.

39. A director or officer of a corporation who knowingly concurs in the contravention of this By-law, a condition of a Permit or an Order as set out in this By-law is guilty of an offence.

40. Any offences pursuant to this By-law shall be prosecuted in accordance with the Provincial Offences Act, R.S.O. 1990, c. P. 33, as amended from time to time.

PART V – GENERAL

41. This By-law shall be reviewed after one year has passed in order to determine the effectiveness of the By-law in achieving its objectives and such review may be undertaken by an Advisory Panel, the final result of which shall be comprised of a report to Council, by the Director.

42. (1) By-Law No. 82-141 of the former Regional Municipality of Sudbury and By-Law No. 92-21 of the former Town of Valley East are hereby repealed.

(2) The repeal of By-laws by this Section shall not be deemed to include any opinion by the City as to those By-laws.

(3) The repeal of By-laws by this Section does not affect any offence committed against any By-law so repealed or any penalty or forfeiture or punishment incurred in respect thereof;



(4) The repeal of By-laws by this Section does not affect any investigation, legal proceeding or remedy in respect of such privilege, obligation, liability, penalty, forfeiture or punishment.

(5) Any valid permit issued pursuant to By-law 92-21 of the former Town of Valley East shall expire on the date of passage of this By-law.

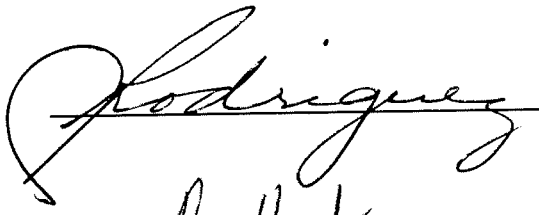
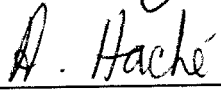
43. Schedules "A" to "E" attached hereto form a part of this By-law.

44. This By-law shall come into force and take effect on the date it is adopted by Council.

READ A FIRST AND SECOND TIME IN OPEN COUNCIL this 8th day of July, 2009.

 Mayor
 Clerk

READ A THIRD TIME AND FINALLY ENACTED AND PASSED IN OPEN COUNCIL this 8th day of July, 2009.

 Mayor
 Clerk

SCHEDULE "A"
To By-Law 2009-170 of the City of Greater Sudbury

Page 1 of 2

Control Plan Requirements

1. A Control Plan required to be submitted as part of an application for a Permit pursuant to this by-law shall include:
 - a) A key map showing the location of the Site;
 - b) The available Site boundaries and number of hectares of the Site;
 - c) The use of the Site and the location and use of the buildings and other structures adjacent to the Site;
 - d) The location, dimensions and use of existing and proposed buildings and other structures existing or proposed to be erected on the Site;
 - e) The location of lakes, streams, wetlands, channels, ditches, other watercourses and other bodies of water on the Site and within thirty (30) metres beyond the Site boundary;
 - f) The approximate location of the predominant Soil types;
 - g) The Regional Storm Flood Plain & Conservation Authority Fill Regulation Lines.
 - h) The location of driveways on the lands and all easements and rights-of-way over, under, across or through the Site;
 - i) The location and dimensions of any existing and proposed storm water Drainage systems and natural Drainage patterns on the Site and within thirty (30) metres of the Site boundaries;
 - j) The location and dimensions of the utilities, structures, roads, highways and paving;
 - k) The existing Site topography with available contours or description of drainage pattern to thirty (30) metres beyond the Site boundaries;
 - l) The Proposed Grades(s) and Drainage systems(s) to be used upon completion of the work which is the subject of the Permit;
 - m) The location and dimensions of all proposed work which is the subject of the application for a Permit;
 - n) The location and dimensions of all proposed temporary Topsoil or Fill stockpiles;
 - o) The location, dimensions, design details and specifications of all work which is the subject of the application including all Site siltation control measures necessary to meet the requirements of this by-law and the estimated cost of the same;
 - p) A schedule of the anticipated starting and completion dates of all proposed work which is the subject of the application for a Permit, including the installation of construction Site control measures needed to meet the requirements of this by-law;
 - q) Provisions for the maintenance of construction Site Erosion and Dust Control measures during construction and after as required;
 - r) A description of the proposed Fill; and
 - s) The scale of drawing is preferably 1:500 although other scales will be acceptable depending on property size.

SCHEDULE "A"
To By-Law 2009-170 of the City of Greater Sudbury

Page 2 of 2

Control Plan Requirements - Continued

2. Every Control Plan accompanying an application for a Permit under this by-law must be stamped by a Professional Engineer or Landscape Architect who is licensed to practice in the Province of Ontario.
3. Notwithstanding any other provisions of this by-law, the Director may waive the requirements for a Control Plan or any part thereof under this by-law, after taking into consideration the proposed works, the anticipated impact on the Site and the surrounding environment.
4. The Control Plan shall specify how the Site will be rehabilitated and stabilized, and how the Professional will determine when the Site is sufficiently stable that erosion and sedimentation control measures are no longer required.

SCHEDULE "B"
To By-Law 2009-170 of the City of Greater Sudbury

Permit Conditions:

1. It shall be a condition of all Permits that:
 - (a) the Director shall be notified within 48 hours of the commencement of any Site Alteration activity;
 - (b) the Director shall be notified of the completion of any control measures within two days after installation;
 - (c) the Permit Holder shall not modify the Control Plan or Modified Control Plan without approval;
 - (d) the Permit Holder shall install all control measures as identified in the approved Control Plan or Modified Control Plan and shall ensure that it achieves Adequate Performance at all times;
 - (e) the Permit Holder shall maintain all road drainage systems, storm water drainage systems, control measures and other facilities identified in the Control Plan or Modified Control Plan to ensure Adequate Performance;
 - (f) the Permit Holder shall repair any situation or erosion damage to adjoining surfaces and drainage ways resulting from Site Alteration activities to ensure Adequate Performance;
 - (g) the Permit Holder shall inspect the control measures as necessary and make the needed repairs to ensure Adequate Performance;
 - (h) the Permit Holder shall allow employees of the City to enter the Site for the purpose of inspecting for compliance with the Control Plan or Modified Control Plan, to ensure Adequate Performance, or for performing any work necessary to bring the Site into compliance with the Control Plan or Modified Control Plan;
 - (i) the Permit Holder shall request that the City carry out a final inspection of the Site and to obtain the approval of the Director that this By-law and the terms and conditions of the Permit have been complied with by the Permit Holder;
 - (j) the Permit Holder shall maintain a copy of the Control Plan or Modified Control Plan on the Site; and,
 - (k) the Permit Holder shall ensure that the work that is the subject of the Permit does not soil or otherwise foul any public road.

SCHEDULE "B"

To By-Law 2009-170 of the City of Greater Sudbury

Page 2 of 2

(I) the Site Alteration activity will not result in:

- i) soil erosion;
- ii) blockage, siltation or pollution of a Protected Area;
- iii) flooding or ponding or adverse impact of a protected area;
- iv) a detrimental effect on any trees of a calliper of 75 mm or more located on the Site being used as part of the buffering system, siltation or dust control as part of the Control Plan or Modified Control Plan ;
- v) a detrimental effect on matters of inherent biological sensitivity such as an aquifer recharge, water quality, unusual plants or wildlife and overwintering habitats;
- vi) a detrimental effect on any environmentally significant lands or areas of natural or scientific interest, wetland or wetland complex identified by the Nickel District Conservation Authority or the Ministry of Natural Resources;
- vii) any contravention of regulations, standards, or guidelines established pursuant to the Environmental Protection Act;
- viii) a level of waste or a nuisance unacceptable to the City or nearby residents;
- ix) contravention of any other applicable law or regulation.

SCHEDULE "C"

Page 1 of 2

To By-Law 2009-170 of the City of Greater Sudbury

Existing Operations

1. For the purposes of this schedule:

"Existing Operation" means land designated as "Rural" and "Valley East Urban Expansion Reserve" in the City of Greater Sudbury's Official Plan that was Under Development for the purposes of Removal of Topsoil on or before January 1, 2009, as demonstrated to the satisfaction of the Director and shall also include those properties designated as "Agricultural Reserve" in the City of Greater Sudbury's Official Plan and described in Schedule C.1 of this By-law;

"Topsoil Stockpiles" mean Topsoil which has been removed from its native or natural location and placed in an identifiable pile or heap for storage.

"Under development" means land where at least two of the following criteria exist or have existed thereon:

- (i) The owner can supply documents evidencing Topsoil Removal activity (i.e. lease agreements, sales receipts, photographs, statutory declarations from owners/neighbors attesting to the activity, etc...);
- (ii) The owner can establish actual physical actions including but not limited to the removal of vegetation, plowing, harrowing, disking and/or excavation of topsoil; and,
- (iii) The owner can establish the existence of Topsoil Stockpiles on the Site.

- 2. No person shall perform any Site Alteration on any Land or Site being an Existing Operation or being the Owner of the Land or Site, cause or permit any Site Alteration from such Land or Site unless a Permit has been obtained in compliance with this By-law.
- 3. A person being an owner of land that is established as being an Existing Operation, to the satisfaction of the Director, shall make an application to the Director for an Existing Operation Permit for the removal of existing Topsoil Stockpiles and / or for the Removal of Topsoil from the said land for an area no greater than five (5) hectares within 30 days of the passing of this By-law. Applications to be recognized as an Existing Operation will not be accepted after the expiry of the 30 day time period referred to herein.
- 4. Applications made in accordance with section 3 will include those documents and fees referenced in sections 8.(1), 8.(2), 8.(3), 8.(5) and 8.(7) of this By-law.
- 5. Applications made in accordance with section 3 shall have 90 days from the date of filing of the application to submit a Modified Control Plan, the requirements of which are as follows:
 - a. A scaled drawing showing the boundaries, dimensions and size of the Site and any abutting lands;

SCHEDULE "C"

Page 2 of 2

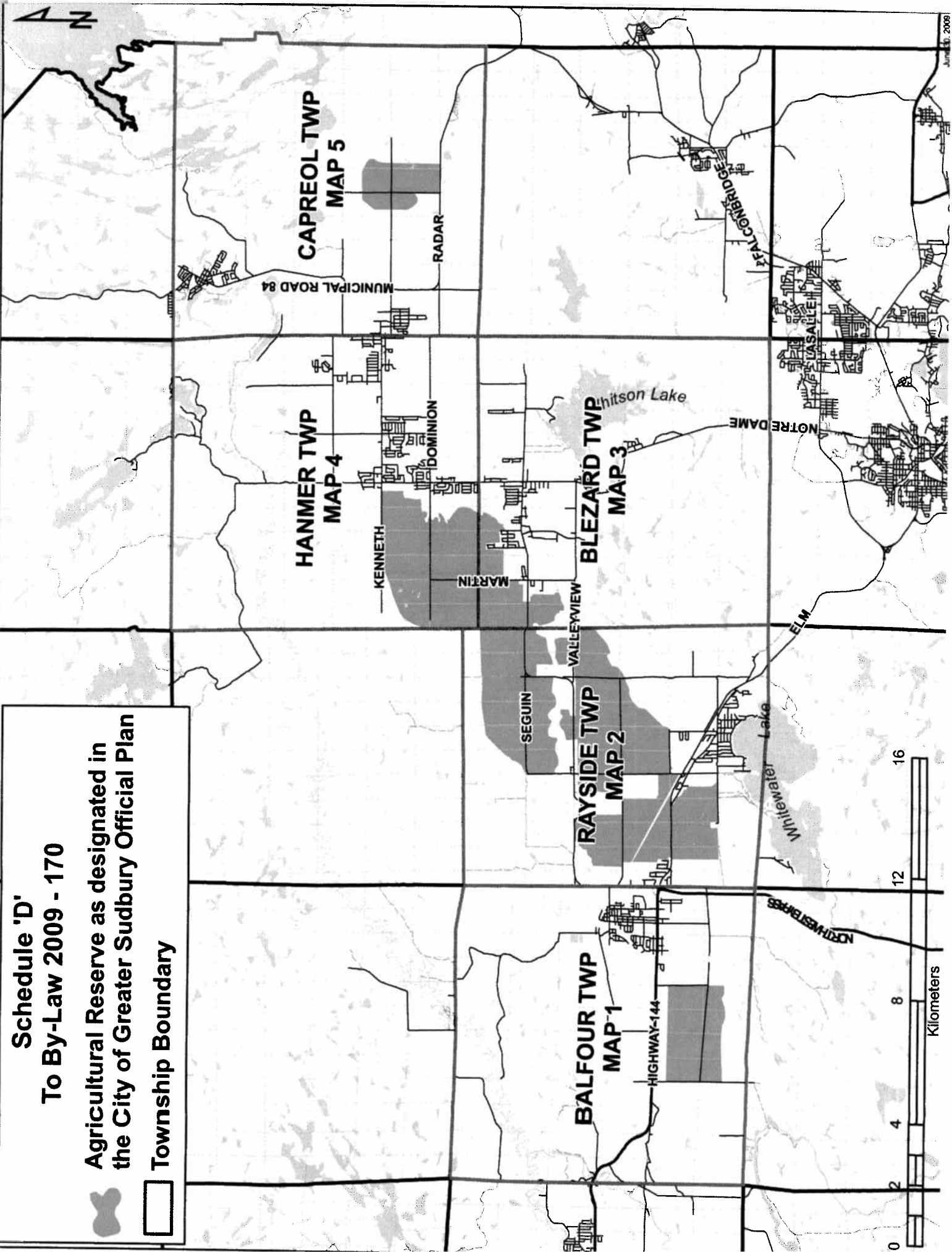
To By-Law 2009-170 of the City of Greater Sudbury

- b. The approximate location of all buildings and structures on the Site and any abutting lands, as well as their existing use;
 - c. The approximate location of all natural and artificial features on the Site and any abutting lands (for example, buildings, railways, roads, watercourses, drainage ditches, rivers and streams, wetlands, woodlands, wells and septic tanks);
 - d. The approximate location of driveways on the lands and all easements and rights of way over, under, across or through the Site;
 - e. The location of all existing and future removal areas, including existing and future stockpiles;
 - f. The location of any access drive connecting all existing and future removal areas, including stockpiles;
 - g. A 10 metre vegetative buffer from all property lines;
 - h. The methods of ensuring that all existing and future removal activities, including stockpiles, do not adversely affect any abutting or surrounding lands with regards to noise, dust and water runoff; and,
 - i. The methods of ensuring that all removal activity areas are rehabilitated within the first next growing season after removal activity is complete (for example, removal areas are graded smoothly to match the contours on surrounding lands, removal areas are cultivated and harrowed, removal areas are planted with trees to prevent future water and wind erosion).
6. An Existing Operation Permit shall be valid for a period no greater than five years from the date of issuance and is not subject to renewal.

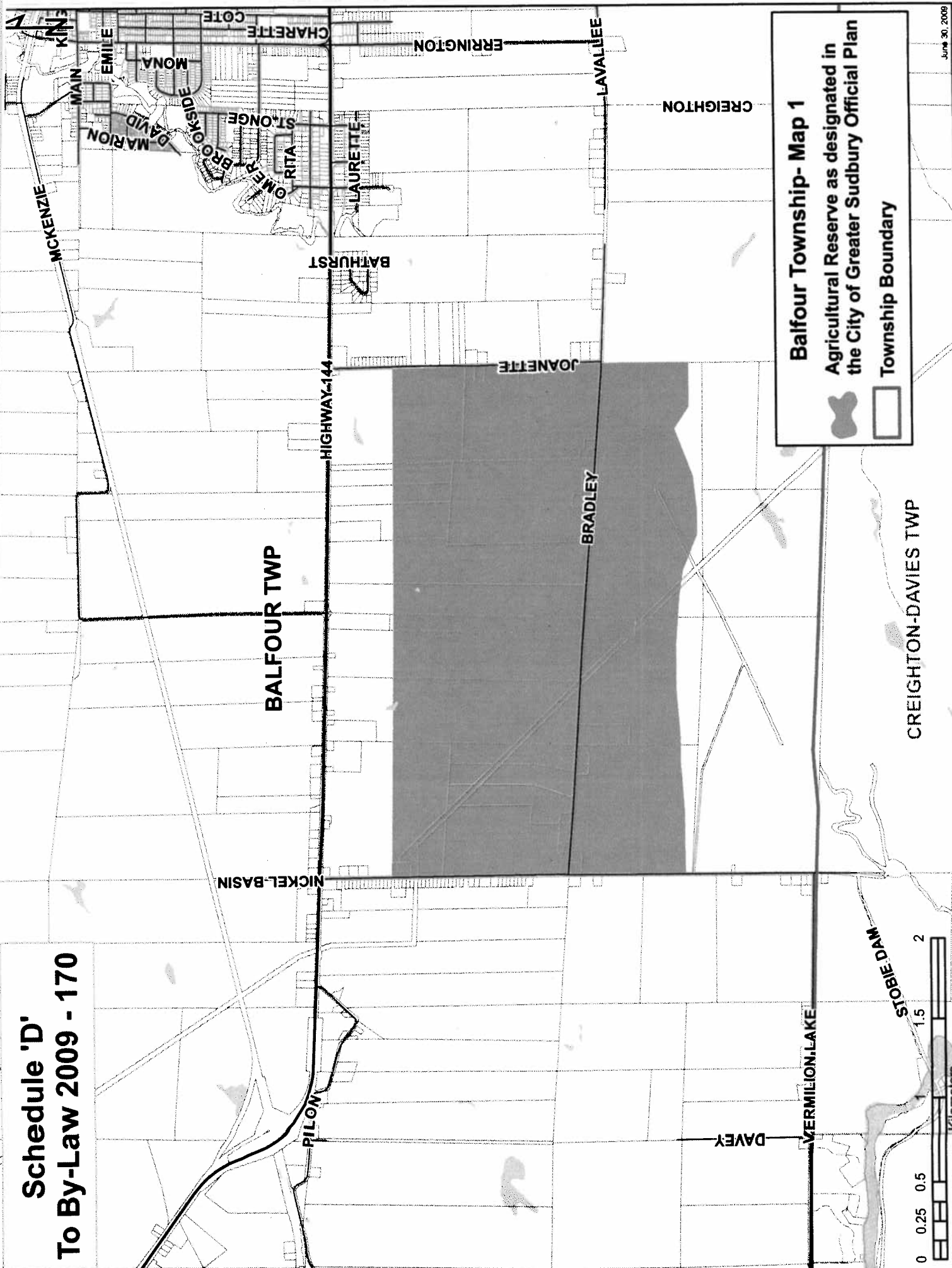
SCHEDULE "C.1"
To By-Law 2009-170 of the City of Greater Sudbury

Agricultural Reserve Topsoil Removal Sites

Site #	Municipal Address	Legal Description
1	4223 Regional Road 35	Parcel 24536A, Sudbury West Section, being Lot 9, Concession 2, Township of Rayside, City of Greater Sudbury
2	4339 Regional Road 35	Parcel 1300, Sudbury West Section, being Lot 9, Concession 2, Township of Rayside, City of Greater Sudbury
3	Regional Road 35	Parcel 7599, Sudbury West Section, being Lot 8, Concession 2, Township of Rayside, City of Greater Sudbury
4	4537 Regional Road 35	Parcel 5400, Sudbury West Section, Part 6, Plan 53R-4066, being Lot 8, Concession 2, Township of Rayside, City of Greater Sudbury
5	2958 Main Street, Blezard	Parcel 31263, Sudbury East Section, being Lot 12, Concession 6, Township of Blezard, City of Greater Sudbury
6	2640 Dominion Drive	Parcel 403, Sudbury East Section, being Lot 10, Concession 2, Township of Hanmer, City of Greater Sudbury
7	2300 Dominion Drive	Parcel 565, Parcel 388 and Parcel 51354, Sudbury East Section, Part 4, Plan 53R-13011 being Part of Lot 9, Concession 2, Township of Hanmer, City of Greater Sudbury
8	Dominion Drive	Parts 1 to 3, Plan 53R-17394 being Part of Lot 9, Concession 2, Township of Hanmer, City of Greater Sudbury
9	2052 Dominion Drive	Parcel 38975, Sudbury East Section, Part 1, Plan 53R-5330 being Lot 8, Concession 2, Township of Hanmer, City of Greater Sudbury



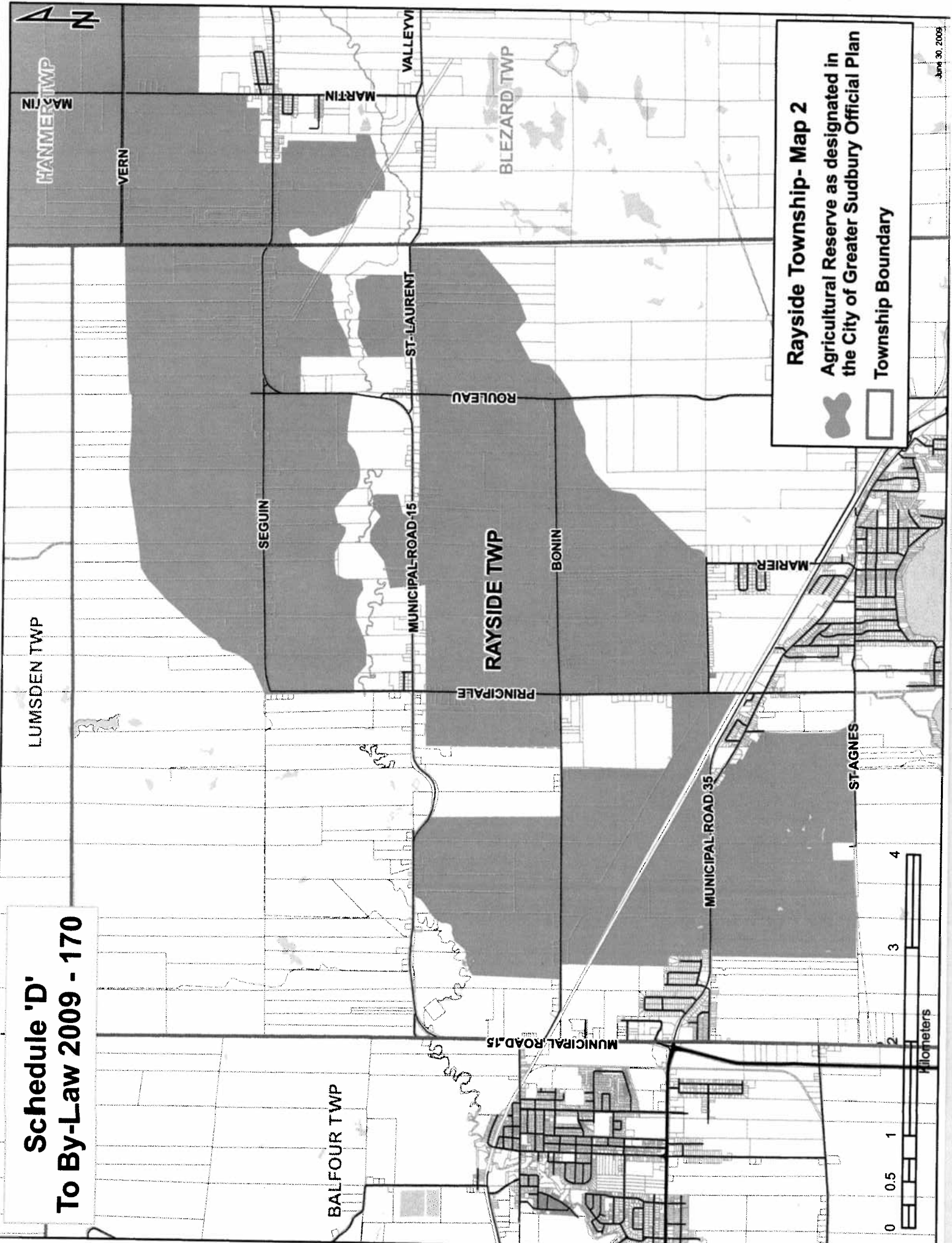
To By-Law 2009-170 of the City of Greater Sudbury



SCHEDULE "D"

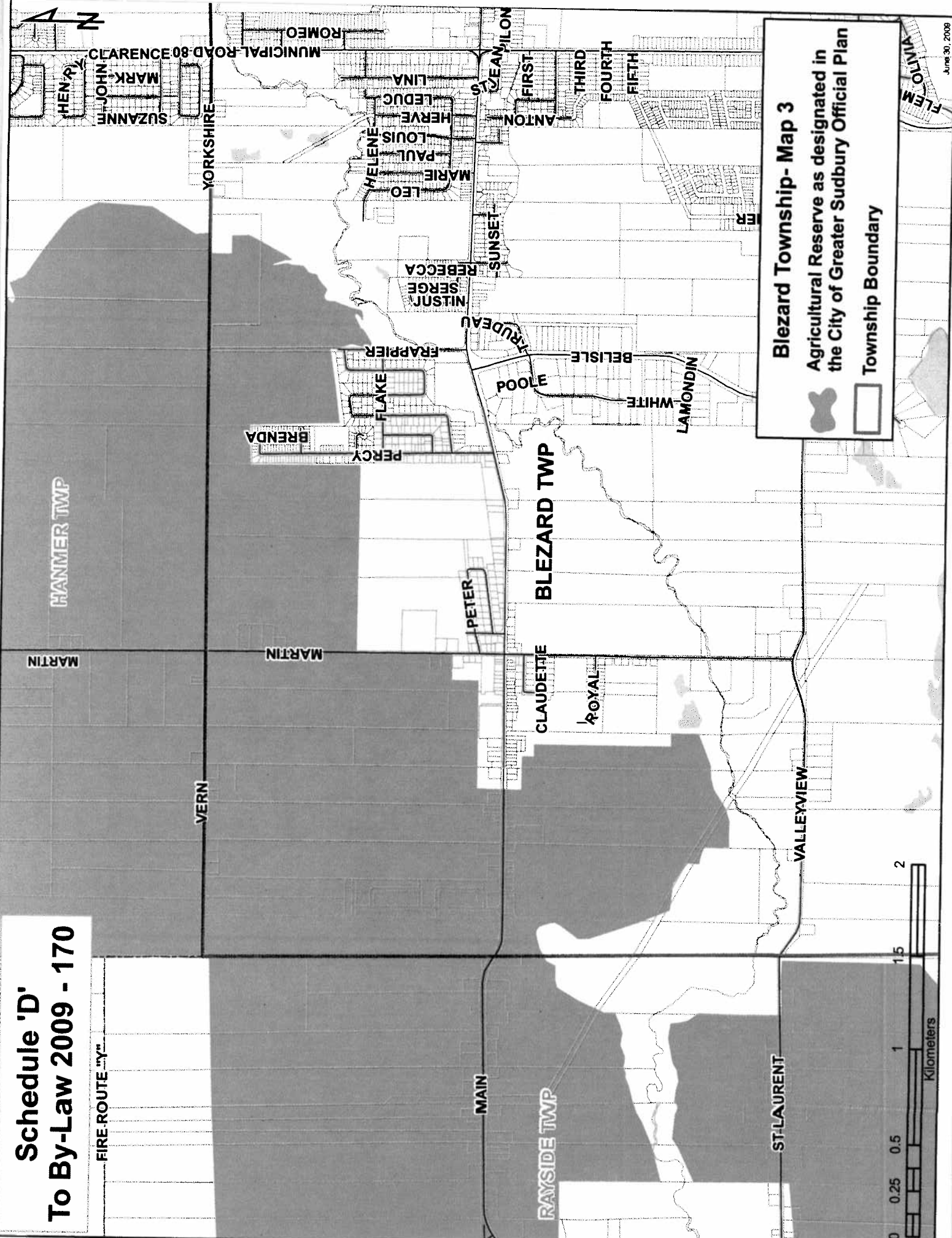
To By-Law 2009-170 of the City of Greater Sudbury

Page 3 of 6



Schedule 'D'
To By-Law 2009 - 170

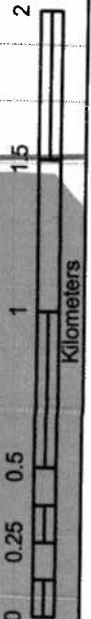
FIRE ROUTE "Y"



Blezard Township- Map 3

Agricultural Reserve as designated in the City of Greater Sudbury Official Plan

Township Boundary

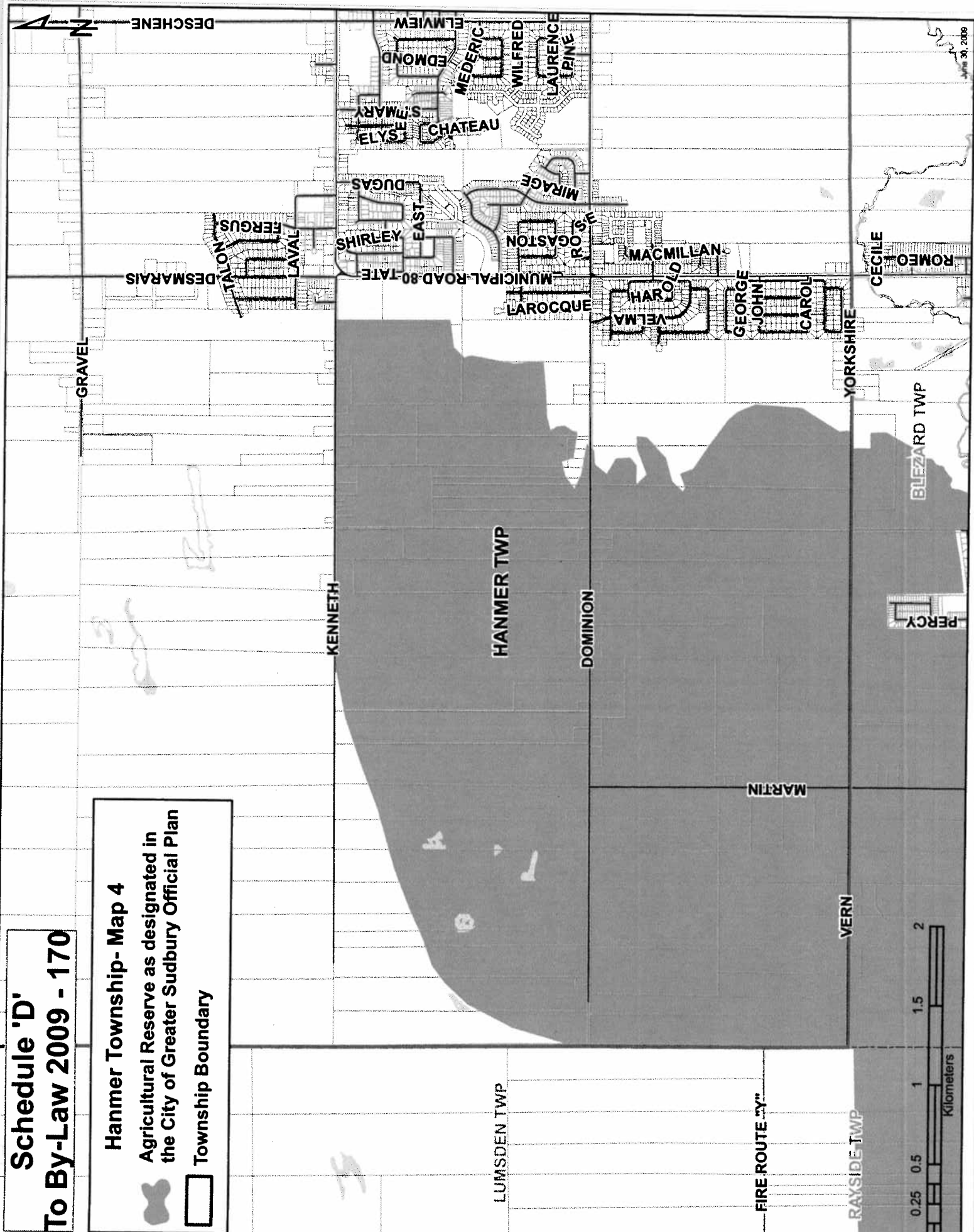


Schedule 'D'
To By-Law 2009 - 170

Hanmer Township- Map 4

Agricultural Reserve as designated in
the City of Greater Sudbury Official Plan

Township Boundary

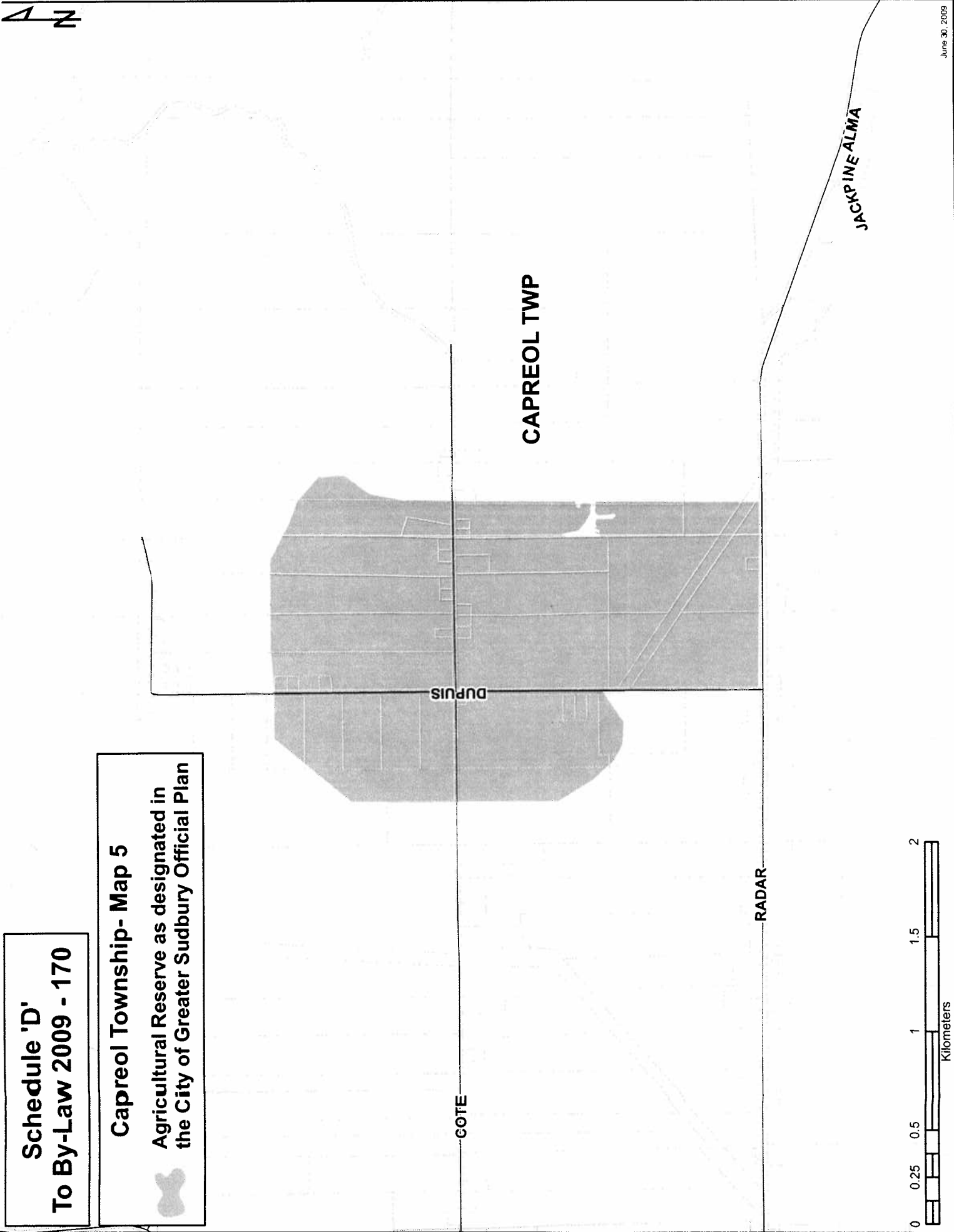


SCHEDULE "D"

To By-Law 2009-170 of the City of Greater Sudbury

SCHEDULE "D"

To By-Law 2009-170 of the City of Greater Sudbury



SCHEDULE "E"
To By-Law 2009-170 of the City of Greater Sudbury

Page 1 of 4

File: _____



The City of Greater Sudbury
Application Form - Site Alteration Permit
By-law 2009-170

New Permit ☐
Renewal ☐
Transfer ☐

Existing Operations Permits
Conditional New Operations Permit ☐
Conditional Existing Operations Permit ☐

Permit Is To: Place or Dump Fill ☐
Remove Topsoil ☐
Alter the Grade of Land ☐

Site Location: Lot # _____ Plan # _____ Concession _____
Address _____
Size: _____ (Hectares)

Applicant:

Registered Owner: _____
Contact Person: _____
Address: _____
Telephone: _____ Fax: _____
Email Address: _____
Contractor: _____
Name: _____
Address: _____
Telephone: _____ Residence: _____ Business: _____
After Hours Contact Telephone No: _____

Engineer or Landscape Architect:

Name: _____
Firm: _____
Address: _____
Telephone: _____ Fax: _____
Email Address: _____
After Hours Contact Telephone No: _____

Project Schedule:

Start Date (Y/M/D): _____ **Completion Date (Y/M/D)** _____

SCHEDULE "E"
To By-Law 2009-170 of the City of Greater Sudbury

Page 2 of 4

Choose A or B

A) Included With This Application For a Site Alteration Permit Are:

- (a) Control Plan ☐
- (b) Calculation of the Annual Cost of Implementing the Control Plan, plus Rehabilitation of the Site. ☐
- (c) Engineer's Commitment Certificate ☐
- (d) Application Processing Fee \$ _____ ☐
- (e) Environmental Protection Deposit \$ _____ ☐
- (f) If this is an application to transfer or renew an existing Permit, a copy of that Permit. ☐

B) Included With This Application For an Existing Operations Permit for Topsoil Removal Are:

- (a) Evidence supporting definition of "Existing Operation" as per Schedule 'C' of By-law 2009-170 ☐
 - (b) Modified Control Plan ☐
 - (c) Application Processing Fee \$ _____
(Greater of \$500 or \$50/Ha) ☐
 - (d) Environmental Protection Deposit \$ _____ ☐
-

SCHEDULE "E"
To By-Law 2009-170 of the City of Greater Sudbury

Page 3 of 4

Applicant's Certificate

I, _____, declare that:

- (a) I am the Owner of the Site,
- (b) I have read By-Law 2009-170 and agree to comply with it,
- (c) I understand that I am responsible to prevent erosion and sedimentation from or at the Site,
- (d) The information contained in this Application and the supporting documents is complete and accurate,
- (e) The proposed Site Alteration will be conducted in accordance with the Control Plan and/or Modified Control Plan,
- (f) If this is an application for renewal, to date the Site Alteration has been conducted in accordance with the Control Plan and/or Modified Control Plan, and has complied with the Performance Measure, and
- (g) I authorize the Director, his or her designates and the City's By-law Enforcement Officers to enter the Site to determine compliance with the Control Plan and/or Modified Control Plan or to perform any work necessary to bring the Site into compliance with the Control Plan and/or Modified Control Plan.

Signature of Owner

Copy to: Applicant
 City of Greater Sudbury Development Services Department

City of Greater Sudbury Acknowledgement

Signature

Print Name

Date



SCHEDULE "E"
To By-Law 2009-170 of the City of Greater Sudbury

COMMITMENT CERTIFICATE

This form to be completed by the owner's Control Plan Design professional
Top Soil Removal & Site Alteration By-law

Permit Application No.

Project Description:

Date:

Address of Project:

The undersigned Professional (landscape architect or professional engineer licensed in the Province of Ontario) hereby certifies that they have been retained to provide design and general reviews of the "Control Plan" for the location/property indicated, to determine whether the removal, grading and rehabilitation is in general conformance with the plans and other documents that form the basis for the issuance of Permit, in accordance with the approved "Control Plan" and the performance standards of the City of Greater Sudbury Top Soil Removal and Site Alteration By-law #2009-170.

The undersigned hereby certifies that he/she has read and agrees to the above

Consultant Firm:

Telephone:

Address:

Fax:

Signature
(Officer of Corporation)

Print Name: