

THE CORPORATION OF THE TOWNSHIP OF SCUGOG

BY-LAW NUMBER 52-10

BEING A BY-LAW TO PROHIBIT OR REGULATE THE REMOVAL OF TOPSOIL, THE PLACING OR DUMPING OF FILL AND THE ALTERATION OF THE GRADE OF LAND IN AREAS OF THE TOWNSHIP OF SCUGOG

WHEREAS Section 142 of the *Municipal Act, 2001*, as amended authorizes the Council of The Corporation of the Township of Scugog to pass by-laws for prohibiting or regulating the *placing* or *dumping* of *fill* of any kind and for prohibiting or regulating the alteration of the *grade* of land in any defined area or areas in the Township of Scugog other than those areas subject to regulations made under Clause 28(1) of the *Conservation Authorities Act*, as amended;

AND WHEREAS *Council* deems it in the public interest to regulate the *dumping* and *placing* of *fill* and other *site alterations* in order to ensure that existing *drainage* patterns are maintained and that any changes to existing *drainage* patterns are appropriate to protect environmental features; to prevent the importation of hazardous material; and to keep the disturbance of landform characteristics to a minimum;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF SCUGOG Enacts As Follows:

Section 1 - Definitions and Interpretation

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

1.02 In this By-law:

- (a) "*agricultural lands*" includes all lands that are used by a farming business registered under the *Farm Registration and Farm Organizations Act, 1993*, as amended, for the growing of crops, including nursery and horticultural crops; raising livestock; raising of other animals for food, fur or fibre, including poultry and fish; aquaculture; apiaries; agro-forestry; maple syrup production;
- (b) "*body of water*" includes any body of flowing or standing water whether naturally or artificially created;
- (c) "*CBO*" means the Chief Building Official of the *Corporation* and shall include any person authorized by the Chief Building Official to carry out any of the powers or duties of the Chief Building Official pursuant to this By-law;
- (d) "*clearing and grubbing*" means the removal of all surface objects, brush, roots and other protruding obstructions, trees and stumps which result in the removal of *topsoil* or the alteration of *grade* of the land;

- (e) “*commercial fill operation*” means the *placing* or *dumping* of *fill* involving remuneration paid, or any other form of consideration provided, to the *owner* or occupier of the land, whether or not the remuneration or consideration provided to the *owner* is the sole reason for the *placing* or *dumping* of the *fill*;
- (f) “*complete application*” means an application and contents as described in Section 4.02 of this By-law;
- (g) “*Conservation Authority*” means the Central Lake Ontario Region Conservation Authority, Lake Simcoe Region Conservation Authority or the Kawartha Region Conservation Authority;
- (h) “*Corporation*” means the Corporation of the Township of Scugog;
- (i) “*Council*” means the Council for the *Corporation*;
- (j) “*development*” means the construction of buildings and above or underground services such as roads, parking lots, paved storage areas, watermains, storm and sanitary sewers, general grading works and similar facilities on any lands in the *Township*;
- (k) “*drainage*” means the movement of water to a place of disposal, whether by way of the natural characteristics of the ground surface or by an artificial method;
- (l) “*dump, dumped or dumping*” means the depositing of *fill* in a location other than where the *fill* was obtained and includes the movement or depositing of *fill* from one location on a property to another location on the same property;
- (m) “*erosion*” means the detachment and movement of *soil*, sediment or rock fragments by water, wind, ice or gravity;
- (n) “*fill*” means any type of material *placed* or *dumped* on land and includes *soil*, stone, concrete, asphalt, dirt, sod or turf either singly or in combination;
- (o) “*grade*” shall be defined as follows:
 - i) “*existing grade*” means the elevation of the existing ground surface of the lands upon which *dumping* and/or *placing* of *fill* or other *site alteration* is proposed and of abutting ground surface up to 3 metres wide surrounding such lands, except that where *placing* or *dumping* of *fill* or other *site alteration* has occurred in contravention of this By-law, *existing grade* shall mean the ground surface of the lands as it existed prior to the *dumping* or *placing* of *fill* or to any other *site alteration* requiring a permit under this By-law;
 - ii) “*finished grade*” means the approved elevation of ground surface of lands upon which *fill* has been *placed* in accordance with this By-law;

- iii) "*proposed grade*" means the proposed elevation of ground surface of land upon which *fill* is proposed to be placed;
- (p) "*Greenbelt Plan*" means the Greenbelt Plan approved by Order-in-Council No. 208/2005;
- (q) "*inspector*" means individuals appointed by the *Corporation* as Municipal Law Enforcement Officers;
- (r) "*lot*" means a parcel of land, described in a deed or other document legally capable of being conveyed, or shown as a block on a registered plan of subdivision;
- (s) "*Oak Ridges Moraine*" means those lands defined as the *Oak Ridges Moraine Conservation Plan Area*, by Ontario Regulation 140/02;
- (t) "*Oak Ridges Moraine Conservation Plan*" means Ontario Regulation 140/02;
- (u) "*owner*" includes the registered owner of the lands on which *site alteration* is proposed and any person, firm or corporation managing or controlling such lands;
- (v) "*place, placed or placing*" means the distribution of *fill* on lands to establish a *finished grade* different from the *existing grade*;
- (w) "*ponding*" means the accumulation of surface water in an area not having *drainage* therefrom where the lack of *drainage* is caused by the *placing* or *dumping* of *fill* or other *site alteration*;
- (x) "*qualified person*" means a licensed professional engineer in the Province of Ontario or an environmental consultant approved by the *CBO* possessing expert or special knowledge in regards to matters contained within this By-law;
- (y) "*qualified tree consultant*" means an arborist certified by the International Society of Arboriculture who has a diploma (minimum) in arboriculture or urban forestry;
- (z) "*retaining wall*" means a wall designed to contain and support *fill* which has a *finished grade* higher than that of adjacent lands;
- (aa) "*security*" means a certified cheque, cash or an irrevocable letter of credit in a form acceptable to the *CBO* and the *Corporation's* Treasurer.
- (bb) "*site alteration*" means *dumping*, the removal of *topsoil* from land, or the alteration of the *grade* of land by any means including *placing fill*, *clearing and grubbing*, the compaction of *soil* or the creation of impervious surfaces, or any combination of these activities;

- (cc) "soil" means material commonly known as earth, *topsoil*, loam, clay, sand or gravel;
- (dd) "swale" means a shallow depression in the ground sloping to a place of disposal of surface water for the purpose of providing a method of *drainage*;
- (ee) "*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;
- (ff) "*Township*" means the geographic area of the Township of Scugog;
- (gg) "*watercourse*" means a natural or man-made channel or *swale* in which water flows, either continuously or intermittently with some degree of regularity;
- (hh) "*wetland*" means land such as a swamp, marsh, bog or fen not including land that is being used for agricultural purposes and no longer exhibits wetland characteristics that:
 - i) Is seasonally or permanently covered by shallow water or has the water table close to or at the surface; and
 - ii) Has hydro-soils and vegetation dominated by hydrophytic or water-tolerant plants.

Section 2 - General Prohibitions and Regulations

- 2.01 This By-law applies to the entire *Township* other than those areas which are subject to regulations made under Clause 28(1) of the *Conservation Authorities Act*.
- 2.02 No person shall *place* or *dump* any *fill*, remove any *topsoil* or otherwise alter the *grade* of land by causing, permitting or performing any other form of *site alteration* on land within the *Township* without the *owner* first receiving a permit issued under this By-law by the *CBO* unless otherwise exempt.
- 2.03 No person shall fail to comply with an order issued pursuant to **Section 9** of this By-law.
- 2.04 Notwithstanding anything else contained in this By-law except for Section 3.01, no person shall cause, permit or perform a *site alteration* on any lands in the *Oak Ridges Moraine* unless:
 - (a) The applicant for the permit can demonstrate that such *site alteration* is permitted pursuant to the *Oak Ridges Moraine Conservation Plan*; or
 - (b) Such *site alteration* is directly associated with a building permit issued by the *Corporation* or any other development agreement with the *Corporation*; or
 - (c) Such *site alteration* is directly associated with activities described in Section 3.02 of this By-law.

- 2.05 Notwithstanding anything else contained in this By-law except for Section 3.01, no person shall cause, permit or perform a *site alteration* on any lands zoned in the Township of Scugog Zoning By-law as Environmental Protection (EP) Zone or Environmental Protection Exception (EP-xx) Zone unless such *site alteration* is directly associated with a building permit issued by the *Corporation* or any other development agreement with the *Corporation*, or unless such *site alteration* is directly associated with activities described in Section 3.02 of this By-law.
- 2.06 No person shall cause, permit or perform a *site alteration* on lands that are subject to an approved site plan, draft plan of subdivision or a consent under Sections 41, 51 or 53 respectively of the *Planning Act*, as amended, without a site plan agreement, pre-servicing agreement, subdivision agreement or consent agreement entered into under those sections.
- 2.07 No person, in the performance of a *site alteration*, shall injure or destroy a municipal tree or other tree which is subject to tree protection measures as a condition of a permit issued under this By-law except to the extent that such injury or destruction is specifically authorized in writing in accordance with:
- (a) The provisions of this By-law;
 - (b) The Woodlot, Tree Preservation, Protection, Replacement and Enhancement Policy adopted pursuant to By-law No. 45-07;
 - (c) Any other applicable by-laws of the *Corporation* or the Regional Municipality of Durham for the protection of trees.
- 2.08 No person shall *place* or *dump fill* or cause or permit *fill* to be *placed* or *dumped* unless such *fill* complies with the Ministry of Environment standards for clean *fill*, as described in Subsection 4.05(u) or 4.06 if applicable, of this By-law.
- 2.09 No person shall undertake *site alteration* or cause *site alteration* to occur on any land for storage purposes unless the outside storage of such *fill* (where the *site alteration* involves *fill*) on the land is permitted by the Township of Scugog Zoning By-law and such storage shall not exceed five hundred (500) cubic metres.
- 2.10 No person shall perform a *site alteration* on any land unless it is done at the request of or with the consent of the *owner* of the land where the *site alteration* is to occur.
- 2.11 No person shall perform a *site alteration* or permit the performance of a *site alteration*:
- (a) Between the hours of 7:00 p.m. and 7:00 a.m. Monday to Friday;
 - (b) Between the hours of 12:00 a.m. to 8:00 a.m. and 3:00 p.m. to 11:59 p.m. on Saturday;
 - (c) Anytime Sunday or on a Statutory Holiday;

- (d) During any period in which a wind warning for the area has been issued by Environment Canada;
- (e) During or within 24 hours of receiving precipitation.

Section 3 - Exemptions

3.01 This By-law is not applicable to the following:

- (a) The use, operation, establishment, alteration, enlargement or extension of a waste management system or waste disposal site within the meaning of Part V of the *Environmental Protection Act*, as amended, or a waste, waste disposal or waste management system that is exempted by regulation from said Part V;
- (b) The construction, extension, alteration, maintenance or operation of works under Section 26 of the *Public Transportation and Highway Improvement Act*, as amended;
- (c) Emergency measures taken by the *Corporation* or the Regional Municipality of Durham or any other Federal, Provincial or Regional agency, to prevent flooding, *erosion*, slipping of *soil* or damage of trees;
- (d) The activities of the *Corporation*, local board of the municipality, the Regional Municipality of Durham or the *Conservation Authority* related but not limited to the establishment or maintenance of utilities and services, roads, bridges, flood and *erosion* control facilities, walkways, bicycle paths, fences, *retaining walls*, steps and lighting;
- (e) The *placing* or *dumping* of *fill*, removal of *topsoil* or alteration of the *grade* of land imposed after December 31, 2002 as a condition to the approval of a site plan, a plan of subdivision or a consent under Section 41, 51 or 53, respectively of the *Planning Act* or as a requirement of a site plan agreement or subdivision agreement entered into under those sections;
- (f) 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;
- (g) Aggregate, as defined in the *Aggregate Resources Act*, brought onto a pit or quarry operating under a license or wayside permit issued under that Act as part of the operations of that pit or quarry;
- (h) The *placing* or *dumping* of *fill*, removal of *topsoil* or alteration of the *grade* of land undertaken on land described in a licence for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the *Aggregate Resources Act*,

- (i) The *placing* or *dumping* of *fill*, removal of *topsoil* or alteration of the *grade* of land undertaken on land in order to lawfully establish and operate or enlarge any pit or quarry on land,
 - i) That has not been designated under the *Aggregate Resources Act* or a predecessor of that Act; and
 - ii) On which a pit or quarry is a permitted land use under a by-law passed under Section 34 of the *Planning Act*;
- (j) Any rehabilitation or *filling* activity in a pit or quarry licensed under the *Aggregate Resources Act*, and specifically addressed on the approved site plan when there is insufficient overburden retained to rehabilitate such pit or quarry in accordance with that Act;
- (k) The *placing* or *dumping* of *fill*, removal of *topsoil* or alteration of the *grade* of land undertaken as an incidental part of the drain construction under the *Drainage Act*, as amended, or the *Tile Drainage Act*, as amended;
- (l) 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*, Schedule A, as amended, for the purpose of constructing and maintaining a transmission system or a distribution system, as those terms are defined in that section;
- (m) The removal of *topsoil* from *agricultural lands* incidental to a normal agricultural practice including such removal as an incidental part of sod-farming, greenhouse operations and nurseries for horticultural products. This exception does not include the removal of *topsoil* for sale, exchange or other disposition;
- (n) The harvesting of peat in a commercial operation as approved by the *Conservation Authority*.

3.02 No permit is required for:

- (a) Construction of a building or structure pursuant to a valid building permit which has been issued for the erection of the building or structure and/or on-site sewage system, and the site plan accompanying the building permit application provides sufficient information to determine that the *placing* or *dumping* of *fill* conforms with the provisions of this By-law, and the amount of *fill* to be *dumped* or *placed* pursuant to the building permit does not exceed five hundred (500) cubic metres;
- (b) The *placing* or *dumping* of *soil* on lands for the purpose of lawn dressing, landscaping or adding to flower beds or vegetable gardens, provided that the ground elevation of the lands is not increased by more than twenty (20) centimetres and there is no significant change in the direction or rate of *drainage* to neighbouring properties. Such alteration shall not take place within two (2) metres of any property line.

Such *placing* of *fill* shall not exceed fifty (50) cubic metres per year.

- (c) The *placing* or *dumping* of *fill* in an excavation to the elevation of *existing grade* following the demolition or removal of a building or structure for which a building permit has been issued;
- (d) *Fill* being *placed* or *dumped* on lands for the purpose of flood or *erosion* control to establish *finished grade* shown on a grading and *drainage* plan approved by the *Conservation Authority* or by the *Corporation* in conjunction with a subdivision approval;
- (e) *Site alteration* involving an amount of *soil* of less than fifty (50) cubic metres on a *lot* within any one year period, provided that there is no significant change in the direction or rate of *drainage* to neighbouring properties, and unless the site includes or is adjacent to a *body of water*. Such alteration shall not take place within two (2) metres of any property line;
- (f) Replacement of *topsoil* for restoration of *agricultural lands* used for normal agricultural practices, as an incidental part of sod farming, greenhouse operations, and nurseries for horticultural practices which shall not exceed 20 centimeters annually, or at the discretion of the *CBO*. Storage of such *topsoil* shall not exceed five hundred (500) cubic metres;

Section 4 - Requirements for Issuance of a Permit

- 4.01 An *owner* applying for a permit shall have a pre-consultation meeting with the *CBO* and any other persons that the *CBO* deems necessary to review the proposal to determine if a permit can be issued under the requirements of this By-law.
- 4.02 Unless otherwise specified by the *CBO* pursuant to Section 4.03, an *owner* applying for a permit shall provide the following:
 - (a) A completed application form;
 - (b) The name, address and contact telephone number of the *owner* of the land upon which the *fill* is to be *dumped* or *placed* or other *site alteration* is to occur;
 - (c) The municipal address of the land on which the *fill* is to be *dumped* or *placed* or other *site alteration* is to occur;
 - (d) Legal description of the land upon which the *fill* is to be *dumped* or *placed* or other *site alteration* is to occur;
 - (e) The applicable fees calculated in accordance with rates set out in the Township of Scugog Fees and Charges By-law at the time the application is made;
 - (f) A scale drawing of any *retaining wall* that may be required and a description, including dimensions, of any materials to be used in the construction of such *retaining wall*;

- (g) *Security* in an amount of \$3,000 or 100% of the estimated cost of returning the land to a condition satisfactory to the *CBO*, whichever is greater, as determined by the *CBO*.
- (h) A *site alteration* plan, based on an identified legal survey if required by the *CBO*, accurately indicating the following, as required by and to the satisfaction of the *CBO*:
 - i) The property lines of the lands for the *site alteration* with dimensions;
 - ii) For *site alteration* quantity less than five hundred (500) cubic metres, existing spot elevations on three (3) metre grids across the lands and three metres beyond the property lines to clearly show the existing *drainage* patterns on the lands and on the abutting lands; and for *site alteration* in an amount greater than five hundred (500) cubic metres, a topographic survey at one metre contour intervals certified by a licensed professional engineer or Ontario Land Surveyor defining all material and man made features, including top and bottom of slopes, *drainage* patterns, tree lines, buildings, and stockpiles on the lands and within thirty (30) metres on abutting lands and water bodies;
 - iii) All existing storm sewers, ditches, *swales*, creeks, *watercourses* and *wetlands* on the lands and on abutting lands and public highways;
 - iv) All existing buildings, the species and size in caliper of all trees, the location of all shrubs and driveways on the lands and of all easements and right-of-ways over, under, across or through the lands;
 - v) *Proposed grades* and *drainage* systems upon completion of the *site alteration* operation;
 - vi) All proposed ground covering to be used upon completion of the *site alteration* operation;
 - vii) All *erosion*, sediment and tree protection measures for the *site alteration* operation;
- (i) A description of the *fill* proposed to be *dumped* or *placed* including a detailed description of the source of the *fill* with a letter from the party from whom the *fill* was acquired attesting that the *fill* meets the requirements for clean *fill* set out in Subsection 4.05(u) or 4.06 if applicable, of this By-law, the quantity of the *fill* (expressed in cubic metres), and the proposed location of the *fill* on the lands, and may include contact information if required by the *CBO*;
- (j) A signed authorization by the *owner* of the land on which the work is to be performed, or by a person authorized, in writing, to act as an agent for such *owner*, certifying the correctness of all the information in the application;

- (k) A signed authorization of a grantee(s) of any easements within the property accepting the *placing* or *dumping* of *fill* or other *site alteration* on or abutting any easements;
 - (l) The Official Plan designation and zoning of the property;
 - (m) Where the land is subject to the provisions of the *Oak Ridges Moraine Conservation Plan* or *Greenbelt Plan*, the application shall be accompanied by any and all documents, reports or studies required by such plan(s) to demonstrate compliance with their provisions;
 - (n) Such tree reports prepared by a *qualified tree consultant* as may be required by the *CBO* or other by-laws or policies of the *Corporation*;
 - (o) The proposed haul routes to and from the site;
 - (p) Any other study, report, plan, drawing or material related to the application as deemed necessary by the *CBO* to constitute a *complete application*.
- 4.03 For applications for *site alteration* in an amount less than five hundred (500) cubic metres, the *CBO* may not require all items specified in Section 4.02 to be provided.
- 4.04 In reviewing any application, the *CBO* may seek comments/approvals from the *Conservation Authority*, the Regional Municipality of Durham, adjacent municipalities and any other agency he/she deems necessary and such comments shall form part of the completed application.
- 4.05 As a condition of the issuance of a permit, the *CBO* may require the *owner* of the land which is the subject of the permit either prior to the permit being issued or after the permit has been issued to comply with one or more of the following:
- (a) Notify the *CBO* or an *inspector* in writing within forty eight (48) hours of commencing any work;
 - (b) Require that the *site alteration* be completed by a specified date as noted in the permit;
 - (c) Construct a *retaining wall* including a safety fence which does not encroach upon lands abutting the land on which the work is to be performed and conforms to the Township of Scugog Zoning By-law, as amended. *Retaining walls* one (1) metre or higher may be subject to a building permit pursuant to the *Building Code Act, 1992*, as amended;
 - (d) Ensure that *fill* is *placed* or *dumped*, any *retaining wall* containing such *fill* is erected, and any other *site alteration* is conducted in such a manner that no *ponding* is caused on abutting lands and that adequate provision is made to permit proper surface stormwater *drainage*;
 - (e) Provide protection for environmentally sensitive or significant land;

- (f) Install and maintain the *erosion* and sediment control measures as identified in the approved *site alteration* plan and the latest guidelines for *erosion* measures of the *Conservation Authority*;
- (g) Erect a sign and/or give notice to the satisfaction of the *CBO* informing the public of the *site alteration*;
- (h) Notify the *CBO* or an *inspector* in writing of the completion of any *erosion* control measures within five (5) days after their installation;
- (i) Inspect the *erosion* control measures at least once a week and after each rainfall of at least one (1) centimetre and make needed repairs immediately;
- (j) Obtain the permission of the *CBO* in writing prior to modifying the *site alteration* plan or haul routes to and from the site;
- (k) Keep, maintain, and make available for inspection upon the request of the *CBO*, the following records in a good and business like manner:
 - i) The full and complete legal name, and business name if different from the legal name, of each hauler;
 - ii) The commercial vehicle registration number of each hauler;
 - iii) The motor vehicle permit number of the motor vehicles owned and operated by each hauler;
 - iv) The date and time of each delivery of *fill*;
 - v) The point of origin of each delivery of *fill*;
 - vi) The volume of each delivery of *fill*;
 - vii) The content of material of each delivery of *fill*, and
 - viii) Any other information required by the *CBO*;
- (l) Provide to the *CBO* or an *inspector* a report from a *qualified person* in respect to the source and nature of the *fill* to be *placed* or *dumped*, confirming that all *fill* meets standards prescribed by the Ministry of the Environment for any current and future land use designated under the Township Official Plan or amendment to the Official Plan approved by *Council* or Council for the Regional Municipality of Durham;
- (m) Notify the *CBO* or an *inspector* of the commencement, the completion and of the various stages of performance of the work in the alteration of the *grade* of the land and *placing* or *dumping* of *fill* on the land and to make the commencement, the completion and the various stages available for inspection;
- (n) Install all tree protection measures required by the approved *site alteration* plan prior to commencing any work and

- maintain these tree protection measures throughout the entire duration of the work;
- (o) Provide that *fill* shall not be *placed* or *dumped* around the perimeter of any existing building unless such building and its foundation walls are evaluated and reinforced in accordance with accepted engineering and construction practice, and an appropriate building permit has been issued;
 - (p) Provide adequate *drainage* from the land on which the work is to be performed in accordance with a drainage agreement if applicable, and in any event in accordance with an approved site alteration, reasonable environmental practices, and proper engineering practice;
 - (q) Ensure that no trench in which *drainage* piping is laid is covered and backfilled until the work has been inspected and approved by the *CBO*;
 - (r) Remove the *topsoil* prior to the performance of the work in the alteration of the *grade* or the *placing* or *dumping* of *fill*;
 - (s) Provide *security* to secure the maintenance of the highways that are used by the trucks delivering or removing the *fill* in a state of repair and free from dust and mud;
 - (t) Ensure that the *finished grade* surface is protected by sod, turf, seeding for grass, greenery, asphalt, concrete or such other material shown on submitted plans;
 - (u) Ensure that all *fill* used is material that does not contain any putrescible material and which meets any of the following criteria:
 - i) Rock, including demolition debris such as domestic brick and concrete that does not contain cement fines, exposed rebar, paint or coatings, decomposable materials, plastic, asphalt, petroleum products, hydrocarbon materials and any putrescible organic materials;
 - ii) *Soil* that meets the standards set out in Table 1 of the Soil, Ground Water and Sediment Standards referenced in O.Reg. 153/04;
 - iii) Liquid slurry material, to the extent that the free water is removed and the resulting wet or slurried material meets the standards set out in Table 1 of the Soil, Ground Water and Sediment Standards referenced in O.Reg. 153/04, and any free water from the liquid slurry that meets the standards set out in Table 1 of the Soil, Ground Water and Sediment Standards referenced in O.Reg. 153/04;
 - iv) *Topsoil*, sod and turf materials to be stockpiled for use as final cover only;

- (v) Ensure that such dust control measures are in place so as to restrict the blowing of dust onto any adjacent lands or highways through liquid application or dust free products;
 - (w) Operate in compliance with provisions of the Township of Scugog Noise By-law, as amended, and any successor legislation thereto;
 - (x) Address the requirements of the *Oak Ridges Moraine Conservation Plan* and the *Greenbelt Plan*, where applicable;
 - (y) Address the requirements of commenting agencies, including obtaining and providing evidence of any necessary permits or approvals;
 - (z) Execute an agreement if required by **Section 6** of this By-law.
- 4.06 Notwithstanding Subsection 4.05(u) of this By-law, *fill* consisting of *soil* that meets the standards set out in Table 2 of the Soil, Ground Water and Sediment Standards referenced in O.Reg. 153/04 may be permitted by the *CBO* on a case by case basis where the *owner* provides sufficient hydrogeological studies, and such other studies as may be required by the *CBO*, in order to demonstrate, to the satisfaction of the *CBO*, that the *placing* or *dumping* of such *fill* would not have a detrimental effect on ground water.
- 4.07 The *CBO* shall issue a permit when:
- (a) The *CBO* is satisfied that the lands which are the subject of the application for a permit are not within an area where *placing* or *dumping* of *fill* or other *site alteration* is prohibited under **Section 2** of this By-law;
 - (b) The applicant has fulfilled all requirements of **Section 4** of this By-law;
 - (c) If required by **Section 6** of this By-law, the applicant has entered into the agreement referred to in **Section 6**; and
 - (d) In addition to compliance with all other requirements, the intended use for the filled area is a permitted use under the Township of Scugog Official Plan, the Township of Scugog Zoning By-law, the *Oak Ridges Moraine Conservation Plan* and the *Greenbelt Plan*.
 - (e) The amount of *fill* to be *dumped* or *placed* on any *lot* will not exceed five hundred (500) cubic metres or two (2) metres above or below the *existing grade*, in which case the approval of *Council* will be required.
- 4.08 *Council* shall have the same powers as the *CBO* pursuant to this By-law for the issuance of permits under Subsection 4.07(e).
- 4.09 Where a permit has been issued under this By-law authorizing *site alteration* on lands, no person shall undertake or permit *site alteration* except in accordance with:

- (a) The plans, documents and any other information required for the issuing of the permit;
 - (b) The terms and conditions of the permit;
 - (c) Compliance with the agreement entered into with the *Corporation* as a condition of obtaining the permit; and
 - (d) All other provisions of this By-law.
- 4.10 The *Corporation* may engage legal, engineering, hydrology, environmental, arborist, landscape or any other consultant the *CBO* deems necessary in order to evaluate studies and/or agreements or to provide assistance to the *CBO* throughout the *site alteration* process, in which case the costs incurred for such evaluations shall be charged back to the applicant plus the administration charge set out in the Township of Scugog Fees and Charges By-law.
- 4.11 The *Corporation* may draw on the *security* required pursuant to Subsection 4.02(g) in order to remedy any breach of the provisions of this By-law, the conditions imposed on the permit by the *CBO*, or any other obligation of the *owner* relating to the permit, and, without limiting the generality of the foregoing, such *security* may be used to return the land to a condition satisfactory to the *CBO* and to pay any outstanding amounts owed by the *owner* that relate to the permit including those amounts owed pursuant to Section 4.10 of this By-law.
- 4.12 The *CBO* may require that additional *security* be provided by the *owner* at any time if, in the opinion of the *CBO*, such additional *security* is required, and the *owner* shall provide such additional *security* immediately upon the request of the *CBO*.
- 4.13 The issuance of any permit by the *CBO* shall not relieve the permit holder from compliance with this By-law, any other applicable law or legislation.

Section 5 - Expiry, Renewal, Revocation and Transfer of Permits

- 5.01 The permit issued pursuant to Section 4.07 of this By-law shall be valid for a period of six (6) months from the date of issuance.
- 5.02 No permit shall be extended past the expiry date of the permit set out in Section 5.01 of this By-law without the approval of *Council* and such extension shall be for a period not exceeding six (6) months from the date when the original permit was to be completed.
- 5.03 If title to the land for which a permit has been issued is transferred while the permit remains in effect, the permit shall be cancelled unless the new *owner*, within thirty (30) days of the transfer:
- (a) Provides the *Corporation* with an undertaking agreeing to comply with all conditions under which the existing permit was issued; or
 - (b) Applies for and obtains a new permit in accordance with the provisions of this By-law.

- 5.04 When work has commenced before a permit for that work has been issued, the fees for an application for each permit required shall:
- (a) Double the amount otherwise specified in this By-law; and
 - (b) Include an additional inspection fee as set out in the Township of Scugog Fees and Charge By-law for each inspection that was made, required or requested prior to the permit being issued.
- 5.05 The CBO may revoke the permit for the following reasons:
- (a) It was obtained on mistaken, false or incorrect information;
 - (b) It was issued in error;
 - (c) The *owner* or permit holder requests in writing that it be revoked;
 - (d) The terms of an agreement under this By-law have not been complied with;
 - (e) Work authorized under the permit has not been commenced prior to its expiry date;
 - (f) An *owner* has failed to comply with the provisions of this By-law; or
 - (g) The land has been transferred and the new *owner* has not complied with the requirements under **Section 5** of this By-law.
- 5.06 Where the CBO has revoked the permit pursuant to Section 5.05 of this By-law, the *owner* and permit holder shall ensure that all work that was the subject of the revoked permit ceases.

Section 6 - Permit Agreement

- 6.01 Where greater than five hundred (500) cubic metres of *fill* is being *placed* or *dumped* or where the resulting *proposed grade* will be greater than six hundred (600) millimetres above or below adjacent *existing grade*, the *owner* shall provide a *complete application* and enter into an agreement with the *Corporation* which shall be registered on title to the land on which the work is to be performed. Such agreement shall include the following conditions that the Owner:
- (a) Retain a *qualified person* to ensure that the *site alteration* is proceeding in accordance with reasonable engineering and environmental practices such as the Ministry of the Environment standards for clean *fill*; the plans submitted for the permit; and the conditions imposed pursuant to Section 4.05 of this By-law;
 - (b) Undertake the *site alteration* in accordance with the permit;
 - (c) Require the *qualified person* to report in writing on a regular basis or as determined by the CBO that the *site alteration* is in accordance with Subsection 6.01(a) of this By-law;

- (d) Require that the *site alteration* be completed by a specified date as noted in the permit;
- (e) Not contaminate the natural environment and abide by all applicable environmental laws and regulations;
- (f) Provide a report from the *qualified person* that he/she is satisfied that the *site alteration* will not result in:
 - i) *Soil erosion*;
 - ii) Blockage of a *watercourse*;
 - iii) Siltation in a *watercourse*;
 - iv) Pollution of a *watercourse*;
 - v) Flooding or *ponding* on abutting lands;
 - vi) Flooding or *ponding* caused by a *watercourse* overflowing its banks;
 - vii) A detrimental effect on any trees of a caliper of seventy-five (75) millimetres or more located on the lands;
 - viii) Detrimental effect on matters of inherent biological sensitivity such as, but not limited to, aquifer recharge, water quality, unusual plants or wildlife and overwintering habitats;
 - ix) Unauthorized injury or destruction of municipal trees or other trees protected under by-laws of the *Corporation* or the Regional Municipality of Durham;
 - x) Injury or destruction of other trees, which in the opinion of the *CBO*, could reasonably be avoided;
- (g) Engage an Ontario Land Surveyor to prepare any plans requested by the *CBO* to identify the extent and location of any *fill placed or dumped or site alteration*;
- (h) Acknowledge that the *Corporation* may engage legal, engineering, hydrology, environmental, arbourist, landscape or any other consultant the *CBO* deems necessary in order to evaluate studies and/or agreements or to provide assistance to the *CBO* throughout the *site alteration* process in which case the costs incurred for such evaluations shall be charged back to the applicant plus the administration charge set out in the Township of Scugog Fees and Charges By-law;
- (i) Provide *security* to be used to remedy any breach of the By-law or agreement;
- (j) Indemnify the *Corporation* for any liability, costs, damages or losses incurred directly or indirectly caused by the issuing of a permit and to provide insurance satisfactory to the *Corporation*.

Section 7 - Administration and Enforcement

- 7.01 This By-law shall be administered by the *CBO*, and enforced by the *CBO*, *inspectors*, such Municipal Law Enforcement Officers of the *Corporation* as may be appointed by *Council* and the Durham Regional Police Service.
- 7.02 *Inspectors* may, at any reasonable time enter and inspect any land, including *soil* testing and the taking of samples, to determine whether the provisions of this By-law, or a condition of a permit issued under this By-law have been complied with. This power of entry does not allow the *inspector* to enter any building.
- 7.03 No person shall obstruct an *inspector* who is carrying out an inspection pursuant to this By-law.
- 7.04 Upon completion of the work pursuant to the permit, the *owner* and/or permit holder shall so advise the *CBO*.
- 7.05 This By-law shall apply to all *site alteration*, including *placing* and *dumping of fill*, on all lands within the *Township* whether such activity occurred prior to the date of the passage of this By-law, or subsequent to the passage of this By-law.

Section 8 - Appeals

- 8.01 An applicant for a permit under this By-law may appeal to *Council* regarding:
- (a) The completeness of an application submitted for a permit;
 - (b) Failure by the *CBO* to make a decision on an application for a permit within thirty (30) days of the *Corporation* receiving a *complete application*, which appeal must be made within thirty (30) days after the expiration of the initial thirty (30) day period;
 - (c) Refusal by the *CBO* to issue a permit, which appeal must be made within thirty (30) days after the permit refusal;
 - (d) Any conditions included by the *CBO* in a permit, which appeal must be made within thirty (30) days after the permit was issued.
- 8.02 An applicant appealing to *Council* shall pay the applicable fee calculated in accordance with rates set out in the Township of Scugog Fees and Charges By-law at the time the appeal is lodged.
- 8.03 On an appeal under **Section 8**, Council shall have all of the powers of the *CBO* pursuant to this By-law.
- 8.04 The decision of *Council* shall be final and binding on the applicant.

Section 9 - Notices and Orders

- 9.01 If after inspection, an *inspector* is satisfied that a contravention of this By-law has occurred, the *inspector* shall notify the *owner* and the permit holder of the particulars with a "Notice of Contravention" and/or an "Order to Comply" pursuant to Section

444(1) or 445(1) of the *Municipal Act, 2001*, at the same time and provide all occupants with a copy of the notice and such order shall contain:

- (a) The municipal address and legal description of the land;
- (b) Reasonable particulars of the contravention;
- (c) The period within which there must be compliance.

9.02 The notice and/or order issued pursuant to Section 9.01 of this By-law may require any person who has: altered the *grade* of land; caused or permitted the *grade* to be altered contrary to the provisions of this By-law; *placed* or *dumped fill*; caused or permitted *fill* to be *placed* or *dumped*; or caused or permitted any other form of *site alteration* contrary to the provisions of this By-law to:

- (a) Cease all work in respect of the *site alteration*;
- (b) Remove the *fill*;
- (c) *Fill* in any excavations or ponds; and/or
- (d) Do all work necessary to;
 - i) Eliminate any hazard resulting from the alteration of the *grade* or the *dumping* or *placing* of *fill* and to restore the land to a condition of safety;
 - ii) Preserve the land pending any hearing of an appeal in respect of an application;
 - iii) Restore the land to its former condition prior to the alteration of the *grade* of the land or to the *placing* or *dumping* of the *fill* on the land or other *site alteration*.

9.03 The notice and/or order referred to in Sections 9.01 and 9.02 of this By-law shall also contain:

- (a) The time frame in which the work contained in the order must be carried out;
- (b) A notice stating that if the work is not done in compliance with the order within the period it specifies, the *Corporation* may have the work done at the expense of the *owner*.

9.04 An *owner* who has received a notice or order pursuant to Section 9.01 of this By-law shall comply with said notice or order within the time frame specified in the notice or order, otherwise, the *CBO* may draw on the *security* as required.

9.05 A notice or order issued pursuant to Section 9.01 of this By-law shall be served personally or by prepaid registered mail or in accordance with Section 9.07 of this By-law.

9.06 A notice or order issued pursuant to Section 9.01 of this By-law sent by prepaid registered mail shall be sent to the last known address to the *owner* of the land and permit holder.

- 9.07 An *inspector* who is unable to effect service pursuant to Section 9.05 of this By-law shall place a placard containing the terms of said notice or order in a conspicuous place on the property and the placing of the placard shall be deemed to be sufficient service of the notice or order on the *owner* and permit holder.
- 9.08 If the *owner* or permit holder fails to do the work required by the order issued pursuant to Section 9.01 of this By-law within the period it specifies, the *Corporation*, in addition to all other remedies it may have, may do the work and for this purpose may enter on the land with its employees and agents. The costs incurred by the *Corporation* in so doing shall be paid by the *owner* of the land and may be recovered by the *Corporation* in like manner as taxes or drawing on financial securities provided.

Section 10 - Penalty and Offence

- 10.01 Any person, other than a corporation, who contravenes the provisions of this By-law, the terms or conditions of a permit issued pursuant to this By-law, or an order issued pursuant to this By-law and Section 444(1) or 445(1) of the *Municipal Act, 2001*, is guilty of an offence and, upon conviction, is liable:
- (a) On a first conviction, to a fine of not more than \$10,000.00;
 - (b) On any subsequent conviction to a fine of not more than \$25,000.00.
- 10.02 A corporation that contravenes any provision of this By-law, the terms or conditions of a permit issued pursuant to this By-law, or an order issued pursuant to this By-law and Section 444(1) or 445(1) of the *Municipal Act, 2001*, is guilty of an offence and on conviction is liable:
- (c) On a first conviction, to a fine of not more than \$50,000.00;
 - (d) On any subsequent conviction to a fine of not more than \$100,000.00.
- 10.03 In addition to any fine or any other penalty, any person who is convicted of contravening a provision of this By-law, the terms and conditions of a permit issued pursuant to this By-law, or an order issued pursuant to this By-law and Section 444(1) or 445(1) of the *Municipal Act, 2001*, may be ordered by a court of competent jurisdiction at the expense of the person to:
- (a) Rehabilitate the land;
 - (b) Remove the *fill placed or dumped*;
 - (c) Restore the *grade* of the land to its original condition.
- 10.04 If a person is convicted of an offence for contravening an order to stop the injuring or destruction of trees, the court in which the conviction has been entered, or any court of competent jurisdiction thereafter, may order the person to rehabilitate the land or plant or replant trees in such manner and within such period as the court considers appropriate, including any silvicultural treatment necessary to reestablish the trees.

Section 11 - Severability

11.01 If any provision of this By-law, or the application thereof to any person or circumstance, is invalid, the invalidity shall not effect other provisions or application of this By-law which can be given effect without the invalid provision or application, and to this end the provisions of this By-law are severable.

Section 12 - Effective Dates and Repeal of Predecessor By-Laws

12.01 By-Law Number 125-04 is hereby repealed.

12.02 This By-Law shall come into full effect and force on the date of its passing.

12.03 The provisions of Section 7.05 of this By-law do not apply to an owner with an approved permit issued pursuant to the former Grading and Fill Control By-law No. 125-04 (repealed). The CBO shall not permit any extensions or renewals of permits issued under this predecessor by-law.

Read a First, Second and Third Time and finally passed this 14th day of June, 2010

(Signed) Marilyn Pearce
Mayor, Marilyn Pearce

(Signed) Kim Coates
Clerk, Kim Coates, AMCT