



# TOWNSHIP OF SCUGOG SITE ALTERATION BY-LAW

## BY-LAW NUMBER 62-15

Passed by Council on the 2nd Day of November, 2015

### Amendments:

By-Law Number	Date Passed	Section Amended
67-16	December 12, 2016	Sections 1(n)
05-18	January 29, 2018	Section 2.01
08-20	February 10, 2020	Section 4

Note: This consolidation is prepared for convenience only. For accurate reference, the original by-laws should be reviewed.

THE CORPORATION OF THE TOWNSHIP OF SCUGOG

BY-LAW NUMBER 62-15

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;

**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:

- (a) Existing drainage patterns are maintained and erosion and sedimentation are prevented;
- (b) Changes to drainage or grade are appropriate to protect natural heritage features and areas;
- (c) Interference and damage to watercourses or water bodies are prevented;
- (d) Ground water and surface water quality is maintained;
- (e) There is no discharge of a contaminant into the natural environment that causes or may cause an adverse effect and that degradation of the pre-existing soil and ground water quality conditions at the site and on adjacent properties is prevented;
- (f) Haul routes for the transportation of fill and topsoil authorized for placement, dumping or removal will be designated to and/or from a site to minimize damage to the Township's roads and minimize interference and/or disturbance to the Township's residents and businesses;
- (g) Disturbance to landform characteristics are kept to a minimum; and
- (h) The proponent of the site alteration project pays for its costs;

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

## Section 1 - Definitions

- 1.01 This By-law may be cited as the "Site Alteration By-law".
- 1.02 In this By-law:
- (a) "adverse effect" means one or more of,
    - i) impairment of the quality of the natural environment for any use that can be made of it;
    - ii) injury or damage to property or to plant or animal life;
    - iii) harm or material discomfort to any person;
    - iv) an adverse effect on the health of any person;
    - v) impairment of the safety of any person;
    - vi) rendering any property or plant or animal life unfit for human use;
    - vii) loss of enjoyment of normal use of property; and
    - viii) interference with the normal conduct of business.
  - (b) "Aggregate Resources Act" means the Aggregate Resources Act, R.S.O. 1990, c. A.B, as amended;
  - (c) "agricultural lands" includes all lands that are used by a farming business legally established under the Township's Zoning By-law and registered under the Farm Registration and Farm Organizations Funding Act 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;
  - (d) "body of water" includes any body of flowing or standing water whether naturally or artificially created;
  - (e) "Building Code Act" means the Building Code Act, 1992, S.O. 1992, c.23, as amended;
  - (f) "Clean Water Act" means the Clean Water Act, 2006, S.O. 2006, c. 22, as amended;

- (g) "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 the grade of the land;
- (h) "commercial fill operation" means a large site alteration which meets one or more of the following criteria:
  - i) Agricultural Properties identified under Section 4 are exempt from being classified as a commercial fill operation for the importation of topsoil **Added as per By-Law 08-20**
  - ii) the placing or dumping of fill is for commercial benefit or gain, whether for the owner or occupier of the land or for a third party, including the placing or dumping of fill involving remuneration paid, or any other form of consideration provided, to the owner or occupier of the land or a third party, whether or not the remuneration or consideration is the sole reason for the placing or dumping of the fill;
  - iii) the placing or dumping of fill is for a commercial purpose;
  - iv) greater than ten thousand (10,000) cubic metres of fill is being placed or dumped within a twelve (12) month period
  - v) the fill is obtained from more than one source site and there is no Fill Management Plan in effect;
  - vi) the fill is generated as a function of a waste soil treatment and/or remediation facility, whether or not such facility is operated under an Environmental Compliance Approval issued by the Ministry of the Environment and Climate Change.
- (i) "complete application" means an application and contents as described in Section 4.02 of this By-law;
- (j) "Conservation Authorities Act" means the Conservation Authorities Act, R.S.O. 1990, c.C.27, as amended;
- (k) "Conservation Authority" means the Central Lake Ontario Region Conservation Authority, Lake Simcoe Region Conservation Authority or the Kawartha Region Conservation Authority;
- (l) "Corporation" means The Corporation of the Township of Scugog;

- (m) "Council" means the Council for the Corporation;
- (n) "development" means the construction of buildings and above or underground services such as roads, parking lots, paved storage areas, watermains, storm and sanitary sewers, utilities, general grading works and similar facilities on any lands in the Township;
- (o) "Director" means a person designated by the Corporation's Chief Administrative Officer or Council to carry out any of the powers or duties of the Director pursuant to this By-Law;
- (p) "drainage" means the movement of water to a place of disposal or facilitation of movement, whether by way of the natural characteristics of the ground surface, aquifer, or by an artificial method;
- (q) "Drainage Act" means the Drainage Act, R.S.O. 1990, c.D.17, as amended;
- (r) "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;
- (s) "Electricity Act" means the Electricity Act, 1998, S.O. 1998, c.15, Schedule A, as amended;
- (t) "Environmental Protection Act" means the Environmental Protection Act, R.S.O. 1990, c. E.19, as amended;
- (u) "environmentally sensitive areas" means any area deemed to have ecological significance howsoever described in Official Plans or a Zoning By-law including, but not limited to, terms such as Natural Core Area, Natural Linkage Area, Environmental Protection and environmentally significant areas;
- (v) "erosion" means the detachment and movement of soil, sediment or rock fragments by water, wind, ice or gravity;
- (w) "Farm Registration and Farm Organizations Funding Act" means the Farm Registration and Farm Organizations Funding Act, 1993, S.O. 1993, c.21, as amended;
- (x) "fill" means any type of material removed from, placed or dumped on land and includes soil, stone, concrete, construction

materials/rubble, asphalt, dirt, sod or turf either singly or in combination, and includes “hydro vacuum truck slurry and slurry byproduct” (By-Law 67-16);

- (y) "Fill Management Plan" means a fill management plan required as a condition of a permit pursuant to Section 4.07 of this By-law, in accordance with the Guidelines, and approved by the Director,
- (z) "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, then 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 final elevation of ground surface of land upon which fill is proposed to be placed;
- (aa) "Greenbelt Plan" means the Greenbelt Plan approved by Order-in-Council No. 208/2005;
- (bb) "Guidelines" means the information, documentation and material, as determined by the Director, from time to time, to be used by the Corporation for the purpose of permitting the Corporation to review any application for a Permit;
- (cc) "hydrogeologically sensitive areas" include permanent and intermittent streams, wetlands, kettle lakes, seepage areas and springs;
- (dd) "inspector" means the Corporation's Chief Building Official, road supervisors, engineering technicians, third party inspectors and individuals appointed by the Corporation as Municipal Law Enforcement Officers;

- (ee) "key natural heritage features" includes wetlands, significant portions of the habitat of endangered, threatened or special concern species, fish habitat, areas of natural and scientific interest, significant valleylands, woodlands and wildlife habitat and sand barrens, savannahs and tallgrass prairies;
- (ff) "Lake Simcoe Protection Plan" means the Lake Simcoe Protection Plan approved by Order-in-Council No. 977/2009;
- (gg) "landform conservation plan" means a landform conservation plan required as part of a complete application pursuant to Section 4.02 of this By-law, and approved by the Director;
- (hh) "landform features" means distinctive physical attributes of land such as slope, shape, elevation and relief;
- (ii) "large site alteration" means any site alteration where greater than five hundred (500) cubic metres of fill is being placed or dumped within any twelve (12) month period or resulting in a change to existing landform of greater than six hundred (600) millimetres from the existing grade;
- (jj) "lot" means a parcel of land, described in a deed or other document legally capable of being conveyed including a block on a registered plan of subdivision;
- (kk) "minimum vegetation protection zones" means the areas as related to and listed in the Oak Ridges Moraine Conservation Plan for Key Natural Heritage Features and Hydrologically Sensitive Features and found in the Table of Part III of the Oak Ridges Moraine Conservation Plan, as well as defined and listed in the Greenbelt Plan;
- (ll) "Municipal Act" means the Municipal Act, 2001, S.O. 2001, c.25, as amended;
- (mm) "Oak Ridges Moraine" means those lands defined as the Oak Ridges Moraine Conservation Plan Area, by Ontario Regulation 140/02;
- (nn) "Oak Ridges Moraine Conservation Plan" means Ontario Regulation 140/02;
- (oo) "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;

- (pp) "place, placed or placing" means the distribution of fill on lands to establish a finished grade different from the existing grade;
- (qq) "Planning Act" means the Planning Act, R.S.O. 1990, c.P.13, as amended;
- (rr) "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;
- (ss) "Professional Geoscientists Act" means the Professional Geoscientists Act, 2000, S.O. 2000, c.13, as amended;
- (tt) "Public Transportation and Highway Improvement Act" means the Public Transportation and Highway Improvement Act, R.S.O. 1990, c.P.50;
- (uu) "qualified person" means a person approved by the Director who is a licensed professional engineer in the Province of Ontario or who holds a certificate of registration under the Professional Geoscientists Act, and possessing expert or special knowledge in regards to matters contained within this By-law;
- (vv) "qualified tree consultant" means an arborist certified by the International Society of Arboriculture who has a diploma (minimum) in arboriculture or urban forestry;
- (ww) "retaining wall" means a wall designed to contain and support fill which has a finished grade higher than that of adjacent lands;
- (xx) "security" means a certified cheque, cash or an irrevocable letter of credit in a form acceptable to the Director and the Corporation's Treasurer;
- (yy) "site alteration" means the placing, or dumping of fill, the removal of topsoil or fill from land, or the alteration of the grade of land, or any combination of these activities;
- (zz) "soil" means material commonly known as earth, topsoil, loam, clay, sand or gravel;
- (aaa) "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 of surface water;



- (bbb) "Tile Drainage Act' means the Tile Drainage Act, R.S.O. 1990, C.T.B, as amended;
- (ccc) "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;
- (ddd) "Township" means the geographic area of the Township of Scugog;
- (eee) "watercourse" means a natural or man-made channel or swale in which water flows, either continuously or intermittently with some degree of regularity;
- (fff) "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;
- (ggg) "Zoning By-law" means a by-law passed by the Corporation pursuant to Section 34 of the Planning Act and includes Zoning By-law 14-14 as may be amended from time to time.

**Section 2 - General Prohibitions and Regulations**

- 2.01 No person shall place or dump any fill, remove any topsoil or fill 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 Director or Council, unless otherwise exempt.
- 2.02 No person shall fail to comply with an order issued pursuant to Section 10 of this By-law.
- 2.03 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 under this By-law can demonstrate that such site alteration is permitted pursuant to the Oak Ridges Moraine Conservation Plan;

- (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.

2.04 No person shall cause, permit or perform a site alteration in any of the areas described below in subsections (a) to (d), or a large site alteration in any of the areas described below in subsections (a) to (i), unless such site alteration or large site alteration is directly associated with a building permit issued by the Corporation or any other development agreement with the Corporation:

- (a) environmentally sensitive areas;
- (b) key natural heritage feature areas;
- (c) hydrogeologically sensitive areas;
- (d) "minimum vegetation protection zones" associated with areas described in subsections (b) and (c) above;
- (e) "natural linkage areas" as defined in the Oak Ridges Moraine Conservation Plan;
- (f) "natural core areas" as defined in the Oak Ridges Moraine Conservation Plan;
- (g) areas of "high aquifer vulnerability" as designated in an Official Plan or under the Oak Ridges Moraine Conservation Plan;
- (h) "landform conservation areas" in lands designated as "Countryside" under the Oak Ridges Moraine Conservation Plan;
- (i) wellhead protection areas, significant ground water recharge areas or significant high aquifer vulnerability areas as designated in a drinking water source protection plan under the Clean Water Act.

2.05 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, preservicing agreement,

subdivision agreement or consent agreement entered into under those sections.

- 2.06 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 or requirements of the Corporation, the Regional Municipality of Durham or the Province of Ontario for the protection of trees.
- 2.07 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 listed as a permitted use in the zone category for which the lot is identified in the Zoning By-law and such storage of fill shall not exceed five hundred (500) cubic metres.
- 2.08 No person shall perform a site alteration on any land unless it is done at the request of or with the written consent of the owner of the land where the site alteration is to occur.
- 2.09 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) anytime Saturday, Sunday or on a Statutory Holiday;
  - (c) during any period in which a wind warning for the area has been issued by Environment Canada;
  - (d) during or within 24 hours of receiving precipitation in excess of two (2) millimetres.
- 2.10 Notwithstanding anything else contained in this By-law, no person shall operate a commercial fill operation within the Township, but this prohibition shall not apply if the site alteration is exempt under Section 3.01 hereof.

- 2.11 No person shall place or dump fill or cause or permit fill to be placed or dumped unless such fill:
- (a) is soil;
  - (b) does not contain any putrescible organic material, demolition debris such as domestic brick and concrete, concrete fines, exposed rebar, paint or coatings, decomposable materials, plastic, asphalt, glass, petroleum products or hydrocarbon materials;
  - (c) meets the standards set out in Table 1 of the "Soil, Ground Water and Sediment Standards for Use under Part XV.1 of the Environmental Protection Act referenced in O.Reg. 153/04, for "Agricultural or Other Property Use", or a less restrictive standard if permitted pursuant to a permit issued pursuant to this By-law; and
  - (d) is free of staining, hydrocarbon odour, garbage and debris.
- 2.12 The placing or dumping of fill shall not introduce any new contaminant (as listed in "Soil, Ground Water and Sediment Standards for Use under Part XV.1 of the Environmental Protection Act' referenced in O.Reg. 153/04} to a lot or increase the concentration of an existing contaminant on a lot.
- 2.13 Notwithstanding Section 2.12, fill that is topsoil may be permitted if it meets the standards set out in Table 1 of the "Soil, Ground Water and Sediment Standards for Use under Part XV.1 of the Environmental Protection Act' referenced in O.Reg. 153/04, for "Agricultural or Other Property Use".
- 2.14 No person shall perform, or cause or permit to be performed, any site alteration that has the effect of a significant change to landform features except in accordance with a landform conservation plan.
- 2.15 No person shall perform, or cause or permit to be performed, any site alteration that may adversely affect the quality or quantity of water in a well, pond or watering hole intended for use as a source of water for agriculture or human consumption on a property with an adjoining property boundary, or any other property.
- 2.16 No person shall place or dump fill or cause or permit fill to be placed or dumped on a lot fronting on a Corporation road that has been deemed

by the Corporation, in its sole discretion, to be unsuitable for the transportation of fill.

### **Section 3 - Exemptions**

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

- (a) Activities or matters undertaken by the Corporation, the Regional Municipality of Durham, or a local board of the Corporation or the Regional Municipality of Durham;
- (b) The placing or dumping of fill, removal of topsoil or fill 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, subdivision agreement or consent agreement entered into under those sections;
- (c) the placing or dumping of fill, removal of topsoil or fill 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;
- (d) 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 for the purpose of constructing and maintaining a transmission system or a distribution system, as those terms are defined in that section;
- (e) 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,
- (f) aggregate, as defined in the Aggregate Resources Act, brought onto a pit or quarry operating under a license or wayside permit issued under the Aggregate Resources Act as part of the operations of that pit or quarry;
- (g) 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 the Aggregate Resources 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,
- (h) 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 the Aggregate Resources Act,
  - (i) 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 or the Tile Drainage Act,
  - (j) the removal of topsoil or fill 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;
  - (k) 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 or a waste, waste disposal or waste management system that is exempted by regulation from Part V of the Environmental Protection Act,
  - (l) the construction, extension, alteration, maintenance or operation of works under Section 26 of the Public Transportation and Highway Improvement Act,
  - (m) emergency measures taken by the Corporation or the Regional Municipality of Durham or any other governmental agency with jurisdiction, to prevent flooding, erosion, slipping of soil or damage of trees;
  - (n) the harvesting of peat in a commercial operation regulated and approved by the Conservation Authority and the Corporation.

3.02 Subject to complying with all other provisions of this By-law, no permit under this By-law 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 0.6 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, if such placing or dumping of fill does not exceed 500 cubic metres;
- (d) 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 the lot does not include and does not abut a body of water. Such alteration shall not take place within 0.6 metres of any property line;
- (e) replacement of topsoil or restoration of agricultural lands used for normal agricultural practices and which is an incidental part of sod farming, greenhouse operations, and nurseries for horticultural practices and which shall not exceed five hundred (500) cubic metres annually and which shall not result in a landform change of more than 20 centimeters, or at the discretion of the Director.

#### **Section 4 - Requirements for Issuance of an Agricultural Permit**

**Added as per By-Law 08-20**

- 4.01 An Agricultural Permit is required for the replacement of topsoil to restore agricultural lands used for normal agricultural practices and which is an incidental part of sod farming, greenhouse operations, and nurseries for horticultural practices and which shall not exceed the amount calculated by the Township as per Section 4.01(a) per permit, or at the discretion of the Director.

- (a) the volume of topsoil to be imported shall not exceed the amount calculated based on the area in acres required to be restored multiplied by twenty (20) centimetres in elevation, up to ten thousand (10,000) cubic metres per permit.

4.02 An owner applying for a permit under this By-law shall provide the following, as specified by the Director:

- (a) a completed application form including an active Farm Registration Number from Farm Registration and Farms Organization Funding Act ("FRFOFA"), and are in good standing under the FRFOFA; **Added as per By-Law 08-20**
- (b) the name, address, contact telephone number and email of the owner and applicant if applicable of the land upon which the topsoil is to be dumped or placed;
- (c) the municipal address of the land on which the topsoil is to be dumped or placed;
- (d) legal description of the land upon which the topsoil is to be dumped or placed;
- (e) a site alteration plan, based on an identified legal survey or aerial photograph if required by the Director, accurately indicating the following, as required by and to the satisfaction of the Director:
  - i) the property lines of the lands for the site alteration with dimensions;
  - ii) the boundaries of each lot and area (expressed in acres) of each lot;
  - iii) the location and use of all existing buildings and other structures existing or proposed to be erected on each lot;
  - iv) the location of lakes, streams, wetlands, channels, ditches, other watercourses and other body of water on and within a minimum of 30 metres beyond each lot's boundaries;
  - v) the location of all regulatory flood lines and Conservation Authority fill regulation lines;
  - vi) the location and dimensions of all proposed land disturbance activities, including construction of access roads;



- vii) the location and dimensions of all temporary topsoil stockpiles;
  - viii) a schedule of the anticipated starting and completion dates of each land disturbance or land development activity;
  - ix) provisions for the maintenance of the construction site erosion control and dust control measures during construction and after as required;
  - x) the scale of drawing ranging from 1:250 to 1:1000 as deemed appropriate (each drawing control plan to be in metres);
  - xi) an indication on the drawing of directions of overland water flow and overland flow route;
  - xii) all erosion, sediment and tree protection measures for the site alteration operation;
- (f) a description of the topsoil proposed to be dumped or placed including a detailed description of the source of the topsoil with a letter from the party from whom the topsoil was acquired attesting that the topsoil meets the requirements for topsoil set out in Section 2.12 of this By-law, the quantity of the topsoil (expressed in cubic metres), and the proposed location of the topsoil on the lands, and may include contact information if required by the Director,
- (g) 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;
- (h) a signed authorization of a grantee(s) of any easements within the property accepting the placing or dumping of topsoil or other site alteration on or abutting any easements;
- (i) the proposed haul routes to and from the site, determined so as to minimize damage to roads and interference and/or disturbance to the residents and businesses of the Township, together with the estimated number of trucks required to transport the topsoil;
- (j) any other study, report, plan, drawing or material related to the application as deemed necessary by the Director to constitute a complete application.

- 4.03 In reviewing any application, the Director may seek comments/approvals from the Conservation Authority, the Regional Municipality of Durham, adjacent municipalities and any other agency the Director deems necessary and such comments shall form part of the completed application.
- 4.04 Where a permit has been issued under this By-law, no person shall place or dump topsoil or remove any topsoil, alter the grade of land, or perform or permit any site alteration except in accordance with this By-law, the terms and conditions of the permit and any agreement entered into with the Corporation pursuant to Section 8 of this By-law, which conditions may include, but are not limited to:
- (a) notify the Director in writing within forty eight (48) hours of commencing any work;
  - (b) install and maintain the erosion and sediment control measures as identified in the approved site alteration plan and the latest guidelines for erosion control measures of the Conservation Authority,
  - (c) notify the Director in writing of the completion of any erosion control measures within five (5) days after their installation;
  - (d) stock piling of topsoil material shall not be greater than one (1) month after being placed
  - (e) 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;
  - (f) obtain the permission of the Director in writing prior to modifying the site alteration plan or haul routes to and from the site;
  - (g) keep, maintain, and make available for inspection upon the request of the Director, the following records in a good and businesslike manner:
    - i) the date and time of each delivery of topsoil;
    - ii) the point of origin of each delivery of topsoil, or the intended destination of topsoil that is being removed from the site;
    - iii) the volume of each delivery of topsoil;

- (h) provide to the Director from time to time as required an up to date daily hauling schedule which is acceptable to the Director detailing the routes, numbers and approximate times of truck traffic arriving and leaving the site;
- (i) to designate permitted haul routes to and from the site;
- (j) to restrict the daily volume of truck loads;
- (k) to further restrict or designate the source of the topsoil;
- (l) such other conditions and requirements as the Director may set out at their sole discretion for the purposes of safety, environmental protection, general public health and safety, or property standards in respect of the local community as may be reasonable in the circumstances;
- (m) provide to the Director a report from a qualified person in respect to the source and nature of the topsoil to be placed or dumped, confirming that all topsoil meets the standards required pursuant to the approvals given for the issuance of a permit under this By-law;
- (n) notify the Director 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 topsoil on the land and to make the commencement, the completion and the various stages available for inspection;
- (o) provide security to secure the maintenance of the highways that are used by the trucks delivering or removing the topsoil in a state of repair and free from dust and mud;
- (p) provide adequate drainage from the land on which the work is to be performed in accordance with an agreement required by the Director, and in any event in accordance with an approved site alteration, reasonable environmental practices, and proper engineering practice;
- (q) ensure that all topsoil meets the requirements of Section 2.12 of this By-law or, subject to approval by Council, such less restrictive standard as the Director may consider appropriate in the circumstances of the particular application but such less restrictive standard shall not be less restrictive than the standards set out in Table 2 of the "Soil, Ground Water and Sediment Standards for Use under Part XV.1 of the Environmental

Protection Act referenced in O.Reg. 153/04, for "Agricultural or Other Property Use", and Section 2.13 of this By-law shall continue to apply;

- (r) operate in compliance with provisions of the Township of Scugog Noise By-law, as amended, and any successor legislation thereto;
- (s) address the requirements of commenting agencies and adjacent municipalities where applicable, including obtaining and providing evidence of any necessary permits or approvals

4.05 The Director shall issue a permit under this By-law when:

- (a) the Director 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 topsoil or other site alteration is prohibited under Section 2 of this By-law;
- (b) the applicant has fulfilled all applicable requirements of Section 4 of this By-law;
- (c) the applicant signed the application therefore entering into an agreement referred to in Section 8 of this By-law. Section 8 parts (b), (c), (e), (j) and (k) apply to topsoil permits;
- (d) applicable agencies and authorities have been notified and have provided comments, to the satisfaction of the Director;
- (e) all applicable fees, security, and expenses for services have been satisfied by the owner; and
- (f) all other applicable requirements of this By-law have been complied with

4.06 The Director is granted authority pursuant to this By-law for the issuance of permits and may have regard to any of the following in refusing the issuance of a permit:

- (a) the effect of the large site alteration on the environment;
- (b) the effect of the large site alteration on nearby communities;
- (c) any comments provided by adjacent municipalities and agencies;
- (d) concerns of the public and the applicant's responses to those concerns;

- (e) any possible effects of the large site alteration on ground and surface water resources;
- (f) any possible effects of the large site alteration on existing agricultural resources;
- (g) any planning and land use considerations;
- (h) the main haulage routes and proposed truck traffic to and from the site;
- (i) the quality and quantity of topsoil being proposed;
- (j) the applicant's history of compliance with regards to topsoil importation; and
- (k) any other matters that the Director considers appropriate.

## **Section 5 - Requirements for Issuance of a Site Alteration Permit**

- 5.01 An owner applying for a permit under this By-law shall have a pre-consultation meeting with the Director and any other persons that the Director deems necessary to review the proposal to determine if a permit can be issued under the requirements of this By-law.
- 5.02 Unless otherwise specified by the Director pursuant to Section 5.03, an owner applying for a permit under this By-law 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) 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;

- (f) a site alteration plan, based on an identified legal survey if required by the Director, accurately indicating the following, as required by and to the satisfaction of the Director:
- i) a key map showing the location of each lot, including the nearest major intersection and north arrow;
  - ii) the property lines of the lands for the site alteration with dimensions;
  - iii) the boundaries of each lot and area (expressed in hectares) of each lot;
  - iv) the existing and proposed use of the land and the location and use of the buildings and other structures adjacent to each lot;
  - v) the location, dimensions and use of all existing buildings and other structures existing or proposed to be erected on each lot;
  - vi) the location of lakes, streams, wetlands, channels, ditches, other watercourses and other body of water on and within a minimum of 30 metres beyond each lot's boundaries;
  - vii) the location of all regulatory flood lines and Conservation Authority fill regulation lines;
  - viii) the location and identification of the predominant existing soil types on the lot;
  - ix) the location and dimensions of utilities, structures, road, highways and paving located within a minimum of thirty (30) metres beyond each lot's boundaries;
  - x) the location and dimensions of all proposed land disturbance activities, including construction of access roads;
  - xi) the location and dimensions of all temporary fill stockpiles;
  - xii) a schedule of the anticipated starting and completion dates of each land disturbance or land development activity;
  - xiii) provisions for the maintenance of the construction site erosion control and dust control measures during construction and after as required;

- xiv) the scale of drawing ranging from 1:250 to 1:1000 as deemed appropriate (each drawing control plan to be in metres);
  - xv) an indication on the drawing of directions of overland water flow and overland flow route;
  - xvi) any information, plans or studies required by the Oak Ridges Moraine Conservation Plan, the Greenbelt Plan or the Lake Simcoe Protection Plan;
  - xvii) for site alteration that is not a large site alteration, 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;
  - xviii) for large site alteration, a topographic survey at one metre contour intervals certified by a licensed professional engineer or Ontario Land Surveyor defining all material and manmade 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;
  - xix) all existing storm sewers, ditches, swales, creeks, watercourses and wetlands on the lands and on abutting lands and public highways;
  - xx) 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;
  - xxi) proposed grades and drainage systems upon completion of the site alteration operation;
  - xxii) all proposed ground covering to be used upon completion of the site alteration operation;
  - xxiii) all erosion, sediment and tree protection measures for the site alteration operation;
- (g) an assessment by a qualified person to establish the current site condition of the soil, groundwater, and stormwater to ensure the site is appropriate for the proposed site alteration;

- (h) a groundwater management plan and a stormwater management plan;
- (i) a landform conservation plan, showing elevation contours and significant landform features, and identifying planning, design and construction practices that will keep disturbance to landform character to a minimum, including maintaining significant landform features such as steep slopes, kames, kettles, ravines and ridges in their natural undisturbed form, and limiting the portion of the site to be disturbed by the site alteration;
- (j) 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 fill set out in Section 2.12 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 Director,
- (k) 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;
- (l) 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;
- (m) the Official Plan designation and zoning of the property;
- (n) where the land is subject to the provisions of the Oak Ridges Moraine Conservation Plan, Greenbelt Plan or Lake Simcoe Protection 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;
- (o) such tree reports prepared by a qualified tree consultant as may be required by the Director or other by-laws or policies of the Corporation;
- (p) the proposed haul routes to and from the site, determined so as to minimize damage to roads and interference and/or disturbance to the residents and businesses of the Township, together with the estimated number of trucks required to transport the fill;



- (q) any other study, report, plan, drawing or material related to the application as deemed necessary by the Director to constitute a complete application.
- 5.03 For applications for site alteration that is not a large site alteration, the Director may not require all items specified in Section 5.02 to be provided.
- 5.04 In reviewing any application, the Director may seek comments/approvals from the Conservation Authority, the Regional Municipality of Durham, adjacent municipalities and any other agency the Director deems necessary and such comments shall form part of the completed application.
- 5.05 An application for a large site alteration shall not be considered for approval until Council has considered the application during at least one public meeting at which the applicant and any interested members of the public will have fair opportunity to make Representations. The applicant shall thereafter submit a report to the Director, in advance of a Council decision on the application, describing any changes the applicant made in response to concerns raised at the public meeting. A public meeting may be required for site alteration that is not a large site alteration at the discretion of the Director.
- 5.06 Notice of a public meeting under Section 5.05 shall be provided at such time or times and by such means as the Director considers appropriate.
- 5.07 Where a permit has been issued under this By-law, no person shall place or dump fill, remove any topsoil or fill, alter the grade of land, or perform or permit any site alteration except in accordance with this By-law, the terms and conditions of the permit and any agreement entered into with the Corporation pursuant to Section 8 of this By-law, which conditions may include, but are not limited to:
- (a) hold a public information meeting at the applicant's expense with such conditions regarding notice to the public and other requirements as may be determined by the Director,
  - (b) perform the site alteration only in accordance with the plans, documents and any other information required for the issuing of the permit;
  - (c) notify the Director in writing within forty eight (48) hours of commencing any work;

- (d) require that the site alteration be completed by a specified date or during specified periods;
- (e) 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 Zoning By-law. Retaining walls one (1) metre or higher may be subject to a building permit pursuant to the Building Code Act,
- (f) 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;
- (g) provide protection for all lands where site alteration or large site alteration is prohibited by Section 2.05 of this By-law;
- (h) 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,
- (i) erect a sign and/or give notice to the satisfaction of the Director informing the public of the site alteration;
- (j) notify the Director in writing of the completion of any erosion control measures within five (5) days after their installation;
- (k) 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;
- (l) obtain the permission of the Director in writing prior to modifying the site alteration plan or haul routes to and from the site;
- (m) keep, maintain, and make available for inspection upon the request of the Director, the following records in a good and businesslike 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, or the intended destination of fill that is being removed from the site;
  - vi) the volume of each delivery of fill;
  - vii) the type and quality of material of each delivery of fill; and
  - viii) any other information required by the Director,
- (n) provide to the Director from time to time as required an up to date daily hauling schedule which is acceptable to the Director detailing the routes, numbers and approximate times of truck traffic arriving and leaving the site;
  - (o) to restrict the hours of operation beyond the restrictions found in the By-Law;
  - (p) to designate permitted haul routes to and from the site;
  - (q) to restrict the daily volume of truck loads;
  - (r) to further restrict or designate the source of the fill;
  - (s) such other conditions and requirements as the Director may set out in their sole discretion for the purposes of safety, environmental protection, general public health and safety, or property standards in respect of the local community as may be reasonable in the circumstances;
  - (t) provide to the Director 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 the standards required pursuant to the approvals given for the issuance of a permit under this By-law;
  - (u) notify the Director 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;

- (v) 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;
- (w) 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, or an appropriate building permit has been issued;
- (x) provide adequate drainage from the land on which the work is to be performed in accordance with an agreement required by the Director, and in any event in accordance with an approved site alteration, reasonable environmental practices, and proper engineering practice;
- (y) ensure that no trench in which drainage piping is laid is covered and backfilled until the work has been inspected and approved by the Director,
- (z) remove the topsoil prior to the performance of the work in the alteration of the grade or the placing or dumping of fill;
- (aa) 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;
- (bb) 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;
- (cc) ensure that all fill used is soil which meets the requirements of Section 2.12 of this By-law or, subject to approval by Council, such less restrictive standard as the Director may consider appropriate in the circumstances of the particular application but such less restrictive standard shall not be less restrictive than the standards set out in Table 2 of the "Soil, Ground Water and Sediment Standards for Use under Part XV.1 of the Environmental Protection Act referenced in O.Reg. 153/04, for "Agricultural or Other Property Use", and Section 2.13 of this By-law shall continue to apply;
- (dd) ensure that topsoil, sod and turf materials are stockpiled for use as final cover only;

- (ee) ensure that such dust control measures are in place so as to restrict the blowing of dust onto any adjacent lands or highways through dust suppressants approved by the Ministry of the Environment and Climate Change, including testing and remediation of any such dust by the owner in the discretion of the Director,
- (ff) operate in compliance with provisions of the Township of Scugog Noise By-law, as amended, and any successor legislation thereto;
- (gg) address the requirements of the Oak Ridges Moraine Conservation Plan, Greenbelt Plan, and Lake Simcoe Protection Plan, where applicable;
- (hh) address the requirements of commenting agencies and adjacent municipalities where applicable, including obtaining and providing evidence of any necessary permits or approvals;
- (ii) require the provision of a Fill Management Plan, in accordance with the Guidelines, which describes the operational protocols for the site that can be monitored by staff of the Corporation to confirm compliance with conditions;
- (jj) execute an agreement if required by Section 8 of this By-law.

5.08 The Director shall issue a permit under this By-law when:

- (a) the Director 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 5 of this By-law;
- (c) if required by Section 8 of this By-law, the applicant has entered into the agreement referred to in Section 8;
- (d) applicable agencies and authorities have been notified and have provided comments, to the satisfaction of the Director;
- (e) all applicable fees, security, and expenses for services have been satisfied by the owner,
- (f) all other requirements of this By-law have been complied with;  
and

- (g) the proposed site alteration is not a large site alteration (regardless of whether part of the site alteration occurred pursuant to a prior application), but in the event that it is a large site alteration the approval of Council will be required.

5.09 Without limiting the jurisdiction or authority of Council, when considering an application for a large site alteration, Council may exercise the same powers as the Director is granted pursuant to this By-law for the issuance of permits and may have regard to any of the following in refusing the issuance of a permit:

- (a) the effect of the large site alteration on the environment;
- (b) the effect of the large site alteration on nearby communities;
- (c) any comments provided by adjacent municipalities and agencies;
- (d) concerns of the public and the applicant's responses to those concerns;
- (e) any possible effects of the large site alteration on ground and surface water resources;
- (f) any possible effects of the large site alteration on existing agricultural resources;
- (g) any planning and land use considerations;
- (h) the main haulage routes and proposed truck traffic to and from the site;
- (i) the quality and quantity of fill being proposed;
- (j) the applicant's history of compliance with regards to fill importation; and
- (k) any other matters that Council considers appropriate.

5.10 Written reasons shall be provided by the Director and/or Council if a permit is refused.

5.11 Notwithstanding any of the particular requirements of this By-law, Council may issue a permit for site alteration in its absolute discretion if in the opinion of Council the issuance of the permit would not have an

adverse impact and the intent and purpose of this By-law, including as set out in the preamble, would be maintained.

- 5.12 The issuance of any permit by the Director or Council under this By-law shall not relieve the permit holder from compliance with this or any other by-law, or any other applicable law or legislation from any level of government or authority having jurisdiction or any agencies thereof.

## **Section 6 - Expiry, Renewal, Revocation and Transfer of Permits**

- 6.01 A permit issued pursuant to Section 4.05 or 5.08 of this By-law shall be valid for a period of twelve (12) months from the date of issuance, unless a shorter or specified period is imposed as a condition of the permit.
- 6.02 A permit issued under this By-law is not transferable to another property.
- 6.03 If title to the land for which a permit has been issued under this By-law is transferred to a new owner or there is a material change in the person, firm or corporation managing or controlling the lands for which a permit has been issued while the permit remains in effect, no site alteration shall be permitted after the date of such transfer, management or control, unless the new owner:
- (a) enters into an agreement with the Corporation agreeing to comply with all of the terms and conditions under which the existing permit was issued and which may include such other conditions as determined by the Director, or
  - (b) applies for and obtains a new permit in accordance with the provisions of this By-law.
- 6.04 The Director may revoke a permit issued under this By-law 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 or permit 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 Bylaw; or
- (g) the land has been transferred and the new owner has not complied with the requirements under Section 4 or 5 (whichever is applicable according to permit applied for) of this Bylaw.

6.05 Where the Director has revoked a permit pursuant to Section 5.04 of this By-law, the owner and permit holder shall ensure that all work that was the subject of the revoked permit ceases and shall restore the site to a condition acceptable to the Director.

## **Section 7 - Fees and Security**

7.01 At the time an application for a permit under this By-law is made, the applicant shall.

- (a) pay to the Corporation the applicable fees calculated in accordance with rates set out in the Township of Scugog Fees and Charges By-law; and
- (b) pay a deposit in an amount to be determined by the Director to pay for the cost of all estimated legal and consulting fees payable by the Corporation for the processing of the application.

7.02 At the time of the issuance of the permit and thereafter, the applicant shall:

- (a) provide to the Corporation security in an amount as set out in the Township of Scugog Fees and Charges By-law or as determined by the Director.
- (b) pay tipping fees as identified in the Township of Scugog Fees and Charges By-law to the Corporation at intervals as determined by the Director.

7.03 The Corporation may engage legal, engineering, hydrology, environmental, arborist, landscape or any other consultant the Director deems necessary in order to evaluate studies and/or agreements or to provide assistance to the Director throughout the site alteration process, in which case the costs incurred for such evaluations shall be charged back to the applicant as set out in the Township of Scugog Fees and Charges By-law.



- 7.04 The Corporation may draw on the security required pursuant to this By-law in order to remedy any breach of the provisions of this By-law, the conditions imposed on the permit by the Director, 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 Director and to pay any outstanding amounts owed by the applicant or the owner that relate to the permit including those amounts owed pursuant to Section 7.03 of this By-law.
- 7.05 The Director may require that additional security be provided by the owner at any time if, in the opinion of the Director, such additional security is required, and the owner shall provide such additional security immediately upon the request of the Director.
- 7.06 When work has commenced before a permit for that work has been issued under this By-law, 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.
- 7.07 An applicant appealing to Council under Section 10 of this By-law 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.

## **Section 8 - Permit Agreement**

- 8.01 Where a large site alteration is proposed the owner shall provide a complete application and, if the large site alteration is authorized by Council, 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 conditions that require the owner to undertake the following requirements, or to reimburse the Corporation for undertaking such requirements at the discretion of the Corporation:
- (a) retain a qualified person to ensure that the site alteration is proceeding in accordance with reasonable engineering and environmental practices such as the standards for fill contained in this By-law, the plans submitted for the permit; and the conditions imposed pursuant to Section 5.07 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 Director that the site alteration is in accordance with Subsection 8.01 (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 Director, could reasonably be avoided;
- (g) undertake soil samples and well monitoring, the frequency of which shall be determined by the Director, at the applicant's expense;

- (h) engage an Ontario Land Surveyor to prepare any plans requested by the Director to identify the extent and location of any fill placed or dumped or site alteration;
- (i) acknowledge that the Corporation may engage legal, engineering, hydrology, environmental, arborist, landscape or any other consultant the Director deems necessary in order to evaluate studies and/or agreements or to provide assistance to the Director 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;
- (j) provide security in an amount determined by the Corporation to be used to remedy any breach of the Bylaw or agreement;
- (k) indemnify the Corporation for any liability, costs, damages or losses incurred directly or indirectly as a result of, or in connection with, or in relation to the processing or issuing of a permit or under the permit agreement,
- (l) provide insurance, including environmental impairment liability insurance, in an amount and on such terms as are satisfactory to the Corporation;
- (m) pay such additional fees as may be determined by the Corporation.

## **Section 9 - Administration and Enforcement**

- 9.01 This By-law shall be administered by the Director, and may be enforced by the Director, inspectors, and the Durham Regional Police Service. For the purposes of determining compliance with the provisions of this By-law, a decision of the Director shall be considered final and binding subject to an appeal to Council in accordance with Section 10.
- 9.02 Inspectors may, at any reasonable time enter and inspect any land and/or building, 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 entry into any room or place actually used as a dwelling, without the consent of the occupier or pursuant to an order under Section 438 of the Municipal Act.

- 9.03 No person shall obstruct an inspector who is carrying out an inspection pursuant to this By-law.
- 9.04 Upon completion of the work pursuant to the permit, the owner and/or permit holder shall so advise the Director.
- 9.05 Where a contaminant is found in fill in exceedance of what is permitted pursuant to this By-law, the fill shall be removed from the site and taken to a site approved for the receiving of the contaminated fill.
- 9.06 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 10 - Appeals**

- 10.01 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 Director to make a decision on an application for a permit within sixty (60) days of the Corporation receiving a complete application, which appeal must be made within thirty (30) days after the expiration of the initial sixty (60) day period;
  - (c) refusal by the Director to issue a permit, which appeal must be made within thirty (30) days after the permit refusal;
  - (d) any conditions included by the Director in a permit, which appeal must be made within thirty (30) days after the permit was issued.
- 10.02 On an appeal under Section 9, Council shall have all of the powers of the Director pursuant to this By-law.
- 10.03 The decision of Council shall be final and binding on the applicant.

## **Section 11 - Notices and Orders**

- 11.01 If after inspection, an inspector is satisfied that a contravention of this By-law has occurred, the inspector shall notify the owner and/or 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 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.

11.02 The notice and/or order issued pursuant to Section 11.01 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 Bylaw to do one or more of the following:

- (a) cease all work in respect of the site alteration until all required approvals have been obtained;
- (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.

11.03 The notice and/or order referred to in Sections 11.01 and 11.02 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.

- 11.04 An owner who has received a notice or order pursuant to Section 11.01 of this By-law shall comply with said notice or order within the time frame specified in the notice or order, otherwise, the Director may draw on the security as required.
- 11.05 A notice or order issued pursuant to Section 11.01 of this By-law shall be served personally or by prepaid registered mail or in accordance with Section 11.07 of this By-law. A notice or order sent by registered mail shall be deemed to be served no later than the fifth day following the date of mailing.
- 11.06 A notice or order issued pursuant to Section 11.01 of this By-law sent by prepaid registered mail shall be sent to the last known address of the owner of the land or permit holder.
- 11.07 Notwithstanding Section 11.05, an inspector who is unable to effect service pursuant to Section 11.05 of this By-law may post the said notice or order in a conspicuous place on the property and the posting of the notice or order shall be deemed to be sufficient service of the notice or order on the owner and permit holder.
- 11.08 If the owner or permit holder fails to do the work required by the order issued pursuant to Section 11.01 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 the same manner as property taxes or drawing on financial securities provided.

## **Section 12 - Penalties and Offences**

- 12.01 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 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.
- 12.02 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 is guilty of an offence and on conviction is liable:

- (a) on a first conviction, to a fine of not more than \$50,000.00;
- (b) on any subsequent conviction to a fine of not more than \$100,000.00.

12.03 A special fine may be imposed in addition to a fine imposed under Section 12.01 or 12.02 in circumstances where there is economic advantage or gain from the contravention of this By-law and the maximum amount of the special fine may exceed \$100,000. A special fine shall be calculated on the basis of:

- (a) \$10.00 for each cubic metre of fill deposited in excess of the amount allowed in a permit, or deposited beyond the geographic limits of the permit, or deposited without first having obtained the required permit;
- (b) where the fill is found to contain contaminant levels that exceed the standards in the 'Soil, Ground Water and Sediment Standards for Use under Part XV.1 of the Environmental Protection Act' referenced in O. Reg. 153/04, as prescribed in this By-law, greater fines of not less than \$100 per cubic metre may be imposed.

12.04 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 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.

12.05 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 re-establish the trees. .

## **Section 13 - Severability**

