



TOWNSHIP OF SCUGOG  
SITE ALTERATION BY-LAW

BY-LAW NUMBER 62-15

Passed by Council on the 2<sup>nd</sup> Day of November, 2015

Amendments:

By-Law Number	Date Passed	Section Amended
67-16	December 12, 2016	Sections 1(x)

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 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:

- (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 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) 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*;
  - (ii) the *placing* or *dumping* of *fill* is for a commercial purpose;
  - (iii) greater than ten thousand (10,000) cubic metres of *fill* is being *placed* or *dumped* within a twelve (12) month period;
  - (iv) the *fill* is obtained from more than one source site and there is no *Fill Management Plan* in effect;
  - (v) 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 applicator*" 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) "*Corporator*" 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) "*erosiori*" 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*;

(a) "*Greenbelt Plari*" 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) "*hydrogeological/y 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, 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 plari*" 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*;

UD "*of*" 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;

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- (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.
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## Section 2 - General Prohibitions and Regulations

2.01 This By-law applies to the entire *Township* except for those areas that are subject to a regulation made by the *Conservation Authority* under Section 28 of the *Conservation Authorities Act* respecting the *placing* or *dumping* of *fill*, removal of *topsoil* or alteration of the *grade* of land.



2.02 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.

2.03 No person shall fail to comply with an order issued pursuant to Section 10 of this By-law.

2.04 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.

2.05 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*.
- 2.06 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, preservicing 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 or requirements of the *Corporation*, the Regional Municipality of Durham or the Province of Ontario for the protection of trees.
- 2.08 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.
- 2.09 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.
- 2.10 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.

- 2.11 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.
- 2.12 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.
- 2.13 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*.
- 2.14 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".
- 2.15 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*.
- 2.17 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.
- 2.18 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*,
- U) 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;



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- (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* for 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 a Permit**

4.01 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.

4.02 Unless otherwise specified by the *Director* pursuant to Section 4.03, an *owner* applying for a permit under this By-law shall provide the following:

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- (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 *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*.

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- 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;

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- 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 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;
  - 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;
  - xiii) 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 idges in their natural undisturbed form, and limiting the portion of the site to be disturbed by the *site alteration*;

- U) 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*.

4.03 For applications for *site alteration* that is not a *large site alteration*, the *Director* may not require all items specified in Section 4.02 to be provided.

4.04 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.

4.05 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*.

- 4.06 Notice of a public meeting under Section 4.05 shall be provided at such time or times and by such means as the *Director* considers appropriate.
- 4.07 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 7 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 *erosio'* 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*;



- U) 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 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*, 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;

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- (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;
  - (D) execute an agreement if required by Section 7 of this By-law.

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4.08 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 4 of this By-law;
- (c) if required by Section 7 of this By-law, the applicant has entered into the agreement referred to in Section 7;

- (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.

4.09 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.

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

4.11 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.

4.12 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 5– Expiry, Renewal, Revocation and Transfer of Permits**

5.01 A permit issued pursuant to Section 4.08 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.

5.02 A permit issued under this By-law is not transferable to another property.

5.03 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.

5.04 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 of this Bylaw.

5.05 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*.

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### **Section 6 – Fees and Security**

6.01 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.

6.02 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*.

6.03 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.

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6.04 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 6.03 of this By-law.

- 6.05 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*.
- 6.06 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.
- 6.07 An applicant appealing to *Council* under Section 9 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 7 - Permit Agreement**

- 7.01 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 4.07 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 7.01 (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, arbourist, 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;
  - 0) 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 8- Administration and Enforcement**

- 8.01 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 9.
- 8.02 *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*.
- 8.03 No person shall obstruct an *inspector* who is carrying out an inspection pursuant to this By-law.
- 8.04 Upon completion of the work pursuant to the permit, the *owner* and/or permit holder shall so advise the *Director*.
- 8.05 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*.
- 8.06 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 9 – Appeals**

- 9.01 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.

9.02 On an appeal under Section 9, *Council* shall have all of the powers of the *Director* pursuant to this By-law.

9.03 The decision of *Council* shall be final and binding on the applicant.

### **Section 10 - Notices and Orders**

10.011f 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.

10.02The notice and/or order issued pursuant to Section 10.01 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*.

10.03 The notice and/or order referred to in Sections 10.01 and 10.02 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*.

10.04 An *owner* who has received a notice or order pursuant to Section 10.01 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.

10.05 A notice or order issued pursuant to Section 10.01 of this By-law shall be served personally or by prepaid registered mail or in accordance with Section 10.07 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.

10.06 A notice or order issued pursuant to Section 10.01 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.

10.07 Notwithstanding Section 10.05, an *inspector* who is unable to effect service pursuant to Section 10.05 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.

10.08 If the *owner* or permit holder fails to do the work required by the order issued pursuant to Section 10.01 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 11 - Penalties and Offences**

11.01 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.

11.02 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.

11.03 A special fine may be imposed in addition to a fine imposed under Section 11.01 or 11.02 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.

11.04 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.

11.05 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 12- Severability**

12.01 If any provision of this By-law, or the application thereof to any person or circumstance, is invalid, the invalidity shall not affect 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 13- Interpretation**

13.01 References in this By-law to any statute or statutory provision include references to that statute or statutory provision as it may from time to time be amended, extended or re-enacted.

13.02 References in this By-law to items in the plural include the singular, and references to the singular include the plural, as applicable.

13.03 The words "include", "includes" and "including" are not to be read or interpreted as limiting words, phrases or descriptions that precede them.

13.04 This By-law and the provisions contained within are intended to be complementary to provincial statutes and to other by-laws passed by *Council*. In the event that any other applicable law requires a higher standard than this By-law requires, the higher standard shall apply.

## **Section 14 - Effective Dates and Repeal of Predecessor By-Laws**

14.01 By-Law Number 52-10, as amended, is hereby repealed.

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

14.03 The provisions of Section 8.06 of this By-law do not apply to an *owner* with an approved permit issued pursuant to the former Site Alteration By-law No. 52-10, as amended (repealed). The *Director* 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 2nd day of November, 2015.



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Mayor, Thomas R. Rowett



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Clerk, Kim Coates