

THE CORPORATION OF THE TOWN OF EAST GWILLIMBURY

SITE ALTERATION BY-LAW #2025-XX

Being a By-law to prohibit and regulate Site Alteration and Movement of Fill in the Town of East Gwillimbury

Whereas Section 142 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended (the “*Municipal Act*”), authorizes the Council of The Corporation of the Town of East Gwillimbury to pass by-laws for prohibiting or regulating Site Alteration of the Grade (topography) of Property through the movement, removal or placement of Topsoil, Soil or Fill within the Town; and

Whereas Sections 8, 9 and 11 of the *Municipal Act* permits a municipality to pass by-laws necessary or desirable for municipal purposes, and paragraphs 5, 6 and 8 of Subsection 11(2) authorize by-laws respecting the economic, social and environmental well-being of the municipality, the health, safety and well-being of persons, and the protection of persons and property; and

Whereas Section 23.2 of the *Municipal Act* authorizes a municipality to delegate its powers to an officer, employee, or agent of a municipality; and

Whereas Subsection 444(1) of the *Municipal Act* permits a municipality, if satisfied that a contravention of a by-law of the municipality passed under the *Municipal Act* has occurred, to make an Order requiring the person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to discontinue the contravening activity; and

Whereas Subsection 445(1) of the *Municipal Act* permits a municipality, if satisfied that a contravention of a by-law of the municipality passed under the *Municipal Act* has occurred, to make an Order requiring the person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to do work to correct the contravention; and

Whereas Section 446 of the *Municipal Act* gives a municipality the authority to direct or require a person to do a matter or thing, the municipality may also provide that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person’s expense. For these purposes the municipality may enter upon land at any reasonable time. The municipality may recover the costs of doing a matter or thing from the person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes; and

Whereas Section 425 of the *Municipal Act* permits a municipality to pass by-laws providing that any person who contravenes any by-law the municipality passed under the *Municipal Act* is guilty of an offence; and

Whereas Subsection 426 (4) of the *Municipal Act* deems that any person that hinders or obstructs, or attempts to hinder or obstruct, any person who is exercising or performing a duty under this By-law created under the *Municipal Act* is guilty of an offence.

Now therefore the Municipal Council of The Corporation of the Town of East Gwillimbury enacts as follows:

That this By-law be comprised of twelve (12) parts containing various sections, namely:

PART 1	DEFINITIONS
PART 2	INTERPRETATION AND ADMINISTRATION
PART 3	PROHIBITIONS
PART 4	EXEMPTIONS
PART 5	REQUIREMENTS FOR ISSUANCE OF A PERMIT
PART 6	PERMIT ADMINISTRATION
PART 7	ENFORCEMENT
PART 8	WORK DONE BY THE TOWN
PART 9	PENALTY AND OFFENCE
PART 10	LIABILITY AND INDEMNIFICATION
PART 11	EFFECTIVE DATE AND REPEAL OF PREDECESSOR BY-LAW
PART 12	TRANSITION PROVISION

1. DEFINITIONS

1.1 In this By-law,

- a) **“Administrative Penalty System By-law”** means the Town’s Administrative Penalty System By-law 2023-062 as amended or any successor By-law.
- b) **“Adverse Effect”** has the meaning as defined in Section 1 of the *Environmental Protection Act*.
- c) **“Agreement”** means an agreement entered into between the Town and a Person including, but not limited to, a pre-servicing agreement, Site Alteration Agreement, subdivision agreement, and site plan agreement.
- d) **“Agricultural”** means the use of Property or a building on the Property for an agricultural purpose including, but not limited to, animal husbandry, aquaculture, beekeeping, dairying, field crops, forestry, fruit farming, horticulture, market gardening, poultry raising and the operation of glass or plastic-covered greenhouses.
- e) **“Applicant”** means the Owner of a Property and includes a Person authorized in writing by the Owner to apply for a Permit on the Owner’s behalf.
- f) **“Application”** means a written submission to request or amend a Permit.
- g) **“Asphalt”** means a mixture of bituminous pitch with sand or gravel, used for surfacing roads, flooring, roofing, etc.
 - i. “Asphalt grindings” are the by-product of milling/grinding asphalt into fine dust to a size of less than an inch in diameter or so.
- h) **“Chief Building Official”** means the Town’s Chief Building Official (or any successor job title) or their designate.
- i) **“Condition”** means the performance requirements outlined in a Permit, Agreement or Order and may include the requirement for monetary deposits or securities in connection with the Application.
- j) **“Conservation Authority”** means the Lake Simcoe Region Conservation Authority.
- k) **“Contaminant”** means any solid, liquid, gas, odour, radiation or combination of any of them resulting directly or indirectly from human activities that causes or may cause an Adverse Effect.
- l) **“Council”** means the Council of The Corporation of the Town of East Gwillimbury.
- m) **“Drainage”** means the movement of water, whether by way of the natural characteristics of the ground’s surface or by artificial means.
- n) **“Environmental Protection Act”** means the *Environmental Protection Act*, R.S.O. 1990, c. E.19, as amended or any successor legislation.
- o) **“Erosion and Sedimentation Control Plan” or “ESC Plan”** means a drawing and/or report designed to minimize and/or eliminate the potential for erosion and sedimentation during a Site Alteration project.
- p) **“Fees and Charges By-law”** means the Town’s Fees and Charges By-law 2015-078 as amended or any successor By-law.
- q) **“Fill”** means any type of material that can be removed from (cut) or placed on (infill) land including, but not limited to, the following:
 - i. “Aggregate” means a collective term for mineral materials such as sand, gravel and crushed stone that can be used with a binding medium to form compounds such as concrete and asphalt. Asphalt and asphalt grindings can be placed on the ground’s surface but not below grade;
 - ii. “Clean concrete and brick” means concrete, brick, block and other silica-based construction materials that are free of Contaminants;
 - iii. “Compost” means a mixture of various decaying organic substances, such as dead leaves or manure, used for fertilizing soil;

- iv. “Excess Soil” means soil, crushed rock, or soil mixed with rock or crushed rock, that has been excavated as part of a project and removed from the project area for the project;
- v. “Liquid Soil” means soil that has a slump of more than 150 millimetres using the Test Method for the Determination of “Liquid Waste” (slump test) set out in Schedule 9 to R.R.O.1990, Regulation 347 (*Environmental Protection Act*);
- vi. “Rock” means a naturally occurring aggregation of one or more naturally occurring minerals that is 2 millimetres or larger in size or that does not pass the US No. 10 sieve;
- vii. “Sod” means the upper stratum of soil bound by grass and plant roots into a thick mat (turf);
- viii. “Soil” means unconsolidated naturally occurring mineral particles and other naturally occurring materials resulting from the natural breakdown of rock or organic matter by physical, chemical or biological processes that are smaller than 2 millimetres in size or that pass the US No. 10 sieve
- ix. “Topsoil” means those horizons in a soil profile, commonly known as the “O” and the “A” horizons, containing organic material and includes deposits of partially decomposed organic matter such as peat.
- r) “**Garden Centre**” means an establishment used primarily for the sale of gardening and planting supplies, and may include the accessory growing and cultivating of plants.
- s) “**General Manager**” means the Town’s General Manager of Engineering and Public Works (or any successor job title) or their designate, and may include any Person authorized by the General Manager to carry out any of the powers or duties of the General Manager pursuant to this By-law.
- t) “**Grade**” means the elevation of the ground surface of the land at any point on the land; and
 - i. “Approved Grade” means the final elevation of the ground surface following Site Alteration or Movement of Fill as approved by the General Manager in accordance with this By-law;
 - ii. “Existing Grade” means the elevation of the existing ground surface prior to any Site Alteration or Movement of Fill, including the natural Grade prior to human activities or the Grade previously legally established such as a former Approved Grade; and
 - iii. “Unapproved Grade” means the elevation of the ground surface that is not an Existing Grade or Approved Grade.
- u) “**Hard Landscaping**” means the manmade features incorporated into a landscape design. Materials used for hard landscaping include brick, natural stones, paving stones, concrete, and timber.
- v) “**Highway**” means a common and public highway and includes a street, bridge or other structure forming part of a highway over or across which a highway passes and includes the whole of a road allowance under the jurisdiction of the Town, the Regional Municipality of York or the Ontario Ministry of Transportation.
- w) “**Holiday**” means a Saturday, Sunday, any statutory holiday in the Province of Ontario or any day the offices of the Town are officially closed for business.
- x) “**Hydro-Excavation Truck**” means any truck that uses water and/or air and a vacuum to excavates, evacuates, removes or moves Fill. The material hauled in a Hydro-Excavation Truck may be referenced as, among other names: slurry, liquid soil, wet Fill, or Fill.
- y) “**Inert**” means not chemically reactive. In order for Fill or any other material to be considered inert, a Qualified Person must provide an opinion letter stating so.
- z) “**Invasive Species**” means Invasive Species as defined in the *Invasive Species Act*, 2015, S.O. 2015, c.22, as amended or any successor legislation.
- aa) “**Large Site Alteration**” means any Site Alteration that does not meet the definition of a Minor Site Alteration or a Small Site Alteration.

- bb) **“Liquid Soil”** means Soil that has a slump of more than 150 millimetres using the Test Method for the Determination of “Liquid Waste” (slump test) set out in Schedule 9 to R.R.O.1990, Regulation 347: General – Waste Management, under the *Environmental Protection Act*
- cc) **“Minor Site Alteration”** means a one-time maximum cumulative volume of Site Alteration per Property based on the area of Property suitable for Site Alteration (the Property area excluding buildings, structures and fixed features) calculated as follows: Area of Property in hectares x 200 m³ of Site Alteration, up to a maximum area of Property suitable for Site Alteration of 1.0 hectares. Once this one-time maximum cumulative volume has been reached, regardless of the period over which it occurred, no further Site Alteration is allowed without a Permit.

The maximum volume calculation excludes any Site Alteration conducted under the approval of any other legal instrument of the Town such as a building permit or swimming pool permit.
- dd) **“Movement of Fill”** means any non-natural transfer of Fill from one location to another of any distance except Fill that is transported through the Town and is always contained within the transport vessel.
- ee) **“Natural Environment”** means the natural world encompassing all living and non-living things occurring naturally and does not including anything man-made.
- ff) **“Normal Farm Practice”** means a Normal Farm Practice as defined in the *Farming and Food Production Protection Act*, 1998, S.O. 1998, c. 1, as amended or any successor legislation, which defines it as a practice that,
 - i. is conducted in a manner consistent with proper and acceptable customs and standards, as established and followed by similar agricultural operations under similar circumstances, or
 - ii. makes use of innovative technology in a manner consistent with proper advanced farm management practices.
- gg) **“Officer”** means a by-law enforcement officer, or other individual authorized by the Town to enforce the Town’s By-laws including the Officer’s authorized designate, a peer review consultant or other technical specialist as designated by the General Manager.
- hh) **“Ontario Regulation 153/04”** means *Ontario Regulation 153/04 (Records of Site Condition - Part XV.1 of the Act)* under the *Environmental Protection Act*.
- ii) **“Ontario Regulation 406/19”** means *Ontario Regulation 406/19 (On-Site and Excess Soil Management)* under the *Environmental Protection Act*.
- jj) **“Operator”** means any Person authorized by the Owner to manage or control any Permitted Works occurring on the Owner’s land and/or who alone or with others, operates, manages, supervises, runs or directs such business, activity or undertaking.
- kk) **“Order”** means a written direction issued by an Officer and/or General Manager, and made under the authority of Sections 444 or 445 of the *Municipal Act* requiring a Person to discontinue the contravening activity or to correct the contravention.
- ll) **“Owner”** means the registered Owner(s) of the Property.
- mm) **“Permit”** means a formal authorization issued by the Town to perform Site Alteration under this By-law.
- nn) **“Permitted Works”** means those works as permitted under the Owner’s Site Alteration and Fill Management Plan, Permit, Site Alteration Agreement, and other works the Town directs the Operator to complete in writing.
- oo) **“Person”** includes individuals, sole proprietorships, partnerships, corporations, trustees, agents, or legal representatives.
- pp) **“Property”** means land including all buildings and structures on the land.

- qq) **“Public Information Centre”** means an open meeting that all members of the public are invited to for the purpose of informing the public and receiving comments regarding a proposed Site Alteration.
- rr) **“Qualified Person”** means a person who meets the qualifications as set out in Section 5 or 6 of *Ontario Regulation 153/04*.
- ss) **“Site”** means the lot or lots of a Property altered or proposed to be altered by means of a Site Alteration.
- tt) **“Site Alteration”** means, but is not limited to, any alteration to the Existing Grade of a Property through the removal, placing, relocation, or Movement of Fill.
- uu) **“Site Alteration Agreement”** means a written agreement pertaining to Site Alteration between the Owner, or any Person on behalf of the Owner, and the Town.
- vv) **“Site Alteration and Fill Management Plan”** means a document prepared by, or on behalf of an Owner in accordance with the Site Alteration Guidelines, in respect of Site Alteration and management of Fill on a Site that includes, but is not limited to, detailing such things as current Site conditions, methodology, Existing Grade, Approved Grade and impact mitigation measures.
- ww) **“Site Alteration Guidelines”** means the Town’s guidelines for Site Alteration which, among other things, outlines requirements to obtain a Permit and outlines how the Town will administer Permits, and which may be amended by the General Manager from time to time. The Site Alteration Guidelines may be posted at <https://www.eastgwillimbury.ca/en/government/resources/Documents/Operational-Fill-Guidelines-2015.pdf>
- xx) **“Small Site Alteration”** means any Site Alteration that does not meet the definition of a Minor Site Alteration and is less than 10,000 m³ of total Site Alteration in any thirty-six (36) month period.
- yy) **“Soil Bank Storage Site”** means a Soil Bank Storage Site as defined in *Ontario Regulation 406/19*, as amended or any successor legislation.
- zz) **“Soil Processing Site”** means a Soil Processing Site as defined in *Ontario Regulation 406/19*, as amended or any successor legislation.
- aaa) **“Temporary Fill Storage Site”** means any Property where Fill is stored above the Existing Grade on a temporary basis as part of the activities of a business such as a Garden Centre, contractor’s yard, aggregate distribution yard, Fill storage yard or similar facility and can include a Soil Bank Storage Site but not a Soil Processing Site.
- bbb) **“Temporary Storage of Fill”** means the storage of Fill at a Temporary Fill Storage Site above Existing Grade by a business for a period of time determined by the activities of the business with the expectation that the business involves the regular Movement of Fill onto and off the Site in a manner that results in Fill being stored no longer than any eighteen (18) month period.
- ccc) **“Tree”** means any species of woody perennial plant including its root system that has reached or can reach a height of at least 4.5 metres at physiological maturity.
- ddd) **“Town”** means The Corporation of The Town of East Gwillimbury as a municipal corporation and, where the context requires, includes its geographical area.
- eee) **“Watercourse”** means a natural or man-made channel or swale in which a flow of water occurs, either continuously or intermittently with some degree of regularity.
- fff) **“Zoning By-law”** means the Town’s Comprehensive Zoning By-law 2018-043 as amended or any successor By-law.

2. INTERPRETATION AND ADMINISTRATION

Short Title

- 2.1 This By-law may be referred to as “Site Alteration By-law”.

Administration

- 2.2 This By-law applies to all Property in the Town.
- 2.3 The General Manager is responsible for the administration of this By-law.

Delegated Authority

- 2.4 The General Manager is authorized and has the delegated authority to:
 - a) Approve, exempt/waive, issue, revoke, extend, renew, amend, or close a Permit and/or impose Conditions for continuing to hold a Permit depending on the Site Alteration in addition to the requirements under this By-law;
 - b) Determine and deem an Application to be abandoned, expired, or closed;
 - c) Approve and coordinate any remedial action;
 - d) Approve amendments to Site Alteration and Fill Management Plans;
 - e) Approve and amend Application forms and Site Alteration Guidelines;
 - f) Establish appropriate requirements;
 - g) Ensure compliance with Section 3.11 of this By-law, including requiring appropriate testing and documentation.
 - h) Appoint a peer review consultant or other engineering, scientific and technical experts to fulfill the role or duties of an Officer for the purposes of this By-law;
 - i) Require or exempt certain works from provisions of this By-law, as permitted in this By-law;
 - j) Authorize any Person to carry out any of the powers or duties of the Officer and/or General Manager pursuant to this By-law; and
 - k) Authorize and/or hire such agents, contractors and other Persons to perform work under this By-law.

Conflict

- 2.5 Where there is a conflict between a provision of this By-law and a provision of any other Town By-law, the provision that establishes the highest standards to protect the health and safety of the public and natural environment shall apply. No Agreement shall be deemed to provide an exemption from the requirements of this By-law unless this By-law authorizes such exemption and the Agreement specifically provides for it.

Severability

- 2.6 If a court of competent jurisdiction declares any section or any part of any section of this By-law to be invalid or to be of no force or effect, it is the intention of the Town that every other provision of this By-law be applied and enforced in accordance with its terms to the extent possible according to law.

Compliance with Other Laws

- 2.7 This By-law, and the provisions contained within, are intended to be complementary to Federal and Provincial statutes and Regulations, and to other by-laws passed by Council. If any other applicable law requires a higher standard than this By-law requires, the higher standard shall apply.
- 2.8 By-laws, statutes, regulations and guidelines referenced in this By-law include any amendments, replacements or updates to those by-laws, statutes, regulations and guidelines.

3. PROHIBITIONS

- 3.1 No Person shall conduct, undertake, cause, permit or carry out a Site Alteration on any Property within the Town without first obtaining a Permit that authorizes such Site Alteration, save where otherwise expressly provided in this By-law.
- 3.2 No Person shall have, or allow to remain, Fill on that Person’s Property that is not authorized under this By-law, whether or not the Fill was placed there while the Person was the Owner of the Property.

Trees

- 3.3 No Person shall conduct, undertake, cause, permit or carry out a Site Alteration that could injure or destroy a Tree except in accordance with the Conservation Authority’s by-laws, the Regional Municipality of York’s Forest Conservation By-law 2013-68 as amended or any successor by-law and/or in accordance with the Town’s Tree Protection by-law 2024-077.

Surface Water / Groundwater

- 3.4 No Person shall conduct, undertake, cause, permit or carry out a Site Alteration that may adversely affect the quality or quantity of any surface water or groundwater however it may exist, including all water used for or available as a source of water for agriculture or human consumption.

Drainage / Watercourse

- 3.5 No Person shall conduct, undertake, cause, permit or carry out a Site Alteration that could adversely affect any Watercourse, swales and/or Drainage on any Property without prior written approval from the General Manager.

Unapproved Grade

- 3.6 No Person shall conduct, undertake, cause, permit or carry out a Site Alteration that will result in an Unapproved Grade.

Adverse Effect

- 3.7 No Person shall conduct, undertake, cause, permit or carry out a Site Alteration that will, or can be reasonably expected to, result in an Adverse Effect.

Ontario Regulations

- 3.8 No Person shall conduct, undertake, cause, permit or carry out Site Alteration unless the Fill:
- a) Complies with the requirements of *Ontario Regulation 406/19* and *Ontario Regulation 153/04*;
 - b) Does not contain putrescible materials;
 - c) Is Inert and does not contain Contaminants; and
 - d) Is free of termites, pests and Invasive Species including the eggs and seeds of such species.

Hydro-Excavation Trucks

- 3.9 No Person shall import Fill onto a Property with the use of a Hydro-Excavation Truck, except where approval has been given by Council.

By-laws, Acts and Plans

- 3.10 No Person shall conduct, undertake, cause, permit or carry out a Site Alteration on any Property unless the activity is in accordance with:
- a) The Zoning By-law;
 - b) The Town’s Noise By-law 2022-018 as amended or any successor by-law;
 - c) The Town’s Property Standards By-law 2018-083 as amended or any successor by-law;
 - d) The Town’s Property Maintenance By-law 2018-084 as amended or any successor by-law;
 - e) The Town’s Tree Protection By-law 2024-077 as amended or any successor by-law;
 - f) The Regional Municipality of York’s Forest Conservation By-law 2013-68 as amended or any successor by-law;
 - g) The Greenbelt Plan;
 - h) The Oak Ridges Moraine Conservation Plan;
 - i) The requirements of the Conservation Authority; and

- j) All other applicable statutes, regulations, policies and by-laws.

Responsibility for Other Obligations

- 3.11 Compliance with this By-law does not relieve the Owner from any responsibility to obtain all other applicable approvals as required from any other government body or authority, or from compliance with any other obligations.

4. EXEMPTIONS

- 4.1 Notwithstanding Part 3 of this By-law, this By-law does not apply to:
 - a) Activities or matters undertaken by the Town, the Regional government, Provincial government, Federal government or the Conservation Authority;
 - b) The following in accordance with Section 142(5) of the *Municipal Act*:
 - (a) *activities or matters undertaken by a municipality or a local board of a municipality;*
 - (b) *the placing or dumping of fill, removal of topsoil or alteration of the grade of land imposed after December 31, 2002 as a condition to the approval of a site plan, a plan of subdivision or a consent under section 41, 51 or 53, respectively, of the Planning Act or as a requirement of a site plan agreement or subdivision agreement entered into under those sections;*
 - (c) *the placing or dumping of fill, removal of topsoil or alteration of the grade of land imposed after December 31, 2002, as a condition to a development permit authorized by regulation made under section 70.2 of the Planning Act or as a requirement of an agreement entered into under that regulation;*
 - (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, 1998, 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) *the placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken on land in order to lawfully establish and operate or enlarge any pit or quarry on land,*
 - (i) *that has not been designated under the Aggregate Resources Act or a predecessor of that Act, and*
 - (ii) *on which a pit or quarry is a permitted land use under a By-law passed under section 34 of the Planning Act; or*
 - (g) *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.*

Exception

A By-law respecting the removal of topsoil does not apply to the removal of topsoil as an incidental part of a normal agricultural practice including such removal as an incidental part of sod-farming, greenhouse operations and nurseries for horticultural products.

Exclusion

The exception in respecting the removal of topsoil as an incidental part of a normal agricultural practice does not include the removal of topsoil for sale, exchange or other disposition.

- c) 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*; and
- d) The construction, extension, alteration, maintenance or operation of works under Section 26 of the *Public Transportation and Highway Improvement Act, R.S.O. 1990, c.P.50*, as amended.

5. REQUIREMENTS FOR ISSUANCE OF A PERMIT

Exceptions and Waiver From a Permit

5.1 Despite Section 3.1, a Permit is not required in the following situations:

Another Legal Approval

- a) Where the Town has authorized a Site Alteration under the following legal instruments:
 - i. A planning approval;
 - ii. A building permit issued by the Town for construction or demolition of a building. Pursuant to such a building permit, only Fill resulting from the construction/excavation of the building may be exported. And Fill may only be imported to backfill an excavation of a building up to the elevation of Existing Grade and/or to backfill against the building foundation up to a 3:1 slope from the building foundation to the Existing Grade; and
 - iii. A swimming pool permit issued by the Town for construction or demolition of a swimming pool. Pursuant to such a swimming pool permit, only Fill resulting from the construction/excavation of a swimming pool may be exported. And Fill may only be imported to backfill an excavation of a swimming pool up to the elevation of Existing Grade and/or to backfill against the pool structure up to a 3:1 slope from the pool structure to the Existing Grade.
 - iv. If work does not require a building permit for demolition under the *Building Code Act, R.S.O. 1992, c.23*, as amended or any successor legislation, then no Permit is required in respect of such work.

Normal Farm Practice

- b) A Site Alteration directly related to a Normal Farm Practice that is legally established under the Town's Zoning By-law, including the application of Topsoil for spreading over Agricultural Property provided that the Existing Grade of the Property is not increased by more than two hundred (200) millimetres, and that the total amount of Fill added to the Property does not exceed 10,000 m³ in any thirty-six (36) month period. This exception is only available to Persons that have an active registration as a "farming business" as defined in the *Farm Registration and Farm Organizations Funding Act, 1993, S.O. 1993, c. 21*, as amended or any successor legislation ("*FRFOFA*"), and are in good standing under the *FRFOFA*.

Roads and Highways

- c) Site Alteration that is an incidental part of the construction or reconstruction of any public Highway or underground service.

Temporary Fill Storage

- d) Temporary Fill Storage Sites for commercial properties where:
 - i. There is no permanent alteration to the Existing Grade;
 - ii. The activities comply with *Ontario Regulation 406/19*;
 - iii. There is no Adverse Effect;
 - iv. Site Alteration in the form of Temporary Storage of Fill occurs above Existing Grade;
 - v. Any Fill does not contain Liquid Soil;
 - vi. The Property is zoned for the activity that involves the Temporary Storage of Fill;
 - vii. The stockpile of the Fill does not exceed 5 meters in height, unless otherwise approved by the Town in writing;
 - viii. A person that the General Manager deems competent, such as a contractor, technologist, or engineer, has created and implemented an ESC Plan, and the Owner inspects the Property regularly (including before and after all storm

events). All documentation must be maintained the Site and available upon request; and

- ix. The Owner shall maintain records confirming the above criteria are met.

At any point deemed necessary by the General Manager, and with reasonable advance notice to the Owner, the Town has the right to inspect the Site to ensure compliance with the above noted criteria. Furthermore the Owner shall deliver records, upon request by the Town, to corroborate the Owner's compliance with the above noted criteria. The Owner shall comply with any Town request for the Owner to take action to repair or enhance the Site in accordance with the ESC Plan, or to redesign the ESC plan.

Permit Waiver

- e) When a Permit waiver is provided by the General Manager in writing.

By-law Requirements when Permit Waived

- 5.2 Where a Permit is not required in accordance with the provisions of Section 5.1, all other sections of this By-law remain applicable.

Minor Site Alteration

- 5.3 In the case of a proposed Minor Site Alteration, the Applicant will be required to complete the online permit application questionnaire for a Minor Site Alteration. In the event the proposed project does not qualify for a Minor Site Alteration Permit, the Applicant will be required to apply for a Small Site Alteration Permit. The Town may also require the Applicant to meet additional requirements in order to be issued a Permit for said Minor Site Alteration including, but not limited to:
- a) Conduct a source site chemical analysis of the Fill to be imported onto the Site; and
 - b) Provide all fees and security deposits as per the Fees and Charges By-law.
 - c) Provide a grading/site plan of the project.

Small Site Alteration

- 5.4 In the case of a proposed Small Site Alteration, the Town may require that the Applicant meet requirements in order to be issued a Permit for said Small Site Alteration including, but not limited to:
- a) Provide a Site Alteration and Fill Management Plan and a permit application form that is prepared by a Qualified Person;
 - b) Provide all fees and security deposits as per the Fees and Charges By-law; and
 - c) Conduct and provide to the Town a pre-topographic survey prior to any Site Alteration. The Town may require that the Applicant conduct and provide to the Town a post-topographic survey at any time after a Small Site Alteration has begun.

Large Site Alteration

- 5.5 In the case of a proposed Large Site Alteration, the Town may require that the Applicant meet requirements in order to be issued a Permit for said Large Site Alteration including, but not limited to:
- a) Provide a Site Alteration and Fill Management Plan and permit application form prepared by a Qualified Person;
 - b) Provide all fees and security deposits as per the Fees and Charges By-law;
 - c) Conduct a Public Information Centre;
 - d) Obtain Council approval;
 - e) Enter into a Site Alteration Agreement with the Town; and
 - f) Conduct and provide to the Town a pre-topographic survey prior to any Site Alteration. The Town may require that the Applicant conduct and provide to the Town a post-topographic survey at any time after a Large Site Alteration has begun.
 - g) Complete a record of site condition at the end of the project.

Liquid Soils and Hydro-Excavation Trucks

- 5.6 If an Applicant seeks to import Fill and/or Liquid Soils with a Hydro-Excavation Truck(s), the Town may require that the Applicant meet requirements in order to be issued a Permit for said Site Alteration including, but not limited to:
- a) Provide a Site Alteration and Fill Management Plan and permit application form prepared by a Qualified Person;
 - b) Provide all fees and security deposits-as per the Fees and Charges By-law;
 - c) Conduct a Public Information Centre;
 - d) Obtain Council approval;
 - e) Enter into a Site Alteration Agreement with the Town; and
 - f) Conduct and provide to the Town a pre-topographic survey prior to any Site Alteration. The Town may require that the Applicant conduct and provide to the Town a post-topographic survey at any time after the Site Alteration has begun.
 - g) Complete a record of site condition at the end of the project.

Complete Application

- 5.7 Any Person applying for a Permit shall complete an Application for a Permit in the form established by the General Manager and shall submit the Application along with all applicable fees and required documentation in respect of the Application.
- 5.8 The Town is not obligated to issue a Permit until all supporting documentation and information required under the Site Alteration Guidelines, and all fees and deposits, have been submitted and approved, and the General Manager is satisfied that the Application is complete in accordance with the requirements in respect of such Application and the applicable provisions of this By-Law.

Public Meeting

- 5.9 The Town may require that the Applicant hold one or more Public Information Centres and/or make a deputation or other submission to Council.
- 5.10 In the case of a Public Information Centre, all comments and concerns received must be addressed by the Applicant and submitted to the General Manager for evaluation as part of the Application.

Fees and Charges

- 5.11 Fees as referenced under this By-law are payable under the Fees and Charges By-law including but not limited to fees for administration and enforcement activities.

Additional requirements

- 5.12 Applicants must meet all additional requirements for issuance of a Permit as set out in the Site Alteration Guidelines.

6. PERMIT ADMINISTRATION

Abandoned

- 6.1 An Application for a Permit will be deemed abandoned and the Application and respective file will be closed, where a period of twelve (12) months has elapsed during which:
- a) The Applicant has not provided all applicable information, documents, fees, deposits and submissions as required by the General Manager;
 - b) The Application has been placed on hold or in abeyance; or
 - c) The General Manager determines that the Applicant has not taken meaningful steps to adequately resolve or address deficiencies or concerns that the Town has identified in the Application.
- 6.2 Once an Application is deemed abandoned and the respective file is closed, it cannot be reopened. The Applicant is required to submit a new Application and pay applicable fees.

Expiry

- 6.3 A Permit that is issued expires on the date set out in the Permit, which will be one (1) year from the date of issuance unless otherwise specified as a Condition of the Permit.
- 6.4 If a Permit has no expiry date, said Permit will be subject to an annual review conducted by the General Manager to determine whether said Permit can be amended, renewed or revoked.
- 6.5 Despite the expiry of a Permit, the Owner shall satisfy all Conditions of the Permit. The Owner shall also provide the Town with:
 - a) A letter of acknowledgment of the filing of a Record of Site Condition (in accordance with *Ontario Regulation 153/04*);
 - b) A completed final topographic survey confirming the Approved Grade; and
 - c) Proof of completion of all Permit Conditions.

Transfer

- 6.6 If title to the Property for which a Permit has been issued is transferred while the Permit is in effect, the Permit shall be automatically revoked unless the new Owner, prior to the time of the transfer, provides the Town with an undertaking, to the satisfaction of the General manager, to comply with all Conditions under which the Permit was issued. The new Owner shall, prior to the transfer of the Permit, enter into a new Site Alteration Agreement with the Town and provides all necessary securities.

Revocation

- 6.7 The General Manager may at any time and without notice revoke a Permit for any of the following reasons:
 - a) It was obtained based on mistaken, false or incorrect information;
 - b) It was issued in error;
 - c) The Owner and/or Operator requests in writing that it be revoked; or
 - d) The Owner and/or Operator has failed to comply with any of the Conditions of the Permit, an Agreement, and/or Order.

Amendment

- 6.8 An Applicant and/or Operator may submit a request to the General Manager for an amendment to a Permit based on proposed changes to the details of the initial Application as reflected in the Conditions.

Renewal

- 6.9 An Applicant and/or Operator may submit a request to the General Manager for a renewal of a Permit if the only change from the initial Application and Conditions is the timeline and expiry date.

Closure

- 6.10 A Permit is considered closed when all the Conditions and Orders related to the Permit have been fulfilled to the satisfaction of the General Manager, at which time all unexpended deposits and securities held by the Town shall be released to the Applicant unless a Site Alteration Agreement specifies otherwise.

Additional Requirements

- 6.11 The Town may administer Permits in accordance with additional requirements as set out in the Site Alteration Guidelines.

7. ENFORCEMENT

Orders

- 7.1 Officers and/or the General Manager may enforce this By-law. If an Officer or the General Manager is satisfied that a Person has undertaken, permitted, allowed or performed a Site Alteration in contravention of the provisions of this By-law, the Conditions of a Permit, and/or an Agreement, the Officer and/or the General Manager

may give verbal or written directions and/or issue an Order to discontinue or to perform work.

7.2 An Order may include, but is not limited to, the following directions:

- a) Immediately desist from the activity constituting or contributing to such contravention;
- b) Immediately cease the contravening activity;
- c) Take immediate action to mitigate, remediate the impacts of the contravening activity, and restore the Property to its original condition; and
- d) Obtain a Permit.

7.3 Orders issued shall contain the municipal address and/or the legal description of the Property, and shall set out:

- a) Reasonable particulars of the contravention, the work to be done, any work or action required to cease or be undertaken to rectify the contravention, and the period within which there must be compliance with the Order; and
- b) Notification that if the work or action is not done, or ceased, as the case may be, in compliance with the Order within the period specified, the Town may have the work done at the expense of the Owner and seek penalties/fines as outlined in this By-law.

Order Served

7.4 Orders issued under this By-law shall be served as follows:

- a) Personally, or by prepaid registered mail or email to the last known address/email address of the Owner, the Operator, and/or any other Person to whom the Order is to be issued; or
- b) If the Town is unable to effect service on the Owner, a placard containing the terms of the Order may be placed in a conspicuous place on the Property and the placing of the placard shall be deemed to be service of the Order.

Order Deemed to be Served

7.5 If the Town serves an Order on a Person, it shall be deemed to have been served on the Person:

- a) Immediately if served personally.
- b) On the 5th day after mailing of the Order if sent by registered mail.
- c) Immediately if served by email, save and except where it was emailed on a Holiday, in which case service will be deemed effective on the next (non-Holiday) day after the Holiday.

7.6 An Order may also be issued to a new Owner in any case where ownership of the Property has changed but the offence continues or remains.

Entry and Inspection

7.7 Officers and the General Manager may, at any reasonable time:

- a) Enter and inspect Property to determine compliance with the provisions of this By-law and/or any Condition of a Permit or Order issued under this By-law. This power of entry does not allow entry into any dwelling;
- b) Enter Property to collect information, take photographs, videos, measurements, readings and samples (e.g., air, surface water, groundwater, materials, Fill etc.);
- c) Require the production of copies of reports, manifests or other documentation for the purpose of auditing any Site Alteration for compliance with the Conditions of a Permit, ~~Site Alteration~~ Agreement or Order; and
- d) Require the production of documents or things relevant to an inspection, and remove documents or things relevant to the inspection for the purpose of making copies or extracts.

Duty to Identify

7.8 Where an Officer and/or the General Manager has reasonable grounds to believe that an offence has been committed by a Person, the Officer and/or the General Manager may

require the name, address and proof of identity of the Person, and the Person shall supply the required information.

Obstruction

- 7.9No Person shall hinder or obstruct, or attempt to hinder or obstruct, the Officer and/or the General Manager in the discharge of duties under this By-law.
- 7.10No Person shall provide false information to an Officer and/or the General Manager while in the course of discharging their duties under this By-law.

Compliance with Order

- 7.11No Person shall fail to comply with an Order issued under this By-law.

Presumption

- 7.12Where any Site Alteration occurs, is undertaken, caused or permitted on any Property, the Owner of the Property is presumed to have undertaken, caused, or permitted the Site Alteration to occur, which presumption may be rebutted by evidence to the contrary on a balance of probabilities.

8. WORK DONE BY THE TOWN

Remedial Action

- 8.1If the Conditions of a Permit and/or an Order made under this By-law are not complied with within the period specified in the Order, in addition to all other remedies it may have, the Town may undertake any activity to fulfill any of the Conditions of the Permit and/or Order at the Owner's expense, and may enter upon Property at any reasonable time for this purpose.

Cost Recovery

- 8.2The Town may recover its costs of remedying a contravention of this By law by invoicing the Owner, by instituting court proceedings or by adding the cost and applicable administrative fees, including interest, to the Owner’s tax roll in the same manner as municipal taxes and the exercise of any one remedy shall not preclude the exercise of any other available remedy.

9. PENALTY AND OFFENCE

Offence

- 9.1Every Person who contravenes a provision of this By-law, a Condition of a Permit, an Agreement, and/or an Order issued under this By-law, is guilty of an offence and upon conviction is liable to a fine as provided for by the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended or any successor legislation (“*Provincial Offences Act*”).
- 9.2If an Order has been issued under this By-law, and the Order has not been complied with, the contravention of the Order shall be deemed to be a “continuing offence” for each day or part of a day that the Order is not complied with.
- 9.3For the purposes of this By-law, “multiple offence” means an offence in respect of two or more acts or omissions each of which separately constitutes an offence and is a contravention of the same provision of this By-law.

Fines

- 9.4Every Person who is guilty of an offence under this By-law may be subject to a fine under the *Municipal Act* such that:

a)A minimum fine shall not exceed five hundred dollars (\$500) and a maximum fine shall not exceed one hundred thousand dollars (\$100,000);

b)In the case of a continuing offence, for each day or part of a day that the offence continues, a minimum fine shall not exceed five hundred dollars (\$500) and a maximum fine shall not exceed ten thousand dollars (\$10,000). However, the total of all the daily fines for the offence is not limited to one hundred thousand dollars (\$100,000); and

c)In the case of a multiple offence, for each offence included in the multiple offence, a minimum fine shall not exceed five hundred dollars (\$500) and a maximum fine

shall not exceed ten thousand dollars (\$10,000). However, the total of all fines for each included offence is not limited to one hundred thousand dollars (\$100,000).

- 9.5 A special fine may be imposed in addition to a fine imposed under Section 9.4 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 ~~not~~ exceed one hundred thousand dollars (\$100,000).
- 9.6 A special fine shall be calculated based on:
- a) Ten dollars (\$10.00) for each cubic metre of Fill:
 - (i) Deposited in excess of the amount allowed in a Permit and/or an Agreement; or
 - (ii) Deposited beyond the geographic limits of the Permit and/or an Agreement; or
 - (iii) Deposited without first having obtained a Permit and/or an Agreement;
 - b) Where the Fill is found to contain Contaminant levels that exceed Table 2 Standards from the Soil, Ground Water and Sediment Standards for Use under Part XV.1 of the *Environmental Protection Act*, greater fines of not less than one hundred dollars (\$100) per cubic metre may be imposed.
- 9.7 When a Person has been convicted of an offence under this By-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other penalty imposed on the Person convicted, make an order prohibiting the continuation or repetition of the offence by the Person convicted.

Administrative Penalty

- 9.8 If a Person contravenes a provision of this By-law, an Officer has the discretion to either proceed by way of an administrative penalty or a charge laid under the *Provincial Offences Act*. If a Person is required by the Town to pay an administrative penalty in respect of a contravention of this By-law, the Person shall not be charged with an offence in respect of the same contravention.
- 9.9 The amount of an administrative penalty issued under this By-law for a contravention of a provision of this By-law is set out in the Administrative Penalty System By-law.
- 9.10 A Person who is issued an administrative penalty shall be subject to the procedures as provided for in the Administrative Penalty System By-law.
- 9.11 An administrative penalty imposed on a Person pursuant to this By-law that is not paid within fifteen (15) days after the day it becomes due and payable, constitutes a debt of the Person to the Town and may be added to a municipal tax roll and collected in the same manner as municipal taxes.

10. LIABILITY AND INDEMNIFICATION

- 10.1 The provisions of this By-law do not limit the responsibility or liability of any Person who has lawfully or unlawfully undertaken Site Alteration from any personal injury, including injury resulting in death or Property damage resulting from such Site Alteration or from acts or omissions of such Person, or his or her agents, employees, or contractors.
- 10.2 Likewise, provisions of this By-law shall not be construed as acceptance by the Town, its officers, employees, or agents of any responsibility or liability whatsoever by reason of allowing such Site Alteration, approving the request for permitting such Site Alteration, or activities related to the Site Alteration.
- 10.3 The Town is not responsible for any damages, losses or injuries caused as a result of any Site Alteration.
- 10.4 The Operator and Owner shall be jointly and severally responsible to indemnify the Town, its officers, employees, and agents from all losses, damages, costs, expenses, claims, demands, actions, lawsuits, or other proceedings of every nature and kind arising from, and in consequence of activities related to Site Alteration.

11. EFFECTIVE DATE & REPEAL OF PREDECESSOR BY-LAW

- 11.1 This By-law shall come into force and effect upon its passage, at which time the Town’s Fill By-laws 2013-066 and By-law 2018-099 and all amendments thereto shall hereby be repealed.

12. TRANSITION PROVISION

- 12.1
- Notwithstanding the repeal of Fill By-laws 2013-066 and 2018-099 and all amendments thereto, those By-laws shall continue to apply to any acts, omissions or occurrences, and to any offences that took place prior to the enactment of this By-law.

Enacted and passed this ____ day of _____, 2025.

Virginia Hackson, Mayor

Tara Lajevardi, Municipal Clerk