

**THE CORPORATION OF THE
TOWNSHIP OF WELLINGTON NORTH**

BY-LAW NUMBER 011-2025

“SITE ALTERATION AND FILL BY-LAW”

BEING A BY-LAW TO PROHIBIT OR REGULATE THE ALTERATION OF PROPERTY THROUGH MOVEMENT OF FILL, PLACING OR DUMPING OF FILL, SOIL STRIPPING AND/OR ALTERATION TO THE GRADE OF LANDS WITHIN THE TOWNSHIP OF WELLINGTON NORTH.

WHEREAS Section 142 of the *Municipal Act, 2001*, S.O. 2001, C. 25 (the “*Municipal Act*”), as amended, provides that a Council of a local Municipality may pass By-laws to:

- (a) prohibit and/or regulate the placing or dumping of fill;
- (b) prohibit and/or regulate the removal of soil;
- (c) prohibit and/or regulate the alteration of the grade of the land;

AND WHEREAS Section 142 (2)(d) and (e) of the *Municipal Act* further provides that the Township may require that a permit be obtained for the placing or dumping of fill, or the alteration of the grade of land, and may impose conditions to a permit, including requiring the preparation of plans acceptable to the municipality relating to grading, filling or dumping, the removal of fill and/or the alteration of the grade of land;

AND WHEREAS Section 436 of the *Municipal Act* authorizes the Township to pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out inspection to determine whether or not an order or condition is being complied with and require the production of documents and information as well as the collection of samples;

AND WHEREAS Section 23.1 of the *Municipal Act* authorizes the Township to delegate its powers to an officer, employee, or agent of a municipality;

AND WHEREAS Sections 8 through 11 of the *Municipal Act* authorize a municipality to pass by-laws in respect of the economic, social and environmental well-being of the municipality, the health, safety and well-being of persons and protection of persons and property.

AND WHEREAS Subsection 446 of the *Municipal Act* gives the Township 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 Township may enter upon land at any reasonable time. The Township 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 the Township to pass by-laws providing that any person who contravenes any by-law the Township passed under the *Municipal Act*, is guilty of an offence;

AND WHEREAS Section 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;

AND WHEREAS the Council of the Township deems it to be in the public interest to pass this by-law to regulate the alteration of property through the movement, placing, or dumping of fill, soil stripping and/or the alteration of the grade of land within the Township to ensure that:

- (a) Groundwater and surface water quality is maintained;
- (b) Existing drainage patterns, water courses and water bodies are maintained and protected;
- (c) Natural heritage features, landforms and archaeological resources are protected;
- (d) Adverse Effects are minimized;
- (e) The Township's zoning and other by-laws are respected;
- (f) Impacts to the Township's roads, Highways and infrastructure are minimized;
- (g) Disturbances and nuisance impacts to residents and businesses are minimized;
- (h) Costs and liabilities are borne by owners and persons who undertake Site Alteration within the Township; and,
- (i) Prevent the use and importation of hazardous materials and improper fill.

NOW THEREFORE the Council of the Corporation of the Township of Wellington North hereby enacts as follows:

1.0 GENERAL

1.1 Short Title

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

1.2 Administration

This By-law applies to all Property in the geographical area within the Township, save and except any Property owned by the Township.

2.0 DEFINITIONS

In this By-Law:

“Adverse Effect” shall have the same meaning as in *the Environmental Protection Act*, R.S.O. 1990, c. E.19, including one or more of impairment of the quality of the natural environment for any use that can be made of it, injury or damage to property, plant or animal life, harm or material discomfort to any person, impairment of the safety of any person, rendering any property, plant or animal life unfit for human use, loss of enjoyment of normal use of property and interference with the normal conduct of business;

“Aggregate” has the same meaning as in the *Aggregate Resources Act*, R.S.O. 1990, c.A.8, as amended;

“Agriculture and agricultural” shall means a use of land, building or structure for the purpose of animal husbandry, raising of livestock and other animals for food or fur including poultry, bee-keeping, fish, aqua-culture and dairy, the growing of field crops, vegetables, agro-forestry, forestry, fruit farming, sod farming, greenhouses and horticulture crops, pasturage, fallow, maple syrup production or any other farming use; and includes the growing, raising, packing, treating, storing, and sale of agricultural products produced on the premises but does not include an abattoir, a kennel or a rendering plant, commercial greenhouse and/or nursery or garden centre;

“Applicant” shall mean the Owner of a property and includes a person authorized in writing to act on behalf of the Owner of a property to apply for a permit;

“Beneficial Purpose” has the same meaning as in Ontario Regulation 406/19, and, for clarity, does not include deposit (temporary or final) of Excess Soil as the primary use of the Site, but includes the following:

- (a) backfill for an excavation carried out for the purposes of any form of development,
- (b) Final grading carried out for the purposes of any form of development,
- (c) Achieving the grade necessary for,
 - i. Any development,

- ii. An undertaking related to infrastructure,
- iii. Landscaping, or
- iv. Another project governed by an instrument issued by a public body.
- v. Placement of Fill to assist in the rehabilitation of the site;

“Brownfields” shall mean, a property that are vacant or underutilized places where past industrial or commercial activities may have left contamination (chemical pollution) behind including factories, gas stations, waterfront properties (port lands) formerly used for industrial or commercial activities. If a brownfield property is being redeveloped for a new use, property owners and redevelopers must meet set requirements for:

- a) Assessing the environmental condition of a property through environmental site assessments
- b) Ensuring that the site meets the applicable site condition standards or standards specified in a risk assessment
- c) Submitting a record of site condition for filing in Ontario’s Environmental Site Registry;

“Chief Building Official” shall mean, pursuant to the Ontario *Building Code Act*, 1992, S.O. 1992, c. 23, s 3(2) the Chief Building Official for the Township;

“Contaminant” means any solid, liquid, gas, odour, heat, sound, vibration, radiation or combination of any of them resulting directly or indirectly from human activities that causes or may cause an adverse effect;

“Conservation Authority” shall mean the Grand River Conservation Authority, Saugeen Valley Conservation Authority or Maitland Valley Conservation Authority, as applicable, or their successors;

“Drainage” shall mean the movement of surface water to a place of disposal, whether by way of the natural characteristics of the ground surface or by an artificial method;

“Dump, Dumped or Dumping” shall mean 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 Lands to another location on the same Lands or to a separate Property;

“Erosion” shall mean the detachment and movement of Soil, sediment or rock fragments by water, wind, ice, gravity or ground movement;

“Erosion and Dust Control” means measures to control erosion and dust generated as part of the Site Alteration to the satisfaction of the Township;

“Excavate, Excavation or Excavating” shall mean activities on Lands resulting in the removal of Soil;

“Excess Soil” has the same meaning as in Ontario Regulations 406/19;

“Excess Soil Quality Standards” means Part II of the Rules for Soil Management and Excess Soil Quality Standards, as amended, and adopted by reference in Ontario Regulations 406/19;

“Existing Grade” shall mean the elevation of the existing ground surface of Land and the abutting ground surface of Land up to three (3) metres beyond, except that where placing or dumping of Fill has occurred in contravention of this By-Law, existing grade shall mean the ground surface of the Lands as it existed prior to the placing or dumping of Fill;

“Fill” shall mean any type of material that can be removed from or deposited on Land and without limiting the generality of the foregoing, and includes Soil, liquid soil, stone, concrete, other types of aggregates, sod or turf either singly or in combination;

“Final or Finished Grade” shall mean the elevation of the ground surface of Lands upon which Fill has been placed or removed in accordance with this By-law;

“Grade” shall mean existing grade, proposed grade or finished grade;

“Inspector” shall mean, pursuant to the Ontario *Building Code Act, 1992*, S.O. 1992, c. 23, s 3(2) an Inspector for the Township and includes the Chief Building Official;

“Land” or “Lands” shall mean all land, including all buildings and structures situated on the land that is within the Township including a parcel of land, described in a deed or other document legally capable of conveying land, or shown as a lot or lots or block in a registered plan of subdivision, including public road allowances and Township owned lands;

“Liquid Soil” has the same meaning as in Ontario Regulation 406/19;

“Normal Agriculture Practice” means a practice that:

- a) 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
- b) Makes use of innovative technology in a manner consistent with proper advanced farm management practices.;

“Officer” shall mean the Chief Administrative Officer and any person designated by a By-law of the Township to issue permits and impose conditions under this By-law or to enforce this By-law;

“Owner” shall mean the registered owner of any Land which is to be re-graded or on which Fill is proposed to be removed, placed or Dumped, as well as any person, firm or corporation managing or controlling such Lands;

“Placing, Place or Placed” shall mean the distribution of Fill on Lands to establish a grade different from the existing grade;

“Ponding” shall mean the accumulation of surface water in an area not having drainage or where the lack of drainage is caused by placing or dumping of Fill, altering of grade or removal of Fill;

“Property” shall have the same definition as Land or Lands;

“Proposed Grade” shall mean the intended ground surface elevation of Lands upon which Fill is proposed to be placed in accordance with this By-Law;

“Qualified Person” shall mean a person who meets the qualifications as set out in section 5 or 6 of Ontario Regulation 153/04.

“Quality Assurance/Quality Control Program” shall mean a program that is designed to meet the requirements of quality assurance and quality control program under Ontario Regulation 153/04.

“Removal, Remove, or Removed” shall mean the moving of Fill from Land;

“Retaining Wall” shall mean a wall designed to contain and support Fill which has a grade higher than that of adjacent Lands;

“Sediment Control” means a recognized engineering practice to control the movement of eroded soils from a disturbed area;

“Site” shall mean a parcel or parcels of Land altered or proposed to be altered by means of a Site Alteration;

“Site Alteration” shall mean any modification of the grade of Lands through the dumping, placing, grading, removing or excavating of Fill or Soil;

“Soil” has the same meaning as in Ontario Regulation 406/19;

“Stabilization” shall mean ensuring that the finished grade surface is protected by sod, turf, seeding for grass, greenery, or other means, either singly or in combination, to the Township;

“Swale” shall mean a shallow depression in the ground sloping to a place of disposal of surface water for the purpose of providing a method of drainage;

“**Topsoil**” shall mean 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. *Municipal Act*, section 142 (1);

“**Township**” shall mean The Corporation of the Township of Wellington North;

3.0 APPLICATION OF BY-LAW

3.1 This By-Law applies to all Land or Lands within the Township and other than those areas which are subject to regulations made 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.

4.0 SITE ALTERATION PROHIBITED

4.1 No person shall conduct, undertake, cause, permit or carry out a Site Alteration on any Property or Lands within the Township including the importation or exportation of Fill and Soil except in compliance with the following:

- (a) a permit has been issued under Section 6.0 of this By-law;
- (b) the Township Zoning By-law;
- (c) the Township Noise By-law;
- (d) the Township Property Standards By-law;
- (e) the requirements of a conservation authority with jurisdiction; and,
- (f) all other applicable statutes, regulations, policies, and by-laws, including but not limited to Ontario Regulation 406/19, Regulation 347 and the Rules for Soil Management and Excess Soil Quality Standards.

4.2 The prohibition against Site Alteration in Section 4.1 shall include the removal of topsoil for sale, exchange or other disposition.

4.3 No Fill shall be placed or dumped on any Lands for storage purposes unless it is permitted by:

- (a) the applicable Zoning By-Law of the Township; and,
- (b) a written Agreement between the Owner and the Township.

4.4 Any person who undertakes or engages in any Site Alteration or permits Site Alteration not in compliance with this By-law is guilty of an offence.

4.5 Compliance with this By-law does not relieve a person from any responsibility to obtain all other approvals required by any other government agency or authority, or compliance with any other applicable law, with respect to any action covered by this By-law.

5.0 EXEMPTIONS

5.1 Notwithstanding Section 3 of this By-law, the following are exempted from this By-law:

- (a) Activities exempted or prescribed by Federal or Provincial Act or regulation pursuant to Section 14 of the *Municipal Act*;
- (b) Activities or matters undertaken by the Township or a local board of the Township; The County of Wellington; a Conservation Authority; the provincial government; or the federal government, as relates to Lands owned by them in the Township or activities currently under exemption, related but not limited to the establishment or maintenance of utilities and services, municipal infrastructure, roads, bridges, culverts, flood and erosion control facilities, walkways, bicycle paths, fences, retaining walls, parkland, steps and lighting (*Municipal Act*, Section 142 (5)(a));
- (c) Site Alteration undertaken as a condition to the approval of a site plan, a plan of subdivision or a consent under Sections 41, 51, or 53, respectively, of the *Planning Act* or as a requirement of a site plan agreement, subdivision agreement, pre-servicing agreement or Site Alteration agreement entered into under those sections; (*Municipal Act*, Section 142 (5) (b));
- (d) Site Alteration undertaken 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; (*Municipal Act*, Section 142 (5) (c));
- (e) Site Alteration undertaken by a transmitter or distributor, as those terms are defined in Section 2 of the *Electricity Act, 1998*, for the purpose of constructing or maintaining a transmission system or a distribution system, as those terms as defined in that section; (*Municipal Act*, Section 142 (5)(d));
- (f) Site Alteration undertaken on Land described in a license for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the *Aggregate Resources Act*; (*Municipal Act*, Section 142 (5) (e));
- (g) Site Alteration undertaken on Land in order to lawfully establish and operate or enlarge any pit or quarry on Land that has not been designated under the *Aggregate Resources Act* or a predecessor of that *Act*, and on which a pit or quarry is a permitted Land use under a By-Law passed under Section 34 of the *Planning Act*. (*Municipal Act*, Section 142 (5)(f));

- (h) Site Alteration undertaken as an incidental part of drain construction under the *Drainage Act* or the *Tile Drainage Act*, (*Municipal Act*, Section 142 (5)(g));
- (i) The construction, extension, alteration, maintenance or operation of works under Section 28 of the *Public Transportation and Highway Improvement Act*, R.S.O. 1990 c. P.50, as amended;
- (j) Site Alteration undertaken where a building permit has been issued or an order, directive or other requirement by an *inspector* has been made pursuant to the Ontario *Building Code Act*, 1992, S.O. 1992, c. 23, s 8(1), s12(2);
- (k) Any work constituting the tillage of Land pursuant to normal agricultural practices in accordance with the Ministry of Agriculture, Food and Rural Affairs by a bona fide farmer on Lands for which agricultural activities are lawfully permitted;
- (l) 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 (*Municipal Act*, Section 142 (6));
- (m) Any work to construct or maintain a farm laneway located on lands zoned Agricultural;
- (n) 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; (*Municipal Act*, Section 142 (7)); and,
- (o) Site Alteration for any work where Fill is placed or dumped on Lands (any one Property) for the purpose of lawn dressing, constructing a fence, pool or other accessory structure, landscaping or adding to flower beds or vegetable gardens, in an excavation to the elevation of existing grade following the demolition or removal of a building or structure provided that:
 - i) the quantity of Fill does not exceed 100 cubic meters (10 truck loads) within a 12-month period;
 - ii) all other provisions of this By-law are met;
 - iii) there is no alteration to the volume, direction, intensity or form of storm water drainage patterns or cause or may cause an adverse effect on adjacent properties;
 - iv) excavation of Fill having no adverse effects on trees, ground cover, vegetation, watercourses, or stormwater swales and not altering or creating a slope at greater than 8%; and,
 - v) minor landscaping works which are at least 0.3 metres from any property line and do not impact Drainage patterns or cause or may cause an Adverse Effect on neighboring properties.

6.0 APPLICATION FOR PERMIT

6.1.1 No person shall alter a site, remove, place or dump Fill, or cause Fill to be placed or dumped unless a permit is issued pursuant to Section 6.0 of this By-law or the alteration is exempt in accordance with Section 5.0 of this By-law.

6.1.2 No Site Alteration can be divided into two or more Site Alterations for the purpose of avoiding the need to apply for any permit pursuant to this By-law.

6.2 Site Alteration Permit Requirements

The following requirements apply to applications for a permit under Section 6.1 of this By-law:

6.2.1 A complete application in the form prescribed by the Township shall be submitted to the Officer, along with any applicable fee prescribed by the Township fees and charges By-law.

6.2.2 The Owner shall be responsible for any third-party costs and recoveries if an external review is required as determined by the Officer. The third-party cost may be drawn from any deposit provided for under this By-law or any agreement entered into pursuant to this By-law.

6.2.3 Confirmation from the Owner must be submitted confirming that they will be responsible for all activities associated with the Site Alteration and at all times while activities are taking place

6.2.4 Additional conditions may be included in the permit as determined by the Township.

6.2.5 All required permits or approvals by any external agency having jurisdiction are required, including but not limited to a Conservation Authority, Wellington Source Water Protection, and the County of Wellington.

6.2.6 Submission of an approved haul route including road maintenance obligations for the importation of Fill to or for the removal of Fill from the Property.

6.2.7 A site plan prepared by a professional engineer or Ontario Land Surveyor illustrating the following:

(a) Lot lines showing the boundaries of the Lands subject to the application and existing features such as buildings, laneways, trees, hydro poles, etc, as well as municipal address and legal description;

(b) Existing grades of the Lands to accurately describe the topography of

the Lands, shown every 0.5 m, where Fill is to be placed including drainage patterns, watercourses, ditches, vegetation, trees and other physical features impacted by the application;

- (c) Final Finished Grades including the limits of all Fill to be placed on the subject Lands as well as final drainage patterns, trees and vegetation to be removed and replanted upon completion of the work described in the application;
- (d) Erosion and sediment control and location of temporary topsoil stockpile;
- (e) Description of the volume of Fill within title blocks in cubic meters, and the area of Land to be subject to Fill placement or removal;
- (f) Details of mitigation measures to protect sensitive areas on and off site including but not limited to erosion control, surface protection and similar, to ensure no adverse effects on or off the subject Lands;
- (g) Any other information requested by the Township.

6.2.8 A justification report prepared by a Qualified Person (a “**Justification Report**”) outlining in detail the following information:

- (a) The reason or need for the Fill to be placed or Site Alteration proposed under the application.
- (b) The origin and composition of the Fill to be placed or altered including laboratory analysis and verification that the Fill complies with the applicable standards set in the *Environmental Protection Act* and Ontario Regulation 406/19.
- (c) The work schedule confirming no on-site activity will occur between the hours of 7:00pm and 7:00am, or on any Saturday, Sunday or Statutory Holiday.
- (d) Mitigation measures including but not limited to procedures for use during wind warnings or other weather events identified by Environmental Canada including thunderstorms, flooding or other conditions that could cause an adverse effect.
- (f) An estimate of the cost of remediation work needed to restore the subject Lands to a condition suitable for the Lands and area, and a quality control and assurance program.
- (e) Dust and erosion control measures.

- (f) A haul route for Township's review and approval including:
 - i. A map showing the proposed haul route indicating any barricades or signs; and,
 - ii. The date(s) and time(s) that the haul route will be utilized.

6.2.9 The Owner shall provide the Township with an all-hours, all-days, accessible phone number where Township staff can directly reach the Applicant to address any Highway activity concerns.

6.2.10 The Owner shall provide a security plan of the Site Alteration Property to be approved by the Officer.

6.2.11 The Owner shall provide the Township security as follows:

- (a) In a form acceptable to the Township equal to the sum of the estimate provided in Section 6.2.8(e) of this By-law and the applicable road damage security deposit as shown in the Township's current Fees and Charges By-law.
- (b) The security will be confirmed by the Township in the agreement to be executed between the parties pursuant to Section 6.3.6 of this By-law.
- (c) The security deposit shall be replenished in full by the Owner within 30 days of it being drawn on by the Township.
- (d) If the permit expires or is revoked, the security is to remain in effect until the Lands are restored to a condition acceptable to the Township.
- (e) The security may be used to remedy any breach of this By-law, a permit under this By-law, or an agreement entered into pursuant to this By-law, and may be drawn on by the Township at its sole discretion, and, without limiting the generality of the foregoing, such security may be used to return the Land to a condition satisfactory to the Officer and to pay any outstanding amounts owed by the Owner that relate to the permit.

6.2.12 Where the Site Alteration will involve the importation of Fill from off-site, documentation is to be provided to the Township to the satisfaction of the Officer including but not limited to:

- (a) The volume of Fill being imported from off-site in cubic metres;
- (b) Documentation that the Fill complies with the parameters as set out in Section 6.0 of this By-law;
- (c) Documentation pertaining to the collection and laboratory analysis of samples of the Fill;

- (d) Documentation setting out the evaluation of the Fill sample results;
- (e) Documentation providing compliance with Quality Control and Quality Assurance Program;
- (f) Source site confirmation;
- (g) A Justification Report prepared by a Qualified Person is required to be submitted demonstrating the need for the proposed volume of Fill being imported to the site; and,
- (h) Documentation demonstrating that the proposed Site Alteration meets the definition of Beneficial Purpose.

6.2.13 If site-specific standards for Soil quality acceptance have been developed using the MECP's BRAT, a copy of the BRAT model input and output and a signed statement by the Qualified Person that prepared the BRAT model must be submitted.

6.2.14 If site-specific standards for Soil quality acceptance have been developed using a risk assessment pursuant to the requirements in the Rules for Soil Management and Excess Soil Quality Standards, a copy of the risk assessment and a signed statement by the Qualified Person that prepared the risk assessment model must be submitted.

6.2.15 A Site Alteration and Fill Management Plan prepared by a Qualified Person.

6.3 Site Alteration Permit

In addition to the requirements under Section 6.2 of this bylaw, the following outlines the general factors to be considered by the Township when determining whether a permit may be issued pursuant to Section 6.1:

6.3.1 The cumulative volume of Fill:

- i) Exceeds 2,000 cubic meters (200 truckloads);
- ii) Change in grade is 2.0 meters or less above or below existing grade;
- iii) Does not alter more than 5 hectares in area of the subject Lands; or,
- iv) Does not alter more than 25% of the total area of the subject Lands.

6.3.2 The Justification Report required in Section 6.2.8 is complete and upon analysis by the Township contains sufficient information to ensure the proposed Site Alteration will have no Adverse Effect on the subject or surrounding Lands and will otherwise comply with this By-law.

- 6.3.3** The Township has provided thirty (30) days written notice to owners of Land within 120 meters of the subject Lands describing the Lands subject to the proposed application for Site Alteration, where additional information can be obtained on the Township website, or in the municipal office, and the date the Township intends to issue a permit under Section 6.5.
- 6.3.4** The Township at its sole discretion may, at the expense of the Owner, engage a Qualified Person to peer review any Justification Report provided under Section 6.2.8. The cost of any such peer review may be drawn from any deposit provided for under this By-law or any agreement entered into pursuant to this By-law.
- 6.3.5** The minimum standards outlined in Section 7.0 of this By-law are met.
- 6.3.6** An agreement shall be executed between the Owner of the Lands subject to Fill or Site Alteration, such other persons as the Township may reasonably require, including an Applicant, security holder or other interest holder, and the Township prescribing, among other matters, required work under the applicable permit, completion date, terms regarding security required under this By-law and other issues of compliance and performance applicable under the Agreement. The Agreement may, at the sole discretion of the Township, be registered on title and, in the event of registration, shall be released from title upon successful completion of all required work as outlined in the permit and at the direction of the Officer. The requirements of an agreement under this By-law may include the following:
- (a) Road maintenance obligations, such that any highway or roadway utilized for purposes of the Site Alteration be maintained in a dust/silt/mud/rock free condition and maintained in a good state of repair, free from ruts, potholes, mud-tracking, loose debris, etc. and otherwise to the satisfaction of the Township.
 - (b) When Site Alteration occurs at a property fronting a gravel surface road, or includes gravel surface roads in the haul route, considerations for extra maintenance effort to maintain the roadway to the Satisfaction of the Township.
 - (c) The utilization of a street-sweeper or equivalent on a daily basis to clean the haul route of any tracked debris and regular monitoring for any larger foreign objects.
 - (d) That the Township may require additional sweeping depending on Site Alteration operations and construction material tracking on road.
 - (e) An acknowledgement that the Owner is responsible for the cost associated to undertake any road repairs or maintenance, including

any call out time for Township staff and associated equipment and materials.

- (f) That the Township shall be entitled to recover its costs, and to draw on any deposit provided for that purpose, in respect of:
 - i. Administering this By-law;
 - ii. Road repairs and other maintenance projects related to or caused by the Site Alteration; and,
 - iii. Engagement of lawyers, engineers, hydrologists, environmental consultants, arborists, landscapers or any other consultant that the Township considers reasonable in order to evaluate studies and/or agreements and to provide assistance to the Officer throughout the Site Alteration process, including, but not limited to, peer review, quality control/assurance, inspection, sampling, borehole testing and operational compliance review.
- (g) That, in the event the Township draws on any such deposit, that such deposit shall be replenished within thirty (30) days.
- (h) That the Township shall be entitled to require the provision of further security in the event of any change in circumstances that reasonably requires the provision of further security.
- (l) That the Owner indemnifies the Township for any liability, costs, damages or losses incurred directly or indirectly caused by the issuance of a permit or signing of a Site Alteration Agreement and to provide Insurance, if deemed necessary, to the satisfaction of the Township.

6.4 Major Site Alteration Permit

6.4.1 An application shall be considered an application for a “**Major Site Alteration Permit**” where:

- (a) the proposed cumulative volume of Fill exceeds or will exceed 10,000 cubic meters (1,000 truckloads);
- (b) the proposed change in grade is 3.0 meters or less above or below existing grade; or,
- (c) the proposed Site Alteration area is greater than 1 hectare in Land size.

6.4.2 Applications for a Major Site Alteration Permit shall be referred to Township Council and the decision as to whether a Major Site Alteration Permit shall be issued shall be made by Township Council and shall not be made by an Officer. Notwithstanding the foregoing, all other provisions of this By-law shall apply to an

application for a Major Site Alteration Permit.

6.5 Approval and Refusal of Permit

6.5.1 The decision process for a Site Alteration permit is as follows:

- (a) Once a complete application has been received, all property owners within a 120-meter radius of the subject Property shall be notified by regular mail to the person last shown as owner on the last revised assessment roll of the Township of the details of the proposed Site Alteration;
- (b) All Site Alteration Applications shall be subject to a 30-day comment period commencing when notification is sent pursuant to Sections 6.3 and 6.5 of this By-law;
- (c) All Site Alteration Applications shall be subject to a staff review of public comments received which may form part of the Site Alteration Agreement and may include conditions not described in this By-law;
- (d) A legal agreement in accordance with Section 6.3.6 shall be executed, which may be registered on title and released from title upon successful completion of all required work as outlined in the permit and at the direction of the Township;
- (e) Security shall be provided to the Township in a form and amount to be determined in accordance with this By-law and the Township's current Fees and Charges by-law;
- (f) The Site Alteration permit shall be provided to the Owner by the Township in writing and posted on the Township website; and,
- (g) The Officer may require that a Site Alteration Application other than a Major Site Alteration application be considered by the Council prior to final approval.

6.5.2 The Officer or Council shall issue a permit to any person who meets the requirements of this By-law, except where:

- (a) the past conduct of the Owner or Applicant, including the past failure to comply with applicable laws, affords the Officer or Council reasonable grounds to believe that the Owner or Applicant will not carry out the Site Alteration in accordance with this By-law or any applicable laws;
- (b) the Officer or Council reasonably believes that the issuing of a permit to the Applicant might be adverse to the public interest;

- (c) the Property subject to the application is located within an environmentally sensitive area;
- (d) the Property is subject to any order made pursuant to:
 - i. any Township by-law;
 - ii. the *Building Code Act, 1992*, or any regulations made under it;
 - iii. the *Fire Protection and Prevention Act, 1997*, or any regulations made under it.
- (e) the Property is not in compliance with the Township's Zoning by-law;
- (f) the Owner or Applicant is indebted to the Township by way of fines, penalties, judgements or outstanding property taxes; or,
- (g) the proposed Site Alteration will likely result in adverse effects either to the Property or the surrounding area.

6.5.3 If the Applicant's permit application is refused, the Applicant shall be informed in writing of the reasons for the refusal.

6.5.4 The application may be reconsidered, if additional information or documentation required by the Officer is submitted by the Applicant.

7.0 MINIMUM STANDARDS

7.1 Every person who places or dumps Fill, or causes Fill to be placed or dumped, or alters the grade of Land, including removal of Fill, shall:

- (a) notify the Township Infrastructure Services within forty-eight hours of commencing such activity.
- (b) construct a Retaining Wall if required by an Officer, if the existing or finished grade at a property line involves a slope steeper than 3:1, which shall be constructed to the satisfaction of the Township and which does not encroach upon abutting Lands, either above or below existing or finished grade, and which is not so high as to have a significant negative impact on abutting and other Lands; Officer may require that a retaining wall be constructed where:
 - i. erosion of Fill on to abutting Lands may occur; or,
 - ii. the existing or finished grade of the Lands at the property line is higher than that of the existing or finished grade of the abutting Lands.
- (c) ensure that the finished grade surface is protected by sod, turf, seeding of grass, greenery, asphalt, concrete or such other material as an Officer may approve, either singly or in combination;

- (d) ensure that the Fill is not placed around the perimeter of any existing building to an elevation higher than the elevation specified by the Ontario Building Code below the top of foundation of such building, unless such building and its foundation walls are altered in a manner satisfactory to the Officer;
- (e) ensure that no trench in which piping is laid forming part of the piped drainage system is covered and backfilled until the work has been inspected and approved by the Officer;
- (f) provide such protection for trees with a caliper greater than seventy-five (75) millimetres as may be required by an Officer;
- (g) comply with all conditions imposed in any permit;
- (h) repair any siltation or erosion damage to adjoining Lands and drainage pathways resulting from the Site Alteration;
- (i) ensure that all Fill used is clean and free of rubbish, rubber, plastics, metals, glass, garbage, termites, organic material, liquid or solid and/or toxic chemicals, and other Contaminants or related waste and for this purpose the Officer may require Contaminant testing of the Fill to be placed or dumped be conducted by, or at the expense of the Owner; and,
- (j) ensure that Fill is placed or dumped in such a manner and any Retaining Wall supporting such Fill is erected in such a manner that no ponding is caused on the subject Lands or abutting and other Lands and that adequate provision is made to proper surface storm water drainage.

8.0 ABANDONMENT, EXPIRY, RENEWAL, TRANSFER, REVOCATION, AND CLOSURE OF PERMITS

8.1 Abandoned Application

- (a) 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:
 - i. The Applicant applying for a permit has not provided all information, documents, fees and deposits as required by the Officer including any new submissions that may be required;
 - ii. The Application has been placed on hold or in abeyance; or,
 - iii. The Application has not seen meaningful progress through submissions toward the issuance of a permit.

8.2 Expiry

- (a) A permit for all types of Site Alteration will be issued for a period of two years and expires on the date set out in the permit unless otherwise specified as a condition of the permit.

8.3 Transfer

If title to the Property for which a permit has been issued under this By-law 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, enters into an agreement with the Township by which it, and such other persons as the Township may reasonably require, including an Applicant, security holder or other interest holder, agrees to comply with all Conditions under which the Permit was issued and agrees to be bound by all provisions of any agreement entered into pursuant to Section 6.3.6 of this By-law.

8.4 Revocation

- (a) An Officer may at any time and without notice revoke a permit for any of the following reasons:
 - i. It was obtained based on mistaken, false or incorrect information;
 - ii. It was issued in error;
 - iii. The Owner and/or permit holder request in writing that it be revoked;
 - iv. The terms of an agreement or permit under this By-law have not been complied with;
 - v. The permit holder is unwilling or unable to comply with the Conditions of an order;
 - vi. The Land has been transferred and the new Owner has not complied with the requirements under this Section of the By-law; or,
 - vii. Officer is of the opinion that the Alteration has resulted or will likely result in adverse effects to the Property and surrounding area.
- (b) Notwithstanding the revocation or expiry of the permit, the Township may draw upon any security provided to address any damages.

8.5 Renewal

An Applicant or Owner may submit a request to the Officer for a renewal of a permit if the only change from the initial Application and Conditions is the timeline and expiry date.

8.6 Closure

- (a) Every Owner shall satisfy all Conditions of an issued permit, even if the permit is expired, and shall also provide the Township with the following at the discretion of the Officer:
 - i. A letter from a Qualified Person confirming that any importation of Fill was in compliance with the *Environmental Protection Act* and O. Reg 406/19.
 - ii. A complete final topographic survey confirming the Approved Grade; and,
 - iii. Proof of completion of all permit Conditions.
- (b) A permit is considered closed when all Conditions, orders and provisions of this By-law related to the permit have been fulfilled to the satisfaction of the Officer, at which time all unexpended deposits and securities held by the Township shall be released to the person having made such deposit or provided such security unless an agreement specifies otherwise.

9.0 ORDER TO DISCONTINUE ACTIVITY

9.1 Pursuant to Section 444 (1) of the *Municipal Act*, if an Officer has reasonable grounds to believe that a contravention of this By-law has occurred, the Officer may make an order requiring the person who contravened this By-law, or who permitted or caused the contravention, or the Owner or occupier of the Land on which the contravention occurred, to discontinue the contravening activity. An order under this section shall set out:

- (a) the municipal address and/or legal description of the Land;
- (b) reasonable particulars of the contravention; and,
- (c) the date or period of time within which there must be compliance.

10.0 WORK ORDER

10.1 Pursuant to Section 445 (1) of the *Municipal Act*, if an Officer has reasonable grounds to believe that a contravention of this By-law has occurred, the Officer may make an order requiring the person who contravened this 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. An order under this section shall set out:

- (a) the municipal address and/or legal description of the Land;

- (b) reasonable particulars of the contravention and the work to be done and the period within which there must be compliance with the order; and,
- (c) a notice stating that if the work is not done in compliance with the order within the period it specifies, the Township may have the work done at the expense of the Owner.

11.0 WORK DONE BY MUNICIPALITY

- 11.1** If the work required by an order pursuant to Section 10.0 of this By-law is not done within the specified period, the Township, in addition to all other remedies it may have, may do the work at the Owner's expense and may, together with its employees, agents, contractors, or consultants, enter upon Land, at any reasonable time, for that purpose pursuant to section 446 of the *Municipal Act*.
- 11.2** Where the Township enters upon the Land pursuant to Section 11.1 the cost of the work completed by the Township, subject to the provisions of Section 11.0 of this By-law, shall become a charge upon the Lands and such cost to be recovered in accordance with Section 446 (3) to the *Municipal Act* and the Township may recover the cost of the work from the person to whom the order was made.
- 11.3** The Township shall not be required to undo any remedial work and the Township shall not be required to provide compensation as a result of doing any remedial work undertaken pursuant to this By-law.

12.0 SERVICE OF AN ORDER

- 12.1** If the Township;
- (a) issues any order pursuant to this By-law; or,
 - (b) intends to enter the Lands that are subject to a Permit to conduct remedial work; then the order or notice of intention to enter the Lands, as the case may be, shall be served on the Owner of the Property personally, by prepaid registered mail to the last known address of the Owner of the Lands, or by email communication.
- 12.2** Unless otherwise provided herein, all orders and notices pursuant to this By-law shall be made in writing and shall be deemed effective:
- (a) on the date on which the notice is delivered to the person to whom it is addressed;
 - (b) on the date the notice is sent by email communication; or,

- (c) on the fifth day after the notice has been sent by registered mail to the person's last known address.

12.3 The Township may place a placard containing the terms of the work order or of the notice of intention to enter the Lands in a conspicuous location on the Lands and may enter the Lands for this purpose.

12.4 The Township will not enter the Lands to conduct remedial work until notice of its intention has been given under Section 11.1 or 11.2 of this By-law unless the giving of such notice would result in an immediate danger to the health or safety of any person.

13.0 RECOVERY OF COSTS

13.1 Costs incurred by the Township arising from any default or failure to perform the obligations and requirements under this By-law, including under Section 6.2.2 and 10.0, or an agreement entered into pursuant to Section 6.3.6, plus interest accrued to the date payment is made at the rate of fifteen percent (15%) per annum or such lesser rate as may be approved by the Township, will be recoverable from the Owner of the Lands by action or in like manner as taxes pursuant to the provisions of Section 446 of the *Municipal Act*.

13.2 Cost incurred by the Township as set out in Section 13.1 of this By-law including interest as the prescribed rate, are a lien on the Lands upon registration in the proper land registry office of a notice of lien pursuant to Section 446 (6) of the *Municipal Act*.

13.3 The lien is in respect of all costs that are payable at the time the notice is registered plus interest at the prescribed rate and accrued to the date payment is made.

13.4 Upon payment of all costs payable plus interest accrued to the date of debt retirement being paid, a discharge of the lien shall be registered by the Township in the proper land registry office of a notice of lien pursuant to Section 446 of the *Municipal Act*.

14.0 POWER OF ENTRY

14.1 An Officer or an employee or agent of the Township may, at any reasonable time enter and inspect any Lands to determine whether this By-law, an order or direction under this By-law or a work order under Section 431 of the *Municipal Act*, is being complied with pursuant to Section 436 of *the Municipal Act*.

14.2 The power of entry under this section does not allow a municipality to enter any buildings.

15.0 OBSTRUCTION

15.1 Every person who hinders or obstructs, or attempts to hinder or obstruct, any person exercising a power or performing a duty pursuant to this By-law is guilty of an offence as provided in Section 426 of the *Municipal Act*.

16.0 ENFORCEMENT

16.1 The administration and enforcement of the By-law shall be performed by the Township, and by persons authorized by the Township as may be appointed by By-law of the Council of the Township.

16.2 The cost of enforcement, including the professional and administrative expenses of the Township shall be at the expense of the Owner and the Township may recover the expenses incurred in so doing by action or the same may be recovered in like manner as municipal taxes, as provided for in Section 13.

16.3 Pursuant to Section 436 of the *Municipal Act*, including for the purposes of an inspection, an Officer may:

- (a) enter upon Land at any reasonable time without a warrant;
- (b) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection; and,
- (c) require the production for inspection of documents or things including drawings or specifications that may be relevant to the Land.

16.4 In the event a sample is taken pursuant to Section 16.3 (b), the procedures set out in Section 436 of the *Municipal Act* will be followed.

17.0 OFFENCE AND PENALTY

17.1 Every person who contravenes:

- (a) any provision of this By-law;
- (b) any term of a permit issued pursuant to this By-law; or
- (c) an order issued under this By-law

is guilty of an offense and upon conviction is liable to the penalties provided for in this By-law and provided for in the *Provincial Offences Act* R.S.O. 1990 c.P.33, as amended.

17.2 If 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.

17.3 Every person who is guilty of an offence under this By-law shall be subject to the following penalties:

- (a) Upon a first conviction under this By-law, to a fine of not less than \$500.00 and not more than \$50,000 per offence
- (b) Upon a second or subsequent conviction under this By-law to a fine of not less than \$500.00 and not more than \$50,000 per offence.
- (c) Upon conviction for a continuing offence under this By-law shall be subject to a fine of not less than \$500 and not more than \$10,000 for each day or part of a day the offence continues up to a maximum of \$100,000 per continuing offence.

17.4 When a Person has been convicted of an offence under this By-law, the Ontario Court of Justice or any Court of competent jurisdiction thereafter may, in addition to any other penalty or remedy imposed on the Person convicted, make an order:

- (a) Prohibiting the continuation or repetition of the offence by the Person convicted; and/or,
- (b) Requiring the Person convicted to remove material from, repair or rehabilitate, at the convicted Person's expense, a Property or undertaking to achieve compliance with this By-law within such reasonable time as the Court orders.

17.5 The Township may recover its costs of remedying a violation of this By-law by invoicing the Owner, by instituting court proceedings, by adding the costs, including interest, to the tax roll, or by the exercise of any other available remedy.

18.0 ORDER UPON CONVICTION

18.1 Pursuant to Section 431 of the *Municipal Act*, if an Owner or other person is convicted of an offence for contravening this By-law or an order under Section 9.0 or Section 10.0, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter may order the Owner or other person, in such manner and within such period as the Court considers appropriate:

- (a) to rehabilitate the Land;
- (b) to remove the Fill dumped or placed contrary to this By-law; or,
- (c) to restore the grade of the Land to its original condition.

19.0 ASSISTANCE FOR OFFICER

19.1 An Officer shall have the right to confer with staff of the Township and/or retain consulting services for the purposes of determining whether the requirements of this By-law or a permit or order thereunder have been complied with, and to assist with the administration of the By-law; costs attributed to these services shall be paid for by the Owner.

20.0 CONFLICTING LEGISLATION

20.1 Where there is any conflict between the provisions of this By-law and any of the provisions of the *Municipal Act*, as amended, the provisions of the *Municipal Act*, shall prevail to the extent of the conflict.

21.0 VALIDITY AND SEVERABILITY

21.1 It is hereby declared that notwithstanding any section, subsections, clause, paragraph or provision of the By-law or parts thereof, may be declared by a court of competent jurisdiction to be invalid, unenforceable, illegal or beyond the powers of Council to enact, such section or sections or parts thereof shall be deemed to be severable and shall not effect the validity or enforceability of any other provisions of this By-law as a whole or part thereof and all other sections of this By-law shall be deemed to be separate and independent there from and enacted as such;

21.2 Whenever any reference is made in this By-law to a statute of the Legislature of the Province of Ontario, such reference shall be deemed to include all subsequent amendments to such statute and all successor legislation to such statute.

22.0 FORCE AND EFFECT

22.1 This By-law shall take effect and come into force and effect upon final passage hereof.

22.2 The provisions of this By-law shall not apply to Site Alterations undertaken prior to the final passing of this By-law. For greater certainty:

- (a) any Site Alteration carried out following the final passing of this By-law shall be undertaken in compliance with all of the provisions of this By-law, including, for greater particularity, the requirement that a permit be obtained; and,
- (b) any continuation of a Site Alteration commenced prior to the final passing of this By-law shall require a permit in respect of that portion or stage of the Site Alteration carried out following the final passing of this By-law.

READ AND PASSED THIS 24TH DAY OF FEBRUARY, 2025



Signed by:

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ANDREW LENNOX, MAYOR

DocuSigned by:

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KARREN WALLACE, CLERK