

BY-LAW NUMBER 130-17

- of -

THE CORPORATION OF THE COUNTY OF BRANT

To Prohibit or Regulate Site Alteration

WHEREAS Sections 10(2) and 142 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, authorize a municipality to pass by-laws to prohibit, regulate, or require a permit for, and impose conditions upon, the placing or dumping of Fill, removal of topsoil and alteration of the grade;

AND WHEREAS Sections 23.1, 23.2, 23.3 and 23.5 of the *Municipal Act, 2001* authorize a municipality to delegate certain powers and duties;

AND WHEREAS Sections 9, 10 and 391 of the *Municipal Act, 2001* authorize a municipality to impose fees and charges for services and activities provided or done by or on behalf of the municipality;

AND WHEREAS Section 436 of the *Municipal Act, 2001* authorizes a municipality to pass by-laws providing that the municipality may enter on land to conduct inspections;

AND WHEREAS Section 446 of the *Municipal Act, 2001* authorizes a municipality to do a matter or thing in default of it being done by the person directed or required to do it;

AND WHEREAS Council for the Corporation of the County of Brant deems it in the public interest to enact a by-law for prohibiting or regulating site alteration;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE COUNTY OF BRANT HEREBY ENACTS as follows:

SHORT TITLE

The short title of this By-law is the *Site Alteration By-law*.

PART I APPLICATION

This By-law does not apply to:

- (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 Sections 41, 51 or 53, respectively, of the *Planning Act* or as a requirement of a site plan agreement, subdivision agreement or pre-servicing 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 license 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 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*.;
- (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*;
- (h) the removal of *topsoil* as an incidental part of a normal farm practice as defined in the *Farming and Food Production Protection Act, 1998*, S.O. 1998, c.1., including such removal as an incidental part of sod-farming, greenhouse operations and nurseries for horticultural products;
- (i) the exception in subsection (h) respecting the removal of *topsoil* as an incidental part of a normal farm practice does not include the removal of *topsoil* for sale, exchange or other disposition.
- (j) the placement or *dumping of fill* as a nutrient management activity for agricultural practices in compliance with the *Nutrient Management Act, 2002*;
- (k) any *site alteration*, involving less than 20 cubic metres of *fill* for minor landscape work provided the *site alteration* is at least 1.0 metres from any property line, and does not adversely affect *drainage* on abutting properties, and does not contain contaminants at levels that exceed the applicable levels as set out in the "Soil, Groundwater and Sediment Standards for Use under Part XV.1 of the *Environmental Protection Act, R.S.O. 1990, c. E.19*, as amended;
- (l) Any *site alteration* as an incidental part of the construction, renovation, replacement or demolition of a basement, foundation, or septic bed for residential purposes in accordance with a building permit issued pursuant to the *Building Code Act, 1992*, S.O. 1992. C.23 as amended;
- (m) Any *site alteration* conducted in accordance with a public works permit issued by the *County*.
- (n) Swimming pools, provided the proposed swimming pool is not untoward any approved grading plan that applies to the lands, and does not negatively impact drainage on abutting properties due to changes in *grade* needed to accommodate the pool, or by the installation or placement of the pool itself.

PART II DEFINITIONS

In this By-law:

Applicant means any *Person* applying for a *Permit* under this By-law;

Application means an application for a *Permit* in the form prescribed by the *General Manager*.

Body of Water includes any brook, channel, creek, stream, river, lake, pond, waterway, *watercourse*, canal, swale, wetland or other land area containing or capable of containing flowing or standing water;

Boundary Tree means a *tree*, the trunk of which is located on or partially on adjacent property within 6 metres of a property line;

Control Measures means those man-made features constructed on *site* for the purpose of controlling water, which include but are not limited to, dewatering, drain inlet protection and protection against *site* erosion;

Council means the Council for the *County*;

County means The Corporation of the County of Brant, or the geographic area under the jurisdiction of the Corporation of the County of Brant;

Drainage means the movement of stormwater, whether by way of the natural characteristics of the ground surface, or by artificial or man-made means;

Dump means to deposit *fill* in a location other than the locations from which the *fill* was obtained and includes moving or depositing *fill* from one location to another on the same *lot*;

Engineer means a Professional Engineer currently licensed to practice in the Province of Ontario;

Environmentally Sensitive Area means a natural area, ravine, supporting area, environmental constraint area, or other area as designated in the *County's* Official Plan as amended.

Erosion means the detachment and movement of soil, sediment, or rock fragments by water, wind, ice or gravity;

Existing grade means the *grade* as it exists at the time of filing an *application* for a *Permit*.

Fence By-Law means the *County* Fence Bylaw.

Fill means any type of material deposited or placed on a *Lot* and includes but is not limited to earth, *topsoil*, stone, brick, concrete, asphalt, sod or turf, or any combination thereof;

Fill Quality means soil quality based on analysis completed according to O.Reg 153/04 or O.Reg 347, Schedule 4 – Leachate quality criteria, both under the *Environmental Protection Act*, R.S. O. 1990, C E.19, as amended.

Finished Grade means the actual *grade* after a *Site Alteration*;

General Manager means the *General Manager* of Development Services or their designate;

Geoscientist means a Professional Geoscientist registered to practice in the Province of Ontario;

Grade means the elevation of the surface of the land;

Haul Route means the system of *highways* that is approved for the transporting of *Fill*;

Highway means a highway as defined in the *Municipal Act, 2001*, as amended;

Inspector means a *Person* designated, appointed and authorized by *Council* to administer or enforce the provisions of this By-law;

Lot means a lot of record as indicated by Registry Office records;

Municipal tree means a *tree*, the trunk of which is located entirely or substantially on *County* property including any road allowance, boulevard, park or natural area;

Owner means a *Person* who is the registered *Owner* of a *Site*;

Permit means a *Site Alteration Permit* issued under this By-law;

Permit Holder means the *Owner of the Lot for which a Site Alteration Permit* has been issued under this By-law;

Person includes a company, a corporation, a partnership, or an individual person, and the singular shall include the plural;

Ponding means the accumulation of surface water caused by the *Site Alteration*;

Proposed Grade means the *grade* proposed by an applicant for a *permit*.

Qualified Arborist means a professional arborist registered to practice in the Province of Ontario

Retaining wall means a wall designed by an *Engineer* to contain and support *fill* which has a finished *grade* higher than that of adjacent lands;

Site means the *Lot* upon which a *Site Alteration* is proposed or has occurred;

Site Alteration means the placing or *dumping* of *Fill* on land, the removal of *topsoil* from land, or the alteration of the *grade* of land by any means including the removal of vegetation cover, the compaction of soil or the creation of impervious surfaces, or any combination of these activities;

Submerged means under the surface of water;

Topsoil means those horizons in a soil profile, commonly known as the “O” and “A” horizons, containing organic material and includes deposits of partially decomposed organic matter such as peat;

Tree means any species of wood perennial plant, including its root system, which has reached or can reach a height of at least 4.5metres (15 feet) at physiological maturity;

Watercourse means a natural or man-made channel or swale in which a flow of water occurs, either continuously or intermittently;

Zoning By-Laws means those by-laws passed by the County pursuant to Section 34 of the *Planning Act*, R.S.O. 1990 c. P.13, as amended.

PART III ADMINISTRATION

- (a) The *General Manager* shall be responsible for the administration and enforcement of this By-law.
- (b) The *General Manager* shall:
 - (i) operate and manage a Permit system in compliance with this By-law;
 - (ii) carry out the procedural and policy provisions of this By-law and request enforcement as required; and
 - (iii) engage in the issuance of Permits in accordance with this By-law.
- (c) The *General Manager* may:
 - (i) prior to the issuance of a *Permit*, require the *Owner* to enter into an Agreement which may be registered on title of the *Site* and any such Agreement may contain such requirements as the *General Manager* considers necessary to ensure that the *Site Alteration* is done in accordance with *County* requirements;
 - (ii) issue a *Permit* in accordance with the provisions of this By-law;
 - (iii) make forms, notices, *applications* and documents not otherwise prescribed by this By-law to satisfy the requirements of, or to provide other information required under this By-law.
- (d) The Schedules appended to this By-law are incorporated into, and form a part of this By-law.

PART IV GENERAL PROVISIONS

- (a) No *Person* shall place and no *Owner* shall permit, the placement of *Fill* on any land, that contains contaminants at levels that exceed the applicable levels as set out in the “Soil, Groundwater and Sediment Standards for Use under Part XV.1 of the *Environmental Protection Act, R.S.O. 1990, c. E. 19*, as amended.
- (b) No *Person* shall place and no *Owner* shall permit, the stockpiling of *Fill* in any quantity, on any land, at a depth that exceeds 2.0 metres for a period of time that exceeds 30 days, unless the stockpiling is legally authorized.
- (c) No *Person* shall carry out and no *Owner* shall permit a *Site Alteration* in the *County*:
 - (i) without having obtained a *Permit* prior to commencing any *Site Alteration* on the *Lot*, and thereafter continuing to hold, a valid *Permit* issued in accordance with this By-law;
 - (ii) in contravention of a *Permit* issued under this By-law.
- (d) Every *Applicant* for a *Permit* under this By-law shall:
 - (i) complete and submit the applicable form(s) as provided by the *County*;
 - (ii) submit the *Permit* fee as set out in the *County Fees and Charges By-law*; and
 - (iii) provide all documentation as required under this By-law and schedules to this By-law.

PART V APPLICATION FOR A SITE ALTERATION PERMIT

- (a) Subject to Part I of this By-law, any person who wishes to undertake *Site Alteration* shall submit an *Application* to the *General Manager*. An *Application* shall contain all information related to the *Site Alteration* prescribed or requested by the *General Manager* as described in Schedule ‘A’ of this By-Law.
- (b) Notwithstanding any other section of this By-law or schedule thereto, the *General Manager* may waive the requirement for an *Application*, or any part thereof, after considering:
 - (i) the nature and scale of the proposed *Site Alteration*; and
 - (ii) the anticipated impact on the site and the surrounding environment.

PART VI ENFORCEMENT

- (a) Every *Person* and every director or officer of a corporation, who contravenes any of the provisions of this By-law is guilty of an offence and upon conviction is liable to pay a fine of not less than Five Hundred Dollars (\$500.00) and not more than One Hundred Thousand Dollars (\$100,000.00).
- (b) Any contravention of any provision of this By-law is hereby designated as a continuing offence for each day the offence continues.
- (c) In addition to any other remedy or penalty imposed, for contravention of any provision of this By-law, any *Person*, and any director or officer of a corporation who is convicted of an offence under this By-law is liable to a fine of not less than \$500 for each day or part of a day that the offence continues, and not more than \$10,000 for each day or part of a day that the offences continues, and the total of all daily fines is not limited to One Hundred Thousand Dollars \$100,000.00.
- (d) In addition to any other remedy or penalty imposed for contravention of any provision of this By-law, the court in which the conviction has been entered or any court of competent jurisdiction thereafter may make an order prohibiting the continuation or repetition of the

offence by the *person* convicted and requiring the *person* convicted to correct the contravention in the manner and within the period that the court considers appropriate.

- (e) In addition to any other remedy or penalty imposed for contravention of any provision of this By-law, the contravention may be restrained by application by the *County* or by any *County* taxpayer.
- (f) An *Inspector* may enter upon a *Site* at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
 - (i) this By-law;
 - (ii) a *Permit*, or a condition of a *Permit*; or
 - (iii) a direction or order made under the *Municipal Act, 2001*, S.O. 2001, c.25 or this By-law.
- (g) Pursuant to section 437 of the *Municipal Act, 2001*, a person exercising a power of entry on behalf of the *County* under this By-law shall not enter or remain in any room or place actually being used as a *dwelling unit* unless:
 - (i) the consent of the occupier is obtained, the occupier first having been informed that the right of entry may be refused and, if refused, may only be made under the authority of an order issued under section 438, a warrant issued under section 439 or a warrant under section 386.3;
 - (ii) an order issued under section 438 of the *Municipal Act, 2001* is obtained;
 - (iii) a warrant issued under section 439 of the *Municipal Act, 2001* is obtained;
 - (iv) a warrant issued under section 386.3 of the *Municipal Act, 2001* is obtained;
 - (v) the delay necessary to obtain an order under section 438, to obtain a warrant under section 439 or to obtain the consent of the occupier would result in an immediate danger to the health or safety of any person.
- (h) Pursuant to section 438 of the *Municipal Act, 2001*, where an employee, officer or agent of the *County* or a member of the police force of the *County*, has made a reasonable attempt to obtain the occupier's consent to conduct an inspection and has been unable to exercise the powers, the *County* may, pursuant to section 438 of the *Municipal Act, 2001* obtain an order authorizing the *County* to enter on land for the purpose of carrying out an inspection and the inspector may inspect in accordance with the order and the provisions of section 438 of the *Municipal Act, 2001*, as amended.
- (i) For the purposes of an inspection under this By-law the *Inspector* may:
 - (i) require the production for inspection of documents or things relevant to the inspection;
 - (ii) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - (iii) require information from any *Person* concerning a matter related to the inspection; and
 - (iv) 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.
- (j) A receipt shall be provided for any document or thing removed and the document or thing shall be promptly returned after the copies or extracts are made.
- (k) Any sample taken shall be divided into two parts, and one part shall be delivered to the *Person* from whom the sample is taken, if the *Person* so requests at the time the sample is taken and provides the necessary facilities.

- (l) If a sample is taken, and the sample has not been divided into two parts, a copy of any report on the sample shall be given to the *Person* from whom the sample was taken.
- (m) Pursuant to section 426(1) of the *Municipal Act, 2001*, No *person* shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under the under the Act or a by-law passed under the Act.
- (n) If the *Inspector* is satisfied that a contravention of this By-law has occurred, the *Inspector* may 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 *Site* on or about which the contravention occurred to:
 - (i) discontinue the contravening activity;
 - (ii) do work to correct the contravention.
- (o) No *Person* shall fail to comply with an order issued pursuant to this By-law.
- (p) An order issued under this section shall set out:
 - (i) reasonable particulars of the contravention adequate to identify the contravention; and
 - (ii) the location of the *Site* or elsewhere on which the contravention occurred; and
 - (iii) either, in the case of an order under Subsection 6 (n)(i) hereof, the date by which there must be compliance with the order; or in the case of an order under Subsection 6 (n)(ii), hereof the work to be done.
- (q) An order under Subsection 6 (n)(ii) may require work to be done even though the facts which constitute the contravention of this By-law were present before this By-law came into force.
- (r) In default of any work required by an order under Subsection 6 (n)(ii) being done by the *Person* directed or required to do it, the work may be done by the *County* at the *Person's* expense.
- (s) The *County* may recover the costs of doing anything or matter under Subsection 6 (r) by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes.
- (t) The costs in Subsection 6 (s) shall include Interest charges, not to exceed 1 1/4 per cent each month of the amount of taxes due and unpaid, that may be imposed for the non-payment but interest may not start to accrue before the first day of default.
- (u) For the purposes of this section, the *County* and its employees, agents and representatives may enter upon the *Site* at any reasonable time.
- (v) An order under this section shall be served on the *Person* whom the *Inspector* believes is contravening this By-law by personal delivery or registered mail. The order shall be deemed to have been served on the seventh (7th) day after the date of mailing or on the date of personal delivery.

If a court of competent jurisdiction should declare any section or a part of this By-law to be invalid, the remainder of this By-law shall continue in force, unless the court makes an order to the contrary.

That County of Brant By-law Number 112-12 is hereby repealed in its entirety

This By-law shall come into full force and effect on.

This By-law shall come into full force and effect upon its third Reading.

READ a first and second time, this 29th day of August, 2017.

THE CORPORATION OF THE COUNTY OF BRANT

R.E.F. Eddy, Mayor

Heather Boyd, Clerk

READ a third time and finally passed in Council, this ____ day of _____, 201__.

THE CORPORATION OF THE COUNTY OF BRANT

R.E.F. Eddy, Mayor

Heather Boyd, Clerk

SCHEDULE A

SITE ALTERATION PERMITS

1. A Person applying for a Permit shall submit the following to the General Manager:

- (a) a complete *application* in the form prescribed by the *General Manager*, including proof satisfactory to the *General Manager* that the *Applicant* is the legal *Owner* of the *Site*, or has written authorization from the *Owner* of the *Site* to submit the *application*;
- (b) the applicable *Permit* fee in accordance with the *County Fees and Charges By-law*;
- (c) a site plan drawn to scale prepared by a Professional *Engineer* showing:
 - (i) the location and property boundaries of the *Site* including a north arrow, all easements and rights-of-way over, under, across or through the *Site*;
 - (ii) existing elevations in the form of contours at 0.5 metre intervals or less, with spot elevations along the *Site* boundary lines and 5.0 metres beyond the *Site* boundary lines at sufficient intervals to clearly show the existing *drainage* patterns on the *Site* and on the abutting Lands;
 - (iii) the location of all existing underground plant, including storm sewers, sanitary sewers, septic systems, wells, watermains, utilities;
 - (iv) the location of all existing buildings or structures, and driveways on the *Site*;
 - (v) proposed sediment and *erosion* control that will be installed prior to alteration of the *Site*;
 - (vi) proposed final elevations and the *drainage* system to be used upon completion of the *Site Alteration*;
 - (vii) the intended use of the *Site*, including a description and location of the proposed *Fill* placement; total *Fill* quantity in cubic metres, location and dimensions of all temporary stockpiles including the length of time the stockpile will be retained on the site prior to compaction and re-vegetation, staging areas and access routes;
 - (viii) all existing street services, including light standards, hydro poles and transformers, cable television and telephone pedestals, fire hydrants and valves, catchbasins and manholes;
 - (ix) The centre line and elevations of surrounding *Highways*;
 - (x) Start and finish date of the *Site Alteration*, including sequencing and re-vegetation;
 - (xi) location of all natural features including, all *trees* greater than 50 mm in caliper (which shall be identified by species), all shrubs, floodplain, *watercourses*, *bodies of water*, wetlands, top of bank or stable slope line and the required set back to these features on the *Site* and on abutting Lands and *Highways*;
 - (xii) Existing topography;
 - (xiii) Multiple cross-sections through each *Fill* area;
 - (xiv) The regulatory limit as prescribed by Ontario Regulation 150/06 and 178/06;
- (d) Sediment and Erosion Control Plan prepared by a Professional *Engineer*;
- (e) For a site alteration that proposes the removal of trees, a copy of approved minor exception or approved Notice of Intent to Cut issued pursuant to the County of Brant Tree Conservation By-law authorizing the removal of trees

- (f) Site Restoration Plan;
- (g) Report signed and sealed by a Professional *Engineer*, certifying that the *Fill* is clean and inert as per Ministry of Environment Guidelines, and contains no contaminants within the meaning of the *Environmental Protection Act, R.S.O. 1990, c. E.19*, as amended, and further that the *Fill* meets the most stringent Ministry of Environment table guidelines regardless of the current use unless the *General Manager* approves compliance to the table requirements applicable to the current permitted land use as set out in the *County Zoning By-law*;
- (h) A plan showing the design details to proper scale of any *retaining wall* that may be required, including the size, type and location of all material to be used in construction of such *retaining wall*, with a Professional *Engineer's* signature and stamp;
- (i) A *Haul Route Plan* showing the proposed highways within the *County* to be used for vehicles dumping *Fill* and where the *Highways* are not under the jurisdiction of the *County*; the *Applicant* shall provide permission from the road authority in a form acceptable to the *General Manager* prior to issuance of a *Permit*;
- (j) A refundable security:
 - (i) in the amount as prescribed in the *County Fees and Charges By-law*;
 - (ii) in the form of an Irrevocable Letter of Credit in effect for the full duration of the *Permit* with an automatic renewal to secure performance of the work for which the *Permit* was obtained;
 - (iii) available to recover the cost of the *County* performing or having performed:
 1. any required works which the *Applicant* or *Permit* holder has failed to perform to the satisfaction of the *General Manager*;
 2. any restoration or maintenance works required to be performed on any *Highway* as a result of the works.
- (k) A release and indemnity in favour of the *County*, and in a form satisfactory to the *General Manager*, with respect to any and all liability which may arise as a result of the *Site Alteration* and including any liability in the event that the *Fill* used in the *Site Alteration* contains contaminants within the meaning of the *Environmental Protection Act, R.S.O. 1990, c. E.19*, as amended;
- (l) Written confirmation from a Professional *Engineer* or Ontario Land Surveyor certifying compliance with the engineered grading plan and which includes a survey showing as build grades and drainage patterns.
- (m) The following supporting documentation to the *General Manager* upon request:
 - (i) Environmental Impact Study;
 - (ii) Hydrogeological Study;
 - (iii) Geotechnical Study;
 - (iv) Hydraulic Analysis (including frequently flooded areas);
 - (v) Storm water management report;
 - (vi) Report from a Qualified Arborist

2. PERMIT EXPIRATION AND RENEWAL

- (a) A *Permit* shall remain valid for a period of one (1) year from the date of issuance but shall expire six (6) months after the date of issuance if work under the *Permit* has not yet commenced.
- (b) A *Permit* that is no longer valid or has expired may, at the sole discretion of the *General Manager*, be renewed for a six (6) month period from the date of invalidity or expiry provided that the proposed work has not been revised and that the *Applicant* is not in contravention of the requirements of this By-law.
- (c) A request under Subsection (b) shall be made in writing to the *General Manager* accompanied by payment of the applicable Permit fee in accordance with the *County Fees and Charges By-law*.

3. TERMS AND CONDITIONS OF A PERMIT

All *Permits* shall contain the following conditions:

- (a) The issuance of a *Permit* does not relieve the *Owner* of a *Site*, an *Applicant*, or a *Permit Holder* from any responsibility to obtain all other approvals that may be required from any level of government or authority having jurisdiction or any agencies thereof.
- (b) A *Permit* shall be prominently displayed at the entrance to the *Lot* for the duration of the *Site Alteration* and is not transferable to another *Lot* or *Person*, except in accordance with section 6 (b) of this Schedule.
- (c) The work shall be done at the request of, or with the consent of, the
 - (i) *Owner* of the *Lot* where the proposed *Site Alteration* is to be performed.
- (d) All *Fill* to be dumped or placed shall be clean and free of waste, asphalt,
 - (i) trash, rubbish, glass, liquid or toxic chemicals, hazardous waste or contaminants within the meaning of the *Environmental Protection Act R.S.O. 1990, c.E.19*
- (e) No *ponding* or alteration of existing surface water flow resulting directly or indirectly from the *Site Alteration* shall be caused on abutting Lands.
- (f) The *finished grade* surface shall be protected from *erosion* by sod, turf, seeding for grass, greenery, asphalt, concrete, or other means either singly or in combination, upon completion of the *Site Alteration* work, or as specified by the *General Manager*.
- (g) Any infrastructure that is part of the *drainage* system shall be inspected by the *General Manager* prior to backfilling the excavation.
- (h) *Erosion* and sedimentation *control measures* shall be provided around all disturbed areas in a manner satisfactory to the *General Manager* prior to the commencement of the *Site Alteration*, and shall be maintained in good working order until the *Site* has stabilized. The *site alteration* shall:
 - (i) not have a detrimental effect on any tree of a caliper of 50 mm or more unless authorized by the county;
 - (ii) not result in the unauthorized injury or destruction of *municipal trees* or other *trees* protected under any County of Brant By-laws;
 - (iii) not result in the injury or destruction of trees specifically protected as a condition of the *Site Alteration Permit*;

- (iv) not result in the removal any trees or vegetation designated as environmentally significant;
- (i) All *Fill* shall be properly compacted using acceptable engineering practices, unless it is being temporarily stockpiled. Stockpiles that remain in place for more than 30 days shall be stabilized by vegetative cover, *erosion* mats or other means. Stockpiles that will be in existence less than 30 days shall be controlled by heavy duty sediment fencing installed around the perimeter of the pile.
- (j) The *Permit Holder* and *Owner* shall ensure that natural *drainage* or any natural or human-made *watercourse* or *body of water* is not altered in such a manner that will negatively affect other property or the environment.
- (k) Notwithstanding any other legislated reporting requirement, if archaeological resources are discovered or identified during the *Site Alteration*, even after the issuance of a *Permit*, the *Owner* of a *Site*, an *Applicant* or a *Permit Holder* shall immediately cease all activity on the property and contact the *General Manager*.
- (l) No *Site Alteration* shall be performed:
 - (i) on any Sunday, or Statutory Holiday or before 7:00 am or after 7:00 pm Monday through Saturday, however despite the time frames indicated above no *Site Alteration* shall be performed one half (1/2) hour before dawn or one half hour (1/2) after dusk.
 - (ii) using *Highways* to or from the *Site* except those *Highways* designated Haul Routes;
 - (iii) in contravention of the *County's Noise By-law*;
 - (iv) that exceeds one hundred (100) truckloads of *Fill* per day arriving at, or leaving the *Site* using *Highways* to access or egress from the *Site*;
 - (v) prior to submitting to the *County* a schedule of the anticipated starting and completion dates for each *Site Alteration* activity including the schedule for the use of the designated *Haul Routes*;
 - (vi) prior to submitting to the *County* a submission detailing *Site erosion control measures* and dust control measures that will be implemented and maintained during and following construction, as required.
- (m) The *Owner* and Occupant of the *Site* and any *Permit Holder* shall ensure that the *Site Alteration* performed pursuant to a *Permit* shall not detrimentally affect the quality or quantity of water in wells on adjacent properties.
- (n) The *Owner* and Occupant of the *Site* and any *Permit Holder* shall ensure that all vehicles to and from the *Site* follow the designated *Haul Routes* to and from the *Site*.
- (o) The *Owner* and Occupant of the *Site* and any *Permit Holder* shall ensure that No *Fill* is be placed on native *topsoil* and that *Fill* areas are stripped of top soil and stockpiled at locations as noted on the site plan.
- (p) The *Owner* and Occupant of the *Site* and any *Permit Holder* shall ensure that the *finished grade* shall not have a slope greater than 3:1 or so that the *finished grade* at the property line is higher than the *existing grade* of the abutting land.
- (q) The *Owner* and Occupant of the *Site* and any *Permit Holder* shall comply with any other requirements for the securing of the land or any other condition deemed appropriate at the sole discretion of the *General Manager*.

4. RESPONSIBILITIES OF PERMIT HOLDER

Every *Permit Holder* shall:

- (a) notify the *County* upon commencement and upon completion of the work authorized by the *Permit*;
- (b) provide proof satisfactory to the *General Manager* that the *Site* has been adequately reinstated and stabilized in accordance with this By-law and the plan accompanying the *Permit*;
- (c) give notice to the *General Manager* to carry out a final inspection to confirm that all relevant terms of this By-law have been complied with;
- (d) following the completion of the *Site Alteration*, and before the release of any deposit or portion thereof, provide a statement from a Professional *Engineer* retained by the *Permit Holder* certifying that:
 - (i) the grading has been completed in accordance with the plans submitted;
 - (ii) the finished project does not detrimentally affect *drainage* on adjacent properties; and
 - (iii) the finished project does not detrimentally affect the quality or quantity of water in wells on adjacent properties.
- (e) prior to commencement of works under a *Permit*, certify that the *Fill* introduced to the *Site* contains no contaminants within the meaning of the *Environmental Protection Act*, R.S.O. 1990, c.E.19, as amended;
- (f) keep all *Highways* free of debris originating from the *Site Alteration*; and
- (g) during performance of a *Site Alteration*, perform the following minimum procedures:
 - (i) at least once per day, scrape all *Highways* that have been fouled; and
 - (ii) at least once each week on Friday night or Saturday morning, clean all *Highways* that have been fouled; and
 - (iii) perform any additional cleaning of the *Highways* as directed by the *County*;
- (h) comply with all conditions of the *Permit* and the provisions of this By-law.

5. ISSUANCE OF PERMIT

The *General Manager* may issue a *Permit* where:

- (a) the *General Manager* is satisfied that the *Site Alteration* which is the subject of the *application* for a *Permit* is not otherwise prohibited by this By-law;
- (b) the *Applicant* has fulfilled all requirements of this By-law;
- (c) the *Applicant* has entered into an agreement referred to in Subsection 3(c)(1) of this By-law, if required, and has performed all the obligations which the agreement requires to be performed prior to the issuance of a *Permit*;
- (d) the *General Manager* is satisfied that the *proposed grade* and resulting *drainage* pattern, the design of any *retaining wall*, the type of *Fill* to be placed and the method of grading, are all in accordance with prevailing *County Development and Engineering Standards*;
- (e) a Professional *Engineer's* signature and stamp is provided on the plan submitted with the *application*, where the exposed height of any *retaining wall* is 1.0 metre or greater; and

- (f) an appropriate *Haul Route* or *Haul Routes* to and from the *Site* have been designated by the *General Manager* for the use of Vehicles traveling to or from the *Site* for the purpose of dumping or placing *Fill*.

6. REVOCATION OF PERMIT

- (a) The *General Manager* may revoke a Permit at any time:
 - (i) when the *Site Alteration* is contrary to the provisions of this By-law, the conditions of a *Permit*, or other applicable law;
 - (ii) when the *Permit* was issued in error, or on mistaken, false, incomplete or incorrect information.
- (b) Where the ownership of the *Lot* for which a *Permit* has been issued is to be transferred while the *Permit* remains in effect, the *Permit Holder*, prior to the completion of the transfer of the *Lot*, shall provide written notice of both the pending transfer and the *Site Alteration* status to both the *General Manager* and the purchaser, and the new Owner shall within thirty (30) days of the completion of the transfer shall either:
 - (i) provide the *County* with an undertaking to comply with all the conditions under which the existing *Permit* was issued, or
 - (ii) apply for and obtain a new *Permit* in accordance with the provisions of this By-law.
- (c) In the event that neither the undertaking prescribed by subsection 7 (b)(i), nor a complete *Application* for a new Permit under subsection 7 (b)(ii), is received by the *County* prior to the transfer of the *Lot*, the existing *Permit* may be revoked by the *General Manager*, and the *Permit Holder* shall thereupon cease and desist forthwith all operations being conducted under the authority of the revoked *Permit*, save and except for proper clean-up of the *Site Alteration* works already undertaken.
- (d) Where it is determined that the *Permit Holder* has provided misleading or false information on the *Application*, or has contravened the provisions of this By-law or the requirements or conditions of the *Permit*, the *General Manager* may revoke said *Permit* and the *Permit Holder* shall thereafter cease and desist all operations being conducted under the authority of the revoked *Permit*, save and except proper clean-up of the *Site Alteration* works already undertaken.

7. REFUSAL TO ISSUE PERMIT

- (a) The *General Manager* may refuse to issue a Permit when the requirements of this By-law have not been satisfied. In the event that the *General Manager* refuses to issue a Permit, the Applicant shall be informed in writing by personal delivery or regular mail of the refusal, and the reasons for the refusal. The *General Manager* may reconsider the *Application* if the additional information or documentation required by the *General Manager* is submitted.

8. APPEAL

- (a) The Applicant may within 20 business days of the making of the decision of the *General Manager* to refuse to issue a Permit, appeal to the Planning Advisory Committee against the decision of the *General Manager* by filing with the Clerk a notice of appeal setting out the objection to the decision and the reasons in support of the objection, accompanied by payment to the Clerk of the fee as set out in the County Fees and Charges By-law on an appeal for a *Site Alteration Permit*.
- (b) Where a notice of appeal is not received within the time indicated in subsection 8 (a) no further opportunity to file a notice of appeal will be granted.

- (c) The Clerk, upon receipt of a notice of appeal filed under subsection 8 (a), shall schedule a hearing before the Planning Advisory Committee and shall provide notice in the manner and containing the information described in this section at least 10 days before the date of the hearing, to the Applicant and each owner within 60 m of the subject property.
- (d) Notice shall be provided by personal service or prepaid first class mail and shall include the following:
 - (i) The date, time and location of the appeal hearing;
 - (ii) A statement that the hearing is being held in accordance with the Statutory Powers Procedure Act, R.S.O. 1990, c. S. 22 as amended;
 - (iii) The objection to the decision and the reasons in support of the objection;
 - (iv) A statement that if the party notified, or their representative, does not attend at the appeal hearing, the Planning Advisory Committee may proceed in the party's absence and the party will not be entitled to any further notice in the proceeding;
 - (v) Where the good character, propriety of conduct or competence of a party is an issue in the appeal hearing, the party is entitled to be furnished with reasonable information of any allegations with respect thereto.
- (e) The Planning Advisory Committee will conduct a hearing in accordance with the Statutory Powers Procedure Act, R.S.O. 1990, c. S. 22 as amended, and may uphold, reverse or amend the decision of the General Manager as in its opinion is desirable, if in the opinion of the Planning Advisory Committee the general intent and purpose of the By-law is maintained. Where a notice of hearing has been given to a party, or their representative, and the party, or their representative does not attend the hearing, the Planning Advisory Committee may proceed in the absence of the party and the party is not entitled to any further notice in the proceeding.
- (f) In addition to complying with the requirements of this By-law the Planning Advisory Committee shall comply with such rules of procedure as are set out in the Statutory Powers Procedure Act, R.S.O. 1990, c. S. 22 as amended.
- (g) The hearing shall be held in public, except as otherwise provided in the Statutory Powers Procedures Act, R.S.O. 1990, c. S.22, as amended, and the Planning Advisory Committee shall hear the appellant and any party who participated in the hearing, or their representatives, and the Planning Advisory Committee may adjourn the hearing or reserve its decision.
- (h) Any member of the Planning Advisory Committee may administer oaths and affirmations and may require evidence to be given under oath or affirmation.
- (i) No decision of the Planning Advisory Committee on an appeal is valid unless it is concurred in by the majority of the members of the Planning Advisory Committee that heard the appeal, and the decision of the Planning Advisory Committee, whether upholding, amending or reversing the decision of the *General Manager*, shall be in writing and shall set out the reasons for the decision. When the Planning Advisory Committee makes a decision on an appeal, no further opportunity to appeal will be granted by the County.

- (j) Any decision by the Planning Advisory Committee may be for such time and subject to such terms and conditions as the Planning Advisory Committee considers advisable and as are set out in the decision.
- (k) The Recording Secretary of the Planning Advisory Committee shall compile a record of the hearing as set out in the Statutory Powers Procedures Act, R.S.O. 1990, c. S22. and shall provide said record to the Planning Clerk.
- (l) The Planning Clerk shall, not later than ten business days from the making of the decision, send one copy of the decision including the reasons that have been given if any, by regular letter mail, by electronic transmission, or by telephone transmission of a facsimile, to each party who participated in the appeal hearing or their representatives, including a statement that no further opportunity to appeal will be granted by the County and such notice deemed to be received by the party as set out in the Statutory Powers Procedures Act, R.S.O. 1990, c.S22.
- (m) Where the Planning Advisory Committee decision is to issue the *Site Alteration Permit* no further opportunity to appeal will be granted by the County, and the *Site Alteration Permit* shall be issued.
- (n) If all appeals under subsection 8 (a) are withdrawn within 15 business days after the last day for filing a notice of appeal, the Planning Clerk shall notify the parties that the appeal has been withdrawn, that a hearing will not be held and that no further opportunity to appeal will be granted.