

**BY-LAW NUMBER 87-24**

- of -

**THE CORPORATION OF THE COUNTY OF BRANT**

To Prohibit or Regulate Site Alteration

**WHEREAS**, Section 10(2) of the *Municipal Act* 2001, S.O.2001, c.25, as amended, authorizes a *Municipality* to pass by-laws respecting the economic, social and environmental well-being of the *Municipality* and the health, safety and well-being of *Persons*;

**AND WHEREAS** Section 142 of the *Municipal Act*, 2001, S.O. 2001, c.25, as amended, authorizes 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* or alteration of the *Grade* of land;

**AND WHEREAS**, without limiting sections 9, 10 and 11, a local *Municipality* may,

- (a) prohibit or regulate the placing or *Dumping of Fill*;
- (b) prohibit or regulate the removal of *Topsoil*;
- (c) prohibit or regulate the alteration of the *Grade* of the land;
- (d) require that a *Permit* be obtained for the placing or *Dumping of Fill*, the removal of *Topsoil* or the alteration of the *Grade* of the land; and
- (e) impose conditions to a *Permit*, including requiring the preparation of plans acceptable to the *Municipality* relating to grading, *Filling* or *Dumping*, the removal of *Topsoil* and the rehabilitation of the *Site*. 2006, c. 32, Sched. A, s. 76 (1).

**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* to ensure that;

- a) Existing *Drainage* patterns are maintained and *Erosion* and sedimentation are prevented; and
- b) Changes to *Drainage* or *Grade* are appropriate to protect environmentally sensitive areas, archeological resources, and areas of archaeological potential; and
- c) Interference and damage to *environmentally sensitive areas* are prevented; and
- d) Groundwater and surface water quantity and quality is maintained; and
- e) There is no discharge of *Contaminant* into the environmentally sensitive areas that causes or may cause an *Adverse Effect* and that degradation of the pre-existing *Soil* and ground water quality at the *Site* and on adjacent properties is prevented; and
- f) *Haul routes* for the transportation of *Fill* and *Topsoil* authorized for placement, *Dumping* or removal will be designated to and/or from the *Site* by the *County* to minimize damage to the *Municipality's* roads and minimize interference and/or disturbance to the *Municipality's* residents and businesses; and
- g) Disturbance to landform characteristics are kept to a minimum; and

- h) The costs associated with the site alteration project are paid by the proponent.

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

## **PURPOSES**

1. The purposes of this *By-law* are:
  - a) To prohibit, control and regulate *Site Alteration* on lands within the *County* of Brant; and
  - b) To ensure *Site Alteration* is undertaken for necessary or beneficial purposes and
  - c) To minimize adverse impacts on infrastructure, environment and community in respect of *Site Alteration* undertakings; and
  - d) To promote and protect agricultural resources.

## **SECTION 1 - DEFINITIONS AND INTERPRETATION**

- 1.1 This *By-law* may be cited as the *Site-Alteration By-law*.
- 1.2 The Schedules appended to this *By-law* are incorporated into and form part of this *By-law*.
- 1.3 *Council* shall have the same powers as the *Director* pursuant to this *By-law* for the issuance of *Permits* and agreements under Section 5.
- 1.4 In this *By-law*:

***Adverse Effect*** means one or more of:

- a) impairment of the quality of the natural environment for any use that can be made of it;
- b) injury or damage to property or plant or animal life;
- c) harm or material discomfort to any *Person*;
- d) an *Adverse Effect* on the health of any *Person*;
- e) impairment of the safety of any *Person*;
- f) rendering any property or plant or animal life unfit for human use;
- g) loss of enjoyment of normal use of property; and
- h) interference with the normal conduct of business;

***Agricultural Lands*** includes all lands that are used by a farming business registered under the *Farm Registration and Farm Organizations Funding Act, 1993, S.O. 1993, c.21* as amended, for growing of crops, including nursery and horticultural crops, raising livestock, raising of other animals for food, fur or fibre, including poultry and fish, aquaculture, apiaries, agro-forestry and maple syrup production;

***Agricultural Operation*** has the same meaning as under the *Farming and Food Protection Act, 1998*, which is, for ease of reference, an agricultural, aquacultural, horticultural or silvicultural operation that is carried on in the expectation of gain or reward;

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

***Application*** means an *application* to the *County* made under Section 4 of this *By-law*;

***Archaeological Resources*** means artifacts, archaeological sites, marine

archaeological sites, as defined under the *Ontario Heritage Act*. The identification and evaluation of such resources are based upon consultation with Indigenous Communities and archaeological fieldwork undertaken in accordance with the *Ontario Heritage Act*.

**Areas of Archaeological Potential** means areas with the likelihood to contain *archaeological resources*, as based on criteria to identify archaeological potential established by the Province and/or as based on consultation with Indigenous Communities. The *Ontario Heritage Act* requires archaeological potential to be confirmed by a licensed archaeologist.

**By-law** and **Site-Alteration By-law** means this *By-law*;

**Clearing and Grubbing** means the removal of all surface objects, brush, roots and other protruding obstructions, trees and stumps which result in the removal of topsoil or the alteration of the grade of the land;

**Commercial Fill Operation** means a *Site Alteration* where the placing or *Dumping of Fill* is for commercial benefit or gain, whether for the *owner* or occupier of the land or for a third party, including the placing or *Dumping of Fill* involving remuneration paid, or any other form of consideration provided, to the *owner* or occupier of the land or a third party, whether or not the remuneration or consideration is the sole reason for the placing or *Dumping of the Fill*;

**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*;

**Corporation** means The Corporation of the County of Brant

**Council** means the Council for the County of Brant;

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

**Director** means the Director of Development Engineering or an employee of the *Municipality* authorized to administer, enforce or carry out the powers and/or duties of the provisions of this *By-law*;

**Drainage** means the movement of *stormwater*, whether by the way of 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 Areas** means any natural heritage and hydrologic features and areas deemed to provide social, economic, ecological and/or hydrologic functions and processes how-so-ever described in Provincial Policies and Plans, Official Plans or *Zoning By-laws* including, but not limited to, terms such as Natural Heritage Systems, Water Resource Systems, *Key Natural Heritage Features*, Key Hydrologic Features, Vegetation Protection Zone and Green Infrastructure. *Environmentally Sensitive Areas* shall include lands within 15 metres of the boundary of *Key Hydrologic Features* and *Key Heritage Features*;

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

**Fill** includes *Soil*, subsoil, *Topsoil*, stone, sod, turf, clay, sand, gravel, concrete, asphalt, or other such similar material, either singly or in combination, and includes hydro vacuum truck slurry and slurry by-product capable of being removed from or deposited on lands;

**Grade** means the elevation of the ground surface and shall be more particularly defined as follows:

- a) **Existing Grade** means the elevation of the existing ground surface of the lands upon which the placing, *Dumping*, cutting or removal of *Fill* or altering of the *Grade* is proposed and of abutting ground surface up to 3 m wide surrounding such lands, except where such activity has occurred in contravention of this *By-law*, then *Existing Grade* shall mean the ground surface of such lands as they existed prior to the said activity requiring a *Permit* under this *By-law*;
- b) **Proposed Grade** means the proposed finished elevation of ground surface after *Fill* is *Dumped* or placed, the *Grade* altered or *Topsoil* removed; and
- c) **Finished Grade** means the approved elevation of ground surface of lands upon which *Fill* has been placed, *Dumped*, cut or removed or the *Grade* altered in accordance with this *By-law*;

**Green Infrastructure** means natural and human-made elements that provide ecological and hydrologic functions and process. Green infrastructure can include but may not be limited to components such as natural heritage features and systems, parklands, stormwater management systems, street trees and urban forests.

**Haul Routes** mean routes defined by the *County* as part of a *Permit* or any agreement made under this *By-law* that describe which routes must be followed when transporting *Fill* to or from the *Site*;

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

**Inspector** means any *Person* designated by this or any other *By-law* of the *Municipality* as an *Inspector* for the purposes of this *By-law*, and an *Inspection* shall have a corresponding meaning;

**Key Hydrologic Areas** includes significant groundwater recharge areas, highly vulnerable aquifers, and significant surface water contribution areas that are necessary for the ecological or hydrologic integrity of the watershed;

**Key Hydrologic Features** includes permanent streams, *intermittent streams*, inland lakes and their littoral zones, seepage areas and springs, and *wetlands*;

**Key Natural Heritage Features** include wetlands, habitat of endangered and threatened species, fish habitat, regional and provincially significant areas of natural and scientific interest, significant valley lands, significant woodlands, and significant wildlife habitat (including habitat of special concern species); and sand barrens, savannahs and tallgrass prairies, and alvars;

**Impervious Surfaces** includes surfaces that prevent or reduce infiltration, or water penetration such as gravel, pavements, buildings, asphalt, concrete, brick, stone, or other such similar water-resistant material, either singly or in combination;

**Intermittent Streams** includes stream-related watercourses that contain water or are dry at times of the year that are more or less predictable, generally flowing during wet seasons of the year but not the entire year, and where the water table is above the stream bottom during parts of the year.

**Insurance** includes Commercial General Liability *Insurance* and Pollution Liability *Insurance* or any other *Insurance* as deemed necessary by the *County*;

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

**Management of Excess Soil – Rules for Soil Management and Excess Soil Quality Standards 2019** (MOECP BMP) means the document released by the MECP in 2019 and which addresses management of excess *Soils*, as amended.

**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;

**Municipality** means any political unit such as a town, village, or any other entity incorporated for local self-government and specifically the *Corporation* of the *County of Brant* with respect to this *By-law*;

**Normal Farm Practice** has the same means as under the Farming and Food Production Protection Act, 1998 which is, for ease of reference a practice that

- i) is conducted in a manner consistent with proper and acceptable customs and standards as established and followed by similar *Agricultural Operations* under similar circumstances, or
- ii) makes use of innovative technology in a manner consistent with proper advanced farm management practices

**Order** means a mandatory requirement for action within a specified time period specifically issued by the *Corporation's* By-law Enforcement Officer or other authorized personnel to address issues of non-compliance with the conditions of the *Permit* and/or *Site Alteration Agreement*;

**Owner** includes the registered *Owner* of the lands to which a *Site Alteration* is proposed and any *Person*, firm or corporation in charge, management or control of such lands and shall include terms in this *By-law* such as *Applicant*, operator or property *Owner*;

**Permit** means a *Site Alteration Permit* issued pursuant to this *By-law* and includes any agreements entered into by the *Municipality* and the *Owner* of the land to which the *Site Alteration* applies;

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

**Person** means an individual, property *Owner*, multiple *Persons*, partnership or a *corporation*;

**Pervious Surfaces** includes surfaces that permit infiltration, or water penetration which includes *Fill* other than *Impervious Surfaces*;

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

**Public Authority** means any commission, committee, school board, department or agency of the Government of Canada, Province of Ontario, Grand River Conservation Authority, or Long Point Region Conservation Authority;

**Putrescible Organic Material** means material that contains organic matter capable of being decomposed by microorganisms and of such a character and proportion as to cause obnoxious odours and to be capable of attracting or providing food for birds or other animals;

**Qualified Person** means a *Person* qualified as defined within Ontario Regulation 153/04 – “Qualified Person, other than Risk Assessment” as amended;

**Receiving Site** means the property to which *Fill* is transported and will include the term “*Site*”;

**Retaining Wall** means a wall designed by an *Engineer* to contain and support *Fill* which has a *Finished Grade* higher or lower than that of adjacent lands;

**Significant Archaeological Resources** means resources that have been determined to have cultural heritage value or interest. Processes and criteria for determining cultural heritage value or interest may be established by the Province, the *County*, and/or may be based on consultation with Indigenous Communities.

**Site** means land upon which a *Site Alteration* is proposed and will include the term “*Receiving Site*”;

**Site Alteration** means any alteration to the *Grade* (topography) of land through the movement, removal or placement of *Topsoil* or *Fill* 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;

**Site Alteration - Agricultural** means any alteration to the *Grade* (topography) of land through the movement, removal or placement of *Topsoil* or *Fill* to any lands designated for agricultural purposes in the Official Plan or zoned for agricultural purposes in the *Zoning By-Law* and on which an *Agricultural Operation* is being carried out.

**Site Alteration - Development** means any alteration to the *Grade* (topography) of land through the movement, removal or placement of *Topsoil* or *Fill* in advance of registering a development agreement, site plan agreement, pre-servicing agreement or a subdivision agreement with the *County* of Brant; fulfilling the conditions of a consent application to create a new lot under the Planning Act, and any site alteration on lands used for commercial or industrial operations to which a planning act application is not required.

**Site Alteration - General** means any alteration to the *Grade* (topography) of land through the movement, removal or placement of *Topsoil* or *Fill* to any lands other than *Site Alteration Agricultural* or *Site Alteration Development*.

**Site Alteration Agreement** means a legal agreement between the property *Owner* and the *Municipality* which may be Registered on Title to the lands on which the *Site Alteration* is to take place;

**Soil** means unconsolidated naturally occurring mineral particles and other naturally occurring material resulting from the natural breakdown of rock or organic matter by physical, chemical or biological processes that are smaller than 2 millimetres in size or that pass the US #10 sieve.

**Stormwater** means surface water in abnormal quantity resulting from heavy falls of rain or snow.

**Topsoil** means those horizons in a *Soil* profile, commonly known as the “A” and “O”

horizons, containing organic material and includes deposits of partially decomposed organic matter such as peat.

**Vegetation Protection Zone** means a vegetated buffer area surrounding a *Key Natural Heritage feature* or *Key Hydrologic Feature*, which is to be maintained as natural self-sustaining vegetation.

**Watercourse** means a natural or man-made stream or channel or swale in which a flow of water occurs, either permanently or as an *intermittent* stream;

**Wetlands** means lands that are seasonally or permanently covered by shallow water, as well as lands where the water table is close to or at the surface. In either case the presence of abundant water has caused the formation of hydric soils and has favoured the dominance of either hydrophytic plants or water tolerant plants. The four major types of wetlands are swamps, marshes, bogs and fens. Wetlands are further identified by the Province or by any other person, according to evaluation procedures established by the Province, as amended from time to time.

**Zoning By-Law(s)** 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.

## SECTION 2 - EXEMPTIONS

2.1 This *By-law* does not apply to:

- a) activities or matters undertaken by the *County* or a local board of the *Municipality*;
- b) any site alteration carried out by a *Public Authority*;
- 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 the approval of a Site Plan, a plan of subdivision or a consent under section 41, 51 or 53, respectively, of the *Planning Act* or as a requirement of a Site Plan Agreement or subdivision agreement entered into under those sections;
- d) 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;
- e) the placing or *Dumping of Fill*, removal of *Topsoil* or alteration of the *Grade* of land pursuant to an accepted residential individual lot grading plan in the *Municipality*;
- f) 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;
- g) the placing or *Dumping of Fill*, removal of *Topsoil* or alteration of the *Grade* of land undertaken as an incidental part of installation or maintenance of gas, cable or telecommunications;
- h) 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*;
- i) 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 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*;
  - j) 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*. 2001, c. 25, s. 142 (5); 2002, c. 17, Sched. A, s. 30 (2, 3);
  - k) 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 but not including the removal of *Topsoil* for sale, exchange or other disposition;
  - l) replacement of *Topsoil* for restoration of *Agricultural Lands* used for normal agricultural practices and which is an incidental part of sod farming, greenhouse operations, and nurseries for horticultural practices and which shall not exceed one thousand (1,000) cubic metres annually and which shall not result in a landform change of more than 0.2m, or at the discretion of the *Director*;
  - m) the placement or *Dumping of Fill* as a nutrient management activity for agricultural practices in compliance with the *Nutrient Management Act*, 2002;
  - n) any *Site Alteration*, involving:
    - i) The addition, removal or alteration of 100 cubic metres or less of *Fill* provided the *Site Alteration* does not *adversely affect Drainage* of a *watercourse* on abutting properties; unless written permission is obtained from the adjacent landowner
    - ii) Development *Site Alteration* pursuant to an executed development agreement in the *Municipality*
    - iii) *Agricultural Lands* – removal of *Topsoil* as an incidental part of *Normal Farm Practice*, including such removal as an incidental part of sod farming, greenhouse operations, and nurseries for horticultural practices but not including the removal of *Topsoil* for sale, exchange or other disposition
    - iv) *Agricultural Lands: Site Alteration* – the altering of the land, addition or removal of less than one thousand (1,000) cubic metres of *Topsoil* used for an *Agricultural Operation*. Provided the *Site Alteration* is at least 1.0 metres from any property line and does not *adversely affect Drainage* on abutting properties; unless written permission is obtained from the adjacent landowner
  - o) construction or demolition of a building, structure, retaining wall or on-site sewage system pursuant to a valid building permit in the *Municipality* which has been issued for the erection of the building, structure, retaining wall and/or on-site sewage system, and the plans accompanying the building permit *application* provides sufficient information to determine that the placing or *Dumping of Fill*

conforms with the provisions of this *By-law*, and the amount of *Fill* to be *Dumped* or placed pursuant to the building permit does not exceed one thousand (1,000) cubic metres;

- p) any *Site Alteration* conducted in accordance with a Public Works Permit issued by the *County* provided the amount of *Fill* does not exceed 1,000 cubic meters;
- q) swimming pool installation, provided the proposed swimming pool does not adversely impact any approved grading plan that applies to the lands, or *Drainage* on abutting properties due to changes in *Grade* needed to accommodate the pool, or by the installation or replacement of the pool itself;
- r) the removal of trees in compliance with a permit issued by the *County* for tree removal;
- s) the placing or *Dumping* of *Fill*, removal of *Topsoil* or Alteration of the *Grade* of land for the purpose of, lawn dressing, landscaping, driveway re- surfacing or adding to flower beds or vegetable gardens, provided that:
  - i) the ground elevation of the lands is not increased by more than 0.2m;
  - ii) material is not stockpiled for more than thirty (30) days;
  - iii) there is no change in the direction or rate of *Drainage* to neighbouring properties;
  - iv) in accordance with Section 2 (l)
  - v) all *Fill* placed or *Dumped* includes only *Soil*, stone, sod or other material acceptable to the *Director* and that such material is clean and free of any glass, plastics, metals, termites, invasive species and/or their eggs or seeds, concrete, asphalt, garbage or any *Contaminants* that would degrade the pre-existing conditions of the land

### **SECTION 3 - GENERAL PROHIBITIONS AND REGULATIONS**

- 3.1 No *Person* shall place or *Dump* any *Fill*, remove any *Topsoil*, perform *Clearing and Grubbing* or otherwise alter the *Grade* of land by causing or permitting any other form of *Site Alteration* on land within the *Municipality* without the *Owner* first receiving a *Permit* issued under this *By-law* by the *Corporation* unless otherwise exempt in Section 2.
- 3.2 The issuance of a *Permit* does not relieve the *Owner* 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.
- 3.3 A *Site Alteration Permit* is not transferable to another property.
- 3.4 No *Person* shall perform a *Site Alteration* on any lands unless it is done at the request of or with the written consent of the *Owner* of the Land where the *Site Alteration* is to occur.
- 3.5 No *Person* shall perform a *Site Alteration* or permit the performance of a *Site Alteration*:
  - a) In contravention of the *Municipality's* Noise By-law unless and exemption has been granted;
  - b) Anytime on Sunday or on a Statutory Holiday unless and exemption has been granted;

- c) During any period in which a wind warning for the area has been issued by Environment Canada;
- d) During any period in which a smog advisory for the area has been issued by the Ontario Ministry of the Environment, Conservation and Parks;
- e) During any weather conditions where the ability to mitigate *Site Alteration* activity impacts is severely compromised (e.g. heavy rain, thick fog, etc.); and
- f) During any situation where *Site Alteration* activities would likely adversely impact adjacent landowners (e.g. brush fires, floods, unsuitable road conditions, etc.).

3.6 No *Person* shall perform a *Site Alteration* on any lands except in accordance with the *Municipality's Official Plan Policies, Zoning By-law* as amended.

3.7 No *Person* shall undertake a *Site Alteration* which may result in:

- a) Adverse *Erosion* and environmental impacts on and off-site;
- b) Blockage of a swale, ditch or *Key Hydrologic Feature*;
- c) Siltation in an *environmentally sensitive area* or storm sewer;
- d) Transportation of silt to adjacent, neighbouring or downstream properties;
- e) Pollution of an environmentally sensitive area;
- f) Flooding or *Ponding* on adjacent lands;
- g) Flooding or *Ponding* caused by a *Watercourse* overflowing its banks;
- h) Hindering the orderly development of any lands;
- i) *Adverse Effect* on the quality and quantity of water in a well;
- j) *Adverse Effect* on any trees of a caliper of 75mm diameter at breast height (dbh) or more located on the lands;
- k) *Adverse Effect* on matters of inherent ecological or hydrological sensitivity such as, but not limited to aquifer recharge, *Soil* permeability, water quality and quantity, *key hydrologic areas*, and environmentally sensitive areas;
- l) Unauthorized injury or destruction of *Municipal trees* or other trees protected under any other applicable By-laws of the *Municipality* or *County*;
- m) Injury or destruction of other trees, which in the opinion of the *Director* could reasonably be avoided;
- n) A negative impact or *Adverse Effect* on an *environmentally sensitive area* or *key hydrologic area*, however in policies and provisions in Provincial plans and policies, Official Plans or *Zoning By-laws*;
- o) An *Adverse Effect* to the growth and or harvest of fruit, vegetables or crops, landscaping and gardens;
- p) An *Adverse Effect* to the visual amenities of the land such that it constitutes an unreasonable interference with enjoyment of property;
- q) An *Adverse Effect* on areas of archaeological significance;
- r) *Site-Alteration* activities on lands containing *archaeological resources* or *areas of archaeological potential* unless *significant archaeological resources*

have been conserved in manner that is consistent with, however expressed in policies and provisions in Provincial plans and policies, Official Plans or *Zoning By-laws*; or

s) Contamination of or the degradation of the environmental quality of land.

3.8 Where a *Permit* has been issued under this *By-law*, no *Person* shall place or *Dump Fill*, remove any *Topsoil* or alter the *Grade* of land except in accordance with this *By-law*, the terms and conditions of the *Permit* and any *Site Alteration Agreement* entered into with the *Municipality*, which conditions may include, but are not limited to:

- a) In addition to the stipulations under 2.1(n)(v) supra, all *Fill* used is material that does not contain any *Putrescible Organic Material* and does not contain cement fines, exposed rebar, asphalt, glass, debris, plastic, demolition materials, wood with paint or coatings, decomposable materials, petroleum products, hydrocarbon materials, hazardous waste or salt impacted *Soils* and, that passes a slump test as outlined in the Ontario General Waste Management Regulation O. Reg. 347 and that is free of staining and hydrocarbon odour;
- b) All imported *Fill* and *Topsoil*, regraded or distributed on a *Receiving Site*, shall not introduce any new *Contaminant* and shall not increase the concentration of an existing *Contaminant* on the lands;
  - i) In this section, *Contaminant* means those *Contaminants* of concern listed in the MECP *Soil* and Groundwater and Sediment Standards for Use under Part XV.1 of the *Environmental Protection Act*, 2011.
- c) No *Person* shall undertake any *Site Alteration* that may adversely affect the quality or quantity of water in a well, pond or watering hole intended for use as a source of water for agriculture or human consumption on a property with an adjoining property boundary, or any other property;
- d) *Fill* shall meet the standards:
  - i) set out in the Tables contained within: *Management of Excess Soil – Rules for Soil Management and Excess Soil Quality Standards 2019* for Use Under Part XV.1 of the *Environmental Protection Act*. 2011 referenced in O. Reg. 153/04 as amended, for the established property use as agreed to by the *Director*; or
  - ii) set out in the O. Reg. 406/19: On site and excess *Soil* management
- e) Notwithstanding section 3.8(d) above, the stricter standard applies;
- f) Notwithstanding section 3.8(a) above, *Fill* that is *Topsoil*, sod or turf materials shall meet Table 1 Standards;
- g) No *Person* shall undertake *Site-Alteration* activities that alter the natural *Drainage* or any natural or human-made wetland, water course or water body in such a manner that will interfere with reasonable enjoyment of property or adversely affect the environment;
- h) No *Person* shall undertake *Site-Alteration* activities within 120 metres of an *environmentally sensitive area* that could have adverse effects or negative impacts; in this regard completion of an Environmental Impact Study may be required;

- i) No *Person* shall perform *Site Alteration* that replaces a minimum of 20% or more of a non-residential property's *Pervious Surfaces* with *Impervious Surfaces* without first attaining approval as per the *Municipality's* *Site Plan Control By-law*;
  - j) If archaeological resources are discovered or identified during the *Site Alteration*, even after the issuance of a *Permit*, the *Owner* shall immediately cease all activity on the *Site* and contact the *County* and take such actions as defined by the *Director* or other responsible agency to address, safeguard, and protect the resources;
  - k) *Erosion* and sedimentation control measures shall be provided around any area that may be disturbed in a manner satisfactory to the *County* prior to the commencement of the *Site Alteration*, and shall be maintained in good working order until the *Site* has been stabilized and *Fill* operations completed;
  - l) All *Fill* shall be properly compacted using acceptable engineering practices, as appropriate, unless it is being stockpiled on the *Site* for future use in accordance with all applicable *By-laws* and zoning for the *Municipality*, and grading plans and timelines as approved by the *Director*;
  - m) The *County* may restrict the hours of operation and days of operation permitted beyond those restrictions found in this *By-Law*;
  - n) *Haul Routes* for the transportation of *Fill* and *Topsoil* authorized for placement, *Dumping* or removal at the permit site may be designated to and/or from a *Receiving Site* by the *Director* to minimize damage to the *County's* roads and minimize interference and/or disturbance to the *Municipality's* residents and businesses in accordance with a *Permit* or *Site Alteration Agreement* issued by the *Municipality*, if applicable;
  - o) No *Person* shall place or *Dump Fill* or cause or permit *Fill* to be placed or *Dumped* on a *Lot* fronting on a *County* road that has been deemed by the *County*, in its sole discretion, to be unsuitable for the transportation of *Fill*.
  - p) The *County* may restrict the daily volume of truckloads to ensure adequate *Municipal* oversight of the operations, ensure traffic safety and to address reasonable concerns regarding *adverse effects* to citizens along the *Haul Route* and in the vicinity of the proposed *Site Alteration* works;
  - q) The existing *Topsoil* on lands subject to *Site Alterations* shall be preserved by removing and stockpiling it for use as final cover prior to the performance of any *Site Alteration* work, as applicable; and
  - r) The *Owner* shall keep all records associated with the requirements in this *By-law* in a good and business-like manner for review by the *County* at their request, or as required by any *Site Alteration Agreement* authorized under this *By-law*, for a minimum of 7 years after the completion of the *Site Alteration* and associated activities at the discretion of the *County*.
- 3.9 No *Person* shall conduct a *Commercial Fill Operation*.
- 3.10 Notwithstanding any other provision of this *By-law*, the *Director* may require any *Applicant* to enter into an *Agreement* with the *Municipality* which shall be registered on Title to the Lands.

## Prohibited Areas

### 3.11 Prohibited Areas

- a) The following are prohibited areas unless approval from the *Director* is obtained:
  - i) *Environmentally Sensitive Areas*;
  - ii) Wellhead Protection Areas, Significant Ground Water Recharge Areas or High Aquifer Vulnerability Areas as designated in Source Water Protection Plans, or the Official Plan for the jurisdiction of the *Corporation*;
  - iii) Lands previously licensed or permitted and used as a pit or quarry under the *Aggregate Resources Act*, R.S.O. 1990, c. A8, as amended, (or any predecessor legislation thereof), or otherwise, whether such lands have been rehabilitated or not.

### 3.12 Notwithstanding anything else contained in this *By-law*, no *Person* shall cause, permit or perform a *Site Alteration* in a prohibited area set out in Section 3.11 unless:

- a) The *Site Alteration* is authorized by a building permit, as per Section 2.1k., issued by the *Corporation* or any other development agreement with the *Corporation*;
- b) The *Site Alteration* is exempted by Section 2 of this *By-law*;
- c) The *Site Alteration* is a provincial or federal work or undertaking where the *Director* determines that the core of the power under which it is established would be seriously and significantly impaired by the prohibition.

### 3.13 Notwithstanding Section 3.11, *Topsoil* replacement for *Agricultural Lands* being used for existing and bona fide sod farms, greenhouse operations including hoop houses and nurseries for horticultural products, or other bona fide *Agricultural Operations*, may occur providing a *Site Alteration Permit* has been issued and providing such *Topsoil* replacement shall not exceed 0.2m in depth or 1,000 m<sup>3</sup> annually whichever is less whether being stored or spread immediately, and:

- a) *Topsoil* quality shall meet the standards as set out in 3.8(d) and (e).

## SECTION 4 – PERMIT TYPES

*Application* to the *County* for the issuance, renewal, amendment or revocation of a *Permit* shall be submitted for one of the following categories:

### ***Site Alteration – General***

Applies to all *applications* for *Site Alterations*;

- a) Small: greater than 100 m<sup>3</sup> but less than 1,000 m<sup>3</sup>
- b) Large: equal to or greater than 1,000 m<sup>3</sup>

### ***Site Alteration - Agricultural***

- a) Applies to all *applications* for *Site Alteration* greater than 1,000 m<sup>3</sup> on lands zoned Agricultural and on which an *Agricultural Operation* is being carried out

**Site Alteration – Development**

- a) Applies to all *applications* for *Site Alterations* on lands designated for development
- b) Applies to site alteration on lands used for commercial or industrial operations to which a Planning Act application is not required.

**SECTION 5 – REQUIREMENTS FOR ISSUANCE OF ALL PERMITS**

- 5.1 *Application* to the *County* for the issuance, renewal, amendment, or revocation of a *Permit* shall be made in a form and a manner approved by the *Director* and shall contain any information that is *requested*.
- 5.2 A *Permit Application* will be deemed abandoned and cancelled once a period of 6-months has elapsed or by December 31<sup>st</sup>, at the discretion of the *Director*, and the applicant has either not:
- a) Provided all requirements including *Permit Fees*, security deposit etc.; and/or
  - b) Resolved the deficiency(ies) identified during the *Application* review.
- 5.3 Without limiting the generality of 5.1, the *Director* may require the *Applicant* to:
- a) Complete any of the requirements detailed in Schedule A of this Bylaw entitled “*Application Package*”;
  - b) Retain a *Qualified Person* to prepare a Site Drawing which meets the requirements of Schedule A;
  - c) Retain an appropriate qualified consultant or *Qualified Person*, as specified by the *Director*, to undertake any tests or studies that the *County* deems necessary to complete any background studies as detailed in Schedule A;
  - d) Consult with other *Persons* or bodies about the *application* and report to the *Director* on the results of the consultation;
  - e) Provide confirmation that the other *Persons* or bodies consulted in clause (d) did not raise any objections to the *application* or that these objections have been resolved to the satisfaction of the *Person* or bodies consulted;
  - f) Retain a qualified consultant or *Qualified Person* to prepare a report or reports, to the reasonable satisfaction of the *Director*, that demonstrate how the proposed operations reconcile to the Ministry of the Environment, Conservation and Parks document entitled, “*Management of Excess Soil – A Guide for Best Management Practices*”; and
  - g) Proof of *Insurance*.
- 5.4 The *Owner* may be required to notify the *Director* of the commencement, the completion and of the various stages of performance of the *Site Alteration* and to make the commencement, the completion and the various stages available for inspection by the *Municipality* or its agents.
- 5.5 Notwithstanding any other provisions of this *By-law*, the *County* may at their sole discretion, waive certain requirements of Section 5 and Schedule A after taking into consideration the proposed works and the anticipated impacts to the *Site*, adjacent properties and the surrounding environment.
- 5.6 Notwithstanding any other provisions of this *By-law*, the *County* may require one or

more of the provisions as set out in the Section 5 be complied with for any *Permit* being considered or issued by the *Municipality*, after taking into consideration the proposed works and the anticipated impacts to the *Site*, adjacent properties and the surrounding environment.

- 5.7 The *Director* may attach such other conditions to a *Permit* that are reasonably required to protect the economic, social and environmental well-being of the *County* and the health, safety and well-being of *Persons* as a result of anticipated impacts of the *Fill* operation.

## SECTION 6 - PERMIT ISSUANCE

6.1 A *Permit* may be issued where the *County* is satisfied that:

- a) The intent and purpose of the By-law will be maintained;
- b) The lands which are subject of the *application* for a *Permit* are not within an area where placing or *Dumping* of *Fill* or where a *Site Alteration* is prohibited under Section 3 of this *By-law*;
- c) The *Owner* has complied or will comply with all the requirements of this *By-law*;
- d) All other *Permits*, *application* material, background studies, agreements, documents and reports have been received, reviewed and approved to the satisfaction of the *County*;
- e) If required by Section 6 of this *By-law*, the *Applicant* has entered into the agreement referred to in Section 3.10;
- f) In addition to compliance with all other requirements, the intended use for the filled areas, where applicable, is a permitted use under the *Municipality's* Official Plan, and the *Municipality's* *Zoning By-law*;
- g) All applicable agencies and authorities have been notified and have provided comments, to the satisfaction of the *County*;
- h) *The Site Alteration* will be undertaken for necessary or beneficial purposes to the satisfaction of the *Municipality*;
- i) any other matters that the *County* considers relevant have been addressed.

6.2 The *County* does not warrant in any way that approval of any project is guaranteed, or that there is necessarily any entitlement whatsoever to obtain a *Permit* under this *By-law*;

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

## SECTION 7 – EXPIRY, EXTENSION, RENEWAL, REVISION, REVOCATION AND TRANSFER OF PERMITS

### Expiry

7.1 A *Site Alteration Permit* expires on the date set out in the *Permit*.

7.2 Should the *Site Alteration* work not start within 90 days of the *Permit* issuance, the

*Permit* will be deemed expired, regardless of the specified validity period, at the discretion of the *Director*.

### Extension or Renewal

- 7.3 a) A *Permit* which may be renewed by the *Director* as appropriate, within a period of three months before the date of expiry upon the submission of a written request to the *Director* accompanied by a payment in accordance with the Fees and Charges By-law, provided that the proposed work which was the subject of the *Permit* has not been revised; and
- b) A *Permit* which has been renewed in accordance with this section shall thereafter be treated as a new *Permit* except that it shall not again be renewed, unless specifically stated in a *Site Alteration Agreement*.

### Revision

- 7.4 a) Where the proposed work which was the subject of the *Permit* is to be modified, the *Permit* may be revised and re-issued, at the request of the *Applicant*, by the *Director* as appropriate before the date of expiry upon the submission of a written request to the *Director* accompanied by a payment in accordance with the Fees and Charges By-law; and
- b) A *Permit* which has been requested to be revised by the *Applicant* in accordance with this section shall thereafter be treated as a new *Permit* application.

### Revocation

- 7.5 The *County* may revoke the *Permit* for the following reasons:
- a) It was obtained on mistaken, false or incorrect information;
  - b) It was issued in error;
  - c) The *Owner* or *Permit Holder* request in writing that it be revoked;
  - d) The terms of a *Site Alteration Agreement* and/or *Permit* under this *By-law* have not been complied with;
  - e) Work authorized under the *Permit* has not been commenced prior to its expiry date;
  - f) The *Owner* has failed to comply with the provisions of this *By-law*; or
  - g) The land has been transferred and the new *Owner* has not complied with the requirements under this section of the *By-law*.

- 7.6 Where a *Permit* has been revoked under Section 7.3 or for any other reason pursuant to this *By-law*, the *Permit Holder* shall immediately cease all work under the revoked *Permit* and restore the *Site* to conditions acceptable to the *Director*.

### Transfer

- 7.7 A *Permit* shall expire upon the transfer of ownership of the *Site* unless the new *Owner* provides written commitment to comply with all conditions under which the *Permit* was issued, prior to transfer of the *Site*, including compliance with this *By-law* and

agreement to provide Financial Assurance in a form and amount acceptable to the *County*, at which time any Financial Assurance previously provided by the original *Permit Holder* pursuant to this *By-law* shall be released.

7.8 Failing the written commitment from the new *Owner*, the *Permit* shall be deemed to be cancelled as of the date of transfer.

7.9 A *Permit* is not transferable to another *Site*.

## SECTION 8 - INSPECTION/ENFORCEMENT

8.1 Section 436 of the *Municipal Act*, 2001, S.O., c.25, as amended, authorizes the *Municipality* to enter on land, at reasonable time for inspection.

8.2 This *By-law* shall be administered and enforced by the *Director* and his/her designate(s) and by those *Persons* designated as *Inspectors* by the *County* and/or as may be appointed by *Council*.

8.3 No *Person* shall hinder or obstruct or attempt to hinder or obstruct an *Inspector* conducting an Inspection or a *Person* performing corrective works under this *By-law*.

8.4 An *Inspector* may enter upon the land where at any reasonable time for the purpose of carrying out an Inspection to determine whether or not the following are being complied with:

- a) this *By-law*;
- b) a *Permit* and/or *Site Alteration Agreement*, or a condition of a *Permit* and/ or *Site Alteration Agreement*; or
- c) a direction or *Order* made under the *Municipal Act*, 2001, S.O. 2001, c.25 or this *By-law*.

8.5 For the purposes of an Inspection under Section 8.4, the *Inspector* may:

- a) require the production for inspection of documents or things relevant to the Inspection;
- b) inspect and remove documents or things relevant to the Inspection for the purpose of making copies or extracts;
- c) require information concerning a matter related to the Inspection;
- d) 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
- e) Conduct inspections with digital data collection devices (e.g. drone)

8.6 All documents and records shall be kept in a good and business-like manner for review by the *County* at their request.

8.7 A receipt shall be provided for any document or thing removed under Section 8.5 and the document or thing shall be promptly returned after the copies or extracts are made.

8.8 A sample taken under Section 8.5(d) 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 and the other part shall be used by the *County* for soil testing.

- 8.9 If a sample is taken under Section 8.5(d) 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.

## SECTION 9 - ORDERS AND NOTICES

- 9.1 If after Inspection, an *Inspector* is satisfied that a contravention of this *By-law* has occurred, the *County* shall notify the *Owner* and/or the *Permit Holder* of the particulars with an "Order To Discontinue and/or "Work Order", pursuant to Section 444(1) or 445(1) of the Municipal Act, 2001, and provide all occupants with copies of the "Order To Discontinue" and "Work Order" and such *Orders* shall contain:
- a) the Municipal address and legal description of the land;
  - b) reasonable particulars of the contravention(s) adequate to identify the contravention and the location of the land on which the contravention occurred and;
  - c) the period within which there must be compliance.
- 9.2 The *Orders* issued pursuant to Section 9 of this *By-law* may require any *Person* who has altered the *Grade* of land, caused, or permitted the *Grade* to be altered contrary to the provisions of this *By-law*, placed, *Dumped*, cut or removed *Fill*, caused or permitted *Fill* to be placed, *Dumped* or removed, or caused or permitted any other form of *Site Alteration* contrary to the provisions of this *By-law* to:
- a) Cease all work in respect of the *Site Alteration*;
  - b) Remove the *Fill*;
  - c) *Fill* in any excavations or ponds; and/or
  - d) Complete all the work necessary to:
    - i) eliminate any hazard or potential hazard resulting from the alteration of the *Grade* or the placing, *Dumping*, or removal of *Fill* and to restore the land to a condition of safety and/or its original environmental condition, to the satisfaction of the *Director*;
    - ii) restore the land to its former condition prior to the alteration of the *Grade* of the land or to the placing, *Dumping*, cutting or removal of the *Fill* on the land or other *Site Alteration* to the satisfaction of the *Director*;
    - iii) undertake such further investigations as required by the *Director* to identify the extent of any breach of this *By-law* and do work to correct the contravention, as deemed appropriate by the *Director*.
- 9.3 The *Order* and/or Notice referred to in Sections 9.1 and 9.2 of this *By-law* shall also contain:
- a) The time frame in which the work contained in the *Order* must be carried out; and
  - b) A notice stating that if the work is not done in compliance with the *Order* within the period it specifies, the *County* will issue a "Notice of Violation".
- 9.4 An *Order* and/or Notice issued pursuant to Section 9.1, 9.2 or 9.3 of this *By-law* shall be served personally or by prepaid registered mail or in accordance with Section 9.5 of this *By-law*.

- 9.5 An *Order* and/or Notice issued pursuant to Section 9.1, 9.2 or 9.3 of this *By-law*, sent by prepaid registered mail, shall be sent to the last known address of the *Owner* of the land and the *Permit Holder* and shall be deemed served 5 days following.
- 9.6 An *Inspector* who is unable to effect service pursuant to Section 9.5 of this *By-law* shall place a placard containing the terms of said *Order* and/or Notice in a conspicuous place on the property and the placing of the placard shall be deemed to be sufficient service of the *Order* and/or Notice on the *Owner* and *Permit Holder*.
- 9.7 If the *Owner* or *Permit Holder* fails to do the work required by a "Work Order" and "Notice of Violation" issued pursuant to Sections 9.1-9.3 inclusive of this *By-law* within the period specified, the *Municipality*, in addition to all other remedies it may have, may do the work and for this purpose may enter on the land with its employees and agents. The costs incurred by the *Municipality* in so doing shall be paid by the *Owner* of the land and may be recovered by the *Municipality* in like manner as taxes pursuant to section 446 of the Municipal Act or draw on the financial assurance provided.
- 9.8 Where archaeological resources have been discovered or identified at a *Site*, the *County* may make an *Order* directing the *Owner* if he or she reasonably believes that the requirements specified in the order are necessary and advisable so as to protect the archaeological resources.

## SECTION 10 - OFFENCES AND PENALTIES

- 10.1 Any *Person*, including a corporation, who contravenes any provisions of this *By-law*, the terms or conditions of a *Permit* or Agreement signed pursuant to this *By-law*, or an *Order* issued pursuant to this *By-law* and Section 444(1) or 445(1) of the Municipal Act, 2001, is guilty of an offence and, upon conviction, is liable to a fine as provided for by the Provincial Offences Act, R.S.O. 1990 Chapter P33, as amended:
- on a first conviction, to a fine of not more than \$10,000;
  - upon a second or subsequent conviction for the same offence, to a fine of not more than \$100,000;
  - upon conviction for a continuing offence, to a fine of not more than \$10,000 for each day or part of a day that the offence continues. The total daily fines is not limited to \$100,000; and
  - upon conviction for a multiple offence, for each offence included in the multiple offences, to a fine of not more than \$10,000. The total of all fines for each included offence is not limited to \$100,000.
- 10.2 If a corporation has contravened any provision of this *By-law*, the terms or conditions of a *Permit*, an Agreement or an *Order* issued pursuant to this *By-law* and Section 444(1) or 445(1) of the Municipal Act, 2001, every director and officer of said corporation is guilty of an offence.
- 10.3 For the purposes of this *By-law*, an offence is a second or subsequent offence if the act giving rise to the offence occurred after a conviction had been entered at an earlier date for the same offence.
- 10.4 If *Fill* has been placed at a *Site* in contravention of any provision of this *By-law*, and the contravention has not been corrected, the contravention of the provision shall be deemed to be a continuing offence for each day or part of a day that the

contravention remains uncorrected.

- 10.5 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 a continuing offence for each day or part of a day that the *Order* is not complied with.
- 10.6 For the purposes of this *By-law*, a “multiple offence” means an offence in respect of two or more acts or omissions each of which separately constitutes an offence and is a contravention of the same provision of this *By-law*.
- 10.7 In addition to any fine or any other penalty, any *Person* who is convicted of contravening a provision of this *By-law*, the terms and conditions of a *Permit* issued pursuant to this *By-law*, or an *Order* issued pursuant to this *By-law* and Section 444(1) or 445(1) of the Municipal Act, 2001, may be ordered by a court of competent jurisdiction at the expense of the *Person* to:
- a) rehabilitate the land;
  - b) remove the *Fill* placed or *Dumped*;
  - c) restore the *Grade* of the land to its original condition; and
  - d) replace damaged trees, shrubs, etc.
- 10.8 A special fine may be imposed in addition to a fine imposed under Section 10.1 in circumstances where there is economic advantage or gain from the contravention of this *By-law* and the maximum amount of the special fine may exceed \$100,000. A special fine shall be calculated on the basis of:
- a) \$10.00 for each cubic metre of *Fill* deposited in excess of the amount allowed in a *Permit*, or deposited beyond the geographic limits of the *Permit*, or deposited without first having obtained the required *Permit*;
  - b) Where the *Fill* is found to contain *Contaminant* levels that exceed Table 2 Standards from the *Soil* and Groundwater and Sediment Standards for Use Under Part XV.1 of the Environmental Protection Act as prescribed in this *By-law*, greater fines of not less than \$100 per cubic metre may be imposed.
- 10.9 If a *Person* is convicted of an offence for contravening an *Order* to stop the injuring or destruction of trees, the court in which the conviction has been entered, or any court of competent jurisdiction thereafter, may order the *Person* to rehabilitate the land or plant or replant trees in such manner and within such period as the court considers appropriate, including any silvicultural treatment necessary to re-establish the trees.

## SECTION 11 - FEES

- 11.1 The fee for processing, administration, renewal, revision and inspection for a *Permit* shall be in accordance with the Fees and Charges By-law of the *Municipality*, tipping fees as identified in the Fees and Charges By-law, shall be provided by the *Owner* to the *Municipality* at intervals set out by the *Municipality*.
- 11.2 Any failure to pay necessary fees or top up the Financial Assurance as defined in Section 11.5 to 11.10, may result in an *Order* to Discontinue being issued or a revocation of the *Permit*.
- 11.3 Any *Person* or corporation who commences site alteration before receiving a *Permit*

shall, in addition to any other penalty under section 10, pay an additional fee equal to 100% of the amount calculated as the regular *Permit* fee.

- 11.4 If an applicant requests to revise a *Permit*, the fee will be equal to 50% of the original *Permit* fee for each revision requested.

### **Security Deposit Requirements**

- 11.5 The *Owner* may be required to provide a security deposit, which shall act as Financial Assurance, to be used to remedy any breach of the *By-law*, *Permit* or *Site Alteration Agreement* to be drawn on by the *Municipality* 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 *County* and to pay any outstanding amounts owed by the *Owner* that relate to the *Permit*.
- 11.6 Financial Assurance must be in the form of an irrevocable Letter of Credit, certified cheque or cash and may be required by the *County* to cover 100% of the estimated cost to maintain *Site* control measures, stabilize the *Site* and undertake other works as identified by the *Director* in Section 11.5.
- a) A Letter of Credit is to be in a form acceptable to the *Municipality's* Treasurer.
- 11.7 The Financial Assurance shall be in an amount determined by the *Director* and as set out in the Agreement or the Fees and Charges By-law.
- 11.8 A Letter of Credit or other securities must remain in effect for the full duration of the life of the *Permit*.
- 11.9 Any Letter of Credit and its subsequent renewal forms shall contain a clause stating that 60 days written notice must be provided to the *Municipality* prior to its expiry or cancellation.
- 11.10 The Financial Assurance must be replenished in full by the *Permit Holder* within 30 days whenever it is drawn upon.
- 11.11 It is the responsibility of the *Permit Holder* to obtain the written approval of the *Director* that the *Site* has been adequately reinstated and stabilized in accordance to this *By-law* and the plans and the *Permit* and to request that the *Municipality* carry out a final inspection of the *Site* and obtain the written approval of the *County* that this *By-law* and terms and conditions of the *Permit* have been complied with by the *Permit Holder*.
- 11.12 When the provisions in Section 11.10 have been fully complied with, to the satisfaction of the *County*, the Financial Assurance shall be released.
- 11.13 If the *Permit* expires or is revoked, the securities are to remain in effect until the *Site* is restored to a condition acceptable to the *County* and within a timeframe approved by the *Director*.
- 11.14 Notwithstanding any other provision in Section 11, the *Owner* may be required to maintain the Financial Assurance described in Section 11 until all *Site* monitoring, applicable sampling and remediation is completed, as required in the *Permit*, to the satisfaction of the *County*.

## SECTION 12 – SEVERABILITY and INTERPRETATION

12.1 In the event that any provision or part of a provision in this *By-law* is found to be invalid or unenforceable for any reason whatsoever, then the particular provision or part thereof shall be deemed to be severed from the remainder of the *By-law* and all other provisions or parts thereof shall remain in full force and effect and shall be valid and enforceable to the fullest extent permitted by law.

### 12.2 Interpretation

- a) References in this *By-law* to any statute or statutory provision include references to that statute or statutory provision as it may from time to time be amended, extended or re-enacted.
- b) References in this *By-law* to items in the plural include the singular, and references to the singular include the plural, as applicable.
- c) The words “include”, “includes” and “including” are not to be read or interpreted as limiting words, phrases or descriptions that precede them.
- d) This *By-law* and the provisions contained within are intended to be complementary to provincial statutes and to other By-laws passed by *Council*. In the event that any other applicable law requires a higher standard than this *By-law* requires, the higher standard shall apply.

## SECTION 13 - APPEAL

- a) The *Applicant* may within 20 business days, no later than 4:30pm on the 20<sup>th</sup> day after the making of the decision of the *Director* to refuse to issue a *Permit*, appeal to the License Tribunal against the decision of the *Director* 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 13(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 13(a), shall schedule a hearing before the License Tribunal and shall provide notice in the manner and contained the information described in this section at least 10 days before the date of the hearing, to the *Applicant* and each *Owner* within 60 metres of the subject property.
- d) Notice shall be provided by personal service, digital delivery or general 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 to the objection;
  - iv) A statement that if the party notified, or their representative, does not attend at the appeal hearing, the License Tribunal 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 or a part 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 License Tribunal 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 *Director* as in its opinion is desirable, if in the opinion of the License Tribunal the general intent and propose 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 License Tribunal 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 License Tribunal shall comply with such rules of procedures 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 License Tribunal shall hear the appellant and any party who participated in the hearing, or their representatives, and the License Tribunal may adjourn the hearing or reserve its decision.
- h) Any member of the License Tribunal may administer oaths and affirmations and may require evidence to be given under oath or affirmation.
- i) No decision of the License Tribunal on an appeal is valid unless it is concurred in by the majority of the members of the License Tribunal that heard the appeal, and the decision of the License Tribunal, whether upholding, amending or reversing the decision of the *Director*, shall be in writing and shall set out the reasons for the decision. When the License Tribunal makes a decision on an appeal, no further opportunity to appeal will be granted by the *County*.
- j) Any decision by the License Tribunal may be for such time and subject to such terms and conditions as the License Tribunal considers advisable and as are set out in the decision.
- k) The Recording Secretary of the License Tribunal 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 Administrative Assistant.
- l) The Planning Administrative Assistant 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 License Tribunal 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 of filing a notice of appeal, the Planning Administrative Assistant shall

notify the parties that the appeal has been withdrawn, that a hearing will not be held and that no further opportunity will be granted.

**SECTION 14 - EFFECTIVE DATES**

- 14.1 If a court of a competent jurisdiction should declare any section of 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.
- 14.2 The *County* may not permit any extensions or renewals of *Permits* issued under the predecessor *By-law*.
- 14.3 This *By-law* 82-22 is hereby repealed and replaced in its entirety.
- 14.4 This *By-law* shall come into full force and effect upon its third Reading.

**READ** a first and second time, this 24th day of September, 2024.

**READ** a third time and finally passed in Council, this 24th day of September, 2024.

**THE CORPORATION OF THE COUNTY OF BRANT**

\_\_\_\_\_  
David Bailey, Mayor

\_\_\_\_\_  
Alysha Dyjach, Clerk

## SCHEDULE A

### Application Package

1.1 The *Director* may require the *Applicant* to submit to the *County*:

- a) confirmation that the property where the proposed *Site Alteration* is to take place are not within any of the prohibited areas listed in Section 3;
- b) the Municipal address including the property size of the land on which the *Fill* is to be placed, *Dumped*, or other *Site Alteration* is to occur;
- c) the legal description of the land upon which the *Fill* is to be *Dumped* or placed or other *Site Alteration* is to occur;
- d) the Official Plan designations and Zoning of the property;
- e) the name, address, PIN abstract and contact information of the *Owner* of the land upon which the *Fill* is to be received and placed or *Dumped*, including written acknowledgement and written acceptance of the *Fill* material being transported to his/her property;
- f) the name, address and contact information of the agent/consultant *Engineers* authorized by the *Owner* of the land upon which the *Fill* is to be placed, *Dumped*, cut or removed or other *Site Alteration* is to occur;
- g) the name, address and contact information of the contractor authorized by the *Owner* of the land upon which the *Fill* is to be placed, *Dumped*, cut or removed or other *Site Alteration* is to occur;
- h) the applicable fees calculated in accordance with the rates set out in the *Municipality's Fees and Charges By-law* or as indicated in this document;
- i) a brief description of the proposed works that have been identified on the Site Drawing;
- j) work schedule for the proposed *Site Alteration* works;
- k) *Proposed Grades* and *Drainage* systems upon completion of *Site Alteration* operations and as shown on the Site Drawing;
- l) a *Fill* management plan;
- m) a dust control plan including a method of monitoring dust and a response plan to address dust incidents;
- n) estimated volume of *Fill* to be imported to achieve the *proposed grades*;
- o) a brief description of the *Fill* being placed or *Dumped*;
- p) all source location(s) of the *Fill* being placed or *Dumped* including environmental *Soil* tests, and *Soil* permeability tests if required by the *Director*;
- q) the location, dimensions, details, design calculations and estimated costs for the supply, installation and maintenance of all construction *Site* control measures necessary to meet the requirements of this *By-law* including sediment and *Erosion* control measures as prepared by a Certified Inspector of Erosion and Sediment Control (CIESC) who will oversee the implementation and administration of the *Erosion* and Sediment Control Plan

- during construction and after as required;
- r) all dust and mud control measures to be implemented and utilized during construction and after as required;
- s) all proposed ground covering to be used upon completion of the *Site Alteration* operation;
- t) specific details regarding proposed *Haul Routes* to and from the *Site*, including the routes to be used and the times these routes will be used;
- u) An assessment of potential noise and vibration impact; and monitoring and mitigation measures;
- v) securities to ensure the *Owner's* obligations according to a *Site Alteration Permit* shall be in accordance with Section 11 of this *By-law*;
- w) proof of *Insurance*;
- x) permission in writing from the owner of the *Receiving Site*;
- y) any other requirements the *Director* deems necessary.

## Background Studies

2.1 The *County* may require the *Applicant* to undertake and submit any tests or studies relating to:

- a) confirmation of the surrender of the license if the *Site* has been previously licensed by the Ministry of Northern Development, Mines, Natural Resources and Forestry;
- b) confirmation from a traffic consultant that the proposed traffic and road access components of the *Site Alteration* operation meets the requirements of the *County* or Province; and provide any *Site* specific conditions imposed by the *County* or Province;
- c) confirmation from a hydrogeologist and/or hydrologist that the proposed *Site Alteration* operation will have no *Adverse Effects* on water quality and quantify, *key hydrologic areas*, or *environmentally sensitive areas*;
- d) confirmation prepared by a qualified arborist or forester that the proposed *Site Alteration* meets all tree protection requirements of the *County*, Province or Federal Government that prohibit or regulate the destruction or injuring of trees and provide any *Site* specific conditions imposed by the applicable authority;
- e) confirmation by an environmental consultant of on-site presence or absence of that habitat of any endangered, threatened species or Species of Special Concern as designated and defined in the *Endangered Species Act* and any *Site* specific conditions imposed by legislation;
- f) confirmation prepared by an environmental consultant of on-site presence or absence of migratory birds as regulated by the *Migratory Birds Convention Act* and any *Site* specific conditions imposed by legislation;
- g) confirmation by a fisheries biologist of on-site presence or absence of fish habitat as regulated by the *Fisheries Act* and any specific *Site* conditions imposed by legislation;

- h) an Environmental Impact Study or Environmental Implementation Plan, including a natural heritage and/or hydrological assessment, by qualified consultants where the proposed *Site Alteration* has the potential to have adverse effects or negative impacts on *environmentally sensitive areas*;
- i) an Archaeological Assessment by a qualified professional where the *Site Alteration* has the potential to disturb *archaeological resources* or areas of archaeological potential;
- j) all desk top and field studies prepared by a Professional Agrologist when the *Site Alteration* is proposed for a new farming use or proposed to improve lands currently being used for agriculture;
- k) all assessments of *Soil* quality by a geotechnical consultant and groundwater quality by a hydrogeologist at the *Receiving Site* in order to establish the current, ambient *Site* condition;
- l) a stormwater management report by a qualified professional where the *Site Alteration* has the potential to effect the quality and quantity of stormwater runoff.
- m) any relevant landform conservation plan prepared to the reasonable satisfaction of the *Director*; and
- j) any other studies or reports the *Director* deems necessary.

## Site Drawing

- 3.1 The *Site Drawing* shall be based on an identified legal survey of the *Site* if required by *Director*. The *Site Drawing* shall be prepared by a *Qualified Person* and may include the following at the discretion of the *Director*:
- a) a key plan showing the location of the *site* and a minimum of 30 meters beyond the *site*;
  - b) the scale of the drawing in meters, ranging from 1:250 to 1:1000 as deemed appropriate by the *Director*;
  - c) property lines of the lands where the proposed *Site Alterations* are to be undertaken, including dimensions and the number of hectares of the *site*;
  - d) the location, dimensions, elevations and use of buildings and other structures existing or adjacent to the *Site*;
  - e) the current and proposed use of the *Site*;
  - f) detailed locations, including dimensions, identifying the proposed locations for the placement of *Fill* on the lands;
  - g) detailed locations, descriptions, notes, and details of all sediment and erosion control measures that will be or may be installed or implemented including but not limited to heavy duty siltation fencing, sediment containment systems, vehicle tracking pads at all site entrances, proposed dust suppression, check structures, inlet protection, slope drains, slope protection, channel protection, vegetation establishment, and tree protection fencing, if required;
  - h) a scale drawing of any proposed *Retaining Wall* including a description, dimensions and materials to be used in the construction of such *Retaining Wall*, that may be required by the *County* if:

- i) *Erosion* on adjacent lands may occur as a result of the work which is the subject of the *Permit*; and/or
  - ii) the *Finished Grade* of the *Site* is of a higher elevation at a property line than that of the *Existing Grade* at the same property line of adjacent lands;
- i) a topographic survey producing a 0.5 m contour interval, certified by a licensed professional *Engineer* or Ontario Land Surveyor, defining all material and man-made features, including top and bottom of slopes, *drainage* patterns, tree lines, buildings, and stockpiles on the lands and 30 m beyond;
  - j) the property lines to clearly show the detailed existing topography of the property and the adjacent lands;
  - k) the location of wells, wellheads, source water protection areas;
  - l) the location of *key hydrologic features* on the *Site* and within 120 m beyond the property lines;
  - m) the location of *Environmentally Sensitive Areas* that are not *key hydrologic features*, and channels, ditches, swales, water courses and other bodies of water on the *Site* and 30 m beyond the property lines;
  - n) the location, dimensions and invert elevations of any existing and proposed storm water *Drainage* systems, sewers, *Drainage* pipes, culverts, inlet chambers, *Drainage* tiles, septic beds and natural *Drainage* patterns on and 30 m beyond the property lines;
  - o) the location and dimensions of utilities, roads and *Highways*;
  - p) the location, diameter, species and drip line of all trees with a caliper measuring 75 mm or greater dbh, all other vegetation and field crops are to be identified in masses showing the outline of the canopy or vegetation limit created by the massing;
  - q) all existing vegetation 10 m beyond the property lines including *Municipal trees*, individually locating all trees with a caliper measuring 75 mm or greater at dbh. All other vegetation to be identified in masses showing outline of canopy or vegetation limit created by the massing;
  - r) the location and description of the predominant *Soil* types;
  - s) the location and dimensions, of all proposed temporary *Soil* or *Fill* stockpiles;
  - t) the location, dimensions, height and slopes of any proposed berms;
  - u) the proposed final elevations of the *Site Alteration* works;
  - v) the location and dimensions of all proposed land disturbances;
  - w) the location of all wetlands, floodplains, shoreline, top of bank features and approximate regulation limits of the applicable Conservation Authority; and
  - x) any additional information deemed necessary by the *County*.