



By-law No. 86-2020

Site Alteration By-law

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Consolidated for Convenience Only

This consolidated copy of a Woolwich Township By-law is for convenient information. While every effort is made to ensure the accuracy of this copy, the original by-law must be consulted for all legal interpretations and applications. For more information or to view by-laws please contact the Clerks Division. This document is available in alternate formats on request.

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The Corporation of the Township of Woolwich

By-law No. 86-2020

A By-law 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 Township of Woolwich 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 TOWNSHIP OF WOOLWICH HEREBY ENACTS AS FOLLOWS:

PART I SHORT TITLE

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

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 Director;

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;

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 Township of Woolwich;

Director means the Director of Development Services or their designate;

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, storing 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;

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;

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;

Finished Grade means the actual Grade elevation after a Site Alteration;

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 or block of record as indicated by Registry Office records;

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

Order means a mandatory requirement for action within a specified time period specifically issued by the Director or other authorized personnel to address issues of non-compliance with this By-law;

Owner means the Person having the right, title, interest or equity in the Site, or his/her agent authorized in writing, and includes any partnership, organization or corporation who or which is the registered owner of or controls, maintains or occupies the 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;

Proposed Grade means the Grade elevation proposed by an Applicant for a Permit;

Qualified Arborist means an ISA Certified 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 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 Trees, vegetation cover, the compaction of Soil or the creation of impervious surfaces, or any combination of these activities;

Site Alteration Agreement means a legal agreement between the Owner and the Township which is registered on title to the lands on which the Site Alteration is to take place;

Soil means material commonly known as earth, Topsoil, loam, clay, sand or gravel;

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;

Township means *the* Corporation of the Township of Woolwich;

Tree means any species of wood perennial plant, including its root system, which has reached or can reach a height of at least 4.5 metres (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 Township pursuant to Section 34 of the *Planning Act*, R.S.O. 1990 c. P.13, as amended.

PART III 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 or maintenance 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 or the temporary storing of Topsoil or Fill on a Site for storing, processing or treating before transporting to another location.
- (j) the placement or Dumping of Fill, removal of Topsoil or alteration of the Grade 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 metre 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, inground swimming pool, 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 Region of Waterloo;
- (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 IV ADMINISTRATION

- (a) The Director shall be responsible for the administration and enforcement of this By-law.
- (b) The Director 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 Director may:
 - (i) prior to the issuance of a Permit, require the Owner to enter into a Site Alteration Agreement which may be registered on title of the Site and any such Site Alteration Agreement may contain such requirements as the Director considers necessary to ensure that the Site Alteration is done in accordance with Township 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 V GENERAL PROVISIONS

- (a) No Person shall place and no Owner shall permit the placement of Fill 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, on any land.
- (b) No Person shall place and no Owner shall permit stockpiling of Fill for greater than 30 days unless legally authorized, and no stockpiling of Fill for less than 30 days without a Permit.
- (c) No Person shall carry out and no Owner shall permit any Site Alteration in the Township:
 - (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 Township;
 - (ii) submit the Permit fee as set out in the Township *Fees and Charges By-law*; and
 - (iii) provide all documentation as required under this By-law and Schedules to this By-law.
- (e) Agricultural parcels within settlement areas are required to apply for Site Alteration Permits prior to any Grading or Tree removal and are not subject to the exemptions for normal farm practices.
- (f) Sites that are within the settlement areas that are subject to Planning Act applications, will be required to obtain a Site Alteration Permit, unless the Planning Act applications specifically include approved site works related to the Site Alteration.

PART VI APPLICATION FOR A SITE ALTERATION PERMIT

- (a) Subject to Part III of this By-law, any Person who wishes to undertake Site Alteration shall submit an Application to the Director. An Application shall contain all information related to the Site Alteration prescribed or requested by the Director as described in Schedule 'A' of this By-Law.
- (b) Notwithstanding any other section of this By-law or Schedule hereto, the Director 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 VII EXPIRATION, ISSUANCE AND REVOCATION OF PERMIT

Expiration of Permit.

- (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 Director, 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) of this Part VII shall be made in writing to the Director accompanied by payment of the applicable Permit fee in accordance with the Fees and Charges By-law.

Issuance of Permit.

- (d) The Director may issue a Permit where:
- (i) the Director is satisfied that the Site Alteration which is the subject of the Application for a Permit is not otherwise prohibited by this By-law;
 - (ii) the Applicant has fulfilled all requirements of this By-law;
 - (iii) the Applicant has entered into a Site Alteration Agreement referred to in Part IV subsection (c)(1) of this By-law, if required, and has performed all the obligations which the Site Alteration Agreement requires to be performed prior to the issuance of a Permit;
 - (iv) the Director 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 Development and Engineering Standards;
 - (v) 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
 - (vi) an appropriate Haul Route or Haul Routes to and from the Site have been designated by the Director for the use of vehicles traveling to or from the Site for the purpose of Dumping or placing or removing Fill or Topsoil.

Revocation of Permit.

- (e) The Director 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, misleading, false, incomplete or incorrect information.
- (f) 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 Director and the purchaser, and the new Owner shall provide either of the following no later than thirty (30) days prior to the completion of the transfer:
- (i) provide the Township 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.
- (g) In the event that neither the undertaking prescribed by Part VII subsection (f)(i), nor a complete Application for a new Permit under Part VII subsection (f)(ii), is received by the Township prior to the transfer of the Lot, the existing Permit may be revoked by the Director, 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.

- (h) 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 Director 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.

Refusal of Permit.

- (i) The Director may refuse to issue a Permit when the requirements of this By-law have not been satisfied. In the event that the Director 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 Director may reconsider the Application if the additional information or documentation required by the Director is submitted.
 - (i) An appeal of the Director's decision to refuse to issue a Permit shall be in accordance with the following:
 - (ii) The Applicant may within 20 (twenty) business days of the making of the decision of the Director to refuse to issue a Permit, appeal to the Committee of the Whole 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 Township Fees and Charges By-law on an appeal for a Site Alteration Permit.
 - (iii) Where a notice of appeal is not received by the Clerk within the time indicated in Part VII subsection (j)(i), no further opportunity to file a notice of appeal will be granted.
 - (iv) The Clerk, upon receipt of a notice of appeal filed under Part VII subsection (j)(i), shall schedule a hearing before the Committee of the Whole and shall provide notice in the manner and containing the information described in this section at least ten (10) days before the date of the hearing, to the Applicant and each owner within sixty (60) metres of the subject property.
 - (v) Notice shall be provided by personal service or prepaid first-class mail and shall include the following:
 1. The date, time and location of the appeal hearing;
 2. 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;
 3. The objection to the decision and the reasons in support of the objection;
 4. A statement that if the party notified, or their representative, does not attend at the appeal hearing, the Committee of the Whole may proceed in the party's absence and the party will not be entitled to any further notice in the proceeding;

5. 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.
- (vi) The Committee of the Whole 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 Committee of the Whole 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 Committee of the Whole may proceed in the absence of the party and the party is not entitled to any further notice in the proceeding.
 - (vii) In addition to complying with the requirements of this By-law the Committee of the Whole 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.
 - (viii) 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 Committee of the Whole shall hear the appellant and any party who participated in the hearing, or their representatives, and the Committee of the Whole may adjourn the hearing or reserve its decision.
 - (ix) Any member of the Committee of the Whole may administer oaths and affirmations and may require evidence to be given under oath or affirmation.
 - (x) No decision of the Committee of the Whole on an appeal is valid unless it is concurred in by the majority of the members of the Committee that heard the appeal, and the decision of the Committee of the Whole, 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 Committee of the Whole makes a decision on an appeal, no further opportunity to appeal will be granted by the Township.
 - (xi) Any decision by the Committee of the Whole may be for such time and subject to such terms and conditions as the Committee of the Whole considers advisable and as are set out in the decision.
 - (xii) The Recording Secretary of the Committee of the Whole 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.
 - (xiii) The Clerk shall, not later than ten (10) 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 Township 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.

- (xiv) Where the Committee of the Whole decision is to issue the Site Alteration Permit no further opportunity to appeal will be granted by the Township, and the Site Alteration Permit shall be issued.
- (xv) If all appeals under Part VII subsection (j)(i) are withdrawn within fifteen (15) business days after the last day for filing a notice of appeal, the 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.

Content of Issued Permits.

(j) All Permits shall contain the following conditions:

- (i) 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.
- (ii) 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 Part VII subsection (f) of this By-law.
- (iii) The work shall be done at the request of, or with the consent of, the Owner of the Lot where the proposed Site Alteration is to be performed.
- (iv) All Fill to be Dumped or placed shall be clean and free of waste, brick, concrete, asphalt, 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
- (v) No Ponding or alteration of existing surface water flow resulting directly or indirectly from the Site Alteration shall be caused on abutting lands.
- (vi) 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 Director.
- (vii) Any infrastructure that is part of the Drainage system shall be inspected by the Director prior to backfilling the excavation.
- (viii) Erosion and sedimentation Control Measures shall be provided around all disturbed areas in a manner satisfactory to the Director 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:
 1. not have a detrimental effect on any Tree of a caliper of 50 mm or more unless authorized by the Township;
 2. not result in the unauthorized injury or destruction of Municipal Trees or other Trees protected under any Township of Woolwich or Regional By-laws;
 3. not result in the injury or destruction of Trees specifically protected as a condition of the Site Alteration Permit;

4. not result in the removal of any Trees or vegetation designated as environmentally significant;
 5. The Permit Holder and Owner are to provide Erosion and sedimentation control inspection reports to the Township bi-weekly and after large rainfall events.
- (ix) All Fill shall be properly compacted using acceptable engineering practices, as appropriate, unless it is being temporarily stockpiled on the Site for future use in accordance with all applicable by-laws and zoning for the Township. 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.
 - (x) 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.
 - (xi) 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 Director.
 - (xii) No Site Alteration shall be performed:
 1. 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;
 2. using Highways to or from the Site except those Highways designated as Haul Routes;
 3. in contravention of the *Township's Noise By-law*;
 4. the Director may restrict the daily volume of truckloads to ensure adequate oversight by the Township of the operations, ensure traffic safety and to address reasonable concerns regarding quality of life issues for citizens along the Haul Route and in the vicinity of the proposed Site Alteration works;
 5. prior to submitting to the Township, 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;
 - (xiii) 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.
 - (xiv) 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.
 - (xv) The Owner and Occupant of the Site and any Permit Holder shall ensure that

no Fill is to be placed on native Topsoil and that Fill areas are stripped of Topsoil and stockpiled at locations as noted on the Site. 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.

- (xvi) 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.
- (k) 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 Director.

PART VIII RESPONSIBILITIES OF PERMIT HOLDER

Every Permit Holder shall:

- (a) notify the Township upon commencement and upon completion of the work authorized by the Permit;
- (b) provide proof satisfactory to the Director 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 Director 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 Township;
- (h) comply with all conditions of the Permit and the provisions of this By-law.

PART IX 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 \$500.00 and not more than \$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) 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:
 - (i) on a first conviction, to a fine of not more than \$10,000.00;
 - (ii) upon a second or subsequent conviction for the same offence, to a fine of not more than \$100,000.00;
 - (iii) upon conviction for a continuing offence, to a fine of not more than \$10,000.00 for each day or part of a day that the offence continues. The total daily fines are not limited to \$100,000.00; and
 - (iv) upon conviction for a multiple offence, for each offence included in the multiple offences, to a fine of not more than \$10,000.00 The total of all fines for each included offence is not limited to \$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 Township or by any Township taxpayer.
- (f) For the purposes of this Part, the Township and its employees, agents and representatives may enter upon the Site at any reasonable time.
- (g) 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.

- (h) Pursuant to section 437 of the *Municipal Act, 2001*, a Person exercising a power of entry on behalf of the Township 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.
- (i) Pursuant to section 438 of the *Municipal Act, 2001*, where an employee, officer or agent of the Township or a member of the police force of the Region of Waterloo, has made a reasonable attempt to obtain the occupier's consent to conduct an inspection and has been unable to exercise the powers, the Township may, pursuant to section 438 of the *Municipal Act, 2001* obtain an order authorizing the Township 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.
- (j) 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.
- (k) 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.
- (l) 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.
- (m) 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.
- (n) 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 *Municipal Act, 2001* or a by-law passed under the *Municipal Act, 2001*.

- (o) Where the Inspector is satisfied that an Owner or any other Person is in contravention of this By-law, or any term or condition of a Permit issued under this By-law, the Inspector or Director may make an Order directing that the Owner or such Person cease any or all of the work immediately;
- (p) Where a Permit has been issued and an Owner or Permit Holder is in contravention of this By-law, or any term or condition of a Permit issued under this By-law, the Inspector or Director may issue a Work Order directing the Owner or Permit Holder, within the time set out in the Order, to take such steps as are necessary so that the work which was the subject of the Permit is completed in accordance with the approved Permit, plans, documents and other information upon which the Permit was issued under this By-law and in accordance with the terms and conditions of the Permit.
- (q) Where a Permit has not been issued and any Person is in contravention of this By-law, the Inspector or Director may issue an Order for Removal requiring the Person to restore the property to a condition it was prior to commencement of such work, to the satisfaction of the Inspector, within the time set out in the Order.
- (r) No Person to whom an Order has been issued shall fail to comply with an Order issued pursuant to this By-law.
- (s) An Order issued under this Part 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 (o) of this Part, the date by which there must be compliance with the Order; or in the case of an Order under subsections (p) and (q) of this Part, the work to be done.
- (t) An Order under subsections (p) and (q) of this Part 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.
- (u) In default of any work required by an Order under subsections (p) and (q) of this Part being done by the Person directed or required to do it, the work may be done by the Township at the Person's expense.
- (v) The Township may recover the costs of doing any thing or matter under subsection (u) of this Part by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes.
- (w) The costs in subsection (v) of this Part 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.

- (x) An Order under this Part 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.

PART X SEVERABILITY

- (a) 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.

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

FINALLY PASSED AND ENACTED this 15th day of December 2020.

Signature on file

Mayor

Signature on file

Clerk

SCHEDULE A: SITE ALTERATION PERMITS

A Person applying for a Permit shall submit the following to the Director:

- (a) a complete Application in the form prescribed by the Director, including proof satisfactory to the Director 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 *Township 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) all existing Watercourses, flood limits and any hazard limits;
 - (iv) the location of all existing underground plant, including storm sewers, sanitary sewers, septic systems, wells, monitoring wells, watermains and utilities;
 - (v) the location of all existing buildings or structures, and driveways on the Site;
 - (vi) proposed sediment and Erosion Control Measures that will be installed prior to Alteration of the Site;
 - (vii) proposed Final Elevations and the Drainage system to be used upon completion of the Site Alteration;
 - (viii) 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;
 - (ix) all existing street services, including light standards, hydro poles and transformers, cable television and telephone pedestals, fire hydrants and valves, catchbasins and manholes;
 - (x) the centre line and elevations of surrounding Highways;
 - (xi) start and finish date of the Site Alteration, including sequencing and re-vegetation;
 - (xii) 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;

- (xiii) existing topography;
 - (xiv) multiple cross-sections through each Fill area;
 - (xv) the regulatory limit as prescribed by Ontario Regulation 150/06 and 178/06;
- (d) Sediment and Erosion Control Plan prepared and stamped by a Professional Engineer in accordance with CSA W202-18;
 - (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 Region of Waterloo 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 Director approves compliance to the table requirements applicable to the current permitted land use as set out in the *Township 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 Township to be used for vehicles Dumping Fill and, where the Highways are not under the jurisdiction of the Township, the Applicant shall provide permission from the applicable road authority in a form acceptable to the Director prior to issuance of a Permit;
 - (j) A refundable security:
 - (i) in the amount as prescribed in the Township 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; and
 - (iii) available to recover the cost of the Township performing or having performed:
 1. any required works which the Applicant or Permit Holder has failed to perform to the satisfaction of the Director;
 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 Township, and in a form satisfactory to the Director, 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 Director upon request, such as:
 - (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;
 - (vii) A report as required under the Drainages Act;
 - (viii) Environmental monitoring;
 - (ix) or any other documents deemed appropriate.