

THE CORPORATION OF THE TOWNSHIP OF ESSA

BY-LAW NO. 2019 -84

Being a By-Law of the Corporation of the Township of Essa to prohibit or regulate the removal of soil or topsoil, the placing or dumping of fill, the alteration of the grade of lands, and/or the storage of soil, topsoil or any other fill material in the Township [Repeals By-law 2015-64].

WHEREAS Section 11 of the *Municipal Act, 2001*, S.O. 2001, c.25, ("the *Municipal Act*") as amended, authorizes a Township to pass by-laws respecting the economic, social and environmental well-being of the Township and the health, safety and well-being of persons; and

WHEREAS Section 128 of the *Municipal Act*, as amended, authorizes local municipalities to prohibit and regulate with respect to public nuisances, including matters that in the opinion of Council, are or could become or cause public nuisances; and

WHEREAS Section 129 of the *Municipal Act*, as amended, authorizes local municipalities to prohibit and regulate with respect to noise, vibration, and dust; and

WHEREAS Section 142 of the *Municipal Act*, as amended, authorizes a Township to pass by-laws to prohibit, regulate or require a Permit for, and impose conditions upon, the placing or dumping of fill, removal of soil or topsoil, the alteration of the grade of lands, and/or the storage of soil, topsoil or any other fill material; and

WHEREAS Council for the Corporation of the Township of Essa deems it in the public interest to enact a by-law prohibiting or regulating the placing or dumping of fill, the removal of soil or topsoil, and the alteration of the grade of the lands and/or the storage of soil, topsoil, or any other fill material in order to ensure that:

- A. Existing drainage patterns are maintained, and erosion and sedimentation are prevented;
- B. Changes to drainage or grade are appropriate to protect natural heritage features, environmental features and archaeological resources;
- C. Interference and damage to watercourses or water bodies are prevented;
- D. Groundwater and surface water quality is maintained;
- E. There is no discharge of a contaminant into the natural environment that causes or may cause an adverse effect and that degradation of the pre-existing soil and ground water quality at any site and on adjacent properties is prevented;
- F. Haul Routes for the transportation of fill and soil or topsoil authorized for placement, dumping or removal will be designated to and/or from a site by the Manager of Public Works to minimize damage to the Township's roads and minimize interference and/or disturbance to the Township's residents and businesses;
- G. Disturbance to landform characteristics are kept to a minimum;
- H. The proponent of any site alteration project pays for its costs; and
- I. The importation of hazardous materials is prevented.

NOW THEREFORE BE IT RESOLVED THAT Council of the Corporation of the Township hereby enacts as follows:

1. DEFINITIONS AND INTERPRETATION

- 1.1. The Schedules appended to this By-Law are incorporated into and form part of this By-Law.
- 1.2. Council shall have the same powers as the Manager of Public Works pursuant to this By-Law.
- 1.3. In this By-Law:
 - 1.3.1. "Adverse Effect" means one or more of:
 - 1.3.1.1. Impairment of the quality of the natural environment for any use that can be made of it;
 - 1.3.1.2. Injury or damage to property or plant or animal life;
 - 1.3.1.3. An adverse effect on the health of any person;
 - 1.3.1.4. Impairment of the safety of any person;
 - 1.3.1.5. Rendering any property or plant or animal life unfit for human use;
 - 1.3.1.6. Interference with the normal conduct of business;
 - 1.3.1.7. Reduction of adjoining owners' ability to use and enjoy their properties as the owners have in the past; or
 - 1.3.1.8. Negative impact on local residents in the vicinity of filling operations.
 - 1.3.2. "Agreement" means any agreement entered into between the Township and a Bona Fide Farmer under Section 5.2 of this By-Law;
 - 1.3.3. "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;
 - 1.3.4. "Agricultural Operation" means a farming operation 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 that is carried on in the expectation of profit, conducted on Agricultural Lands;
 - 1.3.5. "Bona Fide Farmer" means the owner or operator of an Agricultural Operation as in Section 1 of the *Farming and Food Production Protection Act, 1998*, S.O. 1998, C. 1, as amended, which is located on Agricultural Lands and 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, which is carried on with the expectation of profit;
 - 1.3.6. "Bona Fide Farming Purpose" is a Bona Fide Farmer Placing or Dumping Fill, or removing Soil or Topsoil, or completing the Alteration of the Grade of Lands including the storage of Soil, Topsoil or any other material, for the sole purpose of advancing their Agricultural Operation;

- 1.3.7. "Clean Fill" means Fill composed of putrescible organic material only, which is 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;
- 1.3.8. "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;
- 1.3.9. "Chief Building Official" shall mean, pursuant to the *Ontario Building Code Act*, S.O. 1992, c. 23 s. 3(2) the Chief Building Official of the Township of Essa;
- 1.3.10. "Conservation Authority" shall mean the Nottawasaga Valley Conservation Authority or its successor;
- 1.3.11. "Drainage" shall mean the movement of water to a place of disposal, whether by way of the natural characteristics of the ground surface or by an artificial method;
- 1.3.12. "Dump, Dumped or Dumping" shall mean the deposit of fill in a location other than where the fill was obtained and includes the movement or depositing of fill from one location on lands to another location on the same lands;
- 1.3.13. "Environmentally Sensitive Areas" means any area deemed to have ecological significance how-so-ever described in Official Plans or Zoning By-Laws including, but not limited to, terms such as Environmental Protection Areas and Environmentally Significant Areas and shall also include:
 - 1.3.13.1. Provincially significant lands, including wetlands or life science areas of natural and scientific interest (ANSI) as identified by the Ontario Ministry of Natural Resources mapping, as amended from time to time;
 - 1.3.13.2. Environmentally sensitive areas on maps, as amended from time to time prepared by any conservation authority having jurisdiction over the lands within the Township;
 - 1.3.13.3. Lands within any permanent or intermittent watercourse and/or related valley feature; and
 - 1.3.13.4. Lands zoned as Environmental Protection (EP) Zone by the Township's Comprehensive Zoning By-Law as amended from time to time.
- 1.3.14. "Erosion" shall mean the detachment and movement of soil, sediment or rock fragments by water, wind, ice gravity or ground movement;
- 1.3.15. "Excavate, excavation and excavating" shall mean activities on lands resulting in the removal of any material;
- 1.3.16. "Fill" includes Soil, subsoil, Topsoil, stone, sod, turf, clay, sand, gravel or other such similar material, either singly or in combination, capable of being removed from or deposited on lands;
- 1.3.17. "Grade" means the elevation of the ground surface and shall be more particularly defined as follows:

- 1.3.17.1. "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 metres 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;
- 1.3.17.2. "Proposed Grade" means the proposed finished elevation of ground surface after fill is dumped or placed, the grade altered or Topsoil removed; and
- 1.3.17.3. "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.
- 1.3.18. "Haul Routes" mean routes defined by the Manager of Public Works as permitted by the Township or any Agreement made under this By-Law that describes which routes must be followed when transporting Fill to or from the Site;
- 1.3.19. "Hydrologically Sensitive Features" include permanent and intermittent streams, wetlands, kettle lakes, seepage areas and springs;
- 1.3.20. "Inspector" means any person designated by this or any other By-law of the Township as an Inspector for the purposes of this By-Law, and an Inspection shall have a corresponding meaning, including but not limited to, the Chief Building Official, Manager of Public Works and By-law Enforcement Officers;
- 1.3.21. "Key Natural Heritage Features" include wetlands, significant portions of the habitat of endangered, threatened or special concern species, fish habitat, areas of natural and scientific interest, significant valley lands, woodlands and wildlife habitat;
- 1.3.22. "Insurance" includes Commercial General Liability Insurance and Pollution Liability Insurance or any other Insurance as deemed necessary by the Manager of Public Works;
- 1.3.23. "Land or Lands" shall mean all land within the Township including a parcel of land described in a deed or other document legally capable of conveying land, or shown as a lot or lots or block in a registered plan of subdivision, including public road allowances and Township owned lands;
- 1.3.24. "Management of Excess Soil – A Guide for Best Management Practices, January 2014" (MOECC BMP) means the document released by the MOECC in January 2014 and which addresses management of excess soils, as amended;
- 1.3.25. "Manager of Public Works" means an employee of the Township authorized to administer and enforce the provisions of this By-Law and shall include any person authorized by the Manager of Public Works or Municipal Council to carry out any of the powers and/or duties of the Manager of Public Works pursuant to this By-Law;
- 1.3.26. "Municipal Law Enforcement Officer" shall meant the person appointed by Council to this position, including his/her designate;

- 1.3.27. "Nuisance" means the interference of one's reasonable use of their property including, but not limited to, all Adverse Effects as defined in this By-Law, as well as any complaints made to the Township by a Township resident in relation thereto;
- 1.3.28. "Order" means a mandatory requirement for action within a specified time period specifically issued by the Municipal By-law Enforcement Officer or other authorized personnel to address issues of non-compliance with the conditions of this By-Law or any Agreement required by the Township;
- 1.3.29. "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;
- 1.3.30. "Permit" means a Site Alteration Permit issued pursuant to Section 7 of this By-Law to a Bona Fide Farmer excepted under Section 5.2;
- 1.3.31. "Person" means an individual, property owner, multiple persons, partnership or a corporation;
- 1.3.32. "Place of disposal" shall mean a municipal-owned storm drainage sewer, roadside ditch, a natural watercourse, or an outlet for storm drainage approved by the Township;
- 1.3.33. "Placing, Place or Placed" shall mean the distribution of fill on lands to establish a grade different from the existing grade;
- 1.3.34. "Ponding" shall mean the accumulation of surface water in an area not having drainage or where the lack of drainage is caused by placing or dumping of fill;
- 1.3.35. "Qualified Person" means a person who has the qualifications set out in Subsection 5(2) of Records of Site Condition – Part XV.1 of the Act, O. Reg. 153/04, as amended, being:
- 1.3.35.1. The person holds a licence, limited licence or temporary licence under the *Professional Engineers Act*; or
- 1.3.35.2. The person holds a certificate of registration under the *Professional Geoscientists Act, 2000* and is a practicing member, temporary member or limited member of the Association of Professional Geoscientists of Ontario.
- 1.3.36. "Receiving Site" means the property to which Fill is transported and will include the term "Site";
- 1.3.37. "Removal" means the process of removing any Fill, Soil, Topsoil, or other material from the Owner's Lands;
- 1.3.38. "Restoration" shall mean the re-establishment of existing conditions prior to any site alteration and or the stabilization of the works;
- 1.3.39. "Retaining Wall" shall mean a wall designed to contain and support fill which has a grade higher than that of adjacent lands;
- 1.3.40. "Sediment Control" means a recognized engineering practice to control the movement of eroded soils from a disturbed area;

- 1.3.41. "Significant Vegetation" means any natural vegetation whether or not they are woody species that are identified or known to be locally, regionally, provincially or nationally significant and/or rare;
- 1.3.42. "Site" means land upon which a Site Alteration is proposed and will include the term "Receiving Site";
- 1.3.43. "Site Alteration" means any alteration to the grade (topography) of land through the movement, removal or placement of Soil, Topsoil or Fill, the alteration of the Grade of the land and/or the storage of Soil, Topsoil or any other Fill material which affects the land form or the natural vegetative characteristics of the lands;
- 1.3.44. "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 commonly known as earth, topsoil, loam, subsoil, clay, sand and gravel;
- 1.3.45. "Stabilization" shall mean ensuring that the finished grade surface is protected by sod, turf, seeding for grass, greenery, or other means either singly or in combination to the Township's requirements;
- 1.3.46. "Swale" shall mean a shallow depression in the ground sloping to a place of disposal of surface water for the purpose of providing a method of drainage;
- 1.3.47. "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;
- 1.3.48. "Township" means the Corporation of the Township of Essa;
- 1.3.49. "Township Engineer" means any Engineer retained by the Township; and
- 1.3.50. "Township Solicitor" means any lawyer retained by the Township.

2. APPLICATION OF BY-LAW

- 2.1. This By-Law applies to all lands within the geographic area of the Township of Essa.

3. PROHIBITION

- 3.1. Except as provided in Sections 4 and 5 below, no Site Alteration shall be permitted on any lands within the Township including the Placing or Dumping of Fill, Removal of Soil or Topsoil, the Alteration of the Grade of Lands and the storage of Soil, Topsoil or any other material.

4. EXEMPTIONS

- 4.1. This By-Law does not apply to:
 - 4.1.1. Activities or matters undertaken by a Township or a local board of a Township;
 - 4.1.2. The Placing or Dumping of Fill, Removal of Topsoil or Alteration of the Grade of land imposed 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*, R.S.O. 1990, c. P.13 ("the Planning Act") or as a requirement of a Site Plan Agreement or Subdivision Agreement entered into under those sections after December 31, 2002;

- 4.1.3. The Placing or Dumping of Fill, Removal of Topsoil or Alteration of the Grade of land imposed 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 after December 31, 2002;
- 4.1.4. 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*, S.O. 1998, c. 15 for the purpose of constructing and maintaining a Transmission System or a Distribution System, as those terms are defined in that section;
- 4.1.5. 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*, R.S.O. 1990, c. A.8, as amended ("the Aggregate Resources Act");
- 4.1.6. The Placing or Dumping of Fill, Removal of Topsoil or Alteration of the Grade of land undertaken on land in order to lawfully establish and operate or enlarge any pit or quarry on land:
 - 4.1.6.1. That has not been designated under the Aggregate Resources Act or a predecessor of that Act; or
 - 4.1.6.2. On which a pit or quarry is a permitted land use under a by-law passed under section 34 of the *Planning Act*.
- 4.1.7. 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 2001*, c. 25, s. 142 (5), or the *Tile Drainage Act, 2002*, c. 17, Sched. A, s. 30 (2, 3);
- 4.1.8. The construction, extension, alteration, maintenance or operation of works under Section 28 of the *Public Transportation and Highway Improvement Act*, R.S.O. 1990 c. P.50 as amended; and
- 4.1.9. The use, operation, establishment, alteration, enlargement or extension of a waste disposal site within the meaning of Part V of the *Environmental Protection Act*, R.S.O. 1990. C E.19 as amended.

5. EXCEPTIONS

The Prohibition in Section 3 does not apply to the following:

- 5.1. The Removal of Topsoil from agricultural lands incidental to a normal farm practice including such Removal as an incidental part of sod-farming, greenhouse operations and nurseries for horticultural products. This exception does not include the Removal of Topsoil for sale, exchange or other disposition;
- 5.2. A Bona Fide Farmer for a Bona Fide Farming Purpose carrying out an Agricultural Operation on Agricultural Lands Placing or Dumping of Fill, Removing of Soil or Topsoil, Altering the Grade of Lands or storing Soil, Topsoil or any other material greater than 100 cubic metres but no more than 1000 cubic metres, for a Bona Fide Farming Purpose, provided that:
 - 5.2.1. The Bona Fide Farmer applies for and is granted a Permit in accordance with Section 7 of this By-Law;

- 5.2.2. The Bona Fide Farmer submits an application for a permit which is accompanied by a professional survey depicting the area to be filled, and an engineer's submission containing an estimate of the quality and quantity of fill to be received and any and all other criteria as contained in this By-Law;
 - 5.2.3. The Bona Fide Farmer agrees that 1000 cubic metres is the annual limit on the Lands, for any one Agreement, Operation, Farm or corporate entity;
 - 5.2.4. The Bona Fide Farmer agrees to produce, at the Bona Fide Farmer's sole expense, a report or study by a Certified Agrologist stating the proposed effect of the Placing, Dumping, removal, or Alteration, stating that the Placing, Dumping, removal, or Alteration is being completed for a Bona Fide Farming Purpose, stating that the Land which is being altered is currently and/or will be capable of supporting an Agricultural Operation, and stating that the activity will improve the production of the Agricultural Operation; and
 - 5.2.5. The Bona Fide Farmer agrees to produce, at the Bona Fide Farmer's sole expense, any other report or study the Township deems necessary to satisfy the Township that the Placing, Dumping, Removal, Alteration or storage is being completed for a Bona Fide Farming Purpose, in the Township's sole and absolute discretion.
- 5.3. The construction of a building pursuant to the issuance of a valid building permit, order, directive, or other requirement by an Inspector made pursuant to the *Ontario Building Code Act*, R.S.O. 1992, c.28, provided that it is associated with erection of a building, structure or on-site sewage system, and the site plan accompanying the building application provides sufficient information to determine that the placement of Fill conforms with the provisions of this By-Law, the quantity of Fill if any, is deemed necessary and reasonable by the Manager of Public Works, the quantity of Fill is required for the structural integrity of the approved development, and the quantity of Fill does not exceed 500 cubic metres for the Land in any one year; or
- 5.4. The Placing or Dumping of Fill, Removal of Topsoil or Alteration of the Grade of land for the purpose of one-time residential projects such as swimming pool construction, lawn dressing, landscaping, driveway re-surfacing, adding to flower beds/vegetable gardens, or other similar types of household purposes, provided that:
- 5.4.1. The ground elevation of the lands is not increased by more than twenty (20) centimeters;
 - 5.4.2. There is no significant change in the direction or rate of drainage to neighbouring properties;
 - 5.4.3. Such placing of Fill shall not exceed one hundred (100) cubic metres in total per project, and no more than one (1) project is allowed in any 12-month period; and
 - 5.4.4. All Fill Placed or Dumped includes only Soil, stone, sod or other material acceptable to the Manager of Public Works 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.

6. MINIMUM STANDARDS

- 6.1. The following minimum standard will apply to all Site Alterations excepted under Section 5:

- 6.1.1. 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, and the written consent of any easement holder where the Site Alteration is to occur;
- 6.1.2. No Person shall perform a Site Alteration on any lands except in accordance with the Township's Official Plan Polices, Zoning By-Law as amended and any applicable Provincial Plans, and shall be in accordance with the Provincial Policy Statement 2014, as amended;
- 6.1.3. All Fill Placed or Dumped must be Clean Fill and shall include only Soil, sod or other material acceptable to the Manager of Public Works and such material must be clean and free of any glass, plastics, metals, termites, invasive species and/or their eggs or seeds, concrete, bricks, asphalt, garbage or any contaminants that would degrade the pre-existing conditions of the Land;
- 6.1.4. The Township reserves the right to request the Owner to obtain and produce a soil and drainage plan for any Fill that is Dumped, Placed or Removed within any area near a property line, in the sole and absolute discretion of the Manager of Public Works;
- 6.1.5. The following are prohibited areas for any permitted Site Alteration under this By-Law except permitted by Section 5.3:
 - 6.1.5.1. Environmentally Sensitive Areas;
 - 6.1.5.2. Key Natural Heritage Feature Areas;
 - 6.1.5.3. Hydro geologically Sensitive Areas;
 - 6.1.5.4. Minimum Vegetative Protective Zones associated with subsections 6.1.5.2 and 6.1.5.3 above;
 - 6.1.5.5. Lands designated as Class 1, 2 or 3 farmland, or lands containing specialty crops;
 - 6.1.5.6. 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; and
 - 6.1.5.7. 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 Township.
- 6.1.6. Every person who places or dumps fill, or causes fill to be placed or dumped, or alters the grade of land shall:
 - 6.1.6.1. Construct a retaining wall (including any safety net) in conformity with the Township's Zoning By-Law and to the satisfaction of the Manager of Public Works if the existing or finished grade at a property line involves a slope greater than 3:1, which retaining wall does not encroach upon abutting lands, either above or below existing or finished grade and which is not so high as to have a significant negative impact on abutting lands, where erosion of Fill onto abutting Lands may occur;
 - 6.1.6.2. Ensure that fill is placed or dumped in such manner and any retaining wall supporting such fill is erected in such a manner that

- no ponding is caused on the subject lands or abutting and other lands and that adequate provision is made for property surface storm water drainage;
- 6.1.6.3. Provide characterization and analytical records of the quality of the soil being brought to the site prior to receiving any material, as confirmed by a Qualified Person, that the soil is appropriate based on the site location/sensitivity, anticipate land uses, groundwater use/sensitivity, pre-existing site concentrations or other factors to ensure that there is no likelihood of adverse effect based on the importation of soil to the site;
 - 6.1.6.4. Provide for the protection of the finished grade through stabilization as required by the Township;
 - 6.1.6.5. Ensure that the Fill is not placed around the perimeter of any existing building to an elevation higher than the elevation specified by the Ontario Building Code Act or regulations thereunder, as amended, below the top of foundation of such building, unless such building and its foundation walls are altered in a manner satisfactory to the Manager of Public Works;
 - 6.1.6.6. Ensure that no trench in which drainage piping is laid is covered and backfilled until the work has been inspected and approved by the Manager of Public Works;
 - 6.1.6.7. Provide siltation and erosion control measures, in accordance with the Township's standards, and obtain the approval of the Nottawasaga Valley Conservation Authority for siltation and erosion control measures when required; and
 - 6.1.6.8. Ensure that the finished grade surface is protected by sod, turf, seeding of grass, greenery, asphalt, concrete or such other material as the Manager of Public Works may approve either singly or in combination.
- 6.1.7. No Person shall perform a Site Alteration or permit the performance of a Site Alteration:
- 6.1.7.1. In contravention of the Township's Noise By-Law or otherwise required by the Township;
 - 6.1.7.2. Anytime on Saturday or Sunday or on a Statutory Holiday and between the hours of 5:30PM and 7:30AM on weekdays;
 - 6.1.7.3. During any period in which a wind warning for the area has been issued by Environment Canada;
 - 6.1.7.4. During any period in which a smog advisory for the area has been issued by the Ontario Ministry of the Environment, Conservation and Parks;
 - 6.1.7.5. During any weather conditions where the ability to mitigate Site Alteration activity impacts is severely compromised (e.g. rain, snow, thick fog, etc.); or

- 6.1.7.6. During any situation where site alteration activities would likely adversely impact adjacent landowners (e.g. brush fires, floods, unsuitable road conditions, etc.).
- 6.1.8. No person shall undertake a Site Alteration which may result in:
 - 6.1.8.1. Adverse erosion and environmental impacts on and off-site;
 - 6.1.8.2. Blockage of a swale, ditch or watercourse;
 - 6.1.8.3. Siltation in a watercourse, wetland or storm sewer;
 - 6.1.8.4. Transportation of silt to adjacent, neighbouring or downstream properties;
 - 6.1.8.5. Pollution of a watercourse;
 - 6.1.8.6. Flooding or ponding on the Lands or adjacent lands;
 - 6.1.8.7. Flooding or ponding caused by a watercourse overflowing its banks;
 - 6.1.8.8. Hindering the orderly development of any lands;
 - 6.1.8.9. Detrimental effect on the quality and quantity of water in a well;
 - 6.1.8.10. Detrimental effect on any trees of a caliper of 75mm or more located on the lands;
 - 6.1.8.11. Detrimental effect on matters of inherent biological sensitivity such as, but not limited to aquifer recharge, soil permeability, water quality, and wildlife habitat;
 - 6.1.8.12. Injury or destruction of other trees, which in the opinion of the Manager of Public Works could reasonably be avoided;
 - 6.1.8.13. A detrimental effect to the growth and or harvest of fruit, vegetables or crops, landscaping and gardens;
 - 6.1.8.14. A detrimental effect to the visual amenities of the land such that it constitutes an unreasonable interference with enjoyment of property;
 - 6.1.8.15. Contamination of or the degradation of the environmental quality of land; or
 - 6.1.8.16. A Nuisance to the Township or to the Owners of other Lands, to be determined in the sole and absolute discretion of the Township.
- 6.1.9. No person shall undertake Site-Alteration activities that alter the natural drainage or any natural or human-made water course or water body in such a manner that will interfere with reasonable enjoyment of property or adversely affect the environment;
- 6.1.10. If archaeological resources are discovered or identified during the Site Alteration, the Owner shall immediately cease all activity on the Site and contact the Manager of Public Works and take such actions as defined by the Manager of Public Works or other responsible agency to address, safeguard, and protect the resources;
- 6.1.11. Erosion and sedimentation control measures shall be provided around any area that may be disturbed in a manner satisfactory to the Manager of Public Works

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; and

- 6.1.12. 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 Township, and grading plans and timelines as approved by the Manager of Public Works.
- 6.2. The Developer agrees to provide a Haul Route Plan which must be approved by the Township, including but not limited to items such as possible vibration issues, the time periods during which haulage can occur, and a list of a minimum of four (4) emergency contacts with telephone numbers and email addresses, prior to execution of the Agreement by the Township.
- 6.3. The following additional minimum standards will apply to Site Alterations greater than 100 cubic metres, excepted under Section 5 in the sole and absolute discretion of the Township:
 - 6.3.1. Keep, maintain, and make available for inspection the following records in a good and businesslike manner:
 - 6.3.1.1. The full and complete legal name and business name, if different from the legal name of each hauler;
 - 6.3.1.2. The commercial vehicle registration number of each hauler;
 - 6.3.1.3. The motor vehicle permit number of the motor vehicles owned and operated by each hauler;
 - 6.3.1.4. The date and time of each delivery/removal of Fill;
 - 6.3.1.5. The point of origin of each delivery of Fill;
 - 6.3.1.6. The volume of each delivery;
 - 6.3.1.7. The content of material of each delivery of Fill;
 - 6.3.1.8. Any other information required by the Manager of Public Works;
 - 6.3.1.9. Restrict truck daily volumes and/or the location of truck and/or Haul Routes or staging and storage areas;
 - 6.3.1.10. Provide the Manager of Public Works upon completion of the works or at any other time required by the Manager of Public Works at its sole and absolute discretion a topographic survey verifying the interim or final grades of the site alteration; and
 - 6.3.1.11. Provide documentation of notification of the project to all adjacent property owners and those along the Haul Routes.
 - 6.3.2. The Owner must ensure the following:
 - 6.3.2.1. The proposed hauling schedule to include duration, days of the week and hours of proposed Fill operation;
 - 6.3.2.2. Haul Routes and commercial Fill entrance location using a map;
 - 6.3.2.3. Type and location of temporary signage to identify Haul Routes and truck turning areas;

- 6.3.2.4. Measure to be employed to prevent tracking mud and other debris onto the road;
 - 6.3.2.5. Measures to be employed to ensure minimal disruption of normal traffic due to the Fill operation;
 - 6.3.2.6. Quality of tested Fill to be hauled to site in relation to Ministry of Environment standards and additional measures for sampling fill being hauled to site including frequency and method of testing;
 - 6.3.2.7. Operator's business and legal name, contact information, and includes the name and contact information of the person who will be on-site for the full duration of the Fill operation, charged with the responsibility to ensure continuation of the above measures; and
 - 6.3.2.8. Provide at least five (5) business days' notice of the commencement of Site Alteration.
- 6.3.3. Once Site Alteration commences, and until the rehabilitation of the site is complete, the Owner shall provide bi-weekly reports, prepared by a Qualified Person, to the Manager of Public Works to confirm that works are implemented in accordance with this By-Law and that it is achieving adequate performance. The Manager of Public Works has the power to enter upon and examine the site at any reasonable time or times. The Manager of Public Works may be accompanied or may assign a person to complete their inspection duties as he or she deems necessary in order to properly carry out his or her duties under this By-Law; and
- 6.3.4. Provide proof of Commercial General Liability Insurance to the satisfaction of the Manager of Public Works, if requested to do so.

7. BONA FIDE FARMER PERMIT REQUIREMENTS

- 7.1. No Bona Fide Farmer shall Place or Dump any Fill, Remove any Soil or Topsoil, alter the Grade of Lands or store any Soil, Topsoil or other material excepted under Section 5.2 without the Bona Fide Farmer first receiving a Permit issued under this By-Law by the Manager of Public Works.
- 7.2. The issuance of a Permit under this By-Law does not relieve the Bona Fide Farmer 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.
- 7.3. In addition to any other provision of this By-Law, the Manager of Public Works may require a Bona Fide Farmer applying for a Permit being excepted under Section 5.2 of this By-Law to enter into an Agreement with the Township in a form approved by the Township Solicitor, which may be registered on Title to the Lands, all at the expense of the Owner/Applicant.
- 7.4. An Application to the Manager of Public Works for the issuance of a Permit shall be made in a form and a manner approved by the Manager of Public Works and shall contain any information that is required by the Manager of Public Works.
- 7.5. The Manager of Public Works may require the applicant to:
 - 7.5.1. Complete any of the requirements detailed in Schedule A of this By-Law entitled "Application Package", which may be amended from time to time;

- 7.5.2. Retain a Qualified Person to prepare a Site Plan which meets the requirements of Schedule A of this By-Law;
 - 7.5.3. Submit the prescribed fees payable to the Township including the application fee, road maintenance security and any other required securities;
 - 7.5.4. Submit an irrevocable consent signed by the Owner authorizing the Manager of Public Works and staff and the Conservation Authority to enter the Site to determine compliance with this By-Law or to perform any work necessary to bring the Site into compliance;
 - 7.5.5. Submit an undertaking signed by the Owner that the proposed Site Alteration will be conducted in accordance with this By-Law;
 - 7.5.6. Retain an appropriate qualified consultant or Qualified Person, as specified by the Manager of Public Works, to undertake any tests or studies that the Manager of Public Works deems necessary to complete any background studies as detailed in Schedule A;
 - 7.5.7. Consult with other persons or bodies about the application and report to the Manager of Public Works on the results of the consultation;
 - 7.5.8. Provide confirmation that the other persons or bodies consulted did not raise any objections to the application or that these objections have been resolved to the satisfaction of the person or bodies consulted;
 - 7.5.9. Retain a qualified consultant or Qualified Person to prepare a report or reports, to the reasonable satisfaction of the Manager of Public Works, 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
 - 7.5.10. Retain a qualified consultant or Qualified Person to prepare, implement and supervise a Fill Management Plan, and shall contain such requirements as found therein at the discretion of the Manager of Public Works and shall be in conformity with the Ministry of Environment, Conservation and Parks' Management of Excess Soil – A Guide for Best Management Practices.
- 7.6. The Owner is required to notify the Manager of Public Works 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 Township or its agents.
- 7.7. No Owner shall make a material change or cause a material change to be made to a plan, specification, document or other information which provide the basis for which approval was granted without first notifying, filing written details and obtaining the authorization of the Manager of Public Works.
- 7.8. Notwithstanding any other provisions of this By-Law, the Manager of Public Works may at his or her sole discretion, add to, alter, or waive certain requirements after taking into consideration the proposed works and the anticipated impacts to the Site, adjacent properties and the surrounding environment.
- 7.9. A condition of every Permit is that:
- 7.9.1. There are no contraventions of regulations, standards or guidelines established pursuant to the *Environmental Protection Act*, and regulation thereunder, as amended.

- 7.10. A Permit may only be issued where the Manager of Public Works is satisfied that:
 - 7.10.1. All applicable agencies and authorities have been notified and have provided comments, to the satisfaction of the Manager of Public Works; and
 - 7.10.2. All applicable fees and expenses for services have been satisfied by the Owner.
- 7.11. A Permit may only be issued if, in addition to all other requirements, the following items have been addressed to the satisfaction of the Manager of Public Works:
 - 7.11.1. The effect of the Site Alteration on the environment;
 - 7.11.2. The effect of the Site Alteration on nearby communities;
 - 7.11.3. Any comments provided by adjacent municipalities and agencies in which the Site is located;
 - 7.11.4. Concerns of the public and the proponent's responses to those concerns;
 - 7.11.5. Any possible effects on ground and surface water resources;
 - 7.11.6. Any possible effects of the Site Alteration on existing agricultural resources;
 - 7.11.7. Any planning and land use considerations;
 - 7.11.8. The main haulage routes and proposed truck traffic to and from the site;
 - 7.11.9. The quality and quantity of Fill being proposed; and
 - 7.11.10. The applicant's history of compliance with regards to Fill importation.
- 7.12. The Township 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.

8. PERMIT EXPIRATION/TERMINATION

- 8.1. No Permit will be:
 - 8.1.1. Issued for a term of more than 365 days and in all cases a Permit will expire on the earlier of the expiry date or 365 days from the date of issuance;
 - 8.1.2. Extended, or renewed; or
 - 8.1.3. Transferred to another site or Owner.
- 8.2. The Manager of Public Works may revoke the Permit for the following reasons:
 - 8.2.1. It was obtained on mistaken, false, misleading or incorrect information;
 - 8.2.2. It was issued in error;
 - 8.2.3. The Owner or Permit holder requests in writing that it be revoked;
 - 8.2.4. The terms of a Site Alteration Agreement and/or Permit under this By-Law have not been complied with fully, to be decided by the Township in its sole and absolute discretion;
 - 8.2.5. The Owner has failed to comply with all of the provisions of this By-Law;
 - 8.2.6. The Land has been transferred and the new Owner has not complied with all of the requirements under this By-Law; or
 - 8.2.7. The Owner is carrying on fill activity that in the opinion of the Manager of Public Works is a Nuisance.

- 8.3. Where a Permit has expired, been revoked, or cancelled for any reason pursuant to this By-Law, the Permit holder shall forthwith cease all work under the revoked Permit and rehabilitate, stabilize and restore the Site to conditions acceptable to the Manager of Public Works; and
- 8.4. The issuance of a Permit under this By-Law does not excuse the Owner from complying with other applicable federal, provincial, and municipal laws, and it does not warrant or guarantee that the Owner will obtain any other permit or authorization from the Township or other government entity.

9. INSPECTION

- 9.1. Section 436 of the *Municipal Act*, as amended, authorizes the Township to enter on land, at reasonable time for inspection.
- 9.2. This By-Law shall be administered and enforced by the Manager of Public Works and his/her designate(s) and by those persons designated as Inspectors by the Manager of Public Works and/or as may be appointed by Council and the local Police Service.
- 9.3. 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.
- 9.4. 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:
 - 9.4.1. This By-Law; and/or
 - 9.4.2. A direction or order made under the *Municipal Act* or this By-Law.
- 9.5. For the purposes of an Inspection under Section 9.4, the Inspector may:
 - 9.5.1. Require the production for inspection of documents or things relevant to the Inspection;
 - 9.5.2. Inspect and remove documents or things relevant to the Inspection for the purpose of making copies or extracts;
 - 9.5.3. Require information from any Person concerning a matter related to the Inspection; and
 - 9.5.4. 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.
- 9.6. A receipt shall be provided for any document or thing removed under 9.5 and the document or thing shall be promptly returned after the copies or extracts are made.
- 9.7. A sample taken under Section 9.5.4 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.
- 9.8. If a sample is taken under Section 9.5.4 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.

10. ORDERS AND NOTICES

- 10.1. If after inspection, an Inspector is satisfied that a contravention of this By-Law has occurred, the Inspector shall notify the Owner and of the particulars with a "Stop Work Order" and an "Order to Comply", pursuant to Section 444(1) or 445(1) of the *Municipal Act*, and provide all occupants with copies of the "Stop Work Order" and "Order to Comply" and such orders shall contain:
 - 10.1.1. The Municipal address and legal description of the land;
 - 10.1.2. Reasonable particulars of the contravention(s); and
 - 10.1.3. The period within which there must be compliance.
- 10.2. The Orders issued pursuant to Section 10.1 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, stored Soil, Topsoil or any other Fill material, or caused or permitted any other form of Site Alteration contrary to the provisions of this By-Law to, at their expense:
 - 10.2.1. Cease all work in respect of the site alteration;
 - 10.2.2. Remove the Fill or other material;
 - 10.2.3. Fill in any excavations or ponds; and/or
 - 10.2.4. Complete all the work necessary to:
 - 10.2.4.1. Eliminate any hazard or potential hazard resulting from the alteration of the grade or the Placing, Dumping, or Removal of Fill or other material and to restore the land to a condition of safety and/or its original environmental condition and/or stabilize all disturbed areas, to the satisfaction of the Manager of Public Works;
 - 10.2.4.2. 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 or other material on the land or other site alteration to the satisfaction of the Manager of Public Works; and
 - 10.2.4.3. Undertake such further investigations on testing as required by the Manager of Public Works to identify the extent of any breach of this By-Law and do work to correct the contravention, as deemed appropriate by the Manager of Public Works.
- 10.3. The Order and/or Notice referred to in Sections 10.1 and 10.2 of this By-Law shall also contain:
 - 10.3.1. The time frame in which the work contained in the Order must be carried out; and
 - 10.3.2. A notice stating that if the work is not done in compliance with the Order within the period it specifies, the Township may issue a "Notice of Violation" and may complete any work at the Owner's expense.
- 10.4. An Order and/or Notice issued pursuant to Sections 10.1, 10.2 or 10.3 of this By-Law shall be served personally or by prepaid registered mail or in accordance with Section 10.5 of this By-Law.

- 10.5. An Order and/or Notice issued pursuant to Sections 10.1, 10.2 or 10.3 of this By-Law, sent by prepaid registered mail, shall be sent to the last known address of the Owner of the Land.
- 10.6. An Inspector who is unable to effect service pursuant to Section 10.5 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.
- 10.7. If the Owner fails to do the work required by an "Order to Comply" and "Notice of Violation" issued pursuant to Sections 10.1 to 10.3 inclusive of this By-Law within the period specified, the Township, 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 Township in so doing shall be paid by the Owner of the land and may be recovered by the Township in like manner as taxes or drawing on the security provided.
- 10.8. Where archaeological resources have been discovered or identified at a site, the Manager of Public Works 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.
- 10.9. If the work required by an order in Section 10 is not completed within the specified period, the Township, in addition to all other remedies it may have, may do the work at the Owner's expense and may enter upon land, at any reasonable time, for that purpose pursuant to s. 446 of the *Municipal Act*.
- 10.10. The Township will not be required to undo any remedial work and the Township will not be required to provide compensation as a result of doing the remedial work undertaken pursuant to this By-Law.
- 10.11. The Developer agrees that in the event of any documented failure to comply with the approved Haul Route Plan, the Township will give notice of such breach to the Developer. The Developer will have forty-eight (48) hours from delivery of the notice within which to either:
 - 10.11.1. Provide evidence satisfactory to the Township that the breach was not related to the Development and/or not caused by the Developer or any of its employees, associates, contractors, agents, sub-contractors or designates; or
 - 10.11.2. In the event of not being able to provide such evidence, to pay the sum of One Thousand Dollars (\$1,000.00) to the Township as predetermined liquidated damages for each documented breach of the Haul Route.
- 10.12. The parties acknowledge that the liquidated damages reasonably reflect the additional cost of the Township's administration, inspection, site attendances and labour costs in monitoring compliance with the Haul Route requirements of this Agreement.

11. OFFENCES AND PENALTIES

- 11.1. Any Person, including a corporation, who contravenes any provisions of this By-Law, the terms or conditions of any 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 pursuant to Section 425 of the *Municipal Act*, 2001 and, upon conviction, is liable:
 - 11.1.1. For any Person on a first conviction, to a fine of not less than \$500 and not more than \$25,000;

- 11.1.2. For any corporation, on a first conviction, to a fine of not less than \$500 and not more than \$50,000;
 - 11.1.3. For a Person or corporation upon a second or subsequent conviction for the same offence, to a fine of not more than \$100,000;
 - 11.1.4. For a Person or corporation upon conviction of 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 are not limited to \$100,000; and
 - 11.1.5. For a Person or corporation, 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.
- 11.2. If a corporation has contravened any provision of this By-Law, the terms or conditions of any 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.
- 11.3. 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.
- 11.4. If Fill or any other material 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.
- 11.5. 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.
- 11.6. 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.
- 11.7. 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 any Agreement 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 pursuant to Section 431 of the *Municipal Act, 2001*, c.25 at the expense of the person to:
- 11.7.1. Rehabilitate the land;
 - 11.7.2. Remove the Fill or other material Placed or Dumped;
 - 11.7.3. Restore the grade of the land to its original condition; and
 - 11.7.4. Replace damaged trees, shrubs, etc.
- 11.8. A special fine may be imposed in addition to a fine imposed under Section 11.1 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:
- 11.8.1. \$10.00 for each cubic metre of Fill deposited in excess of the amount allowed, or deposited beyond the geographic limits, or deposited without first having obtained the consent of the Township; and

- 11.8.2. Where the Fill or other material 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.
- 11.9. 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.
- 11.10. Notwithstanding the provisions of this Section, the Township may proceed pursuant to Part III of the *Provincial Offences Act*, R.S.O. c.P.33, as amended, commencement of proceedings by information.
- 11.11. The conviction of an offender upon the breach of any provisions of the By-Law shall not fetter the prosecution against the same offender upon any continued or subsequent breach of any provision and the Presiding Judge or judicial officer may convict any offender repeatedly for continued or subsequent breaches of the By-Law and the provisions of Section 429 of the *Municipal Act*, 2001, as amended from time to time, shall further apply to any continued or repeated breach of this By-Law. Each day shall constitute a separate offence under this By-Law.

12. FEES AND COSTS

- 12.1. The fee for processing, administration, renewal and inspection for shall be in accordance with the Fees and Charges By-Law of the Township, which may be amended by Council from time to time.
- 12.2. Tipping fees as identified in the Fees and Charges By-Law, shall be paid by the Owner to the Township at intervals set out by the Township, as applicable, and are as set out in the Fees and Charges By-Law.
- 12.3. Any failure to pay the necessary fees, or top up the security, may result in a fine or Stop Work Order being issued.
- 12.4. The Owner agrees to pay to the Township, all of the Township's costs plus a 10% administrative Fee plus interest accrued to the date payment is made at a rate of fifteen (15) percent per annum equal to 1.25% per month, which will be recoverable from the Owner of the lands by action or in like manner as taxes pursuant to the provisions of Section 446 of the *Municipal Act*, 2001, S.O. 2001 c. 25, for all matters relating to: legal, planning, administrative (including Public Works), peer review consultants, other consultants, external contractors, engineers, soil testing, hydrogeology, environmental consultants and testing, landscape and/or other consultants, as the Township may retain in its sole and absolute discretion, plus all applicable taxes, for all items including but not limited to: this By-Law, entering into any Agreements, checking plans, reviewing specifications, inspecting the property, and the Owner completing any Site Alteration, whether due to any direct action taken by the Owner or not, or which may arise indirectly as a result of the Owners Site Alteration of the Lands. This shall include any negotiations or discussions with the Owner, the Owner's lawyers, engineers, other parties retained by the Owner, or retained by the Township, including any Agreements entered into, or as a result of the Owner challenging any matter arising pursuant to any Agreements, and for all costs incurred by the Township including any legal opinions required by the Township

for any matter relating to any of these items, in the Township's sole and unfettered discretion.

- 12.5. Costs incurred by the Township, including the prescribed interest rate, are a lien on the lands upon registration in the proper land registry office of a notice of lien pursuant to section 446(5) of the *Municipal Act, 2001* S.O. 2001 c. 25.
- 12.6. The lien is in respect of all costs that are payable at the time the notice is registered, plus interest at the prescribed rate, and accrued to the date payment is made.
- 12.7. Upon payment of all costs payable plus interest accrued to the date of debt payment being made by the owner of the land, a discharge of the lien shall be registered by the Township in the proper land registry office of the notice of lien pursuant to Section 446 of the *Municipal Act*.
- 12.8. The Owner is required to pay the Township's costs for the maintenance of the highways that are used by the vehicles hauling any material, to keep said highways in a state of repair and free from dust and mud, including but not limited to, mud mats, road cleaners, and dust control suppressants, and against damage to any highways that are used by any vehicles hauling Fill or any other material to or from the Lands on which work is to be performed, or for any other work that the Township may deem necessary, for damage caused by the Site Alteration.
- 12.9. For any Site Alteration permitted under Section 5.2 and 5.3, the Township may require the Owner to produce an Initial Road Condition Report detailing the condition of the roads being used to haul Fill, Soil, Topsoil, or other material. The Township may use the Initial Road's Condition Report and require the Owner to restore the road, being used to haul the Fill, Soil, Topsoil, or other material, to its initial condition as set out in the Initial Road's Condition Report, at the sole expense of the Owner.
- 12.10. The Owner shall be required to provide a security deposit in an amount to be set by the Township at their sole and unfettered discretion, which security may be drawn upon by the Township in its sole and absolute discretion to remedy or rectify any damage or complete any performance required under this By-Law, and, without limiting the generality of the foregoing, such security may be used to return the land to a condition satisfactory to the Manager of Public Works for any breach of this By-Law, any Site Alteration, or any Agreement, or to pay any outstanding amounts owed by the Owner that relate to the requirements of this By-Law, any Site Alteration or any Agreement, in the sole and unfettered discretion of the Township.
- 12.11. The Security Deposits must be in the form of cash or an irrevocable Letter of Credit, certified cheque or cash and may be required by the Manager of Public Works to cover 100% of the estimated cost to maintain Site control measures, stabilize the Site and undertake other works as identified by the Manager of Public Works.
- 12.12. A Letter of Credit is to be in a form acceptable to the Treasurer.
- 12.13. A Letter of Credit or other securities must remain in effect for the full duration of the life of the Agreement.
- 12.14. Any Letter of Credit and its subsequent renewal forms shall contain a clause stating that 60 days written notice must be provided to the Township prior to its expiry or cancellation.
- 12.15. The Security Deposit must be replenished in full by the Owner within 30 days whenever it is drawn upon.

- 12.16. It is the responsibility of the Owner to obtain the written approval of the Manager of Public Works that the Site has been adequately reinstated and stabilized in accordance to this By-Law and the plans, and to request that the Township carry out a final inspection of the Site and obtain the written approval of the Manager of Public Works that this By-Law and terms and conditions of the Agreement have been complied with by the Owner.
- 12.17. When the provisions in Section 12 have been fully complied with, to the satisfaction of the Manager of Public Works, the Security Deposit shall be released.
- 12.18. If the Agreement expires or is revoked, the securities are to remain in effect until the Site is restored to a condition acceptable to the Manager of Public Works and within a timeframe approved by the Manager of Public Works.
- 12.19. Notwithstanding any other provision in Section 12, the Owner may be required to maintain the Security Deposit described in Section 12 until all Site monitoring, applicable sampling and remediation are completed, as required, to the satisfaction of the Manager of Public Works.
- 12.20. The securities provided by the Owner are interchangeable and may be used by the Township to remedy any breach of legislation, regulation, this By-Law, a related Agreement and/or any Permit issued pursuant to this By-Law.

13. INDEMNITY

- 13.1. The Owner agrees to indemnify and save harmless the Township, its elected officials, officers, agents, employees or contractors, from and against all liability, costs damages, losses, suits and claims, causes of action and demands whatsoever arising out of or connected with the issuing of any Permit pursuant to this By-Law and the carrying out of the Owner's obligations in this By-Law or any Agreements, or from the Owner having entered into any Agreements, and including claims pursuant to the *Construction Act*, R.S.O. 1990, c.C.30 or any loss or claims made against the Township. This indemnity shall not extend to the gross negligence of the Township, its officers, employees, agents or contractors. The Township has the right to withhold and/or use any portion of any Securities provided pursuant to this By-Law to indemnify the Township for any legal fees, engineering fees, administrative fees or other fees, the Township incurs to defend its interest against any such suit or claim or demand as set out in this paragraph or otherwise.
- 13.2. The Owner shall save the Township, its agents and employees, harmless from any and all claims, demands, losses, costs, damages, actions, suits or proceedings arising out of or attributable to any act or omission connected with this By-Law. It is specifically understood and agreed that inspections of the land, review by the Township's Engineer, Township Public Works Staff or, any damage or interference resulting from actions taken by the Township, it's agents or servants (which are hereinafter specifically agreed to be acting as agents of the Owner with respect to such work) shall impose no liability upon the township to the Owner and the Owner specifically agrees that no such claim will be made.

14. SEVERABILITY AND INTERPRETATION

- 14.1. 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 this 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.

14.2. Interpretation

- 14.2.1. 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.
- 14.2.2. References in this By-Law to items in the plural include the singular, and references to the singular include the plural, as applicable.
- 14.2.3. The words "include", "includes" and "including" are not to be read or interpreted as limiting words, phrases or descriptions that precede them.
- 14.2.4. 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.

14.3. Short Title

- 14.3.1. This By-Law shall be cited as the "Site Alteration Fill By-Law".

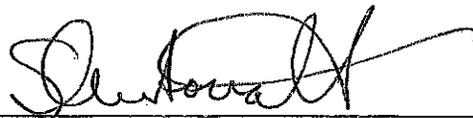
15. EFFECTIVE DATES AND REPEAL OF PREDECESSOR BY-LAWS

- 15.1. By-Law 2015-64 is hereby repealed.
- 15.2. Notwithstanding passage of this By-Law, any Permit issued by the Township pursuant to By-Law 2015-64 (repealed) listed in Schedule B attached, shall continue in effect until the expiry date and on the terms set out in Schedule B attached.
- 15.3. This By-Law shall come into full effect and force on the date of its passing.
- 15.4. The Township shall not permit any extensions or renewals of any permits issued under the predecessor By-Law after the date of passage of this By-Law, except as specifically set out in Schedule 'B' attached.

16. SCHEDULES

- Schedule "A" - Permit Application Process
- Schedule "B" - List of Current Permits and Expiry Dates

READ A FIRST TIME AND TAKEN AS READ A SECOND AND THIRD TIME AND FINALLY PASSED THIS 18th day of December, 2019.



Sandie Macdonald, Mayor



Lisa Lehr, Clerk

BY-LAW NO. 2019-84

SCHEDULE A

Permit Application Process

- 1.1 The Manager of Public Works may require a Bona Fide Farmer to submit to the Manager of Public Works:
- a. confirmation that the property where the proposed Site Alteration is to take place are not within any of the prohibited areas;
 - 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 designation and zoning of the property;
 - e. the name, address 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 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 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;
 - h. 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;
 - i. the applicable fees calculated in accordance with the rates set out in the Township's Fees and Charges By-Law;
 - j. a brief description of the proposed works that have been identified on the Site Plan;
 - k. work schedule for the proposed Site Alteration works;
 - l. proposed grades and drainage systems upon completion of Site Alteration operations and as shown on the Site Plan;
 - m. estimated volume of Fill to be imported to achieve the proposed grades;
 - n. a brief description of the Fill being placed or dumped;
 - o. all source location(s) of the Fill being placed or dumped including environmental soil tests, and soil permeability tests if required by the Manager of Public Works;
 - p. 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;
 - q. all dust and mud control measures to be implemented and utilized during construction and after as required;
 - r. all proposed ground covering to be used upon completion of the Site Alteration operation;

- s. 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;
- t. securities to ensure the Owner's obligations according to a Site Alteration Permit; and
- u. any other requirements the Manager of Public Works deems necessary.

Background Studies

- 2.1 The Manager of Public Works may require the applicant to undertake and submit any tests or studies relating to:
- a. all necessary documentation to demonstrate compliance with the provisions of applicable Provincial Plans;
 - b. confirmation of the surrender of the license if the Site has been previously licensed by the Ministry of Natural Resources and Forestry;
 - c. confirmation from the County or Province that the proposed traffic and road access components of the Site Alteration operation meets their requirements and provide any site specific conditions imposed by the County or Province;
 - d. confirmation from the applicable regulating agency that the proposed Site Alteration meets all tree protection polices or by-laws that prohibit or regulate the destruction or injuring of trees and provide any site specific conditions imposed by the applicable authority;
 - e. confirmation of on-site presence or absence of any endangered, threatened species or Species of Special Concern as designated and defined in the Endangered Species Act;
 - f. an Archaeological Assessment where the Site Alteration has the potential to disturb archaeological resources;
 - g. 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;
 - h. all assessments of soil quality and groundwater quality at the Receiving Site in order to establish the current, ambient Site condition;
 - i. any relevant landform conservation plan prepared to the reasonable satisfaction of the Manager of Public Works; and
 - j. any other studies or reports the Manager of Public Works deems necessary.

BY-LAW NO 2019-84

SCHEDULE B

Active Fill Permit Address	Owner	Current/ New Expiry Date
1. 5786 8 th Line, RR#1 Egbert, ON L0L 1N0	Varcoe, Devin Bradley	February 28, 2020
2. 5555 8 th Line, RR#2 Cookstown, ON L0L 1L0	Cruz, Maria Celeste	May 21, 2020
3. 5934 8 th Line, RR#1 Egbert, ON L0L1N0	Gibbs, Sarah	July 1, 2020
4. 6612 County Road 56, RR#1 Egbert, ON L0L 1N0	Tombu, Nester	February 28, 2020
5. 8848 6 th Line Utopia, ON L0M 1T0	Smith, Eugene Michael	July 4, 2020
6. 7054 County Road 56, RR#1 Utopia, ON L0M 1T0	Cunningham, Glen Earl	February 28, 2020
7. 5833 30 th Sideroad Utopia, ON L0M 1T0	McKever, Steven George	July 1, 2020
8. 5283 9 th Line Cookstown, ON L0L 1L0	Faris, Allan Keith	July 1, 2020

1. Notwithstanding passage of this By-Law, any Permit issued by the Township pursuant to By-Law 2015-64 (repealed) listed in Schedule B herein, shall continue in effect until the expiry date, and on the terms set out in Schedule B herein.
2. All terms, obligations and requirements contained in By-Law 2015-64 (Repealed) shall apply to the Permits listed in Schedule B #1-8 herein, as part of the within By-law, until each of the respective expiry dates of the Permits as set out herein.