

The Corporation of the Township of Springwater
By-law 2022-105

Being a By-law to regulate and prohibit the placing or dumping of fill and site alterations in the Township of Springwater and to repeal By-law 2018-006

(Fill and Site Alteration By-law)

Whereas Section 8(1) of the *Municipal Act*, 2001, S.O. 2001, c.25, herein referred to as “the Act”, provide that the powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality’s ability to respond to municipal issues.

And Whereas Section 8(3) of the Act provides that a By-law under sections 10 and 11 respecting a matter may,

- (a) Regulate or prohibit respecting a matter;
- (b) Require persons to do things respecting a matter;
- (c) Provide for a system of licences respecting a matter.

And Whereas under Section 11 of the Act provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public, such as but not limited to:

- (a) Health, safety and well-being of persons.
- (b) Protection of persons and property, including consumer protection.
- (c) Animals.

And Whereas Section 142 of the Act provides that a By-law may prohibit or regulate the placing or dumping of fill, prohibiting or regulating the site alteration of the grade of land in any defined area or on any class of land in the municipality, and requiring that a permit be obtained for the placing or dumping of fill or the site alteration of the grade of land.

And Whereas Council deems it in the public interest to regulate the dumping and placing of fill and site alterations in order to ensure that groundwater is protected, that existing drainage patterns are maintained and that any changes to existing drainage patterns are appropriate to protect environmental features and to prevent importation of hazardous material.

And Whereas By-law 2018-006 was adopted by Council on February 7, 2018 and is hereby being repealed by this By-law

Now Therefore the Council of The Corporation of the Township of Springwater enacts as follows:

1. Definitions

1.1 For the purpose of this By-law, the following definitions shall apply:

“Adjacent” means abutting or contiguous to;

“Agricultural Uses” means:

- a) Growing crops, including nursery and horticultural crops;
- b) Raising livestock and other animals, including poultry and fish, for food and fur;
- c) Aquaculture; and
- d) Agro-forestry and maple syrup production;

“Applicant” means the person who applies for a permit under this By-law;

“Building” has the same meaning as in the *Building Code Act, 1992*, S.O. 1992, c. 23, as amended;

“Council” means the Council of the Corporation of The Township of Springwater;

“Deleterious Material” means material that does not comply with the applicable Ministry of the Environment criteria and the Soil, Ground Water and Sediment Standards for Use Under Part XV.1 of the *Environmental Protection Act*, as amended;

“Director” shall mean the Chief Administrative Officer, the General Manager-Infrastructure & Operational Services for the Township, or his/her designate by Council or the;

“Dump” or **“Dumping”** includes the depositing of Fill, or any other deleterious material, in a location other than where the said material was obtained and includes the movement and depositing of these materials from one location on a property to another location on the same property;

“Environmentally significant lands” includes:

- a) 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;
- b) Environmentally sensitive areas on maps, as amended from time to time prepared by any conservation authority having jurisdiction over the lands within the Township;

- c) Lands zoned “Environmental Protection (EP) by Comprehensive Zoning By-law 5000, as amended from time to time;
- d) Lands within any permanent or intermittent watercourse and/or related valley feature;

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

“**Excavate, Excavation or Excavating**” shall mean activities on lands resulting in the removal or displacement of soil;

“**Existing Grade**” shall mean the elevation of the existing ground surface of land and the abutting ground surface of land up to three (3) metres beyond, except that where placing or dumping of fill has occurred in contravention of this By-law, existing grade shall mean the ground surface of the lands as it existed prior to the placing or dumping of fill or any site alteration;

“**Fill**” shall mean any type of material deposited or placed on land and without limiting the generality of the foregoing, includes soil, stone, brick, concrete, other types of aggregates, sod or turf either singly or in combination capable of being removed from, deposited on, or relocated within lands as may otherwise be defined by Ministry of the Environment, Conservation and Parks from time to time;

“**Fill Permit**” means a permit issued by the Township permitting a person to Place or Dump Fill on land;

“**Financial Security**” means a certified cheque, cash or an irrevocable letter of credit in a form acceptable to the Director;

“**Finish or Finished Grade**” shall mean the approved final elevation of ground surface of lands upon which Fill has been Dumped or Placed or Site Alteration has occurred in accordance with this By-law;

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

“**Guidelines**” means the application requirements, information, documentation, and material, as determined by the Director from time to time, to be used for the purpose of applying this By-law and to consider any application for a site alteration permit.

“**Hydro-Excavation Truck**” means any truck that excavates, evacuates, removes, or moves fill with water and/or air. The material hauled in a hydro-excavation truck may be referenced as, among other names; flurry, liquid fill, wet fill or fill;

“**Hauler**” means a hauler of Fill;

“Land or Lands” shall mean all land within the Town 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;

“Municipal Law Enforcement Officer” means an Officer appointed by the Council of the Township of Springwater for the purposes of carrying out the enforcement of municipal By-laws.

“Operator” means any person, firm or corporation authorized by the Owner to manage or control any permitted works occurring on the Owner’s land and/or who alone or with others, operates, manages, supervises, runs or directs such business, activity or undertaking;

“Owner” shall mean the registered owner of any land which is to be re-graded or which fill is proposed to be placed or dumped, as well as any person, firm or corporation managing or controlling such lands;

“Permit” means either a Fill Permit or a Site Alteration Permit;

“Permit Holder” means the person whom a permit is issued and includes:

- a) the owner,
- b) any person in possession or in charge, and
- c) a lessee and a mortgage in possession of the property for which a permit has been issued;

“Person” means any individual, association, firm, partnership, corporation, trust, incorporated company, corporation created under the *Condominium Act*, organization, trustee or agent, and their heirs, executors or other legal representatives of a person to whom the context can apply according to law;

“Place of disposal” shall mean a place where the disposal of fill or soil is legally permitted;

“Place, placing or placed” shall mean the distribution of fill on lands to establish a grade different from the existing grade;

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

“Reclaimed Fill” means any form of fill that once contained contaminants or was unacceptable for a property and has since been decontaminated by any means;

“Site Alteration” shall mean any activity that involves the dumping, grading, removing, movement or excavating of fill and soil;

“**Site Alteration Permit**” means a permit issued by the Township for a person to conduct Site Alteration on land;

“**Site Alteration Plan**” shall mean a conceptual based document approved by the Director that has details on current conditions, how the site alteration activities will be conducted, the final site conditions and the impact mitigation measures to be employed.

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

“**Soil**” shall mean material commonly known as earth, topsoil, loam, subsoil, clay, sand or gravel, or as otherwise defined by the Ministry of Environment, Conservation and Parks, from time to time;

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

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

“**Topsoil**” shall mean those horizons in a soil profile, commonly known as the “O” and “A” horizons, containing organic material and includes deposits of partially decomposed organic matter such as peat; (Municipal Act, 2001, c. 25, s. 142 (1));

“**Township**” means The Corporation of the Township of Springwater; and,

“**Works**” means the Placing or Dumping of Fill or Site Alteration.

2. Administration

2.1 This Director is responsible for administering this By-law and shall be delegated the authority to:

- a) receive applications and fees established under this By-law;
- b) enter into agreements on behalf of the Township pursuant to this By-law;
- c) issue, cancel, revoke or decline to issue, permits;
- d) establish, issue, revise and amend the Township’s standards; and,
- e) impose conditions on permits in accordance with this By-law.

2.2 The Director and Municipal Law Enforcement Officers of the Township are hereby delegated the authority to enforce this By-law, including the authority to conduct inspections pursuant to this By-law, the *Municipal Act, 2001*, as amended, and any other enacted applicable By-law or legislation.

- 2.3 The Director is authorized to delegate responsibilities for the administration and enforcement of this By-law to any Township staff or external third parties deemed to be qualified and appropriate by the Director for such purposes.

3. General Regulations

- 3.1 This By-law applies to all lands within the Township, subject to Section 4 of this By-law.
- 3.2 No person shall Place or Dump Fill, or cause or permit Fill to be Placed or Dumped, on any land, without first obtaining a Fill Permit under this By-law.
- 3.3 No person shall place or Dump Fill, or cause or permit Fill to be Placed or Dumped, on any land, except in accordance with the provisions of this By-law.
- 3.4 No person shall Place or Dump Fill except in accordance with:
- a) the plans, materials, documents or other information submitted to the Township in order to obtain the Fill Permit;
 - b) the terms and conditions of the Fill Permit; and,
 - c) any agreement entered into the Township as a condition of obtaining the Fill Permit.
- 3.5 No person shall Place or Dump any Deleterious Material, or cause or permit Deleterious Material to be Placed or Dumped, on any land within the Township.
- 3.6 No person shall commence any Site Alteration, or cause or permit any Site Alteration to occur, without first obtaining a Site Alteration Permit under this By-law.
- 3.7 No person shall commence any Site Alteration, or cause or permit any Site Alteration to occur, except in accordance with the provisions of this By-law and any issued Site Alteration Permit.
- 3.8 No person shall import fill onto any property within the Township with the use of a hydro-excavation truck.
- 3.9 No person shall use any Reclaimed Fill on any property within the Township.
- 3.10 No person shall do anything, or permit or cause the doing of anything, which results in the alteration, modification, fouling or blockage of any swale, ditch, drainage course, watercourse, or part thereof, on any land.
- 3.11 This By-law is not intended to and shall not circumvent any development approval process which is required under the *Planning Act* and, without limiting the generality of the foregoing, the permit process shall not be used to allow for

pre-servicing of subdivision lands, industrial or commercial development which would otherwise be addressed through the site plan or subdivision approval process under section 41 and 51 or 53 of the *Planning Act*.

- 3.12 Notwithstanding any provision of this By-law, no Fill and/or Site Alteration shall proceed, including whether a Permit under this By-law has been issued, without the Owner, Project Leader, Qualified Persons, or any other person responsible for the Fill and/or Site Alteration, from ensuring compliance with *Ontario Regulation 406/19: On-Site and Excess Soil Management (O.Reg. 406/19)*. Furthermore, no Permit issued under this By-law shall circumvent any of the provisions, standards, sections and responsibilities set out in O.Reg 406/19.

4. Exemptions

4.1 Notwithstanding any other provision of this By-law, this By-law shall not apply to the following:

- a) Any of the exemptions or exceptions listed under sections 142(5) and 142(6) of the *Municipal Act, 2001*;
- b) The Placing or Dumping of soil on lands for the purpose of lawn dressing, landscaping or adding to flower beds or vegetable gardens, provided that:
 - i) The ground elevation of the land is not increased by more than two hundred (200) millimetres;
 - ii) The elevation of the land within sixty (60) centimetres (24 inches) of any property line is not changed;
 - iii) There is no change in the location, direction, or elevation of any natural or artificial watercourse, drainage course, swale, or ditch used to drain land; and,
 - iv) A maximum of 300m³ of Fill in total in each year is imported.
- c) Land in any area of the Township to which a regulation under section 28 of the *Conservation Authorities Act, R.S.O. 1990, c. C. 27*, as amended, applies;
- d) The use, operation, establishment, alteration, enlargement or extension of a waste management system or waste disposal site within the meaning of the *Environmental Protection Act, R.S.O. 1980, c. E. 19* as amended or a waste waste disposal or waste management system that is exempt by regulation;
- e) The placing or dumping of fill in an excavation to the elevation of existing grade following the demolition or removal of a building or structure for which a demolition permit was issued;

- f) 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*;
- g) 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;
 - i) That has not been designated under the *Aggregate Resources Act* or a predecessor of that Statute, and
 - ii) On which a pit or quarry is a permitted land use under a By-law passed under s. 34 of the *Planning Act*;
- h) The placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken as an incidental part of the drain construction under the *Drainage Act, R.S.O. 1990, c. D.17* or the *Tile Drainage Act, R.S.O. 1990, c. D.8*;
- i) Activities of the Township, the County of Simcoe, Conservation Authority, the Provincial Government and the Federal Government related to the establishment or maintenance of utilities and services, roads, bridges, flood and erosion control facilities, walkways, bicycle paths, fences, retaining walls, steps and lighting;
- j) The placing or dumping of fill, removal of topsoil or alteration of the grade of land as a condition to the approval of a site plan, a plan of subdivision or a consent under section 41, 51 or 53 respectively, of the *Planning Act* or as a requirement of a site plan agreement or subdivision agreement entered into under those sections;
- k) The placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken by a transmitter, distributor, as those terms are defined in s. 2 of the *Electricity Act, 1998, S.O. 1998, c. 15 Sched. A*, for the purpose of constructing and maintaining a transmission system or a distribution system;
- l) Fill being placed or dumped on lands for the purpose of flood erosion control to establish finished grade shown on a grading and drainage plan approved by the Conservation Authority and/or by the Director in conjunction with subdivision approval or site plan approval;
- m) The removal of topsoil as an incidental part of a normal farm practice including such removal as an incidental part of sod-farming, greenhouse operations and nurseries for horticultural products, but this By-law is applicable to the removal of topsoil and removal, placement or re-placement of sub-strata for sale, exchange or other disposition;

- n) The harvesting of peat in a commercial operations;
- o) Site alteration undertaken where a building permit has been issued or an order, directive, or other requirement by an inspector has been made pursuant to the Ontario Building Code Act, R.S.O 1992, c. 25, s8,-(1), s12.- (2), but such exemption does not apply to any site alteration beyond 3.0 metres of the building footprint, except with the extent of excess soil from the excavation which shall be redistributed on site within the property owner's property limits and in accordance with a grading plan;
- p) Construction of an on-site sewage system pursuant to a valid building permit provided the placement or dumping of fill is consistent with the approved design or, as required by the Township; or
- q) Any work undertaken by the holder of a Road Occupancy Permit.

5. Permit Applications

- 5.1 In order to apply for a Permit under this By-law, an Owner shall:
 - a) fill out the form prescribed by the Township; and,
 - b) pay the applicable fee, in accordance with Schedule "A" to this By-law.
- 5.2 If works have been performed prior to the issuance of a Permit, the fees for an application for Permit shall:
 - a) double the amount otherwise specified in this By-law; and,
 - b) include engineering site inspection(s) fees as defined in Schedule "A" for each inspection that was made, required or requested prior to a Permit being issued.
- 5.3 There shall be two (2) types of permits under this By-law:
 - a) a Fill Permit; and,
 - b) a Site Alteration Permit.
- 5.4 The following information shall be required by the Director in order to obtain a Permit:
 - a) the name, address and other contact information of the Owner and the Operator, if applicable;
 - b) the municipal address of the land upon which the proposed Works are to occur;

- c) a general description of the proposed Works including, but not limited to, the following:
 - i) the purpose of the Works;
 - ii) the approximate total volume of Fill to be Placed or Dumped, if applicable;
 - iii) a description of the Fill proposed to be Placed or Dumped, if applicable;
 - iv) the nature and extent of any Site Alteration, if applicable;the approximate start and end date of the proposed Works;
- r) The proposed end land use for the lands upon which the proposed Works are to occur,
- s) a signed acknowledgement by the Owner and Operator certifying the correctness of all the information in the Permit application;
- t) a signed authorization by the Owner allowing the Operator to conduct the proposed Works on the Owner's land, if applicable;
- u) signed authorizations of any grantees of any easements on the property agreeing to the Works on or in the vicinity of the easement;
- v) the Official Plan designation and zoning of the lands in question; and,
- w) written confirmation from the Nottawasaga Valley Conservation Authority that the proposed Works are not taking place on land to which a regulation under section 28 of the *Conservation Authorities Act, R.S.O. 1990, c. C. 27*, as amended, applies.

5.5 The following additional information may be required by the Director in order to obtain a Permit:

- a) an engineered and scaled drawing of any retaining wall that may be required and a description, including dimensions, of any materials to be used in the construction of such retaining wall;
- b) an accurate plan of the land to the satisfaction of the Director based on an identified legal survey showing:
 - i) the property lines of the lands on which the Works are to occur with appropriate dimensions,
 - ii) for the Placing or Dumping of Fill which would total less than 10,000m³ existing spot elevations on three (3) metre grids across the lands and six (6) metre grids beyond the property lines to

clearly show the existing drainage patterns on the lands and on the abutting lands;

- iii) for the Placing or Dumping of Fill which would total more than 10,000m³ a topographic survey at one (1) metre contour intervals certified by an engineer or surveyor defining all material and manmade features, including top and bottom of slopes, drainage patterns, tree lines, buildings, and stockpiles on the lands and within thirty (30) metres on abutting lands;
- iv) for Site Alterations of less than 5000m³, a plan and profile drawings including top and bottom of slopes, drainage patterns, tree lines, buildings and stockpiles on the lands and within thirty (30) metres on abutting lands;

for Site Alterations between 5000m³ and 10,000m³, existing spot elevations on three (3) metre grids across the lands and six (6) metre grids beyond the property lines to clearly show the existing drainage patterns on the lands and within thirty (30) metres on the abutting lands;
- vi) for Site Alterations of greater than 10,000m³, a topographic survey at one metre contour intervals certified by an engineer or surveyor defining all material and manmade features, including top and bottom of slopes, drainage patterns, tree lines, buildings, and stockpiles on the lands and within thirty (30) metres on abutting lands;
- vii) all existing storm sewers, ditches, swales, drainage courses and watercourses on the lands, on the abutting lands and on abutting public highways;
- viii) all existing buildings;
- ix) the species and size in calliper of all trees greater than 20cm, measured 1.37m from the base;
- x) the location of all driveways on the lands;
- xi) all easements and rights-of-way over, under, across or through the lands;
- xii) the proposed grades and drainage systems upon the completion of the Works;
- xiii) all proposed ground covering to be used upon the completion of the Works; and,

- xiv) any soil erosion control measures including the location thereof.
- c) for post-extraction aggregate operations, copies of all drawings and schedules associated with the license issued by the Ministry of Natural Resources and a confirmation of surrender of license;
- d) dust, mud and erosion control plan; and,
- e) proposed truck routes.

6. Permit Conditions

- 6.1 As a condition of the issuance of a Permit, the Director may require the Owner and/or Operator to comply with one or more of the following:
- a) to notify the Director, in writing, within forty eight (48) hours of commencing the Works;
 - b) to provide written notification to adjacent and surrounding property owners with a minimum of five (5) business days in advance of the commencement of the Fill and/or Site Alteration works, as directed by the Township;
 - c) to construct a retaining wall, including a safety fence, which does not encroach upon land abutting the land on which the Works are to be performed;
 - d) to provide protection for the Finished Grade;
 - e) to provide that Fill shall not be Placed or Dumped around the perimeter of any existing building unless such building and its foundation walls are evaluated and reinforced in accordance with accepted engineering and construction practice;
 - f) to ensure that no trench in which drainage piping is laid, is covered and backfilled until the work has been inspected and approved by the Director;
 - g) to provide protection for trees as per the Township's standards and to implement those tree protection measures prior to commencing the Works and to maintain those tree protection measures throughout the duration of the Works;
 - h) to prepare, submit for approval, and operate in accordance with, a detailed hydrogeologic study, subject to Township approval;
 - i) to prepare, submit for approval, and comply with a well monitoring program developed and undertaken by a Qualified Person to include both

onsite groundwater monitoring as well as offsite private well base studies as part of a detailed hydrogeologic study subject to review of a Qualified Person;

- j) to provide siltation and erosion control measures as per Township standards, and to obtain the approval of the Nottawasaga Valley Conservation Authority for siltation and erosion control measures, if and when required;
- k) to provide protection for environmentally significant lands identified by, but not limited to, the Township's Official Plan and the Nottawasaga Conservation Authority Regulations;
- l) to remove the Topsoil prior to the performance of the Works in order to restore the surface in accordance with Ministry of Environment, Conservation and Parks, and its successors' regulations;
- m) to provide Financial Security in a form and amount to be determined by the Director to secure performance of the Works for which the Permit is to be issued and to secure the maintenance of the highways that are used by the trucks delivering the Fill in a state of repair and free from dust and mud. The Financial Security may be drawn upon by the Township at its sole discretion to remedy any deficiency in the Works;
- n) to provide adequate drainage from the land on which the Works are to be performed in accordance with applicable Township standards;
- o) to keep and maintain the following records in a good and businesslike manner and to make the following records available for inspection upon the request of the Director of his/her designate:
 - i) the full and complete legal name and business name (if different from the legal name) of each Hauler;
 - ii) the commercial vehicle registration number of each Hauler;
 - iii) the motor vehicle permit number of the motor vehicles owned and operated by each Hauler;
 - iv) the date and time of each delivery of Fill;
 - v) the volume of each delivery of Fill;
 - vi) the contact of material of each delivery of Fill; and
 - vii) the point of origin of each delivery of Fill including verification.
- p) to provide to the Director a report from a Qualified Person in respect of the

source and nature of the Fill to be Placed or Dumped to ensure the Fill is clean as per Ministry of the Environment criteria and the Soil, Ground Water and Sediment Standards for Use Under Part XV.1 of the Environmental Protection Act, as amended;

- q) to restrict truck daily volumes and/or set the location of truck and/or access routes or staging and storage areas;
 - r) to notify the Director of the commencement, the completion, and of the various stages of performance of the Works and to make the site available for inspection by his/her designate at all times;
 - s) to indemnify the Township for any liability, costs, damages or losses incurred directly or indirectly as a result of the Works contemplated in the Permit and to provide insurance satisfactory to the Township;
 - t) to pay any and all costs incurred by the Township in order for the Township to conduct a peer review, quality control/assurance and operational compliance, plus a 15% administration fee;
 - u) such other conditions as may be deemed reasonable by the Director.
- 6.2 All activity permitted under this By-law shall be restricted to the hours of 7:00a.m. and 7:00p.m. Monday to Friday.
- 6.3 Upon completion of the Works pursuant to a Permit, the Owner and/or Operator shall so advise the Director within thirty (30) days of completion of the Works.
- 6.4 For the Placing or Dumping of Fill which would total more than 10,000m³ or for Site Alterations of greater than 10,000m³, the Owner and/or Operator, as determined by the Director, shall enter into an Agreement with the Township which shall, at a minimum, address the following:
- a) the retention of a Qualified Person, approved by the Director, who shall be responsible for ensuring that the Placing and Dumping of Fill or Site Alteration of the site is in accordance with reasonable engineering and environmental practices, based on Ontario Regulation 153/04, as amended, and is in accordance with the plan submitted by the Owner and/or Operator and approved by the Director for the Permit;
 - b) Placing or Dumping the Fill in accordance with this By-law, the Permit and the Agreement, if applicable;
 - c) requiring the Qualified Person to report in writing to the Director on a regular basis, or as determined by the Director, that the Placing and Dumping of Fill is in accordance with this By-law, the Permit, and the Agreement, as well as report on the overall compliance of site operations,

if applicable;

- d) require that the Placing or Dumping of Fill shall be completed by a specified date, if applicable;
- e) not to contaminate the natural environment and to abide by all applicable environmental laws and regulations;
- f) provide a report from the Qualified Person that he/she is satisfied that the Works will not result in:
 - i) soil erosion;
 - ii) blockage of a swale, ditch, drainage course or watercourse;
 - iii) siltation in a swale, ditch, drainage course or watercourse;
 - iv) pollution of a swale, ditch, drainage course or watercourse;
 - v) flooding or ponding of abutting lands;
 - vi) flooding or ponding caused by a swale, ditch, drainage course or watercourse overflowing its banks;
 - vii) a detrimental effect on any trees of a caliper of 20cm or more, measured 1.37m up from the base, located on the lands;
 - viii) detrimental effect on matters of inherent biological sensitivity such as aquifer recharge, water quality, unusual plants or wildlife and overwintering habitants; or
 - ix) contamination of the aquifer.
- g) acknowledge that the Township may engage legal, engineering, hydrology, environmental and landscape consultants to, for example, evaluate studies and or prepare or amend Agreements, and that those costs incurred by the Township will be charged back to the Owner plus a 15% administrative charge;
- h) provide Financial Security satisfactory to the Township to be used to remedy any breach of Federal legislation, Provincial legislation, this By-law, a Permit or an Agreement; and,
- i) indemnify the Township, to the satisfaction of the Township, for any liability, costs, damages or losses incurred directly or indirectly by the issuing of a Permit or the Works undertaken pursuant to the Permit and provide insurance satisfactory to the Township.

- 6.5 The Owner and/or Operator shall comply with all federal and provincial statutes and regulations as well as municipal By-laws when performing Works under a Permit, including the Ontario Regulation 406/19: On-Site and Excess Soil Management.
- 6.6 The Owner and/or Operator shall ensure that all Fill used in accordance with this By-law meets the Ministry of Environment, Conservation and Parks soil standards for the intended use of the lands to the satisfaction of the Township, provided that the Fill shall not contain pcb levels higher than as permitted in Table 1 of the Rules of Soil Management and Excess Soils Quality Standards, adopted by reference in O. Reg. 406/19; *On-Site and Excess Soil Management* made under the *Environmental Protection Act, R.S.O. 1990 c. E.19*, as amended.
- 6.7 The Owner and/or Operator shall provide written confirmation that the Fill or Site Alteration complies with any policy, guideline or regulation issued by the Ministry of Environment, Conservation and Parks related to management of excess soil including but not limited to source site approval, audit and sampling protocol, record keeping protocol, corrective actions, traffic control, groundwater monitoring, prohibition on Fill containing pcb levels higher than as permitted in Table 1 of the Rules for Soil Management and Excess Soil Quality Standards, adopted by reference in O. Reg. 406/19; *On-Site and Excess Soil Management* made under the *Environmental Protection Act, R.S.O. 1990 c. E.19*, as amended, a protocol for the removal and/or storage of topsoil and a completed response protocol.
- 6.8 The Township reserves the right to request any documents, or any relevant information, at its sole discretion, from the Owner or Operator of the aforementioned items outlined in section 6.7. Failure to provide any requested information or documents will result in the refusal of a permit issuance, or revocation of a issued permit.
- 6.9 In the event an archaeological resource is discovered or identified during Site Alteration, even after the issuance of a Permit, the Owner and/or Operator shall:
- a) immediately cease all activity on the lands which the Works are being performed on;
 - b) immediately contact the Director; and,
 - c) take such actions as defined by the Director or other responsible agency to address, safeguard and protect the resource.

7. Issuance of Permits

7.1 The Director shall issue a Permit when:

- a) the Director is satisfied that:

- i) all necessary documentation or other information has been received by the Township in accordance with the provisions of this By-law;
- ii) the lands which are the subject of the Permit application are not within an area where the Works would be prohibited by any legislation, regulation, Official Plan, Zoning By-law or other municipal By-law;
- x) all other applicable permits have been obtained;
- y) the necessary agreements, if any, have been entered into;
- z) the applicable fee has been paid; and,
- aa) the applicant has fulfilled all of the requirements of this By-law.

8. Permit Revocation

8.1 The Director may revoke a Permit for the following reasons:

- a) it was obtained on mistaken, false or incorrect information;
- b) it was issued in error;
- c) the Owner and/or Operator requests in writing, that it be revoked;
- d) the terms of an agreement under this By-law have not been complied with;
- e) work authorized under the Permit has not been commenced prior to the Permit's expiry date; or
- f) an Owner or Operator has failed to comply with the provisions of this By-law.

8.2 If a Permit has been revoked after the Works have commenced but prior to the completion of the Works, the Owner and Operator, at their sole cost, shall forthwith restore the site to its original condition or stabilize the site to the satisfaction of the Director.

9. Permit Expiration

9.1 All Permits issued under this By-law shall expire six (6) months after the date of issuance of the Permit, or as otherwise stipulated in the Permit approval by the Township.

9.2 A Permit that has expired may be renewed for an additional period to be set by, and at the discretion of, the Director.

9.3 If a Permit has expired after the Works have commenced but prior to the

completion of the Works, the Owner and Operator, at their sole cost, shall forthwith restore the site to its original condition or stabilize the site to the satisfaction of the Director.

10. Transfer of Permits

- 10.1 If title or lease of the land for which a Permit has been issued is transferred while the Permit remains in effect, the Permit shall be deemed expired unless the new Owner of the lands, at a minimum of thirty (30) days prior to the transfer, provides the Township with an undertaking to comply with all the conditions under which the existing Permit was issued.

11. Enforcement

- 11.1 A Municipal Law Enforcement Officer, or any other individual authorized to enforce this By-law on behalf of the Township, may at any reasonable time enter upon any land for the purpose of carrying out an inspection to determine whether the following are being complied with:
- a) this By-law;
 - b) any direction or order under this By-law;
 - c) any condition on a permit issued under this By-law; or
 - d) an order issued under section 431 of the *Municipal Act*.
- 11.2 Where an inspection is conducted pursuant to this section a Municipal Law Enforcement Officer or any other individual authorized to enforce this By-law on behalf of the Township, may:
- a) require the production for inspection of documents or things relevant to the inspection;
 - b) inspect and remove documents or things relevant to the inspection for the purpose of making copies and extracts;
 - c) require information from any person concerning a matter related to the inspection; and
 - d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purpose of the inspection.
- 11.3 No person shall hinder or obstruct, or attempt to hinder or obstruct the Township, its employees, officers or agents from carrying out any powers or duties under this By-law.

- 11.4 No person shall contravene any order or direction issued by the Township pursuant to this By-law or the *Municipal Act*.
- 11.5 Where a Municipal Law Enforcement Officer, or any other individual authorized to enforce this By-law on behalf of the Township, has reasonable grounds to believe that an offence has been committed by any person, the authorized officer may require the name, address and proof of identity of that person, and the person shall supply the required information.
- 11.6 No person shall decline or neglect to give, produce or deliver any access, information, document or other thing that is requested pursuant to this By-law by a person authorized to enforce this By-law.
- 11.7 No person shall knowingly make, participate in, assent to or acquiesce in the provision of false information in a statement, affidavit, application or other document prepared, submitted or filed under this By-law.

12. Order

- 12.1 Where the Director or the Municipal Law Enforcement Officer is satisfied that a contravention of this By-law or a permit has occurred, such Director or Municipal Law Enforcement Officer may make an order requiring that the person who caused or permitted such contravention, or the owner or occupier of the land on which the contravention occurred, to discontinue the contravening activity and/or to do work to correct the contravention.
- 12.2 An order pursuant to section 12.1 shall set out the following:
- a) the municipal address and/or the legal description of the land or premises on which the contravention occurred;
 - b) reasonable particulars of the contravention;
 - c) what is required of the person subject to the order;
 - d) the date by which there must be compliance with the order and/or, if any work is ordered, the date by which any such work must be done;
 - e) if any work is required to be done, a statement that if such work is not done in compliance with the order and within a specified time period, the Township will have the work done at the expense of the person directed or required to do it; and
 - f) information regarding the Township's contact person.
- 12.3 An order pursuant to section 12.1 shall be deemed to have been received upon:

- a) personal service of the order to the person being served;
- b) the day after posting a copy of the order on the land which the contravention took place; or
- c) the fifth (5th) day after the order is sent by registered mail to the last known address of the owner of the land on which the contravention took place or the last known address of any other person in contravention of this By-law.

13. Remedial Action and Cost Recovery

- 13.1 If an Officer has issued an order requiring a person to do a matter of thing and the person directed or required to do it has not done so in contravention of the order, then the Township may enter upon land at any reasonable time to do the matter or thing at the person's expense plus a 15% administration fee.
- 13.2 The Township may recover the costs of doing a matter or thing under section 13.1 of this By-law from the person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes. The costs include interest calculated at a rate of 15 per cent, calculated for the period commencing on the day the Township first incurs the costs and ending on the day the costs, including the interest, are paid in full.
- 13.3 The amount of the costs noted in section 13.1 of this By-law, constitute a lien on the land upon the registration in the proper land registry office of a notice of lien. The lien is in respect of all costs that are payable at the time the notice is registered plus interest accrued at the rate established under Section 13.1 of this By-law, to the date the payment is made. Upon receiving payment of all costs payable plus interest accrued to the date of payment, the municipality shall register a discharge of the lien in the proper land registry office.

14. Offences and Penalties

- 14.1 Every person who contravenes a provision of this By-law, including an order issued under this By-law, is guilty of an offence. If a corporation has contravened a provision of this By-law, including an order issued under this By-law, every director or officer who knowingly concurred in such a contravention is guilty of an offence.
- 14.2 Pursuant to subsection 429(2) of the *Municipal Act*, all contraventions of this By-law or orders issued under this By-law are designated as multiple offences and continuing offences. If a contravention of any provision of this By-law has not been corrected, or an order issued under this By-law has not been complied with, the contravention of such a provision or an order shall be deemed to be a continuing offence for each day or part of a day that the contravention remains uncorrected or an order not complied with. A multiple offence is an offence in respect of two (2) or more acts or omissions each of which separately constitutes

an offence and is a contravention of the same provision of this By-law.

- 14.3 On conviction of an offence under this By-law, every person is liable to a fine in accordance with the following rules pursuant to the *Municipal Act*:
- a) to a fine of not less than \$500.00 and not more than \$100,000.00;
 - b) in the case of a continuing offence, for each day or part of a day that the offence continues, the minimum fine shall be \$500.00 and the maximum fine shall be \$10,000.00; despite paragraph (a), the total of all the daily fines for an offence is not limited to \$100,000.00.
 - c) in the case of a multiple offence, for each offence included in the multiple offence, the minimum fine shall be \$500.00 and the maximum fine shall be \$10,000.00, despite paragraph (a), the total of all fines for each included offence is not limited to \$100,000.00.
- 14.4 In addition to fines under this section, a person convicted of an offence under this By-law may be liable to a special fine in the amount of the economic advantage or gain that such a person obtained from the contravention of this By-law. Notwithstanding section 14.3, a special fine may exceed \$100,000.00.

15. Presumption of Ownership

- 15.1 An owner shall be presumed to have carried out or caused or permitted to be carried out a site alteration that occurred on a site owned by such owner, or contravened or caused or permitted the contravention of the terms or conditions of a permit applicable to a site owned by such owner, as the case may be, which presumption may be rebutted by evidence to the contrary on a balance of probabilities.

16. Severability

- 16.1 It is hereby declared that notwithstanding any section, subsections, clause, paragraph or provision of the By-law or parts thereof, may be declared by a court of competent jurisdiction to be invalid, unenforceable, illegal or beyond the powers of Council to enact, such section or section or parts thereof shall be deemed to be severable and shall not affect the validity or enforceability of any other provisions of the By-law as a whole or part thereof and all other sections of the By-law shall be deemed to be separate and independent therefrom and enacted as such.
- 16.2 Whenever any reference is made in this By-law to a statute of the Legislature of the Province of Ontario, such reference shall be deemed to include all subsequent amendments to such statute and all successor legislation to such

statute.

17. Repeal

17.1 That By-law 2018-006 is hereby repealed.

18. Force and Effect

18.1 This By-law shall take force and effect upon final passage hereof.

Read a First, Second and Third Time and Finally Passed this 21st day December, 2022.



Jennifer Coughlin, Mayor



Renée Ainsworth, Clerk