

THE CORPORATION OF THE TOWN OF MILTON

BY-LAW NO. 094-2022

BEING A BY-LAW TO PROHIBIT AND REGULATE THE PLACING, DEPOSITING, CUTTING OR REMOVAL OF FILL OR THE ALTERING OF GRADES OR DRAINAGE ON ANY LANDS

WHEREAS Council determines it necessary to enact a by-law for prohibiting or regulating the placing, depositing, cutting or removal of fill or the altering of grades or drainage on any lands within the Corporation of the Town of Milton to limit erosion, the use of improper fill, the degradation of agricultural lands, interference and damage to watercourses, drainage systems and water supplies, and to limit impacts on neighbouring and surrounding properties, the environment and municipal infrastructure;

AND WHEREAS section 11(2) of the *Municipal Act, 2001, S.O., c.25*, as amended, provides that the Council of a local municipality may pass by-laws respecting the environmental well-being of the municipality, including respecting climate change, and the protection of property;

AND WHEREAS section 11(3) of the *Municipal Act, 2001, S.O., c.25*, as amended, provides that the Council of a local municipality may pass by-laws respecting drainage and flood control;

AND WHEREAS section 142 of the *Municipal Act, 2001, S.O., c.25*, as amended, provides that the Council of a local municipality may pass by-laws prohibiting or regulating the placing or depositing of fill, removal of topsoil or alteration of the grades of the land in any defined area or on any class of; and

AND WHEREAS to the extent any legislative powers or quasi-judicial powers are delegated in this by-law, said powers have been determined by Council to be minor in nature, having regard to the factors set out in section 23.2 of the *Municipal Act, 2001, S.O., c.25*;

NOW THEREFORE the Council of the Corporation of the Town of Milton hereby enacts as follows:

Index

Introduction

The following is an index of the contents of this by-law.

1. Definitions
 2. General Prohibitions and Provisions
 3. Exemptions
 4. Site Alteration Application Process
 5. Permit Review and Issuance
 6. Permit Compliance and Changes
 7. Permit Terms and Conditions
 8. Fees and Securities
 9. Request for Review
 10. Expiry, Renewal Revocation and Transfer of Permits
 11. Inspection
 12. Orders and Notices
 13. Offences and Penalties
 14. Severability
 15. Effective Dates and Repeal of Predecessor By-laws
- Schedule "A"- Control Plan
- Schedule "B"- Designated Inspectors
- Schedule "C"- Additional Site Design Guidelines
- Schedule "D"- Lot Grading Design and Drawing Requirements

1. Definitions

In this by-law the following italicized words are defined as follows:

- 1.1. “*adjacent lands*” means any *lot* owned by a *person*, other than the *applicant*, that shares a *lot* boundary with the *applicant*;
- 1.2. “*agricultural operation*” means an agricultural, aquacultural, horticultural or silvicultural operation that is carried on in the expectation of gain or reward and is registered under *Farm Registration and Farm Organizations Funding Act*, 1993, S.O. 1993, c.21;
- 1.3. “*applicant*” means the *owner* of the *lot* for which a *permit* is being applied for and includes a *person* authorized in writing to act on behalf of the *owner* to apply for a *permit*;
- 1.4. “*body of water*” includes any bodies of flowing or standing water, whether naturally or artificially created;
- 1.5. “*Building Permit*” means a permit issued under section 8 of the *Building Code Act*, 1992, S.O. 1112, c.23.
- 1.6. “*catch basin*” means a buried receptacle designed to prevent obstructive material from entering and blocking the sewer and diverts overland water flows into a sewer system. For clarity, a *catch basin* may be located on public *property* or on private *property* including within the rear or side yard of a *lot*;
- 1.7. “*calculated site alteration volume*” means the sum of both the *fill* operation and the *cut* operation being *undertaken* on the *site alteration lot*;
- 1.8. “*Commissioner*” means the Commissioner of Development Services and shall include any successor positions thereto as well as any *person* authorized by said Commissioner to carry out any of the Commissioner’s powers or duties pursuant to this by-law;
- 1.9. “*Conservation Authority*” means a body established pursuant to the provisions of the *Conservation Authorities Act*, R.S.O. 1990, c.27, as amended and includes the Halton Region Conservation Authority and the Grand River Conservation Authority;
- 1.10. “*contaminants of concern*” means:
 - (1) one or more contaminants found on, in or under a *property* at a concentration that exceeds the applicable *site* condition standards for the

property set under Part IX (*site* Condition Standards and Risk Assessment) of O.Reg. 153/04 made under part XV.1 of the *EPA*; or

- (2) one or more contaminants found on, in or under a *property* for which no applicable *site* condition standard is prescribed under Part IX (*site* Condition Standards and Risk Assessment) of O.Reg. 153/04 made under part XV.1 of the *EPA* and which are associated with potentially contaminating activity;

- 1.11. “*control plan*” is a drawing or drawings, written summary and other documents, provided in accordance with Schedule A;
- 1.12. “*corporation*” includes a company, corporation, cooperative, partnership, firm, sole proprietorship, association, society, organization or any other legal entity that is not an *individual*;
- 1.13. “*Council*” means the Council of the Corporation of the *Town* of Milton;
- 1.14. “*cut*” and “*cutting*” means to remove by digging, scraping or scooping;
- 1.15. “*development*” means the construction of buildings or structures, paved areas, above or underground services such as roads, parking lots, driveways, watermains, storm and sanitary sewers, utilities, general grading works and similar facilities on any lands in the *Town*;
- 1.16. “*deposit*” or “*depositing*” means the movement, placement or dumping of *fill*;
- 1.17. “*Director*” includes the Director of Development Engineering and the Director of Infrastructure for the *Town* and shall include any successor positions thereto as well as any *person* authorized by said Directors to carry out any of their powers or duties pursuant to this by-law;
- 1.18. “*drainage system*” includes areas of land surface that contribute water flow to a particular point or area and all works appurtenant thereto;
- 1.19. “*electronic tracking technology*” means an electronic device similar to a geographic positioning system (GPS) that is attached to a vehicle, allowing their whereabouts to be monitored and downloaded;
- 1.20. “*Environmental Protection Act*” or “*EPA*” means the *Environmental Protection Act*, R.S.O. 1990, c. E.19 and Regulations, as amended;
- 1.21. “*excess soil*” means *soil*, or *soil* mixed with rock, that has been excavated and removed from the *source site*;
- 1.22. “*fill*” means any type of material capable of being removed from or deposited on

lands, including *excess soil, soil, topsoil*, stone, sod, turf, clay, sand, gravel, debris, construction debris, asphalt, brick, or *waste*;

1.23. “*grade*” means the elevation of the ground surface and shall be more particularly defined as follows:

(1) “*approved grade*” means the elevation of ground surface of the lands as set out in a grading plan approved by the *Town* in respect of a *permit*, development approval issued under the *Planning Act*, R.S.O. 1990, c. P.13, as amended, or the issuance of a *Building Permit*;

(2) “*existing grade*” means the elevation of the existing ground surface of the lands prior to *site alteration*;

(3) “*proposed grade*” means the proposed finished elevation of ground surface illustrated on the control plan, in accordance with this by-law; and

(4) “*finished grade*” means the elevation of ground surface of the lands after a *site alteration*;

1.24. “*haul route*” means the route along public roads designated or approved by the *Town* for the purposes of ingress or egress to a *site*;

1.25. “*individual*” means a natural person;

1.26. “*Inspector*” means any *person* designated pursuant to Schedule “B” of this by-law, subject to any limitations set out therein;

1.27. “*key features*” are those natural heritage and hydrological features identified as key features in the *Town’s Official Plan*. For clarity, *key features* include mapped and unmapped significant habitat of endangered and threatened species, *provincially significant wetlands*, significant coastal wetlands, significant woodlands, significant valleylands, significant wildlife habitat, significant areas of natural and scientific interest, and fish habitat as those terms are defined in the *Official Plan*;

1.28. “*local board*” means a municipal service board, transportation commission, public library board, board of health, police services board, planning board, or any other board, commission, committee, body or local authority established or exercising any power under any act with respect to the affairs or purposes of one or more municipalities, excluding a school board and a conservation authority;

1.29. “*lot*” means a parcel of land, described in a deed or other document legally capable of being conveyed under the *Planning Act*, R.S.O. 1990, c. P.13, including a lot or

block on a registered plan of subdivision;

- 1.30. “*Ministry of the Environment*” means the Ontario Ministry of the Environment, Conservation and Parks and any successor ministry;
- 1.31. “*Ministry of Natural Resources*” means the Ontario Ministry of Northern Development, Mines, Natural Resources and Forestry and any successor ministry;
- 1.32. “*Natural Heritage System*” or “*NHS*” means the interconnected system of natural heritage features and areas in the *Town Official Plan*, consisting of the Regional Natural Heritage System and the Greenbelt Natural Heritage System as defined in the Official Plan;
- 1.33. “*NEC*” means the Niagara Escarpment Commission and any successor agency;
- 1.34. “*normal farm practice*” means a practice carried out as part of an *agricultural operation* that,
- (1) is conducted in a manner consistent with proper and acceptable customs and standards as established and followed by similar *agricultural operations* under similar circumstances, or
 - (2) makes use of innovative technology in a manner consistent with proper advanced farm management practices; and
 - (3) is not a practice that is inconsistent with a regulation made under the *Nutrient Management Act, 2002*, or its regulations;
- 1.35. “*order*” means an *order* issued under this by-law, or By-law 33-2004, and includes both a *work order* and *stop work order*;
- 1.36. “*owner*” means any *person* who is the registered or beneficial *owner* of a *lot* or who leases, rents, occupies, manages, receives rent from or otherwise controls a *lot*;
- 1.37. “*property*” shall have the same meaning as *lot*;
- 1.38. “*permit*” means a *site alteration permit* issued pursuant to this by-law;
- 1.39. “*person*” includes a natural person and a company, corporation, cooperative, partnership, firm, sole proprietorship, trust, association, society, organization or other legal entity;
- 1.40. “*provincially significant wetland*” means a *wetland* area identified as provincially significant by the *Ministry of Natural Resources* using evaluation procedures established by the Province, as amended from time to time;

- 1.41. “*Qualified Person*” means a licensed professional as set out in sections 5 or 6 of O. Reg. 153/04 made under the *EPA* and subject to the requirements in sections 6.1 and 7 of the regulation;
- 1.42. “*receiving site*” means the *lot* where *fill* is transported to;
- 1.43. “*security*” or “*securities*” means a financial *security* in a form and amount to be determined by the *Town*, to secure performance of the *owner’s* obligations under this by-law and any *permit* issued hereunder;
- 1.44. “*site*” means the lands which are the subject of an application for a *site alteration permit* pursuant to this by-law;
- 1.45. “*site control measures*” means erosion and siltation control measures imposed by the *Director* pursuant to this by-law;
- 1.46. “*site alteration*” means:
- (1) the *depositing of fill*, the *cutting* or removal of *fill*, the leveling or compaction of *fill*, or any combination of these activities; or
 - (2) changes in the elevation of the ground surface of 25mm resulting from the *depositing of fill*, the *cutting* or removal of *fill*, compaction or levelling of *fill*, or any combination of these activities;
- 1.47. “*soil*” means material commonly known as earth, *topsoil*, loam, subsoil and includes unconsolidated naturally occurring mineral particles and other naturally occurring materials resulting from the natural breakdown of rock or organic matter by physical, chemical or biological processes that are smaller than two (2) millimetres in size or that pass the US #10 sieve;
- 1.48. “*Soil, Ground Water and Sediment Standards*” means the Soil, Ground Water and Sediment Standards for use under Part XV.1 of the *EPA*;
- 1.49. “*source site*” means the *lot* where the *fill* is derived from;
- 1.50. “*stockpiling*,” “*stockpiled*” or “*stockpile*” means the temporary above ground storage of materials for the purposes of transporting off-site for commercial use or sale. For clarity, *stockpiling* shall not include any material that is graded, leveled, buried or material that is *dumped* on the *site* or *lot* in a manner suggesting the material is not intended for temporary storage for off-site use;
- 1.51. “*swale*” means a shallow depression in the ground sloping to a place of disposal of surface water for the purpose of providing a method of conveying drainage;

- 1.52. “*topsoil*” means the upper, outermost layer of *soil*, usually the top 5 - 20 cm, containing organic material and includes deposits of partially decomposed organic matter such as peat;
- 1.53. “*Town*” means the Corporation of the *Town* of Milton;
- 1.54. “*Town development agreement*” means a *site* plan agreement, subdivision agreement, servicing, pre-servicing Agreement or other *development* agreement entered into with the *Town* pursuant to sections 41, 51, 53 or 70.2 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended;
- 1.55. “*undertake*,” “*undertaken*” or “*undertaking*” when used in relation to a *site alteration* means to cause, permit, allow, order, direct, manage, conduct, work on, *dump fill* for or otherwise take part in a *site alteration* in any way;
- 1.56. “*User Fee By-Law*” means the *Town* by-law or by-laws setting out fees for use of *Town* services and other matters, as amended;
- 1.57. “*watercourse*” means an identifiable depression in the ground in which the flow of water regularly or continuously occurs;
- 1.58. “*waste*” includes ashes, garbage, refuse, domestic waste, industrial waste, or municipal refuse and such other materials as are designated in the regulations to the *EPA* as *waste*;
- 1.59. “*waste disposal site*” means,
- (1) any land upon, into, in or through which, or building or structure in which, waste is deposited, disposed of, handled, stored, transferred, treated or processed, and
 - (2) any operation carried out or machinery or equipment used in connection with the depositing, disposal, handling, storage, transfer, treatment or processing referred to in subsection 1.59(1);
- 1.60. “*wetlands*” means lands that are seasonally or permanently covered by shallow water, as well as lands where the water table is close to or at the surface. In either case, the presence of abundant water has caused the formation of hydric *soils* and has favoured the dominance of either hydrophytic plants or water tolerant plants. The four major types of *wetlands* are swamps, marshes, bogs and fens. Periodically soaked or *wetlands* being used for agricultural purposes, which no longer exhibit wetland characteristics, are not considered to be *wetlands* for the purposes of this definition.

2. General Prohibitions and Provisions

- 2.1. This by-law applies to the entire *Town* including those areas which are subject to regulations made under section 28(1) of the *Conservation Authorities Act*, R.S.O. 1990, c.27, as amended.
- 2.2. This by-law shall be administered and enforced by the *Director* and by those persons designated as *Inspectors* under Schedule “C” of this by-law. The *Director* is hereby delegated authority by Council to add or amend the schedules to this by-law from time to time and set application requirements and forms for the purposes of fulfilling the objectives of this by-law.
- 2.3. No *person* shall *undertake*, a *site alteration* in the *Town*, including any lands which are submerged under any *watercourse* or other *body of water*, without a *permit* issued by the *Director*, unless this by-law states that such a *permit* is not required.
- 2.4. No *person* shall fail to comply with an *order* issued under this by-law.
- 2.5. No *person* shall alter, remove or obstruct a *catch basin*, *swale*, ditch, *drainage system* or *watercourse* that is subject to an easement, depicted as an *approved grade* in a plan of subdivision or site plan, including where depicted as an *approved grade*, under the *Planning Act*, R.S.O. 1990, c. P.13, as amended, or is depicted on plans submitted in relation to an approved *Building Permit* application.
- 2.6. No *person*, in the performance of a *site alteration*, shall injure or destroy a municipal tree or any other tree which is subject to tree protection measures except to the extent that such injury or destruction is specifically and expressly authorized in a *permit* or *Town development agreement* and all applicable laws and municipal by-laws for the protection of trees are complied with.
- 2.7. No *person* shall *undertake* the transportation, hauling or *depositing* of *fill* in a manner contrary the requirements of O. Reg. 406/19: *ON-SITE AND EXCESS SOIL MANAGEMENT* or applicable *Ministry of the Environment* rules, standards, policies and guidelines.
- 2.8. No *person* shall *deposit waste* or *undertake* the *depositing* of waste except at a *waste disposal site* authorized under the EPA.
- 2.9. No *person* shall remove *topsoil* for sale or exchange without first having obtained a *permit*.
- 2.10. No *person* shall *undertake* a *site alteration*:
 - (1) during any period in which a wind warning for the area has been issued by Environment Canada;

- (2) during any period in which a smog advisory for the area has been issued by the *Ministry of the Environment*, as confirmed in writing and provided to the *permit* holder by the *Director*;
- (3) within 24 hours of receiving 15 mm or more of precipitation within a 24 hour period;
- (4) for any purpose not permitted by the applicable *Town* zoning by-law; or
- (5) in a manner that violates an applicable by-law of the *Town*, including a *Town* noise by-law.

2.11. No *person* shall construct a new or expand an existing parking area or private road without a *permit*.

2.12. No *person* shall construct a new or expand an existing driveway beyond what is permitted in the applicable *Town* Zoning by-law.

2.13. Every *person* who transports or hauls *fill* to or from a *lot* within the *Town* shall maintain at all times within their vehicle a record that includes the following information:

- (1) the location at which the *fill* was loaded for transportation;
- (2) the date and time the *fill* was loaded for transportation;
- (3) the quantity of the *fill* in the load;
- (4) the name of an individual who may be contacted to respond to inquiries regarding the load, including inquiries regarding the *soil* quality;
- (5) the name of the corporation, partnership or firm transporting the *fill* and the name of the driver of the vehicle;
- (6) the location at which the *fill* is to be *dumped*; and
- (7) where the location of the *fill* to be *dumped* is within the *Town*:
 - (a) written authorization of the *owner* or agent of the *owner* of each *receiving site* to deposit the *fill*;
 - (b) written confirmation from *owner* or agent of the *owner* of each *receiving site* that said *person* is aware of the source of the *fill*,

complete with the address of the *source site*;

- (c) written confirmation from each source or *receiving site* that the *owner* has a *permit* under this by-law for the *site alteration* associated with the *fill*, or the *site alteration* falls under one of the exemptions to this by-law. In the case of an exemption, the document shall list the section and subsection number of the applicable exemption.

- 2.14. Every *owner* of a *lot* within the *Town* that receives *fill* shall maintain at all times a record that sets out the information required by subsection 2.13.
- 2.15. Every *owner* of a *lot* within the *Town* shall ensure that a contravention of this by-law does not occur with respect to said *lot*, and in the event of a contravention shall take all steps necessary to rectify the contravention and to prevent the continuation or repetition of the contravention.
- 2.16. Every *permit* holder shall ensure that the *permit*, including any conditions thereto, and all provisions of this by-law that apply to the *permit* are fully complied with, and in the event of a contravention shall take all steps necessary to rectify the contravention and to prevent the continuation or repetition of the contravention.
- 2.17. Every *person* who transports or hauls *fill* to or from a *lot* within the *Town* and every *owner* who received *fill*, shall forthwith provide the documents required by subsections 2.13 and 2.14 upon the request of the *Director* or an *Inspector*.
- 2.18. No *person* may charge or receive a fee for allowing the placement or *depositing* of *fill* on a *property* unless the *property* is zoned under a *Town Zoning* by-law to permit a commercial landfill or *waste disposal site* and is being operated pursuant to a valid approval issued under the *EPA* for that *property*.
- 2.19. No *person* shall hinder or obstruct, or attempt to hinder or obstruct, the *Director* or an *Inspector* from carrying out inspections of land to ensure compliance with this by-law.
- 2.20. No *person* shall provide false or misleading information to the *Director* or an *Inspector* in respect of any matter subject to this by-law.

3. Exemptions

By-law Exemptions

- 3.1. The provisions of this by-law do not apply to:

- (1) a *site alteration undertaken* by a Crown agency as defined in the *Crown Agency Act*, R.S.O. 1990, c.C.48, as amended, a municipality or a *local*

board of a municipality on lands owned or under the control of the Crown agency, municipality or *local board*;

- (2) a *site alteration* imposed after December 31, 2002 as a condition to the approval of a site plan, a plan of subdivision or consent or a *development* permit under sections 41, 51, 53 or 70.2, respectively, of the *Planning Act*, R.S.O. 1990, c. P.13, as amended or as a requirement of a *Town development agreement* entered into under those sections;
- (3) emergency measures *undertaken* by a *Conservation Authority* or any other Federal, Provincial or Regional agency, to prevent or control flooding, erosion, slipping of *soil* or damage to trees;
- (4) a *site alteration undertaken* by a transmitter or distributor, as those terms are defined in section 2 of the *Electricity Act*, 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;
- (5) a *site alteration undertaken* as an incidental part of drain construction under the *Drainage Act*, R.S.O. 1990, c.D.17, as amended or the *Tile Drainage Act*, R.S.O. 1991, c.T.8, as amended;
- (6) the removal of *topsoil* as an incidental part of a *normal farm practice* taking place as part of an *agricultural operation*, provided that the removal is not for sale, exchange or disposal of the *topsoil*;
- (7) a *site alteration undertaken* on lands in order to lawfully establish, operate, rehabilitate or enlarge any lawful pit or quarry where:
 - (a) for lands designated under the *Aggregate Resources Act*, R.S.O. 1990, c.A.8, as amended or a predecessor of that Act, the lands are described in a licence for a pit or quarry or a *permit* for a wayside pit or wayside quarry; or
 - (b) for lands not designated under the *Aggregate Resources Act*, R.S.O. 1990, c.A.8, as amended or a predecessor of that Act, the operation of the pit or quarry is a permitted land use under a by-law passed under section 34 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended; or
- (8) a *site alteration* that is an authorized part of construction or operations as identified by:
 - (a) the *Ontario Energy Board Act*, S.O. 1998, c.15, Schedule B, as amended or any successor legislation thereto; or

- (b) a waste management system or waste disposal site authorized or approved under Part V of *EPA* or its regulations, as amended.

Permit Exemptions

3.2. Notwithstanding subsection 2.3, a *permit* is not required for:

- (1) a *site alteration* by a *Conservation Authority* on lands within its jurisdiction to prevent or control flooding, erosion or slipping of *soil*;
- (2) for the *depositing* of *fill* in an excavation, following the demolition or removal of a building or structure for which a *Building Permit* has been issued, provided the *filling* is limited to three (3) metres outside the previously existing building perimeter and the *finished grade* is the same as the previously *existing grade* at that building perimeter;
- (3) a *site alteration* that is an incidental part of any construction of any form of underground utilities or other public services where the *fill* is removed and held for subsequent backfill replacement;
- (4) a *site alteration* authorized under a *development* permit issued by a *Conservation Authority* under section 28 of the Conservation Authorities Act in an area of the *Town* provided the conditions in subsection 3.3 are met; or
- (5) a *site alteration* authorized under a *development* permit issued by the NEC in an area of the *Town* provided the conditions in subsection 3.3 are met.

3.3. An exemption under subsection 3.2(4) or 3.2(5) applies only if the following conditions are met:

- (1) the *development* permit issued by the *Conservation Authority* or NEC as the case may be is fully complied with including all conditions; and
- (2) no *site alteration* shall occur outside the area permitted under the development permit without a *permit* under this by-law,

Land Use Based Exemptions

3.4. A *permit* is not required on any *lot* within the Rural Area of the *Town*, for the following *site alterations*, provided the requirements below are met:

- (1) the *depositing*, *cutting* or removal of *topsoil* on lands for the purpose of lawn

maintenance, landscaping or adding to flower beds or vegetable gardens, provided that the *approved grade* (or *existing grade*, where there is no *approved grade*) of the lands is not increased by more than 0.15m; there is no significant change in the direction or rate of drainage to or from neighbouring properties; the *site alteration* does not take place within 0.6m of any *lot* line, and the cumulative total of the *topsoil* placed or *dumped* pursuant to all applicable *permit* exemptions does not exceed in any consecutive four (4) month period the lesser of 20 m³ or 2 triaxle truck loads;

- (2) the construction of walkways along sideyards, adjacent to a dwelling or garage, provided that there is no altering of *grades*, drainage patterns or drainage within 0.6m of the *lot* line; or
- (3) maintenance of driveways, roads or parking areas with imported asphalt or granular material (including native granular, recycled aggregate, recycled asphalt or recycled concrete), provided the previously *existing grades* are being reinstated, the size of driveway, road or parking area is not increased; the dimensions remain unaltered, and the cumulative total of the *fill* placed or *dumped* pursuant to all applicable *permit* exemptions does not exceed in any consecutive 12 month period the lesser of 20 m³ or 2 triaxle truck loads.

3.5. A *permit* is not required on any *lot* zoned for agricultural use within the Rural Area of the *Town*, for the following *site alterations* provided the requirements below are met:

- (1) the *depositing, cutting* or removal of *topsoil* on lands for the purpose of an *agricultural operation* provided that the *approved grade* (or *existing grade*, where there is no *approved grade*) of the lands is not increased by more than 0.15m; there is no significant change in the direction or rate of drainage to or from neighbouring properties; the *site alteration* does not take place within 0.6m of any *lot* line, and the cumulative total of the *topsoil* placed or *dumped* pursuant to all applicable *permit* exemptions does not exceed in any consecutive four (4) month period the lesser of 20 m³ or 2 triaxle truck loads; and
- (2) the dredging of existing ponds on properties within the Rural Area, provided the surface area of the pond is not increased and the pond depth is not increased beyond its original depth and no piles or berms of dredged material is created adjacent to the pond. Where possible, the dredged material should be worked into adjacent fields without changing drainage patterns.

3.6. A *permit* is not required on any *lot* zoned for residential use within the Urban Area of the *Town*, for the following *site alterations*:

- (1) the *depositing, cutting* or removal of *topsoil* on lands for the purpose of lawn maintenance, landscaping or adding to flower beds or vegetable gardens, provided that the *approved grade* (or *existing grade*, where there is no *approved grade*) of the lands is not increased by more than 0.15m; there is no significant change in the direction or rate of drainage to or from neighbouring properties, the *site alteration* does not take place within 0.6m of any *lot* line; and the cumulative total of the *topsoil* placed or *dumped* pursuant to all applicable *permit* exemptions does not exceed in any consecutive four (4) month period the lesser of 5 m³ or ½ of a triaxle truck load;
- (2) the construction of walkways along sideyards, adjacent to a dwelling or garage, provided that there is no altering of *grades*, drainage patterns or drainage within 0.6m of *lot* line; or
- (3) maintenance of driveways, roads or parking areas with imported asphalt or granular material (including native granular, recycled aggregate, recycled asphalt or recycled concrete), provided the previously *existing grades* are being reinstated, the size of driveway, road or parking area is not increased; the dimensions remain unaltered, and the cumulative total of the *fill* placed or *dumped* pursuant to all applicable *permit* exemptions does not exceed in any consecutive 12 month period the lesser of 5 m³ or ½ of a triaxle truck load.

3.7. A *permit* is not required on any *lot* zoned for industrial, commercial, employment or institutional use for the following *site alterations*:

- (1) the *depositing, cutting* or removal of *topsoil* on lands for the purpose of lawn maintenance, landscaping or adding to flower beds, provided that the *approved grade* (or *existing grade*, where there is no *approved grade*) of the lands is not increased by more than 0.15m there is no significant change in the direction or rate of drainage to or from neighbouring properties; the *site alteration* does not take place within 0.6m of any *lot* line, and the cumulative total of the *topsoil* placed or *dumped* pursuant to all applicable *permit* exemptions does not exceed in any consecutive four (4) month period the lesser of 5 m³ or ½ of a triaxle truck load;
- (2) the *stockpiling* of *soil*, compost, and related landscaping materials for commercial landscaping purposes, provided said *lot* is permitted to store landscaping materials for sale to the public by the applicable zoning and land use by-laws of the *Town* as well as Conservation Authority and NEC policies where applicable;
- (3) the *stockpiling* of recycled aggregate, asphalt or concrete as part of a contractor's yard, provided said land use is permitted by the applicable

zoning and land use by-laws of the *Town*, as well as Conservation Authority regulations and NEC policies where applicable;

- (4) the construction of walkways adjacent to a building, provided that there is no altering of *grades*, drainage patterns or drainage within 0.6m of *lot* line; or
- (5) maintenance of driveways, roads or parking areas with imported asphalt or granular material (including native granular, recycled aggregate, recycled asphalt or recycled concrete), provided the previously *existing grades* are being reinstated, the size of driveway, road or parking area is not increased; the dimensions remain unaltered; and the cumulative total of the *fill* placed or *dumped* does not exceed in any consecutive 12 month period the lesser of 20 m³ or 2 triaxle truck loads.

3.8. In addition to the limitations set out under subsections 3.4 to 3.7, no *site alteration undertaken* pursuant to those sections shall:

- (1) alter or obstruct a *watercourse*, ditch, *swale*, *drainage system*, *Town* easement or *catch basin*;
- (2) alter or obstruct sheet flow or drainage across *lot* lines;
- (3) cause water normally contained on the *lot* to drain off *site*;
- (4) involve the *dumping* or *stockpiling*, as the case may be, of *fill* that is composed of materials other than those authorized under the applicable subsection, and without limiting the generality of the forgoing, such material shall be clean and free of any glass, plastics, rubber, metals, construction debris, demolition debris, liquid other than water, broken concrete, asphalt, *waste*, garbage or *contaminants of concern* unless such materials are expressly authorised by the applicable subsection.

Proof of Exemption Application, Required

3.9. In order to qualify for the *permit* exemptions set out under subsections 3.2, 3.3, 3.4, 3.5 or 3.7, of this by-law, any *person* that carries out a *site alteration* without a *permit* pursuant to an exemption shall:

- (1) maintain sufficient documents or other information, including other permits or authorisations, photographs, measurements, invoices, test results, etc, as to provide proof of the applicability of the exemption and compliance with any conditions or limitations on the exemption;

- (2) maintain a record of the source, composition and volume of any *fill dumped* or hauled to the *lot* that claims the exemption; and
- (3) provide the documents or other information to the *Director* or an *Inspector* upon request within the timeframe stipulated by the *Director* or *Inspector*.

3.10. Notwithstanding any other provision of this by-law, any *person* that fails to comply with subsection 3.9 shall be in violation of subsection 2.3 of this by-law.

4. Site Alteration Application Process

Pre-consultation

4.1. An *applicant* or *owner* applying for a *permit* shall arrange for a pre-consultation meeting with the *Director* and any other persons or agencies that the *Director* or *Inspector* determines necessary to review a proposed *site alteration* to assess if a *permit* is required, or if a *permit* could be issued pursuant to this by-law and *permit* requirements. The requirement to hold a pre-consultation may be waived by the *Director*.

Site Alteration Application Requirements

4.2. An *owner* or *applicant* applying for a *permit* shall submit the following to the *Director*.

- (1) a completed application in a form approved by the *Director*;
- (2) the municipal address of the *lot* where the *site alteration* is to occur and the *lot* size;
- (3) the name, address and contact information of the *owner* of the *lot* where the *site alteration* is to occur;
- (4) 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;
- (5) the name, address and contact information of the *Qualified Person* 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;
- (6) where the *applicant* is not the *owner*, a signed authorization by the *owner* of the land, on which the work is to be performed, certifying the *applicant* is authorized to act as an agent on the *owner's* behalf in the application process and in the performance of the *site alteration* work;

- (7) the name, address and contact information of the contractor authorized by the *owner* of the *lot* to *undertake* the *site alteration*;
- (8) a work schedule for the proposed *site alteration*;
- (9) a *control plan*, in accordance with Schedules A and D;
- (10) a brief description of the *site alteration*, including identification of its purpose;
- (11) proof that the purpose of the *site alteration* is for a land use permitted on the subject lands under *Town* zoning by-laws or under an NEC *development* permit as the case may be;
- (12) all source location(s) of the *fill* being *dumped* including environmental *soil* tests and *soil* permeability tests if required by the *Director*;
- (13) an indemnity, in a form approved by the *Town*, which releases and indemnifies the *Town* with respect to any and all liability which may arise in the event that any *fill* contains *contaminants of concern* within the meaning of the *EPA* or the *site alteration* causes damage to nearby properties;
- (14) a copy of the NEC *development* permit, if any *site alteration* is proposed to occur within regulated lands of the NEC;
- (15) a copy of the *Conservation Authority development* permit, if any *site alteration* is proposed to occur within *Conservation Authority* regulated lands;
- (16) where the *site alteration* is proposed as part of a *normal farm practice*, proof that the subject land is part of an *agricultural operation*, including documents such as tax returns and Ontario farm business registration providing proof of farm income and such additional documents, information or reports necessary to provide proof that the proposed *site alteration* is part of a *normal farm practice*;
- (17) the prescribed fees for the *permit* in accordance with the *Town's User Fee By-Law*; and
- (18) such other documents, reports or information as the *Director* deems appropriate in order to evaluate the application.

4.3. Where application requirements, including any additional reports or information

required by the *Director*, have not been fulfilled with one year of the date the application was first submitted in whole or in part, the *Director* may deem the application abandoned upon 30 days notice to the *applicant*.

- 4.4. Where an application has been deemed abandoned, it may be re-opened within a period of 3 months from the date of expiry upon the submission of a written request to the *Director* accompanied by a payment of any additional fees required by the *Town User Fees By-law*.
- 4.5. Notwithstanding any other provisions of this by-law, the *Director* may at his or her sole discretion, waive certain *permit* requirements, after taking into consideration the proposed works, the anticipated impacts to the *site*, adjacent properties, the surrounding environment, Town infrastructure and *normal farm practices*.

Supporting Documentation Requirements

- 4.6. If required by the *Director*, a *person* applying for a *permit* shall submit the following in a form acceptable to the *Director*:
 - (1) any other study, report, plan, drawing or material related to the application, as deemed necessary by the *Director*;
 - (2) Phase I, Phase II and other Environmental Site Assessment reports;
 - (3) detailed plans including but not limited to a Soil Management Plan, Fill Management Plan, and an environmental *soil* testing plan, all prepared and certified by a *Qualified Person*, in accordance with *Ministry of the Environment rules*, standards, policies and guidelines;
 - (4) Traffic and Transportation Management Plan prepared and certified by a professional engineer;
 - (5) a signed authorization of a grantee(s) of any easements within the *lot* accepting the placing or *depositing* of *fill* or other *site alteration* on or abutting any easements;
 - (6) a report by an archaeologist licensed by the Ontario Ministry of Tourism and Culture or its successor of any significant archaeological features on the *site*, in the areas affected by the *site alteration*; and
 - (7) such other reports, plans or documents as the *Director* deems necessary to evaluate the *permit* application.

5. Permit Review and Issuance

- 5.1. In reviewing any application, the *Director* may:
- (1) seek comments from and approvals of other applications by the NEC, Conservation Authorities, the *Ministry of Natural Resources, Ministry of the Environment*, Department of Fisheries and Oceans, Halton Region, adjacent municipalities and any other agencies deemed appropriate. Such comments and approvals shall form part of the application review; and
 - (2) require all or part of an application, including without limitation, cost estimates provided for the purpose of assessing securities, to be reviewed by a qualified third party consultant or consultants. In the event the *Director* deems it necessary to engage consultants to assist with the review, the *applicant* shall be responsible for the review costs, including administration fees, and the *Director* may require pre-payment or a deposit for said costs and fees as a condition of processing the application.
- 5.2. The *Director* shall render a decision on a complete *application* in writing. A *permit* may be issued, or issued subject to conditions, where the *Director* is satisfied that:
- (1) the *applicant* has complied with or will comply with all of the requirements of this by-law and provided *securities* in accordance with this by-law;
 - (2) the *applicant* has provided a road damage deposit in an amount and upon such terms as determined by the *Director* in accordance with the *Town User Fee By-Law* for any damage or fouling of municipal roads;
 - (3) the concerns of the NEC, Conservation Authorities, *Ministry of Natural Resources, Ministry of the Environment*, Department of Fisheries and Oceans, Halton Region, adjacent municipalities and any other relevant agencies have been addressed;
 - (4) the work proposed under the *permit* and the purpose of the *site alteration* will not involve contravention of federal, provincial or municipal legislation, regulations, by-laws including zoning by-laws, guidelines or policies;
 - (5) where other federal, provincial or municipal approvals are required, such other approvals have been obtained and proof has been submitted prior to the issuance of the *permit*; and
 - (6) the *site alteration* is not likely to result in negative effects to nearby properties, surface water, ground water, drainage, erosion, the natural environment, agricultural production, *soil* quality or public and municipal infrastructure.

6. Permit Compliance and Changes

- 6.1. The *applicant* and *owner* shall maintain a copy of the approved *permit* posted on *site* in a location visible to all those conducting work on the *site*, including those transporting *fill* to or from the *site*, and shall provide copies upon request to all persons carrying out the *site alteration* or transporting *fill*.
- 6.2. No *site alteration* may proceed where subsection 6.1 has not been complied with.
- 6.3. Where a *permit* has been issued under this by-law authorizing *site alteration* on lands, no *person* shall *undertake* the *site alteration* except in accordance with:
 - (1) the plans, documents and any other information required for the issuing of the *permit*;
 - (2) the terms and conditions of the *permit*; and
 - (3) all other provisions of this by-law.
- 6.4. Notwithstanding the issuance of a *permit* pursuant to this by-law, an *applicant* and *owner* shall comply with all other applicable legislation, regulations and *Town* or Halton Region by-laws.
- 6.5. Where an *applicant* proposes a change to a plan, document, specifications, *haul route* locations, *source site*, dates or times, or any other information following the issuance of a *permit*, no work may commence until such time as:
 - (1) *the applicant* has submitted such revised drawings, reports and other documents or information as the *Director* deems appropriate;
 - (2) *the applicant* has paid any additional fees required by the *Town User Fee By-Law*; and
 - (3) the *Director* has approved the change and issued an amended *permit*.

7. Permit Terms and Conditions

- 7.1. In addition to any other terms and conditions or design guidelines that may be imposed by the *Director*, *permits* are subject to the terms and conditions set out in subsections 7.2 of this by-law, unless expressly exempted in writing by the *Director*.

Standard Terms and Conditions

- 7.2. In addition to any other terms and conditions or design guidelines that may be imposed by the *Director*, *permits* are subject to the following terms and conditions,

unless expressly exempted in writing by the *Director*.

- (1) environmental *soil* testing of *fill* by a *Qualified Person*, is *undertaken* prior to its *deposit* upon, or removal from the *site*, according to *Ministry of the Environment* rules, standards, policies and guidelines;
- (2) the testing of *fill* shall be performed by a certified environmental laboratory. The *applicant* will be responsible for all costs associated with the testing;
- (3) compliance with the Additional Site Design Requirements in Schedule C;
- (4) ensure that the work which is the subject of the *permit* does not foul any municipal roads and, in the event that this occurs, ensure that the road or roads effected are cleaned to the satisfaction of the *Director* within 24 hours of any request by the *Director* or *Inspector* for such cleaning;
- (5) the *site* shall be rehabilitated including replanting, to a condition which is substantially similar to or improved from the condition of the *site* prior to the *undertaking* of the work which is the subject of the *permit*, immediately upon completion of *site alteration*;
- (6) following the completion of the *site alteration*:
 - (a) it is the responsibility of the professional engineer or Ontario land surveyor, who completed the certificate on the *control plan*, to visit the *site* and record the required elevations to verify that the grading has been completed in accordance with the *control plan* submitted and that the finished project does not detrimentally affect drainage on adjacent properties. This shall be provided in the form of an "As Constructed" *control plan* provided to the *Director*, and
 - (b) it is the responsibility of the *Qualified Person* retained by the *owner* or *applicant* to certify compliance with O. Reg. 406/19: *ON-SITE AND EXCESS SOIL MANAGEMENT* and applicable *Ministry of the Environment* rules, standards, policies and guidelines; and
- (7) the daily record of deliveries shall be maintained in a format acceptable to the *Director* and provided to the *Director*., including:
 - (a) the date of each delivery of *fill*;
 - (b) the point of origin of each delivery of *fill*;

- (c) the placement location of each delivery of *fill*;
- (d) the hauling routes;
- (e) the volume of each delivery of *fill*;
- (f) the content of material of each delivery of *fill*, including *fill* placement location; and
- (g) any other information required by the *Director*.

Additional Terms and Conditions

7.3. The *Director* may impose additional terms and conditions or design guidelines upon the issuance of a *permit* as the *Director* deems appropriate to achieve the purposes of this by-law.

7.4. Without limitation to the *Director's* authority to issue a *permit*, subject to any condition the *Director* deems appropriate to achieve the purposes of this by-law, the *Director* may require the *applicant* or *owner* to comply with one or more of the following, either prior to or after *permit* issuance as the case may be:

- (1) notify the *Director* in writing within 48 hours of commencing any work;
- (2) require that the *site alteration* be completed by a specific date as noted in the *permit*;
- (3) arrange for inspections with the *Director* or *Inspector* at the commencement and completion of the work or at stipulated intervals in between;
- (4) construct retaining walls, safety fences or any other structures as may be required to ensure the safety and stability of the *site alteration*, and obtain any other permit as may be required prior to commencing work;
- (5) ensure that the *finished grade* surface is protected by sod, seeding for grass, vegetation, asphalt, concrete or other similar means, or combination thereof and where grass seed is used, prior written approval of the seed mix is required from the *Director* prior to seeding;
- (6) ensure that no trench in which piping is laid forming part of the *drainage system* shall be covered and *backfilled* until the work has been inspected and approved by the *Director* or *Inspector*;
- (7) install all tree protection measures required by the approved *site alteration* plan prior to commencing any work and maintain these tree

protection measures throughout the entire duration of the work;

- (8) install and maintain *site control measures* as identified in the approved *site alteration* plan and the latest guidelines for erosion measures of the applicable Conservation Authority;
- (9) ensure if the *site* is designated agriculture or rural that the *site alteration* does not result in a reduction of the *soil* quality of the *site*;
- (10) provide testing of the permeability of any *fill* to be used as part of a *site alteration*, to ensure the permeability of the imported *fill* does not adversely affect the existing underlying native *soil*;
- (11) restrict the daily volume of truck loads to ensure traffic safety or avoid nuisance impacts;
- (12) require use of *electronic tracking technology* by those hauling or transporting *fill*; or
- (13) restrict the hours of operation.

8. Fees and Securities

- 8.1. All fees applicable to the processing, administration, extension, renewal and inspection for a *permit* shall be in accordance with the *Town User Fee By-Law*.
- 8.2. Prior to issuing a permit, a financial security, in accordance with the applicable *Town* policy requirements shall be required by the *Director* to cover 100% of the estimated cost to supply, install and maintain *site control measures*, stabilize the *site* and *undertake* other works as identified by the *Director*.
- 8.3. The *applicant* shall provide a cost estimate by a properly qualified professional to the satisfaction of the *Director* of the amount of *securities* required to meet the requirements of subsection 8.2.
- 8.4. Having regard to the cost estimate, applicable *Town* policies and such other information as the *Director* deems appropriate the *Director* shall determine the amount of *securities* payable by the *applicant*.
- 8.5. The *Director* may request an updated cost estimate from time to time and having regard to the cost estimate, applicable *Town* policies and such other information as the *Director* deems appropriate may increase the amount of *securities* required from time to time.
- 8.6. Notwithstanding subsections 8.3, 8.4 and 8.5, for *site alterations* involving 50

m³ of *fill* or less, the *Director* may waive the requirements related to cost estimates, and determine the amount of *securities*.

- 8.7. The *securities* must remain in effect for the full duration of the *permit* and until such time as an inspection has been carried out and the approval of the *Director* has been received in accordance with subsections 8.8 and 8.9.
- 8.8. It is the responsibility of the *permit* holder to obtain the approval of the *Director* that the *site* has been adequately reinstated and stabilized in accordance with this by-law, the plans accompanying the *permit*, the terms and conditions and design guidelines of the *permit*, and to request that the *Town* carry out a final inspection of the *site* and obtain the written approval of the *Director* that this by-law and terms and conditions of the *permit* have been complied with by the *permit* holder.
- 8.9. When the *Director* has issued a written approval in accordance with subsection 8.8, the *permit* holder's *security* shall be released in accordance with the applicable *Town* policy governing release of *securities*.
- 8.10. Where an *applicant* fails to comply with any of the provisions of this by-law or the terms and conditions of any *permit*, the *Town* may draw on the *securities* to satisfy the costs, administrative costs and interest of any removal, repair, alteration, corrective action or work *undertaken* pursuant to subsection 12 of this by-law and any such costs in excess of the amount of *securities* shall constitute a charge under the *Municipal Act, 2001, S.O. 2001, c. 25, as amended*, and may be added to the tax roll of *lot* held by the *owner* in the manner provided for therein.

9. Request for Review

- 9.1. An *applicant* for a *permit* under this by-law may seek a review by the *Commissioner* of:
 - (1) a refusal by the *Director* to issue a *permit*; or
 - (2) any conditions included by the *Director* in a *permit*.
- 9.2. An *applicant* seeking a review of a decision of the *Director* under subsection 9.1, must within fifteen (15) days after the *applicant* received notice of the *Director's* decision under subsection 5.2:
 - (1) send a request for a review to the *Commissioner* in writing in accordance with subsection 9.4; and

- (2) pay the required review fee pursuant to the *Town User Fee By-Law*.
- 9.3. Where a review is not requested in accordance with requirements and timelines set out in subsections 9.2 and 9.4, the decision of the *Director* shall be final and binding.
- 9.4. The request for a review shall be in writing and contain the following information:
 - (1) the name of the *applicant*;
 - (2) the decision of the *Director*;
 - (3) the detailed grounds for the review; and
 - (4) any documents that the *applicant* seeks to rely on.
- 9.5. On a review under subsection 9.1, the *Commissioner* shall have all of the powers of the *Director*, pursuant to this by-law.
- 9.6. The *Commissioner* may seek and obtain any information from the appellant or the *Director* that the *Commissioner* considers potentially necessary or relevant to the review.
- 9.7. Upon reviewing the decision of the *Director* and the information provided by the *applicant* and the *Director*, the *Commissioner* shall render a decision in writing.
- 9.8. The decision of *Commissioner* shall be final and binding on the *applicant*.
- 9.9. Where a review has been requested in accordance with subsections 9.2 and 9.4, no work or *site alteration* may be conducted and no *fill* may be transported or hauled to or from the *lot* that is the subject of the *application* until such time as the *Commissioner's* decision is rendered.

10. Expiry, Renewal, Revocation and Transfer of *Permits*

Expiry, Extension and Renewal

- 10.1. Any *permit* issued pursuant to this by-law, shall be valid for a period of one (1) year from the date of issuance unless noted otherwise by the *Director*.
- 10.2. A *permit* which has expired may be renewed by the *Director* within a period of six (6) months from the date of expiry upon the submission of a written request to the *Director* accompanied by a payment of any additional fees required by the *Town User Fee By-Law*. A *permit* which has been renewed in accordance with this subsection shall thereafter be treated as a new *permit* except that it shall not again be renewed.

Revocation

10.3. The *Director* may revoke or amend the *permit* for any of the following reasons:

- (1) it was obtained on mistaken, false or incorrect information;
- (2) it was issued in error or the *Director* otherwise learns of new information that if known prior to issuance would have impacted the issuance of the *permit*;
- (3) the *owner* or *permit* holder requests in writing that it be revoked;
- (4) the terms of a *permit* under this by-law have not been complied with;
- (5) work authorized under the *permit* has not been commenced prior to its expiry date; or
- (6) the *owner* has failed to comply with the provisions of this by-law.

10.4. Where a *permit* has been revoked or expired under this subsection or for any other reason pursuant to this by-law, the *permit* holder shall forthwith cease all work under the revoked *permit* and restore the *site* to conditions acceptable to the *Director*.

Transfer

10.5. A *permit* shall expire upon the transfer of ownership of the *site* unless prior to transfer, the new *owner* provides written commitment to comply with all conditions under which the *permit* was issued to the satisfaction of the *Director*, and provide *security* in a form and amount acceptable to the *Director*, at which time any *security* previously provided by the original *permit* holder pursuant to this by-law shall be released.

10.6. A *permit* is not transferable to another *site*.

11. Inspection

11.1. For the purpose of ensuring compliance with this by-law, the *Director* or an *Inspector* may, at all reasonable times, enter upon and inspect any land, including without limitation privately owned land, to determine whether or not the following are being complied with:

- (1) this by-law;
- (2) a *permit* or *order* issued under this by-law; or

- (3) a prohibition order made under s. 431 of the *Municipal Act*, S.O. 2001, c.25, as amended;

11.2. The *Director*, or an *Inspector* may, for the purposes of the inspection under subsection 11.1:

- (1) require the production for inspection of documents or things relevant to the inspection;
- (2) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- (3) require information in writing or otherwise concerning a matter related to the inspection; or
- (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.

11.3. Any cost incurred by the *Town* in exercising its authority to inspect, including but not limited to the cost of any examination, test, sample or photograph necessary for the purposes of the inspection, shall be paid by the *owner* of the *property* where the inspection takes place and may be added to the tax roll in accordance with subsection 12.10(2).

11.4. The *Director* or an *Inspector* may *undertake* an inspection pursuant to an *order* issued by a provincial judge or justice of the peace under section 438 of the *Municipal Act*, S.O. 2001, c.25, as amended where he or she has been prevented or is likely to be prevented from carrying out an inspection under subsection 11.1 of this by-law.

12. Orders and Notices

12.1. The *Director* and an *Inspector* shall have all powers necessary to carry out the enforcement of this by-law, including without limitation, issuing *orders*. For clarity, where this by-law provides that the *Town* may take any action or do anything:

- (1) the action or thing may be taken or done at the direction of either the *Director* or an *Inspector*, unless this by-law or its schedules specifies otherwise;
- (2) the *Director* or an *Inspector* may, unless this by-law or its schedules specifies otherwise, enlist such forces as deemed appropriate to *undertake* that action or thing, including third party contractors, agents or suppliers of goods and services.

- 12.2. Where the *Town* has reason to believe that any *person* is or will be in contravention of this by-law, or any term or condition of a *permit*, the *Town* may issue a *stop work order* directing the activities cease immediately upon service of the *order* on the *person* or *persons* listed in the *order*.
- 12.3. Where the *Town* has reason to believe that any *person* is in contravention of this by-law, or any term or condition of a *permit*, the *Town*, may issue a *work order* directing the person or persons to take such actions as are necessary to comply with this by-law or the *permit* as the case may be, within such time as is set out in the *order*, including without restriction, removal of *fill*, filling in of excavations or ponds or restoring the land to its prior state.
- 12.4. Where the *Town* has reason to believe that a contravention of this by-law or any term or condition of a *permit*, which may result in the issuing of a *work order*, poses a risk to public health or safety, the *work order* may provide that the actions set out therein be taken immediately.
- 12.5. An *order* shall contain:
- (1) the municipal address and legal description of the land;
 - (2) reasonable particulars of the contravention(s);
 - (3) the period within which there must be compliance; and
 - (4) the time frame in which the work or actions contained in the *order* must be carried out.
- 12.6. Any *person* to whom an *order* is issued pursuant to this by-law shall comply with the terms of such order.
- 12.7. Any *person* to whom an *order* is issued shall provide notice of the order to any and all persons who participated in the *site alteration*, including *fill* haulers, workers and trades.
- 12.8. No *person* who has notice or is aware of an *order* shall assist in any way in the violation of the terms of an order, regardless of whether the person is named in the *order*.
- 12.9. Where the *person* or *persons* to whom a *work order* is issued fails to perform the work required by the *order* within the time stipulated in the *order*, the *Town*, in addition to all other remedies it may have, may without further notice perform such work as it deems appropriate.
- 12.10. Where the *Town* undertakes any removal, repair, alteration, corrective action or

work pursuant to an *order*.

- (1) anything removed may be destroyed or disposed of without notice or compensation to any *person*; and
- (2) the *owner(s)* of the land shall be responsible for all costs of the *Town* incurred in the exercise of the powers thereunder, including administrative costs and interest. Such costs, as determined by the *Director*, shall constitute a charge under the *Municipal Act, 2001, S.O. 2001, c. 25* as amended, and may be added to the tax roll of the *property* held by the *owner* in the manner provided for therein.

12.11. An *order*, or any notice or document under this by-law may be served by the *Town* by any of the following means:

- (1) delivered personally;
- (2) posted on the subject lands;
- (3) emailed to the last known email address of the *person* to whom the order is directed;
- (4) deposited in the mailbox or mail slot of the *person* to whom the order is directed;
- (5) sent by prepaid regular mail to the last known address of the *person* to whom the order is directed; or
- (6) sent by registered mail to the last known address of the *person* to whom the order is directed.

12.12. Where service is effected by:

- (1) regular mail, it shall be deemed to be made on the fifth (5th) day after the date of mailing;
- (2) registered mail, it shall be deemed to be made on the second (2nd) day after the date of mailing;
- (3) any other means, it shall be deemed effective on the day the document served was delivered, posted, emailed or *deposited*; or
- (4) service by multiple means, it shall be deemed effective on earliest applicable date set out in this subsection.

12.13. Where an *order* is posted on the subject lands, no *person* may remove the *order*

without the written authorization of the *Director*.

13. Offences and Penalties

Offences

- 13.1. Every *person* who contravenes any provision of this by-law or an *order* issued pursuant to this by-law is guilty of an offence as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended and the *Municipal Act*, 2001, S.O. 2001, c. 25. Where a contravention of a provision of this by-law or an order is committed on or continues for more than one day, the *person* who commits the contravention is liable to be convicted for a separate offence for each day on which it is committed or continued. For clarity, in the case of an order, where a failure to comply continues, every day or part of a day past the compliance date set out in the order is a separate offence.
- 13.2. If a *corporation* commits an offence under subsection 13.1, a director, officer, employee or agent of the *corporation* who directed, authorized, allowed, assented to, acquiesced in or failed to take all reasonable care to prevent the commission of the offence, or who participated in the commission of the offence, is also guilty of the offence, whether the corporation has been prosecuted for the offence or not. The onus for demonstrating that all reasonable care was taken to prevent the commission of the offence shall be on the director, officer, employee or agent of the *corporation* as the case may be.

Penalties

- 13.3. A *person* convicted under Part I of the of the *Provincial Offences Act*, R.S.O. 1990, c. P.33, is liable to a fine in accordance with the Act of not less \$500 and no more than \$1,000.
- 13.4. Every *individual* convicted under Part III of the *Provincial Offences Act*, R.S.O. 1990, c. P.33, is liable to a fine of not less than \$500 and not more than \$25,000 in accordance with section 429 of the *Municipal Act*, 2001, S.O. 2001, c. 25.
- 13.5. Every *corporation* convicted under Part III of the *Provincial Offences Act*, R.S.O. 1990, c. P.33, is liable to a fine of not less than \$500 and not more than \$100,000 in accordance with section 429 of the *Municipal Act*, 2001, S.O. 2001, c. 25.
- 13.6. Despite subsections 13.3 and 13.4, an individual or corporation convicted of a continuing offence is liable to a fine, in accordance with section 429 of the *Municipal Act*, 2001, S.O. 2001, c. 25., of no less than \$500 and no more than \$10,000 for each day or part of a day on which the offence occurs or continues, but the total of all daily fines is not subject to a limit.

13.7. Where a conviction is entered for contravention of the by-law, in addition to any other remedy or any penalty provided by law, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order:

- (1) prohibiting the continuation or repetition of the offence by the *person* convicted; and
- (2) requiring the *person* convicted to correct the contravention in the manner and within the period that the court considers appropriate, including without restriction:
 - (a) rehabilitate the land;
 - (b) remove *fill*;
 - (c) restore the *grade* of the land to its original condition; and
 - (d) replace damaged trees, shrubs, etc., including any silvicultural treatment necessary to re-establish the trees.

14. Interpretation and Severability

14.1. This by-law shall be interpreted as being remedial and shall be given such fair, large and liberal interpretation as best ensures the attainment of its objects. In the event of an ambiguity, the ambiguity shall be resolved in favour of the interpretation that best accords with the objects of this by-law as set out in the Preamble hereto.

14.2. 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:

- (1) if the provision or part of a provision in this by-law is capable of being read down so as to be rendered valid or enforceable, it shall be read down accordingly; or
- (2) in the event the provision or part of a provision in this by-law is not capable of being read down, the particular provision or part of a provision in this by-law or part thereof shall not be deemed to be severed from the remainder of the by-law and all other provisions or parts thereof shall remain in full force and effect and shall be valid and enforceable to the fullest extent permitted by law.

15. Effective Dates and Repeal of Predecessor by-laws

15.1. By-law 33-2004 is repealed upon the coming into full effect and force of this By-Law.

15.2. This by-law shall come into full effect and force on January 1st, 2023.

Transition – Permits

15.3. A *permit* issued under By-law 33-2004 shall be deemed a *permit* under this by-law, until such time as it is expired and all the provisions of this by-law shall apply to said *permit*, with the exception that no new conditions shall be deemed imposed on said *permit* unless the *permit* holder is notified by the *Director* in writing. The *Director* shall not *permit* any extensions or renewals of *permits* issued under this predecessor by-law.

Transition – Orders

15.4. An *order* issued under By-law 33-2004 shall be deemed an *order* under this by-law and all the provisions of this by-law, including without restriction, subsections 11, 12 and 13, shall apply to said *order*.

15.5. Notwithstanding any other provision of this by-law, where the *Town* has reason to believe that any *person* contravened By-Law 33-2204 and the contravention has not been fully rectified at the time this by-law comes into full effect and force, the preconditions for issuing an *order* under subsections 12.2, 12.3 or 12.4 of this by-law shall be deemed to have been met and an *order* under this by-law may be issued.

PASSED IN OPEN COUNCIL ON SEPTEMBER 12, 2022.

_____ Mayor
Gordon A. Krantz

_____ Town Clerk
Meaghen Reid

Schedule A Control Plan Requirements

A *control plan*, to be submitted as part of the *permit* application, shall include the following:

1. a key plan showing the location of the *site* and a minimum of 30 meters beyond the *site*;
2. the scale of the drawing;
3. *lot* lines of the lands where the proposed *site alterations* are to be *undertaken*, including dimensions and the number of hectares of the *site*;
4. the location, dimensions, elevations and use of buildings and other structures existing or proposed to be erected on the *site*;
5. the current and proposed use of the *site* as well as the location, dimensions and use of buildings and other structures adjacent to the *site*;
6. detailed locations, including dimensions, identifying the proposed locations for the placement of *fill* on the lands;
7. a scale drawing of any proposed retaining wall including a description, dimensions and materials to be used in the construction of such retaining wall, that may be required by the *Director* if:
 - (1) erosion on *adjacent lands* may occur as a result of the work which is the subject of the *permit*, or
 - (2) the *finished grade* of the *site* is of a higher elevation at a *lot* line than that of the existing *grade* at the same *lot* line of *adjacent lands*.
8. a topographic survey producing a 0.5 m contour interval, certified by a licensed professional engineer or Ontario land surveyor, defining all material and man-made features, including top and bottom of slopes, drainage patterns, tree lines, buildings, and *stockpiles* on the lands and 30 m beyond the *lot* lines to clearly show the detailed existing topography of the *property* and the *adjacent lands*;
9. the location of any lakes, streams, channels, *watercourses* or *wetlands* within 15 m of the *lot* lines for *sites* less than 0.2 ha, and 30 m of the *lot* lines for *sites* greater than 0.2 ha;
10. the location of any *NHS* designated lands or *key features* within 120 m of the *lot*;

11. the location, dimensions and invert elevations of any source water protection areas, existing and proposed storm water *drainage systems*, swales, ditches, *Town* easements, sewers, drainage pipes, culverts, inlet chambers, drainage tiles, septic beds and natural drainage patterns within 15 m of the *lot* lines for *sites* less than 0.2 ha, and 30 m of the *lot* lines for *sites* greater than 0.2 ha;
12. the location and dimensions of utilities, roads and highways within 30m of a *site*;
13. the location, diameter, species and drip line of all trees with a caliper measuring 100 mm or greater measured at height of 1.37m above ground, all other vegetation and field crops are to be identified in masses showing the outline of the canopy or vegetation limit created by the massing;
14. all existing vegetation 3 m beyond the *lot* lines including *Town* trees, individually locating all trees with a caliper measuring 100 mm or greater at breast height. All other vegetation to be identified in masses showing outline of canopy or vegetation limit created by the massing;
15. the location and description of the predominant *soil* types;
16. the location and dimensions, of all proposed temporary *soil* or *fill* storage locations;
17. the location, dimensions, height and slopes of any proposed berms;
18. the proposed final elevations of the *site alteration* works;
19. the location and dimensions of all proposed land disturbances;
20. the location of all floodplains, shoreline, top of bank features and approximate *Conservation Authority* regulation limits, if applicable;
21. the regulatory limits of the NEC, if applicable;
22. the location, dimensions, design, details, design calculations and estimated costs for the supply, installation and maintenance of all *site control measures* necessary to meet the requirements of this by-law;
23. a schedule of the anticipated start and completion dates for each land disturbance, including the installation of *site control measures* needed to meet the requirements of this by-law;
24. details regarding the provisions for regular maintenance of the *site control*

measures during site alteration activities;

25. all tree protection measures for the *site alterations*;
26. all proposed ground covering to be used for *site* restoration, including seed mix if grass, upon completion of the *site alterations*;
27. specific details regarding trucking to and from the *site*, including the routes to be used, volume and types of trucks to be used and the times these routes will be used;
28. all other *site* design requirements as detailed in “Schedule C” – Additional Site Design Guidelines; and
29. a stamped, signed certificate as detailed in Schedule “D” – Lot Grading Design & Requirements.

Schedule B
Designated Inspectors

The following *Town* employees are hereby designated as an *Inspector* for the purposes of this by-law and are authorized to carry out all the duties of an *Inspector*, including the issuing of orders:

1. *Director*;
2. *Town* Infrastructure & Development Engineering Staff; and
3. *Town* of Milton Municipal Law Enforcement Officers;

The following are hereby designated as *Inspectors* for the purposes of this by-law and are authorized to carry out all the duties of an *Inspector*, except for the issuing of orders:

1. Halton Regional Police Service Officers;
2. other *Town* staff as authorized by the *Director* to act on behalf of the *Director*;
and
3. non-*Town* staff retained by the *Director* to act on behalf of the *Director*.

Schedule C

Additional Site Design Requirements

The following guidelines shall be met on all *sites*, to the satisfaction of the *Director*, where a *site alteration permit* is required:

1. Site Dewatering: water pumped from the *site* shall be treated by temporary sedimentation basins, grit chambers, sand filters, upflow chambers, swirl concentrators or other appropriate controls.
2. Drain Inlet Protection: *catch basins*, rear lot storm drain inlets or any other inlets, shall be protected with filter fabric, or equivalent barriers.
3. Site Erosion Control: The following criteria apply to land disturbances that result in stormwater runoff leaving the *site* or draining onto the *site* from adjacent properties:
 - (1) runoff from adjacent areas passing through the *site* shall be diverted around disturbed areas, if practical. Otherwise, the channel shall be protected by filter fences being placed along the channel edges to reduce sediment reaching the channel;
 - (2) all activities on the *site* shall be conducted in a logical sequence to minimize the area of bare *soil* exposed at any one time;
 - (3) any *soil* or dirt storage piles containing more than 100 m³ of material shall not be located within a downslope drainage length of less than 10 m to a roadway or drainage channel. If remaining for more than 30 days, said *soil* or dirt storage piles shall be stabilized by mulching, vegetative cover, tarps or other means. Erosion from *soil* or dirt storage piles which will be in existence for less than 30 days shall be controlled by filter fence barriers around the pile;
 - (4) runoff from the entire disturbed area on the *site* shall be controlled as follows:
 - (a) all disturbed ground left inactive shall be stabilized by seeding, sodding, mulching or covering, or other equivalent control measure. The period of time of inactivity shall be at the discretion of the *Director*, but shall not exceed 30 days or such longer period as deemed advisable at the discretion of the *Director*;
 - (b) notwithstanding paragraph 4.4(a), a *permit* holder or *applicant* for a *permit* who has applied for but not yet received a *Building Permit* or any other necessary *permit*, may be granted an

extension to the permitted period of inactivity, at the discretion of the *Director*, provided that said *applicant* or *permit* holder provides satisfactory proof that he has made his best efforts to have said building or other necessary *permit* issued;

- (c) for *sites* located adjacent to existing residential areas, a sediment control fence may be required around the entire perimeter of the *site*;
 - (d) the sediment control guidelines prepared by the applicable Conservation Authority and the *Ministry of Natural Resources*, for the Province of Ontario, are to be followed closely; and
 - (e) for *sites* with extensive *fill* requirements, the *Director* may waive the requirements for stabilization of disturbed land within 30 days of inactivity provided that the sediment control measures are implemented and maintained to the satisfaction of the *Director*.
- (5) All other conditions or restrictions as required by the *Director*.

Schedule “D”
Lot Grading Design and Drawing Requirements

1. The *control plan* shall be submitted in PDF format showing existing elevations of the *lot* and sufficient elevations of adjacent properties to indicate existing drainage patterns. All grading plans are to be metric with all information legible and clear.
2. On the *control plan*, the new proposed *site alteration* will be superimposed, indicating the proposed elevations along with any proposals that may be necessary to eliminate potential drainage problems to the subject *lot*, or any adjacent *lot*. The *control plan* must be in accordance with the requirements of Schedule A of this by-law.
3. All elevations shall be tied into existing *Town* benchmarks and be related to geodetic datum.
4. A certificate on the *control plan*, executed by a registered professional engineer or a registered Ontario Land Surveyor shall be in the following form:

“I have prepared and reviewed the *control plan* for the construction of [fill in blank] located at [fill in blank] and have prepared and reviewed this *control plan* to indicate the compatibility of the *proposed grades* with existing adjacent properties and municipal services. It is my belief that adherence to the *proposed grades*, as shown, will produce adequate surface drainage and proper facility of the municipal services without any detrimental effect to the existing drainage patterns or adjacent properties.