

THE CORPORATION OF THE TOWNSHIP OF ESSA

BY-LAW NO. 2015 – 64

A By-law of the Corporation of the Township of Essa to prohibit or regulate the *placing* or *dumping* of *fill*, *soil stripping* and/or alteration to the *grade* of lands in areas of the Township of Essa, and to supersede By-law 2013-01.

WHEREAS Section 142 of the *Municipal Act*, 2001, Chapter 25, provides that Council of a local Municipality may pass By-laws to:

- (a) prohibit and/or regulate the *placing* or *dumping* of *fill*;
- (b) prohibit and/or regulate the removal of *topsoil*;
- (c) prohibit and/or regulate the alteration of the *grade* of the land; and,

WHEREAS Council is desirous of addressing and preventing the negative impacts of site alteration on the environment and the residents of the Township of Essa; and

WHEREAS Council deems it in the public interest to regulate the *dumping* and *placing* of *fill* on lands in order to ensure existing drainage patterns are maintained, any changes to existing drainage patterns are appropriate to protect environmental features, to prevent the importation of hazardous materials and to prevent the possibility of groundwater contamination;

NOW THEREFORE the Council of the Corporation of the Township of Essa hereby enacts as follows:

1.0 DEFINITIONS

In this By-law:

- 1.1** ***“Agriculture and agricultural”*** shall mean a use of *land*, buildings or structures for the purpose of the growing of field crops, berry crops, mushrooms, nurseries, sod farms, tree farms, aviaries, apiaries, grazing, breeding, raising, boarding of livestock or any other similar use carried on in the field of general agriculture, including selling, packaging, treating, warehousing and/or sorting of produce, crops or livestock produced, plus:
- 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
- 1.2** ***“Chief Building Official”*** shall mean, pursuant to the *Ontario Building Code Act*, S.O. 1992, c23, s3.-(2) the Chief Building Official for the *Township*.
- 1.3** ***“Conservation Authority”*** shall mean the Nottawasaga Valley Conservation Authority or their successors;
- 1.4** ***“Drainage”*** shall mean the movement of water to a *place of disposal*, whether by way of the natural characteristics of the ground surface or by an artificial method;

- 1.5 **"Dump, dumped or dumping"** shall mean the depositing of *fill* in a location other than where the *fill* was obtained and includes the movement or depositing of *fill* from one location on *lands* to another location on the same *lands*;
- 1.6 **"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 the Township's Comprehensive Zoning By-law as amended from time to time;
 - d) lands within any permanent or intermittent watercourse and/or related valley feature;
- 1.7 **"Erosion"** shall mean the detachment and movement of *soil*, sediment or rock fragments by water, wind, ice, gravity or ground movement;
- 1.8 **"Excavate, Excavation or Excavating"** shall mean activities on lands resulting in the removal of soil;
- 1.9 **"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*;
- 1.10 **"Fill"** shall mean any type of material deposited or *placed* on *land* and without limiting the generality of the foregoing, includes *soil*, stone, concrete, other types of aggregates, sod or turf either singly or in combination;
- 1.11 **"Finish or finished grade"** shall mean the elevation of the ground surface of *lands* upon which *fill* has been *placed* in accordance with this By-law;
- 1.12 **"Grade"** shall mean *existing grade*, *proposed grade* or *finished grade*;
- 1.13 **"Hydrologically Sensitive Feature"** shall mean a hydrologically sensitive feature as described in Provincial Regulations;
- 1.14 **"Inspector"** shall mean any employee or agent of the *Township* or any persons appointed for the purposes of enforcing this By-law and includes the *Chief Building Official*, the *Manager of Public Works* and the *Municipal Law Enforcement Officer*;
- 1.15 **"Key Natural Heritage Feature"** shall mean a key natural heritage feature as described in Provincial Regulations;
- 1.16 **"Land or Lands"** shall mean all land within the *Township* including a parcel of land, described in a deed or other document legally capable of conveying land, or shown as a lot or lots or block in a registered plan of subdivision, including public road allowances and *Township* owned lands;

- 1.17 **“Manager of Public Works”** shall mean the person appointed by Council to this position including his/her designate;
- 1.18 **“Municipal Law Enforcement Officer”** shall mean the person appointed by Council to this position, including his/her designate;
- 1.19 **“Owner”** shall mean the registered Owner of any land which is to be re-graded or on which *fill* is proposed to be *placed* or *dumped*, as well as any person, firm or corporation managing or controlling such *lands*;
- 1.20 **“Proposed grade”** shall mean the intended ground surface elevation of lands upon which *fill* is proposed to be *placed* in accordance with this By-law;
- 1.21 **“Place of disposal”** shall mean a municipal-owned storm *drainage* sewer, roadside ditch, a natural watercourse, or an outlet for storm *drainage* approved by the *Township*;
- 1.22 **“Placing, place or placed”** shall mean the distribution of *fill* on lands to establish a *grade* different from the *existing grade*;
- 1.23 **“Ponding”** shall mean the accumulation of surface water in an area not having *drainage* or where the lack of *drainage* is caused by *placing* or *dumping* of *fill*;
- 1.24 **“Restoration”** shall mean the re-establishment of existing conditions prior to any *site alteration* and/or the *stabilization* of the works;
- 1.25 **“Retaining wall”** shall mean a wall designed to contain and support *fill* which has a *grade* higher than that of adjacent lands;
- 1.26 **“Sediment Control”** means a recognized engineering practice to control the movement of eroded *soils* from a disturbed area;
- 1.27 **“Significant Vegetation”** means any natural vegetation whether or not they are woody species that are identified or known to be locally, regionally, provincially or nationally significant and/or rare;
- 1.28 **“Site Alteration”** shall mean any activity on lands such as the *dumping*, *grading*, *removing* or *excavating* of *fill* or *soil* that would change the *grade* of the land, the landform or the natural vegetative characteristics of land;
- 1.29 **“Soil”** shall mean material commonly known as earth, *topsoil*, loam, subsoil, clay, sand or gravel;
- 1.30 **“Stabilization”** shall mean ensuring that the *finished grade* surface is protected by sod, turf, seeding for grass, greenery, or other means, either singly or in combination, to the Township’s requirements;
- 1.31 **“Swale”** shall mean a shallow depression in the ground sloping to a *place of disposal* of surface water for the purpose of providing a method of *drainage*;
- 1.32 **“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);
- 1.33 **“Township”** shall mean the Corporation of the Township of Essa;

2.0 APPLICATION OF BY-LAW

2.1 This By-law applies to all lands within the *Township* other than those areas which are subject to regulations made under Section 28 of the *Conservation Authorities Act* respecting the *placing or dumping of fill*, removal of *topsoil* or alteration of the *grade of land*.

3.0 SITE ALTERATION PROHIBITED

3.1 Except as provided in Sections 4 and 5 below, no *site alteration* shall be permitted on any lands within the *Township* including the *importation or exportation of fill and soil*.

3.2 The prohibition against *site alteration* in Section 3.1 shall include the *removal of topsoil* for sale, exchange or other disposition.

3.3 No *fill* shall be *placed or dumped* on any lands for storage purposes unless it is permitted by:

- i) the applicable Zoning By-law of the *Township*; and
- ii) a written Agreement between the land Owner and the *Township*.

3.4 Any person who undertakes or engages in any *site alteration*, or permits *site alteration*, is guilty of an offence.

4.0 EXEMPTIONS

4.1 The following are exempted from this By-law:

- a) Activities exempted or prescribed by regulations issued pursuant to the provisions of Section 14 of the *Municipal Act*, 2001;
- b) Activities or matters undertaken by the *Township* or a local board of the *Township*; (*Municipal Act*, 2001, Section 142 (5)(a));
- c) *Site alteration* undertaken as a condition to the approval of a site plan, a plan of subdivision or a consent under Sections 41, 51, or 53, respectively, of the *Planning Act* or as a requirement of a site plan agreement, subdivision agreement, pre-servicing agreement or grading agreement entered into under those sections; (*Municipal Act*, 2001, Section 142 (5) (b));
- d) *Site alteration* undertaken as a condition to a development permit authorized by regulation made under Section 70.2 of the *Planning Act* or as a requirement of an agreement entered into under that regulation; (*Municipal Act*, 2001, Section 142 (5) (c));
- e) *Site alteration* undertaken by a transmitter or distributor, as those terms are defined in Section 2 of the *Electricity Act*, 1998, for the purpose of constructing or maintaining a transmission system or a distribution system, as those terms as defined in that section; (*Municipal Act*, 2001, Section 142 (5)(d));
- f) *Site alteration* undertaken on *land* described in a licence for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the *Aggregate Resources Act*; (*Municipal Act*, 2001, Section 142 (5) (e));

- g) *Site alteration* undertaken on *land* in order to lawfully establish and operate or enlarge any pit or quarry on *land* that has not been designated under the *Aggregate Resources Act* or a predecessor of that *Act*, and on which a pit or quarry is a permitted *land* use under a By-law passed under Section 34 of the *Planning Act*: (*Municipal Act*, 2001, Section 142 (5)(f));
- h) *Site alteration* undertaken as an incidental part of drain construction under the *Drainage Act* or the *Tile Drainage Act*; (*Municipal Act*, 2001, Section 142 (5)(g));
- i) The construction, extension, alteration, maintenance or operation of works under Section 28 of the *Public Transportation and Highway Improvement Act*, R.S.O. 1990 c. P.50, as amended; and,
- j) *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, s 8.-(1), s12.-(2), provided that the site plan accompanying the building permit application provides sufficient information to determine that the placing or dumping of fill does not exceed 1,000m³ of fill. If fill exceeds 1,000 m³ then the applicant must comply with the conditions imposed in Section 6 of this By-law.

5.0 **EXCEPTIONS**

5.1 This By-law shall not apply to the following:

- 5.1.1 Any work constituting the tillage of *land* pursuant to normal *agricultural* practices by a bonafide farmer;
- 5.1.2 The removal of *topsoil* as an incidental part of a normal *agricultural* practice including such removal as an incidental part of sod-farming, greenhouse operations and nurseries for horticultural products (*Municipal Act*, 2001, Section 142 (6) provided:
 - i) the exception in 5.1.2 respecting the removal of *topsoil* as an incidental part of a normal *agricultural* practice does not include the removal of *topsoil* for sale, exchange or other disposition; (*Municipal Act*, 2001, Section 142 (7));
- 5.1.3 Any work where *fill* is *placed* or *dumped* on lands for the purpose of lawn dressing, constructing a fence, pool or other accessory structure, landscaping or adding to flower beds or vegetable gardens, provided that:
 - i) the quantity of *fill* does not exceed 100 cubic metres;
 - ii) the existing *grade* of the lands has not been increased pursuant to this section in the previous twelve (12) months; and,
 - iii) there is no *alteration* to the volume, direction, intensity or form of storm water run-off to adjacent properties and provided that where the lands are located in a plan of subdivision the approved grading plan is maintained;
- 5.1.4 The *placing* or *dumping* of *fill*, removal of *soil* or alteration of the *grade* of *land* as an incidental part of the construction of any form of underground service where

the *fill* or *soil* is removed and properly held or stored for subsequent replacement;

- 5.1.5 Activities of a Ministry of the Provincial Government, the Corporation of the County of Simcoe, *Conservation Authority*, as relates to lands owned by them in the *Township* or activities currently under exemption, related but not limited 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;
- 5.1.6 Construction of any building, structure, driveway, loading or parking facilities permitted or required on a lot pursuant to an order made by the Minister of Municipal Affairs pursuant to Section 47 of the *Planning Act*;
- 5.1.7 Works undertaken by the holder of a related Road Occupancy Permit; and,
- 5.1.8 *Fill* being *placed* or *dumped* in an excavation to the elevation of *existing grade* following the demolition or removal of a building or structure.

6.0 CONDITIONS IMPOSED

6.1 As a condition to any approvals or exemptions granted under this By-law, the Manager of Public Works may require any person, to provide the following:

- a) relevant information including the following:
 - i) the name and address, phone number (and facsimile number and/or e-mail address of the applicant);
 - ii) the municipal address of the land on which the fill is to be dumped or placed;
 - iii) the legal description of the land upon which the fill is to be dumped or placed;
 - iv) the applicable fees calculated in accordance with Schedule "A" to this By-law.
- b) protection for the finished grade;
- c) that fill shall not be placed 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, and an appropriate building permit has been issued;
- d) ensure that no trench in which drainage piping that is laid is covered and backfilled until the work has been inspected and approved by the Manager of Public Works;
- e) prepare and 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 hydro-geologic study;
- f) accurate plan(s) of the land to the satisfaction of the Manager of Public Works based on an identified legal survey showing:
 - i) the property lines of the lands on which the fill is to be placed or dumped with appropriate dimensions.
 - ii) for filling less than 1,000 m³ existing spot elevations on three (3) meter 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; and for filling greater than 1,000 m³, a topographic survey at one metre contour intervals

- certified by an engineer or 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 within thirty (30) metres on abutting lands,
- iii) all existing storm sewers, culverts, ditches, swales, creeks, public utilities and watercourses on the lands and on abutting lands and public highways,
 - iv) all existing buildings, the species and size in caliper of all trees including the location of all shrubs and driveways on the lands and of all easements and rights-of-way over, under, across or through the lands,
 - v) proposed grades and drainage systems upon completion of the filling operation,
 - vi) all proposed ground covering to be used upon completion of the filling operation, and
 - vii) soil erosion control measures and location.
- g) siltation and erosion control measures, in accordance with Township standards, and to obtain the approval of the Nottawasaga Valley Conservation Authority for siltation and erosion control measures when required;
- h) protection for environmentally significant land in accordance with the policies of the Township's Official Plan;
- i) remove the topsoil and stockpile on-site or at such location as approved by the Manager of Public Works prior to the performance of the work in the alteration of the grade or the placing or dumping of fill and to restore the surface in accordance with Ministry of Environment regulations;
- j) financial security in a form and amount to be determined by the Manager of Public Works to secure:
- i) the performance of the work for which approval or exemption is granted;
 - ii) 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,
 - iii) against damage to any public highways that are used by any vehicles delivering fill to the land on which work is to be performed,
- which security may be drawn upon by the Township in its sole and absolute discretion to remedy or rectify any damage or complete any performance required under this By-law;
- k) adequate drainage from the land on which the work is to be performed in accordance with Township standards;
- l) keep and maintain the following records in a good and businesslike manner:
- 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 point of origin of each delivery of fill must be assessed for all applicable parameters to ensure it satisfies the standards pursuant to O. Reg. 153/04 for the receiving site and test reports must be prepared by a qualified person,
 - vi) the volume of each delivery of fill,
 - vii) the content of material of each delivery of fill,
 - viii) any other information required by the Manager of Public Works, and

- ix) to make available for inspection upon the request of the Manager of Public Works the records referred to in this clause;
- m) provide to the Manager of Public Works one or more reports from:
 - i) a qualified professional or environmental consultant possessing expert or special knowledge of a Fill Management Plan in accordance with the Ministry of Environment's "Management of Excess Soil – A Guide For Best Management Practices".
 - ii) a qualified engineer or environmental consultant possessing expert or special knowledge in respect of the source and nature of the fill to be placed or dumped to ensure the fill is clean in accordance with criteria of the Ministry of the Environment, and
 - iii) a qualified professional possessing expert or special knowledge specific to any special circumstances that may exist with respect to the land, including but not limited to, hydro-geological, archaeological and/or natural heritage features conditions;
- n) restrict truck daily volumes and/or the location of truck and/or access routes or staging and storage areas;
- o) notify the Manager of Public Works of the commencement, the completion, and of the various stages of performance of the work in the alteration of the grade of the land and in placing or dumping of fill on the land and to make the site available for inspection by his/her designate;
- p) provide the Manager of Public Works upon completion of the works or at any other time required by the Manager of Public Works at its sole and absolute discretion a topographic survey verifying the interim or final grades of the site alteration;
- q) operate in compliance with provisions of the Township's Noise By-law and any successor legislation thereto or as otherwise required by the Township;
- r) indemnify the Township for any liability, costs, damages or losses incurred directly or indirectly caused by the granting of the approval and provide insurance satisfactory to the Township;
- s) provide documentation of notification of the project to all adjacent property Owners and those along the haul routes which identifies:
 - i) the proposed hauling schedule to include duration, days of the week and hours of proposed fill operation,
 - ii) haul routes and commercial fill entrance location using a map,
 - iii) type and location of temporary signage to identify haul routes and truck turning areas,
 - iv) measures to be employed to prevent tracking mud and other debris onto the roadway,
 - v) measures to be employed to ensure minimal disruption of normal traffic due to the fill operation,
 - vi) quality of tested fill to be hauled to site in relation to Ministry of Environment standards and additional measures for sampling fill being hauled to site including frequency and method of testing,
 - vii) Operator's business and legal name, contact information, and includes the name and contact information of the person who will be on-site for the full duration of

the fill operation, charged with the responsibility to ensure continuation of the above measures.

- t) the Owner is to provide the Manager of Public Works with at least five (5) business days' notice of the commencement of hauling and placement of fill;
 - u) once the fill operation commences, and until the rehabilitation of the site is complete, the Owner shall provide bi-weekly reports prepared by a qualified person to the Manager of Public Works to confirm that the works are implemented in accordance with the By-law and that it is achieving adequate performance;
- 6.2** The granting of approval by Council shall not relieve the Owner from compliance with this By-law or any other applicable law or legislation.
- 6.3** No person shall, unless expressly authorized in writing by the Manager of Public Works, perform a site alteration or permit the performance of a site alteration:
- a) between the hours of 7:00 p.m. and 7:00 a.m. on Monday to Friday;
 - b) any time Saturday, Sunday or a statutory holiday.
- 6.6** No person shall make a material change or cause a material change to be made to a plan, specification, document or other information which provided the basis for which approval was granted without first notifying, filing written details and obtaining the authorization of the Manager of Public Works.
- 6.7** The professional or qualified person is to report in writing on a regular basis or as determined by the Manager of Public Works that the placing and dumping of fill is in accordance with this By-law.
- 6.8** The Township may engage legal, engineering, hydrology, environmental, landscape or such other consultants as may be deemed appropriate by the Manager of Public Works, in its sole and absolute discretion, to evaluate studies and or agreements in which case the costs incurred will be charged back to the Owner and such other persons plus a ten percent (10%) administrative charge.

7.0 MINIMUM STANDARDS

- 7.1** Every person who *places or dumps fill*, or causes *fill* to be *placed or dumped*, or alters the *grade* of land shall:
- a) if the *existing or finished grade* at a property line involves a slope steeper than 3:1 and if required by the *Inspector*, construct a *retaining wall* to the satisfaction of the *Inspector* which does not encroach upon abutting *lands*, either above or below *existing or finished grade*, and which is not so high as to have a significant negative impact on abutting and other *lands*; an *Inspector* may require that a *retaining wall* be constructed where:
 - i. *erosion of fill* on to abutting *lands* may occur; or,
 - ii. the *existing or finished grade* of the *lands* at the property line is higher than that of the *existing or finished grade* of the abutting *lands*.
 - b) to construct a retaining wall (including a safety net) in conformity with the Township's Zoning By-law and to the satisfaction of the Manager of Public Works if the existing or finished grade at a property line involves a slope greater than 3:1, which retaining wall

does not encroach upon abutting lands, either above or below existing or finished grade, and which is not so high as to have a significant negative impact on abutting lands;

- c) ensure that the *finished grade* surface is protected by sod, turf, seeding of grass, greenery, asphalt, concrete or such other material as the *Inspector* may approve, either singly or in combination;
- d) ensure that the *fill* is not *placed* around the perimeter of any existing building to an elevation higher than the elevation specified by the *Ontario Building Code* below the top of foundation of such building, unless such building and its foundation walls are altered in a manner satisfactory to the *Inspector*;
- e) ensure that no trench in which piping is laid forming part of the piped *drainage* system is covered and backfilled until the *work* has been inspected and approved by the *Inspector*;
- f) provide such protection for trees with a caliper greater than seventy-five (75) millimetres as may be required by the *Inspector*;
- g) ensure that all *fill* used is clean and free of rubbish, rubber, plastics, metals, glass, garbage, termites, organic material, liquid or solid and/or toxic chemicals, and other contaminants or related waste and for this purpose the *Chief Building Official*, the *Manager of Public Works* or the *Municipal Law Enforcement Officer* may require contaminant testing of the *fill* to be *placed* or *dumped*; and,
- h) ensure that *fill* is *placed* or *dumped* in such a manner and any *retaining wall* supporting such *fill* is erected in such a manner that no *ponding* is caused on the subject *lands* or abutting and other *lands* and that adequate provision is made to proper surface storm water *drainage*.
- i) provide a description of the fill proposed to be dumped;
- j) provide a signed authorization of a grantee(s) of any easements within the property accepting the placement of fill on or in the vicinity of any easement;
- k) provide the official plan designation and zoning of the land;
- l) where the land is zoned for agricultural use under the Township's Zoning By-law, the Owner shall provide one or more agricultural justification reports prepared by a professional planner or engineer and satisfactory to the Manager of Public Works to address any potential effects on existing agricultural operations and the long term viability of the lands for agricultural use;
- m) where the land is within the boundaries of the Greenbelt Plan, the Owner shall also provide the following:
 - i. any and all documents, reports or studies required by Greenbelt Plan to demonstrate compliance with its provisions; and
 - ii. one or more agricultural justification reports prepared by a professional planner or engineer and satisfactory to the Manager of Public Works to address any potential effects on existing agricultural operations and the long term viability of the lands for agricultural use.

8.0 REVOCATION, EXPIRY AND TRANSFER OF APPROVAL/EXEMPTION

- 8.1** The Manager of Public Works may revoke approval or exemption for the following reasons:
- a) it was obtained on mistaken, false or incorrect information;
 - b) it was granted in error;
 - c) the Owner and/or grantee request in writing, that it be revoked;
 - d) the terms of an agreement under this By-law have not been complied with;
 - e) work authorized pursuant to the approval or exemption has not been commenced prior to any expiry date of such approval or exemption; or
 - f) the Owner or any other person has failed to comply with the provisions of this By-law.
- 8.2** When work on land has taken place or has commenced before approval of exemption for that work has been granted under this By-law or when such work has taken place after the date upon which approval or exemption has expired, the fees required to be paid pursuant to the approval or exemption shall:
- a) double the amount otherwise specified in this By-law; and
 - b) include an additional \$500.00 for each inspection that was made, required or requested prior to the approval of exemption being issued or after the expiry of such approval or exemption.
- 8.3** Where approval or exemption has not been granted and any person is in contravention of this By-law, the Municipal Law Enforcement Officer or the Manager of Public Works may issue an Order for removal requiring the person to restore the land to the condition it was prior to the commencement of such work to the satisfaction of the Manager of Public Works within the time set out in the Order.
- 8.4** Approvals/exemptions granted under this By-law shall:
- a) be valid for a period of one (1) year from the date of granting such approval or exemption unless otherwise authorized by the Manager of Public Works in writing; or
 - b) expire six (6) months after the date of granting of such approval or exemption if work is not commenced under the said approval, which determination shall be at the Manager of Public Works' sole and absolute discretion and be final.
- 8.5** An approval or exemption may be renewed prior to the expiry date set out in the approval upon receipt of written request for renewal by the Manager of Public Works in accordance with the terms of this By-law and payment of prescribed fees in accordance with the Schedule "A" to this By-law.
- 8.6** An approval or exemption which has expired may be renewed at the sole discretion of the Manager of Public Works within three (3) months from the date of expiry upon receipt of a written request to the Manager of Public Works in accordance with the terms of this By-law and payment of the prescribed fees as set out in Schedule "A" to this By-law.
- 8.7** If title to the land for which an approval or exemption has been granted is transferred while the approval remains in effect, the approval shall terminate and become null and void unless the Owner of the lands, no later than thirty (30) days from the date of transfer of title of the land,
- a) provides the Township with an undertaking satisfactory to the Manager of Public Works to comply with all the conditions under which the existing approval was granted; or
 - b) applies for and obtains a new approval or exemption in accordance with the

provisions of this By-law.

- 8.8** If an approval or exemption is expired, cancelled or revoked after work has commenced and prior to the completion of the site alteration, the Owner shall forthwith restore the land to its original condition or stabilize the site to the satisfaction of the Manager of Public Works in a manner that will prevent adverse impacts on abutting properties and the environment.

9.0 ORDER TO DISCONTINUE ACTIVITY

- 9.1** Pursuant to Section 444 (1) of the *Municipal Act, 2001*, if an *inspector* is satisfied that a contravention of the By-law has occurred, the *inspector* may make an order requiring the *Owner* of the land and any person who caused or permitted any site alteration including the *placing of dumping of fill*, removal of *topsoil* or alteration of the *grade* of land in contravention of the By-law to discontinue the activity and the order shall set out:

- a) the municipal address and/or legal description of the land;
- b) reasonable particulars of the contravention; and
- c) the date or period of time within which there must be compliance.

10.0 WORK ORDER

- 10.1** Pursuant to Section 445 (1) of the *Municipal Act, 2001*, if an *inspector* is satisfied that a contravention of the By-law has occurred, the *inspector* may make an order requiring work to be done to correct the contravention and the order shall set out:

- a) the municipal address and/or legal description of the land;
- b) reasonable particulars of the contravention and the work to be done and the period within which there must be compliance with the order;
- c) direction to provide immediate *stabilization* of all disturbed areas, at the *Owner's* sole expense, upon issuance of a work order; and,
- d) a notice stating that if the work is not done in compliance with the order within the period it specifies, the *Township* may have the work done at the expense of the *Owner*.

11.0 WORK DONE BY MUNICIPALITY

- 11.1** If the work required by an order in Section 10 (WORK ORDER) is not done within the specified period, the *Township*, in addition to all other remedies it may have, may do the work at the *Owner's* expense and may enter upon land, at any reasonable time, for that purpose pursuant to the *Municipal Act, 2001, c.25, s. 446*.

- 11.2** The *Township* will not be required to undo any remedial work and the *Township* will not be required to provide compensation as a result of doing the remedial work undertaken pursuant to this By-law.

12.0 SERVICE OF A WORK ORDER

12.1 If the *Township*;

- a) issues any work order pursuant to this By-law; or
- b) intends to enter the *lands* that are subject to a permit to conduct remedial work; then the order or notice of intention to enter the *lands*, as the case may be, shall be served on the Owner of the *lands* personally or by prepaid registered mail to the last known address of the Owner of the *lands*.

12.2 If the *Township* is unable to effect service on the *Owner* under Section 12.1, it may place a placard containing the terms of the order or of the notice of intention to enter the *lands* in a conspicuous location on the *lands* and may enter the *lands* for this purpose.

12.3 The *Township* will not enter the *lands* to conduct remedial work until notice of its intention has been given under Section 12.1 or 12.2 of this By-law unless the giving of such notice would result in an immediate danger to the health or safety of any person.

13.0 RECOVERY OF COSTS

13.1 Costs incurred by the *Township* arising from any default or failure to perform the obligations and requirements under this By-law including under Section 12, plus interest accrued to the date payment is made at the rate of fifteen percent (15%) or such lesser rate as may be approved by the *Township*, will be recoverable from the Owner of the *lands* by action or in like manner as taxes pursuant to the provisions of Section 446 of the *Municipal Act*, 2001.

13.2 Cost incurred by the *Township* as set out in Section 13.1 of this By-law including interest as the prescribed rate, are a lien on the *lands* upon registration in the proper land registry office of a notice of lien pursuant to Section 446 (5) of the *Municipal Act*, 2001.

13.3 The lien is in respect of all cost that are payable at the time the notice is registered plus interest at the prescribed rate and accrued to the date payment is made.

13.4 Upon payment of all costs payable plus interest accrued to the date of debt retirement being made by the Owner of the land, a discharge of the lien shall be registered by the *Township* in the proper land registry office of a notice of lien pursuant to Section 446 of the *Municipal Act*, 2001.

14.0 POWER OF ENTRY

14.1 An *inspector*, an employee or agent of the *Township* may, at any reasonable time enter and inspect any *lands* to determine whether this By-law, an order or direction under this By-law or an order under Section 431 of the *Municipal Act*, 2001, is being complied with pursuant to Section 436 of the *Municipal Act*, 2001.

14.2 The power of entry under this section does not allow a municipality to enter any buildings.

15.0 OBSTRUCTION

15.1 Every person who hinders or obstructs, or attempts to hinder or obstruct, any person exercising a power or performing a duty pursuant to this By-law is guilty of an offence as provided in Section 426 of the *Municipal Act*, 2001.

16.0 ENFORCEMENT

16.1 The administration and enforcement of this By-law shall be performed by the *Chief Building Official*, the *Manager of Public Works* or the *Municipal Law Enforcement Officer*, and by persons authorized by the *Chief Building Official*, the *Manager of Public Works*, or the *Municipal Law Enforcement Officer* as may be appointed by By-law of the Council of the *Township*.

16.2 The cost of enforcement, including the professional and administrative expenses of the *Township* shall be at the expense of the *Owner* and the *Corporation* may recover the expenses incurred in so doing by action or the same may be recovered in like manner as municipal taxes, as provided for in Section 13.

16.3 Where any site alteration has taken place contrary to any provision of this By-law, an *inspector* may make an order directing the *Owner* or any other person to do any or all of the following within such time as is specified in the order:

- a) comply with the provisions of this By-law;
- b) cease the *placing* or *dumping* of *fill*;
- c) replace any *fill* that has been removed within forty-eight (48) hours after service of the order, or such other length of time as may be specified in the order;
- d) remove the *fill* that has been *placed* or *dumped* within forty-eight (48) hours after service of the order, or such other length of time as may be specified in the order;
- e) order an *Owner* or any other person to take and supply at their expense such tests and samples as are specified in the order.

16.4 Pursuant to Section 436 of the *Municipal Act*, 2001, including for the purposes of an inspection, an *inspector* may:

- a) enter upon land at any reasonable time without a warrant;
- b) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection; and,
- c) require the production for inspection of documents or things including drawings or specifications that may be relevant to the land.

16.5 In the event a sample is taken pursuant to Section 16.4 (b), the procedures set out in Section 436 of the *Municipal Act*, 2001 will be followed.

17.0 OFFENCE AND PENALTY

- 17.1** Where a person contravenes the provisions of this By-law such person is liable to a fine as established pursuant to the *Municipal Act*, 2001, as follows:
- a) Every person who contravenes any of the provisions of the By-law is guilty of an offence pursuant to Section 425 of the *Municipal Act*, 2001, as amended, and liable upon conviction to a fine of not less than \$500.00 and not more than \$100,000.00;
 - b) A director or officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation is guilty of an offence;
 - c) Notwithstanding subsection 17.1 (a), contraventions of Section 3 (SITE ALTERATION PROHIBITED) are designated as continuing offences pursuant to Section 429(2) of the *Municipal Act*, 2001, as amended, or any successor provision. Every person who contravenes Section 3 (SITE ALTERATION PROHIBITED) of this By-law is guilty of a continuing offence and on conviction is liable to a fine of not less than \$500.00 and not more than \$10,000.00 for each day or part of a day that the offence continues;
 - d) Notwithstanding the provisions of this Section, the *Township* may proceed pursuant to Part III of the *Provincial Offences Act*, R.S.O. c.P.33, as amended, commencement of proceedings by information; and
 - e) The conviction of an offender upon the breach of any provisions of the By-law shall not fetter the prosecution against the same offender upon any continued or subsequent breach of any provision and the Presiding Judge or judicial officer may convict any offender repeatedly for continued or subsequent breaches of the By-law and the provisions of Section 429 of the *Municipal Act*, 2001, as amended from time to time, shall further apply to any continued or repeated breach of this By-law. Each day shall constitute a separate offence under this By-law.

18.0 ORDER UPON CONVICTION

- 18.1** Pursuant to Section 431 of the *Municipal Act*, 2001, if an *Owner* or other person is convicted of an offence for contravening this By-law or an order under Section 9 (ORDER TO DISCONTINUE ACTIVITY or Section 10 (WORK ORDER), the court in which the conviction has been entered, and any court of competent jurisdiction thereafter may order the *Owner* or other person, in such manner and within such period as the court considers appropriate:
- a) to rehabilitate the land; and/or,
 - b) to remove the *fill dumped* or placed contrary to this By-law; and/or,
 - c) to restore the *grade* of the land to its original condition.

19.0 ASSISTANCE FOR INSPECTOR

- 19.1** An *inspector* shall have the right to confer with staff of the *Township* and/or retain consulting services for the purposes of determining whether the requirements of this By-law have been complied with, and to assist with the administration of the By-law; costs

attributed to these services shall be paid for by the Owner.

20.0 CONFLICTING LEGISLATION

20.1 Where there is any conflict between the provisions of this By-law and any of the provisions of the *Municipal Act, 2001*, as amended, the provisions of the *Municipal Act, 2001*, shall prevail to the extent of the conflict;

21.0 VALIDITY AND SEVERABILITY

21.1 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 sections 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 there from and enacted as such;

21.2 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.

22.0 SCHEDULES

22.1 Schedule "A" is attached to and forms an integral part of this By-law.

23.0 SHORT TITLE

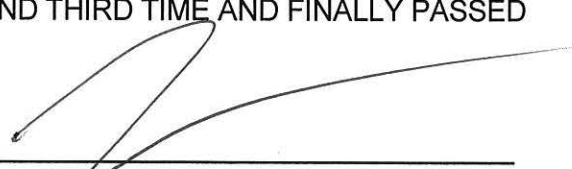
23.1 This By-law shall be cited as the "SITE ALTERATION AND FILL BY-LAW".

24.0 FORCE AND EFFECT

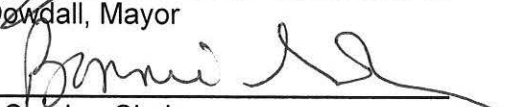
24.1 This By-law shall take effect and come into force and effect upon final passage hereof.

24.2 By-law 2013-01 will be superseded upon the passage of this By-law. Notwithstanding the passage of this By-law, the provisions of By-laws 2012-17 and 2013-01 will continue to apply to all *site alteration* and *fill* matters including *permits* prior to the date of the passage of this By-law.

READ A FIRST, AND TAKEN AS READ A SECOND AND THIRD TIME AND FINALLY PASSED
on this the 16th day of September, 2015.



Terry Dowdall, Mayor



Bonnie Sander, Clerk

SCHEDULE 'A'

FEES

DESCRIPTION	FEE
Fill less than 1000m ³	\$250.00 + \$0.80/m ³
Fill between 1000m ³ and 5000m ³	\$500.00 + \$0.80/m ³
Fill between 5000m ³ and 10,000m ³	\$1,500.00 + \$0.80/m ³
Fill greater than 10,000m ³	\$2,500.00 + \$0.80/m ³
Approval/Exemption Renewal Fee	\$250.00
Expired Approval/Exemption Renewal Fee	\$500.00
Site Inspections (for inspections not included in a valid approval)	\$500.00 per inspection
External consultant and legal costs to review and evaluate studies or to prepare all legal documents and enforce by-law	Actual costs incurred plus 10% administration fee

NOTE: For estimation purposes only, one (1) load equals 10m³