



# **Site Alteration and Fill Permit Guidelines**

**Site Alteration and Fill By-law 2020-007**

## Site Alteration and Fill By-law 2020-007

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## Preface

The primary objective of this Site Alteration and Fill Permit Guideline (Guideline) is to outline the details set out in Site Alteration and Fill By-law 2020-007 (Appendix A) in order to prohibit and/or regulate site alteration of lands within the jurisdictional boundaries of the Town of New Tecumseth (Town) which includes parts of the Oak Ridges Moraine Environmental Protection Zone (ORMEP). Site Alteration and Fill By-law 2020-007 (Site Alteration By-law) replaces By-laws 2010-021 and 2012-136. For any Site Alteration Permit issued or Agreement entered into prior to the passage Site Alteration and Fill By-law 2020-007, the provisions of By-laws 2010-021 and 2012-136 shall continue to apply, as applicable, including to any acts, omissions or occurrences and to any offences that took place prior to the passing of the Site Alteration By-law.

Where this Guideline refers to the Site Alteration By-law, it should be read to mean the current and latest Town Site Alteration and Fill By-law in effect at the time of the site alteration and fill program.

The Site Alteration By-law is subject to future amendments from time to time. The Guideline document and other documents prepared in support of the Site Alteration By-law will be reviewed and updated as required to maintain consistency with changing regulations, best practices, and the needs of the Town. Revisions to the Guideline document and other related documents will be provided to the Chief Administrative Officer or his/her designate for consideration and approvals as may be required from time to time.

In keeping with the Site Alteration By-law, this Guideline defines “Site Alteration” as any activity that involves the dumping, grading, removing, movement or excavating of fill or soil.

The Site Alteration By-law has been prepared consistent with, and complimentary to County, Provincial, and Federal regulatory authorities and their respective policies and regulations. The Site Alteration By-law requires compliance with all other agencies with jurisdiction over a particular site.

The sections set out in this Guideline is intended to assist Town Staff, Applicants and others with understanding the rationale involved with the development and requirements of the Site Alteration By-law, Permit and administrative processes.

The Site Alteration By-law is administered by the Town’s Engineering Department under the direction and supervision of the Director of Engineering and Development (referred to as “Director”, hereinafter) and his/hers designate.

All enquiries related to Site Alteration and Fill By-law 2020-007 should be made by contacting the Town’s Engineering Department via telephone at 705-435-3900 Ext. 1301 or obtain the latest copy of the Site Alteration and Fill By-law available on the Town’s website: <https://www.newtecumseth.ca/en/town-hall/resources/Documents/Site-Alteration-Fill-By-Law.pdf>

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## 1.0 Site Alteration and Fill Permit Guidelines

### 1.1 Guideline Purpose

This Guideline has been prepared to assist anyone applying for a Site Alteration Permit in accordance with the requirements set out in Site Alteration and Fill By-law 2020-007 (referred to as “Site Alteration By-law”, hereinafter ).

The Guideline outlines the necessary details to assist Town Staff, Applicants and other interested parties with an understanding and the rationale involved with the development of the Site Alteration By-law and the associated administrative processes in place for Application and Permit approvals.

## 2.0 Site Alteration and Fill By-law 2020-007

### 2.1 By-law Rationale and Purpose

Historically, the Town’s previous Site Alteration By-law 2012-136 generally prohibited filling on properties except for site alteration activities meeting the exemption and exception conditions.

Given the desire from properties owners for the potential to improve their lands through site alterations, the Town has recognized a need to assess the Site Alteration By-law to provide for a tolerance of site alterations consistent with other municipal jurisdictions and external regulatory agency’s guidelines, policies and regulations.

In general, the amended Site Alteration By-law 2020-007 does not support the degradation of the existing environmental condition of a site and surrounding properties but rather evaluates the rationale and the end purpose of site alteration proposals that provides for enhanced use of lands.

The Site Alteration By-law has been prepared to provide the Town with control over various activities related to changes in existing grades (topography) to protect the Town’s residents, businesses, and in protection of human health and the environment to the extent possible. The By-law identifies control over activities associated with a site alteration and filling that may have the potential to cause negative impacts to the environment and landowners adjacent to site alteration activities. Common negative impacts include, but not limited to the following:

- Importation of unsuitable materials;
- Land, groundwater and surface water environment;
- Changes to stormwater runoff;
- Noise and vibration;
- Dust;
- Increased traffic; and
- Degradation of local roads.

The site alteration activity with most significant potential for adverse impact is the importation of fill from another location. Importation of fill has the potential of bringing unsuitable materials on to a site. Materials incompatible with the environmental conditions of a site could cause an environmental impact to the soil, groundwater and surface water regime of a local community and the Town. It is important for the protection of the environment to prevent the importation of fill materials that may be unsuitable and could contain elements of environmental concern such as and not limited to:

- Elevated concentrations of chemical parameters;
- Invasive species (plants, insects and animals ie. Phragmites, etc.); and
- Non-inert materials incompatible with local environmental conditions.

Despite negative site alteration concerns and perceptions, site alterations can enhance the Town through carefully controlled alterations of topography through:

- Improved drainage;
- Improved use of lands for buildings, employment and recreational activities;
- Improved use of agricultural lands; and
- Enhancement of natural features such as ponds and wetlands.

Appropriate controls are required to ensure site alteration activities are conducted in a manner to ensure human health and environmental protection with the mitigation of potential impacts.

## **3.0 Site Alteration By-law 2020-007 Overview**

### **3.1 By-law Structure**

For reference, a copy of the Site Alteration By-law is included in Appendix A, which includes the following Sections:

- 1.0 Definitions;
- 2.0 Application of By-law;
- 3.0 Site Alteration Prohibited;
- 4.0 Exemptions;
- 5.0 Exceptions;
- 6.0 Oak Ridges Moraine;
- 7.0 Applications for Variance;
- 8.0 Minimum Standards;
- 9.0 Small Scale Site Alteration (less than 1,000m<sup>3</sup>);
- 10.0 Large Scale Site Alteration (1,000m<sup>3</sup> or more);
- 11.0 Replacement of Topsoil for Agricultural Purposes;
- 12.0 Permit for Site Alteration;
- 13.0 Fees and Securities;
- 14.0 Order to Discontinue Activity;

15.0 Work Order;  
16.0 Work Done by Municipality;  
17.0 Service of a Work Order;  
18.0 Recovery of Costs;  
19.0 Power of Entry;  
20.0 Obstruction;  
21.0 Enforcement;  
22.0 Offence and Penalty;  
23.0 Order Upon Conviction;  
24.0 Assistance for Inspector;  
25.0 Conflicting Legislation;  
26.0 Validity and Severability;  
27.0 Schedules;  
28.0 Short Title;  
29.0 Force and Effect;  
30.0 Transition Provision;  
Schedule A – Town Boundary Limits; and  
Schedule B – Oak Ridges Moraine Environmental Protection (ORMEP) Zones

### **3.2 Definition of Site Alteration**

Definitions used throughout this Guideline are defined in Section 1.0 of the Site Alteration By-law. The Site Alteration By-law defines “Site Alteration” as any activity that involves the dumping, grading, removing, movement or excavating of fill or soil.

Site alterations as defined in the Site Alteration By-law, could include movement of fill or soil inbound to a property, outbound from a property, or locally within a property by one of these methods:

- Removal, or referred to as cut, excavation of material;
- Addition, or referred to as fill, placement of material; and
- A combination of cut and fill of material.

It is envisioned that this definition will strengthen the ability to regulate all potential native and foreign soil movement whether it be inbound to the site, outbound from the site, within the site or a combination thereof. It should be realized that Site Alterations activities does not necessarily mean only the importation of soil or fill to a property, as commonly perceived.

For the purposes of interpreting soil volumes referenced in the Site Alteration By-law and also within this Guideline, ten (10) cubic metres (m<sup>3</sup>) of soil or fill shall equate to approximately one (1) tri-axle dump truck load.

### **3.3 Other Agencies with Jurisdiction**

The Site Alteration By-law has been prepared to be consistent with, and complementary to the policies, guidelines, laws and regulations administered by other regulatory authorities such as:

- County of Simcoe (County);
- Ministry of Environment, Conservation and Parks (MECP);
- Ministry of Transportation (MTO);
- Ministry of Agriculture, Food and Rural Affairs (OMAFRA);
- Transport Canada (TC);
- Ministry of Tourism Culture and Sport (MTSC)
- Ministry of Natural Resources (MNR); and
- Nottawasaga Valley Conservation Authority (NVCA) and Lake Simcoe Region Conservation Authority (LSRCA).

It is not the mandate of the Town to oversee or enforce the laws and regulations administered by other agencies or regulatory authorities. However, the Town is committed to fulfilling its mandate for the protection of the residents and the environment of the Town by requiring, in its Site Alteration and Fill By-law, that Applicants provide documentation to indicate that the proposed site alteration and fill activities are conducted in compliance with the requirements of all other agencies with jurisdiction.

The Town has jurisdiction for such matters pertaining to:

- Fire Services for fire response and prevention, rescue and emergency services;
- Town By-laws;
- Oak Ridges Moraine Conservation Act; and
- Various powers as stipulated by the Municipal Act

The Site Alteration and Fill Permit will include the Condition that all of the requirements of all other agencies with jurisdiction must be satisfied at all times. It is up to the Applicant to provide sufficient documentation to the satisfaction of the Director that they are in compliance with all other agencies with jurisdiction.

### **3.4 Application of By-law**

In reference to Section 2.0 set out in the Site Alteration By-law, it applies to all lands within the:

- Town's geographical area as shown in Schedule "A" of the Site Alteration By-law; and
- Oak Ridges Moraine Area as shown in Schedule "B" of the Site Alteration By-law

Schedule "B" generally identifies the Oak Ridges Moraine Area and the Oak Ridges Moraine Environmental Protection (ORMEP) Zone lands within that area set out in the Town's geographical area identified in Schedule "A". It should be noted that Schedule "B" is intended as a guide only and the precise location of boundaries will be determined in accordance with the mapping approved by the Town's By-laws in keeping with the Oak Ridges Moraine Plan.

The Site Alteration By-law will be administered by the Engineering Department of the Town under the direction and supervision of the Director, his designate or such other person designated by Council or the Chief Administrative Officer (CAO) of the Town.

### **3.5 Prohibitions**

For reference and complete details, the general Applications and Prohibitions are outlined in Section 3.0 of the Site Alteration By-law.

In accordance with Section 3 of the Site Alteration By-law, Site Alteration is prohibited on any lands within the Town, except as provided under exemptions and exceptions as set out in Sections 4 and 5 to the Site Alteration By-law.

The prohibition under Section 3 of the Site Alteration By-law, also includes the removal of topsoil for sale, exchange or other disposition, or the excavation of fill or soil that results in the creation of a hole, depression or pond area. In instances of fill placed or dumped on any lands for storage purposes, these activities shall only be permitted by:

- the applicable Zoning By-law of the Town; and
- written Agreement between the landowner and the Town

New inclusions of prohibitions to Section 3 of the Site Alteration By-law are:

- soils or fill resulting from hydro-excavation truck will be prohibited; and
- reclaimed soils or fill from a commercial soil treatment facility or equivalent soil treatment process.

### **3.6 Exemptions**

For reference and complete details, Exemptions are outlined in Section 4.0 of the Site Alteration By-law.

The most notable exemptions as set out in Section 4 to the By-law are activities:

- by the Town;
- as part of the Site Plan, Subdivision or Development Agreement;
- of an Electrical Transmitter;
- related to a Licensed Pit or Quarry;
- as part of the Drainage & Tile Drainage Act;
- as part of the Public Transportation & Highway Improvement Act; and
- as part of a Building Permit within 3 metres of the foundation or redistribution of the excavated soil on the property

### **3.7 Exceptions**

For reference and complete details, Exceptions are outlined in Section 5.0 of the Site Alteration By-law.

The most notable exceptions as set out in Section 5 to the By-law are activities:

- related to Normal Agricultural Practices;
- not in excess of 150 cubic metres;
- of the Provincial Government, County of Simcoe, or Conservation Authority on Lands they own;
- undertaken as part of a Road Occupancy Permit; and
- related to filling or excavation as part of a Demolition Permit

For minor site alterations that are less than 150m<sup>3</sup> as set out in the Exceptions Section 5.1(c) of the Site Alteration By-law, no Permit is required provided that:

- for the purpose of lawn dressing, constructing a fence, pool or other accessory structure, landscaping or adding to flower beds or vegetable gardens;
- does not exceed 150m<sup>3</sup>;
- the existing grade of the lands has not been increased in the previous twelve (12) months; and
- the minimum standards set out in Section 8.0 of the Site Alteration By-law are complied with.

For site alterations on lands under the jurisdiction of a Conservation Authority, no Permit is required by the Town. However, in these situations its been the practice of the Town to work with the respective Conservation Authority to address the appropriate haul route and mitigation measures for any potential impacts within the Town's road allowance.

### **3.8 Application for Variance Process**

Despite the Prohibitions, Exemptions and Exceptions to the Site Alteration By-law as set out In Sections 3, 4 and 5 of the Site Alteration By-law, an application for a variance can be made provided that the application process and requirements are based on the any of the three (3) main Site Alteration Permit characterization types as follows:

1. Small Scale Site Alteration proposed for less than 1,000m<sup>3</sup>, shall comply with the requirements set out in Section 9 of the Site Alteration By-law;
2. Large Scale Site Alteration proposed for 1,000m<sup>3</sup> or more, shall comply with the requirements set out in Section 10 of the Site Alteration By-law; and
3. Replacement of Topsoil proposed for Agricultural Purposes, shall comply with the requirements set out in Section 11 of the Site Alteration By-law

For the issuance of a site alteration Permit in accordance with Sections 9, 10 or 11 set out in the Site Alteration By-law, the Applicant shall meet all of the requirements set out in the corresponding Section of the Site Alteration By-law together with the minimum standards set out in Section 8 of the Site Alteration By-law.

For reference, the administration of the Application and Permit issuance process flow chart is provided in Appendix K of this Guideline. The following subsections outlines a

general description of the Application and Permit issuance process for the three (3) main Site Alteration Permit characterization types.

### **3.8.1 Small Scale Site Alteration (less than 1,000m<sup>3</sup>)**

Applications made to exercise this category of site alteration shall comply with the provisions set out in the Site Alteration By-law and provide:

- complete application submission;
- payment of fees;
- submission of drawings, documentation, Site Alteration Plan and Fill Management Plan in support of the proposed works;
- written confirmation and/or clearances from the conservation Authority respecting regulated areas;
- posting notice and signage on the property, notifying neighbours of application;
- meeting the minimum standards as set out in Section 8 of the Site Alteration By-law and any other requirements as determined by the Director as set out in the Site Alteration By-law;
- post security deposit (in cash or irrevocable Letter of Credit);
- insurance certificate (general and environmental liability)

Once application is considered complete, reviewed, and comments addressed satisfactorily, the Director will issue a Site Alteration Permit with stipulated conditions.

### **3.8.2 Large Scale Site Alteration (1,000m<sup>3</sup> or more)**

Applications made to exercise this category of site alteration shall comply with the provisions set out in the By-law and provide:

- complete application submission;
- payment of fees and deposit;
- submission of drawings, documentation, Site Alteration Plan in support of the proposed works;
- written confirmation and/or clearances from the conservation Authority respecting regulated areas;
- posting notice and signage on the property, notifying neighbours of application;
- meeting the minimum standards as set out in Section 8 of the Site Alteration By-law and any other requirements as determined by the Director as set out in the Site Alteration By-law;
- hosting a Public Meeting to solicit comments and concerns

Once all comments, including those by the Public Meeting have been compiled, the application package and comments will be submitted to Council for review and direction to Staff, to either process the application, deny, or defer for additional information. The decision by Council is final. If Council directs to process the application, the detailed review process will commence and the Applicant shall further provide:

- detailed Fill Management Plan with supporting documents and drawings as set out in Section 10.8 of the Site Alteration By-law;

Once the detailed review process is complete including the Fill Management Plan in good standing to the satisfaction of the Director, an Agreement is presented to Council for execution and subsequent registration on title. The Applicant shall further provide:

- supporting documents and certifications as set out in Section 10.9 of the Site Alteration By-law;
- post security deposit (in cash or irrevocable Letter of Credit);
- insurance certificates (general and environmental liability)

Once the Director is satisfied that all the requirements have been met including the Agreement in good standing, the Director will issue a Site Alteration Permit with stipulated conditions, in keeping with the Agreement.

### **3.8.3 Replacement of Topsoil proposed for Agricultural Purposes**

Applications made to exercise this category of site alteration shall comply with the provisions set out in the By-law and provide:

- complete application submission;
- payment of fees and deposit;
- evidence of bona fide agricultural need for topsoil up to a maximum of 0.3 metres
- submission of drawings, documentation, Site Alteration Plan in support of the proposed works;
- written confirmation and/or clearances from the conservation Authority respecting regulated areas;
- posting notice and signage on the property, notifying neighbours of application;
- any other requirements as determined by the Director as set out in the Site Alteration By-law;
- hosting a Public Meeting to solicit comments and concerns;
- meeting the minimum standards as set out in Section 8 of the Site Alteration By-law and any other requirements as determined by the Director as set out in the Site Alteration By-law;

Once all comments, including those by the Public Meeting have been compiled, the Application package and comments will be submitted to the Director for review and direction to Staff to either process the Application, deny or defer for additional information. If the Director directs to process the Application, the detailed review process will commence and the Applicant shall further provide:

- detailed Fill Management Plan with supporting documents and drawings as set out in Section 11.6 of the Site Alteration By-law;
- post security deposit (in cash or irrevocable Letter of Credit);
- insurance certificates (general and environmental liability)



Once the Director is satisfied that all the requirements have been met including the Fill Management Plan in good standing, the Director will issue a Site Alteration Permit with stipulated conditions.

## **4.0 Site Alteration Permit Application Overview**

### **4.1 General Rationale**

The Application for a Site Alteration Fill Permit requires the Applicant to determine the nature and reason for proposing a site alteration on their lands and describing the end purpose.

The information requested on the application should be as detailed as possible to allow Town Staff to complete an evaluation of the proposed operation and resulting works in order to confirm if a Site Alteration Permit is required, and if so, determine the site alteration category of Permit and submission requirements.

### **4.2 Pre-Consultation Meeting**

It is highly recommended that anyone that wishes to make Application, should contact Staff to coordinate a pre-consultation meeting prior to submitting an application. This first step will ensure that the Applicant receives adequate guidance in understanding the requirements set out in the Site Alteration By-law to move forward with the submission of a complete site alteration application as further outlined in this Guideline.

However, prior to coordinating a pre-consultation meeting, it is advisable to review the Site Alteration By-law, included in Appendix A, the Planning/Engineering Fees By-law, included in Appendix B, together with these guidelines to gauge the full scope of technical, financial or other considerations that the property owner would be responsible for in order to proceed with meeting the Town's requirements in making Application and undertaking the site alterations.

### **4.3 Application Submission**

The first step by an Applicant would involve retaining the services of a suitably Qualified Person/Professional, licensed in the province of Ontario. This could include a Professional Engineer (P.Eng.), Professional Geoscientist (P.Geo.), any other designation that meets the definition of a Qualified Person as defined in the provincial Environmental Protection Act and/or as approved by the Director. The multi-disciplinary nature of site alterations and the potential to overlap with the jurisdiction of multiple regulatory agencies requires professional expertise and assistance.

With the retainment of a Qualified Person/Professional, they would review the Site Alteration By-law and the respective guidelines to meet the requirements as set out to submitting a complete Site Alteration Application to the Town and further engage in site alteration activities in accordance with the conditions of a Permit and/or Agreement, when in place. The licenced professional will be required to prepare and sign the pre-

screening section of the application to streamline the application review process by reviewing the technical aspects prior to application submission.

The Application is received by Town Engineering Staff, reviewed for completeness and if complete, logged into the system with an assigned file number and forwarded to the Director with recommendation for preliminary processing.

If the Application is incomplete, the Applicant will be notified of the missing components. The application will not be processed until deemed complete by Town staff.

For reference, a Site Alteration Permit application template is provided in Appendix A.

#### **4.3.1 Application Part A - Property Information**

Part A of the Permit Application will provide information on the location of the proposed Site Alteration subject property / site within the Town of New Tecumseth.

This information will assist to establish the relationship to areas regulated by applicable external agencies, if any.

#### **4.3.2 Application Part B - Owner's Information and Authorization**

Part B of the Permit Application will provide information on the registered owner, whether a person(s) and/or corporation(s) of the property or alternatively an authorized legal representative of the registered owner.

This information will assist to establish the entity(ies) that the Permit or Agreement will address. In the instance of an Agreement being entered into, the Agreement will be registered on the title of the associated property.

#### **4.3.3 Application Part C - Applicant's Information and Authorization**

Part C of the Permit Application will provide information on the owners agent, if different from the owner or authorized legal representative of the Owner from Part 2 of the application.

The agent typically is the owners Consultant, Contractor and/or Qualified Person on record that has been retained to undertake the site works and comply with municipal requirements, from the point of Permit application to post site closure. As an example, a contractor could have an arrangement with the Owner to undertake the full scope of the project, in which the contractor would then retain the services of a Consultant or Qualified Person as a subcontractor for specialized components of the application and site works stage.

This information will assist to establish the entity(ies) that is the point of contact on the Owners behalf throughout the course of the application process and site works. Screening the Qualified Person is required under Part 8 of the application.

#### **4.3.4 Application Part D - Proposed Site Alteration and Fill Activities**

Part D of the Permit Application will provide information on the reason and end purpose of the proposed site works and site alteration activities. Information on scheduling, and quantity of site alteration (as defined in the By-law) is proposed. This information will assist to establish which site alteration category is applicable, calculate fees and deposits assess level of supporting documents and information to be submitted complete with the Site Alteration Plan. The supporting documents and information is outlined in the Site Alteration By-law for each of the respective site alteration categories and further outlined in detail in Section 9 of this Guideline.

#### **4.3.5 Application Part E – Fees and Deposits**

Part E of the Permit Application will assist to establish the applicable fees and deposits as set out in the Planning and Engineering Fees By-law 2019-173, or as amended, provided in this Guideline as Appendix B for reference. The application fee, examination fee and cash deposit, where applicable are required to be collected from the onset of an application submission to consider it complete. Other applicable fees such as the municipal fee, and security deposit would be calculated in approximation for the Applicant's acknowledgement and preparation to meet the financial obligations when finalized and collected, prior to the issuance of a Permit or execution of an Agreement. For reference, complete fee structure details are outlined in Section 8.0 of this Guideline.

#### **4.3.6 Application Part F – Insurance**

Part F of the Permit Application will provide the Certificate of Commercial General Liability to cover claims through the operations of the named insured and additionally a Certificate of Environmental (pollution) Insurance to cover claims through the release of pollutants. The liability amounts for each insurance coverage is a minimum \$5,000,000 per occurrence or as specified by the Director.

The Corporation of Town of New Tecumseth shall be named as an additional party insured on the respective Certificate of Insurance.

#### **4.3.7 Application Part G – Supporting Documents and Information**

Part G of the Permit Application will provide a general list of documents and information in the form of plans, drawings, reports, studies, letters and information required to compliment the Site Alteration Plan in a conceptual scope at the time of application to demonstrate the merits of the application and consider it complete. The Site Alteration Plan will develop to a detailed Fill Management Plan that will be certified prior to the issuance of the Permit.

This section of the application will also require any documentation from external agencies for any clearances such as from the Conservation Authority from a regulated

area perspective or road authority other than the Town for site access and haul route approvals.

The supporting documents and information is outlined in the Site Alteration By-law for each of the respective site alteration categories and further outlined in greater detail in Section 9 of this Guideline.

#### **4.3.8 Application Part H – Qualified Person Information**

Part H of the Permit Application will provide Staff the opportunity to screen the Qualified Person on record to ensure they are licensed to practice in the province of Ontario as a Professional Engineer or Professional Geoscientist or any other designation that meets the definition of a qualified person as defined in the provincial Environmental Protection Act and/or as approved by the Director.

This information will not only assist with the screening of the Qualified Person but will also ensure a complete submission is made in support of the application. The Qualified Person must provide a declaration that the technical documents meet the requirements set out in the Site Alteration By-law, these guidelines, policies and regulations having jurisdiction over site alteration activities.

#### **4.3.9 Application Part I – Declaration, Use and Disclosure of Personal Information**

Part I of the Permit Application will provide Staff with the Applicant's authorization and consent to releasing copies of relevant information related to the application to the general public. This includes posting relevant information to the Town's website as outlined in Section 5.0 of this Guideline.

### **4.4 General Application Review Process**

Once the Application is deemed complete by Engineering Staff and forwarded to the Director with recommendation for preliminary processing, the technical detailed review process commences.

Where Engineering Staff assess the application, supporting documentation and the Site Alteration Plan to be generally straight forward in terms of scope of works and site alterations, the technical review will be conducted in house by Engineering Staff. Detailed technical reviews will be forwarded to the Town's Peer Review consultant where an application may have potential for significant negative impacts and in all instances of Large Scale Site Alteration applications.

As required, the Town's Peer Review Consultant provides engineering and scientific resources to meet the needs of the Town in the review and evaluation of site alteration applications, developing Permit and Agreement conditions and further conducting oversight and monitoring of site alteration activities. The Town's Peer Review Consultant review consists of detailed review of all documentation in support of the application, liaising with other agencies with jurisdiction (if required for clarification) and providing written responses with comments and recommendations.

All comments and recommendations generated through the Town's Engineering Staff and/or Peer Review Consultant are forwarded to the Applicant. The Applicant responds to the comments and addresses any outstanding issues

The full process that includes the application submission, review of supporting documentation through to Permit issuance, is generally outlined in Section 3.8 of this Guideline.

#### **4.5 Application Abandonment**

The Site Alteration Permit application shall be considered abandoned and file closed by the Town where a period of twelve (12) months has elapsed after the date on which the Site Alteration Permit Application was received by the Town, during which:

- a) the Applicant and/or owner for a Site Alteration Permit has not provided any additional information, documents, reports, drawings, fees or other items as required by the Director to process or consider the Application; or
- b) the Application has been placed on hold or in suspension, at the request of the Applicant or at the discretion of the Director; or
- c) no Public Consultation Meeting has been requested within 12 months of the submission of an application for a Site Alteration Permit.

If an Application is deemed abandoned, and the Applicant requests to reinstate the Application, the Town will require a new application fee payment. The Director will review the request and will have discretion to reinstate the Application. All requirements will apply to such Application, including the requirement to have the Application be re-reviewed, and if applicable, a new Public Consultation Meeting will be required to be held before the Application can be presented to Council for approval or alternatively approval by the Director, when applicable.

## **5.0 Community Consultation and Engagement Overview**

### **5.1 General Requirements**

In general, the Town welcomes input resulting from public consultation for consideration when assessing the merits for Permit approval and in the preparation of Agreement and Permit conditions.

Once the Town is satisfied with the complete Application that includes the Site Alteration Plan and supporting documents, the details for public notification and consultation will be determined for the Owner/Applicant to fulfil.

The following table outlines the public notice, signage and meeting requirements:

<b>Application Category</b>	<b>NOTICE Signage</b>	<b>NOTICE Hand Delivered</b>	<b>Public Meeting</b>
Small Scale Site Alteration (less than 1,000m <sup>3</sup> )	Required	Required	Not Required
Large Scale Site Alteration (1,000m <sup>3</sup> or more)	Required	Required	Required
Replacement of Topsoil for Agricultural Purposes	Required	Required	Required

Table 1 - Public Notice, Signage and Meeting Requirements

In addition to the requirements outlined in Table 1 above, Permit application notifications and scheduled Public meetings will be published on the Town's website and further disseminated through social media applications at the discretion of the Town.

## 5.2 Notice Signage Requirements

In keeping with the requirements set out in the By-law, the Owner/Applicant is required to provide adequate notice and signage requirements to notify neighbours of the application for each site alteration application category outlined in Table 1 above.

For reference, complete Notice Signage requirements are further outlined in Appendix G of this Guideline for preparing and erecting **Notice** signs on site alteration subject properties.

## 5.3 Public Notice Hand Delivery Requirements

In application for all site alteration categories, hand delivery of the Notice is to be provided to property owners within a 150m radius for a site alteration subject site within an urban setting and 500m radius for a site alteration subject site within a rural setting. To ensure adequate coverage of local properties adjacent to a site alteration subject site, adjustments to these notice boundaries will be assessed and made where necessary at the discretion of the Town.

The Notices will be drafted on a Town Notice template provided in Appendix I by the Applicant or their Agent for the Town's review. Once approved, Notices be will distributed by the Applicant or their Agent.

## 5.4 Public Information Consultation Meeting Requirements

In keeping with the requirements set out in the By-law, the Owner/Applicant is required to host Public Information Consultation Meeting regarding the application for each site alteration application category outlined in Table 1 above.

Where a public consultation meeting process is required, the process will be undertaken in a similar manner as a Zoning By-law or Official Plan amendment proposal under the Planning Act. However, in the event of an application being denied by Council, Applicants will not have the ability to appeal to the Local Planning Appeal Tribunal (LPAT), but rather will need to seek adjudication through a Divisional Court system. In the instance that an application is denied by Staff, the Applicant will have an interim remedy to appeal to Council for a decision. The decision by Council in all instances shall be final in keeping with the Site Alteration By-law.

The public consultation meeting will be arranged and hosted by the Applicant and/or their Qualified Person/Professional. This will be undertaken in coordination with Town Staff to ensure a suitable venue and convenient schedule is selected by the Applicant.

External Agencies that may have an interest should be identified and notified for any participation with the public consultation meeting, either through attendance or providing information for the Public's knowledge.

## **6.0 Town Administration and Oversight Overview**

### **6.1 General**

The Site Alteration By-law has been designed to effectively administer and provide oversight of site alterations and fill activities in particular those resulting from a large scale site alterations. Large scale site alterations are anticipated to be the most demanding in terms of magnitude scope of works and duration to complete.

In all instances of site alteration categories, the Site Alteration By-law provides for the necessary "checks and balances" or quality assurance (QA) from the application stage through to post closure of a Site Alteration Permit to ensure Applicants meet the Town's and other regulatory agencies requirements for responsible site alteration activities.

The QA in place engages the services of a Peer Review Consultant where required that provides the engineering and scientific resources to meet the needs of the Town in the review and evaluation of site alteration applications, developing Permit and Agreement conditions and further conducting oversight and monitoring of site alteration activities.

### **6.2 Administration**

Site Alteration and Fill Permit applications are effectively administered through the following:

- clear Site Alteration By-law outlining requirements
- detailed Application Form for completeness and screening
- Applicant's requirement to retain qualified technical professionals to assist with By-law compliance
- Applicant's requirement for Public consultation

- Town's Peer Review Consultant with the technical resources and professional advice
- Town's legal counsel for professional advice and preparation of Permit and Agreement conditions
- Director of Engineering and Development (Director), Engineering and By-law Staff administering and enforcing the By-law
- Council's approval for Large Scale Site Alteration (1000m<sup>3</sup> or more) applications

### **6.3 Oversight**

Once the Permit and Agreement (if required) are approved, the Town's Engineering Staff, By-law Officer and Peer Review Consultant would undertake the role to oversee the site alteration as required.

The Town's Engineering Staff and Peer Review Consultant would:

- Review source site assessments and documentation;
- Review receiving site reports, manifests and other documentation;
- Inspect the site, conduct enquiries and any assessment required to confirm compliance with the requirements of the Fill Management Plan, Permit and/or Agreement
- Review and respond to complaints; and
- Provide recommendations to the Director regarding the issuance of Orders.

It should be noted that any oversight conducted by the Town does not replace or remove any responsibility for full time oversight by the Applicant's Qualified Professional/Person.

### **6.4 Orders, Fines and Compliance**

Should site alteration activities be out of compliance with the Conditions of the Agreement and/or Permit, the Town may issue Orders with specific requirements and timelines to achieve compliance. Fines and other penalties including the revocation of the Permit are also possible. All orders must be complied with, even after the expiry or revocation of a Permit.

The Town will have resources to draw on in the event of default or failure to perform the obligations and requirements set out in the By-law, Permit and/or Agreement. The resources are intended to recover any costs incurred for enforcement actions by the Town for peer review consultant services, legal services, and oversight monitoring and inspection. The resources available to draw on are the following:

- Cash deposit;
- Security deposit; and
- Cost Recovery provisions set out in the Site Alteration By-law or Agreement, when applicable.



In instances of non-compliance, the Director may request the By-law Officer to issue an Order to Discontinue Activities and Work Order, and/or following any other provisions set out in an Agreement, when applicable. The Town’s Engineering Staff and Peer Review Consultant would assist the By-law Officers to ensure compliance with the Order.

In cases where the owner/operator was unwilling or unable to meet the Conditions of the Permit and/or Agreement and/or any Orders issued, the Director would have the option to use the Security Deposit to take necessary action to achieve compliance following the Service of a Work Order provision set out in the Site Alteration By-law and/or following any other provisions set out in an Agreement, when applicable. This would include:

- Retaining third party resources to secure the site and prevent illegal activities;
- Directing the Town’s Peer Review Consultant take over whatever work necessary to achieve compliance; and
- Retaining construction contractors administrated by the Town’s Peer Review Consultant to conduct necessary site work to achieve compliance and stabilization of the site in a free and draining state.

Complete By-law enforcement details are set out in Sections 14 through to 24 of the Site Alteration By-law.

For reference, the Order to Discontinue Activities template is provided in Appendix J.

## 7.0 Site Alteration Agreements and Permits Overview

### 7.1 Preparation of Agreements and Permits

The following table outlines when a Permit and/or Agreement is required based on the Site Alteration category:

<b>Application Category</b>	<b>Permit</b>	<b>Agreement</b>
Small Scale Site Alteration (less than 1,000m <sup>3</sup> )	Required	Not Required
Large Scale Site Alteration (1,000m <sup>3</sup> or more)	Required	Required
Replacement of Topsoil for Agricultural Purposes	Required	Not Required

Table 2 – Permit and Agreement Requirements

## 7.2 Agreement and Approval

For the site alteration category of Large Scale Site Alterations (1,000m<sup>3</sup> or more) as application of a variance, a Site Alteration Agreement will be required and to be approved by Council.

An Engineering report to a Committee of the Whole meeting will be prepared by Town Staff in consultation with the Town's Peer Review Consultant and Legal Counsel. The Engineering report is brought forward to Council in the early stage of processing the application with a public Consultation meeting being held. This will provide an opportunity for Council to be aware of the application and assess the merits to make informed decisions. Council will direct Staff to process the application, deny the application and/or or defer the application for action that may include providing additional information.

Prior to the Council meeting, a Public consultation meeting would be required to be hosted by the Applicant. The resulting comments by the Public and how they would be addressed by the Applicant would be summarized and presented to Council for their consideration in making decisions. During the Council meeting, presentations may be made by the following:

- Applicant
- Public
- Town Staff
- Town's Peer Review Consultant
- Town's Legal Counsel

In the event of the application being denied by Council, their decision will be final.

In the event that Council directs Staff to process the application, the Applicant would then be directed to undertake the submission of the detailed Fill Management Plan in support of the application for the Town's review and acceptance.

Once the Director being satisfied with the Fill Management Plan, the owner will be required to enter into the Agreement with the Town. The Town's legal counsel will prepare the Agreement with the assistance of the Engineering Staff and the Town's Peer Review Consultant.

An Engineering report to a Committee of the Whole meeting will be prepared by Town Staff in consideration of the Site Alteration Permit and Agreement approvals. Such approvals by Council are ratified at the next available Council meeting.

The Agreement once executed, will be registered against the title to the site alteration lands and the Applicant will be required to satisfy all conditions, financial or otherwise, of the Town with regard to the issuance of a Site Alteration Permit in accordance with Section 10.9 as set out in the Site Alteration By-law.

Once the Director is satisfied that all the requirements have been met including the

Agreement in good standing, the Director will issue a Site Alteration Permit with stipulated conditions, in keeping with the Agreement. The Applicant would be allowed to commence works upon the issuance Site Alteration Permit. Section 7.3 of this guideline

### **7.3 Permit Approval**

For all site alteration categories as application of a variance, a Site Alteration Permit will be required and will be approved by the Director.

For the site alteration category of Large Scale Site Alterations (1,000m<sup>3</sup> or more), a Permit cannot be issued without a Council approved Agreement. Town Staff will address any remaining Conditions and issues following Council approval. Once all is satisfactory, the Permit will be approved by the Director and the Permit will contain the requirements as set out in the Site Alteration Agreement.

For the site alteration categories of Small Scale Site Alterations (less than 1,000m<sup>3</sup>) and Replacement of Topsoil for Agricultural Purposes, the Director will issue a Site Alteration Permit once satisfied that all requirements set out for their respective category have been met, including the Fill Management Plan in good standing.

Permits may be revoked or suspended by the Director in the event of any of the following common circumstances:

- the conditions upon which the Permit was issued have not been complied with;
- the Site Alteration Agreement or Plan, as applicable, have not been complied with;
- work authorized under the Permit is not proceeding in accordance with the plans, specifications, documents and other information forming the basis on which the Permit was issued;
- work authorized under the Permit has not been commenced prior to its expiry date;
- monitoring and maintenance of control measures are not complied with; or
- any negative environmental impacts are identified; and
- Other circumstances as set out in Section 12.3 of the Site Alteration By-law.

In the event a Permit is suspended, the owner must satisfy the requirements of the Director before he/she authorizes the reinstatement of the Permit.

In the event a Permit is expired or revoked, site alterations has commenced, and prior to completion of the site alterations, the owner will be required to restore the land to its original condition or stabilize the site to the satisfaction of the Director in a manner that will prevent adverse impacts on the site alteration property, on abutting neighboring properties and the environment.

### **7.4 Permit Term and Renewal**

For the site alteration category of Small Scale Site Alterations (less than 1,000m<sup>3</sup>), the term of the Permit will be valid for up to a term of six (6) months in the form from time-

to-time approved by the Director. The Site Alteration By-law does not provide for any provision for extension or renewal of the Permit term as it has been envisioned that the magnitude of this category of site alterations could be adequately completed in the term as set out in the Site Alteration By-law.

For the site alteration category of Large Scale Site Alterations (1,000m<sup>3</sup> or more), the term of the Permit will be determined through the draft of the Agreement in consideration of the details by the certified Site Alteration and Fill Management Plans. The Director may, at his/her sole discretion, renew or extend a Permit for up to one (1) year if satisfied that the work is progressing in accordance with the requirements of the Permit and subject to any additional requirements that may have been identified by the Director. Any requests for extensions or renewals thereafter must be submitted to Council for approval. Any application for an extension of the Permit is to be made a minimum of sixty (60) days before the expiration of the Permit to allow sufficient processing time prior to the expiry date. The request for extensions or renewals and is subject to payment of the applicable fees in accordance with the Planning and Engineering Fees By-law 2019-173, or as amended.

For the site alteration category of Replacement of Topsoil for Agricultural Purposes, the term of the Permit will be valid for up to a term of one (1) year in the form from time-to-time approved by the Director. The Director may, at his/her sole discretion, renew or extend a Permit for up to six (6) months if satisfied that the work is progressing in accordance with the requirements of the Permit and subject to any additional requirements that may have been identified by the Director. Any requests for extensions or renewals thereafter must be submitted to Council. Any application for an extension of the Permit is to be made a minimum of sixty (60) days before the expiration of the Permit to allow sufficient processing time prior to the expiry date. The request for extensions or renewals and is subject to payment of the applicable fees in accordance with the Planning and Engineering Fees By-law 2019-173, or as amended.

## **7.5 Permit and/or Agreement Termination**

The Site Alteration Permit can be terminated (file closure) at the completion of the site alteration when all Conditions have been satisfied that includes the following:

- All work completed, confirmed through certification/declaration letter(s);
- All reports and documents submitted and certified;
- All post closure monitoring completed and certified; and
- Any issued Orders satisfied;

Upon a Permit termination and release of securities request by the Applicant, and the Director is satisfied that all Conditions have been met, the Permit may be terminated. Termination or file closure will administratively be undertaken by Town Staff. Where an Agreement is in place, the registered Agreement will remain on title of the site alteration lands. In all instances of Site Alteration Permit termination, the unused portion of the Cash Deposit and Security Deposit will be released to the Applicant, without interest.

In the event that the Director is not satisfied that all Conditions have been met, the Town will be entitled to retain the posted securities. This will ensure that there are sufficient funds to cover all associated costs to address any deficiencies or items of dispute. The Town shall have the right to take any action deemed necessary to remedy the deficiencies as set out in the Site Alteration By-law and reduce the security by that amount. Once all outstanding items have been finalized, the balance of securities would be authorized for final release, upon termination of the Permit.

Council at any time, may be advised on the status with each Site Alteration Permit and Agreement.

## **8.0 Financial Obligations Structure Overview**

### **8.1 Planning and Engineering Fees By-law 2019-173**

Schedule A of the Planning and Engineering Fees By-law 2019-173 (Planning/Engineering Fee By-law), or as amended, provided in Appendix B, provides the fees regarding the application, Permit and security deposits required when application is made for any of the three main Site Alteration categories.

Applicants must confirm they are using the most current fee schedule beyond the 2020 calendar year.

### **8.2 Application Fee**

Application for a Permit would require an application fee that is applicable to all site alteration categories included in the Planning/Engineering Fee By-law. The application Fee is due upon receipt of an application. This is a one-time base fee per application except for applications that have been deemed abandoned in which a new application fee will be required should the Applicant wish to reapply.

### **8.3 Plans and Reports Examination Fee**

The application for a Permit would require a Plans and Reports Examination Fee that is applicable to all site alteration categories included in the Planning/Engineering Fee By-law. The Plans and Reports Examination Fee is due upon receipt of an application. This is a one-time base fee per application unless the application has been deemed abandoned in which a new Plans and Reports Examination Fee will be required should the Applicant wish to reapply.

It must be recognized that each application will be unique in scope and complexity, where the number of submission cycles may vary to reach completeness to the satisfaction of the Director. As such, in the event that the Plans and Reports Examination Fee is exhausted prior to Permit approvals, Town Staff could draw upon the Cash Deposit to supplement additional funds required to complete the examination of all documents in support of an application, where resources outside of Town Staff are required, as further outlined in Section 8.4 of this Guideline.

## 8.4 Cash Deposit

The application for a Permit would require a Cash Deposit held on account with the Town that is applicable to all site alteration categories included in the Planning/Engineering Fee By-law, except for the Small Scale Site Alteration (less than 1,000 m<sup>3</sup>). The cash deposit is due upon receipt of an application and required to be “topped up” or replenished when depleted in the event the account has been drawn upon by Staff for such things as:

- Peer review and specialty review services if the Plans and Reports Examination Fee has been exhausted;
- Specialty oversight and field inspections that may require Surveying, sampling and monitoring to confirm compliance with the requirements of the Permit;
- Enforcement to fulfill the Conditions of a Town Order when the owner/operator is unwilling or unable to comply.
- Enforcement of a Permit for such items as maintaining cleaning roads, monitoring, site control and provision of required reports.

The Cash Deposit must be replenished when requested by the Director or the application process may stop and/or the Permit may be revoked. The un-used portion of the Cash Deposit is refundable at the file closure of the Permit and/or Agreement.

## 8.5 Municipal Fee

The application for a Permit would require a Municipal Fee that is applicable to all site alteration categories included in the Planning/Engineering Fee By-law. The fee is estimated upon receipt of an application and confirmed for payment upon the issuance of a Permit, except for the Large Scale Site Alteration (1,000 m<sup>3</sup> or more) in which a payment schedule will be outlined in the Agreement. The fee is calculated using the 2020 rate of \$1.50/m<sup>3</sup> multiplied by the site alteration quantity.

For the Large Scale Site Alteration (1,000 m<sup>3</sup> or more), up to \$60,000.00 is due upon the issuance of a Permit and the balance of payment will be prescribed in the terms of the Site Alteration Agreement over the proposed Permit duration. \$60,000.00 was derived by the first 40,000m<sup>3</sup> of site alterations multiplied by \$1.50/m<sup>3</sup> (the 2020 rate) or 4000 Truck loads of imported and/or exported fill or soil multiplied by \$15.00/tri-axle dump truck load.

For the purposes of interpreting soil volumes and calculating fees, ten (10) cubic metres (m<sup>3</sup>) of soil or fill shall equate to approximately one (1) tri-axle dump truck load. For the purposes of fee calculations other than earth moving vehicles identified as a tri axle dump trucks, the following should be used:

- For trailer loads or dump truck and pup trailer loads, one vehicle identified in this class will equate to approximately 18m<sup>3</sup> of capacity or \$27.00/load (the 2020 rate).

- For on site soil movements utilizing off road articulating dump truck type of vehicles, one vehicle identified in this class (small size of generic construction brands) will equate to approximately 16m<sup>3</sup> of capacity or \$24.00/load (the 2020 rate).

The type of earth moving vehicles for each application will be verified for capacity and fee calculations.

The municipal fee is collected to offset costs incurred for the administering of Permits and Agreements including but not limited to the following:

- Hiring and training Staff;
- Retaining an independent engineering firm with a Qualified Person;
- Providing technical, administrative and planning support services;
- Attending meetings;
- Monitoring site activities;
- Conducting review of technical reports and drawings;
- Engaging legal services and other consultants as the Town deems appropriate;
- Preparation of Permits and enforcement
- Preparation of Agreements, registration and enforcement;
- Liaison and communication with the general public;
- Post site alteration monitoring and obligations; and
- Assessment and rehabilitation of degraded Town roads and other infrastructure resulting from the site alteration activities.

The Applicant's Qualified Person/Professional will be responsible to track and quantify site alteration volumes (truck load counts or on-site fill and cut)), and report to the Town on a monthly frequency in which the monthly reports will be verified by the Town Staff and the Town's Peer review Consultant for actual quantities.

## **8.6 Permit Renewal / Extension / Revision Fee**

When applicable, a Permit Renewal / Extension / Revision Fee applies to all site alteration categories included in the Planning/Engineering Fee By-law, except for the Small Scale Site Alteration (less than 1,000 m<sup>3</sup>) in which a Permit extension or renewal will not apply.

The provisions set out for Permit renewals and extensions are referenced in Section 7.4 of this Guideline.

A Permit revision or amendment with applicable fees would be dependent on the magnitude of the revision. On a case by case basis the magnitude of the revision will be assessed for impacts on the scope of site alterations and Permit/Agreement conditions.

## 8.7 Site Alteration / Fill Management Plan Amendment Fee

When applicable, Site Alteration / Fill Management Plan Amendment Fee applies to all site alteration categories included in the Planning/Engineering Fee By-law.

An amendment or revision with applicable fees would be dependent on the magnitude of the amendment to either the conceptual Site Alteration Plan or detailed Fill Management Plan. On a case by case basis the magnitude of the amendment will be assessed for impacts on the scope of site alterations and Permit/Agreement conditions.

## 8.8 Security Deposit

The application for a Permit would require a Security Deposit (security) held on account with the Town that is applicable to all site alteration categories included in the Planning/Engineering Fee By-law. The security shall be provided as cash or in the form of an irrevocable Letter of Credit from a Tier 1 Chartered Bank naming the Town as the sole party that can draw against the instrument. Town Staff will provide the Letter of Credit template to the Applicant during the course of Permit approvals.

The amount of security varies between site alteration categories except for the categories of Large Scale Site Alteration (1,000 m<sup>3</sup> or more) and Replacement of Topsoil for Agricultural Purposes where the amount of security is consistent as a requirement and for calculation purposes as the following example:

15,000m<sup>3</sup> of site alteration proposed:

Calculation: Apply \$1.00/m<sup>3</sup> (2020 rate) of site alteration = \$15,000.00, therefore the Maximum Flat fee of \$100,000.00 (2020 rate) applies (ie. the greater of the two amounts applies)

Security Deposit = \$100,000.00

150,000m<sup>3</sup> of site alteration proposed:

Calculation: Apply \$1.00/m<sup>3</sup> (2020 rate) of site alteration = \$150,000.00, therefore the Maximum Flat fee of \$100,000.00 (2020 rate) does not apply (ie. the greater of the two amounts applies)

Security Deposit = \$150,000.00

The above security deposit calculations examples demonstrates the security is calculated to be scaled to match the scope of the project, based on size and complexity. In general, it is recognized that the bigger the scope of site alterations, the greater the potential for adverse impacts.

Upon receipt of the application, the amount of the security would be calculated in approximation for the Applicant's acknowledgement in preparing financial plans for the project. The amount is further finalized and collected prior to the issuance of a Permit or execution of an Agreement.

The security is required to be "topped up" or replenished when depleted in the event the account has been drawn upon by Staff for such things as:



- address non-compliance of Notices, Orders, Permit and/or Agreement conditions should the owner be unwilling or unable to do so. Non-compliance may result the Town to:
  - retain consulting services, legal services, and contractors to undertake corrective actions if required and for as long as required
  
- address any operational obligations should the owner be unwilling or unable to do so. Operational obligations could include, but not limited to:
  - mud tracking on roads
  - dust control
  - noise control
  - drainage, erosion and sediment control
  - site security and fencing
  - haul route, traffic and site access control
  
- address any environmental obligations should the owner be unwilling or unable to do so. Environmental obligations could include, but not limited to:
  - Contaminated or impacted soil
  - Surface water, groundwater or off site well impacts
  - Runoff and sediment spills to adjacent properties
  - Dust and nuisance impacts
  - Illegal dumping
  - Post closure monitoring and care

The Security Deposit must be replenished when requested by the Director or the application process may stop and/or the Permit may be revoked. The unused portion of the security deposit is refundable at the file closure of the Permit and/or Agreement.

Notwithstanding the above, it should be noted that additional costs incurred by the Town for the purposes of enforcement of any default or failure to perform the obligations and requirements of the Site Alteration By-law would be cost recoverable by the Town as an expense to the Owner/Applicant pursuant to the Site Alteration By-law. Delinquent accounts may result to be recovered in like manner as municipal taxes. Permits and Agreements will additionally contain clauses to this effect.

## 9.0 Technical Requirements Overview

### 9.1 Background Studies and Documents

The application must be supported by the provision of sufficient background studies and documentation prepared by appropriately qualified technical specialists to confirm

compliance with other regulatory agencies with jurisdiction and provide any conditions imposed by those other agencies related to the site alteration including, but not limited to:

1. Where the site is within or adjacent to the jurisdiction of the Oak Ridges Moraine Conservation Plan, provide all necessary documentation to demonstrate compliance with the Site Alteration By-law, the Oak Ridges Moraine Conservation Plan and the Town's Oak Ridges Moraine Conformity By-law 2003-120, as amended;
2. Where the site is immediately adjacent to, or shares a common boundary with, an area under the jurisdiction of a Conservation Authority, provide confirmation from the Conservation Authority that the site alteration meets their requirements and any site specific conditions imposed by the Conservation Authority;
3. Where the site has previously been licensed by the Ministry of Natural Resources for Aggregate extraction, provide confirmation of the surrender of the license;
4. Where the site is within in a Wellhead Protection Area, Significant Groundwater Recharge Area or Highly Vulnerable Aquifer, as defined by the Conservation Authority and/or Province, provide confirmation from the Conservation Authority that the proposed site alteration meets their requirements and provide any site specific conditions imposed;
5. Where the site alteration involves traffic and access via roads under the jurisdiction of the County of Simcoe and/or the provincial Ministry of Transportation and/or the Town, provide confirmation that the proposed traffic and road access components of the site alteration meets their requirements and provide any site specific conditions imposed by these road authorities;
6. Where the site alteration has the potential to injure or destroy trees, provide confirmation from the County of Simcoe that the proposed site alteration meets the requirements as related to their tree and forest conservation related By-law(s) and provide any site specific conditions imposed by the County. In all instances of potential tree impacts, provide a Tree Inventory and Preservation Study in accordance with the Town's Tree and Natural Vegetation Management Policy, Policy No. ID-002-2019, By-law 2019-086. (Appendix L)
7. Where the site alteration has the potential to generate noise, complete the Noise Screening Process for ECA Applications and evaluate the potential for noise as per NPC-300 (Environmental Noise Guideline). Provide a copy of the ECA or confirmation through an Acoustic Assessment that one is not required.
8. Where the site alteration has the potential to result in unstable geotechnical conditions that includes conditions of slope stability, meeting compaction criteria, analyzing existing soil conditions and characterization, construction of retaining wall over 1.0m high, provide a geotechnical assessment.
9. Where the site alteration has the potential to disturb archaeological resources, follow the Archaeological Assessment requirements as required by the Ministry of Tourism, Culture and Sport (MTCS).
10. Where the site is potentially on or adjacent to an area designated as Environmentally Protected lands or lands that may have significant natural heritage feature or ecological function, conduct an Environmental Impact Study/Assessment (EIS) in accordance with the requirements of the Town's

Official Plan, the Conservation Authority and/or any other agency having jurisdiction.

11. Provide a legal plan of the property and specify the location of the site alteration activities.
12. Provide other background reports and documentation as required to support the application in accordance with the Site Alteration By-law, such as, but not limited to:

- Topographic surveys
- Engineering drawings
- Fill Source assessment
- Material movement and handling
- Stormwater Management plan
- Erosion and Sediment Control plan
- Site Access and Security Control plan
- Environmental Impact Study and mitigation
- Traffic Management including haul route and mud tracking mitigation
- Operating hours;
- Dust and noise control;
- Closure and restoration;
- Post closure care and monitoring program
- Groundwater monitoring program
- Well monitoring program
- Hydrogeological study
- Vibration assessment and monitoring program
- Pre-Site alteration activities building condition survey(s)
- Air quality and monitoring program
- Agricultural Justification Report

## **9.2 Qualified Technical Professionals and Specialists**

In general, a Qualified Person/Professional (QP) shall meet the definition Ontario Regulation 153/04, as amended - Records of Site Condition under Part XV.I of the Environmental Protection Act (EPA) R.S.O. 1990, c.E19, as amended.

The Town would be screening the Permit Application for appropriately qualified technical specialists, retained by the Applicant to represent them through the course from Permit application to post closure activities. The Qualified Person/Professional shall be licensed to practice in the province of Ontario, and have a designation of Professional Engineer (P.Eng.), Professional Geoscientist (P.Geo.), or similarly licensed qualified individual, as approved by the Director.

The multi-disciplinary nature of site alterations and the potential to overlap with the jurisdiction of multiple regulatory agencies requires professional assistance. Site alterations have the potential of requiring multi and sub-disciplinary expertise generally in the civil and environmental engineering but may require specialized disciplines of

transportation, hydrogeology and water resources, ecology, terrestrial biology, land surveying, acoustical, geotechnical to name a few.

Other specialities related to the preparation of Site Alteration and Fill Management Plans may include the experienced services of:

- Arborists, practicing arboriculture, which is the cultivation, management, and study of individual trees, vegetation and care;
- Landscape Architects, practicing the design, planning, management, and stewardship of the land;
- Agrologists, practicing the natural, economic and social sciences as related to the practice, understanding and development of agriculture; and
- Archeologists, practicing human history and prehistory through the excavation of sites and the analysis of artifacts and other physical remains

To meet the satisfaction of the Director, Applicants are encouraged to confirm the speciality requirements for their respective application with Town Staff.

### **9.3 Preparation of the Site Alteration Plan and Fill Management Plan**

Anyone applying for a Permit, shall provide a Site Alteration Plan (SAP) and Fill Management Plan (FMP). A QP should review the current conditions of the site and the proposed site alteration in order to determine the nature and scope of a SAP and FMP. Rationale must be provided as to why the SAP and FMP is scoped to include some items and may exclude others.

The SAP is a conceptual document that must detail current conditions to the extent possible and should effectively demonstrate how the site alteration activities will be conducted, the final site conditions and the impact mitigation measures to be employed. The SAP as the conceptual framework and principles, is provided at the onset of the site alteration application submission to provide enough detail to understand the general scope of the site alterations, evaluate the need for any other requirements and deem the application complete for any of the three site alteration categories.

The FMP is a detailed document that must detail current conditions with supporting data, demonstrate how the site alteration activities will be conducted, the final site conditions and the impact mitigation measures to be employed. The FMP as the comprehensive framework and principles is provided once the Applicant is advised that the site alteration application has met the requirements to proceed for Permit approvals, following the Public Consultation process. A FMP will be required prior to the issuance of the Site Alteration Permit for any of the three site alteration categories.

Both the SAP and FMP must be prepared by an appropriately QP licensed in the Province of Ontario and the FMP must be based on the background studies and site specific conditions of the property.

The scope and comprehensiveness of the SAP and FMP is greatly dependent on the size and nature of the site alteration to be undertaken. Small site alterations with

very little potential to impact surrounding lands or the environment will require a SAP and FMP of limited scope and detail. Larger site alterations, especially those involving the importation of large volumes of material and/or significant changes to grades, will require a more comprehensive SAP and FMP. For reference, a template for a Site Alteration and Fill Management Plans is provided in Appendix E.

Both the SAP and FMP will be required to be certified by the Applicant's QP prior to the issuance of a Permit and/or execution of the Agreement to deem them in good standing in reliance during the course of the site alteration activities.

#### **9.4 Sampling Frequency and Protocol**

Each site alteration is unique, however, the sampling requirements for imported soil must follow the requirements and protocols established by the MECP, O.Reg. 153/04, as amended or the "Rules for Soil Management and Excess Soil Quality Standards", adopted by reference in O. Reg. 406/19 (On-Site and Excess Soil Management) made under the Environmental Protection Act, R.S.O. 1990, c. E.19 (EPA).

In general, sampling should occur at the source site, in transit, at the site alteration (receiving) site gate, or ultimately through on-site sampling audit events at the receiving site. With all sampling techniques or events, the frequency and analytical parameters must follow the requirements of O.Reg. 153/04, as amended, and applicable MECP guidance document(s).

The following soil compliance assessments and audits should be considered by the QP in preparation of Best Management Practices Plan (BMPP) in which are a set of protocols and procedures required to be outlined in the Site Alteration and/or Fill Management plans submitted to the Town. The QP's soil and fill quality assurance program will be reviewed by the Town's peer review consultant for acceptance

##### **9.4.1 Source Site Assessment and Audit**

Prior to fill or soil material shipped to a receiving site, the QP must undertake an assessment of past uses related to the potential source site. The QP is responsible for reviewing any Phase I ESA, Phase II ESA, recommendation reports, and other documents related to the potential source site. Each source site needs to be evaluated in order to determine the specific Contaminants of Potential Concern (COPC's) and appropriate sampling frequency. Based on the report(s) and documents review, the QP could approve or reject the potential source site(s) and should outline the reasons for approvals or rejections and any special recommendations in a report. The QP could also require an additional sampling program as a confirmatory measure at the completion of the potential source site assessment.

The QP would determine the volume of fill or soil that is approved for shipment from the source site to the receiving site and any conditions or restrictions that may be necessary to ensure that only the approved material is shipped. This could include inspection of the source site by the QP during shipment, or other control measures.

### 9.4.2 In Transit Assessment

Assessments of fill or soil material leaving the source site and in transit to the receiving site will be determined by the QP and auditing procedures of the receiving site's audit protocol included in their Fill Management Plan. Transit assessments and monitoring will focus on truck traffic control, manifests and random inspections; with actual load sampling conducted should there be a concern identified from the general auditing.

Loads identified not to adhere to the designated haul route and site rules, and/or to be of suspicious origin and/or without appropriate chain of custody documentation will be rejected in accordance with the best management practices, protocols and procedures set out in the Fill Management Plan.

### 9.4.3 At the Gate Assessment

Assessments of fill or soil material at the gate is not designed to be the primary soil quality and assurance protocol but rather a screening point to add an additional level of due diligence and auditing. This level of assessment is intended to identify evidence of the presence of a contaminant in the soil as a result of visual or olfactory observations and could also involve the use of a portable Photo Ionization Detector (PID) for vapour and gas detections.

Screening loads at this level provides an opportunity for the site's supervisor and/or QP to evaluate the potential source site fill or soil quality and make load acceptance or on-site load segregation decisions upon arrival at the gate. The QP will determine if additional source site sampling or load sampling at the gate is required to ensure the source site soil is suitable for the receiving site.

Load screening inspections and observations include, but not limited to the following:

- odours, vapours and gases
- general moisture content, viscosity and unusual clumping, dry or wet (liquid and sludge) soil conditions
- unusual stains and discoloration
- hazardous materials (paint, batteries, solvents, motor oil, etc.)
- general household waste and waste liable to decay (food, yard, organics)
- deleterious non-soil materials, (asphalt, painted materials, plastic including electrical wire insulator, polystyrene foam, steel/wire/metal, treated wood including creosote coatings, glass & fiberglass, ceramic/porcelain, gypsum/cement wall board, rubber or other construction materials/debris) having potential to cause an adverse effect
- inert non-soil materials (clay brick/tile, concrete, cinder blocks, wood and rocks) recommended to pass through up to 50mm screen/sieve and quantity not exceeding 2.0% by volume/load

Screening loads upon arrival at the gate will also provide opportunity to identify loads of suspicious origin and/or without appropriate chain of custody documentation. Loads that

don't comply with the best management practices, protocols and procedures set out in the Fill Management Plan will be rejected.

#### **9.4.4 On-Site Assessment and Audit**

On-site assessment and audits are designed to provide the confirmatory level of soil quality and assurance at the receiving site. Since the samples are collected on-site, the results can be used to confirm the soil quality recommendations made by QP based on the review of the past uses assessment of the potential source site. On-site audits provide the QP another opportunity to determine if investigations and additional source site sampling is required to ensure the source site fill or soil is suitable for the receiving site.

Once a load passes the screening assessment at the gate and are tipped/dumped in the designated area of the receiving site, the load can be further scrutinized and audited for soil compliance. Once loads are tipped/dumped in the designated area of the receiving site, a standard operating procedure (SOP) similar to the at the gate load screening would be invoked. The SOP may include the raking, probing and light spreading of the fill or soil in order to agitate the soil and bring underlying soil to the surface. This will achieve a more accurate representation of the soil to be inspected and will assist to make necessary action decisions such as rejection, segregation or general acceptance until sampled.

The QP must develop an audit or soil quality control and assurance protocol for the Town's approval that will be set out in the Fill Management Plan for implementation and adherence during the course of the fill alterations activities through to Permit closure. If for any reason, audit samples are taken by the Town's peer review consultant or a third party Qualified Professional, the approved audit or soil quality control and assurance protocol and the BMP would apply. At a minimum, the full protocol shall comprise of the following tasks:

1. Assessment of the volume, location and depth of the fill deposited;
2. Standard Operation Procedure for load/soil investigations, inspections and screening;
3. Soil quality control and assurance audit program including best management practices for soil sampling, frequency and chemical analysis;
4. Corrective actions (remedial and mitigation) protocol including best management practices to further characterize, delineate, sample and analyze, removal and off site disposal of placed fill or soil identified as non-compliant; and
5. Preparation of a monthly audit report and within the monthly period, document the day to day site alteration activities, soil quality and quantity compliance.

#### **9.5 On-Site and Excess Soil Management**

Part XV.I of the Environmental Protection Act (EPA) includes Ontario Regulation 153/04, as amended - Records of Site Condition. The EPA and related regulations are administered by the MOE O.Reg.153/04, as amended, and the document entitled "Soil, Groundwater and Sediment Standards for Use Under Part XV.I of the Environmental

Protection Act”, April 15, 2011, provide the requirements and industry standards for the assessment of contaminated sites. Although components of these regulations may not be directly applicable to some site alteration and filling activities, they have been relied upon as best industry practices and offer the best guidance and approach to the assessment of the environmental condition of properties and evaluation of potential impacts from activities.

Where a sample of soil is taken, the QP must ensure that the requirements of the Analytical procedures set out in O. Reg. 153/04 are complied with, including but not limited to, the requirements in relation to the handling and storage of the samples, the requirement that the analyses of the samples be carried out by an accredited lab and the requirements to comply with the “Protocol for Analytical Methods Used in the Assessment of Properties under Part XV.1 of the Environmental Protection Act” published by the MECP and amended from time to time.

Notwithstanding O.Reg.153/04, the MECP has brought forward amendments and implementation of new legislation O.Reg. 406/19: On-Site and Excess Soil Management. O.Reg. 406/19 is proposed to be rolled out in stages over several years. These regulatory changes and framework are related in part to the management of excess soil, redevelopment of brownfield sites and reducing the risk of contaminants. To better align with the On-Site and Excess Soil Regulation, complementary and clarification amendments have been made to O. Reg. 153/04, Regulation 347, and O. Reg. 351/12, all of which are made under the EPA.

The regulatory changes include new guidance set out in a document entitled “Rules for Soil Management and Excess Soil Quality Standards” (Soil Rules) to supplement the previous MOE document “Management of Excess Soil - A Guide for Best Management Practices” dated January, 2014. The soil rules include a set of generic excess soil quality standards that apply to a reuse (site alteration) site for the QP to consider when evaluating the appropriate standards at a given reuse site in conjunction with specific soil standards set out by the Municipality. The Soil Rules are provided in Appendix M.

These guidelines may be amended from time to time to align with regulation changes.

## **9.6 Soil Quality and Site Condition Standards**

The Town’s default generic site condition standards (SCS) will be the Table 1: Full Depth Background Site Condition Standards for Agricultural or Other Property Use. The use of any other SCS will be at the discretion of the Director based on the provision of scientific rationale in accordance with Part XV.1 of EPA; O.Reg. 153/04: Records of Site Condition, as amended and/or O.Reg. 406/19: On-Site and Excess Soil Management.

The quality of soil used for filling as part of a site alteration must conform to the minimum standards outlined in “Soil, Groundwater and Sediment Standards for Use under Part XV.1 of the Environmental Protection Act”, April 15, 2011.

Deviation from the default standards must be consistent with the requirements of



all other regulating agencies with jurisdiction prior to consideration by the Town. It is up to the Permit Applicant to demonstrate to the Town that the proposed site alteration activities are undertaken in conformance with good engineering and scientific practices in addition to applicable regulations, rules, best management practices and guidelines.

The applicable SCS and land use selected must be consistent with the definition of the land use with Town zoning.

Where the site alteration will involve the importation of topsoil, soil or fill from off-site:

- i. Apply Table1: Full Depth Background Site Condition Standards for Agricultural or Other Property Use from the Soil, Groundwater and Sediment Standards for Use UnderPartXV.1 of the Environmental Protection Act, as the default comparative criteria to evaluate the soil being imported from off-site. All of the imported material must meet this criteria; or
- ii. Provide rationale in accordance with O.Reg.153/04 and good engineering and scientific practices for the application of alternative soil quality criteria for consideration by the Director. Any deviation from the default soil quality criteria must be approved by the Director.

# Appendices

## Appendix “A”

Site Alteration and Fill By-law No. 2020-007

## Appendix “B”

Planning/Engineering Fees By-law No. 2019-173

## Appendix “C”

### Site Alteration and Fill Permit Application Form Template

# Appendix “D”

## Site Alteration and Fill Permit / Conditions Template

## Appendix “E”

### Site Alteration Plan or Fill Management Plan Template

## Appendix “F”

### General Submission Details and Requirements



# Appendix “G”

## Notice Signage Requirements

## Appendix “H”

### Notice Sign Posting Declaration

## Appendix “I”

### Public Notice and Meeting Requirements

## Appendix “J”

### Order to Discontinue Activities Template

## Appendix “K”

### Site Alteration and Fill Permit Administrative Process Flow Chart

## Appendix “L”

Tree and Natural Vegetation Management Policy By-law 2019-086

## Appendix “M”

### MECP Rules for Soil Management and Excess Soil Quality Standards

## Appendix “N”

### Town Accessible Information and Communication Policy



# Appendix “O”

## Guide to Creating Accessible Documents