



## BY-LAW NO. 2017-0040

A By-law to Prohibit or Regulate Site Alteration within the Town of Halton Hills and Repeal By-law No. 2010-0119.

**WHEREAS** sections 11(2) and 142 of the *Municipal Act, 2001* authorize a municipality to pass by-laws to prohibit, regulate, or require a *permit* for, and impose conditions upon, the placing or dumping of *fill*, removal of *topsoil* or alteration of the *grade of land*;

**AND WHEREAS** sections 8 through 11 of the *Municipal Act, 2001* authorize a municipality to pass by-laws in respect of the economic social and environmental well-being of the municipality;

**AND WHEREAS** sections 23.1, 23.2, 23.3 and 23.5 of the *Municipal Act, 2001* authorize a municipality to delegate certain powers and duties;

**AND WHEREAS** sections 9, 11 and 391 of the *Municipal Act, 2001* authorize a municipality to impose fees and charges for, *inter alia*, services and activities provided or done by or on behalf of the municipality;

**AND WHEREAS** section 436 of the *Municipal Act, 2001* authorizes a municipality to pass by-laws providing that the municipality may enter on *land* to conduct inspections;

**AND WHEREAS** sections 444 and 445 of the *Municipal Act, 2001* authorize a municipality to make orders to discontinue, or to correct, the contravention of a by-law;

**AND WHEREAS** section 446 of the *Municipal Act, 2001* authorizes a municipality to do a matter or thing in default of it being done by the *person* directed or required to do it;

**AND WHEREAS** Council for the Corporation of the Town of Halton Hills deems it in the public interest to enact a by-law for prohibiting or regulating the placing or dumping of *fill*, the removal of *topsoil*, and the alteration of the *grade of land* in order to ensure that:

- (a) existing drainage patterns are maintained;
- (b) interference and damage to watercourses or water bodies is limited;
- (c) water quality is maintained;
- (d) erosion and sedimentation are prevented;
- (e) changes to drainage or *grade* are appropriate to protect natural heritage features and areas and archaeological resources;
- (f) the use of hazardous or improper *fill* is prevented;
- (g) unanticipated drainage and *site alteration* changes are prevented;
- (h) haul routes for the transportation of *fill* and *topsoil* authorized for placement, dumping or removal are designated to and/or from a *site* by the *Director* to minimize damage to the *Town's* roads and minimize interference and/or disturbance to the *Town's* residents and businesses from any placement, dumping or removal;
- (i) hours of operation are established, to ensure safety on public roads;
- (j) the *Town's* zoning and other by-laws are respected; and,
- (k) the benefits of any proposed *site alteration* outweigh its potential impacts on other properties and persons.

**AND WHEREAS** the Town of Halton Hills Official Plan and Green Belt Protection Plan have identified areas containing important natural features, and it is in the interest of the community to protect significant cultural and natural heritage features and areas from unnecessary degradation or alteration until such time as a final determination has been made on the need for long-term protection;

**AND WHEREAS** Council for the Corporation to the Town of Halton Hills deems it advisable to exercise this authority, as well as provide for the rehabilitation of *land* and protection of water bodies and environmental protection areas, and to define where the removal of *topsoil*, or the placing and dumping of *fill* or alteration of *grade* of *land* is permissible;

**AND WHEREAS** on August 28, 2017, Council for the Town of Halton Hills approved Report No. P&I-2017-0054, dated July 27, 2017, in which certain recommendations were made relating to the Site Alteration By-law.

**NOW, THEREFORE, BE IT RESOLVED THAT THE COUNCIL OF THE CORPORATION OF THE TOWN OF HALTON HILLS ENACTS AS FOLLOWS:**

### **SHORT TITLE**

The short title of this By-law is the *Site Alteration By-law*.

### **PART I DEFINITIONS**

1. In this By-law:

***Applicant*** means any *person* applying for a *permit* under this By-law;

***Committee*** means the Site Alteration Committee established by the *Town* for the purpose of reviewing requests for exceptions to the prohibition contained in section 2(2) of this By-law;

***Council*** means the *Council* of the *Town*;

***Commercial Fill Operation*** means the placing or dumping of *fill* involving remuneration paid, or any other form of consideration provided, to the *owner* or occupier of the *land*, whether or not the remuneration or consideration provided to the *owner* is the sole reason for the placing or dumping of the *fill*;

***Designate*** means an employee of the *Town* authorized to administer and enforce the provisions of this By-law and shall include any person authorized by the *Director* or *Council* to carry out any of the powers and/or duties of the *Director* under this By-law;

***Director*** means the Director of Engineering, or his/her *designate*;

***Fill*** means any type of material deposited or placed on or removed from a *site* and includes but is not limited to earth, *topsoil*, stone, brick, concrete, asphalt, sod or turf, either singly or in combination;

***Grade*** means the elevation of ground surface and shall be more particularly defined as follows:

***Existing grade*** means the elevation of the existing ground surface of the *land* upon which dumping and/or placing of *fill* is proposed and includes abutting ground surface up to three metres wide surrounding such land, except that where placing or dumping of *fill* or *site alteration* has occurred in contravention of this By-law or previous site alteration by-laws, existing grade shall mean the ground surface of the lands as it existed prior to the placing or dumping of *fill*;

***Finished grade*** means the approved final elevation of ground surface of *land* upon which *fill* has been placed or *site alteration* has occurred in accordance with this By-law;

***Proposed grade*** means the proposed elevation of ground surface of *land* upon which *fill* is proposed to be placed or the site is proposed to be altered;

**Highway** means a common and public *highway* and includes a street, bridge or other structure forming part of a *highway* over or across which a *highway* passes, and includes the whole of a road allowance under the jurisdiction of the *Town*;

**Inspector** means an employee of the *Town* designated and appointed by the *Director* and authorized to administer and enforce the provisions of this By-law;

**Land** includes any private property, premises, grounds, yards or vacant lot;

**Large Scale/Commercial Site Alteration** includes the alteration of the grade, the placing, dumping of *fill* in or from a *site*, or the removal of *topsoil* from a *site*, where the volume of *fill* involved is greater than 5,000 cubic metres (m<sup>3</sup>);

**Normal Farm Practice** means any activity undertaken in accordance with the *Farming and Food Production Protection Act* that is part of an agricultural operation, and is conducted in a manner consistent with proper and accepted customs and standards as established and followed by similar agricultural operations under similar circumstances, which may make use of innovative technology in a manner consistent with advanced farm management technique, but does not include the placing, removal or deposit of *topsoil* for sale, exchange or other disposition;

**Order** means an *order* under this By-law or any mandatory requirement for action with a specified period of time issued by an *inspector* or *designate* or other personnel authorized to address issues of non-compliance with the conditions of the *permit* and/or site alteration agreement;

**Other applicable law** means any Provincial or Federal statute or regulation and any by-law of the *Town* that addresses the matters of drainage or protection of the environment and it includes, but is not limited to: the *Ontario Building Code Act*, *Planning Act*, *Niagara Escarpment Plan*, *Greenbelt Protection Act*, *Conservation Authorities Act*, *Environmental Assessment Act*, *Ontario Heritage Act*, *Clean Water Act*, *Electricity Act*, *Aggregate Resources Act*, *Drainage Act*, *Tile Drainage Act*, *Environmental Protection Act*, *Public Transportation and Highway Improvement Act* and the *Municipal Act, 2001*, each as amended from time to time, and to any regulation, official plan or other plan or similar document enacted or established under such legislation;

**Owner** includes the registered owner of *land* for which a *site alteration* is proposed and any *person* in charge of or with management or control of such *land* and shall include the *applicant*, operator or *owner* or *person* as set out in this By-law;

**Permit** means a *site alteration permit* issued under this By-law and includes a *Large Scale/Commercial Site Alteration permit* issued under to this By-law;

**Permit holder** means the *person* who holds a permit issued under this By-law;

**Person** includes a company, a corporation, a partnership, or an individual person, and the singular shall include the plural;

**Place, Placed and Placing** means the distribution of *fill* on *land* to establish a finished grade different from the existing grade;

**Qualified Person** means a person qualified as defined within *Ontario Regulation 153/04*;

**Qualified Professional Agrologist** means someone registered to practice agrology under the *Ontario Institute of Professional Agrologists Act*;

**Receiving Site** means the *land* to which *fill* is transported and shall include the term *site*;

**Removal** means the moving of *fill* from *land*;

**Rural Land** means any rural or agricultural land, or land designated as a Non-Urban Zone or Environmental and Open Space Zone under the provisions of any zoning by-law passed by the *Town* pursuant to the *Planning Act*;

**Site** means *land* upon which a *site alteration* is proposed and shall include the term *receiving site*;

**Site Alteration** includes the alteration of the *grade*, the placing, dumping, or removal of *fill* in, on, or from a *site*, and the removal of *topsoil* from a *site*;

**Topsoil** means those horizons in a soil profile, commonly known as the “O” and the “A” horizons, containing organic material, and includes deposits of partially decomposed organic matter such as peat; and,

**Town** means The Corporation of the Town of Halton Hills, or the geographic area comprising the Town of Halton Hills.

## PART II APPLICATION

2.
  - (1) This By-law applies to the entire Town.
  - (2) No *person* shall cause, permit or perform *site alteration* on *land* within the *Town* other than in conformity with the terms and conditions of a *permit* issued under this By-law and the regulations prescribed in this By-law.
  - (3) Where a *person* has commenced *site alteration* without having first obtained a *permit*, where a *permit* is required, that *person* shall, immediately upon being notified, cease all operations and stabilize the *site* and thereafter immediately apply for a *permit* pursuant to this By-law and shall be subject to fines and permit fees as per this By-law, unless this By-law states it does not apply or that such a *permit* is not required.
3. This By-law does not apply to:
  - (a) activities or matters undertaken by the Regional Municipality of Halton, the *Town*, or a local board thereof;
  - (b) *site alteration* imposed after December 31, 2002, as a condition of:
    - (i) 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 or subdivision agreement entered into under those sections;
    - (ii) 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;
  - (c) *site alteration* undertaken:
    - (i) by a transmitter or distributor, as those terms are defined in section 2 of the *Electricity Act*, for the purpose of constructing and maintaining a transmission system or a distribution system, as those terms are defined in that section;
    - (ii) on *land* licenced for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the *Aggregate Resources Act*;
    - (iii) to lawfully establish and operate or enlarge any pit or quarry on *land*;

- 1) that has been designated under the *Aggregate Resources Act* or a predecessor of that Act; and,
- 2) on which a pit or quarry is a permitted land use under a by-law passed under section 34 of the *Planning Act*;
- (iv) as an incidental part of drain construction under the *Drainage Act* or the *Tile Drainage Act*,
- (d) any area of the *Town* which is the subject of a regulation made under section 28 of the *Conservation Authorities Act* respecting *site alteration*;
- (e) any *site alteration* proposed by the Niagara Escarpment Commission; and,
- (f) the removal of *topsoil* as an incidental part of a *normal farm practice*, including such removal as is an incidental part of sod-farming, greenhouse operations and nurseries for horticultural products, but this exception does not include the removal of *topsoil* for sale, exchange or other disposition.

### **PART III      GENERAL PROVISIONS**

- 4.**      (1) No *person* shall carry out any *site alteration* anywhere in the *Town*:
- (a) without having first obtained, and thereafter continuing to hold, a valid *permit* issued in accordance with this By-law; or,
  - (b) in contravention of a *permit* issued under this By-law.
- (2) Unless exemptions under Part VI apply, or subject to an exception granted under Part VII, no *person* shall carry out *site alteration* on *rural land* in the *Town*.
- (3) *Permits* shall be in the form issued by the Director from time to time pursuant to section 5(3)(c) of this By-law.
- (4) Every *applicant* for a *permit* under this By-law shall:
- (a) complete and submit the applicable form(s) as provided for in this By-law;
  - (b) submit the *permit* fee as set out in the *Town's User Fees, Licensing Fees and Service Charges* By-law No. 2016-0072, as amended; and,
  - (c) provide all documentation as required under this By-law and schedules to this By-law.
- (5) All applications for *site alteration* which are not *large scale/commercial site alterations* must be made in accordance with the procedures and forms described in schedule A of this By-law (the "simple form of application").
- (6) All applications for *site alteration* which are *large scale/commercial site alterations* must be made in accordance with the procedures and forms described in schedule B of this By-law (the "large scale/commercial form of application").
- (7) All applications for *site alteration* or exemptions will be made to:
- (a) in the case of *rural land*, to the *Committee*;

- (b) in the case of non *rural land*, where the volume of *fill* involved is 5,000 m<sup>3</sup> or less, to the *Director*; and,
  - (c) in the case of non *rural land*, where the volume of fill involved is more than 5,000 m<sup>3</sup>, to the *Committee*.
- (8) Notwithstanding the provisions of section 4(6), above, the *Committee* may allow a proposed *site alteration* on *rural land* to proceed by way of a simple form of application where:
  - (a) the average depth of *topsoil* is 20 centimeters or less; or,
  - (b) the placement of *topsoil* is recommended by a *Qualified Professional Agrologist* as part of a normal farm practice; and,
  - (c) the applicant carries on an agricultural operation within the meaning of the *Farming and Food Production Protection Act, 1998* and provides a farming business registration number within the meaning of the *Farm Registration and Farm Organization Funding Act, 1993*.
- (9) An *applicant* who has been refused a *permit* issued under this By-law, or is not satisfied with conditions attached to the *permit* issued, may appeal the decision of the *Director* or *Committee*, to *Council* by sending a notice of appeal by registered mail to the Clerk of the *Town* within fourteen (14) days after being notified of the decision by the *Town*.
- (10) An appeal under subsection (9) shall be conducted pursuant to the provisions of the *Statutory Powers Procedure Act* and the relevant provisions of this By-law.
- (11) Where a decision under this section is not appealed within the time referred to in subsection (9), it shall be deemed to be final.
- (12) The *Director, the Committee, or Council* on appeal, may refuse to receive or process, or refuse an application or appeal, which is frivolous or vexatious or is otherwise an abuse of the process of this By-law. Where the *Director, Committee or Council* issue such a decision, they will also issue written reasons for it so deciding.
- (13) Any *person* who provides misleading or false information in an application under this By-law, or in any statement or plan required to be produced under this By-law or on any appeal under this By-law, or who concurs in such an action or omission, is guilty of an offence.

#### **PART IV      ADMINISTRATION**

- 5. (1) The *Director* shall be responsible for the administration and enforcement of this By-law.
- (2) The *Director* shall:
  - (a) operate and manage a *permit* system in a manner to ensure compliance with this By-law; and,
  - (b) carry out the procedural, policy and enforcement provisions of this By-law or any by-law related hereto.
- (3) The *Director* may:
  - (a) prior to the issuance of a *permit*, require the *applicant* or *owner* to enter into an agreement which may be registered on title to the *site*, and which will charge the *site* with the performance of the obligations of the *applicant* or *owner* and any such agreement may contain such requirements as the *Director* considers necessary to

ensure that the *site alteration* is done in accordance with prevailing *Town* design standards, proper engineering practices and the conditions attached to the *permit* issued;

- (b) issue a *permit* in accordance with the provisions of this By-law;
  - (c) make forms, notices, applications and documents not otherwise prescribed by this By-law to satisfy the requirements of, or to provide other information required under this By-law; and,
  - (d) designate and appoint *inspectors* for reviewing and enforcing contraventions in accordance with the provisions of this By-law.
- (4) *Council* has determined that, in consideration of the number of people, the size of the geographic area and the time period affected by the exercise of the powers delegated by this By-law, the said powers are of a minor nature, pursuant to section 23.2(4) of the *Municipal Act, 2001*.
- (5) The schedules appended to this By-law are incorporated into, and form a part of this By-law.
6. The *Committee* will be appointed by *Council* for a term to run concurrent with the term of *Council*.
7. The following rules apply to the administration and application processes of this By-law:
- (1) *inspectors* shall be designated and appointed by the *Director* and the appointment shall be consistent with the Code of Conduct prescribed by the *Town Personnel Policy Manual By-law*, and the provisions of this By-law.
  - (2) Neither the *Director*, nor the *Committee*, nor *Council*, has jurisdiction to consider questions relating to the validity of a statute, regulation or by-law or the constitutional applicability or operability of any statute, regulation or by-law.
  - (3) No *site alteration* shall detrimentally affect the quality or quantity of water in wells on adjacent properties.

## **PART V      LARGE SCALE/COMMERCIAL SITE ALTERATIONS**

8. (1) No *person* shall place or dump *fill* or cause or permit *fill* to be placed or dumped in connection with a *large scale/commercial site alteration* unless such *fill* complies with the applicable Soil, Ground Water and Sediment Standards for use under Part XV.1 of the EPA and the “Management of Excess Soil – A Guide for Best Management Practices, January 2014”, or as required by the *Director*.
- (2) Such *site alteration* shall not be performed during any period in which a wind warning for the area has been issued by Environment Canada for the *Town*.
- (3) Such *site alteration* shall not be performed during or within 24 hours of the *Town* receiving 15 mm or more of precipitation within a 24 hour period, as confirmed in writing and provided to the *permit holder* by the *Director*.
- (4) Unless exemptions under this By-law apply, and subject to an exception granted under this By-law, no *person* shall carry out a *large scale/commercial site alteration* on *rural land* in the *Town*.
9. In assessing any applications for *large scale/commercial site alteration*, the *Committee* shall, in addition to all other matters referred to in this By-law, consider:

- (a) the Official Plan designation and zoning of the *receiving site*;
- (b) the Official Plan designation and zoning of the *site* or *sites* from which the material or *fill* is being sent;
- (c) the goals and principles of the Province's *Excess Soil Management Policy Framework*, released December 2016; and,
- (d) the principles of the Ministry of the Environment and Climate Change's *Statement of Environmental Values*.

## **PART VI EXEMPTIONS**

**10.** Notwithstanding the provisions of Part II and Part IV, a *permit* is not required for a *site alteration* on a *site* equal to or less than 0.5 hectare in size:

- (a) for the installation of a swimming pool, including decking, greater than sixty (60) centimetres (24 inches) from any lot line, provided that a pool enclosure permit is obtained from the *Town* pursuant to Pool Enclosure By-law 2009-0028, or any successor thereto;
- (b) for the purpose of lawn dressing, landscaping or adding to flower beds or vegetable gardens, provided that:
  - (i) no soil in excess of fifteen (15) centimetres (6 inches) in depth is placed on the *land*;
  - (ii) the elevation of the *land* within sixty (60) centimetres (24 inches) of any property line is not changed;
  - (iii) there is no change in the location, direction or elevation of any natural or artificial watercourse, water body, open channel, swale or ditch used to drain the *land*; and,
  - (iv) there is no increase to the size of the impervious area of the *land*.

## **PART VII REQUESTS FOR EXCEPTIONS**

- 11.** (1) An *owner* of *rural land* may request an exception to the prohibitions contained in Part II and Part IV and, upon such a request being made, the *owner* is entitled to a review of such request by the *Committee*.
- (2) Requests for an exception under subsection (1) shall be in writing and directed to the *Committee*, in care of the Town Clerk, specifying the reasons for the exception, and include a complete application with fees and any documents the *owner* will be relying on.
- (3) Upon receipt of a written request under subsection (2), the Town Clerk shall:
- (a) schedule a review before the *Committee*; and,
  - (b) give the requesting *owner* notice of the review date at least twenty (20) days prior to the hearing date.
- (4) Delivery of any notice to the requesting *owner* shall be made by personal delivery or registered mail. The notice shall be deemed to have been delivered on the seventh day after the date of mailing, or on the date of personal delivery.
- (5) Notice of a request under subsection (2) shall be circulated by the Town Clerk to the Transportation and Public Work Department, and the



*inspectors* appointed under this By-law, for the purpose of preparing a report outlining staff's comments or recommendations on the request.

- (6) The review of a request under subsection (2) shall be held in public, and the *Committee* shall hear the requesting *owner* and every other person who desires to be heard in favour of or against the request, and the *Committee* may adjourn the meeting or reserve its decision.
- (7) Upon reviewing a request under subsection (2), the *Committee* shall consider whether the requested variance or exception:
  - (a) will result in maintaining or improving the overall fertility of the *site*;
  - (b) is an incidental part of a *normal farm practice*; and,
  - (c) will maintain the general intent and purpose of this By-law.
- (8) The *Committee* may impose any conditions to any exception which it approves.
- (9) At the conclusion of its review, the *Committee* shall issue a decision summarizing the relevant facts and arguments presented by the parties in attendance, deciding for or against the exception requested, along with any appropriate conditions, and setting out its reasons for such decision.
- (10) An *owner* who has been denied or refused an exception under this Part, or is not satisfied with any conditions attached, may appeal to *Council* by sending a notice of appeal by registered mail to the Town Clerk within fourteen (14) days after being notified of the decision by the *Town*, in accordance with the provisions of section 5(a) of this By-law.
- (11) A decision by *Council* on any appeal is final and binding.

## **PART VIII HAUL ROUTES**

12. (1) The *Director* on any *permit* application may designate one or more haul routes to and one or more haul routes from a *site* for the placement or dumping of *fill* at the *site* or the removal of *fill* or *topsoil* from the *site*.
- (2) The *Director*, or *Committee*, or *Council* may establish the amount of the liquidated damages that will be paid to the *Town* for failure to use designated haul routes.
- (3) Where the *highway(s)* proposed for use are not under the jurisdiction of the *Town*, the *applicant* shall provide permission from the road authority in a form acceptable to the *Director* prior to issuance of a *permit*.
- (4) An *owner* of *land* which is subject of a *permit* for which a designated haul route condition has been established shall be responsible for ensuring that the designated haul routes are used by any *person* coming to or travelling from the *site* under the authority of the *permit* and any failure to do so shall be in contravention of this By-law for which the *owner* is liable to a fine under this By-law and/or to the revocation of the *permit* or exception.
- (5) Any *person* failing to use a designated haul route for the dumping or placing of *fill* on a *site* or the removing of *fill* or *topsoil* from a *site* which is the subject of a *permit* under this By-law is guilty of an offence.

## **PART IX ENFORCEMENT**

13. (1) Every *person* who contravenes any of the provisions of this By-law is guilty of an offence and upon conviction is liable to pay a fine of not less

than Five Hundred Dollars (\$500.00) and not more than One Hundred Thousand Dollars (\$100,000.00).

- (2) Where a contravention of this By-law has occurred, the *owner* may be charged with and convicted of an offence for which any *person* is subject to be charged unless, at the time of the offence, the *site alteration* was without the *owner's* consent and, on conviction, the *owner* is liable to pay the penalty prescribed for the offence.
  - (3) Every *owner* or occupier of *land* where a contravention of this By-law has occurred shall prevent the continuation or repetition of the contravention.
14. (1) An *inspector* may enter upon *land* at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
- (a) this By-law;
  - (b) a *permit*, or a condition of a *permit*, or,
  - (c) a direction or order made under the *Municipal Act, 2001*, or this By-law.
- (2) For the purposes of an inspection under subsection (1) the *inspector* may:
- (a) require the production for inspection of documents or things relevant to the inspection;
  - (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
  - (c) require information from any *person* concerning a matter related to the inspection; and,
  - (d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.
- (3) A receipt shall be provided for any document or thing removed under clause (2)(b) and the document or thing shall be promptly returned after the copies or extracts are made.
- (4) A sample taken under clause (2)(d) shall be divided into two parts, and one part shall be delivered to the *person* from whom the sample is taken, if the *person* so requests at the time the sample is taken and provides the necessary facilities.
- (5) If a sample is taken under clause (2)(d) and the sample has not been divided into two parts, a copy of any report on the sample shall be given to the *person* from whom the sample was taken.
- (6) No *person* shall hinder or obstruct, or attempt to hinder or obstruct, an *inspector* conducting an inspection or a *person* performing corrective works under this By-law.
15. (1) If the *inspector* is satisfied that a contravention of this By-law has occurred, the *inspector* may make an *order* requiring the *person* who contravened the By-law or who caused or permitted the contravention or the *owner* or occupier of the *land* on or about which the contravention occurred to:
- (a) discontinue the contravening activity; and/or,
  - (b) do work to correct the contravention.

- (2) Any *person* who contravenes an *order* under subsection (1) is guilty of an offence.
- (3) An *order* under subsection (1) shall set out:
  - (a) reasonable particulars of the contravention adequate to identify the contravention;
  - (b) the location of the *land* or elsewhere on which the contravention occurred; and,
  - (c) either:
    - (i) in the case of an *order* under clause (1)(a), the date by which there must be compliance with the order; or,
    - (ii) in the case of an *order* under clause (1)(b), the work to be done and the date by which the work must be done.
- (4) An *order* under clause (1)(b) may require work to be done even though the facts which constitute the contravention of this By-law were present before this By-law came into force.
- (5) In default of any work required by an *order* under clause (1)(b) being done by the *person* directed or required to do it, the work shall be done by the *Town* at the *person's* expense.
- (6) The *Town* may recover the costs of doing anything or matter under subsection (5) by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes.
- (7) The costs in subsection (6) shall include interest calculated at a rate of 15 per cent per annum, calculated for the period commencing on the day the *Town* incurs the costs and ending on the day the costs, including the interest, are paid in full.
- (8) For the purposes of subsection (5), the *Town* and its employees, agents and representatives may enter upon *land* at any reasonable time.
- 16. (1) An *order* under section 14 shall be served on the *person* whom the *inspector* believes is contravening this By-law by personal delivery or registered mail. The *order* shall be deemed to have been served on the seventh day after the date of mailing or on the date of personal delivery.
- (2) A *person* who has been served with an *order* and who is not satisfied with the terms or conditions of the *order* may appeal to *Council* by sending a notice of appeal by registered mail to the Clerk of the *Town* within seven days after being served with the *order*.
- (3) An appeal under subsection (2) shall be conducted pursuant to the provisions of the *Statutory Powers Procedure Act* and the relevant provisions of this By-law.
- (4) An *order* under this section that is not appealed within the time referred to in subsection (2) shall be deemed to be final.
- 17. If a court of competent jurisdiction should declare any section or a part of this By-law to be invalid, the remainder of this By-law shall continue in force, unless the court makes an order to the contrary.
- 18. The Town's By-law No. 2010-0119 is hereby repealed in its entirety.
- 19. This By-law shall come into full force and effect on its date of passing.

**BY-LAW** read and passed by the Council for the Town of Halton Hills this 28 day of August, 2017.

\_\_\_\_\_  
MAYOR – RICK BONNETTE

\_\_\_\_\_  
CLERK – SUZANNE JONES

**SCHEDULE A**  
**SIMPLE FORM OF APPLICATION**

1. A *person* applying for a permit shall submit the following to the *Director*:
  - (a) a complete application in the form prescribed by the *Director*, including proof satisfactory to the *Director* that the *applicant* is the legal *owner* of the *site*, or has been authorized by the *owner* of the *site* to submit the application;
  - (b) where the application is made by someone other than the *owner*, the prior written consent of the *owner* of the *land* where the *site alteration* is to take place;
  - (c) the applicable permit fee in accordance with the Town's *Rates & Services Charges By-law* No. 2016-0072;
  - (d) an accurate plan of the *site*, showing:
    - (i) the property boundaries of the *site* with dimensions;
    - (ii) existing elevations in the form of contours at 0.5 metre intervals or less, with spot elevations along the *site* boundary lines and 3.0 metres beyond the *site* boundary lines at sufficient intervals to clearly show the existing drainage patterns on the *land* and on the abutting lands;
    - (iii) the location of all existing underground plant, including storm sewers, watercourses and any bodies of water, on the *site* and on abutting lands and *highways*;
    - (iv) the location of all existing buildings or structures, all trees greater than 75 mm in calliper (which shall be identified by species), all shrubs and driveways on the *site* and all easements and rights-of-way over, under, across or through the *site*;
    - (v) proposed sediment and erosion controls that will be installed prior to alteration of the *site*;
    - (vi) proposed final elevations and the drainage system to be used upon completion of the *site alteration*;
    - (vii) the intended use of the *site*, including a description of the proposed *fill* placement or *topsoil* removal operation; and,
    - (viii) all existing street services, including light standards, hydro poles and transformers, cable television and telephone pedestals, fire hydrants and valves, catchbasins and manholes;
  - (e) a plan showing the design details to proper scale of any retaining wall that may be required, including the size, type and location of all material to be used in construction of such retaining wall, with a Professional Engineer's signature and stamp;
  - (f) a haul route plan showing the proposed roads within the *Town* to be used for vehicle delivering *fill* to the *site* for the dumping or placement of *fill* and to be used by vehicles removing *topsoil* from the *site*.
  - (g) a refundable security:
    - (i) in the amount prescribed;

- (ii) in a form acceptable to the *Director* to secure performance of the work for which the *permit* was obtained; and,
  - (iii) available to recover the cost of the *Town* performing or having performed:
    - 1. any required works which the *applicant* or *permit holder* has failed to perform to the satisfaction of the *Director*; or,
    - 2. any restoration works required to be performed on any *highway* damaged as a result of the works; and
  - (iv) available to recover the liquidated damages suffered by the *Town*, for any failures to use designated haul routes to and from the *site*.
- (h) a release and indemnity in favour of the *Town*, and in a form satisfactory to the *Director*, with respect to any and all liability which may arise in the event that the *fill* used in the *site alteration* contains contaminants within the meaning of the *Environmental Protection Act*;
- 2.
  - a) The refundable security provided under this schedule shall remain in effect for the full duration of the *permit*, and any irrevocable letter of credit and its subsequent renewal forms shall contain a clause stating that thirty (30) days' written notice must be given to the *Town* prior to its expiry or cancellation.
  - b) In the event that the *Town* receives notice that a letter of credit is expiring and will not be renewed, or if further or additional securities are not provided within the said thirty (30) days' notice period, the *Town* may draw on the current letter of credit at the discretion of the *Director*, and any interest accruing on the realized cash security shall belong to the *Town* and not to the *permit holder*.
- 3. Notwithstanding any other provisions of this By-law, after taking into consideration the proposed works and whether the *applicant* otherwise has conformed with this By-law, the *Director* may waive the requirement for a plan, and/or reduce or waive the permit fee, but not the refundable security.

**SCHEDULE B**  
**LARGE SCALE/COMMERCIAL FORM OF APPLICATION**

1. Where an application involves a *large scale/commercial site alteration*, the application shall include:
  - (1) the name, address and contact information of the *owner*;
  - (2) the name, address and contact information of the operator, if applicable;
  - (3) the name, address and contact information of the consultant engineers retained by the *owner*;
  - (4) the name, address and contact information of the contractor retained by the owner of the site;
  - (5) the municipal address of the site;
  - (6) the legal description of the site;
  - (7) where the application is made by someone other than the *owner*, prior written consent by the *owner* of the *land* allowing the application to be made on their behalf;
  - (8) the applicable fees calculated in accordance with this By-law;
  - (9) securities to ensure the *owner's* obligations under the *large scale/commercial site alteration permit* shall be in accordance with this By-law;
  - (10) a site control plan based on a legal survey, which shall include:
    - (a) a key plan showing the location of the site and a minimum of 30 meters beyond the site;
    - (b) the property lines of the *site* on which the *large scale/commercial site alteration* is to occur, including dimensions and the number of hectares of the *site*;
    - (c) the location, dimensions, elevations and use of buildings and other structures existing or proposed to be erected on the *site*;
    - (d) the current and proposed use of the *site*, as well as the location, dimensions and use of buildings and other structures adjacent to the *site*;
    - (e) the official plan designation and zoning of the *site*;
    - (f) a topographic survey producing a 0.5 m contour interval, certified by a licensed professional engineer or Ontario Land Surveyor, defining all material and man-made features, including top and bottom of slopes, drainage patterns, tree lines, buildings, and stockpiles on the site and 30 m beyond the property lines of the site to clearly show the detailed existing topography of the site and the adjacent lands;
    - (g) all existing above or below grade utilities, ditches, swales, drainage course and watercourses on the site and on adjacent lands and public highways;
    - (h) the species and size in caliper of all trees on the *site*, greater than 15 cm, measured 1.37 m from the base

- (i) the location of all driveways on the site and of all easements and rights-of-way over, under, across or through the *site*;
  - (j) the location and dimensions of all proposed land disturbing activities, including construction access roads;
  - (k) the location and dimensions of all temporary *fill* stockpiles;
  - (l) proposed *grades* and drainage systems upon completion of the *large scale/commercial site alteration*;
  - (m) the location, dimensions, height and slopes of any proposed berms;
  - (n) the location, dimensions, design details and design calculations of all construction site control measures necessary to meet the requirements of this By-law;
  - (o) erosion control measures and dust control measures that will be implemented and maintained during and following the *large scale/commercial site alteration*;
  - (p) the location of all wetlands, floodplains, shoreline, top of bank features and approximate regulation limits as required by Conservation Halton;
  - (q) details regarding the provisions for regular maintenance of the site control measures during the *large scale/commercial site alteration*;
  - (r) all tree protection measures for the *large scale/commercial site alteration*;
  - (s) all proposed ground covering to be used upon completion of the *large scale/commercial site alteration*;
  - (t) a schedule of the anticipated starting and completion dates of each land disturbing or land developing activity including the installation of construction site erosion control measures needed to meet the requirements of this By-law;
  - (u) specific details regarding trucking to and from the site, including the haul routes to be used and the times these haul routes will be used as per Part VIII of this By-law;
  - (v) the location of wetlands within 120 m of the site;
  - (w) all other site design requirements as detailed in Schedule "C"; and,
  - (x) a stamped, signed certificate as detailed in the Application Form and Site Alteration Permit.
- (11) an engineered and scaled drawing of any retaining wall that may be required and a description, including dimensions, of any materials to be used in the construction of such retaining wall;
  - (12) for post-extraction aggregate operations which are no longer licenced under the *Aggregate Resources Act*, copies of all drawings and schedules associated with the license issued by the Ministry of Natural Resources and Forestry and a confirmation of surrender of license;
  - (13) signed authorization(s) of a grantee(s) of any easement(s) within the *site*;
  - (14) a signed authorization by the *owner* certifying the correctness of all the information in the application;



- (15) a signed authorization by the *owner* allowing the operator to conduct the proposed *large scale/commercial site alteration* on the *site*, if applicable;
- (16) notwithstanding any other provisions of this By-law, the *Committee* may at its discretion, waive certain requirements of the application, after taking into consideration the proposed *large scale/commercial site alteration*, the anticipated impacts to the site, adjacent properties and the surrounding environment;
- (17) if required by the *Director*, a *person* applying for a permit shall submit any of the following:
  - (a) any other study, report, plan, drawing or material related to the application, as deemed necessary by the *Director*, to constitute a complete application;
  - (b) a complete copy of the Niagara Escarpment Commission approved permit for the proposed site alteration works;
  - (c) a complete copy of the Conservation Authority permit or letter of permission for the proposed site alteration works;
  - (d) Phase I, Phase II and/or other Environmental Site Assessment reports;
  - (e) detailed plans including but not limited to a Soil Management Plan, Fill Management Plan, Traffic and Transportation Management Plan and an environmental soil testing plan, all prepared and certified by a *Qualified Person*, in accordance with the "Management of Excess Soil – A Guide for Best Management Practices";
  - (f) certification that the *fill* contains no contaminants within the meaning of the *Environmental Protection Act* or certification from a *Qualified Person* that no adverse effects will result from the *site alteration*;
  - (g) a letter which forever releases and indemnifies the *Town* with respect to any and all liability which may arise in the event that the *fill* contains contaminants of concern within the meaning of the *Environmental Protection Act*; and,
  - (h) a report by a *Qualified Person* of any significant archaeological features on the site, in the areas affected by the *large scale/commercial site alteration*.

**SCHEDULE C**  
**TERMS AND CONDITIONS OF ALL PERMITS**

1.
  - (1) A *permit* shall remain valid for a period of one year from the date of issuance but shall expire six (6) months after the date of issuance, if work under the *permit* has not yet commenced.
  - (2) A Conditional Approval will expire six (6) months after date of approval if a *site alteration permit* is not issued.
  - (3) A *permit* which is no longer valid or has expired may, at the sole discretion of the *Director* or the *Committee*, be renewed for a six (6) month period from the date of invalidity or expiry provided that the proposed work has not been revised and that the *applicant* is not in contravention of the requirements of this By-law.
  - (4) A request under subsection (2) shall be made in writing to the *Director* or the *Committee*, accompanied by payment of the applicable *permit* fee in accordance with the Town's *Rates and Service Charges* By-law No. 2016-0072.
2. All *permits* shall contain the following conditions:
  - (a) The issuance of a *permit* does not relieve the *owner*, *applicant*, or *permit holder* from any responsibility to obtain all other approvals that may be required from any level of government or authority having jurisdiction or any agencies thereof.
  - (b) A *site alteration permit* is not transferable to another property.
  - (c) The work shall be done at the request of, or with the consent of, the *owner* where the proposed *site alteration* is to be performed.
  - (d) All *fill* to be dumped or placed shall be clean and free of waste, asphalt, trash, rubbish, glass, liquid or toxic chemicals, hazardous waste or contaminants within the meaning of the *Environmental Protection Act*.
  - (e) No ponding or alteration of existing surface water flow resulting directly or indirectly from the *site alteration* shall be caused on abutting lands.
  - (f) Where required, the *finished grade* shall be protected from erosion by sod, turf, seeding for grass, greenery, asphalt, concrete, or other means either singly or in combination, within two months of completion of the *site alteration* work, or as specified by the *Director* or the *Committee*.
  - (g) All trenches in which piping is laid as part of the drainage system shall be inspected by the *Director* prior to backfilling the excavation;
  - (h) the requirement to maintain a Commercial General Liability Insurance Policy with a coverage limit not less than five (5) million dollars, an Environmental Impairment/Pollution Liability Insurance Policy with a coverage limit not less than five (5) million dollars, and an Automobile Liability Insurance Policy with a coverage limit not less than five (5) million dollars until final assumption by the *Town* which names the *Town* as additional insured;
  - (i) Erosion and sedimentation control measures shall be provided around all disturbed areas in a manner satisfactory to the *Director* or the *Committee* prior to the commencement of the *site alteration*, and shall be maintained in good working order until the *site* has stabilized.
  - (j) All *fill* shall be properly compacted using acceptable engineering practices, unless it is being stockpiled on the *site* for future use.

- (k) The *permit holder* and *owner* shall ensure that natural drainage or any natural or human-made watercourse or water body is not altered in such a manner that will negatively affect other property or the environment.
- (l) If archaeological resources are discovered or identified during the *site alteration*, even after the issuance of a *permit*, the *owner*, *applicant* or *permit holder* shall immediately cease all activity on the *property* and contact the *Director*.
- (m) No *site alteration* shall be performed:
  - (i) on any Saturday or Sunday, or Statutory Holiday;
  - (ii) using *highways* to access or egress from the *site* except those *highways* designated as haul routes;
  - (iii) before 8:30 a.m. or after 3:00 p.m. during any weekday Monday through Friday using *highways* to access or egress from the *site*;
  - (iv) in contravention of the *Town's* Noise By-law;
  - (v) that exceeds one hundred (100) truckloads of *fill* per day arriving at, or leaving, the *site* using *highways* to access or egress from the *site*;
  - (vi) prior to submitting to the *Town* a schedule of the anticipated starting and completion dates for each *site alteration* activity including the schedule for the use of the designated haul routes; or,
  - (vii) prior to submitting to the *Town* a submission detailing site erosion control measures and dust control measures that will be implemented and maintained during and following construction, as required.
- (n) A *site alteration* performed pursuant to a *permit* shall not detrimentally affect the quality or quantity of water in wells on adjacent properties.
- (o) The *owner* and *occupant* of the *land* and any *permit holder* ensures that all vehicles to and from the site follow the designated haul routes to and from the *site*.

3. Every *permit holder* shall:

- (a) provide proof satisfactory to the *Director* that the *site* has been adequately reinstated and stabilized in accordance with this By-law and the plan accompanying the *permit*;
- (b) give notice to the *Director* to carry out a final inspection to confirm that all relevant terms of this By-law have been complied with;
- (c) following the completion of the works, and before the release of any deposit or portion thereof, provide a statement of a Professional Engineer or Ontario Land Surveyor retained by the *permit holder* certifying that:
  - (i) the grading has been completed in accordance with the plans submitted;
  - (ii) the finished project does not detrimentally affect drainage on adjacent properties; and,
  - (iii) the finished project does not detrimentally affect the quality or quantity of water in wells on adjacent properties.

- (d) prior to commencement of works under a *permit*, certify that the *fill* introduced to the *site* contains no contaminants within the meaning of the *Environmental Protection Act*;
- (e) keep all *highways* free of debris originating from the *site alteration*; and,
- (f) during performance of a *site alteration*, perform the following minimum procedures:
  - (i) at least once per day, scrape all *highways* that have been fouled; and,
  - (ii) at least once each week on Friday night or Saturday morning, clean all *highways* that have been fouled.

## SCHEDULE D ISSUANCE OF PERMIT

1. The *Director* may issue a *permit* where:
  - (a) the *Director* is satisfied that the *site alteration* which is the subject of the application for a *permit* is not otherwise prohibited by this By-law;
  - (b) the *applicant* has fulfilled all requirements of this By-law;
  - (c) the *applicant* has entered into an agreement as may be required under this By-law, and has performed all the obligations which the agreement requires to be performed prior to the issuance of a *permit*;
  - (d) the *Director* is satisfied that the *proposed grade* and resulting drainage pattern, the design of any retaining wall, the type of *fill* to be placed and the method of grading, are all in accordance with prevailing *Town* design standards and proper engineering practice;
  - (e) a Professional Engineer's signature and stamp is provided on the plan submitted with the application, where the exposed height of any retaining wall is 1.0 metre or greater;
  - (f) an appropriate haul route or haul routes to and from the *site* have been designated by the *Director* for the use of vehicles travelling to or from the *site* for the purpose of dumping or placing *fill* or removing *topsoil*.

## SCHEDULE E REVOCATION OF PERMIT

1. (1) Where the ownership of the *land* for which a *permit* has been issued is transferred while the *permit* remains in effect, the *permit holder*, prior to the completion of the transfer, shall provide written notice of both the pending transfer and the *site alteration* status to both the *Director* and the new *owner*, and the new *owner* shall within thirty (30) days of the completion of the transfer, either:
  - (i) provide the *Town* with an undertaking to comply with all the conditions under which the existing *permit* was issued; or,
  - (ii) apply for and obtain a new *permit* in accordance with the provisions of this By-law.
- (2) In the event that neither the undertaking prescribed by clause (1)(a), nor a complete application for a new *permit* under clause (1)(b), is received by the *Town* within the said period, the existing *permit* may be revoked by the *Director*, and the *permit holder* shall thereupon cease and desist forthwith all operations being conducted under the authority of the revoked *permit*, save and except for proper clean-up of the *site alteration* works already undertaken.
- (3) Where it is determined that the *permit holder* has provided misleading or false information on the application, or has contravened the provisions of this By-law or the requirements or conditions of the *permit*, the *Director* may revoke said *permit* and the *permit holder* shall thereafter cease and desist all operations being conducted under the authority of the revoked *permit*, save and except proper clean-up of the *site alteration* works already undertaken.

10515703.6