



REPORT

TO: Mayor Lawlor and Members of Council

FROM: Jeff Jelsma, Director of Development Engineering

DATE: December 23, 2024

REPORT NO.: TPW-2025-001

SUBJECT: New Site Alteration By-law

RECOMMENDATION:

THAT Report No. TPW-2025-001, dated December 23, 2024, regarding the update to the new Site Alteration Bylaw, be received;

AND FURTHER THAT Council adopt the new Site Alteration Bylaw No. 2025-0009 as described in Report No. TPW-2025-001 and attached as Appendix A;

AND FURTHER THAT Council enact Site Alteration By-law No. 2025-0009 with an effective date of April 1, 2025 and repeal Bylaw No. 2017-0040.

KEY POINTS:

The following are key points for consideration with respect to this report:

- The Town's Site Alteration Bylaw regulates the placing and dumping of fill, removal of topsoil, and alteration of land grades to protect natural and archaeological resources.
- Enforcing the current Bylaw is challenging, expensive, and time-consuming. Staff have seen a significant increase in contraventions since its enactment.
- The Town's Site Alteration Bylaw has been updated to improve administration, enforcement and to provide clearer guidelines, improve environmental protection measures, and streamline the appeal process to ensure fairness and transparency.
- The introduction of Administrative Monetary Penalties to deter non-compliance by providing penalty notices for each day the contravention continues.

- The elimination of the Site Alteration Committee, providing the Director the delegated authority to issue Site Alteration Permits following the guidelines as set in the new By-law.
- Creation of a Hearing Tribunal as the means for Owners/Applicants to appeal decisions from the Director, including permits, orders and conditions.
- Permit applications may now require more detailed documentation, including environmental assessments and soil management plans.
- Certain activities, such as emergency repairs and normal farm practices have additional details related to specific requirements and/or exemptions.

BACKGROUND AND DISCUSSION:

The Site Alteration Bylaw prohibits and regulates the placing and dumping of fill, the removal of topsoil and the alteration of the grade of the lands in order to ensure that:

- (a) existing drainage patterns are maintained;
- (b) changes to drainage or grade are appropriate to protect natural heritage features and areas, and archaeological resources;
- (c) interference and damage to watercourses or bodies of water is limited;
- (d) water quality is maintained;
- (e) the use of contaminated, hazardous or improper fill is prevented;
- (f) unanticipated drainage and site alteration changes are prevented;
- (g) haul routes for the transportation of fill and topsoil authorized for placement, dumping or removal will be approved to and from a site by the Director to minimize damage to Town and Region roads and minimize interference and disturbance to the Town's residents and businesses from any placement, dumping or removal;
- (h) the Town's Zoning Bylaw and other regulatory by-laws are complied with;
- (i) the benefits of any proposed site alteration outweigh its potential impacts on other properties and persons;
- (j) erosion and sedimentation are prevented; and
- (k) the proponent of the site alteration project pays for its costs associated with the administration and enforcement of this Bylaw.

Since enacting the Site Alteration Bylaw 2017-0040 (Amended by Bylaw 2023-0039), the Town has experienced a significant increase in the number of contraventions associated with Site Alterations. These contraventions range from the establishment of illegal truck and trailer parking areas through to the filling in or eliminating engineered swales on residential properties resulting in nuisance flooding. Many of these contraventions have detrimental impacts requiring remediation while others could be supported subject to satisfying the requirements of the Bylaw.

Enforcing the requirements of the existing Bylaw is challenging, expensive and time consuming. The primary intent of the update through the proposed 2025 Site Alteration Bylaw (2025 Bylaw) is to improve alignment between enforcement and administration to

support the Town's new Administrative Monetary Penalty System (AMPS) and aid in bringing these contraventions into compliance.

Consultant

To support development of the updated 2025 Bylaw, Staff retained Karen Landry of KLM Municipal Services (KLM) to prepare a draft Bylaw and associated Agreement. To prepare for this update, KLM researched Site Alteration Bylaws from several adjacent municipalities which included but was not limited to the Town of Milton and Town of Oakville. In addition, KLM researched and incorporated the applicable requirements for Ontario's Excess Soils Regulations and Environment Protection Act to ensure this update reflected the latest regulatory requirements.

The 2025 Bylaw introduces several significant updates to enhance the regulation and enforcement of site alterations in Halton Hills. The purpose and scope of the Bylaw remains focused on regulating site alterations to protect natural features, water quality, and drainage patterns. However, the 2025 Bylaw further emphasizes the protection of cultural and natural heritage features and ground and surface water resources more explicitly.

Site Alteration Committee

The Site Alteration Committee is a committee of Council that includes Council members from Ward 2 and resident volunteers from the community. The committee receives, considers and votes for all site alteration applications that are not connected to a building permit, are located within the Towns urban communities as designated by our Office Plan (as amended) or are tied to lands that are subject to a Planning Act application. The process for applying for a site alteration permits and having it approved by the committee was a time consuming process. This committee was integral in the decision-making process under the previous Bylaws, however this approval method added significant time (typically 2-months or more) and an element of uncertainty with regard to enforcement.

Most municipalities have steered away from having a site alteration committee and instead provides delegated authority to a Commissioner or Director. The new Site Alteration By-law gives delegated authority to the Director of Development Engineering to approve, refuse or place conditions on all site alteration permits. They do so by following the regulations as set in the new Site Alteration By-law.

Permit Requirements

The new By-law introduces more specific exemptions for certain activities, such as emergency repairs and normal farm practices, provided they meet specific conditions. With this update, the Bylaw outlines the requirement for more detailed documentation for permit applications which may include environmental assessments, soil management plans, and proof of compliance with other regulatory bodies. The Director will have the authority to waive or scope these requirements, when warranted (i.e., based on risk, impacts, benefits, etc.), to better suit the intent of the project.

The new By-law includes more focus on the requirements for erosion and sediment control measures to prevent environmental degradation during site alterations. These measures include the installation of silt fences, sediment traps, and other erosion control devices to protect water quality and prevent soil erosion. The Bylaw mandates regular inspections and maintenance of these control measures by the Permit Holder to ensure their effectiveness.

Security Deposits

Security deposits are still required however the new By-law includes improved clarity for the works that are to be considered in determining the value of the security deposit. For example, this security deposit may be utilized to cover the costs for basic remediation and/or restoration work to make a site safe and secure if the Permit Holder fails to comply with the Bylaw's requirements or to address damages to Town infrastructure. The value of the security deposit will be determined based on the size and scope of the proposed site alteration. If the costs incurred by the Town exceed the amount of the security deposit, the Town can recover the additional costs from the Permit Holder through legal means, including placing liens on the property.

Agreement

The new By-law provides for the Directors ability to execute an agreement with the Permit Holder when the Director has determined that the proposed works warrant additional legal supports. This agreement will further detail the conditions and requirements for the site alteration, including milestones, specific measures to be implemented, and any additional obligations of the Permit Holder such as working hour limitations (e.g., school bus schedules, special events, etc.). The agreement serves as a legally binding document that ensures the Permit Holder's awareness of the By-law and permit requirements and further enhances the Town's ability to enforce compliance. The agreement may also include provisions for regular reporting, testing and monitoring to ensure ongoing compliance throughout the duration of the site alteration project. An added feature to the new by-law includes the option for the use of electronic tracking technology for vehicles transporting fill, enhancing the ability to monitor and enforce compliance. Haul route evaluation requirements for transporting fill has been specified to minimize potential impacts.

Appeal Process

The appeal process has been updated to ensure fairness and transparency. If an applicant is refused a Permit or is not satisfied with the conditions attached to the Permit, they may appeal the Director's decision to an Appeal Tribunal appointed by the Town Council. The appeal must be submitted by sending a notice in writing to the Town Clerk with the appropriate fees within seven days after being notified of the decision. If the decision is not appealed within the specified time, it will be deemed final.

The Appeal Tribunal will conduct the hearing pursuant to the provisions of the Statutory Powers Procedure Act and the relevant provisions of the Bylaw. The Tribunal will consist of members who are independent of the initial decision-making process, ensuring an unbiased review of the appeal. During the appeal hearing, both the

appellant and the Town will have the opportunity to present their cases, including any relevant evidence and arguments. The Tribunal will consider all the information presented and make a decision based on the merits of the case. The decision of the Appeal Tribunal will be final and binding, providing a clear resolution to the dispute.

Enforcement

Similar to other Town by-laws, enforcement staff can determine the course of enforcement that would be deemed most effective by either issuing penalty notices through the Administrative Monetary Penalty system (AMPS), or by laying a charge under Part I or Part III of the *Provincial Offences Act, R.S.O. 1990, c. P.33* (POA).

Under the new AMPS By-law, penalty notices may be issued for a first, second or subsequent contravention, with fines escalating for continuous non-compliance. The AMPS for Regulatory (Non-parking) offences By-law No. 2005-0009 provides the rules on determining whether a contravention is considered first, second or subsequent. Schedule S of By-law No. 2025-0009 will be updated to include the prohibitions from the new Site Alteration By-law once the by-law has been adopted by Council.

Should enforcement staff determine it would be necessary to lay charges through the POA, the maximum fines for non-compliance have increased with first offences now subject to a maximum fine of \$50,000 and subsequent offences up to a maximum of \$100,000.

The administrative penalties provide a more efficient and immediate means of addressing non-compliance, as they can be issued directly by the Municipal By-law Enforcement Officers without the need for lengthy court processes. The introduction of administrative penalties aims to deter non-compliance by providing a swift and certain consequence for violations.

In conclusion, the Proposed 2025 Site Alteration Bylaw introduces several significant updates to enhance the regulation and enforcement of site alterations in Halton Hills. These changes aim to provide clearer guidelines, improve environmental protection measures, streamline the appeal process to ensure fairness and transparency and to increase penalties for non-compliance.

STRATEGIC PLAN ALIGNMENT:

This report identifies a thriving economy and natural areas and heritage as two of the Town's Strategic priorities.

RELATIONSHIP TO CLIMATE CHANGE:

This report is administrative in nature and does not directly impact or address climate change and the Town's Net Zero target.

PUBLIC ENGAGEMENT:

Public Engagement will be required; consultation with Communications staff to follow.

INTERNAL CONSULTATION:

Town Clerk & Director of Legislative Services

Manager of Enforcement Services,

Manager of Legal & Real Estate Services

Commission of Transportation & Public Works.

FINANCIAL IMPLICATIONS:

This report is administrative in nature and does not have any financial implications.

Reviewed and approved by,

Bill Andrews, Commissioner of Transportation & Public Works

Chris Mills, Chief Administrative Officer