

THE CORPORATION OF THE TOWN OF BRADFORD WEST GWILLIMBURY

BY-LAW NUMBER 2011-108

FILL AND SITE ALTERATION BY-LAW

Being a by-law of The Corporation of the Town of Bradford West Gwillimbury to prohibit or regulate the placing or dumping of fill, the removal of topsoil and the alteration of the grade of land within the Town of Bradford West Gwillimbury.

WHEREAS section 142 of the *Municipal Act, 2001*, S.O. 2001, c. 25, permits the enactment of a by-law by the Council of The Corporation of the Town of Bradford West Gwillimbury to prohibit or regulate the placing or dumping of fill, prohibiting and to regulate the site alteration of the grade of land in any defined area or on any class of land in the municipality, and requiring that a permit be obtained for the placing or dumping of fill or the site alteration of the grade of land;

AND WHEREAS Council deems it in the public interest to regulate the dumping and placing of fill and site alterations in order to ensure that existing drainage patterns are maintained and that any changes to existing drainage patterns are appropriate to protect environmental features and to prevent the importation of hazardous material;

AND WHEREAS By-law No. 2011-031 was enacted by Council on March 1, 2011 is hereby being replaced by this By-law;

NOW THEREFORE the Council of the Town of Bradford West Gwillimbury hereby enacts as follows:

1. DEFINITIONS

1.1 In this By-law:

- (a) **"agricultural lands"** includes all lands that are cultivated and/or used for the raising of livestock;
- (b) **"applicable law"** means any Provincial or Federal statute or regulation and any by-law of the County of Simcoe or of the Town that touches on the matters of drainage or protection of the environment and it includes but is not limited to, the *Ontario Building Code Act, 1992*, the *Planning Act*, the *Greenbelt Protection Act*, the *Conservation Authorities Act*, the *Environmental Assessment Act*, the *Ontario Heritage Act*, the *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;
- (c) **"applicant"** means the owner or the owner's agent as authorized in writing for the purposes of filing and submitting an application for a Permit under this By-law;
- (d) **"building"** includes a structure occupying an area greater than ten square metres consisting of a wall, roof and floor or any of them or a structural system serving the function thereof including all plumbing, works, fixtures and service systems appurtenant thereto, structures designated in the Building Code, a tent as specified in the *Ontario Building Code Act, 1992* and Regulations, and an on-site sewage disposal system;
- (e) **"By-law"** means this Fill and Site Alteration By-law;
- (f) **"Complete Application"** means an application as described in Section 4.1 of this By-law and/or as approved by the Director;
- (g) **"Conservation Authority"** means the Nottawasaga Conservation Authority and/or the Lake Simcoe Region Conservation Authority;

FILL AND SITE ALTERATION BY-LAW

- (h) **"County"** means the County of Simcoe;
- (i) **"development"** means the construction of buildings and above or underground services such as roads, parking lots, paved storage areas, watermains, storm and sanitary sewers, general grading works and similar facilities on any lands in the Town;
- (j) **"Director"** means the Director of Engineering Services for The Corporation of the Town of Bradford West Gwillimbury and shall include any person authorized by the Director to carry out any of the powers and/or duties of the Director pursuant to this By-law;
- (k) **"drain"** or **"drainage"** means the movement of water to a place of suitable disposal, whether by way of the natural characteristics of the ground surface or by an artificial method;
- (l) **"dump"** or **"dumping"** includes the depositing of fill in a location other than where the fill was obtained and includes the movement and depositing of fill from one location on a property to another location on the same property;
- (m) **"fill"** means any type of material deposited or placed on land and includes, but is not limited to, stone, concrete, sod, turf and recycled asphalt (RAP), and soil as defined by O. Reg. 153/04;
- (n) **"grade"** shall be defined as follows:
- (i) **"existing grade"** means the elevation of the existing ground surface of the lands upon which dumping and/or placing of fill is proposed and includes abutting ground surface up to three metres wide surrounding such lands, except that where placing or dumping of fill or site alteration has occurred in contravention of this By-law, existing grade shall mean the ground surface of the lands as it existed prior to the placing or dumping of fill,
 - (ii) **"finished grade"** means the approved final elevation of ground surface of lands upon which fill has been placed in accordance with this By-law,
 - (iii) **"proposed grade"** means the proposed elevation of ground surface of land upon which fill is proposed to be placed.
- (o) **"Officer"** means individuals appointed by the Town as Inspectors or By-law Enforcement Officers or such other persons as, from time to time, have been delegated responsibility to act under this By-law by the Director;
- (p) **"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, and may make use of innovative technology in a manner consistent with advanced farm management techniques, but does not include the removal of topsoil for sale, exchange or other disposition;
- (q) **"operator"** means any person, firm or corporation authorized by the owner to manage or control the placing or dumping of fill;
- (r) **"Order"** means an Order under Part 9 of this By-law;
- (s) **"owner"** means any person having an affiliation with the land to which this By-law applies and includes the registered owner on title of the land and any occupant of any building or structure located on such land and the operator which is proposing to place or dump fill on the land;
- (t) **"Permit"** means a permit issued under the authority of this By-law;

FILL AND SITE ALTERATION BY-LAW

- (u) **"person"** means any individual, association, firm, partnership, corporation, trust, incorporated company, corporation created under the *Condominium Act, 1998*, S.O. 1998, c. 19, organization, trustee or agent and their heirs, executors or other legal representatives of a person to whom the context can apply according to law;
- (v) **"place"** or **"placing"** means the distribution of fill on lands to establish a finished grade different from the existing grade;
- (w) **"ponding"** means the accumulation of surface water in an area not having drainage therefrom where the lack of drainage is caused by the placing or dumping of fill or site alterations;
- (x) **"professional"** means a professional engineer or professional landscape architect who is licensed to practice in the province of Ontario or such other person satisfactory to the Director, in their sole and absolute discretion, and who is retained to prevent adverse effects from erosion and sedimentation to and from land;
- (y) **"qualified person"** has the meaning set out in O. Reg. 153/04 under the *Environmental Protection Act*, R.S.O. 1990, c. E.19;
- (z) **"renew"** or **"renewal"** as it relates to a Permit under this By-law means the extension of the Permit under the same terms and conditions as the original application for the Permit without modification, enlargement, extension or addition, subject to the authority of the Director to allow such minor modification, enlargement, extension or addition that, in her sole and absolute discretion, are appropriate and the Director's determination shall be final;
- (aa) **"retaining wall"** means a wall designed to contain and support fill which has a finished grade higher than that of adjacent lands;
- (bb) **"Road Occupancy Permit"** means a permit issued by the Town or the County to allow the occupancy of any public highway;
- (cc) **"site alteration"** means altering of the grade of the land whether temporarily or permanently and include placing or dumping fill or removing topsoil;
- (dd) **"soil"** includes material commonly known as earth, topsoil, loam, subsoil, clay, peat, sand or gravel;
- (ee) **"statutory holiday"** shall include the following days: New Year's Day; Good Friday; Victoria Day; Canada Day; Labour Day; Thanksgiving Day; Christmas Day; Easter Sunday and any other public holiday declared by proclamation of the Lieutenant Governor to be a holiday, as defined in the *Retail Business Holidays Act*, R.S.O. 1990, c. R.30;
- (ff) **"swale"** means a shallow depression in the ground sloping to a place of suitable disposal of surface water for the purpose of providing a method of drainage;
- (gg) **"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;
- (hh) **"Town"** means the Town of Bradford West Gwillimbury;
- (ii) **"watercourse"** means an identifiable depression in the ground in which a flow of water seasonally or continuously drains;
- (jj) **"work"** means any labour, exertion, effort or materials supplied for or in relation to any alteration of land or dumping or placing fill on land.

2. GENERAL REGULATIONS

2.1 No person shall:

- (a) place or dump fill, or cause or permit fill to be placed or dumped on any land except in accordance with the provisions of this By-law and without first obtaining a Permit under this By-law from the Director, unless otherwise exempt under Part 3;
- (b) alter, or cause or permit to be altered, the grade of any land except in accordance with the provisions of this By-law and without first obtaining a Permit under this By-law unless otherwise exempt under Part 3;
- (c) notwithstanding any other provision of this By-law, do anything, or permit or cause the doing of anything, which results in the alteration, modification, fouling or blockage of any swale, ditch, drainage course, or part thereof, on any land unless authorized by the public authority or public agency with relevant jurisdiction;
- (d) place or dump fill or cause or permit fill to be placed or dumped on any land or alter or cause or permit to be altered the grade of any land except in accordance with the Town's Comprehensive Zoning By-law and where applicable, in accordance with the Greenbelt Plan; or
- (e) place or dump fill or cause or permit fill to be placed or dumped unless such fill complies with the O. Reg. 153/04 and has been tested in accordance with Town protocol as designated by the Director. A Record of Site Condition (RSC) will need to be filed by the owner upon closure of the fill operation.

2.2 This By-law is not intended to and shall not circumvent any development approval process which is required under the *Planning Act* and, without limiting the generality of the foregoing, the fill permit process shall not be used to allow for pre-servicing of subdivision lands, industrial or commercial development which would otherwise be addressed through the site plan or subdivision approval process under sections 41 and 51 or 53 of the *Planning Act*.

2.3 Where a Permit has not been issued and any person is in contravention of this By-law, the Director may issue an Order requiring the person to restore the land to a condition it was prior to commencement of such work, to the satisfaction of the Director, within the time set out in the Order.

2.4 Notwithstanding any other provision of this By-law, the Director may in its sole and absolute discretion require that, as a condition of the issuance of a Permit under this By-law, the owner or any other person deemed appropriate enter into an agreement with the Town respecting the work contemplated by the Permit containing such terms and conditions as the Director considers appropriate, including, without limiting the generality of the foregoing, the posting of financial security and the Director is hereby delegated authority to execute any such agreement authorized under this By-law on behalf of the Town.

3. APPLICATION AND EXEMPTIONS

3.1 This By-law applies to the entire geographic area of the Town other than as exempted under Section 3.2 of this By-law.

3.2 This By-law does not apply to:

- (a) the use, operation, establishment, alteration, enlargement or extension of a waste management system or waste disposal site within the meaning of the *Environmental Protection Act*, R.S.O, 1980, c. E.19, as amended or a waste, waste disposal or waste management system that is exempted by regulation;
- (b) the construction, extension, alteration, maintenance, or operation of works under s. 26 of the *Public Transportation and Highway Improvement Act*, R.S.O. 1990, c. P.50, as amended;

- (c) the placing or dumping of soil on lands for the purpose of lawn dressing, landscaping or adding to flower beds or vegetable gardens, provided that:
 - (i) the ground elevation of the land is not increased by more than two hundred (200) millimeters,
 - (ii) the elevation of the land within sixty (60) centimeters (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, swale, or ditch used to drain land, and
 - (iv) it does not exceed a maximum of 200m³ of fill;
- (d) the placing or dumping of fill in an excavation to the elevation of existing grade following the demolition or removal of a building or structure for which a demolition permit has been issued;
- (e) the placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken on land described in a license for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the *Aggregate Resources Act*, R.S.O. 1990, c. A.8;
- (f) the placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken on land in order to lawfully establish and operate or enlarge any pit or quarry on land;
 - (i) that has not been designated under the *Aggregate Resources Act* or a predecessor of that statute, and
 - (ii) on which a pit or quarry is a permitted land use under a by-law passed under s. 34 of the *Planning Act*;
- (g) the placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken as an incidental part of the drain construction under the *Drainage Act*, R.S.O. 1990, c. D.17 or the *Tile Drainage Act*, R.S.O. 1990, c. D.8;
- (h) activities of the Town or a local board of the Town, the County, Conservation Authority, the Provincial Government and the Federal Government related to the establishment or maintenance of utilities and services, roads, bridges, flood and erosion control facilities, walkways, bicycle paths, fences, retaining walls, steps and lighting;
- (i) the placing or dumping of fill, removal of topsoil or alteration of the grade of land as a condition to the approval of a site plan, a plan of subdivision or a consent under section 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;
- (j) the placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken by a transmitter or distributor, as those terms are defined in s. 2 of the *Electricity Act*, 1998, S.O. 1998, c. 15, Sched. A, for the purpose of constructing and maintaining a transmission system or a distributions system, as those terms are defined in that section;
- (k) fill being placed or dumped on lands for the purpose of flood erosion control to establish finished grade shown on a grading and drainage plan approved by the Conservation Authority and/or by the Director in conjunction with subdivision approval or site plan approval;
- (l) the removal of topsoil as an incidental part of a normal farm practice including such removal as an incidental part of sod-farming, greenhouse operations and nurseries for horticultural products, but this By-law is applicable to the removal of topsoil and removal, placement or re-placement of sub-strata for sale, exchange or other disposition;

- (m) the harvesting of peat in a commercial operation;
- (n) construction of a building or structure pursuant to a valid building permit which has been issued for the erection of the building or structure, if the site plan accompanying the building permit application provides sufficient information to determine that the placing or dumping of fill conforms with the provisions of this By-law however, if no site plan accompanies the building permit then a Permit may be required;
- (o) construction of an on-site sewage system pursuant to a valid building permit provided the placement or dumping of fill is consistent with the approved design or, as required by the Town; or
- (p) any work undertaken by the holder of a Road Occupancy Permit

4. APPLICATION FOR PERMIT

4.1 Every application for a Permit pursuant to this By-law shall be made in writing by the applicant to the Town in the approved form and shall include:

- (a) the name and address, phone number (and facsimile number and/or e-mail address of the applicant);
- (b) the municipal address of the land on which the fill is to be dumped or placed;
- (c) the legal description of the land upon which the fill is to be dumped or placed;
- (d) the applicable fees calculated in accordance with Schedule "A" to this By-law;
- (e) 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;
- (f) accurate plan(s) of the land to the satisfaction of the Director based on an identified legal survey showing:
 - (i) the property lines of the lands on which the fill is to be placed or dumped with appropriate dimensions,
 - (ii) for filling less than 1000 m³ existing spot elevations on three (3) metre grids across the lands and six (6) metre grids beyond the property lines to clearly show the existing drainage patterns on the lands and on the abutting lands; and for filling greater than 1000 m³, a topographic survey at one metre contour intervals certified by an engineer or surveyor defining all material and manmade features, including top and bottom of slopes, drainage patterns, tree lines, buildings, and stockpiles on the lands and within thirty (30) metres on abutting lands,
 - (iii) all existing storm sewers, culverts, ditches, swales, creeks, public utilities and watercourses on the lands and on abutting lands and public highways,
 - (iv) all existing buildings, the species and size in calliper of all trees including the location of all shrubs and driveways on the lands and of all easements and rights-of-way over, under, across or through the lands, and
 - (v) proposed grades and drainage systems upon completion of the filling operation,
 - (vi) all proposed ground covering to be used upon completion of the filling operation, and

- (vii) soil erosion control measures and location;
- (g) a description of the fill proposed to be dumped;
- (h) a signed authorization of a grantee(s) of any easements within the property accepting the placement of fill on or in the vicinity of any easement;
- (i) the official plan designation and zoning of the land;
- (j) where the land is zoned for agricultural use under the Town's Comprehensive Zoning By-law, the application shall be accompanied by one or more agricultural justification reports prepared by a professional planner or engineer and satisfactory to the Director to address any potential effects on existing agricultural operations and the long term viability of the lands for agricultural use;
- (k) where the land is within the boundaries of the Greenbelt Plan, the application shall be accompanied by:
 - (i) any and all documents, reports or studies required by Greenbelt Plan to demonstrate compliance with its provisions; and
 - (ii) one or more agricultural justification reports prepared by a professional planner or engineer and satisfactory to the Director to address any potential effects on existing agricultural operations and the long term viability of the lands for agricultural use;
- (l) written confirmation from the applicable Conservation Authority or any provincial or federal authority as to whether the fill operation is within a regulated area;

4.2 Notwithstanding Parts 2 and 4 of this By-law and Schedule "A" of this By-law, the Director may, in its sole and absolute discretion and in writing, waive the requirement for an application for a Permit under this By-law or any part thereof in appropriate cases, after taking into consideration the nature and scale of the proposed works and the anticipated impact on the site and the surrounding environment. This Section does permit the Director to grant any Permit or waive the requirement for any Permits for fill or site alteration which does not otherwise meet the requirements of Part 2 of this By-law.

5. PERMIT CONDITIONS

- 5.1 As a condition of the issuance of a Permit under this By-law, the Director may require any person, either prior to the Permit being issued or after the Permit has been issued, that the person comply with one or more of the following requirements:
- (a) to construct a retaining wall (including a safety net) in conformity with the Town's Comprehensive Zoning By-law and to the satisfaction of the Director if the existing or finished grade at a property line involves a slope greater than 3:1, which retaining wall does not encroach upon abutting lands, either above or below existing or finished grade, and which is not so high as to have a significant negative impact on abutting lands;
 - (b) to provide protection for the finished grade;
 - (c) to provide that fill shall not be placed around the perimeter of any existing building unless such building and its foundation walls are evaluated and reinforced in accordance with accepted engineering and construction practice, and an appropriate building permit has been issued;
 - (d) to ensure that no trench in which drainage piping that is laid is covered and backfilled until the work has been inspected and approved by the Director;

- (e) to provide protection for trees in accordance with Town standards;
- (f) to prepare, submit for approval and comply with a well monitoring program developed and undertaken by a qualified person to include both onsite groundwater monitoring as well as offsite private well base studies as part of a detailed hydro-geologic study.
- (g) to provide siltation and erosion control measures, in accordance with Town standards, and to obtain the approval of the Conservation Authority for siltation and erosion control measures when required;
- (h) to provide protection for environmentally significant land in accordance with the policies of the Town's Official Plan;
- (i) to remove the topsoil and stockpile on-site or at such location as approved by the Director prior to the performance of the work in the alteration of the grade or the placing or dumping of fill and to restore the surface in accordance with Ministry of Environment regulations;
- (j) to provide financial security in a form and amount to be determined by the Director to secure:
 - (i) the performance of the work for which the Permit is to be issued,
 - (ii) the maintenance of the highways that are used by the trucks delivering the fill in a state of repair and free from dust and mud,
 - (iii) against damage to any public highways that are used by any vehicles delivering fill to the land on which work is to be performed,

which security may be drawn upon by the Town in its sole and absolute discretion to remedy or rectify any damage or complete any performance required under this By-law;

- (k) to provide adequate drainage from the land on which the work is to be performed in accordance with Town standards;
- (l) to keep and maintain the following records in a good and businesslike manner:
 - (i) the full and complete legal name and business name, if different from the legal name, of each hauler,
 - (ii) the commercial vehicle registration number of each hauler,
 - (iii) the motor vehicle permit number of the motor vehicles owned and operated by each hauler,
 - (iv) the date and time of each delivery of fill,
 - (v) the point of origin of each delivery of fill must be assessed for all applicable parameters to ensure it satisfies the standards pursuant to O. Reg. 153/04 for the receiving site and test reports must be prepared by a qualified person,
 - (vi) the volume of each delivery of fill,
 - (vii) the content of material of each delivery of fill,
 - (viii) any other information required by the Director, and
 - (ix) to make available for inspection upon the request of the Director the records referred to in this clause;
- (m) to provide to the Director one or more reports from:

- (i) a qualified engineer or environmental consultant possessing expert or special knowledge in respect of the source and nature of the fill to be placed or dumped to ensure the fill is clean in accordance with criteria of the Ministry of the Environment, and
 - (ii) a qualified professional possessing expert or special knowledge specific to any special circumstances that may exist with respect to the land, including but not limited to, hydro-geological, archaeological and/or natural heritage features conditions;
 - (n) to restrict truck daily volumes and/or the location of truck and/or access routes or staging and storage areas;
 - (o) to notify the Director of the commencement, the completion, and of the various stages of performance of the work in the alteration of the grade of the land and in placing or dumping of fill on the land and to make the site available for inspection by his/her designate;
 - (p) to provide the Director upon completion of the works or at any other time required by the Director at its sole and absolute discretion a topographic survey verifying the interim or final grades of the site alteration;
 - (q) to operate in compliance with provisions of the Town's Noise By-law and any successor legislation thereto or as otherwise required by the Town;
 - (r) to indemnify the Town for any liability, costs, damages or losses incurred directly or indirectly caused by the issuing of a Permit and provide insurance satisfactory to the Town;
 - (s) to enter into an agreement with the Town.
- 5.2 The issuance of any Permit by the Director shall not relieve the holder of the Permit from compliance with this By-law or any other applicable law or legislation.
- 5.3 The Director shall issue a Permit when:
- (a) the Director is satisfied that the lands which are the subject of the application for a Permit are not within an area where the placing or dumping of fill or the alteration of the grade of land is prohibited; and
 - (b) the applicant has fulfilled all requirements of this By-law and all other applicable law.
- 5.4 Where a Permit has been issued under this By-law authorizing the placing or dumping of fill, or alteration of the grade of land, no person shall place or dump fill except in accordance with:
- (a) the plans, documents and any other information required for the approval of the Permit;
 - (b) the terms and conditions of the Permit;
 - (c) in compliance with any agreement entered into with the Town as a condition of obtaining the Permit; and
 - (d) all other provisions of this By-law.
- 5.5 No person shall, unless expressly authorized in writing by the Director, perform a site alteration or permit the performance of a site alteration:
- (a) between the hours of 7:00 p.m. and 7:00 a.m. on Monday to Friday;
 - (b) anytime Saturday, Sunday or a statutory holiday.
- 5.6 No person shall undertake site alteration or cause site alteration to occur on any land for storage purposes unless the outside storage of such fill on the land is permitted by the Town's Comprehensive Zoning By-law.

- 5.7 No person shall make a material change or cause a material change to be made to a plan, specification, document or other information which provided the basis for which a Permit was issued without first notifying, filing written details and obtaining the authorization of the Director.

6. PERMIT REVOCATION, EXPIRY AND TRANSFER OF PERMITS

- 6.1 The Director may revoke a Permit for the following reasons:
- (a) it was obtained on mistaken, false or incorrect information;
 - (b) it was issued in error;
 - (c) the owner and/or applicant requests in writing, that it be revoked;
 - (d) the terms of an agreement under this By-law have not been complied with;
 - (e) work authorized under the Permit has not been commenced prior to its expiry date; or
 - (f) the owner or any other person has failed to comply with the provisions of this By-law.
- 6.2 When work on land has taken place or has commenced before a Permit for that work has been issued under this By-law or when such work has taken place after the date upon which a Permit has expired, the fees for an application for each Permit required shall:
- (a) double the amount otherwise specified in this By-law; and
 - (b) include an additional \$250.00 for each inspection that was made, required or requested prior to the Permit being issued or after the Permit has expired.
- 6.3 Where a Permit has not been issued and any person is in contravention of this By-law, an Officer or the Director may issue an Order for removal requiring the person to restore the land to the condition it was prior to the commencement of such work to the satisfaction of the Director within the time set out in the Order.
- 6.4 Permits issued under this By-law shall:
- (a) be valid for a period of one (1) year from the date of issuance, unless otherwise authorized by the Director in writing; or
 - (b) expire six (6) months after the date of issuance if work is not commenced under the Permit, which determination shall be at the Director's sole and absolute discretion and be final.
- 6.5 A Permit may be renewed prior to the expiry date set out in the Permit upon receipt of a complete application to the Director in accordance with Part 4 of this By-law and payment of the prescribed fees in Schedule "A" to this By-law.
- 6.6 A Permit which has expired may be renewed at the sole discretion of the Director within three (3) months from the date of expiry upon receipt of a complete application to the Director in accordance with Part 4 of this By-law and payment of the prescribed fees in Schedule "A" to this By-law.
- 6.7 If title of the land for which a Permit has been issued is transferred while the Permit remains in effect, the Permit shall terminate and become null and void unless the owner of the lands, no later than thirty (30) days from the date of the transfer of title of the land,
- (a) provides the Town with an undertaking satisfactory to the Director to comply with all the conditions under which the existing Permit was issued; or

- (b) applies for and obtains a new Permit in accordance with the provisions of this By-law.

6.8 If a Permit is expired, cancelled or revoked after work has commenced and prior to the completion of the site alteration, the owner shall forthwith restore the land to its original condition or stabilize the site to the satisfaction of the Director in a manner that will prevent adverse impacts on abutting properties and the environment.

7. AGREEMENT

- 7.1 Where more than 1000m³ of fill is proposed to be placed or dumped, the owner must obtain a Permit and, together with such other persons deemed appropriate by the Director, enter into an agreement with the Town which may be registered on title to the land on which the work is to be performed which agreement shall include but not limited to the following terms and conditions:
- (a) to retain a qualified person, approved by the Director, who shall be responsible for ensuring that the placing and dumping of fill is in accordance with reasonable engineering and environmental practices, meet O. Reg. 153/04 (as amended to O. Reg. 511/09) site standards and is in accordance with the plan submitted for the Permit and Section 5.1 of this By-law. A Record of Site Condition (RSC) will need to be filled with the Ministry of the Environment upon completion of the fill operation.
 - (b) to place or dump the fill in accordance with this By-law;
 - (c) to require the professional or qualified person to report in writing on a regular basis or as determined by the Director that the placing and dumping of fill is in accordance with this By-law;
 - (d) to require that the placing or dumping of fill be completed by a specified date;
 - (e) not to contaminate the natural environment and to abide by all applicable environmental laws and regulations;
 - (f) to provide a report from a professional, qualified person or environmental consultant that he/she is satisfied that the placing or dumping of fill will not result in:
 - (i) soil erosion,
 - (ii) blockage of a watercourse,
 - (iii) siltation in a watercourse,
 - (iv) pollution of a watercourse,
 - (v) flooding or ponding of abutting lands,
 - (vi) flooding or ponding caused by a watercourse overflowing its banks,
 - (vii) a detrimental effect on any trees of a caliper of seventy-five (75) millimeters or more located on the lands, or
 - (viii) detrimental effect on matters of inherent biological sensitivity such as aquifer recharge, water quality, unusual plants or wildlife and over wintering habitats;
 - (g) to acknowledge that the Town may engage legal, engineering, hydrology, environmental, landscape or such other consultants as may be deemed appropriate by the Director, in its sole and absolute discretion, to evaluate studies and or agreements in which case the costs incurred will be charged back to the owner and such other persons plus a ten per cent (10%) administrative charge;

- (h) to provide financial security satisfactory to the Town to be used to remedy or rectify any breach of this By-law or any agreement;
- (i) to indemnify the Town for any liability, costs, damages or losses incurred directly or indirectly caused by the issuing of a Permit and provide proof of insurance coverage that is satisfactory to the Town.

8. ADMINISTRATION AND ENFORCEMENT

- 8.1 The administration and enforcement of this By-law shall be performed by the Director and/or any professional or qualified person to conduct quality assurance testing and/or review as deemed necessary for a specific application.
- 8.2 Upon completion of the work pursuant to a Permit, the owner shall so advise the Director.
- 8.3 The Director and any Officer may, at any reasonable time enter and inspect any land to determine whether the provisions of this By-law, an Order issued under this By-law, or a condition of a Permit issued under this By-law or the terms and conditions of an agreement have been complied with.

9. ORDER TO DISCONTINUE ACTIVITY

- 9.1 If an Officer is satisfied that a contravention of this By-law has occurred, the Officer may make an order requiring the owner of the land or the person who caused or permitted the placing or dumping of fill, removal of topsoil or alteration of the grade of land in contravention of this By-law to discontinue the activity and the order shall set out:
 - (a) the municipal address or the legal description of the land; and
 - (b) reasonable particulars of the contravention and the period within which there must be compliance.

10. WORK ORDER

- 10.1 If an Officer is satisfied that a contravention of this By-law has occurred, the Officer may make an Order requiring work to be done to correct the contravention and the Order shall set out,
 - (a) the municipal address or the legal description of the land; and
 - (b) reasonable particulars of the contravention and work to be done and the period of time within which there must be compliance with the Order; and
 - (c) a notice stating that if the work is not done in compliance with the Order within the period it specifies, the Town may enter upon the lands and have the work done at the expense of the owner.

11. WORK COMPLETED BY TOWN

- 11.1 If the work required by an Order issued under Section 10.1 is not completed within the specified period of time, the Town, in addition to all other remedies it may have, may do the work at the owner's expense and any of the Town's employees, officers or agents may enter upon the land, at any reasonable time, for the purpose of carrying out the work.
- 11.2 Before the Town enters on land to do the work, it shall provide reasonable notice to the owner or occupier of the land personally, by prepaid registered mail to the last known address of the registered owner of the land or by the posting of a notice in a conspicuous place on the land and is entitled to enter on the land for this purpose.

12. RECOVERY OF COSTS

- 12.1 The Town may recover the costs incurred by the Town under Part 11 plus interest accrued to the date payment is made at the rate of fifteen per cent (15%) or such lesser rate as may be approved by the Town from the owner of the land by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes.
- 12.2 The costs incurred by the Town under Section 12.1, including interest, constitute a lien on the land upon the registration in the proper land registry office of a notice of lien and the lien is in respect of all costs that are payable at the time the notice is registered plus interest accrued to the date the payment is made.
- 12.3 Upon payment of all costs payable plus interest accrued to the date payment is made to the Town, the Town shall register a discharge of the lien in the proper land registry office.

13. OFFENCE AND PENALTY

- 13.1 Any person, other than a corporation, who contravenes any provision of this By-law, the terms or conditions of a Permit or an agreement, or an Order issued under this By-law is guilty of an offence and on conviction is liable:
- (a) on a first conviction, to a fine of not more than \$10,000; and
 - (b) on any subsequent conviction, to a fine not more than \$25,000.
- 13.2 A corporation that contravenes any provision of this By-law, the terms or conditions of a Permit or an agreement, or an Order issued under this By-law is guilty of an offence and on conviction is liable:
- (a) on a first conviction, to a fine of not more than \$50,000; and
 - (b) on any subsequent conviction, to a fine of not more than \$100,000.

14. INTERPRETATION AND VALIDITY

- 14.1 If a court of competent jurisdiction declares to be invalid, unenforceable, illegal or beyond the powers of Council to enact, any provisions or parts of any provisions of this By-law, it is the intention of Council in enacting this By-law that the remainder of this By-law shall be deemed to be separate and independent therefrom and that the remainder of this By-law shall continue in force and be applied and enforced in accordance with its terms to the fullest extent possible according to law.
- 14.2 Any reference to a statute, regulation, by-law or other legislation or statutory instrument in this By-law shall include such statute, regulation, by-law or other legislation or provision thereof as amended, revised, re-enacted and/or consolidated from time to time and any successor legislation thereto.

15. SCHEDULES

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

16. REPEAL

- 16.1 By-law 2011-031 is hereby repealed in its entirety.

17. SHORT TITLE

- 17.1 This By-law may be referred to as the Fill and Site Alteration By-law.

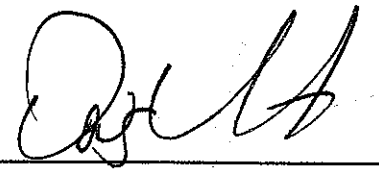
18. FORCE AND EFFECT

18.1 This By-law shall come into force and take effect upon the day of the passing thereof.

THIS BY-LAW ENACTED THIS 20th DAY OF SEPTEMBER, 2011.



Michelle Brandt
Deputy Clerk



Doug White
Mayor

SCHEDULE "A"

FEES

DESCRIPTION	APPLICATION FEE
Fill less than 1000m ³	\$250 + \$0.80/m ³ (Maximum \$1,050)
Fill between 1000m ³ and 5000m ³	\$500 + \$0.70/m ³ (Maximum \$4,000)
Fill between 5000m ³ and 10 000m ³	\$1,500.00 + \$0.60/m ³ (Maximum \$7,500)
Fill greater than 10 000m ³	\$2,500 + \$0.50/m ³ (Maximum \$10,000)
Permit Renewal Fee	\$250
Expired Permit Renewal Fee	\$500
Site Inspections (for inspections not included in a valid permit)	\$250 per inspection
External consultant and legal costs to review and evaluate studies or to prepare all legal documents and enforce by-law	Actual costs incurred plus 10% administration fee

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