



THE CORPORATION OF THE CITY OF BRAMPTON

# BY-LAW

Number \_\_\_\_\_ - 2024

To regulate site alterations within the City of Brampton, and to repeal By-law 143-95 and By-law 30-92

WHEREAS Subsection 8(1) of the Municipal Act 2001, S.O. 2001, c.25, as amended, (hereinafter the "Municipal Act, 2001") provides that the powers of a municipality shall be interpreted broadly so as to confer broad authority on municipalities to enable them to govern their affairs as they consider appropriate, and to enhance their ability to respond to municipal issues;

AND WHEREAS Section 9 of the Municipal Act 2001, as amended, provides that a municipality has the capacity, rights, powers, and privileges of a natural person for the purpose of exercising its authority under any Act;

AND WHEREAS Subsection 11(1) of the Municipal Act 2001, as amended, provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS Subsection 11(2) of the Municipal Act 2001, as amended, provides that a municipality may pass By-laws respecting: in paragraph 5, Economic, social, and environmental well-being of the municipality; in paragraph 6, Health, safety, and well-being of persons; in paragraph 8, Protection of persons and property, including consumer protection;

AND WHEREAS Section 23.2 of the Municipal Act, 2001, as amended, permits a municipality to delegate certain legislative and quasi-judicial powers where the council of the municipality is of the opinion that the power being delegated is of a minor nature;

AND WHEREAS Section 129 of the Municipal Act 2001, as amended, authorizes a municipality to prohibit and regulate with respect to noise, vibration, and dust;

AND WHEREAS Subsection 135(1) of the Municipal Act 2001, as amended, authorizes local municipalities to pass By-laws to prohibit or regulate the destruction or injuring of trees;

AND WHEREAS Section 142 of the Municipal Act 2001, as amended, authorizes 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 in any defined area or areas in the City of Brampton, including conservation authority regulated areas;

AND WHEREAS Subsection 391(1) of the Municipal Act 2001, as amended, authorizes a municipality to impose fees or charges for services and activities carried out under this By-law;

AND WHEREAS Section 434.1 of the Municipal Act 2001, as amended, authorizes a municipality to require a person to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with a By-law of the municipality passed under the Municipal Act, 2001.

AND WHEREAS the Official Plan for The Corporation of the City of Brampton contains specific policies for site alteration, pre-servicing, grading, and use of soil on sites;

AND WHEREAS the City Council of The Corporation of the City of Brampton deems it appropriate to enact this By-law for the purposes set out below:

- a) To protect agricultural resources and natural heritage features from Negative Impacts;
- b) To prevent drainage issues and public nuisances;
- c) To maintain existing Drainage patterns and prevent erosion and sedimentation;
- d) To prevent interference and damage to watercourses or water bodies;
- e) To maintain ground and surface water quality;
- f) To prevent the discharge of a contaminant into the natural environment;
- g) To prevent the degradation of the pre-existing Soil and groundwater quality;
- h) To designate Haul Routes to minimize, interference and disturbances;
- i) To minimize disturbances to landform characteristics;
- j) To prevent the importation of hazardous materials;
- k) To apply best practices for the proper management of excess soil; and,
- l) To ensure the proponent of the Site Alteration project pays for all applicable costs.

NOW THEREFORE the City Council of The Corporation of the City of Brampton ENACTS as follows:

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## **PART 1 INTERPRETATION AND APPLICATION**

### **1 Short Title**

1.1 This By-law may be referred to as the “Site-Alteration By-law.”

### **2 Interpretation**

2.1 Wherever a word is used in this By-law with its first letter capitalized, the term is being used as it is defined in this By-law.

2.2 References in this By-law to any statute or statutory provision include references to that statute or statutory provision as it may from time to time be amended, extended, or re-enacted.

2.3 References in this By-law to items in the plural include the singular, and references to the singular include the plural, as applicable.

2.4 The words “include,” “includes” and “including” are not to be read or interpreted as limiting words, phrases, or descriptions that precede them.

2.5 In this By-law,

“Adverse Effect” means one or more of:

- a) Impairment of the quality of the natural environment for any use that can be made of it;
- b) Injury or damage to property or plant or animal life;
- c) Harm or material discomfort to any person;
- d) An adverse effect on the health of any person;
- e) Impairment of the safety of any person;
- f) Rendering any property or plant or animal life unfit for human use;
- g) Loss of enjoyment of normal use of property; and
- h) Interference with the normal conduct of business;

“Application” means an application to the Commissioner made under Part 4 or 5 of this By-law;

“By-law” and “Site-Alteration By-law” means this By-law;

“City” means The Corporation of the City of Brampton or the land within the municipal boundaries of the City of Brampton, as the context requires;

“Contaminant” means any solid, liquid, gas, odour, heat, sound, vibration, radiation, or combination of any of them resulting directly or indirectly from human activities that cause or may cause an Adverse Effect;

“Commercial Fill Operation” means a Large Scale Site Alteration which meets one or more of the following criteria:

- a) The Placing or Dumping of fill is for commercial benefit or gain, whether for the owner or occupier of the land or for a third party, including the Placing or Dumping of Fill involving remuneration paid, or any other form of consideration provided, to the Owner or occupier of the land or a third party, whether or not the remuneration or consideration is the sole reason for the Placing or Dumping of the Fill;
- b) The Placing or Dumping of Fill is for a commercial purpose;
- c) The Fill is obtained from more than one source site and there is no Fill Management Plan in effect; and
- d) The Fill is generated as a function of a waste soil treatment and/or remediation facility, whether or not such facility is operated under an Environmental Compliance Approval;

"Drainage" means the movement of water to a place of disposal, whether by way of the natural characteristics of the ground surface or by an artificial method;

"Dumping" means 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;

“Environmentally Sensitive Areas” means any area deemed to have ecological significance, defined, and designated as environmentally sensitive by section 1.3.1 and Schedule C of the Official Plan, but not limited to, terms such as Environmental Protection Areas and Environmentally Significant Areas;

“Excess Soil” means soil, crushed rock, or soil mixed with rock or crushed rock, which has been excavated as part of a project and removed from the project area for the project;

“Fill” includes Soil, subsoil, Topsoil, stone, sod, turf, clay, sand, gravel, or other such similar material, either singly or in combination, capable of being removed from or deposited on lands;

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

- a) “Existing Grade” means the elevation of the existing ground surface of the lands upon which the Placing, Dumping, cutting, or removal of Fill or altering of the grade is proposed and of abutting ground surface up to 3 m wide surrounding such lands, except where such activity has occurred in contravention of this By-law, then Existing Grade shall mean the ground surface of such lands as they existed prior to the said activity requiring a permit under this By-law;
- b) “Proposed Grade” means the proposed finished elevation of the ground surface after fill is dumped or placed, the grade altered, or the Topsoil removed; and

- c) “Finished Grade” means the approved elevation of the ground surface of lands upon which fill has been placed, dumped, cut, or removed or the grade altered in accordance with this By-law;

“Hauler” means an owner/operator of a vehicle transporting excess soil, including liquid soil;

“Haul Routes” mean routes defined by the Commissioner as part of a Permit, or any agreement made under this By-law that describes which routes must be followed when transporting Fill to or from the Site;

“Hydrologically Sensitive Features” include permanent and intermittent streams, wetlands, kettle lakes, seepage areas, and springs;

“Insurance” includes Commercial General Liability Insurance and Pollution Liability Insurance, or any other Insurance as deemed necessary by the Commissioner;

“Key Natural Heritage Features” include wetlands, significant portions of the habitat of endangered, threatened, or special concern species, fish habitat, areas of natural and scientific interest, significant valley lands, woodlands, and wildlife habitat;

“Large Scale Site Alteration” means a Site Alteration involving more than 1,000 cubic metres (approximately 100 triaxle truckloads) of Fill within a twelve (12) month period or where the elevation of the site significantly increases or decreases from the existing grade;

“Liquid Soil” means soil that has a slump of more than 150 millimetres using the Test Method for the Determination of “Liquid Waste” (slump test) set out in Schedule 9 to Regulation 347;

“Minor Landscaping” means yard maintenance activities, lawn dressing, driveway resurfacing, installation of flower beds and vegetable gardens, installation of walkways or pathways, and similar landscaping features on residential properties, that do not adversely alter an existing drainage system approved by the City, a Stormwater Management Facility, or easement in favour of the City; but, does not include the installation or removal of retaining walls or the installation of an in-ground pool.

“Negative Impact” means:

- a) Potential risks to human health and safety and degradation to the quality and quantity of water, sensitive surface water features and sensitive ground water features, and their related hydrologic functions, due to single, multiple, or successive development. Negative impacts should be assessed through environmental studies including hydrogeological or water quality impact assessments, in accordance with provincial standards;

- b) Degradation to the quality and quantity of water, sensitive surface water features and sensitive ground water features, and their related hydrologic functions, due to single, multiple, or successive development or site alteration activities;
- c) In regard to fish habitat, any permanent alteration to, or destruction of fish habitat, except where, in conjunction with the appropriate authorities, it has been authorized under the Fisheries Act; and
- d) In regard to other natural heritage features and areas, degradation that threatens the health and integrity of the natural features or ecological functions for which an area is identified due to single, multiple, or successive development or site alteration activities.

“Officer” means a person employed by the City and appointed as a Municipal Law Enforcement Officer or any other person duly appointed by the City Council to administer the provisions of this By-law;

“Owner” means:

- a) The registered Owner of a Site, including any heirs, assigns, Personal representatives, and successors in title;
- b) Mortgagee in possession of the Site;
- c) The Person for the time being managing or receiving the rent of the Site or premises in connection with which the word is used whether on their account or as agent or trustee of any other Person, or who would so receive the rent if such land and premises were let; or
- d) A lessee or Occupant of the Site who, under the terms of a lease, is required to Repair and maintain the Site in accordance with the standards for maintenance and occupancy of the Site.

“Permit” means a Site Alteration Permit issued pursuant to this By-law and includes any agreements entered into by the City and the Owner of the land to which the Site Alteration applies;

“Permit Holder” means a Person to which a Permit has been issued;

“Person” means an individual, multiple persons, partnership, heirs or legal representatives, a corporation, or commissioner, director, or officer of a corporation;

"Placing" means the distribution of fill on lands to establish a finished grade higher or lower than the existing grade, and includes soil stripping;

"Ponding" means where Placing or Dumping of fill or alteration of grade has concentrated the flow of surface water and impaired drainage leading to collected surface water that remains standing in excess of 48 hours in an area;

“Project” means, any project that involves the excavation of soil and includes,



- a) Any form of development or site alteration,
- b) The construction, reconstruction, erecting, or placing of a building or structure of any kind,
- c) The establishment, replacement, alteration, or extension of infrastructure, or
- d) Any removal of liquid soil or sediment from a surface water body;

“Prohibited Area” means

- a) Environmentally Sensitive or Significant Areas;
- b) Natural Heritage System designated Areas;
- c) Core Areas of the Greenlands System;
- d) Provincially Significant Wetlands;
- e) Valleylands or Watercourse Corridors;
- f) Core Woodlots;
- g) Significant Wildlife Habitat;
- h) Floodplains and Hazardous Lands;
- i) Hydrogeologically Sensitive Areas;
- j) Conservation Plan or as designated by the Official Plan
- k) Wellhead Protection Areas, Significant Ground Water Recharge Areas, or High Aquifer Vulnerability Areas as designated in Source Water Protection Plans, or the Official Plan for the City of Brampton; and,
- l) Lands previously licensed or permitted and used as a pit or quarry under the Aggregate Resources Act (or any predecessor legislation thereof), or otherwise, whether such lands have been rehabilitated or not.

“Project Area” means, with respect to a project, a single property or adjoining properties on which the project is carried out;

“Project Leader” means, in respect of a project, the person or persons who are ultimately responsible for making decisions relating to the planning and implementation of the project;

“Qualified Person” means a person qualified as defined within Ontario Regulation 153/04 – “Qualified Person, other than Risk Assessment” as amended;

“Receiving Site” means the property to which Fill is transported and will include the term “Site;”

“Rules for Soil Management and Excess Soil Quality Standards” is adopted by reference in O. Reg. 406/19 (On-Site and Excess Soil Management) made under the Environmental Protection Act, R.S.O. 1990, c. E.19

"Retaining Wall" means a concrete or concrete product wall or other material approved by the Commissioner designed to contain and support fill that has a finished grade higher than that of adjacent lands;

“Site” means land or property upon which there has been a Site Alteration or upon which a Site Alteration is proposed and will include the term “Receiving Site;”

“Site Alteration” means any activity that involves the Dumping, removing, moving, excavating, or grading of soil or fill or alters the grade (topography) of land, but does not include Minor Landscaping;

“Site Alteration Agreement” means a legal agreement between the property Owner and the City which is Registered on Title to the lands on which the Site Alteration is to take place;

“Small Scale Site Alteration” means any Site Alteration undertaken on a Property within a twelve (12) month period where:

- a) The cumulative volume of Fill does not exceed one thousand cubic metres (1,000m<sup>3</sup>), equivalent to one hundred (100) triaxle truckloads;
- b) The total area of the Property subject to the Site Alteration, excluding all buildings, structures, and fixed features, does not surpass one hectare (1ha);

“Soil” means unconsolidated naturally occurring mineral particles and other naturally occurring materials resulting from the natural breakdown of rock or organic matter by physical, chemical, or biological processes that are smaller than 2 millimetres in size or that pass the US #10 sieve.

“Stormwater Management Facilities” means any rooftop storage, flow control device, tank, pond, stormwater wetland, oil grit separator, water quality unit, manufactured treatment device, rainwater harvesting system, or low-impact development practice created to control stormwater quantity, quality, water balance, or erosion.

"Swale" means a shallow depression in the ground sloping to a place of disposal of surface water for the purpose of providing a method of Drainage; and

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

### **3 Application**

- 3.1 The Schedules appended to this By-law are incorporated into and form part of this By-law.
- 3.2 The provisions of this By-law, as amended from time to time, shall form part of the development approval process governed by the *Planning Act*.
- 3.3 An application for a permit may be processed concurrently with an application submitted pursuant to the *Planning Act* and may form part of the technical information requested in order to consider the planning application complete.
- 3.4 This By-law applies to all land in the City of Brampton, including areas within the Conservation Authority regulated areas.

### **4 Exemptions**

- 4.1 This By-law shall not apply to Site alterations that:
  - (1) Are undertaken by the City or a local board of the City;
  - (2) Are imposed after December 31, 2002, as a condition to the approval of a Site Plan, a Plan of Subdivision, or a Consent under sections 41, 51, or 53, respectively, of the Planning Act or as a requirement of a Site Plan Agreement or Subdivision Agreement entered into under those sections;
  - (3) Are imposed after December 31, 2002, as a condition to a Development Permit authorized by regulation made under section 70.2 of the Planning Act or as a requirement of an agreement entered into under that regulation;
  - (4) Are undertaken by a Transmitter or Distributor, as those terms are defined in section 2 of the Electricity Act, 1998 for the purpose of constructing and maintaining a Transmission System or a Distribution System, as those terms are defined in that section;
  - (5) Are undertaken on land described in a licence for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the Aggregate Resources Act;
  - (6) Are undertaken on land in order to lawfully establish and operate or enlarge any pit or quarry on land that has not been designated under the *Aggregate Resources Act* or a predecessor of that Act, and on which a pit or quarry is a permitted land use under a By-law passed under section 34 of the *Planning Act*;
  - (7) Are undertaken as an incidental part of drain construction under the *Drainage Act* or the *Tile Drainage Act, 2001*;
  - (8) Are for the purpose of Minor Landscaping on residential properties; and,

- (9) Are incidental to a normal farm practice including such removal/placement as an incidental part of sod-farming, greenhouse operations, and nurseries for horticultural products, provided that associated stockpiles,
  - a) Are used, depleted, and refreshed on a continuous basis during periods when the stockpiles are actively in use in the agricultural operation;
  - b) Are removed and the existing grade restored while the agricultural operation is suspended or during periods when the stockpiles are not actively in use in the agricultural;
  - c) No stockpile remains substantially unchanged for longer than 6 months; and
  - d) Does not include the removal of Topsoil for sale, exchange, or other disposition.

4.2 The following activities are exempt from the requirement for a permit:

- (1) The use, operation, establishment, alteration, enlargement, or extension of a waste disposal site within the meaning of Part V of the *Environmental Protection Act*;
- (2) Are in relation to the construction of a building pursuant to a valid building permit associated with the erection of a building, structure, or on-site sewage system and the Site plan accompanying the building application provides sufficient information to determine that the placement of Fill conforms with the provisions of the By-law, and the quantity of Fill, if any, is deemed necessary and reasonable by the Commissioner; and,
- (3) Are for the purpose of filling in an inground pool provided that the existing grade of the property is not changed and/or altered and where the total cut or fill volume is not more than 100 m<sup>3</sup>.

4.3 Notwithstanding Section 4.2, all Site Alteration activities, whether exempt from permit requirements or not, shall comply with the remainder of the By-law.

4.4 Any Person conducting a Site Alteration that is exempt from requiring a Permit must be able to demonstrate to the satisfaction of the City, at any time upon request, the applicability of the exception in accordance with this By-law.

## **PART 2 ADMINISTRATION**

### **5 Administration**

- 5.1 This By-law shall be administered and enforced by the Commissioner and their designate(s).

## **PART 3 REGULATIONS AND PROHIBITIONS**

### **6 General Regulations**

- 6.1 Every person who intends on carrying out any activity connected to a site alteration personally or through another person is required by this By-law to apply to the City for a permit by submitting all of the information prescribed in this By-law and by paying the prescribed fee.
- 6.2 Where there is a planning application that involves an approval, no physical change or Site Alterations shall occur until the issuance of a permit pursuant to this By-law and/or the receipt of final approval of any applicable planning applications.
- 6.3 The issuance of a Permit does not relieve the Owner and 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.
- 6.4 A Permit is not transferable to another Site.
- 6.5 The conditions for a Large-Scale Site Alteration shall be in addition to all other requirements and conditions described in this By-law.
- 6.6 Notwithstanding any other provision of this By-law, the Commissioner may require any applicant to enter into an Agreement with the City which shall be registered on Title to the Lands.
- 6.7 Every person who performs a site alteration with a valid permit shall notify the permit issuer within forty-eight (48) hours prior to commencing any work.
- 6.8 Every Owner shall keep and maintain the records described in 6.9 in a good and businesslike manner.
- 6.9 Every Owner shall make the following records available for inspection upon the request of an Officer:
- (1) The full and complete legal name and business name, if different from the legal name, of each hauler that attends the Owner's or Permit Holder's Site;
  - (2) The commercial vehicle registration number of each hauler;
  - (3) The motor vehicle permit number of the motor vehicles owned and operated by each hauler;

- (4) The date and time of each delivery of Fill;
- (5) The point of origin of each delivery of Fill;
- (6) The volume of each delivery of Fill; and,
- (7) The content of material of each delivery of Fill.

6.10 Every Person shall comply with an order issued under this By-law.

6.11 Every Person who has dumped or placed a Fill or caused a Fill to be dumped or placed on a Site contrary to this By-law or not in conformity with a Permit is responsible for the removal of such Fill.

## **7 Prohibitions**

7.1 No Person shall cause, permit, or perform a Site Alteration except in conformity with the requirements of Ontario Regulation 406/19 and Ontario Regulation 153/04.

7.2 No Person shall cause, permit, or perform a Site Alteration on any lands except in conformity with the City's Official Plan, policies, by-laws, and any applicable Provincial Plans and Statements.

7.3 No Person shall cause, permit, or perform a Site Alteration except in conformity with this By-law.

7.4 No Person shall cause, permit, or perform a Site Alteration on any lands unless it is done at the request of or with the consent of the Owner of the Land where the Site Alteration is to occur.

7.5 No person shall cause, permit, or perform a Site Alteration on City-owned lands.

7.6 No Person shall operate a Commercial Fill Operation within the City, except where exempt under Section 4.

7.7 No Person shall cause, permit, or perform a Site Alteration within the City except in accordance with a Permit having been issued under this By-law.

7.8 No Person shall cause, permit, or perform a Site Alteration except in conformity with the terms and conditions of any Permit issued under this By-law.

7.9 No person shall cause, permit, or perform a Large Scale Site Alteration within the City except in accordance with the terms and conditions of a Large Scale Site Alteration Permit and Agreement having been issued under this By-law.

7.10 No person shall cause, permit, or perform a Site Alteration where the fill is placed, dumped, or used that contains trash, rubbish, glass, contaminants, organic materials, or liquid or toxic chemicals.

7.11 No person shall cause, permit, or perform a Site Alteration unless the drainage system for the lands is provided in accordance with the Corporation's By-laws and

the Commissioner is satisfied that provision has been made for surface and stormwater drainage where such drainage is not provided by natural gradients or a swale.

- 7.12 No Person shall authorize the transport of Fill in a heavy truck on a highway where a By-law prohibits the movement, driving, or operation of a heavy truck on a highway, or portion thereof, unless otherwise permitted under the Traffic By-law 93-93, as amended, or any successor By-law.
- 7.13 Where Fill is transported over a highway or portion thereof that does not permit the movement, driving, or operation of a heavy truck, the Permit Holder shall be responsible for any damage occurring to that highway as a result of the transportation of the Soil.
- 7.14 Every Person in the execution of an authorized Site Alteration shall take necessary and adequate measures to prevent the depositing of dust, dirt, mud, or debris onto a highway.
- (1) Where dust, dirt, mud, or debris is deposited onto a highway, the Owner, Permit Holder, or Project Leader shall clear the highway of all dust, dirt, mud, or debris.
- 7.15 No Person shall cause, permit, or perform a Site Alteration:
- (1) Anytime between the hours of seven o'clock in the afternoon (7:00 pm) and seven o'clock in the forenoon (7:00 am) the next day;
- (2) Any time before nine o'clock in the forenoon (9:00 am) on Saturdays, Sundays, and Statutory Holidays;
- (3) During any period in which a wind warning for the area has been issued by Environment Canada;
- (4) During any period in which a smog advisory for the area has been issued by the Ontario Ministry of the Environment, conservation, and Parks;
- (5) During any weather conditions where the ability to mitigate Site Alteration activity impacts is severely compromised (e.g., heavy rain, thick fog, etc.); and
- (6) During any situation where Site Alteration activities would adversely impact adjacent landowners including but not limited to:
- a) Brush fires;
- b) Floods; and
- c) Unsuitable road conditions.
- 7.16 No Person shall undertake a Site Alteration which may result in an adverse effect, including:
- (1) Adverse erosion and environmental impacts on and off-site;

- (2) Blockage of a Swale, drainage channel, ditch, or watercourse;
- (3) Siltation in a watercourse, wetland, or storm sewer;
- (4) Transportation of silt to adjacent, neighbouring, or downstream properties;
- (5) Pollution of a watercourse;
- (6) Flooding or Ponding on adjacent lands;
- (7) Impacting Drainage on another property;
- (8) Flooding or Ponding caused by a watercourse overflowing its banks;
- (9) Hindering the orderly development of any lands;
- (10) Detrimental effect on the quality and quantity of water in a well;
- (11) Detrimental effect on any trees of a caliper of 75mm Diameter at breast height (dbh) or more located on the lands;
- (12) Detrimental effect on matters of inherent biological sensitivity such as, but not limited to aquifer recharge, Soil permeability, water quality, and wildlife habitat;
- (13) Unauthorized injury or destruction of a tree which is subject to tree protection measures unless specifically authorized;
- (14) A loss or detrimental effect on the natural environment, including but not restricted to lands designated as environmentally significant, however, expressed in Official Plans or Zoning By-laws, including designations of areas as environmentally sensitive, environmental protection, as being of environmental concern and as being ecologically significant;
- (15) Adversely affects the quality or quantity of water in a well, pond, or watering hole intended for use as a source of water for agriculture or human consumption;
- (16) A detrimental effect on the growth and or harvest of fruit, vegetables or crops, landscaping, and gardens;
- (17) A detrimental effect on the visual amenities of the land such that it constitutes an unreasonable interference with the enjoyment of property;
- (18) A detrimental effect on areas of archaeological significance; or
- (19) Contamination of or the degradation of the environmental quality of land.

## **8 Prohibited Areas**

- 8.1 No Person shall cause, permit, or perform a Site Alteration or Large Scale Site Alteration in a Prohibited Area.
- 8.2 Notwithstanding Section 8.1, a Site Alteration, including a Large Scale Site Alteration, may be permitted in a Prohibited Area if:



- (1) The Site Alteration is authorized by a Building Permit issued by the City or any other Development Agreement with the City;
- (2) The Site Alteration is exempted by Section 4 of this By-law;
- (3) The Site Alteration is in accordance with provincial and federal requirements;
- (4) The Site Alteration is a provincial or federal work or undertaking where the Commissioner determines that the core of the power under which it is established would be seriously and significantly impaired by the prohibition; or,
- (5) The Site Alteration is otherwise explicitly permitted and there are no Negative Impacts on the natural features and/or area or their ecological functions.

## **9 Potential Contamination**

- 9.1 If, at any time, any Person performing Site Alteration, or an employee, agent, or contractor of a Person performing Site Alteration makes an observation of the Site or any Fill being excavated, moved, transported, or deposited on the Site, including any visual or olfactory observation, that the Fill may be affected by Contaminants they shall:
- (1) Immediately cease the Site Alteration; and,
  - (2) Immediately notify the Commissioner.
- 9.2 Where Fill may be affected by Contaminants, the permit holder shall immediately remove and remediate the potentially contaminated Fill to the satisfaction of the Commissioner.
- 9.3 No Person shall resume a Site Alteration until authorized by the Commissioner.

## **PART 4 PERMIT ADMINISTRATION**

### **10 Small Scale Site Alteration Permit**

- 10.1 Any Person performing a Small Scale Site Alteration having a total cumulative volume of less than one thousand cubic metres (1,000 m<sup>3</sup>) on one hectare (1ha) or less in a 12-month period shall obtain a Small Scale Site Alteration permit prior to commencing work.
- 10.2 The maximum volume calculation excludes any Site Alteration conducted under the approval of any other legal instrument of the City such as a Building Permit; and,
- 10.3 Details on the application requirements for the Small Scale Site Alteration Permit are provided in Schedule 2 of this By-law.

## **11 Large Scale Site Alteration Permit**

- 11.1 Any Person performing a Large Scale Site Alteration having a total cumulative volume of more than one thousand cubic metres (1000 m<sup>3</sup>) or more within a 12-month period, or where there is a significant change in elevation and/or grade, shall obtain a Large Scale Site Alteration permit prior to commencing work.
- 11.2 A Large Scale Site Alteration is prohibited without the prior approval of the City Council.
- 11.3 Details on the application requirements for the Large Scale Site Alteration Permit are provided in Part 5 and Schedule 4 of this By-law.

## **12 Application Requirements**

- 12.1 An application to the Commissioner for the issuance, renewal, amendment, or revocation of a Permit shall be made in a form and a manner approved by the Commissioner, containing all requirements set out in Schedule 2 to this By-law and any other information that is required by the Commissioner.
- 12.2 An application for a permit shall be deemed incomplete, and no permit shall be issued if:
- (1) The application has not been completed in full;
  - (2) The application is missing any such requirements listed in this By-law, or Schedules hereto; or,
  - (3) The application or renewal fee in Schedule 1 has not been paid.

## **13 Permit Conditions**

- 13.1 Following receipt of an application, the Commissioner may issue a permit where the Commissioner is satisfied that the applicant has complied or will comply with the required terms and conditions found in Schedule 3 to this By-law.
- 13.2 The Commissioner may, at their sole and absolute discretion, require that, as a condition of the issuance of a permit, the registered owner of the land and any other persons deemed appropriate, enter into an agreement respecting the work contemplated by the permit containing such terms and conditions as the Commissioner considers appropriate.
- 13.3 Notwithstanding any other provisions of this By-law, the Commissioner may at their sole discretion, waive certain requirements of Section 12 and Schedule 3 after taking into consideration the proposed works and the anticipated impacts to the Site, adjacent properties, and the surrounding environment.
- 13.4 Notwithstanding any other provisions of this By-law, the Commissioner may at their sole discretion, require one or more of the provisions as set out in Part 5 and

Schedule 4 be complied with for any Permit being considered or issued by the City, after taking into consideration the proposed works and the anticipated impacts to the Site, adjacent properties and the surrounding environment.

- 13.5 The Commissioner may attach such other conditions to a Permit that, in the opinion of the Commissioner, are reasonably required to protect the economic, social, and environmental well-being of the City and the health, safety, and well-being of Persons as a result of anticipated impacts of the Site Alteration.

#### **14 Permit Issuance**

14.1 Notwithstanding any other provisions of this By-law, a Permit may be issued where the Commissioner is satisfied that:

- (1) The proposed site alteration does not contravene this By-law;
- (2) The primary use of the Site is not for the depositing of Fill on the Site;
- (3) The proposed Site Alteration is necessary for the purpose identified in the application;
- (4) All other Permits, application material, background studies, agreements, documents, and reports have been received, reviewed, and approved to the satisfaction of the Commissioner;
- (5) If required by Section 11 of this By-law, the applicant has entered into the agreement referred to in Part 5 and Schedule 4;
- (6) In addition to compliance with all other requirements, the intended use for the filled areas, where applicable, is a permitted use under the City's Official Plan, the City's Zoning By-law, Conservation Plan as applicable;
- (7) All applicable agencies and authorities have been notified and have provided comments, to the satisfaction of the Commissioner;
- (8) All applicable fees and expenses for services described in Schedule 4 have been satisfied by the Owner;
- (9) The proposed final elevations and resulting Drainage pattern, the design of any Retaining Wall, the type of Fill to be used, and the method of Placing or Dumping of Fill, are all in accordance with prevailing City of Brampton design standards and proper engineering practice;
- (10) The height of any Retaining Wall to be constructed shall not exceed 1 metre;
- (11) The design and installation of the Retaining Wall which exceeds 1 metre in height has been certified by an engineer;
- (12) The main haulage routes and proposed truck traffic to and from the Site do not pose detrimental effects to the immediate area or nearby communities;

- (13) There is no detrimental effect on any healthy 75 mm caliper or larger trees located on the lands; and,
- (14) Any other matters that the Commissioner considers relevant.

## **15 Undertaking Work**

15.1 Every Person who undertakes a Site Alteration that involves placing or Dumping Fill, shall:

- (1) Provide a Retaining Wall which does not encroach upon abutting lands, either above or below the Existing Grade, such Retaining Wall is to be constructed to the satisfaction of the Commissioner. The Commissioner may require that a Retaining Wall be constructed where:
  - a) Erosion of Fill onto abutting lands may occur; or
  - b) The Finished Grade of the lands at the property line is higher than that of the Existing Grade of the abutting lands;
- (2) Ensure that the Finished Grade surface is protected by sod, turf, seeding for grass, greenery, asphalt, concrete, or other means, either singly or in combination;
- (3) Ensure that Fill shall not be placed around the perimeter of any existing building to an elevation higher than 150 millimetres below the ground floor, level of such building unless such building and its foundation walls are raised in a manner satisfactory to the Commissioner;
- (4) Ensure that no trench in which piping is laid forming part of the Drainage system shall be covered and backfilled until the work has been inspected and approved by the Commissioner;
- (5) Provide such protection for trees as may be required pursuant to the City of Brampton's tree By-law;
- (6) Provide the Site erosion control measures set out in Schedule 5 to this bylaw; and
- (7) Confirm that the property where the proposed Site Alteration is to take place is not within any of the Prohibited Areas.

15.2 Upon a request from the City or its agents, the Owner shall make the Site available for inspection.

## **16 Appeals**

16.1 An applicant for a Permit pursuant to this By-law may appeal to the Brampton Appeal Tribunal (the "Tribunal"):

- (1) Where the applicant objects to a condition in the Permit, within thirty (30) days from the issuance of a Permit; or
- (2) Where the City refuses to or does not issue a Permit within forty-five (45) days from the date the application is received, within thirty (30) days from the expiration of the forty-five (45) days.

16.2 The Tribunal may make an order:

- (1) Upholding the decision of the City;
- (2) Requiring the City to vary any condition in a Permit; or
- (3) Requiring the City to issue a Permit on such conditions as the Tribunal considers appropriate.

16.3 The decision of the Tribunal is final.

## **17 Expiry**

17.1 A Site Alteration Permit expires on the date set out in the Permit.

## **18 Renewal**

18.1 A Permit that has not expired may be renewed by the Commissioner within three months before the date of expiry upon the submission of a written request to the Commissioner accompanied by a payment of one-half of the original Permit Application Fee, provided that the proposed work which was the subject of the Permit has not been revised.

18.2 A Permit that has been renewed in accordance with this section shall thereafter be treated as a new Permit.

18.3 A Large Scale Site Alteration permit shall not again be renewed unless specifically stated in a Site Alteration Agreement.

## **19 Revocation**

19.1 The Commissioner may revoke the Permit for the following reasons:

- (1) It was obtained on mistaken, false, or incorrect information;
- (2) It was issued in error;
- (3) The Owner or Permit holder requests in writing that it be revoked;
- (4) The terms of a Site Alteration Agreement and/or Permit under this By-law have not been complied with;
- (5) Work authorized under the Permit has not commenced prior to its expiry date;

- (6) The Owner has failed to comply with the provisions of this By-law; or
- (7) The land has been transferred and the new Owner has not complied with the requirements under this section of the By-law.

19.2 Where a Permit has been revoked under Section 18 or for any other reason pursuant to this By-law, the Permit holder shall forthwith cease all work under the revoked Permit and restore the Site to conditions acceptable to the Commissioner.

## **20 Transfer**

20.1 A Permit shall be deemed to be canceled upon the transfer of ownership of the Site as of the date of the transfer unless the new Owner provides a written commitment to comply with all conditions under which the Permit was issued, prior to the transfer of the Site, including compliance with this By-law and Financial Assurance in a form and amount acceptable to the Commissioner, at which time any Financial Assurance previously provided by the original Permit holder pursuant to this By-law.

20.2 A Permit is not transferable to another Site.

## **PART 5 LARGE SCALE SITE ALTERATIONS**

### **21 General**

21.1 Notwithstanding any other provisions of this By-law, the requirements set out in this section shall be in addition to all other requirements and conditions described in this By-law.

21.2 An application for Large Scale Site Alterations shall not be considered for approval until the City Council has considered the application at a public meeting at which the applicant or any interested members of the public will have an opportunity to make representation.

### **22 Public Notice**

22.1 In accordance with the City's Official Plan, a notice of the Public Meeting shall be given to all persons assessed in respect of land to which the proposed Large Scale Site Alteration applies and within 240 metres of the subject property as shown on the last revised assessment roll.

22.2 Notice of any Public Meeting will be given at least 20 days prior to the date of the meeting.

22.3 Notice of the public meeting shall be provided to property owners and agencies as approved and specified by the Commissioner.

22.4 Notwithstanding Section 22.2, notice periods under this section may be amended by the Commissioner as they consider appropriate.

22.5 The means of notice, may include at least one of the following, at the discretion of the Commissioner:

- (1) News release;
- (2) Notice through local, regional, or provincial news media, such as television, radio, newspapers and magazines;
- (3) Door to door flyers;
- (4) Signs;
- (5) Mailings to members of the public;
- (6) Mailings to adjacent property owners;
- (7) Actual notice to community leaders and political representatives;
- (8) Actual notice to community organizations, including environmental organizations; and/or
- (9) Any other means of notice that would facilitate more informed public participation in decision-making on the proposal.

22.6 Notice, as described above, shall include the following:

- (1) A brief description of the Site Alteration activities;
- (2) A statement when and where members of the public can review written information about the proposed Site Alteration application;
- (3) An invitation to members of the public to submit written comments on the proposed Site Alteration application; and
- (4) An invitation to members of the public to attend a public meeting.

22.7 Following the public meeting, the Owner shall submit a report to the Commissioner for City Council consideration setting out all changes they made in response to any public concerns received during the public consultation period.

## **23 Permit Issuance**

23.1 A Permit for a Large Scale Site Alteration may be issued if, in addition to the requirements in Section 14, the following items have been addressed to the satisfaction of the City Council:

- (1) The effect of the Large Scale Site Alteration on the environment;
- (2) The effect of the Large Scale Site Alteration on nearby communities;
- (3) Any comments provided by adjacent municipalities and agencies in which the Site is located;

- (4) Concerns of the public and the proponent's responses to those concerns;
- (5) Any possible effects on ground and surface water resources;
- (6) Any possible effects of the Large Scale Site Alteration on existing agricultural resources;
- (7) Any planning and land use considerations;
- (8) The main haulage routes and proposed truck traffic to and from the Site;
- (9) The quality and quantity of Fill being proposed;
- (10) The applicant's history of compliance with regards to Fill importation; and
- (11) Any other matters that the City Council considers appropriate.

23.2 The City does not warrant in any way that approval of any Project is guaranteed, or that there is necessarily any entitlement whatsoever to obtain a Permit under this By-law.

23.3 Written reasons shall be provided by the Commissioner and/or City Council if a Permit is refused.

## **24 Site Alteration Agreement**

24.1 For all Large Scale Alterations, the Owner shall, in addition to providing a complete permit application as detailed in this By-law, enter into a Site Alteration Agreement with the City which shall be Registered on Title to the land on which the Site Alteration is to be performed.

24.2 A Site Alteration Agreement may contain any of the requirements found in Schedule 4 at the discretion of the Commissioner and approved by the City Council.

24.3 Notwithstanding any other provisions of this By-law, the Commissioner, with the consent of the City Council, may waive certain requirements of the Site Alteration Agreement as described in this section and in Schedule 4, or require that further studies be completed or further requirements be added to the Agreement after taking into consideration the proposed works, the anticipated impacts to the Site, adjacent properties and the surrounding environment.

## **PART 6 ENFORCEMENT**

### **25 Inspection**

25.1 No Person shall hinder or obstruct or attempt to hinder or obstruct any Person who is exercising a power or performing a duty under this By-law.

25.2 An Officer may at any reasonable time, enter and inspect any land for the purpose of carrying out an inspection to determine whether or not the following are being complied with:



- (1) This By-law;
- (2) A direction or order of the municipality;
- (3) A condition of a permit or agreement issued under this By-law; or,
- (4) An order made under section 431 of the *Municipal Act, 2001*.

25.3 For the purposes of an inspection under Section 24.2, the Officer may:

- (1) Require the production for inspection of documents or things relevant to the Inspection;
- (2) Inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- (3) Require information from any Person concerning a matter related to the Inspection; and
- (4) 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.

25.4 A receipt shall be provided for any document or thing removed under 8.5 and the document or thing shall be promptly returned after the copies or extracts are made.

25.5 A sample taken under Section 24.3 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.

25.6 If a sample is taken under Section 24.3 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.

## **26 Orders**

26.1 Where an Officer is satisfied that a contravention of the By-law has occurred, the officer 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 which the contravention occurred to discontinue the contravening activity.

26.2 Where an Officer is satisfied that a contravention of the By-law has occurred, the officer 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 which the contravention occurred to do work to correct the contravention.

26.3 Orders issued pursuant to subsection 25.1 and 25.2 shall set out in writing:

- (1) The Municipal address or legal description of the land;
- (2) The reasonable particulars of the contravention(s);

- (3) The date by which the order must be complied with; and,
- (4) If applicable, the work to be completed.

26.4 An order issued pursuant to Section 25.2 of this By-law may require a Person to undertake all necessary work, including:

- (1) Cease all work in respect of the Site Alteration;
- (2) Remove the Fill;
- (3) Fill in any excavations or ponds; and/or
- (4) Complete all the work necessary to:
  - a) Eliminate any hazard or potential hazard resulting from the alteration of the Grade or the Placing, Dumping, or removal of Fill and restore the land to a condition of safety and/or its original environmental condition, to the satisfaction of the Commissioner;
  - b) Restore the land to its former condition prior to the alteration of the Grade of the land or to the Placing, Dumping, cutting, or removal of the Fill on the land or other Site Alteration to the satisfaction of the Commissioner;
  - c) Undertake such further investigations as required by the Commissioner to identify the extent of any breach of this By-law and do work to correct the contravention, as deemed appropriate by the Commissioner.

26.5 An order under section 25.2 may require work to be done even though the facts which constitute the contravention of the By-law were present before the By-law making them a contravention came into force.

26.6 An order issued under this By-law may be served personally or served by email or mail to the last known email or mailing address of the Person and such other persons affected by it as determined by the Inspector.

26.7 A copy of the order may be posted on any Site or property to which the contravention applies.

26.8 If an order is served by registered mail, the service shall be deemed to have been made five (5) days after mailing.

## **27 Remedial Work**

27.1 Where a Person has dumped or placed Fill or caused Fill to be dumped or placed on lands contrary to this By-law or not in conformity with a Permit being issued, that Person shall remove such Fill.

- 27.2 Employees or agents of the City may enter the Site at any reasonable time without a warrant in order to affect the required work where an Order to do so made under this By-law has not been complied with.
- 27.3 The costs incurred by the City in so doing shall be paid by the Owner of the land and may be recovered by the City by adding the costs to the tax roll and collecting them in the same manner as property taxes; or drawing on the financial assurance provided.
- 27.4 Where archaeological resources have been discovered or identified at a Site, the Commissioner may make an order directing the Owner if he or she reasonably believes that the requirements specified in the order are necessary and advisable so as to protect the archaeological resources.
- 27.5 If a Person is convicted of an offence for contravening an order to stop the injuring or destruction of trees, the court in which the conviction has been entered, or any court of competent jurisdiction thereafter, may order the Person to rehabilitate the land or plant or replant trees in such manner and within such period as the court considers appropriate, including any silvicultural treatment necessary to re-establish the trees.
- 27.6 In addition to any fine or any other penalty, any Person who is convicted of contravening a provision of this By-law, the terms and conditions of a Permit issued pursuant to this By-law, or an order issued pursuant to this By-law and Section 444(1) or 445(1) of the *Municipal Act, 2001*, may be ordered by a court of competent jurisdiction at the expense of the Person to:
- (1) Rehabilitate the land;
  - (2) Remove the Fill placed or dumped;
  - (3) Restore the Grade of the land to its original condition; and
  - (4) Replace damaged trees, shrubs, etc.

## **PART 6 PENALTIES**

### **28 Offences**

- 28.1 Every Person who contravenes a provision of this By-law and every director or officer of a corporation who concurs in such contravention by the corporation is guilty of an offence and is liable to a fine, and such other penalties, as provided for in the *Provincial Offences Act*, R.S.O., 1990, c. P.33, and the *Municipal Act, 2001*, as both may be amended from time to time.
- 28.2 Every person who hinders or obstructs, or attempts to hinder or obstruct, any person who is exercising a power or performing a duty under this By-law is guilty of an offence.

28.3 Every person who neglects or refuses to produce any information or thing or to provide any information required by any person acting pursuant to a court order under a court order is guilty of an offence.

28.4 Every person who contravenes an order made under this By-law is guilty of an offence.

## **29 Administrative Penalties**

29.1 An Officer may require a Person, subject to the conditions set out within the Administrative Penalties (Non-Parking) By-law 218-2019, as amended, or successor By-law, to pay an administrative penalty if the Inspector is satisfied that the Person has failed to comply with:

- (1) A provision within this By-law;
- (2) The terms or conditions of a Permit issued under this By-law;
- (3) An Agreement made under this By-law; or
- (4) An Order issued under this By-law.

29.2 Every Person who is served a penalty Notice pursuant to section 28.1 is liable to pay to the City of Brampton an administrative penalty in the amount set out in the Administrative Penalties (Non-Parking) By-law 218-2019, as amended.

## **30 Fines**

30.1 Every Person who is guilty of an offence is liable to a fine, and such other penalties, as provided for in the Provincial Offences Act, as amended, and the Municipal Act, as amended.

30.2 Every Person charged with an offence under this By-law by the laying of an information under Part III of the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended, upon conviction, is liable pursuant to the Municipal Act, 2001, to the following fines:

- (1) To a minimum fine of \$500 and a maximum fine of \$100,000;
- (2) In the case of a continuing offence, for each day or part of a day that the offence continues, a minimum fine of \$500 and a maximum fine not exceeding \$10,000, and the total daily fines are not limited to \$100,000; and,
- (3) In the case of a multiple offence, for each offence included in the multiple offence, a minimum fine of \$500, and a maximum fine not exceeding \$10,000, and the total of all fines for each included offence is not limited to \$100,000.

- 30.3 Where a Person is convicted of an offence under this By-law, in addition to any other remedy or any penalty imposed, the court in which the conviction has been entered, and any court of competent jurisdiction, may make an Order prohibiting the continuation or repetition of the offence by the Person convicted.
- 30.4 An offence under this By-law may constitute a continuing offence as set out in the Municipal Act, 2001, and for greater clarity includes:
- (1) Where Fill has been placed at a Site in contravention of any provision of this By-law, and the contravention has not been corrected, the contravention of the provision shall be deemed to be a continuing offence for each day or part of a day that the contravention remains uncorrected.
  - (2) Where an Order has been issued under this By-law, and the Order has not been complied with, the contravention of the Order shall be deemed to be a continuing offence for each day or part of a day that the Order is not complied with.
- 30.5 For the purposes of this By-law, a “multiple offence” means an offence in respect of two or more acts or omissions each of which separately constitutes an offence and is a contravention of the same provision of this By-law.
- 30.6 A special fine may be imposed in addition to a fine imposed under Section 29.2 in circumstances where there is economic advantage or gain from the contravention of this By-law and the maximum amount of the special fine may exceed \$100,000.
- 30.7 A special fine may include but is not limited to:
- (1) \$10.00 for each cubic metre of Fill deposited in excess of the amount allowed in a Permit, or deposited beyond the geographic limits of the Permit, or deposited without first having obtained the required Permit;
  - (2) Where the Fill is found to contain Contaminant levels that exceed Table 2 Standards from the Soil and Groundwater and Sediment Standards for Use Under Part XV.1 of the Environmental Protection Act as prescribed in this By-law, greater fines of not less than \$100 per cubic metre may be imposed.

## **PART 7 FEES**

### **31 Permit Fees**

- 31.1 The fee for a Permit application and renewal shall be in accordance with Schedule 1 of this By-law, which may be amended from time to time.

## **32 Tipping Fees**

32.1 Tipping fees as identified in the User Fee By-law, shall be provided by the Owner to the City at intervals set out by the City and shall be used for the purposes set out in Schedule 4 Section 1.7(6), as applicable.

## **33 Security Deposit**

33.1 The Owner may be required to provide a security deposit, which shall act as Financial Assurance, to be used to remedy any breach of the By-law, Permit, or Site Alteration Agreement to be drawn on by the City at its sole discretion.

33.2 Without limiting the generality of the foregoing, the Financial Assurance may be used to but is not limited to:

- (1) return the land to a condition satisfactory to the Commissioner;
- (2) pay any outstanding amounts owed by the Owner related to the Permit;
- (3) cover 100% of the estimated cost to maintain Site control measures and stabilize the Site;
- (4) undertake other works as identified by the Commissioner in Section 33.1 & 27.

33.3 The Financial Assurance shall be in an amount determined by the Commissioner.

33.4 The Financial Assurance must be in the form of an irrevocable Letter of Credit in a form acceptable to the City Treasurer, a certified cheque, or cash.

33.5 A Letter of Credit or other securities must remain in effect for the full life of the Permit.

33.6 Any Letter of Credit and its subsequent renewal forms shall contain a clause stating that 60 days written notice must be provided to the City prior to its expiry or cancellation.

33.7 The Financial Assurance must be replenished in full by the Permit Holder within 30 days whenever it is drawn upon.

33.8 It is the responsibility of the Permit holder to obtain the written approval of the Commissioner that the Site has been adequately reinstated and stabilized in accordance with this By-law and the plans and the Permit and to request that the City carry out a final inspection of the Site and obtain the written approval of the Commissioner that this By-law and terms and conditions of the Permit have been complied with by the Permit holder.

33.9 When the provisions in section 33.8 have been fully complied with, to the satisfaction of the Commissioner, the Financial Assurance shall be released.

33.10 If the Permit expires or is revoked, the securities are to remain in effect until the Site is restored to a condition acceptable to the Commissioner and within a timeframe approved by the Commissioner.

33.11 Notwithstanding any other provision in this part, the Owner may be required to maintain the Financial Assurance until all Site monitoring, applicable sampling, and remediation is completed, as required in the Permit, to the satisfaction of the Commissioner.

## **PART 8 SEVERABILITY**

34 In the event that any provision or part of a provision in this By-law is found to be invalid or unenforceable for any reason whatsoever, then the particular provision or part thereof shall be deemed to be severed from the remainder of the By-law and all other provisions or parts thereof shall remain in full force and effect and shall be valid and enforceable to the fullest extent permitted by law.

## **PART 9 CONFLICT**

35 Where there is a conflict between a provision of this By-law and a provision in any other By-law, the provision that preserves cultural heritage resources shall prevail, subject to the greater paramountcy of provisions that protect the health or safety of persons.

## **PART 10 EFFECTIVE DATES AND REPEAL OF PREDECESSOR BY-LAWS**

### **36 Transition**

36.1 Notwithstanding the repeal of By-law 143-95 and 30-92 and all amendments thereto, those by-laws shall continue to apply to acts, omissions, or occurrences and to any offences that took place prior to the enactment of this By-law.

36.2 Any Permit valid and binding at the date of enactment of this By-law shall not require further authorization pursuant to this By-law until the Permit expires or is otherwise terminated.

36.3 The Commissioner shall not permit any renewals of Permits issued under the predecessor By-law.

36.4 Any charges laid under a previously repealed by-law shall remain valid.

### **37 Repeal**

37.1 By-law 143-95 as amended, and By-law 30-92 as amended are hereby repealed.

### **38 Effective Dates**

38.1 This By-law, with the exception of Part 5, shall come into full effect and force on the 1<sup>st</sup> day of July 2024.

38.2 Part 5 of this By-law shall come into full effect and force on November 1, 2024.

ENACTED and PASSED this 26th day of June 2024.

Approved as to  
form.  
2024/04/22  
Colleen Grant

\_\_\_\_\_  
Patrick Brown, Mayor

Approved as to  
content.  
2024/04/22  
Michael Heralall

\_\_\_\_\_  
Genevieve Scharback, City Clerk

DRAFT



**SCHEDULE 1 TO SITE ALTERATION BY-LAW | FEES**

Type of Site Alteration	Permit Fee	Renewal	Refundable Securities	Tipping Fees
Small Scale Site Alteration Permit	\$450	\$225	N/A	N/A
Large Scale Site Alteration Permit (Other than subdivisions and site plans)	\$1,800	\$900	Taken under the Site Alteration agreement process	\$1 per m <sup>3</sup>
Site Alteration Permit – Subdivisions	\$1,800	N/A	Taken under the Site Plan or subdivision process	N/A
Site Alteration Permit – Site Plans	\$750	N/A	Taken under the Site Plan or subdivision process	N/A

## **SCHEDULE 2 TO SITE ALTERATION BY-LAW | PERMIT APPLICATION**

### **1 General**

- 1.1 The complete application can be found at [www.brampton.ca](http://www.brampton.ca) (search for Site Alteration Permit).
- 1.2 An applicant shall complete all of the requirements detailed in Section 12, in addition to any requirements in this Schedule, which may be amended from time to time.
- 1.3 Requirements found in this Schedule may vary depending on the scope and scale of the work proposed.
- 1.4 City staff shall be consulted before applying if the scope of work involves walkways and/or patio slabs of residential properties.
- 1.5 The Commissioner may, prior to the issuance of a Permit, require the applicant to enter into an agreement which may be registered on title to the subject lands containing such requirements as the Commissioner considers necessary to ensure that the Placing or Dumping of Fill is done in accordance with prevailing City of Brampton design standards and proper engineering principles.
- 1.6 Such agreement may contain a provision that the applicant post with the City security in an amount determined by the Commissioner to ensure the performance of the applicant's obligations under the agreement.
- 1.7 All applicants shall submit:
  - (1) A complete application in the form prescribed by the Commissioner; and
  - (2) The applicable Permit fee is calculated in accordance with Schedule 1 to this By-law.

### **2 Erosion and Sediment Control Plan**

- 2.1 The Commissioner may require the applicant to submit an Erosion and Sediment Control Plan, which shall include:
  - (1) A key map showing the location of each lot, including the nearest major intersection and north arrow;
  - (2) The lot boundaries and number of hectares of each lot;
  - (3) The location and use of the buildings and other structures adjacent to each lot;
  - (4) The location, dimensions, and use of the buildings and other structures existing or proposed to be erected on each lot;

- (5) The location of lakes, streams, wetlands, channels, ditches, other watercourses, and other bodies of water on and within a minimum of thirty (30) metres beyond each lot boundary;
- (6) The Regional Storm Flood Plain and Conservation Authority Fill Regulation lines;
- (7) The location of the predominant Soil types;
- (8) All existing buildings, the species and size in caliper of all trees, the location of all shrubs and driveways on each lot, and all easements and rights-of-way over, under, across, or through each lot;
- (9) The location and dimensions of any existing and proposed stormwater drainage systems and natural drainage patterns on and within a minimum of thirty (30) metres beyond each lot boundary;
- (10) The location and dimensions of utilities, structures, roads, highways, and paving located within a minimum of thirty (30) metres beyond each lot boundary;
- (11) The existing lot topography at a contour interval not to exceed one-half of one metre and to extend a minimum of thirty (30) metres beyond each lot boundary;
- (12) Cross-section of the existing and proposed final elevations of each lot;
- (13) The location and dimensions of all proposed land disturbing activities, including construction access road;
- (14) The location and dimensions of all temporary Soil or dirt stockpiles;
- (15) The location, dimensions, design details, and design calculations of all construction erosion and sediment control (ESC) measures necessary to meet the requirements of Schedule 5 of this By-law;
- (16) 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 Schedule 5 to this By-law;
- (17) Provisions for the inspection and maintenance of the construction site ESC and dust control measures during construction and after as required;
- (18) The scale, either 1:500 or 1:1000, of the drawing (each drawing and control plan to be in metres);
- (19) Any other necessary information with respect to each lot; and,
- (20) An indication on the drawing of directions of overland flow and overland flow route.

### **3 Fill Importation and Exportation**

3.1 In addition to the above, where fill is imported or exported, the Commissioner may require the applicant to submit:

- (1) Proposed final elevations and Drainage system to be used upon completion of the filling operation;
- (2) A description of the proposed Fill;
- (3) A plan showing the design details to proper scale of any Retaining Wall that may be required and the dimensions of any materials to be used in the construction of such Retaining Wall; and
- (4) Security in a form and amount to be determined by the Commissioner to secure the performance of the work for which the Permit was obtained. The Commissioner may require an Order to agree that the Commissioner may use the security to recover the cost of the City performing any required work which the Order has failed to perform.
- (5) Provide the Municipal address including the property size of the land on which the Fill is to be placed, dumped, or other Site Alteration is to occur;
- (6) Provide the legal description of the land upon which the Fill is to be dumped or placed or other Site Alteration is to occur;
- (7) Provide the Official Plan designation and zoning of the property;
- (8) Provide the name, address, and contact information of the Owner of the land upon which the Fill is to be received and placed or dumped, including written acknowledgment and written acceptance of the Fill material being transported to his/her property;
- (9) Provide the name, address, and contact information of the agent authorized by the Owner of the land upon which the Fill is to be placed, dumped, cut, or removed or other Site Alteration is to occur;
- (10) Provide the name, address, and contact information of the consultant engineers authorized by the Owner of the land upon which the Fill is to be placed, dumped, cut, or removed or other Site Alteration is to occur;
- (11) Provide the name, address, and contact information of the contractor authorized by the Owner of the land upon which the Fill is to be placed, dumped, cut, or removed or other Site Alteration is to occur;
- (12) Provide the applicable fees calculated in accordance with the rates set out in Schedule 1;
- (13) Provide a brief description of the proposed works that have been identified on the Site Plan;
- (14) Provide a work schedule for the proposed Site Alteration works;

- (15) Provide the proposed Grades and Drainage systems upon completion of Site Alteration operations and as shown on the Site Plan;
- (16) Provide an estimated volume of Fill to be imported to achieve the Proposed Grades;
- (17) Provide a brief description of the Fill being placed or dumped;
- (18) Provide all source location(s) of the Fill being placed or dumped including environmental Soil tests, and Soil permeability tests if required by the Commissioner;
- (19) Provide the location, dimensions, details, design calculations, and estimated costs for the supply, installation, and maintenance of all construction site control measures necessary to meet the requirements of this By-law including sediment and erosion control measures as prepared by a Certified Inspector of Erosion and Sediment Control (CIESC) who will oversee the implementation and administration of the Erosion and Sediment Control Plan during construction and after as required;
- (20) Ensure that all dust and mud control measures are implemented and utilized during construction and after as required;
- (21) Ensure that all proposed ground covering to be used upon completion of the Site Alteration operation;
- (22) Provide specific details regarding proposed Haul Routes to and from the Site, including the routes to be used and the times these routes will be used;
- (23) Provide securities to ensure the Owner's obligations according to a Site Alteration Permit shall be in accordance with Schedule 1 of this By-law;
- (24) Provide any other requirements the Commissioner deems necessary.

#### **4 Qualified Persons**

4.1 In addition to any other requirements, the Commissioner may require the applicant to:

- (1) Retain a Qualified Person to prepare a Site Plan which meets the requirements of Schedule 2;
- (2) Retain an appropriately qualified consultant or Qualified Person, to the reasonable satisfaction of the Commissioner, to undertake any tests or studies that the Commissioner deems necessary to complete any background studies as detailed in Schedule 2;
- (3) Consult with other Persons or bodies about the application and report to the Commissioner on the results of the consultation; and
- (4) Provide confirmation that the other Persons or bodies consulted did not raise any objections to the application or that these objections have been resolved to the satisfaction of the Person or bodies consulted.

- (5) Retain a qualified consultant or Qualified Person to prepare a report or reports, to the reasonable satisfaction of the Commissioner, that demonstrate how the proposed operations are in compliance with the Ontario Regulation (O. Reg. 406/19) and the Ministry of the Environment Conservation and Parks document entitled, "Rules for Soil Management and Excess Soil Quality".

## **5 Site Plan**

5.1 The Site Plan shall be based on an identified legal survey of the Site if required by the Commissioner. The Site Plan shall be prepared by a Qualified Person and shall include the following:

- (1) A key plan showing the location of the Site and a minimum of 30 meters beyond the Site;
- (2) The scale of the drawing in meters, ranging from 1:500 to 1:1000 as deemed appropriate by the Commissioner;
- (3) Property lines of the lands where the proposed Site Alterations are to be undertaken, including dimensions and the number of hectares of the Site;
- (4) The location, dimensions, elevations, and use of buildings and other structures existing or proposed to be erected on the Site;
- (5) 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;
- (6) Detailed locations, including dimensions, identifying the proposed locations for the placement of Fill on the lands;
- (7) A scale drawing of any proposed Retaining Wall including a description, dimensions, and materials to be used in the construction of such Retaining Wall, that may be required by the Commissioner if:
- (8) Erosion on adjacent lands may occur as a result of the work which is the subject of the Permit; and/or
- (9) The Finished Grade of the Site is of a higher elevation at a property line than that of the Existing Grade at the same property line of adjacent lands;
- (10) For a calculated Site Alteration volume of less than 1000 m<sup>3</sup>, existing spot elevations on a 3 m grid across the property and 15 m beyond the property lines to clearly show the existing topography of the property and the adjacent lands;
- (11) For a calculated Site Alteration volume of greater than 1000 m<sup>3</sup>, 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 lands and 30 m beyond;

- (12) The property lines to clearly show the detailed existing topography of the property and the adjacent lands;
- (13) The location of Environmentally Sensitive Areas, lakes, streams, channels, ditches, Swales, water courses, and other bodies of water on the Site and 30 m beyond the property lines;
- (14) The location, dimensions, and invert elevations of any existing and proposed stormwater Drainage systems, sewers, Drainage pipes, culverts, inlet chambers, Drainage tiles, septic beds, and natural Drainage patterns on and 30 m beyond the property lines;
- (15) The location and dimensions of utilities, roads, and highways;
- (16) The location, diameter, species, and drip line of all trees with a caliper measuring 75 mm or greater diameter at breast height (dbh), all other vegetation, and field crops are to be identified in masses showing the outline of the canopy or vegetation limit created by the massing;
- (17) All existing vegetation 3 m beyond the property lines including Municipal trees, individually locating all trees with a caliper measuring 75 mm or greater at dbh. All other vegetation to be identified in masses showing the outline of canopy or vegetation limit created by the massing;
- (18) The location and description of the predominant Soil types;
- (19) The location and dimensions, of all proposed temporary Soil or Fill stockpiles;
- (20) The location, dimensions, height, and slopes of any proposed berms;
- (21) The proposed final elevations of the Site Alteration works;
- (22) The location and dimensions of all proposed land disturbances;
- (23) The location of all wetlands, floodplains, shoreline, top-of-bank features, and approximate regulation limits of the applicable Conservation Authority;
- (24) Detailed erosion control plans will be reviewed/approved as part of subsequent approvals;
- (25) The location of Provincially Significant Wetlands within 120 m of the property; and
- (26) Any additional information deemed necessary by the Commissioner.

## **6 Background Studies**

- 6.1 The Commissioner may require the applicant to undertake and submit any tests or studies relating to:
  - (1) Confirmation of the surrender of the license if the Site has been previously licensed by the Ministry of Natural Resources;

- (2) Confirmation from the Region or Province that the proposed traffic and road access components of the Site Alteration operation meet their requirements and provide any Site-specific conditions imposed by the Region, County, or Province;
- (3) Confirmation from the applicable regulating agency that the proposed Site Alteration meets all tree protection policies or By-laws that prohibit or regulate the destruction or injuring of trees and provide any Site-specific conditions imposed by the applicable authority;
- (4) Confirmation of on-site presence or absence of any endangered, threatened species or Species of Special Concern as designated and defined in the Endangered Species Act;
- (5) An Archaeological Assessment where the Site Alteration has the potential to disturb archaeological resources;
- (6) All assessments of Soil quality and groundwater quality at the Receiving Site in order to establish the current, ambient Site condition;
- (7) Any relevant landform conservation plan prepared to the reasonable satisfaction of the Commissioner; and
- (8) Any other studies or reports the Commissioner deems necessary.

## **7 Additional Requirements for Excess Soil**

7.1 Where Excess Soil (as defined by Ontario Regulation (O. Reg.) 406/19), will be generated from a Project Area and is anticipated to be more than 100 cubic metres, as part of any Site Alteration Permit application, the applicant shall be required to submit an Excess Soil Management Plan (the Plan) prepared by a Qualified Person ("QP"), as defined under the O. Reg. 153/04.

- (1) This Plan shall be in accordance with O. Reg. 406/19 and cover all aspects of Soil storage and management as prescribed by the Rules for Soil Management and Excess Soil Quality document that can be found at [www.ontario.ca](http://www.ontario.ca) (search for Rules for soil management and excess soil quality standards )
- (2) The Plan shall consider the beneficial reuse of Excess Soil on-site or locally to the maximum extent possible;
- (3) The Plan shall identify the applicable planning documents and registration requirements, in compliance with the regulation;
- (4) The Plan shall identify Soil quality characterization requirements for both excess Fill leaving the Site and imported Fill brought to the Site;
- (5) The Plan shall include details about ongoing Site management, movement of Fill, and volumes-based requirements in compliance with the regulation and Soil Rules Document



- (6) A Contingency Plan for managing Soil where there is quantity creep that results in exceeding originally anticipated volumes and
- (7) The Plan shall also specify the quality of any imported Fill material to the Project Area. The Plan shall include details on the required documentation supporting the suitability of the Fill material, in accordance with the Regulation 406/19
- (8) The Plan shall include a qualifying statement from the QP, confirming that the Project Leader or their designated Person shall hold the full responsibility of regulatory compliance under O. Reg. 406/19, for the duration of the Project.

7.2 At Project completion the QP shall issue a Declaration Letter confirming the following:

- (1) Confirm that the Soil activities were completed as per the Soils Management Plan (SMP), without any deviations and final quantities of Excess Soil generated and the disposal details (a Soil Destination Assessment Report can be attached to provide the required details). If any deviations to the SMP were encountered, details on the actions taken must be provided.
- (2) Where imported Fill was brought on the Site, the QP shall confirm the quantity and the quality of the Fill brought on the Site.
- (3) Confirm that all Excess Soil management activities were in compliance with O. Reg. 406/19.

7.3 Where Excess Soil (as defined by Ontario Regulation (O. Reg.) 406/19), will be generated from a Project Area and is anticipated to be less than 100 cubic metres:

- (1) A declaration letter, prepared by a Qualified Person (QP) as defined under the O. Reg. 153/04, shall be submitted confirming excess Fill generated will be 100 cubic metres or less and as such O. Reg. 406/19 requirements are not applicable.

7.4 Where Excess Soil (as defined by Ontario Regulation (O. Reg.) 406/19), will be generated from a Project Area and is anticipated to be more than 100 cubic metres, however, the Project is exempt from the planning, registration, or other requirements of the regulation:

- (1) A declaration letter, prepared by a Qualified Person (QP) as defined under the O. Reg. 153/04, shall be submitted confirming the exemption under which the Project qualifies, supported by an Assessment of Past Uses report, completed within the last 18 months or any other applicable document (if required) to support the exemption.

7.5 Where all Soil, generated from an excavation within the Project Area is anticipated to be reused within the Project Area and will not become Excess Soil (as defined by Ontario Regulation (O. Reg.) 406/19), and if the Project is exempt from the planning, registration, or other requirements of the regulation:

- (1) A declaration letter, prepared by a Qualified Person (QP) as defined under the O. Reg. 153/04, shall be submitted confirming the above.

7.6 Where Fill is being transported to the Site/received by the Site, from any other source Site, the application shall contain:

- (1) The address and legal description of each source Site;
- (2) A statement of the nature of the Project on each source Site that is generating the Fill to be transported to the Site;
- (3) The volume of Fill to be transported to the Site from each source Site;
- (4) The contact details for the Person responsible for the Project on each source Site;
- (5) The assessment of past uses report for each source Site, as applicable;
- (6) A copy of the detailed sampling and analysis plan and Soil characterization report for all Fill excavated from each source Site, as applicable, and confirmation from a Qualified Person retained by the registered Order of the source Site stating that the Fill to be transported to the Site meets the Soil quality applicable to the Site;
- (7) The contact details of a Person from the source Site, who has knowledge of all the source Sites and who is able to provide information with respect to the above;
- (8) A Traffic and Transportation Management Plan - the proposed Haul Routes, daily truck volume, and hours of operation of truck traffic to and from the Site;
- (9) The above reports and details as mentioned in subsections (1) to (6) supra, shall be prepared and submitted by a Qualified Person representing the source Site Owner.

7.7 Where imported Fill is brought on Site, the Soil quality standards shall be the standards set out in Table 1 of the Soil, Ground Water, and Sediment Standards, referenced in O. Reg. 153/04, as applicable to the use of the Site described in the Permit application, unless the applicant submits a Fill Management Plan prepared by a Qualified Person and demonstrates to the satisfaction of the City that a less stringent standard is appropriate.

7.8 A declaration letter prepared by a Qualified Person, confirming the movement of Fill is in compliance with the requirements of O. Reg. 406/19, as amended shall be submitted.

7.9 Where imported Fill is anticipated to be all granular sourced out from Ministry approved pit/quarry, the QP's declaration letter may include details about the

same (as all material from a pit/quarry is exempt from the Excess Soil Reuse Regulation, no Excess Soil/Fill management plan is required).

- 7.10 Once excess Fill has been taken off-site and/or imported Fill is brought/placed on Site, the QP may confirm that the Site work has been/was completed as per the SMP and/or declaration letter issued, along with documents to confirm the quantity and quality of Fill and if there were any deviations, provide details about the same, prior to the permit closure.

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## SCHEDULE 3 TO SITE ALTERATION BY-LAW | PERMIT TERMS AND CONDITIONS

### 1 Terms and Conditions

- 1.1 The Owner may be required to notify the Commissioner of the commencement, the completion, and the various stages of performance of the Site Alteration.
- 1.2 The Owner may be required to make the commencement, the completion, and the various stages available for inspection by the City or its agents, upon request.
- 1.3 The terms and conditions of any Permit issued under this By-law, and any Site Alteration Agreement entered into with the City, may include, but are not limited to:
  - (1) In addition to the stipulations under Part 3 of this By-law, all Fill used is material that does not contain any putrescible organic material and does not contain cement fines, exposed rebar, asphalt, glass, debris, plastic, demolition materials, wood with paint or coatings, decomposable materials, petroleum products, hydrocarbon materials, hazardous waste or salt impacted Soils and, that passes a slump test as outlined in the Ontario General Waste Management Regulation O. Reg. 347 and that is free of staining and hydrocarbon odour; and,
  - (2) All imported Fill and Topsoil, regraded or distributed on a Receiving Site, shall not introduce any new Contaminant, and shall not increase the concentration of an existing Contaminant on the lands.
- 1.4 Fill shall meet the standards:
  - (1) Set out in Table 1: Full Depth Background Site Condition Standards from the Soil and Ground Water and Sediment Standards for Use Under Part XV.1 of the *Environmental Protection Act*. 2011 referenced in O. Reg. 153/04 as amended, for the established property use as agreed to by the Commissioner; or
  - (2) Set out in Table 2 Standards from the Soil and Ground Water and Sediment Standards for Use Under Part XV.1 of the *Environmental Protection Act* for the established property use only if the ambient Soil is pre-assessed to be of this quality and for all parameters contained in Table 2, and as approved by the Commissioner.
- 1.5 Notwithstanding Section 1.1(1), Fill that is Topsoil, sod or turf materials shall meet Table 1 Standards.
- 1.6 If archaeological resources are discovered or identified during the Site Alteration, even after the issuance of a Permit, the Owner shall immediately cease all activity on the Site contact the Commissioner, and take such actions as defined by the Commissioner or other responsible agency to address, safeguard, and protect the resources.

- 1.7 Erosion and sedimentation control measures shall be provided around any area that may be disturbed in a manner satisfactory to the Commissioner prior to the commencement of the Site Alteration and shall be maintained in good working order until the Site has been stabilized and Fill operations completed.
- 1.8 All Fill shall be properly compacted using acceptable engineering practices, as appropriate, unless it is being stockpiled on the Site for future use in accordance with all applicable By-laws and zoning for the City, and grading plans and timelines as approved by the Commissioner.
- 1.9 The Commissioner may restrict the hours of operation and days of operation permitted beyond those restrictions found in this By-law.
- 1.10 Haul Routes for the transportation of Fill and Topsoil authorized for placement, Dumping, or removal at the Receiving Site may be designated to and/or from a Receiving Site by the Commissioner to minimize damage to the City of Brampton's roads and minimize interference and/or disturbance to the City's residents and businesses in accordance with a Permit or Site Alteration Agreement issued by the City, if applicable.
- 1.11 The Commissioner may restrict the daily volume of truckloads to ensure adequate Municipal oversight of the operations, ensure traffic safety, and address reasonable concerns regarding quality of life issues for citizens along the Haul Route and in the vicinity of the proposed Site Alteration works.
- 1.12 The existing Topsoil on lands subject to Site Alterations shall be preserved by removing and stockpiling it for use as final cover prior to the performance of any Site Alteration work, as applicable.
- 1.13 The Owner shall keep all records associated with the requirements in this By-law in a good and business-like manner for review by the Commissioner at his/her request, or as required by any Site Alteration Agreement authorized under this By-law, for a minimum of seven (7) years after the completion of the Site-Alteration and associated activities at the discretion of the Commissioner.

## SCHEDULE 4 TO SITE ALTERATION BY-LAW | LARGE SCALE SITE ALTERATION AGREEMENTS

### 1 Site Alteration Agreements

1.1 A Site Alteration Agreement shall contain the following plans and information, at a minimum:

- (1) Fill Management Plan;
- (2) Ground Water Monitoring Plan;
- (3) Grading Plan/Site Plan;
- (4) Mud and Dust Control Plan;
- (5) Sediment and Erosion Control Plan;
- (6) Approved Haul Route Plan;
- (7) MTO, Region Permits (as applicable);
- (8) Complaint Response Protocol;
- (9) Proof of Insurance;
- (10) Terms of Reference for the Public Liaison Committee (PLC) (if a PLC is deemed necessary by the Commissioner);
- (11) Financial Assurance acceptable to the Commissioner; and
- (12) Pre-assessment information relating to the quality of the ambient Soil and groundwater on the Receiving Site as well as the existing topography of the Site.

1.1 Such Site Alteration Agreement shall require that the Owner retain a Qualified Person to prepare, implement, and supervise a Fill Management Plan. Such Fill Management Plan (FMP) shall follow the FMP Model provided in Schedule C of this By-law and shall contain such requirements as found therein at the discretion of the Commissioner and approved by City Council and shall be in conformity with the MOECP BMP.

1.2 The Site Alteration Agreement shall require that the Owner:

- (1) Retain a Qualified Person to ensure that the Site Alteration operations are proceeding in accordance with sound engineering and environmental best practices and the approved Site Alteration Agreement, including all Appendices to such Agreement;
- (2) Retain a Qualified Person to report in writing on a regular basis or as determined by the Commissioner that the Site Alteration is in accordance with the approved Site Alteration Agreement including all Appendices, the Permit, and the By-law;
- (3) Require that the Site Alteration be completed by a specified date as noted in the Permit;

- (4) Comply with the applicable Soil, Groundwater, 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;
- (5) Engage an Ontario Land Surveyor to prepare any plans requested by the Commissioner to identify the volume, extent, and location of any Fill placed, dumped, cut, or removed as part of the Site Alteration; and
- (6) Acknowledge the City shall recover its costs for:
  - a) Administering the By-law;
  - b) Road repairs and other maintenance projects related to or caused by the Site Alteration Project;
  - c) Engagement of lawyers, engineers, hydrologists, environmental consultants, arborists, landscapers, or any other consultant that is reasonable and necessary in order to evaluate studies and/or agreements and to provide assistance to the Commissioner throughout the Site Alteration process, including, but not limited to, peer review, quality control/assurance, inspection, sampling, borehole testing, and operational compliance review.
- (7) Provide a security deposit, which shall act as Financial Assurance, to be used to remedy any breach of the By-law, Permit, or Site Alteration Agreement to be drawn on by the City at its sole discretion, and, without limiting the generality of the foregoing, such security may be used to return the land to a condition satisfactory to the Commissioner and to pay any outstanding amounts owed by the Owner that relate to the Permit;
- (8) Indemnify the City for any liability, costs, damages, or losses incurred directly or indirectly caused by the issuance of a Permit or signing of a Site Alteration Agreement and provide Insurance, if deemed necessary, to the satisfaction of the Commissioner;
- (9) Provide a Security Plan to the Commissioner that shall include gating the Site and signs prohibiting unauthorized access; and
- (10) Provide a report from a Qualified Person that they are satisfied that the Site Alteration will not result in any of the prohibited reactions as defined in Section 7.1(6), supra.

## **SCHEDULE 5 TO SITE ALTERATION BY-LAW | SITE EROSION CONTROL MEASURES**

### **1 Land Disturbing Activities**

1.1 The following criteria apply to land disturbing activities caused by the Placing or Dumping of Fill that result in runoff leaving the lot:

- (1) Channelized runoff from adjacent areas passing through the lot shall be diverted around disturbed areas, if practical. Otherwise, the channel shall be protected by silt fences being placed along the channel edges to reduce sediment reaching the channel;
- (2) All activities on the lot shall be conducted in a logical sequence to minimize the area of bare Soil exposed at any one time;
- (3) Any Soil or dirt storage piles containing more than one hundred cubic metres of material shall not be located within a downslope Drainage length of less than ten (10) metres to a roadway or Drainage channel. If remaining for more than thirty (30) days, said Soil or dirt storage piles shall be stabilized by mulching, vegetative cover, tarps, or other means. Erosion from Soil or dirt storage piles that will be in existence for less than thirty (30) days shall be controlled by silt fence barriers around the pile or approved alternative measure in accordance with City Standard Details;

### **2 Inspection**

2.1 The control measures shall be inspected and maintained as follows:

- (1) Inspections of ESC measures are to be conducted at a frequency specified per the ESC plan, for dry weather periods (active and inactive construction phases), after Significant Storm Events and Significant Snowmelt Events, and after any extreme weather events.
- (2) Any deficiencies shall be addressed, and any required maintenance actions(s) shall be undertaken as soon as practicable once they have been identified.
- (3) Inspections and maintenance of the temporary ESC measures shall continue until they are no longer required.
- (4) Records of inspections shall be submitted to the City. Each record must include the name of the inspector, the date of inspection, visual observations, and the remedial measures, if any, undertaken to maintain the temporary ESC measures.

### **3 Runoff Control Measures**

3.1 Runoff from the entire disturbed area on the lot shall be controlled as follows:



- (1) Temporary ESC measures shall be installed in advance of and maintained during any construction activity;
- (2) All disturbed ground left inactive shall be stabilized by seeding, sodding, mulching, or covering, or other equivalent control measure. The period of time inactivity shall be at the discretion of the Commissioner, but shall not exceed thirty (30) days or such longer period as deemed advisable at the discretion of the Commissioner;
- (3) A Site Alteration Permit Holder or applicant for a Site Alteration Permit who has also applied for but not yet received a building Permit or any other necessary Permit may be granted an extension to the Permit at the discretion of the Commissioner, provided that said applicant or Permit Holder provides satisfactory proof that he has made his best efforts to have said building or other necessary Permit issued;
- (4) For a lot with less than four (4) hectares disturbed at one time and slopes less than twelve (12) percent Grade, silt fences or approved alternative control measures shall be placed along all side slope and downslope sides of the lot in accordance with City Standard Details;
- (5) For a lot with four (4) or more hectares disturbed at one time or with slopes greater than twelve (12) percent Grade, or if a channel originates in the disturbed area, one or more sedimentation basins shall be constructed. Each sedimentation basin shall have a surface area of at least one (1) percent of the area draining to the basin and at least one (1) metre of depth, storage in accordance with the Erosion and Sediment Control Guideline for Urban Construction 2019 by TRCA (as amended) and be constructed in accordance with design specifications acceptable to the Commissioner. Sediment shall be removed periodically to maintain a permanent pool depth of at least one (1) metre;
- (6) For a lot located adjacent to existing residential areas, a silt fence may be required around the entire perimeter of the lots;
- (7) A three (3) metre wide buffer strip or silt fence shall be provided along the perimeter of the downslope sides of the lot;
- (8) The Canadian Standards Association (CSA) W202 Erosion and Sediment Control Inspection and Monitoring Standard and the Erosion and Sediment Control Guideline for Urban Construction 2019 by TRCA (as amended). Are to be followed;
- (9) For a lot with extensive Fill requirements, the Commissioner may waive the requirements for stabilization of disturbed land after thirty (30) days of inactivity provided that the ESC measures have been implemented to the satisfaction of the Commissioner;
- (10) A three (3) metre wide buffer strip or silt fence shall be provided along the perimeter of the downslope sides of the lot;

- (11) The sediment control guidelines prepared by the Credit Valley Conservation Authority and Ministry of Natural Resources for the Province of Ontario dated April 1991, are to be followed; and
- (12) For a lot with extensive Fill requirements, the Commissioner may waive the requirements for stabilization of disturbed land after thirty (30) days of inactivity provided that the sediment control measures have been implemented to the satisfaction of the Commissioner.

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