

The Corporation of the Township of Brock

By-law # XXXX-XXXX

Being a by-law to prohibit and regulate Site Alteration and the Movement of Fill in the Township of Brock

Whereas Section 142 of the Municipal Act, 2001, S.O. 2001, c.25, as amended (hereafter referred to as the Municipal Act) authorizes the Council of the Township of Brock to pass By-laws for prohibiting or regulating Site Alteration to the grade (topography) of property through the movement, removal or placement of topsoil, soil or fill within the Township; and,

Whereas Sections 8, 9 and 11 of the Municipal Act permits a municipality to pass By-laws necessary or desirable for municipal purposes, and paragraphs 5, 6 and 8 of Subsection 11 (2) authorize By-laws respecting the economic, social and environmental well-being of the municipality, the health, safety and well-being of persons, and the protection of persons and property; and,

Whereas Section 23.2 of the of the Municipal Act authorizes a municipality to delegate its powers to an officer, employee, or agent of a municipality; and

Whereas Subsection 444(1) of the Municipal Act permits a municipality, if satisfied that a contravention of a By-law of the municipality passed under the Municipal Act, has occurred, to 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; and,

Whereas Subsection 445(1) of the Municipal Act permits a municipality, if satisfied that a contravention of a By-law of the municipality passed under the Municipal Act, has occurred, to 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; and,

Whereas Subsection 446 of the Municipal Act gives a municipality the authority to direct or require a Person to do a matter or thing, the municipality may also provide that, in default of it being done by the Person directed or required to do it, the matter or thing shall be done at the Person's expense. For these purposes the municipality may enter upon land at any reasonable time. The municipality may recover the costs of doing a matter or, thing from the Person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes; and,

Whereas Section 425 of the Municipal Act permits a municipality to pass by-laws providing that any Person who contravenes any By-law the municipality passed under the Municipal Act is guilty of an offence, and

Whereas Section 426 (4) of the of the Municipal Act deems that any Person that hinders or obstructs, or attempts to hinder or obstruct, any Person who is exercising or performing a duty under this By-law created under the Act is guilty of an offence,

And Whereas Council deems it in the public interest to regulate the dumping and placing of fill and other Site Alterations to ensure that:

- (a) Existing drainage patterns are maintained and erosion and sedimentation are prevented,
- (b) Changes to drainage or grade are appropriate to protect natural heritage features and areas,
- (c) Interference and damage to watercourses or water bodies are prevented,
- (d) Ground water and surface water quality is maintained,
- (e) There is no discharge of contaminants into the natural environment that causes or may cause an adverse effect and that degradation of the pre-existing soil and ground water quality conditions at the site and on adjacent properties is prevented,
- (f) Haul routes for the transportation of fill and topsoil authorized for placement, dumping or removal will be designated to and/or from a site to minimize damage to the Township's roads and minimize interference and/or disturbance to the Township's residents and businesses,
- (g) Disturbance to landform characteristics is kept to a minimum, and
- (h) The proponent of the site alteration project pays for its costs;

Now Therefore the Council of the Township of Brock hereby enacts as follows:

That this By-law be comprised of 14 Parts containing various sections,

- Part 1 Interpretation and Administration
- Part 2 Definitions
- Part 3 Prohibitions and Offences
- Part 4 Exemptions, Exceptions and Waivers
- Part 5 Requirements for Issuance of a Permit
- Part 6 Permit Administration
- Part 7 Replacement of Topsoil for Agricultural Purposes
- Part 8 Enforcement

Part 9	Orders
Part 10	Work done by Township
Part 11	Penalties
Part 12	Appeals
Part 13	Liability and Indemnification
Part 14	Transition

1. Interpretation and Administration:

- 1) This By-law may be cited as the “Fill By-law” or “Site Alteration By-law”.
- 2) This By-law applies to all lands within the geographical area of the Corporation of the Township of Brock.
- 3) The Director is authorized and has the delegated authority to:
 - (a) approve, exempt/waive, issue, revoke, extend, renew, amend, close a Permit and/or grant approvals of Site Alteration, and impose Conditions for continuing to hold a Permit, in addition to the requirements under this By-law,
 - (b) determine when a Meeting of Council is required or not required,
 - (c) determine and deem an Application as complete, abandoned, expired, or closed,
 - (d) approve and coordinate any remediation works,
 - (e) approve amendments to Site Alteration and Fill Management Plans,
 - (f) establish appropriate requirements,
 - (g) ensure compliance with this By-law, including requiring appropriate testing and documentation,
 - (h) appoint a peer review consultant or other engineering, scientific or technical experts to fulfill the role or duties of an Officer for purposes of this By-law,
 - (i) require or exempt certain works from provisions of this By-law, as permitted in this By-law,
 - (j) authorize any Person to carry out any of the powers or duties of the Director and/or an Officer pursuant to this By-law,
 - (k) hire or authorize such agents, contractors, and other Persons to perform work as required, and
 - (l) determine if an Application of over 1,000 m³ requires the approval of Council.
- 4) This By-law shall be administered by the Building Department, Director or an

Officer for the Township.

- 5) This By-law shall be enforced by the Director, or an Officer for the Township as defined within this By-law.
- 6) Where there is a conflict between a provision of this By-law and a provision of any other Township By-law, the provision that establishes the highest standards to protect the health and safety of the public and natural environment shall apply. No agreement shall be deemed to provide an exemption from the requirements of this By-law unless this By-law authorizes such exemption and the agreement specifically provides for it.
- 7) This By-law and the provisions contained within are intended to be complementary to Federal and Provincial statutes and Regulations and to other by-laws passed by Council. If any other applicable law requires a higher standard than this By-law requires, the higher standard shall apply.
- 8) By-laws, statutes, regulations and any Guidelines referenced in this By-law include and amendments, replacements, or updates to those by-laws, regulations and Guidelines.
- 9) If a court of competent jurisdiction declares any section or any part of this By-law to be invalid or to be of no force or effect, it is the intention of the Township that every other provision of this By-law be applied and enforced in accordance with its terms to the extent possible according to law.

2. Definitions:

- 1) In this By-law,
 - (a) **“Adverse Effect”** means one or more of the following:
 - i. Impairment of the quality of the natural environment for any use that can be made of it,
 - ii. Injury or damage to property or to plant or animal life,
 - iii. Harm or material discomfort to any person,
 - iv. An adverse effect on the health of any person,
 - v. Impairment of the safety of any person,
 - vi. Rendering any property or plant or animal life unfit for human use,
 - vii. Loss of enjoyment of normal use of property,
 - viii. Interference with the normal conduct of business.
 - (b) **“Agricultural”** means the use of Property or a building on the Property for an agricultural purpose, including, but not limited to, lands that are used by a farming business registered under the Farm Registration and Farm Organizations Act, 1993, as amended, for the growing of crops,

including nursery, biomass and horticultural crops; raising livestock; raising of other animals for food, fur or fibre, including poultry and fish; aquaculture; apiaries; agro-forestry; maple syrup production; and associated on-farm buildings and structures, including, but not limited to livestock facilities, manure storages, value-retaining facilities and accommodation for full-time farm labour when the size and nature of the operation requires additional employment. This definition shall not include an abattoir; intensive agricultural uses, a cannabis production and processing facility or a medical cannabis production site.

- (c) **"Applicant"** means the Owner of a Property or a Person authorized in writing to act on behalf of the Owner to apply for a Permit.
- (d) **"Application"** means a submission to request or amend a Permit.
- (e) **"Body of Water"** includes any body of flowing or standing water whether naturally or artificially created.
- (f) **"Building Area"** means an area surrounding not more than 15m of any building, proposed building or any structure unless otherwise determined by a required study or the Director.
- (g) **"By-law Enforcement Officer"** means a person appointed by the Council to enforce the By-laws of the Township of Brock.
- (h) **"Chief Building Official"** means the Chief Building Official (CBO) for the Township of Brock and shall include any person authorized by the Chief Building Official to carry out any of the powers and duties of the Chief Building Official pursuant to this By-law.
- (i) **"Commercial Fill Operation"** means a Site Alteration which meets one or more of the following criteria:
 - i. the placing or Dumping of Fill that 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,
 - ii. the placing or Dumping of Fill is for a commercial purpose,
 - iii. greater than ten thousand (10,000) cubic metres of Fill is being placed or Dumped within a twelve (12) month period,
 - iv. the Fill is obtained from more than one source site and there is no Fill Management Plan in effect,
 - v. 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 issued by the Ministry of the Environment and Climate Change.

- (j) **“Condition”** means the mandatory performance requirements outlined in a Permit or Order and may include the requirement for monetary deposits or securities in connection with the Application.
- (k) **“Conservation Authority”** means any conservation authority established or continued under the Conservation Authorities Act or a predecessor of this Act having jurisdiction.
- (l) **“Contaminant”** means any solid, liquid, gas, odour, heat, sound, vibration, radiation or combination of any of them resulting in directly or indirectly that causes or may cause an Adverse Effect.
- (m) **“Council”** means the Council for the Corporation of the Township of Brock.
- (n) **“Director”** means a person designated by the Chief Administrative Officer or Council to carry out any of the powers or duties pursuant to this By-law.
- (o) **“Drainage”** means the movement of water to an outlet, whether by way of natural characteristics of the ground surface or by an artificial method.
- (p) **“Dump, Dumped or Dumping”** means the depositing of Fill in a location other than where the Fill was obtained and includes the movement or depositing of Fill from one location to another on the same Property.
- (q) **“Environmentally Significant Lands”** means any area deemed to have ecological significance how-so-ever described in any applicable Provincial Plan, Official Plan or Zoning By-laws, but not limited to, terms such as Environmental Protection Areas and Environmentally Significant Areas and shall include but not be limited to:
 - i. Provincially significant lands, including wetlands or life science areas of natural and scientific interest (ANSI) as identified by the Ontario Ministry of Natural Resources, as amended, at the discretion of a Qualified Person,
 - ii. Environmentally sensitive areas on maps, as amended, prepared by any Conservation Authority having jurisdiction over the lands within the Township of Brock,
 - iii. Environmentally sensitive areas on maps, prepared by the Regional Municipality of Durham for lands within the Township of Brock as amended,
 - iv. Key Natural Heritage Features and Key Hydrologic Features identified under the Greenbelt Plan established under the Greenbelt Act, 2005,

- v. Lands zoned Environmental Protection (EP) Zone as described within the Township of Brocks comprehensive Zoning By-law as amended,
 - vi. Lands within any permanent or intermittent Watercourse and or related feature,
- (r) **“Fill”** means any type of material that can be removed from (cut) or placed on (in-fill) land including but not limited to, the following:
- i. **“Aggregate”** means a collective term for the mineral materials such as sand, gravel and crushed stone that can be used with a binding medium to form compounds such as concrete. Aggregates can either be natural or manufactured,
 - ii. **“Artificial Turf”** means any surface synthetic fibers made to resemble turf or other grass-like surface and used as a surface cover,
 - iii. **“Asphalt”** means a mixture of dark bituminous pitch with sand or gravel, used for surfacing roads, driveways and paths, which may include, without limitation, loose or recycled material or a contiguous surface or grindings,
 - iv. **“Clean Concrete and Brick”** means concrete, brick, patio pavers, block and other silica-based construction materials that are free of Contaminants;”
 - v. **“Compost”** means a mixture of various decaying organic substances, such as dead leaves or manure, used for fertilizing soil,
 - vi. **“Excess Soil”** means Soil, crushed rock, or Soil mixed with Rock or crushed rock, that has been excavated as part of a project and removed from the project area,
 - vii. **“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 R.R.O.1990, Regulation 34T (Environmental Act),
 - viii. **“Rock”** means a naturally occurring aggregation of one or more naturally occurring minerals that is 2 millimetres or larger in size or that does not pass the US No. 10 sieve,
 - ix. **“Sod”** means the upper stratum of Soil bound by grass and plant roots into a thick mat (turf),
 - x. **“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 No. 10 sieve,

- xi. **“Topsoil”** means those horizons in a Soil profile, commonly known as the “O” and the “A” horizons, containing organic material and includes deposits of partially decomposed organic matter such as peat.
- (s) **“Grade”** means at any point on the land the elevation of the ground surface of the land; and
 - i. **“Approved Grade”** means the final elevation of the ground surface following Site Alteration or Movement of Fill as approved by the Director in accordance with this By-law,
 - ii. **“Existing Grade”** means the elevation of the existing ground surface prior to any Site Alteration and/or Movement of Fill, including the natural Grade prior to human activities or the Grade previously legally established such as a former Approved Grade; and
 - iii. **“Unapproved Grade”** means the elevation of the ground surface that is not an Existing Grade or Approved Grade.
- (t) **“Guidelines”** means the information, documentation and material, as determined by the Director, to be used for the purpose to review any Application for a Site Alteration and Fill Permit for the Township of Brock Without limiting the generality of the foregoing, the Guidelines may require the posting of deposits and/or securities in connection with the Application.
- (u) **“Hard Landscaping”** means any surface covering of land that has limited permeability and restricts the infiltration of water into the natural environment, including but not limited to any building or structure with a rooftop, porch, paved roadway, interlocking brick, pool decking, permeable pavers, patio pavers, Artificial Turf, compacted gravel, Asphalt or concrete surface, or parking area. Hard Landscaping excludes pools, Sod, Soil, river rock, or other horticultural elements.
- (v) **“Haul Route”** means a route defined by the Director and permitted by the Township or an agreement under this By-law that describes the routes that must be followed when transporting materials to or from the Site.
- (w) **“Highway”** means a common and public highway and includes a street, bridge or other structure forming part of a highway over or across which a highway passes and includes the whole of a road allowance under the jurisdiction of the Township.
- (x) **“Hydro-Excavation Truck Slurry and Slurry By-product”** means any mixture of liquid and solid material excavated, placed or Dumped by a

hydro vacuum truck.

- (y) **“Invasive Species”** means Invasive Species as defined in the *Invasive Species Act, 2015*, S.O.2015, c.22 as may be amended.
- (z) **“Inspector”** means the Director, Chief Building Official and other individuals appointed by Council for the Township of Brock as Building Inspectors, By-Law Enforcement Officers, Property Standards Officers and or Provincial Offences Officers.
- (aa) **“Key Hydrologic Feature”** includes permanent and intermittent streams, lakes (and their littoral zones), seepage areas and springs and Wetlands.
- (bb) **“Key Natural Heritage Feature”** includes habitat of endangered species and threatened species, fish habitat, wetlands, life science areas of natural and scientific interest (ANSIs), significant valley lands, significant woodlands, significant wildlife habitat (including habitat of special concern species), sand barrens, savannahs and tallgrass prairies and alvars.
- (cc) **“Large Site Alteration”** means any Site Alteration that is not a Minor Site Alteration or a Small Site Alteration.
- (dd) **“Low Impact Development”** means systems that preserve or restore the existing Drainage and water balance conditions by infiltration and groundwater recharge, evapotranspiration, and reducing runoff volume and flow rates.
- (ee) **“Meeting of Council”** means an open meeting of Council to which all members of the Public are invited, for the purpose of informing the public of a proposed Site Alteration.
- (ff) **“Minor Site Alteration”** means a one-time maximum cumulative volume of Site Alteration per Property based on the area of Property suitable for Site Alteration (the Property area excluding buildings, structures and fixed features) calculated as follows: Area of Property suitable for Site Alteration in hectares x 200 m³ of Site Alteration, up to a maximum area of Property suitable for Site Alteration of 1.0 hectares. The maximum volume is a one-time maximum cumulative allowance. Any Site Alteration that exceeds the maximum one-time cumulative volume is prohibited without a Permit. Once this cumulative volume has been reached regardless of the timeframe over which it occurred, no further Site Alteration is allowed without a Permit.

Example. Lot size of 0.07 HA (approx. 70x100 foot lot) x 200 m³ = 14m³ of Fill permitted without a Permit.

The maximum volume calculation excludes any Site Alteration conducted under the approval of any other legal instrument of the Township such

as, but not limited to, a building permit or swimming pool enclosure permit.

- (gg) **“Movement of Fill”** means any non-natural transfer of Fill from one location to another of any distance except Fill that is transported through the Township and is always contained within the transport vessel.
- (hh) **“Normal Farm Practice”** has the same meaning as in the Farming and Food Production Protection Act, 1998, S.O. 1998, c.1, as amended (or any successor legislation), which defines it as a practice that,
 - i. is conducted in a manner consistent with proper and acceptable customs and standards as established and followed by similar Agricultural operations under similar circumstances, or
 - ii. makes use of innovative technology in a manner consistent with proper advanced farm management practices.
- (ii) **“Officer”** means a By-law Enforcement Officer, Building Official or other individual authorized by the Township to enforce the Township by-laws and may include their designate, a peer review consultant or other technical specialist, if designated by the Director under this By-law.
- (jj) **“Ontario Regulation 153/04”** means Ontario Regulation 153/04 (Records of Site Condition — Part XV.1 of the Environmental Protection Act), as amended
- (kk) **“Ontario Regulation 406/19”** means Ontario Regulation 406/19 (On Site and Excess Soil Management) under the Environmental Protection Act, as amended
- (ll) **“Order”** means an Order issued under this By-law.
- (mm) **“Owner”** means the registered owner of the lands on which the Site Alteration is proposed and any Person, firm or corporation managing or controlling such lands.
- (nn) **“Permit”** means a formal authorization issued by the Township under this By-law.
- (oo) **“Person”** includes individuals, sole proprietorships, partnerships, corporations, trustees, agents, or legal representatives.
- (pp) **“Ponding”** means the accumulation of surface water in an area not having Drainage therefrom where the lack of Drainage is caused by the placing or Dumping of Fill or other Site Alteration.
- (qq) **“Property”** means land including all buildings and structures on the land.
- (rr) **“Qualified Person”** means a person who meets the qualifications as set out in Section 5 or 6 of Ontario Regulation 153/04.
- (ss) **“Qualified Professional”** means an individual certified to perform the

works by their accredited governing association, including but not limited to, Professional Engineers Ontario, Ontario Association of Certified Technicians and Technologists, Ontario Association of Landscape Architects, and the Association of Ontario Land Surveyors.

- (tt) **“Reclaimed Fill”** means any form of Fill that once contained Contaminants or was unacceptable for a Property and has since been decontaminated by appropriate means.
- (uu) **“Residential Lot”** means a Property where the principal use is residential, and where the Property contains a single detached dwelling, semi-detached dwelling or townhouse dwelling.
- (vv) **“Retaining wall”** means a wall designed to contain and support Fill which has a finished Grade higher than that of adjacent lands. A retaining wall for the purposes of this By-law shall be as defined and may also be a retaining wall as described in the Ontario Building Code where a building permit is required.
- (ww) **“Site”** means a Property altered or proposed to be altered by means of a Site Alteration.
- (xx) **“Site Alteration”** means, but is not limited to, any alteration to the Existing Grade of a Property through the removal, placing, relocation or Movement of Fill.
- (yy) **“Site Alteration and Fill Management Plan”** means a document prepared by, or on behalf of an Owner detailing such things as current Site conditions, methodology, Existing Grade, Approved Grade and impact mitigation measures.
- (zz) **“Small Site Alteration”** means any Site Alteration that does not meet the definition of a Minor Site Alteration and is not more than 1,000 m³ of total Site Alteration in any 12-month period.
- (aaa) **“Temporary Fill Storage Site”** means any Property where Fill is stored above the Existing Grade on a temporary basis as part of the activities of a licensed business.
- (bbb) **“Temporary Storage of Fill”** means the storage of Fill at a Temporary Fill Storage Site above Existing Grade for a period of time determined by the activities of the licensed business with the expectation that the business involves the regular Movement of Fill on to and off the Site in a manner that results in no Fill being stored longer than 18 months.
- (ccc) **“Township”** means the Corporation of the Township of Brock.
- (ddd) **“Waiver”** means a document obtained from the Township providing the details for an exemption to this By-law.
- (eee) **“Watercourse”** means a natural or man-made channel or swale in which

a flow of water occurs, either continuously or intermittently with some degree of regularity.

(fff) **“Zoning By-law”** means Township’s comprehensive Zoning By-law, as applicable and amended from time to time.

- 2) Terms not defined in the By-law shall have the same meaning ascribed to them in common or ordinary use.

3. Prohibitions and Offences:

- 1) Compliance with this By-law does not relieve the Owner from any responsibility to obtain all other approvals as required from any other government, authority, agency or compliance with any other obligations.
- 2) No Person shall conduct, undertake, cause, permit or carry out a Site Alteration on any Property within the Township without first obtaining a Permit, unless otherwise exempt as set forth in this By-law and a Waiver has been obtained.
- 3) No Person shall have, or allow to remain, Fill on that Person’s Property that is not approved through a Permit where required, whether or not the Fill was placed there while the Person was the Owner of the Property.
- 4) No Person shall operate a Commercial Fill Operation on any lands within the Township unless otherwise exempt under other parts of this By-law at the discretion of the Director.
- 5) No Person shall perform a Site Alteration on any land unless it is done at the request of, or with the written consent of, the Owner of the land on which the Site Alteration is to occur.
- 6) No Person shall import Fill onto any Property within the Township with the use of a Hydro-Excavation Truck.
- 7) No Person shall fail to comply with an Order issued pursuant to this By-law.
- 8) No Person shall hinder, obstruct or attempt to hinder or obstruct any Officer or the Director in the discharge of their duties under this By-law.
- 9) No Person shall cause, permit or perform a Site Alteration in any of the areas described below in subsections (a) to (d), or a Large Site Alteration in any of the areas described below in subsections (a) to (f), unless such Site Alteration or Large Site Alteration is directly associated with a building permit issued by the Township or is authorized by another development agreement with the Township:
 - (a) Environmentally Significant Lands,
 - (b) s,
 - (c) Hydrogeologically sensitive areas,
 - (d) Minimum vegetation protection zones associated with areas described

above,

- (e) Areas of “high aquifer vulnerability” as designated in an Official Plan,
 - (f) Wellhead protection areas, significant groundwater recharge areas or significant high aquifer vulnerability areas as designated in a drinking water source protection plan under the Clean Water Act.
- 10) No Person shall cause, permit or perform a Site Alteration on lands that are subject to an approved Site Plan or Draft Plan of Subdivision under Sections 41 or 51, respectively, of the Planning Act, as amended, without an agreement or approval from the Township.
 - 11) No Person shall conduct, undertake, cause, permit or carry out a Site Alteration that results in mud tracking onto any road or Highway within the Township.
 - 12) No Person shall conduct, undertake, cause, permit or carry out a Site Alteration that causes dust impacts to any lands within the Township.
 - 13) No Person shall conduct, undertake, cause, permit or carry out a Site Alteration without sediment and erosion controls in place.
 - 14) No Person shall conduct, undertake, cause, permit or carry out a Site Alteration that could injure or destroy a tree except in accordance with The Regional Municipality of Durham and/or other Township of Brock By-laws or Guidelines.
 - 15) No Person shall conduct, undertake, cause, permit or carry out a Site Alteration that may adversely impact the quality or quantity of any surface water or groundwater however it may exist, including all water used for or available as a source of water for agriculture or human consumption.
 - 16) No Person shall conduct, undertake, cause, permit or carry out a Site Alteration that could adversely affect any Watercourse or Drainage on any Property without prior written approval from the Director.
 - 17) No Person shall conduct, undertake, cause, permit or carry out a Site Alteration that will result in an Unapproved Grade.
 - 18) No Person shall alter, repair or construct a Retaining Wall greater than an adjacent Grade where a Permit or Waiver has not been issued under this By-law.
 - 19) No Person shall alter or cause blockage of any Drainage swale.
 - 20) No Person shall alter the location, direction or rate of Drainage to any adjacent Properties.
 - 21) No Person shall conduct, undertake, cause, permit or carry out a Site Alteration that will, or can be reasonably expected to, result in an Adverse Effect.
 - 22) No Person shall alter Grade where an approved grading plan exists for the Property.
 - 23) No Person shall use salt impacted Soil within the Township.

- 24) No Person shall use Reclaimed Fill on any Property within the Township.
- 25) No Person shall place or Dump Fill, or cause or permit Fill to be placed or Dumped, on a Property fronting on a Township Road that has been deemed by the Township, in its sole discretion, to be unsuitable for the deposition of Fill.
- 26) No Person shall perform a Site Alteration or permit the performance of a Site Alteration,
 - (a) Between the hours of 7:00 p.m. and 7:00 a.m., Monday to Saturday,
 - (b) Anytime on a Sunday or Statutory Holiday,
 - (c) During any period in which a wind warning for the Township has been issued by Environment Canada,
 - (d) During any weather conditions, where the ability to mitigate Site Alteration activity impacts is severely compromised (i.e., heavy rain, etc.)
 - (e) During any situation where Site Alteration activities can unduly impact adjacent landowners (i.e., brush fires, floods, unsuitable road conditions, etc.)
- 27) No Person shall conduct, undertake, cause, permit or carry out Site Alteration unless the Fill:
 - (a) Complies with the requirements of Ontario Regulation 406/19 and Ontario Regulation 153/04,
 - (b) Does not contain putrescible materials, demolition debris such as coated brick and concrete, concrete fines, exposed rebar, paints or coatings, putrescible materials, plastic, Asphalt, glass, petroleum products or hydrocarbon materials,
 - (c) Does not contain Contaminants, and,
 - (d) Is free of termites, pests and Invasive Species including the eggs and seeds of such species.
- 28) No Person shall conduct, undertake, cause, permit or carry out Site Alteration on any Property unless the activity is in accordance with:
 - (a) The Zoning By-law,
 - (b) The Building By-law,
 - (c) The Noise By-law,
 - (d) The Property Standards By-law,
 - (e) The Greenbelt Plan,
 - (f) The requirements of a Conservation Authority; and
 - (g) All other statutes, regulations, policies and By-laws.

- 29) No Person shall conduct, undertake, cause, permit or carry out a Site Alteration that is not in conformance with any term or condition of an Agreement or Permit issued by the Township.
- 30) No Person shall fail to place or allow to remain a Permit placard for an issued Site Alteration Permit in a visible location near the entrance to the Property for the duration of the issued Site Alteration permit.
- 31) Every Person who contravenes any provision of this By-law is guilty of an offence.

4. Exemptions, Exceptions and Waivers:

- 1) Notwithstanding Part 3 of this By-law and notwithstanding the requirements of O, Reg 406/19 as amended, this By-law does not apply to:
 - (a) Activities or matters undertaken by the Township, the Regional Municipality of Durham, a Conservation Authority, the Provincial Government, or the Federal Government,
 - (b) In accordance with Section 142 (5) of the Municipal Act, 2001, S.O.2001, this By-law does not apply to,
 - i. Activities or matters undertaken by a municipality or a local board of a municipality,
 - ii. The placing or Dumping of Fill, removal of Topsoil or alteration of the Grade of land imposed after December 31, 2002, as a condition to the approval of a site plan, a plan of subdivision or a consent under section 41, 51 or 53, respectively, of the Planning Act or as a requirement of a site plan agreement or subdivision agreement entered into under those sections,
 - iii. The placing or Dumping of Fill, removal of Topsoil or alteration of the Grade of land 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,
 - iv. The placing or Dumping of Fill, removal of Topsoil or alteration of the Grade of land undertaken by a transmitter or distributor, as those terms are defined in 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,
 - v. The placing or Dumping of Fill, removal of Topsoil or alteration of the Grade of land 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,

- vi. The placing or Dumping of Fill, removal of Topsoil or alteration of the Grade of land undertaken on land in order to lawfully establish and operate or enlarge any pit or quarry on land,
 - a. that has not been designated under the Aggregate Resources Act or a predecessor of that Act, and
 - b. on which a pit or quarry is a permitted land use under a by-law passed under section 34 of the Planning Act; or
 - vii. The placing or Dumping of Fill, removal of Topsoil or alteration of the Grade of land undertaken as an incidental part of drain construction under the Drainage Act or the Tile Drainage Act. 2001, c. 25, s. 142 (5); 2002, c. 17, Sched. A, s. 30 (2, 3).
- (c) The removal or replacement of Topsoil as an incidental part of a normal Agricultural practice on Agricultural lands as an incidental part of Sod-farming, tillage of land, greenhouse operations and nurseries for horticultural products,
- i. The exception with respect to the removal of Topsoil as an incidental part of a normal Agricultural practice does not include the removal of Topsoil for sale, exchange or other disposition.
 - ii. The exception with respect to the replacement of Topsoil for the restoration of Agricultural lands used for normal Agricultural practices, and which is an incidental part of tillage of land, Sod farming, greenhouse operations, and nurseries for horticultural practices shall be subject to the requirements set out in Part 7.
- (d) The use, operation, establishment, alteration, enlargement or extension of a Waste management system or Waste disposal site within the meaning of Part V of the Environmental Protection Act, R.S.O. 1990, c.E.19, as amended; and
- (e) The construction, extension, alteration, maintenance or operation of works under Section 26 of the Public Transportation and Highway Improvement Act, R.S.O. 1990, c.P.50, as amended.
- (f) The harvesting of peat in a commercial operation regulated by the Conservation Authority and the Township.
- (g) At the discretion of the Director, the placing or Dumping of Fill that is done with the authorization of the Conservation Authority and in accordance with a current Conservation Authority permit.
- 2) Notwithstanding Section 4.1) of this By-law, O. Reg. 406/19 and Section 7.1) of this By-law, a Permit is not required in the following situations:
- (a) When another instrument, such as a Planning approval, a building permit, a septic permit or legal agreement with the Township includes a clause

specifically waiving the requirement for a Permit, including:

- i. Construction of a Building and minor related works within the Building Area pursuant to a building permit which has been issued by and at the discretion of the Chief Building Official where the volume of fill required does not exceed 500m³; and
 - ii. Filling of an excavation within the Building Area to the elevation of Existing Grade following the demolition or removal of a Building for which a demolition permit has been issued by the Chief Building Official, or for a building which no demolition permit is required under the Building Code Act, R.S.O. 1992, c.23.
- (b) Any Site Alteration for the purpose of lawn dressing, constructing a fence, a swimming pool or other accessory structure, landscaping or adding to flower beds or vegetable gardens, provided that:
- i. The Site Alteration does not exceed the requirements of a Minor Site Alteration and a Permit Waiver has been obtained;
 - ii. The Existing Grades have not been increased pursuant to this section in the previous twelve (12) months; and
 - iii. The minimum standards set out in this By-law are complied with.
- (c) Site Alteration that is an incidental part of the construction or reconstruction of any public Highway, or underground service.
- (d) Temporary Fill Storage Sites (such as but not limited to, a garden center, contractors' yard, Aggregate distribution yard, Fill storage yard or similar facility and may include a Soil Bank Storage Site but not a Soil Processing Site) where:
- i. There is no permanent alteration to Existing Grade,
 - ii. The activities comply with Ontario Regulation 406/19 On-Site and Excess Soil Management,
 - iii. There is no Adverse Effect,
 - iv. Site Alteration in the form of Temporary Storage of Fill occurs above Existing Grade,
 - v. Any Fill does not include Liquid Soil,
 - vi. The activity that involves the Temporary Storage of Fill may require other approvals from the Township,
 - vii. The Property is zoned for the activity that involves the Temporary Storage of Fill,
 - viii. The period of storage is determined by the activities of the licensed business with the expectation that the business involves the regular Movement of Fill on to and off the Site in a manner that results in no

year over year net increase in Fill volume storage above Existing Grade; and,

- ix. The Owner can provide records to the satisfaction of the Township that the above noted conditions are being met.
 - (e) When a Permit has been waived and a Permit Waiver is provided for in writing by the Director.
 - (f) A Minor Site Alteration that has been recorded with the Township.
- 3) Where the requirements for a Permit are waived in accordance with the provisions of this part, all other Parts of the By-law except Part 5 remain applicable at the discretion of the Director.

5. Requirements for Issuance of a Permit:

- 1) An Owner applying for a Permit under this By-law shall have a pre-consultation meeting with the Director and any other persons that the Director deems necessary to review the proposal to determine if a Permit can be issued under the requirements of this By-law and to determine the requirements for a complete Application, including determination of all applicable fees.
- 2) Fees referenced under this By-law are payable in accordance with the Township's fees and charges by-law, including but not limited to, fees related to administration and enforcement activities.
- 3) Unless otherwise specified by the Director pursuant to this By-law, an Owner or authorized agent applying for a Permit under this By-law shall provide the following:
 - (a) A completed Application form for a Permit that will be as approved from time to time by the Director and will contain, at a minimum, the following:
 - i. The name, address, and contact information, such as phone number and email of the Owner and/or authorized agent of the Site on which the Site Alteration is to occur,
 - ii. The legal description and municipal address of the Site where the site alteration is to occur,
 - iii. The name and address of the Owner's Qualified Person and authorized agent, if applicable; and
 - iv. Such other information or details as noted on the Application or required by the Director.
 - (b) A Site Alteration grading plan, based on an identified legal survey if required by the Director, accurately indicating the following, as required by and to the satisfaction of the Director:
 - i. A key map showing the location of each Property, including the

- nearest major intersection and north arrow,
- ii. The property lines of the Site with dimensions,
 - iii. The boundaries of each Property and area (expressed in hectares) of each Property,
 - iv. The existing and proposed use of the Site and the location and use of the buildings and other structures adjacent to each Site,
 - v. The location, dimensions and use of all existing buildings and other structures existing or proposed to be erected on each Site,
 - vi. The location of lakes, streams, wetlands, channels, ditches, other Watercourses and other Body of Water on and within a minimum of thirty (30) metres of each Site's boundaries,
 - vii. the location of all regulatory flood lines and Conservation Authority Fill regulation lines,
 - viii. The location and identification of the predominant existing Soil types on the Site,
 - ix. The location and dimensions of utilities, structures, road, Highways and paving located within a minimum of thirty (30) metres of each Site's boundaries,
 - x. The location and dimensions of all proposed land disturbance activities, including construction of access roads and driveways,
 - xi. The location and dimensions of all temporary Fill stockpiles,
 - xii. A schedule of the anticipated starting and completion dates of each land disturbance or land development activity,
 - xiii. Provisions for the maintenance of the Site's erosion control and dust control measures during construction and after as required,
 - xiv. The scale of drawing ranging from 1:250 to 1:1000 as deemed appropriate (each drawing control plan to be in metres),
 - xv. An indication on the drawing of directions of overland water flow and overland flow route,
 - xvi. Any information, plans or studies required by the Greenbelt Plan and Lake Simcoe Protection Plan,
 - xvii. For Site Alteration that is not a Large Site Alteration, existing spot elevations on three (3) metre grids across the Site and three (3) metres beyond the Property lines to clearly show the existing Drainage patterns on the Site and on the abutting lands,
 - xviii. For Large Site Alteration, a topographic survey at one metre contour intervals certified by a licensed professional engineer or Ontario

Land Surveyor defining all material and manmade features, including top and bottom of slopes, Drainage patterns, tree lines, buildings, and stockpiles on the Site and within thirty (30) metres on abutting lands and water bodies,

- xix. All existing storm sewers, ditches, swales, creeks, Watercourses and wetlands on the Site and on abutting lands and public Highways,
 - xx. The species and size in caliper of all trees, the location of all shrubs and driveways on the Site and of all easements and right-of-way's over, under, across or through the Site;
 - xxi. Proposed Grades and Drainage systems upon completion of the Site Alteration operation,
 - xxii. All proposed ground covering to be used upon completion of the Site Alteration operation,
 - xxiii. All erosion, sediment and tree protection measures for the Site Alteration operation.
- (c) A scaled drawing of any Retaining Wall that may be required and a description, including dimensions and materials to be used in the construction of the Retaining Wall prepared by a Professional Engineer unless otherwise determined by the Director,
- i. Retaining Walls as defined by the Ontario Building Code are designated structures that require separate building permits outside of the requirements of this By-law
- (d) Where a Retaining Wall is proposed, and there is a difference of more than 600mm to final Grade on any end or side of the Retaining Wall, a guard shall be designed and constructed with good engineering practice that is approved by the Director.
- (e) An assessment by a Qualified Person to establish the current condition of the Soil, groundwater and stormwater to ensure the Site is appropriate for the proposed Site Alteration,
- (f) A groundwater management plan and a stormwater management plan,
- (g) A landform conservation plan, showing elevation contours and significant landform features, and identifying planning, design and construction practices that will keep disturbance to landform character to a minimum, including maintaining significant landform features such as steep slopes, kames, kettles, ravines and ridges in their natural undisturbed form, and limiting the portion of the Site to be disturbed by the Site Alteration
- (h) A description of the Fill proposed to be Dumped or placed including a detailed description of the source of the Fill with a letter from the party

from whom the Fill was acquired attesting that the Fill meets the requirements for Fill set out in this By-law and is as required, the quantity of the Fill (expressed in cubic metres), and the proposed location of the Fill on the Site, and may include contact information if required by the Director,

- (i) a signed authorization by the Owner of the Site on which the work is to be performed, or by a Person authorized, in writing, to act as an agent for such Owner, certifying the correctness of all the information in the Application,
 - (j) a signed authorization of a grantee(s) of any easements within the Property accepting the placing or Dumping of Fill or other Site Alteration on or abutting any easements,
 - (k) where the land is subject to the provisions of the Greenbelt Plan or Lake Simcoe Protection Plan, the Application shall be accompanied by any and all documents, reports or studies required by such plan(s) to demonstrate compliance with their provisions,
 - (l) such tree reports prepared by a qualified tree consultant as may be required by the Director or other by-laws or policies of the Township, Regional Municipality of of Durham, Conservation Authority or other Agency,
 - (m) the proposed Haul Routes to and from the Site, determined so as to minimize damage to roads and interference and/or disturbance to the residents and businesses of the Township, together with the estimated number of trucks required to transport the Fill,
 - (n) any other study, report, plan, drawing or material related to the Application as deemed necessary by the Director to constitute a complete Application.
- 4) In reviewing any Application, the Director may seek comments/approvals from the Conservation Authority, the Regional Municipality of Durham, adjacent municipalities and any other agency the Director deems necessary and such comments shall form part of the completed Application.
- 5) At the discretion of the Director, an Application for a Large Site Alteration shall not be considered for approval until Council has considered the Application during at least one Meeting of Council at which the Applicant and any interested members of the public will have fair opportunity to make representations. The Applicant shall thereafter submit a report to the Director describing any changes the Applicant made in response to concerns raised at the Meeting of Council. A Meeting of Council may be required for any Site Alteration at the discretion of the Director.
- 6) Notice of a Meeting of Council shall be provided at such time or times as determined by the Director and notice shall be provided not less than 15 days

before the meeting. Notice of the meeting shall be by such means as determined by the Director.

- 7) Where it has been determined by the Director that a Meeting of Council is required and that a sign is required, the Owner shall be responsible for the creation and placement of a sign in a visible location at the front of the Site within 5m of the front property line, that meets the sign requirements as provided by the Director.
- 8) Where a Permit has been issued under this By-law, no Person shall conduct a Site Alteration except in accordance with this By-law, the terms and Conditions of any Permit or agreement entered into with the Township.
- 9) The Director shall issue a Permit under this By-law when,
 - (a) all applicable fees, securities and expenses for services have been satisfied, and
 - (b) all other requirements and any agreement under this By-law have been complied with, and,
 - (c) where approval of Council is required, that all Conditions, requirements of the approval of Council and the Meeting of Council have been satisfied.
- 10) Prior to issuance of a Permit and thereafter as required, the Owner shall,
 - (a) Provide payment of all securities and fees as determined by the Director,
 - (b) Provide payment and security where the Township has engaged legal, engineering or any Qualified Person or consultant that the Director deems necessary to evaluate an Application, study, attend a Meeting of Council or pre-consultation throughout the Site Alteration Application and Permit process.

6. Permit Administration

- 1) A Permit issued under this By-law shall be valid for a period of one year from the date of issuance.
- 2) A Permit issued under this By-law is not transferable to another Property.
- 3) A Permit placard issued by the Township shall be posted on Site in a visible location near the entrance of the Property and remain in place until the Site Alteration has been completed.
- 4) An Owner may submit a request to the Director for an amendment or renewal of a Permit subject to applicable fees within 60 days of a proposed change or expiry date of a Permit.
- 5) The Director may revoke a Permit under this By-law where,
 - (a) It was obtained on mistaken, false or incorrect information

- (b) It was issued in error
 - (c) The Owner has requested in writing that the Permit be revoked
 - (d) The terms of an agreement or Permit under this By-law have not been complied with
 - (e) Works have not commenced within 6 months of Permit issuance
 - (f) The provisions of this By-law have not been complied with
 - (g) The subject lands have been sold and there is a new Owner and the Permit has not been transferred to the new Owner
 - (h) Where a Permit has been revoked under this By-law, the subject lands shall be restored to a condition that is suitable to the Director.
- 6) The Director may refuse to issue a Permit and in doing so will provide the refusal in writing which may have regard for any of the following,
- (a) The effect of the Site Alteration on the environment
 - (b) The effect of the Site Alteration on adjacent Properties or any Property in the Township
 - (c) Concerns raised by the public and the Owner's responses to those concerns
 - (d) Any effect on any ground and surface water
 - (e) An Owner's history of compliance with regards to Site Alteration
 - (f) Any matter the Director considers appropriate
- 7) An Application for a Permit will be deemed abandoned and the file closed where a period of 6 months has elapsed where,
- (a) The Application has been left incomplete and not all information, documents, fees and deposits required by the Director,
 - (b) The Application has not had meaningful progress towards issuance of a Permit,
 - (c) Where an Application has been deemed abandoned by the Director and a refund has been requested in writing from the Owner, it shall be calculated as,
 - i. Application fee no refund is applicable
 - ii. Securities are to be fully refunded
 - iii. Pre-consultation fee, no refund is applicable
 - iv. Fees relating to administrative, other agency, consultants and enforcement, no refund is applicable
 - v. Fees relating to volume of Fill where a per m³ has been determined

are to be fully refunded where no works have occurred.

- 8) Where title to a Property has changed and where a Site Alteration Permit has been issued and the new Owner has transferred the Permit to their name, all Conditions, fees and matters pertaining to the Site Alteration Permit and agreements are the responsibility of the new Owner.
- 9) Any agreement relating to a Site Alteration at the expense of the Owner shall be registered on title and not discharged from title until the permit works have been completed. At the discretion of the Director that the Site Alteration works are completed and that the agreement can be discharged from title, all fees and costs associated with the discharge are the responsibility of the Owner.
- 10) A Permit is considered closed when all Conditions in an agreement and Conditions of the Permit have been completed and a final inspection has been conducted by the Township and a final report or letter of certification from the Owner's Qualified Person confirming compliance with the requirements of the Permit has been received and confirmed by the Director.
- 11) Where work has commenced without the benefit of Permit which includes where works begin prior to the issuance of a Permit, at the discretion of the Director, the fees for each Permit shall be,
 - (a) Double the amount for Application fees as noted in the Township's fees and charges by-law,
 - (b) Be subject to additional inspection or compliance inspection fees for each inspection done, required, or requested prior to issuance of the Permit,
 - (c) Be subject to an administrative fee for the issuance of an Order and any associated fees with reference to registering an Order on title and discharging an Order from title.
- 12) Where a refund has been requested in writing for a permit application or issued permit, at the discretion of the Director,
 - (a) The application fee or application review deposit where administrative works have commenced by the Township, no refund is applicable,
 - (b) The cost per cubic metre of material is,
 - i. 100% refundable where no material has been imported where a permit has been issued or the cubic metre fee was included with the application fees
 - ii. Where Site Alteration works have commenced, the refund shall be calculated based on the volume of works completed.
 - (c) Fees relating to administration, other agency, other consultants or enforcement no refund is applicable where works have commenced or have been completed at the discretion of the Director.

7. Replacement of Topsoil for Agricultural Purposes:

- 1) A Site Alteration directly related to a Normal Farm Practice that is legally established under the Township's Zoning By-law, including the application of Topsoil for spreading over Agricultural property provided that Existing Grade is not increased more than two hundred (200) millimetres, and that the total amount of Fill added to the Property does not exceed 1,000 m³ in any 12-month period. This exception is only available to Persons that have an active registration as a "farming business" as defined in the Farm Registration and Farm Organizations Funding Act, 1993, S.O. 1993, c. 21, as amended or any successor legislation (FRFOFA) and are in good standing under the FROFA.
- 2) An Owner of Agricultural lands shall apply for and obtain a Permit Waiver where the proposed Site Alteration is in compliance with Section 7.1) and prior to the commencement of any importation.
- 3) An Owner of Agricultural lands shall apply for a Permit for the replacement of Topsoil for Agricultural purposes where the requirements of Section 7.1) are exceeded and the requirements of Part 5 shall apply at the discretion of the Director.
- 4) The Director may, at their discretion, renew or extend a Permit or Permit Waiver for up to six (6) months if the Director is satisfied that the work is progressing in accordance with the requirements of the Permit or Waiver and subject to any additional requirements that may have been identified by the Director. Any requests for extensions or renewals thereafter may, at the discretion of the Director, require the approval of Council. Any Application for an extension of a Permit is to be made a minimum of sixty (60) days before the expiration of the Permit or Waiver and is subject to payment of the applicable fee.

8. Enforcement

- 1) This By-law shall be enforced by an Officer and/or the Director for the Township. Officers or the Director may give direction, issue an Order to discontinue or to perform work, give verbal direction or written direction. An Officer or Director may issue an Order under this By-law to any Person believed to be contravening or to have contravened a provision of this By-law. An Order may include but is not limited to,
 - (a) Immediately cease from the activity constituting to contributing to the contravention,
 - (b) Leave the Property and cease the contravening activity immediately,
 - (c) Take immediate action to mitigate and/or remediate the impacts of the activity and,

- (d) Apply for and obtain a Permit.
- 2) Officers and the Director may, at any reasonable time,
 - (a) Enter and inspect a Property to determine compliance with this By-law, any Condition of a Permit, Agreement or any Order issued under this By-law (noting that this power of entry does not allow entry into a dwelling),
 - (b) Enter the Property to collect information and to take photographs, videos, measurements, readings and samples (of air, surface water, groundwater, Soil, materials),
 - (c) Require the production of copies of reports or other documentation for the purposes of auditing any Site Alteration or compliance with the Conditions of a Permit, agreement or Order or,
 - (d) Require the production of documents or things relevant to the inspection, inspect and remove such documents or things for the purposes of making copies.
- 3) Where an Officer has reasonable grounds to believe that an Offence has been committed by a Person, the Officer may require the name, address and proof of identity of that Person. The Person shall supply the required information.

9. Orders

- 1) If after an inspection, an Officer or Director is satisfied that a contravention of the By-law has occurred, the Owner shall be notified of the particulars to the contravention by way of an Order to Discontinue or an Order to Comply pursuant to the Municipal Act and such Order shall contain,
 - (a) The municipal address and legal description of the Site,
 - i. Where a Site has no such municipal address, the legal description shall be provided
 - (b) Reasonable particulars of the contravention,
 - (c) Remedial actions to be taken,
 - (d) The date or timeframe in which there must be compliance with the Order.
 - (e) A notice stating that if the work is not done in compliance with the Order within the specified timeframe that the Township may have the work done at the expense of the Owner and where expenses are left unpaid that the Township may draw on securities or place the expenses on the tax roll for the Property,
 - (f) A notice stating that any Person other than a corporation, who contravenes the provisions of this By-law, the terms or 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

- 2) Orders issued under this By-law shall be served as follows,
 - (a) Personally, or by prepaid registered mail or email to the last known address/email address of the Owner, Operator and/or any other Person to whom the Order is to be issued, or
 - (b) A placard containing the terms of the Order shall be placed in a conspicuous place on the Property and the placing of the placard shall be deemed to be service of the Order.
- 3) An Order may also be issued to a new Owner in any case where ownership of the Property has changed but the offence continues or remains.
- 4) If the Township serves an Order on a Person, it shall be deemed to have been served on the Person;
 - (a) Immediately if personally served.
 - (b) On the 5th day after mailing of the Order if sent by registered mail.
 - (c) Immediately if served by email, save and except where it is was emailed on a holiday, in which case service will be deemed effective on the next (non-holiday) day after the holiday.

10. Work Done by the Township

- 1) If the Conditions of a Permit and/or an Order made under this By-law are not complied within the period specified in the Order, in addition to all other remedies it may have, the Township may undertake any activity to fulfill any Conditions of the Permit and/or Order at the Owners expense and may enter upon Property at any reasonable time for this purpose.
- 2) The Township may recover its costs of remedying a contravention, administrative and enforcement functions with respect to this By-law by invoicing the Owner, by instituting court proceedings or by adding the cost and applicable administrative fees, including interest, to the Owner's tax roll in the same manner as municipal taxes and the exercise of any one remedy shall not preclude the exercise of any other available remedy.

11. Penalty and Offence

- 1) Every Person who contravenes a provision of this By-law, a Condition of a Permit, an Agreement, and/or an Order issued under this By-law, is guilty of an offence and upon conviction is liable to a fine as provided for by the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended or any successor legislation ("Provincial Offences Act").
- 2) Every Person who is guilty of an offence under this By-law may, if permitted

under the Provincial Offences Act, R.S.O. c 1990, c. P33 as amended, pay a set fine, and the Chief Judge of the Ontario Court of Justice shall be requested to establish set fines as set out in Schedule 'B',

- (a) Schedule 'B' shall not come into force and effect until approved and filed by the Regional Senior Justice, pursuant to Provincial Offences Act Part 1. A copy of this approval shall be attached and form part of this By-law.
- 3) If 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.
- 4) For the purposes of this By-law, "multiple offence(s)" means an offence in respect of two or more acts or omissions each of which separately constates an offence and is a contravention of the same provision of this By-law.
- 5) Every Person who is guilty of an Offence under this By-law may be subject to a fine under the Municipal Act such that;
 - (a) A minimum fine shall not exceed \$500 and a maximum fine shall not exceed \$100,000,
 - (b) In the case of a continuing offence, for each day or part of a day that the offence continues, a minimum fine shall not exceed \$500 and a maximum fine shall not exceed \$10,000. However, the total of all the daily fines for the offence is not limited to \$100,000, and
 - (c) In the case of a multiple offence, for each offence included in the multiple offence, a minimum fine shall not exceed \$500 and a maximum fine shall not exceed \$10,000. However, the total of all the fines for each included offence is not limited to \$100,000.
- 6) A special fine may be imposed in addition to a fine imposed under this By-law 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.
- 7) A special fine shall be calculated based on,
 - (a) \$10.00 per each cubic metre of Fill,
 - i. Deposited in excess of the amount allowed in a Permit and/or Agreement, or,
 - ii. Deposited beyond the geographical limits of the Permit and/or Agreement, or
 - iii. Deposited without first having obtained a Permit and/or Agreement.
 - (b) Where the Fill is found to contain Contaminant levels that exceed Table 2 Standards from the Soil, Ground Water and Sediment Standards for Use under Part XV.1 of the Environmental Protection Act, greater fines

of not less than \$100.00 per cubic metre may be imposed.

12. Appeals

- 1) A decision of the Director with relation to this By-law shall be considered as final and binding subject to an appeal to Council.
- 2) An Applicant for a Permit under this By-law may appeal to Council regarding,
 - (a) The completeness of an Application submitted for a Permit,
 - (b) Failure by the Director to make a decision on an Application for a Permit within 60 days of the Township receiving a complete Permit Application, which appeal must be made in writing within 30 days of the of the initial 60-day period,
 - (c) Refusal by the Director to issue a Permit, which appeal must be made within 30 days after the refusal of the Permit,
 - (d) Any Conditions included by the Director in a Permit, which appeal must be made within 30 days after the Permit was issued.
- 3) On an appeal under this section, Council shall have all the powers of the Director pursuant to this By-law.
- 4) Administrative fees for an appeal to Council as determined by the Township's fees and charges by-law shall be paid in advance of an appeal to Council being heard.
- 5) A decision of Council shall be considered as binding and final.

13. Liability and Indemnification

- 1) The provisions of this By-law do not limit the responsibility or liability of any Person who has lawfully or unlawfully undertaken any Site Alteration from any personal injury, including injury resulting in death or property damage resulting from such Site Alteration or from acts or omissions of such Person, or his or her agents, employees, or contractors.
- 2) Likewise, provisions of this By-law shall not be construed as acceptance by the Township, its Officers, employees, or agents of any responsibility or liability whatsoever by reason of allowing such Site Alteration, approving the request for permitting such Site Alteration, or activities related to the Site Alteration.
- 3) The Township is not responsible for any damages, losses or injuries caused as a result of any Site Alteration.
- 4) The Owner and any Person shall be jointly and severally responsible to indemnify the Township, its Officers, employees and agents from all losses, damages, costs, expenses, claims, demands, actions, lawsuit, or other proceedings of every nature and kind arising from, and in consequence of

activities related to Site Alteration.

14. Transition Provision

- 1) Notwithstanding the repeal of Fill By-law XXXXXXXX and all amendments thereto, those By-laws shall continue to apply to any acts, omissions or occurrences, and to any offences that took place prior to the enactment of this By-law.
- 2) This By-law shall come into full effect and force on the date of its passing.

SCHEDULE B TO BY-LAW XXXXX
PART 1 PROVINCIAL OFFENCES ACT

PAGE 1

TOWNSHIP OF BROCK

BY-LAW XXXXXX, as amended – “SITE ALTERATION AND FILL BY-LAW”

A By-law of the Corporation of the Township of Brock to prohibit or regulate the placing or dumping of fill, soil stripping and/or alteration to the grade of lands in area of the Township of Brock (The “Township”)

Item	Column 1 Short Form Wording	Column 2 Provision Creating or Defining Offence	Column 3 Set Fine
1.	Conduct, undertake, cause, permit or carry out a Site Alteration on any Property without a Permit	3. 2)	\$500
2.	Allow Fill to remain on a Property that is not approved through a Permit	3. 3)	\$500
3.	Operate a Commercial Fill Operation	3. 4)	\$1000
4.	Perform a Site Alteration without Owner permission	3. 5)	\$500
5.	Import Fill with the use of a Hydro-Excavation Truck	3. 6)	\$500
6.	Fail to comply with an Order	3. 7)	\$1000
7.	Obstruct or hinder, or attempt to obstruct or hinder an Officer	3. 8)	\$500
8.	Conduct, undertake, cause, permit or carry out a Site Alteration on any Property within an Environmentally Significant Land	3. 9) (a)	\$500
9.	Conduct, undertake, cause, permit or carry out a Site Alteration on any Property within a Key Natural Heritage Feature	3. 9) (b)	\$500
10.	Conduct, undertake, cause, permit or carry out a Site Alteration on any Property within a Hydrogeologically sensitive area	3. 9) (c)	\$500
11.	Conduct, undertake, cause, permit or carry out a Site Alteration on any Property within minimum vegetation zone.	3. 9) (d)	\$500
12.	Conduct, undertake, cause, permit or carry out a Site Alteration on any Property within a highly vulnerable aquifer area	3. 9) (e)	\$500
13.	Conduct, undertake, cause, permit or carry out a Site Alteration on any Property within wellhead protection area	3.9) (f)	\$1,000
14.	Conduct, undertake, cause, permit or carry out a Site Alteration on any Property without agreement or approval	3. 10)	\$1,000
15.	Conduct, undertake, cause or permit mud tracking as a result of Site Alteration	3. 11)	\$500

NOTE: The penalty provisions for offences listed above are Part 3 of **By-law XXXXXX**, as amended certified copy of which has been filed.

TOWNSHIP OF BROCK

BY-LAW XX-xx, as amended – “SITE ALTERATION AND FILL BY-LAW”

A By-law of the Corporation of the Township of Brock to prohibit or regulate the placing or dumping of fill, soil stripping and/or alteration to the grade of lands in area of the Township of Brock (The “Township”)

Item	Column 1 Short Form Wording	Column 2 Provision Creating or Defining Offence	Column 3 Set Fine
16.	Conduct, undertake, cause, permit or carry out a Site Alteration that causes dust impacts	3. 12)	\$500
17.	Conduct, undertake, cause, permit or carry out a Site Alteration without erosion and sediment controls	3. 13)	\$500
18.	Conduct, undertake, cause, permit or carry out a Site Alteration that injures or destroys a tree	3. 14)	\$500
19.	Conduct, undertake, cause, permit or carry out a Site Alteration that impacts the quality or quantity of any surface water or groundwater used for Agricultural or human consumption	3. 15)	\$500
20.	Conduct, undertake, cause, permit or carry out a Site Alteration that adversely affects any Watercourse or Drainage of any Property	3. 16)	\$500
21.	Conduct, undertake, cause, permit or carry out a Site Alteration that results in an Unapproved Grade	3. 17)	\$500
22.	Alter, repair or construct a Retaining Wall greater than adjacent Grade without a Permit	3. 18)	\$500
23.	Alter or cause blockage of a Drainage swale	3. 19)	\$500
24.	Alter the location, direction or rate of Drainage to any adjacent Properties as a result of a Site Alteration	3. 20)	\$500
25.	Conduct, undertake, cause, permit or carry out a Site Alteration that causes an Adverse Effect	3. 21)	\$500
26.	Alter Grade where an approved grading plan exists	3. 22)	\$500
27.	Use salt impacted soil within the Township	3. 23)	\$500
28.	Use Reclaimed Fill on any Property within the Township	3. 24)	\$1,000
29.	Place, Dump, cause or permit Fill to be placed or Dumped on unsuitable Property	3. 25)	\$500
30.	Perform or permit a Site Alteration between 7:00pm and 7:00am Monday to Saturday	3. 26) (a)	\$500
31.	Perform or permit a Site Alteration anytime on a Sunday or Statutory Holiday	3. 26) (b)	\$500
32.	Perform or permit a Site Alteration during a wind warning issued by Environment Canada	3. 26) (c)	\$500

NOTE: The penalty provisions for offences listed above are Part 3 of By-law XXXXXX, as amended certified copy of which has been filed.

TOWNSHIP OF BROCK

BY-LAW XX-XX – “SITE ALTERATION AND FILL BY-LAW”

A By-law of the Corporation of the Township of Brock to prohibit or regulate the placing or dumping of fill, soil stripping and/or alteration to the grade of lands in area of the Township of Brock (The “Township”)

Item	Column 1 Short Form Wording	Column 2 Provision Creating or Defining Offence	Column 3 Set Fine
33.	Perform or permit a Site Alteration during a weather warning issued by Environment Canada	3. 26) (d)	\$500
34.	Perform or permit a Site Alteration that adversely affects adjacent Properties	3. 26) (e)	\$500
35.	Conduct, undertake, cause, permit or carry out a Site Alteration that contains any one or more of putrescible materials, demolition debris, coated brick concrete, exposed rebar, paints or coatings, plastic, Asphalt, glass, petroleum products or hydrocarbon materials	3. 27) (b)	\$500
36.	Conduct, undertake, cause, permit or carry out a Site Alteration that contains Contaminants	3. 27) (c)	\$1,000
37.	Conduct, undertake, cause, permit or carry out a Site Alteration that contains any one, or more of, termites, pests, or Invasive Species	3. 27) (d)	\$500
38.	Conduct, undertake, cause, permit or carry out a Site Alteration that is not in accordance with the Township’s Zoning By-law	3. 28) (a)	\$500
39.	Conduct, undertake, cause, permit or carry out a Site Alteration that is not in accordance with the Township’s Building By-law	3. 29) (b)	\$500
40.	Conduct, undertake, cause, permit or carry out a Site Alteration that is not in accordance with the Township’s Noise By-law	3. 28) (c)	\$500
41.	Conduct, undertake, cause, permit or carry out a Site Alteration that is not in accordance with the Township’s Property Standards By-law	3. 28) (d)	\$500
42.	Conduct, undertake, cause, permit or carry out a Site Alteration that is not in accordance with the Greenbelt Plan	3. 28) (e)	\$500
43.	Conduct, undertake, cause, permit or carry out a Site Alteration that is not in accordance with requirements of a Conservation Authority	3. 28) (f)	\$500
44.	Conduct, undertake, cause, permit or carry out a Site Alteration that is not in accordance with an approved Agreement or issued Permit.	3. 29)	\$500
45.	Fail to post Permit placard on Site	3. 30)	\$500

NOTE: The penalty provisions for offences listed above are Part 3 of **By-law XXXXXX**, as amended certified copy of which has been filed.