

The Corporation of the Township of Oro-Medonte

By-law No. 2016-056

**Being a By-law to Prohibit and Regulate the placing, dumping or removal of fill and the alteration of the grade within the Township of Oro-Medonte.
(Site Alteration By-law)**

Whereas section 142 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, authorizes the Council of The Corporation of the Township of Oro-Medonte to pass by-laws for prohibiting or regulating the placing, dumping or removal of fill of any kind, for prohibiting or regulating the removal of topsoil, and for prohibiting or regulating the alteration of the grade of land;

And Whereas Council deems it in the public interest to regulate the dumping and placing of fill, the removal of topsoil, and other site alteration in order to ensure that existing drainage patterns are maintained and that any changes to existing drainage patterns are appropriate to protect environmental features; to prevent the importation of hazardous material and to keep the disturbance of landform characteristics to a minimum;

Now Therefore the Council of The Corporation of the Township of Oro-Medonte hereby enacts as follows:

1. That Appendix "A" and Schedule "A" attached hereto, form part of this By-law.
2. That this By-law may be cited as the "Site Alteration By-law".
3. That all existing Site Alterations within the boundaries of the Township shall have one (1) month from the date of its final passing to obtain the required permits in accordance with this By-law.
4. That By-law Nos. 2016-012, 98-134 and 98-35 are hereby repealed in their entirety.
5. And that this By-law shall come into force and effect on the date of its final passing.

By-law read a First, Second and Third time, and Passed this 27th day of April, 2016.

The Corporation of the Township of Oro-Medonte

Mayor, H.S. Hughes

Clerk, J. Douglas Irwin

Appendix "A"

to By-law No. 2016-056 for The Corporation of the Township of Oro-Medonte

1.0 Definitions

For the purpose of this By-law, the following definitions shall apply:

"Agricultural lands" means lands that are used by a farming business registered under the *Farm Registration and Farm Organization Funding Act*, 1993, S.O. 1993, c. 21, as amended, for the growing of crops, including nursery and horticultural crops; raising livestock; raising of other animals for food, fur, fibre, including poultry and fish, aquaculture, apiaries, agro-forestry, maple syrup production;

"By-law" means this Site Alteration By-law;

"Body of water" means any body of flowing or standing water, whether naturally or artificially created;

"Chief Building Official" means the chief building official of the Township and shall include any person authorized by the chief building official to carry out any of the powers or duties of the Chief Building Official pursuant to this By-law;

"Clearing and grubbing" means the removal of all surface objects, brush, roots and other protruding obstructions, trees and stumps which result in the removal of topsoil or the alteration of grade of the land;

"Complete application" means an application and contents as described in Section 4 of this By-law;

"Conservation Authority" means the Lake Simcoe Region Conservation Authority or the Nottawasaga Valley Conservation Authority;

"Council" means the Council for the Township of Oro-Medonte;

"County" means the County of Simcoe;

"Director" means the Director, Development Services and/or their designate;

"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;

"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 on land to another location on the same land;

"Erosion" means the detachment and movement of soil, sediment or rock fragments by water, wind, ice or gravity;

"Fill" means any type of material deposited or placed on land and includes soil, stone, concrete, asphalt, dirt, sod or turf either singularly or in combination;

"Grade" means the elevation of the ground surface of lands and shall be comprised of each of the following, as may be applicable:

- (i) **"Existing grade"** means the elevation of the existing ground surface of the lands upon which dumping and/or placing of fill or other site alteration is proposed and of abutting ground surface up to 3 metres wide surrounding such lands, except that where placing or dumping of fill or other site alteration has occurred in contravention of this By-law, existing grade shall mean the ground surface of the lands as it existed prior to the dumping or placing of fill or to any other site alteration;

- (ii) **“Finished grade”** means the approved elevation of ground surface of lands upon which fill has been placed in accordance with this By-law;
- (iii) **“Proposed grade”** means the proposed elevation of ground surface of land upon which fill is proposed to be placed;

“Inspector” means individuals appointed as inspectors or municipal law enforcement officers and/or their respective designates under this By-law;

“Lot” means a parcel of land, described in a deed or other document legally capable of being conveyed, or shown as a block on a registered plan of subdivision;

“Notice of Contravention” means a notice of a contravention of a by-law pursuant to subsection 444(1) of the *Municipal Act, 2001*;

“Order to Comply” means an order issued pursuant to subsection 445(1) of the *Municipal Act, 2001*;

“Owner” means the person registered as the owner on title upon which the site alteration is proposed or occurring and any person, firm or corporation managing or controlling such lands;

“Permit” means a permit issued pursuant to this By-law;

“Place”, “placed” or “placing” means the distribution of fill on lands to establish a finished grade different from the existing grade;

“Ponding” means the accumulation of surface water in an area not having drainage there from where the lack of drainage is caused by the placing or dumping of fill or other site alteration;

“Qualified Person” means the same as defined under O. Reg. 153/04 under the *Environmental Protection Act*, R.S.O. 1990, c. E.19, as amended;

“Qualified Tree Consultant” means an arborist certified by the International Society of Arboriculture who has a diploma (minimum) in arboriculture or urban forestry;

“Retaining wall” means a wall designed to contain and support fill which has a finished grade higher than that of adjacent lands;

“Security” means a certified cheque, cash or an irrevocable letter of credit in a form acceptable to the Inspector and the Township’s Treasurer;

“Site alteration” means the placing or dumping of fill on land, the removal of topsoil from land, or the alteration of the grade of land by any means including placing fill, clearing and grubbing, the compaction of soil or the creation of impervious surfaces, or any combination of these activities;

“Soil” means material commonly known as earth, topsoil, loam, clay, sand or gravel;

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

“Township” means The Corporation of the Township of Oro-Medonte;

“Watercourse” means a natural or man-made channel or swale in which water flows, either continuously or intermittently with some degree of regularity;

“Wetland” means land such as a swamp, marsh, bog or fen not including land that is being used for agricultural purposes and no longer exhibits wetland characteristics that:

- (i) is seasonally or permanently covered by shallow water or has the water table close to or at the surface; and

- (ii) has hydro-soils and vegetation dominated by hydrophilic or water-tolerant plants.

“**Zoning By-law**” means any by-law enacted by the Township pursuant to section 34 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended.

2.0 Regulations

- 2.1** No person shall place or dump any fill, remove any topsoil or otherwise alter the grade of land by causing, permitting or performing any other form of site alteration on land within the Township without the owner first receiving a permit issued under this By-law by the Director.
- 2.2** No person shall place or dump any fill, remove any topsoil or otherwise alter the grade of land by causing, permitting or performing any other form of site alteration on land zoned Environmental Protection or Open Space as identified in the Zoning By-law, or within or adjacent to a watercourse, flood plain or a wetland or other such regulated areas pursuant to O. Reg. 182/06 made pursuant section 28 of the *Conservation Authorities Act*, R.S.O. 1990, c. C.27, as amended, unless approval has been issued by the applicable Conservation Authority and a permit issued pursuant to this By-law.
- 2.3** No person shall fail to comply with an order issued pursuant to Section 10 of this By-law.
- 2.4** No person, in the performance of a site alteration, shall injure or destroy a municipal tree or other trees which are subject to tree protection measures as a condition of a permit issued pursuant to this By-law except to the extent that such injure or destruction is specifically authorized in writing in accordance with provisions of this By-law and any other applicable By-laws of the Township or the Conservation Authority or the County.
- 2.5** No person shall perform a site alteration on any land 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.
- 2.6** No person shall place or dump fill or cause or permit fill to be placed or dumped unless such fill complies with the standards established by the Ministry of Environment and Climate Change for clean fill, as described in Sections 4.16 and 4.22 of this By-law.
- 2.7** No person shall place, or dump any fill, remove any topsoil or otherwise alter the grade of land by causing, permitting or performing any form of site alteration which would interfere with existing drainage patterns of adjacent lands, or cause obstructions to existing drainage flows or obstruct or impede the function of flow of existing drainage swales or cause additional surface and ground waters to be discharged onto adjacent lands.
- 2.8** No person shall place, or dump any fill, remove any topsoil or otherwise alter the grade of land by causing, permitting or performing any form of site alteration which would cause surface drainage to flow, discharge or be directed onto adjacent lands other than directly into a natural watercourse or approved municipal, County or Provincial drainage system.
- 2.9** No person shall perform a site alteration or permit the performance of a site alteration during the following times:
 - 2.9.1** Between the hours of 7:00 p.m. and 7:00 a.m. Monday to Friday;
 - 2.9.2** Between the hours of 12:00 a.m. and 8:00 a.m. and 4:00 p.m. to 11:59 p.m. on Saturdays;
 - 2.9.3** Anytime on Sundays or on any holiday as defined in the *Retailed Business Holidays Act*, R.S.O. 1990, c. R.30, as amended; or

2.9.4 As set out in the conditions of the permit or in any agreement made pursuant to this By-law.

3.0 Exemptions

3.1 This By-law is not applicable to the following:

- 3.1.1** 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* or a waste, waste disposal or waste management system that is exempted by regulation from said Part V;
- 3.1.2** 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;
- 3.1.3** Emergency measures taken by the Township, County or Conservation Authority or any other federal, provincial or governmental agency or body, to prevent flooding, erosion, slipping of soil or damage of trees;
- 3.1.4** The activities of the Township, County or the Conservation Authority related but not limited to the establishment or maintenance of utilities and services, roads, bridges, flood and erosion control facilities, walkways, bicycle paths, fences, retaining walls, steps and lighting;
- 3.1.5** The placing or dumping of fill, removal of topsoil or alteration of the grade of land as a condition to the approval of a site plan, a plan of subdivision or a consent under section 41, 51 or 53 of the *Planning Act*, or as a requirement of a site plan agreement or subdivision agreement entered into under those sections;
- 3.1.6** The placing or dumping of fill, removal of topsoil or alteration of the grade of land 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;
- 3.1.7** Aggregate (as defined in the *Aggregate Resources Act*, R.S.O. 1990, c. A.8, as amended) brought onto a pit or quarry operating under a licence or wayside permit issued under that statute as part of the operations of that pit or quarry;
- 3.1.8** The placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken on land described in a licence and/or site plan for a pit or quarry or a permit for a wayside pit or wayside quarry issued/approved under the *Aggregate Resources Act*;
- 3.1.9** The placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken on land in order to lawfully establish and operate or enlarge any pit or quarry on land,
- (i) that has not been designated under the *Aggregate Resources Act* or a predecessor of that statute; and
 - (ii) on which a pit or quarry is a permitted land use under a by-law passed under section 34 of the *Planning Act*;
- 3.1.10** Any rehabilitation or filling activity in a pit or quarry licensed under the *Aggregate Resources Act*, and specifically addressed on the approved site plan when there is insufficient overburden retained to rehabilitate such pit or quarry in accordance with that statute;
- 3.1.11** The placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken as an incidental part of the drain construction

under the *Drainage Act*, R.S.O. 1990, c. D.17, as amended, or the *Tile Drainage Act*, R.S.O. 1990, c. T.8, as amended;

- 3.1.12** 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*, S.O. 1998, c. 15, Schedule A, as amended, for the purpose of constructing and maintaining a transmission system or a distribution system, as those terms are defined in that section;
 - 3.1.13** The removal of topsoil from Agricultural Lands incidental to a normal agricultural practice including such removal as an incidental part of sod-farming, greenhouse operations and nurseries for horticultural products. This exception does not include the removal of topsoil for sale, exchange or other disposition;
 - 3.1.14** The harvesting of peat in a commercial operation as approved by the Conservation Authority.
- 3.2** Section 2.1 does not apply to the following:
- 3.2.1** Construction where a permit authorized under the *Building Code Act, 1992*, S.O. 1992, c. 23, as amended, has been issued by the Chief Building Official including erection, installation, construction demolition of a single family dwelling, structure or on-site sewage system where an approved lot grading plan is in place or the site plan accompanying the building permit application provides sufficient information to determine that the placing or dumping of fill conforms with provisions of this By-law and the amount of fill to be dumped or placed pursuant to the building permit does not exceed 750 cubic metres;
 - 3.2.2** The placing or dumping of fill in an excavation to the elevation of existing grade following the demolition or removal of a building or structure for which a building permit has been issued;
 - 3.2.3** Fill being placed or dumped on lands for the purpose of flood or erosion control to establish finished grade shown on a grading and drainage plan approved by the Conservation Authority, County or by the Township in conjunction with a subdivision approval;
 - 3.2.4** Site alteration involving an amount of soil of less than fifty (50) cubic metres on a lot within any one-year period, provided that there is no significant change in the direction or rate of drainage to the neighboring properties, and unless the site includes or is adjacent to a body of water. Such alteration shall not take place within sixty (60) centimetres of any property line;
 - 3.2.5** The resurfacing or paving of existing driveways where there is no alteration to the existing driveway base and no significant change in the direction or rate of drainage to neighboring properties; and
 - 3.2.6** Replacement of topsoil for restoration of agricultural lands used for normal agricultural practices, as an incidental part of sod farming, greenhouse operations, and nurseries for horticultural practices. Storage of such topsoil shall not exceed one thousand (1000) cubic metres.
- 4.0 Requirements for Issuance of a Permit**
- 4.1** The owner applying for a permit under this By-law shall have a pre-consultation meeting with the Director and any other person/agency that maybe necessary, in order to review the proposal to determine if a permit can be issued under the requirements of this By-law.
 - 4.2** An owner applying for a permit shall provide the following:

- 4.2.1** A completed application form;
- 4.2.2** The name, address, and contact telephone number of the owner of the land upon which the fill is to be dumped or placed or other site alteration is to occur;
- 4.2.3** The municipal address of the land on which the fill is to be dumped or placed or other site alteration is to occur;
- 4.2.4** Legal description of the land upon which the fill is to be dumped or placed or other site alteration is to occur;
- 4.2.5** The applicable fee calculated in accordance with the rates set out in Schedule "A" of this By-law at the time of application;
- 4.2.6** A scale drawing of any retaining wall that may be required and a description, including dimensions, of any materials to be used in the construction of such retaining wall;
- 4.2.7** Security in the amount as set out in Schedule "A" of this By-law for returning the land to a condition and/or including damages and cleaning as required satisfactory to the Director and/or Inspector;
- 4.2.8** A site alteration plan, based on an identified legal survey if required by the Inspector, accurately indicating the following, as required and to the satisfaction of the Inspector:
 - 4.2.8.1** The property lines of the lands for the site alteration with dimensions,
 - 4.2.8.2** A topographic survey at one metres contour intervals certified by a professional engineer or Ontario Land Surveyor defining all materials and manmade features, including top and bottom of slopes, drainage patterns, tree lines, buildings, and stockpiles on the lands and within thirty (30) metres on abutting lands and water bodies,
 - 4.2.8.3** All existing storm sewers, ditches, swales, creeks, watercourses and wetlands on the lands and on abutting lands and public highways,
 - 4.2.8.4** All existing buildings, the species and size of all trees, the location of all shrubs and driveways on the lands and of all easements and right-of-ways over, under, across or through the lands,
 - 4.2.8.5** Proposed grades and drainage systems upon completion of the site alteration,
 - 4.2.8.6** All proposed ground covering to be used upon completion of the site alteration operation, and
 - 4.2.8.7** All erosion, sediment and tree protection measures for site alteration operation.
- 4.2.9** 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 is being acquired attesting that the fill meets the requirements for clean fill as per Section 4.16 or 4.22 if applicable, of this By-law, the quantity of fill (expressed in cubic metres), and the proposed location of the fill on the lands, and shall include contact information, if required by the Inspector;

- 4.2.10** A signed authorization by the owner of the land 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;
- 4.2.11** A signed authorization of a grantee(s) of any easement within the property accepting the placing or dumping of fill or other site alteration on or abutting any easement;
- 4.2.12** The Official Plan designation and zoning of the property;
- 4.2.13** For lands that are regulated under the applicable Conservation Authority, the application shall be accompanied by any and all documents, reports or studies required by such plan(s) to demonstrate compliance with their provisions;
- 4.2.14** Such tree reports prepared by a Qualified Tree Consultant as may be required by the Inspector; and
- 4.2.15** Any other study, report, plan, drawing or material related to the application as deemed necessary by the Inspector or Director to constitute a complete application.
- 4.3** If the land that is the subject of the permit application is, in the opinion of the Inspector of an environmentally sensitive or significant nature, he/she may seek comments/approvals from the Conservation Authority to assist in the permit process and such comments shall form part of the completed application.
- 4.4** In reviewing any application, the Inspector may seek comments/approvals from any other agency he/she deems necessary and such comments shall form part of the completed application.
- 4.5** As a condition of the issuance of a permit, the Inspector may require the owner of the land which is subject of the permit either prior to the permit being issued or after the permit has been issued to comply with one or more of the following:
 - 4.5.1** Notify the Inspector in writing within forty-eight (48) hours of commencing any work;
 - 4.5.2** Construct a retaining wall including a safety fence which does not encroach upon lands abutting the land on which the work is to be performed, (retaining walls one (1) metre or higher may be subject to a building permit pursuant to the *Building Code Act, 1992*) and conforms with the Zoning By-law, as amended;
 - 4.5.3** Ensure that fill is placed or dumped in such a manner, and any retaining wall containing such fill is erected in such a manner, and any other site alteration is conducted in such a manner, that no ponding is caused on abutting lands and that the adequate provision is made to permit proper surface storm water drainage;
 - 4.5.4** Provide appropriate protection for environmentally sensitive or significant land;
 - 4.5.5** Install and maintain the erosion and sediment control measures as identified in the approved site alteration plan and the latest guidelines for erosion measures of the Conservation Authority;
 - 4.5.6** Notify Inspector in writing of the completion of any erosion control measures within seven (7) days after their installation;
 - 4.5.7** Inspect the erosion control measures at least once a week and after each significant rainfall and make all needed repairs immediately;
 - 4.5.8** Obtain the permission of the Inspector in writing prior to modifying the approved site alteration plan;

- 4.5.9** Keep, maintain, and make available for inspection upon request of the Inspector, the following records in a good and business-like manner:
- 4.5.9.1** Full and complete legal name, and business name if different from the legal name, of each hauler,
 - 4.5.9.2** The commercial vehicle registration number of each hauler,
 - 4.5.9.3** The motor vehicle permit number of the motor vehicles owned and operated by each hauler,
 - 4.5.9.4** The date and time of each delivery of fill,
 - 4.5.9.5** The point of origin of each delivery of fill,
 - 4.5.9.6** The volume of each delivery,
 - 4.5.9.7** The content of material of each delivery of fill, and
 - 4.5.9.8** Any other information required by the Inspector.
- 4.5.10** Provide to the Inspector a report from a Qualified Person with knowledge in respect to the source and nature of the fill to be placed or dumped, that all fill meets standards prescribed by the Ministry of Environment and Climate Change for any current land use and any future land use for the land designated under an Official Plan approved by Council for the Township or Council for the County;
- 4.5.11** Notify the Inspector of the commencement, the completion and of the various stages of performance of the work in any site alteration on land and to permit and make available the land for inspection at each of these times;
- 4.5.12** Install all tree protection measures required by the approved site alteration plan prior to commencing any work and to maintain these tree protection measures throughout the entire duration of the work;
- 4.5.13** Provide that all fill shall not be placed or dumped around the perimeter of any existing building unless such building and its foundation walls are evaluated and reinforced in accordance with accepted engineering and constructed practice, and an appropriate building permit has been issued by the Township;
- 4.5.14** Provide adequate drainage from the land on which the works is to be performed in accordance with a drainage agreement if applicable, and in any event in accordance with an approved site alteration, reasonable environmental practices, and proper engineering practices;
- 4.5.15** Ensure that no trench in which drainage piping is laid is covered and backfilled until the work has been inspected by the Qualified Person;
- 4.5.16** Remove the topsoil prior to the performance of the work in the alteration of the grade or the placing or dumping of fill;
- 4.5.17** Provide a detailed map, approved by the Inspector outlining the route that all trucks will take to and from the site as identified on the application;
- 4.5.18** Provide security to ensure the maintenance of the highways that are under the jurisdiction of the Township and that are being used by the trucks delivering or removing the fill in a state of repair and free from dust and mud;

- 4.5.19** Ensure that the finished grade surface is protected by sod, turf, seeding for grass, greenery, asphalt, concrete or such other material shown on submitted plans;
- 4.5.20** Ensure that all fill used is material that does not contain any putrescible material and to the satisfaction of the Qualified Person meets any of the following criteria:
 - 4.5.20.1** Rock, including demolition debris such as domestic brick and concrete that does not contain cement fines, exposed rebar, paint or coatings, decomposable materials, plastic, asphalt, petroleum products, hydrocarbon materials and any putrescible organic materials,
 - 4.5.20.2** Soil that the standards set out in Table 1 of the soil, Ground Water and Sediment Standards referenced in O. Reg. 153/04 as amended,
 - 4.5.20.3** Liquid slurry materials to the extent that the free water is removed and the resulting wet or slurred material meets the standards set out in Table 1 of the soil, Ground Water Sediment Standards referenced in O. Reg. 153/04, and any free water from the liquid slurry that meets the standards set out in Table 1 of the Soil, Ground Water Sediment Standards referenced in O. Reg. 153/04,
 - 4.5.20.4** Topsoil, sod and turf materials to be stockpiled for use as final cover only;
- 4.5.21** Ensure that such dust control measures are in place so as to restrict the blowing of dust onto any adjacent lands or highways;
- 4.5.22** Operate in compliance with provisions of the Township's noise by-law and any other relevant legislation;
- 4.5.23** Conditions to address the requirements of the Conservation Authority;
- 4.5.24** Conditions to address the requirements of any other required agency; and
- 4.5.25** An agreement, if required by Section 6 of this By-law.
- 4.6** The Director may issue a permit when:
 - 4.6.1** The Director is satisfied that the lands which are the subject of the application for a permit are not within an area where placing or dumping of fill or other site alteration is prohibited under Section 2 of this By-law;
 - 4.6.2** The applicant has fulfilled all requirements of Section 4 of this By-law;
 - 4.6.3** If required by Section 6, the applicant has entered into the agreement referred to in Section 6 of this By-law;
 - 4.6.4** In addition to compliance with all other requirements, the intended use for the filled area is a permitted use under the County's Official Plan, Township's Official Plan, the Zoning By-law, and the applicable Conservation Authority; and
 - 4.6.5** The amount of fill to be dumped or placed on any lot will not exceed one thousand (1000) cubic metres, in which case the approval of Council will be required.

- 4.7** Where a permit has been issued under this By-law authorizing site alteration on lands, no person shall undertake or permit site alteration except in accordance with:
- 4.7.1** The plans, documents and any other information required for the issuance of a permit;
 - 4.7.2** The terms and conditions of the permit;
 - 4.7.3** Compliance with the agreement entered into with the Township as a condition of obtaining the permit; and
 - 4.7.4** All other provisions of this By-law.
- 4.8** The Township may engage legal, engineering, hydrology, environmental. Arborist, landscape or any other consultant the Inspector deems necessary in order to evaluate studies and/or agreements or to provide assistance to the Inspector throughout the site alteration process in which case the cost incurred for such evaluation shall be charged back to the applicant plus a 5% administration charge.
- 4.9** The Township may draw on the security required pursuant to Section 4.2.7 in order to remedy any breach of the provisions of this By-law, the conditions imposed on the fill permit by the Inspector, or any other obligation of the owner relating to the fill permit, and without limiting the generality of the foregoing, such security may be used to return the land to a condition satisfactory to the Inspector and to pay any outstanding amounts owed pursuant to the Section 4.2.7 of this By-law.
- 4.10** The Inspector may require that additional security be provided by the owner at any time if, in the opinion of the Inspector, such additional security is required, and the owner shall provide such additional security immediately upon the request of the Inspector.
- 4.11** The issuance of any permit by the Inspector shall not relieve the permit holder from compliance with this By-law, any other applicable law or legislation.
- 5.0 Expiry, Renewal, Revocation and Transfer of Permit**
- 5.1** Any permit issued pursuant to Section 4.23 of this By-law shall be valid for a period of one (1) year from the date of issuance but shall expire after six (6) months from the date of issuance if the work authorized thereunder has not been commenced by that date.
- 5.2** A permit which is no longer valid or which has expired pursuant to Section 5.1 may be renewed within a six (6) month period following the date of expiry upon written application to the Inspector accompanied by a payment of one half of the original permit fee, provided that the previously permitted work has not been revised.
- 5.3** No permit shall be extended past the completion date without the approval of Council and such extension shall be for a period not exceeding six (6) months from the date when the original permit was to be completed.
- 5.4** Where it is determined by an Inspector that a permit has been issued based on false or misleading information, the Inspector shall revoke the permit, and the owner and permit holder shall ensure that all work that was the subject of the revoked permit ceases and they shall return the land to a condition that is satisfactory to the Director.
- 5.5** If title to the land for which a permit has been issued is transferred while the permit remains in effect, the permit shall be cancelled unless the new owner, within thirty (30) days of the transfer:
- 5.5.1** Provides the Township with an undertaking agreeing to comply with all conditions under which the existing permit was issued; or

- 5.5.2** Applies for and obtains a new permit in accordance with the provisions of this By-law.
- 5.6** When work has commenced before a permit for the work has been issued, the fees for an application for each permit required shall:
- 5.6.1** Double the amount otherwise specified in this By-law; and
- 5.6.2** Include an additional \$250.00 for each inspection that was made, required or requested prior to the permit being issued.
- 5.7** An Inspector may revoke any permit issued pursuant to this By-law for the following reasons:
- 5.7.1** It was obtained on mistaken, false or incorrect information;
- 5.7.2** It was issued in error;
- 5.7.3** The owner or permit holder requests in writing, that it be revoked;
- 5.7.4** The terms of an agreement under this By-law have not been complied with;
- 5.7.5** Work authorized under the permit has not been commenced prior to its expiry date;
- 5.7.6** An owner has failed to comply with the provisions of this By-law; or
- 5.7.7** The land has been transferred and the new owner has not complied with the requirements of Section 5 of this By-law.
- 6.0 Permit Agreement**
- 6.1** Where greater than one thousand (1000) cubic metres of fill is being placed or dumped or where the resulting proposed grade will be greater than two (2) metres above or below adjacent existing grade, the owner shall provide a complete application and enter into an agreement with the Township which shall be registered on title to the land on which the work is to be performed and such agreement shall include the following conditions:
- 6.1.1** To retain a Qualified Person approved by the Director who shall be responsible for ensuring that the site alteration is in accordance with reasonable engineering and environmental practices, and is in accordance with the plans submitted for the permit, and is in accordance with conditions imposed pursuant to Section 4.5 of this By-law;
- 6.1.2** To undertake the site alteration in accordance with Section 6.1.1;
- 6.1.3** To require the Qualified Person to report in writing on a regular basis or as determined by the Director that the site alteration is in accordance with Section 6.1.1;
- 6.1.4** To require that the site alteration be completed by a specified date as noted in the permit;
- 6.1.5** Not to contaminate the natural environment and to abide by all applicable environmental laws and regulations;
- 6.1.6** To provide a report from the Qualified Person referred to in Section 6.1.1 that he/she is satisfied that the site alteration will not result in:
- 6.1.6.1** Soil erosion,
- 6.1.6.2** Blockage of a watercourse,

- 6.1.6.3** Siltation in a watercourse,
- 6.1.6.4** Pollution of a watercourse,
- 6.1.6.5** Flooding or ponding on abutting lands,
- 6.1.6.6** Flooding or ponding caused by a watercourse overflowing its banks,
- 6.1.6.7** A detrimental effect on any trees of a caliper of seventy-five (75) millimetres or more located on the lands,
- 6.1.6.8** Detrimental effect on matters of inherent biological sensitivity such as, but not limited to, aquifer recharge, water quality, unusual plants or wildlife and overwintering habitats,
- 6.1.6.9** Unauthorized injury or destruction of municipal trees or other trees protected under by-laws of the Township or the County, and
- 6.1.6.10** Injury or destruction of other trees, which in the opinion of the Inspector, could reasonably be avoided.

6.2 In addition, the agreement will contain an acknowledgment from the owner that the Township may engage legal, engineering, hydrology, environmental, arborist, landscape or any other consultant the Inspector deems necessary in order to evaluate studies and/or agreements or to provide assistance to the Inspector throughout the site alteration process in which case the costs incurred for such evaluations shall be charged back to the applicant plus a 5% administration charge; and

- 6.2.1** To provide security to be used to remedy any breach of the By-law or agreement, and
- 6.2.2** To indemnify the Township for any liability, costs, damages or losses incurred directly or indirectly caused by the issuing of a permit and to provide insurance satisfactory to the Township.

7.0 Consideration of Council

7.1 Where site alteration involves the placing or dumping of fill on a lot that exceeds one thousand (1000) cubic metres of fill or two (2) metres above or below the existing grade, the permit for such site alteration shall only be issued by Council, which shall have the same powers as the Inspector pursuant to this By-law.

8.0 Administration and Enforcement

8.1 The administration and enforcement of this By-law shall be performed by the Inspector and by such municipal law enforcement officers of the Township as may be appointed by Council.

8.3 Inspectors may, at any reasonable time enter and inspect any land, including soil testing and the taking of samples, to determine whether the provisions of this By-law, or a condition of a permit issued under this By-law have been complied with. This power of entry does not allow the Inspector to enter any building.

8.4 Upon completion of the work pursuant to the permit, the owner and/or permit holder shall so advise the Inspector.

8.5 No person shall obstruct an Inspector who is carrying out an inspection pursuant to this By-law.

- 8.6** This By-law shall apply to all site alteration, including placing and dumping of fill, removal of topsoil, and the alteration of grade on all lands within the boundaries of the Township.
- 9.0 Appeals**
- 9.1** There shall be and is hereby established a Site Alteration Appeals Committee consisting of three (3) members of Council, appointed by Council to hold office for a term not exceeding the term of the Council that appointed them. A simple majority of the members of the Site Alteration Appeals Committee constitutes a quorum for its meetings and business.
- 9.2** A person applying for a permit under this By-law may appeal to the Site Alteration Appeals Committee on one or more of the following grounds:
- 9.2.1** The completeness of an application submitted for a permit;
- 9.2.2** Failure to make a decision on an application for a permit within forty-five (45) days of the Township receiving a complete application, which appeal must be made within thirty (30) days after the expiration of the forty-five (45) day period;
- 9.2.3** Refusal to issue a permit, which appeal must be made within thirty (30) days after the permit refusal; and
- 9.2.4** A condition included in a permit, which appeal must be made within thirty (30) days after the permit was issued;
- 9.3** An applicant appealing to the Site Alteration Appeals Committee shall pay a fee in the amount of \$250.00 upon filing the appeal for the processing of the appeal.
- 9.4** On an appeal under this section, the Site Alteration Appeals Committee shall have all of the powers of the Inspector pursuant to this By-law.
- 9.5** A decision of the Site Alteration Appeals Committee shall be final and binding on the person applying for the permit and no further appeal is available.
- 10.0 Orders**
- 10.1** If after inspection, an Inspector is satisfied that a contravention of this By-law has occurred, the Inspector shall notify the registered owner of the land of the particulars with a Notice of Contravention and/or an Order to Comply pursuant to subsection 444(1) or subsection 445(1) of the *Municipal Act, 2001*, and at the same time provide all occupants with a copy of the notice and such order shall contain:
- 10.1.1** The municipal address and the legal description of the land;
- 10.1.2** Reasonable particulars of the contravention; and
- 10.1.3** The period of time within which there must be compliance.
- 10.2** The Inspector, by a written Notice of Contravention and/or an Order to Comply pursuant to subsections 444(1) and 445(1) of the *Municipal Act, 2001*, may require any person who has altered the grade of land, or who has caused or permitted the grade to be altered contrary to the provisions of this By-law, or who has placed or dumped fill, or has caused or permitted fill to be placed or dumped, or who has caused or permitted any form of site alteration contrary to the provisions of this By-law:
- 10.2.1** To cease all work in respect of site alteration;
- 10.2.2** To remove the fill;
- 10.2.3** To fill in any excavations or ponds; and/or

- 10.2.4** To do all work necessary:
- 10.2.4.1** To eliminate any hazards resulting from the alteration of the grade or the dumping or placing of fill and to restore the land to a condition of safety,
 - 10.2.4.2** To preserve the land pending any hearing of an appeal in respect of an application, and
 - 10.2.4.3** To restore the land to its former condition prior to the alteration of the grade of land to the placing or dumping of the fill on the land or other site alteration.
- 10.3** The Notice of Contravention and/or Order to Comply referred to in Sections 10.1 and 10.2 shall also contain:
- 10.3.1** The time frame in which the work contained in the Order to Comply must be carried out; and
 - 10.3.2** A notice stating that if the work is not done in compliance with the Order to Comply within the period it specifies, the Township may have the work done at the expense of the owner.
- 10.4** An owner who has received a Notice of Contravention and/or an Order to Comply shall comply with the Notice of Contravention and/or the Order to Comply within the time frame specified in the Notice of Contravention or the Order to Comply, otherwise, the Inspector may draw on any security filed.
- 10.5** A Notice of Contravention or an Order to Comply shall be served personally or by prepaid registered mail or in accordance with Section 10.7.
- 10.6** A Notice of Contravention or an Order to Comply pursuant to this By-law sent by prepaid registered mail shall be sent to the last known address to the owner of the land and permit holder.
- 10.7** An Inspector who is unable to effect service pursuant to Section 10.5 of this By-law shall place a placard containing the terms of the Notice of Contravention or an Order to Comply in a conspicuous place on the property and the placing of the placard shall be deemed to be sufficient service of the Notice of Contravention or an Order to Comply on the owner and permit holder.
- 10.8** If the owner or permit holder fails to do the work required by the Order to Comply within the period it specifies, the Township, in addition to all other remedies it may have, may do the work and for this purpose may enter on the land with its employees and agents. The costs incurred by the Township in so doing shall be paid by the owner of the land and may be recovered by the Township in like manner as taxes or drawing any security filed.
- 11.0 Offences**
- 11.1** 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, a Notice of Contravention or an Order to Comply issued pursuant to this By-law, or an agreement made pursuant to this By-law, is guilty of an offence and, upon conviction, is liable:
- 11.1.1** On a first conviction, to a fine of not more than \$10,000.00, and
 - 11.1.2** On any subsequent conviction to a fine of not more than \$25,000.00.
- 11.2** A corporation that contravenes any provision of this By-law, the terms or conditions of a permit issued pursuant to this By-law, a Notice of Contravention or an Order to Comply issued pursuant to this By-law, or an agreement made pursuant to this By-law, is guilty of an offence and on conviction is liable:

- 11.2.1** On a first conviction, to a fine of not more than \$50,000.00, and
- 11.2.2** On any subsequent conviction to a fine of not more than \$100,000.00.
- 11.3** 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, a Notice of Contravention an Order to Comply issued pursuant to this By-law, or an agreement made pursuant to this By-law, may be ordered by a court of competent jurisdiction at the expense of the person to:
- 11.3.1** Rehabilitate the land,
- 11.3.2** Remove the fill placed or dumped, or
- 11.3.3** Restore the grade of the land to its original condition.
- 11.4** No person shall hinder or obstruct, or attempt to hinder or obstruct, any Inspector or municipal law enforcement officer exercising a power or performing a duty under this By-law. Any person who is alleged to have contravened any of the provisions of this by-law shall identify themselves to the Inspector or municipal law enforcement officer upon request. Failure to so shall be deemed to have obstructed or hindered the Inspector or municipal law enforcement officer in the execution of their duties.
- 12.0 Severability**
- 12.1** If any provision of this By-law, or the application thereof to any person or circumstance, is invalid, the invalidity shall not affect other provisions or application of this By-law which can be given effect without the invalid provision or application, and to this end the provisions of this By-law are severable.
- 13.0 Decision or Determination of Officials Under this By-law**
- 13.1** Any decision or determination to be made by the Director or an Inspector (including a municipal law enforcement officer) is to be made at the Director or Inspector's sole and absolute discretion and such decision or determination shall be final and binding.

Schedule "A"

**To By-law No. 2016-056
For the Corporation of The Township of Oro-Medonte**

Fees	Application	Per Cubic Metres
Fill less than 1000 cubic metres	\$500.00	\$.50
Fill greater than 1000 cubic metres	\$750.00	\$.50

Permit Extension

Fill less than 1000 cubic metres	\$250.00
Fill greater than 1000 cubic metres	\$375.00

Securities

Fill less than 1000 cubic metres	\$5000.00
Fill greater than 1000 cubic metres	\$.50 per cubic metre of fill

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