

The Corporation of the Town of Aurora

By-law Number 6226-19

Being a By-law to regulate the removal of topsoil, the placing or dumping of fill and the alteration of the grade of land in the Town of Aurora.

Whereas Section 142 of the *Municipal Act, 2001*, S.O. c. 25, as amended, authorizes municipal councils to pass by-laws to regulate or prohibit the removal of topsoil, the placing or dumping of fill, and the alteration of the grade of land;

And whereas a municipality may require that a permit be obtained for the removal of topsoil, placing or dumping of fill and alteration of grade of land and prescribe the fees for the permit and the circumstances under which a permit may be issued and the conditions to such a permit;

And whereas a municipality may impose condition to a permit, including requiring the preparation of plans acceptable to the municipality relating to grading, filling or dumping, the removal of topsoil and rehabilitation;

And whereas the Council of The Corporation of the Town of Aurora deems it advisable to exercise this authority and to provide for the rehabilitation of lands and to protect water bodies and environmental protection zones where the removal of topsoil, or the placing and dumping of fill or the alteration of grade of the land is permissible;

Now therefore the Council of The Corporation of the Town of Aurora hereby enacts as follows:

Part I: Definitions and Interpretation

1. Definitions

1.1 In this by-law, the following words have the following meanings:

- (a) **“adjacent”** means abutting or contiguous to;
- (b) **"adverse effect"** means one or more of:
 - (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; and
 - (viii) interference with the normal conduct of business;

- (c) **“agricultural uses”** means:
 - (i) growing crops, including nursery and horticultural crops;
 - (ii) raising livestock and other animals, including poultry and fish, for food and fur;
 - (iii) aquaculture; and
 - (iv) agro-forestry and maple syrup production;
- (e) **“applicant”** means the person who applies for a permit under this by-law;
- (f) **“Areas of Natural or Scientific Interest”** means areas that have been identified by the Ministry of Natural Resources and Forestry as having earth/life science values related to protection, scientific study or education using evaluation procedures established by the Ministry of Natural Resources and Forestry, as amended from time to time;
- (g) **“authorized agent”** means a person acting on behalf of the owner as designated on the application for the permit;
- (h) **“Clerk”** means the clerk of the Town as appointed pursuant to the Municipal Act;
- (i) **“contaminant”** means any solid, liquid, gas, odour, heat, sound, vibration, radiation or combination of any of them resulting directly or indirectly from human activities that causes or may cause an adverse effect;
- (j) **“Council”** means the Council of The Corporation of the Town of Aurora;
- (k) **“development”** means the construction of buildings or structures and above or underground services such as roads, parking lots, paved storage areas, watermains, storm and sanitary sewers, and similar facilities, as well as general grading works on any lands;
- (l) **“Director”** means the director responsible for the Engineering Division of the Town or his/her designate;
- (m) **“drainage”** means the movement of water to a place of disposal, whether by way of natural characteristics of the ground surface or by an artificial method;
- (n) **“dumping”** means the depositing of material in a location other than where the material was obtained and includes the movement and depositing of material from one location on a property to another location on the same property;
- (o) **“Environmental Protection Zone”** means any area identified as an Environmental Protection Zone in the Zoning By-law;
- (p) **“erosion”** means the detachment and movement of soil, sediment or rock fragments by water, wind, ice or gravity;

- (q) “**existing grade**” means the elevation of the existing ground surface of the lands upon which site alteration is proposed, except that where 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 site alteration;
- (r) “**fill**” means any type of imported or relocated material deposited or placed, or proposed to be deposited or placed, on the site and includes, but is not limited to, soil, stone, concrete, sod or turf either singly or in combination;
- (s) “**finished grade**” means the elevation of ground surface of lands upon which fill has been placed or grade of land has been altered;
- (t) “**land disturbance**” means any man-made change of the land surface including removing vegetative cover, and/or excavating and/or filling and/or grading;
- (u) “**Municipal Act**” means the *Municipal Act, 2001*, S.O. 2001, C.25, as it may be amended or replaced from time to time;
- (v) “**Municipal Law Enforcement Officer**” means a person appointed by Council as a Municipal Law Enforcement Officer;
- (w) “**Oak Ridges Moraine**” means the lands identified as the Oak Ridges Moraine Area under the *Oak Ridges Moraine Conservation Act, 2001*, S.O. 2001, c. 3;
- (x) “**owner**” means the legal registered owner of a site as shown by the records of the applicable land registry office, or any successor of such office;
- (y) “**permit**” means permission or authorization given in writing by the Director to perform work regulated by this by-law or part thereof;
- (z) “**permit holder**” means the person to whom a permit is issued and includes:
 - (i) the owner,
 - (ii) any person in possession or in charge, and
 - (iii) a lessee and a mortgagee in possession,of the property for which a permit has been issued;
- (aa) “**person**” includes a natural individual and their heirs, executors, administrators or other legally appointed representatives, a corporation, partnership or other form of business association;
- (bb) “**placing**” means the distribution of material on lands to establish a finished grade higher or lower than the existing grade and “place” in relation to fill shall have the same meaning;
- (cc) “**Planning Act**” means the *Planning Act*, R.S.O. 1990, c.13, as amended;

- (dd) “**ponding**” means the accumulation of surface water in the area not having drainage therefrom where the lack of drainage is caused by the placing or dumping of fill or altering of the grade of land;
- (ee) “**proposed grade**” means the proposed elevation of ground surface of land upon which fill is proposed to be placed or upon which altering the grade of land is proposed;
- (ff) “**Public Authority**” means any commission, committee, school board, department or agency of the Government of Canada, Province of Ontario, The Regional Municipality of York, Lake Simcoe Region Conservation Authority or the Toronto and Region Conservation Authority;
- (gg) “**qualified person**” means a person who holds a license, limited license or temporary license under the *Professional Engineers Act*, R.S.O. 1990, c. P.28, as it may be amended from time to time, and/or any consultant approved by the Director that possesses expert or special knowledge in regards to matters contained within this by-law;
- (hh) “**refuse**” means:
- (i) any object or material that has been discarded by any person or that is no longer in use or reasonably intended to be used by any person having ownership or control over such object or material;
 - (ii) fill that contains:
 - 1) toxic or hazardous materials;
 - 2) glass;
 - 3) "sewage" within the meaning of Town of Aurora Sewer Use By-law as amended or successor legislation thereto; and
 - 4) contaminants that do not meet the standards set out in O.Reg. 153/04, as may be amended from time to time, with respect to all contaminants in the fill;
- (ii) “**removal**” means excavation or extraction of any fill which lowers the existing grade, and includes soil stripping;
- (jj) “**retaining wall**” means a concrete or concrete product wall or other material designed to contain and support fill which has a finished grade higher than that of adjacent lands;
- (kk) “**site**” means the area of land altered or proposed to be altered within a property, lot or parcel of land described in a deed or other document legally capable of conveying land or shown as a lot or block on a registered plan of subdivision;
- (ll) “**site alteration**” means activities such as removal of topsoil from a site, the placement or dumping of fill on a site, the alteration of the grade of land within a site or excavation by any means including the removal of vegetative cover, the compaction of soil or the creation of impervious surfaces, or any combination of these activities that would change the landform and natural vegetative characteristics of a site;

- (mm) "**site alteration plan**" means a plan prepared by a qualified person on behalf of an owner in connection with a site alteration permit pursuant to this by-law;
- (nn) "**soil**" means any material commonly known as earth, topsoil, loam, subsoil, clay, sand or gravel or any combination thereof;
- (oo) "**soil stripping**" means removing of soil or topsoil;
- (pp) "**swale**" means a depression in the ground sloping to a place of disposal of surface water for the purpose of providing a method of drainage;
- (qq) "**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;
- (rr) "**Town**" means The Corporation of The Town of Aurora and/or the area located within the geographical limits of the Town of Aurora, depending on the context of the provision in which the term appears;
- (ss) "**Town Standards**" means collectively the documents entitled the Town of Aurora Site Alteration Standards and the Town of Aurora Design Criteria Manual For Engineering Plans issued by the Director, as amended from time to time or any successor thereof;
- (tt) "**Treasurer**" means the treasurer of the Town as appointed pursuant to the Municipal Act;
- (uu) "**watercourse**" means a natural or man-made channel or swale in which water flows, either continuously or intermittently with some degree of regularity;
- (vv) "**wetland**" means land such as a swamp, marsh, bog or fen;
- (ww) "**Zoning By-law**" means the Zoning By-law of the Town of Aurora as amended or successor legislation thereto.

2. Interpretation

- 2.1 The part and section headings contained throughout this document are for reference purposes only and do not form a part of this by-law. This by-law is to be interpreted without reference to such headings.
- 2.2 Where there is a conflict of the provisions between this by-law and any other by-laws of the Town with respect to site alteration, the provisions of this by-law shall prevail.

3. Administration of this by-law

- 3.1 The Director is responsible for administering this by-law and shall be delegated the authority to:
 - (a) receive applications and fees established under this by-law;
 - (b) enter into agreements on behalf of the Town pursuant to this by-law;
 - (c) issue, cancel, revoke or decline to issue, permits;

- (d) establish, issue, revise and amend the Town Standards; and
 - (e) impose conditions on permits in accordance with this by-law, including any or all of the conditions set out in Schedule “B”.
- 3.2 The Director and Municipal Law Enforcement Officers of the Town are hereby delegated the authority to enforce this by-law, including the authority to conduct inspections pursuant to this by-law, the Municipal Act, as amended, and any other enacted applicable by-law or legislation.
- 3.3 The Director is authorized to delegate responsibilities for the administration and enforcement of this by-law to any Town staff or external third parties deemed to be qualified and appropriate by the Director for such purposes.
4. **Application**
- 4.1 The provisions of this by-law shall apply to all lands and premises within the Town of Aurora.
- 4.2 Any site which has had previous or on-going land disturbances or development prior to the passing of this by-law is subject to the conditions set forth in this by-law.

Part II: Prohibitions and Exemptions

5. **Prohibitions**
- 5.1 No person shall:
- (a) carry out or perform,
 - (b) cause to be carried out or performed, or
 - (c) permit to be carried out or performed,
- any site alteration within the Town, except in compliance with this by-law.
- 5.2 Unless otherwise exempted under this by-law from the requirement to obtain a permit, no person shall:
- (a) carry out or perform,
 - (b) cause to be carried out or performed, or
 - (c) permit to be carried out or performed,
- any site alteration within the Town unless a permit has been issued for the site being altered and the site alteration is in compliance with the terms and conditions of the permit.
- 5.3 Where an agreement is entered into pursuant to this by-law with the Town, no person shall:
- (a) carry out or perform,
 - (b) cause to be carried out or performed, or
 - (c) permit to be carried out or performed,

any site alteration except in compliance with any applicable terms and conditions of the agreement.

- 5.4 No person shall perform any site alteration on lands within the Town that is not permitted by any applicable law or regulation as may be approved or amended from time to time.
- 5.5 No person shall perform a site alteration on any land without the consent of the owner of the land on which the site alteration is occurring or is to occur, unless it is being done by or on behalf of the Town, a Public Authority, a Municipal Law Enforcement Officer or the Director in exercising powers or duties under this by-law or any other applicable legislation.
- 5.6 No person shall fail to comply with an order issued under this by-law.
- 5.7 No person shall perform any site alteration for the purpose of storing fill, where such storage is not permitted pursuant to this by-law or the Zoning By-law.
- 5.8 No person shall perform any site alteration that will result in:
- (a) soil erosion;
 - (b) the contamination of soil or groundwater;
 - (c) blockage of a storm drainage system;
 - (d) blockage of a natural drainage system or watercourse;
 - (e) siltation or pollution in a watercourse;
 - (f) flooding or ponding caused by a watercourse overflowing its banks;
 - (g) flooding or ponding on a neighbouring property or adverse effect on the amenities adjacent to the site;
 - (h) a detrimental effect on any Environmental Protection Zone, Areas of Natural or Scientific Interest, wetland or wetland complex;
 - (i) a contravention of O. Reg. 140/02, the Oak Ridges Moraine Conservation Plan, the Zoning By-law or any other applicable law or regulation; or
 - (j) any adverse effect to archeological or historically significant attribute or property as defined and identified under the *Ontario Heritage Act*, R.S.O. 1990, c. O.18.
- 5.9 No person shall perform any site alteration in the following circumstances:
- (a) where the site alteration results in the change of any grade established by a grading and drainage plan approved by the Town in relation to any subdivision, rezoning, site plan or building permit approval, unless a permit has been issued with respect to such site alteration;
 - (b) where the site alteration would not be in accordance with the Town's Private Tree Protection By-law, as amended or successor legislation thereto;

- (c) where the site alteration does not accord with the Town Standards and accepted engineering and environmental principles;
- (d) where the fill includes material from the demolition of any structure or includes refuse;
- (e) where the fill, placed or dumped, or to be placed or dumped, contains a contaminant, or would cumulatively with other fill placed or to be placed on any one site for which a permit or series of permits is issued or would be issued, contain a contaminant in an amount, concentration or level in excess of that prescribed by the regulations as may be enacted from time to time under the *Environmental Protection Act, R.S.O. 1990, C. E.19*, as amended;
- (f) where the fill placed or dumped, or to be placed or dumped, contains any of the following:
 - (i) refuse;
 - (ii) material from the demolition of any structure;
 - (iii) lumber, pressure treated or otherwise;
 - (iv) asphalt;
 - (v) scrap metal;
 - (vi) pulp and paper products;
 - (vii) ashes;
 - (viii) domestic or industrial waste; or
 - (ix) tires.

5.10 No person shall carry out any site alteration on any lands during any period in which a wind warning for the area has been issued by Environment Canada, except for mitigation measures designed to prevent adverse impacts on abutting lands and the environment.

5.11 No person shall perform any site alteration unless:

- (a) the drainage system for the lands is provided in accordance with this by-law and all other applicable by-laws of the Town and the Director is satisfied that provision has been made for drainage where such drainage is not provided by natural gradients or a swale;
- (b) the fill is placed or dumped or removed in such a manner, or the retaining wall containing such fill is erected in such a manner, that no ponding or alteration of existing flow is caused on abutting lands; and
- (c) erosion and sediment control requirements are met as required by this by-law.

6. Exemptions

6.1 The following activities, are exempted from the requirement to obtain a permit:

- (a) any site alteration less than two hectares (2.0 ha) in size, provided that:
 - (i) no more than three-hundred millimetres (300 mm) of fill in depth is placed on the lands;
 - (ii) the total amount of fill placed on the said lands does not exceed fifty cubic metres (50 m³);
 - (iii) the elevation of the land within six-hundred millimetres (600 mm) of any property line is not changed;
 - (iv) there is no change in the location, direction, elevation or flowrate of any natural or artificial watercourse, open channel, swale or ditch used to drain land;
 - (v) the site alteration activity will not in any way affect the land drainage of abutting properties;
 - (vi) there is control of any sediment runoff; and
 - (vii) the person carrying out, performing or causing the site alternation, or the owner of the property on which the site alteration is being carried out or performed, can demonstrate on a balance of probabilities that all the aforementioned requirements of this paragraph (a) are being complied with in the course of carrying out, performing or causing the site alteration;
- (b) any site alteration where fill is placed or dumped in an excavation to the elevation of existing and adjacent grade following the demolition or removal of a building or structure.
- (c) removal of topsoil as an incidental part of agricultural use, including such removal as an incidental part of sod-farming, greenhouse operations and nurseries for horticultural products, however, this exception does not include the removal of topsoil for sale, exchange or other deposition;
- (d) any site alteration carried out by a Public Authority.

6.2 This by-law does not apply to:

- (a) 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;
- (b) 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;
- (c) 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;
- (d) 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*;
 - (e) 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 Act, 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*;
 - (f) 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*;
 - (g) where a regulation under section 28 of the *Conservation Authorities Act*, R.S.O. 1990, c. C.27, is in force respecting site alteration in a specified area within the Town; or
 - (h) activities or matters undertaken by the Town or a local board of the Town.

Part III: Permits

7. Permit Requirements and Conditions

- 7.1 All permit applications must be completed in full, and all required supporting documentation provided, prior to the issuance of a permit.
- 7.2 A permit shall only be issued after approval of the application by the Director or a person appointed by the Director.
- 7.3 All permits shall be subject to the conditions as set out in Schedule "B" and any other conditions imposed by the Director pursuant to this by-law.
- 7.4 To obtain a permit pursuant to this by-law, an applicant shall provide the following:
 - (a) a completed application for a site alteration permit, duly signed by the applicant and, if different from applicant, the owner of the property subject to the application in a form as prescribed by the Director from time to time;
 - (b) the application permit fee as established in the Town's Fees and Charges By-law, as it may be amended from time to time;
 - (c) securities as per Schedule "A" to this by-law;
 - (d) proof of insurance in an amount satisfactory to the Director from an insurer licensed in the Province of Ontario;
 - (e) a site alteration plan, certified by a qualified person that:

- (i) confirms the site alteration will prevent the impairment of water, groundwater and soil quality as well as the off-site effects of soil erosion and sedimentation;
 - (ii) confirms that the site alteration activities will be performed in accordance with the most stringent of the following, unless otherwise directed in writing by the Director:
 - 1) Erosion and Sediment Control Guideline for Urban Construction as prepared by the Greater Golden Horseshoe Area Conservation Authorities dated December 2006, as amended and updated from time to time or successor thereto,
 - 2) federal, provincial, Lake Simcoe Region Conservation Authority, Toronto Region Conservation Authority and The Regional Municipality of York Region standards;
 - 3) Town Standards, and
 - 4) any other applicable legislation that may apply,
 - (iii) will be prepared and submitted in accordance with the Town Standards and to the Director's satisfaction;
 - (f) confirmation that the applicant complies or will comply with the permit conditions imposed by the Director or Council, as the case may be, including any of the applicable conditions listed in Schedule "B";
 - (g) confirmation that the appropriate archaeological assessments on lands deemed to have moderate to high potentials for the discovery of archaeological resources have been completed to the satisfaction of the Ministry of Tourism Culture and Sport;
 - (h) if located on the Oak Ridges Moraine, confirmation that the site alteration is in compliance with Ontario Regulation 140/02, the Oak Ridges Moraine Conservation Plan, and the Town of Aurora Zoning By-law;
 - (i) any documentation requested by the Director, to be provided to the Director's satisfaction, demonstrating that all approvals applicable to the site and the site alteration required by the Town or any other government agency have been obtained;
 - (j) any additional information as required, in writing, by the Director;
- 7.5 The Director may, prior to the issuance of a permit, require the owner to enter into an agreement, which may be registered on title to the subject lands, containing such requirements as the Director considers necessary to ensure that the site alteration is done in accordance with this by-law, the Town Standards and proper engineering principles. Requirements contained in such agreement may include the owner posting with the Town the required security and where, in the opinion of the Director extensive activities are proposed, certifications by a qualified person, both prior to the issuance of a permit and upon completion of the work.

8. Expiry, Renewal, Transfer, Revocation and Refusal of Permits

- 8.1 Permits issued pursuant to this by-law shall be valid for a period of one-hundred and eighty (180) days from the date of issuance. The Director may renew the permit one (1) or more times for an additional one-hundred and eighty (180) days each time with a permit renewal fee provided by the applicant each time as set out in the Town's Fees and Charges By-Law, as it may be amended from time to time. The Director may, at his/her discretion, impose additional and vary any conditions imposed on a permit being renewed and require additional control measures as a condition of the renewal.
- 8.2 A permit which is no longer valid or which has expired pursuant to this by-law, may be renewed, at the discretion of the Director, upon making a written application to the Director accompanied by payment of the permit renewal fee along with any information, documentation, confirmation deemed required by the Director at his/her discretion necessary to consider such an application. The Director may, at his/her discretion, impose additional and vary any conditions imposed on a permit being renewed in such a manner and require additional control measures as a condition of the renewal.
- 8.3 If the title of the lands for which a permit has been issued is transferred while the permit remains in effect, the permit shall be cancelled unless the new owner of the lands, within thirty (30) days of the transfer, forthwith advises the Director of such transfer and either:
- (a) provides the Town with an undertaking to comply with all the conditions under which the existing permit was issued and also provides a letter of credit and/or a security deposit in accordance with the requirements of Schedule "A" to this By-law; or
 - (b) applies for and obtains a new permit in accordance with the provisions of this by-law;
- 8.4 Where a permit is issued based on mistaken, false or misleading information, the Director may revoke the permit at any time, and the owner and the permit holder shall ensure that all work that was the subject of the revoked permit ceases.
- 8.5 A permit may be revoked by the Director under any of the following circumstances:
- (a) it was issued in error;
 - (b) the owner or permit holder requests, in writing, that it be revoked;
 - (c) the terms of an agreement under this by-law have not been complied with;
 - (d) work authorized under the permit has not been commenced within ninety (90) days after the date of issuance of the permit;
 - (e) the owner or permit holder fails to comply with the terms and conditions of the permit;
 - (f) the owner fails to comply with the provisions of this by-law;

- 8.6 If a permit has expired, been cancelled or revoked after the work has commenced and prior to the completion of the site alteration, the owner shall forthwith restore the site to its original condition or to a condition satisfactory to the Director that will prevent adverse impacts on abutting properties and the environment.
- 8.7 Where the Director refuses to issue a permit, the applicant shall be informed in writing of the refusal.
- 8.8 The issuance of a permit by the Director does not relieve the applicant of the responsibilities of obtaining all other approvals which may be required from the Town or from any level of government and agencies thereof or from the compliance with any other by-law, legislation or regulation.

Part IV: Offences, Inspections and Powers of Entry

9. Power of Entry, Inspections, Prohibitions

- 9.1 A Municipal Law Enforcement Officer, or any other individual authorized to enforce this by-law on behalf of the Town, may at any reasonable time enter upon any land for the purpose of carrying out an inspection to determine whether the following are being complied with:
 - (a) this by-law;
 - (b) any direction or order under this by-law;
 - (c) any condition on a permit issued under this by-law; or
 - (d) an order issued under section 431 of the Municipal Act.
- 9.2 Where an inspection is conducted pursuant to this section, a Municipal Law Enforcement Officer, or any other individual authorized to enforce this by-law on behalf of the Town, may:
 - (a) require the production for inspection of documents or things relevant to the inspection;
 - (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies and extracts;
 - (c) require information from any person concerning a matter related to the inspection; and
 - (d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purpose of the inspection.
- 9.3 No person shall hinder or obstruct or attempt to hinder or obstruct the Town, its employees, officers or agents from carrying out any powers or duties under this by-law.
- 9.4 No person shall contravene any order or direction issued by the Town pursuant to this by-law or the Municipal Act.
- 9.5 Where a Municipal Law Enforcement Officer, or any other individual authorized to enforce this by-law on behalf of the Town, has reasonable grounds to believe

that an offence has been committed by any person, the authorized officer may require the name, address and proof of identity of that person, and the person shall supply the required information.

- 9.6 No person shall decline or neglect to give, produce or deliver any access, information, document or other thing that is requested pursuant to this by-law by a person authorized to enforce this by-law.
- 9.7 No person shall knowingly make, participate in, assent to or acquiesce in the provision of false information in a statement, affidavit, application or other document prepared, submitted or filed under this by-law.

10. **Order**

- 10.1 Where the Director or any Municipal Law Enforcement Officer is satisfied that a contravention of this by-law or a permit has occurred, such Director or Municipal Law Enforcement Officer may make an order requiring that the person who caused or permitted such contravention, or the owner or occupier of the land on which the contravention occurred, to discontinue the contravening activity and/or to do work to correct the contravention.
- 10.2 An order pursuant to section 10.1 shall set out the following:
- (a) the municipal address and/or the legal description of the land or premises on which the contravention occurred;
 - (b) reasonable particulars of the contravention;
 - (c) what is required of the person subject to the order;
 - (d) the date by which there must be compliance with the order and/or, if any work is ordered, the date by which any such work must be done;
 - (e) if any work is required to be done, a statement that if such work is not done in compliance with the order and within a specified time period, the Town will have the work done at the expense of the person directed or required to do it; and
 - (f) information regarding the Town's contact person.
- 10.3 An order pursuant to section 10.1 shall be deemed to have been received upon:
- (a) personal service of the order to the person being served;
 - (b) the day after posting a copy of the order on the land on which the contravention took place; or
 - (c) the fifth (5th) day after the order is sent by registered mail to the last known address of the owner of the land on which the contravention took place or the last known address of any other person in contravention of this by-law.

11. **Remedial Action and Cost Recovery**

- 11.1 Wherever this by-law or an order issued under this by-law directs or requires any matter or thing to be done by any person within a specified time period, in default of it being done by the person directed or required to do it, the action may be taken under the direction of the Director or a Municipal Law Enforcement Officer

at that person's expense and the Town may recover the costs incurred through a legal action or by recovering the costs in the same manner as taxes.

- 11.2 For the purposes of taking remedial action under section 11.1, the Town, its staff and/or its agents may enter, at any reasonable time, upon any lands on which a default to carry out a required thing or matter occurred.
- 11.3 Where a person has carried out a site alteration contrary to this by-law, that person, the owner of the lands on which such site alteration took place and, if a permit has been issued, the permit holder shall each be jointly and severally responsible for the restoration of the land to the grade as it existed prior to such site alteration, or to the satisfaction of the Director.
- 11.4 Where a security has been provided to the Town with respect to a permit, the Town may:
- (a) draw upon or use such security to recover any costs incurred by the Town to remedy or address any contravention of this by-law, any non-compliance with an order issued pursuant to this by-law or any contravention of any term or condition of a permit issued or agreement entered into under this by-law;
 - (b) upon the failure by the permit holder to complete all or part of the works in the time stipulated in the site alteration plan, draw the appropriate amount from the securities deposited and use the funds to arrange for the completion of the said works, or any part thereof;
 - (c) upon failure by the permit holder to install, repair, maintain or decommission a specific part of the works as requested by the Town, draw upon the securities deposited and use the funds to arrange for the completion of the said works, or any part thereof;
 - (d) in the case of emergency repairs or clean-up, undertake the necessary works at the expense of the permit holder and draw upon the securities to pay for such works or reimburse itself for any resulting costs incurred by the Town;
 - (e) upon failure of the permit holder to restore a site to a condition satisfactory to the Director where the permit has expired, been cancelled or revoked after the work has commenced and prior to completion of the site alteration, draw upon or use such security to recover any costs incurred by the Town to restore the site to the Director's satisfaction.

12. **Offence**

- 12.1 Every Person who contravenes a provision of this by-law, including an order issued under this by-law, is guilty of an offence. If a corporation has contravened a provision of this by-law, including an order issued under this by-law, every director and officer who knowingly concurred in such a contravention is guilty of an offence.
- 12.2 Pursuant to subsection 429(2) of the Municipal Act, all contraventions of this by-law or orders issued under this by-law are designated as multiple offences and continuing offences. If a contravention of any provision of this by-law has not been corrected, or an order issued under this by-law has not been complied with, the contravention of such a provision or an order shall be deemed to be a

continuing offence for each day or part of a day that the contravention remains uncorrected or an order not complied with. A multiple offence is an offence in respect of two (2) or more acts or omissions each of which separately constitutes an offence and is a contravention of the same provision of this by-law.

13. Penalties

13.1 On conviction of an offence under this by-law, every person is liable to a fine in accordance with the following rules pursuant to the Municipal Act:

- (a) to a fine of not less than \$500.00 and not more than \$100,000.00;
- (b) in the case of a continuing offence, for each day or part of a day that the offence continues, the minimum fine shall be \$500.00 and the maximum fine shall be \$10,000.00; despite paragraph (a), the total of all the daily fines for an offence is not limited to \$100,000;
- (c) in the case of a multiple offence, for each offence included in the multiple offence, the minimum fine shall be \$500.00 and the maximum fine shall be \$10,000.00, despite paragraph (a), the total of all fines for each included offence is not limited to \$100,000.

13.2 In addition to fines under this section, a person convicted of an offence under this by-law may be liable to a special fine in the amount of the economic advantage or gain that such a person obtained from the contravention of this by-law. Notwithstanding section 13.1, a special fine may exceed \$100,000.

14. Presumption – Owner

14.1 An owner shall be presumed to have carried out or caused or permitted to be carried out a site alteration that occurred on a site owned by such owner, or contravened or caused or permitted the contravention of the terms or conditions of a permit applicable to a site owned by such owner, as the case may be, which presumption may be rebutted by evidence to the contrary on a balance of probabilities.

15. Indemnity

15.1 Any person who conducts, causes or permits any site alteration, regardless of whether compliant with the provisions of this by-law, shall be deemed to undertake to, and shall, save harmless and indemnify the Town, its officers, employees, servants or agents from any claims associated with any injury, loss or damage to any person or property, as a result of any site alteration.

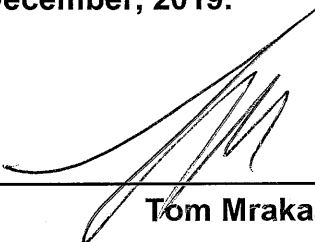
Part IX: General Provisions

16. If a court of competent jurisdiction declares any provision, or any part of a provision, of this by-law to be invalid or to be of no force and effect, it is the intention of the Town in enacting this by-law that such provision or part of a provision shall be severable, and such a decision shall not affect the validity of the remaining sections, subsections, clauses or phrases of this by-law.

17. The following Schedules attached to this by-law form and are part of this by-law;

- (a) Schedule "A" - Security;
 - (b) Schedule "B" - Permit Conditions;
17. This by-law shall be referred to as the "Site Alteration By-law".
 18. By-law Number 3399-92, as amended, and By-law Number 4751-05.P, as amended, be and are hereby repealed.
 19. For the purpose of transition to this by-law, any permits issued pursuant to By-law Number 3399-92 and By-law Number 4751-05.P prior to the effective date of this by-law shall remain effective and be subject to the provisions of this by-law, except that such a permit shall be subject to the terms and conditions imposed at the time of issuance until otherwise amended pursuant to this by-law.
 20. This by-law shall come into full force and effect on the date of final passage hereof.

Enacted by Town of Aurora Council this 10th day of December, 2019.



Tom Mrakas, Mayor



Michael de Rond, Town Clerk

Schedule "A"**Security**

1. The Director may at his/her discretion request an irrevocable letter of credit/security deposit in favour of the Town to cover up to:
 - (a) one-hundred percent (100%) of the estimated cost of erosion and sediment control measures and any other site management control measures; and/or
 - (b) one-hundred percent (100%) of estimated cost to return the site to a condition satisfactory to the Director in a manner that will prevent adverse impacts on abutting properties and the environment.

In addition, the Director may, at his/her discretion, also request a security deposit up to an amount determined by the Director necessary to cover potential damages to roads and road maintenance measures due to site alteration works.

The letter of credit/security deposit shall be in a form acceptable to the Director that may include, but not be limited to, the following requirements:

- 1.1 letter of credit/security deposit to remain in effect for the full duration of the permit;
 - 1.2 letter of credit/security deposit and its subsequent renewal forms to contain a clause stating that thirty (30) days written notice must be given to the Town prior to its expiry or cancellation;
 - 1.3 in the event that the Town receives notice that a letter of credit/security deposit is expiring and will not be renewed, or, if further or additional securities are not provided within thirty (30) days, the Town to have a right to draw on the current letter of credit/security deposit at its discretion;
 - 1.4 any interest accruing on the realized security to belong to the Town and not the permit holder.
2. The Director may release the permit holder's security or the remaining amount of any reduced security when:
 - 2.1 the permit holder has provided adequate proof to the Director's satisfaction, which may require certification from a qualified person, that the site condition is in accordance with this by-law and the site alteration plan accompanying the permit; and
 - 2.2 the Director is satisfied upon final inspection by the Town that the site condition is in accordance with this by-law and the site alteration plan accompanying the permit.

Schedule "B"**Permit Conditions**

1. Unless waived or otherwise amended by the Director or Council, all permit holders under this by-law shall:
 - 1.1 notify the Director within forty-eight (48) hours of commencing any land disturbing activity;
 - 1.2 notify the Director of the completion of any control measures, within forty-eight (48) hours after installation;
 - 1.3 obtain permission in writing from the Director prior to modifying the site alteration plan;
 - 1.4 install all site control measures, as identified in the approved site alteration plan, prior to soil stripping; these measures shall be maintained by the permit holder or subsequent landowner during the period of land disturbance in a manner satisfactory to the Director to ensure adequate compliance with the requirements of this by-law and to prevent damage as a result of erosion, sedimentation or flooding;
 - 1.5 repair any sedimentation or erosion damage to adjoining surfaces, drainageways and watercourses resulting from land disturbing activities;
 - 1.6 inspect the construction control measures at least once per week and after each rainfall, which may be severe enough to cause erosion and sediment drainage to adjoining properties, and complete repairs within forty-eight (48) hours to the satisfaction of the Director;
 - 1.7 allow employees of the Town, and/or any other person(s) working on behalf of the Town, to enter the site for the purpose of inspecting for compliance with the approved site alteration plan or for performing any work necessary to bring the site into compliance with the approved site alteration plan;
 - 1.8 maintain a copy of the permit and the approved site alteration plan on the site, as well as, a record of all inspections. Copies of all inspection reports must be made available to the Town upon request;
 - 1.9 be responsible for the activities of his/her agents, servants, employees, contractors and subcontractors who may create a situation of non-compliance of the permit;
 - 1.10 provide additional information and construct additional control measures, not identified in the site alteration plan, as deemed necessary by the Director to ensure no erosion and sediment damage to the adjoining properties from activities on the site;
 - 1.11 not remove trees or other vegetation that is in contravention of the Town's Private Tree Protection By-law or Zoning By-law as amended or successor legislation thereto or is in contravention of any other applicable law or regulation.
2. In addition to the above, the Director may prescribe conditions, amongst others, with respect to the following:

- 2.1 the maximum height of fill to be placed or dumped in any area or areas of any lands;
- 2.2 the maximum volume of fill to be placed or dumped in any area or areas of any lands;
- 2.3 notwithstanding any other provision of this by-law, further limiting and defining the quality or type or source of fill to be placed on any area or areas of any lands;
- 2.4 limiting the days and time of day during which site alteration may take place on any lands;
- 2.5 prescribing the maximum rise of slopes, expressed as a percentage or ratio, for fill placed or dumped on any lands and the maximum time in which those rises must be achieved;
- 2.6 prescribing a date by which the site alteration must be completed; and
- 2.7 site remediation measures, including topsoil, seeding, sodding and installation of berms and landscaping, as are necessary to minimize the visual impact of site alteration proposals.