



By-law No. ###-2024

Site Alteration By-law

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**Consolidated Version** *Revised and Verified* \_\_\_\_, 2024

Revision History:	Passed On:
86-2020 (Original)	December 15, 2020
86-2020	December 17, 2020

**Consolidated for Convenience Only**

This consolidated copy of a Woolwich Township By-law is for convenient information. While every effort is made to ensure the accuracy of this copy, the original by-law must be consulted for all legal interpretations and applications. For more information or to view by-laws please contact the Clerks Division. This document is available in alternate formats on request.

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# The Corporation of the Township of Woolwich

## By-law No. ###-2024

### A By-law to Prohibit or Regulate Site Alteration

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WHEREAS section 142 of the *Municipal Act, 2001*, S.O. 2001, c.25 (the "*Municipal Act*"), authorizes a municipality to pass by-laws to prohibit, regulate, or require a permit for, and impose conditions upon, the placing or Dumping of Fill, removal of topsoil and alteration of the grade; and

WHEREAS sections 23.1, 23.2, 23.3 and 23.5 of the *Municipal Act* authorize a municipality to delegate certain powers and duties; and

WHEREAS sections 11 and 391 of the *Municipal Act* authorize a municipality to impose fees and charges for services and activities provided or done by or on behalf of the municipality; and

WHEREAS section 436 of the *Municipal Act* authorizes a municipality to pass by-laws providing that the municipality may enter on land to conduct inspections; and

WHEREAS section 446 of the *Municipal Act* authorizes a municipality to do a matter or thing in default of it being done by the person directed or required to do it; and

WHEREAS on December 15, 2020, the Council of The Corporation of the Township of Woolwich passed By-law No. 86-2020 to Prohibit or Regulate Site Alteration; and

WHEREAS Woolwich Council deems it in the public interest to enact a by-law for prohibiting or regulating Site Alteration; and

WHEREAS on [Date], Woolwich Council passed a motion to enact the subject by-law in place of By-law No. 86-2020.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF WOOLWICH HEREBY ENACTS AS FOLLOWS:

#### **Part I. Short Title and Purpose**

##### **Short Title**

1. This by-law shall be known as the "Site Alteration By-law."

##### **Purpose**

2. The purpose of this by-law is to:
  - a. prohibit, control and regulate Site Alteration on lands within the Township;
  - b. ensure Site Alteration is undertaken for necessary or beneficial purposes;
  - c. minimize Adverse Effects on infrastructure, the environment and the community in respect to Site Alteration; and
  - d. promote and protect Agricultural Operations.

#### **Part II. Interpretation**

##### **Headings and References to Applicable Law**

3. The division of this by-law into parts and the insertion of headings are for convenient reference only and shall not affect the interpretation of the by-law.

4. All references to applicable law are ambulatory and apply as amended from time to time.
5. The schedules appended to this by-law are incorporated into and form a part of this by-law;

### **Definitions**

6. In this by-law:

“Adverse Effect” means one or more of:

- a. impairment of the quality of the natural environment for any use that can be made of it;
- b. injury or damage to property or plant or animal life;
- c. harm or material discomfort to any Person;
- d. an effect on the health of any Person;
- e. impairment of the safety of any Person;
- f. rendering any property or plant or animal life unfit for human use;
- g. loss of enjoyment of normal use of property; and
- h. interference with the normal conduct of business.

“Agricultural Lands” includes all lands that are used by a farming business registered under the *Farm Registration and Farm Organizations 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 or fibre, including poultry and fish, aquaculture, apiaries, agro-forestry and maple syrup production and are zoned “agricultural” in the Township Zoning By-law;

“Agricultural Operation” has the same meaning as defined under the *Farming and Food Protection Act, 1998*, S.O. 1998, c 1 and are activities carried out on lands zoned “agricultural” in the Township Zoning By-law;

“Applicant” means any Person applying for a Permit under this by-law;

“Application” means an application for a Permit in the form prescribed by the Director;

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

- a. the placing or Dumping of Fill is for commercial benefit or gain, whether for the Owner or occupier of the land or for a third party, including the placing or Dumping of Fill involving remuneration paid, or any other form of consideration provided to the Owner or occupier of the land or a third party, whether or not the remuneration or consideration is the sole reason for the placing or Dumping of the Fill;
- b. the placing or Dumping of Fill is for the commercial purpose;
- c. greater than ten thousand (10,000) cubic metres of Fill is being placed or Dumped on a property within a twelve (12) month period;
- d. the Fill is obtained from more than one source site and there is no Fill Management Plan in effect; and
- e. the Fill is generated as a function of waste Soil treatment and/or remediation facility, whether or not such facility is operated under an environmental compliance approval issued by the Ministry of the Environment and Climate Change.

“Council” means the Council of the Township;

“Director” means the Director of Development Services for the Township or their designate;

"Drainage" means the movement of stormwater, whether by way of the natural characteristics of the ground surface, or by artificial or man-made means;

"Dump" means to deposit Fill in a location other than the locations from which the Fill was obtained and includes moving, storing or depositing Fill from one location to another on the same Lot;

"Engineer" means a Professional Engineer, currently licensed to practice in the Province of Ontario;

"Environmental Management Fee" means a fee to fund non-recoverable costs associated with Site Alteration in the Township;

"Environmental Protection Act" means the Environmental Protection Act, R.S.O. 1990, c. E.19;

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

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

"Finished Grade" means the actual grade elevation after a Site Alteration;

"Grade" means the elevation of the surface of the land;

"Haul Route" means the system of Highways that is approved for the transporting of Fill;

"Highway" means a Highway as defined in the *Municipal Act*;

"Inspector" means a Person designated, appointed and authorized by Council to administer or enforce the provisions of this by-law, and includes the following:

- a. any Police Officer;
- b. any Municipal By-law Enforcement Officer appointed by the Township;
- c. any person designated by the Director.

"Lot" means a lot or block of record as indicated by the Land Registry Office records;

"Locally Sourced Fill" means fill generated from a source site located in the Township of Woolwich;

"Municipal Act" means *Municipal Act, 2001*, S.O. 2001, c.25;

"Order" means an order issued pursuant to the provisions of this by-law;

"Owner" means the registered owner of the property on which the Site Alteration will take place;

"Permit" means a permit to conduct Site Alteration issued under this by-law;

"Permit Holder" means the Owner of the Lot or site for which a Permit has been issued under this by-law;

"Person" includes individuals, sole proprietorships, partnerships, corporations, trustees, agents or legal representatives, and the singular shall include the plural;

"Planning Act" means the Planning Act, RSO 1990, c P.13;

"Qualified Person" means a Person qualified as defined within Ontario Regulation 153/04;

"Retaining Wall" means a wall designed by an Engineer to contain and support Fill which has a Finished Grade higher than that of adjacent lands;

"Site" means the Lot upon which Site Alteration is proposed or has occurred";

"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 the removal of trees, vegetation cover, the compaction of Soil or the creation of impervious surfaces, or any combination of these activities. Without limiting the generality of the foregoing, site alteration includes paving a gravel or dirt parking lot which includes, without limitation, resurfacing with asphalt or concrete;

"Site Alteration Agreement" means a legal agreement between the Owner and the Township which is registered on title to the lands on which the Site Alteration is to take place;

"Site Alteration – Agricultural" means any alteration of the Grade (topography of land through the movement, removal or placement of Topsoil or Fill to any lands designated for agricultural purposes in the Official Plan or zoned for agricultural purposes in the Zoning By-law on which an Agricultural Operation is carried out and the quality and quantity of imported Soil are consistent with the beneficial purpose of the Land;

"Site Alteration – Development" means any alteration of the Grade (topography of land through movement, removal or placement of Topsoil or Fill in advance of registering a development agreement, site plan agreement, pre-servicing agreement or subdivision agreement with the Township of Woolwich; fulfilling the conditions of a Consent Application to create a new Lot under the Planning Act and any site alteration on lands used for commercial or industrial operations to which a Planning Act application is not required;

"Site Alteration – General" means any alteration of the Grade (topography of land through the movement, removal or placement of Topsoil or Fill to any land other than Site Alteration Agricultural or Site Alteration Development;

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

"Statutory Powers Procedure Act" means the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S. 22;

"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 Township of Woolwich and a reference to Woolwich is a reference to the geographical area of the Township of Woolwich or to the Corporation of the Township of Woolwich as the context requires;

"Zoning By-law" means those by-laws passed by the Township pursuant to section 34 of the Planning Act.

### **Part III. Scope**

#### **Exemptions**

7. In accordance with section 142 (5) and 142 (6) of the Municipal Act, this by-law does not apply to:
  - a. activities or matters undertaken by the Township or a local board of the Township;
  - 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 the approval of a site plan, a plan of subdivision or a consent under sections 41, 51 or 53, respectively, of the Planning Act or as a requirement of a registered site plan agreement, subdivision agreement or pre-servicing agreement entered into under those sections;

- c. 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 a registered agreement entered into under that regulation;
  - d. 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;
  - e. the placing or Dumping of Fill, removal of Topsoil or alteration of the Grade of land undertaken on land described in a license for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the *Aggregate Resources Act*;
  - f. the placing or Dumping of fill, removal of topsoil or alteration of the grade of land undertaken on land described in a license for a pit or quarry or a permit for a wayside pit or wayside quarry 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 has a permitted land use under a by-law passed under section 34 of the Planning Act;
  - g. the placing or Dumping of Fill, removal of Topsoil or alteration of the Grade of land undertaken as an incidental part of drain construction or maintenance under the *Drainage Act* or the *Tile Drainage Act*;
  - h. the removal of Topsoil as an incidental part of a normal agricultural practice as defined in the *Farming and Food Production Protection Act, 1998*, S.O. 1998, c.1., including such harvesting or removal as an incidental part of sod-farming, greenhouse operations and nurseries for horticultural products;
  - i. the exception in Part III Section 7 (h) respecting the removal of Topsoil as an incidental part of a normal agricultural practice does not include the removal of Topsoil for sale, exchange or other disposition;
- Other Exemptions
- j. the placement or Dumping of Fill as a nutrient management activity for Agricultural Operation in compliance with the *Nutrient Management Act, 2002*;
  - k. the temporary storing of Topsoil or Fill on a Site for storing, processing or treating before transporting to another location
  - l. Minor Site Alteration which can be described as yard works i.e., landscaping, driveway maintenance, lawn maintenance, installation of Retaining Walls, etc. provided the works meet the following;

<b>Size of Property</b>	<b>Maximum Volume of Site Alteration</b>
Less than 0.2 hectares	20 cubic metres
0.2 – 2 hectares	100 cubic metres
Greater than 2 hectares	500 cubic metres

The volumes noted above greater than 20m<sup>3</sup> are exempt from requiring a Permit provided

- the Site Alteration works are completed within twelve (12) months period for betterment of the permitted use of the *Site*, and

- all imported Fill meets the requirements of Ontario Regulation 406/19, and
- all imported Fill is Locally Sourced Fill.

Notwithstanding this exemption, if requested, a property owner shall provide the Township with a Haul Route Plan and any other items deemed necessary by the Township included in Schedule A of this by-law.

- m. any Site Alteration included in the construction, renovation, replacement or demolition of a basement, foundation, or septic bed for residential purposes in accordance with a Building Permit issued pursuant to the *Building Code Act, 1992*, S.O. 1992. C.23 or the construction/reconstruction of a driveway, provided the Site Alteration is related to the project, is in accordance with all other requirements included in this By-law, and the volume of Site Alteration does not exceed the maximum volume set out in Part III Section 7 (I);
- n. the installation of swimming pools, provided the proposed pool and Site works do not impact any approved grading plan that applies to the lands, and does not Adversely Effect Drainage on abutting properties due to changes in Grade or surface treatment, is in accordance with all other By-law requirements, and provided the volume of Site Alteration does not exceed the maximum volume set out in Part III Section 7 (I).

#### **Part IV. Administration**

##### **Director**

8. The Director shall be responsible for the administration and enforcement of this by-law.
9. The Director shall:
  - a. operate and manage a Permit system in compliance with this by-law;
  - b. carry out the procedural and policy provisions of this by-law and request enforcement as required;
  - c. issue Permits in accordance with this by-law;
  - d. determine and deem a Permit or Application for Permit as expired or abandoned;
  - e. appoint a peer review consultant or other engineering specific and technical experts to fulfill any roles or duties of this by-law;
  - f. approve amendments to Site Alterations;
  - g. require or exempt works from the requirements of this by-law.
10. The Director may:
  - a. prior to the issuance of a Permit, require the Owner to enter into a Site Alteration Agreement which may be registered on title of the Site and any such Site Alteration Agreement may contain such requirements as the Director considers necessary to ensure that the Site Alteration is done in accordance with Township requirements;
  - b. issue or deny/refuse or cancel a Permit in accordance with the provisions of this by-law;
  - c. make forms, notices, applications and documents not otherwise prescribed by this by-law to satisfy the requirements of, or to provide other information required under this by-law and to minimize Adverse Effects on the environment, infrastructure and the community.



**Owner**

11. An Owner may request a variance from or exception to the general provisions contained in this by-law and upon such request, the Owner is entitled to a review of such request by the Director.

**Part V. General Provisions****General Provisions**

12. No Person shall perform, or permit the performance of, any Site Alteration, at any time, on any land within the Township, without first obtaining a Permit unless exempt in accordance with Part III of this By-law.
13. No Person shall place and no Owner shall permit the placement of Fill that contains contaminants at levels that exceed the applicable levels as set out in the Ontario Regulation 406/19 Rules For Soil Management and Excess Soil Quality Standards made under the *Environmental Protection Act*.
14. No Person shall place and no Owner shall permit stockpiling of Fill for greater than 30 days unless specifically included in the Permit;
15. Owners of Agricultural Lands within settlement areas as defined in the Township Official Plan, are required to apply for Site Alteration Permits prior to any grading, stripping or natural vegetation removal and are not subject to the exemptions in Part III Section 7 (h) of this By-law;
16. Sites that are subject to Planning Act applications, will be required to obtain a Permit, unless the Planning Act agreements registered on the title of the land specifically include approved Site works related to the Site Alteration;
17. No Person shall import any Fill onto any property with the use of hydro excavation equipment, being any truck that excavates, removes or moves Fill with water and/or air, except where a Permit has been issued.
18. Notwithstanding anything else contained in this by-law, no Person shall operate a Commercial Fill Operation within the Township except where a permit has been issued by Council.

**Part VI. Application for Site Alteration Permit**

19. Every Applicant for a Permit under this by-law shall:
  - a. complete and submit the applicable form(s) as provided by the Township;
  - b. submit the Permit fees and security as set out in the Township Fees and Charges By-law; Note: where Site Alteration has begun before a Permit is obtained, all Permit fees shall be double;
  - c. provide all required documentation as required in Schedule A of this by-law and as requested by the Director; and
  - d. abide by all municipal, provincial, and federal legislation.

**Permit Expiration, Extension and Renewal**

20. Unless otherwise stated on the Permit or Agreement, a Permit shall remain valid for a period of one (1) year from the date of issuance but shall expire six (6) months after the date of issuance if work under the Permit has not yet commenced or a Permit extension has not been issued.
21. A Permit that is no longer valid or has expired may, at the sole discretion of the Director, be renewed for a six (6) month period from the date of invalidity or expiry provided that the proposed work has not been revised and that the Applicant is not in contravention of the requirements of this by-law. A request shall be made in writing to the Director accompanied by payment of the applicable Permit renewal or extension fee, in accordance with the Fees and Charges By-law.

**Terms And Conditions of a Permit**

22. It is understood that all Permits contain the following conditions:
- a. The issuance of a Permit does not relieve the Owner of a Site, an Applicant, or a Permit Holder from any responsibility to obtain all other approvals that may be required from any level of government or authority having jurisdiction or any agencies thereof.
  - b. A Permit shall be prominently displayed at the entrance to the Lot for the duration of the Site Alteration and is not transferable to another Lot or Person, except in accordance with Part V Section 28.
  - c. The work shall be done at the request of, or with the consent of, the Owner of the Lot where the proposed Site Alteration is to be performed.
  - d. All Fill to be dumped or placed shall be clean and free of waste, brick, concrete, asphalt, trash, rubbish, glass, liquid or toxic chemicals, hazardous waste or contaminants within the meaning of the *Environmental Protection Act*
  - e. No Ponding or alteration of existing surface water flow resulting directly or indirectly from the Site Alteration shall be caused on abutting lands.
  - f. The Finished Grade surface shall be protected from Erosion by sod, turf, seeding for grass, greenery, asphalt, concrete, or other means either singly or in combination, upon completion of the Site Alteration work, or as specified by the Director.
  - g. Any infrastructure that is part of the Drainage system shall be inspected by the Township prior to backfilling the excavation.
  - h. Erosion and sedimentation control measures and inspections shall be provided around all disturbed areas in accordance with the EDIM and standard engineering practices.
  - i. All Fill shall be properly compacted using acceptable engineering practices, as appropriate, unless it is being temporarily stockpiled on the Site for future use in accordance with all applicable by-laws and permitted uses for the Township. Stockpiles that remain in place for more than 30 days shall be stabilized by vegetative cover, Erosion mats or other means. Stockpiles that will be in existence less than 30 days shall be controlled by heavy duty sediment fencing installed around the perimeter of the pile.
  - j. The Permit Holder and Owner shall ensure that natural Drainage or any natural or human- made watercourse or body of water is not altered in such a manner that will Adversely Effect other property or the environment.
  - k. Notwithstanding any other legislated reporting requirement, if archaeological resources are discovered or identified during the Site Alteration, even after the issuance of a Permit, the Owner of a Site, an Applicant or a Permit Holder shall immediately cease all activity on the property and contact the Director.
  - l. Unless otherwise stated on the Permit or Site Alteration Agreement, no Site Alteration shall be performed;
    - i. in contravention of the Township's Noise By-law.
    - ii. using Highways to or from the Site except those Highways designated as Haul Routes. The Director may restrict the daily volume of truckloads to ensure adequate oversight by the Township of the operations, ensure traffic safety and to address reasonable concerns regarding Adverse Effect for citizens along

- the Haul Route and in the vicinity of the proposed Site Alteration works;
- iii. prior to submitting to the Township, a schedule of the anticipated starting and completion dates for each Site Alteration activity including the schedule for the use of the designated Haul Routes;
  - iv. prior to submitting to the Township, emergency contact information for the property Owner, project manager, contractor or any other Person deemed responsible for the project.
- m. The Owner and occupant of the Site and any Permit Holder shall ensure that the Site Alteration performed pursuant to a Permit shall not Adversely Effect the quality or quantity of water in wells on adjacent properties.
  - n. The Owner, Applicant and contractor and any Permit Holder shall ensure that all vehicles to and from the Site follow the designated Haul Routes.
  - o. The Owner of the Site and any Permit Holder shall ensure that no Fill is to be placed on native Topsoil and that Fill areas are stripped of Topsoil and stockpiled at locations as noted on the Site plan. The existing Topsoil on lands subject to Site Alterations shall be preserved by removing and stockpiling it for use as final cover prior to the performance of any Site Alteration work, as applicable.
  - p. The Owner of the Site and any Permit Holder shall ensure that the Finished Grade shall not have a slope greater than 3:1 and shall ensure that the Finished Grade is in accordance with the Township's Engineering Development and Infrastructure Manual.
  - q. The Owner of the Site and any Permit Holder shall comply with any other requirements for the securing of the land or any other condition deemed appropriate at the sole discretion of the Director.

### **Responsibilities of Permit Holder**

23. Every Permit Holder shall:
- a. notify the Township upon commencement and upon completion of the work authorized by the Permit;
  - b. notify any applicable road authority and obtain permission to use a Highway as a Haul Route and obtain any required permissions or permits prior to their use;
  - c. provide proof satisfactory to the Director that the Site has been adequately reinstated and stabilized in accordance with this By-law and the plan accompanying the Permit;
  - d. give notice to the Director to carry out a final inspection to confirm that all relevant terms of this By-law have been complied with;
  - e. following the completion of the Site Alteration, and before the release of any deposit or portion thereof, provide a statement from an Engineer retained by the Permit Holder certifying that:

- i. the grading has been completed in accordance with the plans submitted;
  - ii. the finished project does not Adversely Effect Drainage on adjacent properties; and
  - iii. the finished project does not Adversely Effect the quality or quantity of water in wells on adjacent properties.
- f. prior to commencement of works under a Permit, certify that the Fill introduced to the Site contains no contaminants within the meaning of the *Environmental Protection Act* and provide Soil Quality Reports to the Township as requested;
- g. keep all Highways free of debris originating from the Site Alteration; and
- h. during performance of a Site Alteration, perform the following minimum procedures:
- i. at least once per day, clean all Highways that have been fouled; and
  - ii. perform any additional cleaning of the Highways as directed by the Township;
- i. prior to commencement of the works, install and inspect sediment and Erosion control features in accordance with the accepted plans and following commencement of the works, inspect the sediment and Erosion control features weekly and after each heavy rainfall, and repair any deficiencies; and
- j. comply with all conditions of the Permit and the provisions of this By-law, the Township's Engineering, Development and Infrastructure Manual and Provincial and Federal legislation.

### **Issuance of Permit**

24. The Director may issue a Permit for volumes less than 10,000 m<sup>3</sup> where:
- a. the Director is satisfied that the Site Alteration which is the subject of the Application for a Permit is not otherwise prohibited by this By-law;
  - b. the Applicant has fulfilled all requirements of this By-law;
  - c. the Applicant has entered into a Site Alteration Agreement, if required, and has performed all the obligations which the Site Alteration Agreement requires to be performed prior to the issuance of a Permit;
  - d. the Director is satisfied that the Proposed Grade and resulting Drainage pattern, the design of any Retaining Wall, the type of Fill to be placed and the method of grading, are all in accordance with prevailing Development and Engineering Standards;
  - e. an Engineer's signature and stamp is provided on the plan submitted with the Application, where the exposed height of any Retaining Wall is 1.0 metre or greater; and
  - f. an appropriate Haul Route or Haul Routes to and from the Site have been designated by the Director for the use of Vehicles traveling to or from the Site for the purpose of Dumping or placing or removing Fill or Topsoil.
25. Without limiting the generality of any other section of the By-law, the Director may require the Applicant to:
- a. Retain a Qualified Person to prepare Site documents which meet the requirements of Schedule A;
  - b. Retain an appropriate qualified consultant or Qualified Person, as specified by the Director, to undertake any tests or studies that the Township deems necessary to complete any background studies as detailed in Schedule A;

- c. Consult with any other Persons or bodies about the Application and report to the Director on the results of the consultation and provide confirmation that the other Persons or bodies consulted in did not raise any objections to the Application or that these objections have been resolved to the satisfaction of the Person or bodies consulted;
- d. Retain a qualified consultant or Qualified Person to prepare a report or reports to the satisfaction of the Director that demonstrate how the proposed operations reconcile to the Ministry of the Environment, Conservation and Parks document entitled Management of Excess Soil, A guide for Best Management Practices” or any relevant Provincial documents; and
- e. Provide proof of Commercial General Liability Insurance, Pollution Liability Insurance and any other Insurance as deemed necessary by the Township.

### **Revocation of Permit**

- 26. The Director may revoke a Permit at any time when:
  - a. the Site Alteration is contrary to the provisions of this By-law, the conditions of a Permit, or other applicable law;
  - b. the Permit was issued in error, or on mistaken, misleading, false, incomplete, or incorrect information;
  - c. the Applicant or Owner have failed to comply with the provisions of the By-law, Site Alteration Agreement or Permit.
- 27. Where the ownership of the Lot for which a Permit has been issued is to be transferred while the Permit remains in effect, the Permit Holder, prior to the completion of the transfer of the Lot, shall provide written notice of both the pending transfer and the Site Alteration status to both the Director and the purchaser, and the new Owner shall provide either of the following no later than thirty (30) days prior to the completion of the transfer:
  - a. provide the Township with an undertaking to comply with all the conditions under which the existing Permit was issued, or
  - b. apply for and obtain a new Permit in accordance with the provisions of this By-law.
- 28. In the event that neither the undertaking prescribed by Part VI Section 28 (a) nor a complete Application for a new Permit under Part VI Section 28 (b), is received by the Township prior to the transfer of the Lot, the existing Permit may deemed expired or abandoned by the Director, and the Permit Holder shall thereupon cease and desist forthwith all operations being conducted under the authority of the revoked Permit, and restore the Site to conditions acceptable to the Director.
- 29. In the event that the Director has revoked a Permit, all outstanding non-refundable fees must be paid to the Township and are recoverable in accordance with Part VII Section 66 and 67.

### **Refusal to Issue Permit**

- 30. The Director may refuse to issue a Permit when the requirements of this By-law have not been satisfied. In the event that the Director refuses to issue a Permit, the Applicant shall be informed in writing by personal delivery or regular mail or email of the refusal, and the reasons for the refusal. The Director may reconsider the Application if the additional information or documentation required by the Director is submitted.

### **Appeal and Requests for Variance or Exception**

- 31. The Applicant may within 20 (twenty) business days of the making of the decision of the Director to refuse to issue a Permit, appeal to the Committee of the Whole against the decision of the Director by filing with the Clerk a notice of appeal setting out the objection to the decision and the reasons in

support of the objection, accompanied by payment to the Clerk of the fee as set out in the Township Fees and Charges By-law on an appeal for a Permit.

32. Where a notice of appeal is not received by the Clerk within the time indicated in Part VI Section 32 no further opportunity to file a notice of appeal will be granted.
33. The Clerk, upon receipt of a notice of appeal filed under Part VI Section 32, shall schedule a hearing before the Committee of the Whole and shall provide notice in the manner and containing the information described in this section at least ten (10) days before the date of the hearing, to the Applicant and each owner within sixty (60) metres of the subject property.
34. Notice shall be provided by personal service or prepaid registered mail and shall include the following:
  35. The date, time, and location of the appeal hearing;
  36. A statement that the hearing is being held in accordance with the *Statutory Powers Procedure Act*;
  37. The objection to the decision and the reasons in support of the objection;
  38. A statement that if the party notified, or their representative, does not attend at the appeal hearing, the Committee of the Whole may proceed in the party's absence and the party will not be entitled to any further notice in the proceeding;
39. Where the good character, propriety of conduct or competence of a party is an issue in the appeal hearing, the party is entitled to be furnished with reasonable information of any allegations with respect thereto.
40. The Committee of the Whole will conduct a hearing in accordance with the *Statutory Powers Procedure Act*, and may uphold, reverse or amend the decision of the Director as in its opinion is desirable, if in the opinion of the Committee of the Whole the general intent and purpose of the By-law is maintained. Where a notice of hearing has been given to a party, or their representative, and the party, or their representative does not attend the hearing, the Committee of the Whole may proceed in the absence of the party and the party is not entitled to any further notice in the proceeding.
41. In addition to complying with the requirements of this By-law the Committee of the Whole shall comply with such rules of procedure as are set out in the *Statutory Powers Procedure Act*.
42. The hearing shall be held in public, except as otherwise provided in the *Statutory Powers Procedure Act* and the Committee of the Whole shall hear the appellant and any party who participated in the hearing, or their representatives, and the Committee of the Whole may adjourn the hearing or reserve its decision.
43. Any member of the Committee of the Whole may administer oaths and affirmations and may require evidence to be given under oath or affirmation.
44. No decision of the Committee of the Whole on an appeal is valid unless it is concurred in by the majority of the members of the Committee that heard the appeal, and the decision of the Committee of the Whole, whether upholding, amending or reversing the decision of the Director, shall be in writing and shall set out the reasons for the decision. When the Committee of the Whole makes a decision on an appeal, no further opportunity to appeal will be granted by the Township.
45. Any decision by the Committee of the Whole may be for such time and subject to such terms and conditions as the Committee of the Whole considers advisable and as are set out in the decision.
46. The Recording Secretary of the Committee of the Whole shall compile a record of the hearing as set out in the *Statutory Powers Procedure Act*, and shall provide said record to the Planning Clerk.

47. The Clerk shall, not later than ten (10) business days from the making of the decision, send one copy of the decision including the reasons that have been given if any, by regular letter mail or by electronic mail, to each party who participated in the appeal hearing or their representatives, including a statement that no further opportunity to appeal will be granted by the Township and such notice deemed to be received by the party as set out in the *Statutory Powers Procedures Act*.
48. Where the Committee of the Whole decision is to issue the Permit no further opportunity to appeal will be granted by the Township, and the Site Alteration Permit shall be issued.
49. If all appeals under Part VI Section 32 are withdrawn within fifteen (15) business days after the last day for filing a notice of appeal, the Clerk shall notify the parties that the appeal has been withdrawn, that a hearing will not be held and that no further opportunity to appeal will be granted.

## **Part VII. Inspection, Enforcement and Penalty**

### **Inspection**

50. Pursuant to subsection 426(1) of the Municipal Act, no Person shall hinder or obstruct, or attempt to hinder or obstruct, any Person who is exercising a power to perform a duty under the Municipal Act or this By-law.
51. Pursuant to section 436(1) of the Municipal Act, an Inspector may enter on lands at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
  - a. This By-law
  - b. A Permit or Site Alteration Agreement or a condition of a Permit or a Site Alteration Agreement
  - c. A direction or Order made under the Municipal Act or this By-law
52. Pursuant to section 436(2) of the Municipal Act, for the purposes of an inspection under this by-law the Inspector 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 or 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 purposes of the inspection.
53. Pursuant to subsection 436(3) of the Municipal Act, any sample take shall be divided into two parts and one part shall be delivered to the person from whom the sample is taken, if the person requests that the sample be divided at the time it is taken and provides the necessary facilities and it is technically feasible to divide the sample.
54. Pursuant to subsection 436(4) of the Municipal Act, if a sample is taken and the sample has not been divided into two parts, a copy of any report on the sample shall be given to the person from whom the sample was taken.
55. Pursuant to subsection 436(5) of the Municipal Act, a receipt shall be provided for any document or thing removed and the document or thing shall be promptly returned after the copies or extracts are made.

### **Enforcement**

#### Order to Discontinue Activity

56. Pursuant to subsection 444(1) of the Municipal Act, if the Inspector is satisfied that a contravention of this By-law has occurred, the Inspector may

make an Order requiring the person who contravened this By-law, or who caused or permitted the contravention or the Owner or occupier of the land on which the contravention occurred to discontinue contravening activity.

57. Pursuant to subsection 444(2) of the Municipal Act, an Order issued under Part VII of this By-law shall set out:
- a. Reasonable particulars of the contravention adequate to identify the contravention and the location not the land on which the contravention occurred; and
  - b. The date by which there must be compliance with the order.
58. Any person who contravenes and order under Part VII of this By-law is guilty of an offence.

#### Work Order

59. Pursuant to subsection 445(1) of the Municipal Act, if the Inspector is satisfied that a contravention of this By-law has occurred, the Inspector may make an Order requiring the person who contravened this By-law, or who caused or permitted the contravention or the Oner or occupier of the land on which the contravention occurred to do work to correct the contravention.
60. Pursuant to subsection 445(2) of the Municipal Act, and order issued under Part VII of this By-law shall set out:
- a. Reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and
  - b. The work to be done and the date by which the work must be dine.
61. An Order issued under Part VII of this By-law may require work to be done even though the fact which constitute the contravention of this By-law were present before the By-law making them a contravention came into force.
62. Any person who contravenes and Order under Part VII of this By-law is guilty of an offence.

#### Remedial Action

63. Pursuant to subsection 446(1) of the Municipal Act, if a municipality has the authority under this or any other Act or under a By-law under this or any other act to direct or require a person to do a matter or thing, the municipality may also provide that, in default of it being done by the person direct or required to do it, the matter or thing shall be done at the person's expense.
64. Pursuant to subsection 446(2) the of the Municipal Act, for the purposes of Part VII Section 64 of this By-law, the Township may enter upon land at any reasonable time.
65. Pursuant to subsection 446(3) of the Municipal Act, the municipality may recover the costs of doing a matter or thing under Part VII Section 64 of this By-law from the person directed or required to do it by action or by adding the costs to the tax roll and colleting them in the same manner as property taxes.
66. Pursuant to subsection 446(5) of the Municipal Act, the costs reverenced in Part VII Section 66 of this By-law shall include interest calculated at a rate of 15 percent, calculated for the period commencing on the day the Township incurs the cost and ending on the day the costs, including the interest, are paid in full.
67. Pursuant to subsection 446(6) of the Municipal Act, the amount of costs, including interest, outlined in Part VII Sections 66 and 67 of this By-law constitutes a lien on the land upon the registration in the property land registry office of a notice of lien.
68. Pursuant to subsection 446(7) of the Municipal Act, the lien referenced in Part VII Section 68 of this By-law, is in respect of all costs that are payable at the time the notice is registered plus interest accrued at the rate



established in Part VII Section 67 of this By-law to the date of payment in full is made.

69. Pursuant to subsection 446(8) of the Municipal Act, upon receiving payment of all costs payable plus interest accrued to the date of full payment, the Township shall register a discharge of the lien referenced in Part VII Section 68 of this By-law in the property land registry office.

### **Penalty**

70. Pursuant to subsections 425(1) and 429(3) of the Municipal Act, every Person who contravenes any of the provisions of this by-law is guilty of an offence and upon conviction is liable to pay a fine of not less than \$500.00 and not more than \$100,000.00.
71. Pursuant to subsections 425(3) and 429(3) of the Municipal Act, a director or senior officer of a corporation who knowingly concurs in the contravention of a by-law by the corporation is guilty of an offence and , upon conviction, is liable to pay a fine of not less than \$500.00 and not more than \$100,000.00.
72. Pursuant to section 431 of the Municipal Act, if this By-law is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by the By-law, the court in which the conviction has ben entered and any court of competent jurisdiction thereafter may make an order
- a. Prohibiting the continuation or repetition of the offence by the person convicted; and
  - b. Require the person convicted to correct the contravention in the manner and within the period that the court considers appropriate.
73. In addition to any other remedy and to any penalty imposed by this By-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an Order
- a. prohibiting the continuation or repetition of the offence by the Person convicted; and
  - b. requiring the Person convicted to correct the contravention in the manner and within the period that the court considers appropriate.

## **Part VIII. Conflict and Transition**

### **Conflict**

74. In the event the provisions of this by-law are inconsistent with the provisions of the *Municipal Act*, its Regulations or any other Provincial or Federal Act, the provisions of the Act or Regulation shall prevail.

### **Terms Severable**

75. The terms and provisions of this by-law shall be severable, and should any term or provision be found by a court of competent jurisdiction to be legally unenforceable, in operative or invalid, the remainder of the by-law shall continue to be in full force and effect.

**Repeal or Amendment**

76. By-law 86-2020 is hereby repealed.

**Enactment**

77. This by-law shall come into full force and effect on the date it is passed at which time all by-laws, policies and resolutions that are inconsistent with the provisions of this by-law are hereby repealed insofar as it is necessary to give effect to the provisions of this by-law.

FINALLY PASSED AND ENACTED this [day] day of [Month], 2024.

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Mayor Sandy Shantz

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Clerk Jeff Smith

## Schedule A - Site Alteration Permits

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### Types of Permits

1. There are three (3) types of Permits. Permit Applications shall indicate which permit type is being applied for.
  - a. Site Alteration - Agricultural
  - b. Site Alteration - Development
  - c. Site Alteration - General

### Applying for a Permits

2. A Permit Application shall include the following:
  - a. a complete Application in the form prescribed by the Director, including proof satisfactory to the Director that the Applicant is the legal Owner of the Site, or has written authorization from the Owner of the Site to submit the Application;
  - b. the applicable Permit fees in accordance with the Township Fees and Charges By-law including;
    - i. Site Alteration Permit Fee
    - ii. Environmental Impact Fee
  - c. a Site plan drawn to scale prepared by an Engineer showing existing conditions, sediment and Erosion control, proposed Fill placement location and Site entrance locations. Additional plans, reports and documentation may be required at the discretion of the Director.
  - d. Report signed and sealed by an Engineer, certifying that all import Fill is clean and inert as per Ministry Regulations and Guidelines, and contains no contaminants within the meaning of the *Environmental Protection Act* and further that the Fill meets the most stringent Provincial guidelines regardless of the current use unless the Director approves compliance to the table requirements applicable to the current permitted land use of the Land as set out in the Township's Zoning By-law;
  - e. A Haul Route Plan showing the proposed Highways within the Township to be used for vehicles Dumping Fill. Where the Highways are not under the jurisdiction of the Township; the Applicant shall provide permission from the road authority in a form acceptable to the Director prior to issuance of a Permit;
  - f. An Excess Soil Tracking System in accordance with Ontario Regulation 406/19 for all Fill imported and exported to/from the Site;
  - g. File notice with the Resource Productivity & Recovery Authority Excess Soil Registry where applicable;
  - h. A refundable security in the amount prescribed in the Township's Fees and Charges By-law or as determined by the Director;
  - i. A release and indemnity in favour of the Township, and in a form satisfactory to the Director, with respect to any and all liability which may arise as a result of the Site Alteration and including any liability in the event that the Fill used in the Site Alteration contains contaminants within the meaning of the *Environmental Protection Act*;
  - j. Supporting documentation in accordance with the Township of Woolwich Engineering Development and Infrastructure Manual that the Director deems appropriate;