

**BY-LAW NUMBER 2010-084**

**OF**

**THE CORPORATION OF THE TOWNSHIP OF UXBRIDGE**

**BEING A SITE ALTERATION BY-LAW TO  
PROHIBIT OR REGULATE THE REMOVAL OF  
TOPSOIL, THE PLACING OR DUMPING OF FILL  
AND THE ALTERATION OF THE GRADE OF LAND  
IN AREAS OF THE TOWNSHIP OF UXBRIDGE**

**WHEREAS** Section 142 of the Municipal Act 2001, S.O. 2001, c. 25, as amended authorizes the Council of The Corporation of the Township of Uxbridge to pass by-laws for prohibiting or regulating the *placing* or *dumping* of *fill* of any kind and for prohibiting or regulating the alteration of the *grade* of land in any defined area or areas in the Township of Uxbridge other than those areas subject to regulations made under Clause 28(1) of the Conservation Authorities Act, R.S.O. 1990, c. C.27, as amended; and

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

**AND WHEREAS** *Council* directed that the current Fill By-law be reviewed and replaced with a new by-law that addresses the requirements of the *Oak Ridges Moraine Conservation Plan*, the *Greenbelt Plan*, the Region of Durham Official Plan, the Township of Uxbridge Official Plan and Zoning By-law 81-19, as amended;

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF UXBRIDGE ENACTS AS FOLLOWS:**

**PART 1 DEFINITIONS**

1.1 In this By-law

- (a) "agricultural lands" includes all lands that are used by a farming business registered under the *Farm Registration and Farm Organizations 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; maple syrup production;
- (b) "body of water" includes any body of flowing or standing water whether naturally or artificially created;
- (c) "Chief Building Official" means the Chief Building Official of the Corporation and shall include any person authorized by the *Chief Building Official* to carry out any of the powers or duties of the *Chief Building Official* pursuant to this By-law and shall be referred to as the CBO for the purposes of this By-law;
- (d) "clearing and grubbing" means the removal of all surface objects, brush, roots and other protruding obstructions, trees and stumps which result in the removal of *topsoil* or the alteration of *grade* of the land;

- (e) "commercial fill operation" means the placing or dumping of fill involving remuneration paid, or any other form of consideration provided, to the owner or occupier of the land, whether or not the remuneration or consideration provided to the owner is the sole reason for the placing or dumping of the fill;
- (f) "complete application" means an application and contents as described in Section 4.2 of this By-law;
- (g) "Conservation Authority" means the Central Lake Ontario Region Conservation Authority, Lake Simcoe Region Conservation Authority or the Toronto and Region Conservation Authority and the Kawartha Region Conservation Authority;
- (h) "Corporation" means the Corporation of the Township of Uxbridge;
- (i) "Council" means the Council for the Corporation;
- (j) "development" means the construction of buildings and above or underground services such as roads, parking lots, paved storage areas, watermains, storm and sanitary sewers, general grading works and similar facilities on any lands in the Township;
- (k) "drainage" means the movement of water to a place of disposal, whether by way of the natural characteristics of the ground surface or by an artificial method;
- (l) "dump, dumped or dumping" means the depositing of fill in a location other than where the fill was obtained and includes the movement or depositing of fill from one location on a property to another location on the same property;
- (m) "erosion" means the detachment and movement of soil, sediment or rock fragments by water, wind, ice or gravity;
- (n) "fill" means any type of material deposited or placed on land and includes soil, stone, concrete, asphalt, dirt, sod or turf either singly or in combination;
- (o) "grade" shall be defined as follows:
- i) "existing grade" means the elevation of the existing ground surface of the lands upon which dumping and/or placing of fill or other site alteration is proposed and of abutting ground surface up to 3 metres wide surrounding such lands, except that where placing or dumping of fill or other site alteration has occurred in contravention of this By-law, existing grade shall mean the ground surface of the lands as it existed prior to the dumping or placing of fill or to any other site alteration requiring a permit under this By-law;
  - ii) "finished grade" means the approved elevation of ground surface of lands upon which fill has been placed in accordance with this By-law;
  - iii) "proposed grade" means the proposed elevation of ground surface of land upon which fill is proposed to be placed;
- (p) "Greenbelt Plan" means the Greenbelt Plan approved by Order-in-Council No. 208/2005;
- (q) "inspector" means individuals appointed as Inspectors or By-law Enforcement Officers under this By-law;

- (r) "lot" means a parcel of land, described in a deed or other document legally capable of being conveyed, or shown as a block on a registered plan of subdivision;
- (s) "Manager" means the Manager of Development Services of the Corporation and shall include any person authorized by the Manager of Development Services to carry out any of the powers or duties of the Manager of Development Services pursuant to this By-law;
- (t) "Oak Ridges Moraine" means those lands defined as the *Oak Ridges Moraine Conservation Plan Area*, by Ontario Regulation 140/02;
- (u) "Oak Ridges Moraine Conservation Plan" means Ontario Regulation 140/02;
- (v) "owner" includes the registered owner of the lands on which *site alteration* is proposed and any person, firm or corporation managing or controlling such lands;
- (w) "place, placed or placing" means the distribution of *fill* on lands to establish a *finished grade* different from the *existing grade*;
- (x) "ponding" means the accumulation of surface water in an area not having *drainage* therefrom where the lack of *drainage* is caused by the *placing* or *dumping of fill* or other *site alteration*;
- (y) "qualified tree consultant" means an arborist certified by the International Society of Arboriculture who has a diploma (minimum) in arboriculture or urban forestry;
- (z) "retaining wall" means a wall designed to contain and support *fill* which has a *finished grade* higher than that of adjacent lands;
- (aa) "security" means a certified cheque, cash or an irrevocable letter of credit in a form acceptable to the CBO and the Corporation's Treasurer.
- (bb) "site alteration" means *dumping*, the removal of *topsoil* from land, or the alteration of the *grade* of land by any means including *placing fill*, *clearing* and *grubbing*, the compaction of *soil* or the creation of impervious surfaces, or any combination of these activities;
- (cc) "soil" means material commonly known as earth, *topsoil*, loam, clay, sand or gravel;
- (dd) "swale" means a shallow depression in the ground sloping to a place of disposal of surface water for the purpose of providing a method of *drainage*;
- (ee) "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;
- (ff) "Township" means the geographic area of the Township of Uxbridge;
- (gg) "watercourse" means a natural or man-made channel or *swale* in which water flows, either continuously or intermittently with some degree of regularity;
- (hh) "wetland" means land such as a swamp, marsh, bog or fen not including land that is being used for agricultural purposes and no longer exhibits wetland characteristics that:
- (i) Is seasonally or permanently covered by shallow water or has the water table close to or at the surface; and

- (ii) Has hydro-soils and vegetation dominated by hydrophytic or water-tolerant plants.

## **PART 2 GENERAL PROHIBITIONS AND REGULATIONS**

- 2.1 This By-law applies to the entire *Township* other than those areas which are subject to regulations made under Clause 28(1) of the Conservation Authorities Act.
- 2.2 No person shall *place* or *dump* any *fill*, remove any *topsoil* or otherwise alter the *grade* of land by causing, permitting or performing any other form of *site alteration* on land within the *Township* without the *owner* first receiving a permit issued under this By-law by the CBO unless otherwise exempt.
- 2.3 No person shall fail to comply with an order issued pursuant to **Part 10** of this By-law.
- 2.4 Notwithstanding anything else contained in this By-law except for Section 3.1, no person shall cause, permit or perform a *site alteration* within an area designated as "Key Natural Heritage and Hydrologic Features" in the Official Plan of the Regional Municipality of Durham that is outside of the *Oak Ridges Moraine* or within a "Settlement Area" designated in the *Oak Ridges Moraine Conservation Plan*, unless such *site alteration* is permitted by the Official Plan of the Regional Municipality of Durham and is directly associated with a building permit issued by the *Corporation* or any other development agreement with the *Corporation*, or unless such *site alteration* is directly associated with activities described in Section 3.2 of this By-law.
- 2.5 Notwithstanding anything else contained in this By-law except for Section 3.1, no person shall cause, permit or perform a *site alteration* on any lands in the *Oak Ridges Moraine* that are designated by the *Oak Ridges Moraine Conservation Plan* as:
  - (a) "Natural Linkage Area",
  - (b) "Natural Core Area", or
  - (c) areas of high aquifer vulnerability or landform conservation areas in lands designated as "Countryside Area",unless such *site alteration* is directly associated with a building permit issued by the *Corporation* or any other development agreement with the *Corporation*, or unless such *site alteration* is directly associated with activities described in section 3.2 of this By-law.
- 2.6 Notwithstanding anything else contained in this By-law except for Section 3.1, no person shall cause, permit or perform a *site alteration* on any lands which were previously licensed or permitted and used as a pit or quarry under the Aggregate Resources Act, R.S.O. 1990, c. A.8, as amended, (or any predecessor legislation thereof), or otherwise, whether such lands have been rehabilitated or not.
- 2.7 Notwithstanding anything else contained in this By-law except for Section 3.1, no person shall cause, permit or perform a *site alteration* on any lands zoned as Environmental Protection (EP) Zone or Rural Resource Extraction (M3) Zone by By-law 81-19, as amended, unless such *site alteration* is directly associated with a building permit issued by the *Corporation* or any other development agreement with the *Corporation*, or unless such *site alteration* is directly associated with activities described in Section 3.2 of this By-law.

- 2.8 No person, in the performance of a *site alteration*, shall injure or destroy a municipal tree or other tree which is subject to tree protection measures as a condition of a permit issued under this By-law except to the extent that such injury or destruction is specifically authorized in writing in accordance with the provisions of this By-law and any other applicable By-laws of the Corporation or the Regional Municipality of Durham for the protection of trees.
- 2.9 No person shall cause, permit or perform a *site alteration* on lands that are subject to an approved site plan, draft plan of subdivision or a consent under Sections 41, 51 or 53 respectively of the Planning Act, R.S.O. 1990, c. P.14, as amended, without a site plan agreement, pre-servicing agreement, subdivision agreement or consent agreement entered into under those sections.
- 2.10 Notwithstanding anything else contained in this By-law except for Section 3.1, no person shall operate a *commercial fill operation* within the Township.
- 2.11 No person shall *place or dump fill* or cause or permit *fill* to be placed or dumped unless such *fill* complies with the Ministry of Environment standards for clean *fill*, as described in Subsection 4.5(s) or 4.6 if applicable, of this By-law.
- 2.12 No person shall undertake *site alteration* or cause *site alteration* to occur on any land for storage purposes unless the outside storage of such *fill* (where the *site alteration* involves *fill*) on the land is permitted by the Township of Uxbridge Zoning By-law and such storage shall not exceed one thousand (1000) cubic metres.
- 2.13 No person shall perform a *site alteration* on any land unless it is done at the request of or with the consent of the owner of the land where the *site alteration* is to occur.
- 2.14 No person shall perform a *site alteration* or permit the performance of a *site alteration*:
- (a) Between the hours of 7:00 p.m. and 7:00 a.m. Monday to Friday;
  - (b) Between the hours of 12:00 a.m. to 8:00 a.m. and 3:00 p.m. to 11:59 p.m. on Saturday;
  - (c) Anytime Sunday or on a Statutory Holiday;
  - (d) During any period in which a wind warning for the area has been issued by Environment Canada;
  - (e) During or within 24 hours of receiving precipitation.

### PART 3 EXEMPTIONS

- 3.1 This By-law is not applicable to the following:
- (a) The use, operation, establishment, alteration, enlargement or extension of a waste management system or waste disposal site within the meaning of Part V of the Environmental Protection Act, R.S.O. 1990, c. E.19 as amended, or a waste, waste disposal or waste management system that is exempted by regulation from said Part V;
  - (b) The construction, extension, alteration, maintenance or operation of works under Section 26 of the Public Transportation and Highway Improvement Act, R.S.O. 1990 c. P.50, as amended;

- (c) Emergency measures taken by the *Corporation* or the Regional Municipality of Durham or any other Federal, Provincial or Regional agency, to prevent flooding, *erosion*, slipping of *soil* or damage of trees;
- (d) The activities of the *Corporation*, local board of the municipality, the Regional Municipality of Durham or the *Conservation Authority* related but not limited to the establishment or maintenance of utilities and services, roads, bridges, flood and *erosion* control facilities, walkways, bicycle paths, fences, *retaining walls*, steps and lighting;
- (e) 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;
- (f) 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;
- (g) Aggregate, as defined in the Aggregate Resources Act, brought onto a pit or quarry operating under a license or *wayside* permit issued under that Act as part of the operations of that pit or quarry;
- (h) 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;
- (i) 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;
- (j) Any rehabilitation or *filling* activity in a pit or quarry licensed under the Aggregate Resources Act, and specifically addressed on the approved site plan when there is insufficient overburden retained to rehabilitate such pit or quarry in accordance with that Act;
- (k) The *placing* or *dumping* of *fill*, removal of *topsoil* or alteration of the *grade* of land undertaken as an incidental part of the drain construction under the Drainage Act R.S.O. 1990, c. D.17, as amended, or the Tile Drainage Act R.S.O. 1990 c. T.8, as amended;
- (l) The *placing* or *dumping* of *fill*, removal of *topsoil* or alteration of the *grade* of land undertaken by a transmitter or distributor, as those terms are defined in Section 2 of the Electricity Act, 1998, S.O. 1998, c. 15, Schedule A, as amended, for the purpose of constructing and maintaining a transmission system or a distribution system, as those terms are defined in that section;

(m) The removal of *topsoil* from *agricultural lands* incidental to a normal agricultural practice including such removal as an incidental part of sod-farming, greenhouse operations and nurseries for horticultural products. This exception does not include the removal of *topsoil* for sale, exchange or other disposition;

(n) The harvesting of peat in a commercial operation as approved by the *Conservation Authority*.

3.2 No *fill* permit is required for:

(a) Construction of a building or structure pursuant to a valid building permit which has been issued for the erection of the building or structure and/or on-site sewage system, and the site plan accompanying the building permit application provides sufficient information to determine that the *placing* or *dumping* of *fill* conforms with the provisions of this By-law, and the amount of *fill* to be *dumped* or *placed* pursuant to the building permit does not exceed five hundred (500) cubic metres;

(b) The *placing* or *dumping* of *soil* on lands for the purpose of lawn dressing, landscaping or adding to flower beds or vegetable gardens, provided that the ground elevation of the lands is not increased by more than twenty (20) centimetres and there is no significant change in the direction or rate of *drainage* to neighbouring properties. Such alteration shall not take place within sixty (60) centimetres of any property line. Such *placing* of *fill* shall not exceed fifty (50) cubic metres per year.

(c) The *placing* or *dumping* of *fill* in an excavation to the elevation of *existing grade* following the demolition or removal of a building or structure for which a building permit has been issued;

(d) *Fill* being *placed* or *dumped* on lands for the purpose of flood or erosion control to establish *finished grade* shown on a grading and *drainage* plan approved by the *Conservation Authority* or by the *Corporation's* Engineers in conjunction with a subdivision approval;

(e) *Site alteration* involving an amount of *soil* of less than fifty (50) cubic metres on a *lot* within any one year period, provided that there is no significant change in the direction or rate of *drainage* to neighbouring properties, and unless the site includes or is adjacent to a *body of water*. Such alteration shall not take place within sixty (60) centimetres of any property line;

(f) Replacement of *topsoil* for restoration of *agricultural lands* used for normal agricultural practices, as an incidental part of sod farming, greenhouse operations, and nurseries for horticultural practices which shall not exceed 20 centimeters annually, or at the discretion of the CBO. Storage of such *topsoil* shall not exceed one thousand (1000) cubic metres;

**PART 4 REQUIREMENTS FOR ISSUANCE OF A PERMIT**

4.1 An owner applying for a permit shall have a pre-consultation meeting with the CBO, the *Manager*, and any other persons that the CBO deems necessary, in order to review the proposal to determine if a permit can be issued under the requirements of this By-law.

4.2 An owner applying for a permit shall provide the following:

- (a) A completed application form;

- (b) The name and address and contact telephone number of the owner of the land upon which the *fill* is to be *dumped* or *placed* or other *site alteration* is to occur;
- (c) The municipal address of the land on which the *fill* is to *dumped* or *placed* or other *site alteration* is to occur;
- (d) Legal description of the land upon which the *fill* is to be *dumped* or *placed* or other *site alteration* is to occur;
- (e) The applicable fees calculated in accordance with rates set out in Schedule "A" of this By-law and the Township of Uxbridge Fees By-law at the time the application is made;
- (f) A scale drawing of any *retaining wall* that may be required and a description, including dimensions, of any materials to be used in the construction of such *retaining wall*;
- (g) *Security* in an amount of \$3,000 or 100%, whichever is greater, of the estimated cost, as determined by the CBO, of returning the land to a condition satisfactory to the CBO.
- (h) A *site alteration* plan, based on an identified legal survey if required by the CBO, accurately indicating the following, as required by and to the satisfaction of the CBO:
  - (i) The property lines of the lands for the *site alteration* with dimensions;
  - (ii) For *site alteration* quantity less than one thousand (1000) cubic metres, existing spot elevations on three (3) metre grids across the lands and three metres beyond the property lines to clearly show the existing *drainage* patterns on the lands and on the abutting lands; and for *site alteration* in an amount greater than one thousand (1000) cubic metres, a topographic survey at one metre contour intervals certified by a professional engineer or Ontario Land Surveyor defining all material and man made features, including top and bottom of slopes, *drainage* patterns, tree lines, buildings, and stockpiles on the lands and within thirty (30) metres on abutting lands and water bodies;
  - (iii) All existing storm sewers, ditches, *swales*, creeks, *watercourses* and *wetlands* on the lands and on abutting lands and public highways;
  - (iv) All existing buildings, the species and size in caliper of all trees, the location of all shrubs and driveways on the lands and of all easements and right-of-ways over, under, across or through the lands;
  - (v) *Proposed grades* and *drainage* systems upon completion of the *site alteration* operation;
  - (vi) All proposed ground covering to be used upon completion of the *site alteration* operation;
  - (vii) All *erosion*, sediment and tree protection measures for the *site alteration* operation;
- (i) A description of the *fill* proposed to be *dumped* or *placed* including a detailed description of the source of the *fill* with a letter from the party from whom the *fill* was acquired attesting that the *fill* meets the

requirements for clean *fill* set out in Section 4.5(s) or 4.6 if applicable, of this By-law, the quantity of the *fill* (expressed in cubic metres), and the proposed location of the *fill* on the lands, and may include contact information if required by the CBO;

- (j) A signed authorization by the owner of the land on which the work is to be performed, or by a person authorized, in writing, to act as an agent for such owner, certifying the correctness of all the information in the application;
  - (k) a signed authorization of a grantee(s) of any easements within the property accepting the *placing* or *dumping* of *fill* or other *site alteration* on or abutting any easements;
  - (l) The Official Plan designation and Zoning of the property;
  - (m) Where the land designated as Countryside by the Oak Ridges *Moraine Conservation Plan* or the land is subject to the *Greenbelt Plan*, the application shall be accompanied by any and all documents, reports or studies required by such plan(s) to demonstrate compliance with their provisions;
  - (n) such tree reports prepared by a *qualified tree consultant* as may be required by the CBO or other by-laws or policies of the Corporation;
  - (o) Any other study, report, plan, drawing or material related to the application as deemed necessary by the CBO to constitute a *complete application*.
- 4.3 If the land that is the subject of the permit application is, in the opinion of the CBO, of an environmentally sensitive or significant nature, he/she may seek comments/approvals from the *Conservation Authority* to assist in the permit process and such comments shall form part of the completed application.

4.4 In reviewing any application, the CBO may seek comments/approvals from any other agency he/she deems necessary and such comments shall form part of the completed application.

4.5 As a condition of the issuance of a permit, the CBO may require the owner of the land which is the subject of the permit either prior to the permit being issued or after the permit has been issued to comply with one or more of the following:

- (a) Notify the CBO or an *inspector* in writing within forty eight (48) hours of commencing any work;
- (b) Construct a *retaining wall* including a safety fence which does not encroach upon lands abutting the land on which the work is to be performed, (*retaining walls* one (1) metre or higher may be subject to a building permit pursuant to the Building Code Act, 1992, S.O. 1992 c. 23, as amended) and conforms with the Township of Uxbridge Zoning By-law, as amended;
- (c) Ensure that *fill* is *placed* or *dumped* in such a manner, and any *Retaining wall* containing such *fill* is erected in such a manner, and any other *site alteration* is conducted in such a manner, that no *ponding* is caused on abutting lands and that adequate provision is made to permit proper surface stormwater *drainage*;
- (d) Provide protection for environmentally sensitive or significant land;

- (e) Install and maintain the *erosion* and sediment control measures as identified in the approved *site alteration* plan and the latest guidelines for *erosion* measures of the *Conservation Authority*;
- (f) Notify the *CBO* or an *inspector* in writing of the completion of any *erosion* control measures within fourteen (14) days after their installation;
- (g) Inspect the *erosion* control measures at least once a week and after each rainfall of at least one (1) centimetre and make needed repairs immediately;
- (h) Obtain the permission of the *CBO* in writing prior to modifying the *site alteration* plan;
- (i) Keep, maintain, and make available for inspection upon the request of the *CBO*, the following records in a good and business like manner:
  - i) the full and complete legal name, and business name if different from the legal name, of each hauler;
  - ii) the commercial vehicle registration number of each hauler;
  - iii) the motor vehicle permit number of the motor vehicles owned and operated by each hauler;
  - iv) the date and time of each delivery of *fill*;
  - v) the point of origin of each delivery of *fill*;
  - vi) the volume of each delivery of *fill*;
  - vii) the content of material of each delivery of *fill*, and
  - viii) any other information required by the *CBO*;
- (j) Provide to the *CBO* or an *inspector* a report from a qualified engineer, or environmental consultant possessing expert or special knowledge in respect to the source and nature of the *fill* to be *placed* or *dumped*, that all *fill* meets standards prescribed by the Ministry of the Environment for any current land use and any future land use for the land designated under an Official Plan or amendment to an Official Plan approved by *Council* or Council for the Regional Municipality of Durham;
- (k) Notify the *CBO* or an *inspector* of the commencement, the completion and of the various stages of performance of the work in the alteration of the *grade* of the land and *placing* or *dumping* of *fill* on the land and to make the commencement, the completion and the various stages available for inspection;
- (l) Install all tree protection measures required by the approved *site alteration* plan prior to commencing any work and maintain these tree protection measures throughout the entire duration of the work;
- (m) Provide that *fill* shall not be *placed* or *dumped* around the perimeter of any existing building unless such building and its foundation walls are evaluated and reinforced in accordance with accepted engineering and construction practice, and an appropriate building permit has been issued;
- (n) Provide adequate *drainage* from the land on which the work is to be performed in accordance with a drainage agreement if applicable, and in any event in accordance with an approved site alteration, reasonable environmental practices, and proper engineering practice;
- (o) Ensure that no trench in which *drainage* piping is laid is covered and backfilled until the work has been inspected and approved by the *CBO*;

- (p) Remove the *topsoil* prior to the performance of the work in the alteration of the *grade* or the *placing* or *dumping* of *fill*;
  - (q) Provide *security* to secure the maintenance of the highways that are used by the trucks delivering or removing the *fill* in a state of repair and free from dust and mud;
  - (r) Ensure that the *finished grade* surface is protected by sod, turf, seeding for grass, greenery, asphalt, concrete or such other material shown on submitted plans;
  - (s) Ensure that all *fill* used is material that does not contain any putrescible material and which meets any of the following criteria:
    - i) rock, including demolition debris such as domestic brick and concrete that does not contain cement fines, exposed rebar, paint or coatings, decomposable materials, plastic, asphalt, petroleum products, hydrocarbon materials and any putrescible organic materials;
    - ii) *soil* that meets the standards set out in Table 1 of the Soil, Ground Water and Sediment Standards referenced in O.Reg. 153/04;
    - iii) liquid slurry material, to the extent that the free water is removed and the resulting wet or slurried material meets the standards set out in Table 1 of the Soil, Ground Water and Sediment Standards referenced in O.Reg. 153/04, and any free water from the liquid slurry that meets the standards set out in Table 1 of the Soil, Ground Water and Sediment Standards referenced in O.Reg. 153/04;
    - iv) *topsoil*, sod and turf materials to be stockpiled for use as final cover only;
  - (t) Ensure that such dust control measures are in place so as to restrict the blowing of dust onto any adjacent lands or highways;
  - (u) Operate in compliance with provisions of the Township of Uxbridge Noise By-law, as amended, and any successor legislation thereto;
  - (v) Conditions to address the requirements of the *Oak Ridges Moraine Conservation Plan*;
  - (w) Conditions to address the requirements of other commenting agencies;
  - (x) An agreement, if required by **PART 6**.
- 4.6 Notwithstanding Subsection 4.5(s), *fill* consisting of *soil* that meets the standards set out in Table 2 of the Soil, Ground Water and Sediment Standards referenced in O.Reg. 153/04 may be permitted by the CBO on a case by case basis where the *owner* provides sufficient hydrogeological studies, and such other studies as may be required by the CBO, in order to demonstrate, to the satisfaction of the CBO, that the *placing* or *dumping* of such *fill* would not have a detrimental effect on ground water
- 4.7 The CBO shall issue a permit when:
- (a) The CBO is satisfied that the lands which are the subject of the application for a permit are not within an area where *placing* or *dumping* of *fill* or other *site alteration* is prohibited under **PART 2** of this By-law;

- (b) The applicant has fulfilled all requirements of **PART 4** of this By-law;
  - (c) If required by **PART 6**, the applicant has entered into the agreement referred to in **PART 6**;
  - (d) In addition to compliance with all other requirements, the intended use for the filled area is a permitted use under the Region of Durham Official Plan, Township of Uxbridge Official Plan, the Township of Uxbridge Zoning By-law, the *Oak Ridges Moraine Conservation Plan* and the *Greenbelt Plan*; and
  - (e) The amount of *fill* to be *dumped* or *placed* on any *lot* will not exceed one thousand (1000) cubic metres, in which case the approval of *Council* will be required.
- 4.8 Where a permit has been issued under this By-law authorizing *site alteration* on lands, no person shall undertake or permit *site alteration* except in accordance with:
- (a) the plans, documents and any other information required for the issuing of the permit;
  - (b) the terms and conditions of the permit;
  - (c) compliance with the agreement entered into with the *Corporation* as a condition of obtaining the permit; and
  - (d) all other provisions of this By-law.
- 4.9 The *Corporation* may engage legal, engineering, hydrology, environmental, arborist, landscape or any other consultant the *CBO* deems necessary in order to evaluate studies and/or agreements or to provide assistance to the *CBO* throughout the *site alteration* process in which case the costs incurred for such evaluations shall be charged back to the applicant plus a 5% administration charge
- 4.10 The *Corporation* may draw on the *security* required pursuant to Subsection 4.2(g) in order to remedy any breach of the provisions of this By-law, the conditions imposed on the *fill* permit by the *CBO*, or any other obligation of the *owner* relating to the *fill* permit, and, without limiting the generality of the foregoing, such *security* may be used to return the land to a condition satisfactory to the *CBO* and to pay any outstanding amounts owed by the *owner* that relate to the *fill* permit including those amounts owed pursuant to Section 4.9 of this By-law.
- 4.11 The *CBO* may require that additional *security* be provided by the *owner* at any time if, in the opinion of the *CBO*, such additional *security* is required, and the *owner* shall provide such additional *security* immediately upon the request of the *CBO*.
- 4.12 The issuance of any permit by the *CBO* shall not relieve the permit holder from compliance with this By-law, any other applicable law or legislation.

**PART 5 EXPIRY, RENEWAL, REVOCATION AND TRANSFER OF PERMITS**

- 5.1 (a) The permit issued pursuant to Section 4.7 shall be valid for a period of one year from the date of issuance but shall expire after six (6) months from the date of issuance if work has not been commenced by that date;

- (b) A permit which is no longer valid or which has expired pursuant to Subsection 5.1(a) may be renewed within a six (6) month period following the date of expiry upon written application to the CBO accompanied by a payment of one half of the original permit fee, provided that the previously permitted work has not been revised;
- (c) No permit shall be extended past the completion date without the approval of *Council* and such extension shall be for a period not exceeding six (6) months from the date when the original permit was to be completed;
- (d) Where it is revealed or discovered that a permit was issued based on false or misleading information, the CBO shall revoke the permit, and the *owner* and permit holder shall ensure that all work that was the subject of the revoked permit ceases;
- (e) If title to the land for which a permit has been issued is transferred while the permit remains in effect, the permit shall be cancelled unless the new *owner*, within thirty (30) days of the transfer:
- i) Provides the *Corporation* with an undertaking agreeing to comply with all conditions under which the existing permit was issued; or
  - ii) Applies for and obtains a new permit in accordance with the provisions of this By-law.
- 5.2 When work has commenced before a permit for that work has been issued, the fees for an application for each permit required shall:
- (a) double the amount otherwise specified in this By-law; and
  - (b) include an additional \$250.00 for each inspection that was made, required or requested prior to the permit being issued.
- 5.3 The CBO may revoke the permit for the following reasons:
- (a) It was obtained on mistaken, false or incorrect information;
  - (b) It was issued in error;
  - (c) The *owner* or Permit holder requests in writing, that it be revoked;
  - (d) The terms of an agreement under this By-law have not been complied with;
  - (e) Work authorized under the permit has not been commenced prior to its expiry date;
  - (f) An *owner* has failed to comply with the provisions of this By-law; or
  - (g) The land has been transferred and the new *owner* has not complied with the requirements under **PART 5** of this By-law.

## **PART 6 PERMIT AGREEMENT**

- 6.1 Where greater than one thousand (1000) cubic metres of *fill* is being *placed* or *dumped* or where the resulting *proposed grade* will be greater than two (2) metres above or below adjacent *existing grade*, the *owner* shall provide a *complete application* and enter into an agreement with the *Corporation* which shall be registered on title to the land on which the work is to be performed and such agreement shall include the following conditions:
- (a) To retain a qualified engineer or environmental consultant approved by the CBO who shall be responsible for ensuring that the *site alteration* is in accordance with reasonable engineering and

environmental practices such as the Ministry of the Environment standards for clean *fill*, and is in accordance with the plans submitted for the permit, and is in accordance with conditions imposed pursuant to Section 4.5 of this By-law;

- (b) To undertake the *site alteration* in accordance with Subsection 6.1(a);
- (c) To require the engineer or environmental consultant to report in writing on a regular basis or as determined by the CBO that the *site alteration* is in accordance with Subsection 6.1(a) above;
- (d) To require that the *site alteration* be completed by a specified date as noted in the permit;
- (e) Not to contaminate the natural environment and to abide by all applicable environmental laws and regulations;
- (f) To provide a report from the qualified Engineer or Environmental Consultant referred to in Subsection 6.1(a) that he/she is satisfied that the *site alteration* will not result in:
  - i) *Soil erosion*;
  - ii) Blockage of a *watercourse*;
  - iii) Siltation in a *watercourse*;
  - iv) Pollution of a *watercourse*;
  - v) Flooding or *ponding* on abutting lands;
  - vi) Flooding or *ponding* caused by a *watercourse* overflowing its banks;
  - vii) A detrimental effect on any trees of a caliper of seventy-five (75) millimetres or more located on the lands;
  - viii) Detrimental effect on matters of inherent biological sensitivity such as, but not limited to, aquifer recharge, water quality, unusual plants or wildlife and overwintering habitats;
  - ix) Unauthorized injury or destruction of municipal trees or other trees protected under by-laws of the *Corporation* or the Regional Municipality of Durham;
  - x) Injury or destruction of other trees, which in the opinion of the CBO, could reasonably be avoided;
- (g) That the *owner* acknowledges that the *Corporation* may engage legal, engineering, hydrology, environmental, arbourist, landscape or any other consultant the CBO deems necessary in order to evaluate studies and/or agreements or to provide assistance to the CBO throughout the *site alteration* process in which case the costs incurred for such evaluations shall be charged back to the applicant plus a 5% administration charge;
- (h) To provide *security* to be used to remedy any breach of the By-law or agreement;
- (i) To indemnify the *Corporation* for any liability, costs, damages or losses incurred directly or indirectly caused by the issuing of a permit and to provide insurance satisfactory to the *Corporation*.

## **PART 7 CONSIDERATION OF COUNCIL**

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

**PART 8 ADMINISTRATION AND ENFORCEMENT**

- 8.1 The administration and enforcement of this By-law shall be performed by the CBO and by such by-law enforcement officers of the Corporation as may be appointed by Council.
- 8.2 Employees of the Development Services Department and By-law Department of the Corporation, or any successor to that Department that are otherwise authorized to enforce the by-laws of the Corporation are appointed as *inspectors* for all purposes of this By-law.
- 8.3 *Inspectors* may, at any reasonable time enter and inspect any land, including *soil* testing and the taking of samples, to determine whether the provisions of this By-law, or a condition of a permit issued under this By-law have been complied with. This power of entry does not allow the *inspector* to enter any building.
- 8.4 Upon completion of the work pursuant to the permit, the *owner* and/or permit holder shall so advise the CBO.
- 8.5 No person shall obstruct an *inspector* who is carrying out an inspection pursuant to this By-law.
- 8.6 This By-law shall apply to all *site alteration*, including *placing* and *dumping of fill*, on all lands within the *Township* whether such activity occurred prior to the date of the passage of this By-law, or subsequent to the passage of this By-law.

**PART 9 APPEALS**

- 9.1 There shall be and is hereby established a Site Alteration Appeals Committee consisting of three members of Council, appointed by Council to hold office for a term not exceeding the term of the Council that appointed them. A simple majority of the members of the Committee constitutes a quorum for transacting the Committee's business.
- 9.2 An applicant for a permit under this By-law may appeal to the Site Alteration Appeals Committee:
- (a) the completeness of an application submitted for a permit;
  - (b) failure to make a decision on an application for a permit within forty five (45) days of the Corporation receiving a *complete application*, which appeal must be made within thirty (30) days after the expiration of the forty-five (45) day period;
  - (c) refusal to issue a permit, which appeal must be made within thirty (30) days after the permit refusal;
  - (d) a condition included in a permit, which appeal must be made within thirty (30) days after the permit was issued.
- 9.3 An applicant appealing to the Site Alteration Appeals Committee shall pay a fee in the amount of \$50.00, payable in advance, for the processing of the appeal.
- 9.4 On an appeal under this section, the Site Alteration Appeals Committee shall have all of the powers of the CBO pursuant to this By-law.

9.5 A decision of the Site Alteration Appeals Committee shall be final and binding on the applicant.

**PART 10 ORDERS**

10.1 If after inspection, an *inspector* is satisfied that a contravention of this By-law has occurred, the *inspector* shall notify the *owner* and the permit holder of the particulars with a "Notice of Contravention" and/or an "Order to Comply" pursuant to Section 444(1) or 445(1) of the Municipal Act, 2001, as amended, at the same time and provide all occupants with a copy of the notice and such order shall contain:

- (a) The municipal address and the legal description of the land;
- (b) Reasonable particulars of the contravention;
- (c) The period within which there must be compliance.

10.2 The CBO or an *inspector* by a written Notice of Contravention and/or an Order to Comply pursuant to Section 444(1) or 445(1) of the Municipal Act, 2001, as amended, may require any person who has altered the *grade* of land, or who has caused or permitted the *grade* to be altered contrary to the provisions of this By-law, or who has *placed* or *dumped fill*, or who has caused or permitted *fill* to be *placed* or *dumped*, or who has caused or permitted any other form of *site alteration* contrary to the provisions of this By-law:

- (a) to cease all work in respect of the *site alteration*;
- (b) to remove the *fill*;
- (c) to *fill* in any excavations or ponds; and/or
- (d) to do all work necessary;
  - i) to eliminate any hazard resulting from the alteration of the *grade* or the *dumping* or *placing of fill* and to restore the land to a condition of safety;
  - ii) to preserve the land pending any hearing of an appeal in respect of an application;
  - iii) to restore the land to its former condition prior to the alteration of the *grade* of the land or to the *placing* or *dumping* of the *fill* on the land or other *site alteration*.

10.3 The notice and/or order referred to in Sections 10.1 and 10.2 shall also contain:

- (a) The time frame in which the work contained in the order must be carried out;
- (b) A notice stating that if the work is not done in compliance with the order within the period it specifies, the *Corporation* may have the work done at the expense of the *owner*.

10.4 An *owner* who has received a Notice of Contravention and/or an Order to Comply shall comply with the Notice of Contravention and/or the Order to Comply within the time frame specified in the Notice of Contravention or the Order to Comply, otherwise, the CBO may draw on the financial securities as required.

- 10.5 A Notice of Contravention or an Order to Comply shall be served personally or by prepaid registered mail or in accordance with Section 10.7.
- 10.6 A Notice of Contravention or an Order to Comply pursuant to this By-law sent by prepaid registered mail shall be sent to the last known address to the owner of the land and permit holder.
- 10.7 An inspector who is unable to effect service pursuant to Section 10.5 of this By-law shall place a placard containing the terms of the Notice of the Contravention or an Order to Comply in a conspicuous place on the property and the placing of the placard shall be deemed to be sufficient service of the Notice of Contravention or an Order to Comply on the owner and permit holder.
- 10.8 If the owner or permit holder fails to do the work required by the Order within the period it specifies, the Corporation, in addition to all other remedies it may have, may do the work and for this purpose may enter on the land with its employees and agents. The costs incurred by the Corporation in so doing shall be paid by the owner of the land and may be recovered by the Corporation in like manner as taxes or drawing on financial securities provided.

#### PART 11 PENALTY AND OFFENCE

- 11.1 Any person, other than a corporation, who contravenes the provisions of this By-law, the terms or conditions of a permit issued pursuant to this By-law, or an order issued pursuant to this By-law and Section 444(1) or 445(1) of the Municipal Act, 2001, as amended is guilty of an offence and, upon conviction, is liable:
- (a) On a first conviction, to a fine of not more than \$10,000.00;
  - (b) On any subsequent conviction to a fine of not more than \$25,000.00.
- 11.2 A corporation that contravenes any provision of this By-law, the terms or conditions of a permit issued pursuant to this By-law, or an order issued pursuant to this By-law and Section 444(1) or 445(1) of the Municipal Act, 2001, as amended, is guilty of an offence and on conviction is liable:
- (a) On a first conviction, to a fine of not more than \$50,000.00;
  - (b) On any subsequent conviction to a fine of not more than \$100,000.00.
- 11.3 In addition to any fine or any other penalty, any person who is convicted of contravening a provision of this By-law, the terms and conditions of a permit issued pursuant to this By-law, or an order issued pursuant to this By-law and Section 444(1) or 445(1) of the Municipal Act, 2001, as amended, may be ordered by a court of competent jurisdiction at the expense of the person to:
- (a) rehabilitate the land;
  - (b) remove the *fill placed* or *dumped*;
  - (c) restore the *grade* of the land to its original condition.
- 11.4 If a person is convicted of an offence for contravening an order to stop the injuring or destruction of trees, the court in which the conviction has been entered, or any court of competent jurisdiction thereafter, may order the person to rehabilitate the land or plant or replant trees in such manner and within such period as the court considers appropriate, including any silvicultural treatment necessary to reestablish the trees.


**PART 12 SEVERABILITY**


12.1 If any provision of this By-law, or the application thereof to any person or circumstance, is invalid, the invalidity shall not effect other provisions or application of this By-law which can be given effect without the invalid provision or application, and to this end the provisions of this By-law are severable.

**PART 13 EFFECTIVE DATES & REPEAL OF PREDECESSOR BY-LAWS**

13.1 This By-law shall come into force and effect upon approval and receipt of a set fine order issued by the Regional Senior Justice of the Ontario Court of Justice, at which time By-law 2000-073, as amended, being a By-law to prohibit and regulate the *dumping* and *placing of fill* and the alteration of *grades* on lands within the Township of Uxbridge, By-law 2007-208, being a By-law to Amend By-law 2000-073, to establish the requirement of fees and By-law 2008-094, being a by-law to prohibit the *dumping of fill* in certain designations within the *Oak Ridges Moraine*, shall be deemed to have been repealed, together with any other by-laws or parts thereof inconsistent with the provision of this By-law.

**READ a FIRST, SECOND and THIRD TIME and finally passed this 10<sup>th</sup> day of May, 2010.**

  
BOB SHEPHERD,  
MAYOR

  
DEBBIE LEROUX,  
CLERK

**SCHEDULE "A"**

**FEES**

DESCRIPTION	APPLICATION FEE	FEE PER METRE	CUBIC
Fill Less than 1000 cubic metres	\$500.00	\$ .24	
Fill Greater than 1000 cubic metres	\$750.00	\$ .60	
Extension of permit for Fill Less than 1000 cubic metres (sec. 5.1(b))	\$250.00		
Extension of permit for Fill Greater than 1000 cubic metres (sec. 5.1(b))	\$375.00		

The above application fees are non-refundable.

The above fees shall be doubled in the event that the Applicant has performed any site alteration prior to the submission or approval of an application in contravention of this By-law.

**OTHER APPLICABLE FEES**

Security for default of agreement to carry out work or other breach of this By-law or fill permit conditions and obligations (sec. 4.10, 10.4, 10.8)	\$3,000.00 or 100% of the cost of returning the land to a condition satisfactory to the CBO, whichever is greater (sec. 4.2(g)); additional security as required by sec. 4.11
Security for maintenance of the highways that are used by the trucks delivering or removing fill	Amount to be determined by CBO (sec. 4.5(q))

The Corporation may engage legal, engineering, hydrology, environmental, arborists, landscape or any other consultant the CBO deems necessary in order to evaluate studies and/or agreements in which case the costs incurred for such evaluations shall be charged back to the applicant plus a 5% administration charge; (sec. 4.9, 6.1(g))