

THE CORPORATION OF THE TOWN of ERIN

BY-LAW NUMBER 16-30

A 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 within the Town of Erin.
(Site Alteration By-law)

WHEREAS Section 10(2) of the Municipal Act 2001, S.O. 2001, c. 25, as amended, authorizes a Municipality to pass by-laws respecting the economic, social and environmental well-being of the Municipality and the health, safety and well-being of persons;

AND WHEREAS Section 128 of the Municipal Act, 2001 authorizes local municipalities to prohibit and regulate with respect to public nuisances, including matters that in the opinion of Council, are or could become or cause public nuisances;

AND WHEREAS Section 129 of the Municipal Act, 2001 authorizes local municipalities to prohibit and regulate with respect to noise, vibration and dust;

AND WHEREAS Section 142 of the Municipal Act, 2001, S.O. 2001, c.25, as amended, 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 or alteration of the grade of land;

AND WHEREAS the Council of The Corporation of the Town of Erin is desirous of enacting such a by-law and deems it in the public interest to regulate the dumping and placing of fill and other site alterations in order to ensure that:

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

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF ERIN hereby enacts as follows:

DEFINITIONS AND INTERPRETATION

1. This by-law may be cited as the Site Alteration By-law.
2. The schedules appended to this by-law are incorporated into and form part of this by-law.
3. Council shall have the same powers as the Chief Building Official pursuant to this by-law for the issuance of permits and agreements under Section 5.2.
4. In this by-law:
 - a) "Adverse effect" means one or more of,
 - i. Impairment of the quality of the natural environment for any use that can be made of it;
 - ii. Injury or damage to property or to plant or animal life;
 - iii. Harm or material discomfort to any person;

- iv. An adverse effect on the health of any person;
 - v. Impairment of the safety of any person;
 - vi. Rendering any property or plant or animal life unfit for human use;
 - vii. Loss of enjoyment of normal use of property; and
 - viii. Interference with the normal conduct of business.
- b) “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 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;
 - c) “Alteration” means changes in elevation of 100 mm or more from existing grade or finished grade resulting from the placing or dumping of fill, the removal of topsoil or any other action that alters the grade of land;
 - d) “Best Management Practices” means the practices as outlined in the document released by the MOECC titled Management of Excess Soil- A Guide for Best Management Practices, January 2014, and its shortened version to BMP and attached as Schedule ‘F’ in this by-law;
 - e) “Body of Water” includes anybody of flowing or standing water whether natural or artificial;
 - f) “Building Code Act” means the Building Code Act, 1992, S.O. 1992, c.23, as amended;
 - g) “Chief Building Official” means the Chief Building Official appointed by the Corporation of the Town of Erin or his/her designate and its shortened version to CBO;
 - h) “Clean Fill” means material that meets the standards as set out in Table 1 of the “Soil, Groundwater and Sediment Standards for Use under Part XV.1 of the Environmental Protection Act”.
 - i) “Clean Water Act” means the Clean Water Act, 2006, S.O. 2006, c. 22, as amended;
 - j) “Complete Application” means an application and contents as described in Section 17 of this By-Law;
 - k) “Conservation Authority” means the Credit Valley Conservation Authority or the Grand River Conservation Authority;
 - l) “Contaminant” means any solid, liquid, gas, odour, heat, sound, vibration, radiation or combination of any of them resulting directly or indirectly from human activities that causes or may cause an adverse effect;
 - m) “Corporation” means the Municipality of The Town of Erin;
 - n) “Council” means the Council of the Town of Erin;
 - o) “Drainage” means the movement of water to a place of disposal, whether by way of the natural characteristics of the ground surface or by artificial means;
 - p) “Drainage Act” means the Drainage Act, R.S.O. 1990, c.D.17, as amended;
 - q) “Dump” means the depositing of fill in a location other than where the fill was obtained or the movement and depositing of fill from one location on a property to another location on the same property or on a separate property, and “dumping” has the corresponding meaning;
 - r) “Erosion” means the detachment and movement of soil, sediment, rock fragments or the like by forces such as but not limited to water, wind, ice, or gravity;
 - i) “Erosion and Dust Control” means measures to control erosion and dust generated as part of the alteration of the site; “Fill” includes any type of material capable of being removed from or deposited on lands, such as but not limited to soil, stone, sod, turf, concrete, and asphalt either singly or in combination;
 - s) “Fill Management Plan” means a plan referenced in this by-law;

- t) “Financial Assurance” means the financial securities required to be deposited with the Town of Erin in accordance with ‘Schedule C’;
- u) “Grade” means the elevation of the ground surface and shall be more particularly 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, altering of the grade, or removing the topsoil is proposed and/or abutting ground surface up to three metres wide surrounding such lands, except that where such activity has occurred in contravention of this by-law, existing grade shall mean the ground surface of such lands as it existed prior to the said activity;
 - ii) “Finished Grade” means the approved elevation of ground surface of lands upon which fill has been placed or dumped, the grade altered or topsoil removed, 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 or dumped, the grade altered or topsoil removed.
- v) “Large Scale Site Alterations’ includes the placing or dumping or removal of fill and the alteration of grade involving more than 1000 cubic metres of fill or where the elevation of the site will increase or decrease by more than 1m at any point on the site;
- w) “Landform Features” means distinctive physical attributes of land such as slope, shape, elevation and relief;
- x) “Lot” means a parcel of land, described in a deed or other document legally capable of being conveyed including a block on a registered plan of subdivision;
- y) “MOECC” means the Ministry of the Environment and Climate Change;
- z) “Municipal Act” means the Municipal Act, 2001, S.O. 2001, c.25, as amended;
- aa) “Officer” means any person designated by by-law of the Corporation of the Town of Erin to issue permits and impose conditions under this by-law or to enforce this by-law;
- bb) “Order” means an Order under Section 35 of this by-law and includes an Order to Comply, a Stop Work Order and an Order to Remove;
- cc) “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;
- dd) “Planning Act” means the Planning Act, R.S.O. 1990,c.P13, as amended;
- ee) “Permit” means a permit that can be issued pursuant to this by-law;
- ff) “Permit Holder” means a person to whom a permit has been issued under this by-law;
- gg) “Person” includes a corporation;
- hh) “Place” means the distribution of fill on lands which has the effect of establishing a finished grade higher than the existing grade, and includes soil stripping, and “placed” has the corresponding meaning;
- ii) “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, altering of grade or removing of topsoil;
- jj) “Qualified Person’ means a person qualified as defined within Ontario Regulation 153/04-“Qualified Person, other than Risk Assessment” as amended and as noted in the MOECC Best Management Practices document;
- kk) “Retaining Wall” means a wall designed to contain and support fill, which has a finished grade higher than that of adjacent lands;
- ll) “Road Security Deposit” means financial security deposits as noted in ‘Schedule E’

“Roads Superintendent” means the person or designate as appointed by the Corporation of the Town of Erin;

- mm) “Security” means a certified cheque, cash or an irrevocable letter of credit in a form acceptable to the Chief Building Official and the Town’s Treasurer;
- nn) “Site” means the lands which are the subject of an application for a permit pursuant to this by-law;
- oo) “Soil” includes material commonly known as earth, topsoil, loam, subsoil, clay, sand or gravel;
- pp) “Swale” means a shallow depression in the ground sloping to a place of disposal of surface water or providing a method of drainage;
- qq) “Topsoil” means those horizons in a soil profile containing organic material and includes deposits of partially decomposed organic matter such as peat (technically known as the “O” and “A” horizons);
- rr) “Town” means the Corporation of the Town of Erin;
- ss) “Vegetation” includes any woody plant or contiguous cluster of plants, including trees and shrubs, hedgerows, and trees;
- tt) “Watercourse” means a natural or man-made channel or swale in which water flows, either continuously or intermittently with some degree of regularity;
- uu) “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;
 - ii) Has hydro-soils and vegetation dominated by hydrophytic or water-tolerant plants;
 - iii) Has been further identified by the Ministry of Natural Resources local Conservation Authorities, or by any other person, as such according to evaluation procedures established by the Ministry of Natural Resources, as amended from time to time.
- vv) “Zoning By-Law” means a by-law passed by the Corporation pursuant to Section 34 of the Planning Act and includes Zoning By-Law 07-67 as may be amended from time to time.

PLACING/DUMPING FILL, ALTERING GRADE, REMOVAL OR TOPSOIL

5. Other than in an approved landfill site, no person shall place or dump, or cause or permit the placing or dumping of fill on, nor alter or cause or permit the alteration of the grade of any land in the Town of Erin, nor remove or cause or permit the removal of any topsoil from any land in the Town of Erin, including any land which are submerged under any watercourse or other body of water, without having first obtained a site alteration permit issued by the Chief Building Official or Council.

All imported fill and soils regraded or distributed on any lands shall not have any chemical qualities or compounds that are greater than the native material on the site. There shall be no degradation of existing soil quality and groundwater quality as a result of the site alteration.

GENERAL PROHIBITIONS and REGULATIONS

6. No person shall place or dump any fill, remove any topsoil or fill or otherwise alter the grade of land by causing, permitting or performing any other form of site alteration on land within the Town without the owner first receiving a permit issued under this by-Law by the Chief Building Official or Council, unless otherwise exempt.
7. No person shall fail to comply with an order issued pursuant to Section 36 of this by-Law.
8. No person shall cause, permit or perform a large scale site alteration in a wellhead protection area, significant ground water recharge area or significant high aquifer vulnerability area as designated in a drinking water source protection plan under the

Clean Water Act unless such site alteration is directly associated with a building permit issued by the Town or any other development agreement with the Town.

9. No person shall perform a site alteration on any land unless it is done at the request of or with the written consent of the owner of the land where the site alteration is to occur.
10. No person shall perform, or cause or permit to be performed, any site alteration that may adversely affect the quality or quantity of water in a well, pond or watering hole intended for use as a source of water for agriculture or human consumption on a property with an adjoining property boundary, or any other property.
11. No person shall place or dump fill or cause or permit fill to be placed or dumped on a lot fronting on a Town road that has been deemed by the Town, in its sole discretion, to be unsuitable for the transportation of fill.
12. No person shall perform a site alteration or permit the performance of a site alteration:
 - (a) Between the hours of 7:00p.m and 7:00a.m. Monday to Friday;
 - (b) Anytime Saturday, Sunday or on a Statutory Holiday;
 - (c) During any period in which a wind warning for the area has been issued by Environment Canada;
 - (d) During or within 24 hours of receiving precipitation in excess of two (2) millimetres;

Under further restricted times and conditions as referred to in the permit or agreement
13. In addition to the other requirements of this by-law, and notwithstanding any permit issued under this by-law, no person shall place or dump, or cause or permit the placing or dumping of fill on, or alter or cause or permit the alteration of the grade of, or remove or cause or permit the removing of any topsoil from any land in the Town of Erin, including any lands which are submerged under any watercourse or other body of water unless:
 - a) it is done with the consent of the owner of the site where the fill is to be placed or dumped, the grade altered or the topsoil removed;
 - b) all fill to be used includes only soil, stone, sod or other material acceptable to the Chief Building Official and that such material is clean and free of any glass, plastics, rubber, metals, liquid, garbage, painted wood, asphalt, construction materials and/or contaminants and must comply with the requirements of the fill inspection checklist in the fill management plan;
 - c) the drainage system for the site is provided in accordance with this by-law and any permit issued hereunder and as otherwise required by- law, and in accordance with proper engineering standards and practices and will not result erosion, blockage, siltation or contamination of a water course, flooding or ponding;
 - d) The fill is placed or dumped, any retaining wall containing such fill is erected, the grade is altered, or the topsoil is removed, in such a manner that no flooding, ponding, or other adverse effects are caused on other lands.
14. Every person to whom a permit is issued pursuant to this by-law shall, in addition to any conditions of the permit;
 - e) provide a retaining wall where required by the Chief Building Official which does not encroach upon abutting lands, either above or below existing grade, and such retaining wall shall be constructed to the satisfaction of the Chief Building Official and comply with the requirements of the Ontario Building Code.
 - f) ensure that the finished grade surface is protected by sod, turf, seeding for grass, vegetation, asphalt, concrete or other similar means, or combination thereof and ensure that phased revegetation be implemented in large scale site alteration sites;
 - g) ensure that fill shall not be placed or dumped around the perimeter of any existing building in contravention of the requirements of the Ontario Building Code;
 - h) provide such protection for trees as may be required by the Chief Building Official;
 - i) provide siltation control measures as may be required by the Chief Building Official;
 - j) ensure that the work that is the subject of the permit does not soil or otherwise foul any municipal roads. All works affecting the Town's roads shall comply with Schedule 'E' attached to this by-law.

- k) ensure that all conditions of the permit issued pursuant to this by-law and any requirements of this by-law are fulfilled to the satisfaction of the Chief Building Official;
- l) ensure the work that is the subject of the permit does not occur in areas regulated by a Conservation Authority or approval agency without written approval of the respective regulatory agency, and in the event this occurs, ensure that the affected areas are restored to the satisfaction of the Chief Building Official and the Conservation Authority.

EXEMPTIONS

15. The provisions of this by-law do not apply to;

- m) The importation of 200 cubic metres or less of fill onto a property of 1 acre or larger in size or 50 cubic metres or less of fill onto a property of less than 1 acre;
- n) activities or matters undertaken by a municipality or a local board of a municipality;
- o) the placing or dumping of fill, removal of topsoil or alteration of the grade of land imposed 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;
- p) the placing or dumping of fill, removal of topsoil or alteration of the grade of land imposed 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;
- q) 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;
- r) 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* including rehabilitation plans;
- s) 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*;
- t) the placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken as an incidental part of drain construction under the *Drainage Act* or the *Tile Drainage Act, 2001*;
- u) 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 two hundred (200) cubic metres, excavation & backfilling occurs within 10 metres of the structure and is incidental to the construction of the building or structure;
- v) topdressing of lawns with topsoil provided the ground elevation of the lands is not increased by more than two hundred (200) millimeters and there is no significant change in the direction or rate of drainage to neighbouring properties. Such alteration shall not take place within 0.6 metres of any property line. Such placing of fill shall not exceed fifty (50) cubic metres per year;
- w) cultivation or tilling of garden beds so long as such work does not have an adverse effect on existing drainage patterns on neighbouring properties;

- x) excavation of soil involving an area of less than nine (9) square metres and a depth of less than 0.5 meters having no significant impact on trees, ground cover, vegetation, watercourses, or storm water swales and not altering or creating a slope at greater than 8%;
 - y) minor landscaping works which are at least 0.3 metres from any property line and do not impact drainage patterns on neighbouring properties; and
 - z) the removal of topsoil as an incidental part of a normal agricultural practice, including such removal as an incidental part of sod-farming, greenhouse operations and nurseries for horticultural products, provided however that this provision shall not exempt from the by-law the removal of topsoil for sale, exchange or other disposition.
16. If a regulation is made under Section 28 of the Conservation Authorities Act respecting the placing or dumping of fill, removal of topsoil or alteration of the grade of land in any area of the Town, this by-law is of no effect in respect of that area.

APPLICATION REQUIREMENTS

17. An application for a site alteration permit is not considered to be complete until all of the following are submitted to the satisfaction of the Chief Building Official;
- a) a complete application in the form attached hereto as Schedule "A" which form may be amended from time to time by the Chief Building Official, including a detailed report explaining how the application will be in conformity with the Best Management Practices set out in the MOECC document titled "Management of Excess Soil- A Guide for Best Management Practices";
 - b) the prescribed fee for a site alteration permit as established from time to time by Council and detailed in Schedule "C" and Schedule "E" to this by-law;
 - c) a fill management plan, the requirements of which are set out in Section 19 of this by-law;
 - d) a plan showing the design details to proper scale of any retaining wall that the applicant proposes or that may be required by the Chief Building Official and/or is a requirement of the Ontario Building Code including the dimensions thereof and any materials to be used in construction of any such retaining wall;
 - e) security in a form and amount to be determined in accordance with Schedule "C" to this by-law, to secure performance of the applicant's obligations under this by-law and any permit that is issued;
 - f) any required permit or approval by any external agency e.g. Grand River Conservation, Credit Valley Conservation, Ministry of Transportation, Ministry of Natural Resources, etc.;
 - g) the application must comply and be consistent with the Town and County Official Plans and Provincial Policy Statement 2014, as amended;
 - h) the applicant must provide written confirmation from the County of Wellington that all obligations regarding the use of County roads have been satisfied;
 - i) any required report by the Town of Erin or external agency including but not limited to archaeological report, vegetation analysis, chemical soil analysis, chemical groundwater analysis, hydrogeological reports, traffic report, noise study, environmental impact assessment, final rehabilitation plan, or geotechnical report;
 - j) proof of permission, in writing, from all property owners that will be receiving fill generated in accordance with the permit and
 - k) proof from an accredited laboratory that any fill being imported to the site complies with the clean fill parameters as set out in Table 1 of the Ontario Regulation 153/04 as amended and the report must be signed by the qualified person of the source site and approved by the qualified person of the receiving site, as per the MOECC BMP and

- l) for agricultural lands, the application shall be accompanied by agricultural justification report prepared by a qualified person (agronomist) to address any potential effects on existing agricultural operations and the long term viability of the lands for agricultural use.
18. An applicant shall not submit or cause or permit an application for a permit to be submitted to the Town that is misleading or contains false information. Where it is revealed that the application for a permit contained misleading or false information, the said permit may be revoked by the Chief Building Official and the permit holder shall forthwith cease all work which was the subject of the revoked permit.

FILL MANAGEMENT PLANS AND DOCUMENTS

19. A fill management plan(s) required to be submitted as part of any application for a permit pursuant to this by-law shall include, among other things, the following:
- a) a key map showing the location of the site;
 - b) the site boundaries and number of hectares of the site;
 - c) the use of the site and the location and use of the buildings and other structures adjacent to the site;
 - d) the location, dimensions and use of existing and proposed buildings and other structures existing or proposed to be erected on the site;
 - e) the location of lakes, streams, wetlands, channels, ditches, other watercourses and other bodies of water on the site and within thirty (30) metres beyond the site boundary;
 - f) the location of the predominant soil types;
 - g) the location size, species and condition of all trees 100 mm in diameter or greater, including their dripline, and the composite dripline of all other vegetation;
 - h) the location of driveways on the lands and all easements and rights-of-way over, under, across or through the site;
 - i) the location and dimensions of any existing and proposed storm water drainage systems and natural drainage patterns on the site and within thirty (30) metres of the site boundaries;
 - j) the location and dimensions of utilities, structures, roads, highways and paving;
 - k) the existing site topography at a contour interval not to exceed 0.5 metres and to extend a minimum of thirty (30) metres beyond the site boundaries;
 - l) the proposed grade(s) and drainage system(s) to be used upon completion of the work which is the subject of the permit;
 - m) the location and dimensions of all proposed work which is the subject of the application for a permit and the proposed volume of fill or topsoil to be placed;
 - n) the location and dimensions of all proposed temporary topsoil or fill stockpiles;
 - o) the location, dimensions, design details and specifications of all work which is the subject of the application including all site siltation control measures or retaining walls necessary to meet the requirements of this by-law and the estimated cost of the same;
 - p) a schedule of the anticipated starting and completion dates of all proposed work which is the subject of the application for a permit, including the installation of construction site control measures needed to meet the requirements of this by-law;
 - q) a list of the type of equipment and machinery that will be used during the site alteration process including the expected days and times of operation;
 - r) provisions for the maintenance of construction site erosion and dust control measures during construction and after as required;
 - s) typical notes on the final rehabilitation plan to indicate the final ground cover materials, type and size of plantings, depth of topsoil, tree removals or tree protection measures;

- t) proposed site access location(s) and haul route(s) to and within the property;
- u) a description of the proposed fill;
- v) the scale of drawing, either 1:500 or 1:1000 or as acceptable to the CBO;
- w) operational procedures manual;
- x) any other information as deemed necessary by the Chief Building Official and
- y) it shall be at the sole discretion of the Chief Building Official and/or Council to determine if additional persons with expertise or qualified persons are to be consulted for review of fill management plans.

ADDITIONAL REQUIREMENTS FOR LARGE SCALE SITE ALTERATIONS

20. The following requirements shall be in addition to all other requirements and conditions described in this by-law.

- a) An application for Large Scale Site Alterations greater than 1000 cubic meters shall not be considered for approval until Council has considered the application at a public meeting at which the applicant or any interested members of the public will have fair opportunity to make representation. Notice of the public meeting is to be provided to property owners and agencies in a similar manner as a Zoning By-law amendment proposal under the Planning Act and as approved and specified by Council.
- (b) The owner or applicant shall give notice to the public that he or she is applying for a Large Scale Site Alteration Permit. Notice under this section shall be at such time or times and by such means as the CBO & Council considers appropriate, including at least one of the following means:
 - (i) News release
 - (ii) Notice through local, regional or provincial news media, such as television, radio, newspapers and magazines,
 - (iii) Door to door flyers,
 - (iv) Signs,
 - (v) Mailings to members of the public,
 - (vi) Mailings to adjacent property owners,
 - (vii) Actual notice to community leaders and political representatives,
 - (viii) Actual notice to community organizations, including environmental organizations and/or any other means of notice that would facilitate more informed public participation in decision making on the proposal.
- (c) Notice, as described above, shall include the following:
 - (ix) A brief description of the site alteration activities,
 - (x) A statement when and where members of the public can review written information about the proposed site alteration application,
 - (xi) An invitation to member of the public to submit written comments on the proposed site plan application, and
 - (xii) An invitation to member of the public to attend a public meeting.
- (d) The owner shall submit a report to the CBO for Council consideration with the results of the consultation and setting out any changes they made in response to public concern.

21. Where the calculated site alteration volume is greater than 1000 cubic metres or where the proposed elevation will be greater than 1m above or below the originally existing grades, the owner shall, in addition to providing a complete application as detailed in this by-law, enter into a Site Alteration Agreement with the Town in a form to be approved by the town; which shall be registered on title to the land on which the site alteration is to be performed. The application for a Large Scale Site Alteration Agreement shall be submitted for approval by Council. The agreement shall specify that the owner has agreed to the following terms and any other terms deemed necessary by the Town.:

- a) to retain a qualified person approved by the Chief Building Official who is responsible for ensuring that the site alteration is in accordance with reasonable engineering and environmental practices; is in accordance with the protocol attached as Schedule “B” to this by-law; and is in accordance with the plans submitted for the permit;
 - b) To undertake the site alteration in accordance with subsection 21.
 - c) to require the qualified person to report in writing on a regular basis that the placing and dumping of fill is in accordance with clause 21) and that the report be signed by the qualified person and completed in accordance with the MOECC (BMP); Source site fill is to be sampled and tested as follows: 1 sample for every 160 cubic metres of fill to be imported for the first 5000 cubic metres of fill from a source site, then 1 sample & test for every 300 cubic metres for volumes thereafter from the same source site. Receiving site: One audit sample to be sent to an accredited laboratory per day with results automatically and simultaneously copied to the Town from the lab.
 - d) to require that the site alteration be completed by a specified date;
 - 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 person that he/she is satisfied that the placing or dumping 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 one hundred (100) millimetres or more located on the lands;
 - (viii) Detrimental effect on matters of inherent biological sensitivity such as aquifer recharge, water quality, unusual plants or wildlife and overwintering habitats;
 - (ix) Unauthorized injury or destruction of trees protected under by-laws of the Town or County of Wellington;
 - g) to provide Financial Assurance and Road Security Deposits in accordance with Schedule “C” and Schedule “E” to be used to remedy any breach of the by-law or agreement and to indemnify the Town for any liability, costs, damages or losses incurred directly or indirectly caused by the issuing of a permit;
22. Every fill management plan accompanying an application for a permit under this by-law must be stamped by a qualified person approved by the Chief Building Official.
23. Notwithstanding any other provisions of this by-law, the Chief Building Official with Council approval may waive the requirement for a fill management plan or any part thereof, and/or may reduce the fee for a permit under this by-law, after taking into consideration the proposed works, the anticipated impact on the site and the surrounding environment.

ISSUANCE OF PERMIT

24. The Chief Building Official may issue a site alteration permit where;
- a. the Chief Building Official is satisfied that the applicant has complied or will comply with all requirements of this by-law;
 - b. the Chief Building Official is satisfied that the proposed grade and resulting drainage pattern, the proposed design of any retaining wall, the type of fill proposed to be used, if any, and the proposed method of the placing and dumping of fill, altering of the grade, or removing of topsoil, are all in accordance with proper engineering standards and practice, and compliant with the Ontario Building Code.

- c. the Chief Building Official is satisfied with any fill to be used as defined in this by-law and that such material is clean and free of any glass, plastics, rubber, metals, liquid, garbage, asphalt, painted wood, construction materials and/or contaminants;
- d. the Chief Building Official is satisfied that the proposed placing or dumping of fill, altering of the grade or removing of topsoil, will not result in;
 - i. erosion;
 - ii. blockage of watercourse;
 - iii. siltation in a watercourse;
 - iv. contamination of a watercourse;
 - v. flooding or ponding;
 - vi. a detrimental effect on any vegetation that has been designated for preservation; or
 - vii. a detrimental effect on the natural environment of the area
- e. the Chief Building Official is satisfied the site will be rehabilitated to a condition which is substantially similar to or improved from the condition of the site prior to the undertaking of the work which is the subject of the permit;
- f. the Chief Building Official is satisfied that all required external permits have been granted to the owner;
- g. the Chief Building Official is satisfied that the design and installation of a retaining wall has been certified by a structural engineer who is licensed to practice in the Province of Ontario; and
- h. The Chief Building Official is satisfied that any and all conditions of a planning approval have been cleared by the appropriate authorities; the intended use for the filled areas, where applicable, is a permitted use under the Municipality's Official Plan, the Municipality's Zoning By-Law and the Greenbelt Plan as applicable;
- i. The Chief Building Official is satisfied that any traffic impact studies or agricultural feasibility reports by a professional agrologist have been submitted and approved;

TERMS AND CONDITIONS

- 25. The Chief Building Official may impose terms and conditions upon the issuance of any permit. In addition to any other terms or conditions that may be imposed by the Chief Building Official, permits shall be issued subject to the terms and conditions set out in Schedule "D" to this by-law unless exempted in writing by the Chief Building Official.
- 26. In addition, the Chief Building Official may require, as a condition of any permit issued pursuant to this by-law, that a retaining wall be constructed where;
 - j. Erosion on to abutting lands may occur as a result of the work which is the subject of the permit; or
 - k. the finished grade of the site is of a higher elevation at a property line than that of the existing grade at the same property line of abutting lands;

The retaining wall design and construction shall meet the requirements of the Ontario Building Code.

- 27. Where a permit has been issued pursuant to this by-law, no person shall undertake the work which is the subject of the permit except in accordance with the permit application, plans, documents, agreement and other information submitted to the Town upon which the permit was issued and in accordance with the terms and conditions of the permit.
- 28. Notwithstanding the issuance of a permit pursuant to this by-law, the permit holder and owner shall comply with all other applicable legislation, including but not limited to Town of Erin by-laws, Town of Erin Official Plan and shall be consistent with the PPS 2014 as amended..

ZONING BY-LAW

- 29. Notwithstanding any other provisions of this by-law or any permit issued, no person shall place or dump, or cause or permit the placing or dumping of fill on, nor alter or cause or permit the alteration of the grade of any land in the Town of Erin, nor remove or cause or

permit the removal of any topsoil from any land in the Town of Erin, including any lands which are submerged under any watercourse or other body of water, unless such use or activity is permitted by the Town Zoning By-Law 07-67, as amended.

REFUSAL TO ISSUE PERMIT

30. The Chief Building Official may refuse to issue a permit when the requirements of this by-law have not been met. Where the Chief Building Official refuses to issue a site alteration permit, the applicant shall be informed in writing of the refusal by the Chief Building Official. The Chief Building Official may reconsider the application if additional information or documentation required by the Chief Building Official is submitted by the applicant.

INSPECTIONS

31. Every permit holder shall ensure that a request is made to the Chief Building Official by the permit holder or his/her authorized agent to make inspections at the commencement and completion of the work that is the subject of the permit, and to make any such further inspection(s) as may be required by the Chief Building Official.

TERM OF PERMIT, PERMIT RENEWAL AND REVOCATION OF PERMIT

32. Any permit issued pursuant to this by-law shall be valid for a period of one year from the date of issuance unless revoked in accordance with this by-law.
33. A permit which has expired may be renewed by the Chief Building Official within a six month period from the date of expiry upon the making of a written request to the Chief Building Official accompanied by a payment of one-half of the original permit fee, provided that the proposed work which was the subject of the permit, has not been revised. A permit that has been renewed in accordance with this section shall not be renewed again.
34. Any permit issued pursuant to this by-law may be revoked by the Chief Building Official if:
- a) it was issued on mistaken, false or incorrect information
 - b) it was issued in error
 - c) the holder of the permit requests in writing that it be revoked
 - d) if a term of the agreement under section 21 has not been complied with or if negative test results have been received for the imported fill;

TRANSFER OF SITE

35. If registered ownership of the site for which a permit has been issued is transferred while the permit remains in effect and outstanding, the new owner shall, prior to the closing of the transfer;
- l. provide the Town with its written undertaking to comply with all of the conditions under which the permit was issued; and
 - m. provide financial assurance in a form and amount acceptable to the Chief Building Official, at which time any financial assurance previously provided by the original permit holder pursuant to this by-law shall be released;
- And failing which the permit shall be deemed to be cancelled as of the date of the transfer.

ORDERS

36. Where an owner or any other person is in contravention of the by-law, or any term or condition of a permit issued under this by-law, or any agreement pursuant to this by-law, the Chief Building Official or an Officer may make an Order to Comply or Stop Work Order directing that the Owner or such person cease any or all of the work immediately.
37. Where a permit has been issued and an owner or permit holder is in contravention of this by-law, or any term or condition of a permit issued under this by-law, the Chief Building

Official or an Officer may issue an Order to Comply directing the owner or permit holder, within the time set out in the Order, to take such steps as are necessary so that the work which was the subject of the permit is completed in accordance with the approved permit, plans, documents and other information upon which the permit was issued under this by-law and in accordance with the terms and conditions of the permit.

38. Where a permit has or has not been issued and any person is in contravention of this by-law, the Chief Building Official or an Officer may issue an Order for Removal requiring the person to restore the property to a condition it was prior to commencement of such work, to the satisfaction of the Chief Building Official, within the time set out in the Order.

COMPLIANCE WITH ORDERS

39. Any Person to whom an Order to Comply, Stop Work Order or an Order for Removal is issued pursuant to this by-law shall comply with the terms of such Order, within the time set out therein.
40. Where an owner of land to whom an Order is issued fails to perform the work required by the Order, the Town, in addition to any other remedy, may perform such work at the owner's expense and may recover the cost incurred by adding the costs to the tax roll and collecting them in the same manner as property taxes.

ENFORCEMENT

41. The administration and enforcement of this by-law, including all permits issued hereunder, shall be performed by the Chief Building Official and by those persons designated as Officers by by-law of the Town, as may be amended from time to time. It shall be at the sole discretion of the Chief Building Official and/or Council to hire any specialized staff as may be required to assist in the enforcement of this by-law.
42. 1) The Chief Building Official and Officers may, at any reasonable time, enter and inspect any land to determine whether this by-law, an Order to Comply, a Stop Work Order or an Order for Removal, a condition to a permit issued pursuant to this by-law, or a Court Order relating to this by-law is being complied with.
- 2) For purposes of an inspection under (1), the Chief Building Official and Officer may;
- i. require the production for inspection of documents or things relevant to the inspection;
 - ii. inspection and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - iii. require information from any person concerning a matter related to the inspection; and
 - iv. Alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purpose of the inspection.
- 3) No person shall obstruct the Chief Building Official or an Officer in carrying out an inspection or exercising his or her powers or duties under this by-law.
- 4) No person shall fail to produce any information required by the Chief Building Official or an Officer pursuant to clause 42(2) of this by-law.

SERVICE

43. Any service required to be given under this by-law is sufficiently given if delivered personally or sent by registered mail to the owner at the last known address of the owner of the land.
44. Where service is effected by registered mail, it shall be deemed to be made on the fifth (5) day after the date of mailing.

PENALTY

45. Every person who contravenes this by-law is guilty of an offence.
46. Every contravention of this by-law is hereby designated as a continuing offence.
47. Every 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 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.
48. 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 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.
49. A special fine may be imposed in addition to a fine imposed under Section 47 or 48 in circumstances where there is economic advantage or gain from the contravention of this by-law and the maximum amount of the special fine may exceed \$100,000.00. A special fine shall be calculated on the basis of:
- a) \$10.00 for each cubic metre of fill deposited in excess of the amount allowed in a permit, or deposited beyond the geographic limits of the permit, or deposited without first having obtained the required permit;
 - b) Where the fill is found to contain contaminant levels that exceed the standards in the "Soil, Ground Water and Sediment Standards for Use under Part XV.1 of the Environmental Protection Act" referenced in O. Reg. 153/04, as prescribed in this By-law, greater fines of not less than \$100 per cubic metre may be imposed.
50. 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 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.
51. 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 re-establish the trees.

SEVERABILITY

52. In the event that any provision or part of a provision in this by-law is found to be invalid or unenforceable for any reason whatsoever, then the particular provision or part thereof shall be deemed to be severed from the remainder of the by-law and all other provision or parts thereof shall remain in full force and effect and shall be valid and enforceable to the fullest extent permitted by law.

EFFECTIVE DATES AND REPEAL OF PREDECESSOR BY-LAWS

Town of Erin By-law 12-18 is hereby repealed.

This by-law shall come into full effect and force on the date of its passing.

The Chief Building Official shall not permit any extensions or renewals of permits issued under the predecessor by-law.



MAYOR



CLERK

**SCHEDULE "A" TO BY-LAW NUMBER 16-
THE CORPORATION OF THE TOWN OF ERIN
APPLICATION FOR A SITE ALTERATION PERMIT**

**THIS APPLICATION IS AUTHORIZED BY BY-LAW NUMBER XX-16
AND THE PERSONAL INFORMATION ON THIS FORM IS COLLECTED
UNDER THE AUTHORITY OF THE MUNICIPAL FREEDOM OF INFORMATION
AND PROTECTION OF PRIVACY ACT R.S.O. 1990, c.M.56**

1.0 PERMIT NO. _____ 2.0 APPLICATION FOR: _____ SITE ALTERATION PERMIT

3.0 ATTACHMENTS – THIS APPLICATION MUST BE ACCOMPANIED BY:

- Copies of a Fill Management Plan certified by a qualified person.
- The application fee.
- Financial Assurance in a form and amount acceptable to the Chief Building Official.
- Owner's authorization if Applicant is not the Owner.
- Any required external agency permit.
- Any required report.

4.0 PROPERTY LOCATION: _____

PROPERTY SIZE: _____ ac. USE/PROPOSED USE OF PROPERTY: _____

NAME OF PROPERTY OWNER: _____

ADDRESS: _____ CITY: _____

POSTAL CODE: _____

PHONE: _____ FAX: _____

5.0 NAME OF AGENT: _____

ADDRESS: _____ CITY: _____

POSTAL CODE: _____

PHONE: _____ FAX: _____

6.0 WORK SCHEDULE: START DATE: _____ END DATE: _____

7.0 CONSULTING ENGINEERS: _____

ADDRESS: _____ CITY: _____

POSTAL CODE: _____

PHONE: _____ FAX: _____

8.0 CONTRACTOR'S NAME: _____

ADDRESS: _____ CITY: _____

POSTAL CODE: _____

PHONE: _____ FAX: _____

9.0 DESCRIBE THE COMPOSITION & VOLUME OF FILL BEING DUMPED/PLACED;

0 DOES ANY PART OF THE SITE CONTAIN A WATERCOURSE?

_____ YES _____ NO

11.0 IS THIS WATERCOURSE REGULATED BY A CONSERVATION AUTHORITY OR OTHER AUTHORITY?

_____ YES _____ NO

I HEREBY GRANT EMPLOYEES AND AGENTS OF THE TOWN OF ERIN PERMISSION TO ENTER THE SUBJECT LAND TO INSPECT THE SITE ON WHICH THE PROPOSED WORK RELATED TO THIS APPLICATION APPLIES. I HEREBY GRANT THE AUTHORITY TO SHARE THE INFORMATION CONTAINED IN THIS APPLICATION, AS NECESSARY. TO THE BEST OF MY KNOWLEDGE, THE INFORMATION CONTAINED HEREIN IS TRUE AND CORRECT.

SIGNATURE OF OWNER

DATE

OFFICE ADMINISTRATION PURPOSES ONLY

Letter of Credit/Cash Amount: _____ Permit Fee: _____

Receipt No.: _____

Chief Building Official's Approval: _____ Date issued: _____

Expiry: _____

SCHEDULE "B" TO BY-LAW NUMBER 16-

FILL MANAGEMENT PLANS

The Owner is responsible to verify the type and quality of fill material to be imported to/from the site. All fill material must comply with the parameters as set out in Ontario Regulation 153/04, as amended, and Table 1 of the "Soil, Groundwater and Sediment Standards for Use" under Part XV.1 of the Environmental Protection Act including SAR and EC. The intent of this quality control is to prevent the importation of material that is of lower chemical quality standard than on-site material.

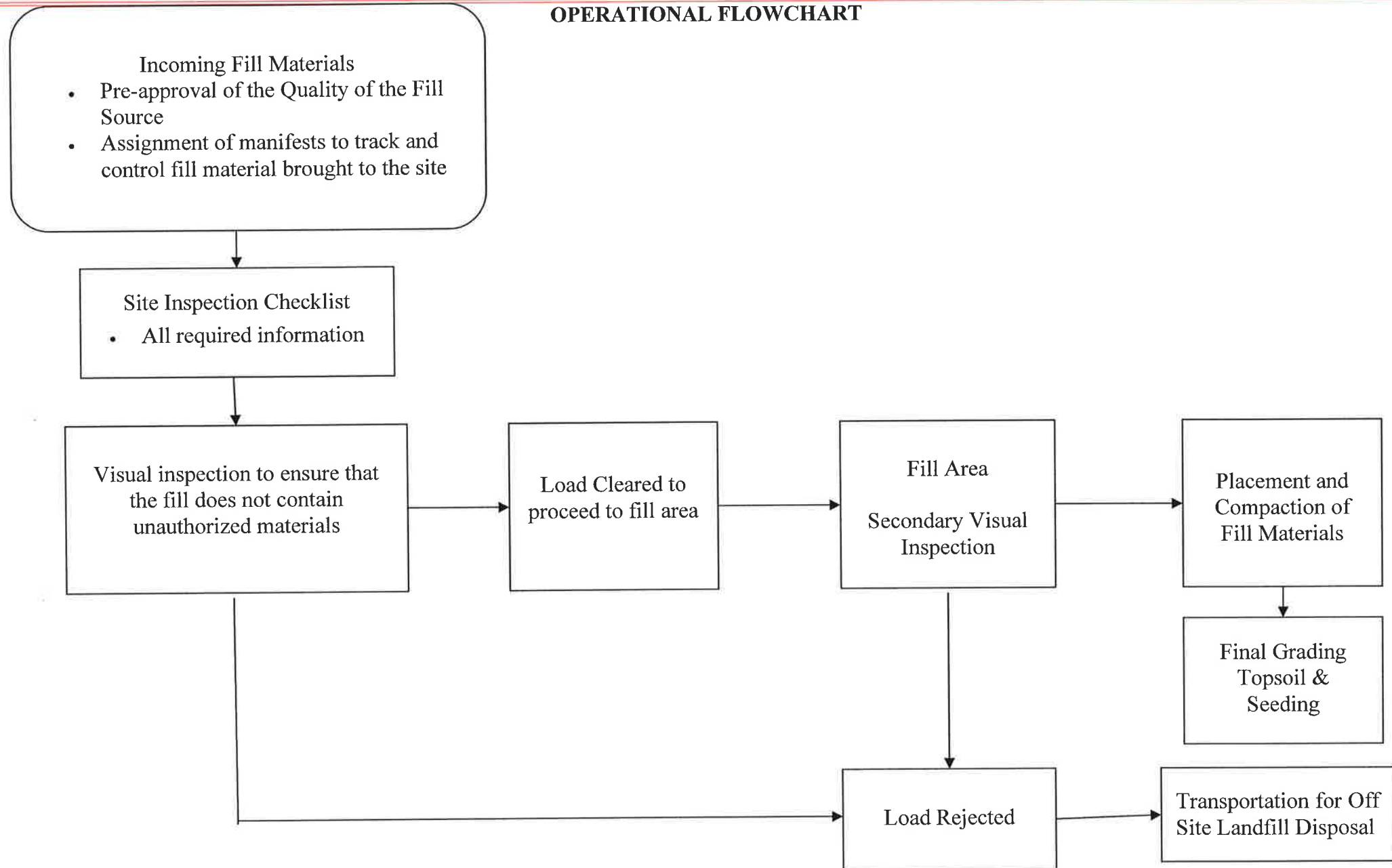
Operational Standards

The following criteria are standards for the maintenance and operation of the fill area:

1. Notwithstanding the following all fill management plans shall be designed and enacted in conformance with the MOECC Best Management Practices document.
2. Every 15th load shall be sampled by a qualified person and shall have soil chemistry tested at a CALA or SCC qualified laboratory to ensure it meets Table 1 Standards. See Section 21 (c) for requirements for Large Scale Site Alterations. .
3. Site personnel will receive specialized training for their specific work tasks.
4. The placement of clean fill material at the site will be adequately and continually supervised.
5. Clean material will be placed in an orderly manner at the fill area.
6. Procedures will be established, signs posted, and safeguards maintained for the prevention of on-site accidents.
7. Vehicular access to the property will be by roadway closed by a gate capable of being locked.
8. Access roads and on-site roads will be provided so that vehicles hauling clean material to and on the site may travel readily under all normal weather conditions.
9. Access to the site will be limited to times when an attendant is on duty and accessible only to persons authorized to deposit clean material at the fill area.
10. Drainage passing over or through the site will not adversely affect adjoining property. Natural drainage will not be obstructed.
11. Clean fill material will be placed in such manner that groundwater aquifers will not be impaired.
12. If groundwater contamination not consistent with the Reasonable Use Criteria as described in Ontario Ministry of the Environment Policy 19-08 is encountered, action will be taken to isolate the source of contamination and effectively prevent the egress of contaminants from the Site.
13. Where there is a possibility of groundwater pollution resulting from the operation of the fill area, samples of the fill will be taken and tests made by the owner of the site to measure the extent of contamination. If audit tests are bad, fill shall be removed and confirmatory sampling shall be done and the results provided to the Chief Building Official.

When the fill area has reached its limit of fill, a final cover of soil will be designed and constructed to a grade capable of supporting vegetation and that minimizes erosion. Re-vegetation shall also occur throughout the fill process to ensure that erosion and dust are kept to a minimum and that stabilization of fill is maintained. All slopes will be designed to drain runoff away from the cover and to prevent water from ponding. No standing water will be allowed anywhere in or on the completed fill area. The fill area will then be seeded with vegetation to minimize wind and water erosion. The vegetation used will be compatible with (i.e., grow and survive under) the local climatic conditions and may include a diverse mix of native and introduced species consistent with the post fill land use. However, highly invasive alien plants are not acceptable for planting on fill sites. Temporary erosion control measures will be undertaken while vegetation is being established.

OPERATIONAL FLOWCHART



FILL MANAGEMENT PLANS

Fill Screening Procedures

The initial inspection of the truck and its load of clean fill will include a review of the chain of custody provided by the transporter and a visual inspection of the fill for signs of contamination. If, at any point during the visual inspection there is evidence that the fill may be contaminated it will be rejected.

The attached Fill Inspection Checklist will be used to record and document the chain of custody and all initial and secondary inspections.

The first procedure for the owner's site inspector will be to record the load number, truck number, the name of the company hauling the fill, the driver's name and ensure that the transporter provides a chain of custody (refer to check list). The chain of custody will include a record for the fill being delivered, from its source of origin to the site.

The chain of custody will include information concerning the clean fill, the transport of the clean fill, and the truck itself. Information pertaining to the clean fill should include: source of origin; soil constituents; proof that the fill is clean; and copies of analyses to provide evidence that the soil is not contaminated. Records pertaining to the transport should include: a list of all drivers involved in the haulage of the clean fill from its place of origin to the site; documentation of all stops made from the place of origin to the site; documentation that ensures the truck is at the proper location. Records of transport cleaning and sanitation procedures for the truck and loading equipment should also be provided upon request to ensure that the fill has not been contaminated by previously transported materials.

An initial visual inspection of the clean fill will occur while the fill is still in the truck and, if the fill is deemed satisfactory, a secondary visual inspection will be performed when the fill is being dumped in the designated fill area. If fill is being imported from various source sites, it shall be segregated at the receiving site so that it may be contained and identified as from a single site. Both initial and secondary inspections will include a first-hand observation of the following:

- odors
- unusual clumping
- hazardous materials (biomedical, flammable etc.
- food, household waste
- discoloration
- viscosity (liquids and sludge)
- putrescible wastes
- any other unauthorized materials including, but not limited to, asphalt, painted wood or construction materials

Initial and secondary inspections will include the raking and probing of the fill in order to agitate the soil and bring underlying soil to the surface so that an accurate representation of the soil may be inspected.

If there is evidence that the soil may be contaminated the site inspector will reject the load.

When either the initial or secondary inspections provide evidence that the soil is not clean the truckload will be refused and directed to the appropriate licenced waste disposal facility. The site supervisor will document what was found, why the load was refused and to which facility the load was directed.

FILL MANAGEMENT PLANS

Fill Inspection Checklist (One Ticket per Load)

<u>Fill Site:</u>		<u>Date:</u>	<u>Ticket No:</u>
		<u>Time:</u>	<u>Inspected by:</u>
<u>Driver Information:</u>		<u>No. of Loads:</u>	<u>Quantity:</u>
Company: _____			m ³
Truck No: _____			
Driver's Name: _____		ACCEPTED	REJECTED
<u>Source Information:</u>		<u>Report Provided at Source:</u>	<u>Type of Fill:</u> <i>(Check appropriate box)</i>
Address: _____		YES NO	RESIDENTIAL
_____			INDUSTRIAL
_____			AGRICULTURAL
<u>Visual Inspection Report:</u>		Load(s) Contains Clean Fill	
Primary Inspection		YES	NO
If "NO" complete the following: Secondary Inspection		YES	NO
1	Odours		
2	Unusual Discoloration		
3	Hazardous Materials (Biomedical, Flammable)		
4	Food/Domestic Waste		
5	Liquid or Sludge		
6	Construction Materials (Wood, Drywall etc.)		
7	Scrap Metals		
8	Vegetation (Stumps/Sod)		
9	Asphalt		
10	Other (Describe)		
<u>Comments:</u>			
If rejected:			
1. Name of facility where directed.			
2. Confirmation of delivery of material.			

FILL MANAGEMENT PLANS

Groundwater Monitoring

Procedures for the Groundwater Monitoring Program

To monitor the quality of groundwater migrating off-site a minimum of three monitor wells will be installed down gradient from the fill area as shown on the site grading plan. Periodic analytical testing of the groundwater will be conducted to ensure that groundwater quality is not degraded as a result of the site alteration. Initial groundwater samples must be taken to establish the base line parameters of the existing groundwater quality before the filling operation.

The following is an outline of the items related to the groundwater monitoring program that are addressed in the Fill Management Plan:

The impacts of the seepage of leachate from the fill area will be assessed in a systematic fashion using the techniques described below.

Procedures for performing the groundwater assessment:

1. The concentration of constituents in the groundwater will be determined from laboratory analyses of groundwater samples collected down gradient from the fill area.
2. Acceptable groundwater assessment. The groundwater quality will be considered acceptable if the post site alteration groundwater quality is consistent with the expectations of the Ontario Ministry of the Environment Reasonable Use Policy and there are no statistically increasing trends in chemical concentrations indicative of worsening water quality conditions.

Design, Construction and Operation of Groundwater Monitoring Systems

All fill areas, will be identified and studied through a network of monitoring wells operated during the active life of the fill area and for two years after closure. Monitoring wells designed and constructed as part of the monitoring network will be maintained along with records that include, but are not limited to, well location, well size, type of well, the design and construction practice used in its installation and well and screen depths.

a. Standards for the location of monitoring points:

1. Monitoring points will be established at sufficient locations down gradient with respect to groundwater flow to detect discharge of potential contaminants from within the fill area.
2. Monitoring wells will be located in stratigraphic horizons that could serve as contaminant migration pathways.
3. Monitoring wells will be established as close to the potential source of discharge as possible without interfering with the fill operations, and within half the distance from the edge of the potential source of discharge to property line down gradient, with respect to groundwater flow, from the source.
4. A minimum of at least three monitoring wells will be established at the property line and will be located down gradient from the fill area with respect to groundwater flow. Such well or wells will be used to monitor any statistically significant increase in the concentration of any constituent and will be used for determining compliance with applicable groundwater quality parameters.

b. Standards for monitoring well design and construction:

1. All monitoring wells will be encased in a manner that maintains the integrity of the borehole. The casing material will be inert so as not to affect the water sample. Well casings requiring a solvent-cement type coupling will not be used.

2. Wells will be screened to allow sampling only at the desired interval. Annular space between the borehole wall and well screen section will be packed with gravel or sand sized to avoid clogging by the material in the zone being monitored. The slot size of the screen will be designed to minimize clogging. Screens will be fabricated from material expected to be inert with respect to the constituents of the groundwater to be sampled.
 3. Annular space above the well screen section will be sealed with a relatively impermeable, expandable material such as a cement/bentonite grout, which does not react with or in any way affect the sample, in order to prevent contamination of samples and groundwater and avoid interconnections. The seal will extend to the highest known seasonal groundwater level.
 4. The annular space will be back-filled from an elevation below the frost line and mounded above the surface and sloped away from the casing so as to divert surface water away.
 5. The annular space between the upper and lower seals and in the unsaturated zone may be back-filled with uncontaminated cuttings.
 6. All wells will be covered with caps and equipped with devices to protect against tampering and damage.
 7. All wells will be developed to allow free entry of water to minimize turbidity of the sample and minimize clogging.
 8. Other sampling methods and well construction techniques may be utilized if they meet Provincial water well construction standards.
- c. Standards for Sample Collection and Analysis
1. The groundwater monitoring program will include consistent sampling and analysis procedures to assure that monitoring results can be relied upon to provide data representative of groundwater quality in the zone being monitored.
 2. The operator will utilize procedures and techniques to insure that collected samples are representative of the zone being monitored and that prevent cross contamination of samples from other monitoring wells or from other samples.
 3. The operator will establish a quality assurance quality control program for groundwater sample collection.
 4. The operator will institute a chain of custody procedure to prevent tampering and contamination of the collected samples prior to completion of analysis.

Groundwater Monitoring Program

- a. The operator will implement a monitoring program in accordance with the following requirements:
 1. Monitoring schedule and frequency:
 - A. The monitoring period will begin as soon as a fill permit is issued. Monitoring will continue for a minimum period of two years after closure. The operator will sample all monitoring points on a quarterly basis.
 - B. The monitoring frequency may change on a well by well basis to an annual schedule if all constituents monitored within the zone of attenuation are less than or equal to Standards criteria for three consecutive quarters. However, monitoring will return to a quarterly schedule at any well where a statistically significant increase is determined to have occurred in the concentration of any constituent with respect to the previous sample.
 - C. Monitoring will be continued for a minimum period of two years after closure. Monitoring beyond the minimum period may be discontinued if no statistically significant increase is detected in the concentration of any constituent above that measured and recorded during the immediately preceding scheduled sampling for three consecutive quarters.

2. Criteria for choosing constituents to be monitored:
 - A. The operator will monitor each well for constituents that will provide a means for detecting groundwater contamination. Constituents will be chosen for monitoring if the constituent appears in, or is expected to be in, the leachate.
 - B. One or more indicator constituents, representative of the transport processes of constituents in the leachate, may be chosen for monitoring in place of the constituents it represents.
- b. If the analysis of the monitoring data shows that the concentration of one or more constituents is attributable to the fill operations and exceeds pre-approval concentrations, then the operator will conduct a groundwater impact assessment. The assessment monitoring program will be conducted in accordance with the following requirements:
 1. The impact assessment will be conducted to collect additional information to assess the nature and extent of groundwater contamination, which will consist of, but not be limited to, the following steps:
 - A. More frequent sampling of the wells in which the observation occurred;
 - B. More frequent sampling of any surrounding wells;
 - C. The placement of additional monitoring wells to determine the source and extent of the contamination; and
 - D. Monitoring of additional constituents to determine the source and extent of contamination.
 2. If the analysis of the assessment monitoring data shows that the concentration of one or more constituents monitored is above the applicable groundwater quality standards and is attributable to the fill operations, the operator will determine the nature and extent of the groundwater contamination, including an assessment of the continued impact on the groundwater should additional fill continue to be accepted at the facility, and will implement remedial action.

Plugging and Sealing of Drill Holes

- a. All drill holes, including exploration borings that are not converted into monitoring wells, monitoring wells that are no longer necessary to the operation of the site, and other holes that may cause or facilitate contamination of groundwater shall be sealed in accordance with the Ontario Regulation 903.

SCHEDULE "C" TO BY-LAW NUMBER XX-16

1.0 SITE ALTERATION PERMIT FEES

1.1. BASE FEE

The fee for processing, administration and inspection for a permit shall be Five Thousand dollars (\$5000.00) plus tipping fees of \$2.00 per cubic metre of fill. (rounded to the greater whole aggregate). Base fees for a permit under section 21 (Large Scale Site Alteration) of this By-Law shall be Ten Thousand dollars (\$10,000.00) plus tipping fees of \$2.00 per cubic metre of fill.

1.2. AGREEMENT FEES

Site alteration projects that fall within the criteria of Section 21 of this By-Law are subject to an agreement with the municipality. In addition to the base fee as described under item 1.1 the applicant agrees to pay the Town all reasonable costs incurred by the Town in connection with the undertaking proposed for this site which, without limiting the generality of the foregoing, shall include all expenses of the Town heretofore and hereinafter incurred for legal, engineering, surveying, planning and inspection services, extra Council meetings, if any, and employees' extra time, if any, and shall pay such costs from time to time forthwith upon demand, provided, if such costs be not paid forthwith same shall bear interest from the date which is 10 days following the date of demand to the date of payment at two (2) percentage points in excess of prime rate of interest charged by the Royal Bank of Canada during such period.

2.0 FINANCIAL ASSURANCE REQUIREMENTS

The owner may be required to provide a security deposit, which shall act as Financial Assurance, to be used to remedy any breach of the by-law, permit or site alteration agreement to be drawn on by the municipality at its sole discretion, and, without limiting the generality of the foregoing, such security may be used to return the land to a condition satisfactory to the Chief Building Official and to pay any outstanding amounts owed by the owner that relate to the permit.

Said agreement may be registered on title.

Financial assurance must be in the form of an irrevocable Letter of Credit, certified cheque or cash and may be required by the Chief Building Official to cover 100% of the estimated cost to maintain site control measures, stabilize the site and undertake other works as identified by the Chief Building Official.

The Mayor and the Town Clerk are hereby authorized to execute any such agreement on behalf of the Town with the following provisions:

- 2.1 The Letter of Credit or agreement must remain in effect for the full duration of the life of the permit. Any Letter of Credit or agreement and its subsequent renewal forms shall contain a clause stating that sixty (60) days written notice must be given to the Town prior to its expiry or cancellation.
- 2.2 The financial assurance must be replenished in full by the permit holder within 30 days whenever it is drawn upon.
- 2.3 The Letter of Credit shall contain a clause stating that in the event that the Town receives notice that a Letter of Credit is expiring and will not be renewed and further or additional securities are not provided forthwith, the Town may draw on the current Letter of Credit at the discretion of the Chief Building Official. The Permit Holder agrees that any interest accruing on the realized cash security shall belong to the Town and not to the Permit Holder.

- 2.4 It is the responsibility of the permit holder to obtain the approval of the Chief Building Official that the Site has been adequately reinstated and stabilized in accordance with this by-law and the plans and the permit and to request that the municipality carry out a final inspection of the site and obtain the written approval of the Chief Building Official that this by-law and terms and conditions of the permit have been complied with by the permit holder.
- 2.5 When the provisions in Section 2.4 have been fully complied with, to the satisfaction of the chief Building Official, the financial assurance shall be released; notwithstanding this provision, the owner may be required to maintain the financial assurance as described until all site monitoring, applicable sampling and remediation is completed, as required in the permit to the satisfaction of the Chief Building Official. If the permit expires or is revoked, the securities are to remain in effect until the site is restored to a condition acceptable to the Chief Building Official and within a timeframe approved by the CBO.

SCHEDULE "D" TO BY-LAW NUMBER XX-16

PERMIT CONDITIONS

- 1.0 All Permit Holders shall:
 - 1.1 Notify the Chief Building Official in writing within 48 hours of commencing any fill operation or land disturbance;
 - 1.2 Notify the Chief Building Official in writing of the completion of any control measures within fourteen (14) days after their installations;
 - 1.3 Obtain permission in writing from the Chief Building Official prior to modifying the fill management plan;
 - 1.4 Install all control measures as identified in the approved fill management plan;
 - 1.5 Maintain all road drainage systems, storm water drainage systems, control measures and other facilities identified in the fill management plan;
 - 1.6 Repair any siltation or erosion damage to adjoining surfaces and drainage ways resulting from land developing or disturbing activities;
 - 1.7 Inspect the construction control measures at least once per week and after each rainfall of at least one (1) centimetre and make needed repairs;
 - 1.8 Allow employees of the Town to enter the site for the purpose of inspecting for compliance with the fill management plan or for performing any work necessary to bring the site into compliance with the fill management plan, including taking of samples; and
 - 1.9 Maintain a copy of the fill management plan and operational procedures manual on the site.
- 2.0 The Town:
 - 2.1 Upon the failure by the Permit Holder to complete all or part of the works in the time stipulated in the fill management plan, may draw the appropriate amount from the securities posted and use the funds to arrange for the completion of the said works, or any part thereof;
 - 2.2 Upon the failure by the permit holder to repair or maintain a specific part of the works as required by the Town, and in the time requested, the Town may at any time authorize the use of all or part of the securities to pay the cost of any part of the works it may in its absolute discretion deem necessary; or
 - 2.3 In the case of emergency repairs or clean-up, the Town may undertake the necessary works at the expense of the permit holder and reimburse itself out of securities posted by the applicant or to add to the cost of the works to the real property tax roll to be collected in like manner as taxes.

SCHEDULE "E" TO BY-LAW NUMBER XX-16

ROAD SECURITY DEPOSIT FOR THE REPAIR, CLEANING OR RESTITUTION OF THE TOWN ROADS

1. This requirement shall come into effect between the Town of Erin and the owner (or his/her authorized agent) of private lands adjacent to a Town road when the owner has initiated an undertaking that may cause injurious effects to Town roads.
2. When it is determined by the Town Road Superintendent or his/her designate, that the scope of a private undertaking will foul, damage, obstruct, injure or encumber the Town's roads; the owner shall provide a road security deposit to the Township to compensate for all such manners of maintenance and restitution that may result from the owner's actions on the thoroughfares.
3.
 - (a) The Town Road Superintendent shall determine the value of the road security deposit required by the Town.
 - (b) The valuation of the road security deposit will be an estimate based upon the scope of the owner's undertaking and potential costs to maintain and restore the Town's roads to their existing conditions prior to the initiation of the undertaking.
 - (c) The minimum road security deposit shall be \$2,000.00.
 - (d) At any time during the course of the owner's undertaking, the Town Road Superintendent may draw upon the road security deposit posted by the owner to clean, maintain, repair or control the effects of the owner's undertaking on the Town's roads.
 - (e) Should the Town Road Superintendent determine that highway maintenance or restitution costs resulting for the owner's undertaking will exceed the estimated road security deposit; the owner shall forthwith provide the additional securities as deemed necessary by the Roads Superintendent.
 - (f) Upon the completion of the owner's undertaking, the Town will inspect the adjacent Town roads and refund the balance of the unused road security deposit. Similarly, the owner will immediately reimburse the Town upon its demand for any and all additional funds expended to maintain, repair or correct any deficiencies to the Town's roads as a result of the owner's undertaking.
4. The road security deposit to be posted with the Town shall be cash or in the form of a Letter of Credit acceptable to the Town Treasurer.
 - (b) The deposit must remain in effect for the full duration of the owner's undertaking or until such additional time as the Town Roads Superintendent deems necessary due to the season of the activities.
 - (c) Any letter of credit and its subsequent renewal forms shall contain a clause stipulating that sixty (60) days written notice must be given to the Town prior to its expiry or cancellation.
 - (d) The Letter of Credit shall contain a clause stating that in the event that the Town receives notice that the Letter of Credit is expiring and will not be renewed and further or additional securities are not provided forthwith, the Town may draw upon the current Letter of Credit at the discretion of the Town Treasurer.
5. In the case of emergency repairs or clean-up the Town Road Superintendent may undertake the necessary works at the expense of the owner and draw upon the road security deposit posted by the owner.
6. All decisions of the Town's Road Superintendent shall be final with respect to any maintenance, cleaning, restoration or repairs to the Town roads resulting from the owner's undertaking.
7. Nothing within these requirements shall preclude the authority of the Town Roads Superintendent to maintain the standard duty of care on the Town roads, nor limit the abilities of the Superintendent to control or cease the proponent's activities upon the Town roads.

SCHEDULE 'F' TO BY-LAW NUMBER XX-16

Management of Excess Soil-A Guide for Best Management Practices