

THE CORPORATION OF THE TOWN OF CALEDON

BY-LAW NUMBER XX-25

A By-law to Regulate Site Alteration and Filling in the Town of Caledon

A by-law to prohibit and regulate the alteration of the grade of land and the placement of fill and to repeal By-law 2007-59.

**WHEREAS** Section 142 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended (hereafter referred to as the *Municipal Act*) authorizes the Council of The Corporation of Caledon Town to pass By-laws for prohibiting or regulating Site Alteration to the Grade (topography) of Property through the movement, removal or placement of Topsoil, Soil or Fill within the Town; and,

**WHEREAS** Sections 8, 9 and 11 of the *Municipal Act*, permits a municipality to pass By-laws necessary or desirable for municipal purposes, and paragraphs 5, 6 and 8 of Subsection 11 (2) authorize By-laws respecting the economic, social and environmental well-being of the municipality, the health, safety and well-being of persons, and the protection of persons and property; and,

**AND WHEREAS** the Corporation of the Town of Caledon deems it expedient and in the public interest to enact a By-law to regulate Site Alteration and Movement of Fill;

**NOW THEREFORE** the Council of the Corporation of the Town of Caledon enacts as follows:

**THAT** this By-law be comprised of 14 Parts containing various sections, namely:

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## 1. INTERPRETATION AND ADMINISTRATION

### Short Title

1.1 This By-law may be referred to as the “Site Alteration By-law”.

### Administration

1.2 This By-law applies to all Property in the Town of Caledon.

1.3 The Commissioner will be responsible for the administration of this By-law.

### Delegated Authority

1.4 The Commissioner is authorized and has the delegated authority to:

- a) Approve, exempt/waive, issue, revoke, extend, renew, amend, or close a Permit and/or grant approvals of Site Alteration and impose Conditions for continuing to hold a Permit depending on the Site Alteration in addition to the requirements under this By-law;
- b) Determine when a Public Information Centre or a Meeting of Council is required or not required;
- c) Determine and deem an Application as abandoned, expired, or closed;
- d) Approve and coordinate any remediation works;
- e) Approve amendments to Site Alteration and Fill Management Plans;
- f) Approve and amend Application forms and the By-law Manual;
- g) Establish appropriate requirements;
- h) Ensure compliance with this By-law, including requiring appropriate testing and documentation.
- i) Appoint a peer review consultant or other engineering, scientific and technical experts to fulfill the role or duties of an Officer for purposes of this By-law;
- j) Require or exempt certain works from provisions of this By-law, as permitted in this By-law;
- k) Authorize any Person to carry out any of the powers or duties of the Commissioner and/or Officer pursuant to this By-law; and
- l) Authorize and/or retain such agents, contractors, and other Persons to perform the work, as required.
- m) Determine if an application of over 10,000 m<sup>3</sup> requires the approval of Council.

### Conflict

1.5 Where there is a conflict between a provision of this By-law and a provision of any other Town By-law, the provision that establishes the highest standards to protect the health and safety of the public and natural

environment shall apply. No agreement shall be deemed to provide an exemption from the requirements of this By-law unless this By-law authorizes such exemption, and the agreement specifically provides for it.

**Severability**

- 1.6 If a court of competent jurisdiction declares any section, or any part of any section, of this By-law to be invalid, or to be of no force or effect, it is the intention of the that every other provision of this By-law be applied and enforced in accordance with its terms to the extent possible according to law.

**Compliance with Other Laws**

- 1.7 This By-law, and the provisions contained within, are intended to be complimentary to Federal and Provincial statutes and Regulations, and to other By-laws passed by Council. If any other applicable law requires a higher standard than this By-law requires, the higher standard shall apply.
- 1.8 By-laws, statutes, regulations, and guidelines referenced include any amendments, replacements or updates to those By-laws, statutes, regulations, and guidelines.

**2 DEFINITIONS**

- 2.1 In this By-law,
1. **“Adverse Effect”** as defined in Section 1 of the Environmental Protection Act, RSO 1990, c E.19 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.
2. **“Agricultural”** means the use of Property for the growing of crops, including nursery, biomass, and horticultural crops; raising of livestock; raising of other animals for food, fur or fibre, including poultry and fish; aquaculture; apiaries; agro-forestry; maple syrup production; and associated on-farm buildings and structures, including, but not limited to livestock facilities, manure storages, value-retaining facilities, and housing for farm workers, when the size and nature of the operation requires additional employment.
3. **“Applicant”** means the Owner of a Property and includes a Person authorized in writing to act on behalf of the Owner to apply for a Permit.

4. **"Application"** means a written submission to request or amend a Permit.
5. **"By-law Manual"** means the manual accompanying this By-Law to assist in the administration of the By-Law and Site Alteration applications and rules. The Manual shall be posted at [www.caledon.ca](http://www.caledon.ca).
6. **"Commissioner"** means the Town's Commissioner of Engineering, Transportation and Public Works or a person designated by the Town's Chief Administration Officer or Council to carry out any of the powers and duties of the Commissioner, pursuant to this By-law and designated to have responsibility for this By law and may include any person authorized by the Commissioner to carry out any of the powers or duties of the Commissioner, pursuant to this By law.
7. **"Conservation Authority"** means any conservation authority with jurisdiction in the Town of Caledon.
8. **"Condition(s)"** means the mandatory performance requirements outlined in a Permit or Order and may include the requirement for monetary deposits or securities in connection with the Application.
9. **"Contaminant"** means any solid, liquid, gas, odor, 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.
10. **"Council"** means the Council of The Corporation of the Town of Caledon.
11. **"Drainage"** means the movement of surface water, whether by way of the natural characteristics of the ground surface or by artificial means.
12. **"Fill"** means any type of material that can be removed from (cut) or placed on (in-fill) land including but not limited to, the following:
  - i. **"Aggregate"** means a collective term for mineral materials such as sand, gravel and crushed stone that can be used with a binding medium to form compounds such as concrete. Aggregates can either be natural or manufactured and excludes asphalt which can be placed on surface but not below Grade;
  - ii. **"Clean concrete and brick"** mean concrete, brick, block and other silica-based construction materials that are free of Contaminants;
  - iii. **"Compost"** means a mixture of various decaying organic substances, such as dead leaves or manure, used for fertilizing soil;
  - iv. **"Excess Soil"** means soil, crushed rock, or soil mixed with rock or crushed rock, that has been excavated as part of a project and removed from the project area for the project, as defined in O. Reg. 406/19;
  - v. **"Liquid Soil"** means soil that has a slump of more than 150 millimetres using the Test Method for the Determination of "Liquid

- Waste” (slump test) set out in Schedule 9 to R.R.O.1990, Regulation 347 (Environmental Act), as defined in O. Reg. 406/19;
- vi. **“Rock”** means a naturally occurring aggregation of one or more naturally occurring minerals that is 2 millimetres or larger in size or that does not pass the US No. 10 sieve, as defined in O. Reg. 406/19;
  - vii. **“Sod”** means the upper stratum of soil bound by grass and plant roots into a thick mat (turf);
  - viii. **“Soil”** means unconsolidated naturally occurring mineral particles and other naturally occurring materials resulting from the natural breakdown of rock or organic matter by physical, chemical or biological processes that are smaller than 2 millimetres in size or that pass the US No. 10 sieve, as defined in O. Reg. 406/19.
  - ix. **“Topsoil”** means those horizons in a soil profile, commonly known as the “O” and the “A” horizons, containing organic material and includes deposits of partially decomposed organic matter such as peat.
  - x. **“Asphalt”** means asphalt grindings or any other natural or manufactured material.
13. **“Grade”** at any point on the land means the elevation of the ground surface of the land; and
- i. **“Approved Grade”** means the final elevation of the ground surface following Site Alteration or Movement of Fill as approved by the Commissioner in accordance with this By-law or otherwise approved through planning approvals and related development agreements;
  - ii. **“Existing Grade”** means the elevation of the existing ground surface prior to any Site Alteration and Movement of Fill, including the natural Grade prior to human activities or an Approved Grade; and
  - iii. **“Unapproved Grade”** means the elevation of the ground surface that is not an Existing Grade or Approved Grade.
14. **“Greenbelt Plan”** means land that is in the Ontario Greenbelt Plan and protected under the Greenbelt Act 2005.
15. **“Haul Routes”** means routes defined by the Commissioner and permitted by the Town or any agreement under this By-law that describes which routes must be followed when transporting material to or from the Site;
16. **“Highway”** means a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof;
17. **“Invasive Species”** means Invasive Species as defined in the *Invasive Species Act, 2015*, S.O.2015, c.22 as may be amended.

18. **“Large Site Alteration”** means any Site Alteration that does not meet the definition of a Small Site Alteration or a Medium Site Alteration.
19. **“Medium Site Alteration”** means any Site Alteration that does not meet the definition of a Small Site Alteration and is less than 10,000 m<sup>3</sup> of total Site Alteration at a Property.
20. **“Small Site Alteration”** means a one-time maximum cumulative volume of Site Alteration per Property based on the area of Property suitable for Site Alteration (the Property area excluding buildings, structures and fixed features) calculated as follows:
  - i. Area of Property suitable for Site Alteration in hectares x 200 m<sup>3</sup> per hectare of Site Alteration, up to a maximum area of Property suitable for Site Alteration of 1.0 ha. The maximum volume is a one-time maximum cumulative allowance. Any Site Alteration that exceeds the maximum one-time cumulative volume is prohibited without a Permit. Once this cumulative volume has been reached regardless of the timeframe over which it occurred, no further Site Alteration is allowed without a Permit.
  - ii. The maximum volume calculation excludes any Site Alteration conducted under the approval of any other legal instrument of the Town such as a Building Permit.
21. **“Movement of Fill”** means any non-natural transfer of Fill from one location to another of any distance except Fill that is transported through the Town and is always contained within the transport vessel.
22. **“Municipal Act, 2001”** means the Municipal Act, 2001, S.O. 2001, c. 25;
23. **“Normal Farm Practice”** means a Normal Farm Practice as defined in the Farming and Food Production Protection Act, 1998, S.O. 1998, c. 1, as amended or any successor legislation, which defines it as, a practice that,
  - i. is conducted in a manner consistent with proper and acceptable customs and standards as established and followed by similar agricultural operations under similar circumstances, or
  - ii. makes use of innovative technology in a manner consistent with proper advanced farm management practices.
24. **“Oak Ridges Moraine”** means land that is in the Oak Ridges Moraine Conservation Plan Area pursuant to Ontario Regulation 140/02, Oak Ridges Moraine Conservation Plan under the *Oak Ridges Moraine Conservation Act, 2001*, S.O. 2001, c.31;
25. **“Officer”** means a Municipal Enforcement Officer, or other individual authorized by the Town to enforce the Town By-laws and may include a

designate, a peer review consultant or other technical specialist, if designated by the Commissioner under this By-law.

26. **“Ontario Regulation 153/04”** means O. Reg. 153/04 (Records of Site Condition — Part XV.1 of the Environmental Protection Act.)
27. **“Ontario Regulation 406/19”** means O. Reg. 406/19 (On Site and Excess Soil Management) under the Environmental Protection Act.
28. **“Order”** means an Order issued under this By-law.
29. **"Owner"** means the registered Owner(s) of the Property.
30. **“Permit”** means a formal authorization issued by the Town under this By-law.
31. **"Person"** includes individuals, sole proprietorships, partnerships, corporations, trustees, agents, or legal representatives.
32. **“Planning Act”** means the Planning Act, R.S.O. 1990, c. P.13;
33. **“Property”** means a legal land parcel that could be conveyed including all buildings and structures on the land.
34. **“Public Information Centre”** means an open meeting to which all members of the public are invited, for the purpose of informing the public and receiving comments regarding a proposed Site Alteration.
35. **“Qualified Person”** means a person who meets the qualifications as set out in Section 5 or 6 of Ontario Regulation 153/04 (Records of Site Condition - Part XV.1 of the Environmental Protection Act).
36. **“Road(s)”** means a common and public highway, and includes a street, bridge or other structure forming part of a Highway over or across which a Highway passes and includes the whole of a road allowance under the jurisdiction of the Town.
37. **“Security(ies)”** means the financial security to be provided by the Applicant to the Town to guarantee performance of the terms of this By-law and any Permit issued under this By-law, and may include deposits as advance payment for peer review studies;
38. **"Site"** means the lot or lots of a Property altered or proposed to be altered by means of a Site Alteration.
39. **"Site Alteration"** means, but is not limited to, any alteration to the Existing Grade of a Property-through the removal, placing, relocation or Movement of Fill.

40. **“Site Alteration and Fill Management Plan”** means a document prepared by, or on behalf of an Owner in accordance with the By-law Manual detailing such things as current Site conditions, methodology, Existing Grade, Approved Grade and impact mitigation measures.
41. **“Temporary Fill Storage Site”** means any Property where Fill is stored above the Existing Grade on a temporary basis as part of the activities of a business.
42. **“Temporary Storage of Fill”** means the storage of Fill at a Temporary Fill Storage Site above Existing Grade for a period of time determined by the activities of the licensed business with the expectation that the business involves the regular Movement of Fill on to and off the Site in a manner that results in no Fill being stored longer than 18 months.
43. **“Town”** means the Corporation of the Town of Caledon and includes the geographical area within the Town.
44. **"Tree"** means any species of woody perennial plant including its root system that has reached or can reach a height of at least 4.5 metres at physiological maturity.
45. **“Waste”** means waste in accordance with the Environmental Protection Act, R.S.O. 1990, c. E.19, as amended.
46. **"Watercourse"** means a natural or man-made channel or swale in which a flow of water occurs, either continuously or intermittently with some degree of regularity and can include a drainage course, brook, creek, stream, river, lake, swale, ditch, pond, wetland, or waterway.
47. **“Zoning By-law”** means Town’s Zoning By-law, as applicable and amended from time to time.

3 PROHIBITIONS

Prohibitions

- 3.1 No Person shall conduct, undertake, cause, Permit or carry out a Site Alteration on any Property within the Town without first obtaining a Permit, unless otherwise exempt as set forth in this By-law.
- 3.2 No Person shall have, or allow to remain, Fill on that Person’s Property that is not approved through a Permit, whether or not the Fill was placed there while the Person was the Owner of the Property.
- 3.3 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 Commissioner or Council, unless otherwise exempt.



- 3.4 No person shall fail to comply with an Order issued pursuant to this By-law.
- 3.5 No Person shall cause, permit or perform any Site Alteration on any land that is subject to the Conservation Authorities Act, R.S.O. 1990, c. C.27 or regulations thereunder except in compliance with that legislation.
- 3.6 No person shall cause, permit or perform Site Alteration on any land except in accordance with the Provincial Policy Statement, 2024 or successors.
- 3.7 No Person shall cause, permit or perform Site Alteration on any land within the boundaries of the Oak Ridges Moraine Area except in accordance with the requirements of the Oak Ridge Moraine Conservation Plan.
- 3.8 No Person shall cause, permit, or perform Site Alteration on any land within the boundaries of the Greenbelt Area except in accordance with the provisions of Greenbelt Plan.
- 3.9 No Person shall cause, permit, or perform Site Alteration on any land within the boundaries of the Niagara Escarpment Plan except in accordance with the requirements of the Niagara Escarpment Commission.
- 3.10 No Person shall cause, permit, or perform Site Alteration on any land within the boundaries of the Lake Simcoe Protection Plan except in accordance with the provisions of the Lake Simcoe Protection Plan.
- 3.11 No person shall cause, permit or perform a Site Alteration on lands contrary to an approved Site Plan, Draft Plan of Subdivision or a Consent under Sections 41, 51 or 53, respectively, of the Planning Act, as amended.
- 3.12 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.
- 3.13 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) 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.

### **Responsibility for Other Obligations**

- 3.14 Compliance with this By-law does not relieve the Owner from any responsibility to obtain all other approvals as required from any other government or authority, or compliance with any other obligations.

## **Trees**

- 3.15 No Person shall conduct, undertake, cause, permit or carry out a Site Alteration that could injure or destroy a Tree except in accordance with the Town's Tree Preservation By-law and Woodland Conservation By-law.

## **Surface Water and Groundwater**

- 3.16 No Person shall conduct, undertake, cause, permit or carry out a Site Alteration that may adversely affect the quality or quantity of any surface water or groundwater however it may exist including all water used for or available as a source of water for agriculture or human consumption.

## **Drainage / Watercourse**

- 3.17 No Person shall conduct, undertake, cause, permit or carry out a Site Alteration that could adversely affect any Watercourse or Drainage on any Property without prior written approval from the Commissioner unless authorized by the public authority or public agency with relevant jurisdiction.

## **Unapproved Grade**

- 3.18 No Person shall conduct, undertake, cause, permit or carry out a Site Alteration that will result in an Unapproved Grade.

## **Adverse Effect**

- 3.19 No Person shall conduct, undertake, cause, permit or carry out a Site Alteration that will, or can be reasonably expected to, result in an Adverse Effect.

## **Ontario Regulations**

- 3.20 No Person shall conduct, undertake, cause, permit or carry out Site Alteration unless the Fill:
- a) Complies with the requirements of O. Reg. 406/19 and O. Reg. 153/04;
  - b) Does not contain putrescible materials; demolition debris such as domestic brick and concrete, concrete fines, exposed rebar, paint or coatings, decomposable materials, plastic, asphalt, glass, petroleum products or hydrocarbon materials;
  - c) Does not contain Contaminants and is not Waste; and
  - d) Is free of termites, pests and Invasive Species including the eggs, roots and seeds of such species.
  - e) is free of staining, hydrocarbon odour, garbage and debris

**By-laws, Acts and Plans**

- 3.21 No Person shall conduct, undertake, cause, permit or carry out Site Alteration on any Property unless the activity is in accordance with:
- a) The Zoning By-law;
  - b) Traffic By-law;
  - c) Noise By-law;
  - d) Property Standards By-law;
  - e) Tree Preservation By-law;
  - f) Woodland Conservation By-law
  - g) Fees By-law
  - h) The requirements of a Conservation Authority; and
  - i) All other statutes, regulations, policies, and By-laws.

**4 EXEMPTIONS**

- 4.1 Notwithstanding Section 3 of this By-law, this By-law does not apply to:

**General Exemptions**

- a) Activities or matters undertaken by the Town, the Regional Municipality of Peel, a Conservation Authority, the Province of Ontario or the Government of Canada;
- b) Activities which are exempt in accordance with Section 142 of the *Municipal Act, 2001, S.O.2001*.
- c) 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; and

**Driveways**

- 4.2 To maintain existing granular driveways, roads, farm field access roads, or parking areas with appropriate imported granular material including native granular, recycled aggregate, recycled asphalt or recycled concrete provided that previously existing grades are being re-instated, provided the material is obtained from a commercial supplier.

**Normal Farm Practice**

- 4.3 Site Alteration directly related to a Normal Farm Practice that is legally established under the Town's Zoning By-law, including the application of Topsoil for spreading over an Agricultural Property. This exception is only available to Persons that have an active registration as a "farming business" as defined in the Farm Registration and Farm Organizations Funding Act,

1993, S.O. 1993, c. 21, as amended or any successor legislation ("FRFOFA"), and are in good standing under the FRFOFA;

#### Other Approvals

- 4.4 Site Alteration not required where a building permit has been issued or an order, directive or other requirement by a Building Inspector has been made pursuant to the Building Code Act, 1992, R.S.O. 1992, c. 23, provided that the following conditions are met:
- 48. Site Alteration is directly associated with the demolition or removal of a building or structure;
  - 49. there is no Site Alteration within 1 m of the property line;
  - 50. the Site Alteration is not beyond 3 m from the perimeter of the previously existing building; and
  - 51. the finished grade matches the previously existing grade at the perimeter of the building as it was prior to the permit issuance.
- 4.5 When another legal instrument of the Town, such as a planning approval, or a legal agreement with the Town that includes a clause specifically waiving the requirement for a Permit, or where Site Alteration is required related to an Environmental Compliance Approval issued by the Ministry of Environment Conservation and Parks.

#### Roads and Highways

- 4.6 Site Alteration that is an incidental part of the construction or reconstruction of any public Highway, or underground service.

#### Small Site Alteration

- 4.7 Small Site Alteration, subject to the provisions of this section and section 5.4.
- a) If the fill is over 10m<sup>3</sup> it must be recorded through an online registry at [www.Caledon.ca](http://www.Caledon.ca).
  - b) For the purposes of lawn maintenance, landscaping or gardening, provided that:
    - i. the depth of fill deposited on the site does not exceed 15 centimetres at any location;
    - ii. the existing grades of lands has not been increased pursuant to this section in the previous 12 months; and
    - iii. there is no change in the location, direction or rate of Drainage to neighbouring properties; and
    - iv. there is no change, interference or blockage of any Watercourse.

#### Temporary Fill Storage

- 4.8 Temporary Fill Storage Sites for an agricultural or commercial operation, such as a garden center, contractors' yard or aggregate distribution yard

including a Soil Bank Storage Site but not a Soil Processing Site as defined by Ontario Regulation 406/19, where:

- v. There is no permanent alteration to Existing Grade;
- vi. The activities comply with Ontario Regulation 406/19, On-Site and Excess Soil Management;
- vii. There is no Adverse Effect;
- viii. Site Alteration in the form of Temporary Storage of Fill occurs above Existing Grade;
- ix. The Fill does not include Liquid Soil;
- x. The activity is required for the activities of the business;
- xi. The Property is zoned for the activity that involves the Temporary Storage of Fill;
- xii. The period of storage is determined by the activities of the licensed business with the expectation that the business involves the regular Movement of Fill on to and off the Site in a manner that results in Fill being stored longer than 18 months; and,

#### **Compliance with Other Approvals**

- 4.9 For greater certainty, where a Permit is not required under this By-law, an Owner shall comply with any provisions or conditions imposed related to that Site Alteration under another legal instrument, including but not limited to approved lot grading, erosion and sediment control and stormwater management.

#### **Proof of Exemption Applicability**

- 4.10 Any Person undertaking a Site Alteration that is exempt pursuant to this By-law must be able to demonstrate to the satisfaction of the Commissioner, at any time upon request, the applicability of the exemption in accordance with this By-law.

## 5 REQUIREMENTS FOR ISSUANCE OF A PERMIT

### Complete Application

- 5.1 An Applicant applying for a Permit shall complete an Application for a Permit in the form established by the Commissioner and shall submit the Application along with all applicable fees and documentation.
- 5.2 Notwithstanding anything else in this By-law, no Permit will be issued until the Commissioner is satisfied that a completed Application, including all supporting documentation, and information required as identified in the By-law Manual, including applicable fees and Securities, has been submitted and approved.

### Small Site Alteration (up to 200m<sup>3</sup>)

- 5.3 For a Small Site Alteration, the Applicant will be required to complete the online permit application questionnaire for a Small Site Alteration. In the event the proposed project does not qualify for a Small Site Alteration Permit, the Applicant will be required to apply for a Medium or Large Site Alteration Permit. The Town may also require the Applicant to meet additional requirements in order to be issued a Permit for the Small Site Alteration including, but not limited to:
  - a) Conduct a source site chemical analysis of the Fill to be imported onto the Site; and
  - b) Provide all fees under the Fee By-Law and any required Security deposits.
  - c) Provide a grading/site plan of the project.

### Medium Site Alteration (less than 10,000m<sup>3</sup>)

- 5.4 For a Medium Site Alteration, the Town may require that the Applicant meet the following requirements including, but not limited to:
  - a) Provide a Site Alteration and Fill Management Plan and a permit application form that is prepared by a Qualified Person;
  - b) Provide all fees under the Fee By-Law and any required Security deposits; and
  - c) Conduct and provide to the Town a pre-topographic survey prior to any Site Alteration. The Town may require that the Applicant conduct and provide to the Town a post-topographic survey at any time after a Medium Site Alteration has begun.

### Large Site Alteration (greater than 10,000m<sup>3</sup>)

- 5.5 In the case of a Large Site Alteration, the Town may require that the Applicant meet the following requirements including, but not limited to:
  - a) A Site Alteration and Fill Management Plan prepared by a Qualified Person;
  - b) Provide all fees under the Fee By-Law and any required Security;
  - c) A legal agreement with the Town;

- d) A Public Open House; and
- e) Approval of Council

#### **Public Open House or Council Approval**

- 5.6 In exercising discretion to require a Public Open House or to seek the approval of Council for a Permit, the Commissioner shall consider the following circumstances:
- a) The potential for Adverse Impacts within 120 m of the site location;
  - b) The potential for significant truck traffic;
  - c) Whether a public hearing or Council has already addressed the matter, for example as part of a planning approval;
  - d) Any other factors the Commissioner considers relevant in the circumstances.
- 5.7 In the case of a Public Open House all comments and concerns received must be addressed by the Applicant and submitted to the Commissioner for evaluation as part of the Application.

#### **Lot Grading**

- 5.8 Lot Grading requirements will be incorporated into the Permit Application requirements specific to the size of the proposed Site Alteration.

#### **Hardscaping**

- 5.9 Hardscaping requirements will be incorporated into the Permit Application requirements specific to the size of the proposed Site Alteration.

#### **Fees and Securities**

- 5.10 Fees as referenced under this By-law are payable under the Town's Fees By-Law including for administration and enforcement activities.
- 5.11 At the time an application for a permit under this By-law is made, the applicant shall:
- a) pay to the Town the applicable fees calculated in accordance with rates set out in the Town's Fees By-law; and
  - b) pay a deposit in an amount to be determined by the Commissioner to pay for the cost of all estimated legal and consulting fees payable by the Town for the processing of the application.
- 5.12 At the time of the issuance of the permit and thereafter, the Applicant shall:
- a) provide to the Town Security in accordance with Section 7 of this By-Law.
  - b) pay tipping fees as identified in the Town's Fees By-law to the Town at intervals as determined by the Commissioner.

- 5.13 The Town may engage legal, engineering, hydrology, environmental, arborist, landscape or any other consultant the Commissioner deems necessary in order to evaluate studies and/or agreements or to provide assistance to the Commissioner throughout the Site Alteration process, in which case the costs incurred for such evaluations shall be charged back to the applicant and/or appropriate deposits made to the Town.
- 5.14 The Town may draw on the Security required pursuant to this By-law to remedy any breach of the provisions of this By-law, including Orders made under this By-Law, the conditions imposed on the Permit by the Commissioner, or any other obligation of the owner relating to the Permit, and, without limiting the generality of the foregoing, such Security may be used to return the land to a condition satisfactory to the Commissioner and to pay any outstanding amounts owed by the Applicant or the Owner that relate to the Permit including those amounts owed pursuant to Section 7 of this By-law.
- 5.15 The Commissioner may require that additional Security be provided by the Owner at any time if, in the opinion of the Commissioner, such additional Security is required, and the Owner shall provide such additional Security immediately upon the request of the Commissioner.
- 5.16 When work has commenced before a Permit for that work has been issued under this By-law, the fees for an application for each Permit required shall, to address the additional work and enforcement activity required by Town staff:
- a) be double the amount otherwise specified in this By-law; and
  - b) include additional fees as set out in the Town of Caledon Fees and Charge By-law for each inspection that was made, required or requested prior to the Permit being issued.

#### **Review of other Agencies**

- 5.17 In reviewing any application, the Commissioner may seek comments and confirmation of approval requirements from the Conservation Authority, the Regional Municipality of Peel, adjacent municipalities, and any other agency the Commissioner deems necessary, and such comments shall form part of the completed application.
- 5.18 The Commissioner shall issue a Permit under this By-law when:
- a) the Commissioner 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 topsoil or other site alteration is prohibited under Section 3 of this By-law;
  - b) the Applicant has fulfilled all applicable requirements of Section 5 of this By-law;
  - c) applicable agencies and authorities have been notified and have provided comments, to the satisfaction of the Commissioner;



- d) all applicable fees, Security, and expenses for services have been satisfied by the Owner; and
- e) all other applicable requirements of this By-law have been complied with.

5.19 The Commissioner is granted authority pursuant to this By-law for the issuance of Permits and may have regard to any of the following in refusing the issuance of a Permit:

- a) the effect of the Site Alteration on the environment;
- b) the effect of the Site Alteration on nearby communities;
- c) any comments provided by adjacent municipalities and agencies;
- d) concerns of the public and the Applicant's responses to those concerns;
- e) any possible effects of the Site Alteration on ground and surface water resources;
- f) any possible effects of the Site Alteration on existing agricultural resources;
- g) any possible Adverse Effects;
- h) any planning and land use considerations;
- i) the proposed Haul Routes;
- j) the quality and quantity of topsoil being proposed;
- k) the Applicant's history of compliance with regards to topsoil importation; and
- l) any other matters that the Commissioner considers appropriate.

## **6 HAUL ROUTES**

- 6.1 The Commissioner may designate one or more Haul Routes as part of a Permit application.
- 6.2 Every Person shall use the designated Haul Route for any type of Site Alteration and/or Storage of Fill on any Site.

## **7 SECURITY**

- 7.1 Upon request of the Town, the Applicant shall deposit with the Town the Security in the form of a certified cheque, bank draft, surety bond or an irrevocable letter of credit from a chartered bank in a form acceptable to the Town and in an amount as determined in the Town's sole and absolute discretion. Such Security shall be provided prior to the issuance of any Permit under this By-law.
- 7.2 For a letter of credit to be accepted by the Town, it must be from a bank listed as a bank under the Bank Act, S.C. 1991, c.46 and must include in its wording an automatic clause requiring the bank to provide at least 60 days' advance notice to the Commissioner of Finance and Chief Financial Officer by courier or registered mail if it intends not to renew the letter of credit.

- 7.3 To facilitate the use of surety bonds and comply with O. Reg. 461/24, the Town has implemented a Development Agreement Surety Bond Policy. A surety bond must conform to the Town's Surety Bond Policy and O. Reg. 461/24 and be in a form and term acceptable to the Commissioner of Finance and Chief Financial Officer.
- 7.4 The Security must remain in effect for the full duration of the Permit. Any letter of credit shall automatically renew and shall contain a clause stating that at least 60 days' written notice must be provided to the Town prior to its cancellation.
- 7.5 The Security must be replenished to 100% of the original amount within 30 days of the Town's request to remain in compliance with the Permit.
- 7.6 If the Town receives notice that a security is expiring and will not be renewed, or if further or additional securities are not provided within the required 30 days, the Town may make a demand or demands on the Security at the discretion of the Commissioner.
- 7.7 Any interest accruing on realized cash Security shall belong to the Town and not to the Permit holder.
- 7.8 The Town will not release the Security until:
  - a) the Site Alteration is complete in accordance with the Permit;
  - b) all documents, plans and information required pursuant to Part 12 of this By-law have been provided to the Town, as applicable;
  - c) the Town has carried out a final inspection of the Site;
  - d) the Permit holder enters an agreement with the Town where sufficient securities are provided to secure performance of the remaining site alteration for which the Permit was issued; and
  - e) the Commissioner is satisfied that the Site Alteration is in accordance with this By-law, the Permit, the Site Alteration Agreement, and any Orders under this By-Law, if applicable.

## **8 PERMIT ADMINISTRATION**

### **Abandoned**

- 8.1 An Application for a Permit will be deemed abandoned and the Application and respective file will be closed, where a period of twelve (12) months has elapsed during which:
  - a) The Person applying for a Permit has not provided all information, documents, fees and deposits as required by the Commissioner including any new submissions that may be required;
  - b) The Application has been placed on hold or in abeyance; or
  - c) The Application has not seen meaningful progress through submissions towards the issuance of a Permit.

**Expiry**

- 8.2 A Permit for a Medium Site Alteration will be issued for a period of one year and expires on the date set out in the Permit, unless otherwise specified as a Condition of the Permit.
- 8.3 A Permit for a Large Site Alteration shall have an expiry date as a Condition of the Permit. An expiry date for a Large Site Alteration permit shall be subject to a review conducted by the Commissioner to determine whether such Permit should be amended, renewed or revoked.
- 8.4 A Permit issued for a Large Site Alteration will be subject to an annual review conducted by the Commissioner to determine whether such Permit should be amended, renewed or revoked.
- 8.5 Every Owner shall satisfy all Conditions of the Permit, even if the Permit is expired, and shall also provide the Town with:
- a) A letter of acknowledgment of the filing of a Record of Site Condition (in accordance with Ontario Regulation 153/04, as amended), if required;
  - b) A completed final topographic survey confirming the Approved Grade; and
  - c) Proof of completion of all Permit Conditions.

**Transfer**

- 8.6 If title to the Property for which a Permit has been issued is transferred while the Permit is in effect, the Permit shall be automatically revoked unless the new Owner, prior to the time of the transfer, applies to the Town for a transfer of the Permit, with any required information, and all fees and Securities are paid and in place.

**Revocation**

- 8.7 The Commissioner may at any time and without notice revoke a Permit for any of the following reasons:
- a) It was obtained based on mistaken, false or incorrect information;
  - b) It was issued in error;
  - c) The Property Owner and/or Permit holder requests in writing that it be revoked;
  - d) The Permit holder has failed to comply with any of the Conditions of the Permit; or
  - e) The Permit holder is unwilling or unable to comply with an Order.

**Amendment**

- 8.8 An Applicant or Owner may submit a request to the Commissioner for an amendment to a Permit based on proposed changes to the details of the initial Application as reflected in the Conditions.

**Renewal**

- 8.9 An Applicant or Owner may submit a request to the Commissioner for a renewal to a Permit if the only change from the initial Application and Conditions is the timeline and expiry date.

#### **Closure**

- 8.10 A Permit is considered closed when all the Conditions and Orders related to the Permit have been fulfilled to the satisfaction of the Commissioner, at which time all unexpended deposits and securities held by the Town shall be released to the Applicant unless an agreement specifies otherwise.

#### **Additional Requirements**

- 8.11 The Town may administer Permits in accordance with additional requirements as set out in the By-law Manual including:
- a) actions to address any Site Alteration deficiencies;
  - b) undertake soil samples and well monitoring, the frequency of which shall be determined by the Commissioner, at the Applicant's expense;
  - c) engage an Ontario Land Surveyor to prepare any plans requested by the Commissioner to identify the extent and location of any fill placed or dumped or Site Alteration;
  - d) acknowledge that the Town may engage legal, engineering, hydrology, environmental, arborist, landscape or any other consultant the Commissioner deems necessary in order to evaluate studies and/or agreements or to provide assistance to the Commissioner throughout the Site Alteration process in which case the costs incurred for such evaluations shall be charged back to the applicant or deposits requested plus the administration charge set out in the Town's Fees By-law;
  - e) provide Security in an amount determined by the Town to be used to remedy any breach of the Bylaw, including Orders issued under it, or agreement;
  - f) indemnify the Town for any liability, costs, damages or losses incurred directly or indirectly as a result of, or in connection with, or in relation to the processing or issuing of a Permit or under the Permit agreement,
  - g) provide insurance, including environmental impairment liability insurance, in an amount and on such terms as are satisfactory to the Town;
  - h) pay such additional fees as may be determined by the Town.

## 9 ENFORCEMENT

### Administrative Penalties

- 9.1 Every Person who contravenes any provision of this By-law or Order issued under this By-Law is liable to pay to the Town an Administrative Penalty and any Administrative Fees, where applicable, pursuant to the Administrative Monetary Penalty System By-law 2024-086.

### Penalty and Offence

- 9.2 Every Person who contravenes a provision of this By-law, a Condition of a Permit or an Order issued under this By-law, is guilty of an Offence and upon conviction is liable to a fine as provided for by the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended.
- 9.3 If an Order has been issued under this By-law, and the Order has not been complied with, the contravention of the Order shall be deemed to be a continuing Offence for each day or part of a day that the Order is not complied with.
- 9.4 Every Person who is guilty of an Offence under this By-law shall be subject to the following penalties:
- a) Upon a first conviction, to a fine of not less than \$250 and not more than \$50,000;
  - b) Upon a second or subsequent conviction for the same Offence, to a fine of not less than \$500 and not more than \$100,000;
  - c) Upon conviction for a continuing Offence, to a fine of not less than \$500 and not more than \$10,000 for each day or part of a day that the Offence continues. The total of the daily fines may exceed \$100,000; and
  - d) Upon conviction of a multiple Offence, for each Offence included in the multiple Offence, to a fine of not less than \$10,000 and not more than \$100,000.
  - e) The total of all fines for each included Offence is not limited to \$100,000.

### Officers and Commissioner

- 9.5 This By-law may be enforced by Officers and/or the Commissioner. Without limiting any other power, duty or function granted by this By-law, Officers and/or the Commissioner may: give direction, issue an Order to discontinue or to perform work and further give verbal or written direction and may enter Property and/or carry out and direct whatever inspections, are reasonably required to determine compliance with this By-law.
- 9.6 An Officer and/or the Commissioner may issue an Order under this By-law to any Person believed to be contravening or have contravened any provision of this By-law.

### **Entry and Inspection**

- 9.7 Officers and the Commissioner may, at any reasonable time:
- a) Enter and inspect Property to determine compliance with the provisions of this By-law, or any Condition of a Permit, or Order issued under this By-law. This power of entry does not allow entry into any dwelling without consent or by court order;
  - b) Enter the Property to collect information, take photographs, videos, measurements, readings and samples, including air, surface water, groundwater, and soil samples;
  - c) Require the production of copies of reports, manifests or other documentation for the purposes of auditing any Site Alteration or compliance with the Conditions of a Permit, agreement or Order; and,
  - d) Require the production of documents for inspection or things relevant to the inspection, inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts.

### **Duty to Identify**

- 9.8 Where an Officer has reasonable grounds to believe that an Offence has been committed by a Person, the Officer may require the name, address and proof of identity of that Person, and the Person shall supply the required information.

### **Obstruction or False Information**

- 9.9 No Person shall hinder or obstruct or attempt to obstruct the Commissioner or Officer who is exercising a power or performing a duty under this By-Law.
- 9.10 No person shall provide false information in any statement, whether orally, in writing or otherwise, made to an Officer or the Commissioner.

### **Presumption**

- 9.11 Where any Site Alteration occurs, is undertaken, caused or permitted on any Property, the Owner of the Property is presumed to have undertaken, caused, or permitted the Site Alteration to occur, which presumption may be rebutted by evidence to the contrary on a balance of probabilities.

## **10 ORDERS**

### **Contravention**

- 10.1 If after inspection, an Officer is satisfied that a contravention of this By-law has occurred, the Officer shall serve the Owner and/or the Permit holder of the particulars with an Order to Comply and provide all occupants with a copy of the Order the Order shall contain:
- a) the municipal address and legal description of the land;
  - b) reasonable particulars of the contravention;
  - c) the period within which there must be compliance.

10.2 The Order issued pursuant to Section 10.1 of this By-law may require any person who has: altered the grade of land or caused or permitted the grade to be altered contrary to the provisions of this By-law; placed or dumped fill, caused or permitted fill to be placed or dumped, or caused or permitted any other form of Site Alteration contrary to the provisions of this Bylaw to do one or more of the following:

- a) cease all work in respect of the site alteration until all required approvals have been obtained;
- b) remove any unauthorized fill;
- c) fill in any excavations or ponds;
- d) supply any tests, samples or reports as may be required to determine compliance with the By-law;
- e) adhere to any requirement outlined in the By-Law;
- f) adhere to an applicable Permit Condition or correct any impacts caused by failing to adhere to a Permit Condition;
- g) supply any tests, samples or reports as may be required to determine compliance with the By-Law;
- h) adhere to any requirement outlined in the By-Law;
- i) adhere to an applicable Permit Condition or correct any impacts caused by failing to adhere to a Permit Condition.
- j) do all work necessary to:
  - i. 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. 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.

#### **Service**

10.3 Service of any document respecting this By-law may be given in any of the following ways and is effective:

- a) when a copy is delivered to the Person to whom it is addressed;
- b) when an Order is posted on the property where the contravention occurred;
- c) on the seventh day after a copy is sent by registered mail or by regular mail to the Person's last known address;
- d) upon sending a copy by e-mail transmission to the Person's last known e-mail address, of which is effective only if the person provides a written response to the email;

- e) delivering it Personally to an occupant at the last known address of the Person named in the document, who appears to be at least 16 years of age, as soon as reasonably practicable after the contravention;
- f) for the purposes of subsections (b), (c) and (d), a Person's last known address, and e-mail address may include an address, e-mail address provided by the Person to the Town as may be required by a form, practice or policy developed under this By-law.

## **11 WORKS DONE BY TOWN AND COST RECOVERY**

- 11.1 If an Order made under this By-law is not complied with within the period specified in the Order, in addition to all other remedies it may have, the Town may and may enter upon Property at any reasonable time to undertake any activity pursuant to an Order at the Owner's expense.
- 11.2 The Town may recover its costs of doing such works by invoicing the Owner, drawing down on Securities, by instituting court proceedings or by adding the cost, including interest and administrative fees, to the tax roll in the same manner as municipal taxes and the exercise of any one remedy shall not preclude the exercise of any other available remedy.

## **12 INTERPRETATION**

- 12.1 References in this By-law to any statute or statutory provision include references to that statute or statutory provision as it may from time to time be amended, extended or re-enacted.
- 12.2 References in this By-law to items in the plural include the singular, and references to the singular include the plural, as applicable.
- 12.3 The words "include", "includes" and "including" are not to be read or interpreted as limiting words, phrases or descriptions that precede them.
- 12.4 This By-law and the provisions contained within are intended to be complementary to provincial statutes and to other by-laws passed by Council. If any other applicable law requires a higher standard than this By-law requires, the higher standard shall apply.

## **13 SEVERABILITY**

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



**14 REPEAL, TRANSITION AND EFFECTIVE DATE**

- 14.1 Town of Caledon By-law Number 2007-59, A By-law to Prohibit or Regulate the Placing or Dumping of Fill, the Storage and Removal of Topsoil and the Alteration of the Grade of the Land, is repealed in its entirety as of the date that this By-law comes into force and effect.
- 14.2 Notwithstanding the repeal of Town of Caledon By-law Number 2007-59, that by-law shall continue to apply to acts, omissions, or occurrences and to any offences that took place prior to the enactment of this By-law.
- 14.3 Any charges laid under a previously repealed by-law shall remain valid.
- 14.4 Any site alteration Permit valid and binding at the date of enactment of this By-law shall not require further authorization pursuant to this By-law until the permit expires or is otherwise terminated.
- 14.5 The Commissioner shall not permit any renewals of permits issued under the predecessor by-law.
- 14.6 Except for subsection 4.7(a), this By-law shall come into force and effect on the date of its passing. Subsection 4.7(a) shall come into force 90 days after the date of this By-law’s passing.

Enacted by the Town of Caledon Council this \_\_\_\_ day of \_\_\_\_\_, 2025

\_\_\_\_\_  
Annette Groves, Mayor

\_\_\_\_\_  
Kevin Klingenberg, Municipal Clerk