

The Corporation of the Township of Guelph/Eramosa

By-law Number 22/2021

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 the Township of Guelph/Eramosa and to repeal and replace By-law 42-2010

WHEREAS Section 11(2) of the *Municipal Act* 2001, S.O.2001, c.25, as amended hereinafter referred to as “the Act”, authorizes a municipality to pass a by-law 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 Act, authorizes a municipality 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 Act, authorizes a municipality to prohibit and regulate with respect to noise, vibration and dust; and

WHEREAS Section 142 of the Act, authorizes a municipality to pass by-laws to prohibit, regulate or require a permit for, and impose conditions upon, the placing or dumping of fill, removal of topsoil or alteration of the grade of land; and

WHEREAS Council for the Corporation of Township of Guelph/Eramosa deems it in the public interest to enact a By-law prohibiting or regulating the placing or dumping of fill, the removal of topsoil, and the alteration of the grade of the land; and

WHEREAS Council for the Township deems it advisable to exercise this authority, as well as provide for the rehabilitation of land, and protection of water bodies and environmental protection areas, and to define where the removal of topsoil, or the placing and dumping of fill or alteration of grade of land is permissible;

NOW THEREFORE the Council of the Corporation of the Township of Guelph/Eramosa enacts as follows:

SECTION 1 - DEFINITIONS

1.1 In this By-law:

“**Adverse Effect**” means one or more of:

- (a) impairment of the quality of the natural environment for any use that can be made of it;
- (b) injury or damage to **Land** or plant or animal life;
- (c) impairment of the safety of any **person**;
- (d) rendering any **land** or plant or animal life unfit for human use;
- (e) loss of enjoyment of normal use of **land**;
- (f) interference with the normal conduct of business;

“**Aggregate Resources Act**” means the *Aggregate Resources Act*, R.S.O. 1990, c. A. 8, as amended;

“**Agricultural lands**” includes all **lands** identified as an agricultural zone under the provisions of the **Township’s** zoning by-law and any **lands** where the predominant use is for agricultural purposes 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;

“**BMP**” means Management of Excess Soil – A Guide for Best Management Practices, published by the Ministry of Environment and Climate Change on April 5, 2016 and updated April 4, 2019, and as may be amended from time to time;

“**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**;

“**County**” means the Corporation of the County of Wellington or its **land** within the geographic limit of the **Township** as the context requires.

“**Director**” means the Director of Public Works for the **Township** and includes any person delegated and authorized by the Director of Public Works to carry out any of the powers and/or duties of the Director of Public Works pursuant to this By-law;

“**Environmentally Sensitive Areas**” means any area deemed to have ecological natural heritage, and environmental significance how-so-ever described in the **County’s** Official Plan or the **Township’s** Zoning By-laws including, but not limited to, terms such as Environmental Protection Zone;

“**Fill**” means any type of material deposited or placed on or removed from a **site** and includes but is not limited to earth, **soil, topsoil**, stone, brick, concrete, asphalt, sod or turf, either singly or in combination;

“**Grade**” means the elevation of the ground surface and shall be more particularly defined as follows:

- (a) “**Existing Grade**” means the elevation of the existing ground surface of the **land** upon which the placing, dumping, cutting or removal of **fill** or altering of the grade is proposed and of abutting ground surface up to 3 metres wide surrounding such **lands**, except where such activity has occurred in contravention of this By-law, then the existing grade shall mean the ground surface of such **lands** as they existed prior to placing, dumping, cutting or removal of **fill** or altering of the grade requiring a **permit** under this By-law;
- (b) “**Proposed Grade**” means the proposed finished elevation of ground surface of **land** upon which **fill** is proposed to be placed or the **site** is proposed to be altered. Proposed Grade and design shall have a corresponding meaning;
- (c) “**Finished Grade**” means the approved final elevation of ground surface of the **land** upon which **fill** has been placed, dumped, cut or removed or the grade altered in accordance with this By-law and a **permit**. Finished grade and as built shall have a corresponding meaning;

“**Haul Route**” means identified **highway** route for transporting **fill** to or from the **site**;

“**Highway**” includes a common and public highway, street, avenue, parkway, driveway, square, place, 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;

“**Land**” means a **lot** or any part thereof and includes a **site**;

“**Lot**” means a parcel of **land** which is capable of being legally conveyed;

“**Large Scale Site Alteration**” includes the placing or dumping or removal of **fill** or the alteration of the **existing grade** involving more than 1000 cubic metres of **fill** or where the **existing grade** of the **land** will increase or decrease by more than 1 metre;

“**Officer**” means a police officer, municipal by-law enforcement officer, building inspector or any other **person** appointed by by-law to enforce the provisions of this By-law;

“**Owner**” includes the registered owner of the **land** or any **person** in charge, management or control of such **land** and includes as the context requires an applicant, an operator, a permit holder and a contractor;

“**Person**” includes an individual, sole proprietorship, partnership, limited partnership, trust, corporation, and an individual in his or her capacity as a trustee, executor, administrator, or other legal representative;

“**Permit**” means a permit issued pursuant to this by-law;

“**Prohibited area**” means:

- (a) significant portions of the habitat of endangered or threatened species;
- (b) regulated floodway of any watercourse

“**Putrescible Organic Material**” means material that contains organic matter capable of being decomposed by microorganisms and of such a character and proportion as to cause obnoxious odours and to be capable of attracting or providing food for birds or other animals but does not include **topsoil**;

“**Qualified Person**” means a licensed professional as stated in section 168.1 of the *Environmental Protection Act*, as amended and further described in Part II of Ontario Regulation 153/04, as amended, and includes other specialists such as agrologists, archaeologists, arborists, geotechnical engineer, hydrologist, and an Ontario Land Surveyor, where applicable and as determined by the **Director**;

“**Site**” means an area of **land** to which a **small scale site alteration** or **large scale site alteration** occurs;

“**Small Scale Site Alteration**” includes the placing or dumping or removal of **fill** or the alteration of the **existing grade** involving 1000 cubic metres or less of **fill** or where the **existing grade** of the **land** will increase or decrease by 1 metre or less;

“**Soil**” means the natural materials commonly known as earth, **topsoil**, loam, subsoil, clay, sand or gravel;

“**Source Site**” means **land** where **soil** is excavated from;

“**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);

“**Township**” means the Corporation of the Township of Guelph/Eramosa or the **land** within the geographic limits of the Corporation of the Township of Guelph/Eramosa as the context requires;

SECTION 2 – GENERAL AND EXEMPTIONS

2.1 This By-law applies to the entire **Township**.

2.2 This By-law does not apply to:

- (a) activities or matters undertaken by the **Township** or the **County** or a local board of the **Township** or the **County** where a Municipal Class Environmental Assessment is required under the Environmental Assessment Act, R.S.O. 1990, c. E. 18, as amended;
- (b) the placing or dumping of **fill**, removal of **topsoil** or alteration of the **existing grade** of **land**:
 - i) imposed after December 31, 2002 as a condition to the approval of a Site Plan, a draft 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, Pre-servicing Agreement or Subdivision Agreement, Consent Agreement or Condominium Agreement entered into under those sections;

- ii) imposed after December 31, 2002 as a condition to a Development Permit authorized by regulation made under section 70.2 of the *Planning Act* or as a requirement of an agreement entered into under that regulation;
 - iii) undertaken by a Transmitter or Distributor, as those terms are defined in section 2 of the *Electricity Act*, 1998, S.O. 1998, c. 15 for the purpose of constructing and maintaining a Transmission System or a Distribution System, as those terms are defined in that section;
 - iv) 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**;
 - v) undertaken on **land** in order to lawfully establish and operate or enlarge any pit or quarry on **land**,
 - a) that has not been designated under the **Aggregate Resources Act** or a predecessor of that Act, and
 - b) on which a pit or quarry is a permitted land use under a by-law passed under section 34 of the *Planning Act*;
 - vi) undertaken as an incidental part of drain construction under the Drainage Act or the *Tile Drainage Act* 2001, c. 25, s. 142 (5); 2002, c. 17, Sched. A, s. 30 (2, 3);
- (c) the removal of **topsoil** from **agricultural lands** incidental to a normal agricultural practice including such removal as an incidental part of sod-farming, greenhouse operations and nurseries for horticultural products but does not include the removal of **topsoil** for sale, exchange or other disposition;
 - (d) the use, operation, establishment, alteration, enlargement or extension of a waste disposal site within the meaning of Part V of the *Environmental Protection Act*, R.S.O. 1990, c. E.19, as amended;
 - (e) construction of a building or structure pursuant to a valid building permit issued under the Ontario Building Code and the *Building Code Act*, 1992, S.O. 1992, c. 23, as amended provided that the site grading 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, and excavation and backfilling occurs within ten (10) metres of the building or structure and is incidental to the construction of the building or structure;
 - (f) the placing or dumping of **fill**, removal of **topsoil** or alteration of the **existing grade** of **land** for the purpose of lawn dressing, landscaping, driveway re-surfacing or adding to flower beds or vegetable gardens, provided that:
 - i) the **existing grade** of the **land** is not increased by more than ten (10) centimeters;
 - ii) there is no significant change in the direction or rate of drainage to a neighbouring property;
 - iii) it does not take place within 0.6 meters of any **lot** line; and
 - iv) only **soil**, stone, sod or other material acceptable to the **Director** is used and provided that such material is clean and free of any glass, plastics, metals, termites, invasive species and/or their eggs or seeds, concrete, asphalt, garbage or any **contaminants** or **putrescible organic material** that would degrade the pre-existing conditions of the **land**.
 - (g) the placing or dumping of **fill**, removal of **topsoil** or alteration of the **existing grade** for the installation of an outdoor swimming pool, including decking provided that an outdoor pool enclosure permit is obtained from the **Township** pursuant to the **Township's** Fence By-law and any amendments thereto.

SECTION 3 - GENERAL PROHIBITIONS AND REGULATIONS

- 3.1 No **person** shall place or dump, cause or permit to be placed or dumped any **fill** except in accordance with the terms of a **permit** and in accordance with this By-law and any applicable site alteration agreement or approved plans.
- 3.2 No **person** shall remove, cause or permit to be removed any **fill** except in accordance with the terms of a **permit** and in accordance with this By-law and any applicable site alteration agreement or approved plans.
- 3.3 No **person** shall permit or perform, or cause to be permitted or performed a **small scale site alteration** or a **large scale site alteration** on any **land** unless it is done at the request of or with the consent of the registered owner of the **land**.
- 3.4 No **person** shall permit or perform, or cause to be permitted or performed a **small scale site alteration** or a **large scale site alteration** on **lands** that are subject to an approved site plan, draft plan of subdivision or a consent under Section 41, 51 or 53 respectively of the *Planning Act*, as amended, except in accordance with an executed Site Plan Agreement, Pre-servicing Agreement, Subdivision Agreement, Consent Agreement or Condominium Agreement.
- 3.5 No **person** shall place or dump, cause or permit to be placed or dumped any **fill** in a **prohibited area**.
- 3.6 No **person** shall place or dump, cause or permit to be placed or dumped any **fill**:
- (a) in a significant wildlife, plant habitat, woodlands, **environmentally sensitive area**, unless it has been demonstrated to the satisfaction of the **Director** that there will be no negative impacts on them or its ecological functions;
 - (b) in areas of natural and scientific interest, unless it has been demonstrated to the satisfaction of the **Director** that there will be no negative impacts on the life science feature or its ecological function or nature or earth science values;
 - (c) in a stream, valleyland, ponds, lakes and reservoirs unless it has been demonstrated to the satisfaction of the **Director** that there will be no negative impact on them or its ecological functions;
 - (d) that detrimentally affects the quality or quantity of water in a well on an adjacent property.

SECTION 4 – APPLICATION FOR A PERMIT

- 4.1 An application form for a **permit** as prepared by the **Director** shall include as a minimum the information as outlined in Schedule 'A' to this By-law.

Small Scale Site Alteration Application

- 4.2 A **person** making an application for a **permit** for a **small scale site alteration** shall submit:
- (a) a complete application in the form provided by the **Township**;
 - (b) a Plan which meets the requirements as outlined in Schedule 'B' to the satisfaction of the **Director**;
 - (c) proof of ownership of the **land**, where required;
 - (d) provide applicable approvals from the **County** and the Ministry of Transportation and any other applicable government body or agency including but not limited to a letter of permission or permit from:
 - (i) the applicable **highway** authority;
 - (ii) the **County** under its Conservation and Sustainable Use of Woodlands By-law;
 - (e) the required **permit** fee;

- (f) any other tests, reports, plans or studies as outlined in Section 4.3 and on Schedule 'D' prepared by a **Qualified Person**, as may be required and to the satisfaction of the **Director**; and
- (g) any other documents as may be required by the **Director**.

Large Scale Site Alteration Application

- 4.3 A **person** making an application for a **permit** for a **large scale site alteration** shall submit:
- (a) a complete application in the form provided by the **Township**;
 - (b) a Site Plan prepared by a **Qualified Person** which meets the requirements as outlined in Schedule 'C' to the satisfaction of the **Director**;
 - (c) proof of ownership of the **land**, where required;
 - (d) applicable approvals from the **County** and the Ministry of Transportation and any other applicable government body or agency including but not limited to a letter of permission or permit from:
 - (i) the applicable highway authority;
 - (ii) the County under its Conservation and Sustainable Use of Woodlands By-law;
 - (e) a proposed **haul route**;
 - (f) a Fill Management Plan prepared by a **Qualified Person** that follows and is in accordance with the **BMP** to the satisfaction of the **Director** that specifically addresses the following:
 - Management options for excavation **soil**
 - **Soil** quality, types and **soil** permeability tests
 - Laboratory Analysis and Analytical Procedures
 - Procedures to prevent the introduction of Invasive Plant or Animal Species
 - Traffic and Transportation Management Plan
 - **Source Sites**
 - Dust and noise control measures
 - **Site** security measures
 - Protocol for incoming **fill**
 - Record keeping system to create and store written documentation to track each incoming load **fill**
 - Signage
 - Stormwater Management Plan
 - Erosion control and run-off controls sufficient to prevent impacts to drainage and sediment discharge to nearby watercourses or stormwater systems, and to ensure materials remain where placed
 - Audit sampling protocols
 - **Fill** placement and segregation protocol
 - Identification of the use of any Temporary Storage Sites
 - (g) a Soil Management Plan for the **Source Site**;
 - (h) certification from a **Qualified Person** that the **fill** contains no contaminants within the meaning of the *Environmental Protection Act*, R.S.O. 1990, c. E. 19, as amended, and that no **adverse effects** will result from the **large scale site alteration**;
 - (i) a complaint response protocol to the satisfaction of the **Director**;
 - (j) signed authorization(s) of a grantee(s) of any easement(s) on the **lot**;
 - (k) for a post-extraction aggregate operation which is no longer licensed under the **Aggregate Resources Act**, a copy of all drawings and schedules associated

with the licence issued by the Ministry of Natural Resources and Forestry and confirmation of the surrender of the Licence;

- (l) the required **permit** fee;
- (m) any other tests, reports, plans or studies as outlined on Schedule 'D' prepared by a **Qualified Person**, as required and to the satisfaction of the **Director**; and
- (n) any other documents as may be required by the **Director**.

SECTION 5 –SITE ALTERATION AGREEMENT

- 5.1 A **person** making an application for a **permit** for a **large scale site alteration** shall prior to the issuing of a **permit**:
- (a) enter into a site alteration agreement with the **Township** in the form and in accordance with Schedule 'E' which shall be registered on title to the **land** to which the site alteration agreement applies at the cost of the registered owner of the **land**;
 - (b) provide the following certificates of insurance in a form satisfactory to the **Director** naming the **Township** as an additional insured with a coverage limit not less than five (5) million dollars:
 - (i) Commercial General Liability
 - (ii) Environmental Impairment/Pollution Liability
 - (c) provide securities in the amount and in a form of a letter of credit to the satisfaction of the **Director**;
 - (d) where the **lot** abuts another municipality, proof of notification of the **large scale site alteration** to that municipality.
- 5.2 The **Director** has authority to add, amend or waive the standard terms and conditions of the site alteration agreement upon taking into consideration the proposed works and the anticipated impacts to the **site**, neighbouring properties and the surrounding environment.
- 5.3 The **Director** is hereby authorized to enter into and execute on behalf of the **Township**, all site alteration agreements.

SECTION 6 – PERMIT

- 6.1 A **Permit** shall be issued where the **Director** is satisfied:
- (a) that the requirements of this By-law have been met;
 - (b) in the case of a **large scale site alteration**, the registration of the site alteration agreement has been registered on title of the **land**;
 - (c) the benefits of any proposed site alteration outweigh its potential impacts on other properties and persons; and,
 - (d) any proposed changes to drainage or grade are appropriate to protect natural heritage features and archaeological resources.
- 6.2 Where the **Director** refuses to issue a **permit**, the **Director** shall provide written reasons for such refusal to the **owner**.
- 6.3 Where the **Director** refuses to issue a permit, an **owner** may appeal to the **Township** Council by sending a notice of appeal and the applicable fee by registered mail or personal delivery to the Clerk of the **Township** within fourteen (14) days after being served with the written reasons of refusal.
- 6.4 An appeal under section 6.3 shall be conducted pursuant to the *Statutory Powers and Procedures Act*.
- 6.5 The issuing of a **permit** does not relieve a **person** from any responsibility to obtain all other approvals that may be required from any level of government or authority or agencies thereof having jurisdiction.

- 6.6 A **Permit** is not transferable to another lot.
- 6.7 The **Director** may also charge an additional penalty for Site Alteration work completed without obtaining a **Small Scale Site Alteration** or **Large Scale Site Alteration** permit. This is an additional fee equal to 100 percent of the permit fees for the project or the work completed.

SECTION 7 – TERMS AND CONDITIONS OF A PERMIT

- 7.1 A **permit** is subject to the terms and conditions as set out in Schedule 'F' of this By-law.
- 7.2 The **Director** may impose additional terms or conditions to a **permit** that, in the opinion of the **Director**, are reasonable and taking into consideration:
- (a) the economic, social and environmental well-being of the **Township**;
 - (b) the health, safety and well-being of **persons** as a result of anticipated impacts of the **small scale site alteration** or **large scale site alteration**.
- 7.3 An **owner** who is not satisfied with the terms and conditions of a **Permit** may appeal to the **Township** Council by sending a notice of appeal and the applicable fee by registered mail or personal delivery to the Clerk of the **Township** within fourteen (14) days after being advised of any additional terms and conditions being imposed by the **Director**.
- 7.4 An appeal under section 7.3 shall be conducted pursuant to the *Statutory Powers and Procedures Act*.

SECTION 8 – EXPIRY, REVOCATION AND TRANSFER OF A PERMIT

Expiry

- 8.1 A **small scale site alteration permit** shall be valid for a period of one (1) year from the date the **permit** is issued.
- 8.2 A **large scale site alteration permit** shall be valid for a period of two (2) years from the date the **permit** is issued.
- 8.3 Notwithstanding section 8.2 a **large scale site alteration permit** shall expire if no work is commenced within six (6) months of the date the **large scale site alteration permit** being issued.

Extension

- 8.4 An **owner** may request an extension to the expiry date of a **permit** upon submitting a written request outlining the reasons an extension is required to the **Director** with payment of the extension fee in accordance with the **Township's Fees and Charges By-law** in the case of:
- (a) a **small scale site alteration permit** up to six (6) months in advance of the expiry date; or
 - (b) a **large scale site alteration permit** up to one (1) year in advance of the expiry date.
- 8.5 The **Director** upon being satisfied with the reasons for requesting an extension may grant an extension in the case of:
- (a) a **small scale site alteration** for up to but no more than two (2) additional months; or
 - (b) a **large scale site alteration** for up to but no more than six (6) additional months.
- 8.6 The **Director** may grant an extension beyond the limits established in this By-law taking into consideration any unique or extenuating circumstances.

Revocation

- 8.7 The **Director** may revoke a **permit** for the following reasons:
- (a) it was obtained on mistaken, false or incorrect information;
 - (b) it was issued in error;

- (c) the **owner** requests in writing that the **permit** be revoked;
- (d) the terms and conditions of this By-law, a **permit**, a site alteration agreement or the approved plans have not been complied with;
- (e) work authorized under a **permit** has not commenced prior to its expiry date.

8.8 Where a **permit** has been revoked, the **owner** shall forthwith cease all **small scale site alteration** or **large scale site alteration** work.

Transfer

8.9 A **permit** may be transferred to a new registered owner of a **lot** upon submitting a written request for a transfer to the **Director** with payment of the transfer fee in accordance with the **Township's Fees and Charges By-law**.

8.10 The **Director** upon being satisfied that all requirements of this By-law, a **permit**, the site alteration agreement and the approved plans continue to be met may authorize the transfer of the **permit**.

Restoration – Work Not Completed

8.11 If a **permit** expires after work has commenced and prior to completion of the work in accordance with the **permit**, the **owner** shall forthwith restore the **site** to its original condition and/or stabilize the **site** to the satisfaction of the **Director** or an **Officer**.

SECTION 9 - ADMINISTRATION

9.1 The **Director** is hereby delegated authority to administer this By-law.

9.2 **Township Council** shall have the same powers as the **Director** pursuant to this By-law for the purpose of authorizing the issuing of a **permit** and the entering into of a site alteration agreement.

SECTION 10 - INSPECTION/ENFORCEMENT

10.1 This By-law shall be enforced by the **Director** or an **Officer**.

10.2 **The Director** or **Officer** may enter upon the **land** at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:

- (a) this By-law;
- (b) a **permit**, or a term or condition of a **permit**;
- (c) a site alteration agreement, or a term or condition of a site alteration agreement;
- (d) the approved plans;
- (e) a direction or order made under the *Municipal Act, 2001*, or this By-law.

10.3 For the purposes of an inspection under this By-law, the **Director** or **Officer** may:

- (a) require the production for inspection of documents or things relevant to the inspection;
- (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- (c) require information from any **person** concerning a matter related to the inspection; and
- (d) alone or in conjunction with a **person** possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

10.4 All documents and records shall be kept in a good and business-like manner for review by the **Director** or **Officer** at their request.

10.5 A receipt shall be provided for any document or thing removed under this By-law and the document or thing shall be promptly returned after the copies or extracts are made.

- 10.6 A sample taken under this By-law shall be divided into two parts, and one part shall be delivered to the **person** from whom the sample is taken, if the **person** so requests at the time the sample is taken and provides the necessary facilities.
- 10.7 If a sample is taken under this By-law and the sample has not been divided into two parts, a copy of any report on the sample shall be given to the **person** from whom the sample was taken.
- 10.8 No **person** shall hinder or obstruct, or attempt to hinder or obstruct, a **Director** or **Officer** exercising a power or performing a duty or corrective works pursuant to this By-law.

SECTION 11 - ORDERS

- 11.1 If a **Director** or **Officer** is satisfied that a contravention of this By-law, terms and conditions of a **permit**, a site alteration agreement or the approved plans has occurred, the **Director** or **Officer** may make an Order requiring the **person** who contravened this By-law, the terms and conditions of a **permit** or of a site alteration agreement or who caused or permitted the contravention or the **owner** of the **lot** on which the contravention occurred to:
- (a) discontinue the contravening activity; and/or
 - (b) do work to correct the contravention.
- 11.2 An Order under section 11.1 shall set out:
- (a) reasonable particulars of the contravention adequate to identify the contravention;
 - (b) the location of the **land** on which the contravention occurred; and
 - (c) either:
 - (i) in the case of an Order under section 11.1 (a), the date by which there must be compliance with the Order; or
 - (ii) in the case of an Order under section 11.1 (b), the work to be done and the date by which the work must be done.
- 11.3 An Order under section 11.1 (b) may require work to be done even though the facts which constitute the contravention of this By-law were present before this By-law came into effect.
- 11.4 In default of any work required by an Order under section 11.1 (b) being done by the **owner** directed or required to do it, the work may be done by the **Township** at the **owner's** expense. For the purposes of this section, the **Township** and its employees, agents and representatives may enter upon **land** at any reasonable time.
- 11.5 The **Township** may recover the costs of doing ~~or~~ any matter pursuant to this By-law or the site alteration agreement by drawing on the securities posted, by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes.
- 11.6 The costs in section 11.5 shall include interest calculated at a rate of 15 per cent per annum, calculated for the period commencing on the day the **Township** incurs the costs and ending on the day the costs, including interest, are paid in full.
- 11.7 An Order issued under this By-law shall be served on the **person** the **Officer** or **Director** believes is contravening this By-law, the terms and conditions of a **permit**, a site alteration agreement or the approved plans by personal delivery or registered mail at the last known address or by email to the last known email address to whom service is required to be made. The Order shall be deemed to have been served on the fifth business day after the date of mailing or on the date of personal delivery.
- 11.8 An **Officer** or **Director** who is unable to effect service of an Order pursuant to this By-law shall place a placard containing the Order in a conspicuous place on the **land** and the placing of the placard shall be deemed to be sufficient service.
- 11.9 A **person** who has been served with an Order and who is not satisfied with the terms and conditions of the Order may appeal to the **Township** Council by sending a

notice of appeal and the applicable fee by registered mail or personal delivery to the Clerk of the **Township** within fourteen (14) days after being served with the Order.

11.10 An appeal under section 11.9 shall be conducted pursuant to the *Statutory Powers and Procedures Act*.

11.11 An Order under this By-law that is not appealed within the time referred to in section 11.9 shall be deemed to be final.

SECTION 12 - OFFENCES AND PENALTIES

12.1 Any **person** who contravenes an Order made pursuant to this by-law is guilty of an offence.

12.2 Every **person** who contravenes any provision of this By-law or an Order issued pursuant to this By-law is guilty of an offence and upon conviction shall be subject to a fine as provided for in the Provincial Offences Act, R.S.O. 1990, c. P. 33, as amended.

12.3 Every **person** who contravenes any provision of this By-law and every director or officer of a corporation, who knowingly concurs in the contravention by a corporation is guilty of an offence and upon conviction is liable to:

(a) on a first offence, to a fine not less than \$250.00 and not more than \$50,000.00; and

(b) on a second offence and each subsequent offence, to a fine not less than \$1,000 and not more than \$100,000.00.

12.4 No **person** shall hinder or obstruct, or attempt to hinder or obstruct, an **Officer**, from carrying out inspections of land to ensure compliance with this By-law.

12.5 Every **person** who is alleged to have contravened any of the provisions of this By-law, shall present identification to an **Officer** or **Director** upon request, failure to do so shall be deemed to have hindered or obstructed an **Officer** or **Director** in the execution of duty.

12.6 If a **Person** convicted of an offence for contravening a provision of this by-law or an Order made under this by-law, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may order the **person**, to correct the contravention in such manner and within such period as the court considers appropriate, including but not limited to,

(a) by rehabilitating the **land**,

(b) by removing the **fill** dumped or placed contrary to the by-law or the **permit**,

(c) by restoring the grade of the **land** to its original condition,

(d) by removing the **topsoil** stored on the **land**,

(e) by prohibiting the continuation or repetition of the contravention.

SECTION 13 - FEES

13.1 The fee for a **permit**, extension of a **permit**, a revision to a **permit**, an appeal and site alteration agreement shall be in accordance with the **Township's** Fees and Charges By-law.

13.2 Where the **Director** determines that the **Township** needs to retain legal, engineering, hydrology, hydrogeology, environmental, on-site inspections, surveying, landscape consultants or any other consultants to evaluate studies or a site alteration agreement, the cost shall be paid by the **owner**.

SECTION 14 – SECURITIES

14.1 Where a security deposit is required in accordance with this By-law it shall be:

(a) in the form of an irrevocable letter of credit from a chartered Canadian bank in a form satisfactory to the **Township** or a certified cheque to secure:

(i) the performance of the work for which a **permit** is issued, performance of work in accordance with the site alteration agreement or the approved plans, or to restore the **land** to a condition satisfactory to the **Director** and to recover any costs to the **Township** in performing or having performed the said work;

- (ii) the performance of work that an **owner** has failed to perform to the satisfaction of the **Director**;
 - (iii) the performance of repair or restoration work on an approved **haul route highway** or cleanup of mud tracking on an approved **haul route highway**;
 - (iv) the performance of any works on **Township** or publicly owned lands which service the **site**;
 - (v) the completion of work required under an Order issued pursuant to this By-law;
 - (vi) guarantee of payment to the **Township** of all inspection, consulting or other costs the **Township** may incur in connection with works required under the **permit**, a site alteration agreement, the approved plans or this By-law.
- (b) in the amount of 110% of the aggregate estimated costs to the satisfaction of the **Director** to:
- (i) maintain the **site** control measures;
 - (ii) stabilize the **site**;
 - (iii) undertake the completion of work outlined in 14.1 (a) (i) to (v);
 - (iv) the performance of any works on **Township** or publicly-owned lands of any kind which service the **site**;
 - (v) guarantee of payment to the **Township** as outlined in 14.1 (a) (vi);
- (c) in effect for the duration of the **permit**, the site alteration agreement or until completion of the works to the satisfaction of the **Director**, whichever is later;
- (d) in the case of an irrevocable letter of credit or a renewal thereof, contain a clause stating that thirty (30) days written notice shall be provided to the **Township** prior to its expiry or cancellation.

14.2 In the event the **Township** receives notice that a letter of credit is expiring and will not be renewed, or if further or additional securities are not provided within the said thirty (30) days, the **Township** may draw on the letter of credit at the discretion of the **Director**.

14.3 In the event, an **Owner** fails to perform or complete work or make payment for matters outlined in section 14.1 (a) the **Township** shall be at liberty to draw upon the security provided to pay the costs incurred by the **Township** for any work undertaken or costs incurred by it or on its behalf.

14.4 The **Township** at the request of the **owner** shall release the securities or remaining securities upon:

- (a) submission of a certificate from a **qualified person**:
 - (i) that the **final grade** has been completed in accordance with the **permit**, site alteration agreement and the approved plans;
 - (ii) that the finished project does not detrimentally affect drainage on neighbouring properties;
 - (iii) that the finished project does not detrimentally affect the quality or quantity of water in wells on neighbouring properties.
- (b) a final inspection being conducted by the **Director** or **Officer**; and
- (c) the **Director** being satisfied that the works have been completed in accordance with this By-law, the terms and conditions of the **permit** and the site alteration agreement and the approved plans.

SECTION 15 – SEVERABILITY

15.1 If a court of competent jurisdiction declares any section or part of this By-law invalid, it is the intention of Council of the **Township** that the remainder of this By-law shall continue in force unless the court makes an order to the contrary.

SECTION 16 – INTERPRETATION

- 16.1 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.
- 16.2 The words “include”, “includes” and “including” are not to be read or interpreted as limiting words, phrases or descriptions that precede them.
- 16.3 This By-law and the provisions contained within are intended to be complementary to provincial statutes and to other by-laws passed by the **Township**. In the event that any other applicable law requires a higher standard than this By-law requires, the higher standard shall apply.
- 16.4 In this By-law, unless the context otherwise requires words importing the singular shall include the plural and use of the masculine shall include the feminine, where applicable.

SECTION 17 - SCHEDULES

- 17.1 The Schedules “A” through “F” appended to this By-law are incorporated into and form part of this By-law.
- 17.2 Schedule “G” (Short Form Woding and Set Fines) attached hereto does not form part of this By-law.

SECTION 18 - REPEAL

- 18.1 By-law 42/2010 of the Corporation of the Township of Guelph/Eramosa is hereby repealed.

READ three times and finally passed
this 7th day of **June, 2021**.

Chris White, Mayor

Amanda Knight, Clerk

SCHEDULE 'A' TO BY-LAW 22/2021

1. An application form for a **permit** under this By-law shall at a minimum contain the following:
 - (a) the name, address, signature and contact information of the **owner**;
 - (b) the name, address, signature and contact information of the applicant;
 - (c) the name, address, and contact information of the operator, if applicable;
 - (d) the name, address and contact information of the **qualified persons** retained by the **owner**;
 - (e) the name, address and contact information of the contractor retained by the **owner**;
 - (f) the municipal address of the **site**;
 - (g) the legal description of the **site**;
 - (h) where the applicant is not the registered owner of the **lot** the consent of the registered owner(s) of the **lot** authorizing the applicant to act as agent on behalf of the registered owner;
 - (i) a signed authorization by the registered owner certifying the correctness of the information in the application form;
 - (j) written acknowledgement and acceptance of **fill** being transferred to the **site**;
 - (k) **lot** size;
 - (l) official plan and zoning by-law designation;
 - (m) state whether any part of the **lands** are regulated by the Grand River Conservation Authority;
 - (n) whether the **land** is designated under Part IV or Part V or by a Minister's Order under the *Ontario Heritage Act*;
 - (n) a brief description of the proposed works that have been identified on the Plan or Site Plan, as applicable;
 - (o) the current and proposed use of the **lot**;
 - (p) the quantity of **fill** to be received on the **lot**;
 - (q) all **source site** location(s) of the **fill** being placed or dumped;
 - (r) proposed ground covering to be used upon completion of the works;
 - (s) proposed commencement and completion dates.

SCHEDULE 'B' TO BY-LAW 22/2021

SMALL SCALE SITE ALTERATION APPLICATION REQUIREMENTS

1. Two copies of a plan of the **lot** which shall include the following unless otherwise determined the **Director**:
 - (a) the property boundaries of the **lot** with dimensions;
 - (b) all existing above and below grade utilities, ditches, swales, drainage courses, storm sewers, bodies of water, watercourses, natural heritage features and **environmental sensitive areas** on the **lot** and on abutting **lots** and **highways**;
 - (c) the species and size in caliper of all trees on the **lot**, greater than 7.5 centimetres;
 - (d) the locations of all driveways on the **lot** and of all easements and rights-of-way over, under, across or through the **lot**;
 - (e) the location of all existing buildings and structures on the **lot**;
 - (f) proposed sediment and erosion controls that will be installed prior to alteration of the **lot**;
 - (g) proposed **grades** and the drainage system to be used upon completion;
 - (h) the location of all wetlands, floodplains, shoreline, top of bank features and approximate regulation limits as required by the applicable Conservation Authority;
 - (i) the quantity of **fill** to be received on the **lot**.
2. If required by the **Director**, two copies of a topographic survey certified by a licensed professional engineer or Ontario Land surveyor existing elevations in the form of contours at 0.5 metre intervals or less, with spot elevations along the **site** boundary lines and 3.0 metres beyond the **site** boundary lines at sufficient intervals to clearly show the existing drainage patterns on the **lot** and on the abutting **lots**.

SCHEDULE 'C' TO BY-LAW 22/2021

LARGE SCALE SITE ALTERATION APPLICATION REQUIREMENTS

1. Two copies of a site control plan based on a legal survey prepared by a licensed professional engineer or Ontario Land Surveyor, which shall include the following unless otherwise determined the **Director**:
 - (a) the scale of the drawings in metres;
 - (b) a key plan showing the location of the **site** and a minimum of thirty (30) metres beyond the **lot**;
 - (c) the **lot** lines of the **lot**, including dimensions and the number of hectares of the **lot** and the **site**;
 - (d) the location, dimensions, elevations and use of the buildings and structures existing or proposed to be erected on the **lot**;
 - (e) the current and proposed use of the **lot**;
 - (f) the location, dimensions and use of buildings and structures within thirty (30) metres beyond the **lot**;
 - (g) detailed locations, including dimensions, identifying the proposed locations and separated quantities for the placement and removal of **fill**;
 - (h) all existing above and below grade utilities, ditches, swales, drainage courses, storm sewers, bodies of water, watercourses, natural heritage features and **environmental sensitive areas** on the **lot** and on abutting **lots** and **highways**;
 - (i) the species and size in caliper of all trees on the **lot**, greater than 15 centimetres, measured 1.37 metres from the base;
 - (j) the locations of all driveways on the **lot** and of all easements and rights-of-way over, under, across or through the **lot**;
 - (k) the location and dimensions of all proposed **land** disturbing activities, including construction access roads;
 - (l) the location and dimensions of all temporary **fill** stockpiles;
 - (m) **proposed grades** and drainage systems to be used upon completion;
 - (n) the location, dimensions, height and slopes of any proposed berms;
 - (o) the location, dimensions, design details and design calculations of all construction and regular maintenance of the site control measures including details of the proposed sediment and erosion control measures that will be installed prior to alteration of the **lot**;
 - (p) the location of all wetlands, floodplains, shoreline, top of bank features and approximate regulation limits as required by the applicable Conservation Authority;
 - (q) the location and description of the predominant **soil** types;
 - (r) all tree protection measures;
 - (s) a schedule of the proposed commencement and completion of each phase of work including the installation of site erosion control measures;
 - (t) proposed ground covering to be used;
 - (u) specific details regarding **haul route**;
 - (v) the quantity of **fill** to be received on the **lot**.

2. If required by the **Director**, two copies of a scale drawing prepared by licensed professional engineer of any proposed retaining wall including a description, dimensions and materials to be used in the construction of such retaining wall if:
 - (a) erosion on adjacent **lands** may occur as a result of the works;
 - (b) the **finished grade** of the **site** is of a higher elevation at the **lot** line than that of the **existing grade** at the same **lot** line of the abutting **lot**.
3. two copies of a topographic survey certified by a licensed professional engineer or Ontario Land surveyor producing a 0.5 metre contour interval, defining all material and man-made features, including top and bottom of slopes, drainage patterns, tree lines, buildings, and stockpiles on the site and 30 metres beyond the **lot** lines of the **site** to clearly show the detailed existing topography of the **lot** and the abutting **lot**.

SCHEDULE 'D' TO BY-LAW 22/2021

1. Where required by the Director, the following tests, reports, plans or studies shall be prepared by a **Qualified Person** and submitted to the satisfaction of the **Director**:
 - (a) an Archaeological Assessment;
 - (b) Phase I, Phase II and/or other Environmental Assessment reports;
 - (c) Pre-Assessment information relating to the groundwater on the **lot** and a Ground Water Monitoring Plan.

SCHEDULE 'E' TO BY-LAW 22/2021

SITE ALTERATION AGREEMENT

THIS AGREEMENT made this (Insert Date) day of (Insert Month), (Insert Year), pursuant to Section 142 of the *Municipal Act*, S.O. 2001, c. 25, as amended.

BETWEEN:

THE CORPORATION OF THE TOWNSHIP OF GUELPH/ERAMOSIA

(Hereinafter called the "**Township**")

PARTY OF THE FIRST PART

- and -

(NAME TO BE INSERTED)

(Hereinafter called the "**Owner(s)**")

PARTY OF THE SECOND PART

WHEREAS the lands located at (insert address) are subject to an application for a Site Alteration Permit pursuant to the Township's Site Alteration By-law;

AND WHEREAS Section 142 of the *Municipal Act*, 2001 S.O. 2001, c.25, authorizes a municipality to prohibit or regulate the placing or dumping of fill;

AND WHEREAS Section 5 of the Township's Site Alteration By-law authorizes the Township to enter into a Site Alteration Agreement with the Owner;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the mutual covenants hereinafter contained the Parties hereby covenant and agree as follows:

1. LANDS

1.1 The **Owner(s)' lands** which are the subject of this Site Alteration Agreement hereinafter referred to as the "Agreement" are described in Schedule 'A' to this Agreement and are herein referred to as the "**lands**".

2. DEFINITIONS

2.1 The words in bold text in this Agreement shall have the same meaning as the words defined in the Township's Site Alteration By-law hereinafter referred to as the "By-law".

3. TERM

3.1 The Agreement shall be valid and remain in effect until such time as the **Director** consents to the release of this Agreement.

4. TERMINATION

4.1 The **Township** may terminate this Agreement for any reason upon giving the **Owner(s)** thirty (30) days' written notice.

4.2 Where this Agreement has been terminated, the **owner(s)** shall forthwith cease all **large scale site alteration** work.

5. TRANSFER

5.1 The **Owner(s)** agree prior to any transfer of the **lands** to submit a written request for a transfer to the **Director** with payment of the transfer fee in accordance with the **Township's Fees and Charges By-law**.

- 5.2 If the ownership of the **lands** for which a **Permit** has been issued is transferred while the **Permit** remains in effect and outstanding, the new **Owner(s)** shall, prior to transfer of the **lands**:
- (a) provide the **Township** with its written undertaking to comply with all of the conditions of the **Permit**, this Agreement, the approved plans and the By-law; and
 - (b) provide security in a form and amount acceptable to the **Director**, at which time any security previously provided by the original **Owner** shall be released.
- 5.3 The **Director** upon being satisfied that all requirements of the By-law, a **permit**, this Agreement, and approved plans continue to be met may authorize the transfer of the **permit**.

6. PLANS, DRAWINGS, STUDIES, REPORTS, MONITORING PROGRAMS AND OTHER DOCUMENTS

- 6.1 The **Owner(s)** agree to comply with and fulfill the requirements of all plans, drawings, studies, reports, monitoring programs and other documents hereinafter referred to as "Approved Plans and Protocols" outlined in Schedule 'B' to this Agreement to the satisfaction of the **Director**.

7. PERMIT, AGREEMENT AND BY-LAW

- 7.1 The **Owner(s)** agree to comply with the **Township's** By-laws, this Agreement and the terms and conditions of the **Permit** to the satisfaction of the **Director**.
- 7.2 The **Owner(s)** agree that all works, facilities, installations, structures, environmental control and monitoring devices, and features outlined on the Approved Plan(s) shall represent the total alterations on the **lands**. The **Owner(s)** also agree that any future development beyond the approved plans will be subject to additional approval by the **Director**.
- 7.3 The **Owner(s)** agree that all works, facilities, installations, structures, environmental control and monitoring devices, and features outlined on the Approved Plan(s) shall be maintained and kept in good repair at the **Owner(s)'** sole risk and expense and to the satisfaction of the **Director**.
- 7.4 The **Owner(s)** agree to retain a **Qualified Person** to report in writing, quarterly, to the **Director** during the term of this Agreement, within thirty (30) days of the end of March, June, September and December, to verify the **large scale site alteration** is proceeding in accordance with the By-law, the **permit**, and this Agreement and the approved plans. The report will include but is not limited to:
- (a) A list of all sources of **fill** received at the **site** during the quarter including the name of the owner and municipal address of the **source site**;
 - (b) The total volume of **fill** received at the **site** for the quarter including the monthly load counts and volumes for each **source site**;
 - (c) The results of any required testing;
 - (d) A list of any incidents and any mitigation taken;
 - (e) Any other information as may be required by the **Director**.
- 7.5 The **Owner(s)** agree in the case of an emergency repair or clean-up of a **Haul Route Highway**, the **Director** may undertake the necessary works at the expense of the **Owner(s)** and draw upon the securities posted by the **Owner(s)**.
- 7.6 The **Owner(s)** acknowledge that a breach of any provision of this Agreement may be enforced through the provisions of this Agreement or the By-law.
- 7.7 The **Owner(s)** acknowledge and agree to the registration of this Agreement against the title to the **lands** at the **Owner(s)** cost.

7.8 The **Owner(s)** agree to maintain all records required under the Fill Management Plan for a minimum of seven (7) years after the completion of the works.

8. TOWNSHIP'S RIGHT OF ENTRY

8.1 The **Township** shall have a right of entry upon the **lands**, through employees, agents or contractors to ensure that the provisions of this By-law, the **permit**, this Agreement and the approved plans are complied with at all times.

9. SECURITIES

9.1 The **Owner(s)** agree that where a security deposit is required in accordance with the By-law it shall be:

- (a) in the form of an irrevocable letter of credit from a chartered Canadian bank in a form satisfactory to the **Township** or a certified cheque to secure:
 - (i) the performance of the work for which a **permit** is issued, performance of work in accordance with this Agreement and the approved plans or to restore the **land** to a condition satisfactory to the **Director** and to recover any costs to the **Township** in performing or having performed the said work;
 - (ii) the performance of work that an **owner** has failed to perform to the satisfaction of the **Director**;
 - (iii) the performance of repair or restoration work on an approved **haul route highway** or cleanup of mud tracking on an approved **haul route highway**;
 - (iv) the performance of any works on **Township** or publicly-owned lands of any kind which service the **site**;
 - (v) the completion of work required under an Order issued pursuant to the By-law;
 - (vi) guarantee of payment to the **Township** of all inspection, consulting or other costs the **Township** may incur in connection with works required under the **permit**, this agreement, the approved plans or the By-law.
- (b) in the amount of 110% of the aggregate estimated costs to the satisfaction of the **Director** as outlined in Schedule 'C' to:
 - (i) maintain the **site** control measures;
 - (ii) stabilize the **site**;
 - (iii) undertake the completion of work outlined in 9.1 (a) (i) to (v);
 - (iv) the performance of any works on **Township** or publicly owned **lands** which service the **site**;
 - (v) guarantee of payment to the **Township** as outlined in 9.1 (a) (vi);
- (c) in effect for the duration of the **permit**, this Agreement or until completion of the works to the satisfaction of the **Director**, whichever is later;
- (d) in the case of an irrevocable letter of credit or a renewal thereof, contain a clause stating that thirty (30) days written notice shall be provided to the **Township** prior to its expiry or cancellation.

9.2 In the event the **Township** receives notice that a letter of credit is expiring and will not be renewed, or if further or additional securities are not provided within the said thirty (30) days, the **Township** may draw on the letter of credit at the discretion of the **Director**.

9.3 In the event, the **Owner(s)** fail to perform or complete work or make payment for matters outlined in section 9.1 (a) the **Township** shall be at liberty to draw upon the security provided to pay the costs incurred by the **Township** for any work undertaken or costs incurred by it or on its behalf.

- 9.4 The **Township** at the request of the **owner(s)** shall release the securities or remaining securities upon:
- (a) submission of a certificate from a **qualified person**:
 - (i) that the **final grade** has been completed in accordance with the **permit**, this Agreement and the approved plans;
 - (ii) that the finished project does not detrimentally affect drainage on neighbouring properties;
 - (iii) that the finished project does not detrimentally affect the quality or quantity of water in wells on neighbouring properties.
 - (b) a final inspection being conducted by the **Director** or **Officer**; and
 - (c) the **Director** being satisfied that the works have been completed in accordance with the By-law, the terms and conditions of the **permit** and the Agreement.
- 9.5 The **Owner(s)** agree that any interest accruing on the realized security shall belong to the **Township** and not to the **Owner(s)**.
- 9.6 The **Owner(s)** agree in the event securities are drawn upon and the **Director** notifies the **Owner(s)** that additional securities are required to satisfy the requirements of this Agreement, the **Owner(s)** shall forthwith provide additional securities requested to the satisfaction of the **Director**.

10. TOWNSHIP'S EXPENSES

- 10.1 The **Owner(s)** agree to pay to the **Township** all reasonable costs incurred by the **Township** in connection with the **large scale site alteration** which, without limiting the generality of the foregoing, shall include all expenses of the **Township** heretofore and hereinafter incurred for any peer review costs for engineering, surveying, planning and inspection services, if any, and shall pay such costs from time to time forthwith upon being invoiced
- 10.2 The **Township** agrees to provide the **Owner(s)** with five (5) days' notice where the **Township** determines that peer review or inspection services are required to confirm compliance with the By-law, the **Permit**, this Agreement or the approved plans.
- 10.3 The **Owner(s)** acknowledge and agree the **Township** may recover the costs of doing anything or matter pursuant to the By-law, the **Permit**, this Agreement or the approved plans by drawing on the securities posted, by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes.

11. INDEMNIFICATION

- 11.1 The **Owner(s)** agree on behalf of the **Owner(s)**, its heirs, executors, administrators and assigns to defend, indemnify and save harmless the **Township**, and, if applicable, the Corporation of the County of Wellington, and their elected officials, officers, employees and agents from and against any and all claims of any nature, actions, causes of action, losses, expenses, fines, costs (including legal costs), interest or damages of every nature and kind whatsoever, including but not limited to bodily injury, sickness, disease or death or to damage to or destruction of tangible property including loss of revenue or incurred expense resulting from disruption of service, arising out of or allegedly attributable to the negligence, acts, errors, omissions, misfeasance, nonfeasance, fraud or willful misconduct of the **Owner(s)**, its directors, officers, employees, agents, contractors and subcontractors, or any of them, in connection with or in any way related to the delivery or performance of this Agreement. This indemnity shall be in addition to and not in lieu of any insurance to be provided by the **Owner(s)** in accordance with this Agreement, and shall survive this Agreement.

12. LIABILITY INSURANCE

- 12.1 Prior to the execution of this Agreement, the **Owner(s)** shall purchase and maintain insurance against all damages or claims for damage with a financially sound and reputable insurance company satisfactory to the **Township** and continue to

maintain such insurance until the **Township** advises in writing the insurance is no longer required for the purposes of this Agreement. The **Owner(s)** shall provide a Certificate of Insurance to the **Township** evidencing the insurance coverage required by the **Owner(s)** and hereafter annually on the insurance renewal date.

12.2 The **Owner(s)** acknowledge and agree the **Owner(s)** insurance shall be primary.

12.3 The **Owner(s)** acknowledge and agree the insurance premium for the required insurance must be prepaid for a period of not less than one (1) year. The insurance policy must provide that it is not cancellable unless prior notice by registered mail has been received by the **Township** from the insurer not less than thirty (30) days prior to the cancellation date.

12.4 The **Owner(s)** agree to immediately notify the **Township** of any occurrence, incident, or event which may reasonably be expected to expose any of the parties to liability of any kind in relation to this Agreement.

12.5 The **Owner(s)** acknowledge and agree the issuance of such insurance policy or policies shall not be construed as relieving the **Owner(s)** from responsibility for any other or larger claims in excess of such policy or policies, if any, for which the **Owner(s)** may be held responsible. Such insurance policy or policies shall be in a form acceptable to the **Township's** insurer and, without limiting the generality of the foregoing, shall provide:

(a) Commercial General Liability Insurance - Commercial General Liability, underwritten by an insurer licensed to conduct business in the Province of Ontario, for a limit of not less than \$5,000,000.00 per occurrence, an aggregate limit of not less than \$10,000,000.00, within any policy year with respect to completed operations and a deductible of not more than \$10,000.00. This policy shall include but not be limited to:

- (i) Name the **Township** as an additional insured
- (ii) Cross-liability and severability of interest
- (iii) Blanket Contractual
- (iv) Products and Completed Operations
- (v) Premises and Operations Liability
- (vi) Personal Injury Liability
- (vii) Contingent Employers Liability
- (viii) Owners and Contractors Protective
- (ix) Broad Form Property Damage
- (x) The policy shall include 30 days' notice of cancellation.

(b) Environmental Liability Insurance - Environmental Liability for a limit of not less than \$2,000,000.00 per occurrence to cover injury to or physical damage to tangible property including loss of use of tangible property, or the prevention, control, repair, cleanup or restoration of environmental impairment of lands, the atmosphere or any water course or body of water on a sudden and accidental basis and on a gradual release. The policy shall include bodily injury, including sickness, disease, shock, mental anguish, and mental injury. The policy is to be renewed for 3 years after completion of the **large scale site alteration** works and a Certificate of Insurance evidencing renewal shall be filed with the **Township**. If the policy is to be cancelled or non-renewed for any reason, 90 days' notice of said cancellation or non-renewal must be provided to the **Township**. The **Township** has the right to request that an Extended Reporting Endorsement be purchased by the **Owner(s)** at the **Owner(s)**' sole expense.

13. GENERAL PROVISIONS

13.1 Notices

Any notice, invoice or other writing required or permitted to be given pursuant to this Agreement (including notice of a change of address) shall be deemed to have been given if delivered personally to the party or to an officer of the applicable corporation or if delivered by prepaid first class mail, on the fifth (5th) business day after mailing. The address for service of each of the parties is as follows:

Owner(s): (Insert Name)
(Insert Address)
(Insert email address)

Township: The Corporation of the Township of Guelph/Eramosa
8348 Wellington Road 124
Rockwood, ON N0B 2K0
Clerk's Department
site.alteration@get.on.ca

13.2 Waiver

It is expressly understood and agreed that the remedies of the **Township** under this Agreement are cumulative and the exercise by the **Township** of any right or remedy for the default or breach of any term, covenant, condition or agreement herein contained shall not be deemed to be a waiver or alter, affect or prejudice any other right or remedy or other rights or remedies, to which the **Township** may be lawfully entitled for the same default or breach; and any waiver by the **Township** of the strict observance, performance or compliance by the **Owner(s)** or with any term, covenant, condition or agreement herein contained, or any indulgence granted by the **Township** to the **Owner(s)** shall not be deemed to be a waiver of any subsequent default or breach by the **Owner(s)**, nor entitle the **Owner(s)** to any similar indulgence heretofore granted.

13.3 Covenants as restrictive covenants

The covenants of the **Owner(s)** herein shall be restrictive covenants running with the **land** for the benefit of the adjoining lands of the **Township** or such of them as may be benefited thereby and shall be binding on the **Owner(s)**, its heirs, executors, administrators, successors and assigns as **Owner(s)** of the **lands** from time to time.

13.4 No Permit if money owed to Township

The **Owner(s)** hereby agree to pay all municipal taxes on the **lands** which may be in arrears at the time of signing this Agreement and shall ensure that all taxes are paid up to date with respect to the **lands**. Additionally, the **Owner(s)** shall ensure that all taxes owing by him to the **Township** on all other properties owned by the **Owner(s)** elsewhere in the **Township** and any other accounts owing by him to the **Township** are also paid up to date.

13.5 Number and Gender

It is agreed between the parties hereto that the appropriate changes in the number and gender shall be implied where the context of this Agreement and any schedules hereto so require in order that this Agreement and any part thereof shall be construed to have its proper and reasonable meaning.

13.6 Headings and Index

All headings and sub-headings in this Agreement are incorporated for ease of reference purposes only and do not form an integral part of the Agreement.

13.7 Ultra vires terms

If any term of this Agreement shall be found to be Ultra Vires of the **Township**, or otherwise unlawful, such term shall conclusively be deemed severable and the remainder of this Agreement mutatis mutandis shall be and remain in full force and effect.

13.8 Owner's acceptance of agreement

The **Owner(s)** shall not call into question, directly or indirectly, in any proceedings whatsoever in law or in equity or before any administrative tribunal the right of the **Township** to enter into this Agreement and to enforce each and every term of this

Agreement. This Agreement may be pleaded as an estoppel against the **Owner(s)** in any such proceedings.

13.9 Enurement

This Agreement shall enure to the benefit of and be binding upon the parties hereto, and their respective successors and assigns.

IN WITNESS WHEREOF the Parties hereto have hereunto set their hands and seals or where applicable have caused to be affixed their corporate seals under the hands of their duly authorized officers in that behalf.

**THE CORPORATION OF THE TOWNSHIP
OF GUELPH/ERAMOSA**

Director of Public Works
I have authority to bind the Corporation

SIGNED, SEALED AND DELIVERED
in the presence of:

(Insert Name of Owner)

Witness to Owner's Signature

(Insert Name of Owner)

Witness to Owner's Signature

or

If a Corporate Entity:

**(NAME OF CORPORATE ENTITY TO BE
INSERTED)**

President

I have authority to bind the Corporation

SCHEDULE 'A'

DESCRIPTION OF LANDS

(To be inserted), Township of Guelph/Eramosa, County of Wellington.

SCHEDULE 'C'

SUMMARY OF SECURITIES

A. Site Works	\$
B. Other Township or Public lands servicing Site	\$
D. Haul Route Highway	\$
D. Guarantee of Payment of Township costs	\$
TOTAL DEPOSIT	\$

SCHEDULE 'F' TO BY-LAW 22/2021

PERMIT CONDITIONS

A **permit** is subject to the following terms and conditions:

1. **Fill** shall meet the standards:
 - (a) set out in the Table 1: Full Depth Background Site Condition Standards from the Soil and Ground Water and Sediment Standards for Use Under Part XV.1 of the Environmental Protection Act, R.S.O. 1990, c. E. 19, as amended referenced in O. Reg. 153/04 as amended, for the established property use as agreed to by the **Director**; or
 - (b) set out in the Table 2 Standards from the Soil and Ground Water and Sediment Standards for Use Under Part XV.1 of the Environmental Protection Act, R.S.O. 1990, c. E. 19, as amended for the established property use only if the ambient **Soil** is pre-assessed to be of this quality and for all parameters contained in Table 2, and as approved by the **Director**;
2. All **fill** dumped or placed shall be clean and free of waste, asphalt, trash, rubbish, glass liquid or toxic chemicals, hazardous waste and **contaminants**.
3. The **small scale site alteration** or **large scale site alteration** shall not cause ponding or alteration of existing drainage, or any natural or human-made watercourse or water body, surface water flow or negatively affect neighbouring **lands**, wells, or the environment.
4. Where required, the **finished grade** shall be protected from erosion by sod, turf, seeding for grass, greenery, asphalt, concrete, or other means either singly or in combination, within two (2) months of completion of the works, or as specified by the **Director**.
5. All **fill** shall be properly compacted using acceptable engineering practices, unless it is being stockpiled on the **site** for future use.
6. All **haul route highways** are to be kept free of debris.
7. Completion of works in accordance with the **permit**, the site alteration agreement, approved plans, surveys and any control measures.
8. During performance of a **large scale site alteration**, perform the following minimum procedures:
 - (a) at least once per day, scrape all **haul route highways** that have been fouled; and
 - (b) at least once each week on Friday night or Saturday morning, clean all **haul route highways** that have been fouled to the satisfaction of the **Director**.
9. Completion of a **small scale site alteration** or a **large scale site alteration** in accordance with the **permit**, the site alteration agreement, the approved plans and the By-law.
10. Where insurance is required to be provided, maintain valid insurance in effect until a final inspection is conducted by the **Director** or **Officer** and the **Director** is satisfied that the works have been completed in accordance with the By-law, the **permit**, the site alteration agreement and the approved plans and the **Director** advises in writing the insurance is no longer required.
11. Maintain the works, facilities, installations, structures and features outlined on the approved plans, in good condition and repair.
12. Ensure that all required environmental control and or monitoring devices identified on the approved plans are properly maintained and protected from damage at all times.

13. Maintain a copy of the **permit**, all approved plans and associated records required under the Fill Management Plan.
14. Maintain all records required under the Fill Management Plan for a minimum of seven (7) years after the completion of the works.
15. No **small scale site alteration** shall be performed:
 - (a) using **highways** to access or egress from the **site** except those **highways** designated as part of the approved **haul route**;
 - (b) before 7:00 a.m. or after 7:00 p.m. during any day of the week, Monday through Sunday using **highways** to access or egress from the **Site**;
 - (c) during any period in which a wind warning for the area has been issued by Environment Canada for the **Township**;
 - (d) during or within 24 hours of the **Township** receiving 15 millimetres or more of precipitation within a 24 hour period;
 - (e) during any period in which a smog advisory for the area has been issued by the Ontario Ministry of Environment and Climate Change or the applicable Ministry;
 - (f) During any weather conditions where the ability to mitigate site alteration activity impacts is severely compromised (e.g. heavy rain, thick fog, etc.);
 - (g) During any situation where site alteration activities would likely adversely impact neighbouring properties (e.g. brush fires, floods, unsuitable road conditions, dust, etc.);
 - (h) in contravention of the **Township's** Noise By-law;
16. No **large scale site alteration** shall be performed:
 - (a) on any Saturday or Sunday, or Statutory Holiday;
 - (b) using **highways** to access or egress from the **site** except those **highways** designated as part of the approved **haul route**;
 - (c) before 7:00 a.m. or after 7:00 p.m. during any weekday, Monday through Friday using **highways** to access or egress from the **Site**;
 - (d) during any period in which a wind warning for the area has been issued by Environment Canada for the **Township**;
 - (e) during or within 24 hours of the **Township** receiving 15 millimetres or more of precipitation within a 24 hour period;
 - (f) during any period in which a smog advisory for the area has been issued by the Ontario Ministry of Environment and Climate Change or the applicable Ministry;
 - (g) During any weather conditions where the ability to mitigate site alteration activity impacts is severely compromised (e.g. heavy rain, thick fog, etc.);
 - (h) During any situation where site alteration activities would likely adversely impact neighbouring properties (e.g. brush fires, floods, unsuitable road conditions, dust, etc.);
 - (i) in contravention of the **Township's** Noise By-law;
 - (j) that exceeds one hundred (100) truckloads of **fill** per day arriving at, or leaving, the **site**, using **highways** to access or egress from the **site**;
17. An **owner** shall contact the **Director**:
 - (a) prior to commencement of work for a **large scale site alteration**;
 - (b) to arrange for an inspection for all trenches in which piping is laid as part of the drainage system prior to backfilling the excavation;
 - (c) if archaeological resources are discovered or identified and immediately cease all activity on the **lot**;
 - (d) of any change in the **Qualified Person** retained by the **owner**;
 - (e) to carry out a final inspection to confirm that all work has been completed in accordance with the By-law, the **permit**, the approved plans and where applicable the site alteration agreement.

SCHEDULE 'G' TO BY-LAW 22/2021

THE TOWNSHIP OF GUELPH/ERAMOSA

**PART 1 PROVINCIAL OFFENCES ACT BY-LAW 22/2021: SITE ALTERATION
BY-LAW**

BEING 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 the Township Of Guelph/Eramosa

Item	Short Form Wording	Provision Creating or Defining Offence	Set Fine
1	Place or dump, cause or permit to be placed or dumped any fill without a permit.	Section 3.1	\$900.00
2	Remove, cause or permit to be removed any fill without a permit.	Section 3.2	\$900.00
3	Permit or perform, a small scale site alteration on any land without the registered owner's consent.	Section 3.3	\$900.00
4	Permit or perform, a large scale site alteration on any land without the registered owner's consent.	Section 3.3	\$900.00
5	Permit or perform a site alteration not in accordance with an approved Site Plan.	Section 3.4	\$900.00
6	Permit or perform a site alteration not in accordance with an approved Pre-servicing Agreement.	Section 3.4	\$900.00
7	Permit or perform a site alteration not in accordance with an approved Subdivision Agreement.	Section 3.4	\$900.00
8	Permit or perform a site alteration not in accordance with an approved Consent Agreement.	Section 3.4	\$900.00
9	Permit or perform a site alteration not in accordance with an approved Condominium Agreement.	Section 3.4	\$900.00
10	Place or dump, cause or permit to be placed or dumped any fill a prohibited area.	Section 3.5	\$900.00
11	Place or dump, cause or permit to be placed or dumped any fill in a significant wildlife area.	Section 3.6(a)	\$900.00
12	Place or dump, cause or permit to be placed or dumped any fill in a plant habitat area.	Section 3.6(a)	\$900.00
13	Place or dump, cause or permit to be placed or dumped any fill in a woodlands area.	Section 3.6(a)	\$900.00
14	Place or dump, cause or permit to be placed or dumped any fill in a environmentally sensitive area.	Section 3.6(a)	\$900.00
15	Place or dump, cause or permit to be placed or dumped any fill in areas of natural interest.	Section 3.6(b)	\$900.00
16	Place or dump, cause or permit to be placed or dumped any fill in areas of scientific interest.	Section 3.6(b)	\$900.00
17	Place or dump, cause or permit to be placed or dumped any fill in a stream.	Section 3.6(c)	\$900.00
18	Place or dump, cause or permit to be placed or dumped any fill in a valleyland.	Section 3.6(c)	\$900.00
19	Place or dump, cause or permit to be placed or dumped any fill in a ponds.	Section 3.6(c)	\$900.00
20	Place or dump, cause or permit to be placed or dumped any fill in a lakes.	Section 3.6(c)	\$900.00

Item	Short Form Wording	Provision Creating or Defining Offence	Set Fine
21	Place or dump, cause or permit to be placed or dumped any fill in a reservoirs.	Section 3.6(c)	\$900.00
22	Place or dump, cause or permit to be placed or dumped any fill that detrimentally affects quality of ground water.	Section 3.6(d)	\$900.00
23	Fail to comply with an Order.	Section 12.1	\$1000.00
24	Hinder or obstruct, or attempt to hinder or obstruct an Officer.	Section 12.4	\$900.00
25	Fail to present identification to an Officer or Director upon request.	Section 12.5	\$900.00

The penalty provision for the offences indicated above is Section 12.2 of the *Provincial Offences Act, R.S.O 1990, C.P.33*