

# THE CORPORATION OF THE CITY OF BURLINGTON

## BY-LAW 64-2014

A by-law to prohibit and regulate the placing, dumping, cutting or removal of fill or the altering of grades or drainage on any lands  
File No. 110-04-01, 815-01 (E-10-14)

WHEREAS Council determines it necessary to enact a By-law for prohibiting or regulating the placing, dumping, cutting or removal of fill or the altering of grades or drainage on any lands within the Corporation of the City of Burlington to limit interference and damage to watercourses, drainage systems and water supplies, to regulate unanticipated drainage and site alterations, to limit the use of improper fill and potential environmental impacts, to limit erosion arising from such changes and to limit impacts on neighbouring and surrounding properties.

WHEREAS Section 142 of the Municipal Act, 2001, S.O., c.25, as amended, provides that the Council of a local municipality may pass By-laws prohibiting or regulating the placing or dumping of fill, removal of topsoil or fill or alteration of the grades of land in any defined area or on any class of land;

AND WHEREAS the Corporation of the City of Burlington subsequently repeal by Council By-law No. 06-2003;

NOW THEREFORE the Council of the Corporation of the City of Burlington hereby enacts the following new By-law:

### **INTRODUCTION**

The By-law provides an explanation of what defines the requirements for a Site Alteration Permit. It also details the steps involved in submitting an application, calculating fees and securities, issuing a Site Alteration Permit, and administering/inspecting the site alteration works. The following is an index of the contents of By-law 64-2014.

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**1. DEFINITIONS, LEGISLATION, REGULATIONS, POLICIES AND REFERENCE DOCUMENTS**

**1.01 Definitions**

In this By-law:

- 1.01.01 "Adjacent Lands" means any lot, block, section or parcel of property owned by a person, other than the applicant, that shares a property boundary with the applicant;
- 1.01.02 "Agreement" means a legal agreement between the property owner and the City;
- 1.01.03 "Agricultural Lands" means all lands that are intended for use of farming as registered under Farm Registration and Farm Organizations Funding Act, 1993, S.O. 1993, c.21 as amended, for growing crops, including nursery and horticultural crops; raising livestock; raising of other animals for the use of food, fur or fibre, including poultry and fish, aquaculture, apiaries, agro-forestry and maple syrup production;
- 1.01.04 "Areas of Natural and Scientific Interest (ANSI)" means areas of land and water containing natural landscapes or features that have been identified as having life science or earth science values related to protection, scientific study or education;
- 1.01.05 "Body of Water" includes any bodies of flowing or standing water, whether naturally or artificially created;
- 1.01.06 "Calculated Site Alteration Volume" means the sum of both the fill operation and the cut operation being undertaken on the site alteration property;
- 1.01.07 "City" means the Corporation of the City of Burlington;
- 1.01.08 "Clearing and Grubbing" means the removal of all surface objects, brush, roots and other protruding obstructions, trees and stumps which result in the removal of topsoil or the alteration of grade of the land;
- 1.01.09 "Commercial Fill Operation" means the placing or dumping of fill involving remuneration paid, or any other form of consideration provided, to the owner or occupier of the land, whether or not the remuneration or consideration provided to the owner is the sole reason for the placing or dumping of the fill;

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- 1.01.10 “Commercial Lands” means all lands that are intended for use of businesses in retail, restaurants, parking facilities, office uses, hospitality, automotive, entertainment and recreation.
- 1.01.11 “Complete Application” means an application including the contents in accordance with Section 4 of this By-law, to the satisfaction of the Director;
- 1.01.12 “Construction Site Control Measures” means erosion and siltation controls for construction, imposed by the Director under this By-law;
- 1.01.13 “Contaminants of Concern” means:
- (a) one or more contaminants found on, in or under a property at a concentration that Soil, Ground Water and Sediment Standards for use under Part XV.1 of the Environmental Protection Act (EPA), as applicable in accordance with Ontario Regulation 153/04 made under the EPA, or Site Specific Standards derived by a Risk Assessment, or
  - (b) one or more contaminants found on, in or under a property for which no applicable site condition standard is prescribed under Site Condition Standards and Risk Assessment of the EPA and which are associated with potentially contaminating activity;
- 1.01.14 “Control Plan” is a drawing or drawings and written summary, in accordance with Section 4, that describes what and how the site alteration is to be constructed, to achieve the acceptable end result.
- 1.01.15 “Council” means the Council of The Corporation of the City of Burlington;
- 1.01.16 “Crops” means a cultivated plant, fungus or algae that is grown and harvested for food, clothing, livestock fodder, biofuel, medicine, or other uses;
- 1.01.17 “Cut” and “Cutting” means to remove by digging, scraping or scooping.
- 1.01.18 “Date of Consideration of the application” means the date determined by the Director that is confirmed in writing to be the date upon which the Director determined that a permit is required for site alterations to be undertaken and that a permit could be issued pursuant to this By-law;
- 1.01.19 “Development” means the construction of buildings and above or underground services such as roads, parking lots, paved storage areas, watermains, storm and sanitary sewers, utilities, general grading works and similar facilities on any lands in the City;
- 1.01.20 “Director” and “Director of Engineering” means the Executive Director of Capital Works for The Corporation of the City of Burlington and shall include any person authorized

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by the Executive Director to carry out any of the powers or duties of the Executive Director pursuant to this By-Law;

- 1.01.21 “Ditch” means a narrow channel dug in the ground, typically used for drainage alongside a road or the edge of a field;
- 1.01.22 “Drainage” means the movement of water to a place of disposal, whether by way of the natural characteristics of the ground surface or by artificial means;
- 1.01.23 “Drainage Work” means the implementation of a system intended for the control of water flow;
- 1.01.24 “Drainage System” includes areas of land surface that contribute water flow to a particular point.
- 1.01.25 “Dump”, “Dumped” and “Dumping” means the movement and depositing of fill in a location other than where the fill originated;
- 1.01.26 “Electronic Tracking Technology” means an electronic device similar to a geographic positioning system (GPS) that is attached to a vehicle, allowing their whereabouts to be monitored and downloaded;
- 1.10.27 “Environmentally Sensitive Area (ESA)” refers to Environmentally Sensitive Areas identified in the Halton Region Environmentally Sensitive Areas Consolidation Report dated April 2005, as amended.
- 1.01.28 “Erosion” means the detachment and movement of soil, sediment or rock fragments by water, wind, ice or gravity;
- 1.01.29 “Excavation” means to remove by digging, scraping or scooping out;
- 1.01.30 “Federal work or undertaking” means any work or undertaking that is within the legislative authority of Parliament;
- 1.01.31 “Fill” means any type of material capable of being removed from or deposited on lands, including topsoil;
- 1.01.32 “Flooding” means a large amount of water covering an area of land that is usually dry;
- 1.01.33 “Grade” means the elevation of the ground surface and shall be more particularly defined as follows:
  - 1.01.33.01 “Existing Grade” means the elevation of the existing ground surface of the lands 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 m wide surrounding such lands, except that where such activity has

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occurred in contravention of this By-law, existing grade shall mean the ground surface of such lands as existed prior to the said activity requiring a permit under this By-law;

1.01.33.02 “Proposed Grade” means the proposed finished elevation of ground surface after fill is dumped or placed, the grade altered or topsoil removed; and

1.01.33.03 “Finished Grade” means the approved elevation of ground surface of lands upon which fill has been placed, dumped, cut or removed or the grade altered in accordance with this By-law.

- 1.01.34 “Industrial Lands” means all lands that are intended for use of assembling, fabricating, manufacturing, processing, warehousing and distribution uses, repair activities, communications, utilities, transportation, storage, service trades and construction uses.
- 1.01.35 “Inspector” means any person designated by this or any other By-law of the City as an inspector for the purposes of this By-law, and such inspectors are so designated pursuant to Schedule “C” of this By-law;
- 1.01.36 “Institutional Lands” means all lands that are intended for use of a service agency, service club, church, school, hospital or non-profit organization for social, cultural, religious, welfare, athletic or recreational purposes and that may include such facilities as youth clubs and seniors centres.
- 1.01.37 “Local Board” means an administrative body acting on a municipal level. Each board is generally concerned with the recognition of the health, needs of the people and the coordination of projects and resources to meet and identify these needs. (Burlington local boards include but are not limited to: Burlington Public Library, Museums of Burlington, Burlington Art Centre, Burlington Performing Arts Centre, Tourism Burlington, Burlington Economic Development Committee, Heritage Burlington Advisory Committee, Burlington Mundialization Committee, Sound of Music, Inclusivity Advisory Committee, Burlington Seniors’ Advisory Committee, Burlington Sustainable Development Committee, Burlington Accessibility Advisory Committee, Burlington Cycling Advisory Committee, Burlington’s Best Committee and the Downtown Parking Advisory Committee)
- 1.01.38 “Lot” means a parcel of land, described in a deed or other document legally capable of being conveyed, or shown as a block on a registered plan of subdivision;
- 1.01.39 “Municipality” means a city, town or village incorporated for local self-government;
- 1.01.40 “Normal Farming Practices”, as defined in the Farming and Food Production Protection Act, 1998, means a practice that:

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(a) 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

(b) makes use of innovative technology in a manner consistent with proper advanced farm management practices;

- 1.01.41 “Owner” includes any person, partnership, organization or corporation who or which is the registered owner of, or controls, maintains or occupies lands;
- 1.01.42 “Permit” means a Site Alteration Permit issued pursuant to this By-law;
- 1.01.43 “Person” means an individual, property owner, multiple persons, partnership or corporation;
- 1.01.44 “Place”, “Placed” and “Placing” means the distribution of fill on lands to establish a finished grade higher than the originally existing grade;
- 1.01.45 “Ponding” means the accumulation of surface water in an area not having drainage there from which the lack of drainage could have been caused by the placing or dumping of fill, altering of grade or removing of fill;
- 1.01.46 “Qualified Person” means a licensed professional as stated in the EPA Section 168.1 and further described at length in Part II of O. Reg. 153/04;
- 1.01.47 “Qualified Tree Consultant” means an arborist certified by the International Society of Arboriculture who has a diploma (minimum) in arboriculture or urban forestry;
- 1.01.48 “Receiving Site” means the property where excess soil is transported to;
- 1.01.49 “Removal” means the moving of fill off of an existing property;
- 1.01.50 “Retaining Wall” means a wall designed to contact and support fill which has a finished grade higher than that of adjacent lands;
- 1.01.51 “Rural Lands” are those which are outside the urban growth boundary and are:
- (a) non-urban agricultural, forest or open space lands; or
  - (b) other lands suitable for sparse settlement, small farms or home sites with minimal public services and which are not suitable, necessary or intended for urban use.
- 1.01.52 “Security” means a certified cheque, cash or an irrevocable Letter of Credit in a form acceptable to the Director;
- 1.01.53 “Site” means the lands which are the subject of an application for a Site Alteration Permit pursuant to this By-law;

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- 1.01.54 “Site Control Measures” means erosion and siltation control measures imposed by the Director pursuant to this By-law;
- 1.01.55 “Site Alteration” means placing, dumping, cutting or removal of fill from land or the alteration of the grade of land by any means including placing, dumping, cutting or removal of fill, clearing and grubbing, the compaction of soil or the creation of impervious surfaces, or any combination of these activities;
- 1.01.56 “Soil” means material commonly known as earth, topsoil, loam, subsoil, clay, sand or gravel;
- 1.01.57 “Source Site” means the property where soil is excavated from;
- 1.01.58 “Storm Sewer” means a sewer for the collection and transmission of uncontaminated water, storm water, drainage from land or from a watercourse or any combination thereof under City roads and on City property;
- 1.01.59 “Swale” means a shallow depression in the ground sloping to a place of disposal of surface water for the purpose of providing a method of drainage;
- 1.01.60 “Temporary Storage” means storage of fill material for a period of 6 months or less;
- 1.01.61 “Topsoil” means the upper, outermost layer of soil, usually the top 5 - 20 cm, containing organic material and includes deposits of partially decomposed organic matter such as peat;
- 1.01.62 “Tree Removal” means digging up, cutting down, bulldozing, pulling down or any other method required to remove a tree;
- 1.01.63 “Vegetation” means trees, shrubs or other plant life found within a defined geographic location;
- 1.01.64 “Watercourse” means an identifiable depression, channel, or ditch either natural or artificial, in which the flow of water occurs either continuously or intermittently;
- 1.01.65 “Wetlands” means lands that are seasonally or permanently covered by shallow water, as well as lands where the water table is close to or at the surface. In either case, the presence of abundant water has caused the formation of hydric soils and has favoured the dominance of either hydrophytic plants or water tolerant plants. The four major types of wetlands are swamps, marshes, bogs and fens. Periodically soaked or wet lands being used for agricultural purposes, which no longer exhibit wetland characteristics, are not considered to be wetlands for the purposes of this definition;
- 1.01.66 “Wildlife” means all wild mammals, birds, reptiles, amphibians, fish, invertebrates, plants fungi, algae, bacteria and other wild organisms.

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**1.02 Legislation, Regulations, Policies and Reference Documents**

The following list of Acts, regulations, policies and reference documents are referred to in this By-law:

- 1.02.01 “Aeronautics Act” means the federal “Aeronautics Act” R.S.C., 1985, c.A-2, as amended;
- 1.02.02 “Aggregate Resources Act” means the Aggregate Resources Act, R.S.O. 1990, c.A.8, as amended;
- 1.02.03 “Conservation Authority” means a corporate body established pursuant to the provisions of the Conservation Authorities Act, R.S.O. 1990, c.27, as amended;
- 1.02.04 “Crown Agency Act” means the Crown Agency Act, R.S.O. 1990, c.C.48 as amended;
- 1.02.05 “Drainage Act” means the Drainage Act, R.S.O. 1990, c.D.17, as amended;
- 1.02.06 “Endangered Species Act” means the Endangered Species Act R.S.O. 2007, c.6, as amended;
- 1.02.07 “Electricity Act” means the Electricity Act, S.O. 1998, c.15, as amended;
- 1.02.08 “Environmental Protection Act” or “EPA” means the Environmental Protection Act, R.S.O. 1990, c.E.19, as amended;
- 1.02.09 “Farming and Food Production Protection Act” means the Farming and Food Production Protection Act, S.O. 1998, Last amendment: 2006, c. 35, Schedule C, s. 41;
- 1.02.10 “Fisheries Act” means the federal Fisheries Act, R.S.C. 1985, c.F-14, as amended;
- 1.02.11 “Greenbelt Plan” means the plan established for all or part of the Greenbelt Area, 2005, c.1, s. 3 (1), as amended;
- 1.02.12 “Hamilton Harbour Remedial Action Plan” refers to the Hamilton Harbour Remedial Action Plan dated October 1992, as amended;
- 1.02.13 “Migratory Birds Convention Act” means the Migratory Birds Convention Act, 1994 (S.C. 1994, c.22), as amended;
- 1.02.14 “Management of Excess Soil – A Guide for Best Management Practices” means the Management of Excess Soil – A Guide for Best Management Practices, MOE document dated January 2014;
- 1.02.15 “Mining Act” means the Mining Act, R.S.O. 1990, c.M14, as amended;



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- 1.02.16 “Municipal Act” means the Municipal Act, S.O. 2001, c.25, as amended;
- 1.02.17 “Municipal Affairs Act” means the Municipal Affairs Act, R.S.O. 1990, c.M46, as amended;
- 1.02.18 “Niagara Escarpment Plan” means the plan established for all or part of the Niagara Escarpment Planning and Development Act, R.S.O. 1991, c.1, as amended;
- 1.02.19 “Nuisance and Noise Control” By-law 19-2003 of the City of Burlington;
- 1.02.20 “Ontario Energy Board Act” means the Ontario Energy Board Act, S.O. 1998, c.15, Schedule B, as amended;
- 1.02.21 “Planning Act” means the Ontario Planning Act, R.S.O. 1990, c. P.13, as amended;
- 1.02.22 “Provincial Policy Statement” means the Ontario Provincial Policy Statement approved by the Lieutenant Governor in Council, Order in Council No. 107/2014. This Provincial Policy Statement was issued under section 3 of the Planning Act and came into effect April 30, 2014. It replaces the Provincial Policy Statement issued March 1, 2005;
- 1.02.23 “Public Transportation and Highway Improvement Act” means the Transportation and Highway Improvement Act, R.S.O. 1990, c.P.50, as amended;
- 1.02.24 “Public Transportation Act” means the Public Transportation Act, 1990, c.P.50, as amended;
- 1.02.25 “Soil, Ground Water and Sediment Standards” means the Soil, Ground Water and Sediment Standards for Use under Part XV.1 of the Environmental Protection Act;
- 1.02.26 “Tile Drainage Act” means the Tile Drainage Act, R.S.O. 1991, c.T.8, as amended.

**2. GENERAL PROHIBITIONS AND REGULATIONS**

- 2.01 This By-law applies to the entire City other than those areas which are subject to regulations made under Section 28.(1) of the Conservation Authorities Act.
- 2.02 No person shall place, dump, cut or remove any fill, or cause or permit the placing, dumping, cutting or removal of fill on, nor alter or cause or permit the alteration of the grade of any lands in the City, including any lands which are submerged under any watercourse or other body of water, or along the Lake Ontario or Burlington Bay shoreline, without having first obtained a Site Alteration Permit issued by the Director, unless this By-law states it does not apply or that such a Permit is not required.
- 2.03 Where a person has placed, dumped, cut or removed fill or altered the grades or drainage on any lands in the City without having first obtained a Permit where a Permit is required, all

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operations shall cease, immediately stabilize the site and that person shall apply for a Site Alteration Permit pursuant to this By-law and shall be subject to fines and permit fees as per Sections 11 and 12, unless this By-law states it does not apply or that such a Permit is not required.

- 2.04 Notwithstanding any other provision of this By-law, the Director shall not issue a Permit under this By-law with respect to lands in the City of Burlington defined and designated as an Environmentally Sensitive Area by the City's Official Plan without the approval of Council.
- 2.05 Notwithstanding any other provision of this By-law, the Director shall not issue a Permit under this By-law with respect to lands in the City of Burlington defined and designated as areas under the jurisdiction of Conservation Halton pursuant to Ontario Regulation 162/06, without the approval of Conservation Halton.
- 2.06 No person shall fail to comply with an Order issued pursuant to Section 10 of this By-law.
- 2.07 No person shall cause, permit or perform a site alteration on any lands zoned in the City of Burlington Zoning By-law as Environmental Protection (EP) Zone or Environmental Protection Exception Zone unless such site alteration is directly associated with a building permit issued by the Corporation or any other development agreement with the Corporation, or unless such site alteration is directly associated with activities described in Section 3.04 of this By-law.
- 2.08 No person shall cause, permit or perform a site alteration on lands that are subject to an approved Site Plan, Draft Plan of Subdivision, Secondary Plan or a Consent under Sections 41, 51 or 53 respectively of the Planning Act, as amended, without an approved Draft Plan of Subdivision, Secondary Plan, Pre-servicing Agreement, Site Plan Agreement or Consent Agreement entered into under those sections. If none of the above agreements have been executed, a Site Alteration Permit is required.
- 2.09 No person, in the performance of a site alteration, shall injure or destroy a municipal tree or other tree which is subject to tree protection measures as a condition of a Permit issued under this By-law, except to the extent that such injury or destruction is specifically authorized in writing in accordance with the following that may be amended or replaced:
  - 2.09.01 the provisions of this By-law;
  - 2.09.02 the Urban Forest Management Plan (UFMP), approved by Council in July 2010;
  - 2.09.03 the Public Tree By-Law 68-2013;
  - 2.09.04 the Woodlot, Tree Preservation, Protection, Replacement and Enhancement Policy adopted pursuant to By-law No. 45-2007; and
  - 2.09.05 any other applicable By-laws of the City or Halton Region for the protection of trees.

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- 2.10 No person shall place or dump fill or cause or permit fill to be placed or dumped unless such fill complies with the applicable Soil, Ground Water and Sediment Standards for use under Part XV.1 of the EPA and the “Management of Excess Soil – A Guide for Best Management Practices, January 2014”, as required by the Director.
- 2.11 No person shall undertake site alteration or cause site alteration to occur on any land for temporary storage purposes where the quantity of fill is in excess of 500 m<sup>3</sup>, without first having obtained a Permit.
- 2.12 No person shall perform a site alteration on any land unless it is done at the request of or with the prior written consent of the owner of the land where the site alteration is to occur.
- 2.13 No person shall remove topsoil for sale or exchange without first having obtained a Permit.
- 2.14 Site alterations shall:
- 2.14.01 not be performed between the hours of 7:00 pm and 7:00 am without the prior written consent of the Director;
  - 2.14.02 not be performed during any period in which a wind warning for the area has been issued by Environment Canada, as confirmed in writing and provided to the permit holder by the Director;
  - 2.14.03 not be performed during any period in which a smog advisory for the area has been issued by the Ministry of the Environment, as confirmed in writing and provided to the permit holder by the Director;
  - 2.14.04 not be performed during or within 24 hours of receiving 15 mm or more of precipitation within a 24 hour period, as confirmed in writing and provided to the permit holder by the Director;
  - 2.14.05 comply with the Nuisance and Noise Control By-law 19-2003 of the City of Burlington, as amended;
- 2.15 Environmental soil testing reports shall be provided, to the satisfaction of the Director, for all site alterations, unless stated otherwise in writing by the Director. Soil tests shall indicate whether the soil complies with the applicable standards in the Soil, Ground Water and Sediment Standards.

**3. EXEMPTIONS**

***Municipalities and Local Boards***

- 3.01 The provisions of this By-law do not apply to:

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- 3.01.01 the City, when undertaking works on City owned lands or easements in favour of the City or when undertaking works on any other lands in which the City may have an interest.
  - 3.01.02 activities or matters undertaken by the City or a Local Board of the City on lands owned by the City or Local Board.
  - 3.01.03 emergency measures taken by the City, Halton Region or any other Federal, Provincial or Regional agency, to prevent flooding, erosion, slipping of soil or damage to trees.
  - 3.01.04 the placing of fill carried out on private property by the City or a Local Board as defined in the Municipal Affairs Act or any successor legislation thereto, in compliance with Subsection 3.02.
- 3.02 The owner of private property referred to in 3.01.04 shall submit, to the Director, an original signed copy of Schedule "F" - Full and Final Release. Additionally, if requested by the Director, a proposed grading plan shall be submitted to the Director for review and approval.

***Federal and Provincial Regulations***

- 3.03 The provisions of this By-law do not apply to the site where the site alteration takes place:
- 3.03.01 if an application is made under Section 28 of the Conservation Authorities Act, respecting the placing, dumping, cutting or removal of fill or the alteration of the grade of land in any area of the City. This By-law is of no effect in respect of that area provided relevant Conservation Halton approvals have been obtained and submitted to the Director.
  - 3.03.02 if an application is made under the Niagara Escarpment Plan, respecting the placing, dumping, cutting or removal of fill or the alteration of the grade of land in any area of the City. This By-law is of no effect provided relevant Niagara Escarpment Commission (NEC) approvals have been obtained and submitted to the Director.
  - 3.03.03 if the construction, extension, alteration, maintenance or operation of works is performed under Section 26 of the Public Transportation and Highway Improvement Act, as amended.
  - 3.03.04 if the placing, dumping, cutting or removal of fill or alteration of the grade of land is undertaken by a transmitter or distributor, as those terms are defined in Section 2 of the Electricity Act, for the purpose of constructing and maintaining a transmission system or a distribution system as those terms are defined in that section.
  - 3.03.05 if the placing, dumping, cutting or removal of fill or alteration of the grade of land is undertaken on land in order to lawfully establish, operate or enlarge any pit or quarry on land provided:

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- 3.03.05.01 the property has been licenced as a pit or quarry under the Aggregate Resources Act or a predecessor of that Act; and
- 3.03.05.02 that the pit or quarry is a permitted land use under a By-law passed under Section 34 of the Planning Act.
- 3.03.06 if any rehabilitation or filling activity in a pit or quarry licenced is performed under the Aggregate Resources Act and specifically addressed on an approved pit or quarry site plan when there is insufficient overburden retained to rehabilitate such pit or quarry in accordance with that Act.
- 3.03.07 if the placing, dumping, cutting or removal of fill or the alteration of grade is carried out as an authorized part of construction or operations as identified by:
  - 3.03.07.01 the Mining Act, R.S.O. 1990, c.M14 as amended, or any successor legislation thereto;
  - 3.03.07.02 the Ontario Energy Board Act, S.O. 1998, c.15, Schedule B as amended or any successor legislation thereto;
  - 3.03.07.03 a Crown agency as defined in the Crown Agency Act, R.S.O. 1990, c.C.48 as amended or any successor legislation thereto;
  - 3.03.07.04 Section 26 of the Public Transportation Act, 1990, c.P.50, as amended;
  - 3.03.07.05 a *federal work or undertaking* where the Director determines that the core of the power under which it is established would be seriously and significantly impaired by applying the By-law to the undertaking.
- 3.03.08 if the placing, dumping, cutting or removal of fill or alteration of grade is permitted as part of the use, operation or construction of a waste management system or waste disposal site authorized or approved under Part V of the Environmental Protection Act, R.S.O. 1990, c.E.19 or its regulations, as amended.

***Other Development Applications Submitted to the City***

- 3.04 The provisions of this By-law do not apply to:
  - 3.04.01 the placing, dumping, cutting or removal of fill, or alteration of the grade of land imposed after December 31, 2002 as a condition of an approved Site Plan, Draft Plan of Subdivision or a Consent under Sections 41, 51 or 53 respectively, of the Planning Act or as requirement of a Site Plan Agreement or Subdivision Agreement entered into under those sections.

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- 3.04.02 the placing, dumping, cutting or removal of fill, or alteration of the grade of land imposed after December 31, 2002 as a condition of 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.
- 3.04.03 the placing, dumping, cutting or removal of fill, or alteration of the grade of land for the purpose of flood or erosion control to establish finished grades shown on a grading and drainage plan approved by Conservation Halton or by the City in conjunction with an approved Subdivision Agreement or Site Plan.
- 3.04.04 the placing or dumping of fill in an excavation, following the demolition or removal of a building or structure, for which a building permit has been issued provided the filling is limited to 3 m outside the previously existing building perimeter and the finished grade is the same as the previously existing grade at that building perimeter.

***Utilities and Other Services***

3.05 The provisions of this By-law do not apply to:

- 3.05.01 the placing, dumping, cutting or removal of fill or alteration of grade as an incidental part of any construction of any form of underground services where the fill is removed and held for subsequent backfill replacement.

***Agricultural Rural Area***

3.06 The provisions of this By-law do not apply to:

- 3.06.01 the placing, dumping, cutting or removal of fill or alteration of the grade of land as an incidental part of any drain construction under the Drainage Act or the Tile Drainage Act.
- 3.06.02 the placing, dumping, cutting or removal of fill as an incidental part of normal farming practices including:
  - 3.06.02.01 the placing, dumping, cutting or removal of fill as an incidental part of sod-farming, tree farming, greenhouse operations and nurseries for horticultural products and
  - 3.06.02.02 the placing or dumping of imported fill material (to a maximum one-time event of 500 m<sup>3</sup>) for the purpose of improving site drainage and/or improving soil quality, provided no adverse effects result.
  - 3.06.02.03 the temporary stockpiling of fill material for use in normal farming practices.

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- 3.06.03 the dredging of existing ponds on properties within the Agricultural Rural Area, provided the surface area of the pond is not increased and the pond depth is not increased beyond its original depth. Where possible, the spoil material should be worked into adjacent fields without changing drainage patterns, avoiding piles or berms of dredged material being created adjacent to the pond.
- 3.06.04 the top-dressing of existing granular driveways, roads, farm field access roads or parking areas with imported granular material (including native granular, recycled aggregate, recycled asphalt or recycled concrete), provided the previously existing grades are being reinstated.
- 3.07 A Site Alteration Permit is not required on any land designated Agricultural Rural Area within the City, as designated in the City's Official Plan, where the fill placed, dumped, cut or removed on any one lot is in accordance with 3.06.02, provided the following requirements are met:
- 3.07.01 if required by the Director, provide environmental soil test results of the fill material, soil permeability test results for the receiving site existing soil and fill material, and receive approval from the Director that these results are acceptable prior to performing site alterations;
- 3.07.02 the placement, dumping, cutting or removal of fill is not within 5 m of the property lines and does not obstruct the flow of water in a watercourse, ditch or swale or sheet flow across property lines;
- 3.07.03 the placement, dumping, cutting or removal of fill does not cause water normally contained on the lot to drain off site; and
- 3.07.04 all fill placed or dumped includes only soil, stone, sod or other material acceptable to the Director and that such material is clean and free of any glass, plastics, rubber, metals, termites, liquid other than water, concrete, asphalt, garbage or contaminants exceeding applicable Site Condition Standards.

***Residential Area***

- 3.08 The provisions of this By-law do not apply to:
- 3.08.01 the placing, dumping, cutting or removal of soil on lands for the purpose of lawn dressing, landscaping or adding to flower beds or vegetable gardens, provided that the ground elevation of the lands is not increased by more than 0.15 m and there is no significant change in the direction or rate of drainage to or from neighbouring properties. Such alteration shall not take place within 0.5 m of any property line. Such placing of soil shall not in any consecutive 3 month period exceed 10 m<sup>3</sup>.
- 3.08.02 the construction of walkways along sideyards, adjacent to the dwelling or garage, with no altering of grades, drainage patterns or drainage within 0.5 m of property line.

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- 3.08.03 the top-dressing of existing granular driveways, roads or parking areas with imported granular material (including native granular, recycled aggregate, recycled asphalt or recycled concrete), provided the previously existing grades are being reinstated.
- 3.09 A Site Alteration Permit is not required on any land designated for residential use within the urban area of the City, as designated in the City's Urban Official Plan, where the quantity of fill or topsoil placed, dumped, cut or removed on any one lot does not in any consecutive 3 month period exceed 10 m<sup>3</sup>, provided the following requirements are met:
- 3.09.01 the placement, dumping, cutting or removal of fill does not obstruct the flow of water in a watercourse, ditch or swale or sheet flow across property lines;
- 3.09.02 the placement, dumping, cutting or removal of fill does not cause water normally contained on the lot to drain off site; and
- 3.09.03 all fill placed or dumped includes only soil, stone, sod or other material acceptable to the Director and that such material is clean and free of any glass, plastics, rubber, metals, termites, liquid other than water, concrete, asphalt, garbage or contaminants exceeding applicable Site Condition Standards .

***Industrial, Commercial & Institutional Lands***

- 3.10 The provisions of this By-law do not apply to:
- 3.10.01 the placing, dumping, cutting or removal of soil on lands for the purpose of lawn dressing, landscaping or adding to flower beds or vegetable gardens, provided that the ground elevation of the lands is not increased by more than 0.15 m and there is no significant change in the direction or rate of drainage to or from neighbouring properties. Such alteration shall not take place within 0.5 m of any property line. Such placing of soil shall not in any consecutive 3 month period exceed 10 m<sup>3</sup>.
- 3.10.02 the placing, dumping, cutting or removal of fill or alteration of grade that is part of the stockpiling and use of fill, loam or topsoil for commercial landscaping purposes where such use is in conformance with the applicable zoning and land use By-laws of the City as well as Conservation Halton and NEC policies
- 3.10.03 the stockpiling of recycled aggregate, asphalt or concrete as part of a contractor stockpile, provided the location is in compliance with the applicable zoning and land use By-laws, Conservation Halton regulations and NEC policies;
- 3.10.04 the top-dressing of existing granular driveways, roads or parking areas with imported granular material (including native granular, recycled aggregate, recycled asphalt or recycled concrete), provided the previously existing grades are being reinstated.
- 3.11 A Site Alteration Permit is not required on any Industrial lands, Commercial lands or Institutional lands as defined in this By-law, where the quantity of fill placed, dumped, cut or



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removed on any one lot does not in any consecutive 3 month period exceed 10 m<sup>3</sup>, provided the following requirements are met:

- 3.11.01 the placement, dumping, cutting or removal of fill does not obstruct the flow of water in a watercourse, ditch or swale or sheet flow across property lines;
- 3.11.02 the placement, dumping, cutting or removal of fill does not cause water normally contained on the lot to drain off site; and
- 3.11.03 all fill placed or dumped includes only soil, stone, sod or other material acceptable to the Director and that such material is clean and free of any glass, plastics, rubber, metals, termites, liquid other than water, concrete, asphalt, garbage or contaminants exceeding applicable Site Condition Standards.

**4. SITE ALTERATION APPLICATION PROCESS**

***Pre-consultation***

- 4.01 An applicant or owner applying for a Permit shall have a pre-consultation meeting with the Director and any other persons or agencies that the Director determines necessary to review the proposal to determine if a Permit is required and if a Permit can be issued pursuant to this By-law.
- 4.02 If the site alteration includes a calculated site alteration volume of less than 5000 m<sup>3</sup>, the applicant shall prepare a "Notice of the Application", in the form and content required by the Director, and the applicant shall post the notice on such suitable frontages to the property as determined by the Director, at the applicant's expense, and in a manner so that the notice is visible to passers-by for a period of not less than 14 days starting on the date on which the Director indicates is the Date of Consideration of the application.
- 4.03 If the site alteration includes a calculated site alteration volume greater than 5000 m<sup>3</sup>, the Director shall confirm the Date of Consideration of the application, arrange for posting the notice on the frontage of subject site and a Notice of the Application to be mailed, at the applicant's expense, to adjacent property owners within 150 m of the subject property where the subject property is either in Urban Areas or Rural Settlement Areas (both of which areas are as identified in the City of Burlington Official Plan) or in the case where the subject property is not found in either of those two areas, the notices shall be mailed out to the adjacent property owners within 600 m of the subject property.

***Site Alteration Application Form***

- 4.04 An owner or applicant applying for a Site Alteration Permit shall submit the following to the Director:

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- 4.04.01 a completed “Application for a Site Alteration Permit” form, included in Schedule “A”, appended to this By-law, which said form may be amended from time to time by the Director and shall include the following information:
- 4.04.01.01 the municipal address of the land on which the fill is to be placed, dumped, cut or removed or other site alteration is to occur and the property size;
  - 4.04.01.02 the name, address and contact information of the owner of the land upon which the fill is to be received and placed or dumped, including written acknowledgement and written acceptance of the fill material being transported to his/her property, using the template appended in Schedule “E”;
  - 4.04.01.03 the name, address and contact information of the agent authorized by the owner of the land upon which the fill is to be placed, dumped, cut or removed or other site alteration is to occur;
  - 4.04.01.04 the name, address and contact information of the consultant engineers authorized by the owner of the land upon which the fill is to be placed, dumped, cut or removed or other site alteration is to occur;
  - 4.04.01.05 the name, address and contact information of the contractor authorized by the owner of the land upon which the fill is to be placed, dumped, cut or removed or other site alteration is to occur;
  - 4.04.01.06 work schedule for the proposed site alteration works within the 1 year permit period;
  - 4.04.01.07 a brief description of the proposed works that have been identified on the Control Plan, as specified in Sections 4.04;
  - 4.04.01.08 a brief description of the fill being placed or dumped;
  - 4.04.01.09 all source location(s) of the fill being placed or dumped including environmental soil tests and soil permeability tests if required by the Director;
  - 4.04.01.10 a copy of the NEC Development Permit, if the subject property is within regulated lands of the NEC and if a Development Permit has been obtained from the NEC;
  - 4.04.01.11 a copy of the Conservation Halton (CH) Permit, if the subject property is within CH regulated lands and if a permit has been obtained from CH;
  - 4.04.01.12 confirmation of any Environmentally Sensitive Areas or wetlands on or near the subject property;

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- 4.04.01.13 confirmation of any endangered or threatened species on the subject property;
- 4.04.01.14 a signed authorization by the owner of the land, on which the work is to be performed, certifying the agent to act on his behalf in the application process and the performance of the site alteration work.

***Control Plan Requirements***

4.04.02 a Control Plan, as required by and to the satisfaction of the Director, is to be submitted as part of the Site Alteration Permit application, pursuant to this By-law. The Control Plan shall include the following:

- 4.04.02.01 a key plan showing the location of the site and a minimum of 30 meters beyond the site;
- 4.04.02.02 the scale of the drawing;
- 4.04.02.03 property lines of the lands where the proposed site alterations are to be undertaken, including dimensions and the number of hectares of the site;
- 4.04.02.04 the location, dimensions, elevations and use of buildings and other structures existing or proposed to be erected on the site;
- 4.04.02.05 the current and proposed use of the site as well as the location, dimensions and use of buildings and other structures adjacent to the site;
- 4.04.02.06 detailed locations, including dimensions, identifying the proposed locations for the placement of fill on the lands;
- 4.04.02.07 a scale drawing of any proposed retaining wall including a description, dimensions and materials to be used in the construction of such retaining wall, that may be required by the Director if:
  - (a) erosion on adjacent lands may occur as a result of the work which is the subject of the Permit; and/or
  - (b) the finished grade of the Site is of a higher elevation at a property line than that of the existing grade at the same property line of adjacent lands.
- 4.04.02.08 for a calculated site alteration volume of less than 5000 m<sup>3</sup>, existing spot elevations on a 3 m grid across the property and 15 m beyond the property lines to clearly show the existing topography of the property and the adjacent lands;

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- 4.04.02.09 for a calculated site alteration volume of greater than 5000 m<sup>3</sup>, a topographic survey producing a 0.5 m contour interval, certified by a licensed professional engineer or Ontario Land Surveyor, defining all material and man-made features, including top and bottom of slopes, drainage patterns, tree lines, buildings, and stockpiles on the lands and 30 m beyond the property lines to clearly show the detailed existing topography of the property and the adjacent lands;
- 4.04.02.10 the location of Environmentally Sensitive Areas, lakes, streams, channels, ditches, swales, water courses and other bodies of water on the site and 15 m beyond the property lines for sites less than 0.2 ha, and 30 m beyond the property lines for sites greater than 0.2 ha;
- 4.04.02.11 the location, dimensions and invert elevations of any existing and proposed storm water drainage systems, sewers, drainage pipes, culverts, inlet chambers, drainage tiles, septic beds and natural drainage patterns on and 15 m beyond the property lines for less than 0.2 ha and 30 m beyond the property lines for sites greater than 0.2 ha;
- 4.04.02.12 the location and dimensions of utilities, roads and highways;
- 4.04.02.13 the location, diameter, species and drip line of all trees with a caliper measuring 75 mm or greater at breast height, all other vegetation and field crops are to be identified in masses showing the outline of the canopy or vegetation limit created by the massing;
- 4.04.02.14 all existing vegetation 3 m beyond the property lines including City trees, individually locating all trees with a caliper measuring 75 mm or greater at breast height. All other vegetation to be identified in masses showing outline of canopy or vegetation limit created by the massing;
- 4.04.02.15 the location and description of the predominant soil types;
- 4.04.02.16 the location and dimensions, of all temporary soil or fill stockpiles;
- 4.04.02.17 the location, dimensions, height and slopes of any proposed berms;
- 4.04.02.18 the proposed final elevations of the site alteration works;
- 4.04.02.19 the location and dimensions of all proposed land disturbances;
- 4.04.02.20 the location of all wetlands, floodplains, shoreline, top of bank features and approximate regulation limits as required by Conservation Halton;

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- 4.04.02.21 the location, dimensions, design, details, design calculations and estimated costs for the supply, installation and maintenance of all construction site control measures necessary to meet the requirements of this By-law;
- 4.04.02.22 a schedule of the anticipated start and completion dates for each land disturbance including the installation of construction site control measures needed to meet the requirements of this By-law;
- 4.04.02.23 details regarding the provisions for regular maintenance of the site control measures during site alteration activities;
- 4.04.02.24 all tree protection measures for the site alterations;
- 4.04.02.25 all proposed ground covering to be used for site restoration, including seed mix if grass, upon completion of the site alterations;
- 4.04.02.26 specific details regarding trucking to and from the site, including the routes to be used and the times these routes will be used as per Section 4.08;
- 4.04.02.27 the location of wetlands within 120 m of the property; and
- 4.04.02.28 all other site design requirements as detailed in “Schedule D” – Additional Site Design Guidelines.
- 4.04.02.29 a stamped, signed certificate as detailed in Schedule “G” – Lot Grading Design & Requirements, as appended to this By-law;
- 4.04.03 securities to ensure the Owner’s obligations according to a Site Alteration Permit shall be in accordance with Section 12 of this By-law;
- 4.04.04 the prescribed fees for a Site Alteration Permit shall be in accordance with Schedule “B”, appended to this Bylaw;
- 4.04.05 following the completion of the site alteration works, it is the responsibility of the Professional Engineer or Ontario Land Surveyor, who prepared the original Control Plan and completed the certificate on the Control Plan, to visit the site and record the required elevations to verify that the grading has been completed in accordance with the Control Plan submitted and that the finished project does not detrimentally affect drainage on adjacent properties. This shall be provided in the form of an “As-Constructed” Control Plan to the Capital Works Department, after which a release of the securities held by the City can be arranged, if to the satisfaction of the Director.
- 4.05 Notwithstanding any other provisions of this By-law, the Director may at his or her sole discretion, waive certain requirements of the Control Plan, after taking into consideration the proposed works, the anticipated impacts to the site, adjacent properties and the surrounding environment.

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***Supporting Documentation Requirements***

- 4.06 A person applying for a Site Alteration Permit shall submit the following, if required by the Director:
- 4.06.01 any other study, report, plan, drawing or material related to the application, as deemed necessary by the Director, to constitute a Complete Application;
  - 4.06.02 a complete copy of the NEC approved permit for the proposed site alteration works;
  - 4.06.03 a complete copy of the Conservation Halton permit or Letter of Permission for the proposed site alteration works;
  - 4.06.04 Phase I, Phase II and/or other Environmental Site Assessment reports;
  - 4.06.05 detailed plans including but not limited to a Soil Management Plan, Fill Management Plan, Traffic and Transportation Management Plan and an environmental soil testing plan, all prepared and certified by a Qualified Person, in accordance with the “Management of Excess Soil – A Guide for Best Management Practices”;
  - 4.06.06 certification that the fill contains no contaminants within the meaning of the Environmental Protection Act or certification from a Qualified Person that no adverse effects will result from the site alteration;
  - 4.06.07 a letter which forever releases and indemnifies the City with respect to any and all liability which may arise in the event that site alteration fill contains contaminants of concern within the meaning of the Environmental Protection Act.
  - 4.06.08 a signed authorization of a grantee(s) of any easements within the property accepting the placing or dumping of fill or other site alteration on or abutting any easements;
  - 4.06.09 a report by a Qualified Person of any significant archaeological features on the site, in the areas affected by the site alteration.
- 4.07 The plans and certification required in 4.06.05 and 4.06.06 as well as the release and indemnity required in 4.06.07 shall be in a format acceptable to the Director.

***Hauling Information***

- 4.08 Trucking information and hauling routes to and from the site are to be identified as per the Control Plan requirements, the “Management of Excess Soil – A Guide for Best Management Practices” and to the satisfaction of the Director. The following shall be required:
- 4.08.01 a “Load Exemption Permit”, if required by the Director;

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- 4.08.02 the full and complete legal name and business name, if different from the legal name, of each hauler;
- 4.08.03 the commercial vehicle registration number of each hauler;
- 4.08.04 the motor vehicle permit number of the motor vehicles owned and operated by each hauler; and
- 4.08.05 proof of insurance of each hauler.
- 4.08.06 daily record of deliveries in a format acceptable to the Director, including:
  - 4.08.06.01 the date of each delivery of fill;
  - 4.08.06.02 the point of origin of each delivery of fill;
  - 4.08.06.03 the placement location of each delivery of fill;
  - 4.08.06.04 the hauling routes;
  - 4.08.06.05 the volume of each delivery of fill;
  - 4.08.06.06 the content of material of each delivery of fill, including fill placement location; and
  - 4.08.06.07 any other information required by the Director.
- 4.08.07 Where ever possible, electronic tracking technology is recommended for use by the hauler.
- 4.09 As a condition of the Site Alteration Permit, the following may be required by the Director:
  - 4.09.01 to restrict the daily volume of truck loads to ensure traffic safety;
  - 4.09.02 to restrict the hours of operation beyond the restrictions found in this By-law.
- 4.10 Prior to proposing a modification of the haul routes to and from the site, written details of the proposed changes are to be submitted to the Director for review and approval. Modifications of haul routes are not to occur unless approved by the Director.

***Permit Review***

- 4.11 In reviewing any application, the Director may seek comments from and/or approvals of other applications to NEC, CH, Ministry of Natural Resources, Department of Fisheries and Oceans, Halton Region, adjacent municipalities and any other agencies required. Such comments and/or approvals shall form part of the complete application review.

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***Additional Terms and Conditions***

- 4.12 The Director may impose additional terms and conditions or design guidelines upon the issuance of a Permit. In addition to any other terms and conditions or design guidelines that may be imposed by the Director, Permits shall be issued subject to the terms and conditions set out in Sections 5 and 6 of this By-law, unless exempted in writing by the Director.
- 4.13 The Director may require that the site alteration be completed by a specific date as noted.
- 4.14 Where multiple site alteration permits are issued on one property, the total calculated site alteration volume shall be the sum of all permits issued in any consecutive 5 year period.
- 4.15 In Agricultural and Rural zoned lands, where site alterations permits are being applied for:
- 4.15.01 all pond applications or site alteration applications greater than 5000 m<sup>3</sup>, shall be circulated to the Burlington Agricultural Committee (BAC) for comment prior to a decision being made by the Director.
- 4.15.02 a proposed pond with a surface area of a maximum of 1% of the total area to be irrigated shall have a maximum depth of 3 m with side slopes no steeper than 3:1.
- 4.15.03 a proposed pond with a surface area larger than 1% of the total area to be irrigated, or deeper than 3 m, will be reviewed and considered providing a detailed water budget analysis is prepared and submitted by a Qualified Person, acceptable to the Director.
- 4.15.04 proposed ponds should be located a suitable distance from a water well or septic tile bed, acceptable to the Halton Region Health Department.
- 4.16 Where lands are designated for development uses within the Urban Planning Area Boundary and within any Draft Plan approved lands in the North Aldershot Planning Area, as detailed in the City of Burlington Official Plan, application for a Site Alteration Permit can be made in order to proceed with pre-grading of the site prior to the execution of a development agreement with the City. The fees paid for the Site Alteration Permit under these circumstances shall be as detailed in Schedule "B".
- 4.17 Section 4.16 applies when the site alterations are taking place on the subject site of Subdivision, Secondary Plan or Site Plan subject to approval pursuant to the Planning Act.
- 4.18 Upon execution of a Subdivision Agreement, on the same property as an approved Site Alteration Permit, the Site Alteration Permit shall be terminated and the site alteration fees which are consistent with those typically contained in the Subdivision Agreement, shall be credited accordingly to the developer who is executing the Subdivision Agreement, if they are same person/company. Also, upon execution of a Subdivision Agreement, all securities received in accordance with the Site Alteration Permit shall be transferred to the Subdivision Agreement.



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**5. SITE ALTERATION AGREEMENT FOR LARGE SCALE OPERATIONS**

5.01 Where the calculated site alteration volume is greater than 5000 m<sup>3</sup> or where the resulting proposed elevation will be greater than 0.5 m above or below the originally existing grades, the Owner shall, in addition to providing a complete application as detailed in Section 4 of this By-law, enter into a "Site Alteration Agreement" with the City which shall be registered on title to the land on which the work is to be performed. Such Site Alteration Agreement shall require that the Owner:

5.01.01 retain a Qualified Person to prepare a Work Plan that includes the recommendations of the Ministry of the Environment in the document titled "Management of Excess Soil – A Guide for Best Management Practices". Such Work Plan shall be to the satisfaction of the Director and shall include, but is not limited to including the following:

- (i) Soil Management Plan;
- (ii) Fill Management Plan;
- (iii) Traffic and Transportation Management Plan;
- (iv) Environmental soil testing program for the excess soil,
- (v) Require the testing of the permeability of any fill to be used as part of a site alteration, to ensure the permeability of the imported fill is equal to or greater than that of the existing underlying native soil on which the fill is to be placed.

5.01.02 retain a Qualified Person to ensure that the site alteration operations are proceeding in accordance with engineering and environmental best practices and the established Work Plan;

5.01.02 retain a Qualified Person to report in writing on a regular basis or as determined by the Director that the site alteration is in accordance with Subsection 5.01.01 of this By-law;

5.01.03 undertake the site alteration in accordance with the permit;

5.01.04 require that the site alteration be completed by a specified date as noted in the permit;

5.01.05 not contaminate the natural environment and abide by all applicable environmental laws, policies and regulations;

5.01.06 provide a report from a Qualified Person that he/she is satisfied that the site alteration will not result in:

5.01.06.01 adverse erosion and environmental impacts on and off-site, as confirmed in writing by the Qualified Person;

5.01.06.02 blockage of a swale, ditch or watercourse;

5.01.06.03 siltation in a watercourse, wetland or storm sewer;

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- 5.01.06.04 transportation of silt to adjacent, neighbouring or downstream properties;
- 5.01.06.05 pollution of a watercourse;
- 5.01.06.06 flooding or ponding of adjacent lands;
- 5.01.06.07 flooding or ponding caused by a watercourse overflowing its banks;
- 5.01.06.08 hindering the orderly development of any lands;
- 5.01.06.09 detrimental effect on the quality or quantity of water in wells
- 5.01.06.10 detrimental effect on any trees of a caliper of 75 mm or more located on the lands;
- 5.01.06.11 detrimental effect on matters of inherent sensitivity such as, but not limited to, aquifer recharge, soil permeability, water quality and wildlife habitat;
- 5.01.06.12 unauthorized injury or destruction of municipal trees or other trees protected under By-laws of the City of Burlington or Halton Region;
- 5.01.06.13 injury or destruction of other trees, which in the opinion of the Director, could reasonably be avoided;
- 5.01.06.14 a loss of agricultural lands in the Rural Planning Area as defined in Schedule "C" of the City of Burlington Official Plan;
- 5.01.06.15 detrimental effect on the natural environment, including but not restricted to lands designated as Environmentally Sensitive Areas, Lake Ontario shoreline, Burlington Bay / Hamilton Harbour Shoreline, Niagara Escarpment and Areas of Natural or Scientific Interest and habitat of endangered or threatened species as identified and defined by the Ministry of Natural Resources;
- 5.01.06.16 detrimental effect within 120 metres of a Provincially Significant Wetland identified by the Ministry of Natural Resources and wetlands regulated under Ontario Regulation 162/06;
- 5.01.06.17 detrimental effect to the growth and/or harvest of fruit, vegetables or other crops, landscaping and gardens;
- 5.01.06.18 detrimental effect to natural site lines of adjacent properties;
- 5.01.06.19 detrimental effect on areas of archaeological significance; and
- 5.01.06.20 contamination of, or the degradation of the environmental quality of land.

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- 5.01.07 engage an Ontario Land Surveyor to prepare any plans requested by the Director to identify the extent and location of any fill placed, dumped, cut or removed as part of the site alteration;
  - 5.01.08 acknowledge that the City may engage, where the City does not have appropriate expertise, legal, engineering, hydrology, environmental, arborist, landscape or any other consultant the Director determines is reasonable and necessary in order to evaluate studies and/or agreements or to provide assistance to the Director throughout the site alteration process in which case the costs incurred for such evaluations shall be charged back to the applicant in addition to the application fees detailed in Schedule "B";
  - 5.01.09 provide security to be used to remedy any breach of the By-law or permit, according to Section 12;
  - 5.01.10 indemnify the City for any liability, costs, damages or losses incurred directly or indirectly caused by the issuance of a Permit and to provide insurance, if deemed necessary, to the satisfaction of the Director;
  - 5.01.11 hold a public meeting, at the applicant's expense, prior to the issuance of a Permit, with such conditions regarding notice to the public and other requirements, as may be determined by the Director.
- 5.02 Notwithstanding any other provisions of this By-law, the Director may at his or her sole discretion, waive certain requirements of the Site Alteration Agreement, after taking into consideration the proposed works, the anticipated impacts to the site, adjacent properties and the surrounding environment.

**6. PERMIT ISSUANCE**

- 6.01 A Site Alteration Permit shall be issued where the Director is satisfied that:
  - 6.01.01 the applicant has complied or will comply with all of the requirements of this By-law;
  - 6.01.02 the lands which are the subject of the application are not within a prohibited location according to Section 2 of this By-law;
  - 6.01.03 the proposed placing, dumping, cutting or removal of fill will not result in:
    - 6.01.03.01 adverse erosion and environmental impacts on and off-site, as confirmed in writing by the Qualified Person;
    - 6.01.03.02 blockage of a swale, ditch or watercourse;
    - 6.01.03.03 transportation of silt into a watercourse, wetland, natural heritage feature or system, or storm sewer;

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- 6.01.03.04 transportation of silt to adjacent, neighbouring or downstream properties;
- 6.01.03.05 pollution of a watercourse;
- 6.01.03.06 flooding or ponding on adjacent lands;
- 6.01.03.07 flooding or ponding caused by a watercourse overflowing its banks;
- 6.01.03.08 hindering the orderly development of any lands;
- 6.01.03.09 detrimental effect on the quality or quantity of water in wells
- 6.01.03.10 detrimental effect on any trees of a caliper of 75 mm or more located on the lands;
- 6.01.03.11 detrimental effect on matters of inherent sensitivity such as, but not limited to, aquifer recharge, soil permeability, water quality and wildlife habitat;
- 6.01.03.12 unauthorized injury or destruction of municipal trees or other trees protected under By-laws of the City of Burlington or Halton Region;
- 6.01.03.13 injury or destruction of other trees, which in the opinion of the Director, could reasonably be avoided;
- 6.01.03.14 a loss of agricultural lands in the Rural Planning Area as defined in Schedule "C" of the City of Burlington Official Plan;
- 6.01.03.15 detrimental effect on the natural environment, including but not restricted to lands designated as Environmentally Sensitive Areas, Lake Ontario shoreline, Burlington Bay / Hamilton Harbour Shoreline, Niagara Escarpment and Areas of Natural or Scientific Interest and habitat of endangered or threatened species as identified and defined by the Ministry of Natural Resources;
- 6.01.03.16 detrimental effect within 120 m of a Provincially Significant Wetland identified by the Ministry of Natural Resources and wetlands regulated under the Conservation Authorities Act - Ontario Regulation 162/06;
- 6.01.03.17 detrimental effect to the growth and/or harvest of fruit, vegetables or other crops, landscaping and gardens;
- 6.01.03.18 detrimental effect to natural site lines of adjacent properties;
- 6.01.03.19 detrimental effect on areas of archaeological significance; and

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- 6.01.03.20 contamination of, or the degradation of the environmental quality of land.
- 6.01.04 the work proposed under the Permit shall not involve contravention of Federal, Provincial and Municipal Acts, regulations, policies or By-laws where such Acts, regulations, policies or By-laws require approval. Such approval shall be obtained and proof submitted or will be obtained and submitted prior to the issuance of the Permit;
- 6.01.05 the applicant, if required by the Director, enters into a Site Alteration Agreement as referred to in Section 5 of this By-law and agrees to perform all of the required obligations under the agreement prior to the issuance of the Permit;
- 6.01.06 the location, height and slope of any proposed berm shall be in compliance with this By-law;
- 6.01.07 the proposed grades and resulting drainage pattern, the proposed design of any retaining wall, the type of fill proposed to be used, if any, and the proposed method of the placing, dumping, cutting or removal of fill or altering of the grade shall all be in accordance with good engineering standards and best practices;
- 6.01.08 the work proposed under the permit shall meet the requirements of the Environmental Protection Act, and the “Management of Excess Soil – A Guide for Best Management Practices”, to the satisfaction of the Director;
- 6.01.09 any fill to be used shall include:
- 6.01.09.01 for industrial and commercial sites, only soil, stone, sod or other material acceptable to the Director and that such material is clean and free of any glass, plastics, termites, rubber, metals, liquid, garbage or contaminants exceeding applicable Site Condition Standards;
- 6.01.09.02 for all other sites, only soil that is clean and free of any glass, plastics, rubber, metals, liquid, termites, garbage, concrete, asphalt or contaminants exceeding applicable Site Condition Standards;
- 6.01.10 environmental soil testing of fill, as determined by a Qualified Person, is undertaken prior to its placement upon, or removal from the site, according to the “Management of Excess Soil – A Guide for Best Management Practices”;
- 6.01.11 the testing referred to in 6.01.10 shall be performed by a certified environmental laboratory. The owner/applicant will be responsible for all costs associated with the testing.
- 6.01.12 the site shall be rehabilitated including replanting, to a condition which is substantially similar to or improved from the condition of the site prior to the undertaking of the

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work which is the subject of the permit, immediately upon completion of site alteration;

- 6.01.13 proposed trucking to and from the site shall, where possible, minimize negative impacts on the public and the municipal infrastructure;
- 6.02 The Director may engage legal (retained through the City Solicitor), engineering, hydrology, environmental, arborist, landscape or any other consultant the Director determines necessary in order to evaluate studies and/or agreements or to provide assistance to the Director throughout the Site Alteration process, in which the case the costs incurred for such evaluation shall be charged back to the applicant plus administration charge.
- 6.03 Where a permit has been issued under this By-law authorizing site alteration on lands, no person shall undertake or permit site alteration except in accordance with:
  - 6.03.01 the plans, documents and any other information required for the issuing of the permit;
  - 6.03.02 the terms and conditions of the permit;
  - 6.03.03 the conditions of the Site Alteration Agreement entered into with the City as a condition of obtaining the permit; and
  - 6.03.04 all other provisions of this By-law.
- 6.04 Notwithstanding the issuance of a permit pursuant to this By-law, an applicant and/or owner shall comply with all other applicable legislation.
- 6.05 Where an owner makes a change to a plan, document, specifications or other information following the issuance of a Permit, the Director shall require that all work ceases on the site. An addition payment of up to ½ of the original application fee and submission of revised drawings is required and such submission shall be approved by the Director prior to the continuance of any placing, dumping, cutting or removal of fill or alteration of grade. The amount of securities shall be reviewed and at the discretion of the Director, may be revised;
- 6.06 As a condition of the issuance of a Permit, the Director may require the applicant and/or owner to comply with one or more of the following, either prior to or after Permit issuance:
  - 6.06.01 notify the Director in writing within 48 hours of commencing any work;
  - 6.06.02 require that the site alteration be completed by a specific date as noted in the Permit;
  - 6.06.03 permit entry by the Director, inspectors or agents of the Director to carry out reasonable inspections or to carry out work provided for under this By-law or for an inspection under an Order issued by the Court under Section 435 and 436 of the Municipal Act, 2001 as amended, but does not include the requirement to permit entry to any building;

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- 6.06.04 applicant and/or owner shall request the Director to make inspections at the commencement and completion of the work and shall request such further inspections as may be required by the Director or the conditions of the Permit;
- 6.06.05 construct a retaining wall including a safety fence which does not encroach upon adjacent lands on which the works is to be performed and conforms to this By-law. Retaining walls 1 m or higher are subject to a building permit pursuant to the Building Code Act;
- 6.06.06 the construction of any retaining wall containing fill placement or dumping of fill and any other site alteration is conducted in such a manner that no ponding is caused on adjacent lands and that adequate provision is made to permit proper surface stormwater drainage;
- 6.06.07 ensure that the finished grade surface is protected by sod, turf, seeding for grass, vegetation, asphalt, concrete or other similar means, or combination thereof and where grass seed is used, prior written approval of the seed mix is required from the Director prior to seeding;
- 6.06.08 ensure that fill shall not be placed or dumped around the perimeter of any existing building to an elevation higher than 150 mm below the top of foundation wall of such building, unless such building and its foundation walls are raised in a manner satisfactory to the Director;
- 6.06.09 ensure that fill placed or dumped to construct a berm shall:
- 6.06.09.01 not exceed a maximum height of 1 m;
  - 6.06.09.02 not be located within 20 m of any property line; and
  - 6.06.09.03 have side slopes with grades no greater than 33% (3H to 1V);
- 6.06.10 ensure that no trench in which piping is laid forming part of the drainage system shall be covered and backfilled until the work has been inspected and approved by the Director or inspector;
- 6.06.11 install all tree protection measures required by the approved site alteration plan prior to commencing any work and maintain these tree protection measures throughout the entire duration of the work;
- 6.06.12 install and maintain site control measures as identified in the approved site alteration plan and the latest guidelines for erosion measures of CH;
- 6.06.13 ensure that the work which is the subject of the Permit does not soil or otherwise foul any municipal roads and in the event that this occurs, ensure that the road or roads

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effected are cleaned to the satisfaction of the Director within 24 hours of any request by the Director for such cleaning;

- 6.06.14 ensure if the site is designated agriculture or rural that the site alteration does not result in a reduction of the soil fertility of the site;
- 6.06.15 ensure that all conditions of the Permit issued pursuant to this By-law and any requirements of this By-law are fulfilled to the satisfaction of the Director.
- 6.06.16 provide testing of the permeability of any fill to be used as part of a site alteration, to ensure the permeability of the imported fill is does not adversely affect the existing underlying native soil.
- 6.06.17 the applicant/owner shall maintain a copy of the approved Site Alteration Permit on site.

**7. EXPIRY, RENEWAL, REVOCATION AND TRANSFER OF PERMITS**

***Expiry***

- 7.01 Any permit issued pursuant to this By-law, shall be valid for a period of 1 year from the date of issuance unless noted otherwise.

***Extension or Renewal***

- 7.02 A permit which has expired may be renewed by the Director within a period of six months from the date of expiry upon the submission of a written request to the Director accompanied by a payment of one-half of the original Application Fee, provided that the proposed work which was the subject of the Permit has not been revised. A permit which has been renewed in accordance with this section shall thereafter be treated as a new Permit except that it shall not again be renewed, unless specifically stated in a Site Alteration Agreement.

***Revocation***

- 7.03 The Director may revoke the permit for the following reasons:
  - 7.03.01 it was obtained on mistaken, false or incorrect information;
  - 7.03.02 it was issued in error;
  - 7.03.03 the owner or permit holder request in writing that it be revoked;
  - 7.03.04 the terms of a Site Alteration Agreement under this By-law have not been complied with;
  - 7.03.05 work authorized under the permit has not been commenced prior to its expiry date;



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7.03.06 the owner has failed to comply with the provisions of this By-law; or

7.03.07 the land has been transferred and the new owner has not complied with the requirements under this subsection of the By-law.

7.04 Where a Permit has been revoked under this subsection or for any other reason pursuant to this By-law, the permit holder shall forthwith cease all work under the revoked Permit and restore the site to conditions acceptable to the Director.

***Transfer***

7.05 A Permit shall expire upon the transfer of ownership of the site unless the new owner provides written commitment to comply with all conditions under which the Permit was issued, prior to transfer of the site, including compliance with this By-law and agreement to provide security in a form and amount acceptable to the Director, at which time any security previously provided by the original permit holder pursuant to this By-law shall be released.

7.06 Failing the written commitment from the new owner, the Permit shall be deemed to be cancelled as of the date of transfer.

7.07 A Permit is not transferable to another site.

**8. INSPECTION**

8.01 Section 436 of the Municipal Act, 2001, S.O., c.25, as amended, authorizes the municipality to enter on land, at reasonable time for inspection.

8.02 This By-law shall be administered and enforced by the Director and his/her designates and by those persons designated as inspectors under Schedule "C" of this By-law, and as may be appointed by Council and the Halton Regional Police Service.

8.03 Inspectors may, at any reasonable time enter and inspect any land, including soil testing and the taking of samples, to determine whether the provisions of this By-law, or conditions of a Permit issued under this By-law have been complied with. This power of entry does not allow the inspector to enter any building.

8.04 No person shall obstruct an inspector who is carrying out an inspection pursuant to this By-law.

8.05 Upon completion of the work pursuant to the Permit, the owner and/or permit holder shall so advise the Director.

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**9. APPEALS**

- 9.01 An applicant for a Permit under this By-law may appeal to Council regarding:
- 9.01.01 the completeness of an application submitted for a Permit;
  - 9.01.02 failure by the Director to make a decision on an application for a Permit within 30 days of the City receiving a complete application, which appeal must be made within 30 days after the expiration of the initial 30 day period;
  - 9.01.03 refusal by the Director to issue a Permit, which appeal must be made within 30 days after the Permit refusal;
  - 9.01.04 any conditions included by the Director in a Permit, which appeal must be made within 30 days after the Permit was issued.
- 9.02 An applicant appealing to Council shall pay the applicable fee calculated in accordance with rates set out in Schedule B at the time the appeal is submitted to the City Clerk.
- 9.03 On an appeal under Section 9, Council shall have all of the powers of the Director, pursuant to this By-law.
- 9.04 The decision of Council shall be final and binding on the applicant.

**10. ORDERS AND NOTICES**

- 10.01 If after inspection, an inspector is satisfied that a contravention of this By-law has occurred, the inspector shall notify the owner and the permit holder of the particulars with a “Stop Work Order” and an “Order to Comply”, pursuant to Section 444(1) or 445(1) of the Municipal Act, 2001, and provide all occupants with copies of the “Stop Work Order” and “Order to Comply” and such orders shall contain:
- 10.01.01 the municipal address and legal description of the land;
  - 10.01.02 reasonable particulars of the contravention(s);
  - 10.01.03 the period within which there must be compliance.
- 10.02 The orders issued pursuant to Section 10.01 of this By-law may require any person who has altered the grade of land, caused or permitted the grade to be altered contrary to the provisions of this By-law, placed, dumped, cut or removed fill, caused or permitted fill to be placed, dumped, cut or removed, or caused or permitted any other form of site alteration contrary to the provisions of this By-law to:
- 10.02.01 cease all work in respect of the site alteration;

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- 10.02.02 remove the fill;
- 10.02.03 fill in any excavations or ponds; and/or
- 10.02.04 complete all the work necessary to:
  - 10.02.04.01 eliminate any hazard resulting from the alteration of the grade or the placing, dumping, cutting or removal of fill and to restore the land to a condition of safety and/or its original environmental condition, to the satisfaction of the Director;
  - 10.02.04.02 preserve the land pending any hearing of an appeal in respect of an application;
  - 10.02.04.03 restore the land to its former condition prior to the alteration of the grade of the land or to the placing, dumping, cutting or removal of the fill on the land or other site alteration to the satisfaction of the Director.
- 10.03 The Order and/or Notice referred to in Sections 10.01 and 10.02 of this By-law shall also contain:
  - 10.03.01 the time frame in which the work contained in the Order must be carried out;
  - 10.03.02 a notice stating that if the work is not done in compliance with the order within the period it specifies, the City will issue a “Notice of Violation”;
- 10.04 An Order and/or Notice issued pursuant to Section 10.01, 10.02 or 10.03 of this By-law shall be served personally or by prepaid registered mail or in accordance with Section 10.07 of this By-law.
- 10.05 An Order and/or Notice issued pursuant to Section 10.01, 10.02 or 10.03 of this By-law, sent by prepaid registered mail, shall be sent to the last known address of the owner of the land and permit holder.
- 10.06 An inspector who is unable to effect service pursuant to Section 10.05 of this By-law shall place a placard containing the terms of said Order and/or Notice in a conspicuous place on the property and the placing of the placard shall be deemed to be sufficient service of the Order and/or Notice on the Owner and permit holder.
- 10.07 If the owner or permit holder fails to do the work required by an “Order to Comply” and “Notice of Violation” issued pursuant to Sections 10.01-10.03 of this By-law within the period specified, the City, in addition to all other remedies it may have, may do the work and for this purpose may enter on the land with its employees and agents. The costs incurred by the City in so doing shall be paid by the owner of the land and may be recovered by the City in like manner as taxes or drawing on financial securities provided.

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**11. OFFENCES AND PENALTIES**

11.01 Every person, other than a corporation, who contravenes the provisions of this By-law, the terms or conditions of a Permit issued pursuant to this By-law, or an order issued pursuant to this By-law and Section 444(1) or 445(1) of the Municipal Act, 2001, is guilty of an offence and, upon conviction, is liable:

11.01.01 on a first conviction, to a fine of not more than \$10,000;

11.01.02 on any subsequent conviction to a fine of not more than \$25,000.

11.02 Every corporation that contravenes any provision of this By-law, the terms or conditions of a Permit issued pursuant to this By-law, or an order issued pursuant to this By-law and Section 444(1) or 445(1) of the Municipal Act, 2001, is guilty of an offence and on conviction is liable:

11.02.01 on a first conviction, to a fine of not more than \$50,000;

11.02.02 on any subsequent conviction to a fine of not more than \$100,000.

11.03 In addition to any fine or any other penalty, any person who is convicted of contravening a provision of this By-law, the terms and conditions of a permit issued pursuant to this By-law, or an order issued pursuant to this By-law and Section 444(1) or 445(1) of the Municipal Act, 2001, may be ordered by a court of competent jurisdiction at the expense of the person to:

11.03.01 rehabilitate the land;

11.03.02 remove the fill placed or dumped;

11.03.03 restore the grade of the land to its original condition;

11.03.04 replace damaged trees, shrubs, etc.

11.04 If a person is convicted of an offence for contravening an order to stop the injuring or destruction of trees, the court in which the conviction has been entered, or any court of competent jurisdiction thereafter, may order the person to rehabilitate the land or plant or replant trees in such manner and within such period as the court considers appropriate, including any silvicultural treatment necessary to re-establish the trees.

**12. PERMIT FEES AND SECURITY REQUIREMENTS**

***Permit Fees***

12.01 The fee for processing, administration, renewal and inspection for a Permit shall be in accordance with Schedule "B", appended to this By-law, which may be amended by Council

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from time to time. Fees shall be reviewed annually and amended with the approval of Council, or as otherwise determined by Council.

12.02 Where unauthorized site alteration works occur prior to the issuance of a Permit, and the Director determines that a Permit can be issued, the permit fees will be as identified in Schedule "B", in addition to all other applicable fees, costs and securities related to the Permit and the costs of rehabilitation and/or reinstatement of the subject site as may be required by the Director.

***Inspection Fees***

12.03 The prescribed inspection fees for a site alteration permit are included in the application fees detailed Schedule "B", appended to this By-law, which may be amended by Council from time to time.

12.04 Additional Inspection Fees, as identified in Schedule "B", refer to additional inspections being required by the City, in circumstances where the permit holder's contractor has not complied with the conditions of the permit and remedial work is required to meet the conditions of the permit.

***Security Requirements***

12.05 An irrevocable Letter of Credit, certified cheque or cash may be required by the Director to cover 100% of the estimated cost to maintain site control measures, stabilize the site and undertake other works as identified below. A Letter of Credit is to be in a form acceptable to the City Treasurer.

12.06 Security in an amount determined by the Director may be required pursuant to this By-law, and the execution of a security agreement by the applicant and the registered owner of the site may be required in a form determined by the Director in accordance with Subsections 12.05 – 12.12 inclusive of this By-law, to ensure maintenance of on-site construction control measures, proper rehabilitation, to prevent fouling or tracking of soil, mud, or debris on roads and highways of the City and Halton Region, and to secure performance of the applicant's and owner's obligations pursuant to this By-law and any Permit that is issued, including as may be needed, returning the site to its original condition so far as possible, carrying out the work under the Permit, and complying with other provisions of the By-law including rehabilitation of the site;

12.07 If the site alteration includes a calculated site alteration volume of less than 5000 m<sup>3</sup>, security shall be provided by the applicant or owner in the amount of \$1,500. This security amount may be modified at the discretion of the Director;

12.08 If the site alteration includes a calculated site alteration volume of greater than 5000 m<sup>3</sup>, security shall be provided by the applicant or owner for:

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- 12.08.01 default of agreement to carry out work or other breach of the Site Alteration By-law in an amount of \$3,000 or 10% of the estimated cost of returning the land to a condition satisfactory to the Director, whichever is greater as determined by the Director;
- 12.08.02 maintenance of public roads used by trucks delivering or removing fill, in the amount of \$15,000 per kilometre of City or boundary roads used for haul routes;
- 12.08.03 the supply, installation and maintenance of all construction site control measures necessary to meet the requirements of this By-law, in an amount equal to the estimated cost for these measures as approved by the Director;
- 12.08.04 other requirements as required by the Director. Amount to be determined by the Director.
- 12.09 A Letter of Credit or other securities must remain in effect for the full duration of the Permit. Any Letter of Credit and its subsequent renewal forms shall contain a clause stating that 30 days written notice must be provided to the City prior to its expiry or cancellation.
- 12.10 It is the responsibility of the permit holder to obtain the approval of the Director that the site has been adequately reinstated and stabilized in accordance to this By-law and the plans accompanying the Permit, the terms and conditions and design guidelines of the Permit; and to request that the City carry out a final inspection of the site and obtain the approval of the Director that this By-law and terms and conditions of the Permit have been complied with by the permit holder.
- 12.11 When the provisions above have been fully complied with, to the satisfaction of the Director, the permit holder's security shall be released.
- 12.12 If the permit expires or is revoked, the securities are to remain in effect until the site is restored to a condition acceptable to the Director.

**13. SEVERABILITY**

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

**14. EFFECTIVE DATES AND REPEAL OF PREDECESSOR BY-LAWS**

- 14.01 By-Law 6-2003 is hereby repealed.
- 14.02 This by-Law shall come into full effect and force on the date of its passing.

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14.03 The provisions of Section 7.02 of this By-law do not apply to an Owner with an approved Permit issued pursuant to the former City of Burlington Topsoil Preservation and Site Alteration By-law 6-2003 (repealed). The Director shall not permit any extensions or renewals of Permits issued under this predecessor By-law.

ENACTED AND PASSED this 22<sup>nd</sup> day of September, 2014

\_\_\_\_\_  
Rick Goldring

MAYOR

\_\_\_\_\_  
Angela Morgan

CITY CLERK





## SCHEDULE "A" TO BY-LAW No. 64-2014



### SITE ALTERATION PERMIT SCREENING INFORMATION

THIS APPLICATION IS AUTHORIZED BY  
BY-LAW No. 64-2014

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

Depending on the type of works you are proposing on your property, you may need a Site Alteration Permit prior to construction to ensure that you, your neighbours and/or the environment are not negatively impacted. Site Alteration Permits are administered by the Capital Works Department to ensure that the Director is satisfied that works on private property will not result in:

- a) adverse erosion effects on and off-site;
- b) blockage of a swale, ditch, watercourse, etc.;
- c) transportation of silt into a watercourse, wetland, or storm sewer etc.;
- d) transportation of silt to adjacent, neighbouring or downstream properties;
- e) pollution of a watercourse;
- f) flooding or ponding on adjacent properties;
- g) flooding or ponding caused by a watercourse overflowing its banks;
- h) hindering the orderly development of any lands;
- i) detrimental effect on the quality or quantity of water in wells;
- j) detrimental effect on any trees of a caliper of 75 mm or more located on the lands;
- k) detrimental effect on matters of inherent sensitivity such as, but not limited to, aquifer recharge, soil permeability, water quality and wildlife habitat;
- l) unauthorized injury or destruction of municipal trees or other trees protected under By-laws of the City of Burlington or Halton Region;
- m) injury or destruction of other trees, which in the opinion of the Director, could reasonably be avoided;
- n) a loss of agricultural lands in the Rural Planning Area as defined in Schedule "C" of the City of Burlington Official Plan;
- o) detrimental effects on the natural environment, including but not restricted to lands designated as Lake Ontario shoreline, Burlington Bay / Hamilton Harbour Shoreline, Niagara Escarpment and Areas of Natural or Scientific Interest and habitat of endangered or threatened species as identified and defined by the Ministry of Natural Resources (MNR);
- p) detrimental effect within 120 metres of a Provincially Significant Wetland identified by the Ministry of Natural Resources and wetlands regulated under Ontario Regulation 162/06;
- q) detrimental effects to the growth and/or harvest of fruit, vegetables or other crops, landscaping and gardens;
- r) detrimental effects to natural site lines of adjacent properties;
- s) detrimental effects to areas of archaeological significance; and
- t) contamination of, or the degradation of the environmental quality of the land.

Please answer the questions below with respect to the proposed works. If you respond “yes” to one or more questions, please contact the Capital Works Department (2<sup>nd</sup> Floor, City Hall) since the proposed works likely require a Site Alteration permit.

Site Alteration permits are regulated by the City of Burlington under By-law 64-2014. Non-compliance with By-law 64-2014 may result in penalties.

	<b>Yes</b>	<b>No</b>
Are you proposing to alter the grade on your property?	<input type="checkbox"/>	<input type="checkbox"/>
If Yes, are you proposing to alter the grade within 0.5 m of any property line?	<input type="checkbox"/>	<input type="checkbox"/>
Are you proposing to place fill that has a lower permeability than the existing underlying native soil on the receiving site?	<input type="checkbox"/>	<input type="checkbox"/>
Are you proposing to install a retaining wall on your property?	<input type="checkbox"/>	<input type="checkbox"/>
Are you proposing to remove topsoil on a site greater than 0.2 ha (0.5 acres) in area (approximate dimensions of 20 m x 100 m)?	<input type="checkbox"/>	<input type="checkbox"/>
Are you proposing to remove vegetative cover on a site greater than 0.2 hectares (0.5 acres) in area?	<input type="checkbox"/>	<input type="checkbox"/>
Are you proposing to alter the grade on a property that is next to a watercourse, wetland, pond, Lake Ontario or Burlington Bay?	<input type="checkbox"/>	<input type="checkbox"/>
Are you proposing to construct a pond in the Rural Planning Area of the City?	<input type="checkbox"/>	<input type="checkbox"/>
Are you proposing to construct a residence, garage, agricultural building or other structure in the Rural Planning Area of the City?	<input type="checkbox"/>	<input type="checkbox"/>

---

**DATE**

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**SIGNATURE OF OWNER/APPLICANT**



THE CORPORATION OF THE CITY OF BURILNGTON  
APPLICATION FOR A SITE ALTERATION PERMIT

THIS APPLICATION IS AUTHORIZED BY  
BY-LAW No. 64-2014

1.0 PERMIT No.: \_\_\_\_\_ FILE No.: \_\_\_\_\_

2.0 ATTACHMENTS **THIS APPLICATION MUST BE ACCOMPANIED BY:**

- ✓ 2 copies of a Control Plan certified by a Professional Engineer or other qualified person.
- ✓ Application fee, in accordance with Schedule "B".
- ✓ Security in a form and amount acceptable to the Director\*.
- ✓ Owner's authorization if Applicant is not the Owner.
- ✓ Reports as recommended in the "Management of Excess Soil – A Guide for Best Management Practices", MOE document dated January 2014, if required by the Director\*.
- ✓ Phase I, II, and other Environmental Site Assessment reports, if required by the Director\*.

\* These items, if applicable, may be requested after submission of the application.

3.0 PROPERTY LOCATION: \_\_\_\_\_

4.0 PROPERTY SIZE (In hectares): \_\_\_\_\_

5.0 NAME OF PROPERTY OWNER: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY, PROVINCE: \_\_\_\_\_ PHONE: \_\_\_\_\_

POSTAL CODE: \_\_\_\_\_ FAX: \_\_\_\_\_

EMAIL: \_\_\_\_\_ CELL: \_\_\_\_\_

6.0 NAME OF AGENT: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY, PROVINCE: \_\_\_\_\_ PHONE: \_\_\_\_\_

POSTAL CODE: \_\_\_\_\_ FAX: \_\_\_\_\_

EMAIL: \_\_\_\_\_ CELL: \_\_\_\_\_

7.0 CONSULTING ENGINEER: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY, PROVINCE: \_\_\_\_\_ PHONE: \_\_\_\_\_

POSTAL CODE: \_\_\_\_\_ FAX: \_\_\_\_\_

EMAIL: \_\_\_\_\_ CELL: \_\_\_\_\_

8.0 CONTRACTOR'S NAME: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
CITY, PROVINCE: \_\_\_\_\_ PHONE: \_\_\_\_\_  
POSTAL CODE: \_\_\_\_\_ FAX: \_\_\_\_\_  
EMAIL: \_\_\_\_\_ CELL: \_\_\_\_\_

9.0 WORK SCHEDULE:  
START DATE: \_\_\_\_\_  
END DATE: \_\_\_\_\_  
CONSTRUCTION PERIOD: \_\_\_\_\_

10.0 DESCRIBE THE PROPOSED WORKS:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

11.0 IF APPLICABLE, DESCRIBE THE COMPOSITION OF FILL BEING DUMPED/PLACED:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

12.0 ALL SOURCE LOCATION(S) OF FILL BEING DUMPED/PLACED, INCLUDING  
CHEMICAL ANALYSES AND PERMEABILTY TEST RESULTS:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

13.0 IS ANY PART OF THIS SITE WITHIN THE NIAGARA ESCARPMENT COMMISSION  
(NEC) REGULATED LANDS?  
 YES                       NO                       DON'T KNOW

IF YES, HAVE YOU CONFIRMED THIS WITH THE NIAGARA ESCARPMENT  
COMMISSION?  
 YES (Please attached Permit /  
Correspondence)                       NO

14.0 DOES ANY PART OF THE SITE CONTAIN A WETLAND, FLOODPLAIN, SHORELINE, TOP OF BANK FEATURE AND/OR A REGULATED AREA ADMINISTERED BY CONSERVATION HALTON?

YES

NO

DON'T KNOW

IF YES, HAVE YOU CONFIRMED THIS WITH CONSERVATION HALTON?

YES (Please attached Permit / Correspondence)

NO

15.0 IS ANY PART OF THE SITE WITHIN 120 m OF A PROVINCIALY SIGNIFICANT WETLAND AS IDENTIFIED BY THE MNR AND WETLANDS REGULATED UNDER O. REG. 162/06?

YES

NO

DON'T KNOW

16.0 DOES ANY PART OF THE SITE CONTAIN ENDANGERED OR THREATENED SPECIES, AS ADMINISTERED BY THE MINISTRY OF NATURAL RESOURCES?

YES

NO

DON'T KNOW

The undersigned hereby applies for a Site Alteration Permit pursuant to the provisions of City of Burlington By-law 64-2014 and agrees to comply in all aspects with the requirements of By-law 64-2014.

The undersigned hereby acknowledges that employees of the City of Burlington have permission to enter the subject land to inspect the proposed work that applies to the Permit.

Pursuant to the By-law 64-2014, the undersigned hereby acknowledges that the sole responsibility for the completion of the work undertaken, as detailed in the complete application, rests entirely with the Owner. The undersigned also agrees that the total costs of all works will be entirely the responsibility of the Owner.

The undersigned certifies to the City that any and all fill used in completing any Site Alteration contains no contaminants within the meaning of the *Environmental Protection Act*, R.S.O. 1990, c. E.19 or a Qualified Person certifies that any and all fill used in completing any Site Alteration will cause no adverse effects. The undersigned hereby forever releases and agrees to indemnify and save harmless the City, its employees, representatives, agents and contractors, from and against all claims, demands, damages, causes of action, costs, expenses and other liabilities of any nature, which may arise in the event that the fill is determined to contain contaminants.

---

DATE

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SIGNATURE OF OWNER/APPLICANT

**If an agent is being used, the Owner must also complete the following:**

I \_\_\_\_\_ being the registered Owner of the subject

property hereby authorize \_\_\_\_\_

to prepare, submit, and act on my behalf with respect to this application.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE OF OWNER

**Personal information on this form is collected under the authority of The Municipal Act, 2001, S.O. 2001 c.25 as amended and will be used to process applications and issue Permits for site alterations. Questions about this collection should be directed to: Senior Environmental Engineer, Capital Works Department, 426 Brant Street, Burlington, ON, L7R 3Z6, 905-335-7600, extension 7486**

**OFFICE ADMINISTRATION PURPOSES ONLY**

- A. Permit Fee: \_\_\_\_\_ Receipt No.: \_\_\_\_\_
- B. Letter of Credit Amount: \_\_\_\_\_ Receipt No.: \_\_\_\_\_
- C. Niagara Escarpment Permit No.: \_\_\_\_\_ Date: \_\_\_\_\_
- D. Conservation Halton Permit No.: \_\_\_\_\_ Date: \_\_\_\_\_
- E. Planning Approval: \_\_\_\_\_ Date: \_\_\_\_\_
- F. Haul Route Approval: \_\_\_\_\_ Date: \_\_\_\_\_
- G. Engineering Approval: \_\_\_\_\_ Date: \_\_\_\_\_
- H. Permit No. Issued: \_\_\_\_\_ Date: \_\_\_\_\_
- I. Expiry Date: \_\_\_\_\_

## **SCHEDULE "B" TO BY-LAW No. 64-2014**

### **SITE ALTERATION PERMIT FEES**

The following Site Alteration Permit Fees shall be effective upon approval by City Council.

- 1 For Calculated Site Alteration Volumes less than 5000 m<sup>3</sup>:
  - 1.01 Site Alteration Application Fee = \$300 plus \$200/ha (full ha) for the first 20 ha and plus \$300/ha for each additional full ha, over 20 ha.
  - 1.02 Application Fee for extension or renewal = ½ of the original "Site Alteration Application Fee" (Subsection 1.01).
  - 1.03 Additional Inspections Fee = \$250 per inspection, according to Section 12.04
  - 1.04 Revocation Fee = \$100.
  - 1.05 Amendment of Application = Up to ½ of the original "Site Alteration Application Fee", at the discretion of the Director.
  
- 2 For Calculated Site Alteration Volumes greater than 5000 m<sup>3</sup>
  - 2.01 Site Alteration Application Fee = \$1,000.
  - 2.02 Additional Fee based on calculated site alteration volume = \$1.00/m<sup>3</sup>
  - 2.03 Application Fee for extension or renewal = ½ of the original "Site Alteration Application Fee" (Subsections 2.01)
  - 2.04 Additional Inspections Fee = \$250 per inspection according to Section 12.04.
  - 2.05 Revocation Fee = \$100.
  - 2.06 Amendment of Application = Up to ½ of the original "Site Alteration Application Fee", at the discretion of the Director.
  
- 3 Where lands are designated for development uses within the Urban Planning Area Boundary and within and Draft Plan approved lands in the North Aldershot Planning Area, as detailed in the City of Burlington Official Plan, application for a Site Alteration Permit can be made in order to proceed with pre-grading of the site prior to the execution of a development agreement with the City.
  - 3.01 Site Alteration Application Fee = \$300 plus \$200/ha (full ha) for the first 20 ha and plus \$300/ha for each additional full ha, over 20 ha.

3.02 Additional Fee based on calculated site alteration volume

3.02.01	\$0.30/m <sup>3</sup> (up to 25,000 m <sup>3</sup> )
3.02.02	\$0.20/m <sup>3</sup> (25,000 – 50,000 m <sup>3</sup> )
3.02.03	\$0.10/m <sup>3</sup> (over 50,000 m <sup>3</sup> )

3.02 Application Fee for extension or renewal = ½ of the original “Site Alteration Application Fee” (Subsection 1.01).

3.03 Additional Inspections Fee = \$250 per inspection, according to Section 12.04

3.04 Revocation Fee = \$100.

3.05 Amendment of Application = Up to ½ of the original “Site Alteration Application Fee”, at the discretion of the Director.

4 Administration Fee for Appeal Process:

4.02 Calculated Site Alteration Volume less than 5000 m<sup>3</sup> = \$150.

4.03 Calculated Site Alteration Volume greater than 5000 m<sup>3</sup> = \$500.



## **SCHEDULE "C" TO BY-LAW No. 64-2014**

### **DESIGNATED INSPECTORS AND ENFORCEMENT OFFICERS**

The following City employees or agents are hereby designated as Inspectors for the purposes of this By-law and are authorized to carry out the inspection duties of this By-law:

1. Executive Director of Capital Works
2. Capital Works Department inspection staff
3. City of Burlington By-law Enforcement Officers
4. Other City staff as authorized by the Director to act on behalf of the Director
5. Non-City staff hired by the Director to act on behalf of the Director.

The following City employees are designated as Enforcement Officers for the purposes of this By-law and are authorized to carry out the enforcement of this By-law:

1. Municipal Consent Inspector
2. Storm Water Technologist
3. Intermediate Development Administration Inspector
4. Intermediate Development Administration Inspector
5. Storm Water Engineer
6. Senior Environmental Engineer

## **SCHEDULE "D" TO BY-LAW No. 64-2014**

### **ADDITIONAL SITE DESIGN GUIDELINES**

The following guidelines shall be met on all sites, to the satisfaction of the Director, where a Site Alteration Permit is required:

1. Site Dewatering: Water pumped from the Site shall be treated by temporary sedimentation basins, grit chambers, sand filters, upflow chambers, swirl concentrators or other appropriate controls.
2. Drain Inlet Protection: All rear lot storm drain inlets or any other inlets, shall be protected with filter fabric, or equivalent barriers.
3. Site Erosion Control: The following criteria apply to land disturbances that result in stormwater runoff leaving the site or draining onto the site from adjacent properties:
  - 1) Runoff from adjacent areas passing through the Site shall be diverted around disturbed areas, if practical. Otherwise, the channel shall be protected by filter fences being placed along the channel edges to reduce sediment reaching the channel.
  - 2) All activities on the site shall be conducted in a logical sequence to minimize the area of bare soil exposed at any one time.
  - 3) Any soil or dirt storage piles containing more than 100 m<sup>3</sup> of material shall not be located within a downslope drainage length of less than 10 m to a roadway or drainage channel. If remaining for more than 30 days, said soil or dirt storage piles shall be stabilized by mulching, vegetative cover, tarps or other means. Erosion from soil or dirt storage piles which will be in existence for less than 30 days shall be controlled by filter fence barriers around the pile.
  - 4) Runoff from the entire disturbed area on the site shall be controlled as follows:
    - (a) All disturbed ground left inactive shall be stabilized by seeding, sodding, mulching or covering, or other equivalent control measure. The period of time of inactivity shall be at the discretion of the Director, but shall not exceed 30 days or such longer period as deemed advisable at the discretion of the Director;
    - (b) Notwithstanding paragraph 3.4(a), a permit holder or applicant for a permit who has applied for but not yet received a building permit or any other necessary permit or agreement, may be granted an extension to the permitted period of inactivity, at the discretion of the Director, provided that said applicant or permit holder provides satisfactory proof that he has made his best efforts to have said building or other necessary permit issued;
    - (c) For sites located adjacent to existing residential areas, a sediment control fence may be required around the entire perimeter of the site;

- (d) The sediment control guidelines prepared by Conservation Halton and the Ministry of Natural Resources, for the Province of Ontario, are to be followed closely.
  - (e) For sites with extensive fill requirements, the Director may waive the requirements for stabilization of disturbed land within 30 days of inactivity provided that the sediment control measures are implemented and maintained to the satisfaction of the Director.
- 5) All other conditions or restrictions as required by the Director.

**SCHEDULE "E" TO BY-LAW No. 64-2014**

**PROPERTY OWNER'S ACKNOWLEDGEMENT AND ACCEPTANCE**

Municipal Address for the "Source Site" of Material: \_\_\_\_\_

Work Description:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I/We being the owner(s) of Municipal Address \_\_\_\_\_,  
acknowledge and agree to the placement of material from the above-noted "Source Site" on  
my/our property with my/our permission.

I hereby consent to the City providing information related to this Application to any interested  
municipalities for the purpose of implementing this By-law.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_

\_\_\_\_\_  
Property Owner's Signature(s)

\_\_\_\_\_  
Print Contractor's Name & Representative's Name

\_\_\_\_\_  
Contractor's Representative Signature

**SCHEDULE "F" TO BY-LAW No. 64-2014**

**FULL AND FINAL RELEASE**

To: The City of Burlington Executive Director of Capital Works

Re: Request for fill material at: \_\_\_\_\_ (address)

I / We the undersigned, hereby request the City of Burlington (the City) to deposit fill material, at no cost to either the undersigned or the City, onto the property at the above noted address.

The undersigned represent and warrant to the City that we are respectively the registered owners of the subject property and the applicant, and in consideration of the City depositing the said fill material I / We on behalf of ourself/ourselves and our officers, Directors, agents, heirs, successors and assigns, hereby remise, release, and forever discharge and hold harmless the City, its employees, servants and agents, together with its successors and assigns, from any and all claims, demands, actions, causes of action, debts, accountants, covenants, contracts and demands of every kind, known or unknown, whether presently existing or which we might have now or in the future however arising including, and without restricting the generality of the forgoing, all claims arising out of or in any way related to the fill material and its deposit aforesaid, including again with limiting the generality any such claims that may result from the operation of City and the City contractors' machinery and equipment off of the travelled portion of any municipal roadway.

The undersigned further agree(s) not to make any claim or take any proceedings against any other person or corporation who might claim contribution and indemnity, under the provisions of the *Negligence Act*, R.S.O. 1990, c.N.1, as amended, from the persons and corporation discharged by this release.

The undersigned further warrants and undertakes to the City that we have inquired into and obtained all necessary clearances, permits and approvals required pursuant to all federal, provincial or municipal legislation including, but not limited to, those as may be required from the relevant Conservation Authority, the Ministry of Natural Resources, the Niagara Escarpment Commission, the Department of Fisheries and Oceans, the relevant municipalities, in order to approve and authorize the placing of fill material on the lands specified herein.

The undersigned further agrees that the placing of fill material shall be performed in a continuous manner and shall be completed when specified by the City, and shall not include any levelling or grading of the said material by the City, unless agreed to in writing.

I / We have read, understand and agree with the provisions of this document.

\_\_\_\_\_  
Owner 1 (Print Name) / (Signature)

\_\_\_\_\_  
Owner 2 (Print Name) / (Signature)

\_\_\_\_\_  
Applicant (Print Name) / (Signature)  
(If not Owner)

\_\_\_\_\_  
Witness (Print Name) / (Signature)

Note: Prior to placing fill at the above address, an owner or applicant requesting an exemption pursuant to Section 3 of this By-law, shall submit to the Executive Director of Capital Works an original copy of this Schedule signed by the City of Burlington Executive Director of Capital Works.

\_\_\_\_\_  
Executive Director of Capital Works (Print Name) / (Signature)

\_\_\_\_\_  
Date:

## **SCHEDULE "G" TO BY-LAW No. 64-2014**

### **LOT GRADING DESIGN & DRAWING REQUIREMENTS**

Two certified copies of the Control Plan will be required showing existing elevations of the lot and sufficient elevations of adjacent properties to indicate existing drainage patterns. All grading plans are to be metric and printed from original drawings with all information legible and clear. All plans are to be folded to 8 ½" x 11" size, with title blocks visible.

On the Control Plan, the new proposal will be superimposed, indicating the proposed elevations along with any proposals that may be necessary to eliminate potential drainage problems to the subject property, or any adjacent property. The Control Plan must be in accordance to the requirements of Subsections 4.04 and 4.05 of this By-law.

All elevations shall be tied into existing City of Burlington bench marks and be related to geodetic datum.

A certificate on the Control Plan, executed by a Registered Professional Engineer or a Registered Ontario Land Surveyor shall be in the following form:

"I have prepared and reviewed the Control Plan for the construction of \_\_\_\_\_, located at \_\_\_\_\_, and have prepared and reviewed this Control Plan to indicate the compatibility of the proposed grades with existing adjacent properties and municipal services. It is my belief that adherence to the proposed grades, as shown, will produce adequate surface drainage and proper facility of the municipal services without any detrimental effect to the existing drainage patterns or adjacent properties."