

**The Corporation of the
Township of Southgate**

By-law Number 2017-049

**Being a By-law to Regulate the Placement of Fill, Removal of Topsoil and
Site Alteration in the Township of Southgate**

Whereas Section 142 of the *Municipal Act, 2001*, S.O. 2001, c.25 as amended authorizes local municipalities to pass bylaws prohibiting or regulating the placing or dumping off fill, the removal of topsoil, and the alteration of the grade of land;

And Whereas Section 128(1) of the *Municipal Act, 2001* authorizes local municipalities to prohibit and regulate with respect to public nuisances, including matters that in the opinion of Council, are or could become or cause public nuisances;

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

**Now Therefore the Council of the Corporation of the Township of
Southgate Enacts as Follows:**

1. Definitions

In this Bylaw:

"Council" means the Council of The Corporation of the Township of Southgate;

"Drainage" means the movement of stormwater, whether by way of the natural characteristics of the ground surface or by artificial means;

"Dump" or "Dumping" means the depositing of Fill on a property other than the location from which the Fill was obtained;

"Engineer" means a Professional Engineer registered under the Professional Engineers Act, or a partnership, association of persons or corporation that holds a Certificate of Authorization under the Professional Engineers Act, as the case may be;

"Erosion" means the detachment and movement of soil, sediment or rock fragments by water, wind, ice or gravity;

"Fill" means any type of material deposited or placed on land and includes but is not limited to soil, earth, topsoil, stone, aggregate, asphalt, sod, turf or any combination thereof;

"Grade" at any point on the land means the elevation of the ground surface of the

land; and

"Existing Grade" means the Grade as it existed prior to any Site Alteration;

"Highway" means a common and public Highway and includes a street, bridge or other structure forming part of a Highway over or across which a Highway passes, and includes the whole of a road allowance under the jurisdiction of the Township;

"Officer" means a police Officer, a municipal enforcement Officer, the chief building official or other person appointed for the purpose of enforcement of this Bylaw;

"Owner" means the registered Owner(s) of the land;

"Site" means the lot or lots altered or proposed to be altered by means of a Site Alteration;

"Site Alteration" means the placement or dumping of fill on land or the removal of topsoil from land permanently and/or temporarily;

"Surveyor" means a professional land Surveyor practicing under license in the Province of Ontario;

"Township" means The Corporation of the Township of Southgate;

"Township Engineer" means an employee of the professional Engineering firm retained by the Township for Engineering purposes;

"Watercourse" means a natural or man-made channel or swale in which a flow of water occurs, either continuously or intermittently with some degree of regularity.

2. General Provisions

- 2.1 No person shall cause or permit the placing or removal of any Fill or topsoil or otherwise alter the Grade of land by causing, permitting, or performing a Site Alteration on land within the Township of Southgate other than in conformity with the terms and conditions under this Bylaw and the regulations prescribed in this Bylaw, unless it complies with a Section 3, Exemptions defined in this By-law.
- 2.2 No person shall cause, permit, or perform a Site Alteration on land within the Township of Southgate other than in conformity with the terms and conditions under this Bylaw and the regulations prescribed in this Bylaw.
- 2.3 No person shall fail to obey an order issued under Section 2.1, 2.2, and 4 of this Bylaw.

3. Exemptions

3.1 Notwithstanding Section 2 of this Bylaw, Site Alterations are permitted in the following circumstances without an application and approval process under this Bylaw:

- a) Activities or matters undertaken by a municipality or governmental authority as defined by the Planning Act or other applicable Acts such as but not limited to: the Conservation Authorities Act, Aggregate Resources Act, Drainage Act, and Electricity Act.
- b) Removal or placement of topsoil, subsoil or stones incidental to a normal farm practices for land improvements and the removal of surplus soils from construction of laneways or buildings or yards for agriculture purposes, activities incidental part of sod-farming, greenhouse operations and nurseries for horticultural products.
- c) Site Alteration and/or removal of topsoil where Engineering drawings for a plan of subdivision, complete with all applicable securities have been received in full, or where a full site plan application under Section 41 of the Planning Act has been approved. In both cases an Erosion and sediment control plan, approved by the Township Engineer, and the applicable Conservation Authority approvals will be required before undertaking any land disturbances as part of those approvals.
- d) That Fill is being placed or the Dumping of Fill in an excavation to the elevation of existing Grade following the demolition or removal of a building or structure.
- e) Excavation and backfilling within 10 meters of a structure incidental to construction of a structure that has been issued an active building or septic permit under the Ontario Building Code Act.
- f) Topdressing of lawns with topsoil not greater than 15 centimeters or 6 inches and minor landscaping works which are at least 1 meter or 3 feet from any property line and does not impact Drainage patterns on neighbouring properties. Property owners must maintain the contours of original residential lot grading plans at historic conditions so as to not alter onsite and offsite drainage patterns.
- g) The placing or Dumping or removal of Fill involving an amount of soil less than 250 cubic metres of locally sourced Fill on a commercial or industrial zoned lot, within any one year period, provided there is no change to the original lot grading plan or where it would affect the locations, direction, or

elevation of any natural or artificial Watercourse, open channel, swale or ditch used to drain the land.

- h) The placement of Fill material for the purposes of creation of an entrance and driveway on a property where the material has originated from a gravel pit.
- 3.2 Notwithstanding Section 3.1, the Site Alterations set out remain subject to the provisions of Sections 6 to 9 inclusive of this Bylaw.
- 3.3 Notwithstanding Section 3.1 of this By-law, all Fill to be Dumped or placed shall be clean and free of waste, asphalt, trash, rubbish, glass, liquid or toxic chemicals, hazardous waste or contaminants within the meaning of the Environmental Protection Act.

4. Application and Approval Process

- 4.1 The Owner of a property may make application to the Township to seek approval for the placement of Fill, removal of Topsoil and/or Site Alteration by completing the application form in Schedule "A" appended to this Bylaw to be in compliance with Section 2 of this Bylaw, if an exemption does not exist in Section 3 of this By-law for the activity.
- 4.2 The application should be completed in accordance with the information requirements outline in Schedule "B" appended to this Bylaw, and shall be accompanied by a non-refundable processing fee of One Thousand Dollars (\$1,000.00) and a refundable deposit of \$10,000.00 to cover the costs the Township may incur for Engineering and other professional reviews of the Owner's application and supporting documents. Monies not utilized shall be refunded to the Owner.
- 4.3 Council may consider approval the application for the placement of Fill, removal of Topsoil and/or Site Alteration based on the following criteria, as well as public feedback, engineering consultant(s) and a staff report recommendations:
- a) Will result in maintaining or improving the overall use of the Site;
 - b) Will maintain the general intent and purpose of this Bylaw; and,
 - c) Is in the general community interest.
- 4.4 The minimum general Terms of Conditions of approval for the placement of Fill, removal of Topsoil and/or Site Alteration are set out in Schedule "C" to this Bylaw.
- 4.5 If the Owner is undertaking the placement of Fill, removal of Topsoil and/or Site Alterations that are described in Sections 3 they are exempt from the application and approval process of this Bylaw.

5. Requests for Variance or Exception Approval

- 5.1 If the original application fails to be approved by Council an Owner may request a Variance from, or Exception to, the prohibitions contained in Sections 2 and 3 and, upon such a request, the Owner is entitled to a review of such request by the Township Council.
- 5.2 Requests for a Variance or Exception under Section 5.1 shall be in writing with an application and directed to Council in care of the Clerk of the Township, specifying the reasons for the Variance or Exception and include any documents the Owner will be relying on, and all other documentation set out in Schedule "B" and "C" appended to this Bylaw. The application shall be accompanied by a non-refundable processing fee of Two Thousand Dollars (\$2,000.00) and a refundable deposit of \$10,000.00 to cover the costs the Township may incur for Engineering and other professional reviews of the Owner's application and supporting documents. Monies not utilized shall be refunded to or extra costs charged to the Owner.
- 5.3 Upon receipt of a written request under Section 5.2, the Township shall:
 - a) Schedule a review date before Council for a Public Meeting;
 - b) Give the requesting Owner notice of the review date at least twenty (20) days prior to the hearing date; and
 - c) Give all landowners within 200 metres of the subject property notice of the request of Variance or Exception.
- 5.4 Delivery of any notice to the requesting Owner shall be made by personal delivery or general mailing. The notice shall be deemed to have been delivered on the seventh day after the date of mailing, or on the date of personal delivery.
- 5.5 The review of a request under Section 5.2 shall be held in public, and Council shall hear the requesting Owner and every other person who desires to be heard in favour of or against the request, and Council may adjourn the meeting or reserve its recommendation.
- 5.6 Upon reviewing a request under Section 5.2, Council shall consider whether the requested Variance or Exception:
 - a) Will result in maintaining or improving the use of the Site;
 - b) Will not degrade the environmental conditions of the surrounding lands.
 - c) Will maintain the general intent and purpose of this Bylaw; and,
 - d) Is in the general community interest.
- 5.7 The minimum general Terms of Conditions of a Variance or Exception are set out in Schedule "C" to this Bylaw.
- 5.8 The Township may for a Variance or Exception approval issue additional conditions if it deems it to be necessary on a case by case basis.

6. Orders

6.1 Order to Discontinue Activity

If an Officer is satisfied that a contravention of this bylaw has occurred, the Officer may make an order requiring the Owner of the land or the person who caused or permitted the placing or Dumping of Fill, removal of topsoil, the alteration of the Grade of land under this Bylaw to discontinue the activity, and the order shall set out:

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

6.2 Work Order for Site Alteration Work

If an Officer is satisfied that a person has caused or permitted the performance of a Site Alteration in contravention of the provisions of this Bylaw, the Officer may make an order requiring work to be done to correct the contravention and the order shall set out:

- a) The municipal address or the legal description of the land; and
- b) Reasonable particulars of the contravention and of the work to be done; and
- c) The period within which there must be compliance with the order; and
- d) A notice stating that if the work is not done in compliance with the order within the period it specifies, the Township may have the work done at the expense of the Owner.

Without limiting the generality of Section 6.2, an Officer may issue an order under Section 6.2:

- i) Requiring that the Fill Dumped or placed contrary to this Bylaw be removed by the Owner, or the person who Dumped or placed it or who caused or permitted it to be Dumped or placed;
- ii) Requiring the rehabilitation of land from which topsoil has been removed contrary to this Bylaw;
- iii) Requiring that the Grade of the land altered contrary to this Bylaw be restored to its original condition by the Owner or the person who altered it or who caused or permitted it to be altered.

6.3 Service of Orders

- a) Orders issued by an Officer under Sections 6.1 or 6.2 shall be served personally or by prepaid registered mail to the last known address of the Owner of the land and any other person to be served.
- b) If the Township is unable to effect service on the Owner under Section 6.3 a), a placard containing the terms of the order may

be placed at the entrance to the property, or in a conspicuous place on the land and the placing of the placard shall be deemed to be sufficient service of the order.

- 6.4 Any property owner, person or corporation failing to comply with an Officer's Order to Stop Work or Discontinue Activity related to compliance or following of the site plan will be in contravention of this By-law and is guilty of an offence.

7. Work Done by the Township

- 7.1 If the work required by an order under Section 6.2 of this Bylaw is not done within the specified period, the Township, in addition to all other remedies it may have, may do the work at the Owner's expense and may enter upon land, at any reasonable time, for this purpose in accordance with the provisions of the *Municipal Act, 2001*.
- 7.2 The Township may recover the costs of doing a matter or thing under Section 7.1 from the person directed or required to do it by action, or by drawing on agreement securities, if in place with the Township, or by adding the costs to the tax roll and collecting them in the same manner as property taxes.

8. Haul Routes

- 8.1 The Township shall approve one or more designated Haul Routes to and one or more Haul Routes from a Site for the placement or Dumping of Fill at the Site or the removal of Topsoil from the Site.
- 8.2 The Township may establish the amount of the liquidated damages to the Township for failure to use designated Haul Routes and draw on the posted securities to remedy the damages.
- 8.3 Where the Highways are not under the jurisdiction of the Township, the Applicant shall acquire permission from the applicable road authority in a form that is acceptable to the Township prior to issuance of an Approval.
- 8.4 An Owner of Land which is subject to a designated Haul Route condition being established, shall be responsible for ensuring that the designated Haul Routes are used by any person coming to or travelling from the Site. Any failure to do so shall be in contravention of this Bylaw for which the Owner or Occupier is liable to a fine under Section 9.
- 8.5 Any property owner, person or corporation failing to use a Township approved designated Haul Route for the Dumping or placing of Fill on a Site or the removing of Topsoil from a Site is in contravention of this

Bylaw and is guilty of an offence.

9. Penalty and Offences upon Conviction by the Courts

- 9.1 Every person who contravenes this Bylaw is guilty of an offence and upon conviction is liable:
- a) For contraventions of this Bylaw, \$5,000.00 as prescribed by the *Provincial Offences Act*, R.S.O. 1990, c. P.33.
 - b) For contraventions of other provisions of this Bylaw:
 - i) On a first conviction, to a fine of not more than \$10,000.00;
 - ii) On any subsequent conviction, to a fine of not more than \$25,000.00 as prescribed by the *Municipal Act, 2001*, S.O. 2001, c.25.
 - c) Notwithstanding Section 9.1 (b) where the person convicted is a corporation:
 - i) On a first conviction to a fine of not more than \$25,000.00;
 - ii) On a subsequent conviction, to a fine of not more than \$100,000.00 as prescribed by the *Municipal Act, 2001*, S.O. 2001, c.25.
 - d) If a person is convicted of an offence for contravening Section 2 or an order under Section 6.1 to stop work activity for which the conviction has been entered, or any court of competent jurisdiction thereafter, may order the person to rehabilitate the land (p. 138(2), *Municipal Act, 2001*).

10 Severability

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

11 Application of Other Bylaws

Compliance with this Bylaw does not relieve the applicant of the responsibility of obtaining all other approvals that may be required by the Township of Southgate or any other level of Federal or Provincial or County government, Conservation authorities and agencies thereof or from compliance with any other bylaw, legislation or obligation.

12. Offences

- 12.1 Every person who contravenes any part of this bylaw is guilty of an offence and is subject to the provisions of the *Provincial Offences Act*.

12.2 Schedule "D" attached hereto adopts Short Form Wording and Set Fines for the purpose of the enforcement of this Bylaw.

13. **Schedules**

13.1 Schedules "A", "B", "C" and "D" attached to this Bylaw form part of this Bylaw.

13.2 Schedule "D" of this Bylaw shall be effective upon approval of the Bylaw by the Regional Senior Justice of the Ontario Court of Justice.

14. **Short Name**

This Bylaw may be referred to as the "Fill and Site Alteration Bylaw".

15. **Repeal of Bylaw**

Any previous Bylaws for the Township of Southgate, Township of Egremont, Township of Proton and the Village of Dundalk relating to the placement or Dumping of Fill, removal of topsoil and/or Site Alteration is hereby repealed.

This Bylaw shall come into force and take effect on the date of the final passing thereof.

Read a First and Second Time this 21st Day of June, 2017.

Read a Third Time and Passed this 19th Day of July, 2017.

Anna-Marie Fosbrooke – Mayor

Joanne Hyde – Clerk

**Township of Southgate
By-law 2017-049**

Schedule "A"

Application for Fill Permitting or Site Alteration

| | |
|---|---|
| Work Proposed | <input type="checkbox"/> Residential – new <input type="checkbox"/> Commercial/Industrial – New <input type="checkbox"/> Residential – addition <input type="checkbox"/> Commercial/Industrial – Addition <input type="checkbox"/> Filling/excavation <input type="checkbox"/> Subdivision/Multi Residential <input type="checkbox"/> Landscaping <input type="checkbox"/> Demolition <input type="checkbox"/> Other <input type="checkbox"/> Variance or Exception Request |
| Property Owner | Name of Company: _____ Mailing address: _____ E-mail address: _____ Contact Person: _____ Phone: _____ |
| Applicant (if not owner) | Name of Company: _____ Mailing address: _____ E-mail address: _____ Contact Person: _____ Phone: _____ |
| Project Location | Site name: _____ Construction address: _____ Lot/block #: _____ Plan #: _____ |
| Project Scheduling | Anticipated Construction Start Date: _____ Construction Period (weeks): _____ |
| Site Contractor | Name of Contractor: _____ Mailing address: _____ Contact person: _____ Phone: _____ |
| Material Source Location (if applicable) | Name of Contractor: _____ Source location address: _____ Contact person: _____ Phone: _____ |

Township of Southgate

Application for Fill Permitting or Site Alteration con't.

| | | |
|---|-------------------------------|----------------------------------|
| 1. Does the subject property reside next to public owned lands? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 2. Have you checked for utility locations in the area of work? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 3. How would you like to receive the permit? | <input type="checkbox"/> Mail | <input type="checkbox"/> Pick-up |
| 4. Have you enquired whether the work proposed requires site plan approval? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 5. Are there trees located on/adjacent to municipal roadway or private lands? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 6. Will the proposed construction activity impact any abutting lands either public or private? If yes, please include details in writing with this application. | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 7. Is this application to support a building/demolition permit? (Note: This permit is for related grading only. A building permit is required for the actual demolition). | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 8. Are the subject lands being developed for 'more sensitive' use as defined under the new sections of the environmental protection act? If 'yes' a record of the site condition (RSC) is required to support this application. | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

The application shall be accompanied by the following:

1. A Site Plan certified by a professional engineer;
2. A Site Maintenance, Operations & Sediment Control Plan certified by a professional engineer;
3. A Soil Testing, Site/Soil Management and Reporting Protocol Plan certified by a professional engineer;
4. Documentation demonstrating consultation or approval with other authorities and agencies;
5. Haul route and roadway inspection plan for Southgate approval;
6. A letter and proof of liability insurance on the property provided from the property owner releasing and indemnifying the Township of Southgate
7. The application and deposit fees;
8. Certificate of general liability insurance naming the Township of Southgate; and
9. Bonding or irrevocable letter of credit (based on engineer estimates).

Declaration and Application Approval

I hereby agree to comply with the accept the Terms and Conditions of this By-law 2017-049 "Schedule C:" and grant the Township of Southgate permission to enter the subject lands to inspect the proposed work for which this permit applies to.

Owners Signature: _____ Date: _____

| | |
|-------------------------------------|------------------|
| Office Use Only | |
| Refundable Deposit Amount: \$ _____ | Receipt #: _____ |
| Permit Fee: \$ _____ | Receipt #: _____ |

Personal information on this form is collected and used for the purpose collected under the authority of Municipal Act, 2001 as amended. Questions about the collection of personal information should be directed to the Clerk's Department at 519-923-2110 extension 230.

**Township of Southgate
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Schedule "B"

Application Requirements

1. A person applying for the Placement of Fill, Removal of Topsoil or Site Alteration Variance or Exception application shall submit the following to the Township for Council approval:
 - a) A complete application using the form prescribed in Schedule "A" appended to this Bylaw, including proof satisfactory to the Township that the Applicant is the legal Owner of the Site, or has been authorized by the Owner of the Site to submit the application;
 - b) The prior written consent of the Owner of the Land where the Site Alteration is to take place;
 - c) The applicable processing fee in accordance with Section 4.2 or 5.2 of the Bylaw;
 - d) An accurate Site Plan in accordance with the requirements set out in Schedule "C" appended to this Bylaw and showing the following information:
 - (i) The property boundaries of the Site with dimensions;
 - (ii) Existing elevations in the form of contours at 0.5 meter intervals or less, with spot elevations along the Site boundary lines and 3.0 meters beyond the Site boundary lines at sufficient intervals to clearly show the existing Drainage patterns on the land and on the adjacent lands;
 - (iii) The location of all existing underground services, including storm sewers, Watercourses and any bodies of water, on the Site and on adjacent lands and Highway;
 - (iv) The location of all existing buildings or structures, all trees greater than 75 mm in diameter (which shall be identified by species), and driveways on the Site and all easements and rights-of-way over, under, across, or through the Site;
 - (v) Proposed sediment and Erosion controls that will be installed prior to Alteration of the Site;
 - (vi) Proposed final elevations and the Drainage system to be used upon completion of the Site Alteration;
 - (vii) The intended use of the Site, including a description of the proposed Fill placement or Topsoil removal operation; and
 - (viii) All existing street services, including light standards, hydro poles and transformers, cable television and telephone pedestals, fire hydrants and valves, catch basins and manholes.
 - e) A detailed report explaining how the application (source, transportation, and receiving of soils) will be in conformity with the best management practices set out in the Ministry of Environment document titled "Management of Excess Soil – A Guide for Best Management Practices" and document dated April 15, 2011, titled "Soil, Ground Water and Sediment Standards for Use Under Part XV.1 of the Environmental Protection Act" or future version of the document(s);
 - f) A plan showing the design details to proper scale of any retaining wall that may

be required, including the size, type and location of all material to be used in construction of such retaining wall, with a Professional Engineer's signature and stamp;

- g) A Haul Route Plan and property entrance(s) showing the proposed roads within the Township to be used by vehicles for the dumping or placement of Fill and/or to be used by vehicles for the removal of Topsoil from the Site.
- h) A refundable security deposits:
- i) Assurance in a form of acceptable bonding or letter of credit representing the estimated cost of the soil removal and/or remediation measures to the Township to secure performance of the work and for damages for which the Approval was obtained;
 - ii) Available securities that may be drawn on to recover the cost of the Township performing or having performed:
 - Any required works which the Applicant or Approval holder has failed to perform following an order to comply to the satisfaction of the Township, or
 - Any restoration works required to be performed on any Highway damaged as a result of the works, and;
 - iii) Available to recover the liquidated damages suffered by the Township, for any failures to use designated Haul Routes to and from the Site.
- i) A release and indemnity in favour of the Township, and in a form satisfactory to the Township, with respect to any and all liability which may arise in the event that the Fill used in the Site Alteration contains contaminants within the meaning of the Environmental Protection Act, R.S.O. 1990, c. E. 19, as amended.
- j) The Owner maintains a certificate of general liability insurance for the Lands, in which the Owner shall name the Township as additional insured upon execution of this agreement by both parties. The amount of such policy to be at least five million dollars (\$5,000,000.00) per occurrence that protects the Township, from all claims, demands actions, suits or causes of action of any kind that may be taken or made against the Township, its officials, employees, representatives and/or agents, for any loss of or damage to property, and personal injury, including bodily injury or death, that may arise with respect to the carrying out of the Permitted Site Works, the terms of this Agreement, and/or the terms of the Permit. The policy shall name the Township as an additional insured and include non-owned automobile liability, employees as additional insured, as well as a cross-liability and severability of interests clause, and shall be endorsed to provide the Township with not less than thirty (30) days' notice in writing in advance of any cancellation or expiration. Concurrent with the delivery of executed copies of this Agreement by the Owner to the Township and prior to the commencement of the Permitted Site Works, the Owner shall provide the Township with a certificate of insurance evidencing the required coverage. A certificate of general liability insurance shall be maintained for a period of 2 years to cover offsite concerns, following the completion of the fill and site alteration work, which must include the stabilization of all soil altered areas and the final site inspection reporting.

2. a) The refundable security deposit provided under Paragraph 1(h) to this Schedule shall remain in effect for the full duration of the Approval;
 - b) An irrevocable letter of credit must be provided with the application to the Township and shall remain in effect for not less than 3 years and be maintained for one (1) year following the completion fill placement and stabilization work of the site, with a clause that the letter of credit and its subsequent renewals shall be provided to the Township annually and contain a clause stating that thirty (30) days' written notice must be given to the Township prior to its expiry or cancellations; and
 - c) In the event that the Township receives notice that a letter of credit is expiring and will not be renewed, or if further or additional securities are not provided within the said thirty (30) days' notice period, the Township may draw on the current letter of credit at the discretion of the Township, and any interest accruing on the realized cash security deposit shall belong to the Township and not to the Approval Holder.
3. Notwithstanding any other provisions of this Bylaw, after taking into consideration of the proposed works and whether the Applicant otherwise has conformed with this Bylaw, Council may waive the requirement for a plan, and/or reduce or waive the Approval fee and/or the refundable security deposit.

**Township of Southgate
By-law 2017-049**

Schedule "C"

**Terms and Conditions for the Placement of Fill,
Removal of Topsoil and Site Alteration Approval**

1.
 - a) An Approval shall remain valid for a period of one (1) year from the date of issuance, but shall expire six (6) months after the date of issuance, if work under the Approval has not yet commenced.
 - b) An Approval extension of six (6) months may be requested by the Owner sixty (60) days prior to the expiration of the approval period, in writing for applications which are about to expire, provided that the proposed work has not been revised and that the Applicant is not in contravention of the requirements of this Bylaw.
 - c) An approval which is no longer valid or has expired may, at the sole discretion of the Township, be renewed for a six (6) month period from the date of invalidity or expiry provided that the proposed work has not been revised and that the Applicant is not in contravention of the requirements of this Bylaw.
 - d) A request under Subsection (c) shall be made in writing to the Township accompanied by payment of the applicable Approval fee in accordance with the other terms in Section 5.2 of the Bylaw.
2. All Approvals shall contain the following conditions:
 - a) The issuance of an Approval does not relieve the Owner of Land, Applicant, or Approval Holder from any responsibility to obtain all other approvals that may be required from any level of government or authority having jurisdiction or any agencies thereof, or the requirement to comply with jurisdiction by-laws, legislations or regulations.
 - b) A Site Alteration Approval is not transferable to another property.
 - c) The work shall be done at the request of, or with the consent of, the Owner of the lands where the proposed Site Alteration is to be performed.
 - d) Owner may not commence any site works on the subject property (i.e. within the regulated area) of the Conservation Authority, until a permit has been issued by the appropriate authority, if required. The Township requires proof of consultation with the Conservation Authority prior to Township approval and Permitted Site Works proceeding.
 - e) The Owner cannot commence work until an entrance permit is acquired from applicable road authority.
 - f) All Fill to be Dumped or placed shall be clean and free of waste, asphalt, trash, rubbish, glass, liquid or toxic chemicals, hazardous waste or

contaminants within the meaning of the Environmental Protection Act.

- g) The sediment ponds, if applicable, shall be surrounded with construction/security fencing to restrict access, and must be reflected on the Site Plan drawing.
- h) Any off-site nuisances (i.e. dust, weeds, standing water) shall be minimized and mitigated as necessary by the Owner and reflected in the operations plan.
- i) No ponding or alteration of existing surface water flow resulting directly or indirectly from the Site Alteration shall be caused on adjacent Lands.
- j) Where required, the finished Grade surface shall be protected from Erosion by sod, turf, seeding for grass, greenery, asphalt, concrete, or other means either singly or in combination, within two months of completion of the Site Alteration work, or as specified by the Township.
- k) All trenches in which piping is laid as part of the Drainage system shall be inspected by the Township prior to backfilling the excavation.
- l) Erosion and sedimentation control measures shall be provided around all disturbed areas in a manner satisfactory to the Township prior to the commencement of the Site Alteration, and shall be maintained in good working order until the Site has stabilized.
- m) All Fill shall be properly compacted using acceptable Engineering practices, unless it is being stockpiled temporarily on the Site for future use.
- n) The Approval Holder and Owner shall ensure that natural Drainage or any natural or human-made Watercourse or water body is not altered in such a manner that will negatively affect other properties adjacent or the environment.
- o) If archaeological resources are discovered or identified during the Site Alteration, even after the issuance of an Approval, the Owner of Land, Applicant or Approval Holder shall immediately cease all activity on the property and contact the Township and other appropriate authorities.
- p) If required by the Township based on an Engineer's recommendation, the Owner will be required to drill a test well close to the boundary between any adjacent Lands and the Owner's adjoining lands, as a result it is recommended to keep the stockpile or fill areas at least 40 m from the boundary of an adjoining property.
- q) No Site Alteration operations shall be performed:
 - i) On any Saturday or Sunday, or Statutory Holiday;
 - ii) Using Highways to access or egress from the Site except those Highways designated Haul Routes;
 - iii) Before 7:00 a.m. or after 6:00 p.m. during any weekday Monday through Friday using Highways to access or egress from the Site;
 - iv) In contravention of the Township's *Noise Bylaw*;
 - v) That exceeds one hundred (100) truckloads of Fill per day arriving at, or

- leaving, the Site using Highways to access or egress from the Site;
- vi) Prior to submitting to the Township a schedule of the anticipated starting and completion dates for each Site Alteration activity including the schedule for the use of the designated Haul Routes; and
 - vii) Prior to submitting to the Township a submission detailing Site Erosion control measures and dust control measures that will be implemented and maintained during and following construction operations, as required.
- r) A Site Alteration performed pursuant to an Approval shall not detrimentally affect the quality or quantity of water in wells on adjacent properties.
 - s) The Owner and Occupant of the Land and any Approval Holder ensures that all vehicles to and from the Site follow the designated Haul Routes to and from the Site.

3. Every Approval Holder shall:

- a) Provide proof satisfactory to the Township that the Site has been adequately reinstated and stabilized in accordance with this Bylaw and the plan accompanying the Approval;
- b) Give notice to the Township to carry out a final inspection to confirm that all relevant terms of this Bylaw have been complied with;
- c) Following the completion of the Works, and before the release of any deposit or portion thereof, provide a statement of a professional Engineer and/or Ontario Land Surveyor retained by the Approval Holder certifying that:
 - i) The grading has been completed in accordance with the plans submitted;
 - ii) The finished project does not detrimentally affect Drainage on adjacent properties;
 - iii) The finished project does not detrimentally affect the quality or quantity of water in wells on adjacent properties; and
 - iv) Site stabilization of the altered areas on the property have appropriate protection from future erosion.
- d) Prior to commencement of works under an Approval, certify that the Fill introduced to the Site contains no contaminants within the meaning of the *Environmental Protection Act*, R.S.O. 1990, c.E. 19, as amended;
- e) Keep all Highways free of debris originating from the Site Alteration;
- f) The use of tracking pads (i.e. mud mats) during soil receiving or removal operations will be required to prevent tracking of soils onto the public roadway when trucks exit the site. The contractor and/or the Owner will be responsible to inspect daily and remove any mud and/or debris as required from the roadway; and
- g) During performance of a Site Alteration, perform the following minimum inspections and procedures:
 - i) At least once per day, scrape all Highways that have been fouled;
 - ii) At least four (4) times per day inspect the adjacent roadway and entrance are

free of soil debris; and

- iii) At least once each week on Friday night or Saturday morning, clean all Highways that have been fouled.

4. Soil Testing, Site/Soil Management, and Reporting Protocol is to address the following:

- a) Report to the Township test results of soils, prior to the material being received by the Owner at the frequency recommended by the Owner's environmental consultant and not less than once per week and /or one test per four hundred (400) tonnes of material received;
- b) Report to the Township that the actual test results of the soils being received by the Owner will be provided to the Township and in addition the Owner giving a report that states that the material is in accordance to Provincial standards, and that the material is suitable for the intended use and poses no risk to the existing natural environment and local ground water. This report is to be submitted to the Township for comment prior to the material being placed on the Lands;
- c) Inspection and management protocols of the operation to ensure that only tested material is being received; and
- d) Incorporate a reference to the MOE documents dated January, 2014, titled "Management of Excess Soil – A Guide for Best Management Practices" and dated April 15, 2011, titled "Soil, Ground Water and Sediment Standards for Use Under Part XV.1 of the Environmental Protection Act".

Revocation of Application Approval

1. Where the ownership of the Land for which a Variance or Exception has been granted is transferred while the Variance or Exception remains in effect, the Approval Holder, prior to the completion of the transfer, shall provide written notice of both the pending transfer and the Site Alteration status to both the Township and the new Owner, and the new Owner shall within thirty (30) days of the completion of the transfer either:
 - a) Provide the Township with a letter and written plan describing the remaining scope of the site work to comply with all the conditions under which the existing Approval was issued; or,
 - b) Apply for and obtain a new Approval in accordance with the provisions of this Bylaw.
2. In the event that neither the letter and written plan prescribed by Clause 1.a), nor a complete application for a new Approval under Clause 1.b), is received by the Township within the said period, the existing Approval may be revoked by the Township, and the Approval Holder shall thereupon cease and desist forthwith all operations being conducted under the authority of the revoked Approval, save and except for proper clean-up of the Site Alteration works already undertaken.
3. Where it is determined that the Approval Holder has provided misleading or false

information on the application, or has contravened the provisions of this Bylaw or the requirements or conditions of the Approval, the Township may revoke said Approval and the Approval Holder shall thereafter cease and desist all operations being conducted under the authority of the revoked Approval, save and except proper clean-up of the Site Alteration works already undertaken.

**Township of Southgate
By-law 2017-049
Site Alteration**

Schedule "D"

**Part 1
Provincial Offences Act**

| Item | Short Form Wording | Provision Creating or Defining Offence | Set Fine |
|------|---|--|------------|
| 1 | Cause or permit the placing of Fill on a property | 2.1 | \$150.00 |
| 2 | Cause or permit the removal of topsoil on a property | 2.2 | \$150.00 |
| 3 | Failure to comply with order to cause or permit Site Alteration on a property | 2.3 | \$150.00 |
| 4 | Failure to comply with Order to discontinue work | 6.4 | \$1,000.00 |
| 5 | Failure to comply with Order related to Site Plan non-compliance | 6.4 | \$500.00 |
| 6 | Failure to use the Township approved designated haul route | 8.5 | \$500.00 |

Note: the general penalty provision for the offences listed above is section 12.1 of bylaw 2017-049 and 61 of the Provincial Offences Act, R.S.O. 1990, c. P. 33, as amended