

APPENDIX A

THE CORPORATION OF THE TOWN OF OAKVILLE

BY-LAW NUMBER 2003-021

**(TRACKED CHANGES – SHOWING DRAFT AMENDMENTS
PROPOSED THROUGH BY-LAW 2018-***)**

A by-law to regulate site alterations within the Town of Oakville

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

AND WHEREAS Section 135(1) of the *Municipal Act, 2001* authorizes local municipalities to pass by-laws to prohibit or regulate the destruction or injuring of trees;

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(1) of the *Municipal Act, 2001* authorizes local municipalities to prohibit and regulate with respect to noise, vibration, and dust;

AND WHEREAS Section 11(3) of the *Municipal Act, 2001* authorizes local municipalities to pass by-laws respecting matters within the sphere of jurisdiction for culture, parks, recreation and heritage;

AND WHEREAS the Council for The Corporation of the Town of Oakville, consistent with provincial law and policy, deems it desirable to ensure that, in the event of conflict between a provision of this by-law and a provision in any other by-law passed by Council, the provision that ensures that cultural heritage resources are conserved shall prevail, subject to the greater paramouncy of provisions that protect the health or safety of persons;

COUNCIL ENACTS AS FOLLOWS:

1. DEFINITIONS

1.1 In this by-law:

(a) **"Body of Water"** includes any brook, creek, stream, river, lake, pond, waterway, watercourse, canal, swale, wetland or other land area containing or capable of containing flowing or standing water;

"Boundary tree" means a tree, any part of whose trunk is growing across one or more property lines;

"Building Code Act" means the Building Code Act, 1992, S.O. 1992, c. 23, as amended;

"Built heritage resource" means a building, structure, monument, installation or any manufactured remnant that contributes to a property's cultural heritage value or interest as identified by a community, including an Aboriginal community. Built heritage resources are generally located on property that has been designated or otherwise protected under Parts IV or V of the *Ontario Heritage Act*, or included on local, provincial and/or federal registers;

"Conserved" (or "conserve") means the identification, protection, management and use of built heritage resources, cultural heritage landscapes and archaeological resources in a manner that ensures their cultural heritage value or interest is retained under the *Ontario Heritage Act*. This may be achieved by the implementation of recommendations set out in a conservation plan, archaeological assessment, and/or heritage impact assessment. Mitigative measures and/or alternative development approaches can be included in these plans and assessments;

(b) **"Council"** means the Council of The Corporation of the Town of Oakville;

"Cultural heritage landscape" means a defined geographical area that may have been modified by human activity and is identified as having cultural heritage value or interest by a community, including an Aboriginal community. The area may involve features such as structures, spaces, archaeological sites or natural elements that are valued together for their interrelationship, meaning or association. Examples may include, but are not limited to, heritage conservation districts designated under the *Ontario Heritage Act*; villages, parks, gardens, battlefields, mainstreets and other streets of special interest, golf courses, farmscapes, neighbourhoods, cemeteries, historic roads and trailways, viewsheds, natural areas and industrial complexes of heritage significance; and areas recognized by federal or international designation authorities (e.g. a National Historic Site or District designation, or a UNESCO World Heritage Site);

"Cultural heritage landscape conservation plan" or "CHL conservation plan" means, for a cultural heritage landscape that is located in whole or in part on a protected heritage property, a conservation plan approved by the Town pursuant to By-law 2018-XXX;

"Cultural heritage value or interest" means:

- (a) in the case of a protected heritage property created on or after April 28, 2005, the cultural heritage value or interest stated in applicable notices, by-laws, designations or orders under the *Ontario Heritage Act*; or
- (b) in the case of a protected heritage property created before April 28, 2005, the cultural heritage value or interest that is set out in, or can be reasonably inferred from, applicable notices, by-laws, supporting documentation for a by-law, designations or orders under the *Ontario Heritage Act*;

(c) **"Director"** means the Director of Development Engineering of the Town of Oakville ~~and the~~ designate or designates of the Director;

- (d) **"Drainage"** means the movement of stormwater, whether by way of the natural characteristics of the ground surface or by artificial means;
- (e) **"Dump"** or **"Dumping"** means the depositing of fill in a location other than the location from which the fill was obtained and includes the movement or depositing of fill from one location to another on the same property;
- (f) **"Engineer"** means a Professional Engineer currently licensed to practice in the Province of Ontario;
- (g) **"Erosion"** means the detachment and movement of soil, sediment or rock fragments by water, wind, ice or gravity;

"Feature" means, in relation to a cultural heritage landscape, a built heritage resource, a circulation system, a spatial organization, a visible sign of past or continuing land use or pattern of land use, an archaeological site, a space, a natural element, a visual relationship, a view or a vista that has cultural heritage value or interest or contributes to the cultural heritage value or interest or heritage attributes of the landscape;

- (h) **"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;
- (i) **"Grade"** at any point on the land means the elevation of the ground surface of the land; and
- (i) **"Existing Grade"** means the grade as it existed prior to any site alteration;
- (j) **"Finished Grade"** means the actual grade after a site alteration; and
- (k) **"Proposed Grade"** means the grade proposed by an applicant for a site alteration permit;

"Heritage attributes" means the principal features or elements that contribute to a protected heritage property's cultural heritage value or interest, and may include the property's built or manufactured elements, as well as natural landforms, vegetation, water features, and its visual setting (including significant views or vistas to or from a protected heritage property), as identified:

- (a) In the case of a protected heritage property created on or after November 26, 2002, in applicable notices, by-laws, designations or orders under the *Ontario Heritage Act*; or
- (b) In the case of a protected heritage property created before November 26, 2002, in, or can be reasonably inferred from, applicable notices, by-laws, supporting documentation for a by-law, designations or orders;

"Heritage Oakville Advisory Committee" means a municipal advisory committee which reviews heritage permits and other heritage-related matters. The Committee is constituted under Section 28 of the *Ontario Heritage Act*;

- (l) **"Inspector"** means individuals appointed as inspectors under this by-law;

(i) "Municipal tree" means a tree, the trunk of which is located entirely or substantially on municipal property including any road allowance, boulevard, park or natural area; and

"Natural element" means soil, rock, water and vegetation, and includes a landform, forest, wetland, lake, pond, stream, creek or spring, whether designed or otherwise;

"Ontario Heritage Act" means the Ontario Heritage Act R.S.O. 1990, c. O.18, as amended;

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

(l) "Permit" means a permit issued under this by-law;

(m) "Ponding" means the accumulation of surface water in an area not having adequate drainage therefrom where the lack of drainage is caused by the site alteration;

"Protected Heritage Property" means real property in the Town, including all buildings, structures and other features thereon, in the Town that:

(a) has been designated under Part IV of the Ontario Heritage Act;

(b) has been designated under Part V of the Ontario Heritage Act; or

(c) is subject to a notice of intention to designate under section 29 of Part IV of the Ontario Heritage Act for having cultural heritage value or interest;

(n) "Qualified Tree Consultant" means a person holding a valid Class A – Arborist Consulting Company or Class B – Arboriculture Company licence, under the Town of Oakville Licensing By-law;

(o) "Retaining Wall" means a wall designed to contain and support fill which has a finished grade higher than that of adjacent lands;

(p) "Site" means the lot or lots altered or proposed to be altered by means of a site alteration;

(q) "Site alteration" means the placement or dumping of fill on land, the removal of topsoil from land, or the alteration of the grade of land by any means including the removal of vegetative cover, the compaction of soil or the creation of impervious surfaces, or any combination of these activities;

"Structure" means a building or other manufactured thing erected on land by humans that is distinct in visual form and materials from the land itself and natural elements and includes any structure designated under the Building Code, as amended, a building permit for which has been issued under the authority of the Building Code Act;

(r) "Topsoil" means those horizons in a soil profile, commonly known as the "O" and the "A" horizons, containing organic material and includes deposits of partially decomposed organic matter such as peat;

(s) "Town" means The Corporation of the Town of Oakville or the territory under its

jurisdiction as the context requires;

(t) **"Tree"** means a self-supporting woody plant which will reach a height of at least 4.5 metres at physiological maturity; ~~and~~

~~(i) **"Municipal tree"** means a tree, the trunk of which is located entirely or substantially on municipal property including any road allowance, boulevard, park or natural area; and~~

~~(ii) **"Boundary tree"** means a tree, the trunk of which is located on or partially on adjacent property within 6 metres of the property line;~~

(u) **"Tree Protection Zone" or "TPZ"** means the area around a tree described in Schedule "F" to this by-law;

(v) **"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. APPLICATION

2.1 Subject to sections 2.2 to 2.3, this by-law applies to all property in the Town and governs site alteration of property.

2.2 Notwithstanding section 2.1 of this By-law, this by-law does not apply to:

(a) Activities or matters undertaken by a municipality or a local board of a municipality;

(b) Activities or matters prescribed in sections 135(12), 142(5) or 142(6) of the *Municipal Act, 2001*;

(c) Areas which are the subject of a regulation made under section 28 of the *Conservation Authorities Act* respecting the placing or dumping of fill, removal or topsoil or alteration of grade of land; and

(d) The physical alteration of property that is incidental to a Town approval to demolish buildings or structures on the property.

2.3 Notwithstanding section 2.1 of this By-law, no permit is required for the site alterations set out in Schedule "B" to this by-law.

2.4 Notwithstanding section 2.3, the site alterations set out in Schedule "B" remain subject to the provisions of section 7, and sections 10 to 17 inclusive of this by-law.

2.3. GENERAL PROHIBITIONS

2.3.1 No person shall place or dump any fill, remove any topsoil or otherwise alter the grade of land by causing, permitting or performing a site alteration subject to this By-law on land within the Town of Oakville without a permit issued under this ~~by-law~~by-law.

~~2.23.2~~ No person shall cause, permit or perform a site alteration ~~on land within the Town of Oakville~~ subject to this By-law other than in conformity with the terms and conditions of any permit or waiver issued under this by-law ~~and the regulations prescribed in this by-law.~~

~~2.33.3~~ No person shall fail to obey an order issued under ~~Section~~ section 10 of this ~~by-law~~ by-law.

~~2.43.4~~ No person shall cause, permit or perform a site alteration within the area specified in Schedule "A" to this by-law.

~~2.53.5~~ 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 provisions of this by-law and any other applicable by-laws of the Town of Oakville or the Regional Municipality of Halton for the protection of trees.

EXCLUSIONS

~~3.1~~ **~~This by-law does not apply to:~~**

~~(a) activities or matters undertaken by a municipality or a local board of a municipality;~~

~~(b) activities or matters prescribed in Section 135(12), 142(5) or 142(6) of the *Municipal Act, 2001*; and~~

~~(c) areas which are the subject of a regulation made under Section 28 of the *Conservation Authorities Act* respecting the placing or dumping of fill, removal or topsoil or alteration of grade of land.~~

~~3.2~~ **~~Notwithstanding Section 2 of this By-law, no permit is required for the site alterations set out in Schedule "B" to this by-law.~~**

~~3.3~~ **~~Notwithstanding Section 3.2, the site alterations set out in Schedule "B" remain subject to the provisions of Sections 2.2 to 2.5 inclusive, Section 7, and Sections 10 to 17 inclusive of this by-law.~~**

4. APPLICATION FOR PERMITS

4.1 A person applying for a permit shall submit the following to the Director:

- (a) ~~a~~A completed application in the form prescribed by the Director;
- (b) ~~the~~The applicable permit fees shall be paid as set out in the rates and fees schedule approved by Council as part of the annual budget approval process;
- (c) ~~a~~A Site Alteration Plan for the lands meeting the standards and containing the information prescribed in Schedule "D" to this ~~by-law~~by-law;
- ~~(e)~~(d) ~~security~~Security in a form and amount to be determined by the Director in accordance with Schedule "C" to secure performance of the work for which the permit was obtained and compliance with any conditions of granting the permit;
- ~~(f)~~(e) ~~a~~A plan of any proposed or required retaining wall, bearing the signature and stamp of an Engineer, showing design details, to proper scale and the size, type and location of all material to be used in the construction of the retaining wall;
~~and~~
- ~~(f)~~proofIn the case of protected heritage property, a heritage impact assessment prepared in accordance with Town requirements; and
- (g) Proof of any permit or consent that may be required from the Town or any external agency or person for the completion of work associated with the site alteration.

4.2 Notwithstanding ~~Sections~~sections 2.1 and 4.1 and the Schedules to this by-law, the Director may, in writing, waive the requirement for an application for a site alteration permit or any part thereof and/or may reduce the fee for a Permit under this By-law in appropriate cases, after taking into consideration the nature and scale of the proposed works and the anticipated impact on the Site and the surrounding environment. This ~~Section~~section does not permit the Director to grant permits or waive the requirement for permits for site alterations which do not otherwise meet the requirements of ~~Section~~section 5 to this by-law.

5. CRITERIA FOR ISSUING A PERMIT

5.1 ~~5.~~—The Director may issue a permit for a site alteration in accordance with an approved Site Alteration Plan if:

- (a) ~~the~~The applicant has fulfilled all of the requirements of ~~Section~~section 4 of this by-law;
- (b) ~~the~~The Director is satisfied that the lands which are subject to the ~~application~~Application for a permit are not within an area where site alteration is prohibited in Schedule "A" to this by-law, or otherwise prohibited by law;

~~(b)~~(c) ~~the~~The Director is satisfied that the proposed grade and resulting drainage pattern, the design of any retaining wall, the type of fill to be used and the methods of performing the site alteration are all in accordance with prevailing Town of Oakville design standards and proper engineering practice;

~~(e)~~(d) ~~the~~The Director is satisfied that the site alteration will not result in:

- (i) soil erosion;
- (ii) blockage of a watercourse;
- (iii) siltation in a watercourse;
- (iv) pollution of a watercourse;
- (v) flooding or ponding caused by a watercourse overflowing its banks;
- (vi) a detrimental effect on the natural environment of the area;
- (vii) unauthorized injury or destruction of municipal trees or other trees protected under by-laws of the Town of Oakville or the Regional Municipality of Halton;
- (viii) injury or destruction of other trees, which in the opinion of the Director, could reasonably be avoided;

~~(vii)~~(ix) _____ flooding or ponding on neighbouring properties;

~~(viii)~~(x) _____ public safety concerns, including impacts on existing pool enclosures on abutting properties.

~~(f)~~(e) ~~the~~The applicant has entered into any agreement referred to in ~~Section~~section 6(e) of this by-law;

~~(f)~~(e) ~~the~~The Director is satisfied that the site alteration is for a purpose permitted by the applicable zoning by-law of ~~The Corporation of the Town of Oakville~~;

(g) ~~(0~~ ~~the~~The Director is satisfied that the proposed site alteration is consistent with any applicable site plan approval or approval of a plan of subdivision;

~~(g)~~(h) ~~if~~if the proposed site alteration is for the excavation for a pool, the Director is satisfied that the provisions of any by-law of the Town regulating pool enclosures have or will be complied with;

~~(h)~~(i) ~~the~~The Director is satisfied that the land will be rehabilitated to the same or better condition than it was prior to the site alteration;

~~(a)~~(i) For a protected heritage property that is subject to this By-law, the Director is satisfied that

(i) the site alteration is not likely to impact the heritage attributes of the property; or

(ii) the site alteration is likely to affect the heritage attributes of the property, but, following consultation with the Heritage Oakville Advisory Committee, the Town has consented to an alteration of the property in accordance with section 33 of the Ontario Heritage Act;

~~(j)~~(k) if the property is within any Study Area designated under an Official Plan or any amendment to an Official Plan that has been approved by the Council of the Town of Oakville or Regional Municipality of Halton, the Director is satisfied that approval of the site alteration is not premature pending the results of the study.

6. CONDITIONS AND REGULATIONS

Conditions imposed at discretion of Director

6.1 ~~6.~~—The Director may issue the permit subject to such conditions as are, in the opinion of the Director, necessary to meet the criteria of approval set out in ~~Section~~section 5 of this by-law, to protect public safety or to prevent the creation of a public nuisance, including, without limiting the generality of the foregoing, conditions:

- (a) ~~requiring~~Requiring the construction of a retaining wall;
- (b) ~~restricting~~Restricting the location of access routes or staging and storage areas;
- (c) ~~prescribing~~Prescribing erosion, siltation or construction control measures beyond the control measures specified in Schedule "E";
- (d) ~~prescribing~~Prescribing tree protection measures beyond the tree protection measures specified in Schedule "F";
- (e) ~~requiring~~Requiring the owner, prior to the issuance of the permit, to enter into an agreement with the Town containing such provisions, including but not limited to the provision of security for the owner's obligations under this by-law, as the Director considers necessary to ensure that the site alteration is done in accordance with prevailing Town of Oakville design standards, the conservation of heritage values and attributes, proper engineering principles and the requirements of this by-law, which agreement may be registered on title to the lands;
- (f) ~~requiring~~Requiring the applicant to provide proof of liability insurance coverage to the satisfaction of the Director.

7. GENERAL REGULATIONS AND CONDITIONS APPLICABLE TO ALL PERMITS

7.1 No person shall perform a site alteration or permit the performance of a site alteration without the consent of the owner of the property.

7.2 No person shall perform a site alteration or permit the performance of a site alteration:

- (a) ~~between~~Between the hours of 6:00 p.m. and 7:00 a.m. without the prior written consent of the Director;
- (b) ~~during~~During any period in which a wind warning for the area has been issued by Environment Canada.

7.3 Every person who performs a site alteration shall:

- (a) ~~notify~~Notify an inspector in writing within 48 hours of commencing any work;
- (b) ~~notify~~Notify an inspector in writing of the completion of any control measures within fourteen (14) days after their installation;
- (c) ~~obtain~~Obtain the permission of the Director in writing prior to modifying the Site Alteration Plan;
- (d) ~~install~~Install and maintain all control measures as identified in Schedule "E", ~~Section~~section 6(c) and the approved Site Alteration Plan;
- (e) ~~inspect~~Inspect the control measures at least once per week and after each rainfall of at least 1 centimeter and make needed repairs;
- (f) ~~install~~Install all tree protection measures required by Schedule "F", ~~Section~~section 6(d) and the approved Site Alteration Plan prior to commencing any work and maintain these tree protection measures throughout the entire duration of the work;
- (g) ~~maintain~~Maintain all road drainage systems, stormwater drainage systems, control measures and other facilities identified in the approved Site Alteration Plan;
- (h) ~~repair~~Repair any siltation or erosion damage to adjoining surfaces and drainageways resulting from the site alteration or land disturbing activities;
- (i) ~~maintain~~Maintain a copy of any approved Site Alteration Plan on site;
- (j) ~~ensure~~Ensure that the finished grade surface is protected by sod, turf, seeding for grass, greenery, asphalt, concrete or other means, either singly or in combination;
- (k) ~~ensure~~Ensure that all fill is reasonably clean and free from garbage;

(l) ~~ensure~~ Ensure that all fill meets standards prescribed by the Ministry of the Environment for any current land use and any future land use for the lands as designated under an Official Plan or amendment to an Official Plan approved by Council of the Town of Oakville or Regional Municipality of Halton.

(m) ~~(m) — ensure~~ Ensure that fill shall not be placed around the perimeter of any existing building to an elevation higher than 150 millimeters below the ground floor level of such a building, unless such building and its foundation walls are raised in a manner satisfactory to the Director;

(n) ~~(n) — ensure~~ Ensure that no mud is tracked onto municipal roadways and that these roadways are not fouled as a result of the site alteration.

7.4 No person shall alter the grade or cause to be graded any land or cause any fill to be placed or dumped on any site for any purpose, including storage, unless such use, including the storage of fill on the land, is permitted under the applicable zoning by-law of ~~The Corporation of the Town of Oakville~~ Town.

8. EXPIRY, RENEWAL, REVOCATION AND TRANSFER OF PERMITS

8.1 Permits issued under this by-law shall be valid for a period of one year from the date of issuance;

8.2 Notwithstanding ~~Section~~ section 8.1 permits issued under this by-law shall expire six (6) months after the date of issuance of the permit if no work is commenced under the permit.

8.3 A permit which has expired may be renewed at the sole discretion of the Director within a six month period from the date of expiry upon the making of written application to the Director and payment of the fee prescribed in Schedule "C" to this by-law.

8.4 Where it is revealed or discovered that a permit was issued based on false or misleading information, the Director shall revoke the permit, and the owner and permit holder shall ensure that all work that was the subject of the revoked permit ceases.

8.5 If title to the land for which a permit has been issued is transferred while the permit remains in effect, the permit shall be cancelled unless the new owner of the lands, within 30 days of the transfer,

(a) provides the Town of Oakville with an undertaking to comply with all the conditions under which the existing permit was issued; or

(b) applies for and obtains a new permit in accordance with the provisions of this by-law.

8.6 If a permit has expired or been cancelled or revoked after work has commenced and prior to the completion of the site alteration, the Owner shall forthwith restore the site to its original condition or stabilize the site to the satisfaction of the Director in a manner that will prevent adverse impacts on abutting properties and the environment.

9. INSPECTORS

9.1 ___ Municipal law enforcement officers employed by the Town are hereby authorized to enforce this By-law. For the purpose of conducting an inspection to determine compliance with this By-law, an order, a permit, or any condition of a permit, any person authorized to enforce this By-law may, upon producing the appropriate identification, at any reasonable time, enter and inspect any lands or property, to determine whether the provisions of this By-law, an order issued under this By-law, or a permit or a condition of a permit issued under this By-law, have been complied with.

10. ORDERS

Order to Discontinue Activity

10.1 ___ If an inspector is satisfied that a contravention of this by-law has occurred, the inspector 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 or injuring or destruction of trees protected under this by-law to discontinue the activity, 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
- ~~(b)~~(c) the period within which there must be compliance.

Work Order for Site Alteration Work

10.2 If an inspector is satisfied that a person has caused or permitted the performance of a site alteration in contravention of the provisions of this by-law, the inspector 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 the period within which there must be compliance with the order; and

- (c) a notice stating that if the work is not done in compliance with the order within the period it specifies, the municipality may have the work done at the expense of the owner.

10.3 Without limiting the generality of ~~Section~~section 10.2, an inspector may issue an order under ~~Section~~section 10.2:

- (a) requiring that fill dumped or placed contrary to this by-law be removed by the person who dumped or placed it or who caused or permitted it to be dumped or placed;
- (b) requiring the rehabilitation of land ~~from~~from which topsoil has been removed contrary to this by-law or a permit issued under this bylaw;
- (c) requiring that the grade of the land altered contrary to this by-law be restored to its original condition by the person who altered it or who caused or permitted it to be altered.

Service of Orders

10.4 Orders issued by an inspector under ~~Sections~~sections 10.1 or 10.2 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.

10.5 If the Town is unable to effect service on the owner under ~~Section~~section 10.4, a placard containing the terms of the order may be placed in a conspicuous place on the land and the placing of the placard shall be deemed to be sufficient service of the order.

11. WORK DONE BY MUNICIPALITY

11.1 If the work required by an order under ~~Section~~section 10.2 of this by-law is not done within the specified period, the Town, 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*.

12. PENALTY AND OFFENCE

12.1 Every person who contravenes this by-law is guilty of an offence and on conviction is liable,

(a) For contraventions of ~~Section~~section 7.2 of this by-law, \$5,000.00 as prescribed by the *Provincial Offences Act*, R.S.O. 1990, c. P.33.

(b) For contraventions of ~~Section~~section 2.5 or 7.3(f) of this by-law or orders issued under ~~Section~~section 10.1 to stop the injuring or destruction of trees,

(i) on a first conviction, to a fine of not more than \$10,000.00 or \$1,000.00 per tree, whichever is greater;

(ii) on any subsequent conviction, to a fine of not more than \$25,000.00 or \$2,500.00 per tree whichever is greater

as prescribed by ~~Section~~section 138(1) of the *Municipal Act, 2001*, ~~S.O. 2001, c. 25~~;

(c) For contraventions of other provisions of this by-law,

(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 ~~Section~~section 144(16) of the *Municipal Act, 2001*, ~~S.O. 2001, c. 25~~;

12.2 If a person is convicted of an offence for contravening ~~Section~~section 2.3, 7.3(f) or an order under ~~Section~~section 10.1 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 ~~reestablish~~re-establish the trees. (~~S-Section~~ Section 138(2), *Municipal Act, 2001*)

13. SEVERABILITY

~~13.13.1~~ 13.1 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 by-law and all other provisions shall remain in full force and shall be valid and enforceable to the fullest extent permitted by law.

14. APPLICATION OF OTHER LAWS AND CONFLICTS

~~14.14.1~~ _____ The issuance of a permit by the Director does not relieve the applicant of the responsibility of obtaining all other approvals that may be required by the Town of Oakville or any other level of government and agencies therefor from compliance with any other by-law, legislation or obligation.

~~14.2~~ In the event of a conflict between any of the provisions of this By-law, the provision that ensures that cultural heritage resources are conserved shall prevail, subject to the greater paramountcy of any provision authorizing action to protect the health or safety of persons.

~~14.3~~ Where a provision of this by-law conflicts with a provision of any other by-law in force in the Town or regulation in force in the Province of Ontario, the provision that ensures that cultural heritage resources are conserved shall prevail, subject to the greater paramountcy of any provision authorizing action to protect the health or safety of persons.

15. SCHEDULES

15.1 All Schedules attached to this by-law form part of this by-law.

~~15.~~16. SHORT NAME

~~16.1~~ _____ This by-law may be referred to as the "Site ~~Alteration~~Alteration By-law".

~~16.~~17. REPEAL

~~17.17.1~~ _____ By-laws 1996-184, 1994-40 and 1994-41 are hereby repealed.

SCHEDULE "A"

Areas in which no Site Alteration is Permitted

No site alteration shall be permitted ~~with~~within any area designated as an "Environmentally Sensitive Area" or similar designation under the Town's Official Plan, the Region of Halton's Official Plan, or any amendment to the Town's Official Plan or Region of Halton's Official Plan which has been approved by the Council of ~~the~~The Corporation of the Town of Oakville or the Regional Municipality of Halton respectively. **SCHEDULE "B"**

Exemptions to Requirement for Permit

Notwithstanding ~~Section~~section 2.1, no site alteration permit shall be required for:

1. ~~'Emergency~~Emergency repair work performed in consultation with the Town, subject to any requirement from the Director to obtain a permit for the continuation of such work;
2. Topdressing of lawns with topsoil;
3. Cultivation or tilling of garden beds so long as such work does not does have an adverse effect on existing drainage patterns on neighbouring properties;
4. The removal of topsoil from a lot the area of which is less than one half (1/2) hectare in size, unless the site includes or is adjacent to a body of water;
5. The placing or dumping or removal of fill involving an amount of soil of less than 20 cubic metres on a lot within any one year period, unless the site includes or is adjacent to a body of water;
6. Excavation of soil involving an areas of less than nine square meters and a depth of less than 0.5 meters having no significant impact on trees, ground cover, vegetation, watercourses, or storm swales and not altering or creating a slope at greater than 10%.
7. The removal of topsoil incidental to a normal agricultural practice including such removal as an incidental part of sod-farming, greenhouse operations and nurseries for horticultural products ~~;~~;
8. Minor landscaping works which are at least 0.3 metres from any property line and do not impact drainage patterns on neighbouring properties.

NOTES:

1. THE EXEMPTION FROM THE PERMIT REQUIREMENTS UNDER OF THIS BY-LAW GRANTED TO SITE ALTERATIONS LISTED IN THIS SCHEDULE DOES NOT PROVIDE AN EXEMPTION FROM OTHER REGULATIONSREQUIREMENTS OF THIS BY-LAW.

1.2. ALL SITE ALTERATIONS SHALL BE PERFORMED IN COMPLIANCE WITH APPLICABLE REGULATIONSREQUIREMENTS OF THIS BY-LAW AND APPLICABLE LAWS.

SCHEDULE "C"

Application Fees and Security

1. PERMIT FEE SCHEDULE			
TYPE OF PROPERTY OR SITE ALTERATION	PERMIT FEE	REFUNDABLE SECURITY	RENEWAL FEE
RESIDENTIAL			
Infill Lot — Residential construction	\$400.00	\$3,000.00	\$200.00
Grading - Property adjacent to or including a watercourse or shoreline	\$400.00	\$1,500.00	\$200.00
Grading - Property containing a drainage easement or catch basin	\$400.00	\$1,500.00	\$200.00
Construction of inground pool or pond (assumed subdivision)	\$350.00	\$1,500.00	\$175.00
Construction of inground pool or pond (unassumed subdivision)	\$200.00	Developer's letter of credit	\$100.00
Other site alterations to individual residential lots (grading associated with additions to buildings, removal/filling of pools, demolitions etc.)	\$200.00	\$1,500.00	\$100.00
COMMERCIAL /INDUSTRIAL			
Extension to existing parking lot and/or building	\$400.00	Security under site plan, or otherwise to be determined by Director	\$200.00
Construction within an unassumed industrial/commercial subdivision	\$400.00	Determined by Director	\$200.00
Other site alterations to commercial/industrial property (gas stations, excavations, etc.)	\$600.00	Determined by Director	\$500.00
OTHER TYPES OF SITE ALTERATION NOT INCLUDED ABOVE (Including site alterations outside the subdivision process)	\$800.00 (plus \$30.00 per hectare)	Determined by Director	\$500.00
CANCELLATION FEE	\$100.00		

AMENDMENT OF APPLICATION (not resulting in a change in category of application)	Up to half the permit fee at the discretion of Director	Determined by Director	
TREE SECURITY		Determined by Director	

SECURITY FOR SITE CONTROL MEASURES

Where required, security shall be in the form of cash, certified cheque or a letter of credit in a form acceptable to the Town.

Any letter of credit 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 thirty (30) days written notice must be given to the Town prior to its expiry or cancellation.

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

Any interest accruing on realized cash security shall belong to the Town and not to the permit holder.

The general security may be used for:

cleanup of mud tracking of the road or restoration of any municipal works. The owner will be notified of the required cleanup, and if the work is not completed by the owner, the Town will carry out the work using the security money to cover the cost plus 25% of the value of the work to cover the administration cost

the completion or rectification of work required under the permit;

~~(i)~~ the completion of work required under an order issued under ~~Section~~section 10 of this By- law;

~~(f)~~ The general security may be reduced from time to time at the discretion of the Director, but shall otherwise be held pending the completion of all works required under the permit and any order issued under this by-law;

3. It is the responsibility of the Permit Holder:

- (a) to provide proof satisfactory to the Director that the site has been adequately reinstated and stabilized in accordance with this By-law and the plan accompanying the Permit;

(b) to provide a certificate of a consulting engineer or surveyor that the elevations have been completed in accordance with the plans submitted and the finished project does not detrimentally affect drainage on adjacent properties.

(c) to request that the Town carry out a final inspection to confirm that all relevant terms of this by-law have been complied with.

4. When the provisions of paragraph 3 of this by-law and all work required under the permit or any order has been fully complied with to the satisfaction of the

Director, the Director shall release the applicant's general security.

5. Security held for the protection of trees shall be held until the Director is satisfied that no municipal or boundary tree was injured or destroyed as a result of the site alteration in accordance with applicable Town policies for the protection of trees.

SCHEDULE "D"

Standards for Plans

Application for Site Alteration Permit

Two (2) certified copies of a Site Alteration Plan are required. All plans are to be metric and printed from original drawings with all information legible and clear. All plans are to be folded to 8 1/2" x 11" size with title blocks visible. All elevations shall be tied to existing Town of Oakville bench marks and be related to geodetic datum.

Site Alteration Plans, or accompanying documentation shall include the following information:

1. ~~a~~A key map showing the location of the site;
2. ~~the~~The site boundaries;
3. ~~the~~The number of hectares of the site;
4. ~~the~~The use of the land and any adjacent land;
5. ~~the~~The location, dimensions and use of buildings or structures existing or proposed to be erected on the site;
6. ~~the~~The location and use of buildings or structures on adjacent property within 30 metres beyond the site boundary;
7. ~~the~~The location of any easements over the property;
8. ~~the~~The location of lakes, streams, wetlands, channels, ditches, swales, other watercourses, bodies of water or other natural heritage features on the site or within 30 metres beyond the site boundary;
9. ~~the~~The Regional Storm Flood Plan and Conservation Authority Fill Regulation lines;
10. ~~the~~The location of the predominant soil types;
11. ~~the~~The location and type of vegetative cover on the site, including the variety and dbh (diameter at breast height) of every tree on the site;
12. ~~the~~The location (including distance from the property line), variety, and dbh (diameter at breast height) and Tree Protection Zone (determined in accordance with Schedule "F") for every tree located within 10 metres of the site, any access

route to the site, or any proposed staging or storage area. Where access to boundary trees is not available, estimated dbh shall be provided;

13. ~~such~~Such Tree reports prepared by qualified tree consultants as may be required by the Director, Schedule "F" or other Town by-laws or policies.
14. ~~the~~The location and dimension of any existing and proposed storm water drainage systems, and natural drainage patterns on or within thirty (30) meters beyond the site boundary;
15. ~~the~~The location and dimensions of utilities, structures, roads, highways, paving, sidewalks, walkways, easements, catch basins;
16. ~~the~~The existing grade elevations at contour intervals not to exceed one half of one metre and to extend a minimum of thirty (30) metres beyond the site boundary with spot elevations along the property line at sufficient intervals to clearly show the existing drainage patterns on the land and on abutting lands;
17. The proposed final grade elevations of the site;
18. ~~the~~The location and dimensions of all proposed land disturbing activities;
19. ~~the~~The location and dimensions of all proposed temporary stockpiles for soil and other materials;
20. ~~the~~The location and dimensions of all proposed access routes from highways;
21. ~~the~~The location and dimensions of all proposed staging areas for equipment;
22. ~~the~~The location, dimensions, design details and design calculations of all construction site control measures necessary to meet the requirements of this By-law, including details of the proposed sediment and erosion control measures, and details of any drainage system to be used upon the completion of the site alteration;
23. ~~a~~A schedule of the anticipated starting and completion dates of each site alteration activity including the installation of site control measures needed to meet the requirements of this By-law;
24. ~~provision~~Provision for the maintenance of the construction site control measures during construction including a mud tracking prevention program which describes the procedures for mud tracking prevention and road clean up and designates a contact person for such a program throughout each land disturbing or land developing activity;
25. ~~the~~The scale of drawing;

26. ~~details~~Details of the site rehabilitation including the type and location of all interim and permanent stabilization measures;

27. ~~a~~A certificate on the drawing, executed by a Registered Professional Engineer, or a Registered Ontario Land Surveyor, in the following form:

"I have reviewed plans for the construction of _____

located at

_____ and have prepared this plan to indicate the compatibility of the proposal to 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."

28. Such further and other information with respect to the site as may be required by the Director.

SCHEDULE "E"

SITE DESIGN GUIDELINES

Every site alteration shall be performed in accordance with the following guidelines.

The site control measures outlined in these guidelines shall be deemed to be a condition of every permit unless varied in writing by the Director.

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. Of the water is demonstrated to have no particles greater than 40 microns in size, then dewatering operations may be conducted provided the water is not permitted to discharge directly into receiving bodies of water or streams.
2. **Drain Inlet Protection:** All rear lot storm drain inlets or any other inlets as the Commissioner considers necessary, shall be protected with filter fabric, or equivalent barriers meeting design criteria, standards and specifications accepted by the Commissioner.
3. **Site Erosion Control:** The following criteria apply to land disturbing activities that result in runoff leaving the site:
 - (a) Run-off from adjacent areas passing through the site shall be diverted around disturbed areas, if practical. Otherwise the channel shall be protected by sediment control fences being placed along the channel edges to reduce sediment reaching the channel;
 - (b) -All activities on the site shall be conducted in a logical sequence to area of bare soil exposed at any one time;
 - (c) Any fill storage piles containing more than one hundred cubic meters of material shall not be located within a downslope drainage length of less than ten (10) meters to a roadway or drainage channel. If remaining for more than thirty (30) days, said soil or dirt storage piles shall be stabilized by mulching, vegetative cover, tarps or other means. Erosion from fill storage piles which will be in existence for less than thirty (30) days shall be controlled by filter fence barriers around the pile;
 - (d) Runoff from the entire disturbed area on the site shall be controlled as follows:
 - (i) All disturbed ground left inactive shall be stabilized by seeding, sodding, mulching, covering, or equivalent control measures. The period of time of inactivity shall be at the discretion of the Director but shall not exceed 30 days or such longer periods as deemed advisable at the discretion of the Commissioner.

(ii) Notwithstanding paragraph 3(d)(i), a Site Alteration Permit holder or applicant for a Site Alteration Permit who has applied for but not yet received a building permit or any other necessary permit 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/she has made best efforts to obtain the said building or other necessary permit.

(iii) For sites with less than four (4) hectares disturbed at one time and with slopes less than twelve (12) percent grade, sediment control fences or equivalent measures shall be placed along all downslope sides of the site.

For sites having drainage area of more than four (4) acres disturbed at one time or with slopes greater than twelve (12) percent grade, one or more sediment basins should be constructed. The basins shall be designed to trap sediment particles greater than 40 microns in size and be constructed in accordance with any applicable Town of Oakville design standards or proper engineering principles.

(v) For sites located adjacent to existing residential areas, a sediment control fence may be required around the entire perimeter of the site;

(vi) A three (3) metre wide buffer strip or sediment control fence shall along the perimeter of the downslope sides of the site;

(vii) For sites with extensive fill requirements the Director may waive the requirements for stabilization of disturbed land after thirty (30) days of inactivity provided that the sediment control measures have been implement to the satisfaction of the Director.

2.4. Reverse Driveways - The use of Reverse Driveways (sloping downwards towards the house or building) is actively discouraged by the Town of Oakville. If their use is proposed, the proponent must ensure that a suitable degree of flood protection is provided. Reverse Driveway drainage facilities may not be connected by gravity to the storm sewer system unless it can be proven that surcharging by the sewer system during a 1:100 year storm will not cause them to flood.

SCHEDULE "F"

Tree Protection Policies

Every site alteration shall be performed in accordance with the tree protection policies set out in this schedule. Compliance with the tree protection policies is deemed to be a condition of every permit unless specifically exempted in writing by the Director.

1. Application of Tree Protection Policies

Tree protection measures are required for all Municipal Trees. The injury or destruction of Municipal Trees is regulated or prohibited under separate by-laws of the Town administered by the Town Forester. Permits granted under this by-law do not exempt the permit holder from the provisions of those by-laws.

Tree protection measures apply to Boundary Trees except as may be authorized in writing by the Director in accordance with the provisions of this Schedule.

Tree protection measures are encouraged for all trees and may be required by the Director for trees other than municipal trees and boundary trees where the protection of the tree is required as a condition of any other municipal approval or by-law or where required to protect public safety.

2. Discretion of the Director

The Director shall exercise any discretion under this by-law in accordance with the provisions of any by-law or policy for the protection of trees generally applicable throughout the Town and the Tree Protection policies listed in this Schedule. In the event of a conflict between the Tree Protection policies listed in this Schedule and other policies or by-laws for the protection of trees applicable within the Town, the policy or by-law that is the most protective of trees shall prevail for the purposes of this by-law.

Subject to the provisions of any other by-law, the Director, in consultation with the Town Forester, may provide relief from the requirements of these tree protection policies or require tree protection measures above and beyond the tree protection measures prescribed in this policy having regard to the variety and location of the tree and any circumstances surrounding the site alteration that may pose a particular hazard to the tree.

~~0.3.~~ Tree Protection Zones

For the purposes of this By-law, the Tree Protection Zone (TPZ) for any tree shall be determined as follows:

Table 1— Tree Protection Zones

Trunk Diameter (DBH) ¹	Minimum Protection Distances Required ²
<10 cm	1.8 m
11 — 40 cm	2.4 m
41 — 50 cm	3.0 m
51 — 60 cm	3.6 m
61 — 70 cm	4.2 m
71 — 80 cm	4.8 m
81 — 90 cm	5.4 m
91 — 100+cm	6.0 m

¹ Diameter at breast height (DBH) measurement of tree trunk taken at 1.4 metres above ground.

Tree Protection Zone distances are to be measured from the outside edge of the tree base towards the drip line and may be limited by an existing paved surface, provided that surface remains intact throughout the site alteration.

4.Activities Prohibited or Restricted within Tree Protection Zones

The following activities are prohibited within a Tree Protection Zone for Municipal Trees and other trees protected as a condition of a permit issued under this by-law:

- (a) No site alteration or land disturbance to existing grade through deposit of fill, trenching, excavating, scraping, or paving;
- (b) No storage of construction materials, soils, waste, debris or equipment;
- (c) No disposal of any liquids, e.g. concrete slush, gas, oil, paint;
- (d) No movement or parking of vehicles or equipment or other activities that may compact the soil.

Where the applicant proposes to conduct any of the above activities within the Tree Protection Zone, the applicant shall submit a report to the satisfaction of the Director, prepared by a qualified tree consultant:

- (a) Describing the adaptability of the tree to the proposed site alteration or work associated with the site alteration, including a "structural hazard rating" for all trees greater than 100 mm in dbh prepared in accordance with the methodology in *Evaluation of Hazard Trees in Urban Areas*, International Society of Arboriculture (SA), Second Edition or an equivalent method acceptable to the Director;
- (b) Outlining any tree protection measures recommended or required to protect the tree from injury or destruction;

- tc) Certifying whether the proposed work is expected to injure or destroy the tree.

Permission to conduct the prescribed activities shall be refused if granting permission is likely to cause the injury or destruction of a tree contrary to the provisions of a by-law of the Town of Oakville or Regional Municipality of Halton and may be refused in the case of other trees, if, in the opinion of the Director, there is a reasonable alternative, including modifications to the Site Alteration Plan that would prevent or limit the injury or destruction of the tree.

5. Tree Protection Barriers

Tree Protection Barriers shall be erected along the perimeter of the Tree Protection Zone of any Municipal Tree, Boundary Tree or other tree protected as a condition of a permit issued under this by-law prior to commencing any work related to the site alteration and shall remain in place throughout the entire duration of the work.

Tree protection barriers shall be erected in accordance with the following standards:

- ~~1.~~i. The required barrier shall be 1.2 m. (4 ft) high, wood clad hoarding. Where branches of the tree interfere with the barrier, the height of the barriers may be lowered to accommodate the branches.
- ~~2.~~ii. Tree protection barriers located on the Town road allowance, where visibility must be maintained shall be 1.2. m. (4 ft) high, and consist of orange plastic web snow fencing on a 2" x 4" frame
- ~~3.~~iii. Where some excavate or fill has be temporarily located near a tree protection barrier, plywood or similar material shall be used to ensure that no material enters the Tree Protection Zone.
- ~~4.~~iv. All supports and bracing shall be located outside the Tree Protection Zone in a manner that minimizes damage to roots within or outside the Tree Protection Zone.
- v. Signage, at least 40 cm x 60 cm in size of white gator board or equivalent shall be posted and maintained on the tree protection barrier, clearly identifying the area as a Tree Protection Zone in which grading, storage or materials or equipment is prohibited, and advising that the removal of the Tree Protection barrier is prohibited prior to completion of the site alteration.

6. Security for Tree Protection

Security for the protection of trees may be required by the Director in an amount to be determined by the valuation of the tree in accordance with the current edition of the International Society of Arboriculture's "Guide for Plant Appraisal" or an equivalent guide chosen by the Director.

Security for Tree Protection shall be held by the Director for twenty-four (24) months after the date of final inspection of the site alteration or such longer or shorter time as the Director deems necessary to satisfy the Director that the tree has not been injured or destroyed as a result of the site alteration. Applicants applying for the early release of security of the site alteration shall produce a report of a qualified tree consultant certifying that the tree has not been injured or destroyed as a result of the site alteration.