



THE CORPORATION OF THE TOWN OF OAKVILLE

BY-LAW NUMBER 2023-047

A by-law to regulate site alterations within the Town of Oakville and to repeal By-law Number 2003-021 as amended.

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 Part 12 Section 391 of the *Municipal Act, 2001* authorizes a municipality to impose fees or charges on persons for services or activities done by or on behalf of it;

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 paramountcy of provisions that protect the health or safety of persons;

THEREFORE COUNCIL OF THE CORPORATION OF THE TOWN OF OAKVILLE ENACTS AS FOLLOWS:

DEFINITIONS

1.1 In this by-law:

- (a) **“Administrative Penalties for Non-Parking Violations and Orders By-law”** means By-law 2021-038, or successor by-laws;
- (b) **“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;
- (c) **“Building Code Act”** means the Building Code Act, 1992, S.O. 1992, c. 23, as amended;
- (d) **“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 under Parts IV or V of the *Ontario Heritage Act*, or included on local, provincial and/or federal registers;
- (e) **“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;
- (f) **“Council”** means the Council of The Corporation of the Town of Oakville;
- (g) **“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);

- (h) **“Cultural heritage landscape conservation plan”** or **“CHL conservation plan”** means, for a cultural heritage landscape contained or included in a protected heritage property, a conservation plan approved by the Town;
- (i) **“Cultural heritage resources”** means built heritage resources, cultural heritage landscapes and archaeological resources that have been determined to have cultural heritage value or interest for the important contribution they make to our understanding of the history of a place, an event, or a people. While some cultural heritage resources may already be identified and inventoried by official sources, the significance of others can only be determined after evaluation;
- (j) **“Cultural heritage value or interest”** means:
 - i. 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
 - ii. 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*;
- (k) **“Development Engineering Manual”** means the Town Development Engineering Manual dated January 2011, and as amended from time to time.
- (l) **“Director”** means the Director of Transportation and Engineering, or designate;
- (m) **“Drainage”** means the movement of stormwater, whether by way of the natural characteristics of the ground surface or by artificial means;
- (n) **“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;

- (o) “**Engineer**” means a Professional Engineer currently licensed to practice in the Province of Ontario;
- (p) “**Erosion**” means the detachment and movement of soil, sediment or rock fragments by water, wind, ice, or gravity;
- (q) “**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 culture heritage value or interest or contributes to the cultural heritage value or interest or heritage attributes of the landscape;
- (r) “**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;
- (s) “**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;
 - ii. “**Finished Grade**” means the actual grade after a site alteration; and
 - iii. “**Proposed Grade**” means the grade proposed by an applicant for a site alteration permit;
- (t) “**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:
 - i. In the case of a protected heritage property created on or after November 26, 2002, are described in applicable notices, by-laws, designations or orders under the *Ontario Heritage Act*; or
 - ii. In the case of a protected heritage property created before November 26, 2002, are described 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*;
- (u) “**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*,

- (v) **“Impervious Surface”** means paved area or hardscaping such as asphalt, concrete, bricks, paver stones, or other water-resistant materials;
- (w) **“Inspector”** means:
 - i. employees of the Development Engineering Section of the Planning Services Department of the Town, or any successor to that Section/Department who are otherwise authorized to enforce the by- laws of the Town of Oakville and who are appointed as inspectors under this by-law;
 - ii. employees of the Forestry Section of the Parks and Recreation Department of the Town, or any successor to that Section/Department of the Planning Services Department of the Town who are appointed as inspectors for the purposes of provisions relating to the injury or destruction of trees;
- (x) **“Municipal Stormwater System”** includes, but is not limited to, swales, ditches, storm sewers, and overland flow routes (right-of-ways and remnant channel) that move storm water across lots and stormwater management ponds,
- (y) **“Natural element”** means soil, rock, water and vegetation, and includes a landform, hill, mound, berm, watercourse, water body, ditch, spring, wetland or forest, whether designed or otherwise;
- (z) **“Negatively Impacts drainage on another property”** includes, but is not limited to, ponding, flooding, and lack of outlet for surface drainage.
- (aa) **“Officer”** means any person authorized by the Corporation of the Town of Oakville to enforce by-laws and includes Municipal Law Enforcement Officers, provincial offences officers and Halton Regional Police Officers;
- (bb) **“Ontario Heritage Act”** means the *Ontario Heritage Act*, R. S.O. 1990, c.O.18, as amended;
- (cc) **“Owner”** means the registered owner(s) of the Site;
- (dd) **“Penalty Notice”** means a notice issued pursuant to the provisions of the Administrative Penalties for Non-Parking Violations and Orders By-law;

- (ee) **“Permit”** means a permit issued under this by-law;
- (ff) **“Person”** means an individual, firm, corporation, sole proprietorship, association or partnership and includes an applicant for a permit under this By-law as the context requires;
- (gg) **“Ponding”** means the accumulation of surface water;
- (hh) **“Pool”** means any body of water, which is:
- i. located outdoors on private property;
 - ii. wholly or partially contained by artificial means; and
 - iii. capable of holding water in excess of 0.61m (2 feet) in depth at any point,
 - iv. an open exposed water surface of at least 1m² (10.7 ft²);
- and includes a hot tub or landscape pond meeting the above criteria, but for purposes of this by-law does not include any pool which is:
- [1] a pond or reservoir to be utilized for farming purposes or as part of a golf course,
 - [2] a pool owned by any public or governmental body, agency or authority, or
 - [3] an existing natural body of water or stream;
 - [4] a privately owned stormwater management facility;
- (ii) **“Pool Enclosure”** a fence, wall or other structure, or combination thereof, including any door or gate, surrounding a pool and restricting access thereto;
- (jj) **“Property Line”** means the boundary line of the site;
- (kk) **“Protected Heritage Property”** means real property in the Town, including all buildings, structures and other features thereon, that:
- i. has been designated under Part IV of the *Ontario Heritage Act*,
 - ii. has been designated under Part V of the *Ontario Heritage Act*, or
 - iii. are 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;
- (ll) **“Public Nuisance”** means an activity or activities, intentional or negligent in origin, which have a detrimental impact on the use and enjoyment of properties in the vicinity of the premises;

- (mm) **“Qualified Tree Consultant”** means an arborist certified by the International Society of Arboriculture who has a diploma (minimum) in arboriculture or urban forestry;
- (nn) **“Remnant Channel”** means a watercourse or channel that is not regulated by the Conservation Authority. In general, they provide the function of an overland flow route.
- (oo) **“Retaining Wall”** means a wall designed to contain and support fill which has a finished grade higher than that of adjacent lands;
- (pp) **“Site”** means the lot or lots altered or proposed to be altered by means of a site alteration;
- (qq) **“Site alteration”** means the placement or dumping of fill on land, the removal or excavation of soil/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;
- (rr) **“Site Alteration Agreement”** means the agreement in form and content set out in Schedule “G” to this By-law.
- (ss) **“Stormwater Master Plan”** means the Town Stormwater Master Plan dated August 19, 2019, and as amended from time to time.
- (tt) **“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*;
- (uu) **“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;
- (vv) **“Town”** means The Corporation of the Town of Oakville or the territory under its jurisdiction as the context requires;
- (ww) **“Tree”** means any species of woody perennial plant, including its root system which has reached or can reach a height of at least 4.5 metres (15 feet) 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. **“Border Line tree”** means a tree located near a property line, but has roots or branches that extend over a property line;
 - iii. **“Boundary tree”** means a tree or any part of whose trunk is going across one or more property lines.
- (xx) **“Tree Protection Zone”** or **“TPZ”** means the area around a tree described in Schedule “F” to this by-law;
- (yy) **“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. Watercourse includes Remnant Channels.
- (zz) For the purposes of Section 5.1,
- i. **EIR** – means an Environmental Implementation Report as referred to in the relevant secondary plan of the Town’s Official Plan;
 - ii. **FSS** – means a Functional Servicing Study as referred to in relevant secondary plan of the Town’s Official Plan;
 - iii. **NOCSS** – means the North Oakville Creeks Subwatershed Study.

GENERAL

- 2.1 This By-law is a Designated By-law under the Administrative Penalties for Non-Parking Violations and Orders By-law.

GENERAL PROHIBITIONS

- 3.1 Subject to Section 3.4, and except if exempted by Schedule B of this By-Law, no person shall cause, permit or perform a site alteration on land within the Town without a permit issued under this bylaw.
- 3.2 No person shall cause, permit or perform a site alteration on land within the Town other than in conformity with the terms and conditions of any permit issued under this by-law and the regulations prescribed in this by-law.
- 3.3 No person shall fail to comply with an order issued under Section 11.1 or 11.2 of this bylaw.
- 3.4 No person shall cause, permit or perform a site alteration within the area specified in Schedule “A” to this by-law.

- 3.5 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 or the Regional Municipality of Halton for the protection of trees.
- 3.6 No person shall alter the existing grade of a property in a way that negatively impacts drainage on another property.
- 3.7 No person shall perform or cause any unauthorized activities within the tree protection zone which are contrary to the Town Tree Protection By-law, Private Tree Protection By-law or any conditions imposed and set out by Town staff pertaining to the protection of any tree located on the subject site, boundary tree, border line tree and/or tree on Town property.

EXCLUSIONS

- 4.1 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;
 - (d) the physical alteration of property that is incidental to a Town approval to demolish buildings or structures on the property.
- 4.2 Notwithstanding Section 3.1 of this By-law, no permit is required for the site alterations set out in Schedule “B” to this by-law.
- 4.3 Notwithstanding Section 4.2, the site alterations set out in Schedule “B” remain subject to the provisions of Sections 3.3 to 3.7 inclusive, Sections 8.1 to 8.4 inclusive, and Sections 10.1 to 18 inclusive of this by-law.

APPLICATION FOR PERMITS

- 5.1 A person applying for a permit shall submit the following to the Director:
- (a) a completed application in the form prescribed by the Director;

- (b) the applicable permit fee calculated in accordance with Schedule “C” to this by-law;
- (c) a Site Alteration Plan for the site meeting the standards and containing the information prescribed in Schedule “D” to this bylaw;
- (d) 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;
- (e) 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;
- (f) 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;
- (g) a copy of the Site Alteration Agreement completed and executed by both the Applicant and the Owner; and
- (h) in the case of protected heritage property, a heritage impact assessment prepared in accordance with Town requirements.

5.2 Notwithstanding Sections 3.1. and 5.1 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 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 Sections 6.1 and 6.2 of this by-law.

CRITERIA FOR ISSUING A PERMIT

- 6.1 The Director may issue a permit for a site alteration in accordance with an approved Site Alteration Plan if:
- (a) the applicant has fulfilled all of the requirements of Section 5.1 of this by-law;
 - (b) the Director is satisfied that the site which is subject to the application for a permit is not within an area where site alteration is prohibited in Schedule “A” to this by-law, or otherwise prohibited by law;

- (c) 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, Development Engineering Manual, Stormwater Master Plan, and proper engineering practice;
- (d) 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 municipal stormwater system;
 - vii. a detrimental effect on the natural environment of the area;
 - viii. 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;
 - ix. injury or destruction of other trees, which in the opinion of the Director, could reasonably be avoided;
 - x. flooding or ponding on neighbouring properties;
 - xi. public safety concerns, including impacts on existing pool enclosures on abutting properties.
- (e) the applicant and the Owner, have entered into the Site Alteration Agreement referred to in Section 5.1(g) and Schedule G of this by-law;
- (f) 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) the Director is satisfied that the proposed site alteration is consistent with any applicable site plan approval or approval of a plan of subdivision;
- (h) 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;
- (i) the Director is satisfied that the land will be rehabilitated to the same or better condition than it was prior to the site alteration;
- (j) 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;

- (k) 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 Town's Heritage Advisory Committee, the Town has consented to an alteration of the property in accordance with section 33 of the Ontario Heritage Act.

6.2 Notwithstanding Section 6.1 (g) of this by-law, the Director may issue permits for site alterations within the area covered by the North Oakville East Secondary Plan, or the North Oakville West Secondary Plan in the Town's Official Plan, provided the Director is satisfied that:

- (a) the work covered by the proposed site alteration permit is in furtherance of the designated use for the site under the relevant Secondary Plan;
- (b) an EIS and FSS have been submitted and reviewed by the relevant agencies, and the work complies with all relevant provisions of the NOCSS, EIR, FSS;
- (c) the work does not include works within or which adversely impact the Natural Heritage System provided for in the relevant Secondary Plan;
- (d) the work does not prejudice or predetermine any condition of subdivision approval, including the location of roads;
- (e) the location of any stormwater management pond within any catchment area relevant to the proposed work has been determined to the satisfaction of the Director through the EIR and FIS in consultation with the relevant agencies with a degree of certainty appropriate to the type of work proposed; and
- (f) the application has been circulated to staff at the Regional Municipality of Halton, the Halton Conservation Authority, and any comments from those agencies have been addressed to the satisfaction of the Director.

CONDITIONS AND REGULATIONS

Conditions imposed at discretion of Director

- 7.1 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 Sections 6.1 and 6.2 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 the construction of a retaining wall;
 - (b) restricting the location of access routes or staging and storage areas;
 - (c) prescribing erosion, siltation or construction control measures in compliance with and/or beyond the control measures specified in Schedule “E”;
 - (d) prescribing tree protection measures in compliance with and/or beyond the tree protection measures specified in Schedule “F”;
 - (e) requiring the work covered by the permit to be completed, inspected and approved all in accordance with the terms and conditions of the permit prior to permit expiry and if not so completed inspected and approved all in accordance with the terms and conditions of the permit prior to permit expiry then the Permit Holder or the Owner shall pay to the Town immediately on demand liquidated damages in an amount determined by the Director as the difference being necessary between the remaining securities deposit and the estimated cost to pay for the completion and rectification of any outstanding work over and above the securities held by or forfeited to the Town;
 - (f) requiring the applicant and owner, prior to the actual issuance of the permit, if not already submitted with the Application for the permit, to enter into the Site Alteration Agreement in Schedule “G” with the Town containing such other provisions as the Director deems advisable.
 - (g) requiring the applicant to provide proof of liability insurance coverage to the satisfaction of the Director.

General Regulations and Conditions Applicable to All Permits

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

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

- (a) between the hours of 7:00 p.m. and 7:00 a.m., Monday thru Saturday, without the prior written consent of the Director. No work is to be performed on Sundays or statutory holidays;
- (b) during any period in which a wind warning for the area in which the site is located has been issued by Environment Canada.

8.3 Every person who performs a site alteration shall:

- (a) notify an inspector in writing within 48 hours of commencing any work;
- (b) notify an inspector in writing of the completion of any control measures within fourteen (14) days after their installation (as required under Schedules “E” and “F”);
- (c) obtain the permission of the Director in writing prior to modifying the Site Alteration Plan;
- (d) install and maintain all control measures as identified in Schedule “E”, Section 7.1(c) and the approved Site Alteration Plan;
- (e) inspect the control measures at least once per week and after each rainfall of at least 1 centimeter and make needed repairs;
- (f) install all tree protection measures required by Schedule “F”, Section 7.1(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 all road drainage systems, stormwater drainage systems, control measures and other facilities identified in the approved Site Alteration Plan;
- (h) repair any siltation or erosion damage to adjoining surfaces and drainage ways resulting from the site alteration or land disturbing activities;
- (i) maintain a copy of any approved Site Alteration Plan on site;
- (j) 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 that all fill is reasonably clean and free from garbage;
 - (l) 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) 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) ensure that no mud is tracked onto municipal roadways and that these roadways are clear of construction debris.
- 8.4 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.

Expiry, Renewal, Revocation and Transfer of Permits

- 9.1 A permit issued under this by-law shall be valid for a two (2) year period from the date of issuance after which it is deemed expired and securities forfeited to the Town unless the permit is renewed prior to expiry. If renewed prior to expiry, renewals are valid for a one year period, after which the permit is deemed expired and the securities forfeited to the town, unless renewed again prior to expiry.
- 9.2 Notwithstanding Section 9.1, 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 by that six month date, and any securities being held by the Town for such permits shall be returned to the Owner, or Permit Holder, if not the Owner, depending who has deposited the securities.
- 9.3 A permit which has expired may be renewed once at the sole discretion of the Director within a six month period from the date of expiry for one-year upon the making of written application to the Director and payment of the fee prescribed in Schedule "C" to this by-law. If the work is not complete at the time of expiry of the renewed permit, then a new permit will be required to complete the work.
- 9.4 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 then current owner and permit holder, jointly and severally, shall ensure that all work that was the subject of the revoked permit ceases and the site returned to the condition it was in as near as may be reasonably possible before the work was undertaken..

- 9.5 If title to the site for which a permit has been issued is transferred while the permit remains in effect, the permit shall be deemed expired as of the date of transfer, securities forfeited to the Town and permit closed within 30 days.
- 9.6 Despite Section 9.5, the then expired permit may be renewed by the new owner at the sole discretion of the Director, or designate, within 30 days of the transfer date if the new Owner provides the Town with a written undertaking to comply with all the conditions under which the expired permit was issued, provides any necessary securities as determined by the Director or designate and agrees to be bound by and comply with the applicable Site Alteration Agreement including but not limited to:
- (a) the covenant to meet and/or address all the criteria set out for issuance of the permit in Sections 6.1 and 6.2 of this by-law in carrying out the work under the permit;
 - (b) the covenant to comply with all General Regulations and Conditions in this by-law including Sections, 8.1, 8.2, 8.3, 8.4, and all the Schedules of this by-law and the Conditions on the permit, in carrying out the work under the permit;
 - (c) 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 the prevailing Town of Oakville design standards, proper engineering principles and the requirements of this by-law;
 - (d) the Owner and Permit Holder, if not the Owner, agreeing that any security(ies) posted under the permit is/are forfeited to the Town if the site is transferred to another owner before the site alteration under the permit is completed and the permit is closed;
 - (e) the Owner and Permit Holder, if not the Owner, agreeing that any security(ies) posted under the permit is/are forfeited to the Town if the permit is not closed or renewed prior to expiry;
 - (f) the Owner and Permit Holder, if not the Owner, agreeing that no new permit on other properties within the Town will be granted to the applicant and/or owner until all other permits of the applicant and/or owner have been closed; and
 - (g) the Owner and Permit Holder, if not the Owner agreeing the work covered by the permit is to be completed, inspected and approved all in accordance with the terms and conditions of the permit and if not so completed inspected and approved all in accordance with the terms and

conditions of the permit then the Owner and Permit Holder, if not the Owner, shall pay to the Town immediately on demand liquidated damages in an amount determined by the Director as being necessary to pay for the completion and rectification of any outstanding work in addition to any securities held by or forfeited to the Town and further agreeing that such payment is liquidated damages and not a penalty and the similar covenants for continuing failure;

- 9.7 Subject to Section 9.4, if a permit has expired or been cancelled or revoked after work has commenced and prior to the completion of the site alteration, the then current 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.

ENFORCEMENT AND INSPECTION

- 10.1 The Director, inspectors, and Officers are hereby authorized to enforce this by-law and the Site Alteration Agreement.
- 10.2 The Director may delegate any of his or her duties under this by-law to an inspector.
- 10.3 Inspectors and Officers may, at any reasonable time, enter and inspect any land to determine whether the provisions of this by-law, an order issued under this By-law, a condition of a permit issued under this by-law or a provision of the Site Alteration Agreement have been complied with. This power of entry does not allow the inspector or Officer to enter any building.
- 10.4 Any person who obstructs or permits the obstruction of an inspection is guilty of an offence.

ORDERS

- 11.1 Where an Officer has reasonable grounds to believe that a contravention of this By-law has occurred or a breach of the Conditions of a permit has occurred or a breach of the provisions of the Site Alteration Agreement have occurred, the Officer may issue an order to the person contravening this By-law or Permit Conditions or Site Alteration Agreement in accordance with the provisions of the Administrative Penalties for Non-Parking Violations and Orders By-law.
- 11.2 Without limiting the generality of an order issued pursuant to the Administrative Penalties for Non-Parking Violations and Orders By-law, an Officer may issue an order:

- (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 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, and/or
- (d) requiring that the owner of the land on which a site alteration has been performed or the permit holder provide drawings stamped by a professional engineer or land surveyor licensed to practice in Ontario and/or the opinion of said professional engineer regarding the site alteration or any recommended remedial work.

WORK DONE BY MUNICIPALITY

- 12.1 If the work required by an order under Section 11.1 or Section 11.2 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*.

ADMINISTRATIVE PENALTIES

- 13.1 An Officer who finds or has reasonable cause to believe that a person has contravened any provision of this By-law, including the Permit Conditions, the Site Alteration Agreement or any Schedules, may issue a penalty notice to the person in accordance with the provisions of the Administrative Penalties for Non-Parking Violations and Orders By-law.
- 13.2 Each person who has been issued a penalty notice shall, upon issuance of the penalty notice, be liable to pay an administrative penalty to the Town in the amount of \$300 or as revised in the Town's rates and fees schedule.
- 13.3 If an Officer has issued a penalty notice under subsection 13.1 of this By-law and has reasonable cause to believe that the same person has contravened the same provisions of this By-law, including the Permit Conditions, the Site Alteration Agreement or any Schedules, for a second time within twenty-four (24) months of the date the first penalty notice is deemed to be served, the Officer may issue a second penalty notice to the person.
- 13.4 Upon issuance of the second penalty notice, the person shall be liable to pay an administrative penalty to the Town in the amount of \$400 or as revised in the Town's rates and fees schedule.

- 13.5 If an Officer has issued a penalty notice under subsection 13.1 of this By-law and has reasonable cause to believe that the same person has contravened the same provision of this By-law, including the Permit Conditions, the Site Alteration Agreement or any Schedules, for a third or subsequent time within twenty-four (24) months of the date the second penalty notice is deemed to be served, the Officer may issue a third or subsequent penalty notice to the person.
- 13.6 Upon issuance of a third or subsequent penalty notice, the person shall be liable to pay an administrative penalty to the Town in the amount of \$500 or as revised in the Town's rates and fees schedule.
- 13.7 A person who has been issued a penalty notice under this By-law may request a review of the penalty notice in accordance with the Administrative Penalties for Non-Parking Violations and Orders By-law.

SERVICE OF ORDERS, PENALTY NOTICES, NOTICES

- 14.1 Service of any penalty notice, order, or any other notice may be given as specified in the Administrative Penalties for Non-Parking Violations and Orders By-law.

PENALTY AND OFFENCE

- 15.1 Every person who contravenes this by-law is guilty of an offence and on conviction is liable,
- (a) For contraventions of Section 8.1, 8.2, 8.3 other than 8.3 (f) or 8.4 of this by-law, to a fine of not more than \$5,000.00 as prescribed by the *Provincial Offences Act*, R.S.O. 1990, c. P.33.
 - (b) For contraventions of Section 3.3 or 8.3(f) of this by-law or orders issued under Section 11.1 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 135 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 144(16) of the *Municipal Act*, 2001, S.O. 200 1, c. 25;

15.2 If a person is convicted of an offence for contravening Section 3.5, 8.3(f) or an order under Section 11.1 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 the trees. (s. 138(2), Municipal Act, 2001)

SEVERABILITY

16.1 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.

APPLICATION OF OTHER LAWS

17.1 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 thereof or from compliance with any other by-law, legislation or obligation.

17.2 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.

17.3 Where a provision of this by-law conflicts with a provision of any other by-law in force in the Town, 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.

SCHEDULES

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

TRANSITION

- 19.1 Any Site Alteration Permit issued pursuant to By-law 2003-021 as amended that has not yet expired as of the date of passage of this new by-law shall upon the passage of this by-law be governed by this new by-law.
- 19.2 Any Site Alteration Permit issued pursuant to By-law 2003-021 as amended that has expired, but has not yet been closed, as of the date of passage of this new by-law shall upon the passage of this by-law continue to be governed by By-law 2003-021 as amended.

SHORT NAME

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

REPEAL

- 21.1 By-laws 2003-021, 2008-124, 2010-090, and 2018-044 are hereby repealed. By-law 2009-149 is hereby amended to remove Schedule “C”. By-law 2011-137 is hereby amended to remove Schedule “C”. By-law 2019-030 is hereby amended to remove Schedule “A”. By-law 2021-038 is hereby amended to remove Schedule “B”. By-law 2022-031 is hereby amended to remove Schedule “B”.

PASSED this 29th day of May, 2023.

Rob Burton Mayor

Vicki Tytaneck Town Clerk

SCHEDULE A

Areas in which no Site Alteration is Permitted

No site alteration shall be permitted 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 Corporation of the Town of Oakville or the Regional Municipality of Halton respectively.

SCHEDULE B

Exemptions to Requirement for Permit

Notwithstanding Section 3.1 of this By-Law, no site alteration permit shall be required for:

1. 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 have an adverse effect on drainage patterns on another property;
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. Excavation of soil involving an area of less than nine square meters and a depth of less than 0.5 meters having no impact on trees, ground cover, vegetation, watercourses, or storm swales and not altering or creating a slope at greater than 10%.
6. 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.
7. A Site Alteration which is at least 0.3 metres from any property line and does not impact drainage patterns on another property.
8. Resurfacing of driveways without changing any grades.

THE EXEMPTION FROM THE PERMIT REQUIREMENTS UNDER THIS BY-LAW GRANTED UNDER THIS SCHEDULE B TO SITE ALTERATIONS LISTED IN THIS SCHEDULE DO NOT PROVIDE AN EXEMPTION FROM OTHER APPLICABLE REGULATIONS AND CONDITIONS UNDER THIS BY-LAW. ALL SUCH SITE ALTERATIONS SHALL BE PERFORMED IN COMPLIANCE WITH THE GENERAL REGULATIONS, CONDITIONS, AND SCHEDULES AS MAY BE REASONABLE IN THE APPLICABLE CIRCUMSTANCES TO PREVENT ANY DETRIMENTAL IMPACT ON THE USE AND ENJOYMENT OF NEIGHBOURING PROPERTIES AND OTHER PROPERTIES IN THE VICINITY OF THE SITE AND THE ENVIRONMENT.

SCHEDULE C

The fee established as part of the annual Budget process shall be paid to The Corporation of the Town of Oakville for permits issued for the following activities related to permits issued under the Site Alteration By-law:

Activity

RESIDENTIAL

- Infill lots – Residential
- Grading – property adjacent to or including a watercourse or shoreline
- Grading – property containing a drainage easement or catch-basin
- Construction of in-ground pool or pond
- Other site alterations to individual residential lots (grading associated with additions to buildings, removing/filling of pools, demolitions, etc.).

COMMERCIAL/INDUSTRIAL

- Extension to existing parking lot and/or building
- Construction within an un-assumed industrial/commercial subdivision
- Other site alterations to commercial/industrial property (gas stations, excavations, etc.)

NORTH OAKVILLE DEVELOPMENT

- Topsoil removal and stockpiling
- Cut, fill, balancing

OTHER TYPES OF SITE ALTERATION NOT INCLUDED ABOVE

(Including site alterations outside the subdivisions process)

CANCELLATION FEE

AMENDMENT OR APPLICATION

(not resulting in a change in category of application)

SECURITY FOR SITE CONTROL MEASURES

1. Where required, security in the form of cash, certified cheque or a letter of credit in a form acceptable to the Town.
2. Any letter of credit must remain in effect for the full duration of the permit.
3. 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, a clause acknowledging that the Town may draw on the current letter of credit if the Owner of the Site transfers the Site to another Owner before the work under the Permit is completed and the Permit closed and a clause

acknowledging that the Town may draw on the current letter of credit if the authorized work under the Permit is not completed, inspected and approved by the Town.

4. 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, or if the Owner has transferred the Site to a new Owner before the work under the Permit is completed and the Permit closed, the Town may draw on the current letter of credit at the discretion of the Director.
 5. Any interest accruing on realized cash security shall belong to the Town and not to the permit holder.
 6. The general security may be used for:
 - a. 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;
 - b. the completion or rectification of work required under the permit;
 - c. the completion of work required under an order issued under Section 11.1 or Section 11.2 of this By-law;
 7. 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;
 8. It is the responsibility of the Owner or the Permit Holder, if not the Owner:
 - 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 all works have been completed in accordance with the plan accompanying the Permit and that the finished project does not detrimentally affect drainage on adjacent properties, including town owned right-of-way and infrastructure.
 - 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.
 9. 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, and the Permit closed the Director shall release the applicant's general security.
-

10. Security held for the protection of trees shall be held until the Director is satisfied that no municipal, boundary tree, or border line 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 key map showing the location of the site;
2. the site boundaries;
3. the number of hectares of the site;
4. the use of the land and any adjacent land;
5. the location, dimensions and use of buildings or structures existing or proposed to be erected on the site;
6. the location and use of buildings or structures on adjacent property within 30 metres beyond the site boundary;
7. the location of any easements over the property;
8. 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 Regional Storm Flood Plan and Conservation Authority Fill Regulation lines;
10. the location of the predominant soil types;
11. 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 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 border line and boundary trees is not available, estimated dbh shall be provided;

13. 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 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 location and dimensions of utilities, structures, roads, highways, paving, sidewalks, walkways, easements, catch basins;
16. 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 location and dimensions of all proposed land disturbing activities;
19. the location and dimensions of all proposed temporary stockpiles for soil and other materials;
20. the location and dimensions of all proposed access routes from highways;
21. the location and dimensions of all proposed staging areas for equipment;
22. 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 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 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 scale of drawing;
26. details of the site rehabilitation including the type and location of all interim and permanent stabilization measures;
27. 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. If 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 Director considers necessary, shall be protected with filter fabric, or equivalent barriers meeting design criteria, standards and specifications accepted by the Director.

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 fill 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 Director.

- (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.
 - (iv) 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 shall 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 be installed 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 implemented to the satisfaction of the Director.
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 Border Line and 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, boundary trees, and border line 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.

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

Diameter of Trunk (DBH) ³ in centimetres	Tree Protection Zone ³⁴ Distance from trunk measured in metres
<10	1.8
10-30	2.4
31-50	3.0
51-60	3.6
61-70	4.2
71-80	4.8
81-90	5.4
91-100	6.0

1. For trees over 100 cm. DBH, add 10 cm. to the TPZ for every one centimetre of DBH.
2. Roots can extend from the trunk to 2-3 times the distance of the drip line (see Detail TP-1 (SCHEDULE 4) for further information).
3. Diameter at breast height (DBH) measurement of tree trunk taken at 1.37 metres above ground.
4. 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 the existing paved surface remains intact throughout the construction work.

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;
- (c) 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, Border Line 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. 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. 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. 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. 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.

5. 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.

SCHEDULE “G”

SITE ALTERATION AGREEMENT

SITE ALTERATION PERMIT
AGREEMENT (“SAPA”)

ADDRESS: _____
PERMIT NO. _____

THIS SAPA made this day of , 202__

BETWEEN:

_____ (hereinafter called the “Owner”)

-and-

_____ (hereinafter called the “Permit Applicant”

-and-

THE CORPORATION OF THE TOWN OF OAKVILLE
(hereinafter called the “Town”)

WHEREAS the Town Council for the Town of Oakville has passed By-Law 2023-047 commonly referred to as the “Site Alteration By-law” to amongst other things regulate site alterations and require tree protection including the requirement to obtain a site alteration permit when undertaking a site alteration as defined in the Site Alteration By-Law;

AND WHEREAS the Site Alteration By-law provides that the Director of Development Engineering of the Town or designate(the “Director”) may issue a site alteration permit subject to, amongst other things, requiring the owner of the lands prior to the issuance of a permit to enter into the Site Alteration

Agreement, in form and content, as set out in Schedule G of the Site Alteration By-law and containing such other provisions, as the Director considers necessary to ensure that the site alteration concerned is done in accordance with the Site Alteration By-Law requirements and the prevailing Town of Oakville design standards and proper engineering principles.

AND WHEREAS the Director considers the entering into of such a Site Alteration Agreement required in this case which Agreement is hereinafter referred to as the Site Alteration Permit Agreement (“SAPA”);

NOW THEREFORE THIS SAPA WITNESSETH THAT in consideration of the covenants hereinafter expressed and other good and valuable consideration, the Parties hereto agree one with the other as follows:

1. The site affected by this SAPA (hereinafter referred to as the “subject lands”) are known municipally as _____, Oakville Ontario, and are legally described in Schedule “A” to this Agreement.
2. If a person other than the Owner, hereinafter called a “Permit Holder”, executes this Agreement he/she acknowledges and agrees that he/she is doing so on behalf of both the Owner and him/herself and with the full knowledge and consent of the Owner.
3. Further if a Permit Holder executes this Agreement on behalf of the Owner, the Permit Holder acknowledges and agrees for the Permit Holder and the Owner that the Town would not have issued the applicable Site Alteration Permit nor have accepted this Site Alteration Agreement executed by the Permit Holder without the express representation in Section 2 hereof that the Permit Holder was doing so with the full knowledge and consent of the Owner to do so and with the full knowledge of the Owner of the covenants being agreed to in the Owner’s name that are hereinafter set out in this Agreement.
4. The Owner and Permit Holder hereby acknowledge and agree the Town is entitled to enforce this agreement against the Owner, the Permit Holder if not the Owner, and any and all subsequent owners of the subject lands.
5. This SAPA is a condition of the Site Alteration Permit applied for and issued as Permit No. _____ (hereinafter referred to as the “Permit”)
6. The Owner and Permit Holder agree that the Permit shall expire six (6) months after the date of issuance of the Permit if no substantive work is commenced under the Permit.
7. Should any Permit which has’ expired be renewed under the Site Alteration By-Law then this SAPA shall apply to such renewed Permit
8. Should the title to the “subject lands” be transferred to a new owner while the Permit remains in effect including as renewed, then the Owner and/or Permit Holder hereby acknowledge and agree that on such transfer the Permit shall be deemed to be automatically expired as of the date of transfer, the securities posted thereunder forfeited to the Town and the Permit closed within 30 days of the date of transfer.
9. Despite Section 8 above, the then expired permit may be renewed by the new owner at the sole discretion of the Director, or designate, within 30 days of the date of transfer if the new Owner provides the Town with a written undertaking to be bound by the provisions of this Agreement, comply with this Agreement and comply with all the conditions under which the expired permit was issued and the new owner provides any necessary securities as determined by the Director or designate to the Town.

10. Subject to Section 9 above, if a permit has expired or been cancelled or revoked after work has commenced and prior to the completion of the site alteration, the then current 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.
11. The Owner and Permit Holder, if not the Owner, hereby covenant to comply with all the criteria set out for issuance of the Permit in Sections 6.1 and 6.2 of the Site Alteration By-Law in carrying out the work under the Permit.
12. The Owner and Permit Holder, if not the Owner, hereby covenant to comply with all General Regulations and Conditions in the Site Alteration By-Law as amended from time to time including but not limited to those conditions and regulations in Sections, 7.1 8.1, 8.2, 8.3, and 8.4, and to comply with all the requirements of the Schedules to the By-law and to comply with all the Conditions on the Permit.
13. The Owner and Permit Holder, if not the Owner, hereby covenant to provide any security(ies) for the Owner's obligations under the Site Alteration By-law, as the Director considers necessary to ensure that the site alteration is done in accordance with the approved Site Alteration Plan, the requirements of the By-Law and the prevailing Town of Oakville design standards and proper engineering principles and the requirements of the Site Alteration By-Law .
14. The Owner and Permit Holder, if not the Owner, hereby further covenant that any security(ies) posted under the Permit and section 13 hereof is/are forfeited to the Town if the site is transferred to another owner before the site alteration under the Permit is properly and fully completed and the Permit is closed.
15. The Owner and Permit Holder, if not the Owner, hereby further covenant that the security(ies) posted under the Permit and section 13 hereof is/are forfeited to the Town if the permit is not closed or renewed prior to expiry.
16. The Owner and Permit Holder, if not the Owner, hereby acknowledge and agree that no new Town permit of any kind for any other properties within the Town will be granted to the Owner and Permit Holder, if not the Owner, until all other then existing Town Permits of the Owner and Permit Holder, if not the Owner, have been closed.
17. (a)The Owner and Permit Holder, if not the Owner, hereby covenant and agree that the work covered by the Permit is to be completed, inspected and approved all in accordance with the Site Alteration Plan and the terms and conditions of the Permit in a timely manner as determined by the Director or designate and further agree that should same not be so satisfactorily completed, inspected and approved and the Town's applicable road allowances not adequately reinstated and stabilized in accordance with the Site Alteration By-Law and the site alteration plans and the terms and conditions of the Permit in a manner that will prevent adverse impacts on abutting properties including the Town's road allowances and the environment, in a timely manner as determined by the Director or designate, then the Owner and Permit Holder, if not the Owner, hereby agree to pay to the Town immediately on demand liquidated damages in an amount determined by the Director as being necessary to pay for the completion and rectification of any outstanding work in addition to any securities held by or forfeited to the Town. In addition, the Owner and Permit Holder, if not the Owner, hereby acknowledge and agree that such payment is liquidated damages and not a penalty;

(b) In addition, should such failure under subsection 17(a) continue beyond seven (7) days after the next compliance date set for satisfactory completion in any written notice of such failure, then the Owner and the Permit Holder, if not the Owner, jointly or severally as the Director in his/her sole and unfettered discretion determines, shall pay the Town immediately on demand liquidated

damages in the same amount as that amount under section 17(a) hereof for such further failure in timeliness and the Owner and Permit Holder, if not the Owner, further agree that such further payment shall also be deemed to be liquidated damages and not a penalty.

(c) Finally, the same amount of liquidated damages, under section 17(a) hereof shall be payable to the Town immediately on demand from the Owner and Permit Holder if not the Owner jointly or severally as the Director in his/her sole and unfettered discretion determines, every seven (7) days or part thereof, thereafter, after the compliance date mentioned in subsection 17(b) above until the work required under the Permit is satisfactorily completed inspected and approved and the Town's applicable road allowances are adequately reinstated and stabilized in accordance with the Site Alteration By-Law and the site alteration plans and the terms and conditions of the Permit in a manner that will prevent adverse impacts on abutting properties including the Town's road allowances and the environment and the Owner and Permit Holder if not the Owner further agree that such further payment(s) shall be deemed to be liquidated damages and not a penalty.

18. The Owner and Permit Holder, if not the Owner, hereby covenant and agree that if a permit has expired or been cancelled or revoked after work has commenced and prior to the completion of the site alteration, the then current 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.
 19. The Owner and Permit Holder, if not the Owner, hereby covenant and agree that the Town shall hold any security(ies) forfeited to the Town to enable the Town or any future Owner, as the Town in its sole and unfettered discretion determines, to address any then existing and outstanding deficiencies in the required work under the Permit and/or to reinstate and stabilize the subject lands including the Town's road allowances to the satisfaction of the Director in a manner that will prevent adverse impacts on abutting properties including the Town's road allowances and the environment.
 20. For the purpose of clarity, the Owner and Permit Holder, if not the Owner, hereby covenant and agree that without limiting the generality of Section 19 of this Agreement in any way, the security(ies) posted with and/or forfeited to the Town under this Agreement or as a condition of a Permit may be used for:
 - (a) cleanup of mud tracking of the road or restoration of any municipal works;
 - (b) the completion or rectification of work required by the Town under the Permit or reimbursement of a new owner for the cost of completion or rectification of work required under the Permit by that new owner of the subject lands, to the limit of the Security(ies) amount held by the Town; and/or
 - (c) the completion of work required by the Town under the Permit pursuant to a related order issued under Section 11 of the Site Alteration By-law or the reimbursement of a new owner of the cost of completion or rectification of work required under the Permit by that new owner of the subject lands including the Town's road allowances pursuant to a related order issued under Section 11 of the Site Alteration By-law, to the limit of the Security(ies) amount held by the Town.
 21. The Owner and Permit Holder, if not the Owner, hereby agree that the amount of any security(ies) held by the Town as a condition of a Permit and not forfeited to the Town shall be held by the Town until the full and proper completion of all work required under the Permit and any related order issued under the Site Alteration By-law and in the absence of such full and proper completion are deemed forfeited to the Town.
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22. The Owner and Permit Holder if not the Owner hereby agree that before any security amount held by the Town as a condition of the Permit, which has not yet been forfeited to the Town, is released and returned to the Owner and /or the Permit Holder, if not the Owner:
- (a) the Town must receive proof satisfactory to the Director that the work required under the Permit has been satisfactorily completed and that the subject lands including the Town's road allowances have been adequately reinstated and stabilized in accordance with the Site Alteration By-Law and the site alteration plans and in a manner that will prevent adverse impacts on abutting properties including the Town's road allowances and the environment;
 - (b) the Town must receive a lot grading and/or stormwater device certificate signed by an Ontario Land Surveyor or a Professional Engineer of Ontario currently licensed to practice in the Province of Ontario; that the elevations have been completed in accordance with the Site Alteration Plans accompanying the Permit and that the finished project does not detrimentally affect drainage on adjacent properties nor will it have adverse impacts on abutting properties including the Town's road allowances nor the environment; and
 - (c) the Town must carry out a final inspection to confirm that all relevant terms and conditions of the Site Alteration By-law, the Permit and this SAPA have been complied with, that all required work under the Permit has been satisfactorily completed and that the subject lands and the Town's applicable road allowances have been adequately reinstated and stabilized with no adverse impacts on abutting properties including the Town's road allowances or the environment.
23. (a) When the work required under the Permit is satisfactorily completed and the subject lands and the Town's applicable road allowances are adequately reinstated and stabilized in accordance with the Site Alteration By-Law and the site alteration plans accompanying the Permit and in a manner that will prevent adverse impacts on abutting properties including the Town's road allowances and the environment and any outstanding amounts owing to the Town under this SAPA have been paid in full including any liquidated damages payable hereunder, the Town hereby agrees that the Director shall release any security amount then still held by the Town that has not been otherwise forfeited to the Town under this SAPA.
- (b) Any release of any security amount under subsection 23(a) above shall be to the person who paid or posted the security amount with the Town as a condition of the Permit unless the Town receives a written Direction from the person who paid or posted the security amount with the Town as a condition of the Permit to release the security amount concerned or so much of same as the written Direction provides to another person other than the person who paid or posted same.
24. **IT IS SPECIFICALLY** acknowledged and agreed that this Agreement may be executed in DOCUSIGN or in separate counterparts, each of which shall be deemed to be an original, and that such separate counterparts shall together constitute one and the same instrument.

The Owner(NAME)

PER: _____

PER: _____

(I/We have the authority to bind the corporation)

The Permit Holder(NAME)

Per: _____

Per: _____

THE CORPORATION OF THE TOWN OF OAKVILLE

Director of Transportation and Engineering of
The Town Of Oakville

(I have the authority to bind the corporation)

SCHEDULE A—Land Description of Subject Lands

SCHEDULE “H”

AUTHORIZATION OF APPLICANT AND DECLARATION OF APPLICANT

By submitting this declaration, I as the Applicant acknowledge that:

- The information contained in this application, attached schedules, attached plans and specifications, and other attached documentation is true to the best of my knowledge.
- If the owner is a corporation or partnership, I have the authority to bind the corporation or partnership.
- If I am an agent, I am authorized to act on the owner’s behalf for the purpose of this application.
- It is the applicant’s responsibility to complete the work covered by the Permit in accordance with the Site Alteration Plan and the terms and conditions of the Permit in a timely manner as determined by the Director or designate and to comply with all [permit conditions](#) and by-law conditions as indicated on the approved permit and plans. Failure to comply with all conditions may result in stoppage of work and/ or charges under the applicable by-law.
- As owner, or if I am an agent on the owner’s behalf, I hereby acknowledge and agree to the Terms and Conditions in the Site Alteration Agreement under the applicable by-law.

Personal information on this form is collected under the authority of the Municipal Act for the purpose of responding to your application. Questions about this collection should be directed to Transportation and Engineering Services, 1225 Trafalgar Road, Oakville, Ontario, L6H 0H3 or by phone 905-845-6601.

Electronic Signature Acknowledgement

By Checking the Electronic Signature Acknowledgement, I acknowledge and agree that my electronic acknowledgement is binding and of the same nature as my signature