



The Corporation of the Town of Milton

Report To: Council

From: Jill Hogan, Commissioner, Development Services

Date: September 12, 2022

Report No: DS-107-22

Subject: Update to Site Alteration By-law 033-2004

Recommendation: THAT Report DS-107-22 outlining the required update to By-law 033-2004 be received for information;

AND THAT Site Alteration By-law 033-2004, be repealed and replaced with the new Site Alteration By-law attached in Appendix I to report DS-107-22;

AND FURTHER THAT the appropriate By-laws be presented to and approved by Council.

EXECUTIVE SUMMARY

The purpose of this report is to present an updated Site Alteration By-law to Council for approval. The current By-law (033-2004) has not been updated since 2004, and this update is required to:

- ensure current provincial legislation is addressed;
- ensure enforcement of the By-law is feasible;
- introduce new exemptions; and,
- address challenges in both rural and urban Milton with respect to By-law violations.

REPORT

Background

The Town of Milton Site Alteration By-law was last amended in 2004. This update is required to ensure the Town's By-law reflects new and updated provincial legislation, including to both the Municipal Act and On-Site and Excess Soil Management O. Reg.



Background

406/19; to address the major enforcement challenges facing the Town and similar municipalities today, to create new exceptions for routine minor site alterations that do not exist in the current By-law, and to address the needs of development. This update will also help to improve efficiencies in permit related processes and clearly identify when permits are required. Finally, the updated By-law will also ensure the Town has the ability to recover costs associated with any peer review or remediation works the Town has to complete in order to ensure compliance with the By-law and/or restoration of a site that has been illegally altered. To inform the proposed amendments, Town staff and legal counsel completed a comprehensive review of several Site Alteration By-laws in other municipalities, engaged a Professional Agrologist to assist with engaging the agricultural community, and have reached out to stakeholders in the development community, local conservation authorities, and the Region of Halton for input. If passed, the amendments to the By-law will come into effect January 1, 2023.

Discussion

Challenges with Current By-law and Overview of New By-law

The Town's Site Alteration By-law has not been updated since 2004. An update is well overdue to provide the Town the tools it needs to address the challenges faced by today's municipalities as well as to provide a more flexible approach than the existing By-law.

One major challenge is illegal dumping. Due to the unprecedented level of construction in the GTA, nearby municipalities with significant rural areas are facing a rise in illegal dumping of fill. This can take different forms. Some landowners have used their properties as unlicensed black market dump sites for which they have charged tipping fees (a load-based disposal fee) to contractors. In other circumstances, contractors have offered "free topsoil" to unsuspecting farmers from source sites that may have been contaminated or had lower soil quality than the receiving site.

Town enforcement staff have direct experience with this issue, and have also had discussions with other municipalities facing the same challenge. Illegal dumping has also been well covered in the media, with some examples of this attached in Appendix II, for Council's benefit. The Province has adopted a new regulation under the *Environmental Protection Act*, R.S.O. 1990, c. E.19, O. Reg 406/19 On-Site Excess Soil Management in part to deal with this issue, which compliments municipal authority to regulate site alteration; however, municipalities remain the front line in protecting the public from illegal dumping.

Beyond illegal dumping and contaminated fill, there are other enforcement challenges. Major, unpermitted site alterations are often the first sign of a new illegal land use, such as the establishment of illegal truck depots - another growing problem GTA municipalities with large rural areas face. There are also challenges associated with changes to drainage

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patterns, or the filling in of drainage features such as swales or catch basins that can cause issues for neighbouring properties, watercourses and municipal infrastructure.

The new By-law provides a more modern suite of enforcement tools, harmonises with the new O.Reg 406/19 requirements and provides a number of new exceptions to allow residents and the agricultural community to undertake routine work such as landscaping, gardening, repaving of driveways, etc. and the bringing in of small loads of soil for agricultural purposes, without the need for a permit, as long as there are no significant grade changes and existing drainage features are respected. It should be noted that the current By-law has no exceptions for these activities, meaning that if applied to the letter, permits would be required.

In addition, the current By-law does not allow for the Town to recover the costs of any peer review services that may be required in reviewing a permit application or resolving enforcement matters (i.e. Environmental specialists, Geotechnical consultants, Agrologist, Legal surveyor, etc.) and does not provide sufficient flexibility in dealing with site alterations proposed by developers in advance of development approval.

Finally, the new By-law includes delegated authority to the Directors of Development Engineering and Infrastructure to amend and update the schedules of the By-law, which set out technical details such as the information required in control plans, to establish application forms and requirements, to issue permits and set permit conditions, determine securities, as well as to issue orders (a power shared by other staff, including Municipal Law Enforcement Officers). There is also a process whereby an applicant can request a decision of the Director to be reviewed by the Commissioner of Development Services.

Many of these powers were already present in the existing By-law and they are generally consistent with similar By-laws elsewhere as well as other municipal By-laws. To the extent that any of them are of a legislative or quasi-judicial in nature, they are of a minor nature having regard to the powers in question, their largely administrative nature, the number of people, the size of geographic area and the time period affected by an exercise of the power, and the examples set out in s.23.2(5) of the *Municipal Act*, S.O., c.25.

Staff are also working through standard permitting and enforcement practices to ensure consistent service delivery.

Document Review

In order to inform the proposed updates to the By-law, Town staff and our legal counsel have reviewed several Site Alteration By-laws of various other local municipalities, including the following:

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- The City of Burlington (2014)
- The Town of New Tecumseth (2020)
- The City of Hamilton (2019)
- The Township of King (2021)

These By-laws were selected for review mainly based on their last date of update vs. the Town of Milton's By-law (to see how recent provincial legislation updates have been reflected in those By-laws), the similar nature of their geographical layout to that of Milton's (i.e. comprise both rural and urban areas), and in the case of the City of Burlington, that this is also a local municipality within Halton Region.

While certain updates have been incorporated from each of the By-laws noted above, the updated Town of Milton By-law has been mostly based on the City of Burlington's current Site Alteration By-law.

Stakeholder Engagement

Historically, violations to the Site Alteration By-law have regularly occurred within Milton's rural area - including the operation of illegal landfills or illegal filling of properties or the introduction of material (dirt, construction debris, etc.) onto a property without a permit in place. In some instances, staff have been told "this is part of a normal farming practice". In updating this By-law, Town staff wanted to ensure that legitimate farm and agricultural practices are allowed (as outlined in the proposed By-law update, with some criteria that need to be met) and that legitimate farmers are not being hindered by the Site Alteration By-law. We also want to ensure that false claims of "normal agricultural or farming practice" can be identified by staff.

In order to inform the updates to the By-law, staff engaged a Professional Agrologist (a specialist in the field of agrology; essentially an agricultural soil expert), Dave Hodgson, P.Ag. of DBH Soils Services Inc., to help prepare a survey for the agricultural community in Halton, to gain some understanding and clarity around what might constitute "normal farm/agricultural practices" in Milton. This survey was distributed digitally to the following organizations, for distribution to their members:

- Halton Agricultural Advisory Committee
- Halton Region Federation of Agriculture
- Ontario Soil and Crop Improvement Association
- Halton Agricultural Society
- Ontario Ministry of Agricultural, Food and Rural Affairs

A total of 25 responses were provided to the Town. A copy of the survey as well as a summary report are included as part of Appendix III to this report. Using the survey results,

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as well as drawing on his own knowledge, expert literature, and a review of several existing Site Alteration By-laws in Ontario, Mr. Hodgson has prepared a report with recommendations as to regulatory requirements (included as Appendix III), that has been used to help inform related updates to the By-law. At the core of his recommendations, is that a Site Alteration By-law should include requirements designed to prevent soil contamination, reduction in soil quality, silt, erosion and drainage issues or adverse effects to the environment.

In addition to the rural agricultural community, emails were also sent to the Conservation Authorities (Conservation Halton and Grand River Conservation Authority), the Region of Halton, and the development community in Milton. The intent of the emails was to provide information to these groups, identifying that the Town was undertaking a review and update of our Site Alteration By-law, and to solicit any hi-level feedback from these groups on our current By-law and their experience with same.

The critical piece of feedback from the Conservation Authorities was a request to have the Town update our By-law to ensure the Site Alteration By-law is also applicable to areas that are regulated by the Conservation Authorities (a change that is in line with updates to the Municipal Act, since the 2004 version of the Town's Site Alteration By-law). This request has been reflected in the proposed update to the Town's By-law.

With respect to the development community, Development Engineering staff held a meeting with several developers who had provided some written feedback. Overall, the development community is satisfied with the site alteration process and permitting requirements under the current By-law; the following summarizes the requested changes from the development community:

- Incorporate flexibility to allow an increase in permit validity period from 12 months to 18 months to facilitate construction time on large-scale earthmoving operations.
- Incorporate flexibility in the permitting process to allow for importing of soil from multiple fill sources.
- Clearer definition of normal farming practices.
- Allow flexibility with regards to sites undergoing environmental remediation.

These requests have been considered by staff, and where feasible, associated changes have been made to the By-law.

Although they were contacted, no response was received from the Region of Halton.

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Required Updates to the By-law

As previously noted, the intent of the update to the Site Alteration By-law is to ensure consistency with provincial regulations, to address the major enforcement challenges faced by the Town and similarly situated municipalities, to provide new exemptions for minor, routine site alterations, to ensure cost recovery from applicants when external peer review is required is feasible, and to provide greater flexibility to address the needs of the development community.

A copy of the complete proposed By-law update can be found in Appendix I.

Communication and Public Education Strategy

In addition to the stakeholder engagement outlined above, Town staff are also keenly aware that public education regarding the Site Alteration By-law is imperative to mitigating violations and ensuring the public is aware that permits may be required for the work they are contemplating on their property. In order to ensure the public is aware that not only does a Site Alteration By-law exist, but that they may require approval from the Town prior to completing work on their property, Development Services staff have engaged the help of Strategic Communications to prepare a communications and public education strategy.

The following outlines the hi-lights of the communication and public education strategy for the Site Alteration By-law Update, as well as a planned, ongoing public awareness campaign that focuses on:

- Advising residents of the update, and highlighting changes to the By-law and what that may mean for residents.
- Clear communication around when a Site Alteration Permit is required (for both urban and rural properties) - with real-world examples included (i.e. I want to build a garden in my back yard - do I require a Site Alteration Permit?) and information specific to the new urban areas in Milton regarding the importance of maintaining backyard drainage patterns and how to ensure work won't impact neighbouring properties.
- Reminding residents that certain work requires a permit, where additional information can be found, and the importance of abiding by the Site Alteration By-law.
- Communication outreach to industry stakeholders (construction industry, engineering consulting firms, development community) to provide a copy of the updated By-law and overview of responsibilities of haulers that may be engaged by these stakeholders in carrying out site alteration activities.



Discussion

Fees and Cost of Service

Fees associated with Site Alteration Permits are charged in accordance with the Town's User Fee By-law. During regular comprehensive reviews of the Town's user fees, with the most recent undertaken in 2022 and also included on tonight's agenda, the cost of providing the service is evaluated and fees are set with the intention of full cost recovery. On an annual basis fees are indexed to maintain the cost recovery ratio.

The amendments being proposed to the Site Alteration By-law result in additional services for which new fees will need to be established. These are as follows:

1. Site Alteration Permit review fee (if the applicant wants to request a review of the decision of the Director on a permit application, by the Commissioner)
2. Site Alteration Permit amendment fee (if amendment to an approved permit is required)
3. Site Alteration Permit application re-opening fee (if a permit application has been closed because all requirements have not been addressed in time, and a request to re-open is made by the applicant/owner)
4. Site Alteration Permit Renewal fee - if work is not completed in the time specified on a permit approval and the applicant wishes to renew the permit approval (within 6 months of expiry of original approval)
5. Site Alteration Permit Re-opening fee (Where an application has been deemed abandoned, it may be re-opened within a period of 3 months from the date of expiry upon the submission of a written request to the Director, by the applicant)
6. Site Alteration Permit Revocation fee (if a permit needs to be revoked, for any reason as identified in the By-law; for example, a permit may need to be revoked if the applicant fails to complete the works in line with the terms of permit approval)

Timing did not allow for these new fees to be added to the User Fee By-law in 2022, however staff will work to have these added to the By-law in 2023, as part of the annual update to the user fee By-law. When deriving the fees, staff will follow the same cost recovery methodologies as followed during the comprehensive user fee By-law update.

Language has been added to the User Fee By-law to ensure the Town is able to recover costs of any peer review services that may be required to facilitate the approval of a permit and/or the restoration of a property that has been altered in violation of the By-law.



Financial Impact

The proposed changes to the Site Alteration By-law will require additional staff time to facilitate the new services outlined, which is expected to be managed within the existing staff complement. It is intended that new fees will be added to the User Fee By-law in 2023 to recover the costs of providing these services on an ongoing basis. Peer review services will be fully recovered as incurred.

Respectfully submitted,

Jill Hogan
Commissioner, Development Services

For questions, please contact: Diana Jiona, Manager
Infrastructure & Right of Way Phone: Ext. 2513

Attachments

Appendix I - Updated Site Alteration By-law
Appendix II - Relevant Media Coverage
Appendix III - Agrolgist Report and Survey Results

Approved by CAO
Andrew M. Siltala
Chief Administrative Officer

Recognition of Traditional Lands

The Town of Milton resides on the Treaty Lands and Territory of the Mississaugas of the Credit First Nation. We also recognize the traditional territory of the Huron-Wendat and Haudenosaunee people. The Town of Milton shares this land and the responsibility for the water, food and resources. We stand as allies with the First Nations as stewards of these lands.

Town of Milton Site Alteration By-Law

A by-law to prohibit and regulate the placing, depositing, cutting or removal of fill or the altering of grades or drainage on any lands.

Preamble

Whereas Council determines it necessary to enact a by-law for prohibiting or regulating the placing, depositing, cutting or removal of fill or the altering of grades or drainage on any lands within the Corporation of the Town of Milton to limit erosion, the use of improper fill, the degradation of agricultural lands, interference and damage to watercourses, drainage systems and water supplies, and to limit impacts on neighbouring and surrounding properties, the environment and municipal infrastructure;

Whereas section 11(2) of the *Municipal Act, 2001, S.O., c.25*, as amended, provides that the Council of a local municipality may pass by-laws respecting the environmental well-being of the municipality, including respecting climate change, and the protection of property;

Whereas section 11(3) of the *Municipal Act, 2001, S.O., c.25*, as amended, provides that the Council of a local municipality may pass by-laws respecting drainage and flood control;

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

Whereas to the extent any legislative powers or quasi-judicial powers are delegated in this by-law, said powers have been determined by Council to be minor in nature, having regard to the factors set out in section 23.2 of the *Municipal Act, 2001, S.O., c.25*;

Now therefore the Council of the Corporation of the Town of Milton hereby enacts as follows:

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Introduction

The following is an index of the contents of this by-law.

1. Definitions
 2. General Prohibitions and Provisions
 3. Exemptions
 4. Site Alteration Application Process
 5. Permit Review and Issuance
 6. Permit Compliance and Changes
 7. Permit Terms and Conditions
 8. Fees and Securities
 9. Request for Review
 10. Expiry, Renewal Revocation and Transfer of Permits
 11. Inspection
 12. Orders and Notices
 13. Offences and Penalties
 14. Severability
 15. Effective Dates and Repeal of Predecessor By-laws
- Schedule "A"- Control Plan
- Schedule "B"- Designated Inspectors
- Schedule "C"- Additional Site Design Guidelines
- Schedule "D"- Lot Grading Design and Drawing Requirements

1. Definitions

In this by-law the following italicized words are defined as follows:

- 1.1. “*adjacent lands*” means any *lot* owned by a *person*, other than the *applicant*, that shares a *lot* boundary with the *applicant*;
- 1.2. “*agricultural operation*” means an agricultural, aquacultural, horticultural or silvicultural operation that is carried on in the expectation of gain or reward and is registered under *Farm Registration and Farm Organizations Funding Act*, 1993, S.O. 1993, c.21;
- 1.3. “*applicant*” means the *owner* of the *lot* for which a *permit* is being applied for and includes a *person* authorized in writing to act on behalf of the *owner* to apply for a *permit*;
- 1.4. “*body of water*” includes any bodies of flowing or standing water, whether naturally or artificially created;
- 1.5. “*Building Permit*” means a permit issued under section 8 of the *Building Code Act*, 1992, S.O. 1112, c.23.
- 1.6. “*catch basin*” means a buried receptacle designed to prevent obstructive material from entering and blocking the sewer and diverts overland water flows into a sewer system. For clarity, a *catch basin* may be located on public *property* or on private *property* including within the rear or side yard of a *lot*;
- 1.7. “*calculated site alteration volume*” means the sum of both the *fill* operation and the *cut* operation being *undertaken* on the *site alteration lot*;
- 1.8. “*Commissioner*” means the Commissioner of Development Services and shall include any successor positions thereto as well as any *person* authorized by said Commissioner to carry out any of the Commissioner’s powers or duties pursuant to this by-law;
- 1.9. “*Conservation Authority*” means a body established pursuant to the provisions of the *Conservation Authorities Act*, R.S.O. 1990, c.27, as amended and includes the Halton Region Conservation Authority and the Grand River Conservation Authority;
- 1.10. “*contaminants of concern*” means:
 - (1) one or more contaminants found on, in or under a *property* at a concentration that exceeds the applicable *site* condition standards for the *property* set under Part IX (*site* Condition Standards and Risk Assessment)

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of O.Reg. 153/04 made under part XV.1 of the *EPA*; or

- (2) one or more contaminants found on, in or under a *property* for which no applicable *site* condition standard is prescribed under Part IX (*site* Condition Standards and Risk Assessment) of O.Reg. 153/04 made under part XV.1 of the *EPA* and which are associated with potentially contaminating activity;
- 1.11. “*control plan*” is a drawing or drawings, written summary and other documents, provided in accordance with Schedule A;
- 1.12. “*corporation*” includes a company, corporation, cooperative, partnership, firm, sole proprietorship, association, society, organization or any other legal entity that is not an *individual*;
- 1.13. “*Council*” means the Council of the Corporation of the *Town* of Milton;
- 1.14. “*cut*” and “*cutting*” means to remove by digging, scraping or scooping;
- 1.15. “*development*” means the construction of buildings or structures, paved areas, above or underground services such as roads, parking lots, driveways, watermains, storm and sanitary sewers, utilities, general grading works and similar facilities on any lands in the *Town*;
- 1.16. “*deposit*” or “*depositing*” means the movement, placement or dumping of *fill*;
- 1.17. “*Director*” includes the Director of Development Engineering and the Director of Infrastructure for the *Town* and shall include any successor positions thereto as well as any *person* authorized by said Directors to carry out any of their powers or duties pursuant to this by-law;
- 1.18. “*drainage system*” includes areas of land surface that contribute water flow to a particular point or area and all works appurtenant thereto;
- 1.19. “*electronic tracking technology*” means an electronic device similar to a geographic positioning system (GPS) that is attached to a vehicle, allowing their whereabouts to be monitored and downloaded;
- 1.20. “*Environmental Protection Act*” or “*EPA*” means the *Environmental Protection Act*, R.S.O. 1990, c. E.19 and Regulations, as amended;
- 1.21. “*excess soil*” means *soil*, or *soil* mixed with rock, that has been excavated and removed from the *source site*;
- 1.22. “*fill*” means any type of material capable of being removed from or deposited on lands, including *excess soil*, *soil*, *topsoil*, stone, sod, turf, clay, sand, gravel, debris, construction debris, asphalt, brick, or *waste*;

- 1.23. “*grade*” means the elevation of the ground surface and shall be more particularly defined as follows:
- (1) “*approved grade*” means the elevation of ground surface of the lands as set out in a grading plan approved by the *Town* in respect of a *permit*, development approval issued under the *Planning Act*, R.S.O. 1990, c. P.13, as amended, or the issuance of a *Building Permit*;
 - (2) “*existing grade*” means the elevation of the existing ground surface of the lands prior to *site alteration*;
 - (3) “*proposed grade*” means the proposed finished elevation of ground surface illustrated on the control plan, in accordance with this by-law; and
 - (4) “*finished grade*” means the elevation of ground surface of the lands after a *site alteration*;
- 1.24. “*haul route*” means the route along public roads designated or approved by the *Town* for the purposes of ingress or egress to a *site*;
- 1.25. “*individual*” means a natural person;
- 1.26. “*Inspector*” means any *person* designated pursuant to Schedule “B” of this by-law, subject to any limitations set out therein;
- 1.27. “*key features*” are those natural heritage and hydrological features identified as key features in the *Town’s Official Plan*. For clarity, *key features* include mapped and unmapped significant habitat of endangered and threatened species, *provincially significant wetlands*, significant coastal wetlands, significant woodlands, significant valleylands, significant wildlife habitat, significant areas of natural and scientific interest, and fish habitat as those terms are defined in the *Official Plan*;
- 1.28. “*local board*” means a municipal service board, transportation commission, public library board, board of health, police services board, planning board, or any other board, commission, committee, body or local authority established or exercising any power under any act with respect to the affairs or purposes of one or more municipalities, excluding a school board and a conservation authority;
- 1.29. “*lot*” means a parcel of land, described in a deed or other document legally capable of being conveyed under the *Planning Act*, R.S.O. 1990, c. P.13, including a lot or block on a registered plan of subdivision;
- 1.30. “*Ministry of the Environment*” means the Ontario Ministry of the Environment,

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Conservation and Parks and any successor ministry;

- 1.31. “*Ministry of Natural Resources*” means the Ontario Ministry of Northern Development, Mines, Natural Resources and Forestry and any successor ministry;
- 1.32. “*Natural Heritage System*” or “*NHS*” means the interconnected system of natural heritage features and areas in the *Town Official Plan*, consisting of the Regional Natural Heritage System and the Greenbelt Natural Heritage System as defined in the Official Plan;
- 1.33. “*NEC*” means the Niagara Escarpment Commission and any successor agency;
- 1.34. “*normal farm practice*” means a practice carried out as part of an *agricultural operation* that,
 - (1) is conducted in a manner consistent with proper and acceptable customs and standards as established and followed by similar *agricultural operations* under similar circumstances, or
 - (2) makes use of innovative technology in a manner consistent with proper advanced farm management practices; and
 - (3) is not a practice that is inconsistent with a regulation made under the *Nutrient Management Act, 2002*, or its regulations;
- 1.35. “*order*” means an *order* issued under this by-law and includes both a *work order* and *stop work order*;
- 1.36. “*owner*” means any *person* who is the registered or beneficial *owner* of a *lot* or who leases, rents, occupies, manages, receives rent from or otherwise controls a *lot*;
- 1.37. “*property*” shall have the same meaning as *lot*;
- 1.38. “*permit*” means a *site alteration permit* issued pursuant to this by-law;
- 1.39. “*person*” includes a natural person and a company, corporation, cooperative, partnership, firm, sole proprietorship, trust, association, society, organization or other legal entity;
- 1.40. “*provincially significant wetland*” means a *wetland* area identified as provincially significant by the *Ministry of Natural Resources* using evaluation procedures established by the Province, as amended from time to time;
- 1.41. “*Qualified Person*” means a licensed professional as set out in sections 5 or 6 of O. Reg. 153/04 made under the *EPA* and subject to the requirements in sections 6.1 and 7 of the regulation;

- 1.42. “*receiving site*” means the *lot* where *fill* is transported to;
- 1.43. “*security*” or “*securities*” means a financial *security* in a form and amount to be determined by the *Town*, to secure performance of the *owner’s* obligations under this by-law and any *permit* issued hereunder;
- 1.44. “*site*” means the lands which are the subject of an application for a *site alteration permit* pursuant to this by-law;
- 1.45. “*site control measures*” means erosion and siltation control measures imposed by the *Director* pursuant to this by-law;
- 1.46. “*site alteration*” means:
- (1) the *depositing of fill*, the *cutting* or removal of *fill*, the leveling or compaction of *fill*, or any combination of these activities; or
 - (2) changes in the elevation of the ground surface of 25mm resulting from the *depositing of fill*, the *cutting* or removal of *fill*, compaction or levelling of *fill*, or any combination of these activities;
- 1.47. “*soil*” means material commonly known as earth, *topsoil*, loam, subsoil and includes unconsolidated naturally occurring mineral particles and other naturally occurring materials resulting from the natural breakdown of rock or organic matter by physical, chemical or biological processes that are smaller than two (2) millimetres in size or that pass the US #10 sieve;
- 1.48. “*Soil, Ground Water and Sediment Standards*” means the Soil, Ground Water and Sediment Standards for use under Part XV.1 of the *EPA*;
- 1.49. “*source site*” means the *lot* where the *fill* is derived from;
- 1.50. “*stockpiling*,” “*stockpiled*” or “*stockpile*” means the temporary above ground storage of materials for the purposes of transporting off-site for commercial use or sale. For clarity, *stockpiling* shall not include any material that is graded, leveled, buried or material that is *dumped* on the *site* or *lot* in a manner suggesting the material is not intended for temporary storage for off-site use;
- 1.51. “*swale*” means a shallow depression in the ground sloping to a place of disposal of surface water for the purpose of providing a method of conveying drainage;
- 1.52. “*topsoil*” means the upper, outermost layer of *soil*, usually the top 5 - 20 cm, containing organic material and includes deposits of partially decomposed organic matter such as peat;

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- 1.53. “*Town*” means the Corporation of the *Town* of Milton;
- 1.54. “*Town development agreement*” means a *site* plan agreement, subdivision agreement, servicing, pre-servicing Agreement or other *development* agreement entered into with the *Town* pursuant to sections 41, 51, 53 or 70.2 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended;
- 1.55. “*undertake*,” “*undertaken*” or “*undertaking*” when used in relation to a *site alteration* means to cause, permit, allow, order, direct, manage, conduct, work on, *dump fill* for or otherwise take part in a *site alteration* in any way;
- 1.56. “*User Fee By-Law*” means the *Town* by-law or by-laws setting out fees for use of *Town* services and other matters, as amended;
- 1.57. “*watercourse*” means an identifiable depression in the ground in which the flow of water regularly or continuously occurs;
- 1.58. “*waste*” includes ashes, garbage, refuse, domestic waste, industrial waste, or municipal refuse and such other materials as are designated in the regulations to the *EPA* as *waste*;
- 1.59. “*waste disposal site*” means,
- (1) any land upon, into, in or through which, or building or structure in which, waste is deposited, disposed of, handled, stored, transferred, treated or processed, and
 - (2) any operation carried out or machinery or equipment used in connection with the depositing, disposal, handling, storage, transfer, treatment or processing referred to in subsection 1.58(1);
- 1.60. “*wetlands*” means lands that are seasonally or permanently covered by shallow water, as well as lands where the water table is close to or at the surface. In either case, the presence of abundant water has caused the formation of hydric *soils* and has favoured the dominance of either hydrophytic plants or water tolerant plants. The four major types of *wetlands* are swamps, marshes, bogs and fens. Periodically soaked or *wetlands* being used for agricultural purposes, which no longer exhibit wetland characteristics, are not considered to be *wetlands* for the purposes of this definition.

2. General Prohibitions and Provisions

- 2.1. This by-law applies to the entire *Town* including those areas which are subject to regulations made under section 28(1) of the *Conservation Authorities Act*, R.S.O. 1990, c.27, as amended.

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- 2.2. This by-law shall be administered and enforced by the *Director* and by those persons designated as *Inspectors* under Schedule “C” of this by-law. The *Director* is hereby delegated authority by Council to add or amend the schedules to this by-law from time to time and set application requirements and forms for the purposes of fulfilling the objectives of this by-law.
- 2.3. No *person* shall *undertake*, a *site alteration* in the *Town*, including any lands which are submerged under any *watercourse* or other *body of water*, without a *permit* issued by the *Director*, unless this by-law states that such a *permit* is not required.
- 2.4. No *person* shall fail to comply with an *order* issued under this by-law.
- 2.5. No *person* shall alter, remove or obstruct a *catch basin*, *swale*, ditch, *drainage system* or *watercourse* that is subject to an easement, depicted as an *approved grade* in a plan of subdivision or site plan, including where depicted as an *approved grade*, under the *Planning Act*, R.S.O. 1990, c. P.13, as amended, or is depicted on plans submitted in relation to an approved *Building Permit* application.
- 2.6. No *person*, in the performance of a *site alteration*, shall injure or destroy a municipal tree or any other tree which is subject to tree protection measures except to the extent that such injury or destruction is specifically and expressly authorized in a *permit* or *Town development agreement* and all applicable laws and municipal by-laws for the protection of trees are complied with.
- 2.7. No *person* shall *undertake* the transportation, hauling or *depositing* of *fill* in a manner contrary the requirements of O. Reg. 406/19: *ON-SITE AND EXCESS SOIL MANAGEMENT* or applicable *Ministry of the Environment* rules, standards, policies and guidelines.
- 2.8. No *person* shall *deposit waste* or *undertake* the *depositing* of waste except at a *waste disposal site* authorized under the EPA.
- 2.9. No *person* shall remove *topsoil* for sale or exchange without first having obtained a *permit*.
- 2.10. No *person* shall *undertake* a *site alteration*:
 - (1) during any period in which a wind warning for the area has been issued by Environment Canada;
 - (2) during any period in which a smog advisory for the area has been issued by the *Ministry of the Environment*, as confirmed in writing and provided to the *permit* holder by the *Director*;
 - (3) within 24 hours of receiving 15 mm or more of precipitation within a 24 hour period;

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- (4) for any purpose not permitted by the applicable *Town* zoning by-law; or
- (5) in a manner that violates an applicable by-law of the *Town*, including a *Town* noise by-law.

2.11. No *person* shall construct a new or expand an existing parking area or private road without a *permit*.

2.12. No *person* shall construct a new or expand an existing driveway beyond what is permitted in the applicable *Town* Zoning by-law.

2.13. Every *person* who transports or hauls *fill* to or from a *lot* within the *Town* shall maintain at all times within their vehicle a record that includes the following information:

- (1) the location at which the *fill* was loaded for transportation;
- (2) the date and time the *fill* was loaded for transportation;
- (3) the quantity of the *fill* in the load;
- (4) the name of an individual who may be contacted to respond to inquiries regarding the load, including inquiries regarding the *soil* quality;
- (5) the name of the corporation, partnership or firm transporting the *fill* and the name of the driver of the vehicle;
- (6) the location at which the *fill* is to be *dumped*; and
- (7) where the location of the *fill* to be *dumped* is within the *Town*:
 - (a) written authorization of the *owner* or agent of the *owner* of each *receiving site* to deposit the *fill*;
 - (b) written confirmation from *owner* or agent of the *owner* of each *receiving site* that said *person* is aware of the source of the *fill*, complete with the address of the *source site*;
 - (c) written confirmation from each source or *receiving site* that the *owner* has a *permit* under this by-law for the *site alteration* associated with the *fill*, or the *site alteration* falls under one of the exemptions to this by-law. In the case of an exemption, the document shall list the section and subsection number of the applicable exemption.

- 2.14. Every *owner* of a *lot* within the *Town* that receives *fill* shall maintain at all times a record that sets out the information required by section 2.13.
- 2.15. Every **person who transports** or hauls *fill* to or from a *lot* within the *Town* and every *owner* who received fill, shall forthwith provide the documents required by sections 2.13 and 2.14 upon the request of the *Director* or an *Inspector*.
- 2.16. No *person* may charge or receive a fee for allowing the placement or *depositing* of *fill* on a *property* unless the *property* is zoned under a *Town Zoning* by-law to permit a commercial landfill or *waste disposal site* and is being operated pursuant to a valid approval issued under the *EPA* for that *property*.
- 2.17. No *person* shall hinder or obstruct, or attempt to hinder or obstruct, the *Director* or an *Inspector* from carrying out inspections of land to ensure compliance with this by-law.
- 2.18. No *person* shall provide false or misleading information to the *Director* or an *Inspector* in respect of any matter subject to this by-law.

3. Exemptions

By-law Exemptions

- 3.1. The provisions of this by-law do not apply to:
 - (1) a *site alteration undertaken* by a Crown agency as defined in the *Crown Agency Act*, R.S.O. 1990, c.C.48, as amended, a municipality or a *local board* of a municipality on lands owned or under the control of the Crown agency, municipality or *local board*;
 - (2) a *site alteration* imposed after December 31, 2002 as a condition to the approval of a site plan, a plan of subdivision or consent or a *development* permit under sections 41, 51, 53 or 70.2, respectively, of the *Planning Act*, R.S.O. 1990, c. P.13, as amended or as a requirement of a *Town development agreement* entered into under those sections;
 - (3) emergency measures *undertaken* by a *Conservation Authority* or any other Federal, Provincial or Regional agency, to prevent or control flooding, erosion, slipping of *soil* or damage to trees;
 - (4) a *site alteration undertaken* by a transmitter or distributor, as those terms are defined in section 2 of the *Electricity Act*, S.O. 1998, c.15, for the purpose of constructing and maintaining a transmission system or a distribution system as those terms are defined in that section;
 - (5) a *site alteration undertaken* as an incidental part of drain construction under

the *Drainage Act*, R.S.O. 1990, c.D.17, as amended or the *Tile Drainage Act*, R.S.O. 1991, c.T.8, as amended;

- (6) the removal of *topsoil* as an incidental part of a *normal farm practice* taking place as part of an *agricultural operation*, provided that the removal is not for sale, exchange or disposal of the *topsoil*;
- (7) a *site alteration undertaken* on lands in order to lawfully establish, operate, rehabilitate or enlarge any lawful pit or quarry where:
 - (a) for lands designated under the *Aggregate Resources Act*, R.S.O. 1990, c.A.8, as amended or a predecessor of that Act, the lands are described in a licence for a pit or quarry or a *permit* for a wayside pit or wayside quarry; or
 - (b) for lands not designated under the *Aggregate Resources Act*, R.S.O. 1990, c.A.8, as amended or a predecessor of that Act, the operation of the pit or quarry is a permitted land use under a by-law passed under section 34 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended; or
- (8) a *site alteration* that is an authorized part of construction or operations as identified by:
 - (a) the *Ontario Energy Board Act*, S.O. 1998, c.15, Schedule B, as amended or any successor legislation thereto; or
 - (b) a *waste management system* or *waste disposal site* authorized or approved under Part V of *EPA* or its regulations, as amended.

Permit Exemptions

3.2. Notwithstanding section 2.3, a *permit* is not required for:

- (1) a *site alteration* by a *Conservation Authority* on lands within its jurisdiction to prevent or control flooding, erosion or slipping of *soil*;
- (2) for the *depositing* of *fill* in an excavation, following the demolition or removal of a building or structure for which a *Building Permit* has been issued, provided the *filling* is limited to three (3) metres outside the previously existing building perimeter and the *finished grade* is the same as the previously *existing grade* at that building perimeter;
- (3) a *site alteration* that is an incidental part of any construction of any form of underground utilities or other public services where the *fill* is removed and held for subsequent backfill replacement;

- (4) a *site alteration* authorized under a *development* permit issued by a *Conservation Authority* under section 28 of the Conservation Authorities Act in an area of the *Town* provided the conditions in section 3.3 are met; or
 - (5) a *site alteration* authorized under a *development* permit issued by the NEC in an area of the *Town* provided the conditions in section 3.3 are met.
- 3.3. An exemption under section 3.2(4) or 3.2(5) applies only if the following conditions are met:
- (1) the *development* permit issued by the *Conservation Authority* or NEC as the case may be is fully complied with including all conditions; and
 - (2) no *site alteration* shall occur outside the area permitted under the development permit without a *permit* under this by-law,

Land Use Based Exemptions

- 3.4. A *permit* is not required on any *lot* within the Rural Area of the *Town*, for the following *site alterations*, provided the requirements below are met:
- (1) the *depositing, cutting* or removal of *topsoil* on lands for the purpose of lawn maintenance, landscaping or adding to flower beds or vegetable gardens, provided that the *approved grade* (or *existing grade*, where there is no *approved grade*) of the lands is not increased by more than 0.15m; there is no significant change in the direction or rate of drainage to or from neighbouring properties; the *site alteration* does not take place within 0.6m of any *lot* line, and the cumulative total of the *topsoil* placed or *dumped* pursuant to all applicable *permit* exemptions does not exceed in any consecutive four (4) month period the lesser of 20 m³ or 2 triaxle truck loads;
 - (2) the construction of walkways along sideyards, adjacent to a dwelling or garage, provided that there is no altering of *grades*, drainage patterns or drainage within 0.6m of the *lot* line; or
 - (3) maintenance of driveways, roads or parking areas with imported asphalt or granular material (including native granular, recycled aggregate, recycled asphalt or recycled concrete), provided the previously *existing grades* are being reinstated, the size of driveway, road or parking area is not increased; the dimensions remain unaltered, and the cumulative total of the *fill* placed or *dumped* pursuant to all applicable *permit* exemptions does not exceed in any consecutive 12 month period the lesser of 20 m³ or 2 triaxle truck loads.

3.5. A *permit* is not required on any *lot* zoned for agricultural use within the Rural Area of the *Town*, for the following *site alterations* provided the requirements below are met:

- (1) the *depositing, cutting* or removal of *topsoil* on lands for the purpose of an *agricultural operation* provided that the *approved grade* (or *existing grade*, where there is no *approved grade*) of the lands is not increased by more than 0.15m; there is no significant change in the direction or rate of drainage to or from neighbouring properties; the *site alteration* does not take place within 0.6m of any *lot* line, and the cumulative total of the *topsoil* placed or *dumped* pursuant to all applicable *permit* exemptions does not exceed in any consecutive four (4) month period the lesser of 20 m³ or 2 triaxle truck loads; and
- (2) the dredging of existing ponds on properties within the Rural Area, provided the surface area of the pond is not increased and the pond depth is not increased beyond its original depth and no piles or berms of dredged material is created adjacent to the pond. Where possible, the dredged material should be worked into adjacent fields without changing drainage patterns.

3.6. A *permit* is not required on any *lot* zoned for residential use within the Urban Area of the *Town*, for the following *site alterations*:

- (1) the *depositing, cutting* or removal of *topsoil* on lands for the purpose of lawn maintenance, landscaping or adding to flower beds or vegetable gardens, provided that the *approved grade* (or *existing grade*, where there is no *approved grade*) of the lands is not increased by more than 0.15m; there is no significant change in the direction or rate of drainage to or from neighbouring properties, the *site alteration* does not take place within 0.6m of any *lot* line; and the cumulative total of the *topsoil* placed or *dumped* pursuant to all applicable *permit* exemptions does not exceed in any consecutive four (4) month period the lesser of 5 m³ or ½ of a triaxle truck load;
- (2) the construction of walkways along sideyards, adjacent to a dwelling or garage, provided that there is no altering of *grades*, drainage patterns or drainage within 0.6m of *lot*line; or
- (3) maintenance of driveways, roads or parking areas with imported asphalt or granular material (including native granular, recycled aggregate, recycled asphalt or recycled concrete), provided the previously *existing grades* are being reinstated, the size of driveway, road or parking area is not increased; the dimensions remain unaltered, and the cumulative total of the *fill* placed or *dumped* pursuant to all applicable *permit* exemptions does not exceed in any consecutive 12 month period the lesser of 5 m³ or ½ of a triaxle truck load.

3.7. A *permit* is not required on any *lot* zoned for industrial, commercial, employment or institutional use for the following *site alterations*:

- (1) the *depositing, cutting* or removal of *topsoil* on lands for the purpose of lawn maintenance, landscaping or adding to flower beds, provided that the *approved grade* (or *existing grade*, where there is no *approved grade*) of the lands is not increased by more than 0.15m there is no significant change in the direction or rate of drainage to or from neighbouring properties; the *site alteration* does not take place within 0.6m of any *lot* line, and the cumulative total of the *topsoil* placed or *dumped* pursuant to all applicable *permit* exemptions does not exceed in any consecutive four (4) month period the lesser of 5 m³ or ½ of a triaxle truck load;
- (2) the *stockpiling* of *soil*, compost, and related landscaping materials for commercial landscaping purposes, provided said *lot* is permitted to store landscaping materials for sale to the public by the applicable zoning and land use by-laws of the *Town* as well as Conservation Authority and NEC policies where applicable;
- (3) the *stockpiling* of recycled aggregate, asphalt or concrete as part of a contractor's yard, provided said land use is permitted by the applicable zoning and land use by-laws of the *Town*, as well as Conservation Authority regulations and NEC policies where applicable;
- (4) the construction of walkways adjacent to a building, provided that there is no altering of *grades*, drainage patterns or drainage within 0.6m of *lot* line; or
- (5) maintenance of driveways, roads or parking areas with imported asphalt or granular material (including native granular, recycled aggregate, recycled asphalt or recycled concrete), provided the previously *existing grades* are being reinstated, the size of driveway, road or parking area is not increased; the dimensions remain unaltered; and the cumulative total of the *fill* placed or *dumped* does not exceed in any consecutive 12 month period the lesser of 20 m³ or 2 triaxle truck loads.

3.8. In addition to the limitations set out under subsections 3.4 to 3.7, no *site alteration undertaken* pursuant to those sections shall:

- (1) alter or obstruct a *watercourse*, ditch, *swale*, *drainage system*, *Town* easement or *catch basin*;
- (2) alter or obstruct sheet flow or drainage across *lot* lines;

- (3) cause water normally contained on the *lot* to drain off *site*;
- (4) involve the *dumping* or *stockpiling*, as the case may be, of *fill* that is composed of materials other than those authorized under the applicable subsection, and without limiting the generality of the forgoing, such material shall be clean and free of any glass, plastics, rubber, metals, construction debris, demolition debris, liquid other than water, broken concrete, asphalt, *waste*, garbage or *contaminants of concern* unless such materials are expressly authorised by the applicable subsection.

Proof of Exemption Application, Required

- 3.9. In order to qualify for the *permit* exemptions set out under subsections 3.2, 3.3, 3.4, 3.5 or 3.7, of this by-law, any *person* that carries out a *site alteration* without a *permit* pursuant to an exemption shall:
- (1) maintain sufficient documents or other information, including other permits or authorisations, photographs, measurements, invoices, test results, etc, as to provide proof of the applicability of the exemption and compliance with any conditions or limitations on the exemption;
 - (2) maintain a record of the source, composition and volume of any *fill dumped* or hauled to the *lot* that claims the exemption; and
 - (3) provide the documents or other information to the *Director* or an *Inspector* upon request within the timeframe stipulated by the *Director* or *Inspector*.
- 3.10. Notwithstanding any other provision of this by-law, any *person* that fails to comply with section 3.9 shall be in violation of section 2.3 of this by-law.

4. Site Alteration Application Process

Pre-consultation

- 4.1. An *applicant* or *owner* applying for a *permit* shall arrange for a pre-consultation meeting with the *Director* and any other persons or agencies that the *Director* or *Inspector* determines necessary to review a proposed *site alteration* to assess if a *permit* is required, or if a *permit* could be issued pursuant to this by-law and *permit* requirements. The requirement to hold a pre-consultation may be waived by the *Director*.

Site Alteration Application Requirements

- 4.2. An *owner* or *applicant* applying for a *permit* shall submit the following to the *Director*.

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- (1) a completed application in a form approved by the *Director*;
- (2) the municipal address of the *lot* where the *site alteration* is to occur and the *lot* size;
- (3) the name, address and contact information of the *owner* of the *lot* where the *site alteration* is to occur;
- (4) the name, address and contact information of the consultant engineers authorized by the *owner* of the land upon which the *fill* is to be placed, *dumped*, *cut* or removed or other *site alteration* is to occur;
- (5) the name, address and contact information of the *Qualified Person* authorized by the *owner* of the land upon which the *fill* is to be placed, *dumped*, *cut* or removed or other *site alteration* is to occur;
- (6) where the *applicant* is not the *owner*, a signed authorization by the *owner* of the land, on which the work is to be performed, certifying the *applicant* is authorized to act as an agent on the *owner's* behalf in the application process and in the performance of the *site alteration* work;
- (7) the name, address and contact information of the contractor authorized by the *owner* of the *lot* to *undertake* the *site alteration*;
- (8) a work schedule for the proposed *site alteration*;
- (9) a *control plan*, in accordance with Schedules A and D;
- (10) a brief description of the *site alteration*, including identification of its purpose;
- (11) proof that the purpose of the *site alteration* is for a land use permitted on the subject lands under *Town* zoning by-laws or under an NEC *development* permit as the case may be;
- (12) all source location(s) of the *fill* being *dumped* including environmental *soil* tests and *soil* permeability tests if required by the *Director*;
- (13) an indemnity, in a form approved by the *Town*, which releases and indemnifies the *Town* with respect to any and all liability which may arise in the event that any *fill* contains *contaminants of concern* within the meaning of the *EPA* or the *site alteration* causes damage to nearby properties;
- (14) a copy of the NEC *development* permit, if any *site alteration* is proposed to occur within regulated lands of the NEC;

- (15) a copy of the *Conservation Authority development* permit, if any *site alteration* is proposed to occur within *Conservation Authority* regulated lands;
 - (16) where the *site alteration* is proposed as part of a *normal farm practice*, proof that the subject land is part of an *agricultural operation*, including documents such as tax returns and Ontario farm business registration providing proof of farm income and such additional documents, information or reports necessary to provide proof that the proposed *site alteration* is part of a *normal farm practice*;
 - (17) the prescribed fees for the *permit* in accordance with the *Town's User Fee By-Law*; and
 - (18) such other documents, reports or information as the *Director* deems appropriate in order to evaluate the application.
- 4.3. Where application requirements, including any additional reports or information required by the *Director*, have not been fulfilled with one year of the date the application was first submitted in whole or in part, the *Director* may deem the application abandoned upon 30 days notice to the *applicant*.
- 4.4. Where an application has been deemed abandoned, it may be re-opened within a period of 3 months from the date of expiry upon the submission of a written request to the *Director* accompanied by a payment of any additional fees required by the *Town User Fees By-law*.
- 4.5. Notwithstanding any other provisions of this by-law, the *Director* may at his or her sole discretion, waive certain *permit* requirements, after taking into consideration the proposed works, the anticipated impacts to the *site*, adjacent properties, the surrounding environment, Town infrastructure and *normal farm practices*.

Supporting Documentation Requirements

- 4.6. If required by the *Director*, a *person* applying for a *permit* shall submit the following in a form acceptable to the *Director*:
- (1) any other study, report, plan, drawing or material related to the application, as deemed necessary by the *Director*;
 - (2) Phase I, Phase II and other Environmental Site Assessment reports;
 - (3) detailed plans including but not limited to a Soil Management Plan, Fill Management Plan, and an environmental *soil* testing plan, all prepared and

certified by a *Qualified Person*, in accordance with *Ministry of the Environment rules*, standards, policies and guidelines;

- (4) Traffic and Transportation Management Plan prepared and certified by a professional engineer;
- (5) a signed authorization of a grantee(s) of any easements within the *lot* accepting the placing or *depositing* of *fill* or other *site alteration* on or abutting any easements;
- (6) a report by an archaeologist licensed by the Ontario Ministry of Tourism and Culture or its successor of any significant archaeological features on the *site*, in the areas affected by the *site alteration*; and
- (7) such other reports, plans or documents as the *Director* deems necessary to evaluate the *permit* application.

5. Permit Review and Issuance

5.1. In reviewing any application, the *Director* may:

- (1) seek comments from and approvals of other applications by the NEC, Conservation Authorities, the *Ministry of Natural Resources*, *Ministry of the Environment*, Department of Fisheries and Oceans, Halton Region, adjacent municipalities and any other agencies deemed appropriate. Such comments and approvals shall form part of the application review; and
- (2) require all or part of an application, including without limitation, cost estimates provided for the purpose of assessing securities, to be reviewed by a qualified third party consultant or consultants. In the event the *Director* deems it necessary to engage consultants to assist with the review, the *applicant* shall be responsible for the review costs, including administration fees, and the *Director* may require pre-payment or a deposit for said costs and fees as a condition of processing the application.

5.2. The *Director* shall render a decision on a complete *application* in writing. A *permit* may be issued, or issued subject to conditions, where the *Director* is satisfied that:

- (1) the *applicant* has complied with or will comply with all of the requirements of this by-law and provided *securities* in accordance with this by-law;
- (2) the *applicant* has provided a road damage deposit in an amount and upon such terms as determined by the *Director* in accordance with the *Town User Fee By-Law* for any damage or fouling of municipal roads;
- (3) the concerns of the NEC, Conservation Authorities, *Ministry of Natural Resources*, *Ministry of the Environment*, Department of Fisheries and

Oceans, Halton Region, adjacent municipalities and any other relevant agencies have been addressed;

- (4) the work proposed under the *permit* and the purpose of the *site alteration* will not involve contravention of federal, provincial or municipal legislation, regulations, by-laws including zoning by-laws, guidelines or policies;
- (5) where other federal, provincial or municipal approvals are required, such other approvals have been obtained and proof has been submitted prior to the issuance of the *permit*; and
- (6) the *site alteration* is not likely to result in negative effects to nearby properties, surface water, ground water, drainage, erosion, the natural environment, agricultural production, *soil* quality or public and municipal infrastructure.

6. Permit Compliance and Changes

- 6.1. The *applicant* and *owner* shall maintain a copy of the approved *permit* posted on *site* in a location visible to all those conducting work on the *site*, including those transporting *fill* to or from the *site*, and shall provide copies upon request to all persons carrying out the *site alteration* or transporting *fill*.
- 6.2. No *site alteration* may proceed where section 6.1 has not been complied with.
- 6.3. Where a *permit* has been issued under this by-law authorizing *site alteration* on lands, no *person* shall *undertake* the *site alteration* except in accordance with:
 - (1) the plans, documents and any other information required for the issuing of the *permit*;
 - (2) the terms and conditions of the *permit*; and
 - (3) all other provisions of this by-law.
- 6.4. Notwithstanding the issuance of a *permit* pursuant to this by-law, an *applicant* and *owner* shall comply with all other applicable legislation, regulations and *Town* or Halton Region by-laws.
- 6.5. Where an *applicant* proposes a change to a plan, document, specifications, *haul route* locations, *source site*, dates or times, or any other information following the issuance of a *permit*, no work may commence until such time as:
 - (1) *the applicant* has submitted such revised drawings, reports and other documents or information as the *Director* deems appropriate;

- (2) *the applicant* has paid any additional fees required by the *Town User Fee By-Law*; and
- (3) the *Director* has approved the change and issued an amended *permit*.

7. Permit Terms and Conditions

7.1. In addition to any other terms and conditions or design guidelines that may be imposed by the *Director*, *permits* are subject to the terms and conditions set out in sections 7.2 of this by-law, unless expressly exempted in writing by the *Director*.

Standard Terms and Conditions

7.2. In addition to any other terms and conditions or design guidelines that may be imposed by the *Director*, *permits* are subject to the following terms and conditions, unless expressly exempted in writing by the *Director*.

- (1) environmental *soil* testing of *fill* by a *Qualified Person*, is *undertaken* prior to its *deposit* upon, or removal from the *site*, according to *Ministry of the Environment* rules, standards, policies and guidelines;
- (2) the testing of *fill* shall be performed by a certified environmental laboratory. The *applicant* will be responsible for all costs associated with the testing;
- (3) compliance with the Additional Site Design Requirements in Schedule C;
- (4) ensure that the work which is the subject of the *permit* does not foul any municipal roads and, in the event that this occurs, ensure that the road or roads effected are cleaned to the satisfaction of the *Director* within 24 hours of any request by the *Director* or *Inspector* for such cleaning;
- (5) the *site* shall be rehabilitated including replanting, to a condition which is substantially similar to or improved from the condition of the *site* prior to the *undertaking* of the work which is the subject of the *permit*, immediately upon completion of *site alteration*;
- (6) following the completion of the *site alteration*:
 - (a) it is the responsibility of the professional engineer or Ontario land surveyor, who completed the certificate on the *control plan*, to visit the *site* and record the required elevations to verify that the grading has been completed in accordance with the *control plan* submitted and that the finished project does not detrimentally affect drainage on adjacent properties. This shall be provided in the form of an "As Constructed" *control plan* provided to the

Director, and

- (b) it is the responsibility of the *Qualified Person* retained by the *owner* or *applicant* to certify compliance with O. Reg. 406/19: *ON-SITE AND EXCESS SOIL MANAGEMENT* and applicable *Ministry of the Environment* rules, standards, policies and guidelines; and
- (7) the daily record of deliveries shall be maintained in a format acceptable to the *Director* and provided to the *Director*., including:
- (a) the date of each delivery of *fill*;
 - (b) the point of origin of each delivery of *fill*;
 - (c) the placement location of each delivery of *fill*;
 - (d) the hauling routes;
 - (e) the volume of each delivery of *fill*;
 - (f) the content of material of each delivery of *fill*, including *fill* placement location; and
 - (g) any other information required by the *Director*.

Additional Terms and Conditions

- 7.3. The *Director* may impose additional terms and conditions or design guidelines upon the issuance of a *permit* as the *Director* deems appropriate to achieve the purposes of this by-law.
- 7.4. Without limitation to the *Director's* authority to issue a *permit*, subject to any condition the *Director* deems appropriate to achieve the purposes of this by-law, the *Director* may require the *applicant* or *owner* to comply with one or more of the following, either prior to or after *permit* issuance as the case may be:
- (1) notify the *Director* in writing within 48 hours of commencing any work;
 - (2) require that the *site alteration* be completed by a specific date as noted in the *permit*;
 - (3) arrange for inspections with the *Director* or *Inspector* at the commencement and completion of the work or at stipulated intervals in between;
 - (4) construct retaining walls, safety fences or any other structures as may be

required to ensure the safety and stability of the *site alteration*, and obtain any other permit as may be required prior to commencing work;

- (5) ensure that the *finished grade* surface is protected by sod, seeding for grass, vegetation, asphalt, concrete or other similar means, or combination thereof and where grass seed is used, prior written approval of the seed mix is required from the *Director* prior to seeding;
- (6) ensure that no trench in which piping is laid forming part of the *drainage system* shall be covered and *backfilled* until the work has been inspected and approved by the *Director* or *Inspector*;
- (7) install all tree protection measures required by the approved *site alteration* plan prior to commencing any work and maintain these tree protection measures throughout the entire duration of the work;
- (8) install and maintain *site control measures* as identified in the approved *site alteration* plan and the latest guidelines for erosion measures of the applicable Conservation Authority;
- (9) ensure if the *site* is designated agriculture or rural that the *site alteration* does not result in a reduction of the *soil* quality of the *site*;
- (10) provide testing of the permeability of any *fill* to be used as part of a *site alteration*, to ensure the permeability of the imported *fill* does not adversely affect the existing underlying native *soil*;
- (11) restrict the daily volume of truck loads to ensure traffic safety or avoid nuisance impacts;
- (12) require use of *electronic tracking technology* by those hauling or transporting *fill*; or
- (13) restrict the hours of operation.

8. Fees and Securities

- 8.1. All fees applicable to the processing, administration, extension, renewal and inspection for a *permit* shall be in accordance with the *Town User Fee By-Law*.
- 8.2. Prior to issuing a permit, a financial security, in accordance with the applicable *Town* policy requirements shall be required by the *Director* to cover 100% of the estimated cost to supply, install and maintain *site control measures*, stabilize the *site* and *undertake* other works as identified by the *Director*.
- 8.3. The *applicant* shall provide a cost estimate by a properly qualified professional to

the satisfaction of the *Director* of the amount of *securities* required to meet the requirements of subsection 8.2.

8.4. Having regard to the cost estimate, applicable *Town* policies and such other information as the *Director* deems appropriate the *Director* shall determine the amount of *securities* payable by the *applicant*.

8.5. The *Director* may request an updated cost estimate from time to time and having regard to the cost estimate, applicable *Town* policies and such other information as the *Director* deems appropriate may increase the amount of *securities* required from time to time.

8.6. Notwithstanding subsections 8.3, 8.4 and 8.5, for *site alterations* involving 50 m³ of *fill* or less, the *Director* may waive the requirements related to cost estimates, and determine the amount of *securities*.

8.7. The *securities* must remain in effect for the full duration of the *permit* and until such time as an inspection has been carried out and the approval of the *Director* has been received in accordance with subsections 8.8 and 8.9.

8.8. It is the responsibility of the *permit* holder to obtain the approval of the *Director* that the *site* has been adequately reinstated and stabilized in accordance with this by-law, the plans accompanying the *permit*, the terms and conditions and design guidelines of the *permit*, and to request that the *Town* carry out a final inspection of the *site* and obtain the written approval of the *Director* that this by-law and terms and conditions of the *permit* have been complied with by the *permit* holder.

8.9. When the *Director* has issued a written approval in accordance with subsection 8.8, the *permit* holder's *security* shall be released in accordance with the applicable *Town* policy governing release of *securities*.

8.10. Where an *applicant* fails to comply with any of the provisions of this by-law or the terms and conditions of any *permit*, the *Town* may draw on the *securities* to satisfy the costs, administrative costs and interest of any removal, repair, alteration, corrective action or work *undertaken* pursuant to section 12 of this by-law and any such costs in excess of the amount of *securities* shall constitute a charge under the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended, and may be added to the tax roll of *lot* held by the *owner* in the manner provided for therein.

9. Request for Review

9.1. An *applicant* for a *permit* under this by-law may seek a review by the *Commissioner* of:

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- (1) a refusal by the *Director* to issue a *permit*; or
 - (2) any conditions included by the *Director* in a *permit*.
- 9.2. An *applicant* seeking a review of a decision of the *Director* under subsection 9.1, must within fifteen (15) days after the *applicant* received notice of the *Director's* decision under subsection 5.2:
- (1) send a request for a review to the *Commissioner* in writing in accordance with subsection 9.4; and
 - (2) pay the required review fee pursuant to the *Town User Fee By-Law*.
- 9.3. Where a review is not requested in accordance with requirements and timelines set out in subsections 9.2 and 9.4, the decision of the *Director* shall be final and binding.
- 9.4. The request for a review shall be in writing and contain the following information:
- (1) the name of the *applicant*;
 - (2) the decision of the *Director*;
 - (3) the detailed grounds for the review; and
 - (4) any documents that the *applicant* seeks to rely on.
- 9.5. On a review under subsection 9.1, the *Commissioner* shall have all of the powers of the *Director*, pursuant to this by-law.
- 9.6. The *Commissioner* may seek and obtain any information from the appellant or the *Director* that the *Commissioner* considers potentially necessary or relevant to the review.
- 9.7. Upon reviewing the decision of the *Director* and the information provided by the *applicant* and the *Director*, the *Commissioner* shall render a decision in writing.
- 9.8. The decision of *Commissioner* shall be final and binding on the *applicant*.
- 9.9. Where a review has been requested in accordance with subsections 9.2 and 9.4, no work or *site alteration* may be conducted and no *fill* may be transported or hauled to or from the *lot* that is the subject of the *application* until such time as the *Commissioner's* decision is rendered.
- 10. Expiry, Renewal, Revocation and Transfer of *Permits***

Expiry, Extension and Renewal

- 10.1. Any *permit* issued pursuant to this by-law, shall be valid for a period of one (1) year from the date of issuance unless noted otherwise by the *Director*.
- 10.2. A *permit* which has expired may be renewed by the *Director* within a period of six (6) months from the date of expiry upon the submission of a written request to the *Director* accompanied by a payment of any additional fees required by the *Town User Fee By-Law*. A *permit* which has been renewed in accordance with this section shall thereafter be treated as a new *permit* except that it shall not again be renewed.

Revocation

- 10.3. The *Director* may revoke or amend the *permit* for any of the following reasons:
 - (1) it was obtained on mistaken, false or incorrect information;
 - (2) it was issued in error or the *Director* otherwise learns of new information that if known prior to issuance would have impacted the issuance of the *permit*;
 - (3) the *owner* or *permit* holder requests in writing that it be revoked;
 - (4) the terms of a *permit* under this by-law have not been complied with;
 - (5) work authorized under the *permit* has not been commenced prior to its expiry date; or
 - (6) the *owner* has failed to comply with the provisions of this by-law.
- 10.4. Where a *permit* has been revoked or expired under this section or for any other reason pursuant to this by-law, the *permit* holder shall forthwith cease all work under the revoked *permit* and restore the *site* to conditions acceptable to the *Director*.

Transfer

- 10.5. A *permit* shall expire upon the transfer of ownership of the *site* unless prior to transfer, the new *owner* provides written commitment to comply with all conditions under which the *permit* was issued to the satisfaction of the *Director*, and provide *security* in a form and amount acceptable to the *Director*, at which time any *security* previously provided by the original *permit* holder pursuant to this by-law shall be released.
- 10.6. A *permit* is not transferable to another *site*.

11. Inspection

- 11.1. For the purpose of ensuring compliance with this by-law, the *Director* or an *Inspector* may, at all reasonable times, enter upon and inspect any land, including without limitation privately owned land, to determine whether or not the following are being complied with:
- (1) this by-law;
 - (2) a *permit* or *order* issued under this by-law; or
 - (3) a prohibition order made under s. 431 of the *Municipal Act*, S.O. 2001, c.25, as amended;
- 11.2. The *Director*, or an *Inspector* may, for the purposes of the inspection under subsection 11.1:
- (1) require the production for inspection of documents or things relevant to the inspection;
 - (2) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - (3) require information in writing or otherwise concerning a matter related to the inspection; or
 - (4) alone or in conjunction with a *person* possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.
- 11.3. Any cost incurred by the *Town* in exercising its authority to inspect, including but not limited to the cost of any examination, test, sample or photograph necessary for the purposes of the inspection, shall be paid by the *owner* of the *property* where the inspection takes place and may be added to the tax roll in accordance with section 12.10(2).
- 11.4. The *Director* or an *Inspector* may *undertake* an inspection pursuant to an *order* issued by a provincial judge or justice of the peace under section 438 of the *Municipal Act*, S.O. 2001, c.25, as amended where he or she has been prevented or is likely to be prevented from carrying out an inspection under subsection 11.1 of this by-law.

12. Orders and Notices

- 12.1. The *Director* and an *Inspector* shall have all powers necessary to carry out the enforcement of this by-law, including without limitation, issuing *orders*. For clarity,

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where this by-law provides that the *Town* may take any action or do anything:

- (1) the action or thing may be taken or done at the direction of either the *Director* or an *Inspector*, unless this by-law or its schedules specifies otherwise;
- (2) the *Director* or an *Inspector* may, unless this by-law or its schedules specifies otherwise, enlist such forces as deemed appropriate to *undertake* that action or thing, including third party contractors, agents or suppliers of goods and services.

12.2. Where the *Town* has reason to believe that any *person* is or will be in contravention of this by-law, or any term or condition of a *permit*, the *Town* may issue a *stop work order* directing the activities cease immediately upon service of the *order* on the *person* or *persons* listed in the *order*.

12.3. Where the *Town* has reason to believe that any *person* is in contravention of this by-law, or any term or condition of a *permit*, the *Town*, may issue a *work order* directing the person or persons to take such actions as are necessary to comply with this by-law or the *permit* as the case may be, within such time as is set out in the *order*, including without restriction, removal of *fill*, filling in of excavations or ponds or restoring the land to its prior state.

12.4. Where the *Town* has reason to believe that a contravention of this by-law or any term or condition of a *permit*, which may result in the issuing of a *work order*, poses a risk to public health or safety, the *work order* may provide that the actions set out therein be taken immediately.

12.5. An *order* shall contain:

- (1) the municipal address and legal description of the land;
- (2) reasonable particulars of the contravention(s);
- (3) the period within which there must be compliance; and
- (4) the time frame in which the work or actions contained in the *order* must be carried out.

12.6. Any *person* to whom an *order* is issued pursuant to this by-law shall comply with the terms of such order.

12.7. Any *person* to whom an *order* is issued shall provide notice of the order to any and all persons who participated in the *site alteration*, including *fill* haulers, workers and trades.

12.8. No *person* who has notice or is aware of an *order* shall assist in any way in the

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violation of the terms of an order, regardless of whether the person is named in the *order*.

12.9. Where the *person* or *persons* to whom a *work order* is issued fails to perform the work required by the *order* within the time stipulated in the *order*, the *Town*, in addition to all other remedies it may have, may without further notice perform such work as it deems appropriate.

12.10. Where the *Town undertakes* any removal, repair, alteration, corrective action or work pursuant to an *order*:

- (1) anything removed may be destroyed or disposed of without notice or compensation to any *person*; and
- (2) the *owner(s)* of the land shall be responsible for all costs of the *Town* incurred in the exercise of the powers thereunder, including administrative costs and interest. Such costs, as determined by the *Director*, shall constitute a charge under the *Municipal Act, 2001, S.O. 2001, c. 25* as amended, and may be added to the tax roll of the *property* held by the *owner* in the manner provided for therein.

12.11. An *order*, or any notice or document under this by-law may be served by the *Town* by any of the following means:

- (1) delivered personally;
- (2) posted on the subject lands;
- (3) emailed to the last known email address of the *person* to whom the order is directed;
- (4) deposited in the mailbox or mail slot of the *person* to whom the order is directed;
- (5) sent by prepaid regular mail to the last known address of the *person* to whom the order is directed; or
- (6) sent by registered mail to the last known address of the *person* to whom the order is directed.

12.12. Where service is effected by:

- (1) regular mail, it shall be deemed to be made on the fifth (5th) day after the date of mailing;
- (2) registered mail, it shall be deemed to be made on the second (2nd) day after

the date of mailing;

- (3) any other means, it shall be deemed effective on the day the document served was delivered, posted, emailed or *deposited*; or
- (4) service by multiple means, it shall be deemed effective on earliest applicable date set out in this section.

12.13. Where an *order* is posted on the subject lands, no *person* may remove the *order* without the written authorization of the *Director*.

13. Offences and Penalties

Offences

13.1. Every *person* who contravenes any provision of this by-law or an *order* issued pursuant to this by-law is guilty of an offence as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended and the *Municipal Act*, 2001, S.O. 2001, c. 25. Where a contravention of a provision of this by-law or an order is committed on or continues for more than one day, the *person* who commits the contravention is liable to be convicted for a separate offence for each day on which it is committed or continued. For clarity, in the case of an order, where a failure to comply continues, every day or part of a day past the compliance date set out in the order is a separate offence.

Penalties

13.2. A *person* convicted under Part I of the of the *Provincial Offences Act*, R.S.O. 1990, c. P.33, is liable to a fine in accordance with the Act of not less \$500 and no more than \$1,000.

13.3. Every *individual* convicted under Part III of the *Provincial Offences Act*, R.S.O. 1990, c. P.33, is liable to a fine of not less than \$500 and not more than \$25,000 in accordance with section 429 of the *Municipal Act*, 2001, S.O. 2001, c. 25.

13.4. Every *corporation* convicted under Part III of the *Provincial Offences Act*, R.S.O. 1990, c. P.33, is liable to a fine of not less than \$500 and not more than \$100,000 in accordance with section 429 of the *Municipal Act*, 2001, S.O. 2001, c. 25.

13.5. Despite sections 13.3 and 13.4, an individual or corporation convicted of a continuing offence is liable to a fine, in accordance with section 429 of the *Municipal Act*, 2001, S.O. 2001, c. 25., of no less than \$500 and no more than \$10,000 for each day or part of a day on which the offence occurs or continues, but the total of all daily fines is not subject to a limit.

13.6. Where a conviction is entered for contravention of the by-law, in addition to any

other remedy or any penalty provided by law, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order:

- (1) prohibiting the continuation or repetition of the offence by the *person* convicted; and
- (2) requiring the *person* convicted to correct the contravention in the manner and within the period that the court considers appropriate, including without restriction:
 - (a) rehabilitate the land;
 - (b) remove *fill*;
 - (c) restore the *grade* of the land to its original condition; and
 - (d) replace damaged trees, shrubs, etc., including any silvicultural treatment necessary to re-establish the trees.

14. Interpretation and Severability

- 14.1. This by-law shall be interpreted as being remedial and shall be given such fair, large and liberal interpretation as best ensures the attainment of its objects. In the event of an ambiguity, the ambiguity shall be resolved in favour of the interpretation that best accords with the objects of this by-law as set out in the Preamble hereto.
- 14.2. In the event that any provision or part of a provision in this by-law is found to be invalid or unenforceable for any reason whatsoever, then:
 - (1) if the provision or part of a provision in this by-law is capable of being read down so as to be rendered valid or enforceable, it shall be read down accordingly; or
 - (2) in the event the provision or part of a provision in this by-law is not capable of being read down, the particular provision or part of a provision in this by-law or part thereof shall not be deemed to be severed from the remainder of the by-law and all other provisions or parts thereof shall remain in full force and effect and shall be valid and enforceable to the fullest extent permitted by law.

15. Effective Dates and Repeal of Predecessor by-laws

- 15.1. By-law 33-2004 is hereby repealed.

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- 15.2. This by-law shall come into full effect and force on January 1st, 2023.
- 15.3. A *permit* issued under by-law 33-2004 shall be deemed a *permit* under this by-law, until such time as it is expired and all the provisions of the By-law shall apply to said *permit*. The *Director* shall not *permit* any extensions or renewals of *permits* issued under this predecessor by-law.

PASSED IN OPEN COUNCIL ON SEPTEMBER 12, 2022

Gordon A. Krantz Mayor

Meaghen Reid Town Clerk

Schedule A Control Plan Requirements

A *control plan*, to be submitted as part of the *permit* application, shall include the following:

1. a key plan showing the location of the *site* and a minimum of 30 meters beyond the *site*;
2. the scale of the drawing;
3. *lot* lines of the lands where the proposed *site alterations* are to be *undertaken*, including dimensions and the number of hectares of the *site*;
4. the location, dimensions, elevations and use of buildings and other structures existing or proposed to be erected on the *site*;
5. the current and proposed use of the *site* as well as the location, dimensions and use of buildings and other structures adjacent to the *site*;
6. detailed locations, including dimensions, identifying the proposed locations for the placement of *fill* on the lands;
7. a scale drawing of any proposed retaining wall including a description, dimensions and materials to be used in the construction of such retaining wall, that may be required by the *Director* if:
 - (1) erosion on *adjacent lands* may occur as a result of the work which is the subject of the *permit*, or
 - (2) the *finished grade* of the *site* is of a higher elevation at a *lot* line than that of the existing *grade* at the same *lot* line of *adjacent lands*.
8. a topographic survey producing a 0.5 m contour interval, certified by a licensed professional engineer or Ontario land surveyor, defining all material and man-made features, including top and bottom of slopes, drainage patterns, tree lines, buildings, and *stockpiles* on the lands and 30 m beyond the *lot* lines to clearly show the detailed existing topography of the *property* and the *adjacent lands*;
9. the location of any lakes, streams, channels, *watercourses* or *wetlands* within 15 m of the *lot* lines for *sites* less than 0.2 ha, and 30 m of the *lot* lines for *sites* greater than 0.2 ha;
10. the location of any *NHS* designated lands or *key features* within 120 m of the *lot*;

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11. the location, dimensions and invert elevations of any source water protection areas, existing and proposed storm water *drainage systems*, swales, ditches, *Town* easements, sewers, drainage pipes, culverts, inlet chambers, drainage tiles, septic beds and natural drainage patterns within 15 m of the *lot* lines for *sites* less than 0.2 ha, and 30 m of the *lot* lines for *sites* greater than 0.2 ha;
12. the location and dimensions of utilities, roads and highways within 30m of a *site*;
13. the location, diameter, species and drip line of all trees with a caliper measuring 100 mm or greater measured at height of 1.37m above ground, all other vegetation and field crops are to be identified in masses showing the outline of the canopy or vegetation limit created by the massing;
14. all existing vegetation 3 m beyond the *lot* lines including *Town* trees, individually locating all trees with a caliper measuring 100 mm or greater at breast height. All other vegetation to be identified in masses showing outline of canopy or vegetation limit created by the massing;
15. the location and description of the predominant *soil* types;
16. the location and dimensions, of all proposed temporary *soil* or *fill* storage locations;
17. the location, dimensions, height and slopes of any proposed berms;
18. the proposed final elevations of the *site alteration* works;
19. the location and dimensions of all proposed land disturbances;
20. the location of all floodplains, shoreline, top of bank features and approximate *Conservation Authority* regulation limits, if applicable;
21. the regulatory limits of the NEC, if applicable;
22. the location, dimensions, design, details, design calculations and estimated costs for the supply, installation and maintenance of all *site control measures* necessary to meet the requirements of this by-law;
23. a schedule of the anticipated start and completion dates for each land disturbance, including the installation of *site control measures* needed to meet the requirements of this by-law;
24. details regarding the provisions for regular maintenance of the *site control measures* during *site alteration* activities;

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25. all tree protection measures for the *site alterations*;
26. all proposed ground covering to be used for *site* restoration, including seed mix if grass, upon completion of the *site alterations*;
27. specific details regarding trucking to and from the *site*, including the routes to be used, volume and types of trucks to be used and the times these routes will be used;
28. all other *site* design requirements as detailed in “Schedule C” – Additional Site Design Guidelines; and
29. a stamped, signed certificate as detailed in Schedule “D” – Lot Grading Design & Requirements.

Schedule B
Designated Inspectors

The following *Town* employees are hereby designated as an *Inspector* for the purposes of this by-law and are authorized to carry out all the duties of an *Inspector*, including the issuing of orders:

1. *Director*;
2. *Town* Infrastructure & Development Engineering Staff; and
3. *Town* of Milton Municipal Law Enforcement Officers;

The following are hereby designated as *Inspectors* for the purposes of this by-law and are authorized to carry out all the duties of an *Inspector*, except for the issuing of orders:

1. Halton Regional Police Service Officers;
2. other *Town* staff as authorized by the *Director* to act on behalf of the *Director*;
and
3. non-*Town* staff retained by the *Director* to act on behalf of the *Director*.

Schedule C Additional Site Design Requirements

The following guidelines shall be met on all *sites*, to the satisfaction of the *Director*, where a *site alteration permit* is required:

1. Site Dewatering: water pumped from the *site* shall be treated by temporary sedimentation basins, grit chambers, sand filters, upflow chambers, swirl concentrators or other appropriate controls.
2. Drain Inlet Protection: *catch basins*, rear lot storm drain inlets or any other inlets, shall be protected with filter fabric, or equivalent barriers.
3. Site Erosion Control: The following criteria apply to land disturbances that result in stormwater runoff leaving the *site* or draining onto the *site* from adjacent properties:
 - (1) runoff from adjacent areas passing through the *site* shall be diverted around disturbed areas, if practical. Otherwise, the channel shall be protected by filter fences being placed along the channel edges to reduce sediment reaching the channel;
 - (2) all activities on the *site* shall be conducted in a logical sequence to minimize the area of bare *soil* exposed at any one time;
 - (3) any *soil* or dirt storage piles containing more than 100 m³ of material shall not be located within a downslope drainage length of less than 10 m to a roadway or drainage channel. If remaining for more than 30 days, said *soil* or dirt storage piles shall be stabilized by mulching, vegetative cover, tarps or other means. Erosion from *soil* or dirt storage piles which will be in existence for less than 30 days shall be controlled by filter fence barriers around the pile;
 - (4) runoff from the entire disturbed area on the *site* shall be controlled as follows:
 - (a) all disturbed ground left inactive shall be stabilized by seeding, sodding, mulching or covering, or other equivalent control measure. The period of time of inactivity shall be at the discretion of the *Director*, but shall not exceed 30 days or such longer period as deemed advisable at the discretion of the *Director*;
 - (b) notwithstanding paragraph 4.4(a), a *permit* holder or *applicant* for a *permit* who has applied for but not yet received a *Building Permit* or any other necessary *permit*, may be granted an extension to the permitted period of inactivity, at the discretion of

the *Director*, provided that said *applicant* or *permit* holder provides satisfactory proof that he has made his best efforts to have said building or other necessary *permit* issued;

- (c) for *sites* located adjacent to existing residential areas, a sediment control fence may be required around the entire perimeter of the *site*;
 - (d) the sediment control guidelines prepared by the applicable Conservation Authority and the *Ministry of Natural Resources*, for the Province of Ontario, are to be followed closely; and
 - (e) for *sites* with extensive *fill* requirements, the *Director* may waive the requirements for stabilization of disturbed land within 30 days of inactivity provided that the sediment control measures are implemented and maintained to the satisfaction of the *Director*.
- (5) All other conditions or restrictions as required by the *Director*.

**Schedule “D”
Lot Grading Design and Drawing Requirements**

1. The *control plan* shall be submitted in PDF format showing existing elevations of the *lot* and sufficient elevations of adjacent properties to indicate existing drainage patterns. All grading plans are to be metric with all information legible and clear.
2. On the *control plan*, the new proposed *site alteration* will be superimposed, indicating the proposed elevations along with any proposals that may be necessary to eliminate potential drainage problems to the subject *lot*, or any adjacent *lot*. The *control plan* must be in accordance with the requirements of Schedule A of this by-law.
3. All elevations shall be tied into existing *Town* benchmarks and be related to geodetic datum.
4. A certificate on the *control plan*, executed by a registered professional engineer or a registered Ontario Land Surveyor shall be in the following form:

“I have prepared and reviewed the *control plan* for the construction of [fill in blank] located at [fill in blank] and have prepared and reviewed this *control plan* to indicate the compatibility of the *proposed grades* with existing adjacent properties and municipal services. It is my belief that adherence to the *proposed grades*, as shown, will produce adequate surface drainage and proper facility of the municipal services without any detrimental effect to the existing drainage patterns or adjacent properties.



**TOWN OF MILTON
REGION OF HALTON
SITE ALTERATION BY-LAW
AGRICULTURE EVALUATION
FINAL**

Prepared for:

Ms. Diana Jiona, P.Eng.
Manager, Infrastructure and Right-of-Way
150 Mary Street
Milton, ON
L9T 6Z5

July 6, 2022

Prepared by:

DBH Soil Services Inc.

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APPENDICES

APPENDIX A	Agricultural Survey
APPENDIX B	Agricultural Survey Responses
APPENDIX C	OMAFRA Factsheet – Legislation and Farming Practices
APPENDIX D	OMAFRA Factsheet – Importation of Soil onto Agricultural Land

I BACKGROUND

DBH Soil Services Inc was retained by the Town of Milton to assist in the ongoing review and update to its Site Alteration By-Law. The current by-law (By-Law No 33-2004 – A by-law to protect and conserve topsoil and for prohibiting or regulating the alteration of property within the Town of Milton and to repeal by-law No. 23-96) hasn't been updated from 2004. An update is required to align with applicable and current regulations including the Provincial regulations regarding excess soil management.

This part of the update addresses details related to potential exemptions from the by-law which may include activities related to regular or 'normal farm practices'.

A 'normal farm practice' is defined in the Farming and Food Production Protection Act (FFPPA) and Nuisance Complaints (1998) as:

- a. *"is conducted in a manner consistent with proper and acceptable customs and standards, as established and followed by similar agricultural operations under similar circumstances, or*
- b. *makes use of innovative technology in a manner consistent with proper advanced farm management practices".*

The Ontario Ministry of Agriculture, Food, and Rural Affairs (OMAFRA) states in the Importation of Soil onto Agricultural Land Factsheet (Agdex # 510, October 2016) that:

There is no definitive list of normal farm practices. A practice may be ruled as a normal farm practice at a particular location under a particular set of circumstances; the same practice could be ruled as not a normal farm practice at a different location under a different set of circumstances.

As indicated above, OMAFRA has identified that there is no definitive list of normal farm practices, and that a practice may be considered as normal at a particular location and under particular circumstances. In an effort to understand normal farm practices within the Town of Milton a survey was undertaken of agricultural operators to determine what types of materials, volumes of materials, circumstances for the importation/exportation from rural and farmlands.

2 METHODOLOGY

This agricultural study involves a multiphase approach for assessing and documenting how a Site Alteration By-Law may affect agricultural operations.

The first phase of the study includes a literature review to determine the policies related to 'normal farm practices', and how other municipalities have addressed the terminology.

The second phase of the study includes the creation of a survey to be answered by the rural and agricultural communities.

A third phase includes the administration of the survey and the collection of the survey results.

A fourth phase of the study includes a review of the survey results, the creation of a report summarizing the survey results, and providing the Town of Milton with the findings and recommendations in an effort to update the by-law to facilitate 'normal farm practices.'

3 FINDINGS

Background data and present-day existing Site Alteration By-Laws were collected from a variety of data sources including municipal websites, Provincial policy, and online data.

3.1 LITERATURE REVIEW

A literature review was completed on numerous municipal site alteration by-laws, from a variety of geographical/geopolitical locations in Ontario, with particular emphasis on areas immediately adjacent to the Greater Toronto Area (GTA). It is in these areas adjacent to the GTA where there have been the greatest impacts of site alteration, particularly in regard to the placement of unregulated fill materials into the agricultural and rural areas, and the alteration of surficial drainage leading to flooding on lands adjacent to the areas of fill.

3.1.1 PROVINCIAL POLICY, LAW, AND REGULATIONS

The *Farming and Food Production Protection Act (FFPPA, 1998)* provides two main themes for agriculture.

- Farmers are protected from nuisance complaints provided they are following normal farm practices.
- No municipal by-law applies to restrict a normal farm practice carried on as part of an agricultural operation.

The *Nutrient Management Act (NMA, 2002)* indicates that any practice that is consistent with a regulation made under the NMA is a normal farm practice.

The *Municipal Act (MA, 2001)* permits municipalities to pass by-laws to prohibit and regulate site alteration such as the dumping of fill, removal of topsoil, alteration of grade of the land, requirement for permits, and to impose the conditions of a permit to include plans related to grading, filling, removal of topsoil and site rehabilitation.

More recently, the Province of Ontario established *Ontario Regulation 406/19 – On-Site and Excess Soil Management (under the Environmental Act, R.S.O, 1990, C.E. 19)*. Reg. 406/19 came into effect on January 1, 2022, and was suspended in part (decision posted on April 21, 2022) until January 1, 2023.

3.1.2 SITE ALTERATION BY-LAWS

The review of site alteration by-laws included both upper tier and lower tier municipal documents.

Each relevant site alteration by-law was collected in digital or paper format for examination as part of this study.

Each by-law included a definition for ‘normal farm practices’ similar in form as to what was provided in the FFPPA, basically relating to a ‘routine or common procedure’.

Many of the newer by-laws incorporate the necessity of complying with the Ministry of Environment standards for clean Fill (as is described in the *Environmental Protection Act (EPA)*, R.S.O. 1990, c.E.19, as amended).

It was noted that many of the by-laws include a standard type of farm exemption relating to the removal of topsoil as an incidental part of a normal agricultural practice such as sod-farming, greenhouse operations, and nurseries for horticultural products. However, this type of exemption does not include the removal of topsoil for sale.

It was also noted that many of the by-laws do not provide any comment related to volumes of materials under any circumstance.

3.1.3 SURVEY

The premise of this agricultural study was to assist in defining what a ‘normal farm practice’ is with respect to the agricultural activities in the Town of Milton.

The review of the various site alteration by-laws confirmed that the definition for ‘normal farm practice’ has been derived from the FFPPA, without exception.

In an effort to provide a more detailed or site specific/local definition for ‘normal farm practice’, it was determined that the logical approach would be to discuss the issue with the local agricultural and rural community. A survey was developed in an effort to narrow the definition of ‘normal farm practice’ for the Town of Milton.

The survey asks the basic questions related to the movement of materials into, out from, and within an agricultural or rural parcel. The questions were created to identify if materials have been moved, and if so, what materials, how much, reason for moving the materials, the source of the material, testing, and the potential change of onsite and offsite drainage patterns.

A copy of the basic questions is included as Appendix A.

The Town of Milton administered the survey through their internet website (<https://www.letstalkmilton.ca/site-alteration-by-law>).

3.1.4 SURVEY RESPONSES

The Town of Milton provided a copy of the responses in raw format, and through a graphical/text document format. A copy of the graphical/text document has been provided in Appendix B.

Importation

A total of 25 responses were obtained through this process. Of the 25 respondents, 20 (80%) indicated that they have imported materials on their property. There were 17 respondents that indicated they imported gravel, 13 respondents imported topsoil, with lower numbers of respondents indicating the importation of subsoil, fill, manure, soil amendments, and other.

The volumes of materials imported varied from less than 10 m³ (9.1 percent) to more than 1000 m³ (27.3 percent). The reasons for importing materials varied from filling in low spots, adding soil amendments, creating/regrading laneways, construction, gardening, filling for trays for bedding plants, habitat restoration, manure spreading.

A review of the 21 responses for testing of materials prior to importing ranged from supplier tested, soil broker, local quarry, independent monitor, known sources, or took the word of the supplier.

The sources of the imported materials from 21 respondents included local farmer (9), developer (1), contractor (7), construction site (5), unknown (1) and other (15).

The 23 responses to a change in water infiltration in the area where the imported materials were placed included no (78.3 percent), yes (8.7 percent), and unsure (13.0 percent). These responses seem appropriate considering the reasons for importing fill

materials. With respect to contractor and construction site sources, these likely relate to the construction related activities cited by some as the purpose for importing fill.

The 23 responses to a change in drainage patterns on adjacent properties included no (95.7 percent) and yes (4.3 percent).

Exportation

A total of 25 responses were obtained through this process. Of the 25 respondents, 20 (80%) indicated that they had not exported materials from their property. Only 5 responses to the question of the type of material exported were provided. Of the 5 responses, there was 1 response for topsoil, 1 response was for fill material, and 5 responses included manure. There were a few responses that included multiple material exportation.

The volumes of materials exported varied from less than 10 m³ (50.0 percent), 50 to 200 m³ (33.3 percent), and greater than 1000 m³ (16.7 percent)

A review of the 6 responses for the reason for exporting materials indicated that 4 of the 6 responses relate to the removal of manure. There was 1 response for excess fill material, and 1 response for use in gardens.

Onsite Material Movement

There were 25 responses to the question regarding the movement of materials within/on a property. A total of 16 responses (64.0 percent) indicated that materials have been moved within/on a property. The remaining 9 responses (36.0 percent) indicated that no materials had been moved within/on a property.

There were 17 responses to the types of materials that have been moved within or on a property. Topsoil (13 responses), and manure (12 responses) were the predominant reason for movement of materials within or on a property. These responses were followed by gravel (9 responses), subsoil (7 responses), fill (4 responses), compost, soil amendments, and other (each with 3 responses).

The volumes of materials moved within or on property ranged from less than 10 m³ (11.8 percent), 10 to 50 m³ (23.5 percent), 50 to 200 m³ (35.3 percent), 200 to 1000 m³ (11.8 percent), and greater than 1000 m³ (17.6 percent).

A total of 17 responses were provided for the reasons for moving materials within or on a property included filling in low spots, construction, contour farming, digging a pond, spreading of manure, creating storage away from a barn, and grading.

A total of 25 responses were provided for the question regarding a change to water infiltration (caused by compaction, or different soil textures). A total of 16 responses

(76.2 percent indicated that there was no change, while 3 responses (14.3 percent) indicated that there was a change, and 2 responses (9.5 percent) indicating that they were unsure if there was a change in drainage.

3.1.5 CONCLUSIONS OF THE SURVEY

One of the purposes of the survey was to assist in developing a more specific definition of 'normal farm practices' for the importation, exportation, and general movement of materials into, out of, and within an agricultural or rural property.

The survey was specific in trying to determine the reasons for material movement (import, export, within/on) for a property, the type of material, and the volume of material with respect to an agricultural operation. The survey also examined the idea of material testing or 'trust' of a supplier.

A number of reasons for material movement were provided, not all of which relate to normal farm practices (e.g., construction). There was also variation in the types of materials. The volumes of the material also varied.

The survey indicated that the importation of materials is a common occurrence. The exportation of materials is not as common, with an 80% response indicating that materials are not exported. The major exported material was manure. The survey indicated that the movement of materials within a property (in other words the movement of material that is not imported or exported) is fairly common with 64% of the responses indicating that materials are moved onsite.

The survey identified numerous materials that were imported including topsoil, subsoil, fill, gravel, manure, soil amendments and other, with the greatest responses to topsoil and gravel. The major export was manure. The survey identified that topsoil, gravel and manure were documented as a common occurrence.

The survey provided different purposes for material movement including the application of manure on the particular property, the application of manure on a different property, filling in low areas, construction projects, and soil amendments.

The survey also indicated that there was minimal change in drainage on adjacent properties due to importation of materials, and that generally there few changes to water infiltration on the property. It should be noted that in some instances, the purpose of importing materials was to change drainage patterns on a property.

4 RECOMMENDATIONS

Based on the literature review and responses to the survey, it is recommended to continue to use the 'normal farm practices' definition from the FFPPA within the updated Site Alteration By-Law, as the use of this term is not easily defined further.

It is recommended that the site alteration by-law incorporates compliance with the respective Federal and Provincial Statutes, regulations, and respective policies, regardless of whether the user is an urban dweller, or a farm operator.

It is recommended that terms such as 'bona fide farmer', or 'bona fide agricultural operation' be well defined, if these terms are to be used in the by-law.

It is recommended that the site alteration by-law include language that has an agricultural context such as the following components of the *Model Site-Alteration By-Law for Ontario Municipalities (Ontario Soil Regulation Task Force, August 8, 2016)*:

- 1) *No person shall undertake a site alteration which may result in:*
 - *Adverse erosion and environmental impacts on and off-site*
 - *Blockage of a swale, ditch, or watercourse*
 - *Siltation in a watercourse, wetland, or storm sewer*
 - *Transportation of silt to adjacent, neighbouring, or downstream properties*
 - *Flooding or ponding on adjacent lands*
 - *Flooding or ponding caused by a watercourse overflowing its banks*
 - *Detrimental effect on the quality and quantity of water in a well*
 - *A detrimental effect to the growth and or harvest of fruit, vegetables or crops, landscaping, and gardens*
 - *Contamination of or the degradation of the environmental quality of land.*
- 2) *The existing Topsoil on lands subject to Site Alterations shall be preserved by removing and stockpiling it for use as final cover prior to the performance of any Site Alteration work, as applicable.*
- 3) *Any large-scale site alterations for farming for the purposes of improving lands currently used for agriculture should have field studies prepared by a Professional Agrologist to assess the existing Canada Land Inventory (CLI), and to provide comment on the potential for improvement of the lands. The determination of existing CLI will require an onsite soil survey and CLI evaluation, with mapping at an appropriate scale.*
- 4) *All imported Fill and Topsoil, regraded or distributed on a Receiving Site, shall not introduce any new contaminant, and shall not increase the concentration of an existing contaminant on the lands.*

- 5) *No person shall undertake any Site Alteration that may adversely affect the quality or quantity of water in a well, pond or watering hole intended for use as a source of water for agriculture or human consumption on a property with an adjoining property boundary, or any other property.*
- 6) *For site alteration on agricultural lands, a soil fertility report, signed by a professional engineer/soil scientist, confirming that the site alteration will not result in a reduction in the overall soil fertility.*

It is my opinion that these recommendations are not only consistent with best management practices but are also consistent with ‘normal farm practices’.

It is recommended that the site alteration by-law include exceptions for agriculture that define when the removal of topsoil is considered as part of a normal farm practice. An example of such wording is found in the *Corporation of the Township of King By-Law Number 2021-039 – A By-law to prohibit and Regulate Site Alteration and Movement of Fill in the Township.*

A by-law respecting the removal of topsoil does not apply to the removal of topsoil as an incidental part of a normal agricultural practice including such removal as an incidental part of sod-farming, greenhouse operations and nurseries for horticultural products.

The exception in respecting the removal of topsoil as an incidental part of a normal agricultural practice does not include the removal of topsoil for sale, exchange, or other disposition.

This recommendation is consistent with ‘normal farm practices’ and this type of wording has been noted in other site alteration by-laws.

These suggestions, although general in nature, address many of the concerns expressed by the Ontario Ministry of Agriculture, Food, and Rural Affairs (OMAFRA) when discussing site alterations, or the importation of soils, and impacts on adjacent lands. OMAFRA has provided comment on site alteration and soil importation in the above-mentioned factsheets, with the greatest concerns related to maintaining, improving, or enhancing soil quality, without causing the degradation of on-farm soil quality. OMAFRA indicated a best practice for importation of soils by the use of good planning including checking local by-laws, retaining the services of a professional with expertise in soil analysis, knowing the quality of the existing soils and proposed soil for importation, to comply with all regulatory requirements, and to follow best management practices for soil importation.

Further, OMAFRA refers to the Ministry of Environment and Climate Change (MOECC) document, *Management of Excess Soil – A Guide for Best Management Practices* as a

guidance document to handle excess soil generated from large scale projects. As stated previously, it is recommended that the site alteration by-law directs the user to have regard for and compliance with the respective Federal and Provincial Statutes, regulations, and respective policies, regardless of whether the user is an urban dweller, or a farm operator.

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APPENDIX A

AGRICULTURAL QUESTIONS

Importing Materials

- 1) Do you, or have you, imported materials on your property?
(Yes/No)
- 2) What type of materials have you imported?
(Topsoil, Subsoil, Fill, Gravel, Compost, Manure, Soil Amendments, Other)
- 3) What volume of materials have you imported?
($< 10 \text{ m}^3$, $10 \text{ to } 50 \text{ m}^3$, $50 \text{ to } 200 \text{ m}^3$, $200 \text{ to } 1000 \text{ m}^3$, $> 1000 \text{ m}^3$)
- 4) What was the reason/purpose for importing the materials?
(i.e.: Filling in low spots in fields, altering drainage by changing field topography, Raising field elevations, Contour farming, Construction of new buildings/additions/manure pits, Soil amendments, Tile drainage, Other)
- 5) What steps did you take to ensure that the materials were not contaminated?
(materials were tested (By material supplier or you?), On the word of supplier? other)
- 6) What was the source of the imported material? (Local farmer, Developer, Contractor, Construction site, Unknown, Other)
- 7) Was there any change to water infiltration in the area where the imported material was placed? (Caused by compaction, or different soil textures when comparing existing soils to imported materials.) (Y/N)
- 8) Did the importation and placement of materials cause drainage issues on adjacent properties? (Y/N)

Exporting Materials

- 9) Do you, or have you, exported materials from your property?
Yes/No
- 10) What type of materials have you exported?
Topsoil, Subsoil, Fill, Gravel, Compost, Manure, Soil Amendments, Other
- 11) What volume of materials have you exported?
 $< 10 \text{ m}^3$, $10 \text{ to } 50 \text{ m}^3$, $50 \text{ to } 200 \text{ m}^3$, $200 \text{ to } 1000 \text{ m}^3$, $> 1000 \text{ m}^3$
- 12) What was the reason/purpose for exporting the materials?
Excess materials, Sale of materials, Construction of new buildings/additions/manure pits, Soil amendments, moving manure from one farm to another, Tile drainage, Other

Movement of Materials Within a Parcel/Property

13) Do you, or have you, moved materials within/on your property?
Yes/No

14) What type of materials have you moved?
Topsoil, Subsoil, Fill, Gravel, Compost, Manure, Soil Amendments, Other

15) What volume of materials have you moved?
< 10 m³, 10 to 50 m³, 50 to 200 m³, 200 to 1000 m³, > 1000 m³

16) What was the reason/purpose for moving the materials?
Filling in low spots in fields, altering drainage by changing field topography,
Raising field elevations, Contour farming, Construction of new
buildings/additions/manure pits, Soil amendments, Tile drainage, Other

17) Was there any change to water infiltration in the area where the moved
material was placed? (Caused by compaction, or different soil textures when
comparing existing soils to imported materials.

APPENDIX B

AGRICULTURAL SURVEY RESPONSES

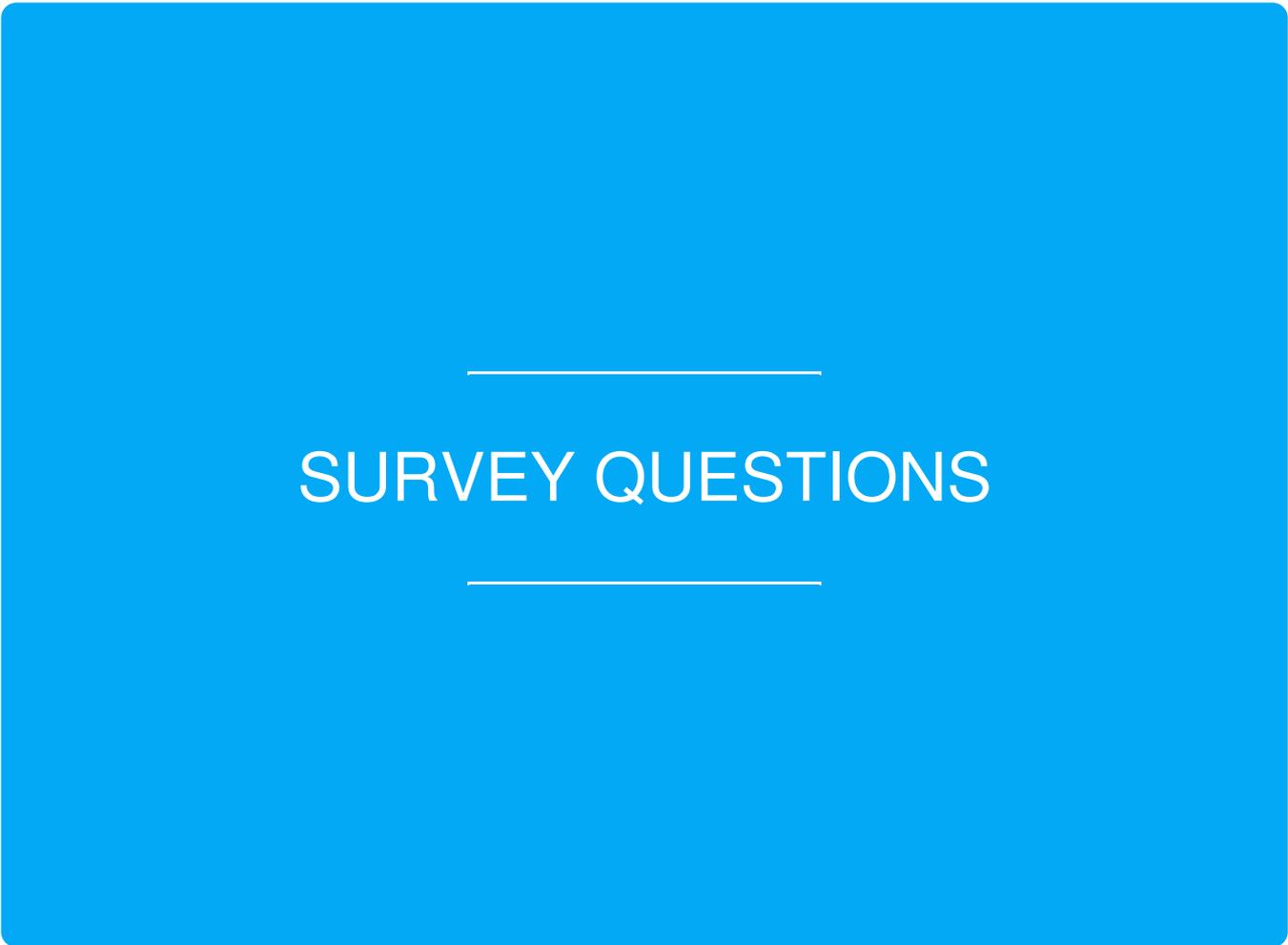
Site Alteration By-law Survey

SURVEY RESPONSE REPORT

01 April 2022 - 22 April 2022

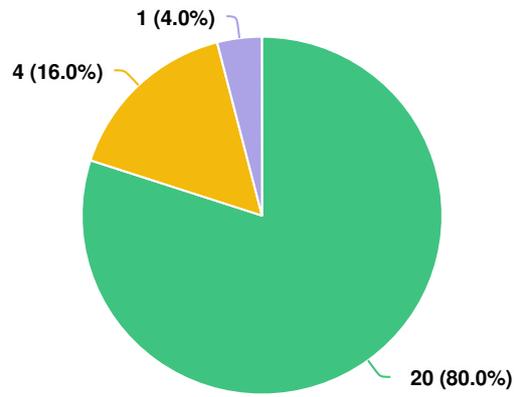
PROJECT NAME:

Site Alteration By-law



SURVEY QUESTIONS

Q1 Do you, or have you, imported materials on your property?

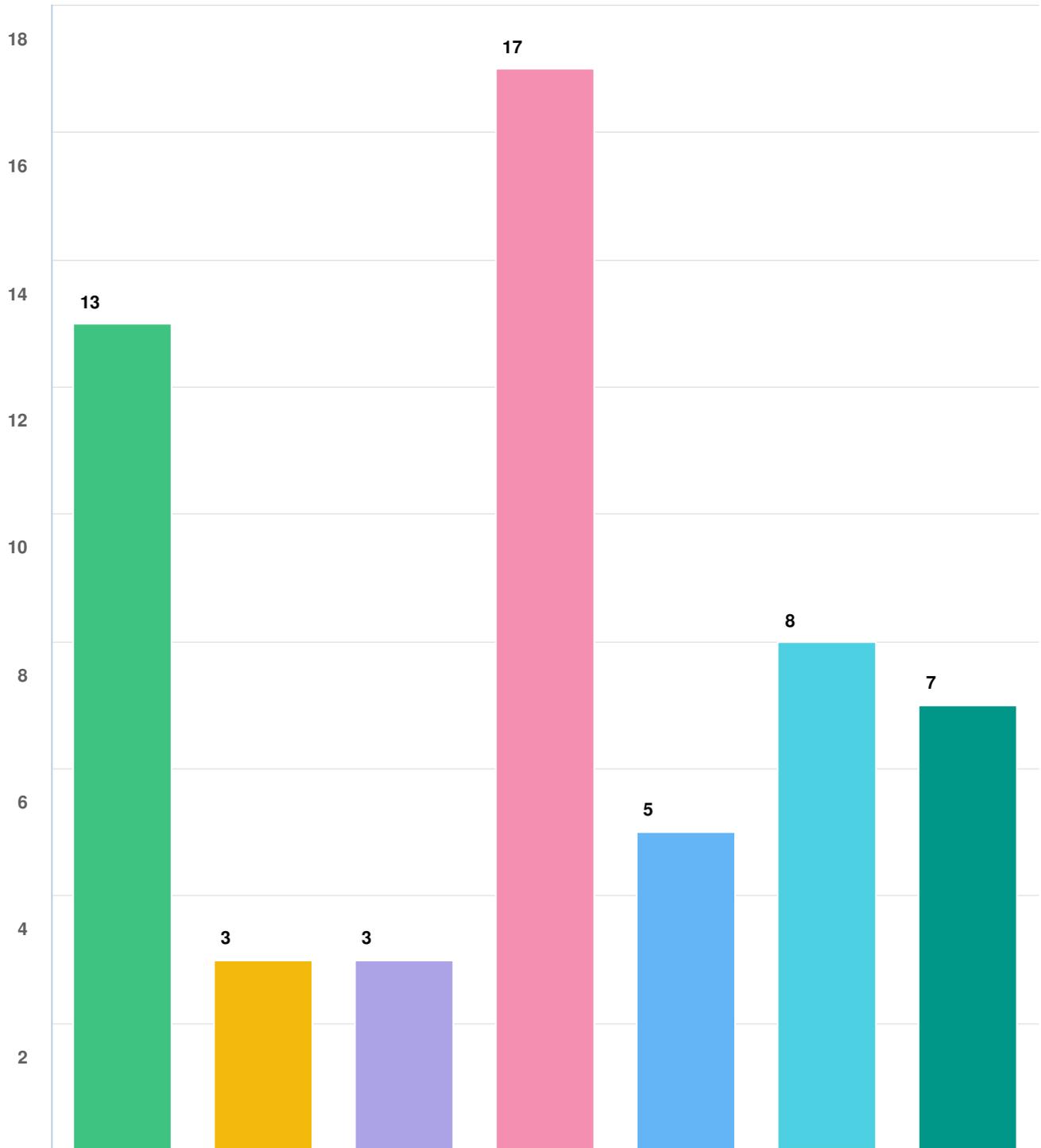


Question options

- Yes
- No
- Unsure

*Mandatory Question (25 response(s))
Question type: Radio Button Question*

Q2 What type of materials have you imported? Choose all that apply.

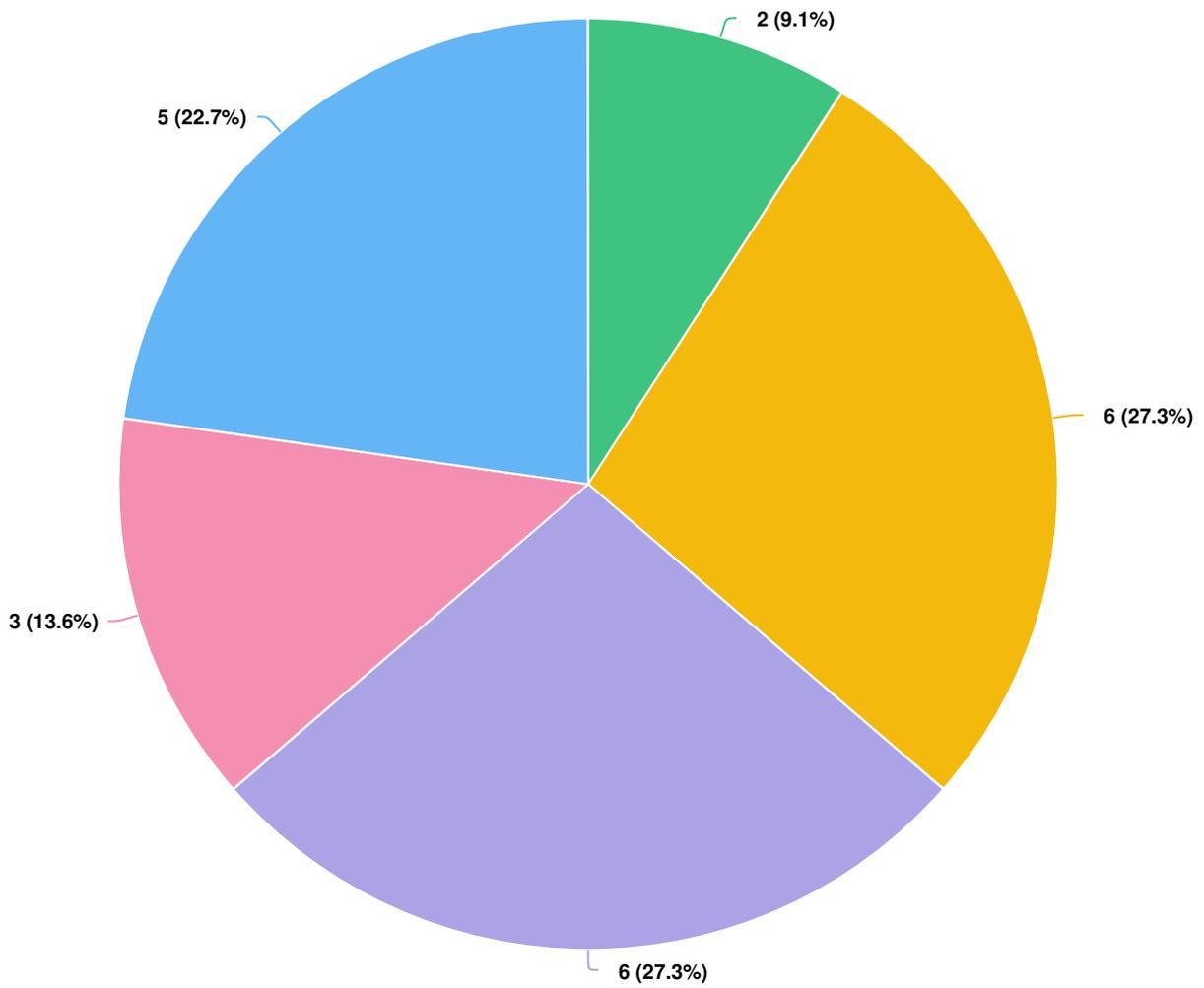


Question options

- Topsoil
- Subsoil
- Fill
- Gravel
- Manure
- Soil amendments
- Other (please specify)

Optional question (22 response(s), 3 skipped)
Question type: Checkbox Question

Q3 What volume of materials have you imported?



Question options

- Less than 10m3
- 10 to 50m3
- 50 to 200m3
- 200 to 1,000m3
- Greater than 1,000m3

Optional question (22 response(s), 3 skipped)
Question type: Radio Button Question

Q4 | What was the reason/purpose for importing materials? (for example, filling in low spots in fields, altering drainage by changing field topography, raising field elevations, contour farming, construction of new buildings/additions/manure pits, soil amendments, tile drainage, etc.)

Anonymous

4/01/2022 01:16 PM

Filling in low spots Altering Drainage Construction/Demolition of buildings Filling in Riding Arena (Sand)

Anonymous

4/01/2022 06:53 PM

Lime to balance ph. Manure for organic amendments. Laneways for equipment traffic. Topsoil for landscaping to soften sudden changes in slopes that damage newer larger equipment platforms.

Anonymous

4/04/2022 12:46 PM

Construction of new buildings for 16,000 sq ft barn Construction of manure pads 17 inches thick so no contamination leaks into the soil

Anonymous

4/05/2022 07:26 PM

construction of building, driveways

Anonymous

4/06/2022 04:50 PM

Gravel Around Buildings

Anonymous

4/13/2022 01:41 PM

Building

Anonymous

4/18/2022 01:43 PM

various - fill for low areas, nutrients for the soil, tile drainage, driveway/entrance to field, etc

Anonymous

4/18/2022 07:15 PM

Lane and yard fill, barnyard fill before concrete poured, building construction, mixing cement for repairs, septic tank weeping beds

Anonymous

4/20/2022 11:38 AM

gravel for laneway compost for fields and garden

Anonymous

4/20/2022 11:44 AM

Gardening

Anonymous

4/20/2022 12:10 PM

For filling of trays for bedding plants

Anonymous

4/20/2022 12:13 PM

Compost for soil amendments , gravel for laneways

Anonymous

4/20/2022 12:17 PM

Construction Habitat restoration Grading Weed/moisture control

Anonymous

4/20/2022 01:44 PM

Farm laneways and parking areas Building construction drainage Soil amendments (manure), mulch

Anonymous

4/20/2022 02:05 PM

Gravel for laneway and parking, good soil for landscaping around buildings, and soil fertilizer on fields.

Anonymous

4/20/2022 03:34 PM

We are a farm and this is part of normal farm practices Managing manure, concrete pads all part of our nutrient management

Anonymous

4/20/2022 06:55 PM

when it comes to gravel or road chippings it was for road maintenance around the yard or feild gateways. As for manure it was for keeping the soil in better fertility.

Anonymous

4/20/2022 09:52 PM

Improving topsoil, bring in topsoil to improve depth of Ap horizon

Anonymous

4/21/2022 08:05 AM

new building, soil management

Anonymous

4/21/2022 08:32 AM

Construction, driveway maintenance, low spots, gardens, equestrian footing for riding rings and paddocks

Anonymous

4/21/2022 09:08 AM

Soil amendments increase the nutrient levels for growing off crops

Anonymous

4/21/2022 12:52 PM

construction of new building and filling in low spots, raising field elevation

Optional question (22 response(s), 3 skipped)

Question type: Essay Question

Q5 | What steps did you take to ensure that the materials were not contaminated (materials were tested by material supplier or you, on the word of supplier, etc.)?

Anonymous

4/01/2022 01:16 PM

Tested by supplier

Anonymous

4/01/2022 06:53 PM

All materials engineered or from a livestock operation or certified by the soil broker.

Anonymous

4/04/2022 12:46 PM

Used a local concrete and gravel company. If dufferin cement and Nelson quarry are shipping contaminated products then all of Halton construction including all new roads are in trouble. I think you MUST be checking out contamination with the big companies sending out goods and not looking at further restrictions of local farms. Or maybe you legally can not put those kinds of restrictions on commercial corporations? Well my farm is a corporation and I practice farming according to the rules and regulations of OMAFRA.

Anonymous

4/05/2022 07:26 PM

word of supplier, mostly brought in gravel from local pit

Anonymous

4/06/2022 04:50 PM

Clean Gravel--Depended on Supplier

Anonymous

4/13/2022 01:41 PM

Trucks were monitored by an independant company

Anonymous

4/18/2022 01:43 PM

knew where they were coming from, asked for documentation

Anonymous

4/18/2022 07:15 PM

None, take word of supplier

Anonymous

4/20/2022 11:44 AM

Took word of supplier

Anonymous

4/20/2022 12:10 PM

Reputable suppliers.

Anonymous

4/20/2022 12:13 PM

None. Compost came from region of peel, and gravel is gravel from licensed pit

Anonymous

4/20/2022 12:17 PM

Long term relationships with vendors

Anonymous

4/20/2022 01:44 PM

Supplier information

Anonymous

4/20/2022 02:05 PM

none

Anonymous

4/20/2022 03:34 PM

We are in big trouble if Nelson quarry and dufferin cement are carrying poison in their payloads.

Anonymous

4/20/2022 06:55 PM

none because my understanding was it had been used in simlair settings from what I had observed. As for manure it was applied at reasonable rates that would not effect ground water.

Anonymous

4/20/2022 09:52 PM

Site visit where the material was coming from

Anonymous

4/21/2022 08:05 AM

word of supplier

Anonymous

4/21/2022 08:32 AM

word of supplier - we deal with reputable commercial suppliers who have many years of experience

Anonymous

4/21/2022 09:08 AM

Material tested by supplier under guidance of Halton Region and the Prov of Ontario

Anonymous

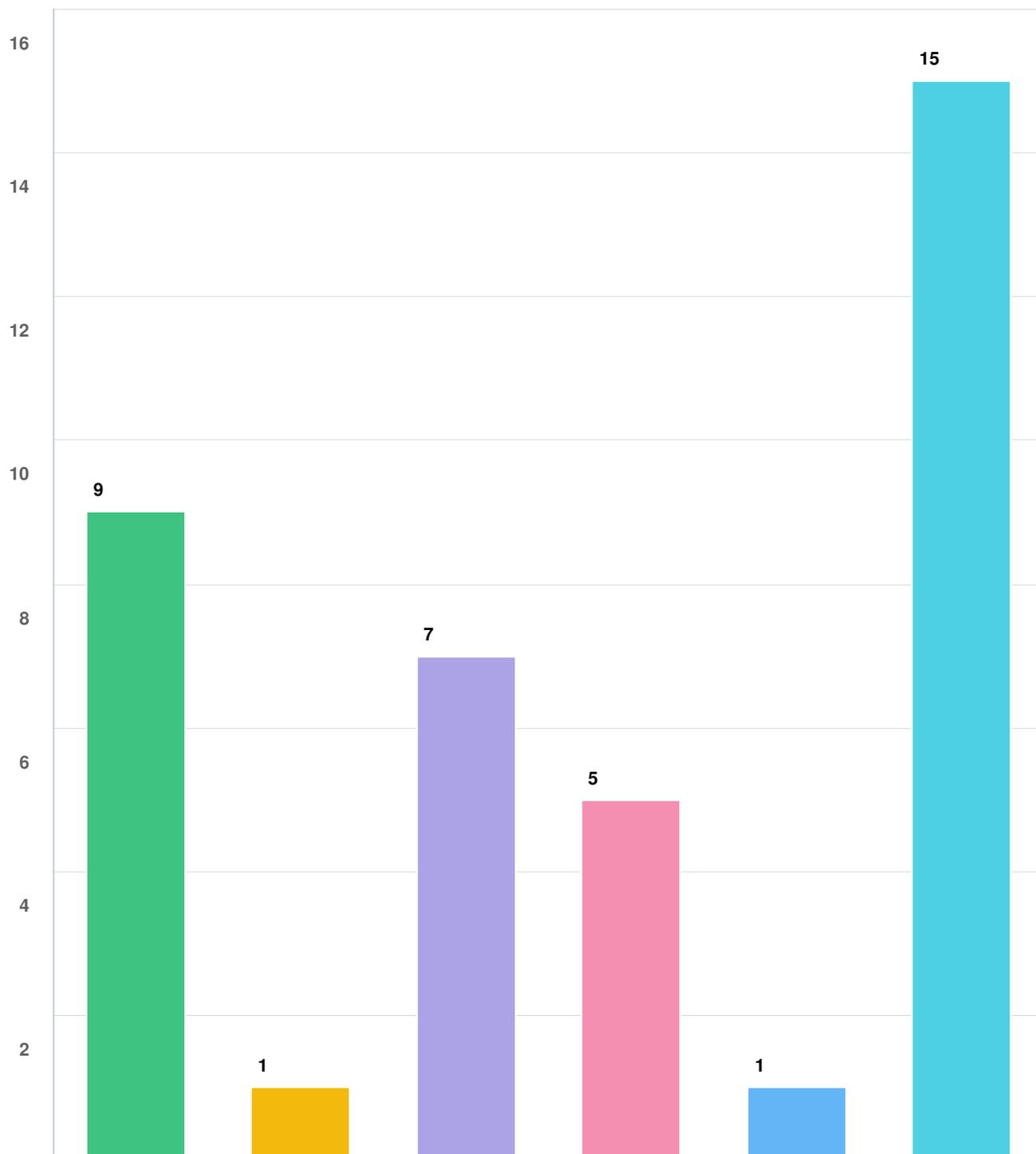
4/21/2022 12:52 PM

Addresses for source materials provided and validated.

Optional question (21 response(s), 4 skipped)

Question type: Essay Question

Q6 What was the source of the imported material? Choose all that apply.

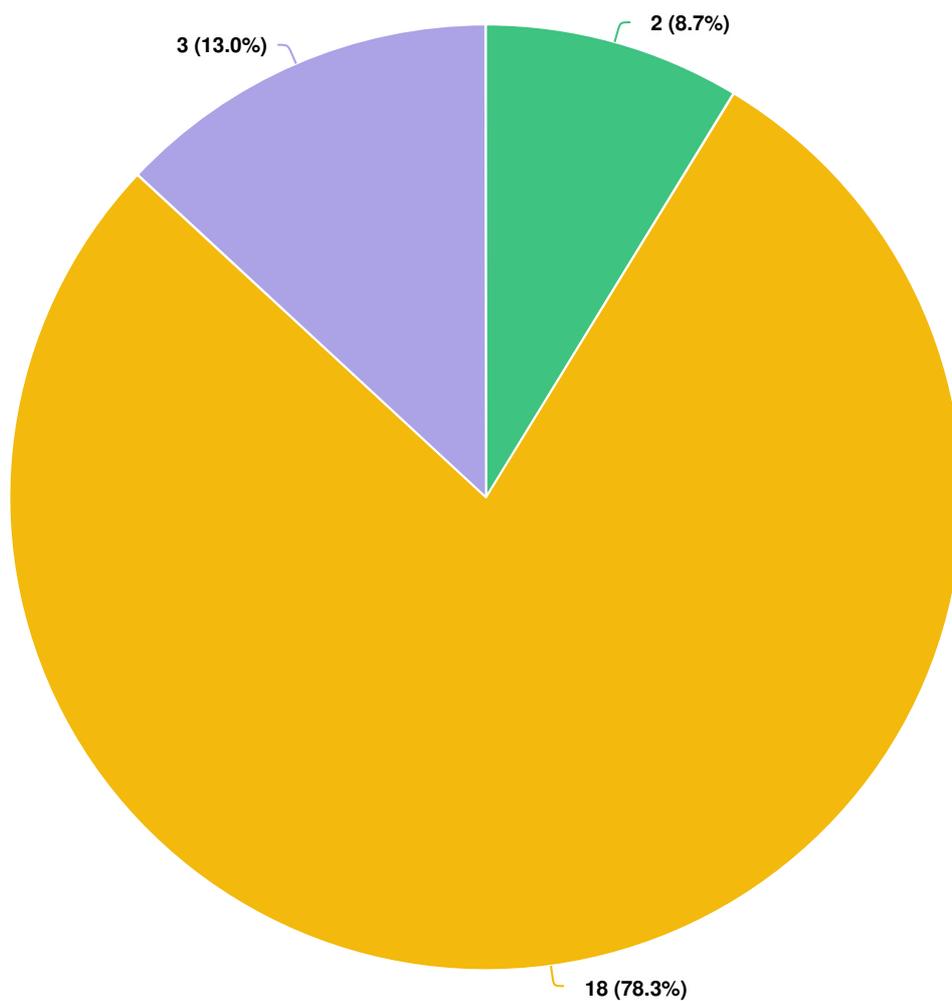


Question options

- Local farmer
- Developer
- Contractor
- Construction site
- Unknown
- Other (please specify)

Optional question (21 response(s), 4 skipped)
Question type: Checkbox Question

Q7 Was there any change to water infiltration in the area where the imported material was placed (caused by compaction, or different soil textures when comparing existing soils to imported materials)?

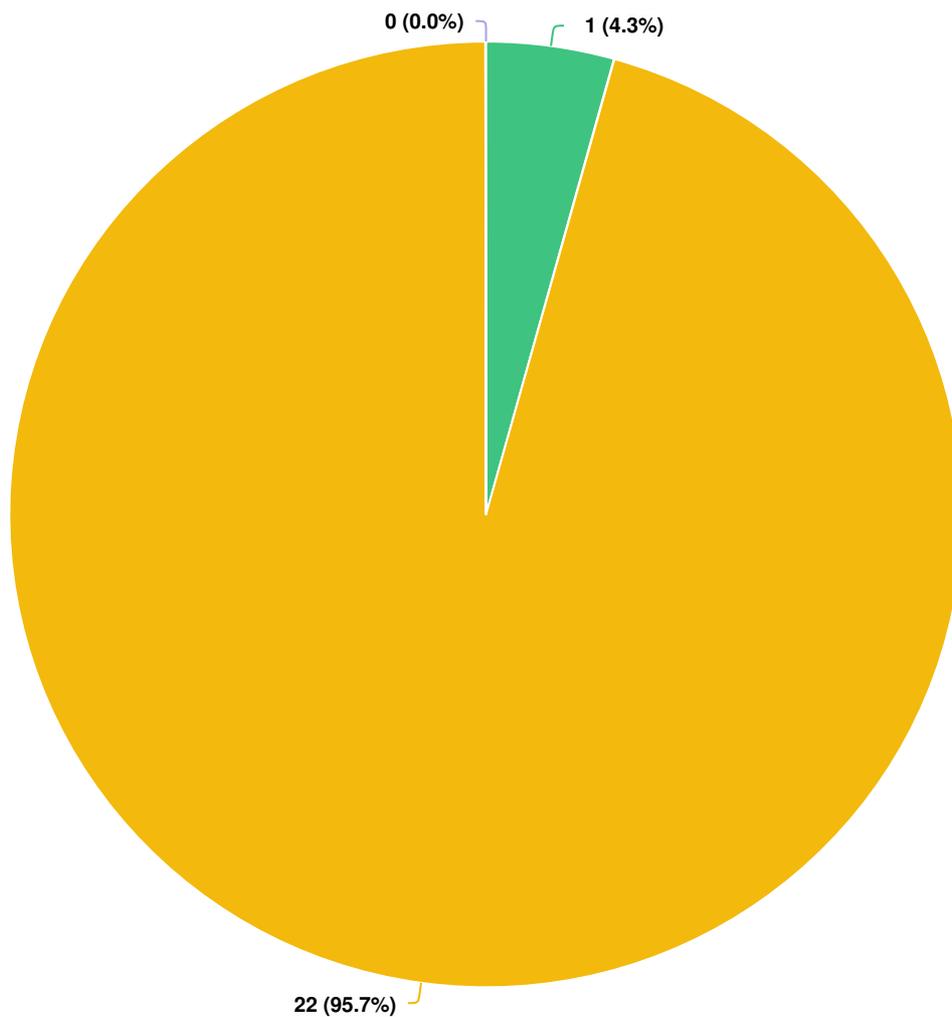


Question options

- Yes
- No
- Unsure

Optional question (23 response(s), 2 skipped)
Question type: Radio Button Question

Q8 Did the importation and placement of materials cause drainage issues on adjacent properties?

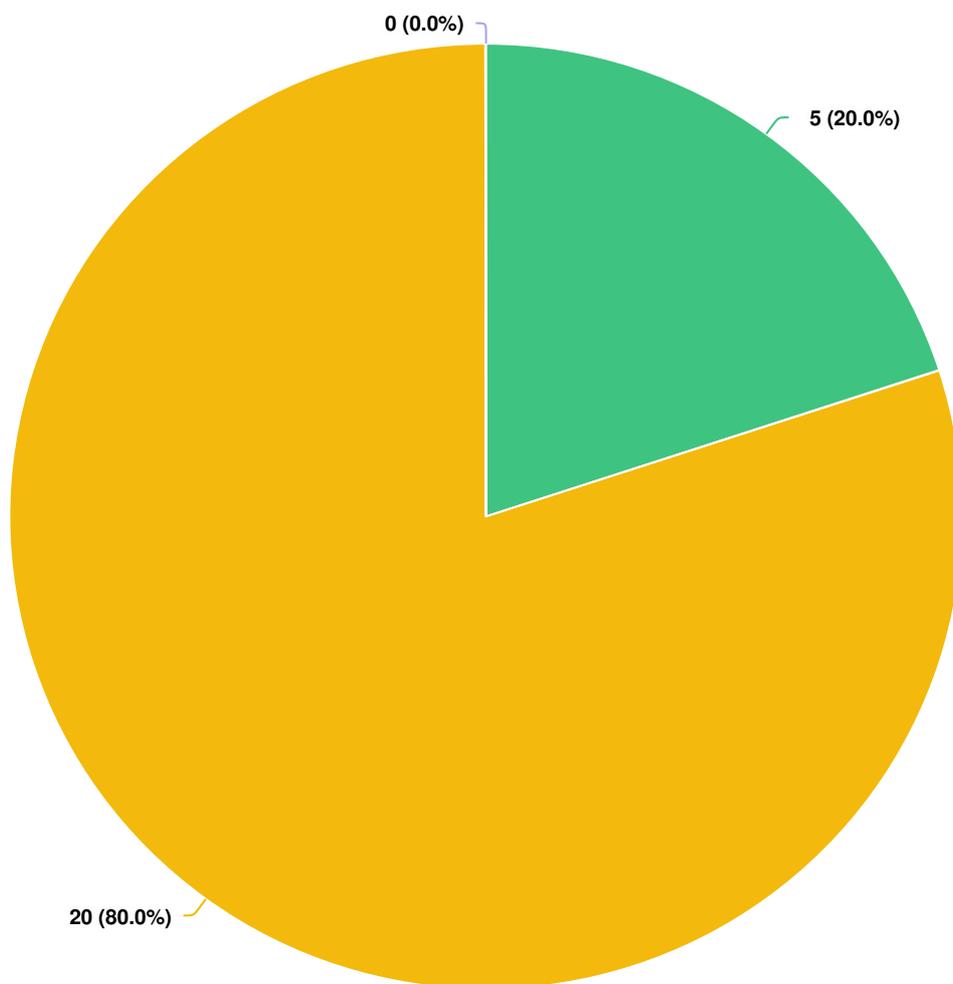


Question options

- Yes
- No
- Unsure

Optional question (23 response(s), 2 skipped)
Question type: Radio Button Question

Q9 Do you, or have you, exported materials from your property?

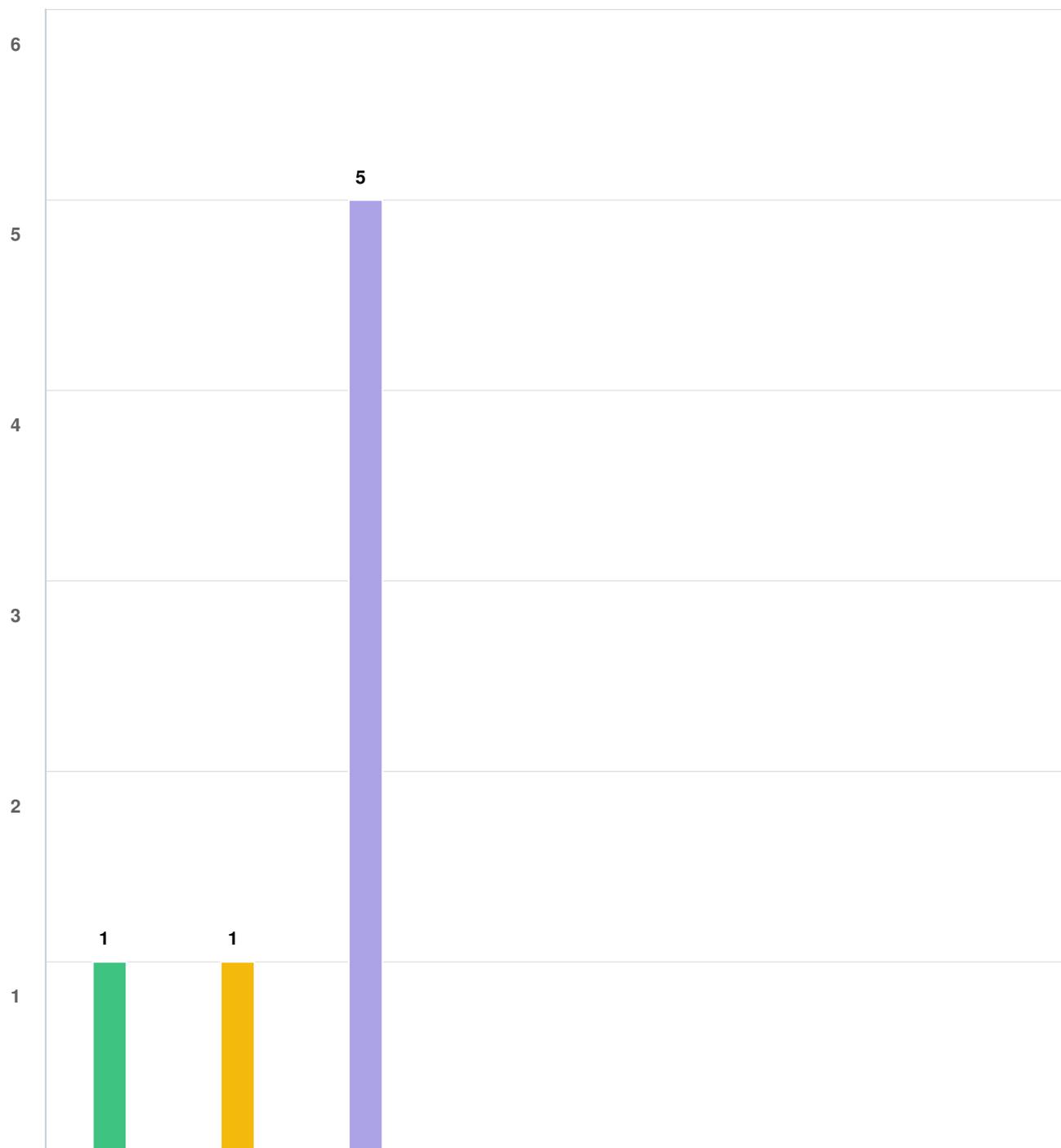


Question options

- Yes
- No
- Unsure

Mandatory Question (25 response(s))
Question type: Radio Button Question

Q10 What type of materials have you exported? Choose all that apply.

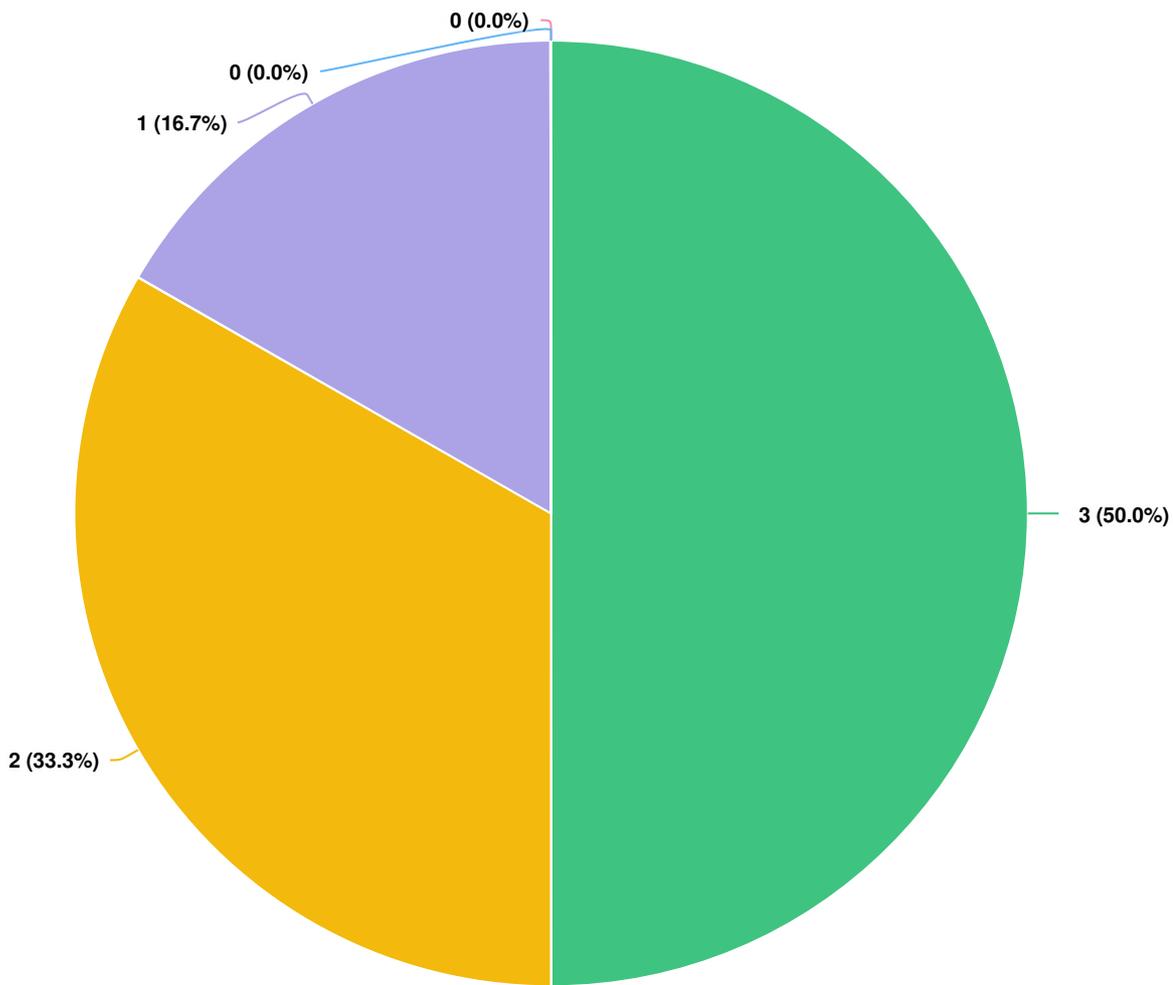


Question options

- Topsoil
- Fill
- Manure
- Subsoil
- Gravel
- Compost
- Soil amendments
- Other (please specify)

Optional question (5 response(s), 20 skipped)
Question type: Checkbox Question

Q11 | What volume of materials have you exported?



Question options

- Less than 10m3
- 50 to 200m3
- Greater than 1,000m3
- 10 to 50m3
- 200 to 1,000m3

Optional question (6 response(s), 19 skipped)
Question type: Radio Button Question

Q12 | **What was the reason/purpose for exporting the materials? For example, excess materials, sale of materials, construction of new buildings/additions/manure pits, soil amendments, moving manure from one farm to another, tile drainage, etc.**

Anonymous

4/01/2022 01:16 PM

Moving manure out of Fairgrounds to local farms Removal of soil/fill for construction purposes

Anonymous

4/05/2022 07:26 PM

moving manure off farm for 20+ year

Anonymous

4/18/2022 07:15 PM

For use in gardens by neighbours

Anonymous

4/20/2022 11:44 AM

Excess material

Anonymous

4/20/2022 06:55 PM

We had 3 farms that we used the manure on in a rotating basis to keep the amount per acre within reason. and to be able to accommodate the cycle of the producing farmer.

Anonymous

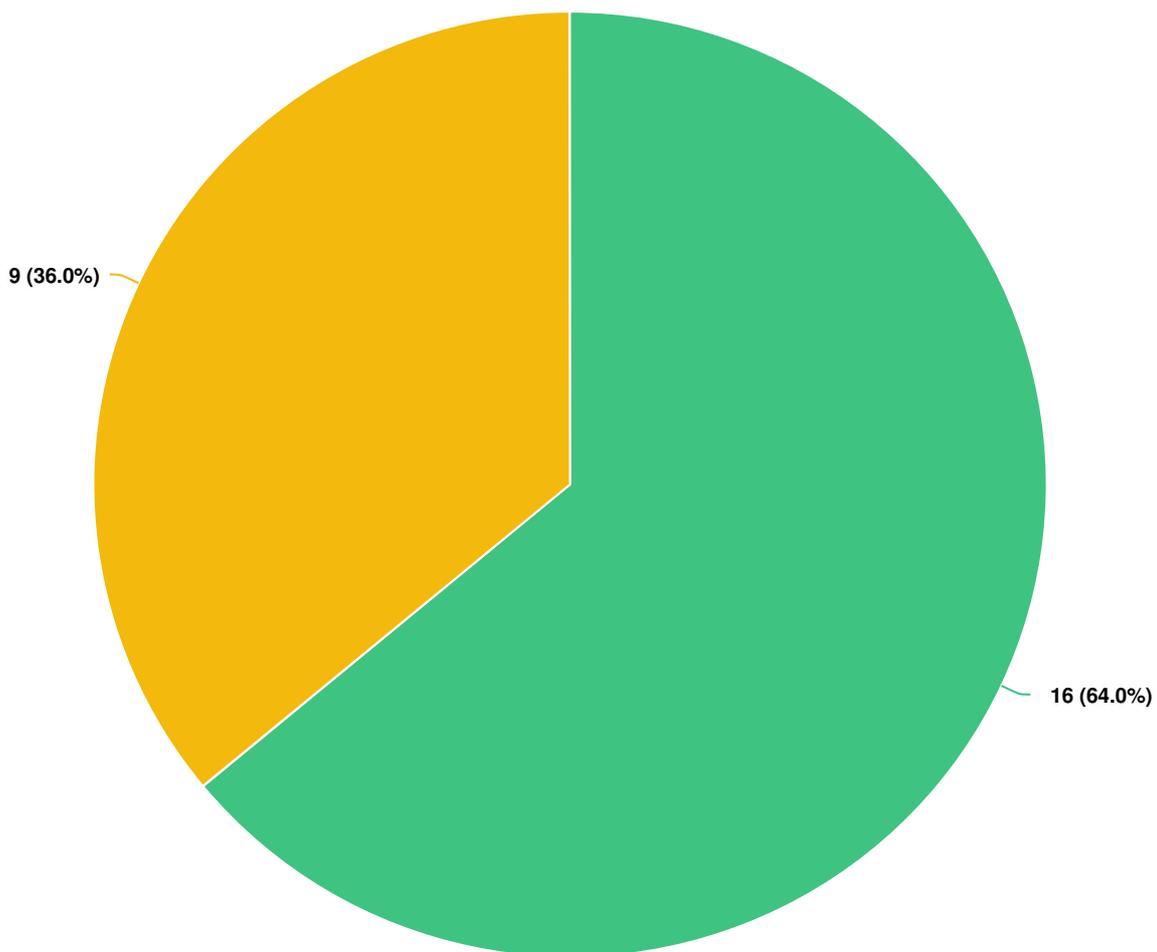
4/21/2022 08:32 AM

manure created by horses

Optional question (6 response(s), 19 skipped)

Question type: Essay Question

Q13 Do you, or have you, moved materials within/on your property?

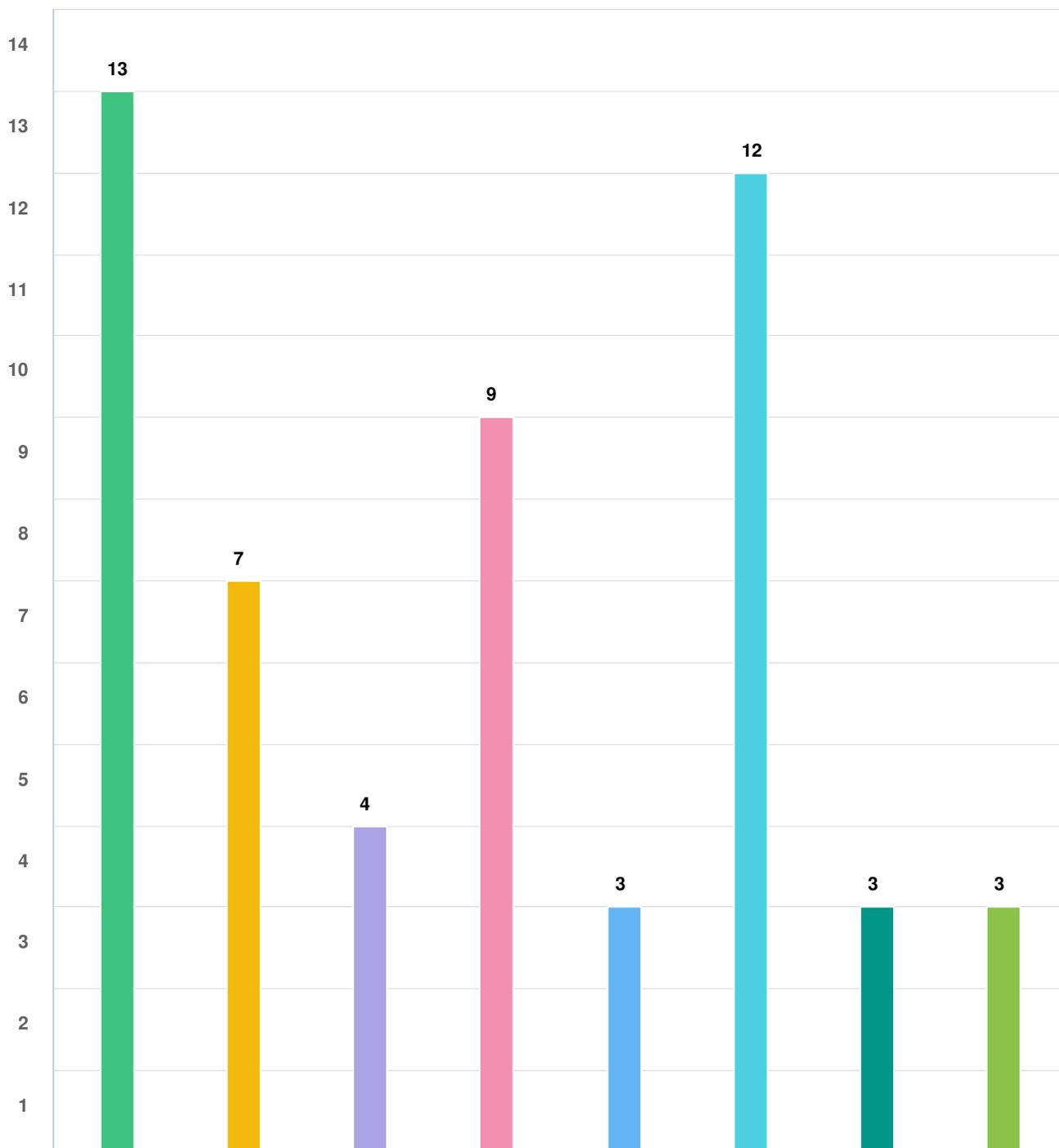


Question options

- Yes
- No

Mandatory Question (25 response(s))
Question type: Radio Button Question

Q14 What type of materials have you moved? Choose all that apply.

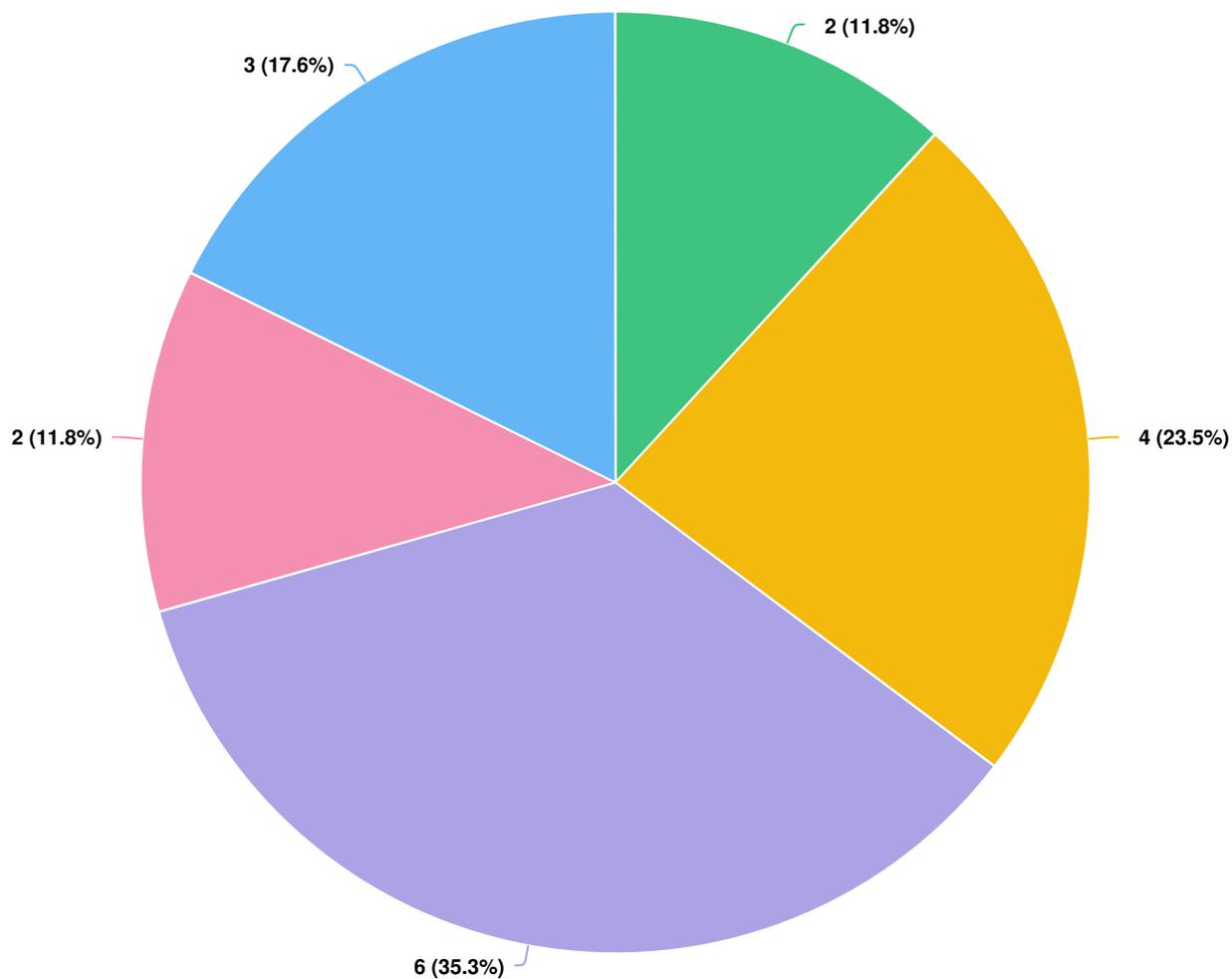


Question options

- Topsoil
- Subsoil
- Fill
- Gravel
- Compost
- Manure
- Soil amendments
- Other (please specify)

Optional question (17 response(s), 8 skipped)
Question type: Checkbox Question

Q15 | What volume of materials have you moved?



Question options

- Less than 10m3
- 10 to 50m3
- 50 to 200m3
- 200 to 1,000m3
- Greater than 1,000m3

Optional question (17 response(s), 8 skipped)
Question type: Radio Button Question

Q16 | What was the reason/purpose for moving the materials? For example, filling in low spots in fields, altering drainage by changing field topography, raising field elevations, contour farming, construction of new buildings/additions/manure pits, soil amendments, tile drainage, etc.

Anonymous

4/01/2022 01:16 PM

Fill in low spots Spreading Manure on fields Moving Sand pile into Arena

Anonymous

4/01/2022 06:53 PM

Construction.

Anonymous

4/04/2022 12:46 PM

Contour farming With all the diseased trees on the property that had to come down these last years we dug huge holes near the tree lines so we could bury the huge stumps. It is excellent environmental farm practice as everyone who knows how to protect the environment should bury the huge stumps so they do not decay which gives off more carbon into the atmosphere. If they are buried they rot naturally making the soil rich in nutrients. Seeing the bylaw you are proposing i think you need more guidance from experienced farming groups like HRFA or HAAC so that you can see how many of your local farmers are excellent stewards of the land. What exactly is the problem you are trying to solve ? Or are you just following other municipalities that are urban and applying this bylaw in the rural area?

Anonymous

4/06/2022 04:50 PM

Digging a Pond. Moved Sand to low spot improved infiltration

Anonymous

4/18/2022 01:43 PM

same as previous, also better location for storage of manure.

Anonymous

4/18/2022 07:15 PM

Annually spread our livestock manure on our fields, dug own gravel for fill over 2 culverts for livestock crossing , fence row removal, grading around buildings

Anonymous

4/20/2022 11:38 AM

fertilizer

Anonymous

4/20/2022 11:44 AM

Storage away from barn

Anonymous

Grading

4/20/2022 12:17 PM

Anonymous

spreading manure

4/20/2022 12:40 PM

Anonymous

Excavated pond material, softening out dangerous terrain

4/20/2022 01:44 PM

Anonymous

construction of buildings, landscaping buildings

4/20/2022 02:05 PM

Anonymous

All of the above except for tile drainage

4/20/2022 03:34 PM

Anonymous

construction of buildings and Bins for crop storage

4/20/2022 06:55 PM

Anonymous

Normal farm practices

4/20/2022 09:52 PM

Anonymous

We get loads of topsoil and gravel, stored in a pile and move it around as required. Manure is in a pit but taken away when full. I don't know if the volume question is to be answered indicating accumulated volume or one time. I answered on one time. we have been on the property over 30 years. Paddock sand is added to allow better drainage in the paddocks so they aren't mud puddles - so water infiltration is changed - but not dramatically

4/21/2022 08:32 AM

Anonymous

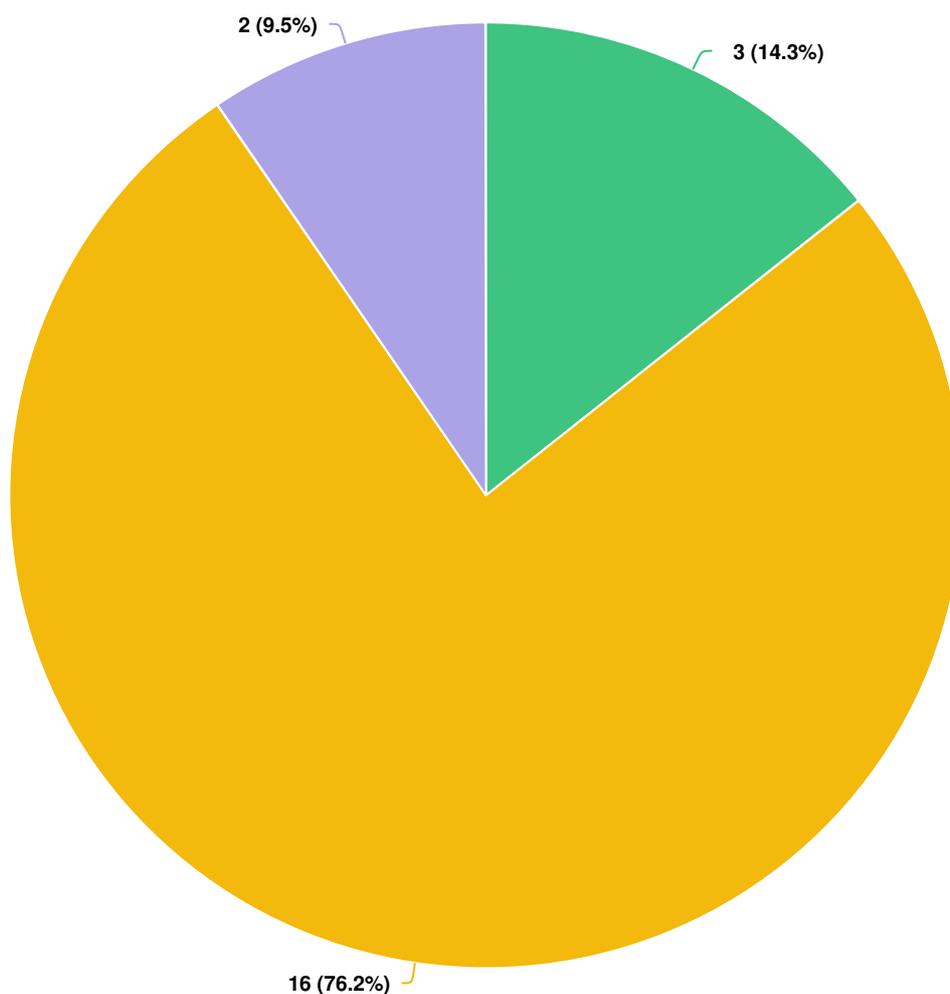
moving top soil to alter drainage applying manure to crop land

4/21/2022 09:08 AM

Optional question (17 response(s), 8 skipped)

Question type: Essay Question

Q17 Was there any change to water infiltration in the area where the imported material was placed (caused by compaction, or different soil textures when comparing existing soils to imported materials)?



Question options

- Yes
- No
- Unsure

Optional question (21 response(s), 4 skipped)

Question type: Radio Button Question

APPENDIX C

OMAFRA FACTSHEET – LEGISLATION AND FARMING PRACTICES

Legislation and Farming Practices

F. Desir, P.Eng.

Factsheet

ORDER NO. 12-027 AGDEX 700 APRIL 2012
(replaces OMAFRA Factsheet *Legislation and Farming Practices*, Order No. 04-071)

Any farm practice involving the management of water, nutrients, land use, construction or other environmentally related activity raises certain legal obligations for the person undertaking that farm practice. This Factsheet gives an overview of the federal and provincial laws that could affect farming operations.

Legislation is listed alphabetically within each category listed below, for easy reference. Information on each Act includes: purpose, applicability to agriculture, administering agency, permits required and related legislation (if applicable). Local contacts for the administering agency can be found in the telephone directory blue pages or online. If there is any doubt if an Act applies to a project, contact the relevant government agencies before starting the project.

Ontario legislation is available at the Ontario e-laws site: www.e-laws.gov.on.ca. Statutes and associated regulations for all Ontario Acts are available at the site. Protocols for various acts are available from the websites of the relevant administering agencies (e.g., protocols for the *Nutrient Management Act, 2002*, are available at www.omafra.gov.on.ca/english/environment/laws.htm). Federal legislation is available at www.laws.justice.gc.ca.

Legislation is presented in the following categories:

- general environmental issues
- water resources and conservation
- land use and provincial plans
- livestock and poultry issues
- crop production
- safety and employment
- wildlife protection and conservation
- general

GENERAL ENVIRONMENTAL ISSUES

Aggregate Resources Act, R.S.O. 1990, c. A. 8, as amended

Purpose: Provide for the management of aggregate resources, control and regulate aggregate operations; require the rehabilitation of land from which aggregate is excavated; and minimize environmental impacts of such operations.

Applicability to Agriculture: Quarries, pits and excavations on private land are regulated by this Act.

Administering Agency: Ministry of Natural Resources

Permits Required: Licences are required to remove material from a pit or quarry on private land and rehabilitation is required as a condition of licensing.

Conservation Land Act, R.S.O. 1990, c. C. 28, as amended

Purpose: Create programs that provide grants to encourage protection or stewardship of specific natural heritage features. Enable creation of conservation easements that are registered on title and provide for protection, maintenance, restoration or enhancement of the land for conservation purposes, including preservation or protection of the land for agriculture.

Applicability to Agriculture: Terms and conditions of conservation easements carry with the sale of a property. Conditions associated with protection of natural heritage features may restrict agricultural activities. Conservation easements can also be used to ensure farm properties are protected from alternative uses in the future.

Administering Agency: Ministry of Natural Resources

Permits Required: None.

**Assessment Act, R.S.O. 1990,
c. A. 31, as amended**

Purpose: Provide for property tax incentive programs, such as the Managed Forest Tax Incentive Program (MFTIP) — promotes enhanced stewardship of forested land, and the Conservation Land Tax Incentive Program (CLTIP) — encourages private landowners to protect provincially important natural heritage features.

Applicability to Agriculture: Provides tax relief for the stewardship and conservation of certain types of lands, such as forested lands greater than 4 ha in size (MFTIP) or provincially significant wetlands, areas of natural and scientific interest (ANSI), endangered species habitats, designated Niagara Escarpment natural area or certain lands owned by conservation authorities or charitable conservation organizations (CLTIP). The Farm Property Class Tax Rate Program (the Program), under the *Assessment Act*, gives owners of property, classified as falling under the farm property class, a significant tax reduction (i.e., pay 25% of the assessed rate). The Program is created under sections 8 and 8.1 of Ontario Regulation 282/98. To be eligible, a person must have a valid Farm Business Registration Number and the property must be owned by certain entities (as set out in section 8(2)3 of Ontario Regulation 282/98).

Administering Agency: Ministry of Finance

Permits Required: None.

**Environmental Assessment Act, R.S.O. 1990,
c. E. 18, as amended**

Purpose: Provide for the protection, conservation and wise management of the environment; establish a process for evaluating the impact of public sector and some large private sector undertakings on the environment (e.g., landfills, roads); and define public consultation requirements for environmental assessments.

Applicability to Agriculture: Generally does not apply to day-to-day farm operations, but provides for the agricultural sector's input into public projects.

Administering Agency: Ministry of the Environment

Permits Required: None.

**Environmental Bill of Rights, 1993, S.O.
1993, c. 28, as amended**

Purpose: Protect Ontarians' rights to a healthy and sustainable environment by providing them with the right to become involved in decisions that affect the environment, and by bringing accountability and transparency to ministry decision-making.

Applicability to Agriculture: Indirectly affects the agricultural sector, but is not a regulatory Act for the industry. Requirements are set for public comment on prescribed government policy, legislation and regulations. Environmental registry provides opportunities for public comment.

Administering Agency: Ministry of the Environment, Environmental Commissioner's Office and prescribed Ministries

Permits Required: None.

**Environmental Protection Act, R.S.O. 1990,
c. E. 19, as amended**

Purpose: Provide for protection and conservation of the natural environment in the province of Ontario — defined as air, land, water or any combination of these. The Act prohibits the discharge of contaminants that are likely to cause an adverse affect.

Applicability to Agriculture:

1. Spills: A discharge into the natural environment from or out of a structure, vehicle or other container, that is abnormal in quantity or quality in light of all the circumstances of the discharge. Ministry of the Environment (MOE) must be notified immediately at 1-800-268-6060 following an occurrence. The owner and person in charge of the material at the time are required to contain, clean up and dispose of the material in a timely manner to the satisfaction of the MOE. All farming operations with nutrient management strategies (NMS) and plans (NMP) are required to have a contingency plan in place for handling spills related to manure or other prescribed materials. A discharge is not considered a spill if it is "in accordance with both normal farming practices and the regulations made under the *Nutrient Management Act, 2002*."

2. Waste disposal/recycling: Spreading of non-agricultural waste materials (e.g., biosolids) on agricultural land is regulated by the *Environmental*

Protection Act and the *Nutrient Management Act, 2002*, and may still have a Certificate of Approval until January 2016 or a non-agricultural source materials (NASM) plan if applied for after January 1, 2011. If applied to agricultural land as a nutrient to improve the growing of agricultural crops, they are NASM and are regulated by the *Nutrient Management Act, 2002*. Manure spreading does not require a Certificate of Approval, but the *Environmental Protection Act* sets out provisions for prosecution of instances of pollution (i.e., as a result of a spill).

3. Septic systems: Approval of small septic systems (e.g., household with up to 10,000 litres capacity serving one lot) has been delegated to the municipalities. MOE is responsible for the approval of large septic systems.

Administering Agency: Ministry of the Environment, municipalities, boards of health or conservation authorities for septic systems

Permits Required: Certificates of Approval or NASM plans are required for spreading non-agricultural waste materials on agricultural land. Building permits are required for the installation of septic tank systems.

**Green Energy Act, 2009, S.O. 2009,
c. 12, Schedule A, as amended**

Purpose: Foster growth of and investment in renewable energy projects (wind, solar, biogas, biomass, hydroelectric), to remove barriers and promote opportunities for renewable energy projects. Foster increased energy efficiency and conservation to promote a green economy in Ontario. Focus is on electricity.

Applicability to Agriculture: Creates enhanced opportunities for the agricultural sector to generate green energy from a variety of sources, and provides a revenue stream from the renewable electricity produced. Provides a streamlined approval framework for renewable energy projects, and promotes programs to encourage conservation of electricity and management of the demand for electricity in industries including the agricultural sector.

Administering Agency: Ministry of Energy and Ministry of Infrastructure

Permits Required: None.

**Nutrient Management Act, 2002, S.O. 2002,
c. 4, as amended**

Purpose: Provide for the management of materials containing nutrients in ways that will enhance protection of the natural environment and provide a sustainable future for agricultural operations and rural development.

Applicability to Agriculture: Livestock operations of a minimum size (greater than 5 Nutrient Units) seeking a building permit for a structure to house animals, store manure or treat manure through an anaerobic digester require a nutrient management strategy (NMS) and possibly a nutrient management plan (NMP). The need for a NMP depends on the size and location of the operations. The same requirements for a NMS and NMP apply to livestock operations constructing an earthen manure storage, which does not require a building permit.

The Act also applies to the management of non-agricultural source materials (NASM). NASM are materials not generated by farm operations, but applied to agricultural land as a nutrient and include sewage biosolids, pulp and paper biosolids, and several by-products from the food industry such as culled vegetables, washwater and organic waste matter. NASMs are classified into three main categories — Category 1, 2 or 3. NASM plans are required for all Category 2 and 3 materials. As detailed in Ontario Regulation 267/03, some NASM plans must be approved by a Director with the Ontario Ministry of Agriculture, Food and Rural Affairs prior to NASM being stored or land applied.

Note: Farmers who have a NMS, NMP or a NASM plan may still be subject to the requirements of the *Environmental Protection Act, 1990*, and the *Ontario Water Resources Act, 1990*.

Administering Agency: Ontario Ministry of Agriculture, Food and Rural Affairs and Ministry of the Environment

Permits Required: NMS to be submitted to OMAFRA for approval when constructing or expanding livestock housing or manure storage/treatment facilities with greater than 5 Nutrient Units (NU) on the farm unit. A NMS and NMP must be prepared and kept on site if the farm unit has 300 NU or greater. For farm units required to have a NMS, and located within 100 metres of a municipal well, a NMP is also

required. Some materials generated off-farm that can be applied to farm fields, such as sewage biosolids and/or organic by-products of food processing, may require a NASM plan. Certificates or licences are required for preparation of nutrient management strategies, plans and NASM plans, and for brokers, application businesses and technicians.

WATER RESOURCES AND CONSERVATION

Agricultural Tile Drainage Installation Act, R.S.O. 1990, c. A. 14, as amended

Purpose: Ensure tile drainage systems installed on agricultural land are properly designed and accurately installed.

Applicability to Agriculture: Businesses, tile drainage machines and machine operators must be licensed to install private tile drainage systems on agricultural land. Machine operators are required to successfully complete drainage courses, but this does not apply to agricultural landowners installing tile drainage on their own land using their own equipment.

Administering Agency: Ontario Ministry of Agriculture, Food and Rural Affairs

Permits Required: No licence needed if the farmer is doing the work on his/her own land. A licence is required if someone else does the work.

Clean Water Act, 2006, S.O. 2006, c. 22, as amended

Purpose: Protect existing and future sources of drinking water.

Applicability to Agriculture: Any land use activity classified as a significant drinking water threat in an Assessment Report, must meet the risk mitigation requirements stipulated in a local Source Protection Plan.

Administering Agency: Local municipality or organizations (i.e., board of health, planning board, source protection authority) acting on behalf of the local municipality.

Permits Required: A Risk Management Plan negotiated between the Risk Management Official may be required for significant drinking water threats, depending on the requirements of the local Source Protection Plan.

Conservation Authorities Act, R.S.O. 1990, c. C. 27, as amended

Purpose: Provide for the establishment of conservation authorities (CAs) to undertake a program in the provincial and municipal interest in a watershed for conservation, restoration, development and management of natural resources. The provincial interest is related to public safety and water-based natural hazard prevention and management. CAs are involved in flood and erosion control, flood forecasting and warning, ice management, regulating development in hazard areas, and municipal plan and site plan application review for natural hazard considerations. A local program approved by the CA board — comprised of municipal representatives — can include additional activities such as stewardship, forest management, habitat rehabilitation, education, natural heritage and watershed studies.

Applicability to Agriculture: Through a permitting process, CAs regulate proposed activities that may alter or interfere with wetlands or the existing channel of a watercourse. Agricultural drains are generally included in the definition of a watercourse under the act. CAs also regulate development, including the placement or removal of fill, in areas which may be affected by water-related natural hazards — floodplains, shorelines, wetlands and areas around wetlands — as well as other hazard lands.

Administering Agency: Ministry of Natural Resources

Permits Required: Permits may be required from CAs for certain works taking place within designated regulated areas.

Drainage Act, R.S.O. 1990, c. D. 17, as amended

Purpose: Provide landowners with a procedure to resolve drainage problems through the establishment of communal drainage systems, called municipal drains. Also provides for the subsequent improvement, repair and maintenance of municipal drains by the local municipality.

Applicability to Agriculture: Landowners may petition their local municipality for the construction of a municipal drain. The municipality appoints an engineer to prepare a report that includes plans, profiles and specifications of the drain and assessment schedules. After a public input process,

the report is adopted by municipal bylaw, the drain is constructed and costs are assessed to the landowners. A conservation authority, the Ministry of Natural Resources or a municipality may request an environmental appraisal. Future maintenance and repair of municipal drains is a municipal responsibility with costs charged to the landowners.

Administering Agency: Ontario Ministry of Agriculture, Food and Rural Affairs, municipalities

Permits Required: Activities affecting a municipal drain must be authorized by the local municipality.

Lakes and Rivers Improvement Act, R.S.O. 1990, c. L. 3, as amended

Purpose: Protect the natural amenities, and manage and preserve the use of water to ensure flow and water level characteristics of lakes and rivers are not altered to the point of placing other water users at a disadvantage. Also regulates the construction, operation and maintenance of dams.

Applicability to Agriculture: Any work forwarding, holding back or diverting water must receive prior approval.

Administering Agency: Ministry of Natural Resources

Permits Required: Approvals required for any construction, alteration or deposition in a lake, river or shoreline.

Ontario Water Resources Act, R.S.O. 1990, c. O. 40, as amended

Purpose: Provide for the conservation, protection and management of Ontario's waters and for their efficient and sustainable use, in order to promote Ontario's long-term environmental, social and economic well-being.

Applicability to Agriculture:

1. Prohibits discharge or deposit of any material into any water body or watercourse that may impair water quality.
2. Prohibits removal of more than 50,000 litres of water per day from wells or a surface water source without a permit, except for wells used as a waste disposal site.
3. Permits are not required for water taking for domestic, livestock or firefighting purposes.

4. If water leakage or flow from any well, diversion or excavation interferes with public or private interests, Ministry of the Environment may require the person responsible to stop or mitigate the problem.

Administering Agency: Ministry of the Environment

Permits Required: Certificates of approval required for discharge of a material to land or surface water, permits required for water takings of more than 50,000 litres per day (approximately ½ acre irrigated with 1 in. of water), permits required for well construction, and licences required for well contractors and technicians.

Tile Drainage Act, R.S.O. 1990, c. T. 8, as amended

Purpose: Provide access to loan funds to agricultural landowners for the installation of tile drainage works on private agricultural land.

Applicability to Agriculture: Agricultural landowners may receive a 10-year term loan at competitive interest rates from their local municipality through the provincial government. Loan repayments are treated in the same manner as property taxes.

Administering Agency: Ontario Ministry of Agriculture, Food and Rural Affairs, municipalities

Permits Required: None.

LAND USE LEGISLATION & PROVINCIAL PLANS

Farming and Food Production Protection Act, 1998, S.O. 1998, c. 1, as amended

Purpose: Protect farmers from nuisance complaints about odour, noise, dust, flies, light, smoke and vibration, resulting from normal farm practices. Also protects farmers against restrictive municipal bylaws that constrain normal farm practices.

Applicability to Agriculture: Complainants can ask Normal Farm Practices Protection Board to rule on a complaint. **Note:** A practice that is not consistent with standards under the *Nutrient Management Act, 2002*, is not deemed a normal farm practice.

Administering Agency: Normal Farm Practices Protection Board, as part of the Ontario Ministry of Agriculture, Food and Rural Affairs

Permits Required: None.

**Planning Act, R.S.O. 1990,
c. P. 13, as amended**

Purpose: Establish the ground rules for land use planning in Ontario, including issuance of the Provincial Policy Statement (PPS). The PPS sets direction on matters of provincial interest such as prime agricultural areas, natural heritage and growth management, and requires setback distances between livestock facilities and other uses (see Minimum Distance Separation Formulae). Act also describes how land uses are controlled in Ontario using tools such as official plans and zoning bylaws.

Applicability to Agriculture: The PPS requires the protection of prime agricultural areas and provides rules on permitted uses, lot creation and removal of land from prime agricultural areas. Also addresses areas such as growth management and natural heritage that may impact agriculture. Municipal official plans typically include maps and policies to guide the future development of an area, consistent with PPS policies. Zoning bylaws direct how land including farmland may be used, where buildings may be placed and parking requirements.

Administering Agency: Municipalities are charged with adopting official plans and zoning bylaws that are consistent with the PPS, and Ministry of Municipal Affairs and Housing provides land use planning advice and information on behalf of the province.

Permits Required: A specific process must be followed to amend official plan policies and zoning bylaws. This includes public consultation.

Minimum Distance Separation I & II (MDS I & II) 2006 (Planning Act, 1990)

Purpose: Minimum Distance Separation (MDS) is a formula developed by the province under the *Planning Act, 1990*, to separate land uses and reduce incompatibility concerns about odour from livestock facilities. MDS I determines the minimum separation distances between proposed new development and existing livestock facilities and/or permanent manure storages. MDS II determines the minimum separation distances between proposed new, enlarged or remodelled livestock facilities and/or permanent manure storages, and other existing or approved development. Compliance to MDS is required by the Provincial Policy Statements authorized by the *Planning Act, 1990*.

Applicability to Agriculture: Separates incompatible land uses, reducing potential land use conflicts.

Administering Agency: municipalities

Permits Required: None.

**Municipal Act, 2001, S.O. 2001,
c. 25, as amended**

Purpose: Provide for the organization and operation of municipalities. The Act provides for broad permissive powers to municipalities to pass bylaws ranging from local governance structure to economic, social and environmental wellbeing of communities to the protection of persons and property.

Applicability to Agriculture: The agriculture industry is subject to municipal bylaws unless superseded by a provincial Act, such as the *Nutrient Management Act, 2002*, or Normal Farm Practices Protection Board, which is established under the *Farming and Food Production Protection Act, 1998*, finds that the bylaw interferes with a normal farming practice. Specific municipal powers are outlined in Section 3 (see Act for complete list) and include the following selected sections:

- Section 135 regulates the destruction of woodlands (former *Trees Act*)
- Section 142 allows for the bylaws for the site alteration and prohibition or regulation of topsoil (defined as mineral soil and organic/peat)

Administering Agency: Ministry of Municipal Affairs and Housing, municipalities

Permits Required: None.

PROVINCIAL LAND USE PLANS

**Greenbelt Act, 2005, S.O. 2005,
c. 1, as amended**

Purpose: Enable the creation of the Greenbelt Plan to protect approximately 1.8 million acres in the Golden Horseshoe area of Ontario. The Greenbelt Plan identifies where urban development should not occur in order to secure the agricultural land base, and the ecological features and functions of the greenbelt area. The protected countryside contains an agricultural system comprised of specialty crop areas (Niagara tender fruit and grape lands and the Holland Marsh), prime agricultural areas and rural areas. Areas within

the Greenbelt covered by the Niagara Escarpment Plan and the Oak Ridges Moraine Conservation Plan are subject to the policies of those plans, rather than the Greenbelt Plan.

Applicability to Agriculture: Provides for permanent protection of agricultural lands for agricultural uses, and permits a full range of agricultural uses and normal farm practices.

Administering Agency: Municipal official plans are required to contain policies reflecting the Greenbelt Plan, Ministry of Municipal Affairs and Housing provides advice and information.

Permits Required: None.

Lake Simcoe Protection Act, 2008, S.O. 2008, c. 23, as amended

Purpose: Protect and restore the ecological health of the Lake Simcoe watershed. Enables the establishment of the Lake Simcoe Protection Plan (Plan) that uses policies to achieve the goals of the Act. The Plan's objectives are to protect, improve or restore the elements that contribute to the ecological health of the watershed, including the reduction of pollutant discharges, and loadings of phosphorus and other nutrients of concern to the lake and its tributaries. The plan promotes sustainable land and water use, activities and development practices, and builds on the protections in other provincial plans (as applicable) including the Oak Ridges Moraine Conservation Plan and the Greenbelt Plan. Other Acts that have applicability include the *Conservation Authorities Act, 1990*, the *Ontario Water Resources Act, 1990*, and the *Planning Act, 1990*. The Act that provides the most protection to the ecological health of the Lake Simcoe watershed prevails.

Applicability to Agriculture: The Plan adopts a stewardship-first approach to agricultural activities. Stewardship programming is supported, as is related research, monitoring, pilots and demonstrations to promote sector innovation.

Administering Agency: Ministry of Environment

Permits Required: Permits normally required under other legislation apply (e.g., under the *Conservation Authorities Act, 1990*, the *Ontario Water Resources Act, 1990*, and the *Planning Act, 1990*). Permits from the CA are required for any work within designated fill lines or flood areas, or which alters or interferes in any way with the existing channel of a watercourse.

Niagara Escarpment Planning and Development Act, R.S.O. 1990, c. N. 2, as amended

Purpose: Provide for the maintenance of the Niagara Escarpment and land in its vicinity substantially as a continuous natural environment, and to ensure only such development occurs as is compatible with that natural environment.

Applicability to Agriculture: Farming and forestry practices must be compatible with maintaining the Niagara Escarpment and adjoining land as a continuous natural environment.

Administering Agency: Niagara Escarpment Commission (NEC) as part of Ministry of Natural Resources

Permits Required: Niagara Escarpment Development Permits (similar to building permits) are required for a range of development and activities, i.e., construction of buildings, changing the use of a property, establishing a home business, constructing a pond or altering a watercourse.

Oak Ridges Moraine Conservation Act, 2001, S.O. 2001, c. 31, as amended

Purpose: Provide for the establishment of the Oak Ridges Moraine Conservation Plan (the plan) — an ecologically based plan that provides land use and resource management direction under four land use designations — natural core areas, natural linkage areas, countryside areas and settlement areas.

Applicability to Agriculture: The plan encourages the continuation of agriculture and other rural land uses, and normal farm practices. Barns and other associated farm buildings and structures are considered a component of the permitted agriculture uses. The plan addresses activities which may relate to agriculture within areas such as wellhead protection areas. Questions on site specific matters related to planning approvals should be directed to the municipality.

Administering Agency: Ministry of Municipal Affairs and Housing, and municipalities are responsible for implementing the plan through municipal official plans and zoning bylaws.

Permits Required: None.

LIVESTOCK AND POULTRY ISSUES

Animal Health Act, 2009, S.O. 2009, c. 31, as amended

Purpose: Provide for the protection of animal health in Ontario. The Act provides an enabling legislative framework based on the concepts of prevention, detection, response, control and recovery from animal health hazards, such as animal diseases. It authorizes officials to address activities that may affect animal health or human health (or both), including the safety of food and animal products. The Act gives the Chief Veterinarian for Ontario and appointed inspectors the power to conduct inspections of animals and things related to animals in appropriate circumstances, and make orders that further the legislation's purposes.

Applicability to Agriculture: Having a healthy livestock and poultry population helps minimize risks to animal health, human health and the agri-food economy.

Administering Agency: Ontario Ministry of Agriculture, Food and Rural Affairs

Permits Required: There are no licensing, registration or permit requirements under the Act at the present time. Permission for certain activities could be required during an animal health emergency.

Related Legislation: *Health of Animals Act, 1990*, S.C. 1990, c. 21, as amended

Beef Cattle Marketing Act, R.S.O. 1990, c. B. 5, as amended

Purpose: Establishment and standardization of procedures affecting the sale of cattle or carcasses, and designation and financing of an association with power to make recommendations on procedures and expend money to:

- stimulate, increase and improve the sale of cattle or carcasses
- disseminate information concerning the cattle industry
- co-operate with any person or persons or any department of the Government of Canada or of the government of any province in the carrying out of its objects

Applicability to Agriculture: This legislation applies to all persons who sell cattle in Ontario.

Administering Agency: Ontario Ministry of Agriculture, Food and Rural Affairs provincial inspectors

Permits Required: Permits required for the sale of cattle in Ontario.

Bees Act, R.S.O. 1990, c. B. 6, as amended

Purpose: Assist beekeepers in maintaining a healthy honeybee population. Honeybees can carry disease organisms over great distances, so beekeepers are directly affected by a neighbour's management.

Applicability to Agriculture: The pests and diseases addressed under the *Bees Act, 1990*, are specific to honeybees. Under this Act, third-party bee inspectors inspect honeybee colonies for bee diseases and can give orders to destroy infected beehives. This inspection program assists in keeping apiculture viable in Ontario, and validates the health of honeybee colonies before they can move to other provinces for sale, pollination or honey production. This program also facilitates the inspection of honeybee material in co-ordination with the Canadian Food Inspection Agency (CFIA) when honeybees are sold to the U.S. and other countries.

Administering Agency: Ontario Ministry of Agriculture, Food and Rural Affairs appointed provincial apiarist and bee inspectors

Permits Required: Permits are required for the removal or sale of bees and beekeeping equipments. Permits can be obtained from an inspector appointed by OMAFRA. Permits also required for the transport of bees and beekeeping equipment which can be obtained from the provincial apiarist. Permits required for importing honey bees and beekeeping equipment into Ontario.

**Feeds Act, R.S.C. 1985,
c. F-5, as amended (Federal)**

Purpose: Regulate the content, registration, and appropriate and safe use of livestock feeds in Canada.

Applicability to Agriculture: Ensures quality control of livestock feed (composition and nutrient content). All livestock feed ingredients must be approved. All products must be properly labelled. Allows for routine inspection and analysis of suspect materials from commercial feed mills and farms involved in the manufacture of medicated feeds.

Administering Agency: Canadian Food Inspection Agency (CFIA)

Permits Required: Certification of CFIA inspectors

**Food Safety and Quality Act, 2001, S.O. 2001,
c. 20, as amended**

Purpose: Provide for the quality and safety of food, agricultural or aquatic commodities and agricultural inputs, the management of food safety risks, and the control and regulation of certain regulated activities.

Applicability to Agriculture: Regulations under this Act govern (among other things):

- slaughter of livestock and processing of meat for food
- grading and marketing of eggs, processed egg, honey and maple syrup
- marketing of other maple products and fresh produce including fruit and vegetables, sprouts, culinary herbs, edible fungi, and in-shell nuts and peanuts
- grading of beef, veal, ovine and poultry carcasses
- off-farm disposal of livestock mortalities including the collecting, transferring, salvaging, rendering and composting of carcasses

Administering Agency: Ontario Ministry of Agriculture, Food and Rural Affairs

Permits Required: Licences are required for slaughter and meat processing activities, and activities related to deadstock disposal.

**Health of Animals Act, S.C. 1990,
c. 21, as amended (Federal)**

Purpose: Establish lists of reportable diseases of significant risk to animal and/or human health, and control procedures in the event of an outbreak; regulate importation and feeding of organic waste products (recycled food products) to livestock; and regulate care, handling and disposition of animals.

Applicability to Agriculture: Specifies notification of reportable diseases or poisons to the nearest veterinary inspector and subsequent procedures, and regulates the importation of animal-based feeds.

Administering Agency: Canadian Food Inspection Agency, Health Canada

Permits Required: For the importation and movement of animals and animal products.

**Health Protection and Promotion Act,
R.S.O. 1990, c. H. 7, as amended**

Purpose: Provide for the organization and delivery of public health programs and services, the prevention of the spread of disease and the promotion and protection of the health of the people of Ontario.

Applicability to Agriculture: Prohibits the sale of any food unfit for human consumption. A medical officer of health is required to ensure inspections are conducted in the health unit for the purpose of preventing, eliminating or decreasing the effect of health hazards. A health hazard means a plant, animal (other than humans), substance or thing; conditions of a premise; or a solid, liquid or gas that has or that is likely to have an adverse effect on the health of any person.

A medical officer of health or a public health inspector can require a person to take or refrain from taking any action necessary to decrease the effect of or eliminate a health hazard. The Act provides a medical officer of health and a public health inspector with the authority to seize and destroy or dispose of any plant, animal, substance or thing that is a health hazard or to take any action necessary to eliminate or decrease the health hazard.

Administering Agency: Ministry of Health and Long-Term Care

Permits Required: None.

Livestock and Livestock Products Act, R.S.O. 1990, c. L. 20, as amended

Purpose:

- License people dealing in cattle (abattoirs, livestock auctions and slaughter plants)
- Govern terms of payment of cattle purchased by dealers, and provide protection for producers and dealers of cattle from non-payment
- Provide for the non-payment of livestock found contaminated
- Regulate the grading of wool

Applicability to Agriculture: Issuing licences to cattle dealers, appointing inspectors and creating standards for all aspects of livestock and livestock marketing.

Administering Agency: Ontario Ministry of Agriculture, Food and Rural Affairs

Permits Required: Licences for cattle dealers.

Livestock Community Sales Act, R.S.O. 1990, c. L. 22, as amended

Purpose: Provide confidence in an orderly market, ensure marketing of healthy livestock, provide a disease monitoring/control effort, monitor the humane handling of livestock and facility standards, and ensure financial stability of the licensed operator. The Act and regulations provide for an inspection system where appointed veterinarians and inspectors examine livestock, facilities and handling techniques to meet certain standards, and ensure livestock is marketed in compliance with mandated programs and Codes of Practice.

Applicability to Agriculture: Monitors marketing, movement, health and welfare of more than 1 million livestock through livestock community sales facilities in Ontario each year. These animals may move to other farms in Ontario, Canada, or the U.S. or be slaughtered for consumption.

Administering Agency: Ontario Ministry of Agriculture, Food and Rural Affairs

Permits Required: Licenses for livestock community sales facilities

Livestock Identification Act, R.S.O. 1990, c. L. 21, as amended

Purpose: Regulate the branding of livestock.

Applicability to Agriculture: Requires all livestock brands used in Ontario be allotted and controlled by the Ontario Cattlemen's Association.

Administering Agency: Ontario Ministry of Agriculture, Food and Rural Affairs

Permits Required: All brands used must be allotted by the Ontario Cattlemen's Association.

Livestock Medicines Act, R.S.O. 1990, c. L. 23, as amended

Purpose: Regulate the sale of livestock medicines in Ontario through licensed outlets, and evaluate proper procedure for the maintenance, handling and storage of livestock medicines.

Applicability to Agriculture: Makes livestock drugs available directly to farmers, and designates drugs or classes of drugs available under this Act. Also provides for licences and specifies record keeping for retailers, and for inspectors to ensure proper sales and handling of over-the-counter drugs.

Administering Agency: Ontario Ministry of Agriculture, Food and Rural Affairs

Permits Required: Licences for retailers.

Milk Act, R.S.O. 1990, c. M. 12, as amended

Purpose:

- Stimulate, increase and improve the production of milk within Ontario
- Provide for the control and regulation of the production and marketing within Ontario of milk, cream or cheese
- Provide for the control and regulation of the quality of raw milk, fluid milk and milk products within Ontario

Applicability to Agriculture: The Act and its regulations are the provincial framework that allows for the functioning of the dairy supply management system in Ontario, and provides the quality control of milk and milk products from cows and goats. The delivery of the

raw milk quality program for the cow dairy sector has been delegated to the marketing board.

Administering Agency: Ontario Farm Products Marketing Commission, Dairy Farmers of Ontario (through delegation of authorities) and the Food Inspection Branch of the Ontario Ministry of Agriculture, Food and Rural Affairs

Permits Required: Dairy producer licences including terms and conditions of licences are required and issued to all cow milk producers by the marketing board. Dairy processing plants and distributors are issued licences by the Food Inspection Branch, Ontario Ministry of Agriculture, Food and Rural Affairs.

Ontario Society for the Prevention of Cruelty to Animals Act, R.S.O. 1990, c. O. 36, as amended

Purpose: Establish the Ontario Society for the Prevention of Cruelty to Animals (OSPCA) and affiliated humane societies, and authorize the OSPCA to investigate cases of animal cruelty in Ontario.

Applicability to Agriculture: Provides inspectors for the investigation of farm animal-related issues of cruelty, neglect or poor management that has an adverse effect on farm animals.

Administering Agency: OSPCA (legislative authority), government authority with Solicitor General

Permits Required: None.

Related Legislation: *Innkeepers Act*, R.S.O. 1990, c. I. 7, as amended (as it relates to the boarding of animals)

Protection of Livestock and Poultry from Dogs Act, R.S.O. 1990, c. L. 24, as amended

Purpose: Provide for the protection of livestock and poultry from dogs.

Applicability to Agriculture: Allows for the killing of dogs found injuring livestock or poultry, or straying within livestock areas. The local municipality is liable to make a payment to the owner of livestock or poultry killed by a dog. The municipality may then recover the amount paid from the owner of the dog through court action.

Administering Agency: Ontario Ministry of Agriculture, Food and Rural Affairs

Permits Required: None.

CROP PRODUCTION

Farm Products Containers Act, R.S.O. 1990, c. F. 7, as amended

Purpose: Require producers of specific farm products to be licensed, and pay a mandatory licence fee for the purchase of containers for marketing products, in order to fund designated farm associations.

Applicability to Agriculture: Applies to specific farm products (fruit, vegetables, honey, maple products, plants, flowers, mushrooms, seeds, and also food and drink made from any those farm products). Under current regulation, the licence fee is limited to fruits and vegetables with the money going to the Ontario Fruit and Vegetable Growers Association (OFVGA). The licence fees must be collected and submitted by the seller on behalf of the OFVGA.

Administering Agency: Ontario Ministry of Agriculture, Food and Rural Affairs

Permits Required: None. Every producer who buys a container is deemed to be licensed.

Fertilizers Act, R.S.C. 1985, c. F-10, as amended (Federal)

Purpose: Protect farmers and the general public against potential health hazards and misrepresentation in marketing, and ensure a fair marketplace by regulating the content, labelling and registration of fertilizers and supplements in Canada.

Applicability to Agriculture: Ensures the safety, efficacy and proper labelling of all fertilizers and supplements offered for sale in Canada. Allows for the inspection and analysis of fertilizer and supplement products regulated under the *Fertilizers Act, 1985*.

Administering Agency: Canadian Food Inspection Agency (CFIA)

Permits Required: Some fertilizers and most supplements are subject to registration and require a comprehensive pre-market assessment prior to their import and/or sale in Canada.

**Grains Act, R.S.O. 1990,
c. G. 10, as amended**

Purpose: Regulate the sale of grain and the operation of grain elevators in Ontario.

Applicability to Agriculture: Applies to the sale of grain (barley, beans, corn, oats, oil seeds, wheat, mixed grains and any farm product designated in the regulations) and the operation of all grain elevators.

Administering Agency: AgriCorp

Permits Required: Any person who purchases grain (except for personal consumption) must be licensed. Grain elevator operators must also be licensed.

**Seeds Act, R.S.C. 1985,
c. S-8, as amended (Federal)**

Purpose: Ensure seed meets established standards and labelling requirements, which facilitate domestic and international trade. Administer regulatory provisions regarding the environmental release of plants with novel traits (PNTs).

Applicability to Agriculture: Seeds sold in, imported into and exported from Canada must meet established standards for quality, be labelled to be properly represented in the marketplace and be registered prior to sale in Canada (most agricultural crop varieties). It allows for the inspection and analysis of regulated seed.

Administering Agency: Canadian Food Inspection agency (CFIA)

Permits Required: Varieties of most agricultural field crops require registration under the *Seeds Act, 1985*, before they may be imported or sold in Canada. Pedigreed seed can be processed, sampled, tested and labelled only by establishments, laboratories and individuals registered, accredited or licensed to do so. Plants with novel traits must receive authorization from CFIA before they are released into the environment. Genetically modified organisms that are not authorized for unconfined release must obtain a CFIA import permit prior to importation.

**Pest Control Products Act, S.C. 2002,
c. 28, as amended (Federal)**

Purpose: Protect human health and safety, and the environment by regulating products used for the control of pests.

Applicability to Agriculture: Ensure pest control products of acceptable risk and value can contribute significantly to the goals of sustainable pest management in agricultural food production.

Administering Agency: The Pest Management Regulatory Agency (PMRA) of Health Canada has the mandate to protect human health, safety and the environment by minimizing risks associated with pesticides, while providing Canadians access to the pest management tools they require for agriculture, forestry, industry and personal use. Pesticides imported into, sold or used in Canada are regulated nationally under the *Pest Control Products Act, 2002*, and regulations. The PMRA is responsible for administering this legislation, registering pest control products, re-evaluating registered products and setting maximum residue limits under the *Food and Drugs Act, 1985*.

Permits Required: None.

**Pesticides Act, R.S.O. 1990,
c. P. 11, as amended**

Purpose: Protect human health and the natural environment by controlling the sale, use, storage, display, disposal and transportation of pesticides and fertilizers containing pesticides.

Applicability to Agriculture: Prohibits use of pesticides in a manner that may cause, or likely cause, damage to the quality of the environment, greater than would necessarily result from the proper use of the pesticide; and requires safe and proper pesticide storage facilities.

Administering Agency: Ministry of the Environment

Permits Required: Licences are required to undertake regulated activities.

Related Legislation: *Pest Control Products Act, S.C. 2002, c. 28, as amended (Federal)*

**Plant Diseases Act, R.S.O. 1990,
c. P.14, as amended**

Purpose: Ensure control or eradication of specific regulated plant diseases listed in the regulation that exist in Ontario.

Applicability to Agriculture: Prevent the spread of a plant diseases or injury to a plant that is caused by an insect, virus, fungus, bacterium or other organism, and that is a specific regulated pest listed in the regulation. The Act requires the treatment or destruction of infected plants, disinfection of contaminated containers, buildings and vehicles, and the possible prohibition of growing certain plants for a period of time in contaminated soils.

Administering Agency: Ontario Ministry of Agriculture, Food and Rural Affairs

Permits Required: None.

**Plant Protection Act, S.C. 1990,
c. 22, as amended (Federal)**

Purpose: Protect plant life and the agricultural sector by preventing the importation, exportation and spread of pests injurious to plants and to provide for their control and eradication and for the certification of plants and other things.

Applicability to Agriculture: Allows for the implementation of policies and operational programs designed to prevent or manage the introduction of plant pests, including pest plants that pose a threat to Canada's plant life or economic health. It also outlines requirements and measures that may be taken to prevent the spread, import or export of plant pests. This includes the duty to notify the CFIA if a new pest (plant, insect, fungus or other) is present in a crop; a prohibition of the intentional movement, possession or improper disposal of a pest into, or out of Canada; and the inspection practices that may be used to detect a suspected pest. An area, place or thing suspected of being infested can be placed under quarantine, detained or seized under this Act.

Administering Agency: Canadian Food Inspection Agency (CFIA)

Permits Required: CFIA issued import permits may be required to ensure imported plants, plant products or products potentially infested with plant pests meet Canadian requirements. CFIA inspection

and certification may be required to ensure exported products meet foreign requirements. Inspection and issuance of movement certificates may be required prior to movement of regulated articles outside of a regulated area.

**Weed Control Act, R.S.O. 1990,
c. W.5, as amended**

Purpose: Protect agricultural and horticultural production from the negative impacts of noxious weeds.

Applicability to Agriculture: Landowners must destroy noxious weeds on their property and remove noxious weed seeds from machinery to avoid spread. Operators of grain elevators or grain processing plants must destroy weed seeds in a manner that will prevent growth or spread.

Administering Agency: Ontario Ministry of Agriculture, Food and Rural Affairs, enforced by municipalities

Permits Required: None.

Related Legislation: Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), Wild Animal and Plant Protection, and *Regulation of International and Interprovincial Trade Act, 1992* (Environment Canada)

SAFETY AND EMPLOYMENT

**Building Code Act, 1992, S.O. 1992,
c. 23, as amended**

Purpose: Ensure the protection of humans from hazards associated with buildings and structures, and establish associated services.

Applicability to Agriculture: Applies to the construction or alteration of all farm structures including manure storage and transfer facilities.

Administering Agency: Ministry of Municipal Affairs and Housing, municipalities

Permits Required: Permit is required for building and demolition of buildings.

Agricultural Employees Protection Act, 2002, S.O. 2002, c. 16, as amended

Purpose: Protect the rights of agricultural employees to associate and recognize certain rights of employers and the unique characteristics of agricultural production.

Applicability to Agriculture: Gives the right to agricultural workers to organize.

Administering Agency: Ontario Ministry of Agriculture, Food and Rural Affairs

Permits Required: None.

Employment Standards Act, 2000, S.O. 2000, c. 41, as amended

Purpose: Establish minimum standards and wages for employment.

Applicability to Agriculture: Some exceptions apply to farm labourers due to the nature and perishability of farm products and their susceptibility to weather.

Administering Agency: Ministry of Labour

Permits Required: None.

Farm Implements Act, R.S.O. 1990, c. F. 4, as amended

Purpose: Regulate the sale of farm machinery and promote farm machinery safety.

Applicability to Agriculture: Establishes machinery safety standards and requirements, and minimum warranties; provides for the return of defective machinery and the supply of repair parts; and provides a process for the resolution of disputes.

Administering Agency: Ontario Ministry of Agriculture, Food and Rural Affairs

Permits Required: Dealers and distributors are required to be registered under this Act.

Highway Traffic Act, R.S.O. 1990, c. H. 8, as amended

Purpose: Ensure safe movement of vehicles on highways.

Applicability to Agriculture: Slow moving vehicle signs must be attached to the rear of a slow moving vehicle or a trailer or other device being towed by that vehicle. The Act also prescribes conditions for the movement of over-sized farm vehicles.

Administering Agency: Ontario Ministry of Transportation

Permits Required: For information on permits, refer to the ministry publication, "Farm Guide – Farm Equipment on the Highway." See www.mto.gov.on.ca.

Occupational Health and Safety Act, R.S.O. 1990, c. O. 1, as amended

Purpose: Set out minimum health and safety requirements in the work place.

Applicability to Agriculture: Applies to employers with paid workers.

Administering Agency: Ministry of Labour

Permits Required: None.

Technical Standards and Safety Act, 2000, S.O. 2000, c. 16, as amended

Purpose: Authorize Technical Standard and Safety Authority (TSSA) as a delegated administrative authority to provide public safety services in the province of Ontario by administering prescribed technical standards. TSSA is a not-for-profit corporation that has been given authority to enforce technical standards previously found in the following legislations: *Boilers and Pressure Vessels Act*, *Elevating Devices Act*, *Energy Act*, *Gasoline Handling Act* and the *Operating Engineers Act*.

Applicability to Agriculture: Ensures:

- heating (steam, hot water) and refrigeration systems are approved for use in Ontario and only appropriately licensed/trained people install and maintain them
- elevators and similar devices are approved, functional and safe

- safe handling, transmission and storage of hydrocarbon fuels primarily used for heat generation (propane, natural gas, fuel oil)
- contractors, equipment, storages, transporters, transmission lines, etc., for hydrocarbon fuels (gasoline, diesel, used oil, etc.) are safe (meet Canadian Standards Association (CSA) or Underwriter Laboratory of Canada (ULC) requirements) and people who work on these types of facilities are properly trained and licensed

Administering Agency: Technical Standards and Safety Authority (TSSA) as authorized by the Ministry of Consumer Services

Permits Required: Certificates, licences or registration required for contractors, transporters.

***Wages Act, R.S.O. 1990,
c. W. 1, as amended***

Purpose: Establish priority for recovery of wages owed to employees where the employer makes an assignment of property to a creditor.

Applicability to Agriculture: Gives employees a priority on recovering up to 3 months of wages under certain situations.

Administering Agency: Ministry of Labour

Permits Required: None.

***Workplace Safety and Insurance Act, 1997,
S.O. 1997, c. 16, Schedule A, as amended***

Purpose: Provide workplace injury insurance for workers and employers, promote health and safety in workplaces, and prevent or reduce the occurrence of workplace injuries and occupational diseases.

Applicability to Agriculture: Injured workers receive compensation for lost work time due to injury, and employers receive liability coverage. Also provides for inspections by the Board.

Administering Agency: Workplace Safety & Insurance Board (WSIB), Farm Safety Association (FSA), Ministry of Labour

Permits Required: None.

WILDLIFE PROTECTION AND CONSERVATION

***Fish and Wildlife Conservation Act, 1997,
S.O. 1997, c. 41, as amended***

Purpose: Provide management, perpetuation and rehabilitation of fish and wildlife.

Applicability to Agriculture: Covers general hunting and trapping regulations and restrictions, and allows farmers to protect their property from damage by wildlife. Defines “farmed animals” to include white-tailed deer, American elk and certain fur farmed species (i.e., mink, fox), but applies only where specified. People that keep wildlife in captivity (e.g., deer/elk, fur farms) must ensure animals do not escape and must report if an escape occurs. Hunting “farmed animals” or wildlife in captivity is not permitted. The Act regulates the raising of game birds, the operation of game bird hunting preserves, and dog train and trialing areas.

Administering Agency: Ministry of Natural Resources

Permits Required: Farmers require licences to hunt white-tailed deer, moose, caribou, elk, black bear and wild turkey on their land. Some municipal restrictions may be in effect regarding licences for other game. Authorization is required to allow for the harassment and removal of deer or elk that are causing significant damage, when other reasonable methods to prevent damage are ineffective. Fur farmed animals and their pelts exported outside of Ontario require an Ontario Fur Export Permit. A licence is required to keep game birds in captivity or to buy or sell them and operate a game bird hunting preserve. A licence is also required to operate a dog train and trial area.

***Fisheries Act, R.S.C. 1985,
c. F-14, as amended (Federal)***

Purpose: Provide for the conservation and preservation of fish and fish habitat, and stipulates that no person shall carry on any work or undertaking that results in the harmful alteration, disruption or destruction of fish or fish habitat.

Applicability to Agriculture: Prohibits the discharge of pollutants near or in water that would harm fish or fish habitat, and prohibits stream alterations that have the potential to harm or disturb fish habitat.

Administering Agency: Fisheries and Oceans Canada (habitat protection) and Environment Canada (pollution prevention)

Permits Required: Permits and approvals required for any alterations that may affect fish or fish habitat.

***Fish Inspection Act, R.S.O. 1990,
c. F. 18, as amended***

Purpose: Provide for the sale of fish and fish products from the commercial fishery, fish farms and fish processors offered for sale in Ontario. The Act is a provincial law of general application and applies to all Ontarians including Aboriginal people.

Applicability to Agriculture: In general, does not apply to day-to-day farm operations, but regulations may be in place controlling fish product and processing standards.

Administering Agency: Ministry of Natural Resources

Permits Required: Non-federally registered fish processors in Ontario are not required to register or license their business under the current regulations.

***Migratory Birds Convention Act, S.C. 1994,
c. 22, as amended (Federal)***

Purpose: Protect migratory birds and nests.

Applicability to Agriculture: Protects migratory birds and nests, but makes provision for their removal where it is deemed necessary to do so to avoid injury to agricultural interests.

Administering Agency: Environment Canada

Permits Required: Permits are required to remove or eliminate migratory birds or nests.

Related Legislation: Convention of International Trade in Endangered Species of Wild Fauna and Flora (CITES), Wild Animal and Plant Protection, and *Regulation of International and Interprovincial Trade Act, 1992* (Environment Canada)

***Endangered Species Act, 2007, S.O. 2007,
c. 6, as amended***

Purpose: To identify species at risk, to protect species at risk and their habitats and promote the recovery of species already at risk.

Applicability to Agriculture: Farmers are prohibited from killing or harming any species or destroy the habitat of a species — on their own property or elsewhere — that is on the Species at Risk in Ontario List.

Administering Agency: Ministry of Natural Resources

Permits Required: Permit can be obtained from the Ministry of Natural Resources that allows a person to engage in activities otherwise prohibited by this Act.

GENERAL

***Farm Products Marketing Act, R.S.O. 1990,
c. F. 9, as amended***

Purpose: Provide for the control and regulation of the producing and marketing of farm products within Ontario.

Applicability to Agriculture: Under the Act, the Ontario Farm Products Marketing Commission (the Commission) is responsible for regulating the producing and marketing of farm products in Ontario. The Commission can delegate various authorities to marketing boards required to operate a regulated marketing systems for designated farm products.

Administering Agency: The Commission, as part of Ontario Ministry of Agriculture, Food and Rural Affairs

Permits Required: Licences may be required by the Commission or marketing boards for the production, marketing, or processing of farm products regulated under the Act.

**Farm Products Payments Act, R.S.O. 1990,
c. F. 10, as amended**

Purpose: Provide assurance of payment to producers for farm products, purchased from licensed dealers, in the event of default.

Applicability to Agriculture: Establishes funds for the specified classes of producer (grain, corn, soybean, canola, wheat and beef cattle), boards to administer these funds and general conditions for payments to producers who have not been paid by dealers for farm products.

Administering Agency: Livestock Financial Protection Board and the Grain Financial Protection Board, through the Ontario Ministry of Agriculture, Food and Rural Affairs

Permits Required: None.

**Farm Registration and Farm Organization
Funding Act, 1993, S.O. 1993,
c. 21, as amended**

Purpose: Provide for the registration of farm businesses and the accreditation of farm organizations.

Applicability to Agriculture: Requires that all persons carrying on a farm business with annual income at or above \$7,000 to obtain a farm business registration form and to direct a refundable payment to an accredited farm organization

Administering Agency: AgriCorp, through the Ontario Ministry of Agriculture, Food and Rural Affairs

Permits Required: Farm businesses are required to have a farm business registration number.

**Ontario Food Terminal Act, R.S.O. 1990,
c. O. 15, as amended**

Purpose: Establish the Ontario Food Terminal Board (the Board) and its mandate — to manage and operate a wholesale fruit and produce terminal in the Toronto area — and regulate Board composition and procedures, compensation of Board members, business conduct and rental of warehouse units.

Applicability to Agriculture: The Board provides a centralized location, along with supporting facilities and services for Ontario wholesale buyers and sellers of fruit and produce. It also operates/includes a dedicated wholesale farmers' market for distribution of Ontario and Canadian produce, and acts as a landlord and leases land, warehouse units, offices and other facilities to farmers, wholesalers and allied services. The Board operates a cold storage facility for use by wholesale tenants and farmers.

Administering Agency: Ontario Food Terminal Board, through the Ontario Ministry of Agriculture, Food and Rural Affairs

Permits Required: None.

DISCLAIMER: The information contained in this Factsheet is not authoritative and is for informational purposes only. It has been compiled from various Acts and regulations. Although every effort has been made to make the contents of this Factsheet as accurate as possible, in the event of any conflict or inconsistency or an error or omission, take notice that the Act and its regulations prevail. The Government of Ontario assumes no liability for any inaccurate, delayed or incomplete information nor for any actions taken in reliance thereon. It is strongly recommended to review the Acts and regulations set out in this Factsheet and seek appropriate advice (e.g., legal advice or other professional advice from qualified persons) before making any changes to farm practice(s).

This Factsheet was prepared by Finbar Desir, MSc, P.Eng., Farm Implements Engineer, OMAFRA, Guelph, and reviewed by OMAFRA, MOE Standards Development Branch; MNR Integration and Fisheries Policy Branches; Canadian Food Inspection Agency; and Health Canada.

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APPENDIX D

OMAFRA FACTSHEET – IMPORTATION OF SOIL ONTO
AGRICULTURAL LAND

Importation of Soil onto Agricultural Land

J. Ritter, P. Eng.

Factsheet

FACTSHEET 16-055 AGDEX 510 OCTOBER 2016

DISCLAIMER

This factsheet is provided for informational purposes only and does not provide legal advice. It is not a comprehensive statement of the legal obligations when importing soil onto agricultural lands. In order to determine the legal obligations or potential legal consequences, seek legal advice from a lawyer. Also, this factsheet is not a comprehensive exploration of non-legal considerations when importing soil. Get advice from qualified persons before importing soil.

While efforts have been made to make this factsheet as accurate as possible, it is not authoritative and in the event of a conflict, inconsistency or error, the requirements set out in any applicable legislation take precedence. Relevant Ontario legislation and regulations are found at ontario.ca/laws.

Note that it is a best practice to use updated information respecting soil management. Regulatory requirements, best management practices and guidance described in this factsheet may change from time to time.

INTRODUCTION

Importing soil onto agricultural land can benefit an agricultural operation, provided the legal requirements, environmental impacts, risks and liabilities involved are well understood by those who are managing it. This factsheet provides a brief overview of some of the considerations surrounding accepting soil including regulatory requirements, best management practices and guidance for farmers to limit impacts to farmland.

Excavation for road, highway and bridge construction, other infrastructure projects, and land development projects (e.g., building construction in cities and towns) often generate large amounts of excess soil. Some agricultural operations are looking for quantities of this soil for various purposes (e.g., soil amendment, re-establish vegetation) and others are being approached to become a destination site for

large quantities. There may be opportunities for the beneficial reuse of this material. However, it needs to be managed in an environmentally sustainable way, to protect agricultural lands, water resources and natural features. It is important to ensure there are no adverse effects on human health and the environment. Responsible soil management practices on soil importation projects will help to avoid regulatory compliance issues, as well as the potential for conflict with nearby landowners and any municipal requirements.

TIPS AND BEST PRACTICES

- Contact the local municipality to identify applicable fill or site alteration by-laws for the area — understand the costs and rules that apply in the community.
- Retain the services of a professional with expertise in soil analysis, characterization, and management when planning the project — good planning can help reduce risks and unanticipated costs.
- It is important to know the quality of existing soil and soil proposed for importation — be vigilant about the quality of soil brought onto the land and keep good records of where the imported soil is coming from.
- Comply with all regulatory requirements that relate to the soil importation project and take whatever steps are necessary to ascertain and comply with them — pre-consultation with applicable agencies before initiating the project is essential to its success.
- Follow best management practices for soil importation (as outlined in this factsheet) — a best management practices approach will limit impacts and protect soil and water resources for future generations.

DEFINITIONS

This factsheet focuses on the importation of **any** soil which might be brought onto an agricultural property. The regulatory requirements and approvals related to this topic use a variety of terminology which covers a wide range of potential materials (e.g., soil, topsoil, excess soil and fill) and all of these materials can include soil.

The term soil and related terms such as topsoil, excess soil and fill have many meanings depending on the circumstances. Whether a reference to these terms and related terms in this document apply to your materials will depend upon the facts of the situation. **Always refer to applicable definitions when dealing with regulatory requirements.**

Source Site — the location where the imported soil is being excavated or coming from (e.g., construction site)

Receiving Site — the location where the imported soil is being reused (e.g., a farm)

BENEFICIAL REUSES OF IMPORTED SOIL ON AGRICULTURAL LANDS

Topsoil (Figure 1) can be used for multiple purposes such as a soil amendment to improve soil health and crop yield or as a bedding material to re-establish vegetation in areas that have been disturbed (e.g., by construction activities). Subsoil can be used for other purposes, such as:

- increasing the amount of usable farmland by altering/improving the contours of the land
- undertaking grade alterations to improve the safe and efficient operation of farm equipment
- fixing drainage or soil erosion problems
- rehabilitating existing pits, ponds or excavations
- facilitating on-farm site development or construction activities (e.g., new farm buildings, improvements to laneways used for farm equipment and/or livestock, etc.)



Figure 1. Topsoil has many beneficial uses.

POTENTIAL ISSUES WITH IMPORTED SOIL

The following are some potential issues with using imported soil. Limiting any potential negative impacts associated with soil importation is critical.

Environmental Impacts

It is important to know the quality of the existing soil and to properly evaluate the potential benefits and risks of the soil proposed for importation given its quality, quantity and proposed placement on the property. Soil from the types of off-farm construction projects noted in the *Introduction* or other material included in some municipal by-law definitions of fill may cause environmental or human health damage and/or impacts on crop production from its reuse if not managed effectively (Figure 2). Some soil chemical properties in the imported soil such as excess salinity (i.e., soils are too salty) and pH extremes (i.e., soils are too acidic or too basic) may result in problems like reduced crop yields. Chemical contaminants such as organic compounds or heavy metals may jeopardize food safety, lead to adverse impacts on human health and/or the natural environment (e.g., contamination of ground and surface water), decrease property values and cause other problems. Owners of agricultural land should be observant about the quality of the soil being brought onto their properties and take steps to ensure those who rent their land are also vigilant.



Figure 2. Excavated soil from urban construction projects can be highly variable in terms of its quality.

Drainage Alteration

Placement or removal of soil, grading or site alteration activities can change natural or engineered drainage pathways resulting in flooding or ponding on neighbouring properties or changes to the normal flow of water to down gradient properties. Assess drainage considerations and resolve them before the soil importation project begins to ensure that these negative impacts do not occur. Additional information about drainage and a listing of licensed drainage contractors can be viewed at ontario.ca/drainage.

Stockpile Run-off/Dust

Soil is often stockpiled at the receiving site, particularly if it cannot be used immediately for its intended purpose. Put measures in place prior to stockpiling to ensure that any stormwater run-off or dust from stockpiled soil does not move off-site and to minimize environmental impacts. Avoid prolonged storage of topsoil as it can be detrimental to soil health — see the *Best Management Practices (BMPs)* section.

Impacts on Neighbouring Properties

In addition to the potential impacts on neighbouring properties caused by altering drainage pathways or the possible movement of contaminants from your property to the neighbours, the activity of importing large quantities of soil (e.g., trucking, soil handling, etc.) has the potential to generate noise, dust, light and vibration disturbances which may also affect nearby landowners. The *Farming and Food Production Protection Act, 1998*, (FFPPA) provides some protection for normal farm practices, but whether something is a normal farm practice is determined on a case-by-case basis. These protections are not absolute and other limitations including the FFPPA being subject to the *Environmental Protection Act, 1990*,

the *Pesticides Act, 1990*, and the *Ontario Water Resources Act, 1990*, may exist.

Municipal Considerations

Increased truck traffic resulting in noise, dust, mud-tracking and the potential for damaging roads can result in municipal involvement if these activities violate local by-laws or the specified conditions on municipal permits or approvals issued for the soil importation project — see the *Municipal Legislation and By-laws* section.

Insurance Coverage

Consider speaking to a farm insurance agent, before importing soil onto the farm, about coverage and exclusions, limitations and conditions on any coverage.

Legal Considerations

Fill, grading and site alteration activities usually involve many regulatory requirements including requirements for approval. It is important to work closely with all applicable agencies to ensure that all required approvals are in place before starting work and to follow all of the requirements of each permit issued.

REGULATORY REQUIREMENTS AND APPROVALS

There are legal requirements (e.g., provincial statutes and municipal by-laws) that may apply to the importation of soil onto agricultural land. It is important to understand how they affect the project. **Make sure to meet *all* requirements including provincial and municipal requirements *before* starting the soil importation project.**

The following legislation, regulations and by-laws may apply to a soil importation project:

Municipal Legislation and By-laws

Soil importation projects may involve municipal requirements. Section 142 of the *Municipal Act, 2001*, gives municipalities the specific authority to regulate certain fill activities including requiring permits and setting permit conditions, subject to certain limits. An exception set out in the act for agriculture relates to the incidental removal of topsoil as part of a normal agricultural practice such as sod-farming, greenhouse operations and nurseries for horticultural products. Many municipalities also exempt the replacement of topsoil for these activities through by-law; however, some municipalities have placed limitations on the amount of soil that can be stored on-site.

Fill or site alteration by-laws prohibit or regulate the removal of topsoil, the placing or dumping of fill, and the alteration of the grade of land. In addition to these agriculture exceptions, many of these by-laws reference exemptions for the construction of public facilities such as transportation, infrastructure or utilities, activities or works under the *Aggregate Resources Act, 1990*, and site alteration activities undertaken as an incidental part of drain construction under the *Drainage Act, 1990* or the *Tile Drainage Act, 1990*.

The content of these municipal by-laws varies across municipalities. A number of fill or site alteration by-laws set out different requirements based on the amount of fill involved.

Small fill projects (i.e., minor site alteration) such as lawn dressing, small landscaping projects, fence, pool or accessory building construction may be exempt from the requirement for permits or approvals provided they meet specified criteria and do not change the volume, direction or intensity of storm water run-off to adjacent properties.

Large fill projects (i.e., major site alteration) involving hundreds or perhaps thousands of truckloads of imported soil are more likely to require permits or approvals. In some cases, a written agreement between the landowner and the municipality, which specifies in detail requirements, conditions, indemnifications, etc., may be required. Some municipalities may separate major site alterations into two distinct categories based on the volume of fill involved and others may have only one category.

Conditions placed on permits or approvals are intended to help prevent adverse environmental impacts, legal problems and disagreements with neighbours. Conditions vary by municipality and generally increase in number with the size of the project. Specific haul routes have been designated and limitations have been placed on the number of trucks per day, the time of day or the days per week. Start and completion dates have been specified as well as other conditions relating to noise reduction, dust control measures, erosion control measures and tree protection.

Municipalities may require supporting information submitted with the permit application under the fill or site alteration by-law such as:

- site survey information detailing the existing and proposed final elevations and grades
- site survey information detailing the existing and final drainage pathways
- estimated volume of soil to be imported
- details of the source and quality of the imported soil
- soil sampling and analysis measures
- haul routes and traffic/transportation details
- dust and noise control measures
- erosion and sediment control measures
- stormwater management controls
- tree protection measures
- Fill Management Plans — refer to the *BMPs in Project Planning* section

Non-refundable application processing fees, permit fees based on the volume of fill, and fees related to the municipality's use of consultants and other professionals may be charged in some municipalities. Penalties have been imposed in instances where the project begins prior to obtaining a permit or approval. Some municipalities require a refundable security deposit which allows them to take action on work not completed to their satisfaction or for the maintenance or repair of roads that may have been affected by truck traffic related to the project. Amounts levied for fees and security deposits vary by municipality; however, they can be quite significant and may add a substantial cost to the project.

Permits or approvals generally have an expiry date and can be revoked by the municipality for a variety of specified reasons. Some municipalities have a process for granting extensions; however, additional fees may apply.

It is important to review the applicable fill or site alteration by-laws for the area with the municipality to confirm any permitting requirements and special conditions that may apply.

Farming and Food Production Protection Act, 1998

The *Farming and Food Production Protection Act, 1998*, (FFPPA) includes protection for farmers against municipal by-laws that restrict a normal farm practice carried on as part of an agricultural operation, as well as nuisance complaints made by neighbours provided the situation involves normal farm practices.

The act defines a normal farm practice as one which:

“(a) is conducted in a manner consistent with proper and acceptable customs and standards, as established and followed by similar agricultural operations under similar circumstances, or

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

The Normal Farm Practices Protection Board (Board) is the authority established by the legislation to determine what is or is not a normal farm practice. In arriving at a decision in each case, the Board takes several factors into consideration as it seeks to balance the needs of the agricultural community with provincial health, safety and environmental concerns.

In a by-law case, the Board will consider the following factors in determining whether a practice is a normal farm practice:

1. The purpose of the by-law that has the effect of restricting the farm practice.
2. The effect of the farm practice on abutting lands and neighbours.
3. Whether the by-law reflects a provincial interest as established under any other piece of legislation or policy statement.
4. The specific circumstances pertaining to the site.

After conducting a hearing, the Board will determine two key issues in subsequent order before making a decision. First, the Board will decide if the farm practice in question is carried on as part of an agricultural operation and is either:

- i. A normal farm practice
- ii. Not a normal farm practice; or
- iii. A normal farm practice, if the farmer modifies the practice as specified by the Board.

Second, the Board must determine if the by-law in question is either:

- i. Restricting the farm practice in question; or
- ii. Not restricting the farm practice in question.

There is no definitive list of normal farm practices. A practice may be ruled as a normal farm practice at a particular location under a particular set of circumstances; the same practice could be ruled as not a normal farm practice at a different location under a different set of circumstances.

Information on the Board is found at ontario.ca/omafra and full decisions can be viewed at www.canlii.org.

Conservation Authorities Act, 1990

Some soil importation may involve areas which are regulated by conservation authorities under Section 28 regulations of the *Conservation Authorities Act, 1990*. These regulations, approved by the Minister of Natural Resources and Forestry, require conservation authorities, through a permitting process, to regulate development in areas prone to natural hazards including in or adjacent to river or stream valleys, Great Lakes and inland lakes shorelines, watercourses, hazard lands (e.g., flood plains) wetlands and areas around wetlands. The definition of ‘development’ under the *Conservation Authorities Act, 1990*, includes site grading and the placing or removal of any material originating on the site or elsewhere. A conservation authority permit decision is based on the effect the development may have on the control of flooding, erosion, dynamic beaches, pollution or the ‘conservation of land’. A conservation authority permit is required for altering or interfering with the existing channel of a watercourse or interfering in any way with a wetland. Some conservation authorities have best management practices or protocols established for their regulating of material or soil importation.

For more information about conservation authorities and the *Conservation Authorities Act, 1990*, see ontario.ca/page/conservation-authorities. To contact a local conservation authority to find out if the property is located in a regulated area or if a permit is required check www.conservationontario.ca.

Oak Ridges Moraine Legislation and Plan

The Oak Ridges Moraine (ORM) is an environmentally sensitive geological landform in south central Ontario. The ORM stretches 160 km from the Trent River in the east to the Niagara Escarpment in the west (Figure 3). The Oak Ridges Moraine Conservation Plan, established under the *Oak Ridges Moraine Conservation Act, 2001*, provides land use policies and resource management planning direction to municipalities to protect the ORM's ecological and

hydrological features and functions. Municipalities must incorporate these requirements into their official plan policies and zoning by-law provisions. Some fill or site alteration by-laws may restrict certain fill, grading or site alteration activities around key natural heritage features, hydrologically sensitive features and areas with significant landscape character (called landform conservation areas).

The Oak Ridges Moraine Conservation Plan is implemented at the municipal level through the official plan and zoning by-laws. A detailed map showing the Oak Ridges Moraine Conservation Plan area can be viewed at ontario.ca/cyn5. Contact your local municipality to find out if your property is located in the Oak Ridges Moraine. They can also advise you of any special requirements or restrictions.

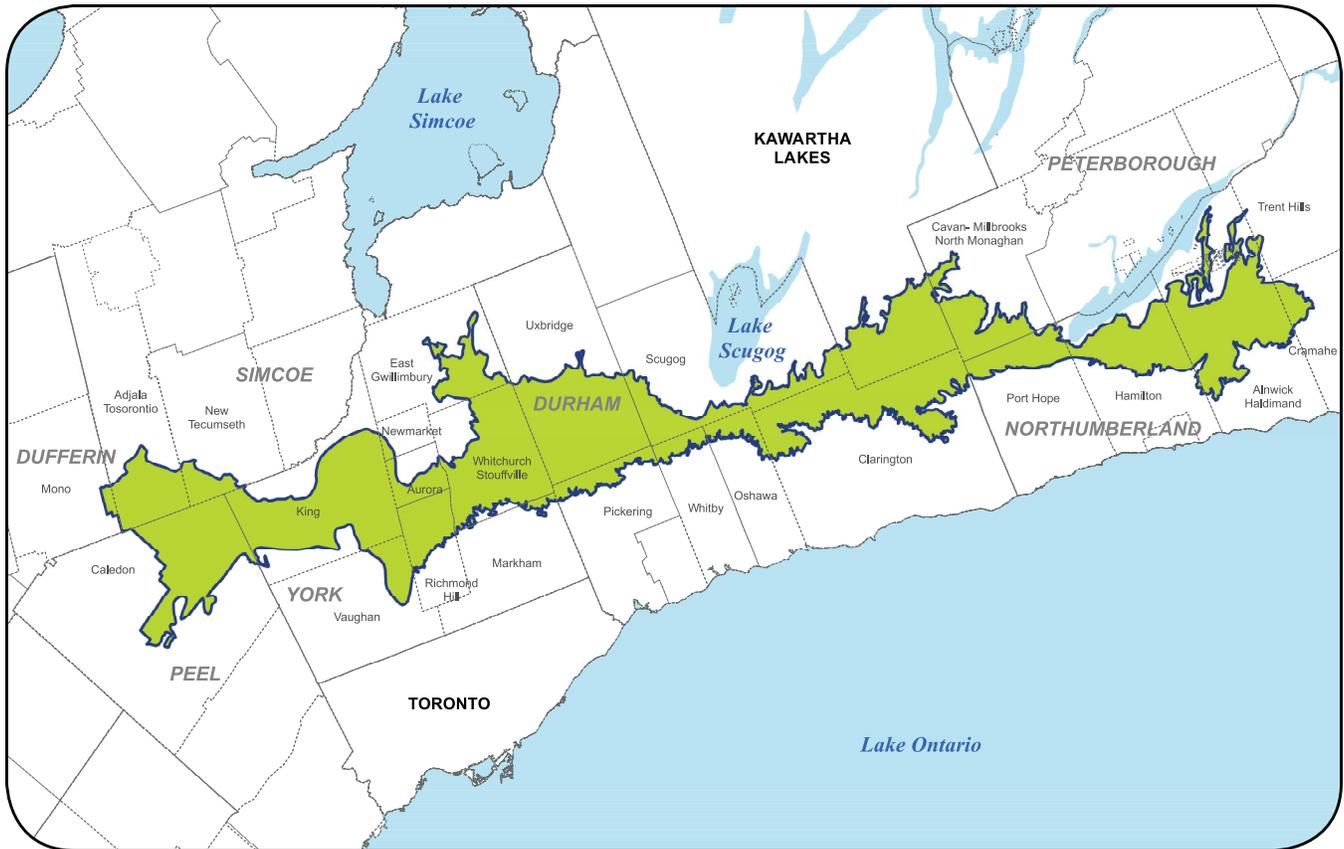


Figure 3. Oak Ridges Moraine Conservation Plan Area.

Niagara Escarpment Planning and Development Act, 1990, and the Niagara Escarpment Plan

The Niagara Escarpment is a protected natural corridor in south central Ontario, stretching 725 km from Queenston near Niagara Falls to Tobermory at the tip of the Bruce Peninsula (Figure 4). The Niagara Escarpment Plan, established under the *Niagara Escarpment Planning and Development Act, 1990*, outlines land use designations, land use policies, development criteria and permitted uses to ensure that the escarpment is maintained as a substantially continuous natural environment and that development is compatible with the natural environment. Within most of the Niagara Escarpment Plan area, the Niagara Escarpment Commission (NEC) is the primary land use planning authority, and in those areas, municipal zoning provisions do not apply. Certain types of development, including changing the grade or topography of a site or importing fill, may not be permitted within the Niagara Escarpment Plan area. Most forms of development require a Development Permit from the NEC.

Detailed maps showing the Niagara Escarpment Plan area can be viewed at www.escarpment.org. Contact the NEC to determine if the land is regulated under the Niagara Escarpment Plan, and if a development permit is required.



Figure 4. Niagara Escarpment Plan Area.

Greenbelt Act, 2005, and Plan

The Greenbelt Plan, which is established under the *Greenbelt Act, 2005*, protects an area of environmentally sensitive and agricultural lands in the Greater Golden Horseshoe (called the protected countryside) from urban expansions. The greenbelt also includes the lands covered by the Oak Ridges Moraine Conservation Plan and the Niagara Escarpment Plan (Figure 5). The Greenbelt Plan provides land use planning direction for municipalities to incorporate into their official plan policies and zoning by-law provisions. Some fill or site alteration

by-laws may restrict certain fill, grading or site alteration activities around key natural heritage and key hydrologic features and any associated buffer areas (called vegetation protection zones).

The Greenbelt Plan is implemented at the municipal level through the official plan and zoning by-laws. A detailed map showing the Greenbelt Plan area can be viewed at ontario.ca/cyn6. Contact the municipality to find out if the property is located in the greenbelt. They can also advise of any special requirements or restrictions.

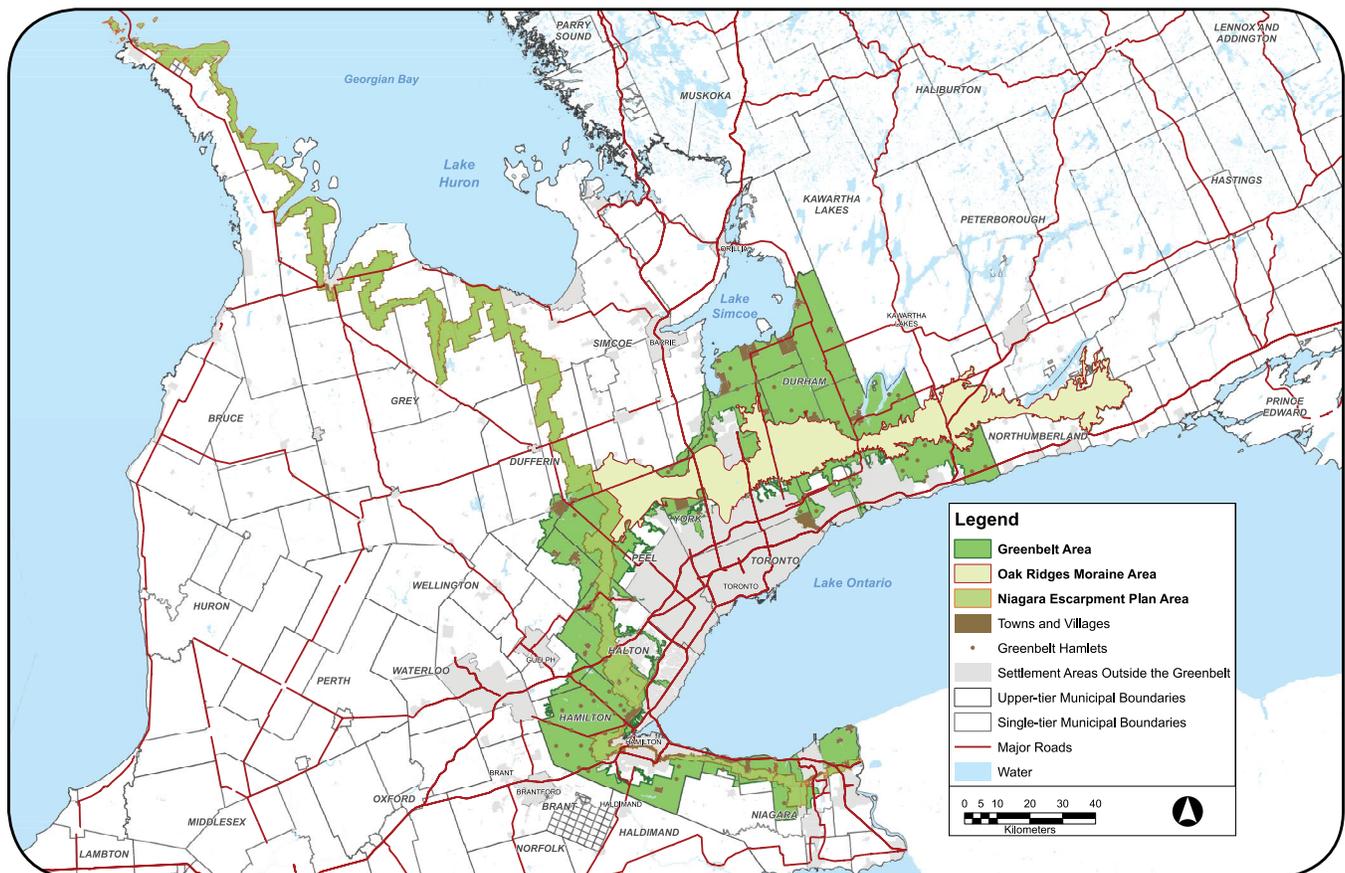


Figure 5. Greenbelt Plan Area.

BMPs in Project Planning

Transparent communication with applicable agencies is essential. Pre-consultation before starting the project can highlight requirements and additional legislation that must be followed and help to avoid issues later on. Also, early pre-consultation with nearby landowners may help to reduce the potential for conflict.

Retaining the services of a professional with expertise in soil testing, analysis, characterization, stockpiling and other soil management related activities is key to avoid encountering environmental issues with the project. Physical and chemical characteristics (e.g., quality) as well as the soil type and its geotechnical suitability are important considerations for determining if the soil to be imported is appropriate for the intended use. Professional expertise and judgement are needed to confirm the acceptability of the imported soil. The soil professional should use a risk-based approach and take into consideration the effects of loading associated with the concentrations of individual contaminants in the imported soil and the impacts on the pre-existing, ambient conditions at the site (i.e., receiving site).

Documentation and record keeping support the soil professional's assessment. Obtain copies of all soil test results and assessment work before any imported soil is accepted, received and managed. **It is very important to keep good records of where the imported soil is coming from and who hauled the soil.** This information may be useful in the future if problems with the soil are found and action is required.

The MOECC document, *Management of Excess Soil – A Guide for Best Management Practices* is a best practices document that provides guidance on how to handle excess soil generated from large-scale projects. It contains helpful information for soil receiving sites including the recommended contents of a Fill Management Plan which is intended to document the overall operating conditions for a receiving site. A Fill Management Plan prepared by the owner, a soil professional or a consultant or contractor will be very helpful at the fill or site-alteration by-law permit application stage. It will also help to facilitate the project's implementation.

Consult the MOECC document, *Management of Excess Soil – A Guide for Best Management Practices* for a complete listing of items that could be included in a Fill Management Plan (ontario.ca/moecc).

If hiring consultants and contractors to work on the project, consider obtaining written estimates, references for similar work that has been completed and contract documents.

BMPs in Soil Importation – Quality and Quantity

Healthy soil is a key component of sustainable agriculture and food systems. Sustainable soil management is needed to achieve long term economic benefits for the farm (e.g., maintain or improve crop yield and revenues, reduce operating costs), protect human and ecological health (e.g., mitigate risks) and reflect the public interest. A healthy soil has a greater resilience to both droughts and to excessive wet conditions. Also, healthy soil, because it has sufficient soil organic matter and good soil structure, tends to have lower erosion potential, less compaction, better water infiltration and better water holding capacity.

Soil texture refers to the relative proportion of sand, silt and clay in a soil and has a significant influence on the chemical and physical properties of a soil. Understanding how the soil responds to various climatic conditions will help to avoid crop productivity issues.

If considering importing soil onto the farm property, maintaining or enhancing the soil resource on the agricultural land may be achieved by:

- Importing topsoil which contains organic matter or deposits of partially decomposed organic matter such as peat.
- Importing soil of equal or better chemical and physical quality than what already exists on the property (i.e., **no degradation of on-farm soil quality**). Note that some of the physical soil structure parameters such as structural form, stability and strength; porosity; and bulk density may be negatively altered by material storage and handling activities — refer to the *BMPs in Soil Management – Storage, Grading and Incorporation* section.

- Avoiding soil that contains concrete, asphalt, demolition debris, rubbish, garbage or other materials such as rubber, plastics, metals or glass.
- Working closely with the soil professional to ensure that the imported soil is of suitable quality for the intended reuse, and developing/adopting protective, risk-based approaches for management of the imported soil on the farm.
- Consulting with a Certified Crop Advisor (CCA), Professional Agrologist (P. Ag.) or an agronomist for crop related questions or other agronomic considerations.
- Being vigilant about following the protocols for incoming soil identified in the Fill Management Plan – refer to the *BMPs in Project Planning* section.

The quantity of soil for importation must be assessed on a site-specific, case-by-case basis. The purpose of the intended reuse combined with the long-term plans for the property and other agricultural considerations such as type of crops, cropping practices, equipment and topography will have an influence on how much soil may be required.

Limiting the potential negative impacts associated with soil importation (refer to *Potential Issues with Imported Soil* section) can be facilitated by working closely with the soil professional to ensure that the quantity of soil imported is limited to that necessary for the intended reuse of the soil.

BMPs in Soil Management – Storage, Grading and Incorporation

Soil degradation may occur due to soil compaction, soil erosion and improper soil handling and storage. Soil characteristics such as texture, structure, porosity, permeability and compaction all affect internal drainage.

Soil structure refers to how the sand, silt and clay particles are arranged into clumps or aggregates. Structure is a measure of stability and strength and influences permeability/infiltration (i.e., water movement), heat transfer and root penetration. The structural integrity of a soil is weakened during handling. Minimize equipment operations where possible. Soil structure is also damaged by compaction which is the result of the pressing together of soil particles. Soil is particularly vulnerable to compaction when it is saturated. Carry out soil handling activities during dry conditions (i.e., avoid working the

soil under wet conditions). The use of wide track equipment or other equipment designed to distribute the vehicle weight more evenly across the soil will help to limit compaction. The pressure exerted by tracked vehicles is often less than the pressure exerted by rubber tired vehicles.

Material handling requirements will vary from one soil importation project to another. For projects such as grade alterations, the soil is typically placed directly where it is to be used. For other projects such as on-farm site development or construction activities, it may be necessary to stockpile the soil for later use. Direct placement of imported soil is the least expensive and most efficient approach as it reduces material handling and the associated equipment costs.

Avoid stockpiling soil for lengthy storage periods, especially if the imported soil is topsoil and is to be used as a soil health amendment to improve crop yield or as a bedding material to re-establish vegetation in an area that has been disturbed (e.g., by construction activities).

Prolonged storage is detrimental to soil health due to:

- breakdown of organic matter
- leaching of nutrients
- sterilization by solar radiation
- disturbance to microscopic organisms and
- soil compaction

If the imported soil is subsoil and is being used for grade alterations or on-farm site development or construction activities, storage periods are generally less of an issue provided measures are in place to ensure that any stormwater run-off or dust from stockpiled soil does not move off-site.

Grading plans with steep slopes have the potential to create significant soil erosion problems during fill, grading or site alteration activities and the vulnerability continues until vegetated cover in the disturbed area is established. Field slopes in the range of 0%-2% up to 150 m long can normally be controlled with conservation cropping and tillage practices. Field slopes steeper than 2% and longer than 150 m may require additional considerations as might the lesser field slopes in some cases. Consider erosion protection measures in the form of vegetative cover (e.g., cover crops), silt fencing and mulch during the restoration period. Information related to soil erosion and a listing of soil erosion control contractors certificate holders

can be viewed at ontario.ca/omafra and search for “erosion control contractors certificate holders”.

Integration of imported soil into the existing soil profile is an important consideration. Depending on the quality of the imported soil and the nature of the project, it may be advisable to strip off and stockpile the existing topsoil, sod and turf materials and reuse them as final cover once the imported soil has been added to the subsoil layer. Topsoil if added in a 100–150 mm layer can be incorporated into the existing soil through light tillage and the natural action of the soil biology.

The addition of organic amendments such as manure will help to build organic matter and improve soil structure, strength, fertility and water holding capacity. Ontario Regulation (O. Reg.) 267/03 under the *Nutrient Management Act, 2002* and the Nutrient Management Protocol provides information on land application practices and agronomic rates for the addition of nutrients to promote crop growth.

More information on these and other best management practices related to the management of soil, excess soil and soil erosion can be found in the OMAFRA and MOECC publications listed in the *Resources* section. Ministry of Municipal Affairs information pertaining to provincial land use planning is also referenced.

RESOURCES

Ontario Ministry of Agriculture Food and Rural Affairs ontario.ca/omafra

- BMP 06, *Soil Management*. ontario.ca/cyjn
- BMP 16, *Manure Management*. ontario.ca/cyjo
- BMP 26, *Controlling Soil Erosion on the Farm*. ontario.ca/cyjp
- OMAFRA Factsheet 12-053, *Soil Erosion – Causes and Effects*. ontario.ca/cyjq

Ministry of the Environment and Climate Change ontario.ca/moecc

- *Management of Excess Soil – A Guide for Best Management Practices*. ontario.ca/document/management-excess-soil-guide-best-management-practices
- *Proposed MOECC Excess Soil Management Policy Framework*. ontario.ca/cylb

Ministry of Municipal Affairs ontario.ca/mah

- Provincial Land Use Plans. ontario.ca/bzln

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Appendix II - Links to Relevant Media Coverage

<https://www.cbc.ca/news/canada/toronto/gta-soil-illegal-dumping-black-market-1.4781717>

<https://globalnews.ca/news/5230731/ontario-government-legislation-curb-illegal-soil-dumping/>

<https://www.thespec.com/news/hamilton-region/2019/05/02/ontario-proposes-new-law-to-crack-down-on-soil-dumping-in-wake-of-waterdown-garden-supplies-complaints.html>

<https://georginapost.com/2022/04/10/town-of-georgina-takes-property-owners-to-court-for-illegally-dumping-fill/>

https://www.thestar.com/news/gta/2014/10/20/toxic_dirt_dumped_in_ontarios_prime_farmland.html

<https://www.cbc.ca/news/canada/hamilton/headlines/we-need-tougher-dirt-dumping-regulations-now-hamilton-tells-province-1.3484566>

Copies of the above-listed articles are provided on the following pages of this Appendix.

Toronto

GTA building boom spawns shadowy 'black market' for waste soil

Excavated soil in Ontario could fill 16 Rogers Centres annually

[Michael Smee](#) · CBC News · Posted: Aug 13, 2018 4:00 AM ET | Last Updated: August 13, 2018



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The housing development boom in the GTA has spawned an accompanying, much more dangerous business: illegal dumping of unwanted, and sometimes toxic, soil.

The dirt dumps are popping up on farmers' fields and vacant lots across the region, according to the Lake Simcoe Region Conservation Authority — one of the organizations that's trying to curb the burgeoning trade in illegal soil.

"I've seen trucks — 10, 20 deep — parked along the road coming in and dumping every couple of minutes. If you can generate 30 loads an hour at \$100, that's three grand an hour," said Rob Baldwin, planning head at the LSRCA.

“It absolutely creates a black market.”

- Rob Baldwin, LSRCA planning head

"If that's half the cost of a legal tipping site, that's the lucrative side for those companies that are disposing of the fill. It absolutely creates a black market."

The problem arises from the fact that every time another basement in a new subdivision is excavated, the dirt has to be dumped somewhere. Rather than using the province's regulated, and costly, soil dump sites, some contractors are turning to soil brokers — middlemen who, for a fee, match builders with willing landowners.



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Lake Simcoe Region Conservation Authority planning head Rob Baldwin wants increased powers to investigate properties that he suspects are being used as illegal dump sites. (Tina Mackenzie/CBC)

And those middlemen, Baldwin says, are often members of organized crime groups.

"We've heard a lot of stories about certain organized crime entities, whether it's the the local biker gangs, as well as the Mafia being involved," he said.

"It's a very cash heavy business."

The LSRCA has become involved because wetlands and shorelines, which are often tantalizingly vacant, have become favourite options for illegal dumpers, Baldwin says.

- [**We need tougher dirt dumping regulations — now, Hamilton tells province**](#)

And there are serious risks to the public, he adds.

When tonnes of dirt, toxic or clean, are dumped onto a flood plain, it raises the risk that the next heavy rainfall could lead to a serious flood.

"If you have a thousand dump truck loads in the flood plain that take up all the space for the water, where is that water going to go? To the house next door?"



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Linda Kapeleris says she's fed up with dump trucks travelling day and night to illegal soil dump sites near her home. (Tina Mackenzie/CBC)

As well, he says, landowners who illegally accept soil for a price — usually \$75 to \$100 a truckload — have no way of knowing if it contains contaminants. If it does, the landowner is on the hook for the clean-up price, which can be tens of thousands of dollars.

In an area as fertile as the Holland Marsh, which the LSRCA regulates, Baldwin says there's also a real danger that the food supply could become contaminated.

The public in some of these areas appears to be taking notice. Baldwin recently identified a property on Ravenshoe Road in Georgina Township, near Keswick, that was being used a dump site.

Neighbour Linda Kapeleris has lived on Ravenshoe Road for 27 years and she says it's obvious that the area has become a hotbed for illegal dumping:

"They've even started dumping at night," she told CBC Toronto.

"A dozen dump trucks racing along there at midnight, 1 a.m. I've gotten up at 3 a.m. to see if they're ever going to stop."

It is legal for developers to dump waste soil from new subdivisions on private land, provided the owner of the property has received a permit from either the local conservation authority or

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Excess soil lies in a pile near the site of a new subdivision in Queensville, just north of Toronto. (Mike Smee/CBC)

And there is a lot of waste soil being generated.

"We do know that there's about 25 million cubic metres of soil looking for a place to go every single year in Ontario," he says.

"You can imagine the Rogers Centre? Sixteen of those filled with dirt every year. Some of it's contaminated, some of it's not."

Legal dumps too pricey

But at a cost of \$150 or more per truckload, legitimate sites can be expensive for developers, compared to the prices charged by unregulated dump site, even when the broker's fee is tacked on.

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Baldwin says the landowner took significantly more than was allowed but declined to say how much more.



Ian McLaurin, of the Ontario Soil Regulation Task Force, says new construction in Ontario creates enough excess soil to fill 16 Rogers Centres annually. (Tina Mackenzie/CBC)

"Unfortunately it's a scenario that's common around the watershed," he explains.

It's the disregard for local wetlands and fertile fields that most bothers Kapeleris.

"Supposedly it's the best farming soil around, so why are you dumping on it," she says.

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Conservatives.

Those rules would require that all soil removed from construction sites be tested for contaminants. It would also put in place mechanisms for tracking where the soil is shipped.

As well, Baldwin says the new rules would increase fines for illegal dumping, and give the LSRCA more power to enter private properties that he believes are harbouring illegal soil dumps.



Every time a new basement is excavated, that soil must be transferred to another location. (Tina Mackenzie/CBC)

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POLITICS

Ontario government introduces legislation to curb illegal soil dumping



By **Anthony Urciuoli** • 900 CHML

Posted May 2, 2019 10:18 am



Waterdown Garden Supplies in Troy, Ont. The Ontario government has announced legislation that would stiffen penalties for illegal soil dumping. **Google Street View**





The Ontario government has announced legislation that would stiffen penalties for illegal soil dumping.

Flamborough-Glanbrook MPP Donna Skelly announced the Made-in-Ontario Environment Plan on Wednesday.

“I have been working with residents and Ministry staff to address concerns of alleged illegal dumping at [Waterdown Garden Supplies Ltd],” said Skelly.

“The proposed changes will not only prevent illegal dumping in Flamborough but also illegal dumping in other rural areas across the province.”

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READ MORE: [Outrage over contaminated soil dump in Verdun](#)

Skelly says the government is proposing changes that will reduce the risk of contaminated soil being mismanaged and will allow for the redevelopment of historically contaminated sites, putting vacant lands back to use.

“These changes will make it safer and easier for more excess soil to be reused locally by clarifying rules associated with managing and transporting

excess soil and limiting the amount of soil being sent to landfills while penalizing those who dump soil illegally,” said Skelly.

“Strengthening our enforcement tools will allow administrative penalties to be issued for environmental violations, holding polluters accountable.”

The proposed changes would require developers, haulers, and excess soil recipients to register the quality, quantity, and destination of the soil.

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0:50

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Ward 12 City of Hamilton Coun. Lloyd Ferguson called the problem “chronic,” claiming that as many as 600 trucks per day are dumping soil at Waterdown Garden Supplies off Highway 5, which also impacts traffic.

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“It’s not just in Flamborough, it’s all of our rural areas,” Ferguson said in an interview on 900 CHML’s Billy Kelly. “We’re seeing more and more of what’s called ‘surplus excavated material’ coming in from Toronto and being dumped into Hamilton.”

READ MORE: [‘Climate change will cost us more’: Ontario Green Party releases rival gas station sticker](#)

“When they put up these big condo facilities now, particularly along the [Toronto] waterfront, they’re going down six or seven floors for parking. That’s a lot of excavated material that needs to be disposed of.”

Ferguson added that municipalities in Greater Toronto have clamped down on soil dumping, inadvertently redirecting the material to the Hamilton area.

Those in violation of the proposed provincial changes could fine up to \$200,000 for each incident under the Environmental Protection Act.

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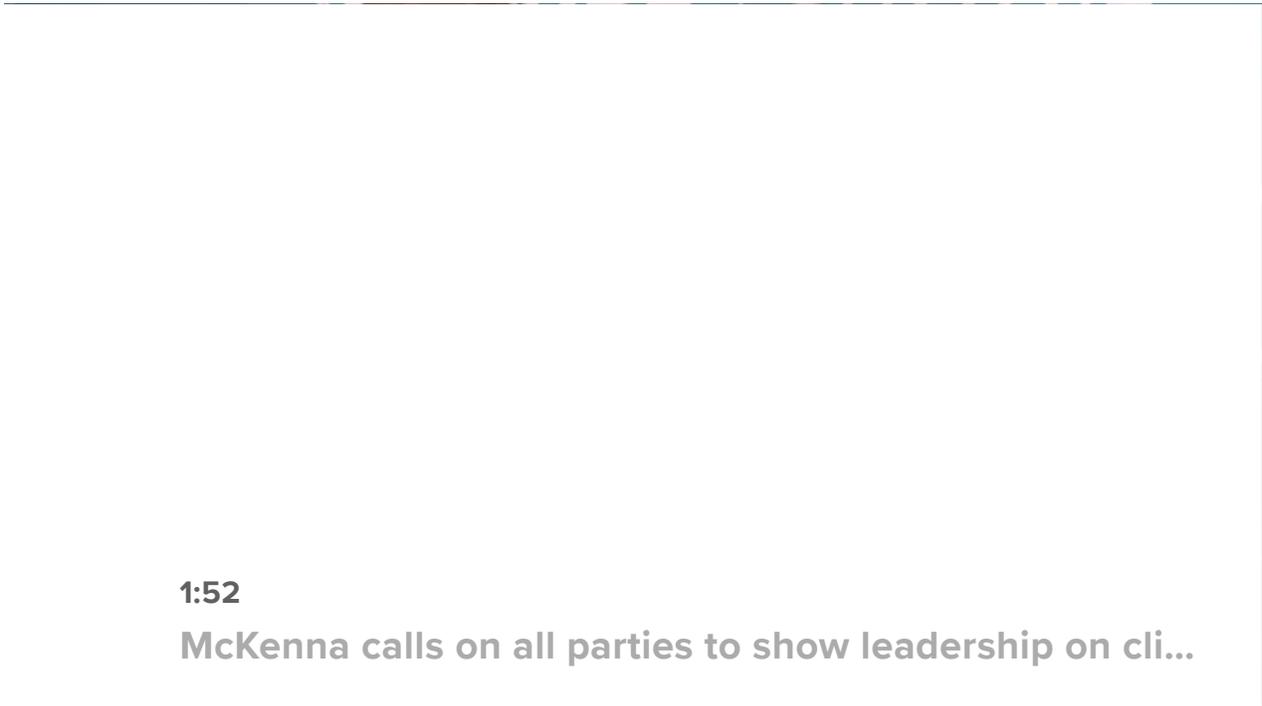
The government is also proposing to further increase the fine.

In addition to the provincial legislation, Lloyd Ferguson says he’s working on a bylaw to clamp down on rural properties taking too much soil.

It would require people and businesses to apply for permits before they accept fill.

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HAMILTON REGION

Ontario proposes new law to crack down on soil dumping in wake of Waterdown Garden Supplies complaints

It's alleged that more than 24,000 loads of soil and other fill have been dumped on the 40-hectare site just west of Peters Corners.

By **Steve Buist** Spectator Reporter

The Hamilton Spectator

🚩 Thu., May 2, 2019 | ⌚ 4 min. read

🕒 Article was updated Mar. 02, 2020

The Ontario government is introducing new legislation that will toughen the rules around the excavation, hauling and dumping of excess soil.

The proposed legislation, spearheaded by Flamborough-Glanbrook MPP Donna Skelly, comes in the wake of long-standing [complaints from neighbours](#) about massive amounts of soil that have been dumped at the Waterdown Garden Supplies Ltd. property on Highway 5 West in rural Flamborough.

It's alleged that more than 24,000 loads of soil and other fill have been dumped on the 40-hectare site just west of Peters Corners. Neighbours around the site allege some of the material dumped there is contaminated.

"This legislation is truly a direct result of the issues that were raised by neighbours in the area and the farmers who are so concerned about what has been dumped at that site," Skelly said in an interview.

Skelly said the new legislation will require developers to register online the quantity and quality of soil to be moved offsite and list the destination where it will be hauled. The soil will have to be tested on-site to determine if it's contaminated.

Truck drivers hauling the material will have to register the quantity and quality of every load hauled, while the site receiving the soil must also register the quantity and quality.

Potential fines for violations have been raised to \$200,000 per incident and trucks not in compliance could lose their licence plates.



Piles of soil are seen on the property of Waterdown Garden Supplies. | Cathie Coward, The Hamilton Spectator



"This legislation is truly a direct result of the issues that were raised by neighbours in the area and the farmers who are so concerned about what has been dumped at that site," MPP Donna Skelly said in an interview. | Kevin Werner/Metroland/file

"It is a significant change to environmental protection in Ontario and it's because of Waterdown Garden," said Skelly.

"I think this is a very, very good step forward to prevent this from happening again not only in Flamborough but right across Ontario," she added.

The proposed legislation faces a 30-day consultation period plus the mandatory three readings in the legislature. Skelly hopes the law will be passed during the current legislative session.

Much of the soil that needs to be excavated and hauled in the Greater Toronto Area comes from the construction of highrise condominiums, many of them in Toronto. In some cases, the developers will need to dig down the equivalent of seven stories for underground parking and footings.

Read more:

[Five things to know about the investigation into Havana Group Supplies Inc.](#)

[Ward 12 councillor says action needed on soil dumping: 'We can't allow this gong show to continue'](#)

[The mobster, the fraudster and the \\$110-million-a-month construction business: The story of a Hamilton company's alleged scam](#)

As GTA communities crack down on soil dumping through municipal bylaws, developers and truck operators are looking further afield for places to put soil, including rural parts of Hamilton.

Under the current legislation, the environment ministry says it has no jurisdiction over the movement of clean soil.

"Excess soil is a growing concern for communities, developers and our environment," stated Rod Phillips, Ontario's minister of the environment, conservation and parks.

Lloyd Ferguson, councillor for Ancaster and rural west Flamborough, said the city [currently has no bylaws](#) in place that prevent the dumping of clean soil on rural land.



Coun. Lloyd Ferguson's now trying to draft a new bylaw that would require landowners in rural areas of Hamilton to obtain a permit to dump specific amounts of soil in specific places on a property | Spectator file photo

He's now trying to draft a new bylaw that would require landowners in rural areas of Hamilton to obtain a permit to dump specific amounts of soil in specific places on a property.

"We don't want to grind development to a halt but we have to do it while protecting the environment," said Skelly.

"Don't get me wrong, the industry has good players," she said. "But some players, as you have discovered, are not playing by the rules."

In addition to allegations of contaminated soil, neighbours around the Waterdown Garden Supplies property allege that loads have sometimes been dumped on-site in the middle of the night.

The owner of the site says he's only holding the property as a mortgagee because of a default court judgment and doesn't know if contaminated soil has been dumped there.

Jim Whelan, who lives across the road from the Waterdown Garden Supplies property, praised Skelly for aggressively pushing for the new law since she was elected last year.

"It's a sigh of relief for the residents here," said Whelan. "This problem is way bigger than people realize."

The key, Whelan added, is for the new rules to be policed properly.

"You can have all kinds of laws but if they're not enforced it's just a piece of paper," he said.

[- Five things to know about the investigation into Havana Group Supplies Inc.](#)

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Town of Georgina takes property owners to court for illegally dumping fill

April 10, 2022

By Mike Anderson

The Town of Georgina is taking legal action against two local property owners who have been illegally dumping fill from construction sites on their properties.

According to a Town spokesperson, the owners of 22954 Warden Ave. and 6522 Ravenshoe Rd. have been operating without a permit to dump fill on their property, contravening the Town's fill by-law.

"The Town's lawyer has been instructed to bring court applications in which orders will be sought restraining the owners from breaching the Town's by-law and requiring the owners to remove the illegally dumped fill," said Tanya Thompson, communications manager for the Town of Georgina, in an email to the Post.

Ross Draper owns the property at 22954 Warden Ave., and 6552 Ravenshoe Rd is owned by a numbered company, 1580524 Ontario Ltd., which is registered to Ronald De Bruin.

Both properties cut across LSRCA regulated areas and are adjacent to wetlands.

The Town's legal action follows a formal complaint by Alec Cloke, president of United Soils, a large clean fill disposal business in Stouffville.

In an email addressed to Regional Councillor Rob Grossi and Ward 3 Councillor Dave Neeson on April 3, Cloke says that the property owners have been accepting untested fill, mostly from Hydrovac (vacuum) trucks, on a daily basis for years.

Cloke demands the Town take action to stop the illegal dumping of fill, which he says hasn't been tested for contaminants, which is a provincial requirement.

He also warns that Georgina Town Council could face legal action if the illegal dumpsites were not shut down.

"Town council and senior staff have a fiduciary duty to uphold the legislation designed to protect the public, and you aren't doing that," Cloke writes.

Alec Cloke, president, United Soils

Thompson confirmed that the Town had taken previous actions against both property owners, but they appear to have had little effect.

A Superior Court proceeding was filed against Draper, the owner of 22954 Warden Ave., and cease and desist correspondence was sent to De Bruin, the owner of 6522 Ravenshoe Rd.

"What's happening in Georgina doesn't involve testing or any of the proper handling methods that the industry recognizes," Cloke said.

Cloke told the Post that vacuum trucks must dump their loads at registered fill sites.

However, if the material is determined to be waste, it is immediately diverted to a waste transfer station.

Cloke says that not all material that comes out of a vacuum truck is contaminated, but he says you better be able to prove it isn't.

He says some vacuum truck operators are trying to avoid the cost of tipping at registered clean fill sites or have contaminated fill that would be rejected.

Currently, only a few facilities in the GTA accept contaminated fill, and tipping fees are considerably higher.



Hydrovac truck at United Soils



Hydrovac truck fill tested at United Soils

“Nobody should be dumping anything unless the property you are dumping on has a fill license, which we have to get renewed annually,” said Cloke, who constructed an \$800,000 facility to process loads from vacuum trucks.

Cloke says there is no value to the landowner to take wet fill from vacuum trucks; he says it’s just a cash grab.

“It costs \$300 to dump here, and they’re probably giving the landowner \$150,” he said.

Cloke says contaminated wet fill could seep into the water table, impacting residential wells.

He also points out that both properties are sitting next to a protected marsh, threatened by leaching wastewater.

Cloke wants to see stiffer provincial fines for property owners operating illegal dumpsites. But he says it's up to the Town to shut the sites down. He says the Town should monitor suspected sites 24-7.

"They should be writing down the license plate of the trucks. Recording the time they came in and taking their picture to go after the companies that are doing it," he said.

"Any truck caught dumping illegally should have their operating license taken away. It would be the end of all this illegal dumping."

Cloke says there has been too much passing the buck between municipalities, conservation authorities and the province, allowing illegal dump sites to go unchecked.

"The Town is not doing enough to shut this down. It's 100 per cent the Town's responsibility," he said.

"It wants all the benefits of being on Lake Simcoe, all the tourists, all the beaches, all the money. But it's not doing anything to protect it."

"If the Town of Georgina, one of the largest communities on Lake Simcoe, doesn't protect the lake, who will protect it?"

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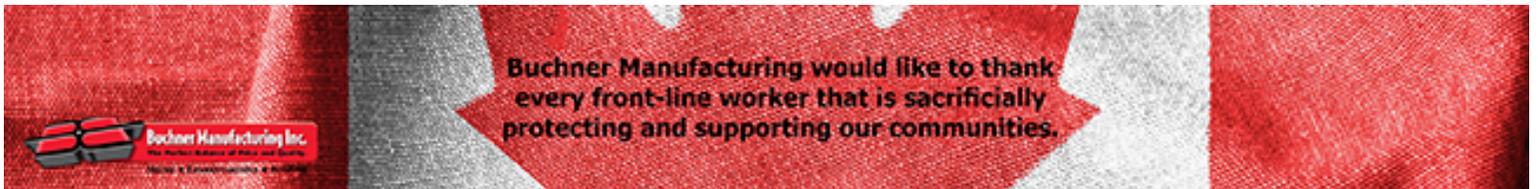
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GTA

Toxic dirt dumped in Ontario's prime farmland

With lax rules and no tracking system, Ontario sits idly while Toronto's contaminated dirt is dumped in the countryside.

By **Moira Welsh** Staff Reporter

🚩 Mon., Oct. 20, 2014 | ⌚ 9 min. read

READ THE CONVERSATION

Toronto's construction boom is unearthing massive volumes of soil contaminated with dangerous heavy metals and petroleum, but it's nearly impossible to know where the dirt is going because Ontario doesn't track it.

Instead, thousands of tonnes of toxic earth taken to prime farmland from downtown condominium projects are usually discovered accidentally — by neighbours who report bad odours from soil that is supposed to be “clean.”

Long-term, experts warn of contamination of agricultural land and groundwater, often in the Greenbelt or [Oak Ridges Moraine](#).

Landfill operators say the final destination of the tainted soil is a mystery. At a time when excavation projects have spiked, there's been a dramatic drop in the number of trucks taking the dirt to the special landfill sites that can safely manage toxins, said Rob Cook, executive director of the Ontario Waste Management Association.

That leads to the “potential for large amounts of contaminated soil being improperly managed,” Cook said.

Ontario's lucrative soil industry operates with little government oversight. There's no regulated tracking system, no proper definition for “clean” soil and not enough rules to govern where the soil is taken.

The Star asked the province and various agencies to provide an accounting of where all the soil from big dig projects like the [Pam Am Athletes' Village](#) and downtown condominium sites was dumped. Neither the province nor any other agency could provide the information.

Environment Minister Glen Murray told the Star in an interview that better controls are needed to deal with what he termed a “serious issue” that for him is at the “top of environmental and economic concerns” in Ontario.

Years of lax oversight infuriate country residents, from Schomberg in the west to Lakeridge in the east, who fear their health is being sacrificed in the rush to finish big Toronto projects.

Carmela Marshall, of Lakeridge Citizens for Clean Water, said the drive to build infrastructure in Toronto and surrounding area will leave a dangerous legacy. “How many years before it gets in our groundwater? Five years? People are afraid.”

Here's what we know: In peak construction years, up to 50 million tonnes of dirt are excavated in Ontario projects, most from the greater Toronto region, at an annual cost of \$1.7 billion, according to the Residential and Civil Construction Alliance of Ontario. Industry experts say that roughly 15 per cent of that soil, as much as 7.5 million tonnes, is contaminated and should go to approved landfill or remediation sites. How much of those 7.5 million tonnes went to approved sites is unknown.

So where's all that dirt going? It's impossible to miss the dump trucks. They thunder across country roads to the north, east and west of Toronto, leaving sleepy towns in their dust. Talk to truck drivers at the Tim Hortons in Schomberg and they all say they're carrying fill from downtown Toronto construction sites. They all say their dirt is clean, but most don't know what they are carrying.

Sheep farmers Ruco and Kimberly Braat agreed to accept loads of soil in the summer of 2011. The couple and their two children live in the Peterborough County hamlet of Bailieboro (renowned for its butter tarts) and needed earth for the base of a barn.

Two men were offering free soil to farmers and Braat said he agreed to take hundreds of truckloads — with the strict proviso that it was clean. Later, a neighbour who wanted some for his property had it tested. The results were horrifying.

The pile of dirt their kids had been sliding on a few days earlier was steeped with polyaromatic hydrocarbons and heavy metals like barium, cadmium, copper and lead. The family complained to the provincial environment ministry.

After an investigation, the ministry filed Environmental Protection Act charges against soil contractor [Green For Life](#) (the company is also Toronto's garbage collector) and a soil broker called Earthworx. No one from Earthworx would comment.

GFL's president and CEO, Patrick Dovigi, said his company was not to blame for the toxic soil on the sheep farm. He said another contractor dumped the bad soil. The case is still before the courts.

According to Dovigi, GFL has been unfairly ensnared in several ministry investigations because it relies on the "hit and miss" accuracy of soil contamination tests done at the construction site by the "qualified persons" (called QPs) hired by developers. Dovigi's point is that his company is paid to haul dirt, not conduct scientific tests.

"The QP," said Dovigi, "is the kingpin. It's not our fault if they say the soil is clean and it turns out they're wrong."

Activists like Marshall agree the soil tests are open to interpretation. The results of these tests are included in the developers' "soil management plans," documents that critics say the ministry could collect and analyze. Currently, the ministry is only required to oversee "adverse" impacts under the Environmental Protection Act.

With limited provincial rules, individual municipalities are left to oversee fill operations, creating an ineffective patchwork enforcement system.

If it's confusing for country residents, the operators of landfills that were supposed to get the soil are equally perplexed. The circuitous path of tainted dirt from the Pan Am Athletes' Village provides one example.

Once an industrial dumping ground, the 32-hectare site near the Don River has been transformed by glass condominiums that will be home to 10,000 athletes and coaches during next summer's Pan Am and Parapan Am Games. The buildings will later be sold at market value by the private developer.

Infrastructure Ontario said GFL started the village job on Oct. 16, 2011, taking 248,000 cubic metres (depending on soil density, that's as much as 500,000 tonnes) to ministry-approved sites. The dirt was either tainted (with petroleum and metals) or needed extra tests to determine contamination levels, said an official from Infrastructure Ontario.

Here's the conundrum: Walker Environmental's Mike Watt said GFL's Dovigi told Walker it would get roughly 200,000 tonnes from the village dig. Instead, Watt said only 25,000 tonnes arrived at his landfills. In an interview, Dovigi said he strongly disputes those figures.

As the Star continued asking questions, Infrastructure Ontario offered the names of six sites where it claimed the dirt was taken. Two landfills were owned by Walker and two were owned by a company named Newalta, which said it got 8,930 tonnes. The fifth site was a soil treatment facility called Green Soils, but its owner, Ashley Herman, said he's never directly received dirt from the village.

The final site named is a GFL-owned soil remediation facility in Pickering that can clean out hydrocarbons (from oil or diesel) and identifies (but doesn't remove) heavy metals.

During a series of interviews, emails and text messages, Dovigi told his story to the Star. He said about 100,000 tonnes of the Pan Am dirt was taken to his remediation facility and later was mixed with municipal garbage and trucked across the U.S. border to the Pine Tree Acres Landfill in Michigan. A Michigan landfill official said the soil met state standards. Dovigi also said that some of the Pan Am dirt at the Pickering site was mixed with soil from other jobs, making it difficult to know where it ultimately landed.

Environmental groups say the confusion over the Pan Am dirt illustrates the challenge of tracking soil.

Now, groups like Lakeridge Citizens for Clean Water, Earthroots and Save the Oak Ridges Moraine are demanding the tough regulations of a "clean soil act." They're seeking rigorous laws that include soil tracking, a definition for "clean" dirt and rules to govern where contaminants are taken.

"The GTA is surrounded by the best farming land and drinking water sources and we will be polluting it for generations if the government continues to turn a blind eye to this problem," said Earthroots' Josh Garfinkle.

Clean or dirty, Toronto's excess dirt ends up in quarries, farmers' fields or "aerodromes," the federally regulated landing strips in the country that offer some landowners a loophole to circumvent municipal soil rules. Many of these so-called airways take in hundreds of truckloads of dirt each day, transforming rolling green meadows into barren hectares of dirt.

Some landowners who take the soil are getting rich. They get between \$30 to \$50 for each load. With at least 150 trucks a day, the annual earnings can be \$2 million or more.

A stone's throw from Port Perry, Greenbank Airways advertises itself as a country air strip. But the regular arrival of dump trucks provides far more action than a few small planes.

Greenbank is owned by Ajax resident Robert Munshaw, the previous owner of the Pickering site where GFL built its remediation facility. Greenbank pays a "qualified person" to test for contaminants on its site and a January 2014 report by the consultant noted that 385 tonnes of tainted dirt were found at Greenbank in 2013. The report, obtained by the Lakeridge Citizens for Clean Water, said the dirt in question was removed and "returned" to GFL's site in Pickering.

Munshaw wouldn't speak to the Star, but Dovigi said this finding shows that Greenbank's system works. He also said that the tainted dirt likely came in one load and was spread around the Greenbank site.

The environment ministry didn't investigate this contamination case, saying that's the role of the local government.

Toxic dirt investigations by the ministry are few. The Star asked for all inspections, investigations and enforcement for the last five years, which coincided with the construction boom. There were fewer than 20 in the greater Toronto region.

In the ministry's list, most companies were named just once. For example, Trillium Recycling, of Etobicoke, is in mediation with the ministry over "table three" soil (considered to be a waste) found on old rail lands in Haldimand County.

Trillium's lawyer, Mauro Marchioni, said his client had the misfortune to be the last company to drop dirt on the site, despite years of dumping by others. "If the property has gone through six sets of hands and (the ministry) gets the last guy, that's who they go after," Marchioni said.

GFL was named six times in the ministry records. Two follow-up inspections west of Toronto found no outstanding issues. East of Toronto, the ministry named GFL in four cases involving contaminated soil, most of which has since been removed. Ministry documents said the tainted dirt came from GFL's remediation facility where soil mixing made it "difficult to determine" the site where it originated.

Dovigi said GFL is targeted because its remediation facility in Pickering is subject to strict government rules. Other soil contractors just pick up the dirt and drop it off, so they don't face the same scrutiny, he said.

The government oversight of the Pickering facility is part of GFL's defence in the case of the sheep farmers, who are now suing GFL and Earthworx for nearly \$5 million. In GFL's statement of defence, it says that contaminated soil is treated and tested by third parties to "confirm" that it complies with ministry standards. (The current system, which critics say can be loosely interpreted, uses contamination levels set out in "tables" that range from low to high.)

In the end, the Braats estimate that at least 700 truckloads were dumped on their farm. Dovigi said GFL only dumped 192 loads. Under ministry orders, GFL removed all of the soil. GFL is now countersuing for \$600,000 in removal costs, alleging the Braats benefited from GFL's "good deed." The Braats said they were not enriched "in any way" by GFL's actions.

The farmers have since sold 100 of their 450 sheep to pay for soil tests, legal fees and other expenses. "I feel like we're starting all over," Braat said.

Cook, of the Ontario Waste Management Association, warns that one day the province will take a similar financial hit for this "environmental travesty."

"When the birds come home to roost and somebody needs to clean up these sites, it's going to fall on the taxpayer's back."

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We need tougher dirt dumping regulations — now, Hamilton tells province

Trucks full of fill arrive in Flamborough by the hundreds each year, and some brokers make \$20K a week

[Samantha Craggs](#) · CBC News · Posted: Mar 10, 2016 8:30 AM ET | Last Updated: March 10, 2016



Trucks carrying fill from GTHA construction projects trail dirt and damage roads in Flamborough, says Coun. Rob Pasuta. The city has been battling the fill issue for years, and hopes new provincial regulations will make at least some difference. (Samantha Craggs/CBC)

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It's not quite the answer to Flamborough's dirt woes, but it will help.

The province is establishing new rules to keep potentially toxic dirt from being dumped around rural Ontario, and Hamilton is taking part.

Rural Flamborough and Glanbrook have battled for years with hundreds of trucks full of dirt — much of it dug up from GTHA subdivisions and condo projects — being dumped around the countryside every day.

While some law-abiding property owners have permits to accept dirt, other loads are dumped illegally, or in amounts that surpass what the permit allows. And until now, the city has been scrambling to try to get a handle on it.

“It's a step, finally.”

- Robert Pasuta, Ward 14 councillor

The province is establishing a new "excess soil management policy framework" that would give the province and municipalities more teeth to crack down on dirt woes. The Ministry of Environment and Climate Change is [asking for public input until March 26](#). Hamilton will weigh in.

- [Flamborough struggles to combat dumping of illegal Toronto dirt](#)
- [Court fines Flamborough land owners for taking dirt](#)

Robert Pasuta, a Ward 14 councillor who has been tackling the issue for about five years, says the framework isn't a total solution. But it helps.

"We have to have more enforcement, heavier fines and act quickly, more quickly than we ever have," he said. But "it's a step, finally."

The city will urge Ontario to put more onus on the person who digs up the dirt in the first place — namely, the developers.

Where to put the dirt, and testing what's in it, should be part of a project from the planning stages, Pasuta said. And Hamilton is telling the province that.

The city will also urge more communication between municipalities and conservation authorities. Authorities issue permits for legal fill, as does the city under its site alteration bylaw. But the two often don't communicate about it.

It won't solve the whole problem of fill, Pasuta said. After all, rules only help manage people who abide by them, or people the city can find to regulate. And there are plenty of illegal dirt dumpers in rural Flamborough.

- [Toronto dirt dumped in Hamilton, and Flamborough fights back](#)

Pasuta and others say that dirt dumping continues to be a lucrative enough business that it encourages people to find loopholes.

Typically, a fill broker approaches rural landowners and offers them money — usually \$5 to \$10 per load, or services in trade – to take the fill. The brokers then pocket bigger money from developers wanting to get rid of it. Nathan Murray, a Conservation Halton watershed enforcement officer, told CBC News last year that he [knows of fill brokers who make \\$20,000 a week](#).

Pasuta and local conservation authorities are worried about what's in the fill, too. Often, it soil on top, Pasuta said. But deeper down, it contains rocks, bits of steel and scraps of old tire.

Authorities have been cracking down more often on brokers and landowners on the issue of fill. Last year, an Ontario court fined a Flamborough couple \$1,500 for [taking more than 2,000 loads of fill](#).

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