

# ***THE CITY OF VAUGHAN***

# ***BY-LAW***

## **BY-LAW NUMBER XXX-2023**

**A By-law to prohibit or regulate the Removal of Topsoil, the Placement of Fill, and the alteration of Grade of land within the City of Vaughan.**

**WHEREAS** Section 11(2) of the *Municipal Act, 2001*, as amended, authorizes municipalities to pass by-laws respecting the economic, social, and environmental well-being of the municipality.

**AND WHEREAS** Section 142 of the *Municipal Act, 2001*, as amended authorizes the City of Vaughan to enact by-laws to prohibit or regulate the Placement of fill, the Removal of Topsoil, and the alteration of the Grade of land in the City of Vaughan.

**AND WHEREAS** Section 142 of the *Municipal Act, 2001* as amended further authorizes local municipalities to require that a Permit be obtained for the Placement of fill, the Removal of Topsoil, and the alteration of the Grade of land, and to impose conditions to such Permits.

**AND WHEREAS** Section 398 of the *Municipal Act, 2001* as amended, authorizes a municipality to add fees and charges to the tax roll for a Property and collect them in the same manner as municipal taxes.

**AND WHEREAS** Section 444 of the *Municipal Act, 2001* as amended, authorizes that the municipality may make an order requiring the Person who contravened the by-law or who caused or permitted the contravention or the Owner or occupier of the land on which the contravention occurred to discontinue the contravening activity.

**AND WHEREAS** Section 445 of the *Municipal Act, 2001* as amended, authorizes that where the municipality is satisfied that a contravention of the by-law has occurred, the municipality may make an order requiring the Person who contravened the by-law or who

caused or permitted the contravention or the Owner or occupier of the land on which the contravention occurred to do work to correct the contravention.

**AND WHEREAS** Section 446 of the *Municipal Act, 2001* as amended, provides that where a Person fails to do something that is required under a by-law, the municipality make undertake to do the thing required at the Person's expense and the costs may be collected in the same manner as property taxes.

**AND WHEREAS** the provincial government has introduced Ontario Regulation 406/19 "On-Site and Excess Soil Management" under the *Environmental Protection Act*, to support improved management of Excess Soils.

**NOW THEREFORE** the Council of the Corporation of the City of Vaughan ENACTS AS FOLLOWS:

#### **1.0 Short Title**

- (1) This By-law shall be known and may be cited as the "Site Alteration By-law."

#### **2.0 Definitions and Interpretations**

- (1) In this By-law and attached Schedules, unless the context otherwise requires, words imparting the singular number shall include the plural, and words imparting the masculine gender shall include the feminine and further, the converse of the foregoing also applies where the context requires.
- (2) That the words "include," "includes" and "including" are not to be read or interpreted as limiting words, phrases or descriptions that precede them.
- (3) If any provision or part of a provision of this By-law is found to be invalid or unenforceable for any reason, then that particular provision or part thereof shall be deemed to be severed from the remainder of By-law. All other provisions or parts of the By-law shall remain in effect and enforceable to the fullest extent permitted by law.
- (4) That any references in this By-law to statutes or statutory provisions may from time to time be amended, extended, re-enacted, or superseded.
- (5) That this By-law and the provisions contained within are intended to be complementary to provincial statutes and other By-laws passed by Council. If any

other applicable law requires a higher standard than this By-law requires, the higher standard shall apply.

(6) The Schedules attached hereto shall be and hereby form part of this By-law

(7) For the purposes of this By-law:

**“Adjacent”** means abutting or contiguous to;

**“Administrative Monetary Penalties By-law”** refers to the *Administrative Monetary Penalties By-law* 063-2019, as amended, or its successor by-law.

**“Adverse Effect”** means one or more of the following:

- (a) impairment of the quality of the natural environment for any use that can be made of it.
- (b) injury or damage to Property or to plant or animal life.
- (c) harm or material discomfort to any Person.
- (d) a negative effect on the health of any Person.
- (e) impairment of the safety of any Person.
- (f) rendering any Property or plant or animal life unfit for human use.
- (g) loss of enjoyment of normal use of Property; and
- (h) interference with the normal conduct of business.

**“Agricultural Lands”** includes all lands that are used by a farming business registered under the Farm Registration and Farm Organizations Funding Act, 1993, c. 21, as amended, for the growing of crops, including nursery and horticultural crops; the raising of other animals for food, fur, fibre, including poultry and fish; aquaculture; apiaries; agro-forestry; maple syrup production.

**“Agricultural Operations”** means an agricultural, aquacultural, horticultural or silvicultural operation that is carried on in the expectation of gain or reward.

**“Applicant”** means the Owner of the Site, where such an Owner is an individual, or means any Person authorized in writing by the Owner, to apply for a Permit on the Owner’s behalf.

**“Applicant Guide”** means the Applicant Guide for Site Alteration Permits which is a supplementary document that outlines the City of Vaughan’s Site Alteration Permit application requirements, processes, and information as determined by the Director and amended from time to time.

**“Areas of Natural and Scientific Interest”** means areas of land and water containing natural landscapes or features that have been identified as having life science or earth science values related to protection, scientific study, or education.

**“Authorized Agent”** means a Person with authorization to act on behalf of the Owner(s). Authorized Agent may also act as the **“Project Leader”**.

**“City”** means the Corporation of the City of Vaughan,

**“Contaminant”** means any solid, liquid, gas, odour, heat, sound, vibration, radiation, or combination of any of them resulting directly or indirectly from human activities that may cause an Adverse Effect.

**“Contaminated Fill”** means any Soil for the Site that does not meet the applicable Site Condition Standards prescribed under O. Reg 153/04 “Record of Site Condition” and/or O. Reg 406/19 “On Site and Excess Soil Management”.

**“Council”** means the Council for the Corporation of the City of Vaughan.

**“Development”** means the construction of buildings and above or underground services such as roads, parking lots, paved storage areas, watermains, storm and sanitary sewers, general grading works and similar facilities on any lands in the City of Vaughan.

**“Director”** means the Director of Development Engineering for the City of Vaughan or their designate;

**“Drainage”** means the movement of water to a place of disposal, whether by way of natural characteristics of the ground surface or by an artificial method.

**“Enforcement Officer”** means a Person appointed under the authority of the Delegation By-law as a Municipal Law Enforcement Officer, pursuant to section 15 of the *Police*

*Services Act*, to enforce the provisions of this by-law, or a sworn member of York Regional Police, Ontario Provincial Police, Royal Canadian Mounted Police.

**“Erosion Hazard”** means the loss of land, due to human or natural processes, which poses a threat to life and Property. The Erosion Hazard limit is determined using considerations that include the 100-year erosion rate (the average annual rate of recession extended over a one-hundred-year time span), an allowance for slope stability, and an erosion/erosion access allowance.

**“Excess Soil”** means Soil, crushed rock or Soil mixed with rock or crushed rock, that has been excavated as part of a project and removed from the project area.

**“Environmental Protection Act”** means the *Environmental Protection Act*, R.S.O. 1990, c. E. 19, as amended, or its successor regulation.

**“Fees and Charges By-law”** means the Fees and Charges By-law 010-2023, as amended, or its successor by-law.

**“Fill”** means any type of material deposited or placed on lands and includes without limitation, Topsoil, Soil, liquid Soil as defined by Ontario Regulation 406/19, stone, concrete, construction material/rubble, asphalt, sod, or turf, either singularly or in combination.

**“Fish Habitat”** means the spawning grounds and nursery, rearing, food supply and migration areas on which fish depend directly or indirectly to carry out the life process, as further identified by the Department of Fisheries and Oceans (Canada).

**“Flood Hazard”** means the inundation of areas adjacent to a shoreline or a river or stream system not ordinarily covered by water. Along river, stream and small inland lake systems, the flooding hazard is flood produced by the Hurricane Hazel storm event or the 100-year flood, whichever is greater.

**“Grade”** means ground surface elevation of the land as it relates to:

- (a) **Approved Grade** means the final elevation of the ground surface following the Site Alteration as approved by the Director in accordance with this By-law;
- (b) **Existing Grade** means the elevation of the existing ground surface prior to any Site Alteration including the natural Grade prior to human activities or any previously Approved Grade;
- (c) **Proposed Grade** means the proposed elevation of the ground surface of land upon which Site Alteration is proposed; and
- (d) **Unapproved Grade** means the elevation of the ground that is not an Existing Grade or Approved Grade.

**“Greenbelt Plan”** means the *Ontario Greenbelt Plan (2017)*, as amended; Order-in-Council No.110/2013, January 9, 2013

**“Habitat of Endangered or Threatened Species”** means

- a) with respect to a species listed on the Species at Risk in Ontario List as an endangered or threatened species for which a regulation made under section 55(1)(a) of the *Endangered Species Act, 2007*, is in force, the area prescribed by the regulation as the habitat of the species; or
- b) with respect to any other species listed on the Species at Risk in Ontario List as an Endangered or Threatened Species, an area on which the species depends, directly or indirectly, to carry on its life processes, including life processes such as reproduction, rearing, hibernation, migration or feeding, as approved by the Ministry of Natural Resources and Forestry; and places in the areas described in subsection 2 (1) definition of *habitat* a) or b) of the *Endangered Species Act, 2007*, whichever is applicable, that are used by members of the species as dens, nests, hibernacula or other residences.

**“Hazard Lands”** means Erosion Hazard and Flood Hazard.

**“Hydrological Feature”** includes valley and Stream Corridors, Wetlands, Kettle Lakes, Seepage Areas, and Springs.

**“Kettle Lake”** means a depression formed by glacial action and permanently filled with water.

**“Inspector”** means a Person employed as a City of Vaughan Municipal Services Inspector to carry out observations and inspections of Site Alteration activities for compliance with this By-law or where a Permit has been issued and includes Enforcement Officer.

**“Lot”** means a parcel of land fronting on a street separate in ownership from any abutting land to the extent that a consent contemplated by section 50 of the *Planning Act*, R.S.O. 1990, c.P.13, as amended would not require for its conveyance.

**“Natural Heritage Features”** means lands containing sensitive and/or significant natural features and functions as defined by the *Greenbelt Plan (2017)*, as amended, or superseded, including but not limited to valley and Stream Corridors, Wetlands, Woodlands, Habitat of Endangered or Threatened Species, Fish Habitat, Significant Wildlife Habitat and Areas of Natural and Scientific Interest.

**“Normal Agricultural Practice”** means any activity undertaken in accordance with the *Farming and Food Production Protection Act 1998*, S.O. 1998, c. 1, that is part of an Agricultural Operation, and is conducted in a manner consistent with proper and accepted customs and standards as established and followed by similar Agricultural Operations under similar circumstances, and may make use of innovative technology in a manner consistent with advanced farm management techniques, but does not include the Removal of Topsoil for sale, exchange or other disposition.

**“Oak Ridges Moraine”** means lands subject to Ontario Regulation 140/02 and subject to the requirements of the *Provincial Oak Ridges Moraine Conservation Plan*, as amended;

**“On-Site and Excess Soil Management Regulation”** refers to O. Reg 406/19: On-Site

and Excess Soil Management, under the *Environmental Protection Act*. It is also referred to as the **“Excess Soil Regulation” or “O.Reg 406/19”**.

**“Owner”** includes:

- a) the Person having the right, title, interest, or equity in the land, or his or her agent authorized in writing.
- b) the Person for the time being managing or receiving the rent of the land or premises in connection with which the word is used, whether on the Person’s own account or as agent or trustee of any other Person, or who would receive the rent if the land and premises were let.
- c) a lessee or occupant of the Property who, under the terms of a lease, is required to repair and maintain the Property.

**“Permit”** means permission given in writing by the Director to perform work regulated by this By-law or part thereof and shall include all information contained within an approved Site Alteration Management Plan and any special conditions identified by the Director.

**“Permit Holder”** means a Person who has been issued and maintains a valid Permit pursuant to the terms of this By-law. Permit Holder can be the **“Owner,” “Authorized Agent,” or “Project Leader.”**

**“Person”** means an individual, corporation, partnership, company, association or party and the heirs, executors, administrators, or other legal representatives of such Person, to whom the context can apply according to the law.

**“Placement”** means the movement and depositing of Fill in a location other than where the Fill was excavated and includes the movement and depositing of Fill from one location on a Property to another location on the same Property.

**“Ponding”** means the accumulation of surface water in the area not having drainage therefrom and where the lack of Drainage is caused by the Placement of Fill or altering the Grade of land.



**“Project Leader”** means the Person or Persons who are ultimately responsible for making decisions related to the planning and implementation of the Site Alteration as set out in O. Reg 406/19.

**“Property”** means the land including all buildings and structures on the land.

**“Removal”** means excavation or extraction of any Fill which lowers the Existing Grade and includes Soil stripping.

**“Security Deposit”** means a certified cheque, bank draft or financial institution letter of credit for securities as set out in the Applicant Guide.

**“Significant Wildlife Habitat”** means areas where plants, animals, and other organism live, and find adequate amounts of food, water, shelter, and space needed to sustain their populations. Specific wildlife habitats of concern may include areas where species concentrate at a vulnerable point in their annual life cycle; and areas which are important to migratory and non-migratory species.

**“Site”** means the Lot or Lots of a Property altered or proposed to be altered by means of a Site Alteration.

**“Site Alteration”** means the Placement of Fill on land, the Removal of Topsoil from land or the alteration of Grade of land by any means, including the Removal of vegetation cover, the compaction of Soil or the creation of impervious surfaces, or any combination of these activities.

**“Site Alteration Management Plan (SAMP)”** means a Site Alteration Management Plan required as a condition of a Permit pursuant to Section 6.0 of this By-Law, in accordance with the Applicant Guide, and approved by the Director.

**“Soil”** means any material commonly known as earth, Topsoil, loam, subsoil, clay, sand, or gravel.

**“Stream Corridors”** are comprised of stream channels, their banks and Wetlands areas, and the plants and animals within them.

**“Topsoil”** means those horizons in a Soil profile, commonly known as the “O” and the “A” horizons, containing organic material and includes deposits of partially decomposed organic matter such as peat.

**“TRCA”** refers to the Toronto and Region Conservation Authority.

**“Vegetation Protection Zone”** means an area of land Adjacent to a Natural Heritage Feature and/or Hydrological Feature which serves to alleviate negative impacts from surrounding uses. The size of the Vegetation Protection Zone varies depending on the location and type of feature, as set out in the Vaughan Official Plan, Oak Ridges Moraine Conservation Plan and Greenbelt Plan.

**“Wetland”** 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.

**“Woodland”** means a treed area of land at least 0.2 hectares in size as per the [Regional Municipality of York’s Forestry Conservation By-law](#) as amended, or its successor by-law.

### **3.0 Authority of The Director**

- (1) Pursuant to this By-law, the Director or designate shall have authority to:
  - a) Develop, revise, and update the Applicant Guide, as required.
  - b) Receive and process applications for Permits, renewals, amendments, and transfers.
  - c) Issue Permits to Applicants who have met all requirements.
  - d) Impose terms and conditions on a Permit, as required.
  - e) Maintain records of all applications received as well as Permits issued, renewed, amended, refused, revoked, transferred, and closed.
  - f) Conduct inspections to confirm compliance with this By-law, Permit conditions, and terms of Site Alteration Agreement.
  - g) Perform enforcement functions as required.
  - h) Refuse to issue, renew, and revoke a Permit.
  - i) Perform all other relevant administrative functions.
  - j) Impose mandatory mediation before taking any Person to court.

#### **4.0 Prohibitions**

- (1) No Person shall carry out any Site Alteration
  - a) without first obtaining a Permit or in accordance with this By-law, unless otherwise exempt.
  - b) for storage purposes unless the storage of such Fill is permitted by this By-law, the City Zoning By-laws, and municipal business licenses.
  - c) within or Adjacent to a Natural Heritage Feature and/or Hydrologic Feature and its associated Vegetation Protection Zone without consent or approval from the Director and TRCA.
  - d) on any lands zoned as per the City's Zoning By-law for Agricultural Operations unless it is demonstrated that the Site Alteration will result in maintaining or improving the overall fertility of the Agricultural Lands.
  - e) within any Flood Hazard or Erosion Hazard lands without consent or approval from the Director and TRCA.
  - f) within the boundaries of the Oak Ridges Moraine Conservation Plan area or Greenbelt Plan area except in accordance with the provisions of the approved Plans, this By-law, the City's Zoning By-law, and Official Plan policies.
  - g) which may result in injury and/or destruction of public or private property trees protected under the City's Tree Protection By-laws and Tree Protection Protocols without approval from the Development Planning Department as part of a Tree Protection Agreement
  - h) which may result in injury and/or destruction of archaeological resources protected under the *Heritage Act* without approval from the Development Planning Department.
- (2) No Person shall cause, permit, or perform any Site Alteration on lands within the City other than in compliance with this By-law and the terms and conditions of an issued Permit and Site Alteration Agreement.

- (3) No Person shall cause, permit, or perform any Site Alteration on lands that are subject to an approved Site Plan, draft plan of subdivision or a consent under Section 41, 51 or 53 respectively of the Planning Act, as amended, without a Site Plan, Pre-Servicing Agreement, Subdivision Agreement or Consent Agreement entered into under those sections.
- (4) No Person shall permit the Temporary Storage of Fill unless identified as a requirement in the Site Alteration Permit application, approved by the Director and included in Permit conditions. The period of Temporary Storage will be based on the project requirements and Site location and will not exceed the time limit set out by O. Reg 406/19.
- (5) No Person shall cause, permit, or perform, any Site alteration, or permit a Site condition to remain, and no Permit shall be issued for any Site Alteration that will result in:
  - a) Soil erosion;
  - b) Blockage of a stormwater drainage or management system;
  - c) Blockage of a natural drainage system or water course;
  - d) Siltation or pollution in a drainage system or water course;
  - e) Flooding or Ponding caused by a watercourse overflowing its banks;
  - f) Flooding or Ponding or Adverse Effect on Adjacent lands;
  - g) An unacceptable level of nuisance in the City;
  - h) Adverse Effect on any environmental protection areas or Natural Heritage and Hydrological Features as identified by TRCA, the Province, the Region, or the City;
  - i) Any Adverse Effect on any archeological, cultural heritage or historically significant features; and/or
  - j) Contamination of or the degradation of the environmental quality of land which includes Soil, groundwater, and sediment.

## **5.0 Exemptions**

- (1) This By-law does not apply to Site Alteration undertaken:

- a) By the City, local board as defined in the Municipal Act, Crown agency as defined in the Crown Agency Act and Ontario Hydro
- b) On land described in a license for a pit or quarry or a Permit for wayside pit or wayside quarry issued under the Aggregate Resources Act.
- c) On land to lawfully establish and operate or enlarge any pit or quarry on land
- d) On land that has not been designated under the *Aggregate Resources Act*, R.S.O. 1990, c. A.8, as amended, or its successor regulation.
- e) On land which a pit or quarry is a permitted land use under the City's Zoning By-law.
- f) For the use, operation, establishment, alteration, enlargement, or extension of a waste disposal Site within the meaning of Part V of the *Environmental Protection Act*.
- g) When Fill is being placed on lands shown in a grading and Drainage plan approved by the City in conjunction with subdivision, rezoning or Site plan approvals;
- h) For any construction subject to the requirements of a building Permit as included in the City's Building By-law, as amended.
- i) On any Lot containing one or more occupied freehold residential dwellings, but not including an occupied dwelling in an Agricultural Zone where such placing of Fill is not part of commonly accepted agricultural practice. Examples of Site Alteration falling within this exemption include but are not limited to, driveway re-surfacing, walkways, vegetable gardens, etc.
- j) When Fill is placed, moved, or deposited in an excavation to the elevation of Existing Grade following the demolition or Removal of a building or structure.
- k) The Removal or replacement of Topsoil from Agricultural Lands as part of Normal Agricultural Practice such as sod-farming, greenhouse operations

and nurseries for horticultural productions. This exemption does not include the Removal of Topsoil for sale, exchange, or other disposition.

## **6.0 Requirements for Issuance of a Site Alteration Permit**

- (1) Any Person applying for a Permit shall complete an application package as outlined in the Applicant Guide including applicable fees. The Permit application review will not commence until such time that the submission is deemed to be complete.
- (2) Notwithstanding any other provisions of this By-law, the Director may waive certain Permit requirements as listed in the Applicant Guide after taking into consideration the proposed works and the anticipated impacts to the Site, Adjacent Properties, and surrounding environment.
- (3) The Director may impose Site-specific conditions to a Permit based on anticipated impacts of the Site Alteration activities to protect the economic, social, and environmental well-being of the City including the health and safety of any and all affected Persons.
- (4) Prior to Permit issuance, Applicants are required to enter into a Site Alteration Agreement with the City.
- (5) Notwithstanding any other provision of this By-Law, no Permit shall be issued until the Director is satisfied that all requirements included in the Applicant Guide have been submitted and approved.
- (6) The City does not in any way guarantee the approval of any Permit application submitted under this By-law. The Director has the authority to refuse a Permit application, and, in those instances, written reasons shall be provided.

## **7.0 Incomplete or Abandoned, Expired, Renewal, Amendment, Transfer, Revocation, and Closure of Permits**

### **Incomplete or Abandoned Application**

- (1) An application for a Permit will be deemed incomplete or abandoned and file closed where a period of six (6) months has elapsed during which:

- a) The Applicant has not provided all required documents, fees or Security Deposit as required by the Director, or
- b) The Applicant has not resolved deficiency or deficiencies identified during the City's technical review.
- c) Once a file is closed, it cannot be re-opened. The Applicant is required to submit a new application package including payment of applicable fees.
- d) The Applicant will be notified in writing of the closed Permit application.
- e) Where an application for a Permit has been deemed to be incomplete or abandoned as set out in Section 7.0(1)(a-b) of this By-law and upon written request by the Owner, the Director will determine the amount of the Permit application fee, if any, is refundable.

### **Expired Permit**

- (2) All Permits will be valid for a period of one (1) year from the date of issuance, unless otherwise specified by the Director.
- (3) In the event of expired Permit, the Permit Holder and Owner remain responsible to satisfy all Permit conditions and resolve any complaints or matters of non-compliance.
- (4) Notwithstanding Section 7.0(2) herein, should the Site Alteration works not commence within ninety (90) days of Permit issuance, the Permit is deemed to be expired.

### **Renewal**

- (5) An Applicant may submit a written request to the Director for a one-time renewal of an expired Permit subject to the following:
  - a) Within three (3) months prior to the Permit expiry date and up to three (3) months following the Permit expiry date.
  - b) Should the renewal request include significant changes from the original application, the Director may require that a new application be submitted.
  - c) Renewal requests are subject to a fee of fifty percent (50%) of the original application fee, as per the Fees and Charges By-law.

## **Amendment**

- (6) An Applicant may submit a written request to the Director to amend an approved Permit, subject to the following:
- a) Should the amendment request include significant changes from the original application, the Director may require a new application be submitted.
  - b) Amendment requests are subject to a fee of fifty percent (50%) of the original application fee, as per the Fees and Charges By-law.

## **Transfer**

- (7) A Permit shall be revoked upon transfer of ownership of the Site unless the new Owner:
- a) Applies to have the Permit transferred and agrees to comply with all original Permit conditions.
  - b) Executes a new Site Alteration Agreement with the City.
  - c) Provides the necessary Security Deposit and liability insurance as per the Applicant Guide, at which time any Security Deposit and liability insurance provided by the original Permit Holder shall be released.
  - d) Pays all required administrative fees as per the Fees and Charges By-law.

## **Revocation**

- (8) The Director has the authority to revoke an issued Permit at any time and without notice. Permit may be revoked for any the following reasons:
- a) it was obtained on mistaken, false, or incorrect information.
  - b) it was issued in error.
  - c) the Owner or Permit Holder submits written request that the Permit be revoked.
  - d) the Permit Holder has failed to comply with Permit conditions or terms of the Site Alteration Agreement.
  - e) the Permit Holder is in non-compliance of an Order issued under this By-Law.



- f) Ownership of the Site has changed, and the new Owner has not applied to have the Permit transferred as per Section 7.0(7) of this By-law.
  - g) to protect the safety, health, and well-being of the community.
  - h) minimize any financial impact to the City.
- (9) Where a Permit has been revoked, the Permit Holder shall cease all Site Alteration work immediately.
- (10) If a Permit has been revoked the Owner and Permit Holder shall each be held jointly responsible for the restoration of the Site to its original condition or stabilize the Site to the satisfaction of the Director prior to the final release of any remaining Security Deposit.

### **Closure**

- (11) A Permit will be closed when:
  - a) Site Alteration works are complete.
  - b) All required inspection clearances are obtained, and Permit conditions fulfilled to the satisfaction of the Director; and
  - c) Any Orders are resolved to the satisfaction of the Director.

## **8.0 Orders and Enforcement**

- (1) Any Person who contravenes or fails to comply with any provision of this By-law is guilty of an offence.
- (2) An Inspector or Enforcement Officer may enter a Property for the purpose of an investigation of non-compliance with this By-law at any reasonable time.
- (3) During an investigation, the Inspector or Enforcement Officer must display or produce on demand, their identification.
- (4) An Inspector or Enforcement Officer may:
  - a) Require the production for inspection of documents or things relevant to the inspection.
  - b) Inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts and must provide a receipt for any

document or thing removed, which must be promptly returned after the copies or extracts are made.

- c) Require information from any Person concerning a matter related to the inspection; and
  - d) Alone or in conjunction with a Person possessing special or expert knowledge, make examination or take tests, samples (ex. air, surface water, groundwater, Soil, materials etc.), or photographs necessary for the purposes of the inspection.
- (5) An Inspector or Enforcement Officer who finds a contravention of this By-law may give a written Order to the Owner of the Site requiring compliance with this By-law and/or to do work to correct the contravention of this By-law within the time specified in the order.
- (6) The Order in 8.0(5) may be served in person to whom it is directed or by registered mail to the last known address of that Person, in which case it shall be deemed to have been given on the fifth (5<sup>th</sup>) day after it is mailed.
- (7) If there is evidence that the Person in possession of the Site is not the Owner, the Order in 8.0(5) shall be served to both the Owner and the occupant.
- (8) If the address of the Owner is unknown, or the City is unable to serve the Owner or occupant under section 8.0(5), a placard stating the terms of the order in 8.0(5) shall be placed in a conspicuous place on the Site and shall be deemed to be sufficient notice to the Owner.
- (9) If the Order has not be complied with within the required timeframe, the City, or any of its Authorized Agents, may enter onto the Site at any reasonable time for the purpose of performing the work required to bring the Site into compliance with the By-law. No Person shall hinder or obstruct or attempt to hinder or obstruct the City or its Enforcement Officers from carrying out any powers or duties under this By-law.

## 9.0 Fines

- (1) Every Person who is guilty of an offence under this By-law, may be subject to a fine under the *Municipal Act*, such that:
  - a) A minimum fine shall not exceed five hundred dollars (\$500) and a maximum fine shall not exceed one hundred thousand dollars (\$100,000).
  - b) In the case of a continuing offence, for each day or part of a day that the offence continues, a minimum fine shall not exceed five hundred dollars (\$500) and a maximum fine shall not exceed ten thousand dollars (\$10,000), however the total of all the daily fines for the offence is not limited to one hundred thousand dollars (\$100,000); and
  - c) In the case of a multiple offence, for each offence included in the multiple offence, a minimum fine shall not exceed five hundred dollars (\$500) and a maximum fine shall not exceed ten thousand dollars (\$10,000), however the total of all fines for each included offence is not limited to one hundred thousand dollars (\$100,000).
- (2) Every Person who is issued a fine may request a review of the matter in accordance with the *Provincial Offences Act*.
- (3) A special fine may be imposed in addition to a fine imposed under Section 8.0 in circumstances where there is economic advantage or gain from the contravention of this By-law and the maximum amount of the special fine may not exceed one hundred thousand dollars (\$100,000).
- (4) A special fine shall be calculated based on:
  - a) Ten dollars (\$10.00) for each cubic metre of Fill, i) deposited in excess of the amount allowed in a Permit, or ii) deposited beyond the geographic limits of the Permit, or iii) deposited without first having obtained a Permit.
  - b) Where the Fill is found to contain Contaminant levels that exceed Table 2 Standards from the Soil and Groundwater and Sediment Standards for Use under Part XV.1 of the *Environmental Protection Act* as prescribed in this

By-law, greater fines of not less than one hundred dollars (\$100) per cubic metre may be imposed.

#### **10.0 Administrative Monetary Penalties**

- (1) Instead of laying a charge under the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended, for a breach of any provisions of this By-law or failure to comply with a Notice to Comply under this By-law, an Officer may issue an Administrative Monetary Penalty to the Person who has contravened this By-law.
- (2) If a Person is required to pay an Administrative Monetary Penalty under section 10.0(1), no charge shall be laid against that same Person for the same contravention.
- (3) The amount of the Administrative Penalty for a contravention under this By-law is one thousand dollars (\$1,000).
- (4) A Person who is issued an Administrative Monetary Penalty shall be subject to the procedures provided for in the Administrative Monetary Penalties By-law, as amended or its successor By-law.
- (5) An Administrative Monetary Penalty imposed on a Person that becomes a debt to the City under the Administrative Monetary Penalties By-law, as amended, or its successor By-law, may be added to the municipal tax roll and collected in the same manner as municipal taxes.

#### **11.0 Cost Recovery and Unpaid Fines and Penalties**

- (1) Where the City, its employees or Authorized Agents have performed the work required to bring the Site into compliance with this By-law, all expenses incurred by the City in doing the work as well as any related fees, shall be deemed a debt to the City and may be collected by the City, and/or drawn from the Security Deposit, and/or added to the tax roll for the Site and collected in the same manner as taxes.
- (2) The Treasurer of a municipality may add any unpaid fine or Administrative Penalty to the tax roll for any Property in the local municipality for which all the Owners are responsible for paying the fine and collect in the same manner as municipal taxes.

## **12.0 Fees and Security Deposit**

### **Permit Fees**

- (1) The fee for the processing, administration, and inspection of a Permit shall be charged and collected in accordance with the Fees and Charges By-law.
- (2) Permit renewals, amendments and transfers are subject to additional fees in accordance with the Fees and Charges By-law.

### **Inspection Fees**

- (3) The prescribed fees for the regular and on-going inspection of Site Alteration Permits are included in the Permit fees in accordance with Fees and Charges By-law.
- (4) Any additional inspections required to address non-compliance of this By-law, the terms and conditions of a Permit, Agreement or an Order and where remedial work is required will be subject to additional inspections fees in accordance with the Fees and Charges by-law.

### **Security Deposit**

- (5) An irrevocable Letter of Credit, certified cheque or bank draft held by the City to secure performance of the Owner and Permit Holder obligations pursuant to this By-law, Permit and Agreement, including as needed, stabilizing and/or returning the Site to its original condition, carrying out work under the Permit and complying with all other provisions of the By-law.
- (6) The amount of the Security Deposit is determined by the Director as per the Applicant Guide including any additional amounts based on scope of Site Alteration and Site-specific conditions.
- (7) The Security Deposit must remain in effect for the full duration of the Permit. Any Letter of Credit and subsequent renewals shall contain a clause stating that thirty (30) days written notice must be provided to the City prior to its expiry or cancellation.

- (8) The Security Deposit must be replenished to one hundred percent (100%) of the original amount within thirty (30) days of the City's request to remain in compliance with the Permit.
- (9) The Permit Holder must submit a request to the City to carry out the necessary final inspections to obtain clearances that all By-law, terms and conditions or Permit, agreement and any Orders have been satisfied.
- (10) When all relevant provisions, terms and conditions have been completed to the satisfaction of the Director, the balance of the Security Deposit shall be released.
- (11) If the Permit has expired or is revoked, the securities are to remain in effect until the Site is restored or stabilized to a condition acceptable to the Director.

### **13.0 Liability and Indemnification**

#### **Liability**

- (1) The provisions of this By-law do not limit the responsibility or liability of any Person who has lawfully or unlawfully undertaken Site Alteration from any personal injury, including injury resulting in death or property damage resulting from such Site Alteration or from acts or omissions of such Person, or his or her agents, employees, or contractors.
- (2) Likewise, provisions of this By-law shall not be construed as acceptance by the City, its officers, employees, or agents of any responsibility or liability whatsoever by reason of allowing such Site Alteration, approving the request for permitting such Site Alteration, or activities related to the Site Alteration.
- (3) The City is not responsible for any damages, losses or injuries caused as a result of any Site Alteration.

#### **Indemnification**

- (4) The Permit Holder shall be jointly and severally responsible to indemnify the City, its officers, employees, and agents from all losses, damages, costs, expenses, claims, demands, actions, lawsuits, or other proceedings of every nature and kind arising from, and in consequence of activities related to Site Alteration.

#### **14.0 Transition**

- (1) Any Permit valid and binding at the date of enactment of this By-law shall not require further authorization pursuant to this By-law until the Permit expires or is otherwise terminated.
- (2) The Director shall not permit any extension or renewals of Permits issued under the predecessor By-law 189-96, as amended.
- (3) Any charges laid under a previous repealed By-law remains valid.

#### **15.0 Amendment of Other By-laws**

- (1) Schedule 1 of the Administrative Monetary Penalties By-law is hereby amended by including this By-law as a Designated By-law.

#### **16.0 Effective Dates and Repeal of Predecessor By-laws**

- (1) By-law 189-96, By-law 44-2004, By-law 265-2006, and By-law 007-2017 are hereby repealed.
- (2) This By-law shall come into full effect and force on the date of its enactment by Council.

Enacted by the City of Vaughan Council this XX<sup>th</sup> day of XXXX, 2023.

\_\_\_\_\_  
Hon. Steven Del Duca, Mayor

\_\_\_\_\_  
Todd Coles, City Clerk

Authorized by Item No. \_\_\_\_ of Report No. \_\_\_\_  
of the Committee \_\_\_\_\_  
Adopted by Vaughan City Council on  
\_\_\_\_\_

