

THE CORPORATION OF THE TOWN OF WHITBY

BY-LAW NO. 5849-06

**BEING A BY-LAW TO REGULATE THE PLACING OR DUMPING OF FILL, THE
REMOVAL OF TOPSOIL AND THE ALTERATION OF THE GRADE OF LAND**

WHEREAS, in accordance with the provisions of Subsection 142(2) of the Municipal Act, 2001, S.O.2001, c.25, as amended, the Council of the Corporation of the Town of Whitby considers it desirable to pass a by-law to regulate the placing or dumping of fill, the removal of topsoil and the alteration of the grade of land;

NOW THEREFORE, the Council of the Corporation of the Town of Whitby enacts as follows:

DEFINITIONS

1. In this by-law,
 - (a) "agricultural practice" means the cultivation of lands and/or the raising of livestock;
 - (b) "applicant" means an owner, or an owner's agent who is authorized by the owner to act on behalf of the owner;
 - (c) "body of water" includes any brook, creek, stream, river, lake, pond, waterway, watercourse, canal, or other flowing or standing water;
 - (d) "contaminated fill" means soil, fill or other material containing any solid, liquid, gas, odour, waste product, radioactivity or any combination thereof which is present in a concentration greater than which naturally occurs and

which has the potential to have an adverse effect on the natural environment or human activity;

- (e) "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;

Notwithstanding, within the Oak Ridges Moraine, as established by the Province of Ontario Regulation 01/02, in addition, "development" shall include the creation of a new lot, a change in land use, or the construction of buildings and structures, any of which require approval under the Planning Act, the Environmental Assessment Act, or the Drainage Act, but does not include:

- i) the construction of facilities for transportation, infrastructure and utilities uses, by a public body, as described in Section 11.11.9 of the Town of Whitby Official Plan; or
 - ii) for greater certainty:
 - a) the reconstruction, repair or maintenance of a drain approved under the Drainage Act and in existence on November 15, 2001, or
 - b) the carrying out of agricultural practices on land that was being used for agricultural uses on November 15, 2001;
- (f) "Director" means the Director of Public Works for the Corporation of the Town of Whitby or his or her designate;

- (g) "dumping" means the depositing of fill in a location other than where the fill was obtained and includes the movement and depositing of fill from one location on a property to another location on the same property;
- (h) "dust" includes loose or blowing earth, sand or soil that may be transported from the site;
- (i) "erosion " means the detachment and movement of soil, sediment or rock fragments by water, wind, ice or gravity;
- (j) "erosion and sediment control plans" mean the plans described in Subsection 4(3) of this by-law;
- (k) "fill" means any type of material deposited or placed on lands and includes soil, stone, concrete, asphalt, sod or turf either singly or in combination;
- (l) "grade" is defined as:
 - (i) "existing grade" means the elevation of the existing ground surface of the lands except where dumping and/or placing of fill has occurred existing grade shall mean the ground surface as it existed prior to the placing or dumping of fill; and,
 - (ii) "finished grade" means the elevation of ground surface of lands upon which fill has been placed or dumped in accordance with this by-law;
- (m) "land disturbance" means any man-made change of the land surface including removing vegetative cover, removing topsoil, excavating, filling and grading;

- (n) "litter and debris" includes building materials, garbage, waste, vegetation or any other loose material that may be transported from the site by wind, persons, vehicles or other means;
- (o) "lot" means a legally described parcel of land;
- (p) "mud tracking" means the obstruction, encumbering, injuring, or fouling of roads, boulevards and bridges via the throwing, placing or depositing of dirt, refuse or any other debris thereon;
- (q) "officer" means a person assigned by the Director to enforce the provisions of this by-law;
- (r) "owner" means the registered owner of the land for which a permit is sought or obtained under this by-law;
- (s) "permit" means a topsoil removal, fill placement and erosion and sediment control permit;
- (t) "permit holder" means the owner;
- (u) "person" includes a natural individual and their heirs, executors, administrators or other legally appointed representatives, a corporation, partnership or other form of business association;
- (v) "site" means the lands from which it is proposed that topsoil be moved or removed, or subjected to land disturbance and/or land development;
- (w) "site alteration" within the Oak Ridges Moraine means activities such as filling, grading and excavation that would change the landform and natural vegetative characteristics of land, but does not include,

(a) the construction of facilities for transportation, infrastructure and utilities uses, as described in section 41, by a public body, or

(b) for greater certainty,

(i) the reconstruction, repair or maintenance of a drain approved under the Drainage Act and in existence on November 15, 2001, or

(ii) the carrying out of agricultural practices on land that was being used for agricultural uses on November 15, 2001;

(x) "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; and,

(y) "Town" means the Corporation of the Town of Whitby;

EXEMPTIONS

2. This by-law does not apply to,

(a) activities or matters legally undertaken by the Town, any local board of the Town or the Regional Municipal of Durham;

(b) the placing or dumping of fill, removal of topsoil or alteration of the grade of land which is carried out on lands subject to, and in order to implement, a site plan agreement, subdivision agreement or other development agreement previously entered into with the Town pursuant to the provisions of the Planning Act;

- (c) the placing or dumping of fill, removal of topsoil or alteration of the grade of land imposed as a condition to a development permit authorized by regulation made under Section 70.2 of the Planning Act or as a requirement of an agreement entered into under the said section;
- (d) the placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken by a transmitter or distributor, as those terms are defined in Section 2 of the Electricity Act, 1998, for the purpose of constructing and maintaining a transmission system or a distribution system, as those terms are defined in the said section;
- (e) the placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken on land described in a licence for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the Aggregate Resources Act;
- (f) the placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken on land in order to lawfully establish and operate or enlarge any pit or quarry on land;
 - (i) that has been designated under the Aggregate Resources Act or a predecessor of that Act; and,
 - (ii) on which a pit or quarry is a permitted land use under a by-law passed under Section 34 of the Planning Act;
- (g) the placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken as an incidental part of drain construction under the Drainage Act or the Tile Drainage Act;

- (h) the removal of topsoil as an incidental part of a normal agricultural practice including sod-farming, greenhouse operations and nurseries for horticultural products, provided the topsoil itself is not for sale, exchange or other disposition;
- (i) lands within a regulated area as defined by regulations made under the Conservation Authorities Act;
- (j) land disturbance associated with minor gardening, landscaping or the installation of swimming pools incidental to a residential use;
- (k) the removal of topsoil as an incidental part of the construction of underground services or utilities, where the topsoil is removed and held for subsequent replacement; and,
- (l) the removal of topsoil or placing of fill where the aggregate quantity of such removal or placement on anyone lot does not exceed 62m³/ha in any three month consecutive period.

PROHIBITION

- 3. (1) No person shall remove or cause the removal of any topsoil, place or dump fill, or grade or perform any other land disturbance or land filling activity in the Town except in accordance with a permit issued as set out in this by-law.
- (2) Notwithstanding the exemptions described in Section 2 of this by-law, no person shall remove or permit the removal of topsoil from any land or place or permit the placement of fill on any land adjacent to or within 30 metres of any body of water without a permit having been issued by the Director.

- (3) Notwithstanding the exemptions described in Section 2 of this by-law, no person or corporation shall:
- (a) place or allow to be placed, or remove or allow to be removed any fill on any wetlands identified as provincially significant by the Ministry of Natural Resources, unless specifically permitted to do so by this Ministry; or,
 - (b) place or allow to be placed, or remove or allow to be removed any contaminated fill on any land within the Town unless the placing or removal of such fill is authorized by a certificate issued by the Ministry of the Environment.

PERMIT APPLICATIONS

4. (1) To obtain a permit, the owner of the land or his authorized agent shall file an application with the Director.
- (2) All applications for permits shall be accompanied by,
- (a) a completed application in the form as established by the Director;
 - (b) a site map identifying the location, boundaries and number of hectares in the site, the nearest major intersection and a north arrow;
 - (c) Erosion and Sediment Control Plan and Design Report in accordance with Subsection 4 (3) of this by-law;
 - (d) the permit fee as prescribed from time to time;
 - (e) a Letter of Credit as prescribed in Schedule "A" to this by-law;

- (f) a written authorization, signed by the owner, stating that officers of the Town and/or any person in the company of the officers will be allowed to enter the site for the purpose of inspecting for compliance with the Erosion and Sediment Control Plan or for performing any work necessary to bring the site into compliance with the Erosion and Sediment Control Plan;
 - (g) work schedule;
 - (h) a written confirmation from a qualified person that the material being placed or removed is not contaminated fill, except where the Director waives the requirement to do so; and,
 - (i) all other information as may be required by the Director including but not limited to an Environmental Impact Assessment.
- (3) Erosion and Sediment Control Plans shall be certified by a professional engineer licensed to practice in Ontario, or any other qualified person approved by the Director, and shall include,
- (a) drawings at a recognized metric scale which describe compliance with the site design requirements in Schedule "B" to this by-law, and which include,
 - (i) adjacent land uses and the location and use of any buildings and other structures adjacent to the site;
 - (ii) the location, dimensions and use of the buildings and other structures existing or proposed to be erected on the site;
 - (iii) the location and dimensions of driveways and rights-of-way across each lot;

- (iv) the location of lakes, streams, wetlands, channels, ditches, other water courses and other bodies of water on and within 30 metres beyond the site boundary.
- (v) the applicable regulatory Storm Flood Line and Conservation Authority Regulatory lines/limits;
- (vi) the location and boundaries of predominant soil types;
- (vii) the location and type of existing vegetative cover, including the species and size in calliper of all trees and the location of all shrubs;
- (viii) the location and dimensions of any existing and proposed storm water drainage systems and natural drainage patterns on and within 30 metres beyond the site boundary;
- (ix) the location and dimensions of utilities, structures, wells, sewage systems, roads, highways and paving within 30 metres beyond the site boundary;
- (x) the existing site topography at a contour interval not to exceed one-half of one metre and to extend a minimum of 30 metres beyond the lot/site boundary;
- (xi) the proposed final elevations of the site;
- (xii) the location and dimensions of all proposed land disturbance activities;
- (xiii) the location and dimensions of all temporary soil stockpiles;

- (xiv) the location of designated haul routes and construction access points to the site including the location of mud mats or other measures to remove earth and mud from the tires of vehicles leaving the site;
 - (xv) the location, dimensions and details of all construction site control measures necessary to meet the requirements of this by-law; and,
 - (xvi) an indication of the direction of overland flow routes.
- (b) an Erosion and Sediment Control Design Report containing.
- (i) a description of the features in the Erosion and Sediment Control Plan;
 - (ii) a description of the measures proposed to prevent erosion and to retain sediment on the site, including, but not limited to, the designs and specifications for swales, dikes, drains, sediment control ponds, mud mats, silt fences, check dams, catch basin protection and slope stabilization measures and a schedule for their maintenance and upkeep;
 - (iii) a description of the mud tracking control and road maintenance program;
 - (iv) a description of the measures proposed to control offsite movement of dust, litter and debris and related offsite maintenance;
 - (v) the name and 24-hour contact telephone number of the person responsible for the maintenance programs described in clauses (iii) and (iv);
 - (vi) a description of the vegetative measures to be used, including, but not limited to mulches, types of seeds and fertilizers and their application rates, the type, location and extent of pre-existing and undisturbed vegetation types and a schedule for maintenance and upkeep; and,

- (vii) a schedule of the starting and completion dates of each dumping, filling or removal related activity, including the installation of construction site control measures needed to meet the requirements of this by-law.

COMPLIANCE WITH OTHER REGULATIONS AND STATUTES

5. (1) The provisions of this by-law and the issuance of a permit by the Director shall not affect the obligations of an owner to comply with all other restrictions governing the work imposed by any authority having jurisdiction.
- (2) The Director shall not issue a permit unless,
- (a) where applicable, all requirements contained in the Oak Ridges Conservation Plan, O.Reg 140/02 and any other regulations made under the Oak Ridges Moraine Conservation Act 2001 are complied within the proposed work; and,
 - (b) the land use to which the proposed work pertains is permitted by the applicable by-laws passed under the Municipal Act or the Planning Act; and
 - (c) where the proposed work is located within a Landform Conservation Area 1, as shown by single diagonal cross-hatching on the attached schedule "C" forming part of this by-law, or is located within Landform Conservation Area 2, as shown by double diagonal cross-hatching on the attached Schedule "C" forming part of this by-law, the proposed work shall also be subject to Site Plan Control by-law 3928-96, as amended.

PERMIT ISSUANCE

6. (1) The Director shall issue a permit where all the application requirements set out herein are completed and the proposed land disturbance, Erosion and Sediment Control Plans and Design Report comply with the requirements of this by-law.
- (2) Where the Director refuses to issue a permit, the applicant shall be informed in writing of the reasons for refusal.
- (3) Permits shall be subject to the conditions described in Schedule "C" to this by-law.
- (4) Permits shall be valid for a period of one year and may be extended one or more times for an additional one year, subject to any additional control measures and inspection fees as determined by the Director and as set out in this by-law.

IMPLEMENTATION AND INSPECTIONS

7. (1) All erosion and sediment control measures necessary to meet the requirements of this by-law shall be in place prior to any land disturbance of the site and these measures shall be maintained by the owner during the period of land disturbance in a manner satisfactory to the Director to ensure adequate compliance with the requirements of this by-law and to prevent damage occurring as a result of erosion, sedimentation or flooding.
- (2) If the property for which the permit has been issued is transferred while the permit remains in effect, the new owner shall either,
 - (a) provide the Town with a written undertaking agreeing to comply with all the conditions under which the existing permit was issued; and,

- (b) provide the Town with a Letter of Credit in accordance with requirements of Schedule "A". to this by-law; or,
- (c) apply for and obtain a new permit in accordance with the provisions of this by-law.

REVOCATION OF PERMITS

8. Where it is determined, in the opinion of the Director, that a permit has been issued on the basis of misleading or false information in an application, the permit may be revoked and the permit holder shall immediately cease all operations being conducted under the authority of the revoked permit.

ENFORCEMENT

9. (1) If an officer is satisfied that a contravention of the by-law has occurred, the officer may make an order requiring the owner of the land or the person who caused or permitted the placing or dumping of fill, removal of topsoil or alteration of the grade of land in contravention of the by-law to discontinue the activity and restore the land to the existing grade and the order shall set out.
- (a) the municipal address or the legal description of the land; and,
 - (b) reasonable particulars of the contravention and the period within which there must be compliance.
- (2) Every person who contravenes any section of this by-law is guilty of an offence and upon conviction is liable to a fine or penalty for each offence, exclusive of costs as prescribed by the Provincial Offences Act.

- (3) Schedules "A", "B", "C", and "D" attached to this by-law shall form part of this by-law.
- (4) In the event that a court of competent jurisdiction declares any provision or provisions of this by-law to be invalid for any reason, the remainder of the by-law shall remain in full force and effect.

SHORT TITLE

10. This by-law may be cited as the Fill Control By-law.

REPEAL OF EXISTING BY-LAW

11. By-law No. 5415-04 is repealed.

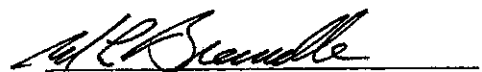
EFFECTIVE DATE

12. This by-law shall come into force and take effect on the day of the final passing thereof.

BY-LAW READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS
25TH DAY OF SEPTEMBER, A.D., 2006.



Paul Jones, Clerk



Marcel L. Brunelle, Mayor

SCHEDULE "A"
TO
BY-LAW NO. 5849-06

LETTER OF CREDIT (to guarantee site control measures)

- (1) An irrevocable Letter of Credit or other security acceptable to the Town to cover 100% of the estimated cost of site control measures including the cost of the erosion and sediment control measures, mud tracking control measures, litter and debris control measures, and dust control measures shall be required.
- (2) The security shall be in a form acceptable to the Director.
- (3) The security shall remain in effect for the full duration of the permit with an automatic renewal clause in the document. Any Letter of Credit and its subsequent renewal forms shall contain a clause stating that thirty (30) days written notice must be given to the Town prior to its expiry or cancellation. All calculations are to be supplied by the owner or their representative and verified by Town staff.
- (4) In the event that the Town receives notice that a Letter of Credit is expiring and will not be renewed. Or, if further or additional securities are not provided within the said thirty (30) days, the Town may draw on the current Letter of Credit at the discretion of the Director. The permit holder shall agree that any interest accruing on the realized security shall belong to the Town and not to the permit holder.
- (5) It shall be the responsibility of the permit holder.
 - (a) to provide evidence satisfactory to the Director that the site has been adequately reinstated and stabilized in accordance with this by-law and the Erosion and Sediment Control Plan accompanying the permit; and,

- (b) to notify the Town no later than five (5) working days of the completion of works set out in the permit and to request that the Town carry out an inspection to confirm that all relevant terms of this by-law have been complied with.
- (6) The security may be reduced from time to time at the discretion of the Director. When the provisions of this by-law have been fully complied with to the satisfaction of the Director, the Director shall release the applicant's security.
- (7) If a new owner satisfies all the conditions outlined in this by-law, all securities will be returned to the original owner unless the original owner authorizes, in writing, the return of the securities to another person.
- (8) If in the opinion of the Director the permit holder is not prosecuting or causing the work to be prosecuted as set out in the permit in a timely fashion or if the work is being improperly performed or if the work is neglected or abandoned the permit holder shall be deemed in violation of the permit. Under this circumstance the Town of Whitby shall have full authority to enter the site and complete or cause to have completed works set out and approved in the permit application. The Letter of Credit shall be drawn on to make payment for the work, materials, rentals and other sundry costs associated with the completion of the works.

PERMIT EXTENSION FEES

The fee for processing, administration and inspection of a one-year permit extension is one hundred dollars (\$ 100.00).

SCHEDULE "B"
TO
BY-LAW NO. 5849-06

SITE DESIGN REQUIREMENTS

The following requirements shall be met on all sites where a permit is required to remove topsoil

Site Dewatering:

1. (1) If it is demonstrated that no particles are greater than or equal to 40 microns in size, then dewatering operations may be conducted provided that the water is not permitted to discharge directly into receiving bodies of water.
- (2) Water pumped for dewatering operations on the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, up flow chambers, swirl concentrators or other appropriate controls.

Drain Inlet Protection:

2. All rear lot storm drain inlets or any other inlets as the Director considers necessary shall be protected with filter fabric, or equivalent barriers meeting accepted design criteria, standards and specifications accepted by the Director.

Site Erosion and Sediment Control:

3. The Erosion and Sediment Control Plan should consider the following types of controls:

- (a) stabilization practices for soil erosion and sediment control. The common stabilization practices of two types; vegetative stabilization practice such as temporary seeding, sod stabilization, permanent seeding and plantation, maintenance of buffer zone, and preservation of natural vegetation and non-vegetative stabilization practices such as mulching, geotextiles, soil retaining measure and stream bank stabilization;
 - (b) run off velocity dissipation measures, which slow down the runoff flowing across the site by using measures such as check dams and surface roughening, and gradient terraces;
 - (c) storm water runoff control, which prevents runoff from flowing across disturbing areas by using measures such as earth dikes, drainage swales, and drains;
 - (d) structural control measures to eliminate the offsite movement of soil such as mud mats and silt fences;
 - (e) structural practices such as sediment control ponds and ultimate storm water management ponds, which hold storm water runoff in a controlled fashion and remove sediments in the storage device; and,
 - (f) in the event that a sediment control pond cannot be constructed to service the entire site (ie: capture all the runoff from the site), the reasons must be documented and alternative control works must be proposed. Other approved sediment control measures, which remove sediments from on-site run off before it leaves the site must be constructed.
4. As required in this by-law for the lots/sites with more than five hectares disturbed at a time, or in staggered manner, all of which are served by a common discharge location. a sediment control pond, or equivalent control measures (eg: storm water management facility, if applicable) must be provided. The sediment control pond permanent pool

component shall be sized for ultimate development conditions to provide a volume equivalent to a Level 1 water quality control as per the current Ministry of the Environment Storm Water Management Pond Manual, or $125 \text{ m}^3/\text{ha}$ whichever is greater. The active storage volume component shall be sized for a minimum of $125 \text{ m}^3/\text{ha}$ of runoff and released over a minimum 24 hour period.

5. If the ultimate storm water management facility cannot be used as the sediment control pond for the entire site/lot during construction period, a temporary sedimentation pond shall be constructed with design criteria as follows:
 - (a) the sediment control pond shall be constructed prior to topsoil stripping or fill placement;
 - (b) where possible, the sediment control pond and conveyance channels shall be located in such a way that the runoff will be captured and conveyed from the entire disturbed area to the pond;
 - (c) the sediment control pond volume must consist of a permanent pool and active storage component. The permanent pool component shall be sized for ultimate development conditions to provide a volume equivalent to a Level 1 water quality control as per the current Ministry of the Environment (MOE) Storm Water Management Pond Manual, or $125 \text{ m}^3/\text{ha}$, whichever is greater. The active storage volume component shall be sized for a minimum of $125 \text{ m}^3/\text{ha}$ of runoff and released over a minimum 24-hour period; and,
 - (d) to maintain sufficient permanent pool volume during the land disturbance period, the erosion and sediment control plan shall provide the maintenance schedule, The sediment control pond should be cleaned once the removal efficiency of the pond has been reduced by 5% as per the MOE Storm Water Management Pond Manual and as outlined in Schedule 'E' to the manual.

6. The following criteria apply to land disturbing activities that results in runoff leaving the site:
- (a) all the activities on the lot/site shall be conducted in a phased manner, where appropriate, to minimize the area of bare soil exposed at anyone time;
 - (b) concentrated runoff from adjacent areas passing through the site shall be diverted around disturbed areas, if practical otherwise, the channel shall be protected by cut-off swales and/or silt fences being placed along channel edges to avoid sediment from disturbed areas reaching the channel;
 - (c) any topsoil or dirt storage piles containing more than one hundred cubic metres (100 m³) of material shall be a minimum of 10 metres from or up the slope from a roadway or channel. If remaining for more that sixty (60) days, said soil or dirt storage piles shall be stabilized by mulching, vegetative cover, traps or other means. Erosion from topsoil or dirt storage piles which will be in existence for less than sixty (60) days shall be controlled by sediment control fence (ie: filter fence) barriers around the pile; and,
 - (d) runoff from the entire disturbed area on the site shall be controlled as follows:
 - (i) all disturbed ground left inactive shall be stabilized by seeding, sodding, mulching or covering, or other control measure. The period of time of inactivity shall be at the discretion of the Director but shall not exceed sixty (60) days or such longer period as deemed advisable at the discretion of the Director;
 - (ii) notwithstanding the above clause, a permit holder or applicant for a permit who has also applied for but not yet received a building permit or any other necessary permit may be granted an extension to the permitted period of inactivity, at the discretion of the Director, provided that said applicant or permit holder provides satisfactory proof that he/she has made

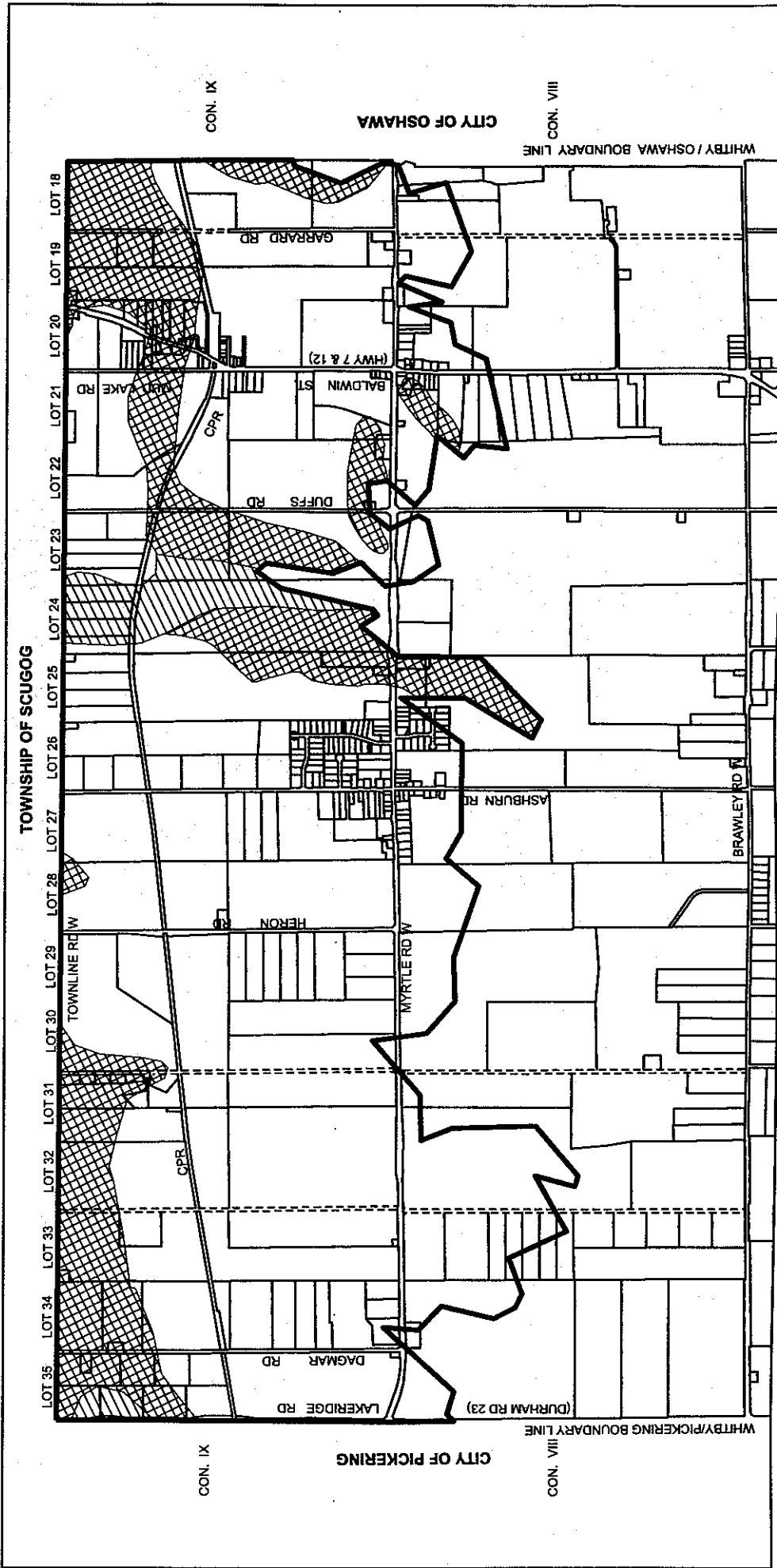
his/her best efforts to have said building or other necessary permit issued. Fees for the extension will be deferred for the period of inactivity if the site is secured in a manner satisfactory to the Town;

- (iii) for lots/sales less than five (5) hectares disturbed at one time, sediment control fences and cut-off swales/channels or equivalent control measures shall be placed along all downslope boundaries of the site;
- (iv) for lots/sites adjacent to existing residential areas, a fence and a cut-off swale/channel may be required around the entire perimeter of the site to prevent drainage onto private lands. A three (3) meter wide buffer strip and/or sediment control fence shall be provided along the perimeter of the downslope boundaries of the site;
- (v) the sediment control guidelines prepared by the Central Lake Ontario Conservation Authority and the Ministry of Natural Resources for the Province of Ontario, or municipal standards are to be followed; and,
- (vi) for sites with extensive fill requirement, the Director may waive the requirements for stabilization of disturbed land after thirty (30) days of inactivity provided that the sediment control measures have been implemented to the satisfaction of the Director.

SCHEDULE "C"
TO BY-LAW NO. 5849-06

This is Schedule "C" to By-Law No. 5849-06 passed by the
 Council of the Town of Whitby this 25th day of Sept., A.D. 2006.

[Signature]
 CLERK
[Signature]
 MAYOR



SCHEDULE "D"
TO
BY-LAW NO. 5849-06

PERMIT CONDITIONS

1. All permit holders shall,
 - (a) notify the Director a minimum of two (2) business days prior to the commencement or recommencement of any land disturbing activity;
 - (b) obtain permission in writing from the Director prior to modifying any element of the Erosion and Sediment Control Plan;
 - (c) install all control measures as identified in the approved Erosion and Sediment Control Plan;
 - (d) maintain all road drainage systems, storm water drainage systems, control measures and other facilities identified in the Erosion and Sediment Control Plan;
 - (e) promptly repair any siltation or erosion damage to adjoining surfaces and drainage ways resulting from land developing or disturbing activities;
 - (f) inspect the sedimentation control measures at least once per week and after each rainfall of at least one centimetre and make needed repairs;
 - (g) allow Town officers or agents of the Town to enter the site for the purpose of inspecting for compliance with the Erosion and Sediment Control Plan or for performing any work necessary to bring the site into compliance with the Erosion and Sediment Control Plan;

- (h) maintain a copy of the permit on the site;
- (i) notify all sub-contractors and suppliers of approved access routes to the site and ensure compliance with these instructions;
- (j) maintain all roads in same or better condition than existed prior to the commencement of the work and keep all roads free from any materials or equipment arising from the work set out in the permit; and,
- (k) ensure that no construction machinery is running or operating before 7:00 a.m. or after 7:00 p.m., Monday to Saturday, inclusive, or at any time on Sunday.

2. The Town,

- (a) upon the failure by the permit holder to complete all or part of the works in the time stipulated in the Erosion and Sediment Control Plan, may draw the appropriate amount from the securities posted and use the funds to arrange for the completion of the said works, or any part thereof;
- (b) upon failure by the permit holder to install, repair or maintain a specific part of the works as requested by the Town, and in the time requested, may at any time authorize the use of all or part of the securities to pay the cost of any part of the works it may in its absolute discretion deem necessary; and,
- (c) in the case of emergency repairs or clean up, may undertake the necessary works at the expense of the permit holder and reimburse itself out of securities posted by the permit holder.