

THE CORPORATION OF TOWNSHIP OF WEST LINCOLN

BY-LAW 2016-41

“CONSOLIDATED”

(As Amended by By-law 2017-81)

**BEING A SITE ALTERATION BY-LAW TO REGULATE THE
PLACING OR DUMPING OF FILL IN THE TOWNSHIP OF WEST LINCOLN**

WHEREAS Section 142 of the Municipal Act, 2001, S.O. 2001, c.25, as amended, provides that a local municipality may pass a by-law prohibiting or regulating the placing or dumping of fill, requiring that a Permit be obtained for the placing or dumping of fill and imposing conditions to a Permit, including requiring the preparation of plans acceptable to the municipality relating to grading, filling or dumping;

AND WHEREAS Council for the Township of West Lincoln deems it expedient and in the public interest to enact a by-law to regulate the dumping of Fill;

NOW THEREFORE, Council of the Corporation of the Township of West Lincoln enacts as follows:

PART I- DEFINITIONS

1. In this By-law:

- a) **“Agricultural Lands”** includes,
 - (i) land upon which agriculture is a permitted use pursuant to the applicable zoning by-law(s); and
 - (ii) land which is being used for agriculture at the time of application of a Permit;
- b) **“Conservation Authority”** means the Niagara Peninsula Conservation Authority;
- c) **“Commercial Fill Operation”** means the placing or dumping of Fill involving remuneration paid, or other compensation, to an Owner of land whether or not the remuneration or consideration to the Owner is the sole reason for the placing or the dumping of Fill;
- d) **“Complete Application”** means an application and contents described in Part VI of this By-law;
- e) **“Director”** means the Director of Planning and Building and shall include any person authorized by the Director to carry out any of the powers or duties of the Director pursuant to this By-law;
- f) **“Dump, Dumped Or 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 to another on the same property;
- g) **“Fill”** means any type of material deposited or placed on lands and, without limiting the generality of the foregoing, includes Soil, stone, concrete, construction materials/rubble, asphalt, sod or turf either singly or in combination thereof;
- h) **“Haul Route”** means roads designated or approved by the Township for the purposes of ingress or egress to a Site Alteration as a condition of a Permit;
- i) **“Lot”** shall mean a parcel of land which can be legally conveyed.
- j) **“Municipal Law Enforcement Officer”** means a person or persons appointed by Council to enforce the provisions of this By-law; and a Police Officer;
- k) **“Normal Agricultural Practices”** means any activity performed on private lands by an owner or the owner’s agent that is considered by the Ministry of Agriculture, Food and Rural Affairs to be a routine or common procedure for the type of crop, soil type or general climatic conditions relating to the subject property;

- l) **“Order”** means an order issued under this By-law to discontinue a site alteration or to remediate lands to correct a contravention;
- m) **“Owner”** means the registered owner of land or any person having control or management of such lands;
- n) **“Permit”** means a Permit issued pursuant to the provisions of this By-law;
- o) **“Road(s)”** means a common and public highway, and includes a street, bridge or other structure forming part of a Highway over or across which a Highway passes and includes the whole of a road allowance under the jurisdiction of the Township;
- p) **“Road Damage Deposit”** means security provided to cover the cost of repairing damage to municipal property caused as a result of work undertaken as part of a Permit;
- q) **“Security”** means security to ensure fulfillment of the terms of a Permit or to cover the cost of repairing damage to municipal property as a result of work undertaken under a Permit which is posted under this By-law or pursuant to a Site Alteration Agreement;
- r) **“Site”** means the lot or lots altered or proposed to be altered by a Site Alteration;
- s) **“Site Alteration”** means Dumping or placing of Fill on land by any means;
- t) **“Site Alteration Agreement”** means an agreement between an Owner and the Township required by the Director as a condition of obtaining a Permit under this By-law;
- u) **“Site Plan”** means a set(s) of drawings that clearly indicates the area on the property subject to Site Alteration along with the property lines;
- v) **“Topsoil”** means those horizons in a soil profile, commonly known as “O” and “A” horizons, containing organic material and includes deposits of partially decomposed organic material such as peat;
- w) **“Township”** means the Corporation of the Township of West Lincoln;
- x) **“Zoning By-law”** means a by-law passed under Section 34 of the Planning Act applicable to lands within the Township of West Lincoln.

PART II- SHORT TITLE

2. This By-law may be cited and known as the “Site Alteration By-law”

PART III- SCOPE

3. This By-law shall apply to all Site Alterations within the Township, unless a Conservation Authority has made a regulation under section 28 of the Conservation Authorities Act applicable to the Site, or unless specifically excluded pursuant to this By-law.

PART IV- GENERAL PROHIBITIONS AND REGULATIONS

4. No person shall cause, permit, perform or carry out a Site Alteration without first obtaining a Permit from the Township to do so.
5. Where a Permit has been issued under this By-law authorizing a Site Alteration, no persons shall undertake or permit a Site alteration exception in accordance with:
 - a) The plans, documents or other material filed in support of the issuance of the Permit;
 - b) The conditions attached to the permit;
 - c) Compliance with the terms of any Agreement with the Township entered into under this By-law; and
 - d) The provisions of this By-law.
6. No person shall modify an approved Site Alteration without approval of the Director.

7. No person shall operate a Commercial Fill Operation in the Township.
8. No person shall place or Dump Fill, or cause or permit the Placing or Dumping of Fill unless such Fill complies with the Ministry of Environment standards for clean Fill, as described in the *Environmental Protection Act*, R.S.O. 1990, c.E.19, as amended.
9. No person shall fail to obey an Order issued under this By-law.
10. No person shall obstruct a Municipal Law Enforcement Officer carrying out an inspection under this By-law.

Part V- EXEMPTIONS

11. This By-law is not applicable to the following:
 - a) public sector related activities or matters undertaken by a municipality or a local board of a municipality;
 - b) the placing or dumping of fill, removal of topsoil or alteration of the grade of land imposed after December 31, 2002 as a condition to the approval of a site plan, a plan of subdivision or a consent under section 41, 51 or 53, respectively, of the *Planning Act* or as a requirement of a site plan agreement or subdivision agreement entered into under those sections;
 - c) the placing or dumping of fill, removal of topsoil or alteration of the grade of land imposed after December 31, 2002 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 that regulation;
 - 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 that 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 not 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*, or
 - 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*.
12. (i) A Permit is not required for:
 - a) A Site Alteration involving an amount of Fill less than five hundred (500) cubic metres on a Lot within any one year period, **for improved agricultural compatibility on agricultural lands or accessory to the permitted main use on other lands in the Township. In all cases there shall be** no change in the location, direction or elevation of any natural or artificial watercourse, open channel, swale or ditch used to drain the land and provided that there is no impact on the direction or rate of drainage to neighbouring properties; *(As Amended by By-law 2017-81)*
 - b) A Site Alteration which involves the dumping or placing of topsoil on a Lot for improving the soil capability for agricultural purposes on Agricultural Lands as part of a Normal Farm Practice;

- c) A Site Alteration that is incidental to a grading requirement under the Ontario Building Code for the construction or demolition of a building or structure for which a building permit has been issued or for the purpose of constructing a driveway, parking lot or assembly area reasonably accessory to building or structure for which a building permit has been issued;
 - d) A Site Alteration for a septic disposal system where a permit has been issued by the Township or Ministry of the Environment in accordance with Part 8 of the Ontario Building Code;
 - e) A Site Alteration on lands for the purpose of flood or erosion control to establish finished grade shown on a grading and drainage plan approved by the Conservation Authority;
 - f) A Site Alteration on lands for storage purposes either as a primary or accessory use provided that the use is permitted on the lands pursuant to the Zoning By-law;
- (ii) Notwithstanding that a Permit is not required, every person carrying out a Site Alteration in the Township shall provide notice of same to the Director as outlined on Schedule D.

PART VI- ADMINISTRATION AND REQUIREMENTS FOR ISSUANCE OF A PERMIT

13. The Director shall be responsible for the administration of this By-law.

14. Every Owner applying for a Permit shall submit to the Director:

- a) A completed application in the form provided in Schedule "A" to this By-law;
- b) The fee prescribed for a Permit as set out in Schedule "B" of this By-law;
- c) A Road Damage Deposit not exceeding \$5,000.00;
- d) A description of the Fill proposed to be dumped or placed including a detailed description of the source of the Fill, the quantity of the Fill and the proposed placement of the Fill;
- e) A Site Alteration Plan satisfactory to the Director, accurately indicating the following:
 - (i) The property lines of the lands and location on the property of the Site Alteration with dimensions;
 - (ii) All existing storm sewers, ditches, swales, creeks, watercourses and wetlands on the lands and on abutting lands and public Roads;
 - (iii) All Woodlands on the Site and of all easements and right-of-way's over, under, across or through the Site;
 - (iv) All existing buildings and driveways on the lands;
 - (v) Proposed grades and drainage systems upon completion of the Site Alteration;
 - (vi) Proposed ground covering to be used upon completion of the Site Alteration.
- f) Proof of permission with respect to the placement or dumping of the Fill from the grantee of any easement on the Site impacted by a Site Alteration;
- g) Where applicable, copies of any approval required from any other agency, including but not limited to the Niagara Peninsula Conservation Authority;
- h) The proposed haul route;
- i) Any other study, report, plan or material related to the application as deemed necessary by the Director to constitute a Complete Application.

15. An applicant for a Permit, shall, in addition to the requirements of Section 14 above:

- a) Certify that the Fill contains no contaminants within the meaning of the *Environmental Protection Act*, R.S.O. 1990, c.E.19, as amended; and
 - b) Forever and unconditionally release and indemnify the Township with respect to any and all liability which may arise in the event that the Fill contains contaminants within the meaning of the *Environmental Protection Act* and any successor legislation.
16. The certificate and release and indemnity required by Section 16 above, shall be in the form prescribed by the Director from time to time.

PART VII- ISSUANCE OF A PERMIT BY THE DIRECTOR

17. The Director shall review or cause to be reviewed a complete Permit application. In reviewing the application the Director may seek comments from any other agency s/he deems necessary as part of a Complete Application.
18. The Director shall issue a Permit where:
- a) The Applicant has fulfilled the requirements of this By-law, including the payment of all applicable fees, charges, securities and deposits;
 - b) The Director is satisfied that the Site is not within an area where the Site Alteration is prohibited under this By-law or any other applicable law;
 - c) The issuance of the Permit will:
 - (i) 1. result in maintaining or improving the overall agricultural capability of the Site or is incidental to a Normal Farm Practice; or
2. is appropriate for the development of the land;
 - (ii) will maintain the general intent and purpose of this By-law.
 - d) The amount of Fill to be dumped or placed on any lot will not exceed one thousand (1000) cubic metres in which case the approval of Council will be required.
19. Where the Director refuses to issue a Permit, an applicant may appeal the decision of the Director to Council, and Sections 23 through 26 shall apply, with necessary modifications to the appeal process.
20. The Director shall not issue a Permit or accept an application for a Site Alteration within one (1) year of the expiry date of any previous Permit.

PART VIII – CONSIDERATION BY COUNCIL

21. Where the Site Alteration involves the placing or dumping of Fill on a lot that exceeds the one thousand (1000) cubic metres within any one year period, the Permit for such Site Alteration may only be issued by Council, which shall have the same powers as the Director pursuant to this By-law.
22. In addition to the requirements of Section 14 above, every Owner applying to Council for a Permit for a Site Alteration involving in excess of one thousand (1000) cubic metres of Fill will be required to enter into a Site Alteration Agreement in the form outlined in Schedule “C” to this By-law which may include a requirement to post additional Security.
23. Upon receipt of a complete application for a Site Alteration that exceeds one thousand (1000) cubic metres, the Director shall:
- (a) Schedule a review date before Council;
 - (b) Give the requesting Owner notice of the review date at least thirty (30) days prior to the hearing date; and
 - (c) Give all landowners within one hundred and twenty (120) metres of the boundaries of the Site notice of the application.

24. Delivery of any notice to the Applicant shall be made by personal delivery or registered mail. The notice shall be deemed to have been delivered on the seventh day after the date of mailing or on the date of personal delivery.
25. Consideration of the application shall be held in public, and Council shall hear the Applicant and every other person who desires to be heard in favour or against the issuance of the Permit, and Council may adjourn the meeting or reserve its recommendation.
26. Upon reviewing the application, Council shall consider whether the application meets the requirements of Section 18 of this By-law.

PART IX- CONDITIONS ON PERMITS AND HAUL ROUTES

27. As a condition of the issuance of a Permit, the Director may require an Owner of the Site which is the subject of the Permit either prior to the Permit being issued or after the Permit has been issued, to comply with one or more of the following:
 - a) Notify the Director in writing within forty-eight (48) hours of commencing any work under the permit;
 - b) Notify the Director in writing within forty-eight (48) of the completion of the work under the permit;
 - c) Maintain the Road providing ingress and egress to the Site in the same condition that existed prior to the commencement of the work;
 - d) Keep all Roads providing ingress and egress to the Site free from any damage, equipment or material or mud tracked onto the Road arising from any works undertaken as a result of the Permit;
 - e) Remediate and clean up forthwith any material or mud tracked onto the Road where required to do so by Township staff;
 - f) Ensure that any dust control measures are in place so as to restrict and limit the blowing of dust onto any adjacent lands;
 - g) Keep and maintain and make available to the Director the following records:
 - (i) The full and complete legal name and business name if different from the legal name of each hauler;
 - (ii) The commercial vehicle registration number of each hauler;
 - (iii) The motor vehicle permit number of the motor vehicles owned and operated by each hauler;
 - (iv) The date and time of delivery of Fill;
 - (v) The point of origin of each delivery of Fill;
 - (vi) The volume of each delivery of Fill;
 - (vii) The content of material of each delivery of Fill; and
 - (viii) Any other information required by the Director.
 - h) Install temporary signage in accordance with Ministry of Transportation's Ontario Traffic Manual (OTM) Book 7 regulations on all Roads immediately adjacent to the site where Fill is being Dumped or placed;
 - i) Ensure that any machinery operating on a Road or any person directing traffic on a Road does so in a manner acceptable to the Director and in accordance with all other applicable law;
 - j) Ensure that Fill placed or Dumped on the Site is in accordance with the Permit, the Site Plan and all other applicable law;
 - k) Provide the Director or a Municipal Law Enforcement Officer a report from a qualified engineer or environmental consultant possessing an expert or special knowledge in respect to the source and nature of the Fill to be placed or dumped that the Fill meets the standards prescribed by the Ministry of the Environment;
 - l) Provide Security to secure the maintenance of the roads that are used by trucks delivering or removing Fill in a state of repair and free from dust and mud;

- m) Comply with any other conditions imposed by the Director.
- 28. In addition to section 27 above, the Township may designate one or more Haul Routes to be used to and from a Site for the Site Alteration as a condition of a Permit issued under this By-law.
- 29. Where Haul Routes are not within the jurisdiction of the Township, the Township may require that the applicant provide proof of permission to use the Roads.
- 30. Every Owner who is issued a Permit under this By-law shall be responsible for ensuring that the designated Haul Routes are used by any person coming to or from the Site for works carried out under the Permit and any failure to do so shall be a contravention of this By-law.
- 31. The Township may engage legal, engineering or other technical consultants the Director deems necessary in order to evaluate and/or review studies and/or agreements or to provide assistance to the Director in respect of an application and ensuing Site Alteration in which case such costs shall be charged back to the applicant.
- 32. The Township may draw on a Security in order to remedy any breach of the provisions of this By-law, the conditions of a Permit, or any other obligation of the Owner relating to the Permit.
- 33. The issuance of a Permit under this By-law does not relieve an Owner or any other person from compliance with the By-law or any other applicable law.

PART X- SUSPENSION, REVOCATION, TRANSFER AND EXPIRY OF A PERMIT

- 34. A Permit issued pursuant to the provisions of this By-law may be revoked by the Director under any of the following circumstances:
 - a) If the Permit was issued on mistaken, misleading, false or incorrect information;
 - b) Where the Owner is in contravention of a condition to the Permit, a provision of this By-law, or a provision of the Site Alteration Agreement, where one has been entered into.
- 35. A Permit issued pursuant to this By-law shall be valid for a period of six (6) months from the date of issuance, but shall expire after three (3) months from the date of issuance if work has not been commenced by that date.
- 36. Should a Permit expire, the Permit holder is not entitled to a refund of any Permit fees paid pursuant to this By-law.
- 37. A Permit which has expired may be renewed within a six (6) month period following the date of expiry upon submission of a new application to the Director accompanied by a payment of Permit fees, provided that the previously permitted work has not been revised.
- 38. A Permit may be cancelled upon written request from the Owner to the Director. A Site inspection will be conducted to ensure that no work has commenced and that the Site is in an acceptable condition, and at the discretion of the Director, a refund of the Permit Fees may be made.
- 39. If title to the land for which a Permit has been issued is transferred while the Permit remains in effect, the Permit shall be cancelled unless the new Owner, within thirty (30) days of the transfer:
 - a) Provides the Township with an undertaking agreeing to comply with all conditions and agreements under which the existing Permit that was issued; or
 - b) Applies for and obtains a new Permit in accordance with the provisions of this By-law.

PART XI- ORDERS

40. For the purpose of ensuring compliance with this By-law, a Municipal Law Enforcement Officer may, at all reasonable times, enter upon and inspect any land to determine whether or not the following are being complied with:
- a) this By-law;
 - b) a condition of a Permit;
 - c) a provision of the Site Alteration Agreement or a direction or order made under this By-law; or
 - d) a prohibition order made under s. 431 of the *Municipal Act, 2001*.
41. A Municipal Law Enforcement Officer may, for the purposes of the inspection under Section 40:
- 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;
 - c) require information in writing or otherwise as required by the officer from any person concerning a matter related to the inspection; or
 - d) 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.
42. Any cost incurred by the Township in exercising its authority to inspect under Section 41 (d) 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 or occupant of the property where the inspection takes place.
43. a) If a Municipal Law Enforcement Officer is satisfied that a contravention of this By-law has occurred, the Officer may make an Order requiring the Owner of land or the person who caused or permitted a Site Alteration to discontinue the activity and the Order shall set out:
- (i) the municipal address or the legal description of the Site;
 - (ii) reasonable particulars of the contravention; and
 - (iii) the period within which there must be compliance.
- b) If a Municipal Law Enforcement Officer is satisfied that a person has caused or permitted the performance of a Site Alteration in contravention of the provisions of this By-law, the officer may make an Order requiring work to be done to correct the contravention and the Order shall set out:
- (i) the municipal address or the legal description of the Site;
 - (ii) reasonable particulars of the contravention and the work to be done;
 - (iii) the period within which there must be compliance; and
 - (iv) A notice stating that if the work is not done in compliance with the Order within the period as specified, the Township may have the work done at the expense of the Owner.
44. a) Orders issued by a Municipal Law Enforcement Officer under Section 43 shall be served personally or by registered mail to the last known address of the Owner of the land and to any other person to be served.
- b) If an Order is served by registered mail, the service shall be deemed to have been made on the fifth day after the date of mailing.

45. Upon completion of the work to correct the contravention by or on behalf of the Township under Section 43(b), the Township shall have a lien on the land for the amount spent in excess of any Security applied to correct the contravention and the amount shall be deemed to be municipal property taxes and may be added to the tax roll and collected in the same manner and with the same priority as municipal property taxes as provided for by statute.

PART XII- PENALTY AND OFFENCE

46. Every person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable:
- a) On a first conviction, to a fine of not more than \$10,000; and
 - b) On any subsequent conviction, to a fine of not more than \$25,000.
47. Notwithstanding Section 46 above, where the person convicted is a Corporation, the maximum penalty that may be imposed is,
- a) On a first conviction, to a fine of not more than \$25,000; and
 - b) On any subsequent conviction, to a fine of not more than \$50,000.
48. In addition to any fine or any other penalty, any person who is convicted of contravening a provision of this By-law, the terms or conditions of a Permit issued pursuant to this By-law or any Order issued pursuant to this By-law as amended, may be ordered by a Court of competent jurisdiction at the expense of the person to:
- a) Rehabilitate the land;
 - b) Remove the Fill placed or dumped;
 - c) Restore the grade of the land to its original condition.

PART XIII - SEVERABILITY

49. Should a court of competent jurisdiction declare any provision of this by-law to be invalid or of no force and effect, the provision is deemed severable from this by-law and it is the intention of the Township that the remainder of the by-law shall survive and be applied and enforced in accordance with its terms to the extent possible under the law.

PART XIV – REPEAL OF BY-LAW 2015-55

50. By-law No. 2015-55 is hereby repealed.

PART XIV- ENACTMENT

51. This by-law shall come into force and effect on the date of passing.

**READ A FIRST, SECOND AND THIRD
TIME AND FINALLY PASSED THIS 27TH
DAY OF JUNE, 2016**

CONSOLIDATED VERSION

MAYOR DOUGLAS JOYNER

CONSOLIDATED VERSION

CAROLYN LANGLEY, CLERK



SCHEDULE 'A'

**Township of West Lincoln
Site Alteration By-law Application**

Please complete all applicable sections of the application form. An incomplete application will not be processed. Please return forms to the Director of Planning & Building and/or the Director of Public Works & Engineering.

1) PROPERTY INFORMATION:

MUNICIPAL ADDRESS:

LOT NO.: _____ PLAN NO.: _____ CONCESSION NO.: _____

ROLL NO.: _____ TOWN LOT NO.: _____ CURRENT ZONING: _____

LAND OWNER (CHECK ONE): _____ PERSON _____ COMPANY

2) REGISTERED LAND OWNER: (Please Print)

SURNAME FIRST NAME INITIAL

ADDRESS

TELEPHONE FAX

CELL EMAIL

3) CONSULTANT INFORMATION: (Please Print)

COMPANY NAME

TELEPHONE FAX

CELL EMAIL

ADDRESS

LEGAL NAME (For use with agreements)

DESIGNATE (To which all correspondence will be sent)

4) CONTRACTOR INFORMATION: (Please Print)

COMPANY NAME

TELEPHONE FAX

CELL EMAIL

ADDRESS

LEGAL NAME (For use with agreements)

DESIGNATE (To which all correspondence will be sent)

5) TYPE OF WORK:

___ PLACEMENT OF TOPSOIL

___ PLACEMENT OF FILL (per year)

___ 500m³ to 1000m³ imported fill

___ Over 1000m³ imported fill

___ COMMERCIAL FILL OPERATION

PROPOSED START DATE: _____

PROPOSED COMPLETION DATE: _____

BRIEFLY DESCRIBE WORK PROPOSED:

ESTIMATED VOLUME OF FILL TO BE IMPORTED:

(Including all material for driveway and/or septic construction):

6) FINANCIAL

APPLICATION FEE: _____

MUNICIPAL SERVICE FEE: _____

SECURITY AMOUNT: _____

AGREEMENT PREPARATION FEE: _____

TOTAL PAYMENT: _____

7) OWNER AUTHORIZATION: (If an Agent is used)

The owner must complete this section. For more than one owner, a separate authorization form for each individual or corporation is required. Attach an additional page in the same format as this authorization, if necessary.

I, _____ being the registered owner of the subject lands,

hereby authorize _____ to submit the above application to the Township of West Lincoln for approval thereof.

Signature: _____ Date: _____

Printed Name: _____ Title: _____

8) CONSENT FOR RELEASE OF INFORMATION:

In accordance with the provisions of the *Municipal Act*, as amended, I understand that all information and material that is submitted with any application may be made

available to the public, and specifically any application to Council relating to a site alteration in excess of 1,000 cubic metres shall become part of the public record.

In submitting this application and any supporting materials or information, I hereby acknowledge the above-noted and provide my consent.

Further, I understand and acknowledge that my application will be shared with the Niagara Peninsula Conservation Authority.

Signature: _____ Date: _____

Printed Name: _____ Title: _____

Note: Original signature(s) are required for the record. In the case of a corporation, the signature(s) must be that of an officer(s) with authority to bind the corporation.

9) PERMISSION TO ENTER:

The applicant acknowledges that a site walk may be required in order to view the property and its relation to the surrounding lands, and in this regard authorizes members of Council (or a representative thereof), Township staff, Peer Review Consultants retained by the Township, and relevant External Agency Review Staff to enter onto the subject property for the purpose of evaluating the merits of the application, at an arranged time.

OWNER(S) / AGENT(S) SIGNATURE

Signature: _____ Date: _____

Printed Name: _____ Title: _____

Note: Original signature(s) are required for the record. In the case of a corporation, the signature(s) must be that of an officer(s) with authority to bind the corporation.

IMPORTANT INFORMATION

- The security deposit will be refunded to the individual/company who provided initial payment following a final inspection by Township staff. Please note that the deposit will be applied to any unpaid taxes and/or water and sewer charges. Any application fee, municipal services fee, and agreement preparation fee are non-refundable. The deposit will be refunded upon cancellation of a permit, less the administration fee, provided that no work has been commenced.
- The owner hereby authorizes the Township of West Lincoln to enter onto the subject lands for the purposes of inspection or with labour and equipment to complete or repair any works as deemed necessary by the Township.
- The Township of West Lincoln may engage legal, engineering, hydrology, environmental, arborists, landscape or any other consultant as deemed necessary by the Director of Planning and Building in order to evaluate studies and/or agreements in which case the costs incurred for such evaluations shall be charged back to the applicant.
- Fees shall be adjusted upon completion of work where required to reflect totals based on accurate fill volumes verified by a professional engineer prior to final clearance.
- It is the landowner's responsibility to obtain all necessary approvals from any federal, provincial, regional or municipal agencies, including the conservation authority, prior to providing application for a site alteration permit.

APPLICANT CERTIFICATION

The applicant certifies to have read the Site Alteration By-law and Schedules and agrees to abide by all the conditions therein; and,

The undersigned certifies to the Township that any and all Fill used in completing the Site Alteration contains no contaminants within the meaning of the Environmental Protection Act, R.S.O. 1990, c.E. 19. The undersigned hereby releases and agrees to indemnify and save harmless the Township, its employees, representatives, agents and contractors, from and against all claims, demands, damages, causes of action, costs, expenses and other liabilities of any nature, which may arise in the event that the Fill is determined to contain contaminants.

I, _____ hereby make the above application for Site Alteration, declaring that all information contained herein is true and correct, and acknowledge the Township of West Lincoln will process the application based on the information provided.

Signature: _____ Date: _____

Printed Name: _____ Title: _____

FOR OFFICE USE ONLY

COMPLETED APPLICATION RECEIVED: _____

APPLICATION APPROVED FOR RECEIPT: _____

APPROVED BY: _____

SITE ALTERATION PERMIT ISSUED: _____

PERMIT ISSUED BY: _____



**TOWNSHIP OF WEST LINCOLN
SITE ALTERATION PERMIT**

Site Alteration Permit No.: _____ Date: _____

(YY/MM/DD)

Permit Fee: \$ _____ Refundable Security: \$ _____

Address of Site: _____

Name of Owner: _____

Address: _____

Nature of Approval: _____

The undersigned has applied for a Site Alteration Permit pursuant to the provisions of the Township of West Lincoln.

The permit is valid for a period of one (1) year from the date of issue but shall expire after six (6) months from the date of issue should no work be commenced by that date.

Pursuant to the Site Alteration By-law, the undersigned hereby acknowledges that the sole responsibility for the completion of the work undertaken as part of this application including compliance with any conditions rests entirely with the Owner and/or Applicant.

The undersigned certifies to the Township that any and all Fill used in completing the Site Alteration contains no contaminants within the meaning of the Environmental Protection act, R.S.O. 1990, c.E. 19. The undersigned hereby releases and agrees to indemnify and save harmless the Township, its employees, representatives, agents and contractors, from and against all claims, demands, damages, causes of action, costs, expenses and other liabilities of any nature, which may arise in the event that the Fill is determined to contain contaminants.

The undersigned also agrees that the total costs of all works will be entirely the responsibility of the Owner.

Signature of Owner/Applicant

Township of West Lincoln Staff Approval

Date of Approval (YY/MM/DD)

The personal information on this form is collected under the authority of Section 11 of the Municipal Act, as amended. The information is used for the purpose of processing this application and administering the By-law. Questions regarding the collection of this information should be directed to the Township Clerk at clangley@westlincoln.ca.



SCHEDULE 'B'
TOWNSHIP OF WEST LINCOLN
PERMIT FEES

Any applicable supplementary fees where required by written agreement with the Corporation:

Application for less than 500m ³ /year	No Fee
Application Fee (500m ³ /year to less than 1000m ³ /year).....	\$ 500.00
Application Fee (1000m ³ /year and greater).....	\$1,000.00
Road Damage Deposit.....	not to exceed \$5,000.00
Additional Security (as provided for in a site alteration agreement)	



SCHEDULE "C"
SITE ALTERATION AGREEMENT

THIS AGREEMENT made, in triplicate, this day of

BETWEEN:

The Corporation of the Township of West Lincoln
(hereinafter may be referred to as the "Township")

OF THE FIRST PART

And

(hereinafter may be referred to as the "Owner")

OF THE SECOND PART

WHEREAS the Owner is the registered Owner of the property municipally known municipally as _____ in the Township of West Lincoln, Ontario and described in Appendix "1" attached hereto (hereinafter referred to as the "Property") in this Agreement;

AND WHEREAS Sections 142 through 144 of the Municipal Act, 2001, (hereinafter referred to as the "Act") authorizes Council of municipalities to pass a by-laws prohibiting or regulating the placing or Dumping of Fill, the removal of Topsoil, the alteration of the grade of land and requiring the a Permit and requiring restoration and rehabilitation of the Site in the event of contravention of the by-law;

AND WHEREAS Section 9 provided that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act.

AND WHEREAS Section 391 of the Municipal Act, 2001, authorizes a municipality to impose fees or charges on persons, for services or activities provided or done by or on behalf of it or for the use of its property including property under its control and add fees and charges imposed by the municipality to the tax roll for the following property in the local municipality and collect them in the same manner as municipal taxes;

AND WHEREAS the Owner intends to alter the grade of the Property in accordance with the Site Alteration By-law and has applied for a Permit pursuant to that Site Alteration By-law;

AND WHEREAS the Owner intends to use the Township's Road for the ingress and egress for the purposes of bringing Fill onto the property pursuant to that Site Alteration By-law;

AND WHEREAS all capitalized terms herein have the same meaning as in the Site Alteration By-law (being By-law No. 2016-41 and referred to as the Site Alteration By-law) unless otherwise defined herein;

NOW, THEREFORE that in consideration of the application for the Permit and after review of the application and of the covenants hereinafter set forth the parties hereto mutually covenant and agree as follows:

1. SITE ALTERATION OF PROPERTY

1.1 The Owner agrees that, within six (6) months from the date of the Permit, issued pursuant to the Site Alteration By-law (hereinafter referred to as the "Permit"), all placing

or Dumping, of Fill onto the Property shall be completed in accordance with the Site Alteration By-law and the Site Plan as previously approved.

1.2 It is the responsibility of the Owner:

1.2.1 To obtain the approval of the Director to obtain a Permit in accordance with the Site Alteration By-law and comply with all the terms and conditions of the Site Alteration By-law and the Permit; and

1.2.2 To request that the Township carry out a final inspection of the Haul Routes and to obtain the approval of the Director that this By-law and the terms and condition of the Permit have been complied with.

1.3 The Owner agrees that the works described in clause 1.1 and 1.2 above will be completed on or before _____, 20____ .

1.4 The Owner acknowledges and agrees that the Township has no control over and is not responsible or liable for any for any adverse effects or damage resulting from clauses 1.4.1 to 1.4.9 on the Owner's property or neighboring property or any other property as a result of the Permit:

1.4.1 Soil erosion;

1.4.2 Blockage of a watercourse;

1.4.3 Siltation in a watercourse;

1.4.4 Pollution of a watercourse;

1.4.5 Flooding or ponding on adjacent lands;

1.4.6 Flooding or ponding caused by a watercourse overflowing its banks;

1.4.7 A detrimental effect on any trees;

1.4.8 Detrimental effect on matters of inherent biological sensitivity such as aquifer recharge, water quality, unusual plants or wildlife and overwintering habitats;

1.4.9 Injury or destruction of municipal trees;

1.5 The Owner acknowledges, accepts and agrees that, the Owner is responsible for any and all damage(s) to the Road(s) resulting from the ingress and egress of vehicles involved in the placing or Dumping of Fill respecting the Site Alteration.

2.0 SITE ALTERATION PERMIT

2.1 The Owner acknowledges and agrees that no Permit will be issued by the Township:

2.1.1 Until the Owner has paid all required fees and deposited the Security; or

2.1.2 If the Owner is in default under the Site Alteration By-law or any other applicable law.

3.0 SECURITY FOR PERFORMANCE

3.1 The Owner is to deposit with the Township at the time of execution of this Agreement a Security in the amount of XXX by way of cash or Letter of Credit for:

3.1.1 All damages to Roads caused or resulting from the ingress or egress to the Site to which the Owner has been issued a Permit pursuant to the Site Alteration By-law; and

3.1.2 Performance of any other provision required by the Site Alteration By-law, the Permit or this Agreement

(collectively referred to as the "Obligations").

3.2 In the event that the amount of Obligations result in repairs or costs beyond the Security posted in 3.1, the Owner agrees and accepts that the Township will impose a fee for and equal to, the repair or costs and will:

3.2.1 Hold the Owner responsible and liable for all the costs to repair the Road(s), and

3.2.2 Assign the repairs for the Road(s) damage to a contractor in accordance with the Township's Procurement Policy, and

3.2.3 The cost of the Road(s) damage repairs will become a fee imposed by the Township and such fee, will be added to the tax roll of property and collect such fee in the same manner as municipal taxes.

3.3 In the event of default the Owner agrees and consents to permit forces hired by the Township to enter upon the Property and undertake the works to be done under this Agreement, unencumbered and without restriction in any manner.

4.0 COVENANTS TO RUN WITH THE LANDS

4.1 All covenants and conditions set forth in this Agreement are and shall be deemed to be covenants running with the Property and it is hereby agreed between the parties of the First and Second Parts:

4.1.1 That every covenant and condition herein to the benefit of and is binding upon the parties of the First and Second Parts hereto and their heirs, executors, administrators, successors and assigns; and

4.1.2 That when the context so requires or permits the singular number is to be read as if the plural were expressed and the masculine gender as if the feminine or neuter, as the case may be, were expressed.

5.0 RELEASE OF ROAD DAMAGE DEPOSIT OR LETTER OF CREDIT

5.1 When the obligations set out in this Agreement have been fulfilled, including receipt, satisfactory to the Director that the provisions of this Agreement have been fully complied with, the Owner 's Security or the balance of the Owner's Security shall be released.

6.0 MUNICIPAL FREEDOM OF INFORMATION

6.1 The Owner acknowledges that this Agreement and any information or documents provided by it to the Township may be released pursuant to the provisions of the Municipal Freedom of Information and Protection of Privacy Act. This acknowledgement shall not be construed as a waiver of any right to object to the release of this Agreement or any information.

IN WITNESS WHEREOF the parties hereto have duly set their hands and seals as of the day and year first above written.

SIGNED, SEALED AND DELIVERED

In the presence of:

The Corporation of the Township of West Lincoln:
Per:

MAYOR DOUGLAS JOYNER

CAROLYN LANGLEY, CLERK

I, have authority to bind the Corporation. (**Schedule "C" Site Alteration Agreement** Legal description of land)

WITNESS

DATE

OWNER

DATE

“APPENDIX 1”

PROPERTY SUBJECT TO PERMIT

TO: [INSERT OWNERS NAME]
[ADDRESS]
[Town], Ontario
[Postal Code]

PROPERTY: **Roll Number:**
 Address:
 Legal **now in the Township of West Lincoln**
 Description:



**SCHEDULE 'D'
TOWNSHIP OF WEST LINCOLN
NOTICE FOR LESS THAN 500M³/YEAR OF FILL**

Owner Name: _____

Municipal Address: _____

Description of Proposed Work (please make applicable provisions)

- | | |
|--|--------|
| Do you propose to add fill to the property? | Yes/No |
| Do you propose to alter the grading of the property? | Yes/No |
| Do you propose to remove soils from the property? | Yes/No |
| Do you propose to construct retaining wall(s)? | Yes/No |

Please Describe Nature of Proposed Works (please attach sketch or plan to illustrate)

Please answer Following Questions

- | | |
|--|--------|
| Is there a registered flood and/or fill line on the property? | Yes/No |
| Is there an environmentally sensitive area (ESA) on this property? | Yes/No |

The undersigned certifies to the Township that any and all Fill used in completing the Site Alteration contains no contaminants within the meaning of the Environmental Protection act, R.S.O. 1990, c.E. 19. The undersigned hereby releases and agrees to indemnify and save harmless the Township, its employees, representatives, agents and contractors, from and against all claims, demands, damages, causes of action, costs, expenses and other liabilities of any nature, which may arise in the event that the Fill is determined to contain contaminants.

The undersigned also agrees that the total costs of all works will be entirely the responsibility of the Owner.

Signature of Owner/Applicant

For Office Use Only

Staff Comments

Permit Issues	Yes/No	_____
More Information Required (attach requesting information if applicable)	Yes/No	_____
Security Deposit	Yes/No	_____
Conditions Added	Yes/No	_____