

THE CORPORATION OF THE TOWNSHIP OF EAST LUTHER GRAND VALLEY
FILL BY-LAW # 2012- 37

Being a by-law to Regulate and Prohibit the Placing or
Dumping of Fill and Site Alterations in the Township of East Luther Grand Valley

WHEREAS, Section 142 of the Municipal Act, 2001, S.O. 2001, c. 25, permits the enactment of a by-law by the Council of the Corporation of the Township of East Luther Grand Valley to prohibit or regulate the placing or dumping of fill, prohibiting or regulating the site alteration of the grade of land in any defined area or on any class of land in the municipality, and requiring that a permit be obtained for the placing or dumping of fill or the site alteration of the grade of land.

AND WHEREAS Council deems it in the public interest to regulate the dumping and placing of fill and site alterations in order to ensure that groundwater is protected, that existing drainage patterns are maintained and that any changes to existing drainage patterns are appropriate to protect environmental features and to prevent the importation of hazardous material.

AND WHEREAS By-law No. 2010-46 was adopted by Council on October 12th, 2010 and is hereby being replaced by this by-law;

NOW THEREFORE the Council of the Township of East Luther Grand Valley hereby enacts as follows:

PART 1 - DEFINITIONS

1.1 In this by-law:

- (a) “Agricultural lands” means lands used for the growing of crops, including nursery and horticultural crops; raising of livestock; raising of other animals for food, fur or fibre, including poultry and fish; aquaculture; apiaries; agro-forestry; maple syrup production; and associated on-farm buildings and structures
- (b) “Building” includes a structure occupying an area greater than ten square metres consisting of a wall, roof and floor or any of them or a structural system serving the function thereof including all plumbing, works, fixtures and service systems appurtenant thereto, structures designated in the Building Code, a tent as specified in the Ontario Building Code Act and Regulations, and an on-site sewage disposal system;
- (c) “CAO” means the Chief Administrative Officer of the Corporation of the Township of East Luther Grand Valley and shall include any person authorized by the CAO to carry out any of the powers and/or duties of the CAO pursuant to this By-law;
- (d) “Commercial Fill Operation: means the placing or dumping of fill involving remuneration paid, or any other form of consideration provided, to the owner or occupier of the land, whether or not the remuneration or consideration provided to the owner is the sole reason for the placing or dumping of the fill.”
- (e) “Compaction” means compaction to the satisfaction of the Township Engineer
- (f) “Complete Application” means an application as described in section 4 of this by-law and/or as approved by the Township;
- (g) “Complex Site Alteration” means the placing or dumping of fill, where the proposing maximum fill material to be received is not included within the definition of “simple site alteration”

- (h) “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 Township;
- (i) “Drainage” means the movement of water to a place of suitable disposal, whether by way of the natural characteristics of the ground surface or by an artificial method;
- (j) “Dump” or “Dumping” includes the depositing of fill or any other deleterious material in a location other than where the said material was obtained and includes the movement and depositing of these materials from one location on a property to another location on the same property;
- (k) “Erosion Control” means any controls implemented to control sediment, run-off, sub-soils and any other erosion, to the satisfaction of the Township Engineer.
- (l) “Fill” means soil, stone, crushed concrete, sod or turf either singly or in combination, but shall not include engineered fill products, asphalt, concrete, and re-used or recycled aggregate products and/or mine tailings, except as otherwise specifically permitted by this by-law.
- (m) “Grade” shall be defined as follows:
- (i) “Existing Grade” means the elevation of the existing ground surface of the lands upon which dumping and/or placing of fill is proposed and includes abutting ground surface up to three metres wide surrounding such lands, except that where placing or dumping of fill or site alteration has occurred in contravention of this by-law, existing grade shall mean the ground surface of the lands as it existed prior to the placing or dumping of fill,
 - (ii) “Finished Grade” means the approved final elevation of ground surface of lands upon which fill has been placed in accordance with this by-law,
 - (iii) “Proposed Grade” means the proposed elevation of ground surface of land upon which fill is proposed to be placed.
- (h) “Highway” means any and all public right-of-ways within the Township of East Luther Grand Valley.
- (n) “Officers” individuals appointed by the Township as Inspectors or By-law Enforcement Officers.
- (o) “Normal Farm Practice” means any activity undertaken in accordance with the *Farming and Food Production Protection Act* 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;
- (p) “Operator” means any person, firm or corporation authorized by the Owner to manage or control any permitted works occurring on the owner’s land and/or who alone or with others, operates, manages, supervises, runs or directs such business, activity or undertaking;
- (q) “Order” means an Order under Part 9 of this By-law;
- (r) “Other Applicable Law” means any Provincial or Federal statute or regulation and any by-law of the County of Dufferin or of the Township and it includes but is not limited to, the *Ontario Building Code Act* the *Planning Act*, Source Water Protection Act, the *Conservation Authorities Act*, the *Environmental Assessment*

Act, the Ontario Heritage Act, the Clean Water Act, Electricity Act, Aggregate Resources Act, Drainage Act, Tile Drainage Act, Environmental Protection Act, Public Transportation and Highway Improvement Act, and the Municipal Act, each as amended from time to time, and to any regulation, official plan or other plan or similar document enacted or established under such legislation;

- (s) “Owner” includes the registered owner of the lands on which fill is proposed to be placed or dumped;
- (t) “Permitted Works” are those works in receipt of a Township permit;
- (u) “Person” means any individual, association, firm, partnership, corporation, trust, incorporated company, corporation created under the Condominium Act, organization, trustee or agent and their heirs, executors or other legal representatives of a person to whom the context can apply according to law;
- (v) “Phase I Application” means a preliminary application as further referred to in Part 4.1 of this by-law.;
- (w) “Phase II Application” means a complete and detailed application as further referred to in Part 4.2 of this by-law;
- (x) “Placing” means the distribution of fill on lands to establish a finished grade different from the existing grade;
- (y) “Ponding” means the accumulation of surface water in an area not having drainage therefrom where the lack of drainage is caused by the placing or dumping of fill or site alterations;
- (z) “Qualified Person (QP)” means a person qualified as defined within Ontario Regulation 153/04 (under the Environmental Protection Act) , and without limited the forgoing shall mean (a) a person who holds a license, limited license or temporary license under the Professional Engineers Act; or (b) a person who holds a certificate of registration under the Professional Geoscientists Act, 2000 and is a practicing member, temporary member or limited member of the Association of Professional Geoscientists of Ontario.
- (aa) “Retaining Wall” means a wall designed to contain and support fill which has a finished grade higher than that of adjacent lands;
- (bb) “Site Alteration” means altering of the grade of the land whether temporarily or permanently and not a Commercial Fill Operation as defined within this by-law;
- (cc) “Site Restoration” means the treatment of land from which aggregate has been excavated so that the use or condition of the land is restored to its former use or condition.”
- (dd) “Simple Site Alteration” means the placing or dumping of fill, where the proposing site works:
 - (i) Includes a maximum fill to be received of less than 200m³
 - (ii) Is setback a minimum of 30m from all property boundaries, watercourses and drainage swales
 - (iii) Does not change or impact any natural drainage patterns
 - (iv) Does not require a retaining wall
 - (v) Does not have slopes steeper than 3:1
 - (vi) Does not exceed 1.2metres in grade changes
 - (vii) Does not exceed an area of 1.0 hectares
 - (viii) Is not within an area regulated by the Grand River Conservation Authority
- (ee) Site Alteration, Complex – see definition for Complex Site Alteration

- (ff) “Soil” includes material commonly known as earth, topsoil, loam, subsoil, clay, peat, sand or gravel;
- (gg) “Swale” means a shallow depression in the ground sloping to a place of suitable disposal of surface water for the purpose of providing a method of drainage;
- (hh) “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;
- (ii) “Township” means the Township of East Luther Grand Valley;
- (jj) “Watercourse” means an identifiable depression in the ground in which a flow of water seasonally or continuously drains.

PART 2 - GENERAL REGULATIONS

- 2.1 No person shall place or dump fill or any other deleterious material, or cause or permit fill or any other deleterious material to be placed or dumped on any land except in accordance with the provisions of this by-law and without first obtaining a permit under this by-law unless otherwise exempt under Part 3.
- 2.2 No person shall alter, or cause or permit to be altered, the existing grade of any land except in accordance with the provisions of this by-law and without first obtaining a permit under this by-law unless otherwise exempt under Part 3.
- 2.3 Notwithstanding any other provision of this by-law, no person shall do anything, or permit or cause the doing of anything, which results in the alteration, modification, fouling or blockage of any swale, ditch, drainage course, or part thereof, on any land unless authorized by the public authority or public agency with relevant jurisdiction.
- 2.4 No person shall place or dump fill or cause or permit fill to be placed or dumped on any land or alter or cause or permit to be altered the grade of any land except in accordance with this By-law, the Township’s Zoning By-law and Township’s Official Plan policies, as amended, and where applicable, in accordance with the Grand River Conservation Authority’s Regulated Lands and Source Water Protection Plan.
- 2.5 No person shall place or dump fill or cause or permit fill to be placed or dumped unless such fill is tested, when applicable, in accordance with the Township’s Operational Guideline and MOE Best Management Principles attached as Schedule B to this by-law.
- 2.6 This by-law is not intended to and shall not circumvent any development approval process which is required under the *Planning Act* and, without limiting the generality of the foregoing, the fill permit process shall not be used to allow for area grading and pre-servicing of subdivision lands, industrial or commercial development which would otherwise be addressed through the site plan or subdivision approval process under sections 41, 51 or 53 of the *Planning Act*.
- 2.7 Where a permit has not been issued and any person is in contravention of this by-law, the CAO may issue an Order for Removal requiring the Person to restore the property to the condition it was in prior to commencement of such work, to the satisfaction of the CAO, within the time set out in the Order.
- 2.8 Notwithstanding any other provision of this by-law, the CAO may at his/her discretion require any applicant to enter into an agreement with the Township.
- 2.9 Notwithstanding the definition of Fill, to the contrary, recycled aggregate and concrete, excluding asphalt, may be used for the purpose of constructing mud mats and accessways, where the locations have been accepted by the CAO or Township Engineer.

PART 3 - EXEMPTIONS

3.1 THIS BY-LAW IS NOT APPLICABLE TO THE FOLLOWING ACTIVITIES:

- (a) the use, operation, establishment, alteration, enlargement or extension of a waste management system or waste disposal site within the meaning of the *Environmental Protection Act, R.S.O., 1990, c.E.19 as amended* or a waste, waste disposal or waste management system that is exempted by regulation from said Act;
- (b) the construction, extension, alteration, maintenance, or operation of works under Section 26 of the *Public Transportation and Highway Improvement Act, R.S.O. 1990, c.P. 50, as amended*;
- (c) the placing or dumping of soil on lands for the purpose of lawn dressing, landscaping or adding to flower beds or vegetable gardens, provided that:
 - (i) the ground elevation of the land is not increased by more than two hundred (200) millimeters;
 - (ii) the elevation of the land within sixty (60) centimeters (24 inches) of any property line is not changed; and,
 - (iii) there is no change in the location, direction, or elevation of any natural or artificial watercourse, swale, or ditch used to drain land; and,
 - (iv) any material for deposition meets or exceeds those parameters outlined in Table 1 of the Soil, Ground Water and Sediment Standards for Use under Part XV.1 of the Environmental Protection Act.
- (d) the placing or dumping of fill in an excavation to the elevation of existing grade following the demolition or removal of a building or structure for which a demolition permit has been issued;
- (e) the placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken on land described in a license 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 MNR licensed 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*,
- (g) the placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken as an incidental part of the drain construction under the *Drainage Act* or the *Tile Drainage Act*; or
- (h) activities of the Township, the County of Dufferin, Grand River Conservation Authority, the Provincial Government and the Federal Government related to the establishment or maintenance of utilities and services, roads, bridges, flood and erosion control facilities, walkways, bicycle paths, fences, retaining walls, steps and lighting;
- (i) the placing or dumping of fill, removal of topsoil or alteration of the grade of land imposed 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;
- (j) the placing or dumping of fill, removal of topsoil or alteration of the grade of land imposed as a condition of a Pre-servicing Agreements, Topsoil Stripping Agreements and other similar instruments available to the Township;

- (k) 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 distributions system, as those terms are defined in that section;
- (l) fill being placed or dumped on lands for the purpose of flood erosion control to establish finished grade shown on a grading and drainage plan approved by the Conservation Authority and/or by the CAO in conjunction with subdivision approval or site plan approval;
- (m) the removal of topsoil as an incidental part of a Normal Farm Practice including such removal as an incidental part of sod-farming, greenhouse operations and nurseries for horticultural products, but this by-law is applicable to the removal of topsoil and removal, placement or re-placement of sub-strata for sale, exchange or other disposition;
- (n) 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;
- (o) the placing or dumping of fill, removal of topsoil or alteration of the grade of land in any area of the municipality to which a regulation made under section 28 of the *Conservation Authorities Act* in respect of such activities is then in effect;
- (p) the placing of fill pursuant to the construction of a building or structure pursuant to a valid building permit which has been issued for the erection of the building or structure, if the site plan accompanying the building permit application provides sufficient information to determine that the placing or dumping of fill conforms with the provisions of this by-law; however, if no site plan accompanies the building permit then a Fill/Site Alteration permit application will be required;
- (q) construction of an on-site sewage system pursuant to a valid building permit provided the placement or dumping of fill is consistent with the approved design or as required by the Township.

PART 4 - APPLICATION FOR COMMERCIAL FILL & ALTERATION PERMITS

4.1 ALL SIMPLE SITE ALTERATION PERMITS SHALL INCLUDE:

- (a) A completed application in the form prescribed by the Township, including scaled drawings;
- (b) The applicable permit fee and securities in accordance with this By-law and/or the Township's Tariff of Fees By-law;
- (c) The full name, address, phone number of the owner and authorized agent (where applicable);
- (d) A key map showing the location of the property, site boundaries, and total size of the land holding affected and a north arrow;
- (e) The use of the land and the location and use of all buildings and structures located on the land and other buildings and structures adjacent to the affected lands;
- (f) Identification of any and all driveway access onto the land holding, right-of-way over, under, across or through the land holdings and any easements on the land;
- (g) The volumetric quantity of fill to be placed or dumped on the land, the source of same and the quantity of fill to be removed or displaced in the alteration of the lands;
- (h) A acceptable program for erosion control, sedimentation control and rehabilitation of the land suitable to its final use and to the satisfaction of the CAO or his/her designate;
- (i) An approved haul route acceptable to the CAO;
- (j) Confirmation that slopes will not exceed 3:1 gradient;

- (k) Confirmation that there will be no effective change in grade exceeding 1.2 metres;
- (l) Confirmation that retaining walls are not required in conjunction with the site works;
- (m) Confirmation that the lands are not within any fill areas as regulated by the Grand River Conservation Authority;
- (n) Confirmation that there will be no grade or other disturbances on the subject property within 30 metres from all watercourses, lakes, streams, wetlands, ponds, channels, seeps, springs, ditches, swales, berms, drainage systems or other water courses on the lands or within 30 metres of property boundaries of the subject lands;
- (o) Written clearance for site works entrances from the appropriate Township Department;
- (p) A schedule of the anticipated starting date of the site works and the completion date of the site works including the completion date for the stabilization of the site works; the CAO may require the applicant to submit a progress report in the event of non-compliance with the original approved schedule, at any time during the life of the permit;
- (q) Provisions for the maintenance of the site works, control measures during construction including mud tracking prevention, installation of mud mat at approved entrances onto the land, road clean up and dust control measures;
- (r) And such other information with respect to the land and/or site works as may be required by the CAO; and
- (s) Stabilization of the site alteration works will begin within seven days of achieving finished grade and all sediment controls are to be maintained to the satisfaction of the Township.

4.2 **ALL PHASE I APPLICATIONS FOR COMPLEX SITE ALTERATION AND COMMERCIAL FILL OPERATIONS SHALL ALSO INCLUDE:**

- (a) the name and address of the Owner;
- (b) the municipal address of the land on which the fill is to be dumped or placed;
- (c) the legal description of the land on which the fill is to be dumped or placed;
- (d) a general description of the proposed works including but not limited to the following:
 - (i) purpose of the project
 - (ii) approximate total volume of material for importation or displacement
- (e) a general description of the quality and source of the proposed fill.
- (f) all requirements of 4.1.

4.3 **ALL PHASE II APPLICATIONS FOR COMPLEX SITES AND COMMERCIAL FILL OPERATIONS SHALL ALSO INCLUDE:**

- (a) the name and address of the Owner and Operator ;
- (b) the municipal address of the land on which the fill is to be dumped or placed;
- (c) the legal description of the land upon which the fill is to be dumped or placed;
- (d) the applicable fees calculated in accordance with Schedule "A" to this by-law;
- (e) an engineered and scaled drawing of any retaining wall that may be required and a description, including dimensions, of any materials to be used in the construction of such retaining wall;
- (f) an accurate plan of the land to the satisfaction of the CAO based on an identified legal survey showing:
 - (i) the property lines of the lands on which the fill is to be placed or dumped with appropriate dimensions,
 - (ii) for commercial fill operations and site alterations less than 5000 m³ plan and profile drawings including top and bottom of slopes, drainage patterns, tree lines, buildings, and stockpiles on the lands and within thirty (30) metres on abutting lands,

- (iii) for commercial fill operations and site alterations between 5000 m³ and 10,000 m³ existing spot elevations on three (3) metre grids across the lands and six (6) metre grids beyond the property lines to clearly show the existing drainage patterns on the lands and on the abutting lands and all other requirements of this by-law;
- (iv) for site alterations greater than 10,000 m³, a topographic survey at one metre contour intervals certified by an engineer or surveyor defining all material and manmade features including top and bottom of slopes, drainage patterns, tree lines, buildings, and stockpiles on the lands and within thirty (30) metres on abutting lands, and including all other requirements of this by-law;
- (v) all existing storm sewers, ditches, swales, creeks and watercourses on the lands and on abutting lands and public highways,
- (vi) all existing buildings, the species and size in calliper of all trees greater than 20 cm, measured 1.37m from the base, the location of all driveways on the lands and of all easements and rights-of-way over, under, across or through the lands, and
- (vii) proposed grades and drainage systems upon completion of the filling operation, and
- (viii) all proposed ground covering to be used upon completion of the filling operation,
- (ix) soil erosion control measures and location,
- (g) a description of the fill proposed to be dumped in accordance with the Township of East Luther Grand Valley Operations Guideline and MOE Guidelines, attached as Schedule B;
- (h) a signed authorization by the Owner and Operator certifying the correctness of all the information in the application; and
- (i) a signed authorization by the Owner allowing the Operator to conduct the proposed works on the subject land; and
- (j) a signed authorization of a *grantee(s)* of any easements within the property accepting the placement of fill on or in the vicinity of any easement;
- (k) the official plan designation and zoning of the property;
- (l) written confirmation, when requested, from the applicable Conservation Authority or any Provincial or Federal Authority as to whether the fill operation is within a regulated area and complies with its provisions;
- (m) Notwithstanding Part 2 of this By-law and the Schedule "A" attached and forming part of this by-law, the CAO, in writing, may waive the requirement for certain submission criteria for an application for a fill/site alteration permit or any part thereof in appropriate cases, after taking into consideration the nature and scale of the proposed works and the anticipated impact on the site and the surrounding environment.
- (n) any shall also include all the requirements in section 4.1 and 4.2.

PART 5 - PERMIT CONDITIONS

- 5.1 As a condition of the issuance of any permit the CAO may require the Owner and Operator, prior to the permit being issued, to comply with one or more of the following:
- (a) to construct a retaining wall including a safety fence which does not encroach upon land abutting the land on which the work is to be performed, (retaining walls one (1) metre or higher may be subject to a building permit pursuant to the *Building Code Act*;
 - (b) to provide protection for the Finished Grade;
 - (c) to provide that fill shall not be placed around the perimeter of any existing building unless such building and its foundation walls are evaluated and reinforced in accordance with accepted engineering and construction practice; and an appropriate building permit has been issued;
 - (d) to ensure that no trench in which drainage piping that is laid is covered and backfilled until the work has been inspected and approved by the CAO;
 - (e) to provide protection for trees as per the Township standards;
 - (f) to prepare, submit for approval and comply with a well monitoring program developed and undertaken by a qualified person (QP) to include both onsite groundwater monitoring as well as offsite private well base studies as part of a detailed hydro-geological study;
 - (g) to ensure and provide documentation to the Township's satisfaction, that all fill shall be properly compacted using acceptable engineering practices, unless it is being stockpiled on the site for future use;
 - (h) to provide siltation and erosion control measures, as per Township standards, and to obtain the approval of the *Grand River Conservation Authority* for siltation and erosion control measures when required;
 - (i) to provide protection for environmentally significant lands identified by, but not limited to, the Township's Official Plan, Source Water Protection Plan, and the Grand River Conservation Authority Regulations;
 - (j) to remove the topsoil prior to the performance of the work in the alteration of the grade or the placing or dumping of fill and to restore the surface in accordance with Ministry of Environment regulations;
 - (k) to provide financial security in a form and amount to be determined by the CAO to secure performance of the work for which the permit is to be issued and to secure the maintenance of the highways that are used by the trucks delivering the fill in a state of repair and free from dust and mud. The security may be drawn upon by the Township at its sole discretion to remedy any deficiency in any work;
 - (l) to provide adequate drainage from the land on which the work is to be performed in accordance with Township standards;
 - (m) to develop and submit to the Township Engineer for approval an Operations Schedule/Fill Management Plan that conforms to the Township's Operations Guideline as amended and shall include but not be limited to the following:
 - (i) to keep and maintain the following records in a good and businesslike manner;
 - the full and complete legal name and business name, if different from the legal name, of each hauler,
 - the commercial vehicle registration number of each hauler,
 - the motor vehicle permit number of the motor vehicles owned and operated by each hauler,

- the date and time of each delivery of fill,
 - the volume of each delivery of fill,
 - the content of material of each delivery of fill, and
 - any other information required by the CAO
- (ii) the point of origin of each delivery of fill including verification as outlined within the Township's Operations Guideline and MOE Guidelines attached as Schedule B to this by-law
- (n) the data referred to above shall be made available for inspection upon the request of the CAO or his/her designate.
- (o) to provide to the CAO a report from a Qualified Person (QP) as defined within this By-law in respect of the source and nature of the fill to be placed or dumped to ensure the fill is clean as per *Ministry of the Environment* criteria and the Soil, Ground Water and Sediment Standards for Use Under Part XV.1 of the Environmental Protection Act in particular, and attached as Schedule B ;
- (p) to restrict truck daily volumes and/or the location of delivery access routes or staging and storage areas as required by the township.
- (q) to take all necessary steps to prevent waste or soils from being spilled or tracked onto public highways by vehicles entering or exiting the permitted site. Should public highways become fouled in any way by site operations, the operator is responsible for rectifying the situation forthwith. Failure to maintain haul routes in a satisfactory manner may result in temporary revocation of permit (part 6.1 d and 9.6) and possible third party remediation (part 9.6 and 9.7).
- (r) to notify the CAO of the commencement, the completion, and of the various stages of performance of the work in the alteration of the grade of the land and in placing or dumping of fill on the land and to make the site available for inspection by his/her designate at all times;
- (s) to operate in compliance with provisions of the Township's Noise By-law and any successor legislation thereto or as otherwise required by the Township;
- (t) to indemnify the Township for any liability, costs, damages or losses incurred directly or indirectly caused by the issuing of a permit and provide insurance satisfactory to the Township;
- (u) to enter into an Agreement with the Township to satisfy all conditions, financial or otherwise, of the Township, with regard to such matters as the Township may consider necessary prior to the issuances of a permit, where applicable.
- (v) Payment of any and all costs incurred by the Township through Peer Review, quality control/assurance and operational compliance shall be the responsibility of the Owner/Operator including a 15% administration fee
- (w) require that the placing or dumping of fill be completed by a specified date;
- (x) not to contaminate the natural environment and to abide by all applicable environmental laws and regulations;
- (y) acknowledge that the Township may engage legal, engineering, hydrology, environmental and landscape consultants to evaluate studies and or agreements in which case the costs incurred will be charged back to the applicant plus a 15% administrative fee;
- (z) provide security satisfactory to the Township to be used to remedy any breach of Federal legislation, Provincial legislation, this by-law or Agreement;

5.2 The issuance of any permit by the Township shall not relieve the permit holder from compliance with this By-law, any other applicable law or legislation.

- 5.3 The Council may direct the issuance of a permit when:
- (a) the CAO is satisfied that the lands which are the subject of the application for a permit are not within an area where the placing or dumping of fill or the alteration of the grade of land is prohibited by legislation, Official Plans and Zoning by-laws; and
 - (b) the applicant has fulfilled all requirements of this by-law and all other applicable law.
- 5.4 Where a permit has been issued under this by-law authorizing the placing or dumping of fill, or alteration of the grade of land, no person shall place or dump fill except in accordance with:
- (a) the plans, documents and any other information required for the approval of the permit;
 - (b) the terms and conditions of the permit;
 - (c) in compliance with any agreement entered into with the Township as a condition of obtaining the permit; and
 - (d) all other provisions of this by-law.
- 5.5 No person shall perform or permit to be performed, any works, including the delivery of materials to and the removal of materials from the site, a site alteration or fill operation, or any site work except :
- (a) Between the hours of 7:00 a.m. and 5:00 p.m. Monday to Friday, excluding Statutory holidays, or as further limited through a permit or agreement;
- No person shall perform any works that are contrary to the Township's Noise By-law unless otherwise approved.
- 5.6 No person shall undertake any works or allow works to occur on any land for storage of fill purposes unless the outside storage of such fill on the land is permitted by the Township's Zoning By-law, as amended.

PART 6 - PERMIT REVOCATION, EXPIRY AND TRANSFER OF PERMITS

- 6.1 The CAO may revoke a permit for the following reasons:
- (a) it was obtained on mistaken, false or incorrect information;
 - (b) it was issued in error;
 - (c) the Owner and/or Operator requests in writing, that it be revoked;
 - (d) the terms of an agreement under this by-law have not been complied with;
 - (e) work authorized under the permit has not been commenced prior to its expiry date; or
 - (f) an Owner or Operator has failed to comply with the provisions of this by-law.
- 6.2 If the work has commenced before a permit for that work has been issued, the fees for an application for each permit required shall:
- (a) double the amount otherwise specified in this by-law; and include engineering site inspections as defined in Schedule A for each inspection that was made, required or requested prior to a permit being issued.

- (b) Where a permit has not been issued and any person is in contravention of this by-law the Officer and/or-CAO may issue an Order for Removal requiring the person to restore the property to the condition it was in prior to commencement of such work to the satisfaction of the CAO within the time set out in the Order at the Owner/Operator's cost.
- 6.3 Permits for designated Commercial Fill Operations issued under this by-law shall be valid for a period of not less than one year and not more than three years, unless otherwise authorized by Council, from the date of issuance,
 - 6.4 Should the fill operation not be completed in accordance with the approved site alteration plan the Township shall draw on the letter of credit or security deposit to grade and place topsoil and seed the site.
 - 6.5 Notwithstanding Section 6.4 permits issued under this by-law shall expire six (6) months after the date of issuance of the permit if work is not commenced under the permit.
 - 6.6 A permit which has expired may be renewed at the sole discretion of Council within a six month period from the date of expiry upon the making of written application to the CAO and payment of the prescribed fees in Schedule "A" to this by-law.
 - 6.7 If title or lease of the land for which a permit has been issued is transferred while the permit remains in effect, the permit shall be deemed cancelled unless the Owner of the lands, at a minimum of 30 days prior to the transfer,
 - (a) provides the Township of East Luther Grand Valley with an undertaking to comply with all the conditions under which the existing permit was issued; or
 - (b) applies for and obtains a new permit in accordance with the provisions of this by-law.
 - 6.8 If a permit is expired, cancelled or revoked after work has commenced and prior to the completion of the site alteration, the Owner and Operator, at their cost, shall forthwith restore the site to its original condition or stabilize the site, including but not limited to topsoil, grading, sodding, and compaction to the satisfaction of the Township's Engineer in a manner that will prevent adverse impacts on abutting properties and the environment.

PART 7 - PERMIT AGREEMENT FOR COMMERCIAL FILL OPERATIONS OR SITE ALTERATION PROJECTS GREATER THAN 10000M³

- 7.1 Where more than 10,000m³ of material is proposed to be placed or dumped in either a Commercial Fill Operation or Site Alteration Project, the Owner or Operator will provide a complete application and enter into an agreement with the Township which shall be registered on title to the land on which the work is to be performed and the Owner and Operator shall agree to the following conditions, including but not limited to:
 - (a) retain a qualified person (QP), approved by the CAO, who shall be responsible for ensuring that the placing and dumping and compaction of fill is in accordance with reasonable engineering and environmental practices, based on Regulation 153/04 as amended site standards and is in accordance with the plan submitted by the proponent and approved by the CAO for the permit and section 5.1 of this by-law;
 - (b) place or dump the fill in accordance with Part 2 of this by-law, the permit and agreement;
 - (c) require the qualified engineer or Qualified Person (QP) to report in writing on a regular basis or as determined by the CAO that the placing and dumping of fill is in accordance with Part 2 of this by-law as well as report on the overall compliance of site operations with the approved Operations Schedule/Fill Management Plan;

- (d) provide a report from the Qualified Person(QP) that he/she is satisfied that the placing or dumping of fill will not result in;
- (i) soil erosion,
 - (ii) blockage of a watercourse,
 - (iii) siltation in a watercourse,
 - (iv) pollution of a watercourse,
 - (v) flooding, ponding or siltation of abutting lands,
 - (vi) flooding or ponding caused by a watercourse overflowing its banks,
 - (vii) a detrimental effect on any trees of a caliper of 20 cm or more, measured 1.37m up from the base, located on the lands, or
 - (viii) detrimental effect on matters of inherent biological sensitivity such as aquifer recharge, water quality, unusual plants or wildlife and over wintering habitats,

PART 8 - NOTICE TO PUBLIC AND CONSIDERATION OF COUNCIL

- 8.1 An application for Commercial Fill Operations or Site Alteration Projects greater than 10000m³ shall not be approved until Council has considered the application at a public meeting at which the applicant or any interested members of the public will have a fair opportunity to make representation. Notice of the public meeting is to be provided to property owners and agencies in a similar manner as a Zoning By-law under the Planning Act or an alternative approved by the CAO.

PART 9 - ADMINISTRATION AND ENFORCEMENT

- 9.1 This by-law applies to all the lands within the Township of East Luther Grand Valley but it shall have no effect on those lands which are subject to regulations respecting the placing or dumping of fill, removal of topsoil or alteration of the grade of land made under Section 28 of the *Conservation Authorities Act, R.S.O. 1990, c. C.27*, as amended.
- 9.2 The administration and enforcement of this by-law shall be performed by the CAO and/or Officer and/or any QP assigned by the CAO or Council.
- 9.3 Upon completion of the work pursuant to a permit, the Owner and/or Operator shall so advise the CAO within thirty days of project completion.
- 9.4 Officers may, at any reasonable time enter and inspect any land to determine whether the provisions of this by-law, an Order issued under this by-law, or a condition of a permit issued under this by-law have been complied with.
- 9.5 No person shall obstruct a person referred to in Section 9.2. who is carrying out an inspection pursuant to this by-law.
- 9.6 If an Officer is satisfied that a contravention of this by-law has occurred, the Officer may make an order requiring the Owner or Operator to discontinue the activity, and the order shall set out:
- (a) the municipal address or the legal description of the land;
 - (b) reasonable particulars of the contravention;
 - (c) the period within which there must be compliance.
- 9.7 If the Officer determines that a person has caused or permitted the placing or dumping of fill or the performance of a site alteration in contravention of the provisions of this by-law, the Officer may issue an Order to Comply requiring work to be done to correct the contravention and the order shall set out:
- (a) the municipal address or the legal description of the land;

- (b) reasonable particulars of the contravention and of the work to be done and the period within which there must be compliance with the order;
 - (c) a notice stating that if the work is not done in compliance with the order within the period it specifies, the municipality may have the work done at the expense of the Owner and/or Operator.
- 9.8 An Owner and/or Operator who has received a Notice of Contravention or an Order to Comply shall comply with the Notice of Contravention or the Order to Comply within the time frame specified in the Notice of Contravention or the Order to Comply
- 9.9 If the Owner and/or Operator do not comply with an Order to Comply; the CAO may draw on financial securities as required and as provided in the Agreement under Subsection 7.1 (h) of this by-law.
- 9.10 The Township may draw on financial securities as required to complete the work.
- 9.11 A Notice of Contravention or an Order to Comply pursuant to this by-law shall be served personally or by prepaid registered mail in accordance with section 9.12.
- 9.12 A Notice Of Contravention or an Order to Comply pursuant to this by-law sent by prepaid registered mail shall be sent to the last known address of the Owner and/or Operator.
- 9.13 An Officer who is unable to effect service to this by-law shall place a placard containing the terms of the Notice of Contravention or an Order To Comply in a conspicuous place on the property and the placing of the placard shall be deemed to be sufficient service of the Notice of Contravention or an Order to Comply on the Owner and Operator.
- 9.14 If the Owner or Operator fails to do the work required by the Order within the period it specifies, the Township, in addition to all other remedies it may have, may do the work and for this purpose may enter on the land with its employees and agents. The costs incurred by the Township in so doing shall be paid by the Owner and/or Operator and may be recovered by the Township in like manner as taxes or drawing on financial securities provided.

PART 10 - PENALTY

- 10.1 Any person, other than a corporation, who contravenes any provision of this by-law, the terms or conditions of a permit, or an Order issued under section 144(4) or (5) of the *Municipal Act, 2001*, is guilty of an offence and on conviction is liable:
- (a) on a first conviction, to a fine up to \$10,000; and
 - (b) on any subsequent conviction, to a fine up to \$25,000.
- 10.2 A corporation that contravenes any provision of this by-law, the terms or conditions of a Permit, a Control Plan, or an Order issued under section 144(4) or (5) of the *Municipal Act, 2001*, is guilty of an offence and on conviction is liable:
- (a) on a first conviction, to a fine up to \$50,000; and
 - (b) on any subsequent conviction, to a fine up to \$100,000.

PART 11 - SEVERABILITY

- 11.1 If any provisions of this by-law, or the application thereof to any person or circumstance, is invalid, the invalidity shall not affect other provisions or application of this by-law which can be given effect without the invalid provision or application, and to this end the provisions of this by-law are severable.

PART 12 - SCHEDULES

- 12.1 Schedule "A" attached to and forms part of this by-law.
- 12.2 Schedule "B" attached to and forms part of this by-law,

PART 13 - REPEALING SECTION

- 13.1 By-law 2010-46 is hereby repealed.

ENACTED and PASSED this ___ day of _____, 2012.

JOHN K. OOSTERHOF, MAYOR

JANE M. WILSON, MUNICIPAL CLERK

SCHEDULE "A"**FEEES**

SIMPLE SITE ALTERATION APPLICATION (as defined by section 1.1)	
Simple Site Alteration Application	\$200.00
PHASE I APPLICATION PROCESSING FOR COMPLEX SITE ALTERATION AND COMMERCIAL FILL OPERATIONS	
Proposed Works less than 10000m ³	\$200.00
Proposed Works greater than 10 000m ³	\$500.00
PHASE II APPLICATION PROCESSING	
DESCRIPTION	APPLICATION FEE
Permitted Works less than 10000m ³	\$500 + \$0.80/m ³ proposed volumes
Permitted Works greater than 10 000m ³	\$2000 + \$0.50/m ³ proposed volumes

[Engineering Site Inspection \$250 per inspection]

[Expired Permit Renewal Fee \$200]

The Township may engage legal, engineering, hydro-geological, and environmental and landscape consultants to evaluate studies and/or agreements in which case the costs incurred will be charged back to the applicant plus a 15% administrative fee.

Inflation Clause: All figures within this schedule are based on 2012 dollars. Each year these figures will be increased based on the January Consumer Price Index, year over year, by an escalation factor derived from Statistics Canada.

SCHEDULE “B”

GUIDELINES

1. MINISTRY OF ENVIRONMENT BEST MANAGEMENT PRINCIPLES

(Where the MOE Best Management Principles are amended, this Schedule shall automatically be updated to include the most recent approved Principles.)

2. OPERATIONAL GUIDELINES FOR THE IMPLEMENTATION OF THE FILL AND SITE ALTERATIONS BY-LAW

3. TABLE 1: SOILS, GROUND WATER & SEDIMENT STANDARDS

(Where the MOE Soils, Ground Water and Sediment Standards are amended, this Schedule shall automatically be updated to include the most recent approved Principles.)