

THE CORPORATION OF THE TOWN OF MILTON

BY-LAW NO. 095-2022

BEING A BY-LAW TO REGULATE THE USE OF MUNICIPAL STORMWATER INFRASTRUCTURE IN THE TOWN OF MILTON

WHEREAS pursuant to s. 4, item 4.e of the Table in s. 11 of the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended, the collection of stormwater and other drainage from land is assigned to all upper-tier municipalities non-exclusively;

AND WHEREAS pursuant to s. 30(1) of the *Ontario Water Resources Act*, R.S.O. 1990, c. 0.40, every *person* that discharges or causes or permits the discharge of any material of any kind into or in any waters or on any shore or bank thereof or into or in any place that may impair the quality of the water of any waters is guilty of an offence;

AND WHEREAS the Council of the Corporation of the Town of Milton deems it desirable to pass a by-law to regulate the use of municipal stormwater infrastructure in order to:

- protect the Town's stormwater collection system from undue deterioration, damage and obstruction;
- protect the public, workers and properties from hazardous materials and dangerous conditions; and,
- protect the natural environment from deleterious substances;

NOW, THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF MILTON ENACTS AS FOLLOWS:

Short Title

Stormwater Management (SWM) Bylaw.

1. Definitions

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

(1) "*acute hazardous waste chemical*" means a material which is an *acute hazardous waste chemical* within the meaning of Ontario Regulation 347;

(2) "*adverse effect*" shall have the same meaning as in the *Environmental Protection Act*, R.S.O. 1990, c. E.19;

- (3) "*animate products of biotechnology*" means a living organism created through the practice of biotechnology, and includes material which has been genetically modified using techniques that permit the direct transfer or removal of genes in that organism;
- (4) "*appurtenance*" means an accessory item that may or may not be essential to be added to a piece of equipment to ensure its proper function;
- (5) "*authorized representative of the Town*" means any *Town* employee or representative designated by the *Town* to act on behalf of the *Town* for the purposes of this By-law;
- (6) "*biomedical waste*" means *biomedical waste* as defined in the Ontario Ministry of Energy and the Environment Guideline C-4 entitled "The Management of Biomedical Waste in Ontario" dated April 1994, as amended;
- (7) "*blowdown water*" means recirculating water that is discharged from a cooling or heating water system for the purpose of controlling the level of water in the system or for the purpose of discharging from the system materials contained in the system, the further build-up of which would or might impair the operation of the system;
- (8) "*carpet cleaner waste*" means a combination of liquid and solid wastes, generated by carpet or furniture cleaning, that are collected in a mobile holding tank or are discharged to a sewer;
- (9) "*catch basin*" means a buried receptacle designed to prevent obstructive material from entering and blocking the sewer and diverts overland water flows into a sewer system. For clarity, a *catch basin* may be located on public property or on private property within an easement, including within the rear or side yard of a residential property;
- (10) "*combustible liquid*" means a liquid that has a flash point not less than 37.8 degrees Celsius and not greater than 93.3 degrees Celsius;
- (11) "*connection*" or "*drain*" means that part or those parts of any pipe or system of pipes leading directly to the *stormwater* collection system;
- (12) "*Consolidated Linear Infrastructure Environmental Compliance Approval*" or "*CLI-ECA*" means an approval granted by the *MECP* for a system wide sewage works *discharge*;

(13) “*corporation*” includes a company, *corporation*, cooperative, partnership, firm, sole proprietorship, association, society, organization or any other legal entity that is not an individual;

(14) “*Director*” includes the *Director* of Development Engineering and the *Director* of Infrastructure for the *Town* and shall include any successor positions thereto as well as any *person* authorized by said *Directors* to carry out any of their powers or duties pursuant to this by-law;

(15) “*discharge*” when used alone as a verb, includes add, deposit, release or emit and, when used alone as a noun, includes an addition, deposit, release or emission;

(16) “*domestic waste*” means any debris, rubbish, refuse, sewage, effluent, discard or garbage of any type arising from a residence belonging to, or associated with a house or use of a house, or residential property, including, but not limited to, garbage, discarded material or things, broken or dismantled things, and materials or things exposed to the elements, deteriorating or decaying on a property due to exposure to the weather;

(17) “*Environmental Compliance Approval*” means an approval granted by the *MECP* for individual sewage works *discharge*;

(18) “*fuel*” means alcohol, gasoline, naphtha, diesel *fuel*, *fuel* oil or any other ignitable substance intended for use as a *fuel*;

(19) “*groundwater*” means water beneath the earth’s surface accumulating as a result of seepage;

(20) “*Halton Region*” means the Regional Municipality of Halton;

(21) “*hauled sewage*” means waste removed from a sewage system, including a cesspool, a septic tank system, a privy vault or privy pit, a chemical toilet, a portable toilet, or a sewage holding tank but does not include *sludge* removed from wastewater treatment plants;

(22) “*hauled liquid waste*” means sewage that is suitable for treatment in a sewage works and is transported to a sewage works for disposal and includes *hauled sewage*;

(23) “*hazardous industrial waste*” means a material which is a *hazardous industrial waste* within the meaning of Ontario Regulation 347;

(24) “*hazardous waste chemical*” means a material which is a *hazardous waste chemical* within the meaning of Ontario Regulation 347;

- (25) “*individual*” means a natural *person*;
- (26) “*ignitable waste*” means a material which,
- (a) is a liquid, other than an aqueous solution containing less than 24 per cent alcohol by volume and has a flash point less than 93 degrees Celsius, as determined by the Tag Closed Cup Tester (ASTM D-56-97a), the Setaflash Closed Cup Tester (ASTM D-3828-97 or ASTM D-3278-96e1), the Pensky-martens Closed Cup Tester (ASTM D-93-97), or as determined by an equivalent test method;
 - (b) is a solid and is capable, under standard temperature and pressure, of causing fire through friction, absorption of moisture or spontaneous chemical changes and, when ignited, burns so vigorously and persistently that it creates a danger;
 - (c) is an ignitable compressed gas (Class 2, Division D) as defined in the regulations made under the *Transportation of Dangerous Goods Act*, 1992 (S.C. 1992, c. 34);
 - (d) is an oxidizing substance (Class 5, Divisions 1 and 2) as defined in the regulations made under *Transportation of Dangerous Goods Act*, 1992 (S.C. 1992, c. 34);
- (27) “*industrial*” means of or pertaining to industry, manufacturing, commerce, trade, business or institutions as distinguished from domestic or residential;
- (28) “*inspector*” means a *person* authorized by the *Town* to carry out observations and inspections as prescribed by this By-law;
- (29) “*matter*” includes any solid, liquid or gas;
- (30) “*MECP*” means the Ministry of the Environment, Conservation and Parks;
- (31) “*oil and grit interceptor*” or “*OGS*” means an underground device that captures oils and sediments from *stormwater* runoff and snowmelt;
- (32) “*owner*” means any *person* who is the registered or beneficial owner of a property or who leases, rents, occupies, manages, receives rent from or otherwise controls a property;
- (33) “*pathological waste*” means a material which is a *pathological waste* within the meaning of Regulation 347 or any material which may be designated in writing by the Chief Medical Officer of Health;

- (34) "*PCBs*" means any monochlorinated or poly-chlorinated biphenyl or any mixture of these or mixture that contains one or more of them;
- (35) "*person*" includes a natural *person* and a company, *corporation*, cooperative, partnership, firm, sole proprietorship, trust, association, society, organization or other legal entity;
- (36) "*pesticides*" means a *pesticide* regulated under the *Pesticides Act*, R.S.O. 1990, c. P.11, as amended or any successor legislation thereto;
- (37) "*pH*" means the logarithm to the base 10 of the reciprocal of the concentration of hydrogen ions in moles per litre of solution;
- (38) "*prohibited discharge*" means any *discharge* prohibited under section 3.1 of this by-law;
- (39) "*Town*" means the Corporation of the *Town* of Milton;
- (40) "*severely toxic waste*" means waste containing any contaminant listed in Schedule 3 of Regulation 347;
- (41) "*sewage*" means any liquid waste containing animal, vegetable, chemical or mineral *matter* in solution or in suspension, but does not include *stormwater* or uncontaminated water;
- (42) "*sludge*" means wastewater containing more than 0.5% total solids, but does not include material which has been pumped out of a septic tank;
- (43) "*spill*" means a direct or indirect *discharge* or deposit to the *stormwater collection system* or the natural environment which is abnormal in quantity or quality in light of all circumstances of the *discharge*;
- (44) "*storm sewer*" means pipes used for the collection and transmission of *stormwater*, drainage from land or from a watercourse of any combination thereof that is owned, operated or maintained by the *Town* or over which the *Town* holds easement rights;
- (45) "*storm sewer lateral*" means the underground storm drainage piping that has been extended from the storm water collection system to a private property;
- (46) "*stormwater*" means water from rainfall, other natural precipitation, drainage or from the melting of snow or ice;

(47) “*stormwater collection system*” any works for the collection, transmission, storage, treatment or disposal of *stormwater* or runoff, including *storm sewers*, *storm sewer laterals*, *OGS*, *stormwater management facilities* or ponds (including Mill Pond), *stormwater conveyance channels*, culverts, catch basis, water courses, drainage piping, or other *appurtenances*, that are owned, operated or maintained by the *Town* or over which the *Town* holds easement rights;

(48) “*stormwater conveyance channel*” means an open channel, swale or ditch designed and built for the conveyance of *stormwater*;

(49) “*stormwater management system*” means a *stormwater* disposal system that has been professionally designed, constructed and maintained such that the rate of run-off from specific blocks of land or lots is controlled to *discharge* into a municipal storm drainage facility at a reduced flow rate;

(50) “*User Fee By-Law*” means the *Town* by-law or by-laws setting out fees for use of *Town* services and other matters, as amended; and

(51) “*waste disposal site leachate*” means leachate, namely liquid containing dissolved or suspended contaminants which emanates from waste and is produced by water percolating through waste or by liquid in waste, from any *waste disposal site*.

2. Interpretation

- 2.1 Nothing in this by-law shall be interpreted so as to permit the *discharge* of anything, which by the provision of any applicable *Act*, regulation or by-law is otherwise prohibited.

3. General Prohibitions

- 3.1 No *person* shall directly or indirectly *discharge* or cause or permit the *discharge* or deposit of a substance of any type or at any temperature or in any quantity other than *stormwater* into the *stormwater collection system* where any of the following apply:

- (1) to do so may cause or result in:
 - (a) damage any part of the *stormwater collection system*;
 - (b) interfere with the operation of any part of the *stormwater collection system*;

- (c) obstruct, partially obstruct, restrict or partially restrict any part of the *stormwater collection system* or the flow therein;
 - (d) a health or safety hazard or other *adverse effect* to any *person*, animal, property, vegetation or the natural environment;
 - (e) impair the quality of the water in any well, lake, river, pond, spring, stream, aquifer, wetland, reservoir or other watercourse;
 - (f) contravene any approval issued under the *Ontario Water Resources Act*, R.S.O. 1990, c. 0.40, or the *Environmental Protection Act* (Ontario), R.S.O. 1990, c. E.19, as amended,; or
 - (g) contravene the *Fisheries Act*, R.S.C. 1985, c.F.14,;
- (2) the substance has one or more of the following characteristics:
- (a) two or more separate liquid layers;
 - (b) visible film, sheen, foam or discolouration;
 - (c) two or more separate layers;
 - (d) a temperature greater than 40 degrees Celsius; or
 - (e) a *pH* less than 6.0 or greater than 9.0;
- (3) where water has been added to the substance or source of the *discharge* for the purposes of dilution; or
- (4) the substance contains one or more of the following:
- (a) *acute hazardous waste chemicals*;
 - (b) *animate products of biotechnology*;
 - (c) *biomedical waste*;
 - (d) *blowdown water*;
 - (e) *carpet cleaner waste*;
 - (f) *combustible liquids*;
 - (g) concrete mixtures;
 - (h) *domestic waste*;

- (i) dyes or colouring materials, except where the dye is used by the *Town*, or an agent working on behalf of the *Town*, as a tracer;
- (j) floating debris;
- (k) *fuel*;
- (l) *hauled sewage*;
- (m) *hauled liquid waste*;
- (n) *hazardous industrial waste*;
- (o) *hazardous waste chemicals*;
- (p) *ignitable waste*;
- (q) material discharged from a *groundwater* remediation system;
- (r) motor oil;
- (s) nuclear waste;
- (t) organic solvents;
- (u) paint;
- (v) *pathological waste*;
- (w) *PCBs*;
- (x) *pesticides*;
- (y) reactive waste;
- (z) *severely toxic waste*;
- (aa) *sewage*;
- (bb) *sludge*;
- (cc) solvent extractable *matter* of animal, vegetable origin, mineral or synthetic origin;
- (dd) *waste disposal site leachate*;
- (ee) waste water from an *industrial* operation;

- (ff) a substance from raw materials, intermediate or final product, used or produced in, through or from an *industrial* process;
- (gg) a substance used in the operation or maintenance of an *industrial* site;
- (hh) contaminants from the raw materials, intermediate or final products or wastewater from an *industrial* operation; or
- (ii) E.coli colonies in excess of 200 per 100ml.

3.2 Without limiting the generality of section 3.1, every *owner*, or *person* undertaking work on a property shall undertake all necessary measures to prevent the following from resulting in a *prohibited discharge*:

- (1) erosion or sediment runoff from a property;
- (2) outside storage activities; or
- (3) the placement of any substance on a property that may result in a direct or indirect *discharge* to the stormwater system;
- (4) the *discharge* of any substance on a property that may result in a direct or indirect *discharge* to the *stormwater* system.

3.3 No *person* shall directly or indirectly obstruct any part of the *stormwater collection system*.

3.4 No part of a *stormwater management system* shall be constructed and no *connection* shall be made to the *stormwater collection system*:

- (1) until all applicable approvals by the *Town* and any other approving bodies required (including but not limited to Region of Halton, Conservation Halton, the *MECP*) have been issued; and
- (2) except in accordance with the plans and conditions of approval of the *Town* and other approving bodies.

3.5 No *person* shall construct or permit the construction of any structure or landscaping which will impede the flow of *stormwater* to the *stormwater* collection system or any part thereto.

3.6 No *person* may alter, remove or obstruct a *catch basin* or *stormwater conveyance channel* that is on private lands if the *catch basin* or *stormwater conveyance channel* is subject to an easement, or depicted in a plan of subdivision or site plan under the *Planning Act*, R.S.O. 1990, c. P.13, as amended.

- 3.7 No unauthorized *person* shall break, damage, destroy, uncover, deface or tamper with any structure, *appurtenance*, equipment or thing which is part of the *stormwater collection system*.
- 3.8 No *person* may enter a *storm sewer* without the express authorization of the *Town*.
- 3.9 No *person* may use a public or private *stormwater management* facility or pond for skating, swimming, fishing, wading, bathing or any other recreational use.
- 3.10 All private *stormwater management* facilities or ponds shall have signage as identified within the *Town* of Milton's Engineering and Parks Standards Manual as amended, identifying prohibited uses and emergency information at each pond. Signage shall be maintained in general good condition and legible.
- 3.11 No *person* shall provide false or misleading information to the *Town* or any employee or agent of the *Town* in respect of any *matter* subject to this by-law

4. Additional Requirements

- 4.1 Every *owner* or operator of a restaurant or other *industrial*, commercial or institutional premises where food is cooked, processed or prepared, shall take all necessary measures to ensure that oil, grease and sediment are prevented from entering the *stormwater collection system*, including without limitation installing an OGS in any piping system on its premises that connects directly or indirectly to the *stormwater collection system*.
- 4.2 Every *owner* or operator of a motor vehicle service station, repair shop, car wash or garage or of an *industrial*, commercial or institutional premises where motor vehicles are repaired, lubricated, maintained or cleaned shall take all necessary measures to ensure that oil, grease, soap, sediment or any other substances are prevented from entering the *stormwater collection system*, including without limitation installing an OGS designed to prevent motor oil, lubricating grease, soap, sediment or any other substance from directly or indirectly entering a *stormwater collection system*.
- 4.3 Every *owner* or operator of a premises from which sediment may directly or indirectly enter a sewer, including but not limited to premises using ramp or area *drains* and car and vehicle wash establishments, shall take all necessary measures to ensure that such sediment is prevented from entering the *drain* or stormwater collection system including without limitation an OGS designed to prevent sediment from directly or indirectly entering the *stormwater collection system*.
- 4.4 Every *owner* or operator required to install an OGS shall ensure:

- (1) every OGS is installed in compliance with the requirements of the *Ontario Building Code*, 1992, S.O. 1992, c. 23 as amended;
- (2) every OGS is operated and properly maintained in good working according to the manufacturer's recommendations;
- (3) establish a regular maintenance schedule for each OGS;
- (4) keep a record of all maintenance for the lifetime of the OGS, including proof of interceptor clean-out and oil and grease disposal location; and
- (5) provide all required documentation to the *Town* for review upon request.

5. Spill Notification and Prevention

- 5.1 In the event of a *spill* that has entered or has the potential to enter any part of the *stormwater collection system*, the *person* responsible and the *person* having charge, management and control of the *spill* shall immediately notify the *Director* and provide any information with regard to the *spill* that is requested.
- 5.2 The *person* responsible for the *spill* into the *stormwater collection system* and the *person* having charge, management and control of the *spill* shall do everything reasonably possible to contain the *spill*, minimize damage to property, protect the environment, clean up the *spill* and contaminated residue and restore the affected areas to its condition prior to the *spill*.
- 5.3 For any *spill* for which the *person* is required to forthwith notify the *Director*, the notification shall include the following information:
 - (1) the location where *spill* occurred;
 - (2) name and telephone number of *person* who reported the *spill* and the location
 - (3) and time where that *person* can be contacted;
 - (4) date and time of *spill*;
 - (5) material *spilled*;
 - (6) characteristics of material *spilled*;
 - (7) volume of material *spilled*;

(8) work completed and/or still in progress in the mitigation of the *spill*;
and

(9) whether the *spill* was reported to the *MECP*, the Region of Halton and any other agency and, if so, the date and time such report was made.

5.4 The *person* shall provide a detailed report on the *spill* to the *Director* within five (5) days after the *spill*, containing the following information to the best of the *person's* knowledge:

(1) location where *spill* occurred;

(2) name and telephone number of *person* who reported the *spill*;

(3) date and time of *spill*;

(4) material *spilled*;

(5) characteristics of material *spilled*;

(6) volume of material *spilled*;

(7) duration of *spill* event;

(8) work completed and/or still in progress in the mitigation of the *spill*;
and

(9) preventative actions being taken to ensure the situation does not occur again.

5.5 Upon receipt of the detailed report specified in section 5.4, the *Director* may require a further more detailed submission by the responsible *person* outlining preventative actions being undertaken which, at the sole discretion of the *Director*, may require the development of a *spills* response plan which must be updated on an as needed basis and copies submitted to the *Director* within thirty (30) days of the *spill*.

5.6 *Spills* procedures shall be carried out in accordance with the *Environmental Protection Act*, R.S.O. 1990, c. E.19 *MECP* *spills* response protocols and guidelines and applicable *Halton Region* By-laws regarding wastewater and *spills*, as may be amended from time

6. Permitting

6.1 No *person* may alter, modify, add to, optimize or expand any part of the *Town's* *stormwater collection system* that is subject to an *CLI-ECA* except in accordance with a permit issued by the *Director*;

- 6.2 Any *person* applying for a permit to alter, modify, add to, optimize or expand any part of the *Town's stormwater collection system* that is subject to an *CLI-ECA* shall:
- (1) complete an application in a form prescribed the *Director*,
 - (2) provide all information, drawings, designs, reports, calculations or other documents as are required by the *Director* in order to comply with the requirements of the *Town's CLI-ECA* as well as the *Ontario Water Resources Act*, R.S.O. 1990, c. O.40 and the *Environmental Assessment Act*, R.S.O. 1990, c. E.18 - Ontario.ca and their respective regulations;
 - (3) shall pay such fees as are prescribed by the *User Fee Bylaw*;
 - (4) if the *Director* deems it necessary to retain a third party consultant to review the application, shall pay in advance the estimated costs of the consultant.
- 6.3 Upon review of a complete application in accordance with section 6.2 of this by-law, the *Director* may, after considering whether the application complies with the *Town's CLI-ECA* as well as any applicable requirements of the *Ontario Water Resources Act*, R.S.O. 1990, c. O.40 and the *Environmental Assessment Act*, R.S.O. 1990, c. E.18 - Ontario.ca and their respective regulations:
- (1) approve the proposed works;
 - (2) deny the proposed works; or
 - (3) approve the proposed works subject to conditions.
- 6.4 Where a *permit* has been issued under this by-law authorizing *site alteration* on lands, no *person* shall *undertake* the *site alteration* except in accordance with:
- (1) the plans, documents and any other information required for the issuing of the permit;
 - (2) the terms and conditions of the permit; and
 - (3) all other provisions of this by-law.
- 6.5 The *Director* may revoke or amend the *permit* for any of the following reasons:
- (1) it was obtained on mistaken, false or incorrect information;

- (2) it was issued in error or the *Director* otherwise learns of new information that if known prior to issuance would have impacted the issuance of the permit;
- (3) the terms of a permit under this by-law have not been complied with;
- (4) work authorized under the permit has not been commenced prior to its expiry date; or
- (5) the *owner* has failed to comply with the provisions of this by-law.

7. Inspection

7.1 For the purpose of ensuring compliance with this by-law, the *Director*, or a *Town* Municipal Law Enforcement Officer, may, at all reasonable times, enter upon and inspect any land, including without limitation private property, to determine whether or not the following are being complied with:

- (1) this by-law;
- (2) an order made under this by-law;
- (3) a permit issued under this by-law or
- (4) a prohibition order made under s. 431 of the *Municipal Act*, S.O. 2001, c.25, as amended;

7.2 The *Director*, or a *Town* Municipal Law Enforcement Officer may, for the purposes of the inspection under section 7.1:

- (1) require the production for inspection of documents or things relevant to the inspection;
- (2) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- (3) require information in writing or otherwise concerning a matter related to the inspection; or
- (4) alone or in conjunction with a *person* possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

7.3 Any cost incurred by the *Town* in exercising its authority to inspect, including but not limited to the cost of any examination, test, sample or photograph necessary for the purposes of the inspection, shall be paid by the *owner* of the property

where the inspection takes place and may be added to the tax roll in accordance with section 8.11(2).

- 7.4 The *Director*, a or a *Town* Municipal Law Enforcement Officer may undertake an inspection pursuant to an order issued by a provincial judge or justice of the peace under section 438 of the *Municipal Act*, S.O. 2001, c.25, as amended where he or she has been prevented or is likely to be prevented from carrying out an inspection under section 7.1 of this by-law.
- 7.5 No *person* shall hinder or obstruct, or attempt to hinder or obstruct, the *Director*, or a Municipal Law Enforcement Officer, from carrying out inspections of property to ensure compliance with this By-law.

8. Orders and Notices

- 8.1 The *Director*, and *Town* Municipal Law Enforcement Officers shall have all powers necessary to carry out the enforcement of this by-law, including without limitation, issuing orders. For clarity, where this by-law provides that the *Town* may take any action or do anything:
- (1) the action or thing may be taken or done at the direction of either the *Director*, a or a *Town* Municipal Law Enforcement Officer or, unless this by-law specifies otherwise;
 - (2) the *Director*, a or a *Town* Municipal Law Enforcement Officer may, unless this by-law or its schedules specifies otherwise, enlist such forces as deemed appropriate to undertake that action or thing, including third party contractors, agents or suppliers of goods and services.
- 8.2 Where, the *Town* has reason to believe that a *discharge* is occurring that is prohibited under this by-law, the *Town* may without notice and without limitation to any other *Town* power under this by-law:
- (1) disconnect or block any *connection* to the *Town* *stormwater collection system* carrying the *prohibited discharge* until such time as measures satisfactory to the *Town* are undertaken to eliminate the *prohibited discharge*; or
 - (2) undertake any remedial or corrective action it deems necessary within the confines of the *stormwater collections system* or any *Town* road allowance, easement or property.
- 8.3 Where the *Town* proceeds to disconnect or block a *connection* under section 8.2 of this by-law without notice, the *Town* shall provide notice to the *owner* of the land subject to the disconnection as soon as reasonably practicable.

8.4 Where the *Town* has reason to believe that any *person* is or will be in contravention of this by-law, or any term or condition of a permit, the *Town* may issue a stop order directing the activities cease immediately upon service of the order on the *person* or *persons* listed in the order. Without limiting the generality of the forgoing, a stop order may require that:

- (1) an activity cease;
- (2) direct *person(s)* to leave an area; or
- (3) require *person(s)* to remove equipment or any other thing relating to a prohibited activity.

8.5 Where the *Town* has reason to believe that any *person* is in contravention of this by-law, or any term or condition of a permit, the *Town*, may issue a work order directing the *person* or *persons* to take such actions as are deemed necessary to comply with this by-law within such time as is set out in the order, including without limitation:

- (1) study of *stormwater* quantity and/or quality;
- (2) modification and/or construction of *stormwater* facilities;
- (3) adoption and implementation of pollution prevention techniques and measures;
- (4) removal and/or disposition of anything that has been deposited, thrown, stored, placed or allowed to accumulate leading to *discharges* contrary to any provision of this by-law, including without restricting the generality of the forgoing, any fill, waste or litter; or
- (5) any other action or work required to correct the contravention.

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

8.7 An order shall contain:

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

- 8.8 Any *person* to whom an order is issued pursuant to this by-law shall comply with the terms of such order.
- 8.9 No *person* who has notice or is aware of an order issued pursuant to this by-law shall assist in any way in the violation of the terms of an order regardless of whether said *person* is named in the order.
- 8.10 Where the *person* or *persons* to whom a work order is issued fails to perform the work required by the order within the time stipulated in the order, the *Town*, in addition to all other remedies it may have, may without further notice perform such work as it deems appropriate.
- 8.11 Where the *Town* undertakes any removal, repair, disconnection, remedial work, alteration, corrective action or other work pursuant to sections 8.2, 8.4, 8.5, 8.6 and 8.10:
- (1) anything removed may be destroyed or disposed of without notice or compensation to any *person*; and
 - (2) the *owner(s)* of the land subject to the order or *Town* action under sections 8.2, 8.4, 8.5, 8.6 and 8.10, shall be responsible for all costs of the *Town* incurred in the exercise of the powers thereunder, including administrative costs and interest. Such costs, as determined by the *Director*, shall constitute a charge under the *Municipal Act*, 2001, S.O. 2001, c. 25 as amended, and may be added to the tax roll of property held by the *owner* in the manner provided for therein.
- 8.12 An order, or any notice or document under this by-law may be served by the *Town* by any of the following means:
- (1) delivered *personally*;
 - (2) posted on the subject lands;
 - (3) emailed to the last known email address of the *person* to whom the order is directed;
 - (4) deposited in the mailbox or mail slot of the *person* to whom the order is directed;
 - (5) sent by prepaid regular mail to the last known address of the *person* to whom the order is directed or
 - (6) sent by registered mail to the last known address of the *person* to whom the order is directed.

8.13 Where service is effected by:

- (1) regular mail, it shall be deemed to be made on the fifth (5th) day after the date of mailing;
- (2) registered mail, it shall be deemed to be made on the second (2nd) day after the date of mailing;
- (3) any other means, it shall be deemed effective on the day the document served was delivered, posted, emailed or deposited; or
- (4) service by multiple means, it shall be deemed effective on earliest applicable date set out in this section.

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

8.15 Where anything has been deposited, thrown, stored, placed or allowed to accumulate on or within *stormwater* infrastructure contrary to any provision of this By-law and without previous consent of the *Town*, the item or items may be removed without notice to any *person*.

9. Offences

9.1 Every *person* who contravenes any provision of this by-law, a permit or permit condition issued under this by-law or an order issued pursuant to this by-law is guilty of an offence as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended and the *Municipal Act*, 2001, S.O. 2001, c. 25. Where a contravention of a provision of this by-law or an order is committed on or continues for more than one day, the *person* who commits the contravention is liable to be convicted for a separate offence for each day on which it is committed or continued. For clarity:

- (1) in the case of an order, where a failure to comply continues, every day or part of a day past the compliance date set out in the order is a separate offence; and
- (2) in the case of a *discharge* prohibited under this by-law, every day or part of a day in which a *discharge* occurs or continues is a separate offence.

9.2 If a corporation commits an offence under subsection 9.1, a director, officer, employee or agent of the corporation who directed, authorized, allowed, assented to, acquiesced in or failed to take all reasonable care to prevent the commission of the offence, or who participated in the commission of the offence, is also guilty of the offence, whether the corporation has been prosecuted for the

offence or not. The onus for demonstrating that all reasonable care was taken to prevent the commission of the offence shall be on the director, officer, employee or agent of the corporation as the case may be.

- 9.3 A *person* convicted under Part I of the of the *Provincial Offences Act*, R.S.O. 1990, c. P.33, is liable to a fine in accordance with the *Act* of not less \$500 and no more than \$1,000.
- 9.4 Every *individual* convicted under Part III of the *Provincial Offences Act*, R.S.O. 1990, c. P.33, is liable to a fine of not less than \$500 and not more than \$25,000 in accordance with section 429 of the *Municipal Act*, 2001, S.O. 2001, c. 25.
- 9.5 Every *corporation* convicted under Part III of the *Provincial Offences Act*, R.S.O. 1990, c. P.33, is liable to a fine of not less than \$500 and not more than \$100,000 in accordance with section 429 of the *Municipal Act*, 2001, S.O. 2001, c. 25.
- 9.6 Despite sections 9.4 and 9.5, an *individual* or *corporation* convicted of a continuing offense is liable to a fine, in accordance with section 429 of the *Municipal Act*, 2001, S.O. 2001, c. 25., of no less than (\$500) and no more than Ten Thousand Dollars (\$10,000) for each day or part of a day on which the offence occurs or continues, but the total of all daily fines is not subject to a limit.
- 9.7 Where a conviction is entered for contravention of the by-law, in addition to any other remedy or any penalty provided by law, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order:
- (1) prohibiting the continuation or repetition of the offence by the *person* convicted; and
 - (2) requiring the *person* convicted to correct the contravention in the manner and within the period that the court considers appropriate, including without restriction

10. Severability

- 10.1 This by-law shall be interpreted as being remedial and shall be given such fair, large and liberal interpretation as best ensures the attainment of its objects. In the event of an ambiguity, the ambiguity shall be resolved in favour of the interpretation that best accords with the objects of this by-law as set out in the Preamble hereto.
- 10.2 In the event that any provision or part of a provision in this by-law is found to be invalid or unenforceable for any reason whatsoever, then:

(1) if the provision or part of a provision in this by-law is capable of being read down so as to be rendered valid or enforceable, it shall be read down accordingly; or

(2) in the event the provision or part of a provision in this by-law is not capable of being read down, the particular provision or part of a provision in this by-law or part thereof shall be deemed to be severed from the remainder of the by-law and all other provisions or parts thereof shall remain in full force and effect and shall be valid and enforceable to the fullest extent permitted by law.

11. Effective Dates and Repeal of Predecessor by-laws

11.1 By-law 111-2021 is hereby repealed.

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

PASSED IN OPEN COUNCIL ON SEPTEMBER 12, 2022.

Gordon A. Krantz Mayor

Meaghen Reid Town Clerk