



OFFICE CONSOLIDATION

Fill By-law 143-95

Amended by By-law 346-2004*

* amended By-law 399-2004 (to correct a clerical error)

**To prohibit or regulate the placing or dumping of fill in
areas of the City of Brampton and to repeal
By-laws 107-86, 58-88 and 205-92**

WHEREAS section 142(1) of the *Municipal Act, 2001* (predecessor of Section 223.1 of the *Municipal Act, R.S.O. 1990*), authorizes the Council of The Corporation of the City of Brampton to pass by-laws for prohibiting or regulating the placing or dumping of fill of any kind and its removal in any defined area or areas in the City of Brampton, other than those areas subject to regulations made under clause 28(1) (f) of the *Conservation Authorities Act, R.S.O. 1990*.

AND WHEREAS the *Topsoil Preservation Act R.S.O. 1990*, chapter T.12, authorizes the Council of The Corporation of the City of Brampton, to pass by-laws to protect and conserve topsoil within the City of Brampton;

NOW THEREFORE the Council of The Corporation of the City of Brampton ENACTS AS FOLLOWS:

DEFINITIONS

1. For the purposes of this by-law:

- (1) "Commissioner" means the Commissioner of Works and Transportation of the City of Brampton or his designate;
- (2) "drainage" means the movement of water to a place of disposal, whether by way of the natural characteristics of the ground surface or by an artificial method;
- (3) "dumping" means the depositing of fill in a location other than where the fill was obtained and includes the movement and depositing of fill from one location on a property to another location on the same property;
- (4) "fill" means any type of material deposited or placed on lands and includes soil, stone, concrete, asphalt, sod or turf either singly or in combination;
- (5) "grade" shall be defined as follows:
 - (a) "existing grade" means the elevation of the existing ground surface of the lands upon which dumping and/or placing of fill is proposed and of abutting ground surface up to three (3) metres wide surrounding such lands, except that where placing or dumping of fill 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;
 - (b) "finished grade" means the approved elevation of ground surface of lands upon which fill has been placed in accordance with this by-law;

- (c) "proposed grade" means the proposed elevation of ground surface of land upon which fill is proposed to be placed;
- (6) "inspector" means a person designated as a Municipal Enforcement Officer for the City of Brampton;
- (7) "owner" includes any person, firm or corporation controlling the lands on which fill has been placed or dumped or will be placed or dumped;
- (8) "placing" means the distribution of fill on lands to establish a finished grade higher or lower than the existing grade, and includes soil stripping;
- (9) "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;
- (10) "retaining wall" means a concrete or concrete product wall or other material approved by the Commissioner designed to contain and support fill which has a finished grade higher than that of adjacent lands;
- (11) "soil" means material commonly known as earth, top soil, loam, subsoil, clay, sand or gravel; and
- (12) "swale" means a shallow depression in the ground sloping to a place of disposal of surface water for the purpose of providing a method of drainage.

PROHIBITIONS

- 2. (1) No person shall place or dump fill or cause fill to be placed or dumped in the areas of the City of Brampton defined and designated as environmentally sensitive by section 1.3.1 and Schedule C of the Official Plan for the City of Brampton Planning Area.
- (2) No person shall place or dump fill or cause fill to be placed or dumped in areas of the City of Brampton other than those areas described in subsection (1) of this section, without having first obtained a permit issued by the Commissioner.
- (3) The provisions of subsection (2) of this section do not apply in those areas of the City of Brampton where:
 - (a) a regulation under the *Conservation Authorities Act, R.S.O. 1990*, respecting the placing or dumping of fill is in force;

- (b) the placing or dumping of fill or alteration of the grade of land by any municipality, local board as defined in the *Municipal Affairs Act*, Crown agency as defined in the *Crown Agency Act* and Ontario Hydro;
 - (c) activities or matters prescribed by regulation;
 - (d) fill is being placed on lands to establish a finished grade shown in a grading and drainage plan approved by the City of Brampton's Works and Transportation Department in conjunction with subdivision, rezoning or site plan approvals;
 - (e) a building permit has been issued by the Chief Building Official for the erection of a building or structure, and 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;
 - (f) soil is placed on lands for the purpose of lawn dressing, landscaping, adding to flower beds or vegetable gardens, provided that the ground elevation of the lands is not increased by more than 25 millimetres; and
 - (g) fill is placed or dumped in an excavation to the elevation of existing grade following the demolition or removal of a building or structure.
- (4) Where a permit has been issued pursuant to this by-law authorizing the placing or dumping of fill on lands, no person shall place or dump fill except in accordance with the plans, documents and any other information on the basis of which a permit was issued.
- (5) Where a person has dumped or placed fill or caused fill to be dumped or placed on lands contrary to this by-law or not in conformity with a permit being issued, that person will be responsible for the removal of such fill.
- (6) No person shall place or dump, or cause to be placed or dumped, fill on any land for storage purposes, unless the outside storage of such fill on the land is permitted by the applicable zoning by-law of The Corporation of the City of Brampton.
- (7) No person shall place or dump, or cause to be placed or dumped, fill on any land which results in the alteration of any grade established by a grading and drainage plan which has been approved by the City of Brampton Works and Transportation Department as part of a subdivision, rezoning or site plan approval without a permit.

- (8) No person shall place or dump, or cause to be placed or dumped, fill on any land unless:
 - (a) it is done at the request of or with the consent of the owner of the land where the fill is to be placed or dumped;
 - (b) all fill to be used is clean and free of trash, rubbish, glass, liquid or toxic chemicals, garbage or organic materials;
 - (c) the drainage system for the lands is provided in accordance with the Corporation's by-laws and the Commissioner is satisfied that provision has been made for surface, storm water drainage where such drainage is not provided by natural gradients or a swale; and
 - (d) the fill is placed or dumped in such a manner, or the retaining wall containing such fill is erected in such a manner, that no ponding is caused on abutting lands.

REQUIREMENTS FOR ISSUANCE OF A PERMIT

3. A person applying for a permit to dump or place fill on the lands shall submit the following to the Commissioner:
 - (1) a complete application in the form prescribed by the Commissioner;
 - (2) the applicable permit fee calculated in accordance with Schedule A to this by-law;
 - (3) a Control Plan, which shall include:
 - (a) a key map showing the location of each lot, including the nearest major intersection and north arrow;
 - (b) the lot boundaries and number of hectares of each lot;
 - (c) the use of the land and the location and use of the buildings and other structures adjacent to each lot;
 - (d) the location, dimensions and use of the buildings and other structures existing or proposed to be erected on each lot;
 - (e) the location of lakes, streams, wetlands, channels, ditches, other watercourses and other bodies of water on and within a minimum of thirty (30) metres beyond each lot boundary;

- (f) the Regional Storm Flood Plain and Conservation Authority Fill Regulation lines;
- (g) the location of the predominant soil types;
- (h) all existing buildings, the species and size in caliper of all trees, the location of all shrubs and driveways on each lot and all easements and rights-of-way over, under, across or through each lot;
- (i) the location and dimensions of any existing and proposed storm water drainage systems and natural drainage patterns on and within a minimum of thirty (30) metres beyond each lot boundary;
- (j) the location and dimensions of utilities, structures, roads, highways and paving located within a minimum of thirty (30) metres beyond each lot boundary;
- (k) the existing lot topography at a contour interval not to exceed one half of one metre and to extend a minimum of thirty (30) metres beyond each lot boundary;
- (l) the proposed final elevations of each lot;
- (m) the location and dimensions of all proposed land disturbing activities, including construction access road;
- (n) the location and dimensions of all temporary soil or dirt stockpiles;
- (o) the location, dimensions, design details and design calculations of all construction site erosion control measures necessary to meet the requirements of Schedule B of this by-law;
- (p) a schedule of the anticipated starting and completion dates of each land disturbing or land developing activity including the installation of construction site erosion control measures needed to meet the requirements of Schedule B to this by-law;
- (q) provisions for the maintenance of the construction site erosion control and dust control measures during construction and after as required;
- (r) the scale, either 1:500 or 1:1000, of drawing (each drawing and control plan to be in metres);
- (s) any other necessary information with respect to each lot;

- (t) an indication on the drawing of directions of overland flow and overland flow route;
 - (4) proposed final elevations and drainage system to be used upon completion of the filling operation;
 - (5) a description of the proposed fill;
 - (6) a plan showing the design details to proper scale of any retaining wall that may be required and the dimensions of any materials to be used in construction of such retaining wall; and
 - (7) security in a form and amount to be determined by the Commissioner to secure performance of the work for which the permit was obtained. The Commissioner may require an owner to agree that the Commissioner may use the security to recover the cost of the City performing any required work which the owner has failed to perform.
4. The Commissioner may, prior to the issuance of a permit, require the applicant to enter into an agreement which may be registered on title to the subject lands containing such requirements as the Commissioner considers necessary to ensure that the placing or dumping of fill is done in accordance with prevailing City of Brampton design standards and proper engineering principles. Such agreement may contain a provision that the applicant post with the City security in an amount determined by the Commissioner to ensure performance of the applicant's obligations under the agreement.
5. Every person who places or dumps fill shall:
- (1) provide a retaining wall which does not encroach upon abutting lands, either above or below existing grade, such retaining wall to be constructed to the satisfaction of the Commissioner. The Commissioner may require that a retaining wall be constructed where:
 - (a) erosion of fill onto abutting lands may occur; or
 - (b) the finished grade of the lands at the property line is higher than that of the existing grade of the abutting lands;
 - (2) ensure that the finished grade surface be protected by sod, turf, seeding for grass, greenery, asphalt, concrete or other means, either singly or in combination;
 - (3) ensure that fill shall not be placed around the perimeter of any existing building to an elevation higher than 150 millimetres below the ground floor

level of such building, unless such building and its foundation walls are raised in a manner satisfactory to the Commissioner;

- (4) ensure that no trench in which piping is laid forming part of the drainage system shall be covered and backfilled until the work has been inspected and approved by the Commissioner;
- (5) provide such protection for trees as may be required pursuant to the City of Brampton's tree by-law; and
- (6) provide the site erosion control measures set out in Schedule B to this by-law;

ISSUANCE OF A PERMIT

6. The Commissioner shall issue a permit where:

- (1) the Commissioner 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 is prohibited under section 2(1) of this by-law;
- (2) the applicant has fulfilled all requirements pursuant to this by-law;
- (3) the applicant has entered into the agreement referred to in section 4(1) of this by-law, if required, and has performed all its obligations which the agreement requires to be performed prior to the issuance of a permit;
- (4) the Commissioner is satisfied that the proposed final elevations and resulting drainage pattern, the design of any retaining wall, the type of fill to be used and the method of placing or dumping of fill, are all in accordance with prevailing City of Brampton design standards and proper engineering practice;
- (5) the Commissioner is satisfied that the height of any retaining wall to be constructed shall not exceed one metre; and
- (6) the Commissioner is satisfied that the design and installation of the retaining wall which exceeds 1 metre in height has been certified by an engineer;
- (7) the Commissioner is satisfied that the placing or dumping of fill will not result in:
 - (a) soil erosion;
 - (b) blockage of a watercourse;

- (c) siltation in a watercourse;
 - (d) pollution of a watercourse;
 - (e) flooding or ponding caused by a watercourse overflowing its banks;
or
 - (f) a detrimental effect on any healthy 75 mm caliper or larger trees located on the lands.
7. (1) The permit issued pursuant to this by-law shall be valid to the expiry date as specified on the permit by the Commissioner.
- (2) A permit which is no longer valid or which has expired pursuant to this by-law may be renewed within a six month period from the date of expiry upon the making of written application to the Commissioner accompanied by a payment of one half of the original permit fee, provided that the proposed work has not been revised.
- (3) The issuance of a permit by the Commissioner does not preclude the applicant's responsibility to obtain all other approvals which may be required by any level of government and agencies thereof.
- (4) If the lands for which a permit has been issued are transferred while the permit remains in effect the new owner of the lands shall either:
- (a) provide the City with an undertaking to comply with all the conditions under which the existing permit was issued; or
 - (b) apply for and obtain a new permit in accordance with the provisions of this by-law.

APPEALS

8. An applicant for a permit pursuant to this by-law may appeal to the Ontario Municipal Board:
- (1) where the applicant objects to a condition in the permit, within thirty (30) days from the issuance of a permit; or
 - (2) where the municipality refuses to or does not issue a permit within forty-five (45) days from the date the application is received by the clerk, within thirty (30) days from the expiration of the forty-five (45) days.

9. The Ontario Municipal Board may make an order:
 - (1) upholding the decision of the municipality;
 - (2) requiring the municipality to vary any condition in a permit; or
 - (3) requiring the municipality to issue a permit on such conditions as the Board considers appropriate.
10. The decision of the Board is final.
11. Sections 43 and 95 of the *Ontario Municipal Board Act* do not apply to a decision of the Board under section 8.
12. The Board may, without a hearing, correct an error in a decision made under this section if the error is of a typographical, clerical or similar nature.

ADMINISTRATION AND ENFORCEMENT

13. The administration and enforcement of this by-law shall be performed by the Commissioner, by such persons authorized by the Commissioner, and by the Municipal Enforcement Officers of the City of Brampton as may be appointed by by-law of the Council of The Corporation of the City of Brampton.
14. The owner or his authorized agent of the lands where fill is to be placed or dumped shall request that the Commissioner make inspections.
15. An inspector may, during daylight hours and upon producing the appropriate identification, enter and inspect any land to which the by-law applies.
16. No person shall obstruct an inspector who is carrying out an inspection pursuant to this by-law.
17. If, after inspection, the inspector is satisfied that there is a contravention of this by-law, he or she shall notify the owner of the land of the particulars of the contravention by personal service or prepaid registered mail and may, at the same time, provide all occupants with a copy of the notice.
18. After giving any person served with a notice pursuant to this by-law an opportunity to appear before the inspector and make representations in connection with it, the inspector may make an order setting out:
 - (1) the municipal address or the legal description of the land;

- (2) reasonable particulars of the work to be done to correct the contravention and the period in which there must be compliance with the order;
 - (3) notice that if the work is not done in compliance with the order within the period it specifies the City may have the work done at the expense of the owner.
19. An order pursuant to this by-law shall be served personally or by prepaid registered mail or by an alternative means as set out in this by-law.
20. A notice or order pursuant to this by-law when sent by prepaid registered mail shall be sent to the last known address of the owner of the land.
21. An inspector who is unable to effect service pursuant to this by-law shall place a placard containing the terms of the notice or order in a conspicuous place on the property and the placing of the placard shall be deemed to be sufficient service of the notice or order on the owner.
22. If the owner fails to do the work required by the order within the period it specifies, the City, 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.
23. Costs incurred by the City pursuant to this by-law are a lien on the land upon the registration in the proper land registry office of a notice of lien. When the City performs work under Section 22, it may impose an administrative fee over and above out of pocket costs. This administrative fee will be calculated at \$100 per hour of staff time, escalating in accordance with the CPI, and with a minimum of \$500 per incident. **(By-law 346-2004)**
24. The lien is in respect of all costs that are payable at the time the notice is registered plus interest accrued to the date payment is made.
25. Notwithstanding any other provisions of this by-law, the Commissioner may waive the requirement for a Control Plan and/or reduce or waive the permit fee where he considers it appropriate after taking into consideration the proposed works and whether the applicant has conformed with this by-law with respect to the protection and conservation of topsoil within the City of Brampton.
26. Any person who, after receiving proper notice, disobeys an order made pursuant to this by-law, is guilty of an offence.

PENALTY

27. Any person who contravenes any of the provisions of this by-law is guilty of an offence and upon conviction is liable to a fine as provided for in the *Provincial Offences Act*.

CONFLICT

28. If there is a conflict between a by-law passed under section 223.1 of the *Municipal Act R.S.O., 1990* and a by-law passed by an upper tier municipality, the by law of the upper tier municipality prevails.

REPEAL

29. By-laws 107-86, 58-88 and 205-92 are hereby repealed.

READ a FIRST, SECOND, and THIRD TIME and PASSED in OPEN COUNCIL, THIS 26th DAY OF JUNE, 1995.

THE CORPORATION OF THE CITY OF BRAMPTON

Original signed by:

PETER ROBERTSON – MAYOR
LEONARD J. MIKULICH – CLERK

SCHEDULE A TO BY-LAW 143-95

<u>TYPE OF PROPERTY WHERE FILL IS TO BE PLACED</u>	<u>PERMIT FEE</u>
Owner occupied residential property	\$ 50.00
All other types of property	\$ 125.00
Top soil removal	\$500.00 & \$25.00/ha

SCHEDULE B TO BY-LAW 143-95

SITE EROSION CONTROL MEASURES

The following criteria apply to land disturbing activities caused by the placing or dumping of fill that result in runoff leaving the lot:

- (1) channelized runoff from adjacent areas passing through the lot shall be diverted around disturbed areas, if practical. Otherwise, the channel shall be protected by silt fences being placed along the channel edges to reduce sediment reaching the channel;
- (2) all activities on the lot shall be conducted in a logical sequence to minimize the area of bare soil exposed at any one time;
- (3) any soil or dirt storage piles containing more than one hundred cubic metres of material shall not be located within a downslope drainage length of less than ten (10) metres to a roadway or drainage channel. If remaining for more than thirty (30) days, said soil or dirt storage piles shall be stabilized by mulching, vegetative cover, tarps or other means. Erosion from soil or dirt storage piles which will be in existence for less than thirty (30) days shall be controlled by silt fence barriers around the pile;
- (4) runoff from the entire disturbed area on the lot shall be controlled as follows:
 - (a) all disturbed ground left inactive shall be stabilized by seeding, sodding, mulching or covering, or other equivalent control measure. The period of time inactivity shall be at the discretion of the Commissioner, but shall not exceed thirty (30) days or such longer period as deemed advisable at the discretion of the Commissioner;
 - (b) notwithstanding section 4(1), a fill permit holder or applicant for a fill permit who has also applied for but not yet received a building permit or any other necessary permit may be granted an extension to the permit at the discretion of the Commissioner, provided that said applicant or permit holder provides satisfactory proof that he has made his best efforts to have said building or other necessary permit issued;
 - (c) for a lot with less than four (4) hectares disturbed at one time and slopes less than twelve (12) per cent grade, silt fences or equivalent control measures shall be placed along all sideslope and downslope sides of the lot;
 - (d) for a lot with four (4) or more hectares disturbed at one time or with slopes greater than twelve (12) per cent grade, or if a channel originates in the disturbed area, one or more sedimentation basins shall be constructed. Each sedimentation basin shall have a surface area of at least one (1) per cent of the area draining to the basin and at least one (1) metre of depth and be constructed in accordance with design specifications acceptable to the Commissioner. Sediment shall be removed to maintain a depth of one (1) metre. The basins shall be designed to trap sediment greater than 40 microns in size, based on the City's Storm Drainage Design Standards, it is

SCHEDULE B TO BY-LAW 143-95

SITE EROSION CONTROL MEASURES

not permitted to directly discharge the basin into receiving water streams or bodies or other storm drainage facilities. Basin discharge rate shall be sufficiently low as to not cause erosion along the discharge channel;

- (e) for a lot located adjacent to existing residential areas, a silt fence may be required around the entire perimeter of the lots;
- (f) a three (3) metre wide buffer strip or silt fence shall be provided along the perimeter of the downslope sides of the lot;
- (g) the sediment control guidelines prepared by the Credit Valley Conservation Authority and Ministry of Natural Resources for the Province of Ontario dated April, 1991, are to be followed; and
- (h) for a lot with extensive fill requirements, the Commissioner may waive the requirements for stabilization of disturbed land after thirty (30) days of inactivity provided that the sediment control measures have been implemented to the satisfaction of the Commissioner.