



OFFICE CONSOLIDATION By-law Number 30-92

A by-law to protect and conserve topsoil within the City of Brampton

WHEREAS the Topsoil Preservation Act, R.S.O. 1990, chapter T.12, provides that Councils of Municipalities may pass by-laws to regulate or prohibit the removal of topsoil;

AND WHEREAS the Council of The Corporation of the City of Brampton deems it advisable to exercise this authority as well as to provide for the rehabilitation of lands where topsoil removal is permissible;

NOW THEREFORE the Council of The Corporation of the City of Brampton ENACTS as follows:

1. For the purposes of this by-law, the following definitions and interpretations shall govern:
 - (1) "Body of water" includes any brook, creek, stream, river, lake, pond, waterway, wetlands, watercourse, ditches, canal, or other flowing or standing water;
 - (2) "City" means The Corporation of the City of Brampton;
 - (3) "Commissioner" means the Commissioner of the Public Works Department for The Corporation of the City of Brampton or his designate;
 - (4) "Council" means the Council of The Corporation of the City of Brampton;
 - (5) "Erosion" means the detachment and movement of soil, sediment or rock fragments by water, wind, ice or gravity;
 - (6) "Land Disturbance" means any man-made change of the land surface including removing vegetative cover, excavating, filling, grading, and construction or building of roads or parking lots;

- (7) "Lot" means a parcel of land, described in a deed or other document legally capable of conveying land, or shown as a lot or block on a registered plan of subdivision;
 - (8) "Person" includes a firm or corporation according to the context;
 - (9) "Public Works Department" means the Public Works Department for The Corporation of the City of Brampton; and
 - (10) "Topsoil" means that horizon in a soil profile known as the "A" horizon, containing organic material.
2. No person shall remove or permit the removal of any topsoil from any lot within the City unless:
 - (1) the exemptions contained in subsection 2(2) or 2(3) of the Topsoil Preservation Act, R.S.O. 1990, chapter T.12 apply; or
 - (2) a Topsoil Removal Permit has been issued therefor by the Commissioner.
 3. Notwithstanding subsection 2(2), no Topsoil Removal Permit is required if the removal is from only one lot, the area of which is less than one hectare, unless the said lot is adjacent to any body of water or a drainage pattern is changed.
 4. To obtain a Topsoil Removal Permit the owner of the land shall sign and the owner or his authorized agent shall file an application by completing the form, established from time to time, by the Commissioner.
 5. Every application for a Topsoil Removal Permit shall be accompanied by: (1) a Control Plan in accordance with section 6; (2) the prescribed fee for the Topsoil Removal Permit as established, from time to time, by City Council as detailed in Schedule "A" to this by-law; and (3) a Letter of Credit as detailed in Schedule "A" to this by-law.
 6. The Control Plan accompanying an application for a Topsoil Removal Permit shall include:
 - (1) a key map showing the location of each lot, including the nearest major intersection and north arrow;
 - (2) the lot boundaries and number of hectares of each lot;
 - (3) the use of the land and the location and use of the buildings and other structures adjacent to each lot;
 - (4) the location, dimensions and use of the buildings and other structures existing or proposed to be erected on each lot;

- (5) the location of lakes, streams, wetlands, channels, ditches, other watercourses and other bodies of water on and within a minimum thirty (30) metres beyond each lot boundary;
 - (6) the Regional Storm Flood Plain and Conservation Authority Fill Regulation lines;
 - (7) the location of the predominant soil types;
 - (8) 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;
 - (9) 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;
 - (10) the location and dimensions of utilities, structures, roads, highways and paving located within a minimum of thirty (30) metres beyond each lot boundary;
 - (11) 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;
 - (12) the proposed final elevations of each lot;
 - (13) the location and dimensions of all proposed land disturbing activities, including construction access road;
 - (14) the location and dimensions of all temporary soil or dirt stockpiles;
 - (15) the location, dimensions, design details and design calculations of all construction site control measures necessary to meet the requirements of this by-law.
 - (16) a schedule of the anticipated starting and completion dates of each land disturbing or land developing activity including the installation of construction site control measures needed to meet the requirements of this by-law;
 - (17) provisions for the maintenance of the construction site control and dust control measures during construction and after as required;
 - (18) the scale, either 1: 500 or 1:1000, of drawing (each drawing and control plan to be in metres); N
 - (19) any other necessary information with respect to each lot; and
 - (20) an indication on the drawing of directions of overland flow and overland flow route.
7. Every Control Plan accompanying an application for a Topsoil Removal Permit must be certified by a professional engineer who is licensed to practice in the Province of Ontario or any other qualified person approved by the commissioner.
 8. Notwithstanding any other provisions of this by-law, the Commissioner may waive the requirement for a Control Plan and/or may reduce the fee for a Topsoil Removal Permit in appropriate cases after taking into consideration the proposed works or where the applicant has conformed with the provisions of the City of Brampton fill By-law 107-86, as amended.

9. All applications for a Topsoil Removal Permit shall comply with rehabilitation standards and procedures as set out in Schedule "B" to this by-law.
10. The Commissioner shall issue a Topsoil Removal Permit where the requirements of this by-law are met and where the Commissioner is satisfied that the work for which the permit is being issued will not result in dust, erosion, sedimentation or flooding and that each lot will be rehabilitated to the same or better condition than it was in at the time prior to the removal of the topsoil for which the Topsoil Removal Permit is issued. The permit shall be issued in the name of the owner of the lot or lots that are the subject of the application. The said owner shall be the Topsoil Removal Permit holder for the purposes of this by-law.
11. Where the Commissioner refuses to issue a Topsoil Removal Permit, the applicant shall be informed in writing of the refusal and may be required to provide additional information if the application is to be given further consideration.
12. Topsoil Removal Permits issued are subject to the conditions contained in Schedule "C" to this by-law.
13. Topsoil Removal Permits shall be valid for a period of 180 days. The Commissioner may extend the period one or more times for an additional 180 days each time. The Commissioner may require additional control measures, that the previously approved control plan be reviewed taking into account the latest lot condition and payment of inspection fees as a condition of the extension if they are necessary to meet the requirements of this by-law.
14. All sedimentation basins and other control measures necessary to meet the requirements of this by-law shall be in place prior to any land disturbance of any lot. These measures shall be maintained by the Topsoil Removal Permit holder or subsequent landowner during the period of land disturbance in a manner satisfactory to the Commissioner.
15. Employees of the Public Works Department shall inspect the lots for which Topsoil Removal Permits have been issued for compliance with the approved Control Plan.
16. The issuance of a Topsoil Removal 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.

17. If the property for which a Topsoil Removal Permit has been issued is transferred while the Topsoil Removal Permit remains in effect the new owner shall either:
- (1) (a) Provide the City with an Undertaking agreeing to comply with all the conditions under which the existing Topsoil Removal Permit was issued; and
 - (b) Provide a Letter of Credit in accordance with the requirements of Schedule "A" to this bylaw.
- or;
- (2) Apply for and obtain a new Topsoil Removal Permit in accordance with the provisions of this by-law.
18. No notices of contravention or charges will be laid under this by-law with respect to properties that are under development at the time of the enactment of this by-law unless thirty (30) days written notice to comply with the by-law has been mailed by the Commissioner to the property owner's listed on the assessment roll.
19. Where it is revealed or discovered that the holder of a Topsoil Removal Permit has provided misleading or false information on the application, the Topsoil Removal Permit issued under this by-law may be revoked by the Commissioner and the Topsoil Removal Permit holder shall thereafter cease and desist forthwith all operations being conducted under the authority of the revoked Topsoil Removal Permit.
20. Any person who contravenes any provision or requirement of this by-law may be issued an Order by an employee of the Public Works Department advising of the contravention.
21. Every person who:
- (1) provides misleading or false information in an application under this by-law in any statement or plan required to be produced under this by-law;
 - (2) fails to comply any Order or other requirement under this by-law; or
 - (3) contravenes any provision or requirement of this by-law;
- is guilty of an offence and on conviction under the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended, is liable to a fine not to exceed \$5,000.00 as prescribed under the Provincial Offences Act.

22. All schedules attached to this by-law shall form part of this bv-law.
23. In the event that any particular provision or provisions or part of a provision is found to be invalid or unenforceable for any reason whatsoever, then the particular provision or provisions or part of the provision shall be deemed to be severed from the remainder of this by-law and all other provisions shall remain in full force and shall be valid and enforceable to the fullest extent permitted by law.
24. This by-law shall come into force and effect upon the passing of the by-law by Council.

READ a FIRST, SECOND, and THIRD TIME and PASSED in OPEN COUNCIL, this 24th DAY of February 1992.

THE CORPORATION OF THE CITY OF BRAMPTON

Original Signed by: Peter Robertson, Mayor

Original Signed by: Leonard J. Mikulich, City Clerk

SCHEDULE A TO BY-LAW 30-92

1. TOPSOIL REMOVAL PERMIT FEES

The fee for processing, administration and inspection for 180 day permit is Five Hundred Dollars (\$500.00) plus Twenty-five Dollars (\$25.00) per hectare.

2. LETTER OF CREDIT FOR SITE CONTROL MEASURES

An irrevocable Letter of Credit in favour of The Corporation of the City of Brampton to cover 100t of the estimated cost of site control measures including reinstatement and stabilization as estimated by the City Public Works Department shall be posted by the owner of each lot prior to issuance of a Topsoil Removal Permit. The Letter of Credit is to be in a form acceptable to the City Treasurer:

- (1) the Letter-of Credit must remain in effect for the full duration of the permit. Any Letter of Credit and its subsequent renewal forms shall contain a clause stating that thirty (30) days written notice must be given to the City prior to its expiry or cancellation;
- (2) in the event that the City receives notice that a Letter of Credit is expiring and will not be renewed, or, if further or additional securities are not provided within the said thirty (30) days, the City may draw on the current Letter of Credit at the discretion of the Commissioner. The Topsoil Removal Permit holder agrees that any interest accruing on the realized security shall belong to the City and not the Topsoil Removal Permit holder;
- (3) it is the responsibility of the permit holder:
 - (a) to provide proof satisfactory to the Commissioner that the lot have been adequately reinstated and stabilized in accordance with this by-law and the Control Plan accompanying the Topsoil Removal Permit;
 - (b) to request that the City carry out a final inspection to confirm that all relevant terms of this by-law have been complied with; and
 - (c) when the provisions of clauses (1) and (2) of this subsection have been fully complied with to the satisfaction of the Commissioner, he shall release the applicant's Letter of Credit.

SCHEDULE B TO BY-LAW 30-92

REHABILITATION STANDARDS AND PROCEDURES

The following requirements shall be met on all lots where a Topsoil Removal Permit is required to remove topsoil:

1. Lot Dewatering: Water pumped from the lot shall be treated by temporary sedimentation basins, grit chambers, sand filters, upflow chambers, swirl concentrators or other appropriate controls. If the water is demonstrated to have no particles greater than 40 microns in size, then dewatering operations may be conducted provided the water is not permitted to discharge directly into receiving bodies of water or streams or other storm drainage facilities.
2. Drain Inlet Protection: All rear lot storm drain inlets or any other inlets as the Commissioner considers necessary, shall be protected with filter fabric, or equivalent barriers meeting accepted design criteria, standards and specifications accepted by the Commissioner.
3. Site Erosion Control: The following criteria apply to land disturbing activities 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 of 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 paragraph 3(4)(a), a Topsoil Removal Permit holder or applicant for a Topsoil Removal Permit who has also applied for but not yet received a building permit or any other necessary permit may be granted an extension to the permitted period of inactivity, at

- the discretion of the 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) percent 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) percent 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) percent 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 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.

SCHEDULE C TO BY-LAW 30-92

TOPSOIL REMOVAL PERMIT CONDITIONS

1. All Topsoil Removal Permit holders shall:
 - (1) notify the Public Works Department within 48 hours of commencing any land disturbing activity;
 - (2) notify the Public Works Department of the completion of any control measures within fourteen (14) days after their installation;
 - (3) obtain permission in writing from the Commissioner prior to modifying the Control Plan;
 - (4) install all control measures as identified in the approved Control Plan;
 - (5) maintain all road drainage systems, stormwater drainage systems, control measures and other facilities identified in the Control Plan;
 - (6) repair any siltation or erosion damage to adjoining surfaces and drainageways resulting from land developing or disturbing activities;
 - (7) inspect the construction control measures at least once per week or as may be deemed necessary by the Public Works Department and make needed repairs;
 - (8) allow employees of the Public Works Department to enter the lot for the purpose of inspecting for compliance with the Control Plan; and
 - (9) maintain a copy of the Control Plan on the lot.

2. The City:
 - (1) upon the failure by the Topsoil Removal Permit holder to complete all or part of the works in the time stipulated in the Control Plan, may draw the appropriate amount from the securities posted and use the funds to arrange for the completion of the said works, or any part thereof;

 - (2) upon the failure by the Topsoil Removal Permit holder to install, repair or maintain a specific part of the works as requested by the City, and in the time requested, the City may at any time authorize the use of all or part of the securities to pay the cost of any part of the works it may in its or their absolute discretion deem necessary; or

 - (3) if, in the opinion of the Commissioner of Public Works, the Owner is not completing any works required in connection with the Topsoil Removal Permit within the specified time or in order that it may be completed within the specified time or is improperly performing the work, or shall the Owner neglect or abandon such works before completion or unreasonably delay the same so that the provisions of this by-law are being violated, or carelessly performed, or shall the Owner neglect or refuse to renew or again perform such work as may be rejected by the Commissioner of Public Works as

defective or unsuitable, or shall the Owner, in any manner, in the opinion of the Commissioner of Public Works, make default in the performance of any of the terms of the Topsoil Removal Permit, then, in such case, the Commissioner of Public Works shall notify the Owner in writing of such default or neglect and if such default or neglect not be remedied within ten (10) clear days after such notice or within such time period as may be designated by the Commissioner of Public Works, then, in that case, the Commissioner of Public Works thereupon shall have full authority and power immediately to purchase such materials, tools and machinery and to employ such workmen as in his opinion shall be required for the proper completion of the said works at the cost and expense of the Owner. In cases of emergencies or clean up, such work may be done without prior notice but the Owner shall be notified forthwith. The cost of such work will be calculated by the Commissioner of Public Works, whose decision shall be final. It is understood and agreed that such costs shall include a management fee of forty per cent (40%) of the cost of the labour and materials. Any work done at the direction of the Commissioner of Public Works pursuant to the provisions of this clause shall not be an assumption by the City or the Region of any liability in connection therewith nor a release of the Owner from any of its obligations under this by-law or the Topsoil Removal Permit.