



**Report
Staff Report
The Corporation of the City of Brampton
6/19/2024**

Date: 2024-05-22

Subject: **Proposed Site Alteration By-law**

Contact: Michael Heralall, Director, Environment & Development Engineering

Report number: Planning, Bld & Growth Mgt-2024-377

RECOMMENDATIONS:

1. That the report from Michael Heralall, Director, Environment & Development Engineering to the Committee of Council Meeting of June 19th, 2024, re **Proposed Site Alteration By-law**, be received;
2. That the attached Site Alteration By-law (Attachment 1) be enacted;
3. That the Fill By-law 143-95 be repealed;
4. That the Topsoil By-law 30-92 be repealed;
5. That the Administrative Penalties (Non-Parking) By-law 218-2019 be amended to adopt the proposed administrative penalties in Attachment 2;
6. That the User Fee By-law 380-2003 be amended to update the user fees associated with permit and renewal fees (Attachment 3);
7. That Council approve two permanent full-time Engineers, Environmental Compliance positions in Environmental and Development Engineering, Planning Building and Growth Management;
 1. that the two permanent full-time Engineers, Environmental Compliance be included in the 2025 budget submission for a total budget of \$287,140;
8. That Council approve one permanent full-time Operations Technician position in Road Maintenance, Operations and Fleet, Public Works and Engineering;
 1. that the one permanent full-time Operations Technicians be included in the 2025 budget submission for a total budget of \$130,923; and,
9. That net incremental revenue increase of \$129,050 be included in the 2025 budget submission.

OVERVIEW:

- On December 4, 2019, the Province of Ontario made a regulation under the *Environmental Protection Act*, titled “On-Site and Excess Soil Management” to provide clear rules on the beneficial reuse, management, and movement of excess soil.
- The oversight of site alterations and fill operations, however, remains the responsibility of municipalities as does the determination of what beneficial purposes are appropriate in accordance with local land use planning objectives.
- Staff undertook a review of the municipal regulatory framework for fill and site alterations and determined that the current by-laws are outdated and do not meet the new regulatory needs.
- Staff recommends the enactment of a new modernized and comprehensive by-law to align municipal regulations with the Provincial regulatory changes and industry standards; and to preserve the City of Brampton's ability to regulate site alterations to mitigate potential adverse environmental and community effects.
- The proposed Site Alteration By-Law will contain permit requirements for all grading operations, save for minor residential landscaping.
- Based on the complexity of the by-law and the addition of new project classifications, to ensure successful implementation and effective administration of the new by-law, additional staff with appropriate training and expertise is required.
- There is a total financial impact of \$289,013 that will be incorporated in the 2025 budget submission through compensation and revenue adjustment, and presented to the Mayor for his consideration.

BACKGROUND:

Site alterations involve activities such as placing or dumping fill or soil, removing topsoil, or altering the grade of land. Site alterations are an essential aspect of land development and various routine human activities such as property enhancements.

New Provincial Regulations

On December 4, 2019, the Province of Ontario made a regulation under the *Environmental Protection Act*, titled “[On-Site and Excess Soil Management](#)” (“Excess Soil Regulation, the regulation”) with provisions coming into force in phases until 2025. The criteria set out in the regulation are intended to promote the beneficial reuse of excess soil and to ensure contaminated soil doesn’t end up on clean sites. This regulation imposes new requirements on municipalities to reduce, track, monitor and manage the placement of soil.

The Ministry of the Environment, Conservation and Parks (MECP) Excess Soil Policy Framework emphasizes the importance of responsible soil management to avoid environmental damage and social disruption, while promoting its potential benefits for a sustainable economy. The framework states:

“Managing excess soil in a responsible way is integral to building sustainable communities. Improper management can result in impacts to ground or surface water quality and/or quantity, natural areas and agricultural lands, and cause a number of local issues including concerns regarding noise, dust, truck traffic, road damage, erosion, drainage and other social, health and environmental concerns. Proper management of excess soil can result in a number of benefits to the environment and economy.”

Significance for Municipalities

Site-specific site alteration or fill operations management oversight remains the responsibility of municipalities, as does the determination of appropriate beneficial purposes in conjunction with land use planning and transportation activities.

Managing the resulting excess soil is important to effectively prevent adverse impacts on drainage systems (natural and artificial), water quality, the natural environment, and agricultural areas. When performed correctly, a site alteration mitigates potential adverse effects on soil and water quality, vulnerable natural areas such as wetlands, woodlands, and valleylands, agricultural land productivity, and adjacent properties.

Policy Review

The City of Brampton’s Fill By-law 143-95 passed in 1995 regulates the placing or dumping of fill by permit, and the City of Brampton Topsoil By-law 30-92 passed in 1992 regulates the removal of topsoil. These by-laws are the primary instruments by which the City regulates the placing of fill or excess soil and removal of topsoil.

These by-laws are fragmented and not harmonized with each other, in terms of what grading alterations are permitted (for example, the Topsoil By-law does not address grading/drainage issues resulting from soil placement, while the Fill By-law does). The Topsoil By-law is also tied to the Topsoil Preservation Act which was repealed in 2003 and is thus outdated.

In the past, these deficiencies in the existing by-laws have created issues around enforcement (e.g., a property owner applies for a Topsoil permit but goes beyond placement of topsoil into the realm of grading changes thereby causing flooding or other issues for surrounding properties or the community). Staff identified the need to modernize these by-laws to address some of these inconsistencies and to strengthen the City’s ability to regulate soil placement and movement.

Extension of Enforcement Jurisdiction into Conservation Authority Regulated Areas

The repeal of section 142(8) of the *Municipal Act* signifies an extension of municipal jurisdiction into areas previously exclusively governed by the *Conservation Authorities Act*. With this change, the Toronto and Region Conservation Authority proposes the establishment of a Memorandum of Understanding (MOU) to establish municipal controls to complement the regulatory requirements related to fill and purview of the Conservation Authorities.

CURRENT SITUATION:

The requirement to align with and address the municipal obligations under the Excess Soil Regulation, as well as the need to modernize the City's existing by-laws in respect of soil management speaks to the need for a new, modernized comprehensive site alteration by-law that addresses these multiple needs.

Proposed Site Alteration By-law

The new Site Alteration By-law (Attachment 1) is designed to address the City's need for improved regulation of site alteration activities while aligning with the Province's guidelines and best practices. This will be achieved by:

Supporting responsible development: The by-law recognizes the landowner's right to develop their land but emphasizes the City's responsibility to ensure responsible development practices.

Environmental protection and public safety: The by-law aligns with Conservation Authorities' goals for environmental protection and public safety.

Effective enforcement: The by-law provides effective monitoring and enforcement tools to address non-compliance and limit adverse impacts on the community and city infrastructure. Amendments to By-law 218-2019 Administrative Penalties (Non-Parking) are proposed to allow for enforcement of the by-law by administrative penalties in addition to traditional court proceedings.

The by-law focuses on protecting specific aspects such as:

- Protecting agricultural resources and natural heritage features;
- Preventing drainage issues, public nuisances, erosion and sedimentation;
- Preventing interference and damage to watercourses or water bodies;
- Maintaining ground and surface water quality;
- Preventing discharge of contaminants into the natural environment;
- Preserving pre-existing soil and groundwater quality;
- Designating haul routes to minimize road damage and disturbances;
- Minimizing disturbances to landform characteristics; and,
- Prohibiting importation of hazardous materials.

Requirement for Permits

The proposed by-law will mandate the need for a permit or site alteration agreement for all site alteration activities, with limited exceptions. There are three types of permits proposed, based on the nature of the project and the cumulative quantity of excess soil:

1. Small Scale Site Alteration Permit
2. Large Scale Site Alteration Permit (greater than 1000 m³ of soil)
3. Subdivision or Site Plan Site Alteration Permit (Projects subject to Site Plan Control Subdivision Agreements)

Permits and Agreements Administration

Persons who undertake site alteration activities will be required to submit a comprehensive set of documents, including an erosion and sediment control plan, proposed elevations, drainage system details and project completion conditions. The application package also requires the applicant to submit plans for the storage, quality assessment, potential on-site reuse of excess soil and declarations by Qualified Persons, where applicable, in accordance with the Excess Soil Regulation.

Consultation with the relevant authorities about traffic, tree protection policies, and endangered species will also be required. Applicants may be required to provide security measures and enter into agreements ensuring adherence to city standards. Staff will work to ensure that the application review process is effectively streamlined through all internal business units by means of service level agreements and standard operating procedures.

The by-law will allow for stop-work orders to be issued in cases of contravention of the by-law or non-compliance with the conditions of a permit, and for corrective actions and penalties to be applied where warranted.

Exemption From Permit

The proposed by-law excludes several activities from its application including statutory exemptions, activities with limited topsoil replacement for agriculture, and minor landscaping projects. Site alterations will be prohibited in certain areas including environmentally sensitive or significant zones.

Large Scale Site Alterations and Agreements (Council Consideration Required)

Large-scale site alterations (1000 m³ or more) may limit future land use if the deposited soil is found to be contaminated and may operate for several years creating noise, dust, and heavy traffic. These disturbances present significant quality-of-life concerns for nearby residents. As such, the proposed process mandates public consultation and Council consideration before approval. Additionally, a comprehensive Site Alteration Agreement, registered on the land title, is obligatory, outlining specific plans and information. This agreement mandates oversight from a Qualified Person, assurances of compliance, security deposits, indemnification, insurance, security plans, and reports.

User Fees

The amendment to the Public Works and Engineering Fees/Charges will help recover the associated costs while reducing the burden on the property tax rate. In reviewing the user fees, staff considered several factors, including the cost of administration, current demand conditions, comparison and benchmarking of user fees, consistency of fees for similar services, the responsiveness of fee structures, and options for different scales of work. Based on this information, staff recommend adopting the fees/charges outlined in Attachment 3, taking into account the general objective of administrative efficiencies.

Implementation

Implementation of the new by-law, pending Council ratification, would follow a phased-in approach to allow for staff, the development industry, property owners, and the community to become aware of and familiar with the by-law and any new requirements or obligations therefrom.

Phased Implementation

- Phase One (immediately following enactment of the new by-law): All provisions except for Large-Scale Site Alterations.
- Phase Two (November 2024): Large-Scale Site Alterations

By-laws 143-95 and 30-92 will still apply to actions and omissions occurring before enactment of the new Site Alteration By-law. Existing permits issued under the current by-laws will remain valid until they expire.

Communication and Education

Following the enactment of the new by-law, staff from Public Works & Engineering, Legislative Services, and Planning, Building & Growth Management will collaborate with Strategic Communications to develop content and materials to inform and educate all impacted groups to raise awareness of the new by-law and its implications.

Staff Resources

Through significant interdepartmental collaboration between Planning, Building and Growth Management, Public Works, and Engineering and Legislative Services, City staff are optimizing existing resources to meet soil-related requirements by strategically reallocating resources. Based on the complexity of the By-law and the addition of new project classifications, to ensure a successful implementation and effective administration of the new By-law, additional staff with appropriate training and expertise are required to complete reviews, issue permits, and agreements, ensure compliance, and provide ongoing technical support.

The positions listed below will be essential to meet the immediate implementation requirements and align with related City initiatives.

Division	Department	No. Of Positions	Title(s)
Planning, Building and Growth Management	Environment & Development Engineering	2 (FTEs)	Engineer, Environmental Compliance
Public Works Engineering	Road Maintenance, Operations and Fleet	1 (FTE)	Operations Technician

It is proposed these positions be included in the 2025 budget. An assessment of the ongoing need for these positions will be undertaken annually.

Recognizing that many municipalities are at the same point in the implementation cycle for the Regulation, staff compiled information where available (ref. attachment 4) on technical staff resources dedicated to environmental compliance (including obligations from the Regulation) and observed that for the municipalities that provided information, the number of staff resources in place or planned are commensurate with the planned complement at the City for these subject areas.

CORPORATE IMPLICATIONS:

Financial Implications:

The initiative will require three permanent full-time positions which include two Engineer, Environmental Compliance, and one Operations Technician for a total of \$418,063 annually (inclusive of salary, benefits, WSIB). Additionally, based on historic trends and the anticipated number of permits depending on market demand, there will be a favourable financial impact of \$129,050 from a net incremental revenue increase. The total financial impact of \$289,013, will be incorporated in the 2025 budget submission through compensation and revenue adjustment, and presented to the Mayor for his consideration.

All revenues generated from the new site alterations will be captured under the Planning Building and Growth Management department, and any revenues generated from the administrative penalties will be captured under the Legislative Services department.

Title	Funding Required
Engineer – Environmental Compliance (2 FTEs)	\$287,140
Operations Technician (1 FTE)	\$130,923
Revenue Offset	-\$129,050
Net Operating Impact	\$289,013

STRATEGIC FOCUS AREA:

The adoption of this by-law supports the City's strategic focus areas and priorities. Promoting safe, compliant, and sustainable land use fosters environmental resilience and sustainability; service effectiveness; and community health and well-being.

CONCLUSION:

The proposed Site Alteration By-law incorporates provisions aligned with provincial legislation on excess soil management and aims to ensure responsible and environmentally conscious site alteration practices. The adoption of this by-law is important for protecting agricultural resources, natural heritage features, and the environment while promoting sustainable development practices and community well-being in Brampton. The proposed Site Alteration By-law, in addition to providing a system for permit administration, would increase the available enforcement mechanisms for early intervention during illegal site alteration activities.

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Attachments:

- Attachment 1 – Draft Site Alteration By-law
- Attachment 2 – Draft Amendment to By-law 218-2019
- Attachment 3 – Draft Amendment to By-law 380-2003
- Attachment 4 – Site Alteration By-Law Municipal Resourcing Scan