



MEMBER'S RESOLUTION

Date:	June 14, 2011 – COMMITTEE OF THE WHOLE
Title:	BY-LAW 189-96
Submitted by:	Regional Councillor Gino Rosati / Regional Councillor Deb Schulte

***Whereas,** By-Law 189-96 (FILL BY-LAW) has been amended by By-Law number 44-2004 dated February 23rd, 2004, which exempts lots containing one or more occupied residential dwelling from By-Law 189-96;*

***Whereas,** property owners are left to fend for themselves when adversely effected by abutting neighbors lot grading changes;*

***Whereas,** the City does enforce other By-Laws affecting residential properties; and*

***It Is therefore recommended** that By-Law number 44-2004 dated February 23rd, 2004 be rescinded effective January 1st, 2012..*

Respectfully submitted,

Gino Rosati

Deb Schulte

Attachments

By-Law 189-96, By-Law 44-2004 and Staff Report Council Meeting January 12th, 2004

BACKGROUND TO: By-Law 189-96, SUBMITTED BY Regional Councillor Gino Rosati and Regional Councillor Deb Schulte

By-Law 189-96 should apply equally to all property owners. Residents should not have to incur significant own expenses to have someone else adhere to the By-Law.

It is recognized that the change may affect staff work volume, depending on the degree of enforcement required. It is suggested that such be addressed in the 2012 Budge if necessary.

THE CITY OF VAUGHAN

BY-LAW

BY-LAW NUMBER 44-2004

A By-law to amend By-law 189-96 to prohibit or regulate the placing or dumping of fill in areas of the City of Vaughan, as amended.

WHEREAS the section 142 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, authorizes municipal corporations to pass by-laws to prohibit or regulate the placing or dumping of fill, the removal of topsoil or the alteration of the grade of land;

AND WHEREAS the Council of The Corporation of the City of Vaughan enacted By-law Number 189-96 being a By-law to prohibit and regulate the placing or dumping of fill in areas of the City of Vaughan on the 8th day of July, 1996;

AND WHEREAS the Council of The Corporation of the City of Vaughan deems it expedient to amend By-law 189-96, a By-law to prohibit and regulate the placing or dumping of fill, to exempt certain classes of lands;

NOW THEREFORE the Council of The Corporation of the City of Vaughan enacts as follows:

1. Section 1 is amended by adding subsection (7a) as follows:

"(7a) "lot" means a parcel of land fronting on a street separate in ownership from any abutting land to the extent that a consent contemplated by section 50 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, would not be required for its conveyance."

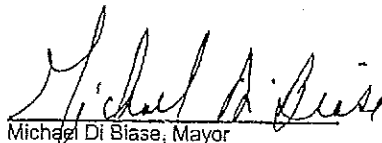
2. Subsection 2(2) is amended as follows:

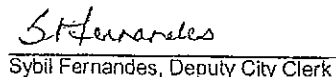
(a) by deleting clause (f) and replacing it with the following:

"(f) fill is being placed on any lot containing one or more occupied residential dwellings, but not including an occupied dwelling in an Agricultural Zone where such placing of fill is not part of commonly accepted agricultural practice."

3. The provisions of this By-law shall come into force and be in effect upon final passage hereof.

READ a FIRST, SECOND and THIRD time and finally passed this 23rd day of February, 2004.


Michael Di Biase, Mayor


Sybil Fernandes, Deputy City Clerk

THE CITY OF VAUGHAN

BY-LAW

BY-LAW NUMBER 189-96

To prohibit or regulate the placing or dumping of fill in areas of the City of Vaughan.

WHEREAS section 223.1 of the Municipal Act, R.S.O. 1990, authorizes the Council of The Corporation of the City of Vaughan to pass by-laws for prohibiting or regulating the placing or dumping of fill and for regulating the alteration of the grade of land in any defined area or areas in the City of Vaughan;

NOW THEREFORE the Council of the Corporation of the City of Vaughan ENACTS AS FOLLOWS:

DEFINITIONS

1. For the purposes of this by-law:

- (1) "applicant" means the owner, where such owner is an individual, or means any individual authorized in writing, by the owner to apply for a permit on the owner's behalf;
- (2) "Chief Building Official" means the Chief Building Official of the City of Vaughan or his designate;
- (3) "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;
- (4) "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;
- (5) "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;

- (6) **"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;
- (7) **"inspector"** means a person designated as a Municipal Enforcement Officer for the City of Vaughan for the purpose of enforcing either legislation or by-laws.
- (8) **"owner"** means the registered owner of the land for which a permit is sought or obtained;
- (9) **"permit"** means permission or authorization given in writing by the Chief Building Official to perform work regulated by the by-law or part thereof;
- (10) **"permit holder"** means the owner as defined in this By-law or the person in possession of the property and includes a lessee, a mortgagee in possession or a person in charge of the property;
- (11) **"placing"** means the distribution of fill on lands to establish a finished grade higher or lower than the existing grade;
- (12) **"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;
- (13) **"removal"** means excavation or extraction of any fill which lowers the existing grade, which includes soil stripping;

- (14) "retaining wall" means a concrete or concrete product wall or other material approved by the Chief Building Official designed to contain and support fill which has a finished grade higher than that of adjacent lands;
- (15) "soil" means material commonly known as earth, top soil, loam, subsoil, clay, sand or gravel; and
- (16) "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 remove, place or dump fill or cause fill to be removed, placed or dumped in areas of the City of Vaughan without having first obtained a permit issued by the Chief Building Official.
- (2) The provisions of subsection (1) of this section do not apply in those areas of the City of Vaughan 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 shown in a grading and drainage plan approved by the City of Vaughan 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:
 - i) the elevation of the land within 600 mm of the property line is not changed; and

- ii) there is no change in the location, direction or elevation of any natural or artificial watercourse, open channel, swale or ditch used to drain land;
 - (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;
 - (h) fill is dumped or placed on lands zoned "Agricultural" where there is a minor alteration to the grade of land as an incidental part of a commonly accepted agricultural practice.
- (3) Where a permit has been issued pursuant to this by-law authorizing the placing or dumping of fill on lands, no person shall remove, place or dump fill or cause fill to be removed, placed or dumped except in accordance with the plans, documents and any other information on the basis of which a permit was issued.
- (4) Where a person has removed, dumped or placed fill or caused fill to be removed, dumped or placed on lands contrary to this by-law or not in conformity with an issued permit, that person and/or the owner and/or the permit holder will be responsible for the removal of such fill.
- (5) 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 Vaughan.
- (6) Subject to subsection 2(2), no person shall remove, place or dump, or cause to be removed, 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 Vaughan as part of a subdivision, rezoning or site plan approval, without a permit.
- (7) Subject to s. 2(2), no person shall remove, place or dump, or cause to be removed, 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, dumped or removed;
 - (b) all fill to be dumped or placed is clean and free of trash, rubbish, glass, liquid or toxic chemicals or garbage materials;

- (c) the drainage system for the lands is provided in accordance with the Corporation's by-laws and the Chief Building Official 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 or removed in such a manner, or the retaining wall containing such fill is erected in such a manner, that no ponding or alteration of existing flow is caused on abutting lands.

REQUIREMENTS FOR ISSUANCE OF A PERMIT

- 3. An applicant for a permit to dump or place or remove fill on the lands shall submit the following to the Chief Building Official:
 - (1) a completed application in the form prescribed by the Chief Building Official;
 - (2) the applicable permit fee in accordance with Schedule A to this by-law;
 - (3) when required by the Chief Building Official, a Fill-Control Plan, which shall include any or all of the following as shall be specified by the Chief Building Official:
 - (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, grade at base and size, in caliper, of all trees greater than 250 mm in caliper, all shrubs, trees and hedges within one (1) metre of the property line 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 extending a minimum of thirty (30) metres beyond each lot boundary;
 - (l) the proposed final grades 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 of drawing, ranging from 1:250 to 1:1000 as deemed appropriate (each drawing 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 grades 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 Chief Building Official to secure performance of the work for which the permit is being applied. The Chief Building Official may draw upon the security posted to recover the cost of the City performing any required work which the owner has failed to perform.

4. (1) The Chief Building Official may, prior to the issuance of a permit, require the owner and/or proposed permit holder to enter into an agreement which may be registered on title to the subject lands containing such requirements as the Chief Building Official considers necessary to ensure that the placing or dumping or removal of fill is done in accordance with prevailing City of Vaughan design standards and proper engineering principles.
- (2) Requirements contained in an agreement may include the owner and/or proposed permit holder posting with the City, the security, in accordance with subsection 3(7), and where in the opinion of the Chief Building Official, extensive activities are proposed such as landfill operations, certifications by a Geotechnical Engineer or other similarly qualified person, both prior to the issuance of a permit and upon completion of the work. Such certifications shall state that the owner and/or proposed permit holder can and has complied with all of the obligations and conditions contained in the applied for and issued permit.
5. Every person who removes, places or dumps fill or causes fill to be removed, placed or dumped shall:
 - (1) when required by the Chief Building Official , 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 Chief Building Official. The Chief Building Official 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 Chief Building Official;
 - (4) ensure that no trench in which piping is laid forming part of the drainage system shall be covered until the work has been inspected by the Chief Building Official or an Inspector, and authorization is given to back fill the installation;
 - (5) provide such protection for trees as may be required by the City of Vaughan's Parks Department; and

- (6) provide the site erosion control measures set out in Schedule B to this by-law prior to commencement of the placing or dumping or removal of fill.

ISSUANCE OF A PERMIT

6. The Chief Building Official shall issue a permit where:

- (1) the owner and the applicant and the proposed permit holder have fulfilled all requirements pursuant to this by-law;
- (2) the owner and/or proposed permit holder have entered into the agreement referred to in section 4(1) of this by-law, if required, and have performed all its obligations which the agreement requires to be performed prior to the issuance of a permit;
- (3) the Chief Building Official 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 Vaughan design standards and proper engineering practice;
- (4) the Chief Building Official is satisfied that the height of any retaining wall to be constructed either shall not exceed one metre or that the design and installation of any retaining wall which exceeds 1 metre in height has been certified by an engineer and is in compliance with any applicable legislation or by-law; and
- (5) the Chief Building Official is satisfied that the placing or dumping or removal 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;
 - (f) a detrimental effect on any healthy tree greater than 250 mm in caliper located on or adjacent to the lands; or
 - (g) a detrimental effect on any environmentally significant area or areas of natural or scientific interest, wetland or wetland complex as identified by either the Metropolitan Toronto and Region Conservation Authority or Ministry of Natural Resources and shown on Schedule "G" to Official Plan Amendment No. 400.

7. (1) The permit issued pursuant to this by-law shall be valid to the expiry date as specified on the permit by the Chief Building Official.

- (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 Chief Building Official 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 Chief Building Official does not preclude the owner's and permit holder'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 forthwith advise the Chief Building Official of such transfer and 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.

REVOCATION OF PERMIT

8. A permit may be revoked by the Chief Building Official under the following circumstances:
 - (a) If it was issued on mistaken, false or incorrect information;
 - (b) If it was issued in error;
 - (c) If the owner or permit holder requests in writing, that it be revoked;
 - (d) If the terms of an agreement under this by-law have not been complied with;
 - (e) If work authorized under the permit has not been commenced prior to its expiry date; or
 - (f) If an owner fails to comply with s. 7(4) of this by-law.

APPEALS

9. Any person applying for a permit pursuant to this by-law, including an owner or proposed permit holder, may appeal to the Ontario Municipal Board:
 - (1) where the owner and/or permit holder 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 Chief Building Official, within thirty (30) days from the expiration of the forty-five (45) days, by filing a letter of appeal with both

the Clerk and the Ontario Municipal Board.

10. (1) 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.
11. The decision of the Board is final.
12. Sections 43 and 95 of the Ontario Municipal Board Act do not apply to a decision of the Board under Section 10.
13. 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

14. The administration and enforcement of this by-law shall be performed by the Chief Building Official, by such persons authorized by the Chief Building Official, and by the Municipal Enforcement Officers of the City of Vaughan as may be appointed by by-law of the Council of The Corporation of the City of Vaughan.
15. Upon completion of the work pursuant to a permit, the owner and/or permit holder shall so advise the Chief Building Official.
16. An inspector may, during daylight hours and upon producing the appropriate identification, enter and inspect any land to which the by-law applies.
17. No person shall obstruct an inspector who is carrying out an inspection pursuant to this by-law.
18. If, after inspection, the inspector is satisfied that there is a contravention of this by-law, he or she shall notify the owner and permit holder 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.

19. 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.
20. An order pursuant to this by-law shall be served personally or by prepaid registered mail or in accordance with s. 21.
21. 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 and permit holder.
22. 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 and permit holder.
23. If the owner or permit holder 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.
24. 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.
25. 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.
26. No person who, after receiving proper notice, shall disobey an order made pursuant to this by-law.

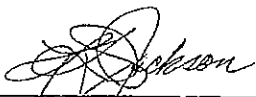
PENALTY

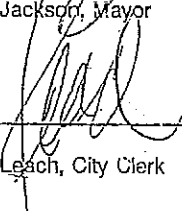
27. Any person who contravenes any of the provisions of this by-law is guilty of an offence and upon conviction is liable to a fine as provided for in the Provincial Offences Act.

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.

READ a FIRST, SECOND and THIRD time and finally passed this 8th day of July, 1996.



L.D. Jackson, Mayor

J.D. Leach, City Clerk

SCHEDULE "A"

PERMIT FEES

The following fees shall be paid to the City of Vaughan at the time of application for a fill permit:

(a)	Fill/alteration of grade on property requiring up to \$2,000.00 security	\$100
(b)	Renewal of (a)	\$50
(c)	Fill/alteration of grade on property requiring more than \$2,000.00 security	\$200
(d)	Renewal of (c)	\$100
(e)	Transfer of Permit under s. 7(4)	\$50
(f)	Refund	

Permit Fees are non-refundable

SCHEDULE "B" TO BY-LAW 189-96

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 of inactivity shall be at the discretion of the Chief Building Official, but shall not generally exceed thirty (30) days;
 - (b) 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;
 - (c) 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 Chief Building Official. 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;
 - d) for a lot located adjacent to existing residential areas, a silt fence may be required around the entire perimeter of the lots;
 - e) a three (3) metre wide buffer strip or silt fence shall be provided along the perimeter of the downslope sides of the lot;
 - f) the sediment control guidelines prepared by the Metropolitan Toronto and Region Conservation Authority and Ministry of Natural Resources for the Province of Ontario dated April, 1991, are to be followed; and
 - g) for a lot with extensive fill requirements, the Chief Building Official 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 Chief Building Official.

OFFICE USE ONLY

PERMIT APPLICATION NUMBER				
APPLICATION DATE				
ISSUED DATE				
PERMIT TYPE	AREA	BUILDING TYPE	WORK PROP.	
TOTAL FEE DUE				
DATE	PAYMENT TYPE	RECEIPT NO.	DEPOSIT PAID	
DATE	PAYMENT TYPE	RECEIPT NO.	BALANCE PAID	
TOTAL FEE PAID				
ROLL NUMBER	EXPIRY DATE	Miscellaneous Information		

PLEASE TYPE OR PRINT IN BLOCK LETTERS

PROJECT LOCATION			WORK DESCRIPTION
Street No.	Street Name	Unit No.	Describe nature of work, proposed schedule including start and completion dates
Community (Concord, Kleinburg, Maple, Thornhill, Woodbridge)		Postal Code	
Lot No.	Block No.	Registered Plan No.	
Concession			

PROPERTY INFORMATION		
Property Area	Existing Land Use	Existing Bldg. Use (if applicable)
Abutting properties include:		
<input type="checkbox"/> School	<input type="checkbox"/> Open Space	<input type="checkbox"/> Park
<input type="checkbox"/> Institutional	<input type="checkbox"/> Commercial	<input type="checkbox"/> Industrial
<input type="checkbox"/> Provincial Roadway		
<input type="checkbox"/> Regional Roadway		

PROPERTY OWNERSHIP INFORMATION			
Registered Owner of Property is a(n) <input type="checkbox"/> Individual <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership			
Fill in Section A, B or C and Owners Address			
Section A - Registered Owner(s) of Property, If an Individual			
LAST NAME(S)		FIRST NAME	INITIAL(S)
Section B - Registered Owner of Property, If Corporation			
CORPORATION NAME IN FULL			
Name of a Corporation Official		LAST NAME	FIRST NAME
			Position Held
Section C - Registered Owner of Property, If a Partnership			
BUSINESS NAME IN FULL			
All Partners Names		LAST NAME	FIRST NAME
			Position Held
Address of Registered Owner of the Property			
Street No.	Street Name	Apt/Unit No.	City/Town
			Province
Postal Code			
Phone Nos.			
Bus.		Fax.	

APPLICANT (Must be the name of the individual submitting Application)			
LAST NAME		FIRST NAME	INITIAL(S)
Street No.	Street Name	Apt/Unit No.	City/Town
			Province
Postal Code			
Phone Nos.			
Bus.		Fax.	

PLEASE COMPLETE THE REVERSE SIDE OF THIS FORM

PROPOSED PERMIT HOLDER

If this section is not completed, the permit when issued, will be assigned to Registered Owner of property.

The proposed Permit Holder will be the:

☐ registered property owner

☐ lessee

☐ mortgagee in possession

☐ person in charge of the property

Full Name:

Street No.

Street Name

Apt/Unit No.

City/Town

Province

Postal Code

Phone Nos.

Bus.

Fax.

TO THE CHIEF BUILDING OFFICIAL OF THE CITY OF VAUGHAN

The undersigned hereby applies for a permit in accordance with the application, plans, specifications and data sheets herewith submitted and attests that the work herein applied for, to the best of his/her knowledge, complies with the Fill Bylaw, the (Ontario) Building Code Act, Building Code, Zoning by-laws and all other applicable law as required for the issuance of a permit under the Fill Bylaw, and acknowledges that such work must so comply, it being expressly understood that neither the issuance of a permit nor the carrying out of inspections by the City of Vaughan shall relieve the Registered Property Owner, permit holder or constructor from full responsibility for compliance with all applicable Statutes, Regulations and By-Laws, and with all Agreements entered into by the registered owner and/or permit holder applicable to the said lands, pursuant to statutory law.

The undersigned agrees that neither he/she, the Registered Property Owner, the permit holder or anyone acting on his/her/their behalf, shall, pursuant to this application:

- (a) permit or dump any fill, refuse or other debris on, nor shall any fill be removed from, any City roads or other City owned lands;
- (b) block or restrict any catch basin, drainage ditch or drainage swale, whether on private or publicly owned land, and
- (c) trespass on any publicly or privately owned land, other than on public road allowances and highways, without the permission of the owner of the said land.

I, _____ of the _____ of _____
(Print applicant's name in full) (City, Town)

In the _____ of _____
(Regional Municipality/County)

States:

1. that I am ☐ the Registered Property Owner and that I hereby consent to the fill work described in this application.
☐ authorized in writing by the Registered Property Owner to make this application, and further, the Registered Property Owner consents in writing to the fill work described in this application. Copy of authorization and consent must be provided.
☐ an officer ☐ an employee of _____ who are authorized in writing by the Registered Property Owner to make this application, and further, the Registered Property Owner consents in writing to the fill work described in this application. Copy of authorization and consent must be provided.
2. THAT the statements herein contained in the said application are true and made with a full knowledge of all relevant matters and of the circumstances connected with the same;
3. THAT the plans and specifications submitted are prepared for the installation and/or extraction of fill, and are submitted in compliance with copyright law;
4. THAT the site plans submitted correctly set out the dimensions and area of the lands described in the said application, the location and nature of any easements on such lands and the exact location of existing and proposed buildings and structures in relation to the street line(s), property lines and easements;
5. THAT if additional fees or charges apply in connection with this application, in addition to the fees herewith paid, the said fees or charges will be paid in full by the Registered Property Owner, the applicant or by the proposed permit holder, prior to permit issue.

I HEREBY CERTIFY that I have read and fully understand all of the conditions and that the foregoing is true.

DATED at _____ this _____ day of _____ 19____

Personal information on this form is collected under the legal authority of the Municipal Act, R.S.O. 1990, M45 (as amended) and the Building Code Act, S.O. 1992, C23. This information will be used to process the Building Permit Application which includes review of the full submission for Zoning By-law and lot grading criteria compliance and preparation and processing of Site Plan Agreements. As a public record, information contained on this application and the documents required to issue a building permit may be disclosed to any individual under the Municipal Freedom of Information and Protection of Privacy Act. Questions about this collection should be directed to the Manager of Customer and Administrative Services, 2141 Major Mackenzie Drive, Vaughan, Ontario L6A 1T1. (905) 832-8510 Ext. 8232.

Signature of Building Standards Department
witness to Applicant's signature

Signature of Applicant

CITY OF VAUGHAN

EXTRACT FROM COUNCIL MEETING MINUTES OF JANUARY 12, 2004

Item 10, Report No. 1, of the Committee of the Whole, which was adopted without amendment by the Council of the City of Vaughan on January 12, 2004.

10 FILL BY-LAW AMENDMENTS - OCCUPIED RESIDENTIAL LOTS OR PROPERTIES

The Committee of the Whole recommends:

- 1) That Clause 1, contained in the following report of the Commissioner of Legal and Administrative Services, dated January 5, 2004, be approved; and
- 2) That public notice be provided, for a period of two-weeks, on a City-wide basis.

Recommendation

The Commissioner of Legal and Administrative Services, in consultation with the Director of Building Standards, recommends:

1. That a By-law be enacted by Council to amend By-law Number 189-96, as amended (the "Fill By-law"), to remove the application of the By-law or any of its requirements to any land, lot or property with an occupied residence, in a form substantially similar to the draft by-law attached to this report (Attachment 1); and
2. That direction be provided by Council on the manner and extent of notice to be provided to the public of Council's intention to consider these amendments to the Fill By-law.

Purpose

The purpose of this report is to consider a proposal to amend the Fill By-law, By-law Number 189-96, to remove its application and requirements to all lands, lots or property with an occupied residence or a residence that is capable of lawful occupation situate on the property. It is the opinion of the Commissioner of Legal and Administrative Services that a municipality should not engage in regulating the placement of fill for mature residential subdivisions when it is essentially a matter between two neighbours and a nuisance caused by one property owner causing the escape of surface water from one property to another. A civil remedy exists for the affected owner and the City's involvement only complicates the issue.

Background - Analysis and Options

Complaints related to the improper placement of fill and grade alterations on lots with occupied residences in the City of Vaughan have escalated over the years. At present there are some 1,000 complaints being received annually from residential property owners. A number of prosecutions have been undertaken since By-law 189-96 (the "Fill By-law") was enacted. In addition the City has been named as a defendant in civil proceedings commenced by neighbours claiming damages as a result of improper fill placement or grade alterations.

Amendments to the "Fill By-law" are being considered in an effort to clarify the City's position related to placement of fill involving occupied residential properties. The intention is to exempt from the Fill By-law the improper placement of fill or grade alteration for lots or properties with an occupied residence. The proposal would not affect the by-law's ongoing application to lands within an unassumed plan of subdivision. The City receives a letter of credit to guarantee that appropriate grading will be in place prior to assumption of a subdivision.

CITY OF VAUGHAN

EXTRACT FROM COUNCIL MEETING MINUTES OF JANUARY 12, 2004

.../2

Item 10. CW Report No. 1 – Page 2

The City is authorized under section 142 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, as it was under its predecessor, section 223.1 of the *Municipal Act*, R.S.O. 1990, c.M.45, to enact by-laws related to fill placement and site alteration, including authority to enact by-laws to prohibit or regulate the placing or dumping of fill, the removal of topsoil or the alteration of the grade of land, to provide for a system of permits, to require the restoration of the original grade of land, etc. The By-law will remain in force in relation to vacant sites under development. The Commissioner of Engineering and Public Works has advised that he wishes to retain this control.

The proposed amendments are viewed as necessary since it is very costly and time-consuming to pursue these types of complaints, particularly in cases involving a dispute to a prosecution and possible civil claims for damages commenced by a neighbouring owner alleging losses or injury.

There are often substantial difficulties involved in establishing proof of recent filling activities that have resulted in grade alteration, caused damage or harm due to run-off, improper drainage, flooding and other associated problems. As time passes the pre-existing fill and grade conditions and the extent of changes that can be attributed to the current owner's fill placement, become more difficult to determine and enforce. Because filling complaints may involve complaints by both adjoining property owners, the City is in a position where it may not satisfactorily be able to attribute the improper activity to one party or the other. In such circumstances establishing proof of an offence will be difficult.

Furthermore, the City itself has been added as a party to claims commenced by property owners alleging damages and losses to their properties as a result of improper filling and alterations to grade by neighbouring property owners.

By regulating the improper placement of fill and grade alterations, and by providing for a system of permits for fill placement/removal, the City is required to take all appropriate steps to enforce the provisions of its Fill By-law, including service of offence notices and obtaining orders for restoration of the site, etc. Where loss or injury may be sustained by a neighbouring property owner, the fact that the City has made a policy decision to regulate filling the City will then have to exercise all reasonable efforts to enforce the fill regulations. By virtue of the fact that the City has decided to regulate filling, it is more likely the City will be exposed to liability by being added to any claim for damages related to a residential lot or property arising from improper filling by an adjacent owner.

In addition to these concerns, the City of Vaughan has encountered difficulties in administration of the Fill By-law, since it involves both Building Standards and By-law Enforcement officials. It has remained cloudy which staff have primary responsibility for ensuring the requirements of the By-law are complied with by residents of Vaughan.

Since the proper approved grading of lands is established through the original subdivision and site plan approval process, individual property owners are in a position to compare filling and grading activities of neighbouring owners from time to time with the originally approved grading plan. In the event of losses or injury arising out of filling activities by a neighbouring property owner, the affected or complainant property owner will not be left without a remedy, but will continue to have civil remedies available to it through the courts.

The *Municipal Act, 2001* has prescribed no specific notice requirements for the enactment of fill placement or site alteration by-laws. In addition, specific notice requirements for informing the public are not included in By-law Number 394-2002, the City's Notice By-law, which establishes the form, manner and timing for public notice for all those matters where public notice is required

CITY OF VAUGHAN

EXTRACT FROM COUNCIL MEETING MINUTES OF JANUARY 12, 2004

.../3

Item 10, CW Report No. 1 – Page 3

by a provision of the *Municipal Act, 2001*. Since residential homeowners may have an interest in the proposed amendments to the Fill By-law, it would be appropriate if two or three weeks public notice of the meeting to consider the proposed amendments was published in the local newspaper(s) and by posting on the City's website. Staff will await Council's direction on the form, nature and timing of notice to be provided.

Relationship to Vaughan Vision 2007

This proposal to exempt the improper placement of fill or grade alteration involving lots or properties containing an occupied non-multi-residential dwelling or residence will assist in the development of effective service delivery, by removing services that cannot be provided in a cost-effective manner and expose the City to unwarranted potential liability and by permitting the City to focus its resources on more difficult and potentially dangerous conditions or activities.

This report is consistent with the priorities previously set by Council and the necessary resources have been allocated and approved.

Conclusion

For the reasons noted above, the Fill By-law should be amended to exempt the improper placement of fill or grade alteration on lots or properties with an occupied residence. The proposed amendment will not affect the by-law's ongoing application to lands within an unassumed plan of subdivision.

Attachments

1. Draft By-law

Report prepared by:

Carolyn P. Stobo, Solicitor/Special Services

(A copy of the attachments referred to in the foregoing have been forwarded to each Member of Council and a copy thereof is also on file in the office of the City Clerk.)