

The Corporation of the Municipality of Brighton
By-Law 114-2016

Being a By-law to control and regulate the dumping and moving of fill in the Municipality of Brighton

Whereas, Section 142 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, authorizes a Municipality to prohibit or regulate the placing or dumping of fill, and removal of topsoil and to require that a permit be obtained for the placing or dumping of fill or the removal of topsoil and to impose conditions to said permit;

And whereas, section 425 of part XIV of the Municipal Act, S.O. 2001, c 25 authorizes that a municipality may pass By-Laws providing that a person who contravenes a By-Law of the municipality passed under this Act is guilty of an offence;

And whereas, section 429 of part XIV of the Municipal Act, S.O. 2001, provides that a municipality may establish a system of fines for offences under a By-Law of the municipality passed under this Act;

And whereas, the Council of the Corporation of the Municipality of Brighton deems it expedient to pass a By-Law for this purpose;

Now, therefore, the Council of the Corporation of the Municipality of Brighton enacts as follows:

Section 1.0 Definitions

In this By-Law:

“Applicant” shall mean the owner of the lot upon which fill or topsoil is to be placed or removed;

“Chief Building Official” shall mean the Chief Building Official as defined by the Building Code Act, 1992 and appointed by By-Law and his or her designate;

“Conservation Authority” shall mean the Lower Trent Conversation Region Authority;

“Contaminated Fill” shall mean any material which contains any solid, liquid, gas, odour, waste product, radioactivity or any combination thereof which is present in a concentration greater than that which naturally occurs in the location of the lot or parcel of land in question;

“Dumping” shall mean stripping, removing, moving, transporting, importing, exporting or placing of any fill or topsoil into, out of or upon lands within any single or adjacent properties within the Municipality;

“Fill” shall mean any type of material deposited or placed on lands and include soil, stone, concrete, construction materials, asphalt, sod or turf either singly or in combination;

“Grade” shall mean the elevation of a ground surface and includes:

- a) “Existing Grade”, meaning the elevation of an existing ground surface, except that where the placing or dumping of fill or the alteration of ground surfaces has occurred in contravention of this By-Law, existing grade shall mean the grade as it existed prior to the placing or dumping of fill or alteration of the grade;
- b) “Finished Grade, meaning the elevation of the ground surface of land upon which fill has been placed or dumped or after alteration of the grade has occurred; and

- c) Proposed Grade, meaning the proposed elevation of the ground surface or land upon which any fill is proposed to be placed or site alteration is to occur.

“Inspector” shall mean any of the following staff members of the Municipality: By-Law Enforcement Officer, Chief Building Official and Construction Inspector;

“Lot” shall mean the total horizontal areas described within the registered deed or other document legally capable of conveying land or shown as a lot or block on a registered plan of subdivision;

“Municipality” means the Corporation of the Municipality of Brighton;

“Normal Agricultural Practice” includes sod-farming, greenhouse operations and nurseries for horticultural products but does not include the sale, exchange or other disposition of Topsoil;

“Owner” shall mean the registered owner of land as shown by a transfer registered in the land title office for Northumberland or shown as owner on the last revised assessment roll for the Municipality;

“Permit” shall mean a permit issued by the Municipality pursuant to the provisions of this By-Law;

“Person” means an individual, association, partnership, corporation, government body or an agent or employee of such a person;

“Place” shall mean the depositing of fill on lands and “placing” and placed in relation to fill have the same meaning;

“Retaining Wall” shall mean a wall designated to contain and support Fill which has a finished grade higher than that of adjacent lands;

“Soil” shall mean materials commonly known as earth, topsoil, loam, subsoil, clay, sand or gravel or any combination thereof;

“Swale” means an open channel, ditch or depression either natural or artificial, in which water flows either continuously or intermittently;

“Topsoil” shall mean the horizons in a soil profile, commonly known as the “O” and the “A” horizons, containing organic material and includes deposits of partially decomposed organic matter such as peat moss;

“Zoning By-Law” shall mean the Municipality’s Comprehensive Zoning By-Law 140-2002, as amended from time to time;

Section 2.0: General Prohibitions

- 2.1 No person shall place or dump fill or topsoil or cause or permit fill or topsoil to be placed or dumped in the Municipality except in accordance with this By-Law.
- 2.2 No person shall remove soil or cause or permit the removal of soil except in accordance with this By-Law.
- 2.3 Where a permit has been issued pursuant to this By-Law, no person shall, except in accordance with the provisions of that permit:
- a) place or dump fill or cause or permit fill to be placed or dumped; or
 - b) remove soil or cause or permit the removal of soil.

Section 3.0: Exemptions

- 3.1 The provisions of this By-Law do not apply to the extent that the placing or dumping of fill, the removal of topsoil or alteration of the grade of land is:
- (a) undertaken by the Municipality or a local board of the Municipality;

- (b) on residential properties for the purpose of swimming pool installations;
- (c) undertaken by transmitter or distributor, as those terms are defined in section 2 of the Electricity Act 1998, for the purpose of constructing and maintaining a transmission system or a distribution system, as those terms are defined in that section;
- (d) undertaken on land described in a licence for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the Aggregate Resources Act,
- (e) undertaken on land in order to lawfully establish and operate or enlarge any pit or quarry on land:
 - i) that has not been designated under the Aggregate Resources Act or a predecessor of that Act, and
 - ii) on which a pit or quarry is a permitted land use under a By-Law passed under section 34 of the Planning Act,
- (f) undertaken as an incidental part of drain construction under the Drainage Act or the Tile Drainage Act,
- (g) undertaken in accordance with a permit issued by the Municipality's Chief Building Official pursuant to the Building Code Act 1992 as amended for the erection or demolition of a building or structure, provided the Chief Building Official is satisfied that the permit application provides sufficient information to determine compliance with the provisions of this By-law;
- (h) undertaken in accordance with an order issued pursuant to the Municipality's Property Standards By-Law as amended from time to time; or
- (i) a Contractor's yard which imports, processes, used and/or calls organic or granular material and which complies with the Municipality's Comprehensive Zoning By-law.

3.2 The provisions of this By-Law do not apply to the extent that fill is placed on lands zoned for residential use within the meaning of the Zoning By-Law for the purpose of lawn dressing, landscaping, adding to flower beds or vegetable gardens, provided that:

- (a) the elevation of the land within 0.3 metres of the property line is not changed;
- (b) 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;
- (c) the functionality of any drainage infrastructure is not impeded;
- (d) the dumping or placing of fill is on a lot which has an area of 0.1 hectares or less, provided that the volume of fill dumped or placed does not exceed 200 cubic metres; and
- (e) the dumping or placing of fill on a lot which is greater than 0.1 hectares in area, provided that the volume of dumped or placed fill does not exceed 200 cubic metres in any consecutive 12 month period.

3.3 The provisions of this By-Law do not apply to the extent that topsoil is removed or placed as an incidental part of a bona fide Normal Agricultural Practice.

- 3.4 The provisions of this By-Law do not apply in an area where a regulation has been made under Section 28 of the Conservation Authorities Act respecting the placing or dumping of fill, removal of topsoil or alteration of the grade of land in that area.

Section 4.0: Prohibitions and Regulations

- 4.1 No Person shall place or dump fill or cause or permit fill to be placed or dumped and no person shall remove topsoil or cause or permit the removal of topsoil and no person shall alter the grade of any land or cause or permit the grade of any land to be altered within the Municipality in any of the following circumstances:
- (a) where the owner has not consented in writing to the placing or dumping of fill or to the removal of topsoil or to alteration of the grade;
 - (b) where the fill is placed or dumped or the grade is altered for storage purposes and such storage is not permitted pursuant to the Zoning By-law;
 - (c) where the placing or dumping of fill is in contravention of any Federal, Provincial or Municipal laws, By-Laws, notices, regulations, permits or agreements;
 - (d) where Municipal pavement, ditches, culverts, sidewalks, facilities or other infrastructure or services are, or may in any way be impacted. The Municipality may invoke its right to post a “No Heavy Trucks” route in the event that a hauler is damaging Municipal infrastructure; and in such case, no person shall haul fill on a prohibited roadway.
 - (e) where the fill includes material from the demolition of any structure, toxic or hazardous materials, glass, raw sewage, contaminated fill, construction refuse or debris; or
 - (f) where the placing or dumping of fill or alteration of the grade is on or with respect to any land zoned within any of the Open Space or Environmental Constraint (or Protection, as the case may be) zones provided in the Zoning By-law, unless approval therefore has been issued by the Conservation Authority with jurisdiction over such land, or a permit has been issued pursuant to this By-law.

Section 5.0: Issuance of a Permit

- 5.1 No Person shall place or dump fill without a permit.
- 5.2 The applicant for any permit pursuant to this By-Law shall be the owner of the lot for which the permit is to be issued or his or her authorized agent.
- 5.3 An applicant shall submit the following to the Municipality of Brighton Public Works Department:
- (a) a completed application in form of Schedule “B” to the Municipality in accordance with the information required in this By-law. The Municipality at their sole discretion may require proof of liability insurance showing the Municipality as an additional named insured. The proof of insurance must be submitted in a form satisfactory to the Treasurer of the Municipality.
 - (b) The Permit fee prescribed by the Municipality from time to time as contained in the annual fees and charges by-law;
 - (c) when required by the Municipality in order to assess the impact of the fill or alteration on the environment affected, a fill control plan, which shall include any or all of the following as shall be specified by the

Municipality, and prepared by an Ontario Land Surveyor or Professional Engineer:

- i) a key map showing the location of each lot, including the nearest major intersection and north arrow;
- ii) show buildings, structures, fence etc. within 4 feet of the interior and exterior lot line;
- iii) show who executes the application i.e. the owner and/or authorized agent in writing;
- iv) the lot's boundaries and area (expressed in hectares) of each such lot or parcel of land;
- v) the existing and proposed use of the land and the location and use of the buildings and other structures adjacent to each lot;
- vi) the location, dimensions and use of any building and other structures existing or proposed to be erected on each lot;
- vii) the location of lakes, streams, wetlands, channels, ditches, other watercourses and other bodies of water on and within a minimum of 30 metres beyond each lot's boundaries, or such other distance as specified in writing, by the Municipality;
- viii) the location of all Regulatory flood lines and Conservation Authority Fill Regulation lines;
- ix) the location and identification of the predominant existing soil types on the lot;
- x) the species, grade at base and size of all trees greater than 12 inches in diameter, all shrubs, trees and hedges within three (3) metre(s) of the property line and driveways on each lot and all easements and rights-of-way over, under, across or through the lot;
- xi) the location and dimensions of any existing and proposed storm water drainage systems and natural drainage patterns on and within a minimum of 30 metres beyond each lot's boundaries, or such other distance as specified in writing, by the Municipality;
- xii) the location and dimensions of utilities, structures, roads, highways and paving located within a minimum of 30 metres beyond each lot's boundaries, or such other distance as specified in writing, by the Municipality;
- xiii) the existing topography on the lot and extending a minimum of 30 metres beyond the lot's boundaries, or such other distance as specified in writing, by the Municipality;
- xiv) the proposed grades of each lot;
- xv) the location and dimensions of all proposed land disturbance activities, including construction of access roads;
- xvi) the location and dimensions of all temporary soil, dirt or fill stockpiles;
- xvii) the location, dimensions, design details and design calculations of all construction site erosion control measures that may be necessary to minimize the impact of the proposal;
- xviii) a schedule of the anticipated starting and completion dates of each land disturbance or land development activity;

- xix) provisions for erosion and dust control measures and for the maintenance of the construction site and the surrounding area, during and after construction, as required;
 - xx) a plan of proposed fill chain of custody program including external haul routes and daily schedule for hauling, and a plan showing signage as required by the Municipality;
 - xxi) the scale of drawing, ranging from 1:250 to 1:1000 as deemed appropriate (each drawing control plan to be in metres);
 - xxii) an indication on the drawing of directions of overland water flow and overland flow route;
- (d) final grading plan for the placed material, which includes, but is not limited to information describing timing and quantities (volume and depth) of material to be deposited; an indication of the "limit of disturbance" beyond which no filling, grading or excavation is being proposed; drainage details before and after development; mapping of environmental features boundaries and the regulation limit in relation to proposed works; and all materials/structures including quantities needed to be placed to access the fill areas (e.g. road beds etc.) and final conditions of these areas.
 - (e) a description of the proposed fill, including a list of the sources and geotechnical reports as to content and quality, prepared by qualified persons in that regard;
 - (f) a certificate of the owner, applicant and each qualified person referenced in paragraph (e) certifying that the fill contains no Contaminated Fill as defined in the Environmental Protection Act, R.S.O. 1990, c. E.19 and this bylaw;
 - (g) 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
 - (h) security in a form and amount to be determined by the Municipality to secure performance of the work for which the permit is being applied and to address the potential damage to municipal roads and infrastructure.
- 5.4 The Municipality shall have the authority to designate all truck routes and trucking schedules, including any revisions, in order to minimize impacts to the public and municipal infrastructure. Public notification and signage may also be required by the Municipality.
- 5.5 Any person dumping fill or topsoil within the Municipality shall implement and maintain an approved mud tracking and dust control program. Such program shall be provided in writing to and be approved by the Municipality and shall include the provision of mud mats and dust control measures at both the removal and dumping sites, and the continuous monitoring thereof. Emergency contact names and numbers shall also be provided to the Municipality. Where mud and dust are not controlled to the satisfaction of the Municipality, the Municipality may, without notice, have such mud or dust controlled by Municipal forces or a third party contractor and such costs, including a 30% management and administration charge, shall be paid by the applicant upon invoicing. Any associated permit may also be considered revoked, until such invoices are fully paid and any additional letters of credit provided, to the sole discretion of the Municipality
- 5.6 The Municipality may draw upon the security posted pursuant to paragraph 5.3(h) to recover the costs incurred by the Municipality in performing any required work which the owner or the applicant has failed to perform.

- 5.7 The issuance of a permit does not relieve the owner or the applicant from the obligation to secure all other applicable approvals.

Section 6.0: Permit Requirements

- 6.1 Prior to the issuance of a permit, an agreement to the satisfaction of the Municipality in accordance with Section 41 of the Planning Act will be required.
- 6.2 Requirements contained in an agreement may include the owner or applicant releasing and indemnifying the Municipality, certifying that the fill contains no contaminant fill as defined in the Environmental Protection Act, and this By-law, posting with the Municipality the required security and where, in the opinion of the Municipality, extensive activities are proposed, certification by a geotechnical engineer or other similarly qualified person, both prior to the issuance of a permit and upon completion of the work. All such certification shall state that the owner or applicant can and has complied with all of the obligations and conditions contained in the applied for and issued Permit.
- 6.3 The Municipality may require a fill quality auditing program to be prepared and implemented, subject to Municipal approval, and from time to time and at the applicant's expense, require the testing of any fill by a qualified person retained by the Municipality. Dumping and/or fill removal may be suspended pending test results at the direction of the Municipality.
- 6.4 The Municipality may require the applicant to install such site remediation measures, including topsoil, seeding, sodding and installation of berms and landscaping, as are necessary to minimize the visual impact of fill or grade alteration proposals and to provide for stabilization of the altered grades.

Section 7.0: Permit Expiries or Renewal

- 7.1 A Permit shall expire 90 calendar days after the day on which it is issued pursuant to this By-law.
- 7.2 A Permit may be renewed at any time prior to its expiry for up to an additional 90 days by an applicant making a written application to the Municipality accompanied by a payment of 50% of the original permit fee, provided that the permit requirements imposed by this By-Law and any agreement made pursuant to paragraphs 6.1 and 6.2 respecting the permit proposed to be renewed are not amended or changed.

Section 8.0: Permit Revocation

- 8.1 It is a condition of each permit that the permit may be revoked by the Municipality, subject to consultation with the Chief Administrative Officer, under the following circumstances:
- (a) if it was obtained on mistaken, false or incorrect information;
 - (b) if it was issued in error;
 - (c) if the owner or applicant requests in writing that it be revoked;
 - (d) if the terms of an agreement under this By-Law have not been complied with; or
 - (e) if the applicant or its agent does not comply with the conditions of the permit;
 - (f) if an owner or an applicant fails to comply with the provisions of this By-Law or with an order requiring work to be done to correct any contravention of this By-law.

Section 9.0: Remedies and Penalties

- 9.1 Each person who places or dumps fill or who causes or permits fill to be placed or dumped contrary to this By-Law or to a permit shall forthwith remove such fill and restore the existing grade of the land.
- 9.2 Each person who removes topsoil contrary to this By-Law or to a permit shall forthwith rehabilitate the land from which the topsoil was removed including the replacement on the land of topsoil and the restoration of the existing grade of the land.
- 9.3 Each person who alters the grade of land or who causes or permits the alteration of the grade of land contrary to this By-Law or to a permit shall forthwith restore the land to its original condition including the existing grade of the land.
- 9.4 Where an owner fails to do any work required in an order issued pursuant to this By-Law within the period specified, the Municipality may cause the work to be done at the owner's expense and, for this purpose, the Municipality, inspectors and the Municipality's employees and agents may enter on the owner's land at any reasonable time.
- 9.5 Any person who violates any provision of this By-Law is, upon conviction, guilty of an offence and shall be liable to such penalties prescribed by the Provincial Offences Act, R.S.O., 1990, c.p.33.
- 9.6 Each day that such offence is committed, or permitted to continue, shall constitute a separate offence and may be punishable as such.
- 9.7 Set fines for contravention of this By-Law are set out in Schedule "A" of this By-law.
- 9.8 The provisions of this By-Law shall apply to all lands and premises within the Municipality.

Section 10.0: Validity

In the event any Court of competent jurisdiction declares any section or provision of this By-Law to be invalid, or to be of no force and effect for any cause, such section or provision thereof shall be deemed severable from the remainder of the By-Law and the remainder of the By-Law shall stand and be enforceable to the same extent as if the offending section or provision thereof had not been included herein.

Section 11.0: Effective Date

This By-Law shall come into force and effect upon the date of final passing thereof.

Read a first, second and third time and finally passed this 7th day of November 2016.

Original signed by:
(Sgd.) Mark A. Walas, Mayor

Original signed by:
(Sgd.) Vicki Kimmétt, Deputy Clerk



Fill Permit Application

Applicant (owner of dumping site)	
Municipal Street Number	
Municipal Street Name	
Legal Description	
Tax Roll Number	
Vacant Land?	Yes No
Current Land Use	

Removal Site (if not same as Applicant)	
Last Name	
First Name	
Street Number	
Street Name	
Town/City	
Province	
Postal Code	
Phone Number	
E-mail address	

Dumping Site (if not same as Applicant)	
Last Name	
First Name	
Street Number	
Street Name	
Town/City	
Province	
Postal Code	
Phone Number	
E-mail address	

Hauler/Contractor Information	
Last Name	
First Name	
Street Number	
Street Name	
Town/City	
Province	
Postal Code	
Phone Number	
E-mail address	
Please outline proposed haul route (Attach a separate sheet if more space is required)	

By-Law No. 114-2016

Purpose of Application/Fill Quantity	
Proposed Work (filling, grade alteration, topsoil removal, fill removal, temporary topsoil storage)	
Source of Fill	
Proposed Start Date (yyyy/mm/dd):	
Proposed End Date (yyyy/mm/dd):	
The fill to be placed / removed is Topsoil? Yes or No	
Number of cubic metres of fill required to complete work (one tandem truck load is equivalent to approximately 10 cubic metres)	
20 – 100 cubic metres in volume (2 – 10 loads)	
100 – 1000 cubic metres in volume (10 – 100 loads)	
More than 1000 cubic metres in volume (greater than 100 loads)	
If greater than 100 loads, please state number of loads required:	

Provide drawing(s), to the satisfaction of the Municipality, which include:

1. Key map showing location of each site and nearest major intersections.
2. Plan showing the property boundaries, area in hectares or acres, abutting properties, nearest roads, an approximate scale and north arrow.
3. Use of property and each abutting property.
4. All buildings, structures and other property features including entrances, fences, etc.
5. Location and dimensions of utilities, structures and roads within 30m of each site's boundaries or such other distance as specified in writing by the Municipality.
6. Tree details for 300mm circumference and larger (measured 1.5m above ground) and any other significant vegetation.
7. Site topography and abutting property topography within 30m or such other distance as specified in writing by the Municipality; streams, wetlands, channels, ditches, swales or other watercourses and ponds on the site and on abutting property within 30m or such other distance as specified in writing by the Municipality.
8. Identification by sampling of predominant soil type of each site.
9. Regulatory Flood Lines and Conservation Authority Fill Regulation lines.
10. Details of proposed schedule of work including methods of minimizing impact to the lands and abutting lands. Include limits of work areas, internal haul routes, stockpile areas, silt and erosion control measures, and final grades/changes to topography and drainage and method/type of restoration. For clarity, this may require an additional drawing(s).
11. A mud and dust control program for all dump and removal sites, including mud mat details, and proposed external haul routes and daily schedule for hauling.
12. A Fill Control Plan and Final Grading Plan.
13. A cost estimate showing costs to install and maintain sediment and erosion control, seeding or sodding restoration costs, mud and dust control, etc.
14. A detailed work schedule and proposed completion date.
15. Names and contact numbers for contractors and subcontractors.
16. Additional documentation when requested by the Municipality, including items such as drainage studies, pre-construction and post- construction surveys, pavement assessment reports and/or photos, additional tests and/or certifications.
17. Agreement which is a Schedule to this permit when requested by the Municipality.

Notice to Applicant (Please read)	
1.	The contents of this application are subject to the provisions of the Municipality of Brighton Fill By-law
2.	Applications cannot be process until the Permit Application Fee is paid.
3.	Applications require five (5) business days to review once a complete application has been submitted.
4.	Applications must be complete with all required documentation.
5.	Applications for lot grading and filling must be made by the property owner. The application may be signed by a representative for the property owner <i>providing</i> an authorization letter is provided at the time of the application.
6.	Fee is set out in the Municipal General Fees By-law. All fees are non-refundable.
7.	Fill permits are valid for the time period indicated up to 90 days from date of issue. After a fill permit has expired, a new application must be submitted.
8.	Fill permits are non-transferable. If the property ownership changes then any issued Fill Permits will be rendered null and void.
9.	Any false or misleading statement made on this application will render null and void any permission granted.
10.	A security in the form of a certified cheque for an amount to be determined by the Municipality <i>may</i> be required.
11.	The applicant agrees the municipal Staff or their agents may enter upon the lands to inspect the authorized work and to complete certain works at the applicants expense, if necessary.

Declaration

I _____ do solemnly declare that the information provided herein is true and accurate.

Signature of Owner:	Date:
Signature of Agent:	Date:

For Office Use Only	
Date Received	
Received by	
Method of Payment	
Payment Amount	
Receipt No	

Schedule A - Set Fines

**The Corporation of the Municipality of Brighton
Part 1, Provincial Offences Act**

By-Law No. 114-2016 Fill Control By-Law

Item	Short Form Wording	Provision Creating or Defining Offence	Set Fine
1	Unlawfully dumping or placing of fill	2.1	\$750.00
2	Unlawful removal of soil	2.2	\$750.00
3	Place or Dump fill not in accordance with permit	2.3(a)	\$800.00
4	Remove or permit the removal of soil not in accordance with permit	2.3(b)	\$800.00
5	Fail to obtain consent in writing to the dumping or removal of fill or alteration of grade	4.1(a)	\$500.00
6	Unlawful storage of fill	4.1(b)	\$500.00
7	Hauling fill on prohibited roadway	4.1(d)	\$950.00
8	Dumping contaminated fill	4.1(e)	\$975.00
9	Dumping Fill in land zoned Open Space or Environmental Protected	4.1(f)	\$975.00
10	Dumping or Placing Fill – No Permit	5.1	\$975.00

Note: The general penalty provision for the offences listed above is Section 9.5 of By-Law 114 - 2016, a certified copy of which has been filed.