

*D. Belisle
R. Suroddie (2)
Jeff. Blay*

BY-LAW 2003-282

**A BY-LAW OF THE CITY OF GREATER SUDBURY
TO ESTABLISH A SURPLUS FILL POLICY**

WHEREAS the Council of the City of Greater Sudbury deems it desirable to adopt a policy for the dumping of surplus excavated material from City of Greater Sudbury construction projects or other works;

**NOW THEREFORE THE COUNCIL OF THE CITY OF GREATER SUDBURY
HEREBY ENACTS AS FOLLOWS:**

1. In this By-law:

"City" means the City of Greater Sudbury;

"former municipalities" means the former Regional Municipality of Sudbury or any of its constituent area municipalities or any of their predecessor municipalities;

"Manager of Construction Services" means the City's Manager of Construction Services from time to time and includes his or her authorized designate; and

"surplus fill" means surplus excavated material or fill generated by construction projects or other works conducted by or for the City of Greater Sudbury.

2. The Policy on Surplus Fill attached hereto as Schedule "A" is hereby adopted.

3. All previous Surplus Fill Policies of the former municipalities are hereby repealed.

4. The Manager of Construction Services is hereby authorized to process and approve or reject applications to have surplus fill disposed of on public land or private land and to authorize the disposition of surplus fill, all in accordance with the guidelines in the Policy on Surplus Fill, set out in Schedule "A" attached to and forming a part of this By-law.

5. No fee will be payable by the City for the right to deposit surplus fill generated by works conducted by the City of Greater Sudbury on public land or private land or charged by the City for the surplus fill provided to public land or private land.

6. This By-law shall come into force and take effect immediately upon the final passing thereof.

READ THREE TIMES AND PASSED IN OPEN COUNCIL this 13th day of
November, 2003.

 Mayor
 Clerk

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POLICY CONCERNING SURPLUS FILL

Interpretation

1. In this Surplus Fill Policy:

"City" means the City of Greater Sudbury;

"City land" means land owned by the City, any local boards of the City or any corporation owned or controlled by the City;

"Manager of Construction Services" means the City's Manager of Construction Services from time to time and includes his or her authorized designate;

"owner" means the registered owner or registered owners of land;

"private land" means land which is not City land or public land;

"public land" means land owned by the Government of Canada, the Government of Ontario, any ministry, department, commission, corporation, authority, board or other agency established from time to time by the Government of Ontario or the Government of Canada, or by a school board; and

"surplus fill" means surplus excavated material or fill generated by construction projects or other works conducted by or for the City of Greater Sudbury.

Application of Policy

2. This Policy shall apply to all surplus fill generated in the City.

Guidelines - Disposition Surplus Fill

3. No surplus fill shall be deposited on private land or public land unless first authorized by the Manager of Construction Services.
4. An application to have surplus fill deposited on private land or public land shall:
- (a) be made in writing;
 - (b) be signed by each owner of the land to which the application applies;
 - (c) set out the legal description and where available, a municipal address of the land to which the application applies;
 - (d) contain an acknowledgement by each applicant, that he or she understands that the City will not level any surplus fill deposited on the land;

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- (e) contain adequate direction or explanation of the location at which the surplus fill is to be deposited;
- (f) include a written release of liability of the City, which is satisfactory to the Manager of Construction Services, as to form and content; and
- (g) contain such other information and be accompanied by such other documentation as may be determined by the Manager of Construction Services from time to time.

5. The Manager of Construction Services shall make such investigations as to title and other matters as he or she shall consider appropriate in processing each application to have surplus fill deposited on public land or private land.

6. The Manager of Construction Services shall reject any application for deposit of surplus fill on private land or public land which the Manager of Construction Services, in his sole discretion determines:

- (a) pertains to land of less than 0.5 hectare in area, provided, however, this limitation shall not apply if the application is made by the owner of land on which the City has an easement and relates only to surplus fill generated on the portion of the City easement located on that land;
- (b) pertains to land located in a flood plain or land which the Nickel District Conservation Authority advises would not be suitable for the deposit of surplus fill;
- (c) pertains to land to which access is not appropriate for depositing surplus fill; or
- (d) does not conform with the requirements of Section 4.

7. The Manager of Construction Services shall advise the applicant whether the application for surplus fill has been approved or rejected.

8. The Manager of Construction Services shall retain approved applications for surplus fill until the earliest of:

- (a) 5 years after the date of approval of the application;
- (b) a change in ownership of the land to which the application applies; or
- (c) any registered owner of the land to which the application applies requests the application be withdrawn.

9.-(1) The Manager of Construction Services shall authorize disposition of surplus fill in accordance with the following priorities:

- (a) if the surplus fill is generated on a City easement, and there is an approved application for surplus fill by the owner of the land on which the fill is generated, the surplus fill shall be disposed of on that land;
- (b) if paragraph 9(1)(a) does not apply, the surplus fill shall be deposited on City land;

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- (c) if there is surplus fill which cannot be utilized on City land, the Manager of Construction Services may, in his or her sole discretion, authorize disposition of the surplus fill on public land or private land for which there is an approved application for surplus fill on file. In the event that there is more than one approved application for surplus fill on file, the Manager of Construction Services is authorized to determine where to deposit the surplus fill and his decision shall be final. In exercising his discretion the Manager of Construction Services shall consider the following factors:
 - (i) accessibility, location, cost and convenience of disposing of surplus fill should be considered in choosing a site from the approved applications on file; and
 - (ii) there shall be a preference to deposit surplus fill on public land in priority to private land.

(2) The Manager of Construction Services shall provide notice to the owner of land which was subject of an approved application for surplus fill prior to disposition of surplus fill on that land.

10. The General Manager of Public Works shall provide an annual report to Council on the use of surplus fill.