



## **BACKGROUND**

The new Soil Conservation & Protection By-law (No. 16389) will replace the Surrey Soil Removal and Depositing Regulation By-law, 1979, No. 5880, which was adopted by City Council in 1979. The new By-law includes enhanced soil management measures and enforcement capabilities to better protect lands and the environment within the City of Surrey, while allowing reasonable opportunities for soil deposition and removal. Further background is provided in a previous corporate report (attached as Appendix IV), which was presented to Council on May 14, 2007.

The proposed new By-law will also support the City's emphasis on limiting the impacts of large soil deposition sites by controlling the quantity of soil and purposes for which soil deposition may occur within the City, and providing for public consultation for large soil depositing operations.

Following Third Reading of By-law No. 16389 on May 14, 2007, and as required under the Community Charter, S.B.C. 2003, c. 26, the proposed new Soil Conservation and Protection By-law was forwarded to the Province for approval. The Province has requested some minor amendments to the proposed By-law as documented in the following paragraphs.

### **Ministry of Environment**

Section 5 of the By-law prohibits the deposition of waste material within the City. As the Environmental Management Act, S.B.C. 2003, c.53, regulates the deposition of waste material, Section 5 of the By-law is being removed to avoid the duplication of Provincial regulations. With Section 5 of the By-law removed, the City will no longer require approval for the By-law from the Minister of Environment.

### **Ministry of Energy Mines & Petroleum Resources**

As the proposed By-law regulates both the removal and the deposition of soil, approval from the Ministry of Energy, Mines and Petroleum Resources is required for the "removal" component. This removal provision is rarely used; however, there are occasional circumstances where soil removal needs to be authorized. Consequently, the proposed By-law requires Ministry approval. After numerous attempts at contacting Ministry staff responsible for review of the proposed By-law, City staff were advised in August 2007 that our initial referral had been lost. Another copy was forwarded in August 2007. After repeated requests regarding the status of the Ministry's review, in February 2008 the Ministry provided the following comments to the City regarding the proposed By-law.

- Section 24 (renumbered from 25) of the proposed By-law allows City staff to enter upon any property to inspect for compliance with the proposed By-law. Site entry provisions under the Health, Safety and Reclamation (HSR) Code for permitted mine (i.e., soil removal) sites, pursuant to the Mines Act, prohibits access to a mine site without the permission of the Mine Manager. This is a legal

requirement that focuses responsibility on the Mine Manager to control access and egress from, and to the mine site for safety reasons. Accordingly, it is proposed that Section 24 be revised to reflect that City staff will comply with the site entry provisions of the HSR Code in entering a site for the purposes of determining compliance with the By-law.

- Section 18 (renumbered from 19) of the proposed By-law outlines requirements for renewing a permit. Although applications to renew permits can be made to the City, under the proposed By-law the City has no obligation to renew a permit. This provision conflicts with the Mines Act, which allows the City to regulate mining operations, but does not allow the City to prohibit permits issued pursuant to the Mines Act. The proposed amendments include changes to Section 18 of the By-law that clarify the renewal of permits for permitted mine sites.
- Section 12 (renumbered from 13) provides for security deposit requirements in relation to obtaining a permit under the proposed By-law. For permits issued pursuant to the Mines Act, security is collected by the Province, which is sufficient to ensure reclamation of the site and compliance with provincial regulations. To limit the potentially onerous requirement for an applicant to provide two separate security deposits, the City has removed the security deposit requirements under the proposed By-law for sites for which security deposits are posted with the Province under permits issued pursuant to the Mines Act.

The above discussed amendments to By-law No. 16389 are detailed in Appendix I.

Amendments were also required to Schedule “D” of Surrey Fee Setting By-law No. 14577 to reference the fees related to By-law No. 16389 correctly, and to Schedule 9 of Municipal Ticket Information Utilization By-law No. 12508 to reflect the revised numbering in the new Surrey Soil Conservation and Protection By-law No. 16389.

Legal Services has reviewed this report and the related by-law amendments, and the Province has indicated that with the proposed minor modifications, they will work toward providing approval so that the proposed By-law can be adopted in a timely manner.

## CONCLUSION

Based on the above discussion, it is recommended that Council:

- rescind Third Reading of By-law No. 16389;
- rescind Third Reading of Surrey Fee Setting By-law No. 14577, Amendment By-law, 2007, No. 16391;
- rescind Third Reading of Municipal Ticket Information Utilization By-law No. 12508, Amendment By-law, 2007, No. 16390;
- approve amendments to By-law No. 16389 as documented in Appendix I and grant Third Reading to the amended by-law;
- approve amendments to By-law No. 14577 as documented in Appendix I and grant Third Reading to the amended by-law;

- approve amendments to By-law No. 12508 as documented in Appendix I and grant Third Reading to the amended by-law; and
- authorize staff to forward By-law No. 16389 after Third Reading, along with a copy of this report to the Ministry of Community Services and the Ministry of Energy, Mines and Petroleum Resources for approval.

Paul Ham, P.Eng.  
General Manager, Engineering

PH/VL/VJ/mpr/brb

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c.c. - General Manager, Planning & Development

Appendices:

- I. Summary of By-law Modifications
- II. Fees
- III. Tickets
- IV. Corporate Report No. C009

## Summary of Modifications to the Proposed By-law

The following changes to the proposed By-law are recommended further to review from appropriate Provincial Ministries:

1. Definition Term Changed from *Aggregate Extraction Operation* to:

### **Significant Extraction Operation**

2. Added Definition of:

**Fraser River Floodplain** means the area in the City along the Fraser River, which is below 10 metre geodetic elevation.

3. Definition Clarification of *Removal* to:

**Removal** means the removal of *soil* from a *lot* on which it exists or has been *deposited*.

4. Removal of Section 5, including any reference made to Section 5, and renumbering to reflect the removal of Section 5.

5. Clarification to Section 7(b):

for a given *lot*, the total quantity of *soil removal* or *deposit* does not exceed 15 cubic metres or 0.5 metres in depth, **whichever is less**. This exemption does not apply to *deposit* or *removal*...

6. Clarification to Section 7(c) (iii):

Notwithstanding Section 7(c)(ii) above, an *owner* may apply for a *permit* for *soil removal* or *deposit* prior to final approval of the subdivision plan or issuance of the building permit, if sufficient security has been deposited with the *City* in an amount and in a form acceptable to the *General Manager* to ensure that restoration work will be undertaken, if final subdivision approval is not given or building permit is not issued. **Any permit so issued is subject to all of the provisions of this By-law applicable to a permit for soil removal or deposit; and**

7. Added subsections (h) and (i) to Section 13:

**(h) Despite Section 13(g), where *soil* has been *deposited* for preload, security will not be released by the *City* until the construction of the foundations of the structure is completed and the security may be used by the *City* for restoration of the *lot* if construction of the structure does not commence within a reasonable timeframe as determined by the *General Manager*. Where *soil* has been deposited for preload within the *Fraser River Floodplain*, security will be released by the *City* as determined by the *General Manager*.**

(i) **Despite Section 13(g), where the *removal of soil* is being carried out pursuant to a permit issued under the *Mines Act R.S.B.C. 1996, c. 293*, as amended, there shall be no obligation to provide a security deposit with the *City*.**

8. Clarification to Section 15:

“...The **survey and** volumetric computation shall be certified by an *engineer* or *surveyor*, and shall be submitted to the *City* prior to the release of the security or the issuance of a new *permit*.

9. Clarification to Section 18:

Application for renewal or amendment of a *permit* shall be made in the same manner and upon payment of the same fees as imposed in Section 13 for a new *permit*. There shall be no obligation upon the *City* to renew any *permit* upon expiry of the *permit* **except where the *removal of soil* is being carried out pursuant to a permit issued under the *Mines Act R.S.B.C. 1996, c. 293*, as amended, in which circumstance a *permit* will be renewed, but the *removal* continues to be subject to other terms and conditions of this By-law and other applicable enactments.**

10. Clarification to Section 24:

**Where the *lot* contains a mine pursuant to the *Mines Act R.S.B.C. 1996, c. 293*, as amended, any person entering upon the *lot* on behalf of the *City* shall comply with the site entry provisions of the Health, Safety and Reclamation Code for Mines in British Columbia.**

11. Removal of:

**APPROVED BY THE MINISTER OF ENVIRONMENT on the \_\_\_\_\_ day of \_\_\_\_\_, 2007.**

## **Summary of Modifications to Surrey Fee Setting By-law No. 14577**

The following changes are proposed for Surrey Fee Setting By-law No. 14577

1. Renumber heading number 9 to number **13**.

## **Summary of Modifications to Municipal Ticket Information Utilization By-law No. 12508**

The following Changes are proposed for Schedule 9 to Municipal Ticket Information Utilization By-Law No. 12508

1. Removal of fine, *Deposit unauthorized material*, to reflect the removal of Section 5 from By-law No. 16389
2. Renumber section under *Fail to submit survey* from 16 to **15**.
3. Renumber section under *No permit displayed* from 22 to **21**.
4. Renumber section under *Fail to submit records* from 24 to **23**.
5. Renumber section under *Prevent inspection* from 25 to **24**.
6. Renumber section under *Fail to identify* from 26 to **25**.
7. Renumber section under *Fail to obey* from 28 to **27**.
8. Renumber section under *Fail to remedy* from 29 to **28**.

**Proposed Amendments to Schedule “D”  
Surrey Fee-Setting By-law, 2001, No. 14577**

1. Add new heading 13. **Soil Removal and Deposition Permits**. as follows:

13. **Soil Removal and Deposition Permits**

Soil Removal and Deposition Permit application fee	\$500.00/application
Permit Transfer	\$200.00/transfer



**Proposed Amendments to  
Surrey Municipal Ticket Information Utilization By-law,  
1994, No. 12508, as amended (the “By-law”)**

That the By-law be further amended as follows:

1. Amend Schedule 1 by replacing Section 8 with:

- |   |   |
|---|---|
| <p>8. Surrey Soil Conservation and Protection By-law, 2007, No. 16389</p> | <ul style="list-style-type: none"> <li>- Manager, Administration &amp; By-law Enforcement</li> <li>- By-law Enforcement Officer</li> <li>- Member of the Royal Canadian Mounted Police</li> <li>- General Manager, Engineering</li> <li>- Designated Engineering Staff</li> </ul> |
|---|---|

2. Replace Schedule 9 with:

**SCHEDULE 9 TO BY-LAW NO. 12508**

<u>SURREY SOIL CONSERVATION AND PROTECTION BY-LAW, 2007, NO. 16389</u>	<b>SECTION</b>	<b>FINE</b>
No soil permit	3	\$1000.00
Fail to comply with standards	4	\$300.00
Fail to submit survey	15	\$300.00
No permit displayed	21	\$200.00
Fail to submit records	23	\$300.00
Prevent inspection	24	\$500.00
Fail to identify	25	\$200.00
Fail to obey	27	\$1000.00
Fail to remedy	28	\$1000.00

## APPENDIX IV

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