

NO: R088

COUNCIL DATE: **MAY 26, 2014**

REGULAR COUNCIL

TO: **Mayor & Council**

DATE: **May 21, 2014**

FROM: **Acting General Manager, Engineering**

FILE: **4520-80**

SUBJECT: **Amendments to the Soil Permit Applications Policy**

RECOMMENDATION

The Engineering Department recommends with respect to City Policy No. M-27 “Soil Permit Applications Policy” (the “Policy”) that Council approve amendments to the Policy as documented in Appendix I attached to this report.

INTENT

The purpose of this report is to obtain approval of amendments to the City Policy related to the review and approval of Soil Permit Applications. The amendments will align the Policy with the *Agricultural Land Commission Act* and other City initiatives.

BACKGROUND

Applications for the deposition of soil on and/or removal of soil from lands within the City are regulated under the Surrey Soil Conservation and Protection By-law, 2007, No. 16389 (the “Soil By-law”). Applications for soil deposition on lands within the Agricultural Land Reserve (ALR) are also regulated by the Agricultural Land Commission (ALC) under the *Agricultural Land Commission Act*. Applications for soil extraction are also regulated by the Ministry of Energy, Mines and Petroleum Resources, through the *Mines Act*.

With a view to establishing a process that will assist in ensuring a consistent approach to addressing soil deposition and extraction applications, City Council at its Regular meeting on May 30, 2011 adopted the recommendations of Corporate Report No. R193; 2011, which brought the Soil Permit Applications Policy into effect.

DISCUSSION

Since adoption of the Policy, staff has found inconsistencies between the Policy and the Agricultural Land Commission Act. Amendments to the Policy to address these inconsistencies, as well as a few other housekeeping amendments, are being proposed. These amendments are discussed in the following sections of this report.

Inconsistencies between the Policy and the Agricultural Land Commission Act (the “ALC Act”)

The ALC Act allows local governments to issue soil permits for properties within the ALR when the cumulative area of fill on any property covers no more than 2,000 square metres for residential purposes and no more than 2% of the area of the lot for farm-related buildings. When the proposed cumulative area of fill exceeds either of these criteria such permits are to be considered by Council in advance of being forwarded to the ALC for consideration. By doing so, the ALC is informed of Council’s support or lack thereof for the application before they consider the merits of the application from an agricultural perspective.

The Policy currently requires that all soil permit applications on lands in the Agricultural Land Reserve (ALR) that involve an area of fill of greater than 2,000 square metres be considered by Council in advance of being forwarded to the ALC for consideration. The Policy does not reference the percentage of coverage on the parcel in relation to farm buildings or that the permitted amount of fill on any property is a cumulative total or that top soil is not permitted to be removed from any property. It is proposed that the Policy be amended to require that all soil permit applications that meet or exceed the ALC’s referral criteria be considered by Council in advance of being forwarded to the ALC for consideration. This amendment is documented in Section 1 of Appendix I.

Referral to the Agriculture and Food Security Advisory Committee of Applications related to land within the Agricultural Land Reserve

The deposition of soil can enhance the viability of agriculture on a property but such deposition can also damage a property in the context of its agricultural capability. As a matter of practice, staff have been forwarding these applications to the Agriculture and Food Security Advisory Committee (AFSAC) for review and comment on all soil permit applications related to land within the ALR as the AFSAC has significant agricultural experience and are well suited to advise staff if there are any impacts to the agricultural capability from the proposed deposition of soil. In this regard it is proposed that the Policy be amended to generate a requirement that all soil permit applications related to land within the ALR that meet or exceed the ALC’s referral criteria are to be forwarded to the Agriculture and Food Security Advisory Committee for review and comment in advance of being forwarded to Council for consideration. This amendment is documented in Section 1 of Appendix I.

Permit Applications related to lands serviced by the Serpentine – Nicomekl Strategic Plan for Lowlands Flood Control

The deposition of soil within the Surrey floodplains can significantly undermine the agricultural benefits that have been achieved through investment of approximately \$50 million in the implementation of the Serpentine – Nicomekl Strategic Plan for Lowlands Flood Control.

The intent of the Serpentine -Nicomekl Strategic Plan for Lowlands Flood Control and its associated works of dyke, pump station and conveyance improvements is to control flooding within the agricultural floodplain, and to establish a set level of service that can support and promote agricultural activities within the floodplain. The standard that is being applied is referred to as the ARDSA Criteria (Agri-Food Regional Development Subsidiary Agreement) and is measured at the designated ground elevation (DGE) in a given flood cell. The DGE represents the elevation where the lowest 5% of land area in a given flood cell lies below. In an effort to allow property owners to deposit soil to address minor depressions on their property, the Strategic Plan allows for filling on properties up to the DGE level.

However, the deposition of soil on any property above the DGE in an effort to reduce the frequency, duration and/or depth of flooding, leads to an increase in the frequency, duration and/or depth of flooding on neighbouring properties. Such impacts are very difficult and expensive to mitigate, if at all possible.

It is proposed that the Policy be amended such that soil permit applications for soil deposition on land within a floodplain that will undermine the benefits that have been achieved through the implementation of the Serpentine – Nicomekl Strategic Plan for Lowlands Flood Control are to be rejected without referral. This proposed amendment is documented in Section 2 of Appendix I.

Housekeeping Amendments

It is also proposed that the Policy be amended to replace the words “Public Hearing” with the words “Public Input Session”. This proposed amendment is documented in Section 3 of Appendix I.

Legal Services Review

Legal Services has reviewed this report and the proposed amendments to the Policy and has no concerns.

CONCLUSION

Based on the above discussion, it is recommended that Council approve amendments to City Policy No. M-27 “Soil Permit Applications Policy” as documented in Appendix I attached to this report.

Gerry McKinnon
Acting General Manager, Engineering

VL/JA/CAB/LGT/ras

Appendix I - Proposed Amendments to Soil Permit Applications Policy M-27, 2011

Appendix II - Proposed Soil Permit Applications Policy M-27

Proposed Amendments to Soil Permit Application Policy M-27, 2011

The following amendments are proposed to the Soil Permit Application Policy:

- 1) The text in the Section titled “Permit Applications Within the Agricultural Land Reserve” is to be replaced in its entirety with the following text:
 - “Any application for the removal of soil, over an area on a lot within the Agricultural Land Reserve (ALR) whose cumulative area of removal is in excess of 2,000 square metres (0.2 hectares) or a volume of 1,000 cubic metres is to be forwarded to the Agriculture and Food Security Advisory Committee for review and comment in advance of it being forwarded to Council for consideration. If the application receives Council approval it will then be forwarded to the Agricultural Land Commission for consideration.
 - Any application for the deposition of soil over an area on a lot within the ALR whose cumulative area of deposition for residential purposes in excess of 2,000 square metres (0.2 hectares) within the ALR or, in the case of farm buildings, whose cumulative area of deposition on a lot is in excess of 2% of the area of the lot is to be forwarded to the Agriculture and Food Security Advisory Committee for review and comment in advance of it being forwarded to Council for consideration. If the applicant received Council approval it will then be forwarded to the Agricultural Commission for consideration.
 - Any soil removal or deposition associated with a building permit application on lands within the ALR shall not be approved until a grading plan, material handling plan and security in a satisfactory amount and form are provided to the satisfaction of the General Manager, Engineering or his/her designate.”
- 2) The following Section is to be added to the Policy as a separate Section following the Section that is titled “Permit Applications Within the Agricultural Land Reserve”:

“PERMIT APPLICATIONS FOR LANDS SERVICED BY THE SERPENTINE – NICOMEKL STRATEGIC PLAN FOR LOWLANDS FLOOD CONTROL

“The deposition of soil within the Surrey floodplains can significantly undermine the agricultural benefits that have been achieved through the implementation by the City of the Serpentine – Nicomekl Strategic Plan for Lowlands Flood Control Such impacts are very difficult and expensive to mitigate, if at all possible. As such, soil permit applications for soil deposition on lands within a floodplain above the designated ground elevation (DGE) and that will undermine the benefits that have been achieved through the implementation of the Serpentine – Nicomekl Strategic Plan for Lowlands Flood Control shall be rejected without referral.”
- 3) In the Section titled “Extraction Operation Permit Applications” and in the Section titled “Large-Scale Soil Deposition Permit Applications” the words “public hearing” are to be replaced with the words “public input session”.



CITY POLICY

No. M-27

REFERENCE:	APPROVED BY:	CITY COUNCIL
REGULAR COUNCIL MINUTES	DATE:	May 26, 2014
	HISTORY:	October 17, 2011 (Res. R11-1808)

TITLE: Soil Permit Applications Policy

Applications for the deposition of soil on or removal of soil from lands within the City are regulated under the Surrey Soil Conservation and Protection By-law, 2007, No. 16389 (the “Soil By-law”). Applications for soil deposition on lands within the Agricultural Land Reserve are also regulated by the Agricultural Land Commission, through the *Agricultural Land Commission Act*. Applications for soil removal are also regulated by the Ministry of Energy, Mines and Petroleum Resources, through the *Mines Act*.

This policy forms the basis for the staff review of soil permit applications.

PERMIT APPLICATION REQUIREMENTS

To ensure that all community, engineering, and environmental considerations are addressed in the application review process, the following minimum information must be submitted with each application:

- A summary of the current land use on the lot to which the application applies and a summary of the proposed land use after the deposition or removal of soil is complete;
- An operating plan that will be applicable for the duration of the soil deposit and/or removal operation including the hours of operation and processes that will be followed in relation to staging the operation;
- An erosion and sediment control plan; and
- A traffic management plan; and
- A stormwater control plan prepared by a Professional Engineer.

For any application involving more than 10,000 cubic metres of soil deposition or removal, the applicant will be required to install an application notification sign on the subject site at the outset of the application review process in accordance with the City’s policy related to land development application notification signs.

In addition to the above-referenced minimum requirements, depending on site and application characteristics and as determined by the General Manager, Engineering, the following additional information may also be required:

- A geotechnical assessment of the lot and the proposed operation by a Professional Engineer or Professional Geoscientist;
- A hydrological (groundwater) assessment of the proposed operation by a Professional Engineer or Professional Geoscientist;
- An environmental assessment by a Qualified Environmental Professional;
- An agrology assessment of the proposed operation by a Professional Agrologist;
- A tree inventory and related protection plan for the operation prepared by a certified Arborist;
- Approval from the Department of Fisheries and Oceans, the Ministry of Energy, Mines and Petroleum Resources, and the Ministry of Environment in relation to matters that fall within the jurisdiction of these Ministries, respectively; and
- A working agreement with local special interest groups related to watershed management (e.g., the Semiahmoo Fish and Game Club for the Little Campbell River watershed).

PERMIT APPLICATIONS WITHIN THE AGRICULTURAL LAND RESERVE

- “Any application for the removal of soil, over an area on a lot within the Agricultural Land Reserve (ALR) whose cumulative area of removal is in excess of 2,000 square metres (0.2 hectares) or a volume of 1,000 cubic metres is to be forwarded to the Agriculture and Food Security Advisory Committee for review and comment in advance of it being forwarded to Council for consideration. If the application receives Council approval it will then be forwarded to the Agricultural Land Commission for consideration.
- Any application for the deposition of soil over an area on a lot within the ALR whose cumulative area of deposition for residential purposes in excess of 2,000 square metres (0.2 hectares) within the ALR or, in the case of farm buildings, whose cumulative area of deposition on a lot is in excess of 2% of the area of the lot is to be forwarded to the Agriculture and Food Security Advisory Committee for review and comment in advance of it being forwarded to Council for consideration. If the applicant received Council approval it will then be forwarded to the Agricultural Commission for consideration.
- Any soil removal or deposition associated with a building permit application on lands within the ALR shall not be approved until a grading plan, material handling plan and security in a satisfactory amount and form are provided to the satisfaction of the General Manager, Engineering or his/her designate.”

PERMIT APPLICATIONS FOR LANDS SERVICED BY THE SERPENTINE – NICOMEKL STRATEGIC PLAN FOR LOWLANDS FLOOD CONTROL

The deposition of soil within the Surrey floodplains can significantly undermine the agricultural benefits that have been achieved through the implementation by the City of the Serpentine – Nicomekl Strategic Plan for Lowlands Flood Control. Such impacts are very difficult and expensive to mitigate, if at all possible. As such, soil deposition permit applications related to lands within a floodplain above the designated ground elevation (DGE) that undermine the benefits that have been achieved through the implementation of the Serpentine – Nicomekl Strategic Plan for Lowlands Flood Control be rejected without referral.

EXTRACTION OPERATION PERMIT APPLICATIONS

- Each application for extraction of more than 1,000 cubic metres of soil from any property shall be considered by Council, and will be subject to a public input session except as otherwise provided within this policy.

LARGE-SCALE SOIL DEPOSITION PERMIT APPLICATIONS

- Any soil deposit application not associated with an in-stream or completed land development application involving a cumulative total of more than 35,000 cubic metres of soil on any lot, regardless of how the deposition is proposed to be phased, shall be forwarded to Council for consideration and will be subject to a public input session. The applicant will be requested to hold a public information meeting as part of the application review process in advance of the report on the application being forwarded to Council for consideration. In relation to the public information meeting, the applicant will as a minimum circulate invitations to such a meeting to the owners and residents of all lots within 3 lots of the lot to which the soil deposit application pertains or to all lots within a minimum of 100m of the subject site, whichever is greater, and to other interest groups as directed by the City.

SOIL DEPOSITION PERMIT APPLICATIONS WITH SIGNIFICANT CONCERNS

- Any soil removal or deposit application not associated with an in-stream or completed land development application may be subject to a report to Council if significant concerns are raised during the review of the application. The applicant may also be requested to hold a public information meeting regarding the application following the same procedures as set out above. The report to Council would typically include a summary of the concerns and a set of recommendations as to how the concerns can be addressed.

PERMIT APPLICATIONS ASSOCIATED WITH LAND DEVELOPMENT APPLICATIONS

- No soil permit application will be considered in relation to any lot for which there is an active rezoning application until the related rezoning by-law has received third reading from Council. Where such a soil permit application requires the issuance of a tree removal permit by the City to allow for the soil operation, no soil permit will be issued by the City until the related rezoning by-law has received final adoption by Council and the related development permit, where applicable, has been issued by the City for development on the lot to which the soil permit will apply.