

NO: R241

COUNCIL DATE: December 4, 2017

REGULAR COUNCIL

TO: **Mayor & Council** DATE: **November 30, 2017**

FROM: **General Manager, Planning & Development** FILE: **0550-20**
General Manager, Engineering

SUBJECT: **Amendments to *Surrey Soil Conservation and Protection By-law, 2007, No. 16389* for consistency with *Surrey Official Community Plan Bylaw, 2013, No. 18020***

RECOMMENDATION

The Planning & Development Department and the Engineering Department recommend that Council:

1. Receive this report as information;
2. Approve amendments to *Surrey Soil Conservation and Protection By-law, 2007, No. 16389*, as generally described in this report and detailed in Appendix "I;"
3. Approve amendments to *Surrey Municipal Ticket Information Utilization By-law, 1994, No. 12508*, as generally described in this report and detailed in Appendix "II;"
4. Authorize the City Clerk to bring forward the necessary bylaw amendments for the required readings, and to hold the bylaw amendments at Third Reading;
5. Subject to Third Reading being granted, instruct staff to forward a copy of the bylaw amendments to the Minister of Energy, Mines and Petroleum Resources and Minister Responsible for Core Review and to the Minister of Environment and Climate Change Strategy, as required under Section 2 of the *Community Charter [SBC 2003] c. 26* (Responsible Minister Regulation) in order to request ministerial approval; and
6. Upon receipt of ministerial approval, authorize the City Clerk to bring forward the bylaw amendments for final reading and adoption.

INTENT

The purpose of this report is to obtain Council approval for a key Biodiversity Conservation Strategy (BCS) implementation tool by replacing the existing and outdated Environmentally Sensitive Areas (ESA) map in the *Surrey Soil Conservation and Protection By-law, 2007, No. 16389* ("Soil By-law"), with the reference to both the Hazard Land Development Permit Area and the Sensitive Ecosystem Development Permit Area, as identified in *Surrey Official Community Plan Bylaw, 2013, No. 18020* ("OCP"), and to update language in the Soil By-law to ensure any required Development Permits are issued prior to the issuance of a Soil Permit, when one is required.

BACKGROUND

In July 2014, Council endorsed the BCS, and the implementation measures it recommends, in order to protect Surrey's streamside areas, natural habitats and sensitive ecosystems. In October 2014, Council adopted a new OCP for Surrey, approving the creation of a new Hazard Land Development Permit Area. In September 2016, Council adopted an amendment to the OCP, approving the creation of the Sensitive Ecosystem Development Permit Area; both of these Development Permit Areas are used as implementation tools for the OCP and the BCS. At the July 25, 2016 Regular Council Meeting, Council received Corporate Report No. R188; 2016, which established a "no disturbance area" adjacent to streams in Surrey in order to protect sensitive ecosystems.

Adopting these new Development Permit Areas triggered the need to adjust both the *Surrey Tree Protection Bylaw, 2006, No. 16100* ("Tree By-law") and the Soil By-law, as they are regulatory tools used to implement environmental policies. Edits to the Tree By-law are still under review, with a separate Corporate Report detailing the proposed changes anticipated in early 2018. For the Soil By-law, proposed edits include adding definitions, adjusting OCP references and adjusting text pertaining to application submissions and enforcement. These changes are proposed to ensure continued effectiveness in managing the City's environmental assets.

The Soil By-law regulates the removal and deposit of soils on sites within Surrey, and establishes what activities are exempt from requiring a Soil Permit. Exemptions do not apply to steep slopes, streamside areas and environmentally sensitive areas. In identifying where there are environmental areas, the existing Soil By-law references the prior OCP ESA Map, which became invalid with the adoption of Surrey's newest OCP, in 2014.

DISCUSSION

Surrey's OCP regulates environmental protection through two Development Permit Areas: Hazard Lands, and Sensitive Ecosystems. These new Development Permit Areas are proposed to be referenced within the Soil By-law, in place of the old ESA Map. In order to do this, new definitions are proposed to identify each Development Permit Area, with new references placed throughout the rest of the Soil By-law which direct back to those definitions.

Additional text edits are also proposed for the Soil By-law to ensure Soil Permits will not be issued prior to the issuance of a Development Permit, where one is required. This is especially important for properties falling within the Sensitive Ecosystem Development Permit Area, as any unauthorized soil movement can cause detrimental conditions to riparian areas. To prevent this from happening, and before any decision can be made on soil movement in these areas, it is important that applicants go through the Development Permit process in order to ensure that soil movement is appropriate for the site.

Other minor text adjustments are proposed, including adding a section that allows for greater effectiveness in enforcement for applicants that do not follow the requirements of, or go beyond the scope of, their issued Soil Permit. These proposed amendments require an amendment to *Surrey Municipal Ticket Information Utilization By-law, 1994, No. 12508* in order to ensure offences for non-compliance can be fined under the Municipal Ticket Information enforcement system.

SUSTAINABILITY CONSIDERATIONS

The amendments discussed above support the following Desired Outcomes (DO) and Strategic Directions (SD) of the Sustainability Charter.

Built Environment and Neighbourhoods

DO6: Land is used efficiently and sensitively, and development minimizes the impacts on the natural environment, viewscales, agricultural land and urban wildlife.

Ecosystems

DO2: Surrey actively protects, enhances and restores its natural environment and habitats.

DO12: Surrey protects ecosystem services and manages natural assets in order to build resilience and adapt and thrive in a changing climate.

SD4: Develop, apply, monitor and enforce standards and strategies to minimize the impacts of development on the natural environment, ecosystems and urban forest.

CONCLUSION

Amending the Soil By-law to update the environmental area references is required to ensure coordinated and transparent implementation of the OCP and BCS environmental policies.

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

- Receive this report as information;
- Approve amendments to *Surrey Soil Conservation and Protection By-law, 2007, No. 16389*, as generally described in this report and detailed in Appendix “I;”
- Approve amendments to *Surrey Municipal Ticket Information Utilization By-law, 1994, No. 12508*, as generally described in this report and detailed in Appendix “II;”
- Authorize the City Clerk to bring forward the necessary bylaw amendments for the required readings, and to hold the bylaw amendments at Third Reading;
- Subject to Third Reading being granted, instruct staff to forward a copy of the bylaw amendments to the Minister of Energy, Mines and Petroleum Resources and Minister Responsible for Core Review and to the Minister of Environment and Climate Change Strategy, as required under Section 2 of the *Community Charter [SBC 2003] c. 26* (Responsible Minister Regulation) in order to request ministerial approval; and
- Upon receipt of ministerial approval, authorize the City Clerk to bring forward the bylaw amendments for final reading and adoption.

Original signed by
Jean Lamontagne
General Manager, Planning & Development

Original signed by
Fraser Smith, P.Eng., MBA
General Manager, Engineering

CS/JA/PH/cc/ss

Appendix “I” Proposed Amendments to *Surrey Soil Conservation and Protection By-law, 2007, No. 16389*

Appendix “II” Proposed Amendments to *Surrey Municipal Ticket Information Utilization By-law, 1994, No. 12508*

Appendix “I”

Proposed Amendments to Surrey Soil Conservation and Protection Bylaw

The following amendments are proposed for Surrey Soil Conservation and Protection By-law, 2007, 16389:

1. Definitions, Section 2:

a) by adding a new definition for Hazard Lands Development Permit Area, as follows:

“Hazard Lands Development Permit Area means the Hazard Land Development Permit Area and Development Permit Area #2, as defined in Surrey Official Community Plan Bylaw, 2013, No. 18020, as amended.”; and

b) by adding a new definition for Sensitive Ecosystem Development Permit Area, as follows:

“Sensitive Ecosystem Development Permit Area means the Sensitive Ecosystem Development Permit Area and Development Permit Area #3, as defined in Surrey Official Community Plan Bylaw, 2013, No. 18020, as amended.”

2. Permit Requirements, Section 5, Additional Approval, first paragraph, by deleting the words “an application for”.

3. Permit Exemptions:

a) Quality Control for Private Lots, by deleting “Section 7(b)” and replacing it with a new “Section 7(b)”, as follows:

“(b) for a given *lot*, the total quantity of *soil removal* or *deposit* does not exceed 15 cubic metres and 0.5 metres in depth. This exemption does not apply to deposit or removal:

(i) *within the Hazard Land Development Permit Area or Sensitive Ecosystem Development Permit Area;*”

b) Building Construction and Subdivision, as follows:

i) Section 7(c)(ii) by adding the words “development permit or” after the word “valid”;

ii) Section 7(c)(iii), second paragraph, first sentence, as follows:

1. by adding the words “development permit or” after the words “issuance of the”;

2. by adding the words “development permit or” after the words “approval is not given or”; and

iii) Section 7(c)(iii), second paragraph, last sentence, by deleting the word “and”;

c) Landfill, Section 7(d), by adding the word “; and” at the end of the sentence; and

d) By adding a new “Section 7(e) Development Permit” as follows:

“(e) notwithstanding Section 7(a) through (d) where a *lot* is within the *Hazard Land Development Permit Area* or *Sensitive Ecosystem Development Permit Area*, no *soil removal* or *deposit* activities shall occur prior to the issuance of a valid development permit.”

4. Notification Requirement:

a) Section 8, by deleting the second paragraph and replacing it with a new second paragraph, as follows:

“(a) for a given *lot*, the total quantity of *soil removal* or *deposit* is between 15 cubic metres and 100 cubic metres and does not exceed 0.5 metres in depth, in any consecutive 12 month period.”;

b) By deleting “Section 9, Exemption”, and replacing it with a new “Section 9, Exemption” as follows:

“9. The exemption in Section 8 does not apply to *soil deposit* or *removal*:

(a) within the *Hazard Land Development Permit Area* or *Sensitive Ecosystem Development Permit Area*”; and

c) Requirements, Section 10, second paragraph, after the words “an owner must” add the following words “provide the *General Manager* with a site plan illustrating the proposed *soil removal* or *deposit* and”.

5. Permit Application:

a) Information Requirements, as follows:

i) Section 12, first paragraph, second sentence, after the words “by sufficient information,” by adding new words “including any required development permits,”;

ii) Section 12(c), by removing the word ‘and’ at the end of the sentence;

iii) By adding new bullets, as follows:

“(e) a copy of an issued development permit where the *lot* is within a *Hazard Lands Development Permit Area* or *Sensitive Ecosystem Development Permit Area*;

(f) a copy of any issued development variance permits as it pertains to the development proposal; and

(g) any other information or document as required by the *General Manager*.”

b) Permit Refusal, Section 22, by deleting bullet “(c)” and replacing it with a new one as follows:

“(c) contravene any City by-law, or provincial or federal law, including Development Permit Guidelines for the *Hazard land Development Permit Area* or *Sensitive Ecosystem Development Permit Area*;

c) Permit Compliance Reports, Section 23, as follows:

i) Bullet “(a)” by deleting the word “and” at the end of the sentence;

ii) By deleting bullet “(b)” and replacing it with a new one, as follows:

“(b) the actual location of the *soil removal* or *deposit*, including any locations where *soil removal* or *deposit* has occurred outside of the area allowed by a *permit*; and”

iii) By adding a new bullet “(c)”, as follows:

“(c) a description explaining why *soil* has been placed outside the location allowed by a *permit* and the proposed remediation plan to bring the *lot* into compliance with this By-law and the *permit*.”

iv) Last paragraph, after the words “in the case of” by replacing the word “an” with the word “a”.

6. Enforcement, by adding a new “Section 27a” under “Obedience to Orders”, as follows:

“27a. Any *person* having received a notice of order pursuant to Section 26 of this By-law shall, within the timeframe set forth by the *General Manager* or *By-law Enforcement Officer*, comply with the notice or order.”

7. Schedule A: Performance Standards, Road Maintenance, by deleting “Section 5” and replacing it with a new “Section 5” as follows:

“5. Dirt, mud or debris is not to be tracked onto public roads or into ditches. Where dirt, mud or debris is deposited on public roads or in roadside ditches from the transfer of soil to or from a lot, the dirt, mud or debris shall be removed immediately or as deemed necessary by the *General Manager* or by a *By-law Enforcement Officer*.”

Appendix “II”

Proposed Amendments to Surrey Municipal Ticket Information Utilization By-law

The following amendments are proposed for Surrey Municipal Ticket Information By-law, 1994, 12508:

1. Schedule 9 to By-law No, 12508, by adding a new line at the bottom of the table, as follows:

“Providing False Information	31	\$300.00”
------------------------------	----	-----------