

City of Maple Ridge

TO: Her Worship Mayor Nicole Read
and Members of Council
FROM: Chief Administrative Officer
MEETING DATE: July 11, 2016
FILE NO:
MEETING: Workshop
SUBJECT: Environmental Management Strategy Implementation –
Maple Ridge Soil Deposit Regulation Bylaw (No. 5763 -1999) Review

EXECUTIVE SUMMARY:

At the November 24, 2015 Council Meeting, Council directed staff to initiate a review of the Maple Ridge Soil Deposit Regulation Bylaw No. 5763-1999 (the Bylaw). Council's direction follows the endorsement of the short term high priority action items identified in the report entitled "Environmental Management Strategy (EMS) Implementation Report – Short Term High Priority Implementation Recommendations" and referral of the EMS report to the Environmental Advisory Committee.

The purpose of this report is two-fold:

1. to provide Council with an update of the concerns related to soil deposit projects that have been raised to date by residents and staff; and,
2. to outline the proposed public consultation program to engage Maple Ridge residents and stakeholders on updating and enhancing soil deposit practices in Maple Ridge and on subsequent amendments to the Soil Deposit Regulation Bylaw.

The City's current Bylaw identifies how the depositing of soil and fill is to occur in Maple Ridge. It also provides protection for residents, infrastructure and agricultural lands through the requirements for professional studies and reports, through securities, and through enforcement direction (including fines). Over the past 5 years, residents and staff have identified areas of the Bylaw that need to be reviewed and updated.

RECOMMENDATION:

That the Soil Deposit Regulation Bylaw Review process outlined in the staff report entitled "Environmental Management Strategy Implementation – Maple Ridge Soil Deposit Regulation Bylaw (No. 5763 -1999) Review" dated July 11, 2016 be endorsed.

BACKGROUND:

Soil deposit activities have been regulated in the municipality since 1991. The original Maple Ridge Soil Deposit Regulation Bylaw (No. 4569-1991) was replaced with the current Maple Ridge Soil Deposit Regulation Bylaw (No. 5763-1999) in 1999. The review and revision of the Soil Deposit Regulation Bylaw was one of the recommended actions in the Environmental Management Strategy and the review and revision of the Bylaw was identified in the 2016 Planning Department Business Plan.

Enabling Legislation

The *Community Charter (Section 8(3))* provides Council with the authority to regulate or prohibit the deposit of soil on any land within the municipality. For lands that are located within the Agricultural Land Reserve, the authority to regulate or prohibit soil deposit activities are also provided through the *Agricultural Land Commission Act (Section 25(3))*.

Issues:

An increase in soil deposit activity (permitted and unpermitted) in recent years is due to the increase in development and building projects occurring all across the Lower Mainland. These projects are occurring on greenfield areas as municipalities expand as well as on brownfield areas as urban areas are revitalized and repurposed. Receiving sites for this material are primarily the agricultural areas of lower mainland municipalities, including Maple Ridge. An Agricultural Land Commission Officer commented that material deposited in Maple Ridge has come from as far away as North Vancouver.

As a result of the volume of development activity, an industry has formed around the removal and deposit of soil. Contractors and land owners at the soil deposit locations are able to charge for the deposit of soils. It has been reported that deposit rates ranged from \$50 to \$150 per truck load depending on the type of material being deposited. Therefore, sites that would not normally require soil for ongoing maintenance or management are now receiving soil. This activity is commonly referred to as “fill-farming”.

The Planning Department has undertaken an initial assessment of Maple Ridge’s Soil Deposit Regulation Bylaw (5763 -1999) and existing soil deposit permit process to identify opportunities for amending the bylaw.

1. Permit Approval Process and Public Notification

Residents have informed staff on various occasions that a public notification should be required for soil deposit projects so that residents have the opportunity to comment on the projects prior to a decision on approval. Residents have suggested that notification could be made by requiring the posting of a sign on the property during the permit application review period. Further consultation will explore opportunities for public notification.

2. Impacts to Properties

Site Contamination

The concern over the deposition of contaminated soils is the direct health impact to residents and animals directly from the soil as well as nearby wells and watercourses that may be receiving areas for runoff from the contaminated materials. The subsequent costs for residents to remove the contaminated material are substantial and property values can be significantly impacted. As an example, three truck loads of contaminated material that our Operations Staff had removed from one of the City’s roads (the result of an illegal roadside dump) cost the City \$5,795.00 to dispose the material at an approved contaminated waste receiving facility. This cost does not include the cost for professional oversight from the contaminated sites professionals, nor staff time and equipment.

Invasive Species

Invasive species such as Japanese knotweed (*Fallopia japonica*), Himalayan blackberry (*Rubus discolor*), morning glory (*Convolvulus arvensis*), and scotch broom (*Cytisus scoparius*) have been spread to various properties through permitted and unpermitted soil deposit activities. These species spread quickly and are difficult and costly to remove once established. The presence and spread of these species can impact sensitive natural areas as they displace diverse native vegetation communities, agricultural potential of farm properties as they displace crops and grazing areas, and in the case of Knotweed, have the potential to impact municipal and private infrastructure and building structures. Knotweed has been recognized by the provincial government as a noxious weed requiring residents to manage the species on their properties to prevent its spread.

Avoidance of contamination for any invasive species in the first place is considered the best management practice and requires additional diligence and effort to ensure that source materials, tools, vehicles and machinery are free from contamination.

Drainage Impacts (wells, septic, and surface water)

Residents and staff have expressed concern over the potential impacts of soil deposition on the hydrology of adjacent properties, natural features (watercourses), as well as larger neighbourhood areas. Soil deposition results in altered soil regimes that change the capacity of the soils to retain, hold, or drain surface and ground water. Soil deposit activities also elevate landscapes changing surface water flow patterns. Soil deposition has the potential to negatively impact septic fields, groundwater aquifers and wells, nearby watercourses and wetlands, and floodplain drainage capacity and patterns. Considerable resources in terms of staff time have been allocated to addressing these concerns. Residents have expressed concern over importation of clay on properties and the potential impacts to local hydrology (runoff and groundwater) and subsequently on adjacent septic systems, wells and to farm animal safety (settling of land, hoof rot, etc.).

Aesthetics

Property owners in the vicinity of soil deposit sites have complained about the impact to local aesthetics based on the significant changes to grades and the wide scale removal of vegetation on soil deposit sites. With the adoption of the City's Tree Management Bylaw in January (2016), there is some protection against wide scale clearing of properties as well as, along property boundaries. For neighbouring properties, residents have been concerned with significant grade changes that have a visual impact on their properties and have expressed concern over resale value of their property as a result.

Agricultural Potential

Farm use is dependent on many landscape factors including grades, angle of exposure, groundwater and surface water and soil stratigraphy. Soil Deposit Permit applications are often to amend one or more of these conditions either to improve access or to improve growing potential. Although soil deposition is able to assist in improving site conditions it can also be detrimental to the growing potential of agricultural lands. Site grading and compaction from machine use can disrupt site drainage, topsoil can be lost as it is mixed in with other structural soil material or buried, contaminants in the soils such as heavy metals or Hydrocarbons can be deposited on site unknowingly as can biological contaminants in the form of noxious or invasive plant species. Without the necessary assessments for proposed soil deposit sites (and source locations) and

without ongoing monitoring, the agricultural potential for soil deposit sites can be significantly impacted.

Rural residents have expressed concern over the potential for “fill-farming” in the rural agricultural lands. They are concerned that filling is occurring in order to gain revenue from the soil deposition at the expense of the agricultural potential of the lands. Residents have commented that Soil Deposit Permit applications that are proposed for farm improvements should only be approved for those parcels of agricultural land that have a history of farming and for property owners who have owned and farmed the land for a period of time. Residents have also commented that property owners should be required to submit a farm plan as part of their application and that the owners should be required to prove farm use following the completion of soil deposit projects that are justified as farm improvements.

3. Road Conditions and Safety

Residents have expressed concern over truck volumes, road safety, and damage to roads and road shoulders with truck traffic on rural residential roads. Most sites that are proposed for soil deposition are large acreages that are situated in rural areas and are often zoned as Agricultural. Residents have complained of damage they have observed to road shoulders such as rutting as well as the tracking of mud and other debris onto the road surfaces. Residents have noted at times that traffic is not managed at high use sites and poses a potential danger to both vehicle traffic and pedestrians.

4. Enforcement

When Staff receive concerned calls from residents they attend the sites in question and inspect the properties for Bylaw and permit compliance. In many instances Staff were unable to address the concerns through enforcement as the existing Soil Deposit Regulation Bylaw does not require studies or land surveys for all sites and provides limited prescriptions for filling.

The Bylaw requires land surveys and Professional Engineering reports for fill sites where soil deposit depths are 1 metre or greater, on slopes greater than 30%, or on properties within a floodplain. Many soil deposit projects propose final grades that result in less than 1 metre in elevation gain, however, the overall disturbance across the properties are extensive and can significantly impact drainage or slopes. In many circumstances, staff has had limited information to assess site changes and permit compliance.

The Bylaw requires \$1,000.00 refundable security for every hectare of land disturbed. Several of the permitted sites where more than 10,000 m³ of soil material (approximately 1,450 trucks worth of material) was deposited required a refundable security in the amount of \$1,000 to \$3,000. The value of this security, considering the revenue generated from the soil deposit operations, provides little incentive to remain within permitting requirements.

Soil Deposit Bylaw Review Process

The following process is intended to provide residents and other stakeholders with an opportunity to express their concerns and values and to provide comments and recommendations on a new bylaw. It is important that staff work with all stakeholders to ensure that the Bylaw reflects Council's and the Community's goals and objectives for the protection of residents, agricultural land and practices, private property, and municipal infrastructure.

Staff are proposing a 4 step Review Process as follows.

Table 1. Soil Deposit Regulation Bylaw Review Process

Step I – Council Endorse Review Process <ul style="list-style-type: none">• Council to endorse the Soil Deposit Regulation Bylaw review and consultation process	July 11, 2016
Step II – Open House with Questionnaire <ul style="list-style-type: none">• Consultation with residents, neighbourhood groups, professional engineers, contractors, development consultants, environmental stewardship groups, and environmental and agricultural professionals.• Consultation update to Council and Draft Soil Deposit Bylaw submitted to Council	September through November 2016
Step III – Open House with Questionnaire <ul style="list-style-type: none">• Proposed Draft Soil Deposit Bylaw to be provided to residents and circulated to local professional engineers, contractors, development consultants, environmental stewardship groups, and environmental and agricultural professionals.• Consultation update to Council	December 2016 through February 2017
Step IV - Council Consideration of Bylaws for 1st, 2nd, and 3rd reading and final Adoption <ul style="list-style-type: none">• Formal referrals to Agencies (Agricultural Land Commission, Ministry of Agriculture, Metro Vancouver)• Amended Soil Deposit Regulation Bylaw• Amended Soil Deposit Fee Bylaw	1 st Quarter 2017

It is proposed that various notification methods be used to assist in the consultation awareness initiative including use of newspaper ads, written invitations, email lists, social media, front counter handouts, and information posted on the municipal website in order to engage the community and facilitate ongoing dialogue throughout the planning process. The intent is to increase the effectiveness and efficiency of public engagement that will help strengthen the relationship between the municipality and the community.

Inter-Departmental Implications and Legal Review

Staff from Parks, Bylaws, Building, Engineering, Operations and others will continue to be included in the consultation process. Any proposed Bylaw amendments and subsequent revisions will require review by the City Solicitor prior to presentation of the Bylaw to Council for 1st, 2nd, and 3rd Readings.

Inter-Governmental Implications

Agricultural Land Commission

The Agricultural Land Commission will be consulted to ensure that the amended Bylaw is in alignment with the *Agricultural Land Commission Act* and Regulations. In addition, Section 46 of the *Agricultural Land Commission Act* notes that Local Governments cannot enact a Bylaw that is inconsistent with the *Agricultural Land Commission Act*. A formal referral will be sent to the Agricultural Land Commission as a component of the Step IV – Council Consideration of Bylaws.

Ministry of Agriculture

The Ministry of Agriculture will be consulted to ensure that the amended Bylaw supports viable farm practices and protects agricultural lands.

Metro Vancouver

Metro Vancouver will be consulted as part of an ongoing collaborative effort to protect farm land and in managing soils and the disposal of fill throughout the Lower Mainland.

CONCLUSION:

The Maple Ridge Soil Deposit Regulation Bylaw needs to be reviewed and updated. This report outlines some of the issues that need to be addressed as part of that review. Specifically this report recommends a thorough process in undertaking the review including consultation with residents, neighbourhood groups, professional engineers, contractors, development consultants, environmental stewardship groups, and environmental and agricultural professionals.

Following this consultation, an update will be provided to Council in the form of a proposed Bylaw and the Bylaw would be presented for First, Second, and Third Readings.

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