

NO: R224

COUNCIL DATE: December 18, 2023

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## REGULAR COUNCIL

TO: **Mayor & Council**

DATE: **December 14, 2023**

FROM: **General Manager, Engineering**

FILE: **4520-08**

SUBJECT: **Erosion and Sediment Control Process Improvements**

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## RECOMMENDATION

The Engineering Department recommends that Council:

1. Receive this report for information; and
2. Direct staff to bring forward Erosion and Sediment Control Bylaw amendments, as generally described in this report, by March 11, 2024.

## INTENT

The purpose of this report is to provide Council with an update in response to a Notice of Motion related to erosion and sediment control (“ESC”) on development sites and to seek Council direction in bringing forward ESC Bylaw amendments, as described in this report.

## BACKGROUND

Construction activities can leave exposed lands susceptible to run-off during rainfall events, which could lead to transportation of sediment into ditches and the City’s storm sewer system, and potentially resulting in sediment-laden discharge into Surrey’s watercourses.

In the early 2000’s, municipalities in Metro Vancouver developed individual bylaws associated with stormwater discharge quality, particularly run-off from land development construction activities.

In 2007, Surrey Council approved the *Erosion and Sediment Control Bylaw, 2006, No. 16138* (the “Bylaw”) to ensure construction undertaken in Surrey implements appropriate ESC measures to protect the City’s drainage infrastructure and watercourses from sediment-laden water. To date, approximately 13 regional municipalities have developed similar bylaws; however, each municipality varies in their approach to administering, permitting, and enforcing the bylaw(s).

At the October 30, 2023 Regular Council – Public Hearing meeting, Council directed staff to review policies and procedures regulating ESC, with a goal to look at improvements opportunities to substantially reduce the time it takes the City to review land development applications and decrease carrying costs in order to increase access to housing and affordability in Surrey.

## DISCUSSION

Over the past few months, staff have met with developers and facilitated an industry workshop with land development consultants to seek feedback on opportunities to improve the City's Bylaw practices and procedures. Staff have also reviewed relevant ESC bylaws and processes in other municipalities, both locally and across Canada.

### **Municipal / Peer Review**

Locally, there are 13 municipalities who have implemented a bylaw(s), which is generally consistent with the City's Bylaw in terms of stormwater run-off criteria; however, the administrative, permitting and bylaw enforcement processes are different across local municipalities.

Nationally, most large municipalities have implemented similar bylaws; however, it was discovered that those bylaws are less explicit on stormwater run-off criteria and permitting processes.

### Stormwater Run-off Criteria

In 1993, Fisheries and Oceans Canada ("DFO") prepared the *Land Development Guidelines for the Protection of Aquatic Habitat*, which has guided various municipal ESC bylaws and land development best management practices. DFO's guidelines recommend that run-off water from a development site should contain less than 25 mg/L of total suspended solids ("TSS"), above background levels, during dry weather and less than 75 mg/L during design storm events.

While the City's Bylaw has utilized this TSS criteria of 25 mg/L and 75 mg/L, an amendment is required to include the wording "above background levels" to more accurately follow these guidelines.

A few municipalities are amending their bylaws to use turbidity ("NTU") as an alternate criterion; however, this is not recommended by staff at this time, as the current TSS measurement is more accurate and representative of sediment concentrations in the water.

### Catchment Area (Lot vs. Developable Area)

In the City's current Bylaw, construction on properties smaller than 2,000 square metres (0.5 acres) requires run-off compliance, but does not require a formal ESC Permit; whereas construction on properties larger than 2,000 square metres requires a formal ESC Permit. In practice, staff have not been using the 2,000 square metre "lot area" as a threshold, but rather been utilizing 2,000 square metres of "developable area".

Only four of the 13 local municipalities require a similar process whereby an ESC Plan must be approved, but the threshold triggering such a plan varies. The City of Vancouver uses 1,000 square metres of "developable area" whereas Abbotsford and Township of Langley use 2,000 square metres of "developable area".

The City of Mississauga uses 10,000 square metres (2.5 acres) of "disturbed area" as their threshold for requiring an ESC permit.

The City of Calgary has very recently implemented a three-stage approach to expedite their ESC process:

1. Developable areas smaller than 4,000 square metres (1 acre) can proceed without a formal ESC plan/permit;
2. Developable areas between 4,000 and 20,000 square metres (5 acres) can proceed within three-days' notice, provided an ESC plan has been prepared and sealed by a professional engineer, with the City able to audit the plan; and
3. Developable areas larger than 20,000 square metres require a City approved ESC plan prior to construction.

Based on staff review and industry feedback, staff recommend amending the City's current Bylaw to reflect use of the "developable area", rather than "lot area", which is consistent with other municipalities. In addition, staff recommend amending the "developable area" threshold from 2,000 square metres (0.5 acres) to 4,000 square metres (1 acre), which is the median threshold for comparable municipalities across Canada.

#### Agricultural Land Reserve Exemption

The City's current Bylaw does not explicitly exempt Agricultural Land Reserve ("ALR") activities from requiring an ESC Permit, while other municipalities explicitly provide exemptions. Staff recommend amending the City's current Bylaw to exempt agricultural activities from requiring an ESC Permit. Single-family building permits on ALR lands may still require an ESC Permit, subject to the "developable area" threshold recommended herein this report.

#### Administrative Permitting Process and Financial Securities

Feedback from the City's industry workshop confirmed that the City's online digital intake and compliance monitoring portal is streamlined and efficient, relative to other municipalities.

Industry feedback for areas of continuous improvement was primarily focused on the City's administrative processes and practices, while preserving the intent of the ESC Bylaw and environmental protection.

The City's current ESC permitting process requires developers secure two separate ESC permits: one for their "off-site works" and one for "on-site works". This subsequently results in two separate financial securities and holdbacks, while also require duplication in monitoring reports (minimum bi-weekly reports). Upon review and discussion with other municipalities, the ESC permitting process could be streamlined and consolidated with the City's Servicing Agreement ("SA") associated with development applications; this approach has been successfully implemented by comparable municipalities in Canada.

By consolidating and integrating applicable ESC processes with SAs, the City would still require, review, and enforce ESC plans for "developable areas" exceeding 4,000 square metres in accordance with the recommended Bylaw amendments. If that particular project has a SA, the ESC plan would be received as part of the project design submittal following Third Reading. Financial securities retained through the SA process would incorporate ESC securities up to completion of the SA maintenance period. This would result in significant improvements to the City's processes and reduce duplicity, while upholding environmental protection.

For stand-alone building permits without SAs (i.e., generally those not requiring a rezoning nor subdivision), an ESC Permit may still be required, subject to the amended “developable area” threshold recommended herein this report.

For development applications that require a SA but are smaller than the 4,000 square metre threshold, an ESC plan, securities and monitoring reports would not be required, consistent with the current situation, and adherence to stormwater runoff criteria would be through standard Bylaw enforcement.

## **CONCLUSION**

In response to the October 30, 2023 motion by Council and concerns raised by the development industry consultants and upon review of other comparable municipalities across Canada, staff have identified improvements to the City’s ESC Bylaw and permitting process that would help development timelines, reduce duplicity, and support access to housing and affordability while upholding environmental protection.

Scott Neuman, P.Eng.  
General Manager, Engineering

SL/DM/cc

Appendix “I” - Proposed Amendments to the City’s ESC Processes

## APPENDIX "I"

### Proposed Amendments to the City's ESC Processes

Current Practice	Proposed Changes
1. Stormwater run-off criteria of 25 mg/L TSS in dry weather and 75 mg/L TSS in wet weather – consistent with DFO guidelines	1. Housekeeping amendment to Bylaw to include "above background levels"
2. 2,000 sq. m (0.5 acre) developable area trigger for ESC permit	2. 4,000 sq. m. (1 acre) developable area trigger for ESC permit
3. No exemption for ALR activities	3. Exemption for ALR activities
4. On-site works and off-site works require separate permits	4. Consolidate on-site works and off-site works into a Servicing Agreement
5. Developments requiring a Servicing Agreement but are smaller than developable area threshold do not require ESC plan, securities, or monitoring	5. No change