

TO: Mayor & Council

FROM: General Manager, Engineering

DATE: March 8, 2024

FILE: 4520-08

RE: Regular Council Public Hearing – Item H.12. and Corporate Report No. R047
Amendment to Erosion and Sediment Control Bylaw 21181

The purpose of this memo is to advise Mayor and Council of some revisions to Appendix I of Corporate Report No. R047 and Item H.12. on the Regular Council - Public Hearing agenda, specifically the proposed *Erosion and Sediment Control Bylaw, 2024, No. 21181* (the “Bylaw”).

Some errors were found in the Bylaw as originally provided, which these housekeeping revisions serve to correct. Attached is the amended draft of the Bylaw with these corrections made, which is also to replace that provided in Appendix “I” of Corporate Report No. R047.



Scott Neuman, P.Eng.
General Manager, Engineering

/cc
Attachment

c.c. - City Manager

CITY OF SURREY
BYLAW NO. 21181

EROSION AND SEDIMENT CONTROL BYLAW

This Bylaw is for the implementation of erosion and sediment control measures during Construction.

.....

WHEREAS Council deems it in the best interests to protect the City's Stormwater Drainage System from sediment caused by construction.

NOW THEREFORE the Council of the City of Surrey in open meeting assembled, ENACTS AS FOLLOWS:

PART 1 TITLE

- 1. This Bylaw may be cited as "Erosion and Sediment Control Bylaw, 2024, No. 21181".

PART 2 DEFINITION

- 2. In the construction and interpretation of this Bylaw, words and terms will have the following meanings assigned to them:

"**Authorized Designate**" means a City employee to whom the General Manager has delegated, in writing, authority to act on his behalf pertaining to this Bylaw;

"**Bylaw**" means this Erosion and Sediment Control Bylaw, 2024, No. 21181, as amended;

"**Bylaw Enforcement Officer**" means a person appointed by the City to enforce City bylaws;

"**City**" means the City of Surrey;

"**Claims and Expenses**" includes all actions, causes of actions, proceedings, demands, claims, injuries, death, losses, damages, expenses, judgments and costs (including legal fees and disbursements on an indemnity basis) of any kind or nature whatsoever, at law or in equity;

"**Completion**" means when all Construction is completed, and all Erodable Soils:

- (a) do not have visible evidence of soil loss caused by impact, sheet, rill, or gully erosion;
- (b) are stabilized to prevent impact, sheet, rill, or gully erosion;

except when the Construction is for the purpose of a subdivision, whereby one of the following criteria must be achieved:

- (c) All of the lots in a subdivision have been completed and are landscaped; or
- (d) 1 year after the City issues the letter of completion under the servicing agreement;

"**Construction**" includes clearing, grubbing, excavating, grading, landscaping, and construction of structures or utilities, excluding agricultural and municipal activities;

"Developable Area" means all lands excluding Highways, dykes, areas designated as steep slopes, riparian and environmentally sensitive areas, tree protection zones, areas being dedicated to the City, and other lands that have no Construction;

"Discharge" includes flow, spray, spill, leak, seep, pour, or release a fluid from one location to another;

"Erodable Soils" means any Sediment having the potential of being displaced and transported by wind and water;

"Erosion and Sediment Control (ESC)" means the implementation of temporary or permanent measures to prevent or control soil erosion, and the transport and deposition of Sediment by equipment, wind, and water from a Construction site;

"ESC Authorization" means written approval issued either as part of a servicing agreement or an ESC Permit;

"ESC Professional" means an engineer, biologist, geoscientist, agrologist, applied scientist or technologist where the individual is registered and in good standing in British Columbia with an appropriate professional organization constituted under an Act, acting under that association's code of ethics and subject to disciplinary action by that association;

"ESC Facilities" includes measures, works, facilities, and methods to reduce the likelihood of Sediment from reaching the City's Stormwater Drainage System, Natural Watercourses, and Highways;

"ESC Permit" means a permit issued by the City pursuant to this Bylaw;

"ESC Plan" means a documented plan, often including site layouts and/or drawings, that describe the potential for Erosion and sedimentation of the proposed Construction and prescribes specific ESC Facilities, to reduce the risk of Sediment Discharge to the City's Stormwater Drainage System, Natural Watercourses, and Highways;

"General Manager" means the General Manager of the Engineering Department for the City of Surrey;

"Highway" includes a public street, path, walkway, trail, lane, bridge, road, thoroughfare and any other public way, whether improved, unimproved or unopen;

"Lands" means a lot, block, parcel or other area, in which land is held or into which land is subdivided;

"Notice to Comply" means a written notice issued by the General Manager pursuant to this Bylaw;

"Owner" means a person registered in the records of the land title office as the owner of the Lands;

"Security" means a bank draft, cash, certified cheque, or an irrevocable letter of credit in favor of the City, which is provided as security to ensure the obligations under this Bylaw are fulfilled;

"Sediment" includes fragmented material that originates from weathering and Erosion of rocks or unconsolidated deposits and is transported by, suspended in, or deposited by water or wind;

"Stormwater Drainage System" includes all drainage infrastructure owned, operated and maintained by the City, including but not limited to storm service connections, pipes, culverts, manholes, catch basins, ditches, detention facilities and pumping stations; and

"**Total Suspended Solids**" means the dry weight of Sediment present in one litre of water.

PART 3 PROHIBITIONS

3. No person shall commence or continue any Construction where an ESC Authorization is required, except pursuant to an ESC Authorization being issued by the City.
4. No person shall cause or permit Discharge of Sediment or Sediment-laden water containing more than 75 milligrams per litre of Total Suspended Solids, above background or upstream levels, either directly or indirectly into the Stormwater Drainage System.
5. No Owner shall fail to comply with the terms and conditions of an ESC Authorization issued pursuant to this Bylaw, or the terms and conditions specified in Schedule A.
6. No person shall stockpile or deposit any Sediment on any Highway or City property unless authorized by the City. If unauthorized, the Sediment must be removed immediately.
7. No person shall install an ESC Facility that obstructs or diverts the conveyance of stormwater within the City's Stormwater Drainage System, unless authorized by the City, nor causes a public nuisance.
8. Nothing in Part 4 relieves a Person from complying with the requirements of any federal or provincial law or regulation, or other City bylaws.

PART 4 CONSTRUCTION ESC AUTHORIZATION APPLICABILITY

9. Construction on Lands that have a Developable Area that is equal to or greater than 0.4 hectare or any excavation deeper than 30m, from the lowest ground elevation existing prior to construction, for underground parking requires an ESC Authorization.
10. All other Construction does not require an ESC Authorization but must comply with Schedule A of this Bylaw.

PART 5 ESC AUTHORIZATION

11. Applications for an ESC Authorization should be completed using the forms prescribed by the General Manager and must include an ESC Plan that conforms to the City's requirements.
12. To secure full and proper compliance with the ESC Authorization, the Owner must provide Security to the City before the ESC Authorization is issued. The Security shall be \$10 per square metre of Developable Area, up to a maximum of \$200,000.
13. An ESC Authorization is valid for 12 months following the date of issuance and may be extended for additional 12-month periods, for the duration of Construction until Completion, provided that the Owner applies in writing for the ESC Authorization to be extended.
14. During the term of the ESC Authorization, the Owner must display an ESC Authorization advisory notice, in the format prescribed by the City, that must be clearly and visibly posted at the entrance(s) of the Lands, so that it can be viewed by any person.

15. The Owner is responsible for retaining an ESC Professional and ensuring that all ESC Facilities described in the ESC Plan are constructed, implemented, maintained, and all corrective actions directed by the ESC Professional are promptly addressed, for the duration of Construction until Completion.
16. The ESC Professional is responsible for:
 - (a) preparing the ESC Plan;
 - (b) demonstrating how the ESC Plan will comply with this Bylaw;
 - (c) supervising the implementation of the ESC Facilities in accordance with the ESC Plan,
 - (d) report on the status of, and provide confirmation that, the ESC Facilities have been constructed and installed pursuant to the ESC Plan, in accordance with minimum inspection frequency in Schedule B of this Bylaw;
 - (e) notifying the Owner and contractor immediately of corrective actions should corrective actions be required to ensure that the Construction remains compliant with this Bylaw; and
 - (f) amending the ESC Plan, should the ESC Facilities fail to achieve this Bylaw;
17. The ESC Professional must sign and seal all amendments to the ESC Plan and submit them to the City within 5 business days.
18. Upon Completion of the Construction, the ESC Professional must confirm that the Lands no longer pose a risk of Discharging Sediment to the Stormwater Drainage System, and that all the ESC Facilities have been removed, in accordance with the City's standard reporting procedure.
19. In the event of a change of ownership of the Lands, the ESC Authorization may be assigned to the new Owner upon application to the City together with replacement Security.

PART 6 REMEDIES

20. Where Construction is in contravention of this Bylaw, the Owner must rectify such default immediately and provide an inspection report to the City within seven days. The Owner is responsible for the cost of all works required to mitigate the contravention, repair, remediate, and restore the Stormwater Drainage System or Highway to its existing condition.
21. Where Construction is in contravention of this Bylaw, the General Manager may issue a Notice to Comply to the Owner to cease all Construction immediately. Construction on the Lands may only resume once the General Manager has rescinded the Notice to Comply in writing.
22. A Notice to Comply written with respect to this Bylaw should:
 - (a) indicate the person to whom it is directed;
 - (b) identify the Land;
 - (c) identify how the Construction fails to comply with this Bylaw;
 - (d) identify remedial actions required and the timeline to complete the remedial work.
23. A Notice to Comply will be mailed to the Owner to the address provided by the Owner in accordance with the contact information specified in the ESC Authorization. And if there is no ESC Authorization, the Notice to Comply will be mailed to the address of the Owner shown on the title to the lands at the Land Title Office.

24. If, in the opinion of the General Manager, service of the Notice to Comply cannot be reasonably given, or if the General Manager believes that the Owner of the Lands is evading service, the Notice to Comply may be posted in a conspicuous place on the Lands to which the Notice to Comply relates, served to the legal office registered for the company, and the Notice to Comply shall be deemed to be served upon the expiry of 3 days after the Notice to Comply is posted.
25. Failure by the Owner to carry out all works specified in the Notice to Comply may result in the City completing the works at the expense of the Owner.
26. The City, if it undertakes any works, is authorized to deduct the cost of the works plus an additional fifteen (15%) percent of all such costs to cover administrative overhead, upon the City issuing invoices for the same, from the Security. When the Security is insufficient to cover the cost of the works, these costs and expenses are recoverable by the City as a debt and may be collected in the same manner and with the same remedies as ordinary taxes on land and improvements under Section 258.1(c) of the Community Charter, S.B.C. 2003, c. 26, as amended, and if it is due and payable by December 31 and unpaid on that date, the debt is deemed to be taxes in arrears.
27. The City and its contractors or agents may at its discretion and for the purpose of exercising the City's rights under this Bylaw, enter the Lands with equipment, tools, and materials for the purpose of carrying out any of the Owner's obligations, covenants, or agreements.

PART 7 OFFENCES AND ENFORCEMENT

28. Any person who contravenes, suffers, or permits any act or thing to be done in contravention of, or neglects to do or refrains from doing anything required to be done pursuant to any provision of this Bylaw or any notice issued pursuant hereto, commits an offence punishable on summary conviction and shall be liable to a fine of not less than the sum of \$50.00, but not exceeding the maximum sum of \$50,000.
29. Where an offense is a continuing offense, each day that the offence is continued shall constitute a separate and distinct offence.
30. No person shall interfere with, obstruct, or prevent access by the General Manager, a Bylaw Enforcement Officer, or any other City employee, to enter upon and inspect the Lands at all reasonable times to determine if the Construction is in compliance with this Bylaw.
31. Every person must at all times comply with any order, direction, or Notice to Comply given by the City in enforcing the provisions of this Bylaw.

PART 8 GENERAL PROVISIONS

32. All persons must comply with all provincial and federal legislation regarding protection of the natural environment.
33. If any particular provision or part of a provision of this Bylaw is found to be invalid or unenforceable, it shall be severed, and the validity of the remaining provisions shall not be affected.
34. All Schedules referred to herein are attached to and form part of this Bylaw.

PART 9 REPEAL AND EFFECTIVE DATE

35. "Erosion and Sediment Control Bylaw 2006 No. 16138", is hereby repealed.

36. This Bylaw shall come into force on the date of final adoption hereof.

PASSED FIRST READING on the _____ day of _____, _____.

PASSED SECOND READING on the _____ day of _____, _____.

PASSED THIRD READING on the _____ day of _____, _____.

RECONSIDERED AND FINALLY ADOPTED, signed by the Mayor and Clerk, and sealed with the Corporate Seal on the _____ day of _____, _____.

_____ MAYOR

_____ CLERK

SCHEDULE "A"

Forming part of Erosion and Sediment Control Bylaw, 2024, No. 21181

ESC REQUIREMENTS ON LANDS LESS THAN 0.4 HA

1. GENERAL PROVISIONS

- 1.1. The Owner must not permit any Construction to commence that may cause the release of Sediment or Sediment laden water into the City's Stormwater Drainage System unless they have first installed the ESC Facilities specified in this Schedule.
- 1.2. The Owner must construct, implement and maintain the specified ESC Facilities, for the duration of Construction until Completion.
- 1.3. The Owner must install the ESC Facilities in accordance with the manufacturer's recommendation.

2. STABILIZED CONSTRUCTION ACCESS

- 2.1. The Owner must ensure that all registered vehicles associated with the Construction only drive or park on non-erodable surfaces which are defined as:

- (a) concrete, asphalt, or paved surfaces that are in good repair; or
- (b) temporary gravel pad built to the following specifications:

Width:	minimum 4 meters wide, flared at the curb to accommodate the vehicle turning radius of all vehicles attending the site
Length:	extend a minimum of 8m from edge of road pavement towards the principal building
Material:	minimum 150mm of 19 to 75mm aggregate granular material

3. CONSTRUCTION PERIMETER CONTROL

- 3.1. Prior to any Construction, the Owner must install perimeter control devices along all down-slope boundaries of the Lands.
- 3.2. Perimeter control devices may include, but are not limited to, sediment fence, straw wattles, fiber rolls, compost filter socks, compost filter berms with a minimum height of 225mm above grade.
- 3.3. The Owner should divert any water entering their Lands, around the Construction, in a manner that reduces the potential for the water to come into contact with their Erodable Soils.

4. ERODABLE SOIL MANAGEMENT

- 4.1. The Owner must cover all Erodable Soils and must not stockpile Erodable Soils outside of the perimeter control devices specified in Section 3 of Schedule A.
- 4.2. Erodable Soils may be covered using one or more of the following minimum requirements:
 - (a) Straw Placement
 - a. minimum application rate of 2.2 tonnes per hectare;
 - b. minimum application surface coverage of 90%;
 - c. straw containing *Phalaris arundinacea* L. (Reed Canary grass) is prohibited; or

- (b) Plastic Sheeting/Tarps
 - a. minimum 6 mil (6/1000 of an inch) thickness in good condition free of tears and holes;
 - b. minimum 30cm overlap between sheets and beyond the edge of the exposed soils;
 - c. anchored using solid materials that will not erode; or
- (c) Rolled Erosion Control Product; or
- (d) River Sand or 19-75mm minus aggregate gravel, spread at a minimum depth of 50mm; or
- (e) Hydraulically applied grass seed, mulch and tackifier; or
- (f) Any other products approved by the General Manager prior to their use.

5. DRAINAGE INLET PROTECTION

- 5.1. The Owner must use engineered products that are designed to be installed into a catch basins or lawn basins located on the Lands to limit Sediment or Sediment laden water from entering the Stormwater Drainage System.

SCHEDULE "B"

Forming part of Erosion and Sediment Control Bylaw, 2024, No. 21181

INSPECTIONS & REPORTING REQUIREMENTS UNDER AN ESC AUTHORIZATION

For instances where an ESC Authorization has been granted by the City, the City requires the Owner or ESC Professional to submit ESC inspection reports to the City, via the City’s MySurrey – ESC Professional Portal, at the minimum frequencies:

Inspection & Reporting	Oct 1 – April 30 (Wet Season)	May 1 – Sep 30 (Dry Season)
	Frequency (Days)	Frequency (Days)
Active Construction Sites (Single-Family sites/developments)	14	30
Active Construction Sites (Non Single-Family sites/developments)	7	14
Inactive Construction Sites No Construction has occurred for a minimum of one month, or during the maintenance period in the Servicing Agreement	30	30
Significant Rainfall Event A significant rainfall event is more than 25mm of rain in a 24hr period, during which the ESC Professional must inspect within 24 hours and report within 48 hours. If multiple significant rainfall events occur, only 2 inspection reports per week are required.	2	2

NO: R047

COUNCIL DATE: March 11, 2024

REGULAR COUNCIL

TO: **Mayor & Council**

DATE: **March 7, 2024**

FROM: **General Manager, Engineering**

FILE: **4520-08**

SUBJECT: **Erosion and Sediment Control Bylaw Replacement**

RECOMMENDATION

The Engineering Department, recommends that Council:

1. Receive this report for information; and
2. Authorize the City Clerk to bring forward for the required readings the new Erosion and Sediment Control Bylaw, attached to this report as Appendix "I."

INTENT

The purpose of this report is to have the new Erosion and Sediment Control Bylaw (the "ESC Bylaw") brought forward for the required readings.

BACKGROUND

The City established the current ESC Bylaw in 2006 to provide protection of the City's drainage system from construction activities. Provision of these types of bylaws was a goal of the Provincially regulated 2001 Liquid Waste Management Plan.

On December 18, 2023, Corporate Report No. R224; 2023, attached as Appendix "II", outlined several changes to improve City processes around the ESC Bylaw by harmonizing permitting requirements and amending the ESC permit trigger from 2,000 m² of property area to 4,000 m² of developable area.

DISCUSSION

The City regulates the discharge of sediment or sediment-laden water, from development, onto our highways and into the City's drainage system through an ESC Bylaw.

The proposed new ESC Bylaw, attached as Appendix "I", is designed to further streamline the permitting process and reduce upfront costs to applicants in several ways that include:

- ESC permit required for larger developments (greater than 4,000 square metres or those with multi-level parkades) and simplified stipulated ESC measures for smaller developments;

- One ESC process for all developments requiring Servicing Agreements with professional reliance model for plan preparation; and
- Simplified approach for ESC security bonding.

For applicable projects not approved under a Servicing Agreement, an Erosion and Sediment Control Permit will be issued, a copy of which has been attached as Appendix “III”.

Legal Services Review

This report has been reviewed by Legal Services.

CONCLUSION

The proposed new ESC Bylaw will simplify the permitting process and reduce upfront costs to applicants for land development projects, while still providing protection to the City’s drainage system.

Scott Neuman, P.Eng.
General Manager, Engineering

DTM/cc

Appendix “I” - Proposed Surrey Erosion and Sediment Control Bylaw, 2024, No. 21181

Appendix “II” - Corporate Report No. R224; 2023

Appendix "III" – Erosion and Sediment Control Permit

CITY OF SURREY
BYLAW NO. 21181

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except when the Construction is for the purpose of a subdivision, whereby one of the following criteria must be achieved:

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- (d) 1 year after the City issues the letter of completion under the servicing agreement;

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"Erosion and Sediment Control (ESC)" means the implementation of temporary or permanent measures to prevent or control soil erosion, and the transport and deposition of Sediment by equipment, wind, and water from a Construction site;

"ESC Authorization" means written approval issued either as part of a servicing agreement or an ESC Permit;

"ESC Professional" means an engineer, biologist, geoscientist, agrologist, applied scientist or technologist where the individual is registered and in good standing in British Columbia with an appropriate professional organization constituted under an Act, acting under that association's code of ethics and subject to disciplinary action by that association;

"ESC Facilities" includes measures, works, facilities, and methods to reduce the likelihood of Sediment from reaching the City's Stormwater Drainage System, Natural Watercourses, and Highways;

"ESC Permit" means a permit issued by the City pursuant to this Bylaw;

"ESC Plan" means a documented plan, often including site layouts and/or drawings, that describe the potential for Erosion and sedimentation of the proposed Construction and prescribes specific ESC Facilities, to reduce the risk of Sediment Discharge to the City's Stormwater Drainage System, Natural Watercourses, and Highways;

"General Manager" means the General Manager of the Engineering Department for the City of Surrey;

"Highway" includes a public street, path, walkway, trail, lane, bridge, road, thoroughfare and any other public way, whether improved, unimproved or unopen;

"Lands" means a lot, block, parcel or other area, in which land is held or into which land is subdivided;

"Notice to Comply" means a written notice issued by the General Manager pursuant to this Bylaw;

"Owner" means a person registered in the records of the land title office as the owner of the Lands;

"Security" means a bank draft, cash, certified cheque, or an irrevocable letter of credit in favor of the City, which is provided as security to ensure the obligations under this Bylaw are fulfilled;

"Sediment" includes fragmented material that originates from weathering and Erosion of rocks or unconsolidated deposits and is transported by, suspended in, or deposited by water or wind;

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"Total Suspended Solids" means the dry weight of Sediment present in one litre of water.

PART 3 PROHIBITIONS

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5. No Owner shall fail to comply with the terms and conditions of an ESC Authorization issued pursuant to this Bylaw, or the terms and conditions specified in Schedule A.
6. No person shall stockpile or deposit any Sediment on any Highway or City property unless authorized by the City. If unauthorized, the Sediment must be removed immediately.
7. No person shall install an ESC Facility that obstructs or diverts the conveyance of stormwater within the City's Stormwater Drainage System, unless authorized by the City, nor causes a public nuisance.
8. Nothing in Part 4 relieves a Person from complying with the requirements of any federal or provincial law or regulation, or other City bylaws.

PART 4 CONSTRUCTION ESC AUTHORIZATION APPLICABILITY

9. Construction on Lands that have a Developable Area that is equal to or greater than 0.4 hectare or any excavation deeper than 30m, from the lowest ground elevation existing prior to construction, for underground parking requires an ESC Authorization.
10. All other Construction does not require an ESC Authorization but must comply with Schedule A of this Bylaw.

PART 5 ESC AUTHORIZATION

11. Applications for an ESC Authorization should be completed using the forms prescribed by the General Manager and must include an ESC Plan that conforms to the City's requirements.
12. To secure full and proper compliance with the ESC Authorization, the Owner must provide Security to the City before the ESC Authorization is issued. The Security shall be \$10 per square metre of Developable Area, up to a maximum of \$200,000.
13. An ESC Authorization is valid for 12 months following the date of issuance and may be extended for additional 12-month periods, for the duration of Construction until Completion, provided that the Owner applies in writing for the ESC Authorization to be extended.
14. During the term of the ESC Authorization, the Owner must display an ESC Authorization advisory notice, in the format prescribed by the City, that must be clearly and visibly posted at the entrance(s) of the Lands, so that it can be viewed by any person.

15. The Owner is responsible for retaining an ESC Professional and ensuring that all ESC Facilities described in the ESC Plan are constructed, implemented, maintained, and all corrective actions directed by the ESC Professional are promptly addressed, for the duration of Construction until Completion.
16. The ESC Professional is responsible for:
 - (a) preparing the ESC Plan;
 - (b) demonstrating how the ESC Plan will comply with this Bylaw;
 - (c) supervising the implementation of the ESC Facilities in accordance with the ESC Plan,
 - (d) report on the status of, and provide confirmation that, the ESC Facilities have been constructed and installed pursuant to the ESC Plan, in accordance with minimum inspection frequency in Schedule B of this Bylaw;
 - (e) notifying the Owner and contractor immediately of corrective actions should corrective actions be required to ensure that the Construction remains compliant with this Bylaw; and
 - (f) amending the ESC Plan, should the ESC Facilities fail to achieve this Bylaw;
17. The ESC Professional must sign and seal all amendments to the ESC Plan and submit them to the City within 5 business days.
18. Upon Completion of the Construction, the ESC Professional must confirm that the Lands no longer pose a risk of Discharging Sediment to the Stormwater Drainage System, and that all the ESC Facilities have been removed, in accordance with the City's standard reporting procedure.
19. In the event of a change of ownership of the Lands, the ESC Authorization may be assigned to the new Owner upon application to the City together with replacement Security.

PART 6 REMEDIES

20. Where Construction is in contravention of this Bylaw, the Owner must rectify such default immediately and is responsible for the cost of all works required to mitigate the contravention, repair, remediate, and restore the Stormwater Drainage System or Highway to its existing condition.
21. Where Construction is in contravention of this Bylaw, the General Manager may issue a Notice to Comply to the Owner to cease all Construction immediately. Construction on the Lands may only resume once the General Manager has rescinded the Notice to Comply in writing.
22. A Notice to Comply written with respect to this Bylaw should:
 - (a) indicate the person to whom it is directed;
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23. A Notice to Comply will be mailed to the Owner in accordance with the contact information specified in the ESC Authorization. And if there is no ESC Authorization to the address of the owner shown on the title to the lands at the Land Title Office.

24. If, in the opinion of the General Manager, service of the Notice to Comply cannot be reasonably given, or if the General Manager believes that the Owner of the Lands is evading service, the Notice to Comply may be posted in a conspicuous place on the Lands to which the Notice to Comply relates, served to the legal office registered for the company, and the Notice to Comply shall be deemed to be served upon the expiry of 3 days after the Notice to Comply is posted.
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28. Any person who contravenes, suffers, or permits any act or thing to be done in contravention of, or neglects to do or refrains from doing anything required to be done pursuant to any provision of this Bylaw or any notice issued pursuant hereto, commits an offence punishable on summary conviction and shall be liable to a fine of not less than the sum of \$50.00, but not exceeding the maximum sum of \$50,000.
29. Where an offense is a continuing offense, each day that the offence is continued shall constitute a separate and distinct offence.
30. No person shall interfere with, obstruct, or prevent access by the General Manager, a Bylaw Enforcement Officer, or any other City employee, to enter upon and inspect the Lands at all reasonable times to determine if the Construction is in compliance with this Bylaw.
31. Every person must at all times comply with any order, direction, or Notice to Comply given by the City in enforcing the provisions of this Bylaw.

PART 8 GENERAL PROVISIONS

32. All persons must comply with all provincial and federal legislation regarding protection of the natural environment.
33. If any particular provision or part of a provision of this Bylaw is found to be invalid or unenforceable, it shall be severed, and the validity of the remaining provisions shall not be affected.
34. All Schedules referred to herein are attached to and form part of this Bylaw.

PART 9 REPEAL AND EFFECTIVE DATE

35. "Erosion and Sediment Control Bylaw 2006 No. 16138", is hereby repealed.

36. This Bylaw shall come into force on the date of final adoption hereof.

PASSED FIRST READING on the _____ day of _____, _____.

PASSED SECOND READING on the _____ day of _____, _____.

PASSED THIRD READING on the _____ day of _____, _____.

RECONSIDERED AND FINALLY ADOPTED, signed by the Mayor and Clerk, and sealed with the Corporate Seal on the _____ day of _____, _____.

_____ MAYOR

_____ CLERK

SCHEDULE "A"

Forming part of Erosion and Sediment Control Bylaw, 2024, No. 21181

ESC REQUIREMENTS ON LANDS LESS THAN 0.4 HA

1. GENERAL PROVISIONS

- 1.1. The Owner must not permit any Construction to commence that may cause the release of Sediment or Sediment laden water into the City's Stormwater Drainage System unless they have first installed the ESC Facilities specified in this Schedule.
- 1.2. The Owner must construct, implement and maintain the specified ESC Facilities, for the duration of Construction until Completion.
- 1.3. The Owner must install the ESC Facilities in accordance with the manufacturer's recommendation.

2. STABILIZED CONSTRUCTION ACCESS

- 2.1. The Owner must ensure that all registered vehicles associated with the Construction only drive or park on non-erodable surfaces which are defined as:

- (a) concrete, asphalt, or paved surfaces that are in good repair; or
- (b) temporary gravel pad built to the following specifications:

Width: minimum 4 meters wide, flared at the curb to accommodate the vehicle turning radius of all vehicles attending the site
Length: extend a minimum of 8m from edge of road pavement towards the principal building
Material: minimum 150mm of 19 to 75mm aggregate granular material

3. CONSTRUCTION PERIMETER CONTROL

- 3.1. Prior to any Construction, the Owner must install perimeter control devices along all down-slope boundaries of the Lands.
- 3.2. Perimeter control devices may include, but are not limited to, sediment fence, straw wattles, fiber rolls, compost filter socks, compost filter berms with a minimum height of 225mm above grade.
- 3.3. The Owner should divert any water entering their Lands, around the Construction, in a manner that reduces the potential for the water to come into contact with their Erodable Soils.

4. ERODABLE SOIL MANAGEMENT

- 4.1. The Owner must cover all Erodable Soils and must not stockpile Erodable Soils outside of the perimeter control devices specified in Section 3 of Schedule A.
- 4.2. Erodable Soils may be covered using one or more of the following minimum requirements:

- (a) Straw Placement
 - a. minimum application rate of 2.2 tonnes per hectare;
 - b. minimum application surface coverage of 90%;
 - c. straw containing *Phalaris arundinacea* L. (Reed Canary grass) is prohibited; or

- (b) Plastic Sheeting/Tarps
 - a. minimum 6 mil (6/1000 of an inch) thickness in good condition free of tears and holes;
 - b. minimum 30cm overlap between sheets and beyond the edge of the exposed soils;
 - c. anchored using solid materials that will not erode; or
- (c) Rolled Erosion Control Product; or
- (d) River Sand or 19-75mm minus aggregate gravel, spread at a minimum depth of 50mm; or
- (e) Hydraulically applied grass seed, mulch and tackifier; or
- (f) Any other products approved by the General Manager prior to their use.

5. DRAINAGE INLET PROTECTION

- 5.1. The Owner must use engineered products that are designed to be installed into a catch basins or lawn basins located on the Lands to limit Sediment or Sediment laden water from entering the Stormwater Drainage System.

SCHEDULE "B"

Forming part of Erosion and Sediment Control Bylaw, 2024, No. 21181

INSPECTIONS & REPORTING REQUIREMENTS UNDER AN ESC AUTHORIZATION

For instances where an ESC Authorization has been granted by the City, the City requires the Owner or ESC Professional to submit ESC inspection reports to the City, via the City’s MySurrey – ESC Professional Portal, at the minimum frequencies:

Inspection & Reporting	Oct 1 – April 30 (Wet Season)	May 1 – Sep 30 (Dry Season)
	Frequency (Days)	Frequency (Days)
Active Construction Sites (Single-Family sites/developments)	14	30
Active Construction Sites (Non Single-Family sites/developments)	7	14
Inactive Construction Sites No Construction has occurred for a minimum of one month, or during the maintenance period in the Servicing Agreement	30	30
Significant Rainfall Event A significant rainfall event is more than 25mm of rain in a 24hr period, during which the ESC Professional must inspect within 24 hours and report within 48 hours. If multiple significant rainfall events occur, only 2 inspection reports per week are required.	2	2

CORPORATE REPORT

NO: R224

COUNCIL DATE: December 18, 2023

REGULAR COUNCIL

TO: Mayor & Council

DATE: December 14, 2023

FROM: General Manager, Engineering

FILE: 4520-08

SUBJECT: Erosion and Sediment Control Process Improvements

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

Note: Appendix available upon request

CITY OF SURREY

EROSION AND SEDIMENT CONTROL PERMIT XXXX-XXXX-XX

In consideration of the City issuing this ESC Permit to XXXXX (the "Owner"), the Owner covenants and agrees to ensure that the Construction on the Lands specified below complies with the requirements of the Erosion and Sediment Control Bylaw, 2024, No. 21181, as amended (the "ESC Bylaw") and the terms and conditions of this ESC Permit. All capitalized terms in this ESC Permit have the same meaning as in the Bylaw.

PROJECT INFORMATION

Sub Type:

Work Proposed:

Ref No:

Lands Information:

Date:

Address	PID

(collectively the "Lands")

CONTACTS

Owner (Company/Name):

Email:

Phone:

ESC Professional (Company/Name):

Email:

Phone:

Contractor (Company/Name):

Email:

Phone:

SECURITY

Type: _____ **Value:** \$ _____ (the "Security") secures the Owner's agreements in this permit

TERM

Permit Issued: Permit Expiry: 12 months from the date of issuance.

The ESC Permit may be extended for additional 12-month periods after the initial 1-year term, for the duration of Construction until Completion.

EROSION & SEDIMENT CONTROL PLAN

On-site Erosion and Sediment Control Plan ("ESC Plan") sealed by _____ [ESC Professional] on _____ [Date]. The Owner agrees that the ESC Plan forms part of this ESC Permit.

Creek Catchment:

Rainfall Station Catchment:

Water Quality Sampling: Must include all sampling locations specified in the ESC Plan and any other location where Stormwater discharges to the Stormwater Drainage System.

GENERAL REQUIREMENTS

1. The Owner covenants and agrees:
 - (a) to ensure that the ESC Facilities described in the ESC Plan are constructed, implemented, installed, and maintained for the duration of Construction until Completion, unless authorized for removal by ESC Professional;
 - (b) that prior to allowing Construction to commence, all ESC Facilities specified in the ESC Plan are installed and certified by the ESC Professional to comply with the ESC Plan; and
 - (c) not to carry out any Construction that is at variance with the ESC Permit unless that variance has been accepted in writing by the General Manager.

INSPECTIONS & REPORTING

2. The Owner must ensure that the ESC Professional inspects and reports on the status of the ESC facilities per the minimum frequency summarized in Schedule B of the Bylaw.
3. All requests to change the minimum reporting frequency must be provided to the General Manager and preceded by two consecutive compliant inspection reports.
4. The Owner agrees to notify the City in writing of any changes to the ESC Professional specified on this permit.

ESC PERMIT CLOSURE

5. The ESC Professional, on behalf of the Owner is responsible for submitting the ESC Permit closure request via the MySurrey ESC Professional Portal. The ESC Permit closure request must confirm that the Lands:
 - (a) meet the requirements for Completion in the ESC Bylaw ;
 - (b) no longer poses a risk of discharging Sediment or Sediment-laden water; and
 - (c) all the ESC Facilities have been removed and decommissioned.

SECURITY

6. The Owner covenants and agrees that prior to issuance of this ESC Permit by the City, the Owner provided Security for the due and proper performance of all the terms and conditions of this ESC Permit, in the amount listed on page 1, in accordance with the Bylaw.
7. The Owner covenants and agrees that if any of the terms and conditions of this ESC Permit have not been complied with, then the City may deduct from the Security to complete any terms and conditions of this ESC Permit. Despite the above, the City is under no obligation whatsoever to complete the terms and conditions of this ESC Permit.
8. If the City incurs any costs, expenses or makes payments or expenditures, or if the Owner is otherwise indebted to the City under this ESC Permit, and the Security is not sufficient to fully recompense the City, the Owner shall forthwith upon notice from the City, pay to the City the amount of such deficiency together with interest thereon at five percent (5%) per annum calculated and compounded monthly from the date such cost or expense was incurred or payment or expenditure was made by the City. Such amounts required to be paid by the Owner shall constitute a debt due and owing to the City and may be collected in the same manner and with the same remedies as ordinary taxes on land and improvements under the *Community Charter*, S.B.C. 2003, c.26, as amended and if it is due and payable by December 31 and unpaid on that date, the debt is deemed to be taxes in arrears.
9. The balance of the Security (if any) shall be returned to the Owner after closure of this ESC Permit, less any costs and expenses incurred by the City, plus an additional fifteen (15%) percent of all such costs and expenses to cover administrative overhead, and less any unpaid reinspection, or permit extension fees.
10. In the event the ESC Professional on behalf of the Owner does not complete the closure request then the Owner agrees that the City may use the Security to complete the requirements of the ESC Permit Closure.
11. If the ESC Professional on behalf of the Owner does not complete the Closure of this ESC Permit within seven (7 years) after the date of issuance of this ESC Permit, the Owner agrees to forfeit the Security to the City.

INQUIRIES

- 12. The ESC Professional, via the MySurrey ESC Professional Portal, can find out up-to-date permit information pertaining to:
 - (a) the ESC Plan;
 - (b) ESC Permit status updates;
 - (c) Inspection history;
 - (d) Security; and
 - (e) copies of the issued ESC Permit.
- 13. All other Erosion and Sediment Control Permit inquiries can be made directly to the City's Engineering Department.

INDEMNITY & RELEASE

- 14. In this ESC Permit, "City Personnel" means all City elected and appointed officials, officers, employees, agents, nominees, delegates, permittees, contractors, subcontractors, invitees and Approving Officers.
- 15. The Owner covenants and agrees to indemnify and save harmless the City and City Personnel from all direct and/or indirect Claims and Expenses which the City and City Personnel may suffer, or incur, or be put to at any time, arising out of or in connection with any breach or default of any covenants or agreements on the part of the Owner arising out of the ESC Bylaw or in this ESC Permit.
- 16. The Owner does hereby remise, release and forever discharge the City and City Personnel from all direct and/or indirect Claims and Expenses which the City and City Personnel may suffer, or incur, or be put to at any time, arising out of or in connection with any breach or default of any covenants or agreements on the part of the Owner arising out of the ESC Bylaw or in this ESC Permit.
- 17. In the event of a conflict between the Bylaw and this ESC Permit, the Bylaw shall supersede this ESC Permit.
- 18. The issuance of this ESC Permit does not authorize the Owner to commence any works that are covered under any other permits required by the City to allow Construction to occur on the Lands.
- 19. Nothing contained or implied herein will derogate from the obligations of the Owner under any other agreement with the City or, if the City so elects, prejudice or affect the City's rights, powers, duties or obligations in the exercise of its functions pursuant to the *Local Government Act* and the *Community Charter*, and all amendments from time to time, and the rights, powers, duties and obligations of the City under all public and private statutes, by-laws, orders and regulations, which may be, if the City so elects, as fully and effectively exercised in relation to the Lands as if this ESC Permit had not been executed and delivered by the Owner and the City.
- 20. Where the Owner consists of more than one Person, each such Person will be jointly and severally liable to perform the Owner's obligations under this ESC Permit.

IN CONSIDERATION OF THE CITY ISSUING THIS ESC PERMIT, I/WE THE UNDERSIGNED AGREE TO THE TERMS AND CONDITIONS OF THIS ESC PERMIT AND ACKNOWLEDGE THAT WE HAVE READ AND UNDERSTOOD IT.

(Option 1: Owner signed as the Corporation)

(Option 2: Owner signed as individual)

By it's authourized signatory(ies)

Authourized signatory(ies)

Name(s) of Director(s) of Owner:
Address:
Email:
Phone:

Owner name:
Address:
Email:
Phone: