



Report to: Development Services Committee

Meeting Date: January 25, 2021

SUBJECT: Proposed Amendments to By-law 2011-232 - *A By-law to Regulate or Prohibit Removal of Topsoil, Placing or Dumping of Fill, and Alteration of The Grade of Land within the City of Markham* and related amendments to By-law 2016-84 - *A By-law to Implement an Administrative Monetary Penalty System for Non-Parking Offences*

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Senior Development Engineer, Ext. 2523

REVIEWED BY: Reza Fani, P. Eng.
Manager, Development Engineering, Ext. 2414

Victoria Chai
Assistant City Solicitor, Ext. 7781

RECOMMENDATION:

- 1) That the report entitled “Proposed Amendments to By-law 2011-232 - *A By-law to Regulate or Prohibit Removal of Topsoil, Placing or Dumping of Fill, and Alteration of The Grade of Land within the City of Markham* and related amendments to By-law 2016-84 - *A By-law to Implement an Administrative Monetary Penalty System for Non-Parking Offences*”, be received; and
- 2) That the amendments to By-law 2011-232 - *A By-law to Regulate or Prohibit Removal of Topsoil, Placing or Dumping of Fill, and Alteration of the Grade of Land with the City of Markham* (“Site Alteration By-law”) described in this report and set out in Attachments A to C be approved and enacted; and
- 3) That the amendments to By-law 2016-84 - *A By-law to Implement an Administrative Monetary Penalty System for Non-Parking Offences* (“AMPS Non-Parking By-law”) described in this report and set out in Attachment D, be approved and enacted; and further
- 4) That Staff be authorized and directed to do all things necessary to give effect to this resolution.

EXECUTIVE SUMMARY:

Not Applicable

PURPOSE:

This report seeks Council’s approval to amend the Site Alteration By-law.

This report also seeks Council's approval for housekeeping amendments to the AMPS Non-Parking By-law in order to add the Site Alteration By-law to the City of Markham's (the "City") Administrative Monetary Penalty System.

BACKGROUND:

Section 142 of the *Municipal Act*, 2001, S.O. c. 25, as amended, authorizes municipalities to pass by-laws to regulate the removal of topsoil, the placing or dumping of fill, and the alteration of the grade of land ("Site Alteration"). The City's Site Alteration By-law is currently used to regulate and enforce Site Alteration activities in the City. The Site Alteration By-law requires landowners and developers to obtain a permit for Site Alteration activities within the City.

A Site Alteration Permit is not intended to allow developers to construct permanent features such as buildings, facilities, or parking lots ("Developments"). Developments are and should continue to be regulated separately through the planning review process.

The existing Site Alteration Permit process leaves opportunities for developers to circumvent the planning review process to construct Developments. Staff propose the following amendments to the Site Alteration By-law to stop the improper use of the by-law for Developments.

OPTIONS/ DISCUSSION:**Recommended Amendments to By-law 2011-232**

Staff recommend the following amendments to By-law 2011-232, as outlined in Attachment 'A' - Proposed Amendments to By-law 2011-232.

The following amendments clarify: a) the definition of Site Alteration activities, and b) what activities are not permitted under the Site Alteration By-law:

- Adding a purpose clause to clarify the purpose of the Site Alteration By-law.
- Revising the definition of "Site Alteration" to clarify the meaning of Site Alteration, and make it consistent with the *Municipal Act*.
- Adding a new provision in Section 2 to prohibit any person from carrying out any activities other than Site Alteration pursuant to the Site Alteration By-law.
- Expanding the definition of "Development" to include the Development activities that are presently captured under the Site Plan Control By-law, such as construction of buildings, facilities and parking lots.
- Adding a new provision in Section 2 to prohibit any person from carrying out "Development" activities pursuant to the Site Alteration By-law.
- Adding a new provision in Section 2 to prohibit any person from using an unauthorized haul route for transporting fill and topsoil.
- Replacing the definition of "Fill" to clarify the materials that constitute fill.

The following administrative amendments and amendments to update the By-law to reference new and updated legislation are proposed:

- Adding new “Whereas” clauses to establish the legislative authority for administrative monetary penalties and current enforcement powers.
- Replacing terms to reflect current proper nouns, capitalizing defined terms, and removing definitions that are no longer in use.
- Replacing and adding definitions to align definitions to current legislation and policies, and replacing such terms in related offence provisions, including:
 - Replacing terms including “Agricultural Uses”, “Valleyland”, “Wetlands” and “Woodland” with the definitions in the Official Plan;
 - Replacing the terms “Body of Water”, “Environmental Protection Areas” and “Hazard Lands” with “Natural Heritage Network”, which is the term used in the Official Plan that encompasses these features; and
 - Replacing terms related to endangered species with the definition of Habitat of Endangered or Threatened Species in the Official Plan.
- Replacing, revising and adding provisions to reflect current legislation, policies and to clarify By-law requirements, including:
 - Adding provisions to require that Site Alteration activities comply with the Greenbelt Plan; and
 - Adding provisions to require that imported soil comply with the new O. Reg 406/19 On-Site and Excess Soil Management.
- Adding enforcement provisions pursuant to updated legislation.
- Adding provisions for increased fines pursuant to the *Municipal Act*.

The following amendments are proposed to the Schedules of the By-law:

- Deleting former Schedules “A” to “D” regarding Security Deposits, Standards for Site Alteration Plans, Site Design Guidelines, and Permit Conditions because the City now has standard Design Criteria that encompasses all of the above, that are available online and used in all applications.
- Adding new Schedules “A” and “B”, which include the application form for the Site Alteration Permit and boundary maps for the Oak Ridges Moraine and the Greenbelt Plan.

Recommended Amendments to By-law 2016-84

Staff recommend housekeeping amendments to By-law 2016-84 - *A By-law to implement an Administrative Monetary Penalty System for Non-Parking Offences*, as outlined in Attachment ‘D’. The purpose of these amendments is to add By-law 2011-232, as amended, to the City’s Administrative Monetary Penalty System. This will allow the City to impose Penalty Notices to enforce violations of the Site Alteration By-law through the City’s Administrative Monetary Penalty System.

FINANCIAL CONSIDERATIONS

There are no financial implications to the City of Markham resulting from the amendments to this By-law. The use of AMPS for penalties for violations of the Site Alteration By-law will streamline the penalty process, which will be a deterrent to violations. The penalties will be used to off-set the costs of enforcement of the Site Alteration By-law.

HUMAN RESOURCES CONSIDERATIONS

Not Applicable

ALIGNMENT WITH STRATEGIC PRIORITIES:

The proposed amendments to By-law 2011-232 align with the Safe, Sustainable & Complete Community goal of the City's 2020-2023 Strategic Plan.

BUSINESS UNITS CONSULTED AND AFFECTED:

The Planning & Urban Design, and Legal departments have provided comments to this report and their comments have been incorporated.

RECOMMENDED BY:

Claudia Storto
City Solicitor and Director of Human Resources

Brian Lee, P. Eng.
Director, Engineering
Services

Arvin Prasad, RPP, MCIP
Commissioner, Development

ATTACHMENTS:

Attachment 'A': Proposed Amendments to By-law 2011-232
Attachment 'B': Proposed Schedule "A" to By-law 2011-232
Attachment 'C': Proposed Schedule "B" to By-law 2011-232
Attachment 'D': Proposed Schedule "A" to By-law 2016-84