

## ANAYLSIS AND ACTIONS

### **Jurisdictional Authorities**

The waste management sector consists of public and private companies providing services and facilities to support garbage disposal, hazardous waste management, recyclables diversion, composting, hauling, and landfilling. Many of these facilities are regulated by the Province under the Environmental Protection and Enhancement Act (EPEA). Landfills, hazardous waste management facilities, facilities for processing hazardous recyclables, compost facilities, and storage sites are all subject to various levels of regulatory oversight including requirements for approvals, registrations or notifications with the Province. Landfills, hazardous waste management facilities, and waste management storage sites are also all subject to the Municipal Government Act, Subdivision and Development Regulation, which establishes a prohibited use setback area adjacent to these types of waste management facilities. Some kinds of recyclable materials, such as tires, paint and paint containers, oil, and beverage containers, are specifically regulated by the Province. However, as a general rule, recyclable material is not regulated through the same approvals process as facilities that store waste.

Further review of jurisdictional authorities and the risks associated with poor operational practices at waste management storage sites highlighted that all of the identified risks fall under the purview of existing legislation or authority, and the risk of fire was determined to be the primary risk associated with waste management storage sites.

Administration has assessed that mitigation of risks is best managed by focusing The City's efforts on utilizing existing controls exercised through the Alberta Fire Code and Calgary's Land Use Bylaw, and by not taking on new roles for municipal oversight or establishment of municipal operational best practices, but encouraging a coordinated provincial regulatory approach. The City will utilize the Alberta Fire Code as the key mechanism to mitigate fire risks from poor operations through enhanced inspections to oversee stockpile content, stockpile height, and separation distances.

### **Site Identification and Implementation of the Subdivision and Development Regulation**

After further consideration of the risks and incidents that have taken place to date, Administration determined that there are facilities that do not fall under the scope of waste management storage sites, but present similar risks related to operational practices. Accordingly, the range of facilities considered for this report was expanded to include both storage sites and non-regulated material recyclers that don't fall under existing provincial regulations.

Waste management storage sites are subject to the Subdivision and Development Regulation (SDR) under the Municipal Government Act (MGA) and have a 300 metre setback area in which food, residential, school, and hospital uses are prohibited. There is no setback for non-regulated material recyclers.

Through this work, a lack of communication between Alberta Environment and Parks (AEP) and The City with respect to the approval of new sites was discovered. AEP does not require proof of municipal approvals to endorse a new site and there were no processes in place for AEP to



notify The City of a new facility or for The City to notify AEP of an application for a new site. This resulted in The City not being aware of new waste management storage sites that had been recognized by AEP and unable to fulfill legislative obligations to implement the SDR.

The following actions have been taken to address this problem:

- Engaged with AEP to create a comprehensive list of waste storage sites recognized by the Province.
- Established and implemented a referral standard operating procedure (SOP) and contacts between The City and AEP, where both parties have agreed to notify each other of new applications for waste management facilities. Two additional sites were identified based on the SOP.
- Updated City of Calgary internal mapping and site warning information to ensure staff can identify waste management storage sites and implement the SDR.
- Created new application intake processes for land use, development permit, change of use, and tenancy change applications to help identify activities that are subject to the SDR.

Attachment 1 of this report shows the eight waste management storage sites and four non-regulated recyclers identified to-date. Going forward The City will focus on remedial actions related to these sites.

### **Compliance Inspections**

Administration has determined that the key mitigation strategy within our existing authority is the execution of Alberta Fire Safety Code compliance inspections on a higher-frequency basis to support business in ensuring operations are meeting the Alberta Fire Safety Code requirements. Identified waste management storage sites and non-regulated material recyclers have been categorized as requiring Risk Based Inspections as part of Calgary Fire Department's (CFD) Community Risk Reduction Strategy. This will generate an annual inspection for each business, thereby ensuring more timely reviews of operations contributing to materials' stockpile content, height, and separation. CFD will also coordinate with AEP, development permit inspections, and include Environmental & Safety Management staff as necessary to ensure a comprehensive, single review for each site.

Businesses receive a formal inspection report and support from CFD if they have any questions or concerns. CFD's first priority is life safety and compliance with the Safety Codes through education and information.

No additional costs are required for increased inspections of the currently identified waste management storage sites and non-regulated recyclers. Fire inspection fees are collected as part of the business license process, and thus already included as a service if the business is licensed. If a business is not licensed, the annual fire inspection fee of \$108+GST would apply.

Administration has communicated these changes to inspection practices and provided an update on this report to impacted business owners, contacting them by phone and providing a subsequent mail-out.

**City Control on the Location of New Waste Management Storage Sites**

The SDR setback areas have a direct impact on The City's land use and development strategies. The approval of each new waste management storage site creates a setback area that prohibits specified uses and can be restrictive to development and business activity. This may impact The City's ability to implement the Municipal Development Plan's goals for community evolution, growth and change.

As part of this work, it was discovered that planning application approvals for the existing waste management storage sites have been approved under several different uses in the Land Use Bylaw. This has created an inconsistent approach for this type of waste management facility.

Moving forward, new development applications for waste management storage sites will be appropriately recommended under Bylaw 1P2007 as a 'Waste Disposal and Treatment Facility'. This use can only be implemented through the Special Purpose – City and Regional Infrastructure District, or a Direct Control District which requires Council review and approval through a public hearing. This will allow City Council and Administration to ensure that new waste management facilities are appropriately located and legislated setbacks are applied. Additional training initiatives will be carried out to ensure staff are aware of the new practice.

**Best Practices Review**

Administration conducted a best practice review to better understand how other provincial jurisdictions regulate waste management storage sites. The majority of provincial authorities require proof of municipal planning and development approvals as an application submission requirement. Currently, this is not an AEP requirement for the submission of notification for waste management storage sites.

Regulations can generally be categorized into operating requirements and development standards. Operating plans often include information on material lists, logbooks, emergency response plans, odour control, and maintenance programs. Development standards often include site suitability reports, surface finishing material standards to prevent leachate and soil/water contamination, proximity to water bodies and flood zones, and separation distances from active transfer areas to on-site buildings and the site parameter.

In the Alberta context, operational requirements are governed by AEP. The City's analysis on operational requirements will be incorporated into the Alberta Urban Municipalities Association (AUMA) work (see below).

**Regional Coordination**

The Calgary Metropolitan Region Board (CMRB) has the opportunity to potentially include a waste and recycling service plan. While the CMRB planned to convene working groups for waste and recycling in Q2 2019, the timelines have been delayed. The scope of the service plans is dependent on the interests of the municipalities and may provide The City of Calgary the future opportunity to address waste management storage sites at a regional level. Continuing to advocate for such an approach with other members of the CMRB would be advisable.



Regional engagement occurred through the Intermunicipal Committees (IMCs) of Rocky View County and Foothills County, as well as through the respective Administrations. Early discussions have shown that the Counties are experiencing similar issues with definition, identification, and approval of sites and the absence of regulations to govern their operations.

### **Advocacy for Improved Provincial Oversight**

The Alberta Fire Code regulates stockpile content, stockpile height, and separation distances, but is inadequate to deal with operational and environmental practices that fall outside the code, licensing, and land use bylaws.

To address the regulatory gap that requires a coordinated Provincial response, The City brought forward an AUMA resolution in September focused on three areas for improvement:

1. Develop the operational guidelines and management practices for the approval and operation of waste management storage sites;
2. Clarify the classification of sites; and
3. Clarify the roles and authorities of municipalities and the provincial government, to improve public safety and environmental performance.

The AUMA assembly passed the resolution with 86.9% in favour. The City will now engage with AUMA staff and other municipalities to move this issue forward with the Government of Alberta.

### **Financial Liability Risks**

These storage and recycling facility lands are not generally owned by The City but are instead owned and operated by private parties who bear the majority of the liability for these sites. Furthermore, there are provisions under both the MGA and Environmental Protection and Enhancement Act that limit municipal legal liability for the condition of lands on The City's tax arrears list. Accordingly, Administration considers that the greatest financial risks posed by these sites are the additional resources that may be required to address emergencies and enforcement measures.