

Subject: Site Alteration By-law Update

File Number: ACS2024-SI-CCR-0019

Report to Agriculture and Rural Affairs Committee on 3 October 2024

and Council 16 October 2024

Submitted on August 29, 2024 by Will McDonald, Director, Climate Change and Resiliency, Strategic Initiatives Department

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Ward: Citywide

Objet : Mise à jour du *Règlement sur les modifications d'emplacements*

Dossier : ACS2024-SI-CCR-0019

Rapport au Comité de l'agriculture et des affaires rurales

le 3 octobre 2024

et au Conseil le 16 octobre 2024

Soumis le 29 août 2024 par Will McDonald, Directeur, Services des changements climatiques et de la résilience, Direction générale des initiatives stratégiques

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Quartier : À l'échelle de la ville

REPORT RECOMMENDATION(S)

That the Agriculture and Rural Affairs Committee recommend Council approve:

- 1. the proposed amendments to the Site Alteration By-law 2018-164, attached as Document 1.**
- 2. that the General Manager, Strategic Initiatives, and the City Solicitor be authorized to make the approved amendments and bring forward the by-law to Council for enactment.**

RECOMMANDATION(S) DU RAPPORT

Que le Comité de l'agriculture et des affaires rurales recommande Conseil:

1. **d'approuver les propositions de modification du *Règlement sur les modifications d'emplacements* (n° 2018-164), telles que décrites dans le document 1 ci-joint.**
2. **de déléguer à la directrice générale, Direction générale des initiatives stratégiques, et à l'avocat général de la Ville le pouvoir d'effectuer les changements approuvés et de présenter le règlement au Conseil en vue de son adoption.**

BACKGROUND

Council originally approved the Site Alteration By-law in spring 2018, with a direction that staff conduct a review and report back on its implementation and any recommended improvements. Staff presented their report on the by-law review to the Agriculture and Rural Affairs Committee on November 30, 2023 and to Council on December 6, 2023. The report [ACS2023-PRE-EDP-0041](#) recommended changes to the by-law's provisions for drainage, environmental protection and notification, as well as several administrative updates. Committee and Council directed staff to make further changes to the by-law, undertake consultation, and bring the revised by-law back for final approval of the wording. This report presents an overview of the consultation and the revised draft by-law for final approval.

DISCUSSION

The [Site Alteration By-law](#) enables the City to regulate activities such as placing or dumping fill, removing topsoil, clearing or stripping vegetation and altering the grade of land. In general, all lands within the City of Ottawa are subject to the by-law, except for lands that are already regulated by a conservation authority (e.g., floodplains, rivers and creeks, or certain wetlands). The by-law is intended to establish basic rules and practices to avoid impacts to neighbours and the environment. In most cases, residents do not need the City's approval before beginning site alteration, but they must follow the rules in the by-law.

Administrative updates are needed to reflect changes to the Official Plan, other related by-laws and the City's organizational structure. Other changes are being recommended to clarify the by-law's intent and improve its function. These changes, including the

revisions as directed by Committee and Council in December 2023, are shown in Document 1 and summarized below:

- References to specific Official Plan designations, policies and schedules will be updated to reflect the new Official Plan;
- References to the City's tree by-laws will be updated to reflect the enactment of the new consolidated Tree Protection By-law in January 2021;
- References to City departments and General Managers will be updated to reflect corporate restructurings that have occurred since 2018;
- Drainage provisions and related definitions will be refined to focus on surface drainage and areas with approved drainage patterns;
- Notification will no longer be required for projects that are not subject to a *Planning Act* application (e.g., pool installations and other landscaping projects);
- Where notification is required for work on sites subject to a *Planning Act* application, the Ward Councillor will also be notified;
- The limits of Schedule B, which shows the area within which the by-law's natural environment protections apply, will be adjusted to include lands approximately 1 kilometre from the urban boundary and urban expansion areas included in the Official Plan; and,
- Language around agricultural exemptions will be clarified to ensure that normal farm practices are not restricted.

Staff are proposing two additional changes to the by-law in this report, to recognize the creation of the Strategic Initiatives department in April 2024 and to simplify the language in the agricultural exemption to Section 11 (natural environment protections) for greater clarity.

FINANCIAL IMPLICATIONS

There are no direct financial implications.

LEGAL IMPLICATIONS

There are no legal impediments to implementing the report recommendations.

COMMENTS BY THE WARD COUNCILLOR(S)

Councillor Darouze provided the following comment: I would like to thank staff for taking the time to go back and engage with the community ahead of this report returning to committee and council and taking the time to engage with rural councillors as well.

CONSULTATION

Four information sessions were organized in collaboration with rural Councillors in March and April 2024. The sessions were held in person in Greely (Ward 20), North Gower (Ward 21) and Navan (Wards 1 and 19). An online session was held for residents of West Carleton (Ward 5). Staff provided a presentation on the by-law review's findings and the proposed changes as modified by Committee and Council at each session, answered questions from residents, and received their comments and feedback.

Following the rural sessions, a Citywide consultation was launched in mid-May using the City's Engage Ottawa webpage. The page provided an overview of the by-law review's findings and the proposed changes, and invited residents to provide feedback via a survey. Stakeholders who had been involved in the development of the by-law and in its review were notified when the Engage Ottawa page was launched, and when the survey deadline was extended to June 7.

In total, 18 people attended the rural information sessions and 15 people completed the online survey. The Greater Ottawa Home Builders' Association also submitted written feedback on the proposed changes. A summary of the feedback received is presented in Document 2. Overall, feedback on the proposed changes was mixed, with some residents expressing support while others were opposed for various reasons. Much of the feedback received indicated that residents are generally unfamiliar with the by-law, its application to date, and its limitations.

The Greater Ottawa Home Builders Association requested the following specific changes:

- That the provisions regulating changes to subsurface drainage and groundwater be retained, to prevent perceived impacts of private hardscaping on Planning approvals
- That an appeal system be introduced for the General Manager's decisions (or non-decisions) under the by-law

Staff do not support these changes. While the City recognizes that excessive hardscaping can lead to stormwater management issues, those issues are being addressed through other mechanisms. The revisions to the drainage provisions are being recommended by City staff with experience and expertise in these matters, and have no impact on requirements imposed under the Planning Act. With regard to their

second request, the Site Alteration By-law (along with many other existing by-laws) is enacted under the Municipal Act, which does not establish or envision an appeal process for decisions made by duly authorized municipal officials responsible for by-law enforcement, other than through the provincial court system.

Staff are not recommending any changes to the proposed amendments based on the consultation, except for the simplification of language in Section 11 to further clarify that site alteration incidental to a normal farm practice is exempt.

ACCESSIBILITY IMPACTS

There are no accessibility impacts. The revised by-law and associated information will be published on Ottawa.ca in accessible formats.

ASSET MANAGEMENT IMPLICATIONS

There are no asset management implications.

CLIMATE IMPLICATIONS

The Site Alteration By-law establishes basic rules intended to avoid or reduce climate impacts that can result from site alteration activities. It provides opportunities for the City to address improper site alterations that impact Ottawa's environmental health and climate resilience.

DELEGATION OF AUTHORITY IMPLICATIONS

The Site Alteration By-law identifies two General Managers and their designated staff as having authority for the administration, implementation, and enforcement of the by-law. The proposed by-law revisions include updates to reflect organizational changes in the responsible departments, as well as the creation of a new department, ensuring that this authority rests with the appropriate General Managers.

ECONOMIC IMPLICATIONS

There are no economic implications.

ENVIRONMENTAL IMPLICATIONS

The Site Alteration By-law establishes basic rules intended to avoid or reduce negative environmental impacts that can result from site alteration activities. It provides protection to significant natural features identified in the Official Plan, in the urban and near-urban area. The by-law also enables the City to issue stop work orders and require

corrective actions where necessary to address environmental impacts resulting from improper site alteration.

RISK MANAGEMENT IMPLICATIONS

There are no risk management implications.

RURAL IMPLICATIONS

The Site Alteration By-law has been in effect for over five years and has not resulted in negative impacts to rural residents. The extent of the natural environment protections are in most cases being reduced by the proposed revisions, meaning that many rural properties that are currently subject to those protections will no longer be subject to them once the changes take effect. The exemptions to those protections remain, such that most normal rural activities will be able to continue without requiring prior City approval. The changes to the agricultural exemptions should clarify that this by-law is not intended to restrict normal farm practices, as indeed it legally cannot, and which is not the City's intention.

TERM OF COUNCIL PRIORITIES

The changes to the by-law do not directly support Council's strategic objectives for 2023-2026, but they do contribute to the long-term goals of liveability, sustainability, and resilience by maintaining the City's ability to regulate site alteration activities that could negatively impact drainage, agricultural productivity, or the natural environment.

SUPPORTING DOCUMENTATION

Document 1 – revised by-law showing proposed updates.

Document 2 – summary of feedback received.

DISPOSITION

Natural Systems staff will work with Legal Services and supporting staff to bring forward the approved by-law for enactment by Council, and will work with staff in By-law Services and other relevant departments to update the set fines, templates and processes, as well as internal and external information sources including Ottawa.ca.

Document 2 – Summary of Feedback Received

Consultations held:

- Four information sessions were held in collaboration with the City of Ottawa's rural ward Councillors – Ward 1 Orléans East-Cumberland, Ward 5 West Carleton-March, Ward 19 Orléans South-Navan, Ward 20 Osgoode, and Ward 21 Rideau-Jock. A total of 18 people attended those sessions.
- Through the online survey, we received feedback from 15 participants.

Summary of feedback:

- In general, feedback received at the rural information sessions indicated that many people were unfamiliar with the by-law and its application.
- Several questions were received about whether the by-law would impact farm operations or rural residents in their daily activities, and how people would know if they needed the City's approval for site alteration.

Proposed changes to [Schedule B](#):

- Regarding the proposed changes, two respondents wanted the by-law's environmental protections limited to the urban boundary, while five individuals raised concerns on reducing the buffer from 2 km beyond the urban boundary to 1 km. This concern was also raised during one of the rural information sessions.

Proposed changes to the drainage section of the by-law:

- Several survey respondents stated that there was a need for regulation of groundwater flow and better protection for subsurface and groundwater, including well water.
- The Greater Ottawa Home Builders' Association (GOHBA) written feedback recommends that the City retain the regulation of groundwater and subsurface drainage in the Site Alteration by-law.

Proposed changes to the notification section of the by-law:

- Some survey respondents raised concerns that without a notification process for projects that are not subject to a Planning Act application, there would be unintended property damage, such as flooding.

- Several survey respondents emphasized the need for those completing major site alterations and clearing of land to notify their neighbours, as well as City Staff and the local Councillor.
- Overall, survey feedback emphasized the need for effective enforcement and clear procedures to protect neighbouring properties.

Notifying the ward Councillor for site alteration not subject to a Planning Action application:

- Feedback varied, but the overall sentiment leans towards reserving notifications for significant alterations, rather than involving the Councillors in routine property changes.

Additionally, GOHBA would like to see an opportunity for an appeal on any decision made by the General Manager on site alterations within 30 metres of a natural feature and on issuing of Notices of Violation or Stop Work orders. GOHBA suggests that the right of appeal be made to committee (Planning and Housing Committee and Agriculture and Rural Affairs), with subsequent appeal to the Ontario Land Tribunal.