

Ditch Alteration Policy

Approved By:

Approval Date:

Effective Date:

Revision Approved By:

Revision/Review Date:

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POLICY STATEMENT

This policy documents the circumstances and requirements for the City to permit property owner-initiated alteration of drainage ditches and drainage courses.

PURPOSE

The purpose of this policy is to ensure property owners do not alter drainage ditches without approval from the City of Ottawa. The policy outlines the two options that are available to property owners who wish to legally alter a ditch. Adherence to this policy ensures system wide storm drainage conveyance capacities and level of service are maintained.

APPLICATION

Subject to this policy are requests received by the City from property owners for alteration to ditch systems in both the urban and rural areas, and ditches located in the right-of-way, that are conveying stormwater from private and public lands. This policy excludes drainage courses covered under the Provincial Drainage Act.

POLICY REQUIREMENTS

Ditches and drainage courses exist in Ottawa's urban and rural areas, and continue to be constructed, as a viable means of conveying stormwater from both public and private properties. These drainage courses provide a critical outlet for public and private surface drainage, roadway sub-grade drainage, temporary storage, as well as foundation drainage. Ditches are climate change resilient infrastructure, providing a reduction in downstream peak flow rates, improved water quality in surface water bodies, storage of surface run-off that promotes infiltration, replenishing the groundwater table and contributing to the protection of fish habitat.

The intent of this policy is to provide property owners with two options to request a ditch alteration: through a Local Improvement process, or by means of a Development Agreement. Due to the complex and systemic nature of these systems, both options require completion of an engineering study to assess the impact of the alteration on the overall performance of the stormwater system. By property owners following the Local Improvement or Development Agreement processes, the City will be able to meet its obligations to property owners and prevent unauthorized ditch alterations, while protecting City Infrastructure.

PROJECT CONSIDERATIONS

Some candidate sites may not be suitable for a ditch alteration, based on the outcome of the detailed engineering study, due to a variety of technical, economical, and administrative factors. This policy applies to ditches in all areas within the City of Ottawa boundaries, both rural and urban areas.

POLICY COVERAGE

This policy can be superseded by Federal, Provincial, or Conservation Authority legislation.

Infrastructure Covered by the Policy

The following infrastructure is covered by this policy:

1. Ditch systems located in urban and rural areas in the City.
2. Ditches located in registered and unregistered easements and conveying storm water from public and private lands.

Infrastructure Not Covered by the Policy

The provisions of this by-law do not apply where:

1. Ditch Alterations in regard to Municipal Drains, or any other proposed works, which are governed by the Drainage Act.
2. Ditch Alterations that have permanent water and are considered as having fish habitat, using criteria regulated by the local Conservation Authorities and the Department of Fisheries and Oceans.
3. Ditch Alterations located in or near Provincially Significant Wetlands, or any other areas regulated by the local Conservation Authorities.
4. Ditch Alteration is undertaken by the City or a local board of the City.

DITCH ALTERATION PRINCIPLES AND PROCESSES

Key Principles

Key to defining this policy and the associated processes for permitting ditch alteration are the following key principles:

- Ditches are a critical and integral component of the City's overall drainage network.
- Ditches are viable, and acceptable, surface conveyance systems that perform crucial stormwater management functions. Preservation of these functions, and mitigation of potential cumulative detrimental effects brought about by discontinuous or ad-hoc practices, define the overall objectives to be addressed.
- Ditches manage stormwater from a quality and quantity perspective by filtering stormwater run-off, reducing peak flows, and providing groundwater recharge and storage.
- Ditch conveyance is an integral part of a broad, integrated surface drainage system. Ditch alteration, without proper consideration for the broader system, can create negative impacts along private property frontages and to the overall integrated system.
- In the absence of a catchment-wide engineering approach, the implementation of random ditch alteration can translate to detrimental effects to both public and private property by reducing infrastructure life expectancies, uncontrolled surface flooding, basement flooding, and overall network conveyance and capacity issues.
- Provincial requirements may include an Environmental Compliance Approval (ECA) from the Ministry of the Environment, Conservation and Parks (MECP).
- Based on the location of the proposed ditch alteration, an additional permit may be required from the applicable Conservation Authority or Authorities.

GENERAL PROCESS REQUIREMENTS

Property owners have two options to request a ditch alteration.

- Option 1 follows the Local Improvement process, and
- Option 2 follows the Development Agreement process.

Requests for ditch alterations for aesthetic reasons will not be considered and as such those applications will not be given further consideration.

DITCH ALTERATION PROJECT IMPLEMENTATION

Ditch alteration may proceed once the following criteria have been satisfied:

- There is an accepted engineering assessment for the drainage area addressing the required content and recommending that ditch alteration can proceed in a way that satisfies the conveyance criteria for the system, and without detrimentally impacting the area.
- The City has determined that the ditch alteration will not interfere with utilities, and any other City capital works or maintenance work planned for the area.
- Designs for the ditch alterations will be in conformance with City of Ottawa Sewer Design Guidelines, City standards and specifications, all as amended.

Additional Requirements for Option 1 – Local Improvement

- The City has received sufficient support through a Local Improvement Petition from the required percentage of effected property owners; the petition has fulfilled the provincial legislative criteria and has been certified by the City Clerk; and the ditch alteration project has received approval from Committee and Council to proceed.
- For a successful Local Improvement process, the City will undertake all designs, design circulations, co-ordination with other agencies and required approvals, including a Ministry of the Environment, Conservation and Parks (MECP) ECA, as may be required. Project tendering and construction processes required to install the ditch alteration will be managed and administered by the City. Respective costs will be recovered from the benefiting property owners as per the Local Improvement Policy and respective provincial legislation, as amended.

Additional Requirements for Option 2 – Development Agreement

- The applicant has completed an engineering study and obtained all required designs, coordinated with other agencies, and obtained the required approvals, including those from the Ministry of the Environment, Conservation and Parks

(MECP) ECA, as may be required. Project tendering and construction processes required to install the ditch alteration is the responsibility of the applicant.

- The City will convene the agreement to the satisfaction of the City and the proponent, and ensure that the works are constructed exactly as proposed.

FINANCING PRINCIPLES

Option 1 – Local Improvement

The cost for work undertaken through a Local Improvement under the provisions of this policy will follow the process described in the City's Local Improvement Policy, and respective provincial legislation, as amended. The terms of payment will be defined based on the approach taken.

Option 2 – Development Agreement

Costs for work undertaken through a Development Agreement under the provisions of this policy will be the responsibility of the applicant. The details of the costs and terms of payment will be defined based on the approach taken.

RESPONSIBILITIES

Refer to Appendix A for Roles and Responsibilities.

MONITORING/CONTRAVENTIONS

Provincial legislation states that “No person shall interfere with a part of a municipal public utility for which there is no municipal public utility easement unless, (a) the municipality consents; or (b) the interference is authorized by a court order under this section.” (Municipal Act, 2001, S.O. 2001, c. 25, Section 91(4) Interference with utilities) and “no person shall use, operate, establish, alter, extend or replace new or existing sewage works except under and in accordance with an environmental compliance approval.” (Ontario Water Resources Act, R.S.O. 1990, c. O.40, Section 53(1) Approval, sewage works). Similarly, municipal by-laws do not permit the alteration, filling or building on any watercourse (constructed as a public storm sewer) without first obtaining approval from the General Manager.

The Ditch Alteration Policy and By-law Amendments, prevent altering or unauthorized filling of a ditch and actions are subject to enforcement, respecting of circumstance. With the adoption of this updated Ditch Alteration Policy, it is not the intention of the City to retroactively enforce non-compliant ditch alterations, rather the approach for enforcement would change with the implementation of this updated Ditch Alteration Policy, as follows:

DITCH ALTERATION – BEFORE ADOPTION OF THE POLICY

An unauthorized ditch alteration, installed before the adoption of this updated Ditch Alteration Policy, will be managed through a reported issues approach. To begin, a written notice will be issued to the property owner notifying them that the alteration will need to be removed upon the City identifying, at its discretion, either of the following:

- i. a potential detrimental effect to City owned infrastructure
- ii. unsafe or failed conditions
- iii. the installation as a contributing cause to drainage issues

If no remedial action is taken by the property owner by a given date, the City reserves the right to reinstate the infrastructure, without recourse.

DITCH ALTERATION – AFTER ADOPTION OF THE POLICY

Non-compliant or unauthorized ditch alterations that are installed after adoption of this updated Ditch Alteration Policy will be enforced in accordance with the Use and Care of Roads By-law and/or Site Alteration By-law.

REFERENCES

FEDERAL

- Canadian Fisheries Act

PROVINCIAL

- Conservation Authorities
- Municipal Act, 2001
- Ontario Water Resources Act
- Environmental Protection Act
- Ministry of the Environment, Conservation, and Parks (MECP)

MUNICIPAL

- Official Plan
- Infrastructure Master Plan
- Stormwater Asset Management Plan
- Transportation Master Plan
- By-laws
 - Site Alteration By-law (2018-164)
 - Zoning By-law (2008-250 Consolidation)
 - Use and Care of Roads By-law (2003-498)

- Private Approach By-law (2003-447)
- Sewer Connection By-law (2003-513)
- Policies
 - Local Improvement
 - City of Ottawa Sewer Design Guidelines
 - City Standards

DEFINITIONS

These definitions are included solely for the purpose of understanding the Ditch Alteration Policy.

“catchment area” means the extent of the area served by a ditch drainage system.

“City” means the municipal corporation of the City of Ottawa or the geographic area of the City of Ottawa as the context requires.

“City forces” means employees of the City of Ottawa or its designated representatives.

“conveyance” means the positive grade, connectivity, and capacity requirements to transmit storm water from one area to another.

“Ditch” means a linear depression, swale, or open channel, all of which convey storm water runoff from public or private properties in the same manner as does a piped sewer system.

“ditch alteration” means the addition of earthworks, landscaping works and pipes to a ditch system.

“easement” means the legal right for City staff to enter onto private property to maintain and operate storm water infrastructure as defined under provisions of Municipal Act 2001.

“Environmental Compliance Approval (ECA)” means the Ministry of the Environment, Conservation and Parks document indicating the Ministry’s approval, under delegated authority to the City, to construct a storm sewer system.

“foundation drainage” means groundwater collected by the weeping tiles installed around the footings of a dwelling, and discharged to the surface or connected to a piped stormwater sewer system.

“General Manager” means the General Manager of Planning, Real Estate & Economic Development Department, or Infrastructure & Water Services Department, or an authorized representative of either.

“logical limits” means the extent of a pipe system necessary to achieve the best economic or physical benefit to the area.

“network” means the entire linked system, whether road, sewer, or water, that identifies the connection of one part of the system to another.

“Official Plan” means the upper, lower, or single tier municipal council or planning board's policies on how land in the community should be used.

“right-of-way” means the publicly owned property typically used for the location of roads, sewers, watermains, sidewalks and walkways.

“roadside ditch” means the open storm water system located on both sides of the roadway and which is used for the collection and conveyance of storm water.

“rural area” means the area outside the Public Service Area as defined by the City of Ottawa’s Official Plan.

“storm drainage system” means a storm water conveyance system of ditches and storm sewers.

“storm water quality” means the condition of the surface water from a sediment or pollutant loading perspective that requires addressing prior to discharge to a receiving watercourse.

“storm water quantity” means the volume of surface water required to be collected and conveyed by a ditch system or a piped sewer system.

“sub-grade drainage” means the groundwater collected by the granular roadbed structure.

“urban area” means the public service area defined in the City of Ottawa’s Official Plan, and it also refers to development density as found in estate lot subdivisions and rural Villages.

“Works” means any physical change to the land and is synonymous with Site Alteration.

ENQUIRIES

For more information on this policy, contact:

Local Improvement: LI-AL@ottawa.ca

Development Review: DRENGRural/EPAINGRural@ottawa.ca

APPENDICES

Appendix A – Roles and Responsibilities