

Site Alteration By-law

A by-law of the City of Ottawa to protect its agricultural resources and natural heritage features from negative impacts caused by site alteration, and to prevent drainage issues and public nuisances resulting from site alteration activities.

The Council of the City of Ottawa enacts as follows:

SHORT TITLE

1. This by-law may be referred to as the "Site Alteration By-law".

DEFINITIONS

2. In this by-law,

"Agricultural Operation" means an agricultural, aquacultural, horticultural or silvicultural operation that is carried on in the expectation of gain or reward;

"Agricultural Resource Area" means lands that have been designated as such on Schedules A or B in the City of Ottawa Official Plan, as amended from time to time;

"City" means the municipal corporation of the City of Ottawa or the geographic area of the City of Ottawa as the context requires;

"Corrective Work Order" means an order issued pursuant to this by-law to do work to correct a contravention;

"Critical Root Zone" or "CRZ" means the area around a tree that is established as being 10 centimetres from the trunk for every centimetre of trunk diameter at breast height (DBH) and is calculated as $DBH \times 10$ cm, where DBH is measured:

- (a) at a height of one hundred and twenty (120) cm for trees of fifteen (15) cm diameter or greater, or
- (b) at a height of thirty (30) cm for trees of less than fifteen (15) cm diameter;

"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 Policy" means the Ditch Alteration Policy which was approved by City Council on July 9, 2008, or as amended;

"Drain" means a culvert, rain water leader, sewer, swale, Ditch, or storm sewer, all of which collect and carry rain water, ground water, surface water or subsurface water,

Commented [MA1]: This draft by-law was developed in consultation with project stakeholders, using text from the City's existing Drainage By-law, Urban Tree Conservation By-law, and other by-laws where necessary (e.g., to update the interpretation and enforcement sections). New sections and definitions were added to address the key issues associated with site alteration in Ottawa.

Commented [MA2]: Unless otherwise indicated, most of these definitions have been adapted from other City by-laws such as the Drainage By-law or the Urban Tree Conservation By-law. Some were created specifically for this by-law.

Commented [MA3]: This definition comes from the provincial Farming and Food Production Protection Act.

Commented [MA4]: For example, the critical root zone of a tree measuring 50 cm diameter at breast height would be $10 \times 50 = 500$ cm (or 5 metres) from the trunk of that tree.

For a small tree, where the DBH is less than 15 cm, you should measure the tree's diameter again at a height of 30 cm and calculate the critical root zone using that diameter.

Commented [MA5]: This definition has been modified from the current Drainage By-law, to specifically exclude works created under the provincial Drainage Act.

and includes appurtenances such as manholes and catch basins, but does not include any drainage works created under the Drainage Act;

“Drainage” means the movement of water across a Property, whether by way of the natural surface or subsurface characteristics of the Property or by an artificial method;

Commented [MA6]: This definition was adapted from the City of Kingston’s Site Alteration By-law.

“Environmental Impact Statement” means a study completed in accordance with the City’s Environmental Impact Statement Guidelines, to identify the limits of any Natural Heritage Features and functions on or adjacent to a proposed project site, assess the potential environmental impacts of the project, and recommend ways to avoid or reduce Negative Impacts to the features or functions;

Commented [MA7]: http://documents.ottawa.ca/sites/documents.ottawa.ca/files/documents/eis_guidelines2015_en.pdf

“Fill” means any type of material deposited or placed on lands and includes, but is not limited to soil, stone, concrete, asphalt, rubbish, garbage, turf, dirt, earth, aggregate, and binder either singly or in combination, whether originating on the site or elsewhere, used or capable of being used to raise, lower, or in any other way affect or alter the contours of ground; not all such materials may be acceptable for placement (fill) on a site (see Schedule “A”);

Commented [MA8]: This definition was adapted from the City of Kingston’s Site Alteration By-law.

“General Manager” means either the General Manager of the Public Works & Environmental Services Department or the General Manager of the Planning, Infrastructure and Economic Development Department of the City of Ottawa, or both, as specified in this by-law, or his or her designate;

“Good Forestry Practices” means the proper implementation of harvest, renewal and maintenance activities known to be appropriate for the forest and environmental conditions under which they are applied and that minimize detriments to forest values including significant ecosystems, important fish and wildlife habitat, soil and water quality and quantity, forest productivity and health and aesthetics and recreational opportunities of the landscape;

Commented [MA9]: This definition is from the provincial Forestry Act.

“Good Repair” includes the provision of facilities, the making of additions or alterations or the taking of any other action that may be required to ensure that a Ditch or Drain remains clear of any Obstruction;

“Landscaping” means the installation and maintenance of any combination of the following elements:

Commented [MA10]: This definition was adapted from the City’s Zoning By-law.

- (a) vegetation including trees, shrubs, hedges, ornamental plantings, grass or other ground cover, or
- (b) non-vegetative hardscaping materials such as brick, pavers, rock, stone, concrete, tile and wood, excluding monolithic concrete and asphalt and any area used for parking, but including such features as a walkway, patio, deck or in-ground pool, or
- (c) architectural elements such as decorative fencing, walls, sculptures, gazebos, trellises, planters, benches and other similar features

"Last Known Address" means the address that appears on the last revised assessment roll of the City;

"Municipal Trees and Natural Areas Protection By-law" means By-law Number 2006-279 of the City of Ottawa, respecting the protection and maintenance of trees and natural areas on municipal property, as amended from time to time;

Commented [MA11]: <http://ottawa.ca/en/municipal-trees-and-natural-areas-protection-law-no-2006-279>

"Natural Environment Area" means lands that have been designated as such on Schedules A or B in the City of Ottawa Official Plan, as amended from time to time;

"Natural Heritage Feature" means any component of the City's natural heritage system, identified in accordance with the policies in Section 2.4.2 of the Official Plan, as amended from time to time;

"Natural Heritage System Overlay" refers to Schedules L1-L3 in the City of Ottawa Official Plan, as amended from time to time;

"Negative Impact" means degradation that threatens the health and integrity of the natural features or ecological functions for which an area is identified;

Commented [MA12]: This was adapted from the Provincial Policy Statement; it refers to impacts that could result in the permanent reduction or loss of a natural area's significance, not to minor or temporary effects that can be corrected.

"Normal Farm Practice" means a practice that,

- (a) is conducted in a manner consistent with proper and acceptable customs and standards as established and followed by similar agricultural operations under similar circumstances, or
- (b) makes use of innovative technology in a manner consistent with proper advanced farm management practices;

Commented [MA13]: This definition is from the Farming and Food Production Protection Act.

"Obstruct" means any act or inaction that has the effect of preventing or hindering the proper functioning of a Ditch or Drain including, but not limited to the placement, dumping or removal of Fill or Topsoil, or altering the grade of the land by any means including, but not limited to, Landscaping, pavement, interlock, fencing, a swimming pool, deck, shed or retaining wall;

"Obstruction" means any object which prevents or hinders proper functioning of a Ditch or Drain including, but not limited to Fill, Topsoil, rocks, gravel, Landscaping, pavement, interlock, fencing, a swimming pool, deck, shed or retaining wall;

"Occupant" means any Person or persons over the age of 18 years in possession of Property;

"Owner" means the registered owner of the Property or the agent of the registered Owner duly authorized by the registered Owner in writing;

"Person" means an individual, association or corporation and their successors and assigns;

"Property" includes a building or structure or part of a building or structure, and includes the lands and premises appurtenant thereto and all mobile homes, mobile buildings, mobile structures, outbuildings, fences and erections thereon whether heretofore or hereafter erected, and includes vacant Property;

"Rural Natural Features Area" means lands that have been designated as such on Schedule A in the City of Ottawa Official Plan, as amended from time to time;

"Site Alteration" means activities such as the removal of Topsoil from land, the placement or dumping of Fill on land, the alteration of the grade of land, or excavation by any means, including the clearing or stripping of vegetation from the land, the compaction of soil or the creation of impervious surfaces, or any combination of these activities, and "Alter" or "Alteration" has a corresponding meaning;

Commented [MA14]: This definition is similar to that used by many other municipalities in their Site Alteration By-laws.

"Soil" means any material commonly known as earth, topsoil, loam, subsoil, clay, sand or gravel;

"Stop Work Order" means an order issued pursuant to this by-law to stop the Site Alteration;

"Topsoil" means those horizons in a soil profile, commonly known as the "O" and the "A" horizons, containing organic material and includes deposits of partially decomposed organic matter such as peat;

"Urban Natural Features" means lands that have been designated as such on Schedule B in the City of Ottawa Official Plan, as amended from time to time;

"Urban Tree Conservation By-law" means By-law Number 2009-200 of the City of Ottawa, respecting the protection of trees on private property in the urban area, as amended from time to time;

Commented [MA15]: http://documents.ottawa.ca/sites/documents.ottawa.ca/files/documents/tree_bylaw_en.pdf

"Watercourse" means a natural or artificial open channel, swale or depression in which water flows continuously or intermittently, and includes a Drain or a Ditch;

"Works" means any physical change to the land, and is synonymous with Site Alteration.

INTERPRETATION

3. (1) This by-law includes the Schedules annexed hereto and the Schedules are hereby declared to form part of this by-law.

(2) This by-law is gender-neutral and, accordingly, any reference to one gender includes the other.

(3) References to items in the plural include the singular, as applicable, unless used with a number modifying the term.

(4) Dimensions specified in metric units shall be the official dimensions. Imperial dimensions contained in parentheses are provided as a convenience only.

(5) In this by-law, the word "metre" shall be represented by the abbreviation "m", the word "centimeter" shall be represented by the abbreviation "cm", the word "feet" shall be represented by the abbreviation "ft", and the word "inches" shall be represented by the abbreviation "in".

(6) It is declared that if any section, subsection or part thereof be declared by any Court of Law to be bad, illegal or ultra vires, such section, subsection, part or parts shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.

(7) Headings are inserted for convenience of reference purposes only, form no part of this by-law and shall not affect in any way the meaning or interpretation of the provisions of this by-law.

(8) The by-law does not apply so as to prevent a farm, meeting the definition of "Agricultural Operation" under the *Farming and Food Production Protection Act*, 1998, S.O. 1998, c.1, from carrying out a Normal Farm Practice.

(9) Unless specified otherwise below, this by-law applies to all lands within the geographical limits of the City of Ottawa.

PROHIBITIONS – GENERAL

4. No Person shall perform, permit, or cause to be performed or permitted any Site Alteration except in accordance with the provisions of this by-law, including the standard practices listed in Schedule "A".
5. No Person shall carry out any Site Alteration unless it is done by, at the request of, or with the consent of the Owner of the Property on which the Site Alteration takes place.

PRESERVATION OF DRAINAGE

6. (1) No Person, Owner or Occupant shall, or shall permit any Person to, Alter or Obstruct, or cause or contribute to the Obstruction of a Ditch, Drain, or lot grade such that the flow of storm, rain, ground, surface or subsurface water is increased, impaired or deviates from the existing drainage pattern or approved grading and drainage pattern for the surrounding area.

(2) For the purposes of subsection (1), "deviates" does not include a corrective measure which in the sole opinion of the General Manager of Public Works and Environmental Services, improves the Property's drainage without impacting the existing drainage pattern or approved grading and drainage pattern for the surrounding area.

(3) Where an Owner or Occupant wishes to Alter a roadside Ditch system or a Ditch that conveys stormwater from City lands via a registered or unregistered easement, an application to Alter a Ditch shall be made to the General Manager of Public Works and Environmental Services, in accordance with the process described in the City's Ditch Alteration Policy.

(4) In determining whether to approve the application referred to in this section, the General Manager of Public Works and Environmental Services shall consider the criteria described in Sections 5, 6, 7 and 8 of the Ditch Alteration Policy, as amended from time to time.

7. No Owner or Occupant shall fail to keep a Drain in Good Repair.
8. No Owner or Occupant shall allow a Drain to fall into disrepair such that the flow of storm, rain, ground, surface or subsurface water is increased, impaired or deviates from the existing drainage pattern or approved grading and drainage pattern for the surrounding area.

PROTECTION OF AGRICULTURAL RESOURCES

9. (1) No Person shall perform, permit, or cause to be performed or permitted any Topsoil removal or other Site Alteration that would be detrimental to the agricultural productivity of lands in a designated Agricultural Resource Area.

(2) Despite subsection (1):

- a) Site Alteration that is incidental to a Normal Farm Practice carried out by an Agricultural Operation is permitted, including, but not limited to, sod-farming, greenhouse operations, nurseries, field and forage crop or livestock production, but not including the removal of Topsoil or peat for sale, exchange or other disposition;
- b) Site Alteration associated with the implementation of a development that has been approved by the City under either the Planning Act or the Building Code

Commented [MA16]: This section has been adapted from the City's existing Drainage By-law. Some provisions in this section have been edited for clarity.

Commented [MA17]: <http://ottawa.ca/en/residents/rural-residents/roads-ditches-and-drains#ditch-alteration-policy>

Commented [MA18]: This section of the by-law only applies to lands designated as Agricultural Resource Area in the Official Plan, which are intended primarily for farming and farm-related uses. They are shown on Schedules A and B of the Official Plan.

The provisions in this section would replace the various Topsoil Preservation By-laws of the former municipalities, which were primarily intended to ensure that productive farm soils remain suitable for farming.

Exceptions are provided for normal activities that would be expected to occur in these areas: farming, implementation of any approved developments, and property maintenance.

- Act is permitted, provided that all such Works proceed in accordance with the other provisions of this by-law and any applicable conditions of approval; and,
- c) Site Alteration associated with the maintenance of services, including septic systems or wells, the installation and maintenance of fences, or the landscaping and maintenance of yards is permitted, provided that all such Works are conducted in accordance with the other provisions of this by-law.

PROTECTION OF NATURAL ENVIRONMENT

10. (1) No Person shall perform, permit, or cause to be performed or permitted any Site Alteration in or within 30 metres of any designated Natural Environment Area, Urban Natural Features, or Rural Natural Features Area, or any Natural Heritage Feature identified on the City's Natural Heritage System Overlay, without the prior written approval of the General Manager of Planning, Infrastructure & Economic Development.
- (2) The General Manager may:
 - a) Require an Environmental Impact Statement to be prepared in accordance with the City's Environmental Impact Statement Guidelines, to confirm the extent of any Natural Heritage Features and associated ecological functions on or adjacent to the subject site and to address the potential Negative Impacts of the proposed Site Alteration on those features and functions;
 - b) Impose conditions, above and beyond the standard practices contained within Schedule A of this by-law, for the protection of any significant Natural Heritage Features and associated ecological functions identified on or adjacent to the subject site;
 - c) Refuse to approve the Site Alteration, in whole or in part, where such Alteration would result in Negative Impacts to the Natural Heritage Feature or its ecological functions.
- (3) Despite subsection (1):
 - a) Site Alteration associated with the implementation of a development that has been approved by the City under either the Planning Act or the Building Code Act is permitted, provided that all such Works proceed in accordance with the other provisions of this by-law and any applicable conditions of approval;
 - b) Site Alteration associated with the maintenance of services, including septic systems or wells, the installation and maintenance of fences, or the landscaping and maintenance of yards is permitted, provided that all such Works are conducted in accordance with the other provisions of this by-law;
 - c) Site Alteration, including the removal of trees and other vegetation, that is incidental to forest management activities conducted in accordance with Good Forestry Practices is permitted, subject to the Urban Tree Conservation By-law or Municipal Trees and Natural Areas Protection By-law where those by-laws apply;
 - d) Site Alteration that is incidental to a Normal Farm Practice carried out by an Agricultural Operation on lands adjacent to a designated Natural Environment

Commented [MA19]: This section of the by-law enables the City to regulate site alteration in or adjacent to significant natural areas, in accordance with provincial and municipal policies.

It applies to several types of natural area designated on either Schedule [A](#) or [B](#) of the Official Plan, or to other identified natural features shown on the Natural Heritage System Overlay (Schedules [L1](#), [L2](#) and [L3](#) of the Official Plan).

Exceptions are provided below for activities such as implementation of approved developments, property maintenance, woodlot management, and farming.

The need for an Environmental Impact Statement will be determined on a case-by-case basis in accordance with the City's [Guidelines](#), which allow staff to waive this requirement for minor projects that are unlikely to cause negative impacts.

This by-law does not prevent residents from cutting individual trees or from removing woodlots that have not been identified in the City's Official Plan as significant natural features. Tree cutting is controlled under the [Urban Tree Conservation By-law](#) for privately owned trees in the urban and future urban expansion areas, and under the [Municipal Trees and Natural Areas Protection By-law](#) for City-owned trees.

Area, Urban Natural Features, or Rural Natural Features Area, or any Natural Heritage Feature identified on the City's Natural Heritage System Overlay, is permitted; and,

- e) In the case of Natural Heritage Features that are located in a designated Agricultural Resource Area or General Rural Area, the removal of trees and other vegetation by an Agricultural Operation in order to return lands to agricultural production in accordance with Normal Farm Practice is permitted.

11. (1) No Person shall knowingly furnish false or incorrect information for the purposes of obtaining the General Manager's approval.

- (2) The General Manager's approval may be revoked if,
 - a) it was issued on mistaken, misleading, false or incorrect information;
 - b) it was issued in error;
 - c) the Owner or agent requests, in writing, that it be revoked; or,
 - d) the Owner or agent fails to comply with the conditions under which the approval was issued.

TREE PROTECTION

12. (1) No Person shall perform, permit, or cause to be performed or permitted any Site Alteration within the Critical Root Zone of any tree that is protected under either the Urban Tree Conservation By-law or the Municipal Trees and Natural Areas Protection By-law, without the approval of the General Manager in the form of a Tree Permit or equivalent written authorization under the appropriate tree by-law.

- (2) Despite subsection (1):
 - a) Site Alteration that is incidental to a Normal Farm Practice carried out by an Agricultural Operation is permitted; and,
 - b) Site Alteration associated with minor landscaping or property maintenance activities, such as the planting of trees or shrubs, the top-dressing of lawns, or the creation and maintenance of garden beds, but not including the installation of an in-ground pool, is permitted.

POWERS OF ENTRY FOR INSPECTION

13. (1) The General Manager may enter upon Property at any reasonable time for the purpose of carrying out an inspection to ascertain whether the provisions of this by-law are complied with and to enforce and carry into effect the provisions of this by-law.

- (2) No Person shall hinder or obstruct or attempt to hinder or obstruct the General Manager in the discharge of duties under this by-law.

14. (1) For the purposes of an inspection under Section 13 the General Manager may,

Commented [MA20]: This section of the by-law complements the City's existing tree by-laws. No site alteration should occur within the critical root zone of any trees protected under those by-laws, without authorization under the tree by-law. Once that authorization is obtained, this section ceases to apply. Exceptions are provided for farming and minor landscaping activities.

Commented [MA21]: Sections 13-23 are common to most City by-laws, and are derived from the provisions of Part XIV of the Municipal Act.

The determination of whether a violation has occurred will be made in consultation with expert City staff from various departments, depending on the nature of the complaint (e.g., drainage issues, impacts to agricultural soils, natural areas, etc.).

- a) require the production for inspection of documents or items that may be relevant to the inspection;
- b) inspect and remove documents or items relevant to the inspection for the purpose of making copies or extracts;
- c) require information from any Person concerning a matter related to the inspection; and
- d) alone, or in conjunction with a Person possessing special or expert knowledge, make examinations or take tests or photographs necessary for the purposes of the inspection.

(2) A receipt shall be provided for any document or item removed under subsection (1) and the document or item shall be promptly returned after the copies or extracts are made.

(3) Copies of or extracts from documents and items removed under subsection (1) and certified as being true copies of or extracts from the originals by the Person who made them are admissible in evidence to the same extent as, and have the same evidentiary value as, the originals.

NOTICE OF VIOLATION

15. (1) When Site Alteration occurs that is not pursuant to the requirements of this by-law, the General Manager shall send a notice of violation, by registered mail or direct delivery of the notice by hand, to the Owner or Occupant's Last Known Address, requiring the Owner or Occupant to conform to the requirements of this by-law, and the notice shall specify the time allowed for compliance.

(2) No Person shall fail to comply with a notice sent pursuant to subsection (1).

ORDER TO DISCONTINUE ACTIVITY (STOP WORK ORDER)

16. (1) If the General Manager is satisfied that a contravention of this by-law has occurred, the City may make an order requiring the Person who contravened this by-law, or who caused or permitted the contravention, or the Owner or Occupant of the land on which the contravention occurred, to discontinue the contravening activity.

(2) The order shall set out reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred and the date by which there must be compliance with the order.

CORRECTIVE WORK ORDER

17. (1) If the General Manager is satisfied that a contravention of this by-law has occurred, the City may make an order requiring the Person who contravened this by-law, or who caused or permitted the contravention, or the Owner or Occupant of

the land on which the contravention occurred, to do work to correct the contravention to the satisfaction of the General Manager, which may include:

- a) the removal of Fill;
- b) the filling in of any excavations;
- c) the elimination of any hazard or potential hazard resulting from the alteration of the grade of land or the placing, dumping or removal of Fill and the restoration of the land to a condition of safety and/or its original environmental condition;
- d) the restoration of the land to its former condition prior to the site alteration;
- e) the undertaking of any further investigations as required to identify the extent of the breach of this By-law and to correct the contravention, as deemed appropriate by the General Manager.

(2) The order shall set out reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred, the work to be done, and the date by which the work must be done.

SERVICE OF ORDERS

18. Orders issued under Sections 16 and 17 may be served personally by the City or sent by registered mail to the Person contravening the by-law, and may be posted in a conspicuous place on the Property where the contravention occurred.
- a) Where an order under this by-law is served personally by the City, it shall be deemed to have been served on the date of delivery to the Person or persons named;
 - b) The posting of an order on the affected lands shall be deemed to be sufficient service of the order on the Person or corporation to whom the order is directed on the date it is posted;
 - c) Where an order issued under the by-law is sent by registered mail, it shall be sent to the Last Known Address of,
 - i. The Owner; or,
 - ii. The Person or company that committed the contravention;and shall be deemed to have been served on the date of the next workday following the date of mailing.

DEFAULT AND REMEDIAL ACTION

19. (1) Where a notice or order has been sent by the City pursuant to Sections 15(1) or 17(1) and the requirements of the notice or order have not been complied with, the General Manager may cause the work to be done and the total cost of the work shall be at the expense of the Owner or Occupant.

(2) For the purposes of subsection (1), the City may enter upon Property at any reasonable time.

Commented [MA22]: The Municipal Act establishes the process, fees, and interest rates cited in this section.

(3) The total cost of such work shall include an administration fee in the amount of 15% of the cost of the work.

(4) The costs of the work to be done pursuant to subsection (1) and all costs related to the administration, enforcement and the establishment, acquisition and replacement of capital assets related to this by-law, may be recovered from the Owner or Occupant by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes.

(5) The costs include interest calculated at a rate of 15%, calculated for the period commencing on the day the City incurs the costs and ending on the day the costs, including the interest, are paid in full.

(6) The amount of the costs, including interest, constitutes a lien on the land upon the registration in the proper land registry office of a notice of lien, in respect of all costs that are payable at the time the notice is registered plus interest accrued at the rate established under subsection (5) to the date the payment is made.

(7) Upon receiving payment of all costs payable plus interest accrued to the date of payment, the City shall register a discharge of the lien in the proper land registry office at the expense of the Owner or Occupant.

OFFENCES AND PENALTIES

20. Every Person who contravenes any of the provisions of this by-law is guilty of an offence and the offence is hereby designated as a continuing offence as provided for in subsection 429(2)(a) of the *Municipal Act, 2001*, S.O 2001, c.25, as amended.
21. Every Person who is convicted of an offence under this by-law is liable to a minimum fine not exceeding \$500 and to a maximum fine not exceeding \$100,000, pursuant to subsections 429(1) and (3) of the *Municipal Act, 2001*.
22. A Person who is convicted of an offence under this by-law is liable, for each day or part of a day that the offence continues, to a minimum fine of \$500 and a maximum fine of \$10,000, and the total of all daily fines for the offence is not limited to \$100,000 as provided for in subsection 429(3), paragraph 2, of the *Municipal Act, 2001*.
23. When a Person has been convicted of an offence under this by-law the Superior Court of Justice or any court of competent jurisdiction thereafter, may, in addition to any other penalty imposed on the Person convicted, issue an order prohibiting the continuation or repetition of the offence or the doing of any act or thing by the Person convicted directed toward the continuation or repetition of the offence, and requiring the Person convicted to correct the contravention in the manner and within the period that the court considers appropriate.

APPLICATION OF OTHER LAWS AND APPROVALS

24. No Person shall fail to comply with any federal or provincial law, or other municipal by-law or policy, while undertaking Site Alteration.

Commented [MA23]: Several other laws and regulations may apply to site alteration activities, depending on the context, and they must also be complied with.

STATUTORY EXEMPTIONS

25. The provisions of this by-law do not apply where,

- a) a regulation made under Section 28 of the *Conservation Authorities Act* respecting the placing or dumping of fill, removal of topsoil or alteration of the grade of land is in effect;
- b) Site Alteration is undertaken by the City or a local board of the City;
- c) Site Alteration is undertaken by a Conservation Authority or a Ministry of the Provincial or Federal Government;
- d) Site Alteration is undertaken by a transmitter or distributor, as those terms are defined in section 2 of the *Electricity Act, 1998*, as amended, for the purpose of constructing or maintaining a transmission system or distribution system, as defined in the *Electricity Act, 1998*, as amended;
- e) Site Alteration occurs as a condition of approval imposed after December 31, 2002 with respect to a site plan, plan of subdivision, a consent, or a development permit under sections 41, 51, 53 or 70.2 respectively of the *Planning Act*, as amended, or as a requirement of an agreement entered into under those sections;
- f) Topsoil removal is an incidental part of a normal agricultural practice including such removal as an incidental part of sod-farming, greenhouse operations and nurseries for horticultural products, but not including the removal of Topsoil for sale, exchange or other disposition;
- g) Site Alteration occurs on land described in a licence for a pit or quarry or a permit for a wayside pit or a wayside quarry issued under the *Aggregate Resources Act*, as amended;
- h) Site Alteration is undertaken in order to lawfully establish and operate or enlarge any pit or quarry on land:
 - i. that has not been designated under the *Aggregate Resources Act*, as amended, or a predecessor of that Act; and
 - ii. on which a pit or quarry is a permitted land use under a by-law passed under Section 34 of the *Planning Act*;
- i) Site Alteration is undertaken as an incidental part of drain construction under the *Drainage Act* or the *Tile Drainage Act*;
- j) Site Alteration is required as part of the lawful use, operation, establishment, alteration, enlargement, or extension of a waste management system or waste disposal site within the meaning of Part V Waste Management of the *Environmental Protection Act*, as amended, or a private waste disposal site or waste management system that is exempted by regulations for that Part; or,

Commented [MA24]: These are situations where the by-law cannot be applied due to legal restrictions under the Municipal Act or other provincial laws. The broader exceptions provided under the other sections of this by-law are at the City's discretion.

- k) Site Alteration is required as part of the lawful construction, extension, alteration, maintenance, or operation of works under Section 26 of the *Public Transportation and Highway Improvement Act*, as amended.

REPEALS

26. The following by-laws of the City of Ottawa and the old municipalities are repealed:

- (1) By-law Number 15 of 1982 of the old Corporation of the Township of Cumberland entitled "A By-law to protect and conserve topsoil within the Township of Cumberland"; and,
- (2) By-law Number 164 of 1981 of the old Corporation of the City of Gloucester entitled "A By-law to protect and conserve topsoil within the City of Gloucester"; and,
- (3) By-law Number 45 of 1986 of the old Corporation of the Township of Goulbourn entitled "Being a by-law of the Corporation of the Township of Goulbourn to regulate or prohibit the removal of topsoil"; and,
- (4) By-law Number 111 of 1991 of the old Corporation of the City of Kanata entitled "Being a by-law of the Corporation of the City of Kanata to regulate or prohibit the removal of topsoil"; and,
- (5) By-law Number 112 of 1984 of the old Corporation of the City of Nepean entitled "Being a by-law of The Corporation of the City of Nepean to regulate or prohibit the removal of topsoil"; and,
- (6) By-law Number 79 of 1981 of the old Corporation of the Township of Osgoode entitled "The Topsoil Preservation By-law"; and,
- (7) By-law Number 39 of 1978 of the old Corporation of the Township of Rideau entitled "A By-law to preserve and protect topsoil within the Municipality"; and,
- (8) By-law Number 43 of 1986 of the old Corporation of the Township of West Carleton entitled "Being a By-law to protect, conserve and regulate the removal of topsoil in the Township of West Carleton"; and,
- (9) By-law Number 2007-398 of the City of Ottawa, entitled "Drainage By-law," being a by-law of the City of Ottawa to prohibit the obstruction or alteration of drains, private drains and the grade of land, and regulating the maintenance and repair of drains, private drains, and the grade of land."

Commented [MA25]: All of the former municipalities' topsoil protection by-laws, and the current Drainage By-law, will be replaced by the Site Alteration By-law once it is approved by Council.

Schedule A – Standard Practices for Site Alteration

1. (1) Where Site Alteration is proposed to occur within 30 m of the Property boundary, the Owner or their agent shall notify the Owner or Occupant of the adjacent private Property by means of verbal communication or a written or posted notice prior to commencing any Works, except in the case of:

- a) minor landscaping or property maintenance activities, such as the planting of trees or shrubs, the top-dressing of lawns, or the creation and maintenance of garden beds, but not including the installation of an in-ground pool; or,
- b) Site Alteration that is incidental to a Normal Farm Practice carried out by an Agricultural Operation; or,
- c) Site Alteration that is incidental to forest management in accordance with Good Forestry Practices; or,
- d) urgent events, such as flooding or failures of private services.

(2) For Site Alteration on a Property that is subject to a Planning Act application, notification shall also be provided in writing to the City's lead planner for the file.

(3) Notification referred to in parts (1) and (2) above shall include:

- a) a clear description of the nature and purpose of the Site Alteration,
- b) the location and extent of the area to be affected,
- c) the anticipated duration of the work, and,
- d) contact information for the Person or company responsible for carrying out the Site Alteration.

2. The following practices shall apply to all Site Alteration activities, except in the case of Site Alteration associated with the implementation of a development that has been approved by the City under either the Planning Act or the Building Code Act, which shall proceed in accordance with any applicable conditions of approval.

(1) Sediment and erosion control measures shall be provided where necessary to prevent impacts to Natural Heritage Features, Watercourses or other surface water features, adjacent Properties, or City infrastructure. These measures shall be installed prior to the commencement of Site Alteration, and shall be maintained in good working order until the site has stabilized, after which any such measures that are not permanent shall be removed in a manner that minimizes disturbance to the site.

(2) Fencing or other protective measures shall be provided where necessary to clearly delimit the work area and prevent impacts to adjacent trees or other vegetation, Natural Heritage Features, Properties, or City infrastructure. Such measures shall be installed prior to the commencement of Site Alteration, and shall be maintained in good working order until the completion of the Site Alteration, after which any such measures that are not permanent shall be removed in a manner that minimizes disturbance to the site.

Commented [MA26]: This Schedule is intended to establish reasonable requirements that will avoid or reduce potential impacts to neighbours or the environment. Other municipalities with site alteration by-laws impose similar rules through their permit process.

Commented [MA27]: Under this rule, most urban and village residents would need to notify their immediate neighbours before installing a pool or carrying out other major types of landscaping. Notification would not be required for normal farm activities or woodlot management, or when responding to an urgent problem such as flooding. This does not mean that neighbours can object to the site alteration; it just ensures that they know what is going on, how long it will take, and who to contact if they have concerns about the work.

Commented [MA28]: City planners often receive inquiries or complaints about work being done on sites during the planning process. This rule ensures that they are better informed to respond to such calls. They can also pass the notification along to other interested parties such as local community associations or Councillors where appropriate.

Commented [MA29]: This includes activities like farming, woodlot management, landscaping, and property maintenance.

Commented [MA30]: Approved developments will follow site-specific rules imposed through the Planning Act or Building Code Act process. Failure to comply with those conditions of approval would be a contravention of the by-law.

Commented [MA31]: Most urban and village residents just need to make sure that they keep any sediment on their property. Vegetated buffer strips (lawn) will work in most cases. Work near water may require silt fencing, straw bale check dams, or other such measures.

Commented [MA32]: Fencing off or otherwise marking the work area reduces the risk of accidental damage to trees, etc., around the site. It may not be necessary in all cases (e.g., for projects in the middle of vacant fields).

- (3) All Fill to be dumped or placed shall be clean and free of trash, rubbish, glass, liquid or toxic chemicals, hazardous waste, contamination, or other deleterious material.
- (4) If archaeological resources are discovered or identified during the placement of any Fill, the removal of any Topsoil, or the alteration of the grade of the land, all activity on the site shall immediately cease and both the General Manager of Planning, Infrastructure & Economic Development and the Ministry of Tourism, Culture and Sport should be contacted.

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