



## **Municipality of the District of East Hants By-Law Respecting Lot Grading and Drainage**

### **1 SHORT TITLE**

1.1 This By-Law shall be known and may be cited as the Lot Grading By-Law.

### **2 DEFINITIONS**

2.1 In this By-Law,

- (a) "Applicant" is an individual or entity applying for a permit under the provisions of this By-law or the Subdivision By-law;
- (b) "Applicant Undertaking for Completion" is a written undertaking by the Applicant with respect to completion of construction requirements identified in the Deficiency Report;
- (c) "Approved Subdivision Grading Plan" means a grading plan filed after the effective date of this By-law, by an applicant for final approval of a subdivision, which is approved by the Municipality and illustrates lot grade elevations common to the entire area of land in a subdivision;
- (d) "Architect" is a registered or licensed member, in good standing, of the Nova Scotia Association of Architects;
- (e) "Building Permit" means a building permit issued pursuant to the Building Bylaw authorizing construction;
- (f) "Council" means the Council of the Municipality of East Hants;
- (g) "Deficiency Report" means a report prepared by a Nova Scotia Land Surveyor, a Landscape Architect, an Architect, or a Professional Engineer describing the uncompleted construction requirements, as related to the grading and drainage works shown on the Lot Grading Plan;
- (h) "Development" includes any erection, construction, alteration, placement, location, replacement or relocation of, or addition to a structure or a change or alteration in the use of land or structures;
- (i) "Drainage" means a system of natural or artificial drains;
- (j) "Dwelling" means a building, or portion thereof, occupied as a home or residence by one or more persons, containing one or more dwelling units

and shall not include a hotel, motel, travel trailer or other recreational vehicle, or apartment;

- (k)** "Grading" means the alteration of land levels, including the addition or removal of topsoil or other material of any kind;
- (l)** "Landscape Architect" is a registered or licensed member, in good standing, of the Canadian Society of Landscape Architects or approved by the Atlantic Provinces Association of Landscape Architects;
- (m)** "Municipal standards" means the latest edition of standards approved by a resolution of East Hants Municipal Council and containing the objectives, design requirements, information requirements, and administrative procedures with respect to this By-law;
- (n)** "Lot Grading Certificate" means a plan and/or report, prepared in accordance with Municipal standards, depicting the recorded grading and drainage works on a lot of land as proposed on the Lot Grading Plan;
- (o)** "Lot Grading Permit" means a permit issued under the provisions of the Lot Grading By-law;
- (p)** "Lot Grading Plan" means a plan of final grading of land for an individual lot of land prepared in accordance with Municipal standards and under the provisions of the Lot Grading By-law;
- (q)** "Municipality" means Municipality of East Hants;
- (r)** "Nova Scotia Land Surveyor" is a registered or licensed member, in good standing, of the Association of Nova Scotia Land Surveyors of Nova Scotia;
- (s)** "Professional Engineer" is a registered or licensed member, in good standing, of the Association of Professional Engineers of Nova Scotia;
- (t)** "Sanitary sewer system" means a system which is publicly owned and maintained and which consists of pipes or conduits receiving or carrying water-borne wastes and includes any trunk sewers, pumping stations and treatment plants;
- (u)** "Subdivision" means the division of any area of land into two or more parcels, and includes a re-subdivision and a consolidation of two or more parcel;
- (v)** "Water system" means a system which is owned and maintained by a public water utility consisting of pipes and equipment carrying and distributing potable water for domestic and/or fire protection purposes and includes any pumping stations and reservoirs.

### **3 APPLICATION AND ADMINISTRATION**

- 3.1** This By-law shall apply to, and a Lot Grading Permit is required for, the development of all lots for which a Building Permit is required, and which are located within any serviceable boundary where a sanitary sewer system and water system or a sanitary sewer system only is provided anywhere in the Municipality.
- 3.2** Notwithstanding Section 3.1, this By-law does not apply to the development of lots where a building permit is required for the following developments:
- (a)** a renovation of an existing building within the original footprint; or
  - (b)** an addition to a single or two unit dwelling, which shall be constructed such that it will not impede, restrict or obstruct stormwater runoff in the side or rear yards nor adjacent lots; or
  - (c)** an accessory structure, which shall be constructed such that it will not impede, restrict or obstruct stormwater runoff in the side or rear yards nor adjacent lots, or
  - (d)** new building construction where lot grading is regulated by a Development Agreement.
- 3.3** It is the responsibility of the Applicant in the exceptions of Section of 3.2 above to ensure the maintenance of all lot grades which were established prior to this By-law or by a Lot Grading Permit issued under this By-law. Where in the opinion of the Municipality the lot grading has not been maintained in accordance with previously established lot grades or the Lot Grading Permit the applicant shall submit a lot grading plan prepared by a Nova Scotia Land Surveyor, an Architect, a Landscape Architect or a Professional Engineer.

### **4 GENERAL REQUIREMENTS**

- 4.1** Nothing in this By-law shall exempt any person from complying with any other by-law or requirement of the Municipality, or from obtaining any license, permission, permit, authority or approval required by any other by-law of the Municipality or statute or regulation of the Province of Nova Scotia, or the Government of Canada.
- 4.2** Where the provisions of this By-law conflict with those of any other by-law of the Municipality or any statute or regulation of the Province of Nova Scotia, the higher or more stringent requirements shall prevail.

### **5 LOT GRADING PERMIT APPLICATION PROCEDURE**

- 5.1** No lot to which this By-law applies shall be developed unless a Lot Grading Permit has been issued by the Municipality.

- 5.2** An application for a Lot Grading Permit shall be made at the time of application for a building permit. The application for a Lot Grading Permit shall include the following:
- (a)** A Lot Grading Plan, prepared in accordance with Municipal standards, by qualified individuals as follows:
    - (i)** where an Approved Subdivision Grading Plan exists, and the grading plans and drainage plans and patterns depicted on the Approved Subdivision Grading Plan are to be preserved, the Lot Grading Plan is to be prepared by a Nova Scotia Land Surveyor, an Architect, a Landscape Architect, or a Professional Engineer; or
    - (ii)** where an Approved Subdivision Grading Plan does not exist, or the grading plans and drainage plans and patterns depicted on the Approved Subdivision Grading Plan are to be varied, the Lot Grading Plan is to be prepared by a Professional Engineer.
- 5.3** When a Lot Grading Plan is prepared for a lot shown on the grading plans in an Approved Subdivision Grading Plan:
- (a)** the qualified individual who prepares the Lot Grading Plan is to confirm in writing that the grading plans and drainage patterns in the area of the subject individual lot are consistent with the applicable grading plan listed in an Approved Subdivision Grading Plan relative to the manner that they affect the subject individual lot; or
  - (b)** if the grading plans and drainage patterns in the area of the subject lot are not consistent with the applicable grading plan listed in an Approved Subdivision Grading Plan relative to the manner that they affect the subject individual lot, then the Lot Grading Plan shall be prepared in accordance with Section 5.2. (a) (ii).
- 5.4** Where an Approved Subdivision Grading Plan exists, the Lot Grading Plan shall be consistent with the said Approved Subdivision Grading Plan, subject to variations approved by the Municipality.
- 5.5** A Lot Grading Plan is deemed to be approved when it meets the requirements of this By-law and a Lot Grading Permit has been issued by the Municipality.

## **6 OCCUPANCY PERMIT**

- 6.1** A Building Inspector shall withhold an occupancy permit unless:
- (a)** A Lot Grading Certificate is submitted to the Municipality confirming that the lot has been constructed in accordance with the Lot Grading Plan as approved by the Engineer, or the requirements of Section 6.2 of this By-law are met. The Lot Grading Certificate shall be prepared by qualified individuals, as follows:
    - (i)** where variations depicted on the Lot Grading Plan do not exist, the Lot Grading Certificate shall be prepared by a Nova Scotia

Land Surveyor, an Architect, a Landscape Architect, or a Professional Engineer; or

- (ii) where variations depicted on the Lot Grading Plan exist, the Lot Grading Certificate shall be prepared by a Professional Engineer.

**6.2** Notwithstanding Section 6.1, an Occupancy Permit may be issued prior to receipt of a Lot Grading Certificate where the Applicant files the following with the Municipality:

- (a) a Deficiency Report prepared by a Nova Scotia Land Surveyor, an Architect, a Landscape Architect, or a Professional Engineer listing details of the work to be completed and a reasonable expectation of cost; and
- (b) an Applicant Undertaking for Completion stating that the uncompleted work required by the Lot Grading Plan and the Deficiency Report will be completed within a period of nine (9) months, and
- (c) a security deposit in the amount of the expected cost identified in the Deficiency Report in a form acceptable to the Municipality which shall be returned to the applicant on the receipt by the Municipality of a Lot Grading Certificate for the lot, and
- (d) When the applicant fails to present a Lot Grading Certificate within nine (9) months, the Municipality may use the security to bring the lot into compliance with the By-law and the Lot Grading Permit.

**6.3** Where an Occupancy Permit has been issued in accordance with the procedures set out in Section 6.2, and the Applicant fails to complete the work and file a Lot Grading Certificate within the nine (9) month period, the Municipality shall be entitled to undertake the completion of work and all costs incurred in so doing shall be recovered from such security. Where the amount recovered from such security is not sufficient to cover the cost of completing the work, the Applicant shall be responsible to pay the amount of the deficiency to the Municipality immediately upon demand.

## **7 PERMIT FEES**

**7.1** An application for a Lot Grading Permit shall be covered by payment of the prescribed fee for a Building Permit.

## **8 PENALTY**

**8.1** A person who violates any provision of this By-law or any agreement made pursuant to this By-law is guilty of an offence and is liable on summary conviction to a fine of not less than one hundred dollars (\$100) and not exceeding five thousand dollars (\$5000) and in default of payment to imprisonment for a term not exceeding six (6) months and in case of a continuing offence to a further fine not exceeding five hundred dollars (\$500) for each day during which the offence continues and in default of payment to imprisonment for a term not exceeding thirty (30) days.

**9 COMING INTO FORCE**

- 9.1** This By-law shall come into force upon the placement of an advertisement advising the general public of approval of this By-law by the Municipality.

Enacted: April 27, 2006



## MUNICIPALITY OF EAST HANTS

P.O. Box 190, Shubenacadie, Nova Scotia B0N 2H0  
902 758.2715 toll free 1 866 758.2299

fax 902 758.3497

### LOT GRADING CERTIFICATE

Deviation from Design

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Relating to: (a) Lot Grading Plan dated \_\_\_\_\_  
(b) Occupancy Permit Application by \_\_\_\_\_

With respect to the foregoing, I provide herein the following statements:

- (1) That I have performed sufficient site inspections, including a final inspection on \_\_\_\_\_, 20\_\_\_\_, to confirm that the Lot Grading for the subject lots have been substantially constructed in accordance with the above referenced Lot Grading Plan.
- (2) That I have reviewed the design as depicted on the Lot Grading Plan, and confirm that the intent of this design has been met.
- (3) That, based on field measurements taken, substantial deviations from the Lot Grading Plan exist. It is my professional opinion (must be P.Eng.) that the deviations will not significantly affect the performance of the works in meeting the objectives of the Lot Grading By-law. In making this statement, I accept responsibility for the impact of the deviations only and report that I have advised the Designer and the owner of the affected properties in writing, of the deviations. Responsibility for the Lot Grading Plan resides with the Designer. For clarity, the deviations as related to the Community Systems are depicted on the attached copy of the Lot Grading Plan.

\_\_\_\_\_  
Signature

STAMP

Name: \_\_\_\_\_

Date: \_\_\_\_\_



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902 758.2715 toll free 1 866 758.2299

fax 902 758.3497

### LOT GRADING CERTIFICATE

Completed as Designed

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Relating to: (a) Lot Grading Plan dated \_\_\_\_\_  
(b) Occupancy Permit Application by \_\_\_\_\_

With respect to the foregoing, I provide herein the following statements:

- (4) That I have performed sufficient site inspections, including a final inspection on \_\_\_\_\_, 20\_\_\_\_, to confirm that the Lot Grading for the subject lots have been substantially constructed in accordance with the above referenced Lot Grading Plan.
- (5) That I have reviewed the design as depicted on the Lot Grading Plan, and confirm that the intent of this design has been met.
- (6) That, sufficient field measurements have been taken such that I can state that substantive deviations from the Lot Grading Plan do not exist.

\_\_\_\_\_  
Signature

STAMP

Name: \_\_\_\_\_

Date: \_\_\_\_\_