



Subject: *Motion C24(89) and C24(161): Lot Grading and Drainage Unserviced Areas*
To: CAO for Planning Advisory Committee, February 18, 2025
Date Prepared: February 12, 2025
Related Motions: P24(19), C24(89), P24(29), C24(161), PAC24(57), PAC24(65), and C24(342)
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Approved by: John Woodford, Director of Planning and Development

Summary

At their March 2024 meeting, Council passed the following motion regarding lot grading and drainage in un-serviced areas of East Hants.

Motion C24(89) Council authorize staff to prepare a report for Committee regarding instituting a lot grading plan for un-services areas including both subdivisions and single lots.

Staff provided background information and options for Planning Advisory Committee to consider regarding lot grading and drainage in un-serviced areas of the Municipality during the May 2024 PAC meeting. PAC recommended to Council not to proceed with amendments to Bylaw P-1200, Lot Grading and Drainage but during the May Council meeting, Council decided to direct staff to do additional research and passed the following motion:

Motion C24(161) Moved that staff prepare another report on lot grading issues in the unserviced areas including a jurisdictional scan of neighbouring or like-sized municipalities to review their policies.

Staff completed a jurisdictional scan and an options report that was presented to Planning Advisory Committee in September, 2024. As a result of PAC discussions on the report PAC, passed the following motion:

Motion C24(342) *Moved that Staff complete some research for a report outlining what it would look like to empower the Development Officer(s) to have autonomy and leeway to determine when a lot grading certificate is required in serviced and unserved areas.*

Staff have consulted with the Municipal Solicitor and have identified a number of issues PAC should consider.

Financial Impact Statement

There is no immediate fiscal impact to the Municipality for the adoption of this report.

Recommendation

That PAC selects one of the options discussed, and authorize staff to consult with the public about amending the Lot Grading and Drainage Bylaw if option 2 to 6 is selected.

Options

1. *Planning Advisory Committee recommends that Council:*
 - *make no changes to Bylaw P-1200, Lot Grading and Drainage.*

2. *Planning Advisory Committee recommends that Council:*
 - *proceed with amending Bylaw P-1200, Lot Grading and Drainage to require the submission of a lot grading and drainage plan for all lots up to a maximum of 1 hectare (2.5 acres), where no Municipal services are provided; and*
 - *authorize staff to consult with the public on the proposed change.*

3. *Planning Advisory Committee recommends that Council:*
 - *Proceed with amending Bylaw P-1200, Lot Grading and Drainage to require the submission of a lot grading and drainage plan for all lots up to a maximum of 1 hectare (2.5 acres), where no Municipal services are provided and on larger lots where the proposed structure is to be located within 30 m of a property line or condo unit boundary; and*
 - *authorize staff to consult with the public on the proposed change.*

4. *Planning Advisory Committee recommends that Council:*
 - *Proceed with amending Bylaw P-1200, Lot Grading and Drainage to require the submission of a lot grading and drainage plan for all unserviced lots where the proposed structure is to be located within 30 m of a property line or condo unit boundary; and*
 - *authorize staff to consult with the public on the proposed change.*

5. *Planning Advisory Committee recommends that Council:*
 - *Proceed with amending Bylaw P-1200, Lot Grading and Drainage to require a lot grading and drainage plan for all properties in East Hants, no matter the size of the property or location of the structure on the lot; and*
 - *authorize staff to consult with the public on the proposed change.*

6. *Planning Advisory Committee recommends that Council:*
 - *Proceed with amending Bylaw P-1200, Lot Grading and Drainage to require a lot grading and drainage certificate for unserviced lots, for structures located within 30 m of a property line, if a professional engineer has determined that a lot grading plan is required;*
 - *authorize staff to consult with the public on the proposed change.*

Background

At their March 2024 Council meeting, Council passed a motion directing staff to write a report regarding extending Bylaw P-1200, Lot Grading and Drainage to property in the un-serviced areas of East Hants and provide options for Council's consideration.

The purpose of the Lot Grading and Drainage Bylaw is to manage the drainage of water on individual lots, so as not to have a negative impact on the subject property or adjoining lands. The Bylaw was adopted in 2006 and is only applicable to lands located in the GMAs, except Mount Uniacke which has on-site wastewater services.

List of Motions Related to Bylaw the Expansion of the Lot Grading and Drainage Bylaw to Unserviced Lots

For the information of Planning Advisory Committee members, below is a list of all of the motions passed by Council in relation to expanding lot grading requirements to unserviced lots:

- Motion C24(89)** *Council authorize staff to prepare a report for Committee regarding instituting a lot grading plan for un-services areas including both subdivisions and single lots.*
- Motion C24(161)** *Moved that staff prepare another report on lot grading issues in the unserviced areas including a jurisdictional scan of neighbouring or like-sized municipalities to review their policies.*
- Motion C24(342)** *Moved that Staff complete some research for a report outlining what it would look like to empower the Development Officer(s) to have autonomy and leeway to determine when a lot grading certificate is required in serviced and unserviced areas.*

Bylaw P-1200, Lot Grading and Drainage

In East Hants the Lot Grading and Drainage Bylaw applies to all lots for which a building permit is required and which are to be connected to a wastewater system, except in the following situations:

- a) Renovation of an existing building within the original footprint.
- b) For an accessory structure, which is single storey and 55 m² or less.
- c) Or if the development of the site is being regulated by a development agreement which may have alternative requirements.

The Lot Grading and Drainage Bylaw does not apply to lands with on-site services.

East Hants Municipal Standards

Where a lot grading and drainage plan is required in East Hants, the plans must conform with the Municipal standards. Section 6.0 Lot Grading, of the Municipal standards states that the objective of lot grading is to provide for the safe and effective drainage of stormwater while minimizing damage to buildings and property and mitigating effects on adjacent properties and Municipal service systems.

Halifax Regional Municipality

Halifax Regional Municipality has Bylaw L-400, Respecting Lot Grading. The Bylaw applies to the development of all residential lots located within an area where a sanitary sewage system is provided. Halifax, has another grading bylaw, Bylaw G-200, A Bylaw Respecting Grade Alteration, that applies to commercial and industrial lots.

In 2016, Halifax Council adopted a version of the Lot Grading Bylaw that included residential properties in unserviced areas of the Municipality. However, the Bylaw was extremely unpopular and in September of 2016, Council passed a motion for staff to prepare a report to exclude those areas outside the serviceable boundary from the bylaw. The reason for the change was that Bylaw L-400 was creating negative repercussions and financial hardship for small developments in the rural regions of Halifax.

Halifax may revisit Bylaw L-400, Respecting Lot Grading for unserviced areas in the future because of difficulties with developers clear-cutting lots in as-of-right developments, which results in drainage and grading issues for surrounding property owners.

Jurisdictional Scan

As per Council motion C24(161), staff have completed a jurisdictional scan of other municipalities that require lot grading and drainage plans for lots with on-site services. Staff were unable to find any Nova Scotia municipalities where this was a requirement. However, there are some Municipal units across Canada where there is a requirement for a lot grading and drainage plan for lots with on-site services. The regulations vary greatly.

Jurisdiction	Regulations
City of Summerside, PEI	Requires lot grading and drainage plans for all lots. There is no ability to waive the requirement.
Township of Severn, Ontario	Requires lot grading plans for every new building and it doesn't matter how the lot is serviced. There is no ability to waive the requirement based on the size of the lot or setbacks from the property line.
Township of Oro-Medonte, Ontario	Lot grading and drainage applies to Single Detached, Semi-Detached & Townhouse Dwellings, Detached Accessory Buildings and additions to Existing Buildings. Does not apply to lots greater than 0.20 hectares. A lot grading and drainage plan may also be required where the Chief Building Official / Development Engineer identifies that one is required.
Haldimand County, Ontario	Rural lots are required to have lot grading plans that show proposed locations for building envelopes, private sewage disposal system envelopes (plus alternate bed location) and private water supply systems. The regulations are applicable to all lots with less than 25 m of road frontage.
City of Kawartha Lakes, Ontario	Lot grading and drainage applies to all lots within the Municipality. The only way the requirement is waived is if the structure being constructed is 5 times more than the minimum setback distance. As an example, for a large agricultural property.
Township of Tiny, Ontario	The regulations state that the Chief Building Official "may" request a lot grading and drainage plan for lots with onsite services. The decision to request a lot grading plan is made in consultation with the Sewer System Inspector and Director of Public Works. In addition, the Chief Building Official, in consultation with the Director of Public Works or designate, may waive some or all of the requirements for a

	Lot Grading Plan, due to lot size, location, characteristics, or the nature of the proposed construction.
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The lot grading regulations for all of the municipalities reviewed vary greatly and it is hard to draw a direct comparison between what is included in each set of regulations and who is responsible for overseeing the regulations. Staff reviewed whether a lot grading and drainage plan was required for lots with on-site services or if it could be waived in certain circumstances. In all municipalities reviewed, there was a cost to the property owner to have a lot grading plan prepared by a professional.

Motion C24(342)

At their October 2024 meeting, Council passed the following motion:

C24(342) October *Passed that Staff complete some research for a report outlining what it would look like to empower the Development Officer(s) to have autonomy and leeway to determine when a lot grading certificate is required in serviced and unserviced areas*

There are challenges with empowering Development Officers to have the autonomy to determine when a lot grading plan is required. In general, Development Officers do not have the engineering skills necessary to determine when a lot grading and drainage plan should be required for a property. Without a clear set of requirements within the Bylaw itself they would not be comfortable in making such a determination. Further, staff have consulted with the Municipal Solicitor and he has indicated that if the specific requirements are not set out in the bylaw, developers and the general public will not know when lot grading and drainage plans are required. If there are no details of when a lot grading plan is required the bylaw is unenforceable.

Staff are not recommending that PAC proceed with empowering Development Officers to determine when grading and drainage plans are required. Instead, staff recommend that PAC select one of the five (5) options listed in the staff report, as presented to PAC at the September and October 2024 meetings of PAC.

Due to the Development Officers not having the engineering experience necessary to determine if a lot grading and drainage plan is required, an alternative option is to give a professional Engineer the ability to determine if a lot grading and drainage plan is required. I&O has indicated that the Municipal Engineers do not have the capacity to take on this task; therefore, it would be up to a property owner/developer to hire a professional Engineer to make the determination of whether a lot grading and drainage plan would be required for an unserviced lot. Parameters would still need to be added to Bylaw P1200, which would trigger the requirement for an Engineer’s review. Example of a parameter could be that a professional Engineer would need to determine if a lot grading plan was required for any structure that is proposed to be setback less than 30 m from a property line.

CITIZEN ENGAGEMENT

A public information meeting is not required for amendments to Municipal Bylaws that fall under Part VII of the Municipal Government Act. However, if Council decides to move forward with amending Bylaw P-1200, Lot Grading and Drainage, staff can also discuss the proposed changes with the public members who attend the public information meeting for the proposed stormwater management changes to the Subdivision Bylaw.

STRATEGIC ALIGNMENT

Amendments to Bylaw P-1200, Lot Grading and Drainage, aligns with Council Strategic goal to build strong communities by “Ensure[ing] the East Hants official community plan is effective in managing changes in the community, reducing land use conflict and protecting both natural resources and community character.”

LEGISLATIVE AUTHORITY

The Municipality has Legislative Authority to make bylaws, for municipal purposes, respecting (b) the safety and protection of property under Part 7 of the Municipal Government Act.

FINANCIAL CONSIDERATIONS

There is no immediate fiscal impact on the Municipality for the adoption of this report.

Options

There are six alternatives for Council to consider:

1. Make no changes to Bylaw P-1200, Lot Grading and Drainage.
2. Proceed with amending Bylaw P-1200, Lot Grading and Drainage to require the submission of a lot grading and drainage plan for all lots up to a maximum of 1 hectare (2.5 acres), where no Municipal services are provided.
3. Proceed with amending Bylaw P-1200, Lot Grading and Drainage to require the submission of a lot grading and drainage plan for all lots up to a maximum of 1 hectare (2.5 acres), where no Municipal services are provided and on larger lots where the proposed structure is to be located within 30 m of a property line or condo unit boundary.
4. Proceed with amending Bylaw P-1200, Lot Grading and Drainage to require the submission of a lot grading and drainage plan for all unserviced lots where the proposed structure is to be located within 30 m of a property line or condo unit boundary.
5. Proceed with amending Bylaw P-1200, Lot Grading and Drainage to require a lot grading and drainage plan for all properties in East Hants, no matter the size of the property or location of the structure on the lot.
6. Proceed with amending Bylaw P-1200, Lot Grading and Drainage to require a lot grading and drainage plan for unserviced lots, for structures located 30 m or less from a property line, if a professional Engineer had determined that a lot grading plan is required.

Attachments

Appendix A - Bylaw P-1200, Lot Grading and Drainage Bylaw