

Lot Grading and Drainage: Unserviced Areas

Planning Advisory Committee

February 18, 2025

Planning & Development Department



EAST HANTS

Background

- 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 unserviced areas.***

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

MotionC24(342)

- There are challenges with empowering Development Officers to have the autonomy to determine when a lot grading plan is required.
- In general, a Development Officer does 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 or are not required.
- If the details of when a lot grading and drainage plan is required is not set out in the Bylaw the by becomes 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 6 options listed in the staff report and as presented to PAC at the September and October 2024 meetings of PAC.

MotionC24(342)

- 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.
- 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.

Bylaw P1200 - Lot Grading and Drainage

- 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.

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.

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	<p>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.</p> <p>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.</p>

Halifax

- Halifax 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 Halifax Council decided 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 again because of difficulties with developers clear-cutting lots in as-of-right developments, which results in drainage and grading issues for surrounding property owners.

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.

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 plan 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; and***
 - ***Authorize staff to consult with the public on the proposed change.***