



MUNICIPALITY OF EAST HANTS
BYLAW NUMBER P-1200-1 LOT GRADING AND DRAINAGE
A BYLAW IN AMENDMENT TO ~~THE BYLAW P-1200~~ LOT GRADING AND DRAINAGE
BYLAW

WHEREAS Part VII, Section 172(1) of the Municipal Government Act, R.S.N.S. 1998, c. 18 enables the Council of a Municipality to make bylaws, for municipal purposes, respecting (b) the safety and protection of property.

BE IT ENACTED by the Council of the Municipality of East Hants, as follows:

1. SHORT TITLE

1.1. This bylaw shall be known as and may be cited as the Lot Grading Bylaw.

2. DEFINITIONS

2.1 In this Bylaw:

~~(a) "Applicant" is an individual or entity applying for a permit under the provisions of this Bylaw.~~

~~(a) "Accessory Structure" means a subordinate structure on the same lot as the main structure devoted exclusively to an accessory use.~~

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(b) "~~Applicant-Owner~~ Undertaking for Completion" is a written undertaking by the ~~Applicant-Owner~~ with respect to completion of construction requirements identified in the Deficiency Report.

(c) "**Building Permit**" means a building permit issued pursuant to Bylaw P-900, Building Bylaw, authorizing construction.

(d) "**Council**" means the Council of the Municipality of East Hants.

(e) "**Deficiency Report**" means a report prepared by a Land Surveyor, a Landscape Architect, or a Professional Engineer describing the uncompleted construction requirements of the Lot Grading Plan.

(f) "**Development**" includes any erection, construction, alteration, placement, location, replacement or relocation of, or addition to, a structure.





- (g) "Drainage" means a system of natural or artificial drains.
- (h) "Dwelling" means a building, or portion thereof, occupied as a home or residence by one or more persons and containing one or more dwelling units but shall not include a hotel, motel, travel trailer or other recreational vehicle, or apartment.

(i) "Grading" means the alteration of land levels, including the addition or removal of topsoil or other material of any kind.

(j)

(j) "Land Surveyor" means a member in good standing of the Association of Nova Scotia Land Surveyors.

(k) "Landscape Architect" means a member in good standing of the Atlantic Provinces Association of Landscape Architects or the Canadian Society of Landscape Architects.

(l) "Lot Grading Certificate" means a document, prepared in accordance with Schedule B of this Bylaw, depicting the recorded grading and drainage works on a lot of land as proposed on the Lot Grading Plan.

(m) "Lot Grading Permit" means a permit issued under the provisions of this Bylaw.

(n) "Lot Grading Plan" means a plan of final grading of land for an individual lot of land prepared in accordance with Municipal Standards, as amended, and under the provisions of this Bylaw.

(o) "Municipality" means Municipality of East Hants.

(p) "Owner" includes as it refers to the owner of property:

- i) a part owner, joint owner, tenant in common or joint tenant of the whole or any part of land or a building,
- ii) in the case of the absence or incapacity of the person having title to the land or building, a trustee, an executor, a guardian, an agent, a Page 3 mortgagee in possession or a person having the care or control of the land or building,
- iii) a person who occupies shores, beaches or shoals, and

(iv) in the absence of proof to the contrary, the person assessed for the property;

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~~(o)(a)~~ "Land Surveyor" means a member in good standing of the Association of Nova Scotia Land Surveyors.

~~(p)(g)~~ "Professional Engineer" means a member in good standing of Engineers Nova Scotia.

~~(q)(r)~~ "Subdivision" means the division of any area of land into two or more parcels and includes a re-subdivision or consolidation of two or more parcels.

~~(r)(s)~~ "Subdivision Grading Plan" means a grading plan filed after April 27, 2006, by an applicant for final approval of a subdivision, which is accepted by the Municipality and illustrates lot grade elevations and drainage patterns over the entire area of the subdivision.

~~(s)(t)~~ "Wastewater System" means a system which is owned and maintained by the Municipality and which consists of pipes or conduits receiving or carrying water-borne wastes and includes any pumping stations and treatment plants.

3. APPLICATION AND ADMINISTRATION

3.1. This Bylaw shall apply to the development of all lots located within an area where a Municipal wastewater system is provided, for which a building permit is required and which are to be connected to a wastewater system anywhere in the Municipality except as provided herein.

(a) This Bylaw does not apply to the development of lots where a building permit is required for the following:

(i) renovation of an existing building within the original footprint; or

(ii) addition to an existing building where the addition has a maximum ground floor area of 55 square metres or,

~~(iii) an accessory structure with, which shall be single storey and a maximum grossground floor-area of 55 square metres; or~~

~~(iV#) building construction where lot grading is regulated by a development agreement.~~

3.2. It is the responsibility of the OwnerApplicant, in the exceptions of Section 3.1(a) above,

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to ensure the maintenance of all lot grades which were established prior to this Bylaw or by a Lot Grading Permit issued under this Bylaw. 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 OwnerApplicant shall submit a lot grading plan prepared by a Professional Engineer that highlights the discrepancies, along with written confirmation that these changes will not adversely affect the lot or adjacent properties.

4. GENERAL REQUIREMENTS

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

5. LOT GRADING PERMIT APPLICATION PROCEDURE

- 5.1 No lot to which this Bylaw 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, as follows:
 - (i) where a Subdivision Grading Plan exists, and the lot grade elevations and drainage patterns depicted on the Subdivision Grading Plan are to be preserved, the Lot Grading Plan shall be prepared by a Land Surveyor, a Landscape Architect, or a Professional Engineer; or
 - (ii) where a Subdivision Grading Plan does not exist, or the lot grade elevations and drainage patterns depicted on the Subdivision Grading Plan are to be varied, the Lot Grading Plan shall be prepared by a Professional Engineer. The Lot Grading Plan shall include a written statement that it fully complies with the Municipal Standards.





- 5.3 When a Lot Grading Plan is prepared for a lot shown on a Subdivision Grading Plan:
- (a) the individual who prepares the Lot Grading Plan shall certify in writing that the lot grade elevations and drainage patterns on the subject lot are consistent with the Subdivision Grading Plan; or
 - (b) if the lot grade elevations and drainage patterns on the subject lot are not consistent with the Subdivision Grading Plan, then the Lot Grading Plan shall be prepared in accordance with Section 5.2. (a) (ii).
- 5.4 Where a Subdivision Grading Plan exists, the Lot Grading Plan shall be consistent with the said Subdivision Grading Plan and Municipal Standards as amended. ~~subject to variations accepted by the Municipality.~~
- 5.5 A Lot Grading Plan is deemed to be accepted when it meets the requirements of this Bylaw and a Lot Grading Permit has been issued by the Municipality.

6. OCCUPANCY

- 6.1 The Municipality shall withhold an occupancy permit, as per Bylaw P-900, Building Bylaw, unless:
- (a) A Lot Grading Certificate is submitted confirming that the lot has been constructed in accordance with the accepted Lot Grading Plan, or the requirements of Section 6.2 of this Bylaw have been met. The Lot Grading Certificate shall be prepared by qualified individuals, as follows:
 - (i) Where variations from the Lot Grading Plan do not exist, the Lot Grading Certificate shall be prepared by a Land Surveyor, a Landscape Architect, or a Professional Engineer, or
 - (ii) Where variations from 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 ~~Owner~~ Applicant files the following with the Municipality:
- (a) a Deficiency Report prepared by a Land Surveyor, a Landscape Architect, or a





Professional Engineer listing details of the work to be completed and a reasonable expectation of cost; and

- (b) an ~~Owner 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 six (6) months: and
- (c) Notwithstanding 6.2(b), the ~~Owner Applicant~~ has up to six (6) months to complete the deficiency work, if, at any time during the six (6) months the fact that the deficiency work is not complete is causing drainage issues on another property the Municipality may order the ~~Owner Applicant~~ to complete the deficiency work by an earlier date, failing which the Municipality may use the security to complete the deficiency work, and, if the security is insufficient to cover the cost of work, the Municipality may charge and collect the excess cost as a first lien on the property; and
- (d) payment of a security deposit in the amount of the estimated cost identified in the Deficiency Report, or a minimum of \$5,000, whichever is greater, in a form acceptable to the Municipality, which shall be returned to the ~~Owner applicant~~ on the receipt by the Municipality of a Lot Grading Certificate for the lot;
- (e) If the ~~Owner applicant~~ fails to present a Lot Grading Certificate within the time set out in this bylaw, or any earlier time ordered by the Municipality, the Municipality may order the ~~Owner applicant~~ to complete the deficiency work by a fixed date, failing which the Municipality may use the security to complete the deficiency work, and, if the security is insufficient to cover the cost of work, charge and collect the excess cost as a first lien on the property.

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 Bylaw or any agreement made pursuant to this Bylaw 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. REPEAL AND REPLACE

- 9.1 All previously enacted Bylaws of the Municipality relating to lot grading and drainage are hereby repealed and replaced by this version.





I, Kim Ramsay, Municipal Clerk of the Municipality of East Hants, hereby certify that the above noted bylaw was passed at a meeting of the East Hants Municipal Council on June 24, 2020.

Kim Ramsay, CPA, CMA
Municipal Clerk & CAO

Bylaw Adoption	
Bylaw Respecting Lot Grading and Drainage	April 27, 2006
Amendment #1	
First Reading:	May 27, 2020
Notice of Publication:	June 9, 2020
Second Reading:	June 24, 2020
Final Publication & Enactment:	June 30, 2020
Notice to Service Nova Scotia & Municipal Relations:	July 3, 2020
<u>Amendment #2</u>	
<u>First Reading:</u>	
<u>Notice of Publication:</u>	
<u>Second Reading:</u>	
<u>Final Publication & Enactment:</u>	
<u>Notice to Service Nova Scotia & Municipal Relations:</u>	

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Version Number	Amendment Description	Council Approval Date
Not Numbered	Lot Grading and Drainage Bylaw brought into effect	April 27, 2006
P-1200	Update the bylaw, re-write sections, minimum \$5,000 deposit for deficiency.	June 24, 2020





Version Number	Amendment Description	Council Approval Date
<u>P-1200-1</u>	<u>Update to the bylaw, changes to Applicant versus Owner, and an exemption for additions to main buildings.</u>	





SCHEDULE A

OWNER/APPLICANT UNDERTAKING FOR COMPLETION

Address: _____

Relating to: (a) Lot Grading Plan dated _____
(b) Occupancy Permit Application by _____
(c) Deficiency Report dated _____, 20____.

I, _____, hereby confirm that I am the Owner/Applicant for the above indicated Occupancy Permit and provide herein the following statements:

- (a) That I have reviewed the aforementioned Deficiency Report and hereby undertake to cause the identified construction to be completed within six (6) months from the date of this document.
- (b) That at the completion of construction, I will cause a Lot Grading Certificate to be prepared and forwarded to the Municipality in accordance with the requirements of the Lot Grading Bylaw.
- (c) That should the identified deficient construction not be completed within the six (6) month period, the Municipality shall be entitled to undertake completion of the work and all costs incurred in doing so may be recovered from the security that I have provided.
- (d) That if the amount of the security is not sufficient to cover the costs of completing the work, I shall pay the amount of the shortfall to the Municipality immediately upon demand, or if the security is insufficient to cover the cost of work, I understand that excess cost will be added as a first lien on the property. I understand that if surplus security exists, the Municipality will refund the balance to me.
- (e) That I will provide a copy of this Undertaking to the lot purchaser when I transfer this lot.

Signature

Name: _____

Date: _____





SCHEDULE B
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:

- (1) That I have performed sufficient site inspections, including a final inspection on _____, 20____, to confirm that the Lot Grading for the subject lot has 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, 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: _____





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 a Professional Engineer) that the deviations will not significantly affect the performance of the works in meeting the objectives of the Lot Grading Plan. In making this statement, I accept responsibility for the impact of the deviations only and report that I have advised the designer and owner of the affected property of the deviations in writing. Responsibility for the Lot Grading Plan resides with the designer. For clarity, the deviations are depicted on the attached copy of the Lot Grading Plan.

Signature

STAMP

Name: _____

Date: _____





SCHEDULE C
DEFICIENCY REPORT

Address: _____

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

I, _____, hereby confirm that I have performed site inspections
at the subject lot to state that the following items are not completed as of _____
_____, 20____ as related to required construction in accordance with the Lot Grading Plan.

[Provide Listing of Uncompleted Works]

[Estimated Costs Required]

I further confirm that it is my professional opinion that the conditions at the site relative to lot grading
and drainage do not represent an undue hazard to the occupants or the dwellings on this or adjoining
lots.

Signature

STAMP

Name: _____

Date: _____

