

**HALIFAX REGIONAL MUNICIPALITY  
BY-LAW NUMBER G-200**

**RESPECTING GRADE ALTERATION AND STORMWATER MANAGEMENT  
ASSOCIATED WITH LAND DEVELOPMENT**

**Short Title**

1. This By-law shall be known as By-law G- 200 and may be cited as the *Grade Alteration By-law*.

**Interpretation**

2. In this By-law:

(a) "Approved Subdivision Grading Plan" means a Grading Plan in a form acceptable to the Engineer, which is approved at the time of final Subdivision approval and as may be amended from time to time by the Municipality which illustrates the drainage systems and patterns common to two or more lots in a Subdivision;

(b) "Certificate of Compliance" means a plan or report, in a form acceptable to the Engineer, depicting the recorded grading and drainage works on a lot of land as proposed on the approved Stormwater Management Plan and report;

(c) "Committee" means the Appeals Committee established pursuant to By-law A-100, *the Appeals Committee By-law*;

(d) "Council" means the Regional Council of the Municipality;

(e) "Deficiency Report" means a report prepared by a professional engineer describing the uncompleted construction requirements, as related to the grading and drainage works shown on the Stormwater Management Plan;

(f) "Development" means the definition found in the Halifax Regional Municipality Charter as amended from time to time;

(g) "Engineer" means the Engineer of the Municipality and includes a person acting under the supervision and direction of the Engineer;

(h) "grade" means, as applied to the determination of building height, the lowest of the average levels of finished ground adjoining each exterior wall of a building but does not include localized depressions for vehicle or pedestrian entrances;

(i) "grading" means the alteration of land levels, including the addition or removal of topsoil, or other material of any kind, and includes a change in land that alters the permeability of the soil;

(j) "Grade Alteration Permit" means a permit issued under the provisions of this By-law;

(k) "Halifax Stormwater Management Standards" means the latest edition of the standards found in Administrative Order 2020-010-OP;

- (l) "Municipality" means Halifax Regional Municipality;
- (m) "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 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;
- (n) "person" means a natural person, corporation, partnership, an association, society, firm, agent, trustee, or registered Canadian charitable organization as defined in section 3(bc) of the Charter, and includes the heirs, executors or other legal representatives of a person, or owner;
- (o) "professional engineer" means a registered or licensed member in good standing of the Association of Professional Engineers of Nova Scotia;
- (p) "retaining wall" means a rigid wall that is structurally designed and constructed to support fill materials between areas of land of different elevations.
- (q) "Stormwater Management Plan" means a plan showing the final grading of land for a property subject to a Grade Alteration Permit, prepared in accordance with the Halifax Stormwater Management Standards, and includes stormwater management and erosion and sedimentation control features.
- (r) "Stormwater Management Report" means a report prepared by a professional engineer stormwater management design rational, as related to the Stormwater Management Standards;
- (s) "subdivision" means the division of any area of land into two or more parcels and includes a resubdivision and a consolidation of two or more parcels;
- (t) "Subdivision Agreement" means the agreement attached as Appendix 1 to the Regional Subdivision By-law as amended from time to time.

### **Application and Administration**

**3.** This By-law shall apply to the development of all lots in the Municipality where the work applies to:

- (a) grading associated with:
  - (i) the change in elevation or contour of a parcel of land greater than 0.5 hectares (5,000 square metres) in area;
  - (ii) the construction or reconstruction of parking lots; or

- (iii) the construction of retaining walls over 1 metre in height;
- (b) a Multi-Unit Residential, Institutional, Commercial, and Industrial (MICI) project including:
  - (i) a renovation or addition of an existing MICI use that involves changes to the building footprint or changes to the grading of the property and drainage patterns; or
  - (ii) the construction of accessories to MICI uses use that involves changes to the building footprint or changes to the grading of the property and drainage patterns;
- (c) development of land associated with a Subdivision Agreement.

**4.** Notwithstanding section 3, this By-law shall not apply to the following:

- (a) construction regulated under the Lot Grading By-Law L-400;
- (b) new building construction where grading is regulated by a Development Agreement;
- (c) cultivation of garden beds or top dressing of lawns;
- (d) bona fide agricultural, forestry, mining, or fishery related uses;
- (e) gravel pits or quarries for which an Approval is required by the Province; or
- (f) water lot infilling for which approval is required by the Federal Government through the Halifax Port Authority and Transport Canada (Navigable Waters).

**5.** For greater certainty this By-law applies to grade alteration being carried out pursuant to a Subdivision Agreement.

**General Requirements**

**6.** 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.

**7.** 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 more stringent requirements shall prevail.

**Grade Alteration Permit Application Procedure**

**8.** Subject to section 3, no property shall be altered unless a Grade Alteration Permit has been issued by the Municipality.

**9.** An application for a Grade Alteration Permit shall be made at the time of application for a construction permit for works as set out in Section 3.

**10.** An application for a Grade Alteration Permit shall include:

- (a) contact information of,
  - (i) the owner of the land(s) where grading is to take place,

- (ii) the applicant, if different than the owner,
  - (iii) the contractor, and
  - (iv) the consulting engineer;
- (b) a description of the proposed works;
- (c) a schedule for the proposed works, including the start and completion dates and the duration of the construction period; and
- (d) a Stormwater Management Plan and Report prepared by a professional engineer in accordance with the Halifax Stormwater Management Standards and shall identify abutting land uses.

**11.** Where the grading activity is included in an area subject to an Approved Subdivision Grading Plan, the Stormwater Management Plan shall be consistent with the Approved Subdivision Grading Plan, subject to variations approved by the Municipality.

**12.** A Stormwater Management Plan is deemed to be approved when it meets the requirements of this By-law and the Halifax Stormwater Standards, and a Grade Alteration Permit has been issued by the Municipality.

#### **Certificate of Compliance**

**13.** Final inspection for work and structures as set out in clause 3(a) shall not be completed unless a Completion Certificate and a Final Stormwater Management Plan and Report prepared by a professional engineer has been submitted to the Municipality, confirming that the grading has been carried out in accordance with the Stormwater Management Plan and Grade Alteration Permit.

**14.** No Person shall occupy a building as set out in clause 3(b) unless a Completion Certificate and a Final Stormwater Management Plan and Report prepared by a professional engineer has been submitted to the Municipality, confirming that the grading has been carried out in accordance with the Stormwater Management Plan and Grade Alteration Permit.

**15.** Where variations on the Stormwater Management Plan exist the Stormwater Management Plan shall be subject to review and approval by the Municipality.

**16.** Notwithstanding section 14, a building as set out in clause 3(b) may be occupied prior to receipt of a Completion Certificate if the following is filed with the Municipality:

(a) a Deficiency Report, prepared by a professional engineer, in a form acceptable to the Engineer, setting forth details and cost of the work to be completed;

(b) a performance security in a form acceptable to the Engineer for 110% of the cost of the work; and,

(c) a letter of undertaking by the owner stating that:

(i) the uncompleted work required by the Stormwater Management Plan and the deficiency report will be completed, and

- (ii) the Completion Certificate shall be submitted within a period of nine (9) months.

### **Terms and Conditions**

**17.** A Grade Alteration Permit shall be valid for a period of one (1) year from the date of issuance by the Engineer.

**18.** (1) The Engineer may impose conditions on a permit that the Engineer deems necessary for the protection of health, lives and the environment, or to protect the public from nuisances that arise from the grading.

(2) Subject to subsection (1) conditions may include, but are not limited to:

- (i) the months, days and hours of operation;
- (ii) the number of trucks hauling within a residential or school area;
- (iii) noise mitigation measures;
- (iv) dust control measures; and
- (v) additional environmental controls.

**19.** (1) Notwithstanding section 17, grading activities of a period longer than one (1) year from commencement or renewal of Grade Alteration Permit must be authorized by Council.

(2) Council may direct the Engineer to include such conditions that are deemed by Council to be reasonable and necessary to address issues considered by Council to be in the public interest.

(3) Council may refuse to authorize the Engineer to issue a permit for grading activities that last longer than one (1) year if such refusal is deemed by Council to be in the public interest.

### **Permit Fees**

**20.** An application for a Grade Alteration Permit shall be accompanied by a payment of the prescribed fee as set out in Administrative Order 15.

**21.** Notwithstanding section 20, no Grade Alteration Permit fee shall be required where the Grade Alteration Permit is for lands owned by the Municipality.

### **Securities**

**22.** (1) Prior to the issuance of a Grade Alteration Permit, the applicant or owner shall provide a security deposit in the form of cash, certified cheque or an irrevocable letter of credit acceptable to the Municipality; which security may be drawn upon by the Municipality as its sole discretion to remedy any deficiency in any work.

(2) Upon written application by the applicant or owner, and upon the satisfaction of the Municipality that all conditions and requirements of the Grade Alteration Permit have been fulfilled, the Municipality shall return said security deposit or the remaining amount of any reduced security deposit.

(3) The amount of security deposit:

(a) shall be valued as set out in Administrative Order 15 for each hectare of land, or part thereof, to which the Grade Alteration Permit will apply; and

(b) may be reduced, at the discretion of the Municipality, by an amount equal to the value of any work completed to the date of the reduction request, provided that the value of the work completed is certified by a professional engineer and meets the requirements of the Grade Alteration Permit.

### **Orders by the Engineer**

**23.** When the owner fails to comply with this By-law the Engineer may issue an Order to the owner and the owner shall, at the owner's sole expense, bring the grading into compliance with the By-law.

**24.** An Order issued pursuant to section 23 shall specify the date on which the grading is to be brought into compliance.

**25.** An owner may, within fourteen (14) calendar days of being served with an Order that was issued pursuant to section 23, appeal the Order of the Engineer to the Committee.

**26.** The day an Owner receives a notice shall not be counted in determining the fourteen (14) calendar day period.

**27.** Where the fourteenth calendar day falls on a day that the Municipal Clerk's office is not open, the final appeal date is the next business day.

**28.** An appeal pursuant to section 25 shall be commenced by filing a written notice with the Municipal Clerk which clearly states the grounds for the appeal.

**29.** If the owner files an appeal, but the Committee is not scheduled to meet before the date on which the lot is to be brought into compliance, the Order shall be held in abeyance until the Committee has rendered its decision on appeal.

**30.** After hearing an appeal pursuant to section 25 the Committee may:

- (a) deny the appeal;
- (b) allow the appeal and reverse the decision of the Engineer; or,
- (c) make any decision the Engineer could have made under this By-law.

**31.** The Engineer may cause the property to be brought into compliance if the owner does not comply with an Order to bring the lot into compliance on the date specified in the Order.

**32.** Where the Municipality lawfully causes work to be done pursuant to this By-law, the cost of the work, with interest at the rate determined by the Council, by policy, from the date of the completion of the work until the date of payment, is a first lien on the property upon which, or for the benefit of which, the work was done.

### **Offence and Penalty**

**33.** A person who

(a) violates a provision of this By-law, Grade Alteration Permit, undertaking or an order in force in accordance with this By-law,

(b) fails to do anything required by a Grade Alteration Permit, undertaking or order in force in accordance with this By-law,

(c) permits anything to be done in violation of this By-law, Grade Alteration Permit, undertaking or order in force in accordance with this By-law, or

(d) obstructs or hinders any Person in the performance of their duties under this By-law, Grade Alteration Permit, undertaking or order in force in accordance with this By-law,

is guilty of an offence.

**34.** A person who commits an offence is liable, upon summary conviction, to a penalty of not less than one hundred dollars and not more than ten thousand dollars and in default of payment, to imprisonment for a term of not more than two months.

**35.** Every day during which an offence pursuant to section 33 continues is a separate offence.

**36.** In addition to any other remedy provided for by this By-law, Council may authorize an action or other legal proceeding to be brought in the Supreme Court of Nova Scotia for any or all of the remedies provided by this section.

**37.** In addition to a fine imposed for contravening a provision of this By-law, a judge may order the person to comply with the provision or order, under which the person was convicted, within the time specified in the order.

#### **Transition**

**38.** Any permit issued under

(a) the former Town of Bedford By-law 23290, *Respecting the Movement of Topsoil, the Movement of Earth and the Alteration of the Grade of Land*; or

(b) the former Municipality of the County of Halifax By-law 40, *Respecting the Regulations and Controls of the Removal and Movement of Topsoil and Earth and the Alteration of the Grade of the Land*;

prior to the coming into force of this By-law shall remain valid and subject to any terms and conditions under which the permit was issued.

#### **Repeal of By-Laws**

**39.** The following By-laws are hereby repealed:

(a) Town of Bedford By-law 23290, *Respecting the Movement of Topsoil, the Movement of Earth and the Alteration of the Grade of Land*;

(b) Halifax County Municipality By-law 40, *Respecting the Regulations and Controls of the Removal and Movement of Topsoil and Earth and the Alteration of the Grade of the Land*; and

(c) Halifax County Municipality By-law 41, *Respecting Gravel Pits and Excavations*.

Done and passed in Council this 22<sup>nd</sup> day of September, 2020.

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Mayor Mike Savage

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Phoebe Rai, Acting Municipal Clerk

I, Phoebe Rai, Acting Municipal Clerk for the Halifax Regional Municipality, hereby certify that the above-noted By-law was passed at a meeting of the Halifax Regional Council held on September 22, 2020.

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Phoebe Rai, Acting Municipal Clerk



Notice of Motion:	July 21, 2020
First Reading:	August 18, 2020
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Approval by Minister of Municipal Affairs and Housing:	N/A
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