



**The Corporation of the City of Cornwall**  
**Regular Meeting of Council**  
**By-law 2024-**

Department: Corporate Services  
Division: Infrastructure Planning  
By-law Number: 2024-  
Report Number 2024-34-Infrastructure and Municipal Works  
Meeting Date: April 23, 2024  
Subject: A By-Law to Regulate Lot Grading

Whereas the *Building Code Act*, 1992, chapter 23, as amended Section 7 (b), states municipalities can require building permit applications to be accompanied by such plans, specifications, documents and other information as prescribed by the municipality;

And whereas pursuant the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended Section 142, authorizes that the Council of a local municipality may pass a by-law prohibiting or regulating the placing or dumping of fill, the removal of topsoil, and the alteration of the grade of the land in any defined area or on any class of land;

And whereas the *Municipal Act*, S.O. 2001, c. 25 as amended Section 11 (2) 8, gives municipalities the authority to pass by-laws with respect to the protection of persons and property and Section 11 (3) 6, gives municipalities the authority to pass by-laws with respect to drainage and flood control;

And whereas the *Municipal Act*, S.O. 2001, c. 25 as amended Section 391 authorizes a municipality to impose fees or charges on persons, for services or activities provided or done by or on behalf of it;

And whereas the *Municipal Act*, S.O. 2001, c. 25 as amended Section 434.1 gives municipalities the authority to require a person to pay an administrative

penalty if the municipality is satisfied that the person has failed to comply with a by-law of the municipality passed under this Act;

And Whereas the *Municipal Act*, S.O. 2001, c. 25 as amended Section 435 (1) authorizes that a municipality, may enter upon land for the purpose of carrying out an inspection to determine if a By-Law is being complied with;

And whereas the *Municipal Act*, S.O. 2001, c. 25 as amended Section 446 (1) authorizes that a municipality, in default of a person doing a required matter, the matter or thing shall be done at the person's expense by the municipality, and Section 446 (3) authorizes that a municipality may recover the costs of doing a matter or thing under subsection (1) from the person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes;

And whereas this By-Law to regulate Lot Grading applies to all properties located within the City;

And whereas Council deems it in the public interest to enact a by-law for regulating Lot Grading on properties within the City, to ensure unanticipated drainage and site alteration changes are prevented.

Now therefore be it resolved that the Council of the Corporation of the City of Cornwall enacts as follows:

## **1. SHORT TITLE**

1.1. This By-law may be referred to as the "Grading By-Law".

## **2. DEFINITIONS**

2.1. In this By-Law:

- a) **"Applicant"** means the individual or entity applying for a permit under the provisions of this By-Law;
- b) **"Approval"** means acceptance of a Lot Grading Plan as prepared by a Lot Grading Professional;

- c) “**Approved Outlet**” means a drainage outlet approved by the City, including a rear yard swale, catch basin, storm sewer, City right-of-way or any other outlet approved by the City;
- d) “**As-Constructed Lot Grading Plan**” means a lot grading plan demonstrating the as-constructed condition, containing the top of footing, top of foundation, finished elevations with final cover, topsoil and seeding or sod elevations, any deviation from the proposed Lot Grading Plan, and includes a statement from the Lot Grading Professional, notwithstanding any deviations, that the as-constructed lot grading meets the intent of this By-Law.
- e) “**Architect**” means a professional licensed under the Ontario Association of Architects (OAA) pursuant to the Architects Act, R.S.O. 1990, c.A. 26;
- f) “**Architectural Technologist**” means a qualified technologist licenced with and having certification through an OAA Technology program or the Association of Architectural Technologist of Ontario (AATO);
- g) “**BCIN Designer**” means an individual qualified and registered with the Ministry of Municipal of Municipal Affairs and Housing (MMAH);
- h) “**C.E.T.**” means a technology professional, certified with the Ontario Association of Certified Engineering Technicians and Technologists (OACETT);
- i) “**City**” means the Corporation of the City of Cornwall;
- j) “**Construction Activities**” means the construction of residential dwellings, residential dwelling additions, side door entrances, basement walkouts, multiple-unit dwellings, industrial and commercial buildings, industrial and commercial building additions, parking Lots and aisles, installation of retaining walls, installation of

an in-ground/on-ground swimming pool and any other construction that requires a Site Alteration and an Approval from the City;

- k) **“Completion of Construction”** means the completion of Construction Activities in compliance with the approved Lot Grading Plan, including the removal of all debris and excess material, the placement of topsoil and sod on all disturbed areas and the surfacing of driveways in compliance with the City’s Zoning By-Law;
- l) **“Drainage Feature”** means any element designed for the purposes of capturing and conveying surface water run-off to a designated discharge location and/or the ultimate storm sewer outlet;
- m) **“Floodplain”** means the area, usually low lands adjoining a watercourse such as river, stream and small inland lake systems, which has been or may be subject to flooding hazards
- n) **“Infill Lot”** means a parcel of land that is not a parcel of land Within a Plan of Subdivision, except as provided in this By-Law;
- o) **“Legacy Lot”** means any land Within a Plan of Subdivision where all grading on adjacent developed Lots within such Plan of Subdivision may not be consistent with the Master Grading Plan for the Plan of Subdivision as a result of Lot Grading alterations on any adjacent property or properties undertaken after the Final Grading Plan was submitted for that or those property or properties and such alterations make conformance with the Master Grading Plan impractical without altering grading on those adjacent property or properties.
- p) **“Lot”** means a parcel of land;
- q) **“Lot Within a Plan of Subdivision”** means a parcel of land defined as a Lot within a registered Plan of Subdivision;

- r) “**Lot Grading**” means using the shape of the ground surface to direct surface water away from structures and towards a designated discharge location or outlet, whether by way of the natural characteristics and/or alteration of the ground surface and/or by a Drainage Feature;
- s) “**Lot Grading Certification**” means an as-constructed grading plan accompanied by a certification letter signed and sealed by a Lot Grading Professional that includes the date of their site inspection following the Completion of Construction and a statement confirming that the finished grades of the lands are in general conformance with the approved Lot Grading Plan;
- t) “**Lot Grading Plan**” means a plan prepared and certified by a Lot Grading Professional that establishes the Lot Grading relationships between connecting or abutting properties and serves as the basis for controlling surface runoff and is to depict proposed Construction Activities, existing and proposed ground surface elevations, building elevations, parking Lot and aisle drainage systems, downspout and sump pump discharge locations and the necessity of catch basins, swales or any other Drainage Feature, with sufficient ground surface elevations of adjacent properties to clearly indicate existing drainage patterns, along with all catch basins, driveways, walkways, ditches, culverts, sidewalks, boulevards, and any other feature that may affect drainage patterns prior to Construction Activities being undertaken on land;
- u) “**Lot Grading Professional**” means a Professional Engineer (P.Eng.), Civil Engineering Technologist (C.E.T.), Ontario Land Surveyor (OLS), Architect (OAA), Ontario Landscape Architect (O.L.A), Architectural Technologist (AATO), or BCIN Designer;
- v) “**Manager**” means the Manager of Infrastructure or their delegate;
- w) “**Master Grading Plan**” means a grading plan which has been submitted to the City for a registered Plan of Subdivision, which

illustrates the direction of flow of surface water for all lands within such Plan of Subdivision to Approved Outlet(s);

- x) “**O.L.A.**” means an Ontario Landscape Architect as governed by the Ontario Association of Landscape Architects;
- y) “**Ontario Land Surveyor**” means a Person licensed to engage in the practice of cadastral surveying as an Ontario Land Surveyor (“OLS”) pursuant to the Surveyors Act, R.S.O. 1990, c.s.29 in relation to the subject matters under this By-Law and is a member in good standing with the Association of Ontario Land Surveyors;
- z) “**Officer**” means a By-Law Officer of the City or other person duly appointed by or under the authority of a City By-Law to administer and enforce By-Laws;
- aa) “**Owner**” shall mean any Person who is registered under the applicable system of land registration as the Owner of the fee simple estate in the land, his agent or any other Person who is in lawful possession of such land, or any Person applying for and taking out the permit for work to be performed within the scope of this By-Law;
- bb) “**Normal Farm Practice**” means normal farm practices as defined in the Farming and Food Production Protection Act, S.O. 1998 c. 1;
- cc) “**Permit Issuer**” means the Engineering Technologist, Municipal Engineer or other employee of the City with the authority to grant permits under this By-Law;
- dd) “**Person**” includes an Applicant, agents, land Owner, land occupier or corporation unless the context otherwise requires;
- ee) “**Professional Engineer**” means a Person who holds a valid and existing license to engage in the practice of professional engineering pursuant to the Professional Engineers Act, R.S.O. c.P.28 and having qualifications and expertise relating to the subject matters

under this By-Law and is a member in good standing with the Association of Professional Engineers of Ontario;

- ff) “**Road**” means a public Road right-of-way under the jurisdiction of the City and includes public highway, boulevard, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, and all sidewalks, curbs, splash pads, sodded boulevards, gutters, culverts, retaining walls and other structures forming part thereof, any part of which is intended for or used by the general public for the passage of vehicles, pedestrians and cyclists;
- gg) “**Security**” means a deposit for any Construction Activities taking place on any land to ensure that the Construction Activities have been completed as per the Approved Lot Grading Plan; and
- hh) “**Site Alteration**” means the placing or dumping of fill, the removal of topsoil or the alteration of the grade of land or any combination thereof.
- ii) “**Site Plan Agreement**” means an agreement entered into pursuant to Section 41 of the Planning Act, R.S.O 1990 or a successor thereto.
- jj) “**Wetland**” mean lands that are seasonally or permanently covered by shallow water as well as lands where the water table is close to or at the surface. In either case, the presence of abundant water has caused the formation of hydric soils (soils in which there is an abundance of moisture) and has favoured the dominance of either hydrophytic or water tolerant plants. The four major categories of wetlands are swamps, marshes, bogs, and fens.

### **3. GENERAL**

- 3.1. This By-Law shall apply to all properties in the City.
- 3.2. This By-Law shall supersede any previous By-Law respecting Lot Grading.

### **4. PROHIBITIONS**

- 4.1. No Person shall commence any Construction Activities and/or alter the grading and/or drainage of any land, without obtaining a Lot Grading Permit, issued under this By-Law.
- 4.2. No Person shall undertake any Site Alterations within a Floodplain, Wetland, or other area regulated by the Raisin Region Conservation Authority, without obtaining the necessary approvals from the Raisin Region Conservation Authority as well as a Lot Grading Permit from the City issued under this By-Law.
- 4.3. No Person shall alter the finished grade of their Lot more than 0.3m vertically without obtaining a Lot Grading Permit, issued under this By-Law.
- 4.4. No Person shall alter the finished grade of their Lot within 0.6m of a property line without first obtaining a Lot Grading Permit, issued under this By-Law.
- 4.5. No Person shall complete any Site Alterations or erect any structures within common yard swales.
- 4.6. No Person shall direct surface drainage, including that from downspouts, towards any buildings or structures.
- 4.7. No Person shall direct surface drainage, including that from downspouts to adjacent lands.



- 4.8. No Person shall direct surface drainage from the respective property, to anywhere but an Approved Outlet.
- 4.9. No Person shall allow their property to remain out of conformity with the approved Grading Plan, forming part of the Lot Grading Permit, issued under this By-Law.
- 4.10. No Person shall violate any provision of this By-Law or an approved Lot Grading Plan under this By-Law.

## **5. APPROVALS**

- 5.1. Every Person carrying out Site Alterations shall obtain a Lot Grading Permit where:
  - a) A new structure is being constructed on a parcel of land, forming part of a subdivision;
  - b) A new structure is being constructed on an Infill Lot;
  - c) An accessory structure greater than or equal to 40m<sup>2</sup> is constructed;
  - d) An addition to a structure or an addition to an accessory structure with a fixed foundation, that increases the existing structure's footprint by greater than 30% is being constructed;
  - e) The finished grade is being altered by 0.3m or greater vertically, within 0.6m of the property line; or
  - f) The alteration will result in the Lot's impervious area being 70% or greater.
- 5.2. An application for a Lot Grading Permit shall be made prior to completing any alterations as defined in Section 5.1.

- 5.3. Should the Site Alteration also require a Building Permit, the application for a Lot Grading Permit shall be made at the time of application for the Building Permit.
- 5.4. The application for a Lot Grading Permit shall include the following:
- a) a completed application form;
  - b) a non-refundable Lot Grading Permit fee;
  - c) a Lot Grading Security; and
  - d) a Lot Grading Plan prepared by a Lot Grading Professional.
- 5.5. An application may be exempt from including a Lot Grading Plan, should the Permit Issuer determine that the Site Alteration will not result in a change in location, direction, or elevation of any natural or artificial watercourse, open channel, swale or ditch used to drain land.

## **6. EXEMPTIONS**

- 6.1. Notwithstanding Section 5, a Person may undertake Site Alterations without obtaining a Lot Grading Permit, provided the Site Alteration is:
- a) For the purpose of lawn dressing, landscaping, or adding to flower beds or vegetable gardens and provided that:
    - i No soil in excess of 0.3m in depth is placed on the lands; and,
    - ii There is no change in location, direction, or elevation of any natural or artificial watercourse, open channel, swale or ditch used to drain land.
  - b) It is part of a Normal Farm Practice, including but not limited to, sod-farming, greenhouse operations, nurseries, and Agricultural

Operations, but not including the removal of topsoil for sale, exchange, or other disposition.

- c) It is part of the excavation or restoration of the existing grade following the demolition or removal of a building or structure.
- d) A Site Plan Agreement is executed for the site upon which the works are taking place.

## **7. LOT GRADING PERMIT FEE**

- 7.1. The Lot Grading Permit fee as set out in Schedule 'A' will apply to the issuance of a Lot Grading Permit and is payable at the time of application.
- 7.2. The Lot Grading Permit Fees set out in Schedule 'A' attached hereto shall be adjusted without amendment to the By-Law annually on January 1<sup>st</sup> of each year, in accordance with the most recent twelve (12) month change in Statistics Canada Quarterly, Consumer Price Index with the base index value being in effect as at August 31<sup>st</sup> in the prior year.
- 7.3. The Lot Grading Permit fee is non-refundable.

## **8. SECURITY**

- 8.1. Prior to the issuance of Lot Grading Permit, the Applicant shall provide a Security in a form acceptable to the City, to cover the terms of the Lot Grading Permit imposed by this By-Law.
- 8.2. The Security shall be based on the rates outlined in Schedule 'B'.
- 8.3. The Security shall be returned to the Applicant on the receipt by the City of a Lot Grading Certification for the property.

- 8.4. If the Applicant fails to present Lot Grading Certification within the time set out in the By-Law, the City may order the Applicant to complete the deficiency work by a fixed date. Should the Applicant fail to complete the deficiency work by the fixed date, the City shall complete the work on behalf of the Applicant.
- 8.5. The City shall invoice the Applicant for any and all costs and expenses incurred for work done on the Applicant's behalf, when the Applicant neglects to abide by the terms of this By-Law.
- 8.6. Any Security provided by the Applicant, held by the City may be used to reduce the amount of an invoice issued to recover the cost and expenses incurred by the City for work required under this By-Law.
- 8.7. Any expense incurred by the City to do work required under this By-Law because of default by the Applicant, may be levied against the Applicant, and recovered in like manner as municipal taxes.
- 8.8. Where an individual Security remains unclaimed for more than six (6) years, the Chief Financial Officer shall publish a notice containing a list of such unclaimed monies, including the name of the depositor, stating that any Person having a claim to any of the monies are required to prove their claim within ninety (90) days from the date of such publication. Any unclaimed monies may be transferred to the general funds of the City free of and from any claim whatsoever.
- 8.9. The City will not pay interest on any monies held as Security.
- 8.10. In the case where a Person has neglected to abide by the terms of this By-Law, completed work without a Lot Grading Permit, and the City does not hold a deposit pursuant to this By-Law with the Person, the City shall invoice the Person directly for all costs and expenses incurred for work done by the City, on their behalf.

## **9. PROPOSED LOT GRADING PLANS**

9.1. Proposed Lot Grading Plans shall include (See Appendix 'A'):

- a) A benchmark related to a geodetic datum;
- b) The legal description of the property including dimensions and civic number;
- c) Property boundaries and easements;
- d) Location of proposed and/or existing municipal services;
- e) Location of proposed and/or existing public and private access with dimensions and elevations;
- f) Location of existing and proposed structures, including dimensions;
- g) Dimensions between structures and property lines;
- h) Elevation of Road centerline, edge of pavement, top of curb and back of sidewalk;
- i) The existing and proposed grading and drainage of the subject site;
- j) Existing elevations throughout and at all Lot corners;
- k) Existing elevations of adjacent properties;
- l) Proposed elevations within the site including but not limited to:
  - i Proposed elevations at Lot corners;
  - ii Proposed elevations along Lot lines;
  - iii Proposed elevations along swales, ditches, drainage paths, etc.;

- iv Finished floor elevation;
    - v Finished grade around structures; and
    - vi Proposed footing and foundation elevations;
  - m) Locations and details of swales;
    - i Preferred maximum side slope 4:1, maximum permitted side slope 3:1; and
    - ii Minimum swale gradient of 0.5%; and minimum depth of 0.15m from top of slope to bottom of swale.
  - n) Drainage is to be contained within the site, and be directed to an Approved Outlet;
  - o) Drainage flows are to be carried away from and around buildings;
  - p) Minimum site gradient of 1%; and
  - q) Sufficient information regarding adjacent properties to confirm conformance with this By-Law with respect to drainage on those properties.
- 9.2. Proposed grading plans shall be prepared and sealed by a Lot Grading Professional.
- 9.3. Lot Grading Plans for Lots Within a Plan of Subdivision shall comply with the Master Grading Plan for the subdivision and shall not limit or restrict the drainage pattern of adjacent properties.
- 9.4. Lot Grading Plans for Lots Within a Plan of Subdivision that are submitted with a building permit application must be accompanied by written confirmation on the submitted Lot Grading Plan, that it conforms to the Master Grading Plan for the subdivision.
- 9.5. Lot Grading Plans for Infill Lots, Legacy Lots Within a Plan of Subdivision and for all other developments or Site Alteration shall provide sufficient

detail to demonstrate that all runoff is contained within the site and is directed to an Approved Outlet, and that adjacent properties are not adversely affected by the Site Alteration.

- 9.6. Where applicable, Lot Grading Plans shall include the location, elevations and dimensions of all rear yard common drainage swales and catch basins.

## **10. AS-CONSTRUCTED LOT GRADING PLAN CERTIFICATION**

- 10.1. The as-constructed lot grading certificate shall be completed and sealed by a Lot Grading Professional and be submitted by the Applicant to the City. See Schedule 'C' – As-Constructed Lot Grading Certificate.
- 10.2. The As-Constructed Lot Grading Plan shall demonstrate the as-constructed condition, including the top of footing, top of foundation, finished elevations with final cover, topsoil and seeding or sod.
- 10.3. As-Constructed Lot Grading Plan shall demonstrate any deviation from the proposed Lot Grading Plan, and include a statement from the Lot Grading Professional, on the As-Constructed Lot Grading Plan, notwithstanding any deviations, that the as-constructed lot grading meets the intent of this By-Law.
- 10.4. If deviations from the approved Lot Grading Plan are required during construction and Lot Grading, a revised Lot Grading Plan and variance certificate (see Schedule 'D') completed by a Professional Engineer is to be submitted to the City, demonstrating that water runoff continues to drain to an Approved Outlet and does not adversely affect adjacent properties.
- 10.5. All Lot Grading issues/concerns that may arise are the responsibility of the Owner, on which the development/Site Alteration is taking place. It is the responsibility of the Owner to work with their Lot Grading Professional to resolve any Lot Grading issues/concerns that may arise.

## **11. LOT GRADING SECURITY REFUND**

- 11.1. Once an acceptable As-Constructed Grading Plan, including top of footing and top of foundation elevations, completed by the Lot Grading Professional is received and accepted by the City, the Lot Grading Security will be released.
- 11.2. The City shall withhold the release of the Lot Grading Security until the As-Constructed Lot Grading Certification is submitted and accepted by the City.
- 11.3. If the Applicant fails to rectify the deficiencies and present a Lot Grading Certification within six (6) months of occupancy, the City may order the Owner to complete the deficient work by a fixed date. If the Owner fails to resolve the deficiency by the fixed date, the City shall use the Security to complete the deficient work. If the Security is insufficient to cover the cost of the work, the City shall invoice the Owner to recover the cost and expenses incurred by the City for work required under this By-Law.

## **12. SEVERABILITY**

- 12.1. It is declared that if any section, subsection, part or parts thereof be declared by any Court of Law to be bad, illegal or ultra vires, such section, subsection, part or parts shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.

## **13. ADMINISTRATION AND ENFORCEMENT**

- 13.1. The Manager shall administer and enforce this By-Law and establish any additional practices, policies, and procedures necessary to implement this By-Law and amend such practices, policies, and procedures from time to time as the Manager deems necessary, without amendment to this By-Law.



- 13.2. The City may appoint Officers and such other staff to carry out the administration and enforcement of this By-Law.
- 13.3. The Manager may prescribe all forms and notices necessary to implement this By-Law and may amend such forms and notices from time to time as the Manager deems necessary, without amendment to this By-Law.
- 13.4. An Officer and any Person acting under the Officer's instructions may, upon producing proper identification, enter upon any Lot at any reasonable time without a warrant for the purpose of inspecting the Lot to determine:
- a) Whether a Lot conforms to the provisions of this By-Law; or
  - b) Whether an Order made under this By-Law has been complied with.
- 13.5. No Person shall hinder or obstruct, or attempt to hinder or obstruct, an Officer in the lawful exercise of a power or the performance of a duty under this By-Law.
- 13.6. Every Person who contravenes the provisions of this By-law shall be guilty of an offence and, is subject to a penalty as provided by the Administrative Monetary Penalty System By-Law 2022-112, as amended.
- 13.7. Every person who contravenes the provisions of this By-Law shall be guilty of an offence and, upon conviction, is subject to a fine as provided for in section 61 of the *Provincial Offences Act*, R.S.O 1990, c. P.33. 9.20
- 13.8. Where a person is convicted of an offence under this By-Law, the Ontario Court of Justice or any Court of competent jurisdiction thereafter may, in addition to any other penalty imposed on the Person convicted, make an order prohibiting the continuation of repetition of the offence by the person convicted.

#### **14. EFFECTIVE DATE**

14.1. Any Scheduled attached to the By-Law shall be deemed to form part of this By-Law.

14.2. This By-Law shall come into full force and effect on the date it is passed.

Read, signed, and sealed in open Council this xxxth day of xxxxx, 2024.

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Manon L. Levesque  
City Clerk

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Justin Towndale  
Mayor

**SCHEDULE 'A'**  
**Lot Grading Permit Fees**

<b>Permit Fees</b>	
Single or Semi-Detached Lot Grading Approval	\$400.00
Three to Ten Unit Lot Grading Approval	\$800.00
Addition/Accessory Structure	\$250.00
Site Regrading or Landscaping Work	\$200.00

The Lot Grading Permit Fees set out in Scheduled "A" shall be adjusted without amendment to the By-Law annually on January 1<sup>st</sup> of each year, in accordance with the most recent twelve month change in Statistics Canada Quarterly, Consumer Price Index with the base index value being in effect as at August 31<sup>st</sup> in the prior year.

The Lot Grading Permit fee is non-refundable.

SCHEDULE 'B'  
Security Deposit

Security Deposit	
Single or Semi-Detached Lot Grading Approval	\$5000.00
Three to Ten Unit Lot Grading Approval	\$6000.00
Addition/Accessory Structure	\$2000.00
Site Regrading or Landscaping Work	\$2000.00



## APPENDIX 'A'

### Sample Lot Grading Plans