



**SUBJECT: Grading and Drainage Clearance Certificate By-law Amendment**

**TO: Environment, Infrastructure & Community Services Cttee.**

**FROM: Engineering Services Department**

Report Number: ES-03-23

Wards Affected: All

File Numbers: 110-04-1, 815-01

Date to Committee: June 1, 2023

Date to Council: June 13, 2023

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### **Recommendation:**

Approve By-law XX-2023, attached as Appendix A of engineering services department report ES-03-23, a By-law to amend By-law 52-2018 Grading and Drainage Clearance Certificate providing revisions to definitions and policy to prohibit or regulate the placing or dumping of fill, removal of topsoil or fill, alteration of the grades and drainage of residential lands that contain ten (10) residential units or less.

### **PURPOSE:**

#### **Vision to Focus Alignment:**

- Support sustainable infrastructure and a resilient environment
- Building more citizen engagement, community health and culture
- Deliver customer centric services with a focus on efficiency and technology transformation

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### **Background and Discussion:**

In 2018, Council approved the Grading and Drainage Clearance Certificate (GDCC) By-law 52-2018 to replace the eliminated site plan control process for grading and drainage approval for single detached dwellings, duplex dwellings and semi-detached dwellings on low density residential lands.

In 2020, Council approved an amendment to the GDCC By-law to provide for terms and conditions for “as-constructed” certifications and drawings, to the satisfaction of the Director.

In 2022, the province introduced Bill 23, the *More Homes Built Faster Act*. On November 28, 2022, Bill 23 received Royal Assent by the legislature with some proposed changes coming into force immediately, including residential building that contain ten (10) residential units or less being exempted from site plan control and the regulatory provisions of the Planning Act.

In order to respond to the challenges presented by Bill 23, municipalities and supporting agencies need to amend and improve application processes.

### **Strategy/process**

As a result of Bill 23, staff recommend the GDCC By-law be further amended to regulate grading and drainage for all residential buildings exempted from site plan control. Such an amendment will enable the Engineering Services Department to regulate grading and drainage for all residential buildings exempted from site plan control.

### **Options Considered**

Staff reviewed all current engineering processes and recommend the GDCC By-law be further amended to apply the current engineering processes for pre-construction review/clearance, during-construction site management and post-construction site compliance to all residential buildings exempted from site plan control, because of Bill 23.

A more detailed review of the GDCC By-law, as amended, and the current engineering processes is already underway. The current processes are intended to provide improved customer experience and valuable community service by identifying and resolving development issues prior to implementation by residential landowners. A detailed review of the GDCC By-law, as amended, and the current engineering processes will ensure delivery on this intent while also ensuring alignment with recently introduced provincial legislation.

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### **Financial Matters:**

Prior to November 28, 2022, when Bill 23 received Royal Assent by the legislature, engineering fees for the processing, administration and inspection of all residential buildings, except single detached dwellings, duplex dwellings and semi-detached

dwellings on low density residential lands, were collected by way of Site Plan Application Fees, in accordance with the City's Rates and Fees By-law.

Moving forward, it will be necessary to collect engineering fees for residential buildings that contain ten (10) residential units or less by way of the GDCC By-law. Currently the GDCC By-law requires fees for the processing, administration and inspection of the GDCC and for the preparation, registration and disbursement for a Drainage System Appurtenance Agreement, in accordance with the City's Rates and Fees By-law.

The GDCC By-law also currently requires securities to ensure proper maintenance of private and public lands during construction and to secure performance of the GDCC.

At this time, no new or amended fees or securities are being recommended. The impact of some residential buildings being exempted from Site Plan Control and the need for any new or amended GDCC fees or securities will be reviewed in 2023.

### **Total Financial Impact**

The impact of some residential buildings being exempted from Site Plan Control and the need for any new or amended GDCC fees or securities will be reviewed later in 2023. If new or amended fees or securities are necessary to accommodate residential buildings that contain ten (10) residential units or less, those fee and security recommendations will be detailed in a subsequent GDCC By-law amendment likely in Q4 2023.

### **Source of Funding**

Development Services staff positions are currently funded from the Operating Budget and fully supported by revenues from development application fees.

### **Climate Implications:**

The impacts of climate change are affecting our weather year-round, resulting in more frequent high intensity, short duration storms as well as an increased frequency of freeze-thaw cycles in the winter. The recommended amendments will provide the City with mechanisms to regulate grading and drainage for all residential buildings exempted from Site Plan Control. This is an important component in providing resiliency to protect our community from flooding events because of climate change.

### **Other Resource Impacts**

The recommended amendments will not require additional staff resources, as current staff have already been reviewing residential development applications that contain ten (10) residential units or less, by way of the Site Plan Control process.

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## **Conclusion:**

The further amendments to the GDCC By-law 52-2018 will provide staff with the capability to review and approve grading and drainage works prior to construction, manage works during construction and ensure by-law compliance following construction for all residential building exempted from site plan control.

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Respectfully submitted,

Jeff McIsaac, C.E.T.

Coordinator of Development Engineering

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## **Appendices:**

- A. By-law XX-2023 – Amendments to By-law 52-2018, as amended

## **Notifications:**

Jamie Tellier, Acting Director of Community Planning, City of Burlington  
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Scott Hamilton, Director of Engineering Services, City of Burlington  
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## **Report Approval:**

All reports are reviewed and/or approved by Department Director, the Chief Financial Officer and the Executive Director of Legal Services & Corporation Council. Final approval is by the City Manager.

**APPENDIX A**

The Corporation of the City of Burlington

City of Burlington By-law XX-2023

A By-law to amend By-law 52-2018, as amended, being a by-law for regulating the altering of grades or drainage on Residential Lands  
File: 110-04-01, 815-01 (ES-XX-23)

Whereas Section 142 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides that the Council of a local municipality may pass By-laws prohibiting or regulating the placing or dumping of fill, removal of topsoil or fill, alteration of the grades and drainage of land in any defined area or on any class of land;

Now therefore the Council of the Corporation of the City of Burlington hereby enacts as follows:

1. By-law 52-2018, as amended, is hereby further amended by REMOVING the following item:

Whereas Council determines it necessary to enact a By-law for regulating the altering of grades or drainage on low density residential lands within the City of Burlington to limit interference and damage to watercourses, drainage systems and water supplies, to regulate unanticipated grading and drainage alterations, to limit the use of improper fill and potential environmental impacts, to limit erosion arising from such changes and to limit impacts on neighbouring and surrounding properties; and

2. By-law 52-2018, as amended, is hereby further amended by ADDING the following item:

Whereas Council determines it necessary to enact a By-law for regulating the altering of grades or drainage on residential lands within the City of Burlington to limit interference and damage to watercourses, drainage systems and water supplies, to regulate unanticipated grading and drainage alterations, to limit the use of improper fill and potential environmental impacts, to limit erosion arising

from such changes and to limit impacts on neighbouring and surrounding properties; and

3. By-law 52-2018, as amended, is hereby further amended by REMOVING the following item from “Definitions” in Section 1:

- 1.01.25 “Grading and Drainage Plan” and “GDCC” means a drawing or drawings pursuant to Section 6 of this By-law, that details the Site Engineering to the satisfaction of the Director;

4. By-law 52-2018, as amended, is hereby further amended by ADDING the following item to “Definitions” in Section 1:

- 1.01.25 “Grading and Drainage Plan” means a drawing or drawings pursuant to Section 6 of this By-law, that details the Site Engineering to the satisfaction of the Director;

5. By-law 52-2018, as amended, is hereby further amended by REMOVING the following item from “Definitions” in Section 1:

- 1.01.28 “Low Density Residential Lands” means all Lots that are intended for any single detached dwelling, duplex dwelling or semi-detached dwelling used solely for residential use;

6. By-law 52-2018, as amended, is hereby further amended by ADDING the following item to “Definitions” in Section 1:

- 1.01.28 “Residential Lands” means all Lots that are intended for any dwelling used solely for residential use;

7. By-law 52-2018, as amended, is hereby further amended by REMOVING the following item from “Definitions” in Section 1:

- 1.01.32 “Place”, “Placed” and “Placing” means the distribution of Fill on Low Density Residential Lands to establish a Finished Grade higher than the originally Existing Grade;

8. By-law 52-2018, as amended, is hereby further amended by ADDING the following item to “Definitions” in Section 1:

1.01.32 “Place”, “Placed” and “Placing” means the distribution of Fill on Residential Lands to establish a Finished Grade higher than the originally Existing Grade;

9. By-law 52-2018, as amended, is hereby further amended by REMOVING the following item from “Definitions” in Section 1:

1.01.38 “Site” means the Low Density Residential Lands which are the subject of an application for a Certificate pursuant to this By-law;

10. By-law 52-2018, as amended, is hereby further amended by ADDING the following item to “Definitions” in Section 1:

1.01.38 “Site” means the Residential Lands which are the subject of an application for a Certificate pursuant to this By-law;

11. By-law 52-2018, as amended, is hereby further amended by REMOVING the following item from “Definitions” in Section 1:

1.01.39 “Site Engineering” means:

1.01.39.01 the Placing, Dumping, Cutting or Removal of Fill from Low Density Residential Lands;

1.01.39.02 the alteration of the Grade of Low Density Residential Lands by any means including Placing, Dumping, Cutting or Removal of Fill, clearing and grubbing, the compaction of Soil or the creation of impervious surfaces;

1.01.39.03 the alteration of the Drainage, Drainage System and/or Drainage System Appurtenances of the Low Density Residential Lands; or

1.01.39.04 any combination of these activities.

12. By-law 52-2018, as amended, is hereby further amended by ADDING the following item to “Definitions” in Section 1:

1.01.39 “Site Engineering” means:

- 1.01.39.01 the Placing, Dumping, Cutting or Removal of Fill from Residential Lands;
- 1.01.39.02 the alteration of the Grade of Residential Lands by any means including Placing, Dumping, Cutting or Removal of Fill, clearing and grubbing, the compaction of Soil or the creation of impervious surfaces;
- 1.01.39.03 the alteration of the Drainage, Drainage System and/or Drainage System Appurtenances of the Residential Lands; or
- 1.01.39.04 any combination of these activities.

13. By-law 52-2018, as amended, is hereby further amended by REMOVING the following item from “Authority” in Section 2:

2.03 This By-law shall apply to Site Engineering on all Low Density Residential Lands.

14. By-law 52-2018, as amended, is hereby further amended by ADDING the following item to “Authority” in Section 2:

2.03 This By-law shall apply to Site Engineering on all Residential Lands.

15. By-law 52-2018, as amended, is hereby further amended by REMOVING the following items from “Securities” in Schedule A:

- 1. For Grading and Drainage Clearance Certificates for new housing development and large additions (floor area increases of 75m<sup>2</sup> or greater) on Low Density Residential Lands:

1.01 Security = \$5,000 minimum

- 2. For Grading and Drainage Clearance Certificates for small additions (floor area increases of less than 75m<sup>2</sup>) and accessory buildings/decks/etc. on Low Density Residential Lands:

2.01 Security = \$5,000 minimum

16. By-law 52-2018, as amended, is hereby further amended by ADDING the following items to "Securities" in Schedule B:

1. For Grading and Drainage Clearance Certificates for new housing development and large additions (floor area increases of 75m<sup>2</sup> or greater) on Residential Lands:

1.01 Security = \$5,000 minimum

2. For Grading and Drainage Clearance Certificates for small additions (floor area increases of less than 75m<sup>2</sup>) and accessory buildings/decks/etc. on Residential Lands:

2.01 Security = \$5,000 minimum

17. That in all other respects By-law 52-2018, as amended, be and is hereby confirmed.

18. This amended by-law shall come into force and take effect on enactment.

PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

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Marianne Meed Ward, Mayor

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Kevin Arjoon, City Clerk