

BY-LAW No. 2010-XXX
OF THE
CORPORATION OF THE TOWN OF COLLINGWOOD



BEING A BY-LAW TO AMEND BY-LAW NO. 2005-33, A BY-LAW TO
REGULATE CONSTRUCTION, DEMOLITION AND CHANGE OF USE
PERMITS AND INSPECTIONS

WHEREAS Section 7 of the *Building Code Act, 1992*, S.O. 1992, Chapter 23, empowers Council to pass certain by-laws respecting construction, demolition and change of use permits and inspections;

AND WHEREAS on June 20th, 2005, Council of The Corporation of the Town of Collingwood passed and enacted By-law No. 2005-33, being a by-law to regulate construction, demolition and change of use permits and inspections;

AND WHEREAS it is deemed expedient that By-law No. 2005-33 be amended to reflect amendments to the *Building Code Act*,

NOW THEREFORE COUNCIL OF THE CORPORATION OF THE TOWN OF COLLINGWOOD ENACTS AS FOLLOWS:

1. **THAT** subsection 5.8, as provided below, be inserted into By-law No. 2005-33 immediately following subsection 5.7:

5.8 Lot Grading Plans

5.8.1 Lot Grading Plan for all new dwelling units must be prepared by a profession Engineer or Ontario Land Surveyor.

5.8.2 A proposed lot grading plan prepared by an Engineer or Ontario Land Surveyor (OLS) shall be filed with the Building Department and is to include the following:

- 1) A solid bench mark in a convenient and protected location with the proposed elevation of the top of the foundation wall clearly marked thereon; and
- 2) A statement of the Engineer or OLS that the finished excavation for the proposed building is at an appropriate elevation which will permit the building to be constructed and the lot graded in accordance with the approved plans accepted by the Municipality.

5.8.3 Lot Grading Guarantee

A certified cheque or Letter of Credit payable to the Municipality in the amount set in the Fees and Service Charges By-law, as a deposit to guarantee that the final grading of the said lands after construction will be completed in accordance with the Plans accompanying the Building Permit Application and any approved plans.

5.8.4 Lot Grading Refund

The lot grading deposit provided for in subsection 5.8.3 shall be returned to the party making such deposit provided that a certification is received from an Ontario Land Surveyor or registered professional Engineer retained by the owner, confirming that the Lot Grading conforms with the proposed lot grading plan provided with the building permit application, subject to the following conditions:

- 1) **Correction of Grades:** If, in the opinion of the Municipal Engineer the grading is not completed with due diligence, or is not completed in accordance with the approved plans, then the Municipality shall order the grades corrected and/or shall have the right, if it so elects, to enter upon the said lands, and to use such monies to complete the work to the required standards as approved.
- 2) **Indemnification:** The owner of the subject land upon which the Municipality elects to enter for the purpose of completing the said work, hereby releases and indemnifies the Municipality from and against all claims, demands,

actions or causes of actions whatsoever arising as a result of the Municipality, its servants, agents or subcontractors entering upon the lands for the purpose of completing such work to the standards required by the approved plans; provided, however, that such indemnification shall not extend to any loss or damage caused as a result of the negligence of the Municipality, its servants, agents or subcontractors.

3) Forfeit: For the purposes of clause (1), due diligence shall mean within two years of the date that occupancy is granted (pursuant to subsection 2.4.3 of the *Building Code Act*, as amended) for the dwelling on the subject lot and in such cases, the deposit shall be deemed to be forfeited and the Municipality may retain any such amount of the deposit remaining after payment for the correction of the grades.

2. **THAT** Schedule "A" of By-law 2005-33 be amended to include *Lot Grading Plans* in the list of plans or working drawings to accompany an application for permit.

3. **THAT** this By-law shall come into full force and effect on the date of final passage hereof at which time all By-laws and/or resolutions that are inconsistent with the provisions of this By-law and the same are hereby repealed or rescinded insofar as it is necessary to give effect to the provisions of this By-law.

ENACTED AND PASSED this ____ day of January, 2010.

MAYOR

CLERK

DRAFT