

**CITY OF HAMILTON
BY-LAW NO. 23-068**

**A By-law to Amend By-law No. 19-286, Being a By-law for the
Prohibiting and Regulating the Alteration of Property Grades, the
Placing or Dumping of Fill, and the Removal of Topsoil**

WHEREAS the municipal Council of the City of Hamilton enacted By-law 19-286 on November 28, 2019 to prohibit and regulate the placing or dumping of fill, the removal of topsoil, and the alteration of the grade of lands within the municipality;

AND WHEREAS Council of the City of Hamilton deems it necessary to enact a By-law to make technical amendments and improvements to By-law 19-286;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. Section 3 of By-law 19-286 is amended by deleting the definition of “Director” and substituting the following therefor:

“Director” means the Director and Chief Development Engineer of the City of Hamilton or designate.

2. Section 3 of By-law 19-286 is amended by adding the following definition thereto:

“Site” and “Property” are synonyms that both mean a parcel of land which can be legally conveyed pursuant to the provisions of the Planning Act.

3. Section 5 of By-law 19-286 is repealed and the following substituted therefor:

Statutory Exceptions - Interpretation

5 This By-law is not intended nor shall it apply to any activities or matters identified in the Municipal Act from time to time as matters to which a By-law passed under section 142 of the Municipal Act does not apply. For ease of reference, as of the date of the passage of this By-law, this By-law therefore does not apply to any of the activities or matters described in section 142(5)(a) through (g) of the Municipal Act and, subject to subsection 142(7) of the Municipal Act, this By-law does not apply to any of the activities or matters described in section 142(6) of the Municipal Act.

4. Section 8 of By-law 19-286 is hereby repealed.
5. Section 9 of By-law 19-286 is hereby repealed and the following substituted therefor:

No permit to be issued where certain Planning Act Applications are Pending

9(1) No site alteration permit shall be issued for a site which is the subject of or included within any pending application to the City for the approval of any of the following Planning Act approvals: a Site Plan, a Plan of Subdivision, a Consent, or a Development Permit.

9(2) For purposes of subsection (1), a pending application is an application that has been submitted to the City but on which:

- (a) a decision has not been made;
- (b) a decision has been made but that decision has been appealed and a decision on the appeal has not yet been rendered; or,
- (c) a decision has been made but any applicable appeal period has not yet expired.

9(3) Subsection (1) shall not prohibit the issuance of a site alteration permit for a site on which there is a pending application for a Plan of Subdivision if the Site is within an area having any of the Employment Area designations shown on Schedule E-1 of the Urban Hamilton Official Plan, as amended.

9(4) Section 31(2) shall not apply to a site alteration permit issued pursuant to subsection (3).

6. Sections 14(1) and 15(4) of By-law 19-286 are both amended by deleting the phrase "other than as described in subsection 5(2)" therefrom.

7. Section 25 of By-law 19-286 is amended by renumbering the existing section as 25(1) and adding the following subsection 25(2) thereto:

25(2) Subsection (1) shall not apply to a Site that is within an area having any of the Employment Area designations shown on Schedule E-1 of the Urban Hamilton Official Plan, as amended.

8. Section 29(1) of By-law 19-286 is amended by deleting the words "section 25" and substituting the words "section 26" therefor.

9. Section 29(2) of By-law 19-286 is amended by deleting the words "section 25" and substituting the words "section 26" therefor.

PASSED this 26th day of April, 2023.

B. Clark
Acting Mayor

A. Holland
City Clerk