



**Authority:** Item 8, Planning Committee  
Report: 11-018, (PED10091(d))  
CM: October 26, 2011

**Bill No. 262**

**CITY OF HAMILTON**

**BY-LAW NO. 11-262**

**To Amend the Site Alteration By-law No. 03-126, as amended**

**WHEREAS** Council deems it necessary to further amend By-law No. 03-126 dealing with site alteration of property grades and the placing or dumping of fill and removal of topsoil;

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

1. Paragraph “u” of Section 2 of By-law No. 03-126, as amended, is hereby repealed and replaced with the following, namely:
  - (u) “**watercourse**” means an identifiable depression in the ground, such as; ditches, swales, and culverts, in which a natural flow of water regularly or continuously occurs;
2. Section 2 of By-law 03-126, as amended, is hereby amended by adding the following paragraphs thereto, namely:
  - (v) “**adjacent lands**” means any lot, block, section, or parcel of property, owned by a person other than the applicant, that shares a property boundary with the applicant;
  - (w) “**agricultural**” means all lands that are intended for use of farming as registered under *Farm Registration and Farm Organizations Act, 1993, S.O. 1993, c21*, as amended, for growing crops, including nursery and horticultural crops; raising livestock for the use of food, fur or fibre, including poultry and fish; aquaculture; apiaries; agro-forestry; maple syrup production;
  - (x) “**City**” means City of Hamilton;

- (y) "**Conservation Authority**" means a body corporate established pursuant to the provisions of the Conservation Authorities Act, R.S.O. 1990, c.27, as amended; and
  - (z) "**contaminated fill**" means impure or unsuitable materials including soil, stone, concrete, asphalt, sod or turf, etc. that is in contact with or mixed with something unclean, harmful, unusable or biodegradable;
    - (aa) "**drainage work**" means the implementation of a system intended for the control of water flow;
    - (bb) "**swale**" means a depressed tract of land that is sloped to channel storm water run-off in a desired direction; and,
    - (cc) "**vegetation**" means refers to trees, shrubs or other plant life found within a defined geographic location; i.e. the construction site;
3. The first paragraph of Subsection 3.3 of By-Law No. 03-126 is hereby deleted and the following substituted therefore, namely:
- Sub-sections 3.1 and 3.2 do not apply on any land in the City of Hamilton zoned for agricultural use, or any land zoned for residential use within the Urban Area of the City of Hamilton as designated in the City's Urban Official Plan, where the quantity of **fill** or **topsoil** removed or dumped on any one lot does not, in any consecutive three month period exceed 8 cubic meters for each 0.125 hectares of lot area or part thereof, provided the following requirements are met:
4. Section 3 of By-law No. 03-126 is hereby amended by adding thereto a new subsection 16 as follows, namely:
- 3.16 Notwithstanding Section 9.1 below, no permit shall be issued under this by-law for the placing, dumping or removal of any fill or topsoil, or the alteration of any grade on any land which, on the date of the application for the said permit, is the subject of or included within any application to the City of Hamilton under the Planning Act for approval of a site plan, a draft plan of subdivision or a draft plan of condominium.
5. Clause (vii) of paragraph 9.1(d) of By-law No. 03-126 is hereby amended by inserting the words "*or detrimental effects on amenities*" between the word "conditions" and the word "for" in the first line thereof.

6. Paragraph (d) of Sub-section 9.1 is hereby further amended by adding the following clauses thereto, namely:
- (viii) flooding or ponding on adjacent lands;
  - (ix) hindering the orderly development of adjacent lands;
  - (x) blockage of a storm drainage system;
  - (xi) unnecessary damage to or destruction of trees;" or
  - (xii) detrimental effect on quality or quantity of well water.
7. Paragraph (a) of Section 2 of Appendix "B" to By-law 03-126 is hereby amended by deleting the word "sit" from the fourth line thereof and replacing it with the word "site".
8. In all other respects By-law No. 03-126, as amended, is hereby confirmed without change.
9. This by-law shall come into force and effect upon enactment.

**PASSED** this 26<sup>th</sup> day of October, 2011.



R. Bratina  
Mayor

  
R. Caterini  
City Clerk